

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

406B



**FROM:** County Counsel/TLMA  
Code Enforcement Department

**SUBMITTAL DATE:**  
January 27, 2011

**SUBJECT:** Order to Abate [Excess Outside Storage & Accumulated Rubbish]  
Case No: CV 09-10816 [ BENITEZ]  
Subject Property: 31980 Northwood Road, Desert Hot Springs;  
APN: 750-170-032

District: Four

**RECOMMENDED MOTION:** Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-10816 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 09-10816; 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 09-10816.

(Continued)

*L. Fong*  
L. ALEXANDRA FONG, Deputy County Counsel  
for PAMELA J. WALLS, County Counsel

<b>FINANCIAL DATA</b>	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

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE

County Executive Office Signature

BY: *Jennifer L. Sargent*  
Jennifer L. Sargent

Dept Recomm:  Policy

Consent

Per Exec. Ofc:  Policy

Consent

Order to Abate  
Case No. CV09-10816 [BENITEZ]  
31980 Northwood Road, Desert Hot Springs  
District Four  
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**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 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 09-10816  
14 [EXCESSIVE OUTSIDE STORAGE AND )  
15 ACCUMULATED RUBBISH]; )  
16 APN 750-170-032, 31980 NORTHWOOD ROAD, )  
17 DESERT HOT SPRINGS, COUNTY OF )  
18 RIVERSIDE, STATE OF CALIFORNIA; VICTOR )  
19 M. BENITEZ AND CYNTHIA P. BENITEZ, )  
20 OWNERS. ) [R.C.O. No. 348, RCC Chapter 17,  
21 ) R.C.O. No. 541, RCC Chapter 8.120]

22 The above-captioned matter came on regularly for hearing on January 11, 2011, before the  
23 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor  
24 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real  
25 property described as 31980 Northwood Road, Desert Hot Springs, Riverside County, California and  
26 further described as Assessor's Parcel Number 750-170-032 and referred to hereinafter as "THE  
27 PROPERTY."

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

No one appeared on behalf of Owners and did not address the Board of Supervisors.

The Board of Supervisors received the Declaration of the Code Enforcement Officer together  
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 17.144) 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 Victor M. Benitez and Cynthia P. Benitez ("OWNERS").

7 2. Documents of title indicate that other parties potentially hold a legal interest in THE  
8 PROPERTY to wit: Recontrust Co., NA., BAC Home Loans Servicing, LP, and GCFS, Inc.  
9 ("INTERESTED PARTIES).

10 3. THE PROPERTY was inspected by Code Enforcement Officers on October 6, 2009,  
11 November 16, 2009, December 16, 2009, February 4, 2010, March 24, 2010, April 26, 2010, June 1,  
12 2010, August 18, 2010, October 7, 2010, November 5, 2010, December 16, 2010 and January 10,  
13 2011.

14 4. During each inspection, the outside storage of materials and accumulation of rubbish  
15 were observed on THE PROPERTY. The materials and rubbish were intermingled and included but  
16 were not limited to: household trash, tires, furniture, appliances, scrap wood, plastic and  
17 miscellaneous trash and debris. The officer visually estimated the amount of accumulated rubbish and  
18 excess outside storage of materials was approximately four thousand five hundred (4,500) square  
19 feet. Given the size of the unimproved parcel (4.29 acres) and the zoning classification (W-2,  
20 Controlled Development), it allows the amount of outside storage to be two hundred (200) square  
21 feet for properties that are a minimum of one acre in size and no accumulation of rubbish is allowed  
22 on THE PROPERTY.

23 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance  
24 Nos. 348 (RCC Chapter 17.144) and 541 (RCC Chapter 8.120) by the Code Enforcement Officer.

25 6. A Notice of Noncompliance was recorded on December 3, 2009, as Document  
26 Number 2009-0622647 in the Office of the County Recorder, County of Riverside.

27 7. On October 6, 2009, Notices of Violation for violation of Riverside County Ordinance  
28 Nos. 348 and 541 were posted on THE PROPERTY. On October 8, 2009, Notices of Violation

1 were mailed to OWNERS via certified mail with return receipt requested. On August 20, 2010,  
2 Notices of Violation were mailed to OWNERS and INTERESTED PARTIES by certified mail with  
3 return receipt requested. On October 8, 2010 and October 20, 2010, Notices of Violation were  
4 mailed to OWNERS by certified mail with return receipt requested.

5 8. On December 14, 2010, the "Notice to Correct County Ordinance Violations and  
6 Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors  
7 scheduled for January 11, 2011, was mailed by certified mail, return receipt requested, to OWNERS  
8 and INTERESTED PARTIES and was posted on THE PROPERTY on December 16, 2010.

9 **FINDINGS AND CONCLUSIONS**

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

12 1. WHEREAS, the excess outside storage of materials and accumulation of rubbish on  
13 the real property located at 31980 Northwood Road, Desert Hot Springs, Riverside County,  
14 California, also identified as Assessor's Parcel Number 750-170-032 violates Riverside County  
15 Ordinance Nos. 348 (RCC Chapter 17.144) and 541 (RCC Chapter 8.120) and constitutes a public  
16 nuisance. Under Riverside County Ordinance No. 348, the parcel being unimproved is allowed only  
17 an amount of outside storage of materials to be two hundred (200) square feet for a minimum of one  
18 acre in size. Under Riverside County Ordinance No. 541, no amount of rubbish is allowed to be  
19 accumulated on THE PROPERTY.

20 2. WHEREAS, the OWNERS, INTERESTED PARTIES, occupants or any person  
21 having possession or control of the premises shall abate the condition by removal of all outside  
22 storage of materials and removing and disposing of all accumulated rubbish from the subject real  
23 property in strict accordance with all Riverside County Ordinances, including but not limited to  
24 Riverside County Ordinance Nos. 348 (RCC Chapter 17.144) and 541 (RCC Chapter 8.120) within  
25 ninety (90) days.

26 3. WHEREAS, the OWNERS and INTERESTED PARTIES ARE HEREBY  
27 FURTHER NOTICED that the time within which judicial review of the administrative determinations  
28 made herein must be sought is ninety (90) days from the posting and mailing of the Findings of Fact,

1 Conclusions and Order To Abate Nuisance, and is governed by California Code of Civil Procedure  
2 Section 1094.6.

3 **ORDER TO ABATE NUISANCE**

4 IT IS THEREFORE ORDERED that the excess outside storage of materials and  
5 accumulation of rubbish on THE PROPERTY be abated by the OWNERS, specifically Victor M.  
6 Benitez, Cynthia P. Benitez, or anyone having possession or control of THE PROPERTY, by  
7 removing all of the outside storage of materials and removing and disposing of all accumulated  
8 rubbish from the subject real property in strict accordance with all Riverside County Ordinances,  
9 including but not limited to Riverside County Ordinance Nos. 348 (RCC Chapter 17.144) and 541  
10 (RCC Chapter 8.120) within ninety (90) days of the date of this Order to Abate Nuisance.

11 IT IS FURTHER ORDERED that if the materials and rubbish are not removed and disposed  
12 of in strict accordance with all Riverside County Ordinances, including but not limited to Riverside  
13 County Ordinance Nos. 348 (RCC Chapter 17.144) and 541 (RCC Chapter 8.120) within ninety (90)  
14 days of the date of this Order to Abate Nuisance, the excess outside storage of materials and  
15 accumulation of rubbish may be abated and disposed of by representatives of the Riverside County  
16 Code Enforcement Department, a contractor or the Sheriff's Department upon receipt of an owner's  
17 consent or a Court Order when necessary under applicable law.

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

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FORM APPROVED COUNTY COUNSEL  
BY: [Signature] DATE  
L. ALEXANDRA FONG

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

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

11 By  
12 Deputy  
13 (SEAL)

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