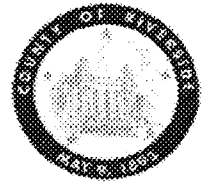


**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

307B



**SUBMITTAL DATE:**  
March 11, 2010

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

**SUBJECT:** Order to Abate [Grading Without a Permit]  
Case No.: CV 08-00109 (MACKENZIE)  
Subject Property: One Parcel East of 47760 Woodcliff Drive, Banning; APN: 544-270-006  
District Five

**RECOMMENDED MOTION:** Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-00109 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 08-00109; 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 08-00109.

Departmental Concurrence

**BACKGROUND:**

On February 23, 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 A. 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: *[Signature]*  
Tina Grande

County Executive Office Signature

Policy

Consent

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

Prev. Agn. Ref.: 02/23/10; 9.8

District: 5

Agenda Number:

**2.12**

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. 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 08-00109  
12 [UNAPPROVED GRADING]; APN: 544-270-006, )  
ONE PARCEL EAST OF 47760 WOODCLIFF )  
13 DRIVE, BANNING, RIVERSIDE COUNTY, ) FINDINGS OF FACT,  
CALIFORNIA; JERRY MACKENZIE, OWNER. ) 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 February 23, 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 1 Parcel East of 47760 Woodcliff Drive, Banning, Riverside County, APN:  
20 544-270-006, and referred to hereinafter as "THE PROPERTY."

21 Julie A. 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 Owner appeared and addressed the Board of Supervisors. Other speakers who appeared and  
24 addressed the Board included Ben White and Brad Robertson.

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

1 **SUMMARY OF EVIDENCE**

2 1. Documents of record in the Riverside County Recorder's Office identify the Owner  
3 of THE PROPERTY as Jerry Mackenzie ("OWNER").

4 2. Documents of title indicate that no other party potentially holds a legal interest in THE  
5 PROPERTY.

6 3. THE PROPERTY was inspected by Code Enforcement Officers on January 24, 2008,  
7 April 15, 2008, May 7, 2008, August 28, 2008, July 7, 2009, August 19, 2009, October 22, 2009,  
8 November 30, 2009, December 16, 2009 and February 17, 2010.

9 4. During each inspection, grading was observed on THE PROPERTY without permits  
10 and 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 June 2, 2008, as Document Number  
14 2008-0296812 in the Office of the County Recorder, County of Riverside.

15 7. On May 7, 2008, a Notice of Violation for Unapproved Grading was posted on THE  
16 PROPERTY. On May 15, 2008, a Notice of Violation was mailed by certified mail, return receipt  
17 requested to OWNER.

18 8. On August 19, 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 posted  
20 on THE PROPERTY and mailed by certified mail, return receipt requested, to OWNER on August  
21 18, 2009.

22 **FINDINGS AND CONCLUSIONS**

23 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in  
24 regular session assembled on February 23, 2010, finds and concludes that:

25 1. WHEREAS, the unapproved grading on the real property located at 1 Parcel East of  
26 47760 Woodcliff Drive, Banning, Riverside County, California, also identified as Assessor's Parcel  
27 Number 544-270-006 violates Riverside County Ordinance No. 457 and constitutes a public nuisance  
28 and attractive nuisance.

1           2.       WHEREAS, THE OWNER, occupants and any person having possession or control  
2 of THE PROPERTY should abate the condition by restoring THE PROPERTY to the satisfaction of  
3 the Department of Building and Safety so as to prevent offsite drainage and slope erosion in strict  
4 accordance with all Riverside County Ordinances, including but not limited to Riverside County  
5 Ordinance No. 457, within ninety (90) days.

6           3.       WHEREAS, THE OWNER IS HEREBY FURTHER NOTICED that a five (5) year  
7 hold on the issuance of building permits and land use approvals may be placed on THE PROPERTY.  
8 Upon restoration of the property and payment of the lien the five (5) year hold on the building permit  
9 issuance and land use approvals will be released.

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

14   **ORDER TO ABATE NUISANCE**

15           IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located  
16 at 1 Parcel East of 47760 Woodcliff Drive, Banning, Riverside County, California, also identified as  
17 Assessor's Parcel Number 544-270-006 be abated by the OWNER, and anyone having possession or  
18 control of THE PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of  
19 Building and Safety so as to prevent offsite drainage and slope erosion in strict accordance with all  
20 Riverside County Ordinances, including but not limited to Riverside County Ordinance No. 457,  
21 within ninety (90) days of the posting and mailing of this Order to Abate Nuisance.

22           IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not restored  
23 to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage and  
24 slope erosion in strict accordance with all Riverside County Ordinances, including but not limited to  
25 Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order  
26 to Abate Nuisance, the unapproved grading shall be abated by representatives of the Riverside County  
27 Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's  
28 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE

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

By \_\_\_\_\_  
Marion Ashley  
Chairman, Board of Supervisors

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

20 By  
21 Deputy  
22 (SEAL)  
23

FORM APPROVED COUNTY COUNSEL  
BY: *Julie A. Koons Jarvi* DATE: 3/8/10

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