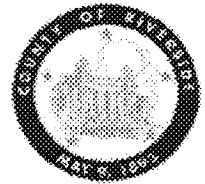


**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

814 B



**SUBMITTAL DATE:**  
July 27, 2009

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

**SUBJECT:** Order to Abate [Grading Without a Permit]  
Case No.: CV 07-7799; (DYSON)  
Subject Property: 1 Parcel South of 40060 Beaver Avenue, Aguanga; APN 571-230-037  
District Three

**RECOMMENDED MOTION:** Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 07-7799 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 07-7799; 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 07-7799.

**BACKGROUND:**

On July 14, 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*  
\_\_\_\_\_  
JULIE A.K. JARVI, Deputy County Counsel  
for PAMELA J. WALLS, 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  
BY *Tina Grande*  
Tina Grande

**County Executive Office Signature**

Departmental Concurrence

Policy  
 Policy  
 Consent  
 Consent

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

Prev. Agn. Ref.: 07/14/09; 9.3 | District: 3 | Agenda Number:

**2.18**

1 RECORDING REQUESTED BY:  
2 Kecia Harper-Ihem, Clerk of the  
3 Board of Supervisors  
4 (Stop #1010)

5 WHEN RECORDED PLEASE MAIL TO:  
6 Julie A.K. Jarvi, Deputy County Counsel  
7 County of Riverside  
8 OFFICE OF COUNTY COUNSEL  
9 3535 Tenth Street, Suite 300 (Stop #1350)  
10 Riverside, CA 92501

[EXEMPT '6103]

**BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE**

11 IN RE ABATEMENT OF PUBLIC NUISANCE: ) CASE NO. CV 07-7799  
12 [UNAPPROVED GRADING]; APN: 571-230-037, )  
13 1 PARCEL SOUTH OF 40060 BEAVER ) FINDINGS OF FACT,  
14 AVENUE, AGUANGA, RIVERSIDE COUNTY, ) CONCLUSIONS AND ORDER TO  
15 DYSON, OWNERS. ) ABATE NUISANCE  
16 ) [R.C.O. Nos. 457 (RCC Title 15) and  
17 ) 725 (RCC Title 1)]

18 The above-captioned matter came on regularly for hearing on July 14, 2009, before the Board  
19 of Supervisors of the County of Riverside, State of California in the Board Room, First Floor Annex,  
20 County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real property  
21 described as 1 Parcel South of 40060 Beaver Avenue, Aguanga, Riverside County, APN: 571-230-  
22 037, and referred to hereinafter as "THE PROPERTY."

23 Jonathan D. Holub, Deputy County Counsel, appeared along with Kenneth King, Senior Code  
24 Enforcement Officer, on behalf of the Director of the Code Enforcement Department.

25 No one appeared on behalf of owners.

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

///

1 **SUMMARY OF EVIDENCE**

2 1. Documents of record in the Riverside County Recorder's Office identify the Owners  
3 of THE PROPERTY as Larry L. Dyson and Vickie Dyson ("OWNERS").

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE  
5 PROPERTY, to wit: Robert Phillip Shallenberger, Nancy C. Shallenberger, B & B Heavy Equipment  
6 Sales and Rentals, Inc., H & H Grading, Inc. and Jagur Tractor ("INTERESTED PARTIES").

7 3. THE PROPERTY was inspected by Code Enforcement Officers on October 31, 2007,  
8 March 29, 2008, April 22, 2008, July 18, 2008, September 9, 2008, February 3, 2009, March 27,  
9 2009, June 22, 2009 and July 13, 2009.

10 4. During each inspection, the officer observed grading on the property and cuts that  
11 were approximately thirty (30) feet in depth and fills up to forty (40) feet in some areas along with  
12 significant erosion on THE PROPERTY without permits.

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

15 6. A Notice of Noncompliance was recorded on August 25, 2008 as Document Number  
16 2008-0468410 in the Office of the County Recorder, County of Riverside.

17 7. On November 5, 2007, a Notice of Violation for Unapproved Grading was posted on  
18 THE PROPERTY. On November 7, 2007, a Notice of Violation was mailed by certified mail, return  
19 receipt requested to the OWNERS. On September 15, 2008, a Notice of Violation was mailed by  
20 certified mail, return receipt requested to the OWNERS and INTERESTED PARTIES.

21 8. On June 1, 2009, a "Notice to Correct County Ordinance Violations and Abate Public  
22 Nuisance" providing notice of the public hearing before the Board of Supervisors was mailed by  
23 certified mail, return receipt requested to the OWNERS and on June 22, 2009 was posted on THE  
24 PROPERTY.

25 **FINDINGS AND CONCLUSIONS**

26 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in  
27 regular session assembled on July 14, 2009 finds and concludes that:

28 1. WHEREAS, the unapproved grading on the real property located at 1 Parcel South of

1 40060 Beaver Avenue, Aguanga, Riverside County, California, also identified as Assessor's Parcel  
2 Number 571-230-037 violates Riverside County Ordinance No. 457 and constitutes a public nuisance  
3 and attractive nuisance.

4 2. WHEREAS, THE OWNERS, occupants and any person having possession or control  
5 of THE PROPERTY should abate the condition by completely remediating and restoring THE  
6 PROPERTY to its original state in strict accordance with all Riverside County Ordinances, including  
7 but not limited to Riverside County Ordinance No. 457, within ninety (90) days.

8 3. WHEREAS, THE OWNERS ARE HEREBY FURTHER NOTICED that a five (5)  
9 year hold on the issuance of building permits and land use approvals may be placed on THE  
10 PROPERTY.

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

15 **ORDER TO ABATE NUISANCE**

16 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located  
17 1 Parcel South of 40060 Beaver Avenue, Aguanga, Riverside County, California, also identified as  
18 Assessor's Parcel Number 571-230-037 be abated by the OWNERS and anyone having possession or  
19 control of THE PROPERTY, by completely remediating and restoring THE PROPERTY to its  
20 original state in strict accordance with all Riverside County Ordinances, including but not limited to  
21 Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order  
22 to Abate Nuisance.

23 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not  
24 completely remediated and restored to its original state in strict accordance with all Riverside County  
25 Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety (90) days  
26 of the posting and mailing of this Order to Abate Nuisance, the unapproved grading shall be abated by  
27 representatives of the Riverside County Code Enforcement Department, a contractor, or the Sheriff's  
28 Department upon receipt of the owner's consent or a Court Order, where necessary, under, applicable

1 law authorizing entry onto THE PROPERTY.

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

12 Dated: \_\_\_\_\_

COUNTY OF RIVERSIDE

13  
14 By \_\_\_\_\_  
15 Jeff Stone, Chairman  
Board of Supervisors

16 ATTEST:

17 KECIA HARPER-IHEM

18 Clerk to the Board

19  
20 FORM APPROVED COUNTY COUNSEL  
21 BY: Jolie A. Koons Jarvi 7/20/09  
DATE

22 By

23 Deputy

24 (SEAL)