

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

518B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
October 13, 2011

SUBJECT: Order to Abate [Grading Without a Permit]
Case No.: CV10-08960 [LOWE]
Subject Property: 39225 Diamond Valley Rd., Hemet; APN: 469-070-052
District: Three

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 10-08960 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 10-08960 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 10-08960.

(Continued)

PATRICIA MUNROE, 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:
Tina Grande

County Executive Office Signature

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

Departmental Concurrence

- Consent
- Policy
- Consent
- Policy

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

Abatement of Public Nuisance
Case Nos.: CV10-08960 [LOWE]
39225 Diamond Valley Rd., Hemet
APN#469-070-052
District 3
Page 2

BACKGROUND:

On September 20, 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)
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5 WHEN RECORDED PLEASE MAIL TO:
Patricia Munroe, Deputy County Counsel
6 County of Riverside
OFFICE OF COUNTY COUNSEL
7 3960 Orange Street, Suite 500 (Stop #1350)
Riverside, CA 92501

[EXEMPT GC §§ 6103 and 27383]

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10 **BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**

11 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 10-08960
12 [UNAPPROVED GRADING]; APN: 469-070-052,)
39225 DIAMOND VALLEY RD., HEMET,)
13 RIVERSIDE COUNTY, CALIFORNIA; TAMMY) FINDINGS OF FACT,
B. LOWE, OWNER.) CONCLUSIONS AND ORDER TO
14) ABATE NUISANCE
15) R.C.O. Nos. 457 and 725

16 The above-captioned matter came on regularly for hearing on September 20, 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 39225 Diamond Valley Rd., Hemet, Riverside County, APN: 469-070-052,
20 and referred to hereinafter as "THE PROPERTY."

21 Patricia Munroe, 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 appeared but did not address the Board of Supervisors.

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.

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1 **SUMMARY OF EVIDENCE**

2 1. Documents of record in the Riverside County Recorder’s Office identify the Owner
3 of THE PROPERTY as Tammy B. Lowe (“OWNER”).

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE
5 PROPERTY, to wit: JDV Corporation and Wells Fargo Bank, N.A. (“INTERESTED PARTIES”).

6 3. THE PROPERTY was inspected by Code Enforcement Officers on December 21,
7 2010, February 24, 2011 and August 30, 2011.

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

10 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance
11 No. 457 by the Code Enforcement Officer.

12 6. A Notice of Noncompliance was recorded on March 9, 2011 as Document Number
13 2011-0108771 in the Office of the County Recorder, County of Riverside.

14 7. On December 21, 2010, a Notice of Violation for Unapproved Grading was posted on
15 THE PROPERTY. On December 21, 2010 and December 28, 2010, a Notice of Violation was
16 mailed by certified mail, return receipt requested to OWNER and on March 15, 2011 was mailed to
17 INTERESTED PARTIES.

18 8. On August 24, 2011, a “Notice to Correct County Ordinance Violations and Abate
19 Public Nuisance” providing notice of the public hearing before the Board of Supervisors was posted
20 on THE PROPERTY and mailed by certified mail, return receipt requested, to OWNER and
21 INTERESTED PARTIES.

22 **FINDINGS AND CONCLUSIONS**

23 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
24 regular session assembled on September 20, 2011 finds and concludes that:

25 1. WHEREAS, the unapproved grading on the real property located at 39225 Diamond
26 Valley Rd., Hemet, Riverside County, California, also identified as Assessor's Parcel Number 469-
27 070-052 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and
28 attractive nuisance.

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

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

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

14 **ORDER TO ABATE NUISANCE**

15 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
16 39225 Diamond Valley Rd., Hemet, Riverside County, California, also identified as Assessor's
17 Parcel Number 469-070-052 be abated by the OWNER, and anyone having possession or control of
18 THE PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building
19 and Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside
20 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety
21 (90) days of the posting and mailing of this Order to Abate Nuisance.

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

1 PROPERTY.

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

12 Dated: _____

COUNTY OF RIVERSIDE

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By _____
Bob Buster
Chairman, Board of Supervisors

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ATTEST:

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KECIA HARPER-IHEM

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Clerk to the Board

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By

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Deputy

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(SEAL)

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