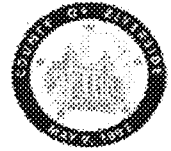


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
December 23, 2010

SUBJECT: Order to Abate [Excess Outside Storage & Accumulated Rubbish]
Case No: CV 09-05966 [JOHNSON]
Subject Property: 44640 Highway 371, Aguanga; APN: 583-160-025
District: 3

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-05966 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 09-05966; 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 09-05966.

Departmental Concurrence

L. Alexandra Fong

(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:

County Executive Office Signature

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

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

Prev. Agn. Ref.: 9.2

District: 3

Agenda Number:

2.15

Order to Abate
Case No.: CV09-05966 [JOHNSON]
44640 Highway 371, Aguanga
Page 2

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:) CASE NO. CV 09-05966
14 [EXCESSIVE OUTSIDE STORAGE AND)
15 ACCUMULATION OF RUBBISH];) FINDINGS OF FACT,
16 APN 583-160-025, 44640 HIGHWAY 371,) CONCLUSIONS AND ORDER TO
17 AGUANGA, RIVERSIDE COUNTY,) ABATE NUISANCE
18 CALIFORNIA; FRANK C. JOHNSON AND)
19 MERLE I. JOHNSON, OWNERS.) [R.C.O. Nos. 348 (RCC Chapter 17.16),
20) 541 (RCC Chapter 8.120) and 725
21) (RCC Title 1)]
22)
23)
24)
25)
26)
27)
28)

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 44640 Highway 371, Aguanga, Riverside County, California and further
33 described as Assessor's Parcel Number 583-160-025 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 17.16) 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 Frank C. Johnson and Merle I. Johnson ("OWNERS").

7 2. Documents of title indicate that other parties potentially hold legal interests in THE
8 PROPERTY to wit: Ameriquest Mortgage Company, Citi Residential Lending, Inc. , and Deutsche
9 Bank National Trust.

10 3. THE PROPERTY was inspected by Code Enforcement Officers on August 11, 2009,
11 October 19, 2009, December 8, 2009, February 16, 2010, May 4, 2010 and 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 wood, scrap metal, appliances, machinery, construction materials, tools,
15 chain link fencing, auto parts, tires, furniture and exercise equipment. The officer visually estimated
16 the amount of accumulated rubbish and excess outside storage of materials was approximately three
17 thousand nine hundred thirty (3,930) square feet. Given the size of the unimproved parcel (3.03
18 acres) and the zoning classification R-R (Rural Residential), no amount of outside storage or rubbish
19 is allowed on THE PROPERTY.

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

22 6. A Notice of Noncompliance was recorded on November 4, 2009 as Document
23 Number 2009-0572647 in the Office of the County Recorder, County of Riverside.

24 7. On August 11, 2009, a Notice of Violation for violation of Riverside County
25 Ordinance Nos. 348 and 541 was posted on THE PROPERTY. On August 13, 2009, Notices of
26 Violation were mailed to OWNERS and on January 12, 2010, were mailed to INTERESTED
27 PARTIES.

28 8. On May 3, 2010, the "Notice to Correct County Ordinance Violations and Abate

1 Public Nuisance” providing notice of the public hearing before the Board of Supervisors scheduled
2 for June 22, 2010, was mailed by certified mail, return receipt requested, to OWNERS and
3 INTERESTED PARTIES and was posted on THE PROPERTY on May 4, 2010.

4 9. On June 23, 2010, the “Continuation Notice to Correct County Ordinance Violations
5 and Abate Public Nuisance” providing notice of the public hearing before the Board of Supervisors
6 scheduled for August 31, 2010, was mailed by certified mail, return receipt requested, to OWNERS
7 and INTERESTED PARTIES and was posted on THE PROPERTY on June 29, 2010.

8 10. On October 6, 2010, the “Continuation Notice to Correct County Ordinance
9 Violations and Abate Public Nuisance” providing notice of the public hearing before the Board of
10 Supervisors scheduled for November 30, 2010, was mailed by certified mail, return receipt requested,
11 to OWNERS and INTERESTED PARTIES and was posted on THE PROPERTY on October 7,
12 2010.

13 FINDINGS AND CONCLUSIONS

14 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
15 regular session assembled on November 30, 2010, finds and concludes that:

16 1. WHEREAS, the excess outside storage of materials and accumulation of rubbish on
17 the real property located at 44640 Highway 371, Aguanga, Riverside County, California, also
18 identified as Assessor's Parcel Number 583-160-025 violates Riverside County Ordinance Nos. 348
19 (RCC Chapter 17.16) and 541 (RCC Chapter 8.120) and constitutes a public nuisance. Under
20 Riverside County Ordinance No. 348, due to the parcel being unimproved no amount of outside
21 storage of materials is allowed to be stored on THE PROPERTY. Under Riverside County
22 Ordinance No. 541, no amount of rubbish is allowed to be accumulated on THE PROPERTY.

23 2. WHEREAS, THE OWNERS, occupants or any person having possession or control
24 of the premises shall abate the condition by removal of all outside storage of materials and removing
25 and disposing of all accumulated rubbish from the subject real property in strict accordance with all
26 Riverside County Ordinances, including but not limited to Riverside County Ordinance Nos. 348
27 (RCC Chapter 17.16) and 541 (RCC Chapter 8.120) within ninety (90) days.

28 3. WHEREAS, THE OWNERS ARE HEREBY FURTHER NOTICED that the time

1 within which judicial review of the administrative determinations made herein must be sought is ninety
2 (90) days from the posting and mailing of the Findings of Fact, Conclusions and Order To Abate
3 Nuisance, and is governed by California Code of Civil Procedure Section 1094.6.

4 **ORDER TO ABATE NUISANCE**

5 IT IS THEREFORE ORDERED that the excess outside storage of materials and
6 accumulation of rubbish on THE PROPERTY be abated by the OWNERS, specifically Frank C.
7 Johnson, Merle I. Johnson, or anyone having possession or control of THE PROPERTY, by
8 removing all of the outside storage of materials and removing and disposing of all accumulated
9 rubbish from the subject real property in strict accordance with all Riverside County Ordinances,
10 including but not limited to Riverside County Ordinance Nos. 348 (RCC Chapter 17.16) and 541
11 (RCC Chapter 8.120) within ninety (90) days of the date of this Order to Abate Nuisance.

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

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

28 ///

FORM APPROVED COUNTY COUNSEL
BY: ~~WILLIAM~~ L. ALEXANDRA FONG
DATE 12/14/10

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.

4 Dated: _____

COUNTY OF RIVERSIDE

6 By _____
7 Marion Ashley
8 Chairman, Board of Supervisors

8 ATTEST:
9 KECIA HARPER-IHEM
10 Clerk to the Board

11 By _____
12 Deputy
13 (SEAL)