

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

307B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
March 11, 2010

SUBJECT: Order to Abate [Grading Without a Permit]
Case No.: CV 08-00109 (MACKENZIE)
Subject Property: One Parcel East of 47760 Woodcliff Drive, Banning; APN: 544-270-006
District Five

RECOMMENDED MOTION: Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-00109 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 08-00109; 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 08-00109.

BACKGROUND:

On February 23, 2010, 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 the Findings of Fact, Conclusion and Order to Abate.

Julie A. Jarvi

JULIE A. JARVI, Deputy County Counsel
for PAMELA J. WALLS, County Counsel

(Continued)

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*

Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: March 23, 2010
xc: Co.Co.(3), Recorder

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*

Deputy

Prev. Agn. Ref.: 02/23/10; 9.8 | District: 5 | Agenda Number:

2.12

ATTACHMENTS FILED WITH
THE CLERK OF THE BOARD

Departmental Concurrence

Policy

Consent

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

1 RECORDING REQUESTED BY:
2 Kecia Harper-Ihem, Clerk of the
3 Board of Supervisors
(Stop #1010)



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M	A	L	465	426	PCOR	NCOR	SMF	NCHG	EXAM
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5 WHEN RECORDED PLEASE MAIL TO:
6 Julie A. Jarvi, Deputy County Counsel
7 County of Riverside
8 OFFICE OF COUNTY COUNSEL
9 3960 Orange Street, Fifth Floor (Stop #1350)
10 Riverside, CA 92501

[EXEMPT '6103]

11
12 **BOARD OF SUPERVISORS**
13 **COUNTY OF RIVERSIDE**



14 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 08-00109
15 [UNAPPROVED GRADING]; APN: 544-270-006,)
16 ONE PARCEL EAST OF 47760 WOODCLIFF) FINDINGS OF FACT,
17 DRIVE, BANNING, RIVERSIDE COUNTY,) CONCLUSIONS AND ORDER TO
18 CALIFORNIA; JERRY MACKENZIE, OWNER.) ABATE NUISANCE
19)
20) [R.C.O. Nos. 457 (RCC Title 15) and
21) 725 (RCC Title 1)]

22 The above-captioned matter came on regularly for hearing on February 23, 2010, 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 1 Parcel East of 47760 Woodcliff Drive, Banning, Riverside County, APN:
26 544-270-006, and referred to hereinafter as "THE PROPERTY."

27 Julie A. Jarvi, Deputy County Counsel, appeared along with Brian Black, Supervising Code
28 Enforcement Officer, on behalf of the Director of the Code Enforcement Department.

Owner appeared and addressed the Board of Supervisors. Other speakers who appeared and
addressed the Board included Ben White and Brad Robertson.

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

1 **SUMMARY OF EVIDENCE**

2 1. Documents of record in the Riverside County Recorder's Office identify the Owner
3 of THE PROPERTY as Jerry Mackenzie ("OWNER").

4 2. Documents of title indicate that no other party potentially holds a legal interest in THE
5 PROPERTY.

6 3. THE PROPERTY was inspected by Code Enforcement Officers on January 24, 2008,
7 April 15, 2008, May 7, 2008, August 28, 2008, July 7, 2009, August 19, 2009, October 22, 2009,
8 November 30, 2009, December 16, 2009 and February 17, 2010.

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

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

13 6. A Notice of Noncompliance was recorded on June 2, 2008, as Document Number
14 2008-0296812 in the Office of the County Recorder, County of Riverside.

15 7. On May 7, 2008, a Notice of Violation for Unapproved Grading was posted on THE
16 PROPERTY. On May 15, 2008, a Notice of Violation was mailed by certified mail, return receipt
17 requested to OWNER.

18 8. On August 19, 2009, 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 on August
21 18, 2009.

22 **FINDINGS AND CONCLUSIONS**

23 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
24 regular session assembled on February 23, 2010, finds and concludes that:

25 1. WHEREAS, the unapproved grading on the real property located at 1 Parcel East of
26 47760 Woodcliff Drive, Banning, Riverside County, California, also identified as Assessor's Parcel
27 Number 544-270-006 violates Riverside County Ordinance No. 457 and constitutes a public nuisance
28 and attractive nuisance.

2010-0130300
03/23/2010 08:00A
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FORM APPROVED COUNTY COUNSEL
BY: Julie A. Koons Jarvi 3/18/10
DATE

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PROPERTY.

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

Dated: March 23, 2010

COUNTY OF RIVERSIDE

By Marion Ashley
Marion Ashley
Chairman, Board of Supervisors

ATTEST:
KECIA HARPER-IHEM
Clerk to the Board

By Karen B. Gutan
Deputy

(SEAL)



2010-0130300
03/23/2010 08:00A
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LARRY W. WARD
COUNTY OF RIVERSIDE
ASSESSOR-COUNTY CLERK-RECORDER

Recorder
P.O. Box 751
Riverside, CA 92502-0751
(951) 486-7000
<http://riverside.asrclkrec.com>

CERTIFICATION

Pursuant to the provisions of Government Code 27361.7, I certify under the penalty of perjury that the following is a true copy of illegible wording found in the attached document:

(Print or type the page number(s) and wording below):

CLARIFICATION OF THE SEAL for the Riverside County Board of Supervisors
(embossed on document)



Date:

3-23-10

Signature:

Karen Barton

Print Name:

Karen Barton, Board Assistant, Riverside County Clerk of the Board



NOTICE LIST

Subject Property: One Parcel East of 47760 Woodcliff Drive, Banning, CA
Case No.: CV 08-00109; APN: 544-270-006; District 5

Jerry Mackenzie
3049 W. Broadway Street
Vancouver, BC Canada V6K2G9

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits.	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee X <i>J. Mackenzie</i></p> <p>B. Received by (Printed Name) C. Date of Delivery <i>J. Mackenzie</i> <i>19/4/10</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>
1. Article Addressed to: JERRY MACKENZIE 3049 W BROADWAY ST VANCOUVER, BC CANADA V6K2G9 CV08-00109 *FOR* MACKENZIE 1	3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
2. Article Number (Transfer from service label)	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes 7009 3410 0000 1318 1059 210
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-1540

PROOF OF SERVICE

Case Nos. CV08-00109

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STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I, Yadira Oseguera, the undersigned, declare that I am a citizen of the United States and am employed in the County of Riverside, over the age of 18 years and not a party to the within action or proceeding; that my business address is 3535 Tenth Street, Suite 300, Riverside, California 92501-3674.

That on April 12, 2010, I served the following document(s):

FINDINGS OF FACT, CONCLUSIONS AND ORDER TO ABATE NUISANCE

by placing a true copy thereof enclosed in a sealed envelope(s) addressed as follows:

**OWNERS OR INTERESTED PARTIES
(see attached notice list)**

XX **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.** I am "readily familiar" with the office's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Riverside, California, in the ordinary course of business.

— **BY PERSONAL SERVICE:** I caused to be delivered such envelope(s) by hand to the offices of the addressee(s).

XX **STATE - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.**

— **FEDERAL - I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.**

EXECUTED ON April 12, 2010, at Riverside, California.


YADIRA OSEGUERA



**CODE ENFORCEMENT DEPARTMENT
COUNTY OF RIVERSIDE**

JOHN BOYD
Director

AFFIDAVIT OF POSTING OF NOTICES

April 14, 2010

RE CASE NO: CV0800109

I, Anthony Green, hereby declare:

I am employed by the Riverside County Code Enforcement Department; that my business address is 24318 Hemlock, Ave., Suite C-1, Moreno Valley, California 92557 .

That on 04/14/2010 at 11:53, I securely and conspicuously posted FINDINGS, OF FACTS AND CONCLUSIONS, ORDER TO ABATE at the property described as:

Property Address: 1 PARCEL EAST OF 47760 WOODCLIFF DR. BANNING CA ,

Assessor's Parcel Number: 544-270-006

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on April 14, 2010 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT


By: Anthony Green, Code Enforcement Officer