

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

312B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
April 14, 2011

SUBJECT: Order to Abate [Grading Without a Permits]
Case No. : CV09-01373 [MATHIS]
Subject Property: 48778 Leaning Rock Court, Aguanga; APN: 584-250-029
District: Three

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-01373 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 09-01373; 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 09-01373.

(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: *Alex Gann*

County Executive Office Signature

Alex Gann

- Policy
- Policy
- Consent
- Consent
-

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, 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: April 26, 2011
xc: Co. C8 (3); Recorder

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

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

Abatement of Public Nuisance
Case No.: CV09-01373 [MATHIS]
48778 Leaning Rock Court, Aguanga
District Three
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BACKGROUND:

On February 15, 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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CONGHT						T:	CTY	UNI	27

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:
14 [GRADING WITHOUT PERMITS]; APN: 584-
15 250-029, 48778 LEANING ROCK COURT,
16 AGUANGA, COUNTY OF RIVERSIDE, STATE
17 OF CALIFORNIA; TERRY R. MATHIS,
18 OWNER.

CASE NO. CV 09-01373

FINDINGS OF FACT,
CONCLUSIONS AND ORDER TO
ABATE NUISANCE

[R.C.O. Nos. 457 (RCC Title 15) and
725 (RCC Title 1) and Board of
Supervisors Policy F-6]

19 The above-captioned matter came on regularly for hearing on February 15, 2011, before the
20 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
21 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
22 property described as 48778 Leaning Rock Court, Aguanga, Riverside County, APN: 584-250-029,
23 and referred to hereinafter as "THE PROPERTY."

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

26 Owner did not appear and did not address the Board.

27 The Board of Supervisors received the Declaration of the Code Enforcement Officer together
28 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.

SUMMARY OF EVIDENCE

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

4 2. Documents of title indicate that other party potentially holds a legal interest in THE
5 PROPERTY, to wit: State of California Franchise Tax Board ("INTERESTED PARTY").

6 3. THE PROPERTY was inspected by Code Enforcement Officers on February 27,
7 2009, May 18, 2009, July 10, 2009, September 1, 2009, December 7, 2009, February 16, 2010, May
8 4, 2010 and January 27, 2011.

9 4. During each inspection, grading was observed on THE PROPERTY which deviated
10 from the natural topography.

11 5. A search of County records revealed that a grading permit had been obtained for the
12 grading on THE PROPERTY and subsequently expired. A review of County records revealed no
13 application for an assessment permit or grading permit on file for THE PROPERTY.

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

16 7. A Notice of Noncompliance was recorded on March 16, 2009, as Document Number
17 2009-0127035 in the Office of the County Recorder, County of Riverside.

18 8. On February 27, 2009, a Notice of Violation for Unapproved Grading was posted on
19 THE PROPERTY. On March 5, 2009 and June 10, 2009, a Notice of Violation was mailed by
20 certified mail, return receipt requested to OWNER. On June 10, 2009 and October 6, 2009, a Notice
21 of Violation was mailed via certified mail with return receipt requested to INTERESTED PARTY.

22 9. On May 3, 2010, a "Notice to Correct County Ordinance Violations and Abate Public
23 Nuisance" providing notice of the public hearing before the Board of Supervisors scheduled for June
24 22, 2010, was mailed to OWNER and INTERESTED PARTY by certified mail with return receipt
25 requested and on May 4, 2010, it was posted on THE PROPERTY.

26 10. On June 23, 2010, a "Continuation Notice to Correct County Ordinance Violations
27 and Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors
28 scheduled for August 10, 2010, was mailed to OWNER and INTERESTED PARTY by certified mail

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1 with return receipt requested and on June 29, 2010, it was posted on THE PROPERTY.

2 11. On August 17, 2010, a "Continuation Notice to Correct County Ordinance Violations
3 and Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors
4 scheduled for February 2, 2011, was mailed to OWNER and INTERESTED PARTY by certified mail
5 with return receipt requested and on August 19, 2010, it was posted on THE PROPERTY.

6 12. On February 1, 2011, a "Continuation Notice to Correct County Ordinance Violations
7 and Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors
8 scheduled for February 15, 2011, was mailed to OWNER and INTERESTED PARTY by certified
9 mail with return receipt requested and on February 3, 2011, it was posted on THE PROPERTY.

10 **FINDINGS AND CONCLUSIONS**

11 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
12 regular session assembled on February 15, 2011, finds and concludes that:

13 1. WHEREAS, the unapproved grading on the real property located at 48778 Leaning
14 Rock Court, Aguanga, Riverside County, California, also identified as Assessor's Parcel Number 584-
15 250-029 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and
16 attractive nuisance.

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

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

26 4. WHEREAS, the OWNER IS HEREBY FURTHER NOTICED that the time within
27 which judicial review of the administrative determinations made herein must be sought is ninety (90)
28 days from the posting and mailing of the Findings of Fact, Conclusions and Order To Abate Nuisance,

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1 and is governed by California Code of Civil Procedure Section 1094.6.

2 **ORDER TO ABATE NUISANCE**

3 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
4 48778 Leaning Rock Court, Aguanga, Riverside County, California, also identified as Assessor's
5 Parcel Number 584-250-029 be abated by the OWNER, and anyone having possession or control of
6 THE PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building
7 and Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside
8 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety
9 (90) days of the posting and mailing of this Order to Abate Nuisance.

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

18 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
19 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
20 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
21 County Ordinance Nos. 457 and 725. Under Riverside County Ordinance 725, "abatement costs"
22 means "any costs or expenses reasonably related to the abatement of conditions which violate County

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FORM APPROVED COUNTY COUNSEL
BY: L. Alexandra Fong 3/31/11
DATE

1 Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, collection
2 and administrative costs, attorneys fees, and the costs associated with the removal or correction of the
3 violation." Reasonable abatement costs accrued by the Code Enforcement Department will be
4 recoverable from the property owner(s) even if THE PROPERTY is brought into compliance within
5 ninety (90) days of the date of this Order to Abate Nuisance.

6 Dated: April 26, 2011

COUNTY OF RIVERSIDE

By Bob Buster
Bob Buster
Chairman, Board of Supervisors

9 ATTEST:

10 KECIA HARPER-IHEM

11 Clerk to the Board

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14 By Kalungitan
15 Deputy
16 (SEAL)
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25 L:\Code Enforcement\Abatements\2010\2009\CV09-01373\457 grading FOF.DOC



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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.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:

4-26-11

Signature:

Karen Barton

Print Name:

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





**CODE ENFORCEMENT DEPARTMENT
COUNTY OF RIVERSIDE**

GLENN BAUDE
Director

AFFIDAVIT OF POSTING OF NOTICES

May 24, 2011

RE CASE NO: CV0901373

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 05/24/2011 at 11:42am, I securely and conspicuously posted Findings of Facts, Conclusions, and Order to Abate Public Nuisance, Proof of Service and Notice List at the property described as:

Property Address: 48778 LEANING ROCK CT, AGUANGA

Assessor's Parcel Number: 584-250-029

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

Executed on May 24, 2011 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT


By: Ariana Meza, Code Enforcement Technician

PROOF OF SERVICE

Case No. CV09-01373

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STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I, LaKesha Covington, 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 May 19, 2011, 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)**

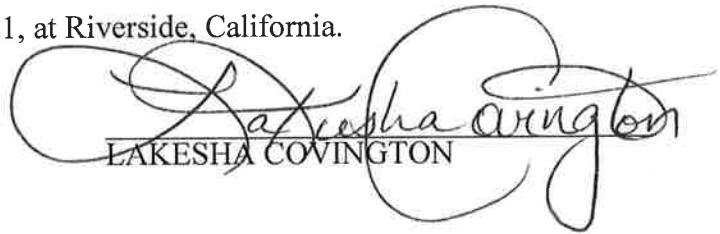
XX **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.** I am "readily familiar" with the office's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Riverside, California, 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 May 19, 2011, 2011, at Riverside, California.


LAKESHA COVINGTON