



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

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MEMORANDUM

TO: Board of County Commissioners

THROUGH: John A. Titkanich, Jr., County Administrator

FROM: Susan J. Prado, Deputy County Attorney

DATE: November 6, 2024

SUBJECT: Calcutta Drive Docks Guidance on Potential Changes

BACKGROUND.

Calcutta Drive is a County road that runs parallel to a canal. The riparian rights to the canal are purportedly the County's. On May 6, 1985, the then County Attorney Gary M. Brandenburg wrote a memorandum to Art Challacombe, an Environmental Planner stating "that the canals and bulkhead system were placed within the subdivision for the benefit of all of the property owners in the subdivision." He went on to explain that "[a]s a result, the County has adopted the policy in the past of allowing individuals to build docks along the County Road within the appropriate setbacks, provided they enter into an agreement to hold the County harmless for any and all damage to the bulkhead system of road." He added that "[t]his permitting has been done on a first-come, first-serve basis, exclusively for property owners in Country Club Pointe."

On February 5, 1991, County staff presented an agenda item to the Indian River County Board of County Commissioners (the "Board") concerning license agreements for these docks. In a memorandum from Roland M. DeBlois, Chief, Environmental Planner, dated January 30, 1991, Mr. DeBlois explained the history of the docks being constructed on a first-come, first served basis, provided that the applicant signed the appropriate waiver. Mr. DeBlois also noted that the approvals have been handled administratively. Mr. DeBlois then went on to explain that in consultation with the County Attorney's Office, the County should look to entering into license agreements with a new applicant, instead of simply relying on the hold harmless waiver. After some discussion on the provisions of the license agreement, the Board approved the license agreement for \$100 per year, subject to the changes requested by the Board. It is important to note that the license agreement included a provision that if the property is sold, that the buyer could execute a similar license within 90 days, and that if the buyer failed to do so, the dock would become the property of the County.

On May 26, 1998, the Board passed Resolution 1998-58, in which the Board delegated the authority to the Community Development Director to execute license agreements pertaining to transferring property

utilizing County riparian land for docks within the Country Club Pointe Subdivision. This allowed for a smooth transition for those property owners selling homes that had license agreements in place.

The License Agreements contain the following language in them that have brought up several questions from the different County Departments:

- Licensee agrees that the County may make annual inspections of the dock facility under license agreement and that this right shall be preserved in any rental agreement.
- In addition to such annual inspection, the County may inspect the dock facility due to storm events or complaints submitted to the County by third parties.
- If a dock falls into disrepair and is not fixed within the applicable time period, the County has the right to remove the dock and lien the property for the costs associated with such removal.
- Licensees are required to have the docks inspected on a five-year cycle by an independent third-party expert and submit that report to the County.
- Licensee must apply for a permit with Indian River County, within 60 days of entering into this license agreement, to either repair or demolish and rebuild the dock. Within 120 days from the issuance of the permit, the repairs or rebuilding of the dock must be accomplished and a request to Indian River County for any inspection must be made.
- Prior to the installation of any electricity to the dock, licensee shall obtain a quote from a licensed electrician familiar with dock designs. Licensee shall also provide a copy of the quote and designs to the County for review and must receive approval from the County before electric work can be installed.
- Prior to the installation of any water or irrigation service and connection to the dock, Licensee shall obtain a quote from a licensed contractor familiar with dock designs. Licensee shall also provide a copy of the quote and designs to the County for review and must receive approval from the County before work can be installed.
- Licensee is required to have the dock facility inspected on a five-year cycle by an independent third-party expert and submit that report to the County.

The County Attorney's Office met with staff from Natural Resources, Planning and Building. The following concerns arose regarding the above language:

1. There are no addresses associated with the individual docks. It has been mentioned that in order to obtain building permits and to track item that there needs to be an address associated with the permits. Does the Board wish to have planning designate an address for each of the docks?
2. The annual inspections that are to be done on the docks as well as the inspections when there is a complaint. The question came about as to which department is in charge if any to perform these inspections. The environmental planners do not have the ability to perform the inspections as they are not licensed to inspect docks etc. The building department has voiced that they only do inspections in relation to building permits and these license agreements do not fit in that category. Staff is seeking to know how the board would like to proceed with this?

3. Which department in the County would need to see and sign off on the installation of electricity and or water services to the dock?

4. Which department will review the inspection report submitted to the County that is required every 5 years?

FUNDING

Revenues collected for dock license agreements are deposited into account 001038-362010 - General Fund/Miscellaneous/Rents & Royalties.

Account Description	Account Number
General Fund/Miscellaneous/Rents & Royalties	001038-362010

RECOMMENDATION.

The County Attorney’s Office seeks instruction from the Indian River County Board of County Commissioners on how to move forward with each of the above questions.

ATTACHMENT.

Form License Agreements