

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

316 B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
January 29, 2007

SUBJECT: Order to Abate [Substandard Structures and Accumulation of Rubbish]
Case No.: CV 06-3148
Subject Property: 27560 Western Avenue, Desert Hot Springs
APN: 750-040-008
District Four

RECOMMENDED MOTION: Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 06-3148 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 06-3148; 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 06-3148.

TIFFANY N. NORTH, Deputy County Counsel
for JOE S. RANK, 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	☐
Requires 4/5 Vote	☐

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

[Signature]

Consent ☐ Policy ☒
Consent ☐ Policy ☒

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

5001 74X 53 BW S: 12

RECEIVED RIVERSIDE COUNTY

Prev. Agn. Ref.:

District: 4

Agenda Number:

2 . 19

Order to Abate [Substandard Structures and Accumulation of Rubbish]
Case No.: CV 06-3148
Subject Property: 27560 Western Avenue, Desert Hot Springs
APN: 750-040-008
District Four

BACKGROUND:

On January 23, 2007 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 substandard structures and accumulation of rubbish 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 the Findings of Fact, Conclusion and Order to Abate.

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6 WHEN RECORDED PLEASE MAIL TO:
7 Tiffany N. North, Deputy County Counsel
8 County of Riverside
OFFICE OF COUNTY COUNSEL
3535 Tenth Street, Suite 300 (Stop #1350)
Riverside, CA 92501

[EXEMPT'6103]

9
10 **BOARD OF SUPERVISORS**
11 **COUNTY OF RIVERSIDE**

12 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 06-3148
13 [SUBSTANDARD STRUCTURES AND)
14 ACCUMULATION OF RUBBISH]; APN 750-040-) FINDINGS OF FACT,
15 008, 27560 WESTERN AVENUE, DESERT HOT) CONCLUSIONS AND ORDER TO
CALIFORNIA; TAHANA A. SMITH, OWNER.) ABATE NUISANCE
) [R.C.O. Nos. 457 (RCC Title 15), 541
) (RCC Title 8) and 725 (RCC Title 1)]

16 The above-captioned matter came on regularly for hearing on January 23, 2007, 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 27560 Western Avenue, Desert Hot Springs, Assessor's Parcel Number 750-040-
20 008 and referred to hereinafter as "THE PROPERTY."

21 Tiffany N. North, Deputy County Counsel, appeared along with Jim Monroe, Code
22 Enforcement Division Manager, on behalf of the Director of the Code Enforcement Department.

23 Julia E. Burt, attorney for Tahana Smith, met with Ms. North and Mr. Monroe prior to the
24 hearing but did not address the Board of Supervisors during the public hearing.

25 The Board of Supervisors received the Declaration of the Code Enforcement Officer together
26 with attached Exhibits, evidencing the substandard structures and accumulation of rubbish on THE
27 PROPERTY as violations of Riverside County Ordinance Nos. 457 (Riverside County Code Title
28 15) and 541 (Riverside County Code Chapter 8.120), and as a public nuisance.

SUMMARY OF EVIDENCE

1. Documents of record in the Riverside County Recorder's Office identify the owner of THE PROPERTY as Tahana A. Smith. ("OWNER").

2. Documents of title indicate that other parties potentially hold a legal interest in THE PROPERTY, to-wit: C.E.M.C., Inc., FBO Gail N. Carruthers M.D.; Angel Gabriel Olmeda and Stacy L. Olmeda; Southland Title; BNC Mortgage, Inc.; Mortgage Electronic Registration Systems, Inc.; Loanstar Mortgagee Services, LLC; Emiel T. Bouckaert and Marlene Bouckaert, Trustees; and James D. Turner ("INTERESTED PARTIES").

3. THE PROPERTY was inspected by Code Enforcement Officers on May 18, 2006, July 20, 2006, August 29, 2006, September 13, 2006, October 18, 2006, and January 19, 2007.

4. During each inspection, two substandard structures (dwelling and utility room) were observed on THE PROPERTY. The structures were observed to be abandoned, dilapidated and vacant. The structures contained numerous deficiencies, including but not limited to: hazardous wiring; faulty weather protection; general dilapidation or improper maintenance; members of walls, partitions or other vertical supports that split, lean, list, or buckle due to defective material or deterioration; extensive fire damage; public and attractive nuisance.

5. During each inspection an accumulation of rubbish was observed throughout THE PROPERTY consisting of but not limited to: metal, wood, auto parts, discarded appliances, drywall, household trash, and used car tires. The accumulation of rubbish was determined to be approximately two thousand seven hundred (2,700) square feet.

6. THE PROPERTY was determined to be in violation of Riverside County Ordinance Nos. 457 (RCC Title 15) and 541 (RCC Chapter 8.120) by the Code Enforcement Officer.

7. A Notice of Noncompliance for the substandard structures and accumulation of rubbish was recorded on August 30, 2006 as Document Number 2006-0642573 in the Office of the County Clerk & Recorder, County of Riverside.

8. On May 18, 2006, Notices of Violation, Notices of Defects, Do Not Dump signs and Danger Do Not Enter signs for violation of RCO Nos. 457 and 541 were posted on THE

1 PROPERTY. On May 25, 2006, Notices of Violation for the substandard structures and
2 accumulation of rubbish were mailed to the OWNER and INTERESTED PARTIES by certified
3 mail, return receipt requested.

4 9. On October 17, 2006, a "Notice To Abate Nuisance" providing notice of the public
5 hearing before the Board of Supervisors on November 14, 2006 was mailed by certified mail, return
6 receipt requested, to THE OWNER and was posted on THE PROPERTY on October 18, 2006. On
7 November 7, 2006, a "Continuation Notice to Correct County Ordinance Violations and Abate
8 Public Nuisance," providing notice of the continued public hearing before the Board of Supervisors
9 on January 23, 2007, was mailed by certified mail, return receipt requested to OWNER and
10 INTERESTED PARTIES and was posted on THE PROPERTY on November 9, 2006.

11 **FINDINGS AND CONCLUSIONS**

12 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
13 regular session assembled on January 23, 2007 finds and concludes that:

14 1. WHEREAS, the substandard structures (dwelling and utility room) and accumulation
15 of rubbish on the real property located at 27560 Western Avenue, Desert Hot Springs, Riverside
16 County, California, also identified as Assessor's Parcel Number 750-040-008 violates Riverside
17 County Ordinance Nos. 457 (RCC Title 15) and 541 (RCC Chapter 8.120) and constitutes a public
18 nuisance.

19 2. WHEREAS, THE OWNER, occupants and any person having possession or control
20 of THE PROPERTY should abate the substandard structures by razing, removing and disposing of
21 the substandard structures, and contents therein, including the removal and disposal of all structural
22 debris and materials, or by reconstruction and rehabilitation of said structures provided that said
23 reconstruction, demolition or rehabilitation can be accomplished in strict accordance with all
24 Riverside County Ordinances, including but not limited to Riverside County Ordinance No. 457
25 within ninety (90) days.

26 3. WHEREAS, THE OWNER, occupants and any other person having possession or
27 control of THE PROPERTY should abate the accumulation of rubbish by removing all rubbish on
28 THE PROPERTY in strict accordance with all Riverside County Ordinances, including but not

1 limited to Riverside County Ordinance No. 541 within ninety(90) days.

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

7 **ORDER TO ABATE NUISANCE**

8 IT IS THEREFORE ORDERED that the substandard structures (dwelling and utility room)
9 on THE PROPERTY be abated by the OWNER, specifically Tahana A. Smith or anyone having
10 possession or control of THE PROPERTY, by razing and removing the substandard structures
11 including the removal and disposal of all structural debris and materials, as well as the contents
12 therein, or by reconstruction and rehabilitation of said structures provided such reconstruction and
13 rehabilitation can be accomplished in strict accordance with all Riverside County Ordinances,
14 including but not limited to Riverside County Ordinance No. 457 within ninety (90) days of the
15 posting and mailing of this order.

16 FURTHERMORE, THE OWNER is ordered to ascertain the existence or non-existence of
17 asbestos containing materials in said structures by survey and materials sample testing by a duly
18 licensed and certified asbestos consultant; and, prior to the abatement ordered hereinabove, to secure
19 the removal of all asbestos containing materials discovered through such survey and testing by
20 contract with a duly certified and licensed contractor for the handling of such materials to avoid
21 citations and/or fines by South Coast Air Quality Management District (SCAQMD).

22 IT IS FURTHER ORDERED that if the substandard structures are not razed, removed and
23 disposed of, or reconstructed and rehabilitated in strict accordance with all Riverside County
24 Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety (90)
25 days of the posting and mailing of this Order, the substandard structures, contents therein, and
26 structural debris and materials, shall be abated by representatives of the Riverside County Code
27 Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's
28 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE

1 PROPERTY.

2 IT IS FURTHER ORDERED that the accumulation of rubbish on THE PROPERTY be
3 abated by THE OWNER or anyone having possession or control of THE PROPERTY by removing
4 and disposing of all rubbish from the subject real property in strict accordance with all Riverside
5 County Ordinances, including but not limited to Riverside County Ordinance No. 541 (RCC Chapter
6 8.120) within ninety (90) days of the posting and mailing of this Order.

7 IT IS FURTHER ORDERED that if the accumulation of rubbish is not removed and disposed
8 of in strict accordance with all Riverside County Ordinances, including but not limited to Riverside
9 County Ordinance Nos. 541 (RCC Chapter 8.120) within ninety (90) days of the date of this Order,
10 the accumulation of rubbish shall be abated by representatives of the Riverside County Code
11 Enforcement Department, a contractor, or the Sheriff's Department upon receipt of an owner's
12 consent or a Court Order when necessary under applicable law.

13 IT IS FURTHER ORDERED that the reasonable abatement costs, after notice and
14 opportunity for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a
15 special assessment against THE PROPERTY pursuant to Government Code section 25845 and
16 Riverside County Ordinance Nos. 457 (RCC Title 15), 541 (RCC Chapter 8.120), and 725 (RCC
17 Chapter 1.16). Under Riverside County Ordinance No. 725, "abatement costs" means "any costs or
18 expenses reasonably related to the abatement of conditions which violate County Land Use
19 Ordinances, and shall include, but not be limited to, enforcement, investigation, collection and
20 administrative costs, attorneys fees, and the costs associated with the removal or correction of the

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1 violation." Reasonable abatement costs accrued by the Code Enforcement Department will be
2 recoverable from THE OWNER even if THE PROPERTY is brought into compliance within ninety
3 (90) days of the date of this Order to Abate Nuisance.

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5 Dated: _____

COUNTY OF RIVERSIDE

6
7 By _____
8 John Tavaglione
9 Chairman, Board of Supervisors

10 ATTEST:

11 NANCY ROMERO

12 Clerk to the Board

13 By

14 Deputy

15 (SEAL)

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