



Office of *Attorney's Matters* 01/24/2017
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBraal, Deputy County Attorney
Kate Pingolt Cotner, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners

THROUGH: Roland DeBlois, Chief of Code Enforcement and
Stan Boling, Community Development Director

FROM: William K. DeBraal, Deputy County Attorney *Wkd*

DATE: January 17, 2017

SUBJECT: Permission to File Suit for Injunction on 1325 36th Avenue, Vero Beach
Owner: James Boyette

The property located at 1325 36th Avenue, Vero Beach is owned by James E. Boyette. The 0.44 acre parcel measures 150' x 128' and is zoned RS-6, residential, single-family up to 6 units per acre. There is a single family residence on the property with an attached garage. The neighborhood is well maintained with above average sized lots. Mr. Boyette has owned and resided in the house since 2007.

County Code Enforcement first took action against Mr. Boyette in 2008. At that time he was cited for overgrown weeds, junk, trash and debris on the 36th Avenue property. An Order Imposing Fine was entered on June 9, 2009 assessing a fine of \$100 per day after the property failed to come into compliance. The Code Enforcement Board found the property came into compliance in November 2009 and the fine was rescinded and lien released in December 2009. Copies of the Order Imposing Fine and Rescindment of Fine are attached to this memo.

In 2015, Code Enforcement took action against Mr. Boyette for a second time, citing him for overgrown grass and weeds, excess junk, trash and debris; a vehicle without a license plate and a boat parked outside of the approved driveway. A fine of \$100 per day for each day the violation continued was assessed by the Code Board on May 16, 2015. (See attached) To date, the property has not come into compliance and the fine has accrued to over \$60,000. Because the property is the homestead of Mr. Boyette, state statutes prohibit the County from foreclosing its code enforcement lien.

Currently, the condition of the property has worsened. Neighbors claim rats have been seen exiting the long grass onto abutting lots. Recently, a large culvert pipe has appeared on the property, adding to the accumulation of illegal debris. The airboat is still stored off of the driveway and the body of an old pick-up truck remains on blocks. Code Enforcement and this office have received complaints about the condition of the property and the lack of compliance in over 18 months. Our office has met with the owner in an effort to bring the property into compliance before further action is required.

At this point, the Board has three options. They include:

1. Direct staff to seek repeat offender status for Mr. Boyette and have the Code Board declare his property to be a nuisance. The County could then enter upon the property and partially abate the nuisance by mowing the yard. Removal of the air boat, culvert pipe and pick-up truck body could prove to be a challenge as it is not known if the vehicles could be moved without damaging them or have them fall apart. In the past, the Board has not entered onto single family private properties to remove items of potential value, and has only abated large scale violations, such as the Vista Royale golf course overgrown grass. Staff does not recommend this option.
2. The Board could direct staff to take no further action on the matter. During the foreclosure highpoint and continuing even today, there are other neglected lawns of occupied and unoccupied houses. The residence at hand is owner occupied and the home seems to be in sound condition, although the yard has been a continuing nuisance to neighbors. Staff does not recommend this option.
3. Direct the County Attorney's Office to file suit against Mr. Boyette. The suit will seek injunctive relief asking the Court to order Mr. Boyette to bring the property into compliance with the residential zoning code by removing the offending vehicles, equipment and bring the grass and weed height into compliance. If he fails to comply with the Court's order, the Court could hold a contempt hearing for Mr. Boyette for failing to abide by the Court's order. The Court could confine Mr. Boyette to jail for failing to follow the Court's order.

Funding. Staff expects to spend about \$600 in title work, filing fees and costs of service process. Funding for the law suit is available from General Fund/County Attorney/Other Professional Services, Acct # 00110214-033190.

Recommendation. Staff recommends that the Board of County Commissioners authorize the County Attorney's Office to file suit against Mr. Boyette for injunctive relief and petition for an Order commanding Mr. Boyette to bring the property into compliance with Indian River County Code.

cc: Roland DeBlois
Stan Boling