

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



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
December 23, 2010

SUBJECT: Order to Abate [Excess Outside Storage & Accumulated Rubbish]
Case Nos: CV08-06686 and CV08-06688 [SMITH]
Subject Property: 28281 Rostrata Avenue, Lake Elsinore; APN: 347-150-079
District: 3

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case Nos. CV08-06686 and CV08-06688 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 Nos. CV08-06686 and CV08-06688; and
3. The Clerk of the Board of Supervisors be authorized to record the Findings of Fact, Conclusions and Order to Abate in Case Nos. CV08-06686 and CV08-06688.

(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:

County Executive Office Signature

- | | |
|---|---------------------------------|
| <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Policy |
| <input type="checkbox"/> Consent | <input type="checkbox"/> Policy |

Dept' Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: 9.3

District: 3

Agenda Number:

2.13

Departmental Concurrence

Order to Abate
Case Nos. CV08-06686 and CV08-06688 [SMITH]
28281 Rostrata Avenue, Lake Elsinore
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BACKGROUND:

On November 30, 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:)
14 [EXCESSIVE OUTSIDE STORAGE AND)
15 ACCUMULATION OF RUBBISH];)
16 APN 347-150-079, 28281 ROSTRATA AVENUE,)
17 LAKE ELSINORE, RIVERSIDE COUNTY,)
18 STATE OF CALIFORNIA; TERRANCE T.)
19 SMITH AND VALARIE MCNEAL SMITH,)
20 OWNERS.)
21)
22)
23)
24)
25)
26)
27)
28)

CASE NOS. CV 08-06686 and CV08-06688
FINDINGS OF FACT,
CONCLUSIONS AND ORDER TO
ABATE NUISANCE
[R.C.O. Nos. 348 (RCC Chapter 17),
541 (RCC Chapter 8)]

29 The above-captioned matter came on regularly for hearing on November 30, 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 28281 Rostrata Avenue, Lake Elsinore, Riverside County, California and further
33 described as Assessor's Parcel Number 347-150-079 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 Owners.

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 17.32) 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 Terrance T. Smith and Valarie McNeal Smith ("OWNERS").

7 2. Documents of title indicate that another party potentially holds a legal interest in THE
8 PROPERTY to wit: Bank of America, N.A.

9 3. THE PROPERTY was inspected by Code Enforcement Officers on November 13,
10 2008, August 4, 2009, March 4, 2010, May 13, 2010, July 15, 2010, November 23, 2010 and
11 November 29, 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: scrap metal, tires, used construction materials, 55 gallon drums, plastic buckets,
15 toys, crates, scrap wood, chain link fencing, shopping carts, rubber hose, chicken wire, piping, rebar,
16 discarded water heaters, discarded refrigerators, rusted air conditioning units, rusted cement mixers
17 and rusted tools. Using a measuring wheel, the officer estimated the amount of accumulated rubbish
18 and excess outside storage of materials was approximately thirty thousand (30,000) square feet.
19 Given the size of the unimproved parcel (2.97 acres) and the zoning classification (R-A, Rural
20 Agricultural), no amount of 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 17.32) and 541 (RCC Chapter 8.120) by the Code Enforcement Officer.

23 6. A Notice of Noncompliance was recorded on September 3, 2009, as Document
24 Number 2009-0462142 in the Office of the County Recorder, County of Riverside.

25 7. On November 13, 2008, Notices of Violation for violation of Riverside County
26 Ordinance Nos. 348 and 541 were posted on THE PROPERTY. On December 10, 2008 and April 6,
27 2010, Notices of Violation were mailed to OWNERS and on April 6, 2010 was mailed to
28 INTERESTED PARTY by certified mail, return receipt requested.

1 **ORDER TO ABATE NUISANCE**

2 IT IS THEREFORE ORDERED that the excess outside storage of materials and
3 accumulation of rubbish on THE PROPERTY be abated by the OWNERS, specifically Terrance T.
4 Smith, Valarie McNeal Smith, or anyone having possession or control of THE PROPERTY, by
5 removing all of the outside storage of materials and removing and disposing of all accumulated
6 rubbish from the subject real property in strict accordance with all Riverside County Ordinances,
7 including but not limited to Riverside County Ordinance Nos. 348 (RCC Chapter 17.32) and 541
8 (RCC Chapter 8.120) within ninety (90) days of the date of this Order to Abate Nuisance.

9 IT IS FURTHER ORDERED that if the materials and rubbish are not removed and disposed
10 of in strict accordance with all Riverside County Ordinances, including but not limited to Riverside
11 County Ordinance Nos. 348 (RCC Chapter 17.32) and 541 (RCC Chapter 8.120) within ninety (90)
12 days of the date of this Order to Abate Nuisance, the excess outside storage of materials and
13 accumulation of rubbish shall be abated and disposed of by representatives of the Riverside County
14 Code Enforcement Department, a contractor or the Sheriff's Department upon receipt of an owner's
15 consent or a Court Order when necessary under applicable law.

16 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
17 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
18 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
19 County Ordinance Nos. 348 (RCC Title 17), 541 (RCC Title 8), and 725 (RCC Chapter 1.16).
20 Under Riverside County Ordinance No. 725, "abatement costs" means "any costs or expenses
21 reasonably related to the abatement of conditions which violate County Land Use Ordinances, and
22 shall include, but not be limited to, enforcement, investigation, collection and administrative costs,
23 attorneys fees, and the costs associated with the removal or correction of the violation." Reasonable
24 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.

3
4 Dated: _____

COUNTY OF RIVERSIDE

5
6 By _____
Marion Ashley
Chairman, Board of Supervisors

7 ATTEST:

8 KECIA HARPER-IHEM

9 Clerk to the Board

10
11 By

12 Deputy

13 (SEAL)

FORM APPROVED COUNTY COUNSEL
BY: SPYLL 12/13/10 DATE
L. ALEXANDRA FONG

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