

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

645



**FROM:** County Counsel

**SUBMITTAL DATE:**  
October 27, 2011

**SUBJECT:** Attorney General Response to Robert Mabee Dispute

**RECOMMENDED MOTION:** That the Board of Supervisors receive and file the response of the California Attorney General dated September 22, 2011 regarding Mr. Mabee's dispute with the County.

Departmental Concurrence

**BACKGROUND:** A request was made to the California Attorney General to review the dispute between the County of Riverside and Mr. Mabee, including a package of materials relating to the dispute provided by Mr. Mabee. On September 22, 2011, the Attorney General issued its response and a copy of this response was provided to Mr. Mabee. Pursuant to the Board's request on October 25, 2011, attached is a copy of the September 22, 2011 Attorney General response, to be received and filed.

*Pamela J. Walls*

PAMELA J. WALLS, County Counsel

|                       |                               |    |                         |
|-----------------------|-------------------------------|----|-------------------------|
| <b>FINANCIAL DATA</b> | Current F.Y. Total Cost:      | \$ | In Current Year Budget: |
|                       | Current F.Y. Net County Cost: | \$ | Budget Adjustment:      |
|                       | Annual Net County Cost:       | \$ | For Fiscal Year:        |

|                         |                                  |                          |
|-------------------------|----------------------------------|--------------------------|
| <b>SOURCE OF FUNDS:</b> | Positions To Be Deleted Per A-30 | <input type="checkbox"/> |
|                         | Requires 4/5 Vote                | <input type="checkbox"/> |

**C.E.O. RECOMMENDATION:**

APPROVE

BY: *Denise C. Harden*  
Denise C. Harden

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Benoit, seconded by Supervisor Buster and duly carried, IT WAS ORDERED that the above matter is received and filed as recommended and no action taken.

Ayes: Buster, Stone and Benoit  
Nays: Tavaglione and Ashley  
Absent: None  
Date: November 1, 2011  
xc: Co.Co.

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

- Policy
- Policy
- Consent
- Consent

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

Prev. Agn. Ref.: | District: | Agenda Number:

2.11

FILE COPY



KAMALA D. HARRIS  
Attorney General

State of California  
DEPARTMENT OF JUSTICE

300 SOUTH SPRING STREET, SUITE 1702  
LOS ANGELES, CA 90013

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E-Mail: John.Saurenman@doj.ca.gov

September 22, 2011

Assemblyman Kevin Jeffries  
State Capitol  
Sacramento, CA 95814

RE: Robert Mabee Dispute with County of Riverside

Dear Assemblyman Jeffries:

Several months ago, you sent to the Attorney General a package of materials relating to a dispute between Mr. Mabee and the County of Riverside. I have been asked to respond to your letter. I note that both I and a senior attorney in our Criminal Law Division reviewed the materials you submitted to us. Based on that review, and for the reasons described below, the Attorney General's Office declines to intervene in this matter. We also note that Mr. Mabee brought this matter to my office's attention in 2007, and at that time, we also declined to take action.

In your letter, you note that the dispute between Mr. Mabee and the County is a longstanding one. You also note that Mr. Mabee alleges that the County has misled the courts as to an easement he claims for ingress and egress to property he formerly owned. As we understand the matter, this dispute began in the 1980s when the County Flood Control District began the process of fencing to limit access along Bautista Creek Channel because of vandalism. The fencing also blocked an easement that Mr. Mabee then held. Rather than enter into a settlement with the District, in late 1980s Mr. Mabee sued the District and lost in the trial court. In 1992, the California Court of Appeal affirmed the trial court, and the California Supreme Court declined to hear the matter. In brief, the courts found that Mr. Mabee's easement terminated by its own terms when the District granted to the County a public road along the channel.

Thereafter, Mr. Mabee filed a second suit against the County and the Flood Control District claiming that the County and the District had improperly taken his easement. The trial court again ruled against Mr. Mabee finding that the statute of limitations barred his claim. The court entered judgment against him in January 1997, the Court of Appeal affirmed in 1998, and the Supreme Court again declined Mr. Mabee's petition for review.

There are two essential reasons why the Attorney General's Office declines to intervene in this matter. First, it involves a private dispute between Mr. Mabee and the County. The

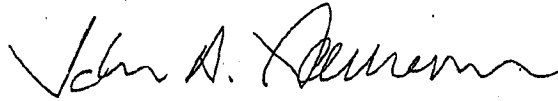
Assemblyman Kevin Jeffries  
September 22, 2011  
Page 2

Attorney General would become involved in such a dispute in only the rarest of circumstances, that is, when the dispute presented an issue that truly was of statewide importance. We can discern no such issue here. Mr. Mabee has had recourse to the courts but has not been successful in his litigation. We can appreciate that his lack of success is disappointing to him. However, that does not provide a basis for this office to intervene.

Second, this dispute is very old. The Flood Control District began constructing its improvements along Bautista Creek Channel in 1986. Mr. Mabee filed two lawsuits in the 1990s, and the courts finally resolved those cases in 1992 and 1998. It is not the role of the Attorney General's Office to attempt to reconstruct the events that led to that litigation or what might have happened in the course of litigation that ended 19 and 13 years ago. As a member of the Assembly, I am sure you understand that the Attorney General's Office does not have unlimited resources and that this office must reserve its resources for matters of statewide significance.

Please feel free to contact me should you have questions about the foregoing.

Sincerely,



JOHN A. SAURENMAN  
Senior Assistant Attorney General

For KAMALA D. HARRIS  
Attorney General

**Riverside County Board of Supervisors  
Request to Speak**

Submit request to Clerk of Board (right of podium),  
Speakers are entitled to three (3) minutes, subject  
Board Rules listed on the reverse side of this form.

**SPEAKER'S NAME:** Robert MABEE

**Address:** 3086 Mibuel St  
(only if follow-up mail response requested)

**City:** RIVERSIDE **Zip:** 92506

**Phone #:** 788-4858

**Date:** Nov-1-11 **Agenda #** 2011

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

Support     Oppose     Neutral

**Note:** If you are here for an agenda item that is filed  
for "Appeal", please state separately your position on  
the appeal below:

Support     Oppose     Neutral

**I give my 3 minutes to:** \_\_\_\_\_

**Riverside County Board of Supervisors  
Request to Speak**



Submit request to Clerk of Board (right of podium),  
Speakers are entitled to three (3) minutes, subject  
Board Rules listed on the reverse side of this form.

**SPEAKER'S NAME:** G. A. GRANT

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

**City:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Agenda #** 211

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

\_\_\_\_\_ **Support**      \_\_\_\_\_ **Oppose**      \_\_\_\_\_ **Neutral**

**Note:** If you are here for an agenda item that is filed  
for "Appeal", please state separately your position on  
the appeal below:

\_\_\_\_\_ **Support**      \_\_\_\_\_ **Oppose**      \_\_\_\_\_ **Neutral**

**I give my 3 minutes to:** \_\_\_\_\_

**Riverside County Board of Supervisors  
Request to Speak**

Submit request to Clerk of Board (right of podium),  
Speakers are entitled to three (3) minutes, subject  
Board Rules listed on the reverse side of this form.

**SPEAKER'S NAME:** Rebecca Sudary

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

**City:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_

**Date:** 11 \_\_\_\_\_

**PLEASE ST**  
**Position on**  
\_\_\_\_\_ **Supp**

*Rebecca  
giving 3 min  
to Gary Grant  
for item 2.11*

1

**Item:**  
**Neutral**

**Note:** If you  
for "Appeal",  
the appeal b

is filed  
on on

\_\_\_\_\_ **Support**    \_\_\_\_\_ **Oppose**    \_\_\_\_\_ **Neutral**

**I give my 3 minutes to:** Gary Grant