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Daryl Flowers
23134 CR 100
Kenton, OH 43326

Dear Mr. Flowers,

You recently contacted my office and asked a number of different questions regarding current issues within your township. I will answer each question throughout this letter.

1. Your first question was that your zoning officer has sent out letters to three local residents regarding junk cars in the township, the last round going out in December 2018, you wanted to know is that too long a time to wait to send a resolution to remove?

The answer is **YES** it is too late of a time to wait to send a resolution to remove.

First off, O.R.C. 505.871(C)(3) clearly states that the board of township trustees shall serve the notice to the **OWNER** of the land. It is important that the proper steps are taken to locate and identify the notices are being sent to the correct party. For a number of different reasons, it is my opinion that the notices be sent out to the **PROPERTY OWNERS** again. All notices need to be sent via certified mail, return receipt requested to said owner and any **HOLDERS OF LIENS OF RECORD ON THE LAND**. While the Ohio Revised Code does not define "lienholders" common types assessed to properties are mortgage liens, judgement liens, tax liens, and mechanics liens. If the notice sent by certified mail is refused or unclaimed or if the owners address is unknown, the trustees may post the notice in the newspaper of general circulation within the township and if the land contains any structures the trustees shall also post the notice on the principle structure on the land.

Pursuant to O.R.C. 505.871 (C)(2)(b), after the above steps are completed the property owner has **fourteen** days after the service of the notice to remove said vehicles. If he fails to do so, the board shall remove or cause for removal of vehicles.

O.R.C. 505.871(E) states the trustees shall then have the township fiscal officer certify any incurred expenses and a description of the land and parcel number to the county

auditor who then places the expenses upon the duplicate as a lien upon the land to be collected as property tax. O.R.C. 505.871 (E)(D) Provide that the trustees may assess labor, materials, equipment, fees or interest paid to borrow, or any other associated expenses incurred in removing or causing for said removal of a junk motor vehicle under this section.

2. Your next two questions asked about using a drone to obtain property pictures and using Google map or other search engines to gather specific photos.

The answer is **NO** on both of these questions.

If you're unable to get adequate pictures without entering the property my office has worked closely with the Court of Common Pleas judge to create civil search warrants. My office presents evidence to the judge and we prepare the search warrant, the judge then signs it and we are able to gain access and obtain time stamped photos and video to support the case at hand. If need be, the Hardin County Sheriff's Department is willing to send along a deputy to ensure the safety of those involved.

3. Your last question asks if you're allowed to proceed with mowing and charging their taxes when they've not complied in the seven day time frame?

The answer **YES**. The township trustees shall proceed with mowing and assessing the cost to the property tax if not complied with within seven days.

Again, pursuant to O.R.C. 505.87(B)(2) the township trustees must serve the notice to the **OWNER** of said land and **ANY LIEN HOLDERS OF RECORD** via certified mail. Please see the above paragraph where I asserted to the common types of liens placed on real property. If the owner is a resident of the township or a nonresident whose address is known, the township may post the notice on the principle structure of the land and then take a time stamped photo. If the owner's address cannot be located or reasonably obtained, it is sufficient to publish said notice in the newspaper of general circulation within the township.

Once the above statutory steps are taken. the owner has **seven** days to comply with the notice of abatement, control, removal of any vegetation, garbage, refuse or debris. Pursuant to O.R.C. 505.87 (B)(2) if the owner does not comply with the notice the township trustees shall provide for the abatement, control, or removal.

O.R.C. 505.87(F) provides that the trustees shall make a written report to the county auditor of the board's action and provide a statement of all expenses incurred, when allowed, the expenses shall be entered upon the tax duplicate, and are a lien upon the land from the date of entry. The trustees shall include in the report the property description and parcel number, along with all fees, which include its services, the cost incurred in providing notice, any fees or interest paid to borrow moneys (if needed) and the amount paid for labor, materials, and equipment. They then shall be collected as other taxes, and shall be returned to the township and placed back in the township general fund.

Therefore, it is my opinion that letters need be sent again to land owners ordering the removal of junk vehicles. It is also my opinion that if adequate photos cannot be obtained without entering the property, a civil search warrant is needed. Lastly, it is my opinion based on the statutory requirements of code section 505.87 that if the landowner doesn't comply within seven dates and remove said weeds, the township can go in and remove them and assess the incurred costs onto the property tax.

Bradford W. Bailey, Prosecutor

Katey L. Henson, Paralegal