

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

312 B



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


**SUBMITTAL DATE:**  
April 14, 2011

**SUBJECT:** Order to Abate [Grading Without a Permits]  
Case No. : CV09-01373 [MATHIS]  
Subject Property: 48778 Leaning Rock Court, Aguanga; APN: 584-250-029  
District: Three

**RECOMMENDED MOTION:** Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-01373 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 09-01373; 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 09-01373.

(Continued)


  
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

BY: 

**County Executive Office Signature**

Alex Gann

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

Abatement of Public Nuisance  
Case No.: CV09-01373 [MATHIS]  
48778 Leaning Rock Court, Aguanga  
District Three  
Page 2

**BACKGROUND:**

On February 15, 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]

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9  
10 **BOARD OF SUPERVISORS**  
**COUNTY OF RIVERSIDE**

11 IN RE ABATEMENT OF PUBLIC NUISANCE: ) CASE NO. CV 09-01373  
12 [GRADING WITHOUT PERMITS]; APN: 584- )  
250-029, 48778 LEANING ROCK COURT, )  
13 AGUANGA, COUNTY OF RIVERSIDE, STATE ) FINDINGS OF FACT,  
OF CALIFORNIA; TERRY R. MATHIS, ) CONCLUSIONS AND ORDER TO  
14 OWNER. ) ABATE NUISANCE  
15 ) [R.C.O. Nos. 457 (RCC Title 15) and  
725 (RCC Title 1) and Board of  
16 Supervisors Policy F-6]

17 The above-captioned matter came on regularly for hearing on February 15, 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 48778 Leaning Rock Court, Aguanga, Riverside County, APN: 584-250-029,  
21 and referred to hereinafter as "THE PROPERTY."

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

24 Owner did not appear and did not address the Board.

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

## SUMMARY OF EVIDENCE

1. Documents of record in the Riverside County Recorder's Office identify the Owner of THE PROPERTY as Terry R. Mathis ("OWNER").

2. Documents of title indicate that other party potentially holds a legal interest in THE PROPERTY, to wit: State of California Franchise Tax Board ("INTERESTED PARTY").

3. THE PROPERTY was inspected by Code Enforcement Officers on February 27, 2009, May 18, 2009, July 10, 2009, September 1, 2009, December 7, 2009, February 16, 2010, May 4, 2010 and January 27, 2011.

4. During each inspection, grading was observed on THE PROPERTY which deviated from the natural topography.

5. A search of County records revealed that a grading permit had been obtained for the grading on THE PROPERTY and subsequently expired. A review of County records revealed no application for an assessment permit or grading permit on file for THE PROPERTY.

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

7. A Notice of Noncompliance was recorded on March 16, 2009, as Document Number 2009-0127035 in the Office of the County Recorder, County of Riverside.

8. On February 27, 2009, a Notice of Violation for Unapproved Grading was posted on THE PROPERTY. On March 5, 2009 and June 10, 2009, a Notice of Violation was mailed by certified mail, return receipt requested to OWNER. On June 10, 2009 and October 6, 2009, a Notice of Violation was mailed via certified mail with return receipt requested to INTERESTED PARTY.

9. On May 3, 2010, a "Notice to Correct County Ordinance Violations and Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors scheduled for June 22, 2010, was mailed to OWNER and INTERESTED PARTY by certified mail with return receipt requested and on May 4, 2010, it was posted on THE PROPERTY.

10. On June 23, 2010, a "Continuation Notice to Correct County Ordinance Violations and Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors scheduled for August 10, 2010, was mailed to OWNER and INTERESTED PARTY by certified mail

1 with return receipt requested and on June 29, 2010, it was posted on THE PROPERTY.

2 11. On August 17, 2010, a "Continuation Notice to Correct County Ordinance Violations  
3 and Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors  
4 scheduled for February 2, 2011, was mailed to OWNER and INTERESTED PARTY by certified mail  
5 with return receipt requested and on August 19, 2010, it was posted on THE PROPERTY.

6 12. On February 1, 2011, a "Continuation Notice to Correct County Ordinance Violations  
7 and Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors  
8 scheduled for February 15, 2011, was mailed to OWNER and INTERESTED PARTY by certified  
9 mail with return receipt requested and on February 3, 2011, it was posted on THE PROPERTY.

#### 10 FINDINGS AND CONCLUSIONS

11 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in  
12 regular session assembled on February 15, 2011, finds and concludes that:

13 1. WHEREAS, the unapproved grading on the real property located at 48778 Leaning  
14 Rock Court, Aguanga, Riverside County, California, also identified as Assessor's Parcel Number 584-  
15 250-029 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and  
16 attractive nuisance.

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

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

26 4. WHEREAS, the OWNER IS HEREBY FURTHER NOTICED that the time within  
27 which judicial review of the administrative determinations made herein must be sought is ninety (90)  
28 days from the posting and mailing of the Findings of Fact, Conclusions and Order To Abate Nuisance,

1 and is governed by California Code of Civil Procedure Section 1094.6.

2 **ORDER TO ABATE NUISANCE**

3 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located  
4 48778 Leaning Rock Court, Aguanga, Riverside County, California, also identified as Assessor's  
5 Parcel Number 584-250-029 be abated by the OWNER, and anyone having possession or control of  
6 THE PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building  
7 and Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside  
8 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety  
9 (90) days of the posting and mailing of this Order to Abate Nuisance.

10 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not restored  
11 to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage and  
12 slope erosion in strict accordance with all Riverside County Ordinances, including but not limited to  
13 Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order  
14 to Abate Nuisance, the unapproved grading may be abated by representatives of the Riverside County  
15 Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's  
16 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE  
17 PROPERTY.

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. 457 and 725. Under Riverside County Ordinance 725, "abatement costs"  
22 means "any costs or expenses reasonably related to the abatement of conditions which violate County

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

1 Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, collection  
2 and administrative costs, attorneys fees, and the costs associated with the removal or correction of the  
3 violation." Reasonable abatement costs accrued by the Code Enforcement Department will be  
4 recoverable from the property owner(s) even if THE PROPERTY is brought into compliance within  
5 ninety (90) days of the date of this Order to Abate Nuisance.

6 Dated: \_\_\_\_\_

COUNTY OF RIVERSIDE

7  
8 By \_\_\_\_\_  
Bob Buster  
Chairman, Board of Supervisors

9 ATTEST:

10 KECIA HARPER-IHEM

11 Clerk to the Board

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13  
14 By

15 Deputy

16 (SEAL)

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25 I:\Code Enforcement\Abatements\2010\2009\CV09-01373\457 grading FOF.DOC