

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

911B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
July 14, 2011

SUBJECT: Order to Abate [Excess Outside Storage & Accumulated Rubbish]
Case No: CV 09-04701 [MERRILL]
Subject Property: 43422 Dessie Way, Hemet; APN: 549-223-008
District: Three

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-04701 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 09-04701; 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 09-04701.

[Handwritten Signature]

(Continued)

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: *[Handwritten Signature]*
Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Buster, Stone, Benoit and Ashley
Nays: None
Absent: Tavaglione
Date: July 26, 2011
xc: Co.Cb.(3); Recorder

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

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

Departmental Concurrence

- Consent
- Policy
- Consent
- Policy

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

Order to Abate
Case No. CV09-04701
43422 Dessie Way, Hemet [MERRILL]
APN#549-223-008
District Three
Page 2

BACKGROUND:

On June 14, 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 excess outside storage and accumulated rubbish 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 to the
3 Board of Supervisors (Stop #1010)

DOC # 2011-0331375
07/28/2011

Customer Copy Label
The paper to which this label is
affixed has not been compared
with the recorded document

Larry W Ward
County of Riverside
Assessor, County Clerk & Recorder

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 GC §§ 6103 and 27383]

**BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**

11 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 09-04701
12 [EXCESSIVE OUTSIDE STORAGE AND)
13 ACCUMULATION OF RUBBISH];) FINDINGS OF FACT,
14 APN 549-223-008, 43422 DESSIE WAY, HEMET,) CONCLUSIONS AND ORDER TO
15 COUNTY OF RIVERSIDE, STATE OF) ABATE NUISANCE
16 CALIFORNIA; ERNEST L. MERRILL AND)
17 MARY R. MERRILL, TRUSTEES OF THE) [R.C.O. Nos. 348 (RCC Title 17), 541
18 ERNEST L. MERRILL AND MARY R. MERRILL) (RCC Title 8) and 725 (RCC Title 1)]
19 FAMILY TRUST DATED SEPTEMBER 1, 2005,)
20 OWNERS.)

21 The above-captioned matter came on regularly for hearing on June 14, 2011, before the Board
22 of Supervisors of the County of Riverside, State of California in the Board Room, First Floor Annex,
23 County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real property
24 described as 43422 Dessie Way, Hemet, Riverside County, California and further described as
25 Assessor's Parcel Number 549-223-008 and referred to hereinafter as "THE PROPERTY."

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

28 Mary Merrill and her son appeared on behalf of Owners.

The Board of Supervisors received the Declaration of the Code Enforcement Officer together
with attached Exhibits, evidencing the excessive outside storage of materials and accumulation of

1 rubbish on THE PROPERTY as violations of Riverside County Ordinance Nos. 348 (Riverside
2 County Code Title 17) and 541 (Riverside County Code Title 8) and as a public nuisance.

3 **SUMMARY OF EVIDENCE**

4 1. Documents of record in the Riverside County Recorder's Office identify the owners
5 of THE PROPERTY as Ernest L. Merrill and Mary R. Merrill, Trustees of the Ernest L. Merrill and
6 Mary R. Merrill Family Trust Dated September 1, 2005 ("OWNERS").

7 2. Documents of title indicate that other parties potentially hold a legal interest in THE
8 PROPERTY to wit: Wells Fargo Home Mortgage and Carmel Financial Corporation
9 ("INTERESTED PARTIES").

10 3. THE PROPERTY was inspected by Code Enforcement Officers on August 18, 2009,
11 October 9, 2009, October 16, 2009, April 19, 2010, May 25, 2010, July 13, 2010, November 3, 2010,
12 January 5, 2011, March 15, 2011, March 23, 2011, June 1, 2011 and June 10, 2011.

13 4. During each inspection, the outside storage of materials and accumulation of rubbish
14 were observed on THE PROPERTY. The materials and rubbish were intermingled and included but
15 were not limited to: construction materials, scrap wood, doors, windows, pipes, wire mesh, hand
16 tools, auto parts, bicycle parts, boxes, crates, plastic bins, recyclables, fabric, clothes, an engine hoist
17 and other assorted household wares. The officer visually estimated the amount of accumulated
18 rubbish and excess outside storage of materials was approximately eight hundred sixty five (865)
19 square feet. Given the size of the parcel (.16 acres) and the zoning classification (R-T, Mobilehome
20 Subdivisions and Mobilehome Park Zones), no amount of outside storage or rubbish is allowed on
21 THE PROPERTY.

22 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance
23 Nos. 348 (RCC Title 17) and 541 (RCC Title 8) by the Code Enforcement Officer.

24 6. A Notice of Noncompliance was recorded on March 30, 2011, as Document Number
25 2011-0138904 in the Office of the County Recorder, County of Riverside.

26 7. On August 18, 2009, a Notice of Violation for violation of Riverside County
27 Ordinance Nos. 348 and 541 was posted on THE PROPERTY. On August 19, 2009, a Notice of
28 Violations was mailed to OWNERS. On November 24, 2010, a Notice of Violation was mailed to

1 OWNERS and INTERESTED PARTIES. On March 23, 2011, a Field Notice of Violation was
2 mailed to OWNERS.

3 8. On May 31, 2011, the "Notice to Correct County Ordinance Violations and Abate
4 Public Nuisance" providing notice of the public hearing before the Board of Supervisors scheduled
5 for June 14, 2011, was mailed by certified mail, return receipt requested, to OWNERS and
6 INTERESTED PARTIES and was posted on THE PROPERTY on June 1, 2011.

7 **FINDINGS AND CONCLUSIONS**

8 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
9 regular session assembled on June 14, 2011, finds and concludes that:

10 1. WHEREAS, the excess outside storage of materials and accumulation of rubbish on
11 the real property located at 43422 Dessie Way, Hemet, Riverside County, California, also identified
12 as Assessor's Parcel Number 549-223-008 violates Riverside County Ordinance Nos. 348 (RCC Title
13 17) and 541 (RCC Title 8) and constitutes a public nuisance. Under Riverside County Ordinance
14 No. 348, no amount of outside storage of materials is allowed to be stored on THE PROPERTY.
15 Under Riverside County Ordinance No. 541, no amount of rubbish is allowed to be accumulated on
16 THE PROPERTY.

17 2. WHEREAS, the OWNERS, occupants or any person having possession or control of
18 the premises shall abate the condition by removal of all outside storage of materials and removing
19 and disposing of all accumulated rubbish from the subject real property in strict accordance with all
20 Riverside County Ordinances, including but not limited to Riverside County Ordinance Nos. 348
21 (RCC Title 17) and 541 (RCC Title 8) within ninety (90) days.

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

26 **ORDER TO ABATE NUISANCE**

27 IT IS THEREFORE ORDERED that the excess outside storage of materials and
28 accumulation of rubbish on THE PROPERTY be abated by the OWNERS, specifically Ernest L.

1 Merrill and Mary R. Merrill, Trustees to the Ernest L. Merrill and Mary r. Merrill Family Trust Dated
2 September 1, 2005, or anyone having possession or control of THE PROPERTY, by removing all of
3 the outside storage of materials and removing and disposing of all accumulated rubbish from the
4 subject real property in strict accordance with all Riverside County Ordinances, including but not
5 limited to Riverside County Ordinance Nos. 348 (RCC Title 17) and 541 (RCC Title 8) within ninety
6 (90) days of the date of this Order to Abate Nuisance.

7 IT IS FURTHER ORDERED that if the materials and rubbish are not removed and disposed
8 of in strict accordance with all Riverside County Ordinances, including but not limited to Riverside
9 County Ordinance Nos. 348 (RCC Title 17) and 541 (RCC Title 8) within ninety (90) days of the
10 date of this Order to Abate Nuisance, the excess outside storage of materials and accumulation of
11 rubbish may be abated and disposed of by representatives of the Riverside County Code Enforcement
12 Department, a contractor or the Sheriff's Department upon receipt of an owner's consent or a Court
13 Order when necessary under applicable law.

14 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
15 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
16 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
17 County Ordinance Nos. 348 (RCC Title 17), 541 (RCC Title 8), and 725 (RCC Title 1). Under
18 Riverside County Ordinance No. 725, "abatement costs" means "any costs or expenses reasonably
19 related to the abatement of conditions which violate County Land Use Ordinances, and shall include,
20 but not be limited to, enforcement, investigation, collection and administrative costs, attorneys fees,
21 and the costs associated with the removal or correction of the violation." Reasonable abatement
22 costs accrued by the Code Enforcement Department will be recoverable from the property

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

FORM APPROVED COUNTY COUNSEL
BY: Alexandra Fong DATE 6/29/11
L. ALEXANDRA FONG

1 owner(s) even if THE PROPERTY is brought into compliance within ninety (90) days of the date of
2 this Order to Abate Nuisance.

4 Dated: July 26, 2011

COUNTY OF RIVERSIDE

5 By Bob Buster
6 Bob Buster
7 Chairman, Board of Supervisors

8 ATTEST:
9 KECIA HARPER-IHEM
10 Clerk to the Board

11 By Alexandra Fong
12 Deputy
13 (SEAL)
14

18 G:\Litigation\Code Enforcement\Abatements\2011\2009\CV09-04701\348 541 FOF.DOC



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:

7-20-11

Signature:

Karen Barton

Print Name:

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

NOTICE LIST

Subject Property: 43422 Dessie Way, Hemet; Case No.: CV09-04701;
APN: 549-223-008; District 3

ERNEST L. MERRILL, TRUSTEE
MARY R. MERRILL, TRUSTEE
43422 DESSIE WAY
HEMET, CA 92544

WELLS FARGO HOME MORTGAGE
PO BOX 5137
DES MOINES, IA 50306-5137

CARMEL FINANCIAL CORP
101 E. CARMEL DR. #200
CARMEL, IN 46032

7.26.11 2.12

PROOF OF SERVICE

Case No. CV09-04701

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 August 18, 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)**

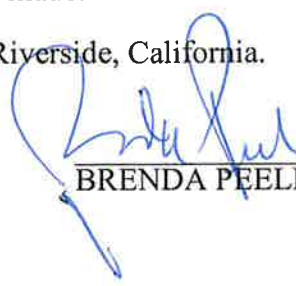
XX **BY FIRST CLASS MAIL.** I am "readily familiar" with the office's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Riverside, California, in the ordinary 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 August 18, 2011, at Riverside, California.



BRENDA PEELER



**CODE ENFORCEMENT DEPARTMENT
COUNTY OF RIVERSIDE**

GLENN BAUDE
Director

AFFIDAVIT OF POSTING OF NOTICES

August 19, 2011

RE CASE NO: CV0904701

I, Anita Bustillos, 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 08/19/2011 at 11:54 a.m., I securely and conspicuously posted Finding of Fact, Conclusions and Order to Abate Nuisance at the property described as:

Property Address: 43422 DESSIE WAY, HEMET

Assessor's Parcel Number: 549-223-008

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

Executed on August 19, 2011 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT

By: Anita Bustillos, Code Enforcement Technician