



**INDIAN RIVER COUNTY
ENVIRONMENTAL CONTROL OFFICE**

Indian River County Environmental Control Hearing Board

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Indian River County Board of County Commissioners

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INTEROFFICE MEMORANDUM

DATE: May 2, 2018

MEMO TO: Board of County Commissioners sitting as
Environmental Control Board, Indian River County

FROM: Cheryl L. Dunn, R. S. *Cheryl L. Dunn R.S.*
Environmental Control Officer

SUBJECT: ECHB Annual Report (October 1, 2015 – September 30, 2016)

The following is a summary of enforcement activities conducted by the Environmental Control Office during the above fiscal year.

- 1. Case No. 528-15, Rashmi R. Patel and Ramesh C. Patel, 14445, and 14475 US Hwy 1, Sebastian, Florida.** Rashmi R. Patel and Ramesh C. Patel were cited by the Florida Department of Health in Indian River County (DOH-Indian River) for two failing onsite sewage treatment and disposal systems (OSTDS), unpermitted repairs and modifications to existing OSTDS, discharging sewage effluent into a wooded area behind the establishment, ponding sewage on the ground, free-flowing artesian well going to waste and creating and maintaining multiple sanitary nuisances. The establishment also known as the Sandrift Motel was licensed for 48 units by Department of Business Regulation, Division of Hotels and Restaurants, had an unlicensed and unoccupied 84-seat restaurant (previously Marker 1), and a public swimming pool permitted by DOH-Indian River. On June 9, 2016, the Sandrift Motel, Rashmi R. Patel and Ramesh C. Patel stipulated that the restaurant property shall remain vacant until (1) it is sold to another party, and (2) it is connected to the County water and sanitary sewer. The grease trap and septic tank associated with unoccupied 84-seat restaurant were properly abandoned on August 3, 2015. Therefore, the only option for reoccupation of the structure is to connect to County water and sewer. Rashmi R. Patel and Ramesh C. Patel stipulated that if the property is not sold to another party, the existing structure will not be occupied and/or used for any purpose whatsoever until the existing structure on the property is connected to County water and sewer. Rashmi R. Patel and Ramesh C. Patel stipulate that the property will continuously be maintained under their ownership. For purposes of this stipulation, maintaining the property means to ensure that there are

no squatters, no rodent harborage and the structure is kept from falling into disrepair. Rashmi R. Patel and Ramesh C. Patel stipulated to the imposition of a civil penalty of \$10,000.00, which shall be suspended and purged, contingent upon compliance with the Stipulation. If the property is used at any time prior to the sale of the property to a third party before the property is completely connected to County water and sewer, the above-referenced suspended penalty will be imposed on Rashmi R. Patel and Ramesh C. Patel, and an additional \$100 will be charged for every day thereafter until the referenced connections are completed. Rashmi R. Patel and Ramesh C. Patel shall provide the department with written updates by the 30th of every month detailing their progress in selling the property. Updates are provided to the department by electronic mail to Cheryl.Dunn@flhealth.gov. The department stipulated that Rashmi R. Patel and Ramesh C. Patel would be released from penalties and obligations associated with both the Order dated April 10, 2015, and the First Amended order dated June 10, 2015. Rashmi R. Patel and Ramesh C. Patel, however, are still responsible for all penalties and obligations associated with Lots 1, 9, 10 and 11 of Ercildoune Heights Subdivision 1, Block D.

Although Rashmi R. Patel and Ramesh C. Patel sold Lots 2, 3, 4, 5, 6, 7, and 8 of Ercildoune Heights Subdivision 1, Block D to Sebastian Inn & Suites, LLC on July 9, 2015, they were included in the Third and Fourth Amended Orders regarding violations previously heard before the Hearing Board on April 2, 2015, June 4, 2015 and August 6, 2015. Rashmi R. Patel and Ramesh C. Patel had not corrected the violations which existed on the property when they sold it to Sebastian Inn & Suites, LLC. Specifically, Rashmi R. Patel and Ramesh C. Patel were still in violation, because they had not abandoned the existing septic tanks and sewage disposal systems on the motel property, and failed to connect the motel property to County water and sewer. Instead, Rashmi R. Patel and Ramesh C. Patel continued to use septic systems which were illegally modified and continued to create a sanitary nuisance.

- 2. Case No. 529-15, Sebastian Inn & Suites, LLC, 14415 US Hwy 1, Sebastian, Florida.** Sebastian Inn & Suites, LLC became the owner of the motel located at 14445 and 14475, US Hwy 1, Sebastian, FL 32958. The motel property was purchased from Rashmi R. Patel and Ramesh C. Patel on July 9, 2015, who retained ownership of Lots 1, 9, 10 and 11. The motel property was readdressed as 14415 US Hwy 1, Sebastian, FL 32958 after the sale of the property.

Andrew G. Tashbar is the operating manager of Sebastian Inn & Suites the motel located on the property. Sebastian Inn & Suites is licensed for 48 units and includes a manager's residence, a laundry and a public swimming pool. The motel was served by one onsite public water supply well that is regulated by the Florida Department of Environmental Protection which was located less than 200 feet from existing onsite sewage disposal systems. It was unclear as to how many septic tanks were in existence on the motel property or the condition of those existing tanks.

The motel was built in 1958 and over time, there were numerous modifications made and structures added to the motel property. Structures such as sheds, walkways, and parking areas were placed over existing septic systems. County water and sewer has been available to the motel property since 1997 and the property owner prior to Rashmi R. Patel and Ramesh C. Patel had been notified. Due to a complaint, an investigation was undertaken on February 26, 2015. The DOH-Indian River

located two septic tanks with ponding sewerage containing toilet paper behind the two-story structure with 20 motel units. Sewage was also observed on the surface of the ground around two septic and pump tanks. Effluent from those tanks was observed being pumped into a wooded area behind the two-story structure overgrown with Brazilian Pepper trees. DOH-Indian River also identified nonfunctioning lift stations with pumps, open septic or pump tanks without lids, systems that had been re-plumbed and diverted to other tanks and drainfields, on the motel property. Paver blocks were also found placed on openings in septic tank lids. These conditions were evidence of frequent servicing, which is a symptom of septic system failure. These actions constituted changes to the original septic permitting or construction approvals. Unpermitted septic work is illegal and invalidates any prior approvals of the OSTDS. The septic tanks servicing the two-story 20-unit motel building were being pumped out on a semi regular basis. ODOH-Indian River staff also identified other sanitary nuisances while performing inspections over a five-month period.

At the August 6, 2015, meeting, the Hearing Board gave Sebastian Inn & Suites, LLC an extension to connect the motel property to County water and sewer. Sebastian Inn & Suites, LLC was ordered (a) to either connect the motel property to County water and sewer on or before ninety (90) days from the date of the Second Amended Order was signed and filed or properly abandon all of the structures; (b) to abandon the septic tanks behind the two-story building as soon as practical; (c) to provide weekly updates to the department regarding the remediation of the sanitary nuisances and the progress of connecting motel property to County water and sewer;(d) to perform a daily inspection of the entire motel property and immediately contact the department if a sanitary nuisance is discovered; (e) to notify the department when construction takes places on the motel property which requires the water to be shut off, etc., so that DOH-Indian River staff can inspect and monitor the motel property during construction; and (f) to appear at the next Hearing Board meeting on October 1, 2015, to give a progress report to the Hearing Board on the exiting violations and to account for any additional violations that may occur on the motel property in the interim.

At the Hearing Board on October 1, 2015, Andrew Tashbar testified that the septic tanks behind the two-story building had been properly abandoned, that all of the structures on the motel property should be connected to County water and sewer on or before November 18, 2015, and that the Sebastian Inn & Suites, LLC had located all of the existing septic tanks on the motel property. During his testimony, Andrew Tashbar provided the Hearing Board with the design plans for the referenced connection on the motel property. The department noted on the record that the plans did not include a connection for the laundry structure. Andrew Tashbar also testified that he had not given the Health Department weekly updates pursuant to the Second Amended Order dated August 18, 2015, on four separate occasions.

On October 1, 2015, the Hearing Board established the deadline for Sebastian Inn & Suites, LLC to bring the motel property into compliance by November 18, 2015. The Second Amended Order dated August 18, 2015, was continued and in force through the next Hearing Board meeting on December 3, 2015. Sebastian Inn & Suites, LLC was ordered to hold three separate joint inspection meetings with the DOH-Indian River at 9:00 am on the motel property on the following dates: October 12, 2015, November 2, 2015 and November 16, 2015. If the Respondent completed the task of

fully connecting the motel property to County water and sewer prior to the above-referenced inspection dates, the remaining inspection meetings would be cancelled. Sebastian Inn & Suites, LLC was ordered to pay a fine of \$200.00 for failing to provide the DOH-Indian River updates on four occasions. Sebastian Inn & Suites, LLC was ordered to continue to provide weekly written updates to the DOH- Indian River regarding the remediation of the sanitary nuisances and the progress of connecting the motel property to County water and sewer. Updates were provided by email to cheryl.dunn@flhealth.gov. Sebastian Inn & Suites, LLC was ordered to provide the DOH-Indian River with any and all documents it requests concerning the motel property including, but not limited to, plans and permits. Sebastian Inn & Suites, LLC was ordered to take all reasonable measures to prevent sanitary nuisances during the construction.

At the hearing board meeting on the December 3, 2015, a Fourth Amended Order was issued. As of November 2, 2015, the DOH-Indian River, the County Utilities Department and County Building Department all inspected the motel property and confirmed that all structures were completely connected to County water and sewer and that all nineteen (19) onsite sewage and disposal systems discovered during construction were properly abandoned. Sebastian Inn & Suites, LLC paid the \$200.00 fine assessed in the Third Amended Order, and paid for all necessary permits to abandon the septic tanks. Sebastian Inn & Suites, LLC corrected all the sanitary nuisance violations which existed on the motel property.

3. **Case No. 532-15, Loretta Graves, 376 8th Court, Vero Beach, Florida.** The Hearing Board heard this case on August 6, 2015, where the property owner, Loretta Graves, was represented by an attorney, Judy Graves, Esq. The property owner's friend, Dr. Sara Lee Matthews, was also in attendance at the hearing.

On June 10, 2015, Health Department staff investigated a reported sanitary nuisance relating to an abundance of cats at the owner's property. The investigator observed not only many cats, but also a large accumulation of animal waste. On the same day, the representative issued a Notice to Correct Violation ("First Notice") against the Respondent for violating Sections 386.041 and 403.413(4), Florida Statutes, because the Subject Property was being maintained in an unsanitary condition capable of introducing and perpetuating human disease organisms and vectors into the community. The failure to properly maintain appropriate animal husbandry conditions and dispose of animal wastes on the property created conditions capable of producing zoonotic pathogenic organisms communicable and harmful to man.

The First Notice also cited the property owner for altering or changing the original design and approved conditions of the onsite sewage treatment and disposal system on the property in violation of septic rules for the state of Florida.

To correct the violations of the First Notice, the property owner, Mrs. Loretta Graves was told to (1) immediately collect and dispose of the animal waste and cover the areas exposed to animal waste with Hydrated Lime; (2) submit a site plan to the Indian River County Planning Department to operate a noncommercial kennel on her property within 30 days, and (3) provide the Health Department with a written response specifying the dates and details of how she intends to comply within 10 business days from the receipt of the notice.

Subsequently, on June 12, 2015, the investigator from the Health Department issued a Second Notice to Correct Violation ("Second Notice") against the property owner, Mrs. Loretta Graves, for the following: (1) conducting open feeding practices on her property creating a rodent breeding and harborage in violation of Florida law; (2) keeping an abundance of debris on her property that allows for the breeding of flies, mosquitoes, or other arthropods capable of transmitting diseases, directly or indirectly to humans in violation of Florida law; and (3) failure to properly abandon and seal a water well cut off near the ground surface which is capable of allowing pollutants to enter and contaminate the ground waters of the State of Florida in violation of Florida law.

To correct the violations of the Second Notice, the Respondent was told to do the following within 30 days of receipt of the Second Notice: (1) provide evidence or request a site re-inspection of the property to confirm that debris, solid waste and other rodent harborage has been properly removed, disposed or stored in a manner which minimizes the opportunity for breeding; (2) provide evidence or request a site re-inspection of the property to confirm that debris, solid waste and containers are properly removed, disposed or stored in a manner which minimizes the collection of storm water collection and mosquito breeding; and (3) provide a written response specifying dates and details of each and every act by you which she contends constitute compliance or future compliance with the above requirements. The Respondent was also told to provide for the proper abandonment of the improperly abandoned well on the Subject Property by a licensed well driller within 10 business days of receipt of the Second Notice.

After receiving the two notices, Mrs. Loretta Graves hired attorney Judy Graves ("Attorney Graves") to represent her. Attorney Graves reached out to the Health Department to resolve some of the pending issues. On July 1, 2015, Health Department staff, the attorney for Animal Control, a representative for Code Enforcement, and Attorney Graves had a conference call to discuss the pending violations and citations against Mrs. Loretta Graves and her property. During the call, Judy Graves agreed to immediately clean the animal waste and the excess debris from the property to abate the sanitary nuisances. The Health Department also stated in a letter dated July 2, 2015, that the Mrs. Loretta Graves would be given until July 11, 2015, to hire a licensed plumber to place a sanitary seal on the open water well on her property. The Health Department made it clear that this would be a temporary fix and that the property owner would be responsible for hiring a well driller to get a permit and properly abandon the water well.

While the Health Department was told that the animal waste had been collected and disposed of, there is no evidence that the areas exposed to animal waste had been properly treated with Hydrated Lime. Moreover, neither the Department nor the Indian River County Planning Department had received a site plan to operate a noncommercial kennel on the property. Moreover, the Mrs. Loretta Graves had not allowed the Health Department onto her property to reinspect the site to confirm that the debris, solid waste, containers, and other rodent harborage has been properly removed, disposed or stored in a manner which minimizes the opportunity for breeding. The property owner also did not provide evidence that the water well was either properly abandoned by a licensed well driller or that a licensed plumber placed a sanitary seal on the water well.

At August 6, 2015, hearing, Attorney Graves testified that: (1) Dr. Sara Matthews had volunteered to hire and pay for a licensed well driller to properly abandon the water well on Mrs. Loretta Graves' property, (2) that Mrs. Loretta Graves discontinued the continuous open feeding practices and choose instead to feed the animals on the her property twice a day both inside and outside her house, and (3) a cat fence had been constructed on the property pursuant to an order from Judge Morgan to prohibit cats from roaming onto neighboring properties. The Hearing Board took testimony that there are over 20 cats licensed to Mrs. Loretta Graves. At the hearing, Dr. Sara Matthews testified that the hospital she works for, Dr. Dan's Hospital, has spayed/neutered and vaccinated most, if not all, of the cats on Mrs. Loretta Graves' property. Dr. Sara Matthews also testified that Mrs. Loretta Graves will not allow any additional cats onto her property. Finally, at the hearing, Attorney Graves moved an affidavit from Lisa Mead into the record. Lisa Mead's affidavit swears that she is a personal, friend of Mrs. Loretta Graves and that she visits her once a week. The affidavit also states that in recent months, Lisa Mead has assisted Mrs. Loretta Graves with cleaning the house and yard associated with her property. Specifically, the affidavit states that she has cleared debris from the yard, raked leaves, pulled weeds, turned over containers that could hold water, and taken waste and garbage to the transfer station on Old Dixie Highway. In the affidavit, Lisa Mead swore to continue to visit and assist Mrs. Loretta Graves.

Mrs. Loretta Graves violated Sections 386.041, 386.041(1)(e), 386.041(1)(f) and 403.413(4), Florida Statutes, and Rules 40C-3.531(2), 68A-4.001(3), 64E-6001(4) and 64E-6001(4)(a)4(d), Florida Administrative Code, because she: (1) had failed to properly clean the animal waste from her property to eradicate any public health risk; (2) failed to create and deliver a site plan to either the Health Department or the Indian River County Planning Department to operate a noncommercial kennel on her property; (3) failed to stop conducting open feeding practices on her property creating a rodent breeding and harborage; (4) failed to properly clean the abundance of debris from her property allowing for the harborage of rodents and the breeding of flies, mosquitoes, or other arthropods capable of transmitting diseases, directly or indirectly to humans; (5) failed to coordinate with the Health Department to reinspect her property; and (6) failed to either properly abandon the water well or put a temporary sanitary seal on the water well until the financing could be obtained to abandon the well.

Mrs. Loretta Graves was ordered to immediately remove all animal waste from her property, and to place Hydrated Lime on the areas that were exposed to the animal waste. Mrs. Loretta graves was ordered to immediately stop conducting open feeding practices on her property creating a rodent breeding and harborage. Mrs. Graves was ordered to immediately clear her property of all debris that allows for the harborage of rodents and the breeding of flies, mosquitoes, or other arthropods. Mrs. Loretta Graves was ordered to immediately hire a licensed well driller to abandon the existing water well her property. Mrs. Graves was ordered to allow the Health Department to enter onto her property for to reinspect on or before August 30, 2015. Mrs. Loretta Graves was ordered to allow the Health Department to inspect her property on a continuing basis every three (3) months for a period of two (2) years. The Health Department will give a forty-eight (48) - hour notice via email or phone to Mrs. Loretta Graves' attorney, Judy Graves, Esq., at Julia@ajuliagraves.com and copy Dr. Sarah Matthews at saraleemathews@gmail.com. Mrs. Loretta Graves was

also ordered to appear at the next Environmental Control Hearing Board meeting on October 1, 2015.

This case was not heard at the October 1, 2015, Hearing Board due to a scheduling conflict with Attorney Graves, legal representative for Mrs. Loretta Graves. The case was continued till the December 3, 2015, Hearing Board Meeting. On November 3, 2015, the Environmental Control Office amended the Notice of Non-Compliance removing issues related to Code Enforcement and Animal Control.

Mrs. Loretta Graves allowed the Health Department to reinspect her property and successfully abandoned and sealed the water well on her property. Mrs. Loretta Graves also had erected a cat fence on her property. The debris was removed from inside the cat fence. The debris on the outside of the cat fence, however, had not been disposed of and is still capable of harboring rodents and/or of breeding of flies, mosquitoes, or other arthropods. On December 1, 2015, Mrs. Loretta Graves allowed the Health Department to reinspect her property pursuant to the Board's order dated August 20, 2015. The Health Department observed minor debris and potential animal feces inside of the cat fence. The Health Department also observed an accumulation of debris on the outside of the cat fence that is capable of harboring rodents and/or of breeding of flies, mosquitoes, or other arthropods. At the hearing, Health Department staff, Charles Vogt, testified about his observations during the site reinspections which took place on or about August 31, 2015, and on December 1, 2015. Cheryl Dunn also testified about her observations during the site inspection on December 1, 2015. Both representatives testified that they observed an excess amount of debris on Mrs. Loretta Graves' property outside of the cat fence and minimal amount debris inside the cat fence. Cheryl Dunn also testified that she observed animal waste inside the cat fence.

Mrs. Loretta Graves was represented by Attorney Graves. Attorney Graves called Dr. Sara Matthews to testify about her observations. Dr. Matthews said that there is still debris on Mrs. Loretta Graves' property outside the cat fence, but that they are slowly working on cleaning that up. She also testified that there was no animal waste on the ground inside the cat fence. She confirmed that she is the veterinarian for Mrs. Loretta Graves' 23 cats, and they are all vaccinated and currently healthy. She testified that she has worked with the Mrs. Loretta Graves' cats over the years and de-wormed them several times to ensure that they are healthy and not a health risk to the public. The Hearing Board discussed whether they should require soil testing on her property to ensure that the soil has not been contaminated by animal waste and parasites. The Hearing Board also discussed Mrs. Loretta Graves' pre-application with Indian River County for a non-commercial kennel permit.

At the December 3, 2015, Hearing Board determined that Mrs. Loretta Graves had violated Sections 386.041(1)(e) and 386.041(1)(f), Florida Statutes, because she failed to properly clean the Subject Property of the abundance of debris allowing for the harborage of rodents and the breeding of flies, mosquitoes, or other arthropods capable of transmitting diseases, directly or indirectly to humans. Mrs. Loretta Graves was ordered to immediately clear her property of all debris by January 25, 2016. For purposes of this Order, the property includes the entire lot owned by the Mrs. Loretta Graves including inside the cat fence and outside the cat fence. Mrs. Loretta Graves was ordered to allow the Health Department to enter onto her property to reinspect on or shortly after January 25, 2016. The Order dated August

18, 2015, is still in effect. Therefore, the Respondent must continue to allow the Health Department to inspect the Subject Property on a continuing basis every three (3) months for a period of two (2) years. The Health Department will give forty-eight (48) hours' notice via email or phone to the Respondent's attorney, Judy Graves, Esq., at Julia@ajuliagraves.com and copy to Dr. Sara Matthews at saraleemathews@gmail.com. The inspection will be rescheduled if there is a rain event. Mrs. Loretta Graves was ordered to appear at the Environmental Control Hearing Board meeting on February 4, 2016, to give an update to the Hearing Board. The Hearing Board strongly encourages Mrs. Loretta Graves to apply for a non-commercial kennel permit with Indian River County as soon as possible. If the Respondent is not eligible for a non-commercial kennel, then the Hearing Board recommends that Animal Control and Code Enforcement remove the excess animals from her property to bring it into compliance with the laws of the State of Florida and the Indian River County Code of Ordinances.

On January 21, 2016, Health Department staff reinspected the property at the request of Attorney Graves. During reinspection, both parties specifically identified the areas of concerns on the property. At the Board meeting on February 4, 2016, Health Department staff, Charles Vogt, gave testimony about his observations during reinspections conducted on January 21, 2016, and February 2, 2016. Charles Vogt testified that Mrs. Loretta Graves and her volunteers did a really great job, and that her property was currently clear of all debris. As such, Mrs. Loretta Graves' property is currently in compliance with the laws of the State of Florida.

Mrs. Loretta Graves was represented Attorney Graves. Attorney Graves called Dr. Sara Matthews to testify about her observations. Dr. Matthews confirmed that she and a team of volunteers cleared Mrs. Loretta Graves' property of the debris. Dr. Matthews also testified that she is assisting Mrs. Loretta Graves with her pre-application with Indian River County for a non-commercial kennel permit. The Hearing Board was pleased that Mrs. Loretta Graves had successfully brought her property into compliance. The Hearing Board was still concerned about the potential parasite in the soil on Mrs. Loretta Graves' property as well as the status of the non-commercial kennel permit. The Health Department agreed to give the Hearing Board an update at the next meeting on April 7, 2016. The Respondent's legal counsel is not required to appear at this meeting.

The Order dated August 18, 2015, is still in effect. Therefore, Mrs. Loretta Graves must continue to allow the Health Department to inspect her property on a continuing basis every three (3) months for a period of two (2) years. The Health Department will give forty-eight (48) hours' notice via email or phone to Attorney Graves, at Julia@ajuliagraves.com and copy Dr. Sara Matthews at saraleemathews@gmail.com. The inspection will be rescheduled if there is a rain event. If the Mrs. Loretta Graves is not eligible for a non-commercial kennel, then the Hearing Board recommends that Animal Control and Code Enforcement remove the excess animals from her property to bring it into compliance with the laws of the State of Florida and the Indian River County Code of Ordinances. The Hearing Board retains jurisdiction in this cause to enter such further Orders as may be appropriate.

4. **Case No. 530-15, Punam Enterprises, Rashmi R. Patel and Ramesh C. Patel, Lot 12 of Ercildoune Heights Subdivision 1, Block D currently addressed 14449**

US Hwy 1, Sebastian, Florida. Rashmi R. Patel and Ramesh C. Patel, entered into an agreement that pertains to their property located at Lot 12 of Ercildoune Heights Subdivision 1, Block D currently addressed 14449 US Hwy 1, Sebastian, FL 32968. Neither admit nor deny any wrongdoing in this matter, but stipulate to the following to resolve all matters pertaining to the requirements that property be connected to the available County water and sanitary sewer system, as set out in Chapter 201, Indian River County Code, and Chapter 381, Florida Statutes. The property is currently for sale and the property owners stipulate that the property shall remain vacant until: (1) it is sold to another party, and (2) it is connected to the County water and sanitary sewer systems. The septic tank associated with the Subject Property was properly abandoned on August 3, 2015. Therefore, the only option for reoccupation of the structure on the property is to connect to County water and sewer. The property owners agreed that if the property is not sold to another party, the existing structure will not be occupied and/or used for any purpose whatsoever until the existing structure on the property is connected to County water and sewer. The property owners also agreed that the Subject Property will continuously be maintained under their ownership. For purposes of this stipulation, maintaining the property means to ensure that there are no squatters, no rodent harborage and that the structure is kept from falling into disrepair. The property owners stipulated to the imposition of a civil penalty of Ten Thousand Dollars (\$10,000.00), which shall be suspended and purged, contingent upon compliance with this Stipulation. If the property is used at any time prior to the sale of the property to a third party before the property is completely connected to County water and sewer, the above-referenced suspended penalty will be imposed on the Respondents, and an additional \$100 will be charged for every day thereafter until the referenced connections are complete. The Respondents are providing the Petitioners with written updates by the 30th of every month detailing the Respondents' progress in selling the Subject Property. Such updates shall be provided to the Petitioners at the address provided below, at the fax number provided below or by electronic mail at Cheryl.Dunn@flhealth.gov.

The agreement was approved by the Hearing Board, and the Order and Stipulation were filed and recorded on October 30, 2016. As required, the Respondent provides the Petitioners with written monthly updates and has maintained the property.

5. **Case 531-15, Aayush Corporation (DBA National Food Mart #13-1) located at 8195 20th Street, Vero Beach, Florida.** Aayush Corporation purchased the property from Orange State Retail Properties, f/k/a National Oil and Gas Distributors, Inc, on March 30, 2015. Prior to the sale of the property at issue, on March 18, 2015, a sanitary nuisance was reported to the health department. The investigator identified a private lift station on the property which is designed to service the business and provide a sanitary connection to Indian River County Waste Water Utilities. The private lift station, however, failed and was not properly maintained for a significant period of time. The failed private lift station allowed raw or minimally treated sewage to be released into the ground surface which flowed across a side street into a storm water detention area on the property. The private lift station itself was completely packed with grease and solids with both pumps inoperative relying on manual operation. Moreover, there was extensive bleaching of the asphalt roadway that was caused by surface discharges. While the amount of time that this violation has existed is unclear, the condition of the private lift station indicates that it was malfunctioning for a significant period of time creating a threat to the public's safety and health. According to the new owner's legal representative, the accumulation of

grease was removed, both pumps were made operational, the electrical panel for automatic pumping was repaired. The property owner also agreed to hire a maintenance company for the private lift station. Case resolved and closed.

6. **Case 533-15, Maggie Runyon Trailer Park c/o Bill Runyon, 506 1st Street, Vero Beach, Florida.** Mr. Bill Runyon entered an agreement requiring connection of Maggie Runyon Trailer Park to the County sewer within one year. Mr. Bill Runyon agreed to: (a) hire an engineer to draw plans to connect the trailer park to the County sewer system, (b) coordinate the location of all existing water lines prior to construction in order preserve the integrity of the lines (a.k.a. "sunshine one-call"), (c) Connect all plumbed structures on trailer park property to a centrally-located pump station/lift station that will convey the domestic sewage offsite and into the County's sewer system. The lift station on trailer park property will be privately owned and operated, (d) apply for and receive permits to include: Utility Construction Permit (UCP), Indian River County building permit (electrical, plumbing), Florida Dept. of Environmental Protection (FDEP), Indian River Farm Water Control District (IRFWCD), if necessary, and the Health Department permits to abandon the existing septic tanks after successful connection to the County Sewer system, and (e) properly abandon all of the existing septic systems on trailer park property. The Health Department, the Utilities Department and Mr. Bill Runyon agreed that this period will be considered final, and that any violation in the interim resulting in a sanitary nuisance will require Maggie Runyon Trailer Park to immediately connect to the County sanitary system. If a connection cannot be made at the time the sanitary nuisance occurs, the septic system and structure must be abandoned. Until the structure's tenant can be given proper notice, the septic tank shall be pumped-out as often as necessary to keep the property nuisance free and pump-out records shall be provided to the Health Department. The agreement also contained options for mobile homes with failing septic systems to either connect to County sewer, vacate the mobile home and abandon existing tanks with the failing septic tank or to pump the effluent from the failing septic system to the central system that previously served the public restrooms and laundry facilities. The Hearing Board approved the agreement on December 3, 2015 and Mr. Bill Runyon vacated a mobile home with a failing septic system to reduce sewage flows. Mr. Bill Runyon began working mapping waterline locations. When Mr. Runyon notified the Health Department that his property was for sale, Health Department staff met with Mr. Bill Runyon and his real estate agent Deryl Seemayer. As part of the sale of the property, the agreement was amended to allow the new potential owners enough time for the trailer park to connect to County sewer. On August 4, 2016, the Hearing Board approved the amended agreement giving the buyer, Joseph P. Schlitt until March 30, 2017 to complete the connection to County sewer.

7. **Case 534-15, Florida Convalescent Centers, Inc and Cross Street Corporate Services, LLC. aka Palm Garden Health of Vero Beach Health and Rehabilitation Center, 1755 37th Street, Vero Beach, Florida.** Palm Garden is licensed and regulated through Agency for Health Care Administration (AHCA). October 21, 2015, the Health Department cited Palm Garden for creating a sanitary nuisance injurious to health in violation of Florida laws and the rules controlling communicable disease. The Health Department received notification of a gastrointestinal outbreak at the facility on October 5, 2015 and that it began on October 2, 2015. Health Department staff provided verbal and email guidance for control of norovirus outbreaks in long term care facilities to the Director of Nursing

who indicated that the facility had implemented their procedure of control measures. On October 6, 2015, Health Department staff, delivered a sample container to the facility and conducted an inspection finding control measures were not being implemented. A symptomatic resident passed away on the evening of October 6, 2015. The Health Department notified AHCA, and Health Department staff visited the facility again on October 7, 2015 providing them with a hard copy of the guidance documentation. On October 8, 2015, another symptomatic resident passed away initiating another visit from the Health Department. On this site visit, the facility Administrator was told because of ongoing transmission in multiple affected units, new admissions to the facility should be suspended until at least 72 hours after the onset of the last case in residents or staff which is approximately two incubation periods. On October 12, 2015, it was found that 12 residents had been admitted between October 12, 2015 and October 15, 2015, during the outbreak when advised to cease admissions. On October 16, 2015, a joint inspection was conducted by the Health Department and AHCA. The facility failed the inspection and did not fully implement control measures related to resident care and sanitation. On October 27, 2015, Palm Garden, Executive Director, Erelyn Hicks, provided a response to the Health Department. On November 30, 2015, Palm Garden provided a modified outbreak control plan for the Health Department to review. Palm Garden agreed to comply with the reporting requirements for outbreaks and communicable disease. Palm Garden also agreed to implement the modified outbreak control plan approved by the Health Department. Palm Garden agreed to pay a civil penalty of \$2,500 and a suspended civil penalty of \$7,500 should they fail to comply with the reporting and control measures in the future. Health Department staff are confident that the facility is taking the matter very seriously and that there is now a spirit of cooperation. Chairman Cahoy was bothered with the proposed in the stipulation. Lengthy discussion followed regarding the merits of a stipulation rather than a hearing since there were deaths involved. Also discussed was the possibility of the fines being too light and perhaps setting the wrong precedent. The Hearing Board Officer and the Hearing Board Attorney reminded the Hearing Board that they were not required to accept the agreement and that the agreement required their approval to proceed. The Hearing Board approved the agreement 5 to 0.

8. **Case 535-15, 4-J Southern Ranch, Inc., 801 4th Street, Vero Beach, Florida.** The registered agent, Michael J. Jaholkowski, for 4-J Southern Ranch, Inc. did not appear at the Hearing Board meeting on December 3, 2015. The property owned by 4-J Southern Ranch, Inc. had numerous piles of comingled solid waste, tires and debris partially buried or completely buried along the southern side of the property. The property was not permitted to be a solid waste disposal facility. The comingled solid waste piles and tires are breeding areas for rodents and arthropods. Florida law does not a person to create a sanitary nuisance that is injurious to the public's health by storing, processing, or disposing of solid waste or waste tires except at a permitted solid waste management facility. On September 4, 2015, 4-J Southern Ranch, Inc. was given 30 days to clean up the property and 35 days to provide documentation to the Health Department. As of the hearing board meeting date, 4-J Southern Ranch, Inc. had not complied with the legal notices. The Hearing Board ordered 4-J Southern Ranch, Inc. to clean up the property and provide disposal documentation to the Health Department within 90 days. 4-J Southern Ranch, Inc. was also ordered to allow the Health Department access to the property to reinspect to verify compliance.

9. **Case 536-15, Sutherlin Nissan of Vero Beach, Inc., 946 South US Highway 1, Vero Beach, Florida.** Sutherlin Nissan of Vero Beach, Inc. failed to obtain an annual operating permit from the Health Department for its onsite sewage disposal treatment and disposal system. Florida law requires that all buildings located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, obtain an annual operating permit from the Health Department. Sutherlin Nissan of Vero Beach, Inc. was also encouraged to connect County sewer as soon as possible, because the Health Department can no longer issue repair permits for septic repairs when there is sewer available. Mr. Dan Christy, Service Director of Sutherlin Nissan, described how he came to discover the periodic leak in the septic system and that Reliable Septic made the needed repairs after first acquiring the required permit. Ms. Jonny Walsh, Controller at Sutherlin Nissan, testified that in the confusion of opening the new business, the notice to obtain the operating permit was lost on her desk. Health Department staff testified that Sutherlin Nissan of Vero Beach, Inc. complied and Ms. Walsh paid the \$25 late fee. The Hearing Board recommended sewer connection, and the Health Department later issued a separate notice to connect to sewer.
10. **Case 538-15, Palm Island Plantation, LLC., 7900 N. A1A Highway, Vero Beach, Florida.** Palm Island Plantation, LLC, was represented at the hearing board meeting on December 3, 2015, by attorney Jason Odom (“Attorney Odom”) with the Gould Cooksey Fennell law firm. Palm Island Plantation, LLC, owns a public pool-spa that was repeatedly in violation of the rules and laws of the state of State of Florida. On April 20, 2015, December 16, 2014, April 10, 2014, December 10, 2013, April 16, 2013, and March 28, 2012, Health Department staff documented pH of the pool-spa above the acceptable range of 7.2 to 7.8 requiring closure. Each time the pool-spa was closed, the chemicals were adjusted, reinspected by Health Department staff and reopened. Health Department staff, Lauren Broom, testified during the hearing board meeting that the pool-spa was being disinfected using chlorine and that chlorine was ineffective when the pH was above 7.8. Attorney Odom testified that Palm Island Plantation installed a new ORP (Oxidation-Reduction Potential) controller. An ORP measures water chemistry and controls the feeding of chemicals to maintain the pool-spa in a sanitary manner. Palm Island Plantation, LLC, was ordered to pay a civil penalty of \$300 and to submit monthly daily chemical maintenance logs to the Health Department. Palm Island Plantation, LLC, was also ordered to voluntarily close the pool-spa when the pH was not within the required range.
11. **Case 538-15, Victor Hart, 3870 19th Avenue, Vero Beach, Florida.** The Hearing Board office worked with Victor Hart and his family to abate the sanitary nuisance posed by the dilapidated structure that was the Masonic Lodge. The unsafe and unsecured structure posed a sanitary nuisance to the community in that its condition provided harborage for vermin. The unsecured structure also posed a health and safety threat to the community. According to Code Enforcement, the property had been in that condition since June 27, 2014. The structure was eventually demolished.
12. **L.P. Rina Properties, LLC., 8104 - 8130 US Highway 1, Vero Beach FL.** On June 24, 2015, Environmental Health staff submitted comments to Community Development regarding an Administrative Site Plan Review for the property. When

Health Department staff inspected the site, it was difficult to determine the property lines based on Property Appraiser's and Clerk of the Court's records, and it appeared that a portion of the onsite sewage disposal system serving the property was located on the adjacent property to the east. The estimated flow rate for the proposed residential units on the second floor was at least 1200 gallons per day and did not include the existing grocery store with a takeout food service establishment and the United States Post Office. An Environmental Health staff review determined that the existing onsite sewage disposal system is not large enough to accommodate the proposed residential units on the second floor of the structure and that there was not enough unobstructed area to install an onsite sewage disposal system that meets code requirements. Environmental Health staff indicated that the proposed change of use would require connection to public sanitary sewer through the County which was later determined unavailable. When Environmental Health staff met with an engineer from Carter Associates on October 15, 2015, it was calculated that the estimated sewage flows from the entire establishment would exceed 4,000 gallons per day. The property was served by County water and was 0.88 acres, which allows for only 2,200 gallons per day of estimated sewage flow. Environmental Health staff have not been contacted by the owner or owner representatives since the October meeting. On January 14, 2016, Keith Grainger, the owner of parcel 31393300000100000011.0 east of the Subject Property came into the Environmental Health office to discuss the situation and to provide the department with a copy of a recent survey. Mr. Grainger is working with Environmental Health staff to clear debris from his property that had been illegally dumped over many years and is also preparing his property for future development. While clearing debris, Mr. Grainger hit the drainfield for the property with heavy equipment causing effluent to seep from the onsite sewage disposal system so he proceeded to backfill the area of the drainfield and has been in contact with the Subject Property owner. Mr. Grainger contacted Environmental Health staff, because he is anxious to complete his site work and has not been able to resolve the issue with property owner. Environmental Health staff conducted a site investigation on January 14, 2016, to locate the property's onsite sewage disposal system with the survey pins in place, and to confirm that there was no sewage effluent on the ground surface. Environmental Health staff found and verified that the Subject Property's grease trap is partially located on Mr. Grainger's property along with their entire septic tank and a majority of the drainfield according to the location of the recently placed survey pins. At some point, the onsite sewage disposal system serving the property appears to have been placed on the property now owned by Mr. Grainger. The department could not find any recorded utility easements on Mr. Grainger's property allowing for the property's onsite sewage disposal system.

Over months and numerous meetings with the property owners, the property owner's legal counsel, engineers, Code Enforcement representatives, Utilities representatives and septic tank contractors, compliance was achieved. The property owner purchased additional property from Mr. Grainger for the installation of an onsite sewage disposal system sized to accommodate that entire structure rather than just the first floor. An onsite sewage disposal system was permitted, installed and inspected. A commercial operating permit for the onsite sewage disposal system was applied for and issued to L.P. Rina, Inc. and the Health Department is inspecting the system at least once a year since food service establishments are required to have operating permits.

13. **David Ash and Ralph Santoro, 675 29th Avenue, Vero Beach, FL 32968.** The Hearing Board Office worked with David Ash the current owner of the property to abate the sanitary nuisance. From 1990 to February of 2016, Ralph Santoro owned

the property. On February 2, 2016, David Ash purchased the property from Ralph Santoro. On February 24, 2016, and February 25, 2016, the Department conducted a site investigation of the property. During the referenced site investigations, the Health Department identified untreated septic spoil materials typically associated with drainfield repairs (drainfield rock, pipes, etc.). It is clear from the condition of the property and from historical aerial photographs that illegal dumping has been taking place on the property and that the dumping began at some point after 2005. There is surface water along two of the four sides of the property. Untreated septic spoil materials were discovered within 5 to 15 feet of the surface water in violation of Florida rules that require a setback of at least 200 feet from surface waters. The Hearing Board Office notified all Indian River County's licensed septic contractors that it was not permissible to use septic spoil materials as fill unless it was lime stabilized. The Hearing Board Office also met one on one with several licensed septic contractors allegedly using the property. The Florida Fish and Wildlife Conservation Commission enforcement staff also met with Office staff about this case. The current property owner, David Ash, agreed to restrict access to the property and set up a camera to monitor those trying to access the property. David Ash also agreed not to develop the property for at least one year to allow for stabilization of the septic spoil materials.

14. Other enforcement matters have been commenced which have not yet been brought before the Hearing Board.

cc: Miranda Hawker, MPH, Administrator, DOH – Indian River County
Michael Smykowski, Director, Budget and Management
Mayur Rao, Business Manager, DOH – Indian River County
Kate Pingolt Cotner, Assistant County Attorney