

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

211B



**FROM:** County Counsel/TLMA  
Code Enforcement Department

**SUBMITTAL DATE:**  
January 26, 2009

**SUBJECT:** Order to Abate [grading];  
Case No.: CV 08-01024  
Subject Property: Parcel South of 43455 Sage Road, Aguanga; APN 581-120-010  
District Three

**RECOMMENDED MOTION:** Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-01024 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 08-01024; 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 08-01024.

Departmental Concurrence

**BACKGROUND:**

On January 13, 2009, 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 illegal 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.

\_\_\_\_\_  
JULIE A.K. JARVI, Deputy County Counsel  
for RAMELA J. WALLS, Interim County Counsel

(Continued)

<b>FINANCIAL DATA</b>	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

<b>SOURCE OF FUNDS:</b>	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

Policy

Consent

Dep't Recomm.:  Per Exec. Ofc.:

Prev. Agn. Ref.: 01/13/09; 9.5

District: 3

Agenda Number:

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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 08-01024
[UNAPPROVED GRADING]; APN: 581-120-010,	)	
PARCEL SOUTH OF 43455 SAGE ROAD,	)	FINDINGS OF FACT,
AGUANGA, RIVERSIDE COUNTY,	)	CONCLUSIONS AND ORDER TO
CALIFORNIA; MCMX, LLC, 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 25, 2008 and was continued to January 13, 2009, 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 Parcel South of 43455 Sage Road, Aguanga, Riverside County, APN: 581-120-010, and referred to hereinafter as "THE PROPERTY."

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

Attorney Brett S. Jolley appeared on behalf of the owner and addressed the Board of Supervisors.

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

1 nuisance and violation of Riverside County Ordinance No. 457 as codified in Riverside County Code  
2 Title 15.

3 **SUMMARY OF EVIDENCE**

4 1. Documents of record in the Riverside County Recorder's Office identify the owner  
5 of THE PROPERTY as MCMX, LLC ("OWNER").

6 2. Documents of title indicate that no other party potentially holds a legal interest in  
7 THE PROPERTY.

8 3. THE PROPERTY was inspected by Code Enforcement Officers on January 30, 2008,  
9 March 24, 2008, May 7, 2008, July 10, 2008, September 15, 2008, December 8, 2008 and January  
10 12, 2009.

11 4. During each inspection, multiple dirt motorcycle jumps, woops, doubles and berms  
12 had been graded on THE PROPERTY without permits and which deviate from the natural  
13 topography were observed. The Code Enforcement Officer quantified the graded area as being one  
14 hundred thirty (130) cubic yards. Additionally, approximately four point nine (4.9) acres of THE  
15 PROPERTY had been grubbed and was entirely devoid of vegetation.

16 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance  
17 No. 457 (RCC Title 15) by the Code Enforcement Officer.

18 6. A Notice of Noncompliance was recorded on March 18, 2008 as Document Number  
19 2008-0130548 in the Office of the County Recorder, County of Riverside.

20 7. On January 31, 2008 and March 28, 2008, a Notice of Violation for Unapproved  
21 Grading was posted on THE PROPERTY. On February 1, 2008 and March 27, 2008, a Notice of  
22 Violation was mailed by certified mail, return receipt requested to the OWNER.

23 8. On or about September 11, 2008, a "Notice to Correct County Ordinance Violations  
24 and Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors  
25 was posted on THE PROPERTY and mailed by certified mail, return receipt requested, to THE  
26 OWNER.

27 **FINDINGS AND CONCLUSIONS**

28 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in

1 regular session assembled on January 13, 2009 finds and concludes that:

2 1. WHEREAS, the unapproved grading on the real property located at Parcel South of  
3 43455 Sage Road, Aguanga, Riverside County, California, also identified as Assessor's Parcel  
4 Number 581-120-010 violates Riverside County Ordinance No. 457 and constitutes a public  
5 nuisance and attractive nuisance.

6 2. WHEREAS, THE OWNER, occupants and any person having possession or control  
7 of THE PROPERTY should abate the condition by completely restoring and remediating THE  
8 PROPERTY to its original state in strict accordance with all Riverside County Ordinances, including  
9 but not limited to Riverside County 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 may be placed on THE  
12 PROPERTY.

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 Parcel South of 43455 Sage Road, Aguanga, Riverside County, California, also identified as  
20 Assessor's Parcel Number 581-120-010 be abated by the OWNER, and anyone having possession or  
21 control of THE PROPERTY, by completely restoring and remediating THE PROPERTY to its  
22 original state in strict accordance with all Riverside County Ordinances, including but not limited to  
23 Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this  
24 Order to Abate Nuisance.

25 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not  
26 completely restored and remediated to its original state in strict accordance with all Riverside County  
27 Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety (90)  
28 days of the posting and mailing of this Order to Abate Nuisance, the unapproved grading shall be

1 abated by representatives of the Riverside County Code Enforcement Department, a contractor, or  
2 the Sheriff's Department upon receipt of the owner's consent or a Court Order, where necessary,  
3 under, applicable law authorizing entry onto THE PROPERTY.

4 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity  
5 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special  
6 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside  
7 County Ordinance Nos. 457 and 725. Under Riverside County Ordinance 725, "abatement costs"  
8 means "any costs or expenses reasonably related to the abatement of conditions which violate County  
9 Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, collection  
10 and administrative costs, attorneys fees, and the costs associated with the removal or correction of  
11 the violation." Reasonable abatement costs accrued by the Code Enforcement Department will be  
12 recoverable from the property owner(s) even if THE PROPERTY is brought into compliance within  
13 ninety (90) days of the date of this Order to Abate Nuisance.

14 Dated: \_\_\_\_\_ COUNTY OF RIVERSIDE  
15  
16 By \_\_\_\_\_  
17 Jeff Stone, Chairman  
18 Board of Supervisors

17 ATTEST:  
18 NANCY ROMERO  
19 Clerk to the Board

20 FORM APPROVED COUNTY COUNSEL  
21 BY Julia A. Romero 1/20/09  
22 JULIA A. ROMERO Atty VI DATE

23 By  
24 Deputy  
25 (SEAL)

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