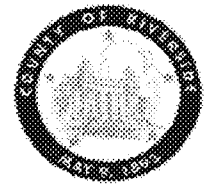


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

836 B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
August 5, 2009

SUBJECT: Order to Abate [Grading Without a Permit]
Case No.: CV 08-04483; (DYSON)
Subject Property: 40060 Beaver Avenue, Aguanga; APN 571-230-023
District Three

RECOMMENDED MOTION: Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-04483 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 08-04483; 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 08-04483.

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.

[Signature]

JULIE A.K. JARVI, Deputy County Counsel
for PAMELA J. WALLS, County Counsel

(Continued)

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: *[Signature]*
Tina Grande

Policy

Consent

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

Prev. Agn. Ref.: 07/14/09; 9.5

District: 3

Agenda Number:

2.20

Departmental Concurrence

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

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

[EXEMPT '6103]

8
9
10 **BOARD OF SUPERVISORS**
COUNTY OF RIVERSIDE

11 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 08-04483
12 [UNAPPROVED GRADING]; APN: 571-230-023,)
40060 BEAVER AVENUE, AGUANGA,)
13 RIVERSIDE COUNTY, CALIFORNIA; LARRY) FINDINGS OF FACT,
L. DYSON AND VICKIE DYSON, OWNERS.) CONCLUSIONS AND ORDER TO
14) ABATE NUISANCE
15) [R.C.O. Nos. 457 (RCC Title 15) and
725 (RCC Title 1)]

16 The above-captioned matter came on regularly for hearing on July 14, 2009, before the Board
17 of Supervisors of the County of Riverside, State of California in the Board Room, First Floor Annex,
18 County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real property
19 described as 40060 Beaver Avenue, Aguanga, Riverside County, APN: 571-230-023, and referred to
20 hereinafter as "THE PROPERTY."

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

23 No one appeared on behalf of owners.

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

28 ///

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
6 Equipment Sales and Rentals, Inc., H & H Grading, Inc. and Jagur Tractor ("INTERESTED
7 PARTIES").

8 3. THE PROPERTY was inspected by Code Enforcement Officers on March 29, 2008,
9 April 22, 2008, July 18, 2008, September 9, 2008, January 15, 2009, February 3, 2009, March 27,
10 2009, June 22, 2009 and July 13, 2009.

11 4. During each inspection, the officer observed horse pastures, roads and four pads that
12 had been graded on THE PROPERTY without permits. Significant erosion was also observed.

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 19, 2008 as Document Number
16 2008-0456598 in the Office of the County Recorder, County of Riverside.

17 7. On April 22, 2008, a Notice of Violation for Unapproved Grading was posted on THE
18 PROPERTY. On May 16, 2008, a Notice of Violation was mailed by certified mail, return receipt
19 requested to the OWNERS. On September 15, 2008, a Notice of Violation was mailed by certified
20 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 40060 Beaver

1 Avenue, Aguanga, Riverside County, California, also identified as Assessor's Parcel Number 571-
2 230-023 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and
3 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
13 ninety (90) days from the posting and mailing of the Findings of Fact, Conclusions and Order To
14 Abate 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 40060 Beaver Avenue, Aguanga, Riverside County, California, also identified as Assessor's Parcel
18 Number 571-230-023 be abated by the OWNERS, and anyone having possession or control of THE
19 PROPERTY, by completely remediating and restoring THE PROPERTY to its original state in strict
20 accordance with all Riverside County Ordinances, including but not limited to Riverside County
21 Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order to Abate
22 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)
26 days of the posting and mailing of this Order to Abate Nuisance, the unapproved grading shall be
27 abated by representatives of the Riverside County Code Enforcement Department, a contractor, or
28 the Sheriff's Department upon receipt of the owner's consent or a Court Order, where necessary,

1 under, applicable 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
9 the 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
16 Board of Supervisors

17 ATTEST:
18 KECIA HARPER-IHEM
19 Clerk to the Board

20 By _____
21 Deputy
22 (SEAL)

23 FORM APPROVED COUNTY COUNSEL
24 BY: Julie A. Koone Arvi 8/3/09
25 JULIE A. KOONE ARVI DATE