

Council, Mayor and Staff:

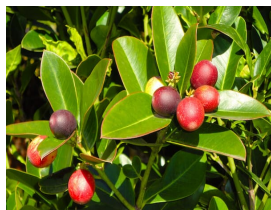
On July 15, 2020 Council instructed that we all get together and discuss. My wife and I were looking forward to sharing ideas with the lorio's and Mr Williams, and quickly resolving this. Meeting in person can build trust, and save Council precious time.

Unfortunately the lorio's, Mr Williams, and Moria, still have never contacted us (**ever**). We wrote friendly invites to call, meet, and we still are happy to, *if they would only call us*. But instead we must now write our response to Mrs lorio's July 23 letter to council:

Mrs lorio now proposes **Ficus Benjamina a/k/a weeping fig** (a **fig** tree) to be planted 35 feet all the way across our building where the iguanas had left feces.

Ficus Benjamina is in fact the plant iguanas love most! See *Reptile Magazine* the plant on the **top of their list #1 for iguanas as pets to thrive is: Ficus Benjamina!** See under "Plants to Consider." Link: <https://www.reptilesmagazine.com/plants-for-reptiles-and-amphibians/>

Reptiles, especially green Iguanas, love Ficus Benjamina **figs**, leaves, and to **climb** and "**loung**" on it, more than any plant! The lorio's want this plant to be 35 feet all the way across our building and 13.5 feet high, just at our roof soffits and their patio. Even though we have had a severe iguana feces problem in that exact area!



Also *Reptile Advisor* magazine agrees: The article: "**11 Awesome Plants for Chameleon Habitats**" and **#1 in their list** is also, **Ficus Benjamina!** The link:

<https://www.reptileadvisor.com/plants-for-chameleons/>

What about actual **Iguana veterinarians** (there *is* such a vet specialty). They explain on page 2 under the **best "Landscape and Furniture" for iguanas to "loung** on" that **Ficus Benjamina** and hibiscus are their favorites! See link: "Iguana Care Sheet" for those who have green iguanas as pets, and also the link on "**iguanas love figs.**" Healthy for them! <http://www.stanhope-vet.co.uk/wp-content/uploads/2015/02/Green-Iguana-Care-Sheet-STANHOPE.pdf>

With the lorio's new plan, Iguanas would come from all over the area to lounge, eat **figs**, and climb our roof and poop. **See also this link:**

<https://reptilefunction.com/figs-are-healthy-fruit-for-your-cyclura/#:~:text=Figs%20have%20been%20known%20as,nutritional%20info%20on%20figs%20here>.

Ficus Benjamina attracts and is great for iguanas. But the plant is also a known **toxic hazard for children, dogs, garden workers**. It's sap from leaves and branches is **toxic**, especially with a huge 13.5 ft x 35 ft wall of it in a small patio area. **See: Info, links in the footnotes at the end of this letter.**

The lorio's will of course need a different hedge plant iguanas won't love! According to experts, articles, **Ficus Benjamina** is also **the #1 most difficult hedge material to keep trimmed**. They explain: "*you actually have to defend yourself from its growth. Coarse wood and coarse leaves, not soft foliage like [this podocarpus](#)*" (Click to see podocarpus). The best easy to read article explains why **Ficus Benjamina is the absolute worst hedge plant possible**. Read, click the link: <http://mgonline.com/articles/hedgelist.aspx> They (and other articles) instead suggest **podocarpus** as perhaps the **best hedge plant**.

Photo: **PODOCARPUS**. *Lately experts' favorite tall hedge for South Florida*. This photo taken by Martha Greenwald days ago at a very fine Palm Beach home. *Podocarpus is used by experts as a tall hedge in manicured gardens as it too can be shaped, and is very attractive* (not possible with ugly massive Ficus Benjamina; if with figs, even more a problem). **Podocarpus** is "salt-tolerant, hot and cold tolerant, does well in any area of South Florida. Hot sun or shade is just fine." *South Florida plant guide. See link:*



<https://www.south-florida-plant-guide.com/podocarpus.html#:~:text=Plant%20specs&text=It's%20evergreen%2C%20salt%2Dtolerant%2C,than%20in%20a%20sunny%20one>.

Podocarpus, seen all across the **front** of the **Everglades Club** Palm Beach, can easily grow to 30 to 40 feet in height, quite **huge**. See the US Forest service South Florida at link: http://hort.ufl.edu/database/documents/pdf/tree_fact_sheets/podmaca.pdf

9 Foot height requirement: Podocarpus is still a very tall grow hedge, but as a courtesy **we would assent to a Podocarpus** 35 ft long hedge by our building. But no taller than **9 feet**. Iguanas can still climb the strong Podocarpus to our roof, so a 9 ft limit is essential. **Podocarpus** is very safe, non toxic, sturdy, attractive, easier to shape nicely.

WHY A LIMIT OF 9 FEET? **After 3 years trying many things to keep iguanas from our roof, we cut 6 feet of the lorio's current hedges away from our 15 foot soffits and nearby areas. Then new iguana feces immediately and totally stopped. Hence the 9 feet height limit. (15 - 6 = 9)** (Note: Our historic soffit ornaments are actually at 15 feet high, not 15.5'. Anyone can come and measure. Mr Williams' drawing is a bit off).

Cutting less than 6 feet of their hedges away from our soffits just did not stop iguanas. We tried 2, 3, even 4 feet cut away on the hedges, and iguanas still got on the roof. Only when

we cut a full 6 feet, as experts advised, did Iguana **feces stop everywhere** on the **roof**, wall, their patio, our front above our garage, our driveway, everywhere. It has been that way **now for 8 months**. Problem solved, to our relief after 3 awful years. We also were puzzled why 3 or 4 feet distance did not stop the iguanas. But the iguana handlers we spoke to told us to “*cut 6 full feet away*” and they were correct. It worked!



Other reasons for the 9 foot limit: the higher the hedge the more impossible to keep trimmed, requiring tall ladders in a *tight* area. See **pic**: our very **tight area** on our right side of wall. (*Note also*: the west neighbor's hedges shown in the pic are actually 6 ft from our roof. A side view pic of the distance is below).

We also keep soffits painted on this historic home, and we put shutters up, all using tall ladders annually in this **tight space** that may have hedge branches that would make this hazardous. The wall is only 5.5 ft high in that area. With a tape measure one can see that **9 feet is tall enough**, with 35 ft wide of hedges pouring out 4 feet over our wall in that tight space (see pic). Our AC unit is back there too!

We will *also* have 70 more feet of Iorio's giant hedges all across our south boundary we are required to keep trimmed, but we are not complaining about that. Our concern is their

frightening hedge height request along our building, just at our roof soffits.

Fact: If the Iorio's hedges are any higher than 9 feet by our building, then iguanas will get to and leave feces on our big roof again. The 2 feet “protective” distance in Mr Williams’ drawing will not stop iguanas. Experts remind us: iguanas are amazing climbers. Iguana feces would also fall on Mrs Iorio's hedges, making her hedges a fecal depository. Our big roof leans directly to their patio. With rain, feces would fall onto their new hedges, the wall, and drain to their patio area.

Feces would once again be a serious *hazard* for my wife and I using our garage and driveway, as feces would also fall from the roof front. Feces did fall on our heads during rain, after we thought we had cleaned everything. Once, after returning from 2 months away, there was 40 square feet of iguana feces all over our roof. See **pic** below of **daily feces from our front roof**. We had to clean the roof repeatedly. It was a 3 year nightmare that we will not put up with again. Iguanas tore at our large roof vent trying to enter our attic, forcing us to tar it over completely. See the link to a similar issue: <https://www.youtube.com/watch?v=SNZaJedOLqQ>



The science: Iguana feces mixed with rainwater is a hazard, falling from a roof, falling on driveway, onto walking areas. **This is a severe hazard to my wife and I, any guests, and the lorio's.** See the link. There are many such articles: [Captive Green Iguana Carries Diarrheogenic Escherichia coli Pathotypes](#) See also: [Captive green iguana is a reservoir of diarrheogenic Escherichia coli pathotypes](#)

The TOWN OF PALM BEACH also warns of this known serious health hazard: *"Green iguanas can transmit the infectious bacterium Salmonella to humans through contact with water or surfaces contaminated by their feces".* Town link:

<https://www.townofpalmbeach.com/909/What-is-a-Green-Iguana>

Mrs lorio's proposal requires us to rely fully on the lorio's (and their gardeners) to keep a difficult 35 feet wide of hedges trimmed to height, week after week for years. Her "proposal" shocked my wife and I. *We don't want a future where we constantly need Town Staff, Council, other authorities to protect us from these massive hedges,* no matter what type of tree they use. The lorios are not responding to calls and letters, why would they in the future?

So there would need to be **a proper written short agreement** that the lorio's promise and agree to keep the hedges, plants near or affecting our building **limited to 9 feet** (including all expenses to do that). Not simply a statement at hearing or note on a drawing buried in Town plans, or just an email. The agreement will be for future new different Town **staff** or Council. We and **Town Staff** will have a document to **easily rely on** any time.

Response to Mrs lorio's #1: The base of the current hedge 3 or 3.5 feet inside their property *proves that is not enough distance.* The hedge still provided a fine iguana ladder to our roof. As to removal of their current hedges (**Mrs lorio's #1 and #5**) yes please **do** remove these whitefly and termite infested plants as soon as possible. The builder must then place tall protective panels. The panels should be removed if there is a *hurricane watch*, and also building materials to prevent damage to our property. I believe all of that is a requirement of builders.

Mrs lorio's #2. Near our building the current hedge was kept 11 to 13 feet height the past 3 years, and iguanas still had an easy climb to our roof. The lorio's now want these hedges at

13.5 ft. Iguanas feces will be back on our roof. Only when we had cut a full **6 feet** of the current hedge away from our **15** foot roof soffits did the feces stop.

As to Mrs Iorio's comment on the location of the roof structure of our 1925 historic home, and thus location of our home itself, this is irrelevant under **the law**. It is also unclear if Mrs Iorio is asking for demolition of our home!

What is the relevant law all must follow? The Iorio's saw our roof structure **before** they bought 131 Seaview months ago. The Iorio's had advice likely from architects, builder, broker. Courts make clear time and again, *a new owner who should have been aware of such a problem, certainly cannot later complain.* Namon v. State Dep't of Env'tl. Reg., 558 So.2d 504 (Fla 3rd DCA 1990). *A person who purchases land with notice of ... impediments ... can justify few, if any, legitimate expectations of development rights which rise to the level of constitutionally protected property rights."* Elwyn v. City of Miami, 113 So.2d 849, 852 (Fla. 3d DCA 1959).

The **relevant** issue is whether this Town can place restrictions on an owner's use of their property, as in this case. Florida's Supreme Court (current law) answered that question absolutely yes, *"[especially if it] adversely impacts another's property"* See Graham v. Estuary Properties, Inc., 399 So.2d 1374, 1382, 1383 (Fla.), cert. denied sub nom.

Other law that a Court would look at, if this all ends up there: "subjective expectation" that land could be developed a certain way *"is no more than an expectancy, and does not translate into a vested right."* Namon v. Department of Env'tl. Regulation, 558 So. 2d 504, 505 (Fla. 3d DCA 1990).

Case law explains if an owner is not allowed to *"do all they would like to do" with their property, "that alone is not sufficient for them to complain."* See Burger King v. Metropolitan Dade County, 349 So.2d 210 (Fla 3rd DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (Fla. 3rd DCA 1981); Nance, supra; Crossroads Lounge v. City of Miami, 195 So.2d 232 (Fla. 3rd DCA 1967)... *[a]n owner of land has no absolute and unlimited right to change the essential natural character of his land so as to use it for a purpose for which it is unsuited...and which [injures] the rights of others."* Florida Supreme Ct., in Graham v. Estuary Properties, Inc., 399 So. 2d 1374 (Fla. 1981), cert. denied, sub. nom; and See also Namon at 505 (citation above).

Courts have made clear: **"A 'reasonable expectation' must be more than a 'unilateral expectation or an abstract need'"** Court in Namon, citing Claridge v. New Hampshire Wetlands Board, 558 So. 2d 504, 505 (Fla. 3d DCA 1990); 125 N.H. 745, 485 A.2d 287, 291 (1984). **That includes Mrs Iorio's unilateral expectations or abstract needs for "privacy."**

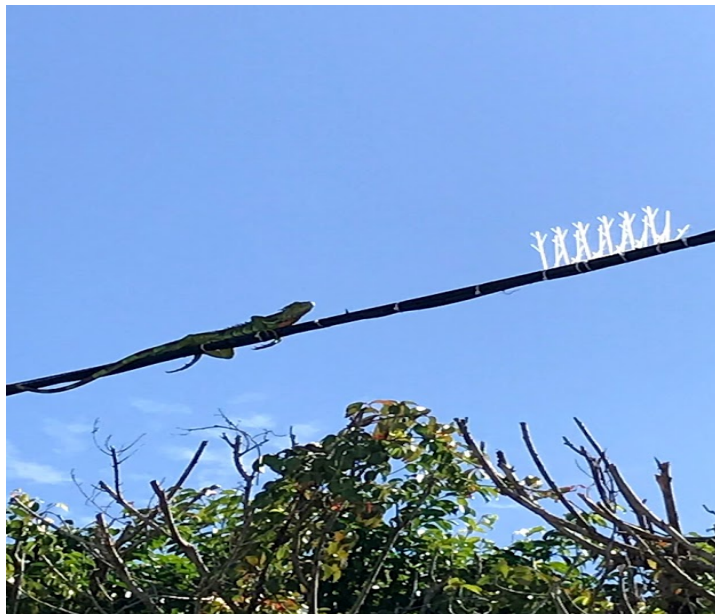
As to Mrs Iorio's privacy: Our guest house is almost always empty, we never rent. We are always at the main house a distance away. At our club daytime, and gone summers. We live

alone and have no children. The lorio's will have privacy. The lorio's would be more concerned about iguana feces & odor than about privacy, if iguanas get back on the roof.



Mrs Iorio's #3. It is only the lower thick **ATT Cable** that iguanas use, and parts of it droop to as low as **15 feet** in spots. Iguanas **do not** use the much taller *powerline*, which is about 35 feet high. The ATT cable is *just above our roof* (see ATT cable in pic). **Mr Williams' drawing of a straight 18 ft cable all the way across, is off.** Anyone can come for a live view (bring a tape measure too!). **Drawings look nice, but a live viewing proves all.**

The other 16 ft tall hedges in Mr Williams' drawing show these hedges will start a few feet east of our roof (see their drawing). These 16 ft hedges would provide iguanas a route to bypass the spikes (see **pic**) near our roof. So these 16 foot hedges will need to be kept 9 ft high for about 10 feet out, to our spikes. When Cables are soon undergrounded, they may go to 16 feet height starting 5 or 6 feet east. So just temporary.



Pic of iguana confronting our bird spikes that are now protecting the lorio's patio areas 100%.

Mrs Iorio's #4 implies the next owner of our house will have no rights. Most buyers who look at our house want to preserve it. The next owners will not want iguana feces on the roof either. They will complain. *The problem will continue to take up time of staff, police, council, etc.* **Years of dispute can be avoided now at the planning stage.**

As to Mrs Iorio's implication that iguana feces simply "resolved" we need to correct this. The *resolution* happened **only because we cut 6 feet of their hedge away from our roof soffits**. Mrs Iorio's proposal will bring iguana feces back to both our homes.

Mrs Iorio's other #4 implies our west neighbor has hedges at our roof. This photo (below) taken yesterday shows our neighbor's west hedge, about 6 or 7 feet from our roof. Anyone can meet us here, have a look. This photo also shows our west iguana cable spikes, all 100%

effective. The lorio's plan will make these devices useless, as their hedges will help iguanas go directly to the roof (See pic below).



Bird-x goop we used is seen in an architect photo at the last hearing. Bird-x was put all across the south and west of our roof. Bird-x did not stop iguanas, but provided a **track** to easily see where iguanas came from. Iguanas always came from the hedge on the lorio's property, never from the west or anywhere else.

The Iguana invasion is here. The Town's iguana removal efforts are nice, but a removal day here or there will never solve the iguanas. Experts, including Florida county and city websites have shown we will just have to live with iguanas, but with *simple changes*. This includes no longer allowing ways for iguanas to get near a roof, especially a **neighbor's** roof. If iguanas can get near a roof, they will get on it.

The old days of approving tall hedges anywhere just because it is Palm Beach, are really **over**. The reason: the **iguana invasion**. *We in town can no longer plant new tall growing hedges near a neighbor's building if that neighbor objects.* An easy solve for most iguana problems.

Respectfully, Martha and Steven Jeffrey Greenwald, Esq.

Footnotes: Ficus Benjamina a/k/a Weeping Fig a/k/a Ficus Carnica (fig) hazardous to **children**, dogs, cats, garden workers: <https://www.gardenguides.com/120569-toxicity-ficus-benjamina.html> See also: <https://www.asPCA.org/pet-care/animal-poison-control/toxic-and-non-toxic-plants/weeping-fig> See also: <https://www.petpoisonhelpline.com/poison/weeping-fig/> **See also severe hazard for gardeners:** https://www.researchgate.net/publication/5973917_Phytophotodermatitis_caused_by_contact_with_a_fig_tree_Ficus_carica

See Town of Palm Beach, Shiny Sheet article. **We are following what the Town recommends for iguanas.** We have successfully modified their habitat, via cable spikes, etc. **The applicants'** plan shows they have **no** interest in the town's iguana advice: "removing foliage they consume and prefer for nesting." Instead applicants chose iguanas' most desired plant for a 35 foot hedge across our garage, and to its roof. You can't make this up. See the link: <https://www.palmbeachdailynews.com/news/20190726/palm-beach-suggests-harassment-habitat-modification-to-deter-iguanas>