

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

906B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
November 10, 2011


SUBJECT: Order to Abate [Substandard Structures & Accumulated Rubbish]
Case No. : CV 11-02026 [ACUNA]
Subject Property: 114 Highland Avenue, Riverside; APN: 247-052-001
District: Five

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 11-02026 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 11-02026; 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 11-02026.

Departmental Concurrence

(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
 Dept. Recomm. Consent Policy
 Per Exec. Ofc.: Consent Policy

Abatement of Public Nuisance
Case No.: CV 11-02026 [ACUNA]
114 Highland Avenue, Riverside
APN#247-052-001
District 5
Page 2

BACKGROUND:

On October 25, 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 three (3) substandard structures (dwelling and 2 sheds) and accumulated rubbish 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:
6 Patricia Munroe, Deputy County Counsel
County of Riverside
7 OFFICE OF COUNTY COUNSEL
3960 Orange Street, Suite 500 (Stop #1350)
8 Riverside, CA 92501

[EXEMPT GC §§ 6103 and 27383]

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

11 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 11-02026
12 [SUBSTANDARD STRUCTURES AND)
ACCUMULATION OF RUBBISH];) FINDINGS OF FACT,
13 APN 247-052-001, 114 HIGHLAND AVENUE,) CONCLUSIONS AND ORDER TO
RIVERSIDE, RIVERSIDE COUNTY,) ABATE NUISANCE
14 CALIFORNIA; PEDRO ACUNA, OWNER.)
15) R.C.O. Nos. 457, 541 and 725
16)

17 The above-captioned matter came on regularly for hearing on October 25, 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 114 Highland Avenue, Riverside, Assessor's Parcel Number 247-052-001 and
21 referred to hereinafter as "THE PROPERTY."

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

25 The Board of Supervisors received the Declaration of the Code Enforcement Officer together
26 with attached Exhibits, evidencing the substandard structures and accumulation of rubbish on THE
27 PROPERTY as violations of Riverside County Ordinance Nos. 457 and 541, and as a public
28 nuisance.

SUMMARY OF EVIDENCE

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2 1. Documents of record in the Riverside County Recorder’s Office identify the owner
3 of THE PROPERTY as Pedro Acuna (“OWNER”).

4 2. Documents of title indicate that other parties may potentially hold a legal interest in
5 THE PROPERTY, to wit: Recontrust Company, N.A., Wells Fargo Bank, N.A. (hereinafter
6 collectively referred to as “INTERESTED PARTIES”).

7 3. THE PROPERTY was inspected by Code Enforcement Officers on March 22, 2011,
8 April 26, 2011, May 13, 2011, September 30, 2011 and October 20, 2011.

9 4. During each inspection, three (3) substandard structures (dwelling and 2 sheds) were
10 observed on THE PROPERTY. The structures were observed to be dilapidated. The structures
11 contained numerous deficiencies, including but not limited to: lack of or improper water closet,
12 lavatory, bathtub, shower or kitchen sink; lack of required electrical lighting; hazardous wiring;
13 defective or deteriorated flooring or floor supports; members of walls, partitions or other vertical
14 supports that split, lean, list or buckle due to defective material or deterioration; members of ceiling,
15 roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to
16 defective material or deterioration; faulty weather protection; general dilapidation or improper
17 maintenance; extensive fire damage due to a recent kitchen fire.

18 5. During each inspection an accumulation of rubbish was observed throughout THE
19 PROPERTY consisting of but not limited to: wood, furniture, boxes, dog food bags full of trash,
20 mattresses, drywall and miscellaneous items; piles of wood, cardboard and green waste and a large
21 fallen tree that lay on an inoperable recreational vehicle in the yard.

22 6. THE PROPERTY was determined to be in violation of Riverside County Ordinance
23 No. 457 and 541 by the Code Enforcement Officer.

24 7. A Notice of Noncompliance was recorded on April 15, 2011, as Document Number
25 2011-0169308 in the Office of the County Recorder, County of Riverside.

26 8. On March 24, 2011, Notices of Violation, Notice of Defects, a “Danger Do Not
27 Enter” and a “Do Not Dump” sign were posted on THE PROPERTY. On March 31, 2011, Notices
28 of Violation for the substandard structures and accumulation of rubbish were mailed to OWNER and

1 INTERESTED PARTIES by certified mail, return receipt requested.

2 9. A "Notice to Correct County Ordinance Violations and Abate Public Nuisance"
3 providing notice of the public hearing before the Board of Supervisors on October 25, 2011, was
4 mailed to OWNER and INTERESTED PARTIES and was posted on THE PROPERTY.

5 **FINDINGS AND CONCLUSIONS**

6 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
7 regular session assembled on October 25, 2011, finds and concludes that:

8 1. WHEREAS, the substandard structures (dwelling and 2 sheds) and accumulation of
9 rubbish on the real property located at 114 Highland Avenue, Riverside, Riverside County,
10 California, also identified as Assessor's Parcel Number 247-052-001 violates Riverside County
11 Ordinance Nos. 457 and 541 and constitutes a public nuisance.

12 2. WHEREAS, the OWNER, occupants and any person having possession or control of
13 THE PROPERTY shall abate the substandard structures conditions by razing, removing and
14 disposing of the substandard structures, including the removal and disposal of all structural debris
15 and materials, and contents therein or by reconstruction and rehabilitation of said structures provided
16 that said reconstruction or demolition can be accomplished in strict accordance with all Riverside
17 County Ordinances, including but not limited to Riverside County Ordinance No. 457 within ninety
18 (90) days.

19 3. WHEREAS, the OWNER, occupants and any other person having possession or
20 control of THE PROPERTY shall abate the accumulation of rubbish by removing and disposing of
21 all rubbish on THE PROPERTY in strict accordance with all Riverside County Ordinances,
22 including but not limited to Riverside County Ordinance No. 541 within ninety (90) days.

23 4. WHEREAS, the OWNER AND INTERESTED PARTIES ARE HEREBY
24 FURTHER NOTICED that the time within which judicial review of the administrative
25 determinations made herein must be sought is ninety (90) days from the posting and mailing of the
26 Findings of Fact, Conclusions and Order To Abate Nuisance, and is governed by California Code of
27 Civil Procedure Section 1094.6.

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ORDER TO ABATE NUISANCE

IT IS THEREFORE ORDERED that the substandard structures (dwelling and 2 sheds) on THE PROPERTY be abated by the OWNER, Pedro Acuna, or anyone having possession or control of THE PROPERTY, by razing and removing the substandard structures including the removal and disposal of all structural debris and materials, as well as the contents therein, or by reconstruction and rehabilitation of said structures provided such reconstruction and rehabilitation can be accomplished in strict accordance with all Riverside County Ordinances, including but not limited to Riverside County Ordinance No. 457 within ninety (90) days of the posting and mailing of this Order to Abate Nuisance.

IT IS FURTHER ORDERED that if the substandard structures are not razed, removed and disposed of, or reconstructed and rehabilitated in strict accordance with all Riverside County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order to Abate Nuisance, the substandard structures, contents therein, and structural debris and materials, may be abated by representatives of the Riverside County Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's consent or a Court Order, where necessary, under applicable law authorizing entry onto THE PROPERTY.

FURTHERMORE, the OWNER is ordered to ascertain the existence or non-existence of asbestos containing materials in said structures by survey and materials sample testing by a duly licensed and certified asbestos consultant; and, prior to the abatement ordered hereinabove, to secure the removal of all asbestos containing materials discovered through such survey and testing by contract with a duly certified and licensed contractor for the handling of such materials to avoid citations and/or fines by South Coast Air Quality Management District (SCAQMD).

IT IS FURTHER ORDERED that the accumulation of rubbish on THE PROPERTY be abated by the OWNER or anyone having possession or control of THE PROPERTY, by removing and disposing of all rubbish from THE PROPERTY in strict accordance with all Riverside County Ordinances, including but not limited to Riverside County Ordinance No. 541 within ninety (90) days of the date of this Order to Abate Nuisance.

1 IT IS FURTHER ORDERED that if the accumulation of rubbish is not removed and disposed
2 of in strict accordance with all Riverside County Ordinances, including but not limited to Riverside
3 County Ordinance Nos. 541 within ninety (90) days of the date of this Order to Abate Nuisance, the
4 accumulation of rubbish may be abated by representatives of the Riverside County Code
5 Enforcement Department, a contractor or the Sheriff's Department upon receipt of an owner's
6 consent or a Court Order when necessary under applicable law.

7 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
8 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
9 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
10 County Ordinance Nos. 457, 541, and 725. Under Riverside County Ordinance No. 725, "abatement
11 costs" means "any costs or expenses reasonably related to the abatement of conditions which violate
12 County Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation,
13 collection and administrative costs, attorneys fees, and the costs associated with the removal or
14 correction of the violation." Reasonable abatement costs accrued by the Code Enforcement

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1 Department will be recoverable from the OWNER even if THE PROPERTY is brought into
2 compliance within ninety (90) days of the date of this Order to Abate Nuisance.

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Dated: _____

COUNTY OF RIVERSIDE

By _____
Bob Buster
Chairman, Board of Supervisors

ATTEST:
KECIA HARPER-IHEM
Clerk to the Board

By
Deputy
(SEAL)