

PROJECT REPORT

TO: **PLANNING COMMISSION (PC)**

AGENDA DATE: May 22, 2024

FROM: **PLANNING & DEVELOPMENTS SERVICES DEPT.**

AGENDA TIME: 9:00 A.M./No. 2

PROJECT TYPE: Notice of Violation (NOV) #01907
Code Enforcement for Jesus Ybarra SUPERVISOR DIST. 3

LOCATION: 1553 Black Sea Avenue, APN: 007-242-013-00
Thermal, CA 92274 PARCEL SIZE: +/- 9,677 sqft

GENERAL PLAN (existing) Urban Area GENERAL PLAN (proposed) N/A

ZONE (existing) R-1 (Low Density Residential) ZONE (proposed) N/A

GENERAL PLAN FINDINGS CONSISTENT INCONSISTENT MAY BE/FINDINGS

PLANNING COMMISSION DECISION: HEARING DATE: 05/22/2024

APPROVED DENIED OTHER

PLANNING DIRECTORS DECISION: HEARING DATE: N/A

APPROVED DENIED OTHER

ENVIROMENTAL EVALUATION COMMITTEE DECISION: HEARING DATE: N/A
INITIAL STUDY: N/A

NEGATIVE DECLARATION MITIGATED NEG. DECLARATION EIR

DEPARTMENTAL REPORTS / APPROVALS:

PUBLIC WORKS	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
AG	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
APCD	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
E.H.S.	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
FIRE / OES	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
OTHER		<u>N/A</u>		

REQUESTED ACTION:

IT IS RECOMMENDED THAT YOU CONDUCT A PUBLIC HEARING AND THAT YOU HEAR ALL THE OPPONENTS AND PROPONENTS OF THE PROPOSED CODE ENFORCEMENT. STAFF WOULD THEN RECOMMEND THAT YOU TAKE THE FOLLOWING ACTIONS:

1. **DECLARE THE CONDITIONS ON THE PROPERTY TO BE IN VIOLATION OF THE COUNTY LAND USE ORDINANCE AND IS A PUBLIC NUISANCE; AND,**
2. **DIRECT THE PROPERTY OWNER TO ABATE THE CONDITIONS ON THE PROPERTY WITHIN FORTY-FIVE (45) DAYS OF THE PLANNING COMMISSION'S DECISION; AND**
3. **IF THE PROPERTY OWNER FAILS TO ABATE THE CONDITIONS WITHIN THE SPECIFIED FORTY-FIVE (45) DAYS AFTER THE PLANNING COMMISSION'S DECISION, GRANT PERMISSION TO THE ENFORCEMENT OFFICER TO HAVE CONDITIONS ABATED AND PLACE A LIEN ON THE PROPERTY FOR COSTS INCURRED PURSUANT GOVERNMENT CODE SECTIONS 54988 & 25845 AND COUNTY LAND USE ORDINANCE TITLE 9 SECTION 91302.01.**

Imperial County Planning & Development Services Department

801 MAIN ST., EL CENTRO, CA, 92243 442-265-1736,

Jim Minnick, Director of ICPDS

STAFF REPORT

DATE: May 22, 2024

TO: I.C. Planning Commission

PROJECT TYPE: Code Enforcement

PETITIONER: Imperial County - Department of Public Works

PROPERTY OWNER: Jesus S Ybarra

LOCATION: The violation is located at 1553 Black Sea Avenue, Thermal, CA, 92274, also known as Assessor's Parcel 007-242-013, legally known as LOT 13 BLOCK 6 TRACT 713-A FM 8 45 (see Plat Map).

CASE SUMMARY: This property has been reported to be in violation since March 2022. Several notices have been issued to the property for the installation of a structure without a permit and installing a stone wall, stones, gravel and other debris in Imperial County Right-of-Way.

Between the dates of March 23, 2022, and April 23, 2024, with the help of County Counsel several "Official Notices" were sent certified mail and hand delivered on site by Imperial County Public Works informing the property owner of record of the violations on his property, what needs to be done to bring property into compliance and time frame to do so.

Over the past couple of years, the items installed illegally within County Right-of-Way have been left in place.

Due to non-compliance with these "Official Notices" the violation case was forwarded to County Counsel for legal assistance to have the property brought into compliance.

The last inspection was performed on April 23, 2024, revealing no effort has been made to remove all the items from County Right-Of-Way.

VIOLATIONS: The property was found to be in violation for the following reason(s):

1. Unpermitted construction along a public street.
2. Unpermitted construction along a public road.

CODE SECTIONS:

The violations cited above violate the following code sections:

- Imperial County Land Use Ordinance Title 12 Chapter 12 Section 12.12.010 - Scope

FOR COMPLIANCE:

The property can be brought into compliance by taken the following action(s):

1. Removing the illegally installed stone wall within Imperial County Right-of-Way leaving the shoulder to previous native material, re-grade to existing horizontal/vertical conditions backfilling and re-compacting in accordance with the applicable County of Imperial standards; and
2. Remove stones and other debris from Imperial County Right-of-Way.

RECOMMENDATIONS:

It is recommended that you conduct a public hearing and that you hear all the opponents and proponents of the proposed code enforcement. Staff would then recommend that you take the following actions:

1. Declare the conditions on the property to be in violation of the County Land Use Ordinance and is a public nuisance; and,
2. Direct the property owner to abate the conditions on the property within forty-five (45) days of the planning commission's decision; and
3. If the property owner fails to abate the conditions within the specified forty-five (45) days after the Planning Commission's decision, grant permission to the enforcement officer to have conditions abated and place a lien on the property for costs incurred pursuant government code sections 54988 & 25845 and County Land Use Ordinance Title 9, Section 91302.01.

Full Property Details Imperial County

PROPERT DETAIL				
Parcel#(APN):	007-242-013	Use Description:	R1XX,X	
Parcel Status:	A			
Owner Name:	YBARRA JESUS S			
Mailing Addr:	1553 BLACK SEA AVENUE,THERMAL CA 92274			
Situs Addr:	1553 BLACK SEA ST,			
Legal Description:	LOT 13 BLK 6 TRACT 713-A FM 8 45			
Latitude:	33.3356152660	Longitude:	-115.994368962	
ASSESSMENT				
Total Value:	107,299.00	Use Code:	R1XX,X	Zoning: R1XX
Land Value:	12,618.00	Tax Rate Area:	082005	Impr Type:
Impr Value:	94,681.00	Year Assd:		Price/Sqft: 11.09
Other Value:	0	Property Tax:		
% Improved:	0.1276595744680851	Delinquent Yr:		
Exempt Amt:		Exempt Codes:		
SALEHISTRY	<u>Sale 1</u>	<u>Sale 2</u>	<u>Sale 3</u>	<u>Transfer</u>
Recording Date:	2008-04-07 00:00:00	04/07/2008	04/07/2008	
Recording Doc:	2008R009553	2008R009553	2008R009553	
Rec. Doc Type:		01	01	
Transfer Amount:	13.75	179.85	0	
Seller (Grantor):	O CONNOR DEVELOPMENT INC. A CALIF. CORP.	O CONNOR DEVELOPMENT INC. A CALIF. CORP.	O CONNOR DEVELOPMENT INC. A CALIF. CORP.	
1st Trst Dd Amt:	Code 1:	Code 1:	2nd Trst Dd Amt:	Code 2:
PROPERTY CHARACTERISTIC				
Lot Acres:	.00	Year Built:	Fireplace:	
Lot SqFt:	9,677.54	Effective Yr:	A/C:	
Bldg/Liv Area:		Total Rooms:	Heating:	
Units:		Bedrooms:	Pool:	
Buildings:		Baths (Full):	Flooring:	
Stories:		Baths (Half):	Park Type:	
Style:		Bsmt SqFt:	Spaces:	
Construct:		Garage SqFt:	Site Influence:	
Quality:		Other:	Timber :	
Building Class:		Other Rooms:	Ag Preserve:	
Condition:				

***The information provided here is deemed reliable, but is not guaranteed.



Public Works works for the Public

COUNTY OF IMPERIAL

DEPARTMENT OF PUBLIC WORKS

155 S. 11th Street
El Centro, CA
92243

Tel: (442) 265-1818
Fax: (442) 265-1858

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<https://twitter.com/CountyDpw/>

August 30, 2023

Jesus S. Ybarra
1553 Black Sea Avenue,
Thermal, CA 92274

SUBJECT: County of Imperial Road Right-of-Way Encroachment
1553 Black Sea Avenue, Thermal, CA 92274
Notification to remove encroachments

Dear Mr. Ybarra:

As stated on the previous letter dated March 23, 2022, County of Imperial Department of Public Works ("ICDPW") is responsible for ensuring the clearance, safety, and maintenance of County of Imperial Road Right-of-Ways in order to facilitate safe travel ways and to eliminate potential road hazards. You were also notified to immediately remove illegally installed stone wall within Imperial County Right of Ways (both along the alley and Black Sea Avenue).

This letter is to inform you that on Monday August 14, 2023 ICDPW staff became aware that the stones and other debris have not yet been completely removed from the County Right of Way. You shall immediately remove the all of the encroachments. ICDPW may remove the obstruction at the property owner's expense and a penalty of three hundred fifty dollars (\$350.00) per day will be imposed if the nuisance remains after September 15, 2023 per California Street and Highway codes 1480.5 – 1487.

The required removals and repair within the Imperial County's right of way on Black Sea Avenue will have to be completed under an Encroachment Permit issued by the Department of Public Works.

Should you have any questions or comments, please do not hesitate in contacting our department at (442) 265-1818.

Respectfully,

John Gay, PE
Director of Public Works/ Road Commissioner



Public Works works for the Public

COUNTY OF
IMPERIAL

DEPARTMENT OF
PUBLIC WORKS

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March 23, 2022

Jesus S. Ybarra
1553 Black Sea Avenue,
Thermal, CA 92274

SUBJECT: County of Imperial Road Right-of-Way Encroachment
1553 Black Sea Avenue, Thermal, CA 92274
Notification to remove encroachments

Dear Mr. Ybarra:

County of Imperial Department of Public Works (ICDPW) is responsible for ensuring the clearance, safety, and maintenance of County of Imperial Road Right-of-Ways for facilitating safe travel ways and to eliminate potential road hazards.

This notification is to inform you that you shall immediately remove the illegally installed stone wall within the Imperial County Right of Way. Said encroachment must be removed and the shoulder must be reset to previous road shoulder native material disturbed by removal of stone wall shall be re-grade to existing horizontal/ vertical conditions and shall be backfilled and re-compacted in accordance with the applicable County of Imperial Department Public Works Engineering Design Guidelines Manual. Said stone wall is located at County of Imperial Road Right-of-Way from your parcel identified as APN 007-242-013 and described as LOT 13 BLOCK 06 TRACT 713A FM 8 -45 in Salton City, CA 92274 on file in the office of the County Recorder of the County of Imperial recorded in Book 8 Page 45 of Final Maps.

It was determined the stone wall was installed illegally inside the County of Imperial maintained road, Black Sea Avenue. Attached herewith find site pictures for your viewing. ICDPW is informing you that you shall immediately remove the encroachments within 10 business days from receiving this notice. If the stone wall is not removed within the service time indicated, ICDPW may remove the obstruction at the property owner's expense and a penalty of three hundred fifty dollars (\$350.00) per day may be imposed if the nuisance remains after the service time indicated per California Street and Highway codes 1480.5 – 1487.

The required removal of stone wall and shoulder repair within the Imperial County's right of way on Black Sea Avenue will have to be completed under an Encroachment Permit issued by the Department of Public Works.

Should you have any questions or comments, please do not hesitate in contacting our department at (442) 265-1818

Respectfully,

John Gay, PE
Director of Public Works/ Road Commissioner



COUNTY OF IMPERIAL

DEPARTMENT OF PUBLIC WORKS

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Public Works works for the Public

March 7, 2024

Jesus S. Ybarra
1553 Black Sea Avenue,
Thermal, CA 92274

SUBJECT: County of Imperial Road Right-of-Way Encroachment
1553 Black Sea Avenue, Thermal, CA 92274
First Notice of Violation

TO: Jesus S. Ybarra

In accordance with the Imperial County Code (ICC), you are hereby notified that a County Ordinance Violation defined as Public Nuisance has been determined to exist on the property described below. You are specifically responsible to ensure that this violation is corrected in compliance with this notice. Your failure to do so may result in the assessment of certain costs and expenses against you.

- I. The violations exist on the following property:
 - Address: 1553 Black Sea Avenue, Thermal, CA 92274
 - APN: 007-242-013
 - Legal Description: Lot 13 blk 6 Tract 713-A FM 8-45
- II. A description of the conditions/violations that were found on your property are listed below:
 1. Unpermitted construction along a public street. A violation of ICC section 12.12.010.
 2. Unpermitted construction upon a public road. A violation of ICC section 12.12.010.

These conditions constitute a Public Nuisance. These conditions must be corrected by March 18, 2024 in the following manner:

- Submit an Encroachment Permit Application to our Department for you to do the following:
 - Remove the unpermitted structure. The unpermitted structure must be removed and the shoulder must be reset to previous road shoulder native material disturbed by removal of stone wall shall be re-graded to existing horizontal/vertical conditions and shall be backfilled and re-compacted in accordance with the applicable County of Imperial Department of Public Works Engineering Design Guidelines Manual.
- Failure to do so could result in citations or further legal action.

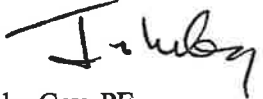
As the owner of the property at issue or as the individual or entity responsible for the violation, you are individually responsible for correcting the violation.

It is the policy of the County to obtain voluntary compliance with its laws whenever possible. It is sincerely hoped that you take this opportunity to correct the unlawful conditions. Should the violation not be corrected within the time period specified in this notice, the violation may be abated by the County through further administrative proceedings, including but not limited to added inspections and directions to remediate the violation, judicial process or by entry upon the property by County employees or contractors for purposes of effecting those actions necessary to correct the violation. Maintaining property in violation of the ICC constitutes a *misdemeanor* criminal offense of the ICC. Any person convicted of a violation of the ICC is subject to a maximum fine of \$1,000, six months in county jail, or both, for each violation. (ICC § 1.16.010). Each day the violation exists constitutes a separate offense. (ICC § 1.16.020).

Abatement and administrative costs shall be assessed and a lien may be placed against your property, if not paid. The items that are removed from your site will be disposed of without regard to salvage value. You may still be prosecuted even if the County selects this remedy.

Should you have any questions or comments, please do not hesitate in contacting our department at (442) 265-1818

Respectfully,

A handwritten signature in black ink, appearing to read "J. Gay". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

John Gay, PE
Director of Public Works/ Road Commissioner



Public Works works for the Public

COUNTY OF IMPERIAL

DEPARTMENT OF PUBLIC WORKS

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ORDER TO ABATE

Dated

March 7, 2024

Property Location

1553 Black Sea Avenue
Thermal, California 92274
APN: 007-242-013

The County of Imperial is working with residents to preserve real properties in our community. To meet this goal, we are asking each owner, occupant or person in control of, or responsible for, real property to promptly abate any conditions which constitute a public nuisance and to thereafter regularly maintain their property in good repair and in a clean condition at all times.

With your cooperation, our residential neighborhoods and business districts will be revitalized and remain pleasant and safe places in which to live and work.

NOTICE IS HEREBY GIVEN THAT the unpermitted construction is in violation of Section 12.12.010 of the county of Imperial County Codified Ordinances (ICC). The violation is declared a public nuisance. The public nuisance is on property located at 1553 Black Sea Avenue, Thermal, California 92274, Assessor's Parcel Number: 007-242-013.

YOU ARE HEREBY ORDERED TO ABATE SAID PUBLIC NUISANCE within ten (10) consecutive calendar days from the issuance of this order. The issuance date is specified below. You may abate the nuisance by applying for a permit to remove the unpermitted structure and debris from the public roads then lawfully remove the structure and debris from the road. The nuisance must be abated by March 18, 2024. If you fail to abate the public nuisance by the above date, the county may order its abatement by public employees, private contractor or other means, and the cost of said abatement may be levied and assessed against the property as a special assessment lien or billed directly to the property owner.

YOU MAY APPEAL FROM THIS ORDER OF ABATEMENT but any such appeal must be brought prior to the expiration of the number of days specified above for completion of abatement. The appeal must be in writing; specify the reasons for the appeal; contain your name, address and telephone number; and be submitted to the Director of Public Works at the following address: 155 S 11th Street, El Centro, CA 92243.

Thank you for your prompt attention to this notice.

Sincerely,

John Gay, PE
Director of Public Works/Road commissioner



Clarissa Thurston
Prosecution Counsel
(619) 525-1376
Clarissa.Thurston@bbklaw.com

April 18, 2024

**VIA US CERTIFIED MAIL - RETURN RECEIPT REQUESTED
VIA POSTING ON THE PROPERTY**

Jesus S. Ybarra
1553 Black Sea Avenue
Thermal, California 92274

Re: **Second Notice and Order to Abate Code Violations**
at 1553 Black Sea Avenue, Thermal, California 92274,
Assessor's Parcel Number: 007-242-013

Dear Mr. Ybarra:

NOTICE IS HEREBY GIVEN that on the 8th day of May, 2024, at the hour of 9:00 AM, the planning commission will hold a hearing in the Board of Supervisors Chambers, located at 940 West Main Street, Suite 211, El Centro, California, to ascertain whether the property located at 1553 Black Sea Avenue, Thermal California, APN: 007-242-013 ("Subject Property") constitutes a public nuisance subject to abatement. If the Subject Property, in whole or in part, is found to constitute a public nuisance as defined by the Imperial County Code ("ICC") and if the same are not properly abated by the owner, such nuisances may be abated by municipal authorities or an independent contractor, and the rehabilitation, or repair will be assessed upon such property and such costs will constitute a lien upon the Subject Property until paid.

The alleged violations consist of the following:

Sections	Summary
12.12.010	It is unlawful for any person, firm, or corporation to place, build, construct, or erect any structure, thing or contrivance or to excavate, cut, fill in, upon, over, across, along, above and/or under any public street, road or highway including the sidewalks thereof except for the normal planting of grass, tree or shrubs unless and until a permit is issued to such person, form or corporation by the road commissioner.

The method of abatement available is:

Remove the unpermitted structure and debris from the public right of way. The unpermitted structure must be removed and the shoulder must be reset to the previous road shoulder native material.

Best Best & Krieger LLP | 655 West Broadway, 15th Floor, San Diego, California 92101
Phone: (619) 525-1300 | Fax: (619) 233-6118 | bbklaw.com

Jesus S. Ybarra
April 18, 2024
Page 2

All persons having any objections to, or interest in the matters are hereby notified to attend a hearing before the planning commission to be held on May 8, 2024, when their testimony and evidence will be heard and given due consideration. Upon the conclusion of said hearing, the determination made by the planning commission shall be final.

Should you have any questions or comments, please do not hesitate in contacting the Public Works Department at (442) 265-1818.

Sincerely,



Clarissa Thurston
for BEST BEST & KRIEGER LLP

cc: John Gay, Public Works Director (*via email*)



DISCLAIMER:
THIS IS NOT AN OFFICIAL MAP.
THIS MAP WAS CREATED FOR THE IMPERIAL COUNTY
ASSESSOR FOR THE SOLE PURPOSE OF AIDING IN
THE PERFORMANCE OF THE DUTIES OF THE ASSESSOR.
ANY ERRORS OR OMISSIONS IN THIS MAP ARE NOT
THE RESPONSIBILITY OF THE COUNTY OF IMPERIAL
OR THE ASSESSOR. (REV. & TAX. CODE SEC.327)

Note: 15 Blocks





Clarissa Thurston
Prosecution Counsel
(619) 525-1376
Clarissa.Thurston@bbklaw.com

May 2, 2024

**VIA US CERTIFIED MAIL - RETURN RECEIPT REQUESTED
VIA POSTING ON THE PROPERTY**

Jesus S. Ybarra
1553 Black Sea Avenue
Thermal, California 92274

Re: Notice of Rescheduled Hearing for Second Notice and Order to Abate
Code Violations at 1553 Black Sea Avenue, Thermal, California 92274,
Assessor's Parcel Number: 007-242-013

Dear Mr. Ybarra:

The previous hearing set for the 8th day of May, 2024 is hereby rescheduled for the 22nd day of May, 2024, at the hour of 9:00 AM. The planning commission will hold a hearing in the Board of Supervisors Chambers, located at 940 West Main Street, Suite 211, El Centro, California, to ascertain whether the property located at 1553 Black Sea Avenue, Thermal California, APN: 007-242-013 ("Subject Property") constitutes a public nuisance subject to abatement. If the Subject Property, in whole or in part, is found to constitute a public nuisance as defined by the Imperial County Code ("ICC") and if the same are not properly abated by the owner, such nuisances may be abated by municipal authorities or an independent contractor, and the rehabilitation, or repair will be assessed upon such property and such costs will constitute a lien upon the Subject Property until paid.

The alleged violations consist of the following:

Sections	Summary
12.12.010	It is unlawful for any person, firm, or corporation to place, build, construct, or erect any structure, thing or contrivance or to excavate, cut, fill in, upon, over, across, along, above and/or under any public street, road or highway including the sidewalks thereof except for the normal planting of grass, tree or shrubs unless and until a permit is issued to such person, form or corporation by the road commissioner.

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Jesus S. Ybarra
May 2, 2024
Page 2

The method of abatement available is:

Remove the unpermitted structure and debris from the public right of way. The unpermitted structure must be removed and the shoulder must be reset to the previous road shoulder native material.

All persons having any objections to, or interest in the matters are hereby notified to attend a hearing before the planning commission to be held on May 22, 2024, when their testimony and evidence will be heard and given due consideration. Upon the conclusion of said hearing, the determination made by the planning commission shall be final.

Should you have any questions or comments, please do not hesitate in contacting the Public Works Department at (442) 265-1818.

Sincerely,



Clarissa Thurston
for BEST BEST & KRIEGER LLP

cc: John Gay, Public Works Director (*via email*)