

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

406B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
October 6, 2010

SUBJECT: Order to Abate [Grading Without a Permit]
Case No.: CV09-06758 (INDYMAC VENTURE, LLC)
Subject Property: 37470 Winners Circle, Temecula; APN: 927-150-032
District: 3

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-06758 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 09-06758; 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 09-06758.

(Continued)

[Signature]
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:

[Signature]
Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Ashley 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: October 19, 2010
xc: Co.Co.(3); Recorder

Kecia Harper-Ihem
Clerk of the Board

By: *[Signature]*
Deputy

Departmental Concurrence

☒ Consent ☐ Policy
☐ Consent ☐ Policy

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

Abatement of Public Nuisance
Case No. CV 09-06758; INDYMAC VENTURE, LLC
37470 Winners Circle, Temecula
Page 2

BACKGROUND:

On October 5, 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 Findings of Fact, Conclusions and Order to Abate.



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

WHEN RECORDED PLEASE MAIL TO:
L. Alexandra Fong, Deputy County Counsel
County of Riverside
OFFICE OF COUNTY COUNSEL
3960 Orange Street, Fifth Floor (Stop #1350)
Riverside, CA 92501

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**BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**



IN RE ABATEMENT OF PUBLIC NUISANCE:)
[UNAPPROVED GRADING]; APN: 927-150-032,)
37470 WINNERS CIRCLE, TEMECULA,)
RIVERSIDE COUNTY, CALIFORNIA;)
INDYMAC VENTURE, LLC, OWNER.)

CASE NO. CV 09-06758

FINDINGS OF FACT,
CONCLUSIONS AND ORDER TO
ABATE NUISANCE

[R.C.O. Nos. 457 (RCC Title 15) and
725 (RCC Title 1)]

The above-captioned matter came on regularly for hearing on October 5, 2010, before the Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real property described as 37470 Winners Circle, Temecula, Riverside County, APN: 927-150-032, and referred to hereinafter as "THE PROPERTY."

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

No one appeared on behalf of Owner. A member of the public, Mr. Robert Mabee, addressed the Board of Supervisors.

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 Indymac Venture, LLC ("OWNER"). The former owners were Timothy
4 Gerard Chachere and Mary Ruth Rivet ("INTERESTED PARTIES").

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

7 3. THE PROPERTY was inspected by Code Enforcement Officers on September 9,
8 2009, March 18, 2010, April 29, 2010, May 12, 2010, June 22, 2010, August 24, 2010 and October
9 1, 2010.

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 May 7, 2010 as Document Number
15 2010-0211086 in the Office of the County Recorder, County of Riverside.

16 7. On September 9, 2009, a Notice of Violation for Unapproved Grading was posted on
17 THE PROPERTY. On September 18, 2009, a Notice of Violation for Unapproved Grading was
18 mailed to INTERESTED PARTIES by certified mail, return receipt requests. On April 26, 2010, a
19 Notice of Violation was mailed by certified mail, return receipt requested to OWNER.

20 8. On August 23, 2010, a "Notice to Correct County Ordinance Violations and Abate
21 Public Nuisance" providing notice of the public hearing before the Board of Supervisors was mailed
22 by certified mail, return receipt requested, to OWNER and was posted on THE PROPERTY on
23 August 24, 2010.

24 **FINDINGS AND CONCLUSIONS**

25 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
26 regular session assembled on October 5, 2010 finds and concludes that:

27 1. WHEREAS, the unapproved grading on the real property located at 37470 Winners
28 Circle, Temecula, Riverside County, California, also identified as Assessor's Parcel Number 927-150-



032 violates Riverside County Ordinance No. 457 and constitutes a public and attractive nuisance.

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

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

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

ORDER TO ABATE NUISANCE

IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located 37470 Winners Circle, Temecula, Riverside County, California, also identified as Assessor's Parcel Number 927-150-032 be abated by the OWNER, and anyone having possession or control of THE PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage and slope erosion 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 unapproved grading on THE PROPERTY is not restored to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage and slope erosion 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 unapproved grading shall be abated by representatives of the Riverside County Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's





1 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE
2 PROPERTY.

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

13 Dated: October 19, 2010

COUNTY OF RIVERSIDE

14
15 By Marion Ashley
16 Marion Ashley
Chairman, Board of Supervisors

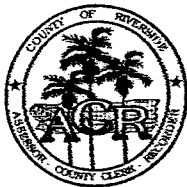
17 ATTEST:

18 KECIA HARPER-IHEM

19 Clerk to the Board

20
21 By Kamuguta
22 Deputy
23 (SEAL)





**LARRY W. WARD
COUNTY OF RIVERSIDE
ASSESSOR-COUNTY CLERK-RECORDER**

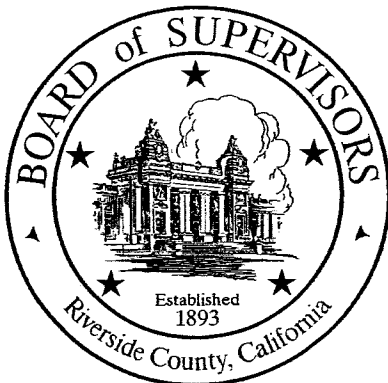
Recorder
P.O. Box 751
Riverside, CA 92502-0751
(951) 486-7000
<http://riverside.asrclrec.com>

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:

10-19-10

Signature:

Karen Barton

Print Name:



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



NOTICE LIST

Subject Property: 37470 Winners Circle, Temecula
Case No.: CV 09-06758 APN: 927-150-032; District 3

INDYMAC VENTURE, LLC
C/O ALISA ASHIKYAN
888 E. WALNUT ST., 5TH FLOOR
PASADENA, CA 91101

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.	A. Signature X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee
	B. Received by (Printed Name)  C. Date of Delivery
1. Article Addressed to: INDYMAC VENTURE LLC C/O ALISA ASHIKYAN 888 E WALNUT ST 5 TH FLOOR PASADENA CA 91101	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
	3. Service Type <input checked="" 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.
<i>CV 09-06758 (INDYMAC) FF 1</i>	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
2. Article Number (Transfer from service label)	7010 0290 0002 1422 3766

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

PROOF OF SERVICE

Case No. CV 09-06758

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I, Brenda Peeler, 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 3960 Orange Street, 5th Floor, Riverside, California 92501-3674.

That on November 8, 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.

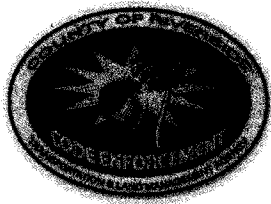
— **BY PERSONAL SERVICE:** I caused to be delivered such envelope(s) by hand to the offices of the addressee(s).

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 November 8, 2010, at Riverside, California.


BREND A PEELER



CODE ENFORCEMENT DEPARTMENT COUNTY OF RIVERSIDE

GLENN BAUDE
Director

AFFIDAVIT OF POSTING OF NOTICES

November 9, 2010

RE CASE NO: CV0906758

I, Vicky Jordan, hereby declare:

I am employed by the Riverside County Code Enforcement Department; that my business address is 39493 Los Alamos Road, Suite #A, Murrieta, California 92563 .

That on 11/9/2010 at 1:38 PM, I securely and conspicuously posted Findings of Fact, Conclusions and Order to Abate Nuisance at the property described as:

Property Address: 37470 WINNERS CIRCLE, TEMECULA

Assessor's Parcel Number: 927-150-032

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

Executed on November 9, 2010 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT

By: Vicky Jordan, Code Enforcement Technician