

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

409 B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
January 27, 2011

SUBJECT: Order to Abate [Grading Without a Permit]
Case Nos. : CV10-02200 [MUTH/WHITTENBURG]
Subject Property: 30260 Los Alamos Road, Murrieta; APN: 480-100-008
District: Three

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 10-02200 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 10-02200; 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 10-02200.

Departmental Concurrence

(Continued)

L.A. Fong
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: *Jennifer L. Sargent*
Jennifer L. Sargent

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

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: February 8, 2011
xc: Co.Co.(3); Recorder

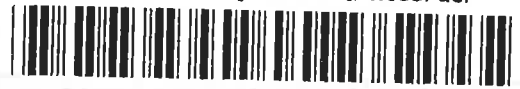
Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

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

Abatement of Public Nuisance
Case No.: CV 10-02200
30260 Los Alamos Road, Murrieta
District Three
Page 2

BACKGROUND:

On January 11, 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:
2 Kecia Harper-Ihem, Clerk of the
3 Board of Supervisors
4 (Stop #1010)

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M	A	L	465	426	PCOR	NCOR	SMF	NCHG	EXAM
concrete						T:	CTY	UNI	017

5 WHEN RECORDED PLEASE MAIL TO:
6 L. Alexandra Fong, Deputy County Counsel
7 County of Riverside
8 OFFICE OF COUNTY COUNSEL
9 3960 Orange Street, Suite 500 (Stop #1350)
10 Riverside, CA 92501

[EXEMPT '6103]

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



13 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 10-02200
 14 [GRADING WITHOUT PERMITS] APN: 480-)
 15 100-008, 30260 LOS ALAMOS ROAD,)
 16 MURRIETA, COUNTY OF RIVERSIDE, STATE) FINDINGS OF FACT,
 17 OF CALIFORNIA; MATTHEW DAVID MUTH,) CONCLUSIONS AND ORDER TO
 18 JANA WHITTENBURG, OWNERS.) ABATE NUISANCE
 19)
 20) [R.C.O. Nos. 457 (RCC Title 15) and
 21) 725 (RCC Title 1) and Board of
 22) Supervisors Policy F-6]

23 The above-captioned matter came on regularly for hearing on January 11, 2011, before the
24 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
25 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
26 property described as 30260 Los Alamos Road, Murrieta, Riverside County, APN: 480-100-008, and
27 referred to hereinafter as "THE PROPERTY."

28 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.

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 Owners
3 of THE PROPERTY as Matthew David Muth and Jana Whittenburg ("OWNERS").

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE
5 PROPERTY, to wit: Integrated Title, Inc., Taylor Bean & Whitaker Mortgage Corp., and MERS
6 ("INTERESTED PARTIES").

7 3. THE PROPERTY was inspected by Code Enforcement Officers on March 18, 2010,
8 July 9, 2010, December 3, 2010 and January 7, 2011.

9 4. During each inspection, grading was observed on THE PROPERTY which deviated
10 from the natural topography. Searches on the County's Land Management System revealed no
11 permits had been acquired for the grading.

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 June 1, 2010, as Document Number
15 2010-0251777 in the Office of the County Recorder, County of Riverside.

16 7. On March 18, 2010, a Notice of Violation for Unapproved Grading was personally
17 served to Matthew Muth, OWNER. On May 19, 2010, a Notice of Violation was mailed by certified
18 mail, return receipt requested to OWNERS. On July 12, 2010, a Notice of Violation was mailed to
19 the INTERESTED PARTIES via certified mail with return receipt requested.

20 8. On November 30, 2010, a "Notice to Correct County Ordinance Violations and Abate
21 Public Nuisance" providing notice of the public hearing before the Board of Supervisors scheduled
22 for January 11, 2011, was mailed via certified mail with return receipt requested to OWNERS and
23 INTERESTED PARTIES and on December 3, 2010, said notice was posted on THE PROPERTY.

24 **FINDINGS AND CONCLUSIONS**

25 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
26 regular session assembled on January 11, 2011 finds and concludes that:

27 1. WHEREAS, the unapproved grading on the real property located at 30260 Los
28 Alamos Road, Murrieta, Riverside County, California, also identified as Assessor's Parcel Number



1 480-100-008 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and
2 attractive nuisance.

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

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

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

16 **ORDER TO ABATE NUISANCE**

17 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
18 30260 Los Alamos Road, Murrieta, Riverside County, California, also identified as Assessor's Parcel
19 Number 480-100-008 be abated by the OWNER, and anyone having possession or control of THE
20 PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building and
21 Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside
22 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety
23 (90) days of the posting and mailing of this Order to Abate Nuisance.

24 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not restored
25 to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage and
26 slope erosion in strict accordance with all Riverside County Ordinances, including but not limited to
27 Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order
28 to Abate Nuisance, the unapproved grading may be abated by representatives of the Riverside County

2011-0064007
02/09/2011 10:40A
3 of 5





1 Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's
2 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE
3 PROPERTY.

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

14 Dated: February 8, 2011

COUNTY OF RIVERSIDE

15 By Bob Buster

16 Bob Buster
17 Chairman, Board of Supervisors

18 ATTEST:

19 KECIA HARPER-IHEM

20 Clerk to the Board

21
22 By Karen Hinton

23 Deputy

24 (SEAL)



FORM APPROVED COUNTY COUNSEL
BY: L. Alexandra Fong 1/27/11 DATE



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

Recorder
P.O. Box 751
Riverside, CA 92502-0751
(951) 486-7000

<http://riverside.asrcrkrec.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:

2-8-11

Signature:

Karen Barton

Print Name:

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



PROOF OF SERVICE

Case No. CV10-02200

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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, Suite 500, Riverside, California 92501-3674.

That on March 15, 2011, 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)**

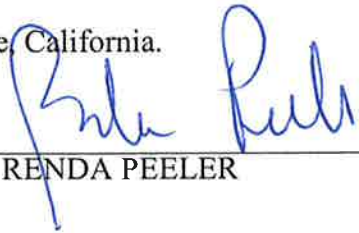
XX **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.** I am "readily familiar" with the office's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Riverside, California, 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 March 15, 2011, at Riverside, California.



BRENDA PEELER



CODE ENFORCEMENT DEPARTMENT COUNTY OF RIVERSIDE

GLENN BAUDE
Director

AFFIDAVIT OF POSTING OF NOTICES

March 17, 2011

RE CASE NO: CV1002200

I, Ariana Meza, 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 03/17/2011 at 9:19am, I securely and conspicuously posted Findings of Fact, Conclusions and Order to Abate Nuisance, Notice List and Proof of Service. at the property described as:


Property Address: 30260 LOS ALAMOS RD, MURRIETA

Assessor's Parcel Number: 480-100-008

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

Executed on March 17, 2011 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT


By: Ariana Meza, Code Enforcement Technician

NOTICE LIST

Subject Property: 30260 Los Alamos Road, Murrieta
Case No.: CV 10-02200; APN: 480-100-008; District 3

MATTHEW DAVID MUTH
JANA WHITTENBURG
30260 LOS ALAMOS ROAD
MURRIETA, CA 92563

TAYLOR, BEAN & WHITAKER MORTGAGE CORP.
1417 NORTH MAGNOLIA AVE.
OCALA, FL 34475

INTEGRATED TITLE, INC
700 NORTH BRAND BLVD., #900
GLENDALE, CA 91203

MERS
PO BOX 2026
FLINT, MI 48501-2026

NOTICE LIST

Subject Property: 30260 LOS ALAMOS RD., MURRIETA

Case No.: CV10-02200

APN: 480-100-008; District 3


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 <input type="checkbox"/> Agent <i>Stephena Whipp</i> <input type="checkbox"/> Addressee
1. Article Addressed to: MERS PO BOX 2026 FLINT, MI 48501-2026	B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
2. Article Number (Transfer from service label)	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. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
PS Form 3811, February 2004	7010 1670 0001 7232 1367 Domestic Return Receipt 102595-02-M-1540

NOTICE LIST

Subject Property: 30260 LOS ALAMOS RD., MURRIETA

Case No.: CV10-02200

APN: 480-100-008; District 3

SENDER: COMPLETE THIS SECTION		RECIPIENT'S 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 	
1. Article Addressed to: MATTHEW DAVID MUTH JANA WHITTENBURG 30260 LOS ALAMOS ROAD MURRIETA, CA 92563		B. Recipient's Printed Name	C. Date of Delivery 3-17
		D. Is delivery address different from item 1? If YES, enter delivery address below:	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		7010 1670 0001 7232 1343	
PS Form 3811, February 2004		Domestic Return Receipt 102595-02-M-1540	

NOTICE LIST

Subject Property: 30260 LOS ALAMOS RD., MURRIETA

Case No.: CV10-02200

APN: 480-100-008; District 3

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	
1. Article Addressed to: INTEGRATED TITLE, INC 700 NORTH BRAND BLVD., #900 GLENDALE, CA 91203	B. Received by (<i>Printed Name</i>)	C. Date of Delivery
<i>CV10-0220 (MOM/Whitkenburg) FF 4</i>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Transfer from service label)	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.	
PS Form 3811, February 2004	4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes 7010 1670 0001 7232 1350 Domestic Return Receipt 102595-02-M-1540	

NOTICE LIST

Subject Property: 30260 LOS ALAMOS RD., MURRIETA

Case No.: CV10-02200

APN: 480-100-008; District 3

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 X <i>Dorothy R. Hamble</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Dorothy R. Hamble</i> C. Date of Delivery <i>3-22</i></p>
<p>1. Article Addressed to:</p> <p>TAYLOR, BEAN & WHITAKER MORTGAGE CORP. 1417 NORTH MAGNOLIA AVE. OCALA, FL 34475</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p><i>CV10-0220 (Ham/Whitaker) Fof 4</i></p>	<p>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.</p>
<p>2. Article Number (Transfer from service label)</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> <p>7010 1670 0001 7232 1374</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	