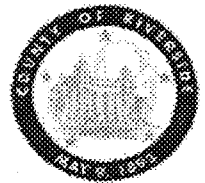


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

904 B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
November 12, 2009

SUBJECT: Order to Abate [Excess Outside Storage and Accumulation of Rubbish]
Case No.: CV 08-10085 (SMITH, MARCUS)
Subject Property: One Parcel East of 33589 Skylark Drive, Lake Elsinore
APN: 382-110-010
District One

RECOMMENDED MOTION: Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-10085 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 08-10085; 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 08-10085.

Departmental Concurrence

[Signature]

JULIE 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: *[Signature]*
Tina Grande

County Executive Office Signature

- × Consent Policy
- Consent Policy

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

Prev. Agn. Ref.: 10/27/09; 9.3

District: 1

Agenda Number:

2.13

Order to Abate [Excess Outside Storage and Accumulation of Rubbish]
Case No.: CV 08-10085
Subject Property: One Parcel East of 33589 Skylark Drive, Lake Elsinore
APN: 382-110-010
District One

BACKGROUND:

On October 27, 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 excess outside storage and accumulation of rubbish 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.

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

4
5 WHEN RECORDED PLEASE MAIL TO:
6 Julie Jarvi, Deputy County Counsel
7 County of Riverside
8 OFFICE OF COUNTY COUNSEL
9 3960 Orange Street, Fifth Floor (Stop #1350)
10 Riverside, CA 92501

[EXEMPT'6103]

**BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**

11 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 08-10085
12 [EXCESSIVE OUTSIDE STORAGE AND)
13 ACCUMULATION OF RUBBISH];) FINDINGS OF FACT,
14 APN 382-110-010, ONE PARCEL EAST OF) CONCLUSIONS AND ORDER TO
15 33589 SKYLARK DRIVE, LAKE ELSINORE,) ABATE NUISANCE
16 RIVERSIDE COUNTY, CALIFORNIA; MARCUS)
L. SMITH. OWNER.) [R.C.O. Nos. 348 (RCC Chapter 17.16),
541 (RCC Chapter 8.120) and 725
(RCC Title 1)]

17 The above-captioned matter came on regularly for hearing on October 27, 2009, before the
18 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
19 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
20 property described as One Parcel East of 33589 Skylark Drive, Lake Elsinore, Riverside County,
21 California and further described as Assessor's Parcel Number 382-110-010 and referred to
22 hereinafter as "THE PROPERTY."

23 Julie Jarvi, Deputy County Counsel, appeared along with Brian Black, Supervising Code
24 Enforcement Officer, on behalf of the Director of the Code Enforcement Department.

25 No one appeared on behalf of Owner.

26 The Board of Supervisors received the Declaration of the Code Enforcement Officer together
27 with attached Exhibits, evidencing the excessive outside storage of materials and accumulation of
28 rubbish on THE PROPERTY as violations of Riverside County Ordinance Nos. 348 (Riverside

1 County Code Chapter 17.16) and 541 (Riverside County Code Chapter 8.120) and as a public
2 nuisance.

3 **SUMMARY OF EVIDENCE**

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

6 2. Documents of title indicate that other parties potentially hold a legal interest in THE
7 PROPERTY, to wit: State of California Employment Development Division and Cellular Access,
8 Inc. ("INTERESTED PARTIES").

9 3. THE PROPERTY was inspected by Code Enforcement Officers on January 13, 2009, April
10 9, 2009, May 26, 2009, August 25, 2009, and October 23, 2009.

11 4. During each inspection, the outside storage of materials and accumulation of rubbish
12 were observed on THE PROPERTY. The materials and rubbish were intermingled and included but
13 were not limited to: wood, masonry, bicycle parts, metal, used propane tanks, a tarp, plastic,
14 appliances, tires and miscellaneous trash and debris. The officer visually estimated the amount of
15 accumulated rubbish and excess outside storage of materials was approximately forty-one thousand
16 four hundred (41,400) square feet. Given the size of the unimproved parcel (10 acres) and the
17 zoning classification (R-R, Rural residential), no amount of outside storage or rubbish is allowed on
18 THE PROPERTY.

19 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance
20 Nos. 348 (RCC Chapter 17.16) and 541 (RCC Chapter 8.120) by the Code Enforcement Officer.

21 6. Notices of Noncompliance were recorded on January 27, 2009 as Document Number
22 2009-0038909 and 2009-0038911 in the Office of the County Recorder, County of Riverside.

23 7. On January 13, 2009, Notices of Violation for violation of Riverside County
24 Ordinance Nos. 348 and 541 were posted on THE PROPERTY. On February 17, 2009, Notices of
25 Violations were mailed to OWNER by certified mail, return receipt requested. On February 17,
26 2009 Notices of Violation were mailed to OWNER and INTERESTED PARTIES by certified mail,
27 return receipt requested.

28 8. On August 24, 2009, the "Notice to Correct County Ordinance Violations and Abate

1 Public Nuisance” providing notice of the public hearing before the Board of Supervisors scheduled
2 for October 27, 2009, was mailed by certified mail, return receipt requested, to OWNERS and
3 INTERESTED PARTIES and was posted on THE PROPERTY on August 25, 2009.

4 **FINDINGS AND CONCLUSIONS**

5 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
6 regular session assembled on October 27, 2009 finds and concludes that:

7 1. WHEREAS, the excess outside storage of materials and accumulation of rubbish on
8 the real property located at One Parcel East of 33589 Skylark Drive, Lake Elsinore, Riverside
9 County, California, also identified as Assessor's Parcel Number 382-110-010 violates Riverside
10 County Ordinance Nos. 348 (RCC Chapter 17.44) and 541 (RCC Chapter 8.120) and constitutes a
11 public nuisance. Under Riverside County Ordinance No. 348, due to the parcel being unimproved no
12 amount of outside storage of materials is allowed to be stored on THE PROPERTY. Under
13 Riverside County Ordinance No. 541, no amount of rubbish is allowed to be accumulated on THE
14 PROPERTY.

15 2. WHEREAS, THE OWNER, occupants or any person having possession or control of
16 the premises should abate the condition by removal of all outside storage of materials and removing
17 and disposing of all accumulated rubbish from the subject real property in strict accordance with all
18 Riverside County Ordinances, including but not limited to Riverside County Ordinance Nos. 348
19 (RCC Chapter 17.44) and 541 (RCC Chapter 8.120) within ninety (90) days.

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

24 **ORDER TO ABATE NUISANCE**

25 IT IS THEREFORE ORDERED that the excess outside storage of materials and
26 accumulation of rubbish on THE PROPERTY be abated by the OWNER, specifically Marcus L.
27 Smith, or anyone having possession or control of THE PROPERTY, by removing all of the outside
28 storage of materials and removing and disposing of all accumulated rubbish from the subject real

1 property in strict accordance with all Riverside County Ordinances, including but not limited to
2 Riverside County Ordinance Nos. 348 (RCC Chapter 17.16) and 541 (RCC Chapter 8.120) within
3 ninety (90) days of the date of this Order to Abate Nuisance.

4 IT IS FURTHER ORDERED that if the materials and rubbish are not removed and disposed
5 of in strict accordance with all Riverside County Ordinances, including but not limited to Riverside
6 County Ordinance Nos. 348 (RCC Chapter 17.16) and 541 (RCC Chapter 8.120) within ninety (90)
7 days of the date of this Order to Abate Nuisance, the excess outside storage of materials and
8 accumulation of rubbish shall be abated and disposed of by representatives of the Riverside County
9 Code Enforcement Department, a contractor or the Sheriff's Department upon receipt of an owner's
10 consent or a Court Order when necessary under applicable law.

11 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
12 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
13 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
14 County Ordinance Nos. 348 (RCC Title 17), 541 (RCC Title 8), and 725 (RCC Chapter 1.16).
15 Under Riverside County Ordinance No. 725, "abatement costs" means "any costs or expenses
16 reasonably related to the abatement of conditions which violate County Land Use Ordinances, and
17 shall include, but not be limited to, enforcement, investigation, collection and administrative costs,
18 attorneys fees, and the costs associated with the removal or correction of the violation." Reasonable
19 abatement costs accrued by the Code Enforcement Department will be recoverable from the property

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

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Dated: _____

COUNTY OF RIVERSIDE

By _____
Jeff Stone
Chairman, Board of Supervisors

ATTEST:
KECIA HARPER-IHEM
Clerk to the Board

By _____
Deputy
(SEAL)

FORM APPROVED COUNTY COUNSEL
BY *[Signature]* 11/2/05
JULIEA KOONS JARVI DATE