

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

519B



FROM: County Counsel/TLMA
Code Enforcement Department


SUBMITTAL DATE:
October 13 2011

SUBJECT: Order to Abate [Accumulated Rubbish]
Case No: CV 09-13023 [BRINKLEY]
Subject Property: 64050 Desert Sands Rd., Desert Hot Springs;
APN: 663-090-010; District: Five

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-13023 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 09-13023; 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 09-13023.

(Continued)

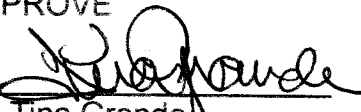


PATRICIA MUNROE, Deputy County Counsel
for PAMELA J. WALLS, County Counsel

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: 
Tina Grande

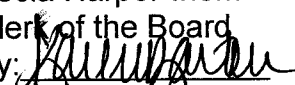
County Executive Office Signature

- Consent
- Policy
- Consent
- Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Buster 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 25, 2011
xc: Co.Co.(3); Recorder

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

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

Prev. Agn. Ref.: 09/20/11; 9.4 | District: 5 | Agenda Number:

2.7

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD
Departmental Concurrence

Abatement of Public Nuisance
Case Nos.: CV 09-13023 [BRINKLEY]
64050 Desert Sands Rd., Desert Hot Springs
APN# 663-090-010
District 5
Page 2

BACKGROUND:

On September 20, 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 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 of the
3 Board of Supervisors
4 (Stop #1010)

S	R	U	PAGE	SIZE	DA	MISC	LONG	RFD	COPY
1			5						
M	A	L	465	426	PCOR	NCOR	SMF	NICHE	EXAM
NCHG CC						T:	CTY	UNI	522

5 WHEN RECORDED PLEASE MAIL TO:
6 Patricia Munroe, 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 09-13023
12 [ACCUMULATION OF RUBBISH]; APN 663-)
13 090-010, 64050 DESERT SANDS RD., DESERT) FINDINGS OF FACT,
HOT SPRINGS, RIVERSIDE COUNTY,) CONCLUSIONS AND ORDER TO
14 CALIFORNIA; J.D. BRINKLEY, OWNER.) ABATE NUISANCE
))
)) R.C.O. Nos. 541 and 725
))

15
16 The above-captioned matter came on regularly for hearing on September 20, 2011, before the
17 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
18 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
19 property described as 64050 Desert Sands Rd., Desert Hot Springs, Riverside County, and further
20 described as Assessor's Parcel Number 663-090-010 referred to hereinafter as "THE PROPERTY."

21 Patricia Munroe, Deputy County Counsel, appeared along with Brian Black, Supervising
22 Code Enforcement Officer, on behalf of the Director of the Code Enforcement Department.

23 Owner did not appear.

24 The Board of Supervisors received the Declaration of Code Enforcement Officer together with the
25 attached exhibits, evidencing the accumulation of rubbish on THE PROPERTY as a public nuisance
26 and violation of Riverside County Ordinance No. 541.

SUMMARY OF EVIDENCE

27
28 1. Documents of record in the Riverside County Recorder's Office identify the OWNER

1 of THE PROPERTY as J.D. Brinkley (“OWNER”).

2 2. Documents of title indicate that other parties potentially hold a legal interest in THE
3 PROPERTY, to-wit: Willie M. Batts and Bernice M. Batts (collectively referred to as
4 “INTERESTED PARTIES”).

5 3. THE PROPERTY was inspected by Code Enforcement Officers on December 22,
6 2009, March 10, 2010, April 29, 2010, June 17, 2010, August 13, 2010, October 6, 2010, December
7 8, 2010, January 26, 2011, March 22, 2011, April 15, 2011 and August 30, 2011.

8 4. During each inspection, an accumulation of rubbish was observed on THE
9 PROPERTY. The rubbish consisted of, but was not limited to: old and broken furniture, clothing,
10 auto parts, lumber, green waste, utensils, household trash, chain link fencing, cabinetry, wheel
11 barrels, tires, unusable chairs and other miscellaneous items.

12 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance
13 No. 541 by the Code Enforcement Officer.

14 6. A Notice of Noncompliance was recorded in the Office of the County Recorder,
15 County of Riverside, State of California on March 15, 2011, as instrument number 2011-0117151.

16 7. On December 22, 2009 and August 13, 2010, a Notice of Violation was personally
17 served to Eva Hallmark, wife of OWNER. On August 18, 2010, a Notice of Violation was mailed by
18 OWNER and on March 24, 2011 was mailed to INTERESTED PARTIES.

19 8. On August 24, 2011, a “Notice to Correct County Ordinance Violations and Abate
20 Public Nuisance” providing notice of the public hearing before the Board of Supervisors on
21 September 20, 2011 was mailed to OWNER and INTERESTED PARTIES and posted on THE
22 PROPERTY on August 30, 2011.

23 **FINDINGS AND CONCLUSIONS**

24 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
25 regular session assembled on September 20, 2011, finds and concludes that:

26 1. WHEREAS, the accumulation of rubbish on the real property located at 64050 Desert
27 Sands Rd., Desert Hot Springs, Riverside County, California, also identified as Assessor's Parcel
28 Number 663-090-010 violates Riverside County Ordinance No. 541 and constitutes a public

2011-0480360
10/31/2011 12:28P
2 of 5



1 nuisance.

2 2. WHEREAS, the OWNER, or any person having possession or control of the premises
3 shall abate the condition by removing and disposing all accumulated rubbish from the subject real
4 property in strict accordance with all Riverside County Ordinances, including but not limited to
5 Riverside County Ordinance No. 541 within ninety (90) days.

6 3. WHEREAS, the OWNER AND INTERESTED PARTIES ARE HEREBY
7 FURTHER NOTICED that the time within which judicial review of the administrative
8 determinations made herein must be sought is ninety (90) days from the posting and mailing of the
9 Findings of Fact, Conclusions and Order To Abate Nuisance, and is governed by California Code of
10 Civil Procedure Section 1094.6.

11 **ORDER TO ABATE NUISANCE**

12 IT IS THEREFORE ORDERED that the accumulation of rubbish on THE PROPERTY be
13 abated by the OWNER or anyone having possession or control of THE PROPERTY, by removing
14 and disposing of all rubbish from the subject real property in strict accordance with all Riverside
15 County Ordinances, including but not limited to Riverside County Ordinance No. 541 within ninety
16 (90) days of the date of this Order to Abate Nuisance.

17 IT IS FURTHER ORDERED that if the rubbish is not removed and disposed of in strict
18 accordance with all Riverside County Ordinances, including but not limited to Riverside County
19 Ordinance No. 541, within ninety (90) days of the date of this Order to Abate Nuisance, the rubbish
20 may be abated and disposed of by representatives of the Riverside County Code Enforcement, a
21 contractor or the Sheriff's Department upon receipt of an owner's consent or a Court Order
22 authorizing entry onto THE PROPERTY when necessary under applicable law.

23 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
24 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
25 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
26 County Ordinance Nos. 541 and 725. Under Riverside County Ordinance No. 725, "abatement
27 costs" means "any costs or expenses reasonably related to the abatement of conditions which violate
28 County Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation,



1 collection and administrative costs, attorneys fees, and the costs associated with the removal or
2 correction of the violation." Reasonable abatement costs accrued by the Code Enforcement
3 Department will be recoverable from the property owner(s) even if THE PROPERTY is brought into
4 compliance within ninety (90) days of the date of this Order to Abate Nuisance.

5
6 Dated: October 25, 2011

COUNTY OF RIVERSIDE

7
8 By Bob Buster
9 Bob Buster
10 Chairman, Board of Supervisors

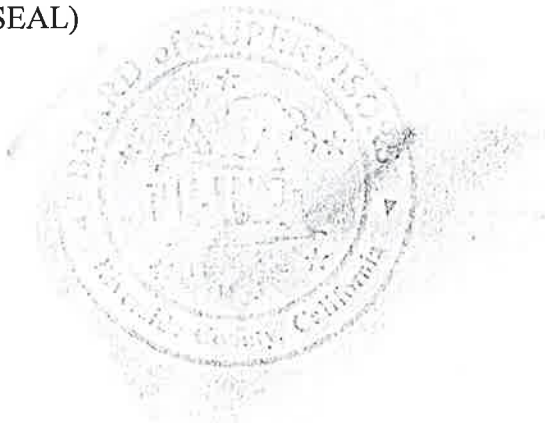
11 ATTEST:

12 KECIA HARPER-IHEM

13 Clerk to the Board

14 By Kecia Harper-Ihem
15 Deputy

16
17 (SEAL)



2011-0480360
10/31/2011 12:28P
4 of 5



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)

2011-0488360
10/31/2011 12:26P
5 of 5



Date: 10-25-11

Signature: *Karen Barton*

Print Name: Karen Barton, Board Assistant, Riverside County Clerk of the Board

NOTICE LIST

Subject Property: 64050 Desert Sands Rd., Desert Hot Springs

Case No.: CV09-13023;

APN: 663-090-010; District Five

JD BRINKLEY
64050 DESERT SANDS RD
DESERT HOT SPRINGS CA 92240

JD BRINKLEY
PO BOX 580193
N PALM SPRINGS CA 92258

WILLIE M BATTS
BERNICE M BATTS
64015 HARVEST MOON ROAD
DESERT HOT SPRINGS CA 92240

PROOF OF SERVICE

Case No. CV09-13023

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 November 16, 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 November 16, 2011, at Riverside, California.



BRENDA PEELER



**CODE ENFORCEMENT DEPARTMENT
COUNTY OF RIVERSIDE**

GLENN BAUDE
Director

AFFIDAVIT OF POSTING OF NOTICES

November 21, 2011

RE CASE NO: CV0913023

I, Thomas Cervantes, hereby declare:

I am employed by the Riverside County Code Enforcement Department; that my business address is 38686 El Cerrito Road, Suite 200, Palm Desert, California 92211 .

That on 11/17/2011 at 10:41 AM, I securely and conspicuously posted Findings of Facts at the property described as:


Property Address: 64050 DESERT SANDS RD, NORTH PALM SPRINGS

Assessor's Parcel Number: 663-090-010

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

Executed on November 21, 2011 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT


By: Thomas Cervantes, Code Enforcement Officer