

13. LEGAL MATTERS

Attached for your consideration, please find three resolutions prepared by Mr. Railey which assert liens on ten (10) parcels of property which have been the subject of enforcement actions by the Department of Community Development for violations of Sections 10-6 (Non-Compliant Buildings or Structures) and 10-48 of the Southampton County Code (Weeds, Grass and Unhealthy Growth).

Whereas, after due notice, the owners failed to respond, Southampton County contracted to have the work performed, the cost of which is now chargeable to the owners of the property.

Included are:

RESOLUTION 1 – NONCOMPLIANT BUILDINGS

Location	Demolition	Legal	Total Lien
23172 Thomaston Road	\$ 5,450.00	\$ 311.54	\$ 5,761.54
23214 Thomaston Road	7,550.00	311.54	7,861.54
23226 Thomaston Road	7,520.00	311.54	7,831.54
			<u>\$ 21,454.62</u>

RESOLUTION 2 – NONCOMPLIANT BUILDING

Location	Demolition	Legal	Total Lien
23240 Thomaston Road	\$ 7,850.00	\$ 115.54	\$ 7,965.54

RESOLUTION 3 – GRASS CUTTING

Location	Grass Cutting	Legal	Total Lien
3182 Bell Road	\$ 200.00	\$ 60.54	\$ 260.54
29266 Delaware Road	75.00	60.54	135.54
27037 Flaggy Run Road	200.00	60.54	260.54
Lot 38K - Appleton Road	150.00	60.54	210.54
21469 Barrow Road	172.50	60.54	233.04
30117 Meherrin Road	50.00	60.54	110.54
			<u>\$ 1,210.74</u>

MOTIONS REQUIRED: Separate motions are required to adopt each of the three (3) attached resolutions.

RESOLUTION 1

RAILEY AND RAILEY, P.C.
ATTORNEYS AND COUNSELLORS AT LAW

RICHARD E. RAILEY, JR.
R. EDWARD RAILEY, III
RICHARD E. RAILEY 1922-2004

RECEIVED MAR - 2 2012

Reply to: 22237 Main Street
P.O. Box 40
Courtland, VA 23837
(757) 653-2351
Fax: (757) 653-0930

March 1, 2012

10451 General Mahone Highway
P.O. Box 98
Wakefield, VA 23888
(757) 899-2145
Fax: (757) 899-2146
E-mail: edward@raileyandrailey.com

Mr. Michael W. Johnson, Administrator
Southampton County
Post Office Box 400
Courtland, VA 23837

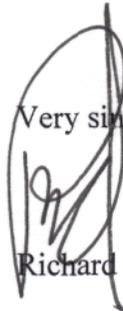
Re: Resolution as to Creation of Liens Securing the Costs and Expenses Incurred in Removing, Repairing or Securing Non-compliant Buildings in Accordance with the Provisions of Sec. 10-6 of the Southampton County Code

Dear Mike:

I am enclosing herewith a proposed Resolution for adoption at the March 26, 2012 meeting of the Southampton County Board of Supervisors. Please let me have your questions and comments.

With kind personal regards, I am

Very sincerely,



Richard E. Railey, Jr.

abr

Enclosure

pc: Ms. Beth Lewis

RESOLUTION AS TO THE CREATION OF LIENS SECURING THE COSTS AND EXPENSES INCURRED IN REMOVING, REPAIRING OR SECURING NON-COMPLIANT BUILDINGS, IN ACCORDANCE WITH THE PROVISIONS OF SEC. 10-6 OF THE SOUTHAMPTON COUNTY CODE

WHEREAS, Sec. 10-6, Buildings, other structures; removal, repair, etc., provides in pertinent part, as follows:

(a) The owners of property in Southampton County, Virginia shall at such time or times as the Board of Supervisors, through its agents or employees, may prescribe, remove, repair, or secure any building, wall or any other structure that might endanger the public health or safety of the other residents of Southampton County, Virginia.

(b) Southampton County, through its agents or employees, may secure any building, wall or other structure that might endanger the public health or safety of other residents of Southampton County, Virginia, if the owner and/or lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure the buildings, walls or other structure.

and

WHEREAS, said Sec. 10-6 further provides, in pertinent part

For the purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner, and (ii) published once a week for two (2) successive weeks in a newspaper having general circulation in the locality; and

WHEREAS, said Sec. 10-6 further provides, in pertinent part

(c) In the event Southampton County, Virginia, through its agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by Southampton County, Virginia as taxes are collected; and

(d) Every charge authorized by this section with which any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid real property taxes and enforceable in the same manner as provided in Articles Three (§58.1-3940 et. seq.) and Four (§ 58.1-3965 et. seq.) of Chapter 39 of Title 58.1 of the 1950 Code of Virginia, as amended; and

WHEREAS, Southampton County, Virginia, through its agents or employees, has provided reasonable notice to the below listed landowners in Schedule "A" attached hereto and made a part hereof, in accordance with the provisions of Sec. 10-6; and

WHEREAS, in removing said structures after complying with the notice provisions of said Sec. 10-6, Southampton County has incurred costs and/or expenses chargeable to and to be paid by the owners of such property, and collected by Southampton County as taxes are collected; and

WHEREAS, in accordance with §15.2-104 of the 1950 Code of Virginia, as amended, such liens securing the costs and expenses of such demolition shall not bind or affect a subsequent *bona fide* purchase of the real estate for valuable consideration without actual notice of the lien unless, at the time of the transfer of record of the real estate to the purchaser, a statement containing the name of the record holder of the real estate in the amount of such unpaid charges is entered in the Judgment Lien Book in the Clerk's Office where deeds are recorded or is contained in the records maintained by the Treasurer for real estate liens, pursuant to §58.1-3930 of said Code; and

WHEREAS, in accordance with §15.2-104 of the 1950 Code of Virginia, as amended, it is necessary that a statement containing the name of the record owner of the real estate and the amount of such unpaid charges be entered in the Judgment Lien Book in the Clerk's Office of the Circuit Court of Southampton County and in the Southampton County Treasurer's Office.

NOW, THEREFORE, be it resolved by the Board of Supervisors of Southampton County, Virginia, that in accordance with Sec. 10-6 of the Southampton County Code and §§15.2-906 and 15.2-104 of the 1950 Code of Virginia, as amended, a lien is hereby asserted

against each lot or parcel of land identified herein and Schedule "A" attached hereto for the amount identified beside such said parcel of land; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Southampton County, Virginia, that notwithstanding said lien hereby asserted, the amount secured by said lien should continue to be the obligation of owner of said real estate at the time at the time said costs and expenses are incurred; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Southampton County, Virginia, that a statement, as provided in §15-104 of said Code, containing the name of the record holder of said real estate, the amount of such unpaid charges, and such other information as may be pertinent in identifying such real estate be entered in the Judgment Lien Book in the Clerk's Office of the Circuit Court of Southampton County and the Southampton County Treasurer's Office, as provided in §15.2-104 of said Code; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Southampton County, Virginia, that all actions taken by the agents or employees of the Southampton County Board of Supervisors, in accordance with the provisions of Sec. 10-6 are hereby **RATIFIED, CONFIRMED and APPROVED.**

The undersigned Clerk of the Board of Supervisors of Southampton County, Virginia certifies the foregoing constitutes a true, complete and correct copy of the Resolution adopted at the regular meeting of the Southampton County Board of Supervisors of Southampton County, Virginia, held on March 26, 2012.

Clerk, Board of Supervisors, Southampton County,
Virginia

SCHEDULE "A"

Lots or parcels for which a lien is asserted in accordance with the provisions of Sec. 10-6 of the Southampton County Code are as follows:

Property Address: 23172 Thomaston Road
Newsoms, VA 23874;
Last Known Owner: Mary Falkins
23172 Thomaston Road
Newsoms, VA 23874;
Type of Work: Structure demolished;
Costs of Demolition: \$5,450.00;
Legal and Related
Costs: \$311.54;

Property Address: 23214 Thomaston Road
Newsoms, VA 23874;
Last Known Owner: Ora Whitfield
23214 Thomaston Road
Newsoms, VA 23874
Type of Work: Structure demolished;
Costs of Demolition: \$7,550.00;
Legal and Related
Costs: \$311.54;

Property Address: 23226 Thomaston Road
Newsoms, VA 23874;
Last Known Owner: Anita Cutler
23226 Thomaston Road
Newsoms, VA 23874;
Type of Work: Structure demolished;
Costs of Demolition: \$7,520.00;
Legal and Related
Costs: \$311.54;

TOTAL COSTS \$21,454.62

RESOLUTION 2

R & R

RECEIVED MAR 13 2012

RAILEY AND RAILEY, P.C.
ATTORNEYS AND COUNSELLORS AT LAW

PERSONAL INJURY LAW SINCE 1948

RICHARD E. RAILEY 1922-2004

RICHARD E. RAILEY, JR.
R. EDWARD RAILEY, III

WALLACE W. BRITTLE, JR.

Reply to:

P. O. Box 40
Courtland, VA 23837

E-mail: edward@raileyandrailey.com

March 8, 2012

Mr. Michael W. Johnson, Administrator
Southampton County
Post Office Box 400
Courtland, VA 23837

Re: Resolution as to Creation of Liens Securing the Costs and Expenses Incurred in Removing, Repairing or Securing Non-compliant Buildings in Accordance with the Provisions of Sec. 10-6 of the Southampton County Code (Harris property, 23240 Thomaston Road, Newsoms, Virginia)

Dear Mike:

I am enclosing herewith another proposed Resolution for adoption at the March 26, 2012 meeting of the Southampton County Board of Supervisors. Please let me have your questions and comments.

With kind personal regards, I am

Very sincerely,



Richard E. Railey, Jr.

let

Enclosure

22237 Main Street
P.O. Box 40
Courtland, VA 23837
(757) 653-2351
Fax: (757) 653-0930

P. O. Box 189
Waverly, VA 23890
(804) 834-2599

10451 General Mahone Highway
P.O. Box 98
Wakefield, VA 23888
(757) 899-2145
Fax: (757) 899-2146

13-9

RESOLUTION AS TO THE CREATION OF LIENS SECURING THE COSTS AND EXPENSES INCURRED IN REMOVING, REPAIRING OR SECURING NON-COMPLIANT BUILDINGS, IN ACCORDANCE WITH THE PROVISIONS OF SEC. 10-6 OF THE SOUTHAMPTON COUNTY CODE

WHEREAS, Sec. 10-6, Buildings, other structures; removal, repair, etc., provides in pertinent part, as follows:

(a) The owners of property in Southampton County, Virginia shall at such time or times as the Board of Supervisors, through its agents or employees, may prescribe, remove, repair, or secure any building, wall or any other structure that might endanger the public health or safety of the other residents of Southampton County, Virginia.

(b) Southampton County, through its agents or employees, may secure any building, wall or other structure that might endanger the public health or safety of other residents of Southampton County, Virginia, if the owner and/or lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure the buildings, walls or other structure.

and

WHEREAS, said Sec. 10-6 further provides, in pertinent part

For the purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner, and (ii) published once a week for two (2) successive weeks in a newspaper having general circulation in the locality; and

WHEREAS, said Sec. 10-6 further provides, in pertinent part

(c) In the event Southampton County, Virginia, through its agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by Southampton County, Virginia as taxes are collected; and

(d) Every charge authorized by this section with which any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid real property taxes and enforceable in the same manner as provided in Articles Three (§58.1-3940 et. seq.) and Four (§ 58.1-3965 et. seq.) of Chapter 39 of Title 58.1 of the 1950 Code of Virginia, as amended; and

WHEREAS, Southampton County, Virginia, through its agents or employees, has provided reasonable notice to the below listed landowners in Schedule "A" attached hereto and made a part hereof, in accordance with the provisions of Sec. 10-6 and, in addition, the owner has agreed and directed Southampton County to demolish the structure; and

WHEREAS, as a result of the agreement and direction of the property owner to demolish this structure, the newspaper publication as set out in § 10-6 of the Southampton County Code was not necessary; and

WHEREAS, in accordance with §15.2-104 of the 1950 Code of Virginia, as amended, such liens securing the costs and expenses of such demolition shall not bind or affect a subsequent *bona fide* purchase of the real estate for valuable consideration without actual notice of the lien unless, at the time of the transfer of record of the real estate to the purchaser, a statement containing the name of the record holder of the real estate in the amount of such unpaid charges is entered in the Judgment Lien Book in the Clerk's Office where deeds are recorded or is contained in the records maintained by the Treasurer for real estate liens, pursuant to §58.1-3930 of said Code; and

WHEREAS, in accordance with §15.2-104 of the 1950 Code of Virginia, as amended, it is necessary that a statement containing the name of the record owner of the real estate and the amount of such unpaid charges be entered in the Judgment Lien Book in the Clerk's Office of the Circuit Court of Southampton County and in the Southampton County Treasurer's Office.

NOW, THEREFORE, be it resolved by the Board of Supervisors of Southampton County, Virginia, that in accordance with Sec. 10-6 of the Southampton County Code and §§15.2-906 and 15.2-104 of the 1950 Code of Virginia, as amended, a lien is hereby asserted

against each lot or parcel of land identified herein and Schedule "A" attached hereto for the amount identified beside such said parcel of land; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Southampton County, Virginia, that notwithstanding said lien hereby asserted, the amount secured by said lien should continue to be the obligation of owner of said real estate at the time at the time said costs and expenses are incurred; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Southampton County, Virginia, that a statement, as provided in §15-104 of said Code, containing the name of the record holder of said real estate, the amount of such unpaid charges, and such other information as may be pertinent in identifying such real estate be entered in the Judgment Lien Book in the Clerk's Office of the Circuit Court of Southampton County and the Southampton County Treasurer's Office, as provided in §15.2-104 of said Code; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Southampton County, Virginia, that all actions taken by the agents or employees of the Southampton County Board of Supervisors, in accordance with the provisions of Sec. 10-6 are hereby **RATIFIED, CONFIRMED and APPROVED.**

The undersigned Clerk of the Board of Supervisors of Southampton County, Virginia certifies the foregoing constitutes a true, complete and correct copy of the Resolution adopted at the regular meeting of the Southampton County Board of Supervisors of Southampton County, Virginia, held on March 26, 2012.

Clerk, Board of Supervisors, Southampton County,
Virginia

SCHEDULE "A"

Lots or parcels for which a lien is asserted in accordance with the provisions of Sec. 10-6 of the Southampton County Code are as follows:

Property address:	23240 Thomaston Road Newsoms, VA 23874;
Last Known Owner:	Elmo Harris 260 Holland Avenue Somerset, NJ 08873;
Type of Work:	Structure demolished;
Costs:	\$7,850.00;
Legal and Related Costs:	\$115.54;
Total:	\$7,965.54.

RESOLUTION 3

RECEIVED MAR 13 2012

RAILEY AND RAILEY, P.C.
ATTORNEYS AND COUNSELLORS AT LAW

RICHARD E. RAILEY, JR.
R. EDWARD RAILEY, III
RICHARD E. RAILEY 1922-2004

Reply to: 22237 Main Street
P.O. Box 40
Courtland, VA 23837
(757) 653-2351
Fax: (757) 653-0930

March 2, 2012

10451 General Mahone Highway
P.O. Box 98
Wakefield, VA 23888
(757) 899-2145
Fax: (757) 899-2146
E-mail: edward@raileyandrailey.com

Mr. Michael W. Johnson, Administrator
Southampton County
Post Office Box 400
Courtland, VA 23837

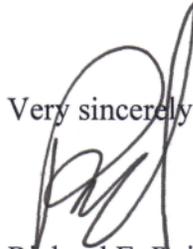
Re: Resolution as to Creation of Liens Securing Expenses of Enforcement of the
Grass Cutting Ordinance, Sec. 10-48 of the Southampton County Code

Dear Beth:

I am enclosing herewith a Resolution as to grass cutting expenses which needs to be adopted at the March meeting of the Southampton County Board of Supervisors. Please let me have your questions and comments.

With kind personal regards, I am

Very sincerely,



Richard E. Railey, Jr.

abr

Enclosure

pc: Ms. Beth Lewis, AICP
Community Development Director

RESOLUTION AS TO CREATION OF LIENS SECURING EXPENSES OF ENFORCEMENT
OF THE GRASS CUTTING ORDINANCE, SEC. 10-48 OF
THE SOUTHAMPTON COUNTY CODE

WHEREAS, Sec. 10-48 of the Southampton County Code, entitled Weeds, Grass and Unhealthy Growth, provides in pertinent part

"A. It shall be unlawful for any owner, lessee or occupant, or any agent or representative, or employee of such owner, lessee or occupant, having control of any parcel of land in the County to allow, permit, or maintain any growth, weeds, grass or unhealthy growths thereon or along the sides thereof within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use in the County to a height exceeding twelve (12) inches."

and

WHEREAS, said Sec. 10-48 further provides that when any condition exists on any lot or parcel of land in the County in violation of subsection A of this section, it shall be the duty of a designee, as determined by the Board of Supervisors, to serve or cause to be served notice upon the owner, lessee, or occupant of such lot or parcel of land, requiring the owner, lessee or occupant of such lot to cut and remove the weeds, grass, or unhealthy growths existing upon such lot or parcel within ten (10) days of service of such notice upon such owner, lessee or occupant; and

WHEREAS, said Sec. 10-48 further provides that if such owner, lessee or occupant fails to act or remove the weeds, grass, or unhealthy growth within the time specified in such notice, the Board shall, through its agents or employees, have such weeds, grass or unhealthy growth cut, and in that event, the costs and expense thereof shall be chargeable to and paid by the owner of such property and may be collected by the County as taxes and levies are collected; and

WHEREAS, John P. Jenkins, Code Enforcement Specialist, acting on behalf of the Southampton County Board of Supervisors, has provided notice to the below listed landowners, in Schedule "A" attached hereto and made a part hereof, in accordance with the provisions of Sec. 10-48, as to their violations of said Sec. 10-48; and

WHEREAS, the owners listed on Schedule "A" attached hereto and made a part hereof have failed to respond to said notices and have failed to cure such violations; and

WHEREAS, in accordance with the provisions of said Sec. 10-48, said Code Enforcement Specialist has contracted for such weeds, grass or unhealthy growth to be cut so as to bring such lots into compliance with paragraph A of said Sec. 10-48; and

WHEREAS, in cutting said weeds, grass or unhealthy growth, Southampton County has incurred costs and expenses that shall be chargeable to and paid by the owners of such property,

and collected by the County as taxes and levies are collected, in accordance with the provisions of Sec. 10-48; and

WHEREAS, in accordance with §15.2-104 of the 1950 Code of Virginia, as amended, such lien securing the costs and expenses of such grass cutting shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien unless, at the time of the transfer of record of the real estate to the purchaser, a statement containing the name of the record owner of the real estate and the amount of such unpaid charges, as entered in the Judgment Lien Book in the Clerk's Office where deeds are recorded, or is contained in the records maintained by the Treasurer for real estate liens, pursuant to §58.1-3930 of said Code; and

WHEREAS, in accordance with §15.2-104 of the 1950 Code of Virginia, as amended, it is necessary that a statement containing the name of the record owner of the real estate and the amount of such unpaid charges be entered in the Judgment Lien Book in the Clerk's Office of the Circuit Court of Southampton County and in the Southampton County Treasurer's Office.

NOW, THEREFORE, be it therefore resolved by the Board of Supervisors of Southampton County, Virginia, that in accordance with Sec. 10-48 of the Southampton County Code and §§ 15.2-901 and 15.2-104 of the 1950 Code of Virginia, as amended, a lien is hereby asserted against each lot or parcel of land identified herein in Schedule "A" attached hereto for the amount identified beside said parcel or tract of land; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Southampton County, Virginia, that notwithstanding said lien hereby asserted, the amount secured by said lien shall continue to be the obligation of the owner of such real estate at the time said costs and expense are incurred; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Southampton County, Virginia, that the said John P. Jenkins, acting on behalf of the Southampton County Board of Supervisors, shall cause a statement as provided by §15-104 of said Code, containing the name of the record owner of the real estate, the amount of such unpaid charges, and such other information as may be pertinent in identifying such real estate, to be entered in the Judgment Lien Book in the Clerk's Office of the Circuit Court of Southampton County and in the Southampton County Treasurer's Office, as provided by §15.2-104; and

BE IT FURTHER RESOLVED, by the Board of Supervisors of Southampton County, Virginia, that all actions taken by the said John P. Jenkins, acting on behalf of the Southampton County Board of Supervisors, in accordance with the provisions of Sec. 10-48 are hereby **RATIFIED, CONFIRMED and APPROVED**.

The undersigned Clerk of the Board of Supervisors of Southampton County, Virginia certifies that the foregoing constitutes a true, complete and correct copy of the Resolution adopted at a regular meeting of the Board of Supervisors of Southampton County, Virginia held on March _____, 2012.

SCHEDULE "A"

**LOTS OR PARCELS FOUND TO BE IN VIOLATION OF SEC. 10-48 A. OF THE
SOUTHAMPTON COUNTY CODE AND REQUIRING THE CUTTING AND
REMOVING OF WEEDS, GRASS, OR UNHEALTHY GROWTHS EXISTING UPON
SUCH LOTS OR PARCELS, IN ACCORDANCE WITH SEC. 10-48 B**

Property address:	3182 Bell Road Ivor, VA 23866;
Name and address of Owner:	Eugene Cassidy 32019 Riverdale Drive Franklin, VA 23851;
Date cut:	August 12, 2012 and October 19, 2011;
Costs:	\$200.00;
Legal and Related Costs:	\$60.54;
Total:	\$260.54;
Property address:	29266 Delaware Road Franklin, VA 23851;
Name and address of Owner:	Edward C. and Tricia D. Goodsell 29266 Delaware Road Franklin, VA 23851;
Date cut:	June 13, 2011;
Costs:	\$75.00;
Legal and Related Costs:	\$60.54;
Total:	\$135.54;
Property address:	27037 Flaggy Run Road Courtland, VA 23837;
Name and address of Owner:	Jason Dunaway 27206 Flaggy Run Road Courtland, VA 23837;
Date cut:	August 17, 2011;
Costs:	\$200.00;
Legal and Related Costs:	\$60.54;
Total:	\$260.54;

Property address: Lot 38K- Appleton Road
Ivor, VA 23866;

Name and address of
Owner: Sheila M. Perry
16113 Johnson's Mill Road
Sedley, VA 23878;

Date cut: October 19, 2011;
Costs: \$150.00;
Legal and Related
Costs: \$60.54;
Total: \$210.54;

Property address: 21469 Barrow Road
Capron, VA 23829;

Name and address of
Owner: John L. Parker
21469 Barrow Road
Capron, VA 23829;

Date cut: August 8, 2010;
Costs: \$172.50;
Legal and Related
Costs: \$60.54;
Total: ~~\$33.04~~; 233.04

Property address: 30117 Meherrin Road
Boykins, VA 23827;

Name and address of
Owner: Toronto Gilchrest-Branch (owned subsequently by Eastern
Savings Bank as a result of foreclosure)
30117 Meherrin Road
Boykins, VA 23827;

Date cut: August 6, 2010
Costs: \$50.00
Legal and Related
Costs: \$60.54;
Total: ~~\$11.54~~; 110.54