



Office of

Attorney's Matters 8/16/2022

**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBraal, Deputy County Attorney
Susan J. Prado, Assistant county Attorney

MEMORANDUM

TO: Board of County Commissioners

FROM: Susan Prado, Assistant County Attorney

DATE: July 29, 2022

SUBJECT: Authorization to proceed with foreclosure on Code enforcement cases: 2020030013 (15th Avenue) (Palmer, Michael and Kelly) and 2018010025 (20th Avenue) (Cavalier, Diackamann)

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 July 25, 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 2020030013 (15th Avenue) (Palmer, Michael and Kelly): This code enforcement action started in 2020 with a complaint regarding vehicle parking and storage, boat/trailer storage, zoning district use, commercial vehicles at a residence, junk vehicles, junk, trash, and debris. There was an evidentiary hearing on September 28, 2020 at which time the respondent was found in violation of the Indian River County Code of Ordinances (the "IRC Code"). The respondent was given until November 20, 2020 to correct the violations. At a compliance hearing held on November 23, 2020, the Code Enforcement Board determined that the respondent 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 3370 and Page 2073. The property was brought into compliance by the County's entering the property to clean it up via the permanent injunction granted by the Circuit Court in September 2021. This property is a homesteaded property. To recoup the costs to the County on this property it is necessary to have the Board authorize recoupment through the foreclosure proceedings already authorized by the Board on the secondary property owned by the Palmers, which is located at 1286 14th Avenue, Vero

Beach, Florida.

Case Number 2018010025 (4230 20th Avenue, Vero Beach, FL 32967) (Cavalier, Diackaman): This code enforcement action started in January 2018 with a complaint of an unsecured vacant structure and overgrown weeds. There was an evidentiary hearing on February 26, 2018 at which time the respondent was found in violation of IRC Code. The respondent was given a time frame to correct. At a compliance hearing held on March 26, 2018, the Code Enforcement Board determined that the respondent 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 1502. The property was owned by TWR AS CST FOR EBURY FUND 2FL LLC at the time of the violation and was subsequently transferred to 4230 Land Trust on November 15, 2019, then transferred to Diackaman Cavalier on December 19, 2019. The property remains out of compliance and the fine continues to accrue.

Funding: Staff estimates outside counsel, filing fees, and costs for the foreclosures detailed above could cost approximately \$7,000 and will be paid out of MSTU/Environmental Planning/Legals Services, Account #00420724-033110. 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 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: Orders imposing fines for case numbers 2020030013 and 2018010025.
Deeds for case numbers 2020030013 and 2018010025.