

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

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FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
November 7, 2008

SUBJECT: Order to Abate [Unapproved Grading]
Case No.: CV 07-7107
Subject Property: 34356 Madera De Playa, Temecula; APN 951-140-012
District Three

RECOMMENDED MOTION: Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 07-7107 be approved;
- (2) The Chairman of the Board of Supervisors be authorized to execute the Findings of Fact, Conclusions and Order to Abate in Case No. CV 07-7107; and
- (3) The Clerk of the Board of Supervisors be authorized to record the Findings of Fact, Conclusions and Order to Abate in Case No. CV 07-7107.

BACKGROUND:

On November 4, 2008, this Board received the Declaration of the Code Enforcement Officer in the above-referenced matter. At the conclusion of the hearing, this Board declared the unapproved grading located on the subject property to be a public nuisance. The Board ordered the property owner to abate the violative conditions on the property and directed County Counsel to prepare the Findings of Fact, Conclusion and Order to Abate.

Elena M. Boeva

ELENA M. BOEVA, Deputy County Counsel
for JOE S. RANK, County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature BY *Tina Grande*
Tina Grande

- Policy
- Policy
- Consent
- Consent

Dept's Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: 11/04/08; 9.2 | District: 3 | Agenda Number: 2.30

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WHEN RECORDED PLEASE MAIL TO:
Julie A.K. Jarvi, Deputy County Counsel
County of Riverside
OFFICE OF COUNTY COUNSEL
3535 Tenth Street, Suite 300 (Stop #1350)
Riverside, CA 92501

[EXEMPT '6103]

**BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**

IN RE ABATEMENT OF PUBLIC NUISANCE:)	CASE NO. CV 07-7107
[UNAPPROVED GRADING]; APN: 951-140-012,)	
34356 MADERA DE PLAYA, TEMECULA,)	FINDINGS OF FACT,
RIVERSIDE COUNTY, CALIFORNIA; MARK D.)	CONCLUSIONS AND ORDER TO
NAYLOR, OWNER.)	ABATE NUISANCE
)	
)	[R.C.O. Nos. 457 (RCC Title 15) and
)	725 (RCC Title 1)]

The above-captioned matter came on regularly for hearing on November 4, 2008, before the Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real property described as 34356 Madera De Playa, Temecula, Riverside County, APN: 951-140-012, and referred to hereinafter as "THE PROPERTY."

Elena M. Boeva, Deputy County Counsel, appeared along with Jim Monroe, Code Enforcement Division Manager, on behalf of the Director of the Code Enforcement Department.

Lori Naylor appeared on behalf of owner.

The Board of Supervisors received the Declaration of the Code Enforcement Officer together with the attached Exhibits, evidencing the unapproved grading on THE PROPERTY as a public nuisance and violation of Riverside County Ordinance No. 457 as codified in Riverside County Code Title 15.

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1 **SUMMARY OF EVIDENCE**

2 1. Documents of record in the Riverside County Recorder's Office identify the Owner
3 of THE PROPERTY as Mark D. Naylor ("OWNER").

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE
5 PROPERTY, to wit: Mr. and Mrs. Robert Easley ("INTERESTED PARTIES").

6 3. THE PROPERTY was inspected by Code Enforcement Officers on August 28, 2007,
7 December 19, 2007, January 9, 2008, April 18, 2008, August 13, 2008 and September 3, 2008.

8 4. During each inspection, Code Enforcement officers observed a variety of multiple
9 jumps and berms had been graded on THE PROPERTY without permits or County approval. On
10 August 28, 2007, Code Enforcement Officers determined that approximately one hundred eighty one
11 (181) cubic yards of dirt had been graded on THE PROPERTY without requisite County approval.

12 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance
13 No. 457 (RCC Title 15) and Board of Supervisors' Policy F-6 by the Code Enforcement Officer.

14 6. A Notice of Noncompliance was recorded on September 12, 2007 as Document
15 Number 2007-0578878 in the Office of the County Recorder, County of Riverside.

16 7. On August 28, 2007, a Notice of Violation for Unapproved Grading was posted on
17 THE PROPERTY. On August 30, 2007, a Notice of Violation was mailed by certified mail, return
18 receipt requested to the OWNER. On November 15, 2007, a Notice of Violation for Unapproved
19 Grading was mailed to OWNER and INTERESTED PARTIES by certified mail, return receipt
20 requested.

21 8. On September 3, 2008, a "Notice To Correct County Ordinance Violations and Abate
22 Public Nuisance" providing notice of the public hearing before the Board of Supervisors was mailed
23 by certified mail, return receipt requested, to OWNER and INTERESTED PARTIES and was posted
24 on THE PROPERTY on September 3, 2008.

25 **FINDINGS AND CONCLUSIONS**

26 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
27 regular session assembled on November 4, 2008, finds and concludes that:

28 1. WHEREAS, the unapproved grading on the real property located at 34356 Madera De

1 Playa, Temecula, Riverside County, California, also identified as Assessor's Parcel Number 951-140-
2 012 violates Riverside County Ordinance No. 457 and Board of Supervisors' Policy F-6 and
3 constitutes a public and attractive nuisance.

4 2. WHEREAS, THE OWNER, occupants and any person having possession or control
5 of THE PROPERTY should abate the unapproved grading by completely restoring and remediating
6 the unapproved grading on THE PROPERTY pursuant to a Restoration Assessment from the
7 Department of Building and Safety and comply with the process and conditions thereof in strict
8 accordance with all Riverside County Ordinances, including but not limited to Riverside County
9 Ordinance No. 457, within ninety (90) days.

10 3. WHEREAS, THE OWNER IS HEREBY FURTHER NOTICED that a five (5) year
11 hold on the issuance of building permits and land use approvals will be placed on THE PROPERTY
12 in the County's automated permit issuing system.

13 4. WHEREAS, THE OWNER IS HEREBY FURTHER NOTICED that the time within
14 which judicial review of the administrative determinations made herein must be sought is ninety (90)
15 days from the posting and mailing of the Findings of Fact, Conclusions and Order To Abate
16 Nuisance, and is governed by California Code of Civil Procedure Section 1094.6.

17 **ORDER TO ABATE NUISANCE**

18 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
19 at 34356 Madera De Playa, Temecula, Riverside County, California, also identified as Assessor's
20 Parcel Number 951-140-012 be abated by the OWNER, and anyone having possession or control of
21 THE PROPERTY, by completely restoring and remediating the unapproved grading on THE
22 PROPERTY pursuant to a Restoration Assessment from the Department of Building and Safety and
23 comply with the process and conditions thereof in strict accordance with all Riverside County
24 Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety (90)
25 days of the posting and mailing of this Order to Abate Nuisance.

26 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not
27 completely restored and remediated to in strict accordance with all Riverside County Ordinances,
28 including but not limited to Riverside County Ordinance No. 457, within ninety (90) days of the

1 posting and mailing of this Order to Abate Nuisance, the unapproved grading shall be abated by
2 representatives of the Riverside County Code Enforcement Department, a County approved
3 contractor, or the Sheriff's Department upon receipt of the owner's consent or a Court Order, where
4 necessary, under, applicable law authorizing entry onto THE PROPERTY, to reclaim and restore the
5 unapproved grading so as to prevent offsite drainage and slope erosion.

6 IT IS FURTHER ORDERED that a five (5) year hold on building permits and land use
7 approvals be placed on THE PROPERTY pursuant to Riverside County Ordinance No. 457.
8 Only upon restoration of THE PROPERTY and payment of all abatement costs, will the five year
9 hold on the issuance of building permits and land use approvals will be released.

10 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
11 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
12 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
13 County Ordinance Nos. 457 and 725. Under Riverside County Ordinance 725, "abatement costs"
14 means "any costs or expenses reasonably related to the abatement of conditions which violate County
15 Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, collection
16 and administrative costs, attorneys fees, and the costs associated with the removal or correction of
17 the violation." Reasonable abatement costs accrued by the Code Enforcement Department will be

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1 recoverable from the property owner(s) even if THE PROPERTY is brought into compliance within
2 ninety (90) days of the date of this Order to Abate Nuisance.

3 Dated: _____

COUNTY OF RIVERSIDE

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By _____
Roy Wilson, Chairman
Board of Supervisors

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6

ATTEST:

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NANCY ROMERO

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Clerk to the Board

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By

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Deputy

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(SEAL)

FORM APPROVED COUNTY COUNSEL
BY: Elena M. Boeva 11/05/08
ELENA M. BOEVA DATE

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