



Office of

Attorney's Matters 3/8/2022

**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
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MEMORANDUM

TO: Board of County Commissioners

FROM: Susan Prado, Assistant County Attorney

DATE: March 1, 2022

SUBJECT: Authorization to Proceed with Foreclosures on Code Enforcement Case Numbers: 2018020108 (Yates); 2017080035 (Palmer, 14th Avenue); and 2017040072 (Family Dollar)

Pursuant to Florida Statute Section 162.09, the County may commence foreclosure action on any non-homestead property on which there is a code enforcement lien recorded for longer than three months. The Board of County Commissioners previously expressed a desire for the County Attorney's Office to look into the possibility of foreclosure as a remedy for outstanding code enforcement cases with recorded liens. The County Attorney's Office has followed that instruction and retained outside counsel. The County Attorney's Office worked in coordination with code enforcement staff to come up with a list of code enforcement cases appropriate for the foreclosure process. Pursuant to Florida Statute Section 162.09, the Code Enforcement Board must give the recommendation to start the foreclosure process. This recommendation was given at the last Code Enforcement Board hearing on February 28, 2022. Staff is now seeking this Board's final approval to move forward with filing foreclosure proceedings on the below listed properties and with working with outside counsel, Dill, Evans and Rhodeback.

Case Number 2018020108 (Yates): This code enforcement action started in 2018 with a complaint regarding a septic system in disrepair as well as unsecured vacant structures. There was an evidentiary hearing on March 26, 2018 at which time the respondents (Estate of Dallas and Jane Yates C/O Dallasteen Yates) were found in violation of the Indian River County Code of Ordinances (the "IRC Code"). The respondents were given a time frame to correct. At a compliance hearing held on April 23, 2018, the Code Enforcement Board determined that the respondents did not bring the property into compliance and issued an order for a fine in the amount of \$100.00 per day. The order is recorded at O.R. Book 3117 and Page 2458. The property was never brought into

compliance and in fact one of the unsecured structures had a fire and has been left in the half burned down state.

Case Number 2017080035 (Palmer, 14th Avenue): This code enforcement action started back in 2017 with a complaint regarding junk vehicles, trash, debris, construction equipment storage, and a dilapidated fence. There was an evidentiary hearing held on January 22, 2018 at which time the respondents (Michael S. Palmer and Kelly L. Palmer) were found in violation of the IRC Code. They were given a time frame to correct. At a compliance hearing held on March 26, 2018, the Code Enforcement Board determined that the respondents did not bring the property into compliance and issued an order for a fine in the amount of \$100.00 per day. The order is recorded at O.R. Book 3109 and Page 1500. The property was never brought into compliance and in fact has become worse with more junk trash and debris. The County recently obtained an injunction against the respondents regarding their homestead property located at 15th avenue and cleaned up the property leaving the County with roughly \$20,000 in costs. By seeking foreclosure of the non-homestead property the County will be able to abate the nuisance at this property ceasing the code enforcement issues as well as attempt to recoup the amount that was spent to clean up the homestead property located at 15th avenue.

Case Number 2017040072 (Family Dollar): This code enforcement action started in the summer of 2017 with a complaint regarding the site plan nonconformance violations, landscape maintenance violations, and junk, trash, and debris violations. There was an evidentiary hearing on June 26, 2017 at which time the respondents (Belmont Equities LLC and Family Dollar) were found in violation of the IRC Code. They were given a time frame to correct. At a compliance hearing held on November 27, 2017, the Code Enforcement Board determined that the respondents did not bring the property into compliance and issued an order for a fine in the amount of \$100.00 per day. The order is recorded at O.R. Book 3081 and Page 1500. The property was never brought into compliance and in fact more trash has accumulated onsite despite the current running fine.

Funding: Staff estimates outside counsel, filing fees, and costs for the foreclosures detailed above could cost approximately \$7,000 per case coming out to about \$21,000 total. Funding for these services will be made available from a subsequent budget amendment funded by MSTU Fund Reserves. This funding will be offset by any revenues received through the foreclosure process, after previous costs to clean-up the property are recovered.

Recommendation: Staff recommends the Board authorize staff to move forward with outside counsel in the filing of foreclosure on the above named code enforcement cases.

Attachments: Liens for code enforcement case numbers 20180250108 (Yates), 2017080035 (Palmer, 14th Avenue), 201704007 (Family Dollar).