

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

409 B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
January 27, 2011

SUBJECT: Order to Abate [Grading Without a Permit]
Case Nos. : CV10-02200 [MUTH/WHITTENBURG]
Subject Property: 30260 Los Alamos Road, Murrieta; APN: 480-100-008
District: Three

RECOMMENDED MOTION: Move that:

Departmental Concurrence

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 10-02200 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 10-02200; 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 10-02200.

(Continued)

L. A. 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*

Jennifer L. Sargent

County Executive Office Signature

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

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

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

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

Abatement of Public Nuisance
Case No.: CV 10-02200
30260 Los Alamos Road, Murrieta
District Three
Page 2

BACKGROUND:

On January 11, 2011, 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, Suite 500 (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 10-02200
12 [GRADING WITHOUT PERMITS] APN: 480-)
100-008, 30260 LOS ALAMOS ROAD,)
13 MURRIETA, COUNTY OF RIVERSIDE, STATE) FINDINGS OF FACT,
OF CALIFORNIA; MATTHEW DAVID MUTH,) CONCLUSIONS AND ORDER TO
14 JANA WHITTENBURG, OWNERS.) ABATE NUISANCE
)
) [R.C.O. Nos. 457 (RCC Title 15) and
15) 725 (RCC Title 1) and Board of
Supervisors Policy F-6]

16
17 The above-captioned matter came on regularly for hearing on January 11, 2011, before the
18 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
19 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
20 property described as 30260 Los Alamos Road, Murrieta, Riverside County, APN: 480-100-008, and
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.

24 The Board of Supervisors received the Declaration of the Code Enforcement Officer together
25 with the attached Exhibits, evidencing the unapproved grading on THE PROPERTY as a public
26 nuisance and violation of Riverside County Ordinance No. 457 as codified in Riverside County Code
27 Title 15.
28

1 **SUMMARY OF EVIDENCE**

2 1. Documents of record in the Riverside County Recorder's Office identify the Owners
3 of THE PROPERTY as Matthew David Muth and Jana Whittenburg ("OWNERS").

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE
5 PROPERTY, to wit: Integrated Title, Inc., Taylor Bean & Whitaker Mortgage Corp., and MERS
6 ("INTERESTED PARTIES").

7 3. THE PROPERTY was inspected by Code Enforcement Officers on March 18, 2010,
8 July 9, 2010, December 3, 2010 and January 7, 2011.

9 4. During each inspection, grading was observed on THE PROPERTY which deviated
10 from the natural topography. Searches on the County's Land Management System revealed no
11 permits had been acquired for the grading.

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

14 6. A Notice of Noncompliance was recorded on June 1, 2010, as Document Number
15 2010-0251777 in the Office of the County Recorder, County of Riverside.

16 7. On March 18, 2010, a Notice of Violation for Unapproved Grading was personally
17 served to Matthew Muth, OWNER. On May 19, 2010, a Notice of Violation was mailed by certified
18 mail, return receipt requested to OWNERS. On July 12, 2010, a Notice of Violation was mailed to
19 the INTERESTED PARTIES via certified mail with return receipt requested.

20 8. On November 30, 2010, a "Notice to Correct County Ordinance Violations and Abate
21 Public Nuisance" providing notice of the public hearing before the Board of Supervisors scheduled
22 for January 11, 2011, was mailed via certified mail with return receipt requested to OWNERS and
23 INTERESTED PARTIES and on December 3, 2010, said notice was posted on THE PROPERTY.

24 **FINDINGS AND CONCLUSIONS**

25 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
26 regular session assembled on January 11, 2011 finds and concludes that:

27 1. WHEREAS, the unapproved grading on the real property located at 30260 Los
28 Alamos Road, Murrieta, Riverside County, California, also identified as Assessor's Parcel Number

1 480-100-008 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and
2 attractive nuisance.

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

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

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

16 **ORDER TO ABATE NUISANCE**

17 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
18 30260 Los Alamos Road, Murrieta, Riverside County, California, also identified as Assessor's Parcel
19 Number 480-100-008 be abated by the OWNER, and anyone having possession or control of THE
20 PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building and
21 Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside
22 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety
23 (90) days of the posting and mailing of this Order to Abate Nuisance.

24 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not restored
25 to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage and
26 slope erosion in strict accordance with all Riverside County Ordinances, including but not limited to
27 Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order
28 to Abate Nuisance, the unapproved grading may be abated by representatives of the Riverside County

1 Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's
2 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE
3 PROPERTY.

4 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
5 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
6 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
7 County Ordinance Nos. 457 and 725. Under Riverside County Ordinance 725, "abatement costs"
8 means "any costs or expenses reasonably related to the abatement of conditions which violate County
9 Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, collection
10 and administrative costs, attorneys fees, and the costs associated with the removal or correction of the
11 violation." Reasonable abatement costs accrued by the Code Enforcement Department will be
12 recoverable from the property owner(s) even if THE PROPERTY is brought into compliance within
13 ninety (90) days of the date of this Order to Abate Nuisance.

14 Dated: _____

COUNTY OF RIVERSIDE

15
16 By _____
17 Marion Ashley
18 Chairman, Board of Supervisors

17 ATTEST:

18 KECIA HARPER-IHEM

19 Clerk to the Board

20
21
22 By

23 Deputy

24 (SEAL)

FORM APPROVED COUNTY COUNSEL
BY: LAURA / 27/11 DATE
L. ALEXANDRA FONG