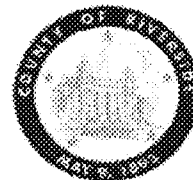


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

915B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
February 10, 2010

SUBJECT: Order to Abate [Grading Without a Permit]
Case No.: CV 06-3907 (MUNIZ)
Subject Property: 33495 Mirage Mesa Circle, Temecula; APN: 965-390-008
District Three

RECOMMENDED MOTION: Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 06-3907 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 06-3907; 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 06-3907.

Departmental Concurrence

BACKGROUND:

On January 12, 2010, 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 HARVI, 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 *[Signature]*
Tina Grande

County Executive Office Signature

Policy Policy

Consent Consent

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

Prev. Agn. Ref.: 01/12/10; 9.2 | District: 3 | Agenda Number:

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 Jarvi, Deputy County Counsel
6 County of Riverside
OFFICE OF COUNTY COUNSEL
7 3960 Orange Street, Fifth Floor (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 06-3907
12 [UNAPPROVED GRADING]; APN: 965-390-008,)
33495 MIRAGE MESA CIRCLE, TEMECULA,)
13 RIVERSIDE COUNTY, CALIFORNIA;) FINDINGS OF FACT,
ANTONIO RAUL MUNIZ AND AIDA MUNIZ,) CONCLUSIONS AND ORDER TO
14 OWNERS.) 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 January 12, 2010, 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 33495 Mirage Mesa Circle, Temecula, Riverside County, APN: 965-390-008,
20 and referred to hereinafter as "THE PROPERTY."

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

23 Owners did not appear. Mr. Maybee appeared and addressed the Board of Supervisors.

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 Antonio Raul Muniz and Aida Muniz("OWNERS").

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE
5 PROPERTY, to wit: Prenovost, Normandin, Bergh & Dawe, Wachovia Dealer Services, Inc., and
6 State of California Franchise Tax Board

7 3. THE PROPERTY was inspected by Code Enforcement Officers on August 31, 2006,
8 March 26, 2008, August 6, 2009, September 4, 2009, December 28, 2009, and January 9, 2010.

9 4. During each inspection, seven hundred (700) cubic yards of imported dirt was
10 observed on THE PROPERTY without permits.

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 September 25, 2006 as Document
14 Number 2006-0707531 in the Office of the County Recorder, County of Riverside.

15 7. On August 31, 2006, a Notice of Violation for Unapproved Grading was posted on
16 THE PROPERTY. On September 21, 2006 and March 27, 2008, a Notice of Violation was mailed
17 by certified mail, return receipt requested to the INTERESTED PARTIES. On September 21, 2006
18 and November 21, 2007, a Notice of Violation was mailed by certified mail, return receipt requested
19 to OWNERS.

20 8. On December 28, 2009, a "Notice To Correct County Ordinance Violations and Abate
21 Public Nuisance" providing notice of the public hearing before the Board of Supervisors was posted
22 on THE PROPERTY and on December 24, 2009 was mailed by certified mail, return receipt
23 requested, to OWNERS and INTERESTED PARTIES.

24 **FINDINGS AND CONCLUSIONS**

25 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
26 regular session assembled on January 12, 2009 finds and concludes that:

27 1. WHEREAS, the unapproved grading on the real property located at 33495 Mirage
28 Mesa Circle, Temecula, Riverside County, California, also identified as Assessor's Parcel Number

1 965-390-008 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and
2 attractive nuisance.

3 2. WHEREAS, THE OWNERS, occupants and any person having possession or control
4 of THE PROPERTY should abate the condition by restoring THE PROPERTY to the satisfaction of
5 the Department of Building and Safety so as to prevent offsite drainage and slope erosion in strict
6 accordance with all Riverside County Ordinances, including but not limited to Riverside County
7 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. Upon restoration of the property and payment of the lien the five (5) year hold on the
11 building permit issuance and land use approvals will be released.

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

16 **ORDER TO ABATE NUISANCE**

17 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
18 33495 Mirage Mesa Circle, Temecula, Riverside County, California, also identified as Assessor's
19 Parcel Number 965-390-008 be abated by the OWNERS, and anyone having possession or control of
20 THE PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building
21 and Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside
22 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety
23 (90) days of the posting and mailing of this Order to Abate Nuisance.

24 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not restored
25 to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage and
26 slope erosion in strict accordance with all Riverside County Ordinances, including but not limited to
27 Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order
28 to Abate Nuisance, the unapproved grading shall be abated by representatives of the Riverside County

1 Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's
2 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE
3 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 the
11 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 Marion Ashley
18 Chairman, Board of Supervisors

17 ATTEST:
18 KECIA HARPER-IHEM
19 Clerk to the Board
20

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

FORM APPROVED COUNTY COUNSEL
BY: Julie A. Koons Jarvi 2/2/10
DATE