

SUPERIOR COURT

CIVIL CASE COVER SHEET

CASE #

THIS FORM MUST BE FILED WITH EACH ORIGINAL DOCUMENT THAT COMMENCES A CIVIL PROCEEDING IN THE CLERK'S OFFICE. IF THE CASE IS A DISTRICT COURT APPEAL, THIS FORM MUST BE FILED WITH THE APPEAL IN THE DISTRICT COURT AND WILL BE TRANSFERRED WITH OTHER DOCUMENTS TO THE SUPERIOR COURT.

CVDDI, LLC

PLAINTIFF

ID#

RICHARD POIRIER, et al.

DEFENDANT

ID#

NATURE OF PROCEEDING - CHECK **ONE** APPLICABLE CASE TYPE UNDER MAIN CATEGORIES LISTED BELOW.**CIVIL ACTION**

- | | | |
|---|--|--|
| <input type="checkbox"/> AA AGENCY APPEAL | <input type="checkbox"/> EX EXCESSIVE TAX | <input type="checkbox"/> PJ PERSONAL INJURY/VEHICLE |
| <input type="checkbox"/> AB ASSAULT AND BATTERY | <input type="checkbox"/> FF FORFEITURE | <input type="checkbox"/> PL PRODUCT LIABILITY |
| <input type="checkbox"/> AE ASBESTOS CASES | <input type="checkbox"/> FG FOREIGN JUDGMENT | <input type="checkbox"/> PR PARTITION |
| <input type="checkbox"/> AI ANTI-TRUST | <input type="checkbox"/> FS FRIENDLY SUIT | <input type="checkbox"/> RC REINSTATE CHARTER |
| <input type="checkbox"/> BA BOOK ACCOUNT | <input type="checkbox"/> ID PER INJURY/PROP DAM/VEH | <input type="checkbox"/> PT PROMISSORY NOTE |
| <input type="checkbox"/> BP BILL OF RIGHTS-POLICE OFF | <input type="checkbox"/> IJ INJUNCTIVE RELIEF | <input checked="" type="checkbox"/> RY REAL PROPERTY |
| <input type="checkbox"/> CH CIVIL RIGHTS/JOB DISCRIM | <input type="checkbox"/> IP INTERPLEADER | <input type="checkbox"/> SA SEXUAL ABUSE |
| <input type="checkbox"/> CI CRIMINAL INJURY COMP | <input type="checkbox"/> KP KUGEL PATCH | <input type="checkbox"/> SF SPECIFIC PERFORMANCE |
| <input type="checkbox"/> CL COMMON LAW ASSIGNMENT | <input type="checkbox"/> LC LEAD CASE | <input type="checkbox"/> SX SEXUAL HARASSMENT |
| <input type="checkbox"/> CM COMMON LAW LIEN | <input type="checkbox"/> LS LIBEL/SLANDER | <input type="checkbox"/> TD CONTRACT DAMAGES |
| <input type="checkbox"/> CS CONVERSION | <input type="checkbox"/> ME MALPRACTICE/LEGAL | <input type="checkbox"/> TE TRESPASS AND EJECTMENT |
| <input type="checkbox"/> CV CRIMINAL CONVERSION | <input type="checkbox"/> MM MALPRACTICE/MEDICAL | <input type="checkbox"/> TO TITLE CLEARING |
| <input type="checkbox"/> CH CIVIL RIGHTS/JOB DISCRIMIN | <input type="checkbox"/> MO MALPRACTICE/OTHER | <input type="checkbox"/> TV TRUSTEE/APPT CONVEY TITLE |
| <input type="checkbox"/> DJ DECLARATORY JUDGMENT | <input type="checkbox"/> MR MERS | <input type="checkbox"/> TG TRUSTEE/ACCOUNTING |
| <input type="checkbox"/> DG RECOVERY OF DAMAGES | <input type="checkbox"/> OV OTHER CIVIL ACTION | <input type="checkbox"/> UM UNINSURED MOTORIST |
| <input type="checkbox"/> DB DEBT ON JUDGMENT | <input type="checkbox"/> PB PROPERTY DAMAGES | <input type="checkbox"/> WD WRONGFUL DEATH/ OTHER |
| <input type="checkbox"/> DD DECEPTIVE TRADE PRACTICE | <input type="checkbox"/> PG PROPERTY DAMAGES/VEH | <input type="checkbox"/> WE WRONGFUL DEATH/ MED. MAL |
| <input type="checkbox"/> DN DENIAL OF PROBATE CLAIM | <input type="checkbox"/> PI PERSONAL INJURY | <input type="checkbox"/> WM WRIT OF MANDAMUS |
| | | <input type="checkbox"/> WR WRIT OF REPLEVIN |

MISCELLANEOUS PETITION

- | | | |
|---|--|---|
| <input type="checkbox"/> AC ARBITRATION/CONFIRM | <input type="checkbox"/> GJ GRAND JURY INVESTIGATION | <input type="checkbox"/> PX PETITION TO EXPUNGE |
| <input type="checkbox"/> AD ARBITRATION AWARD | <input type="checkbox"/> HC HABEAS CORPUS | <input type="checkbox"/> PY PETITION INVENT (WIRE TAP) |
| <input type="checkbox"/> AS ASSESSMENT OF DAMAGES | <input type="checkbox"/> LN LEVEL COMMUN NOTIFICATION | <input type="checkbox"/> RB ARBITRATION REFERRAL |
| <input type="checkbox"/> CE CONDEMNATION | <input type="checkbox"/> ML MECHANICS LIEN | <input type="checkbox"/> RP RULE 5A PETITION |
| <input type="checkbox"/> CN CONFIRM COMPROMISE | <input type="checkbox"/> MW MATERIAL WITNESS | <input type="checkbox"/> RV RECEIVERSHIP |
| <input type="checkbox"/> CP CONTEMPT | <input type="checkbox"/> OM OTHER MISC PETITION | <input type="checkbox"/> SO SEXUAL VIOLENT PREDATOR |
| <input type="checkbox"/> DI DISCLAIMER | <input type="checkbox"/> OW OUT OF STATE WITNESS | <input type="checkbox"/> SS STRUCTURED SETTLEMENT |
| <input type="checkbox"/> DS DISSOLUTION OF CORP | <input type="checkbox"/> PC POST CONVICTION RELIEF | <input type="checkbox"/> TA APPOINTMENT OF TRUSTEE |
| <input type="checkbox"/> DT DECLINATION OF TRUSTEE | <input type="checkbox"/> PD PETITION TO TAKE DEPO | <input type="checkbox"/> TC TITLE CLEARING (TAX TITLE) |
| <input type="checkbox"/> EN END PARTNERSHIP | <input type="checkbox"/> PM PETITION FOR IMMUNITY | <input type="checkbox"/> TL FORECLOSURE/TAX LIEN |
| <input type="checkbox"/> FC FORFEITURE OF CHARTER | <input type="checkbox"/> PO PETITION FOR CONSTABLE | <input type="checkbox"/> TS TRUSTEE SUCCESSOR |
| <input type="checkbox"/> FL FORECLOSURE RIGHTS REDEM | <input type="checkbox"/> PS PERFORM SURGERY | <input type="checkbox"/> VC VACATE ARBITRATION |

PROBATE APPEAL

- | | | |
|---|---|---|
| <input type="checkbox"/> GD GUARDIANSHIP | <input type="checkbox"/> OA OTHER PROBATE APPEAL | <input type="checkbox"/> WL WILL |
| <input type="checkbox"/> NC NAME CHANGE | <input type="checkbox"/> TU TRUST | |

DISTRICT COURT APPEAL☐ DISTRICT COURT APPEAL

TRIAL	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	IF YES:	<input checked="" type="checkbox"/> JURY	<input type="checkbox"/> NON-JURY
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ATTORNEY NAME AND RHODE ISLAND BAR NUMBER: Anthony J. Bucci, Jr., Esq. (#2599)

PRO SE/NAME:

DATE: October 23, 2014

SC-223

Superior-3 (revised February 2013)

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

CVDD I, LLC,

Plaintiff

vs.

C.A. NO. PC 14-

RICHARD POIRIER and THE TOWN OF
SMITHFIELD by and through its BUILDING
INSPECTOR, PETER SCORPIO

Defendant

COMPLAINT

Parties

1. Plaintiff CVDD I, LLC (hereinafter, "Plaintiff") is a Rhode Island limited liability company and the owner of land located at 300 Stillwater Road, Smithfield, Rhode Island, more particularly identified on Tax Assessor's Map 20, Lot 002 (hereinafter, the "Plaintiff's Property").

2. Defendant Richard Poirier (hereinafter, "Poirier") is a Rhode Island resident and the owner of property located at 320 Stillwater Road, Smithfield, Rhode Island more particularly identified on Tax Assessor's Map 20, Lot 003 (hereinafter, "Poirier's Property").

3. Defendant, the Town of Smithfield, is a body politic created by Charter and, through its various agents, employees and/or representatives, serves as an enforcement agency for all land use and business operations in and for the Town of Smithfield, County of Providence, State of Rhode Island (hereinafter, the "Town"). Peter Scorpio is the Building Inspector of the Town of Smithfield.

General Allegations

4. Plaintiff's Property and Poirier's Property abut one another.
5. Both Plaintiff's Property and Poirier's Property are located in a Medium Density – Residential ("R-MED") zoning district within the Town.
6. The Town's Zoning Ordinance defines a "**junk yard**" as an open area where waste, used or second hand materials are stored, including but not limited to scrap metal and tires. *See* Town Zoning Ordinance § 2.2 (84).
7. The Town's Zoning Ordinance defines a "**motor vehicle junk yard**" as any place of storage or deposit, which has stored two (2) or more unregistered vehicles which are no longer operable or in condition for legal use on public highways, or used parts of motor vehicles, or other waste or discarded second hand material which has been a part or intended to be a part of any motor vehicle. *See* Town Zoning Ordinance §2.2 (84) and (85).
8. The Town's Zoning Ordinance prohibits junk yards and motor vehicle junk yards in all districts, including an R-MED district. *See* Town Zoning Ordinance §4.6 (E) (32) and (33).
9. The Town's Code of Ordinances expressly prohibits any person from depositing, placing, leaving, keeping or storing any vehicle that is either partially or totally dismantled, unserviceable or damaged to such an extent as to be inoperable, abandoned, junked or discarded. *See* Town Ordinance §308-4.
10. The Town's Code of Ordinances specifically provides that any condition caused or permitted to exist in violation of any provision of the Town's Code or any ordinance shall be deemed a public nuisance. *See* Town Ordinance §1-17.
11. Poirier maintains a junk yard and/or motor vehicle junk yard on Poirier Property, as defined under the Town Zoning Ordinance, for the purpose of storing abandoned, dismantled, and/or wrecked automobiles and discarded junk, debris and trash (collectively, the "**Junk**

Yard”) See pictures taken October 23, 2014 of Poirier’s Property which are attached hereto and incorporated by reference herein as Exhibit A.

12. The Town’s Geographic Information System (“hereinafter, “GIS”) clearly evidences the presence of piles of junk, scrap metal, lumber as well as abandoned, junked and discarded motor vehicles.

13. The Town’s Vision Appraisal online database depicts a field card for Poirier’s Property which expressly identifies Poirier’s Property as a junk yard. *See* Exhibit B attached hereto, a copy of the field card, page two.

14. Poirier’s operation of the junk yard and/or motor vehicle junk yard is a clear violation of the Town Zoning Ordinance and the Town’s Code of Ordinances and is not a permitted use in any district in the Town.

15. Poirier’s clear and obvious violation of the Town’s ordinances is a public nuisance, pursuant to the Town’s Code of Ordinances § 1-17.

16. Poirier’s activity and operation of the Junk Yard is negatively affecting, altering and forever changing the landscape of the surrounding neighborhoods, roadways, the air in Plaintiff’s neighborhood and the earth below the surface to Plaintiff’s detriment and damage to Plaintiff’s Property.

17. Poirier’s operation of the Junk Yard on Poirier’s Property has unreasonably interfered with Plaintiff’s use and enjoyment of Plaintiff’s Property.

18. Plaintiff’s Property has sustained damage and a diminution in value as a direct result of the Poirier’s continued operation of the Junk Yard on Poirier’s Property, in violation of the Town’s ordinances.

19. Plaintiff has made several complaints to the Town regarding the deplorable condition of

Poirier's Property and the violative operation of the Junk Yard on Poirier's Property.

20. Plaintiff's initial complaint to the Town dates back to January, 2014.

21. As recently as October 15, 2014, Plaintiff has sent a written complaint to the Town regarding the Junk Yard operations at Poirier's Property and the obvious violations of the Town's ordinances.

22. The Town has willfully refused to enforce the Town's ordinances as against Poirier in total disregard for the rights of plaintiff.

23. The Town has intentionally assisted Poirier in perpetuating, conducting and maintaining the private and public nuisance on Poirier's Property, in violation of the Town's ordinances.

24. Notably, the Town has also provided Poirier with inappropriate tax exemptions for Poirier's Property, for which said Property is ineligible, at the expense of Smithfield tax payers.

25. On information and belief, other Town residents have also lodged similar complaints against Poirier with the Town, beginning at least as far back as three to four year ago.

26. As a direct result of the Defendants' actions and inactions, Plaintiff has suffered damages, including a diminution in value of Plaintiff's Property

COUNT I
(Public Nuisance as against Poirier)

27. Plaintiff re-alleges and incorporates by reference paragraphs 1-26 as if fully set forth herein.

28. Poirier operates a Junk Yard at Poirier's Property for the purpose of storing abandoned, dismantled, and/or wrecked automobiles and discarded junk, debris and trash.

29. The operation of the Junk Yard fall under the direct control of Poirier.

30. The Town's Zoning Ordinance and the Town's Code of Ordinance strictly prohibit the junk yards and motor vehicle junk yards in any district within the Town.

31. The Town's Code of Ordinances expressly states that any violation of the Town's ordinance shall be deemed a public nuisance.

32. Poirier's operation of the Junk Yard is violative of the Town's ordinances and as such, is by definition a public nuisance under the Town's Code of Ordinances.

33. Poirier's operation of the Junk Yard has created a nuisance to the Plaintiff and the general community.

34. The operation of the Junk Yard constitutes an unreasonable interference of rights common to the general public.

35. Poirier's activity and operation of the Junk Yard is negatively affecting, altering and forever changing the landscape of the surrounding neighborhoods, roadways, the air in Plaintiff's neighborhood and the earth below the surface to Plaintiff's detriment and damage to Plaintiff's Property.

36. Poirier's operation of the Junk Yard constitutes an unreasonable interference with the health, safety and comfort of the general public.

37. Plaintiff has suffered damages as a direct and proximate result of Poirier's unreasonable and continuing interference of rights common to the general public.

WHEREFORE, Plaintiff seeks a judgment from this Honorable Court ordering as follows:

- a) A declaration that Poirier has maintained a public nuisance on Poirier's Property;
- b) Awarding the Plaintiff compensatory damages against Poirier in an amount adequate to compensate the Plaintiff for damages caused as a result of Poirier's maintenance of a public nuisance as set forth *supra*, plus attorneys' fees, costs and expenses incurred in prosecuting the instant action;

- c) Preliminary and Permanent Injunctive relief ordering Poirier to discontinue his maintenance of the public nuisance; and
- d) Such other equitable relief as this Honorable Court deems appropriate.

COUNT II
(Private Nuisance as against Poirier)

38. Plaintiff re-alleges and incorporates by reference paragraphs 1-37 as if fully set forth herein.

39. Poirier's operation of the Junk Yard has created a nuisance to the Plaintiff.

40. Poirier's operation of the Junk Yard on the Poirier Property has unreasonably interfered with Plaintiff's use and enjoyment of Plaintiff's Property.

41. Plaintiff's Property has sustained damage and a diminution in value as a direct result of the Poirier's continued operation of the Junk Yard on Poirier's Property.

WHEREFORE, Plaintiff seeks a judgment from this Honorable Court ordering as follows:

- a) A declaration that Poirier has maintained a private nuisance on Poirier's Property;
- b) Awarding the Plaintiff compensatory damages against Poirier in an amount adequate to compensate the Plaintiff for damages caused as a result of Poirier's maintenance of a private nuisance as set forth *supra*, plus attorneys' fees, costs and expenses incurred in prosecuting the instant action;
- c) Preliminary and Permanent Injunctive relief ordering Poirier to discontinue his maintenance of the private nuisance; and
- d) Such other equitable relief as this Honorable Court deems appropriate.

COUNT III
(Mandamus against the Town)

42. Plaintiff re-alleges and incorporates by reference paragraphs 1-41 as if fully set forth herein.

43. The Town and its officials, with full knowledge that the Poirier Property has been and is currently being illegally operated as a Junk Yard in clear and blatant violation of the Town Code of Ordinances as aforesaid, has for years utterly failed and refused to enforce said ordinances against Poirier and Poirier's Property.

43. The Town and its officials are duty bound to enforce the Town's ordinances and the Town and its officials have a ministerial legal duty to enforce said ordinances without discretion to refuse.

44. The plaintiff has no adequate remedy at law.

45. The plaintiff has a clear right to the relief sought.

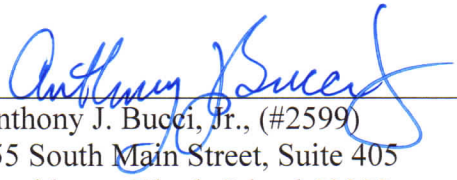
WHEREFORE, Plaintiff seeks a judgment from this Honorable Court ordering as follows:

- a) A declaration that Poirier has maintained a Junk Yard on Poirier's Property;
- b) A declaration that maintenance of a Junk Yard on Poirier's Property is in violation of the Town's Code of Ordinances.
- c) Issue a Writ of Mandamus directing the Town to immediately enforce the Town's Code of Ordinances against defendant Richard Poirier and Poirier's Property and cite defendant Richard Poirier for said violations, and further directing the Town to order defendant Poirier to immediately clean up the Poirier Property and bring it in to full compliance with the Town's Code of Ordinances.
- d) Such other equitable relief as this Honorable Court deems appropriate.

JURY DEMAND

Plaintiff, CVDD I, LLC hereby demands a trial by jury as to Counts I and II hereof, with a designation of Anthony J. Bucci, Jr., Esquire as its lead attorney.

Plaintiff,
CVDD II, LLC,
By its attorney,



Anthony J. Bucci, Jr., (#2599)
155 South Main Street, Suite 405
Providence, Rhode Island 02903
Tel: 401-831-4200
Fax: 866-340-1835
Email: abucci@buccilaw.com

CONSTRUCTION DETAIL		CONSTRUCTION DETAIL CONTINUED								
Element	Description	Element	Description							
03	Colonial	18	FSP							
01	Residential	15	FUS							
05	Average +20	19	BAS							
2	2 Stories	8	UBM							
21	Stone/Masonry									
15	Concr/Cinder									
06	Mansard									
11	Slate									
03	Plastered									
12	Hardwood									
02	Oil									
06	Steam									
01	None									
04	4 Bedrooms									
1	1									
1	7 Rooms									
7	Average									
02	Standard									
02	Xtra Kitchen:									
02	Xtra Kitchen:									
COST/MARKET VALUATION Base Rate 67.00 Replace Cost 200,326 Net Other Adj 1800 Effective Year Built 1967 Depreciation Code A Year Remodeled 45 Depreciation % 5 Functional Obso 1 Economic Obso 50 Cost Trend Factor 100,200 Condition % Complete Overall % Condition Deprec Value Dep % Ovr Dep Ovr Comment Misc Imp Ovr Misc Imp Ovr Comment Cost to Cure Ovr		28 18 18 18 8 8 21 10 12 10 12 10 10								
BUILDING SUB-AREA SUMMARY SECTION										
Code	Description	Sub	Unit	Price	Year	Pct	Depre	Condition	Qu	Apprais Va
BAS	First Floor	1,438	0	1,438	0	1,438	0	1,438	0	91,947
FOP	Porch, Open, Finished	0	128	0	128	0	128	0	128	2,046
FUS	Upper Story, Finished	1,318	0	1,318	0	1,318	0	1,318	0	5,179
UBM	Basement, Unfinished	0	284	0	284	0	284	0	284	84,274
Tot Gross [Jr / Lease Area]										2,756 4,472 3,133

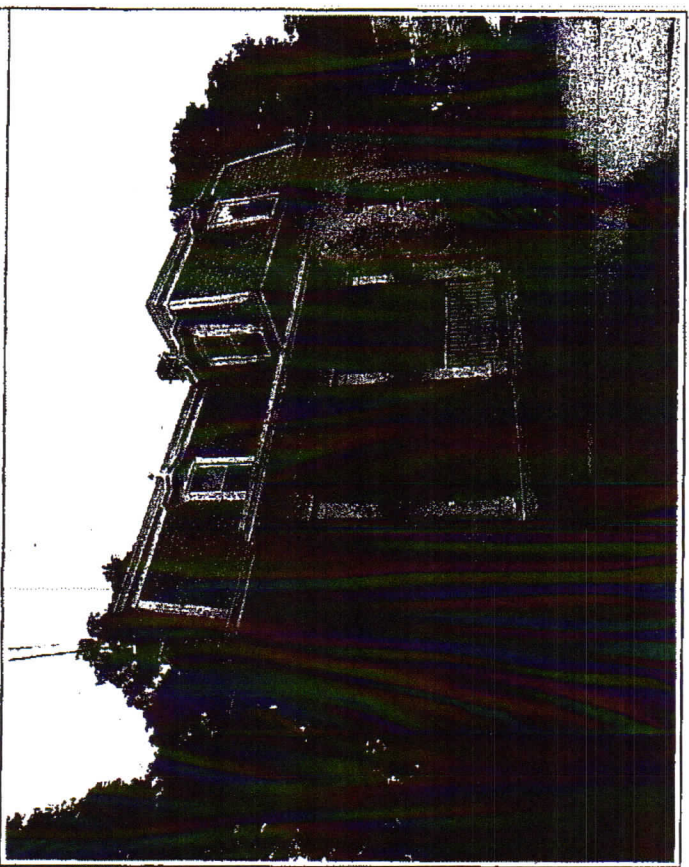


Exhibit B-1 of 2

CURRENT OWNER		TOPO		UTILITIES		STRE/ROAD		LOCATION		CURRENT ASSESSMENT		Assessed	
1	2	3	4	5	6	7	8	9	10	11	12	13	14
POIRIER RICHARD A ET UX	JEANNE M TE	320 STILLWATER RD	1 Level	3 Public Sewer	1 Paved	2 Suburban	7 Waterfront	RESIDENTIAL	0200	100,200	100,200	5415	SMITHFIELD, RI
SMITHFIELD RI 02917		Gls ID 1862		2012-103,800-16.02		Cell Tower.		NOTE: CALLBACKS		ASSOC PID#			
Year Code		Description		Amount		Code		Year		Code		Assessed	
697 081		07-14-2009		U		1		2013		0200		100,200	
49 914		01-01-1900						2013		0200		100,200	
Total		0.00						Total		100,200		100,200	
RECORD OF OWNERSHIP BK VOLUME PAGE SALE DATE TOU WA SALE PRICE VC POIRIER RICHARD A ET UX 697 081 07-14-2009 U 1 0 POIRIER RICHARD A ET UX 49 914 01-01-1900													
EXEMPTIONS Year Code Description Amount Number Description Amount Confirm Int Total 0.00													
ASSESSING NEIGHBORHOOD NBHD NBHD Name Street Index Name Tracing Batch 0065 CREAM IAVEA WOODSTOVE JUNK YARD=ECO=CI ROOF COVER=ASPHALT SHINGLES & SLATE XFX=SLOP WSTV													
APPROPRIATE VALUE SUMMARY Appraised Bldg. Value (Card) 100,200 Appraised XF (B) Value (Bldg) 0 Appraised OB (B) Value (Bldg) 0 Appraised Land Value (Bldg) 0 Special Land Value 0 Total Appraised Parcel Value 100,200 Valuation Method C Exemption 0 Adjustment													
BUILDING PERMIT RECORD Permit ID Issue Date Description Type Insp Date Amount % Comp Date Comp Date Comp Comments 07-523 11-21-2007 Residential RS 1,200 100 100 Reinforce foundation													
LANDLINE VALUATION SECTION B # Use co Description Zone D Fronta Depth Units Unit Price I. Fact S.A. Ac DI C. Fact St. Idx Adj Notes Special Pricing Adj Unit Price Land Value 1 1090 MULTI HSES RMED 40,000.00 SF 0.00 1.000 5 0.000 1.25 0070 1.65 BILLED TO 20/ 1 1090 MULTI HSES 2,670 AC 0.00 1.000 0 0.000 1.00 0070 1.65													
VISIT/CHANGE HISTORY Date ID IS ID Ctl Purposu/Result 08-14-2012 CB 00 Measur+Listed 12-22-2011 SK 45 Change 11-23-2009 MM 11 Field Review Value Ch 05-08-2003 DB 00 Measur+Listed 04-24-2003 TR 10 Measur/Ltr Snt 04-11-2003 TR 01 Measur+1 Visit 04-11-2003 TR 02 Measur+2 Visit - Info Ca													
Total Card Land Units 3.5883 AC Parcel Total Land Area 3.5883 Total Land Value 0													

Exhibit B-2 of 2



Exhibit A, 1 of 3



Exhibit A, 2 of 3

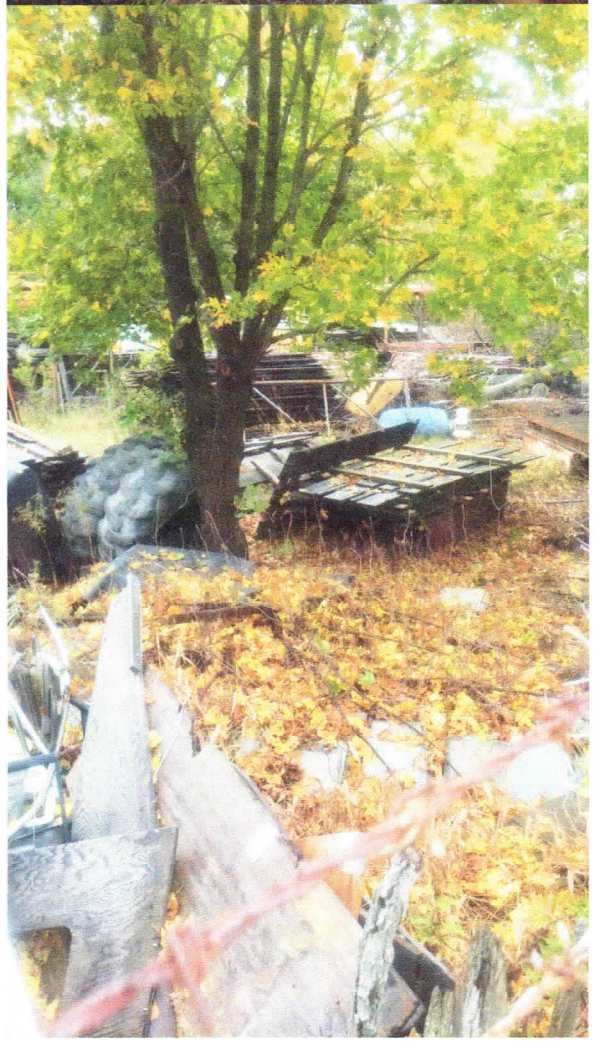


Exhibit A, 3 of 3