



Office of
**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

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

DATE: May 9, 2018

SUBJECT: Permission to File an 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 64th Ave., Sebastian, Indian River County, Florida ("Subject Property").

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. Additionally, there is a washing machine on the underlying 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 on the underlying property that has created conditions 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.

The Health Department in Indian River County ("DOH") originally sent the Notice of Violation to the owners of the Subject Property. However, DOH has confirmed that both Dallas Yates and Jane Yates are deceased, and neither of their estates have been probated. According to their obituaries, they collectively had four children.

On April 11, 2018, DOH hand delivered an Amended Notice of Violation to include The Yates Group, LLC. The Yates Group, LLC is allegedly the property manager of the Subject Property. The registered agent for The Yates Group, LLC, is Dallasteen Yates who is one of the daughters of the deceased owners. DOH has been in communication with Dallasteen Yates for several months concerning the Subject Property. She has indicated that it is too expensive to remedy the sanitary and safety nuisances on the Subject Property.

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 may enforce any violation of a county ordinance, all laws of the State of Florida, and all of the rules of state agencies, including the Department of Environmental Protection and the Department of Health by filing a civil action in the name of Indian River County.

Due to the fact the owners of the Subject Property are deceased and there are several serious sanitary nuisances taking place that need to be addressed as soon as possible, the County Attorney's Office is seeking to file suit in circuit court for injunctive relief in the name of Indian River County.

FUNDING: Funding for any costs associated with a suit (approximately \$500) would come from Account #00110214-033190, General Fund/County Attorney/Other Professional Services.

RECOMMENDATION: The County Attorney's Office recommends that the Board of County Commissioners authorize County Attorney's Office to file suit in circuit court for injunctive relief asking the court to (1) direct The Yates Group, LLC, the Estate of Dallas Yates and/or the Estate of Jane Yates to abandon the existing septic tanks on the Subject Property; (2) enjoin the Subject Property from being occupied while there are exposed sanitary and safety nuisances related to open septic tanks; (3) enjoin the Subject Property from being occupied until new septic tanks and drainfields are installed by a certified septic contractor to service the existing structures; and (4) direct The Yates Group, LLC, the Estate of Dallas Yates and/or the Estate of Jane Yates to permanently remove the waste piles and vegetation from the Subject Property

ATTACHMENT(S)

A Copy of the Complaint for Injunctive Relief.