



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

---

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

**MEMORANDUM**

**TO:** Board of County Commissioners

**FROM:** Kate Pingolt Cotner, Assistant County Attorney *KPC*

**DATE:** November 21, 2018

**SUBJECT:** Costs Associated with Injunction Against Dallas Yates, Jane Yates, and The Yates Group, LLC.

---

**BACKGROUND:** Dallas Yates and Jane Yates are the listed owners for a multifamily zoned property located at 8835, 8845, 8883, 8885, 8887, and 8889 64<sup>th</sup> Ave., Sebastian, Indian River County, Florida ("Subject Property"). Both Dallas Yates and Jane Yates are deceased, and neither of their estates has been probated. According to their obituaries, they collectively had four children.

There are four structures on the Subject Property and three of them are occupied. Between the four structures, there are five known septic tanks and they are all malfunctioning. Four are creating sanitary nuisances and one is creating a public safety nuisance because a tree is growing through it, and there are open spaces where an individual could injure him/herself. Additionally, there is a washing machine on the Subject Property that is discharging wastewater directly onto the open ground thereby creating a separate sanitary nuisance. Finally, there is a large pile of solid waste and vegetation (aka an illegal landfill) on the Subject Property that has created unsanitary conditions for both the underlying property as well as the neighboring properties. Specifically, the conditions allow for (1) rodent and roach harborage; (2) the breeding of flies, mosquitoes and other arthropods capable of transmitting diseases directly or indirectly to humans; and (3) the release of air pollutants, gases and noisome odors that can be harmful to human and animal life.

Pursuant to Chapter 85-427, Florida Statutes, and the Amendment to Amended Rules of Conduct of Proceedings Before the Indian River County Environmental Control Hearing Board dated May 27, 1999, the Environmental Control Officer sought injunctive relief in the name of Indian River County ("County") on May 30, 2018. On October 1, 2018, the circuit court judge granted the County's request for injunctive relief but ruled that it could not force the family of Dallas Yates or Jane Yates to probate their estates and be responsible for cleaning the Subject Property. Alternatively, the judge's order stated:

(1) the County, through its agents, employees, and the Department of Health in Indian River County, is hereby authorized to take all necessary steps to remove the tenants from the Subject Property;

(2) the County, through its agents, employees, and the Department of Health in Indian River County, shall be permitted access to the Subject Property for purposes of removing the solid waste, sanitizing the areas impacted by raw effluent, and anything else that may be necessary to stop future sanitary violations;

(3) the County, through its agents, employees, and the Department of Health in Indian River County, may perfect a lien against the Subject Property and any other property as permitted by law to recover the costs associated with removing the solid waste, sanitizing the areas impacted by raw effluent, and anything else that may be necessary to stop future sanitary violations from occurring (i.e. abandoning septic tanks); and

(4) The Yates Group, LLC, is temporarily enjoined from placing any persons in the subject property and the property shall remain unoccupied until the sanitary nuisances are corrected to the satisfaction of the Department of Health in Indian River.

The anticipated maximum costs associated with the underlying injunction are as follows:

- \$270.00 for serving three (3) Writs of Possession on the remaining tenants;
- \$4,500.00 for abandoning the septic tanks [\$900.00 for each of the five (5) septic tanks];
- \$4,916.00 [\$12.29 per hour for five (5) laborers for ten (10) days with an estimated eight (8) hour work day]; and
- \$1,200 in container and disposal fees

After the nuisances on the Subject Property have been remediated, the County can place a lien on all of the real and personal property owned by Dallas Yates or Jane Yates.

**FUNDING:** The expenses for the project will be funded with a budget amendment from MSTU Fund/Reserve for Contingency to MSTU/Road & Bridge/Other Contractual Services- Acct # 00421441-033490.

**RECOMMENDATION:** The County Attorney's Office recommends that the Board of County Commissioners authorize County staff to work with and support the Health Department of Indian River County to take steps to remove any tenants from the Subject Property, to abandon 5 septic tanks located on the Subject Property, and to remove the large pile of solid waste and vegetation from the Subject Property.