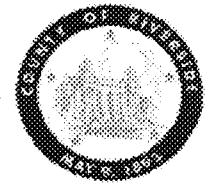


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

310B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
December 7, 2009

SUBJECT: Order to Abate [Grading Without a Permit]
Case No.: CV 07-6752 (ERCOLI)
Subject Property: 35376 Borel Road, Winchester; APN 964-130-016
District Three

RECOMMENDED MOTION: Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 07-6752 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 07-6752; 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 07-6752.

BACKGROUND:

On November 24, 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 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

BY:

Tina Grande

County Executive Office Signature

Departmental Concurrence

Policy

Consent

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

Prev. Agn. Ref.: 11/24/09; 9.6

District: 3

Agenda Number:

2.9

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 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 07-6752
12 [UNAPPROVED GRADING]; APN: 964-130-016,)
13 35376 BOREL ROAD, WINCHESTER,) FINDINGS OF FACT,
14 RIVERSIDE COUNTY, CALIFORNIA;) CONCLUSIONS AND ORDER TO
15 MICHAEL JAMES ERCOLI, OWNER.) ABATE NUISANCE
16)
17) [R.C.O. Nos. 457 (RCC Title 15) and
18) 725 (RCC Title 1)]

16 The above-captioned matter came on regularly for hearing on November 24, 2009, before the
17 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
18 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
19 property described as 35376 Borel Road, Winchester, Riverside County, APN: 964-130-016, and
20 referred to hereinafter as "THE PROPERTY."

21 Alexandra Fong, Deputy County Counsel, appeared along with Brian Black, Supervising
22 Code Enforcement Officer, on behalf of the Director of the Code Enforcement Department.

23 No one appeared on owner's behalf.

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 Owner
3 of THE PROPERTY as Michael James Ercoli ("OWNER").

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE
5 PROPERTY, to wit: James W. Read, Jr., SMS Financial III, LLC, and Graham, Vaage & Cisneros
6 ("INTERESTED PARTIES").

7 3. THE PROPERTY was inspected by Code Enforcement Officers on March 24, 2008,
8 April 7, 2009, August 5, 2009 and October 15, 2009.

9 4. During each inspection, land had been graded on THE PROPERTY without permits
10 which deviated from the natural topography.

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

13 6. A Notice of Noncompliance was recorded on February 1, 2008 as Document Number
14 2008-0051641 in the Office of the County Recorder, County of Riverside.

15 7. On March 25, 2008, a Notice of Violation for Unapproved Grading was posted on
16 THE PROPERTY. On January 28, 2009, Notice of Violation was mailed by certified mail, return
17 receipt requested to the OWNER and INTERESTED PARTIES.

18 8. On August 4, 2009, a "Notice to Correct County Ordinance Violations and Abate
19 Public Nuisance" providing notice of the public hearing before the Board of Supervisors was mailed
20 by certified mail, return receipt requested, to the OWNER and INTERESTED PARTIES and on
21 August 5, 2009 was posted on THE PROPERTY.

22 **FINDINGS AND CONCLUSIONS**

23 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
24 regular session assembled on November 24, 2009 finds and concludes that:

25 1. WHEREAS, the unapproved grading on the real property located at 35376 Borel
26 Road, Winchester, Riverside County, California, also identified as Assessor's Parcel Number 964-130-
27 016 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and attractive
28 nuisance.

1 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
16 Board of Supervisors

15 ATTEST:
16 KECIA HARPER-IHEM
17 Clerk to the Board

18
19
20 By
21 Deputy
22 (SEAL)
23
24
25
26
27
28

FORM APPROVED COUNTY COUNSEL
BY JULIE A. KOONS JARVI
DATE 12/1/09