

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

623 B



SUBMITTAL DATE:
March 9, 2009

FROM: County Counsel/TLMA
Code Enforcement Department

SUBJECT: Order to Abate [Grading Without a Permit]
Case No.: CV 07-9671

Subject Property: 1 Parcel South of 35661 Avenida La Cresta, Murrieta; APN 930-150-007
District One

RECOMMENDED MOTION: Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 07-9671 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 07-9671; 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 07-9671.

Departmental Concurrence

BACKGROUND:

On March 3, 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 PAMELA J. WALLS, 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
BY:
Tina Grande
County Executive Office Signature

Policy

Consent

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

RECEIVED TO NW 1: 12

Prev. Agn. Ref.: 03/03/09; 9.2 | **District:** 1 | **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 07-9671
[UNAPPROVED GRADING]; APN: 930-150-007,)	
ONE PARCEL SOUTH OF 35661 AVENIDA LA)	FINDINGS OF FACT,
CRESTA, MURRIETA, RIVERSIDE COUNTY,)	CONCLUSIONS AND ORDER TO
CALIFORNIA; SEASONS WEST, 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 March 3, 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 One Parcel South of 35661 Avenida La Cresta, Murrieta, Riverside County, APN: 930-150-007, and referred to hereinafter as "THE PROPERTY."

Alexandra Fong, Deputy County Counsel, appeared along with Hector Viray, Senior Code Enforcement Officer, on behalf of the Director of the Code Enforcement Department.

No one 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 of
3 THE PROPERTY as Seasons West ("OWNER").

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE
5 PROPERTY, to wit: Cresta-Frankel, LLC, Cresta-Myer, LLC, Community National Bank,
6 MacDowell & Associates, State of California – Franchise Tax Board, John J. Pugh, State of
7 California – Employment Development Department, Grover Trask – District Attorney, Gil Garcetti -
8 District Attorney and John Replogle Director ("INTERESTED PARTIES").

9 3. THE PROPERTY was inspected by Code Enforcement Officers on November 15,
10 2007, February 4, 2008, April 28, 2008, August 14, 2008, November 25, 2008, February 9, 2009 and
11 February 28, 2009.

12 4. During each inspection, the officer observed a large pad had been graded on THE
13 PROPERTY without permits.

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

16 6. A Notice of Noncompliance was recorded on December 26, 2007 as Document
17 Number 2007-0765120 in the Office of the County Recorder, County of Riverside.

18 7. On November 15, 2007, a Notice of Violation for Unapproved Grading was posted on
19 THE PROPERTY. On March 27, 2008, a Notice of Violation was mailed by certified mail, return
20 receipt requested to the OWNER and INTERESTED PARTIES. On November 11, 2008, a Notice
21 of Violation for Unapproved Grading was mailed by certified mail, return receipt requested to
22 INTERESTED PARTIES, Community National Bank and Franchise Tax Board.

23 8. On February 5, 2009, a "Notice to Correct County Ordinance Violations and Abate
24 Public Nuisance" providing notice of the public hearing before the Board of Supervisors on March 3,
25 2009 was mailed by certified mail, return receipt requested, to OWNER and INTERESTED
26 PARTIES and was posted on THE PROPERTY on February 9, 2009.

27 **FINDINGS AND CONCLUSIONS**

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

1 regular session assembled on March 3, 2009 finds and concludes that:

2 1. WHEREAS, the unapproved grading on the real property located at One Parcel South
3 of 35561 Avenida La Cresta, Murrieta, Riverside County, California, also identified as Assessor's
4 Parcel Number 930-150-007 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 One Parcel South of 35661 Avenida La Cresta, Murrieta, Riverside County, California, also
20 identified as Assessor's Parcel Number 930-150-007 be abated by the OWNER, and anyone having
21 possession or control of THE PROPERTY, by completely restoring and remediating THE
22 PROPERTY to its original state in strict accordance with all Riverside County Ordinances, including
23 but not limited to Riverside County Ordinance No. 457, within ninety (90) days of the posting and
24 mailing of this 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
21 FORM APPROVED COUNTY COUNSEL
22 BY: Julie A. Koons Jarvi 3/9/09
23 JULIE A. KOONS JARVI DATE

23 By

24 Deputy

25 (SEAL)