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

309B



June 17, 2010

FROM:

County Counsel/TLMA

Code Enforcement Department

SUBJECT: Order to Abate [Accumulation of Rubbish];

Case No.: CV 09-05054 (WALLACE)

Subject Property: 52043 Riza Avenue, Cabazon

APN 528-142-004

**District Five** 

**RECOMMENDED MOTION: Move that** 

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-05054 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 09-05054; 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 09-05054.

**BACKGROUND:** 

Departmental Concurrence

On June 8, 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 accumulation of rubbish 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.

Findings of Fact, Conclusion and Order to Abate.						
				ity County Counse		
		for PAMELA J. Y	WALLS, Coun	ty 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		N/A	
	Annual Net County Cost:	\$ N/A	For Fiscal Year:		N/A	
SOURCE OF FUNDS:			4	Positions To Be Deleted Per A-30		
				Requires 4/5 Vote		
C.E.O. RECOMMENDATION:		APPROVE	`	•		
County Executive Office Signature		BY Tina Grand	parde			
			J			

ent Policy

Consent

Dep't Recomm.: Per Exec. Ofc.:

Prev. Agn. Ref.: 06/08/10; 9.5

District: 5

Agenda Number:

2.10

1 2 3	RECORDING REQUESTED BY: Kecia Harper-Ihem, Clerk of the Board of Supervisors (Stop #1010)				
4					
5 6 7 8	WHEN RECORDED PLEASE MAIL TO: L. Alexandra Fong, Deputy County Counsel County of Riverside OFFICE OF COUNTY COUNSEL 3960 Orange Street, Fifth Floor (Stop #1350) Riverside, CA 92501  [EXEMPT'6103]				
9	BOARD OF SUPERVISORS COUNTY OF RIVERSIDE				
11 12 13 14	IN RE ABATEMENT OF PUBLIC NUISANCE:  [ACCUMULATION OF RUBBISH]; APN 528- 142-004, 52043 RIZA AVENUE, CABAZON, RIVERSIDE COUNTY, CALIFORNIA; OPHELIA) M. WALLACE AND ROY G. WALLACE, TRUSTEES OF THE OPHELIA M. WALLACE AND ROY G. WALLACE REVOCABLE TRUST DATED DECEMBER 24, 1998, OWNERS.  [R.C.O. Nos. 541 (RCC Chapter 8.120) and 725 (RCC Title 1)]				
16	The above-captioned matter came on regularly for hearing on June 8, 2010, 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 52043 Riza Avenue, Cabazon, Riverside County, and further described as Assessor's				
20	Parcel Number 528-142-004 referred to hereinafter as "THE PROPERTY."				
21	L. 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	Owners did not appear				
24	The Board of Supervisors received the Declaration of Code Enforcement Officer together				
25	with the attached exhibits, evidencing the accumulation of rubbish on THE PROPERTY as a public				
26	nuisance and violation of Riverside County Ordinance No. 541, as codified in Riverside County Code				
27	Chapter 8.120.				
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## **SUMMARY OF EVIDENCE**

- 1. Documents of record in the Riverside County Recorder's Office identify the OWNERS of THE PROPERTY as Ophelia M. Wallace and Roy G. Wallace, Trustees of the Ophelia M. Wallace and Roy G. Wallace Revocable Trust Dated December 24, 1998 ("OWNERS").
- 2. Documents of title indicate that no other parties potentially hold a legal interest in THE PROPERTY.
- 3. THE PROPERTY was inspected by Code Enforcement Officers on September 14, 2009, December 2, 2009, January 16, 2010, April 10, 2010, and June 4, 2010.
- 4. During each inspection, an accumulation of rubbish was observed on THE PROPERTY. The rubbish consisted of, but was not limited to: green waste, trash and debris.
- THE PROPERTY was determined to be in violation of Riverside County Ordinance
   No. 541 (RCC Chapter 8.120) by the Code Enforcement Officer.
- 6. A Notice of Noncompliance was recorded in the Office of the County Recorder, County of Riverside, State of California on October 6, 2009, as instrument number 2009-0518213.
- 7. On September 14, 2008, Notices of Violation were posted on THE PROPERTY. On October 22, 2009, a Notice of Violation was mailed by certified mail, return receipt requested to OWNERS.
- 8. On April 8, 2010, a "Notice to Correct County Ordinance Violations and Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors on June 8, 2010 was mailed by certified mail, return receipt requested, to OWNERS and was posted on THE PROPERTY on April 10, 2010.

## **FINDINGS AND CONCLUSIONS**

WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in regular session assembled on June 8, 2010, finds and concludes that:

1. WHEREAS, the accumulation of rubbish on the real property located at 52043 Riza Avenue, Cabazon, Riverside County, California, also identified as Assessor's Parcel Number 528-142-004 violates Riverside County Ordinance No. 541 and constitutes a public nuisance.

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AND ORDER TO ABATE NUISANCE

- 2. WHEREAS, THE OWNERS, or any person having possession or control of the premises should abate the condition by removing and disposing all accumulated rubbish from the subject real property in strict accordance with all Riverside County Ordinances, including but not limited to Riverside County Ordinance No. 541 (RCC Chapter 8.120) within ninety (90) days.
- 3. WHEREAS, THE OWNERS ARE HEREBY FURTHER NOTICED that the time within which judicial review of the administrative determinations made herein must be sought is ninety (90) days from the posting and mailing of the Findings of Fact, Conclusions and Order To Abate Nuisance, and is governed by <u>California Code of Civil Procedure</u> Section 1094.6.

## **ORDER TO ABATE NUISANCE**

IT IS THEREFORE ORDERED that the accumulation of rubbish on THE PROPERTY be abated by THE OWNERS or anyone having possession or control of THE PROPERTY, by removing and disposing of all rubbish from the subject real property in strict accordance with all Riverside County Ordinances, including but not limited to Riverside County Ordinance No. 541 (RCC Chapter 8.120) within ninety (90) days of the date of this Order to Abate Nuisance.

IT IS FURTHER ORDERED that if the rubbish is not removed and disposed of in strict accordance with all Riverside County Ordinances, including but not limited to Riverside County Ordinance No. 541, within ninety (90) days of the date of this Order to Abate Nuisance, the rubbish shall be abated and disposed of by representatives of the Riverside County Code Enforcement, a contractor or the Sheriff's Department upon receipt of an owner's consent or a Court Order authorizing entry onto THE PROPERTY when necessary under applicable law.

IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside County Ordinance Nos. 541 and 725. Under Riverside County Ordinance No. 725, "abatement costs" means "any costs or expenses reasonably related to the abatement of conditions which violate County Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, collection and administrative costs, attorneys fees, and the costs associated with the removal or correction of the violation." Reasonable abatement costs accrued by the Code Enforcement

APPROVED COUNTY COUNSE

FINDINGS OF FACT, CONCLUSIONS AND ORDER TO ABATE NUISANCE