



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBral, Deputy County Attorney
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MEMORANDUM

TO: Board of County Commissioners
FROM: Dylan Reingold, County Attorney
DATE: August 7, 2022
SUBJECT: Calcutta Drive Docks

BACKGROUND.

Calcutta Drive is a County road that runs parallel with a canal and the riparian rights to the canal are purportedly the County's. On May 6, 1985, the then County Attorney Gary M. Brandenburg wrote a memorandum to Art Challacombe, an Environmental Planner stating "that the canals and bulkhead system were placed within the subdivision for the benefit of all of the property owners in the subdivision." He went on to explain that "[a]s a result, the County has adopted the policy in the past of allowing individuals to build docks along the County road within the appropriate setbacks, provided they enter into an agreement to hold the County harmless for any and all damage to the bulkhead system of road." He added that "[t]his permitting has been done on a first-come, first-served basis, exclusively for property owners in Country Club Pointe."

On February 5, 1991, the Indian River County Board of County Commissioners (the "Board") approved a license agreement for \$100 per year. On May 26, 1998, the Board passed Resolution 1998-58, delegating the authority to the Community Development Director to execute license agreements pertaining to transferring property utilizing County riparian land for docks within the Country Club Pointe Subdivision.

On May 10, 2022, the Board voted to increase the annual license fee from \$100 to \$2,000 per year, for any new license agreements and implement a one-time dock license transfer fee of \$5,000. The Board also voted to modify the current license agreements to include additional requirements. The Board also voted to implement a new policy that if a dock reverts to the County, then that dock will no longer be transferred to the future property owner, but will instead go to the next Country Club Pointe Subdivision property owner on the dock waiting list. On July 12, 2022, the Board voted approve the revised dock license agreements to reflect these changes and a resolution delegating to the Community Development Director the authority to execute the license agreements.

The County Attorney's Office is now providing an update to the Board on various docks that have been identified as being in some form of disrepair.

Dock 3 – September 2021 Country Club Pointe Docks Report indicates that dock is in a state of disrepair and not in a functional condition. In December 2021, I sent a letter to the licensee requesting correction of deficiencies. I have had email correspondence with Kevin Ellis over the past couple months and on July 20, 2022, he sent me pictures of the dock improvements that he has made. Based on the photos, County staff is of the position that the dilapidated portions of the dock and stairs have been repaired, and are now in an acceptable condition.

Dock 7 - September 2021 Country Club Pointe Docks Report indicates that dock is in a state of disrepair and not in a functional condition. In December 2021, I sent a letter to the licensee requesting correction of deficiencies. I have had email correspondence with Patrick Savage. Building Department staff has confirmed that a permit application was submitted for this dock and is currently pending Planning and Building approvals.

Dock 8 – I sent a letter to the licensee on May 20, 2022 concerning severely deteriorated pilings. On July 20, 2022, Joey Replogle emailed me stating that he has taken steps to secure the pilings, using snap jackets to secure the pilings. He then sent me pictures, which staff believes demonstrates that the piling issue has been resolved.

Dock 14 - September 2021 Country Club Pointe Docks Report indicates that dock is in a state of disrepair and not in a functional condition. In December 2021, I sent a letter to the licensee requesting correction of deficiencies. After no contact, I sent a follow-up letter in May 2022. On July 12, 2022, the Board voted to terminate the license agreement. Since then, I have had contact with Jeff Cusson. On August 1, 2022, the County received correspondence from William F. McCain, PE, indicating that his firm, W.F. McCain & Associates, Inc. has been retained to design the repair of the dock.

Dock 17 – On April 12, 2022, John Jackson entered into a license agreement for this dock with Indian River County. Per the license agreement, he was required to apply for a license within 60 days and then had another 120 days to make repairs to the dock. I have had email correspondence with Jack Johnson. Building Department staff has confirmed that a permit application was submitted for this dock and is currently pending Planning and Building approvals.

FUNDING

Revenues collected for dock license agreements are deposited into account 001038-362010 - General Fund/Rents & Royalties.

RECOMMENDATION.

Since the deficiencies with Docks 3 and 8 appear to be corrected, the County Attorney's Office recommends that the Indian River County Board of County Commissioners provide guidance as to how to move forward with Docks 7, 14 and 17.