

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

129B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
December 23, 2010

SUBJECT: Order to Abate [Excess Outside Storage & Accumulated Rubbish]
Case No: CV 06-7011 [ZINIUK]
Subject Property: 59325 Upper Tule Fire Road, Anza; APN: 579-310-038
District: 3

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 06-7011 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 06-7011; 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 06-7011.

Departmental Concurrence

(Continued)

L. Alexandra Fong

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: *Jennifer L. Sargent*

County Executive Office Signature Jennifer L. Sargent

- Policy
- Consent
- Policy
- Consent

Dept' Recomm.:
Per Exec. Ofc.:

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59325 Upper Tule Fire Road, Anza
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BACKGROUND:

On December 7, 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 excess outside storage and accumulated 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 Findings of Fact, Conclusions and Order to Abate.

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

4
5 WHEN RECORDED PLEASE MAIL TO:
6 L. Alexandra Fong, Deputy County Counsel
7 County of Riverside
8 OFFICE OF COUNTY COUNSEL
9 3960 Orange Street, Suite 500 (Stop #1350)
10 Riverside, CA 92501

[EXEMPT'6103]

11 **BOARD OF SUPERVISORS**
12 **COUNTY OF RIVERSIDE**

13 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 06-7011
14 [EXCESSIVE OUTSIDE STORAGE AND)
15 ACCUMULATION OF RUBBISH];) FINDINGS OF FACT,
16 APN 579-310-038, 59325 UPPER TULE FIRE) CONCLUSIONS AND ORDER TO
17 ROAD, ANZA, COUNTY OF RIVERSIDE,) ABATE NUISANCE
18 STATE OF CALIFORNIA; JACK ZINIUK,)
19 OWNER.) [R.C.O. Nos. 348 (RCC Chapter 17.16),
20) 541 (RCC Chapter 8.120) and 725
21) (RCC Title 1)]
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29 The above-captioned matter came on regularly for hearing on December 7, 2010, before the
30 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
31 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
32 property described as 59325 Upper Tule Fire Road, Anza, County of Riverside, State of California
33 and further described as Assessor's Parcel Number 579-310-038 and referred to hereinafter as "THE
34 PROPERTY."

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

37 No one appeared on behalf of Owner.

38 The Board of Supervisors received the Declaration of the Code Enforcement Officer together
39 with attached Exhibits, evidencing the excessive outside storage of materials and accumulation of

1 rubbish on THE PROPERTY as violations of Riverside County Ordinance Nos. 348 (Riverside
2 County Code Chapter 17.16) and 541 (Riverside County Code Chapter 8.120) and as a public
3 nuisance.

4 **SUMMARY OF EVIDENCE**

5 1. Documents of record in the Riverside County Recorder's Office identify the owners of
6 THE PROPERTY as Jack Ziniuk, ("OWNER").

7 2. Documents of title indicate that other parties potentially hold a legal interest in THE
8 PROPERTY, to wit: Kenneth Carter, Lewis G. Linn and Helen L. Linn, and Central Jail Bail Bonds.

9 3. THE PROPERTY was inspected by Code Enforcement Officers on November 9,
10 2009, March 15, 2010, April 26, 2010, June 28, 2010, October 21, 2010, November 15, 2010 and
11 December 2, 2010.

12 4. During each inspection, the outside storage of materials and accumulation of rubbish
13 were observed on THE PROPERTY. The materials and rubbish were intermingled and included but
14 were not limited to: appliances, furniture, tire, pipes, pots, buckets, wood, fencing, tubs, sheet metal,
15 garage doors, wood, cardboard, household trash, barrels, blankets, tools, bins, crates, dog houses,
16 kennels, sheds, tarps, clothing and other miscellaneous trash and debris. The officer, using the pacing
17 method, estimated the amount of accumulated rubbish and excess outside storage of materials was
18 approximately thirty seven thousand six hundred (37,600) square feet. Given the size of the
19 unimproved parcel (6.52 acres) and the zoning classification (R-R, Rural Residential), no amount of
20 outside storage or rubbish is allowed on THE PROPERTY.

21 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance
22 Nos. 348 (RCC Chapter 17.16) and 541 (RCC Chapter 8.120) by the Code Enforcement Officer.

23 6. A Notice of Noncompliance was recorded on July 31, 2009, as Document Number
24 2009-0400301 in the Office of the County Recorder, County of Riverside.

25 7. On March 30, 2010, Notices of Violation for violation of Riverside County Ordinance
26 Nos. 348 and 541 were mailed to the OWNER and on March 30, 2010 and May 25, 2010 were
27 mailed to INTERESTED PARTIES by certified mail, return receipt requested.

28 8. On November 10, 2010, the second notice - "Notice to Correct County Ordinance

1 Violations and Abate Public Nuisance” providing notice of the public hearing before the Board of
2 Supervisors scheduled for December 7, 2010, was mailed by certified mail, return receipt requested,
3 to OWNERS and INTERESTED PARTIES and was posted on THE PROPERTY on November
4 15, 2010.

5 FINDINGS AND CONCLUSIONS

6 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
7 regular session assembled on December 7, 2010, finds and concludes that:

8 1. WHEREAS, the excess outside storage of materials and accumulation of rubbish on
9 the real property located at 59325 Upper Tule Fire Road, Anza, County of Riverside, State of
10 California, also identified as Assessor's Parcel Number 579-310-038 violates Riverside County
11 Ordinance Nos. 348 (RCC Chapter 17.16) and 541 (RCC Chapter 8.120) and constitutes a public
12 nuisance. Under Riverside County Ordinance No. 348, due to the parcel being unimproved no
13 amount of outside storage of materials is allowed to be stored on THE PROPERTY. Under
14 Riverside County Ordinance No. 541, no amount of rubbish is allowed to be accumulated on THE
15 PROPERTY.

16 2. WHEREAS, the OWNER, INTERESTED PARTIES, occupants or any person having
17 possession or control of the premises shall abate the condition by removal of all outside storage of
18 materials and removing and disposing of all accumulated rubbish from the subject real property in
19 strict accordance with all Riverside County Ordinances, including but not limited to Riverside County
20 Ordinance Nos. 348 (RCC Chapter 17.16) and 541 (RCC Chapter 8.120) within ninety (90) days.

21 3. WHEREAS, the OWNER and INTERESTED PARTIES ARE HEREBY FURTHER
22 NOTICED that the time within which judicial review of the administrative determinations made
23 herein must be sought is ninety (90) days from the posting and mailing of the Findings of Fact,
24 Conclusions and Order To Abate Nuisance, and is governed by California Code of Civil Procedure
25 Section 1094.6.

26 ORDER TO ABATE NUISANCE

27 IT IS THEREFORE ORDERED that the excess outside storage of materials and
28 accumulation of rubbish on THE PROPERTY be abated by the OWNER and INTERESTED

1 PARTIES, specifically Jack Ziniuk or anyone having possession or control of THE PROPERTY, by
2 removing all of the outside storage of materials and removing and disposing of all accumulated
3 rubbish from the subject real property in strict accordance with all Riverside County Ordinances,
4 including but not limited to Riverside County Ordinance Nos. 348 (RCC Chapter 17.16) and 541
5 (RCC Chapter 8.120) within ninety (90) days of the date of this Order to Abate Nuisance.

6 IT IS FURTHER ORDERED that if the materials and rubbish are not removed and disposed
7 of in strict accordance with all Riverside County Ordinances, including but not limited to Riverside
8 County Ordinance Nos. 348 (RCC Chapter 17.16) and 541 (RCC Chapter 8.120) within ninety (90)
9 days of the date of this Order to Abate Nuisance, the excess outside storage of materials and
10 accumulation of rubbish shall be abated and disposed of by representatives of the Riverside County
11 Code Enforcement Department, a contractor or the Sheriff's Department upon receipt of an owner's
12 consent or a Court Order when necessary under applicable law.

13 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
14 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
15 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
16 County Ordinance Nos. 348 (RCC Title 17), 541 (RCC Title 8), and 725 (RCC Chapter 1.16).
17 Under Riverside County Ordinance No. 725, "abatement costs" means "any costs or expenses
18 reasonably related to the abatement of conditions which violate County Land Use Ordinances, and
19 shall include, but not be limited to, enforcement, investigation, collection and administrative costs,
20 attorneys fees, and the costs associated with the removal or correction of the violation." Reasonable
21 abatement costs accrued by the Code Enforcement Department will be recoverable from the property

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

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Dated: _____

COUNTY OF RIVERSIDE

By _____
Marion Ashley
Chairman, Board of Supervisors

ATTEST:

KECIA HARPER-IHEM

Clerk to the Board

By _____
Deputy
(SEAL)

FORM APPROVED COUNTY COUNSEL
BY: LAH JONG 12/23/10 DATE
L. ALEXANDRA FONG