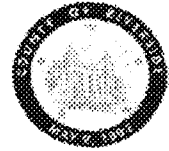


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

717B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
July 29, 2010

SUBJECT: Order to Abate [Grading Without a Permit]
Case No: CV 05-2199 (SCHAFER)
Subject Property: 61605 Highway 74, Mountain Center; APN: 577-070-008
District: 3

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 05-2199 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 05-2199; 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 05-2199.

Departmental Concurrence

(Continued)

L. ALEXANDRA FONG, 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:
Tina Grande

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

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

Abatement of Public Nuisance
Case No. CV 05-2199; SCHAFFER
61605 Highway 74, Mountain Center
Page 2

BACKGROUND:

On July 13, 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 Findings of Fact, Conclusions and Order to Abate.

1 RECORDING REQUESTED BY:
Kecia Harper-Ihem, Clerk of the
2 Board of Supervisors
(Stop #1010)
3
4

5 WHEN RECORDED PLEASE MAIL TO:
L. Alexandra Fong, 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 05-2199
12 [GRADING WITHOUT PERMITS]; APN: 577-)
070-008, 61605 HIGHWAY 74, MOUNTAIN)
13 CENTER, RIVERSIDE COUNTY, CALIFORNIA;) FINDINGS OF FACT,
DENNIS SCHAFFER, 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 July 13, 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 61605 Highway 74, Mountain Center, Riverside County, APN: 577-070-008, and
20 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 No one appeared on behalf of Owner. A member of the public, Mr. Mabee appeared and
24 addressed the Board of Supervisors.

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 of
3 THE PROPERTY as Dennis Schafer ("OWNER").

4 2. Documents of title indicate that other parties may potentially hold a legal interest in
5 THE PROPERTY, to wit: Robert H. and Janice S. Fillion, Trustees of the Robert H. and Janice S.
6 Fillion Family Trust, Robert A. Dyson, Jr. and Lake Hemet Municipal Water District
7 ("INTERESTED PARTIES").

8 3. THE PROPERTY was inspected by Code Enforcement Officers on July 6, 2005, May
9 2, 2007, May 8, 2007, July 23, 2007, September 4, 2007, December 16, 2008, May 2, 2009, June 22,
10 2009, July 6, 2009, October 5, 2009, January 20, 2010, March 30, 2010, April 6, 2010, June 19,
11 2010 and July 8, 2010.

12 4. During each inspection, grading was observed on THE PROPERTY without permits
13 and which deviated from the natural topography.

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

16 6. A Notice of Noncompliance was recorded on July 10, 2007 as Document Number
17 2007-0446770 in the Office of the County Recorder, County of Riverside.

18 7. On July 6, 2005, a Notice of Violation for Unapproved Grading was posted on THE
19 PROPERTY. On November 21, 2007, January 28, 2009, May 19, 2009 and February 10, 2010,
20 Notices of Violation were mailed by certified mail, return receipt requested to OWNER and
21 INTERESTED PARTIES.

22 8. On June 19, 2010, a "Notice to Correct County Ordinance Violations and Abate
23 Public Nuisance" providing notice of the public hearing before the Board of Supervisors was posted
24 on THE PROPERTY and was mailed on June 16, 2010 by certified mail, return receipt requested, to
25 OWNER and INTERESTED PARTIES.

26 **FINDINGS AND CONCLUSIONS**

27 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
28 regular session assembled on July 13, 2010 finds and concludes that:

1 1. WHEREAS, the unapproved grading on the real property located at 61605 Highway
2 74, Mountain Center, Riverside County, California, also identified as Assessor's Parcel Number 577-
3 070-008 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and
4 attractive nuisance.

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

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

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

18 **ORDER TO ABATE NUISANCE**

19 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
20 at 61605 Highway 74, Mountain Center, Riverside County, California, also identified as Assessor's
21 Parcel Number 577-070-008 be abated by the OWNER, and anyone having possession or control of
22 THE PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building
23 and Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside
24 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety
25 (90) days of the posting and mailing of this Order to Abate Nuisance.

26 IT IS FURTHER ORDERED that if the unapproved grading on THE PROPERTY is not
27 restored to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage
28 and slope erosion in strict accordance with all Riverside County Ordinances, including but not limited

1 to Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this
2 Order to Abate Nuisance, the unapproved grading shall be abated by representatives of the Riverside
3 County Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the
4 owner's consent or a Court Order, where necessary, under applicable law authorizing entry onto THE
5 PROPERTY.

6 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
7 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
8 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
9 County Ordinance Nos. 457 and 725. Under Riverside County Ordinance 725, "abatement costs"
10 means "any costs or expenses reasonably related to the abatement of conditions which violate County
11 Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, collection
12 and administrative costs, attorneys fees, and the costs associated with the removal or correction of the
13 violation." Reasonable abatement costs accrued by the Code Enforcement Department will be

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

3 Dated: _____

COUNTY OF RIVERSIDE

4
5 By _____
6 Marion Ashley
7 Chairman, Board of Supervisors

8 ATTEST:

9 KECIA HARPER-IHEM

10 Clerk to the Board

11 By _____
12 Deputy
13 (SEAL)

FORM APPROVED COUNTY COUNSEL
BY: [Signature] DATE 9/22/10
L. ALEXANDRA FONG

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