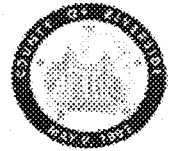


SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

310B



FROM: County Counsel/TLMA
Code Enforcement Department


SUBMITTAL DATE:
April 4, 2011

SUBJECT: Order to Abate [Grading Without a Permit]
Case No. : CV08-03169 [MOUNTZ]
Subject Property: 48145 Twin Pines Rd., Banning; APN: 529-050-040
District: Three

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-03169 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 08-03169; 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 08-03169.

(Continued)


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

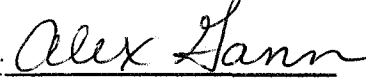
FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS:

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

C.E.O. RECOMMENDATION:

APPROVE

BY: 

County Executive Office Signature

Alex Gann

Dep't Recomm.: ☒ Consent ☐ Policy
Per Exec. Ofc.: ☒ Consent ☐ Policy

Abatement of Public Nuisance
Case No.: CV08-03169 [MOUNTZ]
48145 Twin Pines Rd., Banning
District Three
Page 2

BACKGROUND:

On March 1, 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:
2 Kecia Harper-Ihem, Clerk of the
3 Board of Supervisors
4 (Stop #1010)

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 GC 6103 & 27383]

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**BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**

IN RE ABATEMENT OF PUBLIC NUISANCE:)	CASE NO. CV 08-03169
[GRADING WITHOUT PERMITS]; APN: 529-)	
050-040, 48145 TWIN PINES RD., BANNING,)	FINDINGS OF FACT,
COUNTY OF RIVERSIDE, STATE OF)	CONCLUSIONS AND ORDER TO
CALIFORNIA; JO ANN MOUNTZ (AKA JO)	ABATE NUISANCE
ANN TAYLOR), OWNER.)	
)	[R.C.O. Nos. 457 (RCC Title 15) and
)	725 (RCC Title 1) and Board of
)	Supervisors Policy F-6]

16 The above-captioned matter came on regularly for hearing on March 1, 2011, before the
17 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
18 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
19 property described as 48145 Twin Pines Rd., Banning, Riverside County, APN: 529-050-040, and
20 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 Owner's representative Rick Taylor and Engineer Harvey Marcell appeared at the hearing.

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 Owner of
3 THE PROPERTY as Jo Ann Mountz aka Jo Ann Taylor ("OWNER").

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE
5 PROPERTY, to wit: American Security Company and Wells Fargo Bank ("INTERESTED
6 PARTIES").

7 3. THE PROPERTY was inspected by Code Enforcement Officers on April 17, 2008,
8 April 25, 2008, June 3, 2008, November 4, 2009, August 30, 2010, February 10, 2011 and February
9 28, 2011.

10 4. During each inspection, grading was observed on THE PROPERTY without permits
11 and which deviated from the natural topography.

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 January 13, 2010, as Document Number
15 2010-0015244 in the Office of the County Recorder, County of Riverside.

16 7. On April 25, 2008, a Notice of Violation for Unapproved Grading was posted on THE
17 PROPERTY. On May 1, 2008 and November 10, 2009, a Notice of Violation was mailed by
18 certified mail, return receipt requested to OWNER. On November 16, 2009, a Notice of Violation
19 for Unapproved Grading was sent to the OWNER and INTERESTED PARTIES via certified mail
20 with return receipt requested.

21 8. On February 9, 2011, a "Notice to Correct County Ordinance Violations and Abate
22 Public Nuisance" providing notice of the public hearing before the Board of Supervisors scheduled
23 for March 1, 2011, was mailed to OWNER by certified mail with return receipt requested and was
24 posted on THE PROPERTY on February 10, 2011.

25 **FINDINGS AND CONCLUSIONS**

26 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
27 regular session assembled on March 1, 2011, finds and concludes that:

28 1. WHEREAS, the unapproved grading on the real property located at 48145 Twin Pines

1 Rd., Banning, Riverside County, California, also identified as Assessor's Parcel Number 529-050-040
2 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and attractive
3 nuisance.

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

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

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

17 **ORDER TO ABATE NUISANCE**

18 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
19 48145 Twin Pines Rd., Banning, Riverside County, California, also identified as Assessor's Parcel
20 Number 529-050-040 be abated by the OWNER, and anyone having possession or control of THE
21 PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building and
22 Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside
23 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety
24 (90) days of the posting and mailing of this Order to Abate Nuisance.

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

FORM APPROVED COUNTY COUNSEL
BY: 3/31/11 DATE
L. ALEXANDRA FONG

1 to Abate Nuisance, the unapproved grading may be abated by representatives of the Riverside County
2 Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's
3 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE
4 PROPERTY.

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

15 Dated: _____

COUNTY OF RIVERSIDE

16
17 By _____
18 Bob Buster
19 Chairman, Board of Supervisors

20 ATTEST:

21 KECIA HARPER-IHEM

22 Clerk to the Board

23 By
24 Deputy
25 (SEAL)
26

27 L:\Code Enforcement\Abatements\2010\2008\CV08-03169\457 grading FOF.DOC
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