

Honorable Town Council, Mayor and Staff:

October 6, 2020

Martha Greenwald reached out for our 16th time to Mrs Iorio in our last letter, this time for the two to speak or meet **alone** any time, place or way. To build **trust**. There was no response. Martha is not a lawyer (she is a graduate of Palm Beach Atlantic U). The Iorio's have never spoken to us, except in argument at hearings, and brief web meeting that *we thank Wayne Bergman for so kindly arranging Sept 22.*

We believe this Council will decide in a way that truly **protects us**. Protecting us would be harmless to the Iorio's, really nothing. But it would save us from a *real risk to our health*.

Applicants are asking the Town to permit a FS 386.01 sanitary nuisance:

The current Florida Statute on this very issue **386.01** states:

An illegal sanitary nuisance is ... "any act, by an individual, municipality ... or the keeping, **maintaining, propagation**, existence, or **permission** of anything, by an individual, **municipality** ... by which the health or life of an individual, or the **health** or lives of individuals, **may be threatened** or impaired, or by which or through which, directly or **indirectly**, disease **may** be caused." FS 386.01 link: <https://www.flsenate.gov/Laws/Statutes/2018/0386.01>

FS 386.01 uses the words "*health **may be threatened***". There is **no** need to prove with **certainty**. FS 386.01 also includes actions: "*maintaining, propagation ... of anything.*" That would of course include the Iorio's maintaining and growing their trees and hedges by our structure. Of interest to the Town FS 386.01 "*permission of anything by a municipality.*"

So with the statute's words the following is an illegal sanitary nuisance: **Any act by anyone who is maintaining, propagating, or the permission given of anything by a municipality, by which the health of another may be threatened**, or which **indirectly may** cause disease. FS 386.01 is the law that applies to this very matter.

Under FS 386.01: We the neighbor "may be threatened" that we may "indirectly" be affected with health or disease risks from iguana feces on our roof, mixed with rainwater.

Their plan is still to plant **Amazon Rainforest**, Calophyllum **Brasiliense 35 feet across our structure and soffits!** Far wider than the **last owner**, which was only **5 feet across**.

Amazingly, still in their plans: **two huge Pitch Apple Trees, 12 foot starting height** to be directly at our building structure and soffits. The 2 huge trees are to be exactly where hedges had assisted iguanas onto our roof for years. These will be trees **with trunks**, not bushes. Trunked trees cannot be flat cut at the top over and over again as they get taller. "Tree topping" cannot be done: https://en.wikipedia.org/wiki/Tree_topping. Simple truth: **trunked Pitch Apple trees cannot be kept lower over time**, regardless of any complex "explanation" of Mr Williams.

Trunked trees **should not** be anywhere near our roof soffits, no matter what starting size, since they cannot be cut lower. The Iorio's will just let them grow.

A simple 7 foot height limit for all vegetation just near our structure, would be a harmless request of the Iorio's. This follows current state, county, and Town advice: keep iguana useful vegetation away from structures and roofs, especially a neighbor's roof.

Florida Statute 386.01:

Applicants cannot expect a Town to approve what "may" threaten health

Florida Statute 386.01 wording is on point: permission cannot be given to anyone of anything by a municipality, by which the health of another "may" be threatened. Under the words of this statute, even the **threat** to a neighbor's health **indirectly** is enough.

Applicants should not expect a "municipality" to approve what may threaten health. The statute says "may." Certainty is not required.

FS 386.01 and FS 386.051 combined make the Iorio's requests difficult for this Town to be a part of. The two laws are serious about anyone creating or maintaining any health risk. FS **386.051** states: *"Any person found guilty of creating, keeping, or maintaining a nuisance injurious to health shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083."* And as such, is **negligence per se** under the law. [Hines v. Reichhold Chemicals, Inc.](#), 383 So. 2d 948 (Fla 1st DCA 1980) at page 952.

From this **Town's own website**. The TOWN OF PALM BEACH warns of this known serious health hazard: *"Green iguanas can transmit 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>

Iguana feces mixed with rainwater is a known hazard, falling from a roof, falling on driveway, onto walking areas. Iguana feces on our roof is a hazard to my wife and I, and any guests. There are many such articles. Link: [Green iguana is a reservoir of diarrheogenic Escherichia coli pathotypes](#) Pathotypes that are **resistant to most known antibiotics.**

Threat of returning a known disease vector violates FS 386.01

Our various **photos** of abundant **feces**, iguanas trying to get to our roof, videos, sworn testimony, are documented proof of a **health threat** to us. Why else would we risk destroying \$30,000 of roofing, spreading 60 tubes of Bird-X goop on our roof. The Bird-X is still there to see. **We were obviously trying desperately to create a barrier to stop iguanas and their daily feces that were all over our roof.** Why also would we place elaborate devices to stop

iguanas on our cables. These were expensive and time consuming to install. We also tried many other things.

Why else would we go public about this serious problem while we are in the process of selling a valuable home? ANSWER: It really happened, and it was bad. And yes 40 square feet of feces on our roof upon returning from a trip.

The lorio's plan is for tall growing trees to be *exactly* where a hedge was, that brought iguana feces to our roof for three years. Anyone, including new property owners, who threaten what *may* be the return of a known disease vector, violates **FS 386.01**.

**The following are not a defense to FS 386.01
a law that requires caution**

FS 386.01 is an overriding health law that requires all to act with increased caution:

That the lorio's are *new owners*, who want to be treated differently, is **not a defense to FS 386.01**. FS **386.01** states clearly that it applies to any individuals. That would of course include new owners. Nor is the loiro's promise "*to cut the plants if there is a later problem*", that is also not a defense to FS 386.01.

"Privacy" desires and needs of the lorio's are also not a defense to FS 386.01. A desire for a "*landscape style they like*" is not a defense to 386.01. Nor is the lorio's "*desire for the look they want*" nor is the desire of Mr Williams to have a *great looking design* a defense to FS 386.01.

Neither is: "*The town approved the plans*", "*ARCOM approved the plans*" or "*we had a permit*". **These are not defenses to FS 386.01**. None of these can approve sanitary nuisances (see FS 368.01). Nor do these indemnify or protect anyone from any liability.

The argument of "*freedom to use one's land as they choose*" is not a defense to FS 386.01. Nor is the promise to "*try it out first and see how it goes*" a defense to FS 386.01. Nor is "*Mr Williams said it's OK*", or "*none of Mr Williams' clients have iguanas*", these are **not** defenses to FS 386.01. Nor is "*nobody got hurt, what's the big deal?*" that is not a defense to FS 386.01. None of these are a defense to FS 386.01.

Why is **FS 386.01** so strict? **Any** health risk to others, even its threat is *forbidden* in our state, and is so from the very plan or "permission" of such "act". (see FS 386.01). **Caution** as to any health risk is required. That is how the statute was designed. The statute designers did not want any "*experimentation*" that may affect others, to "*see how it goes*". Anything resembling that is strictly forbidden under FS 386.01. Those who enacted FS 386.01 felt so strongly, they also enacted **FS 386.051** which states that individuals violating could be "guilty of a misdemeanor of the second degree."

Our duty to disclose the lorio's menacing plan to potential buyers:

Florida law **requires** us to **fully disclose** the lorio's menacing plan and its risks to potential buyers. [Johnson v. Davis, 480 So. 2d 625 \(Fla. Supreme Ct 1985\)](#) (cited in 483 appellate cases). Our historic home is now for sale, originally for **\$7.5 million** dollars, now reduced to **\$6,690,000**. Martha is a Broker member of Palm Beach Board of Realtors. I am a 40 year member of the Florida Bar. We must follow the law and always tell the truth.

Almost all potential buyers want to restore our home, not demolish it (128 Seaspray). One of the reasons we dropped the price so much was our concern about the lorio's plan. Those who spend to restore this home will not want severe iguana feces on the roof either.

If the lorio's plants were to be kept under **7 feet height** near our structure, then our disclosure would not concern buyers, nor affect our ability to sell. But **full disclosure** of the lorio's current plan will greatly concern buyers who want to *restore* our home, or live in it as it is. Nobody wants a home with severe iguana feces all over the roof.

This includes two **Pitch Apple** trees that should **not** be planted at our soffits **no matter what starting size** at planting. We are required to inform buyers about all of this. The lorio's filed plan is currently affecting our home's marketability, and impairing its value.

The lorio's plan ignores Town mandates to preserve older structures

Our Town has mandates that any development not harm historic structures including the many **zero lot line** structures in Town. **Preservation of these structures is mandated**, even though they are located at a lot line. This includes our structure too. **There is no mandate that adjacent trees must be allowed to obtrude and menace these historic structures.**

Sadly some landscaper planners just ignore this mandate. Speak to **Lily Rovin** (Seaspray) **Dorothy Martin** (Seabreeze) the **Peppers** (Seaspray) and others angry about massive trees, hedges at their historic structures: dampness, wood rot, iguana feces, and how their objections were ignored by landscape planners. Wayne has over a dozen letters of interest on the issue.

A reason this is now before council:

Mr Williams did receive, well before his 131 Seaview ARCOM hearing, our friendly letters reminding him our building roof soffits were just at his clients' boundary. Our letters to Mr Williams were informative, with photos. It detailed the severe iguana feces on our roof.

ARCOM knew nothing of this, though we trusted that Mr Williams would discuss this issue with ARCOM. Mr Williams **revealed nothing to ARCOM** about this issue (audiotape still available

online). So this all ended up in front of Town Council, as we were instructed by certified letter to inform Council of any 131 Seaview issues.

Mr Williams did testify at last Council hearing that he wants “**instant gratification**” of tall grown trees just at our structure. No regard for **our** health and safety was shown by Mr Williams, nor proof of knowing real science of iguanas and dangers of their feces. Mr Williams is “eligible to take the Landscape Architect exam” (Florida DBPR below). No information about his formal education is on his website. Is Mr Williams an expert on fecal shedding, iguana biology, sanitary laws, that council can rely on for these important issues? DBPR Link <https://www.myfloridalicense.com/LicenseDetail.asp?SID=&id=F92FB5D0FCFF2E552947EB7917A63590>

The Town’s ruling would be harmless to the lorio’s and easy to write

A Town ruling would be **harmless, minimal**, nothing to the lorio’s. A simple **seven foot tall height limit** would save the lorio’s money and problems now and in the future. The lorio’s would not need anyone to climb **tall ladders weekly** to keep huge tall hedges trimmed. Lower height plants are *priced* lower, and easy for the lorio’s to trim. Their planner can show greater creativity with low growing plants. Preventing feces from the roof would prevent feces splashing to our common wall, and onto the lorio’s patio, and prevent their hedges from becoming an **odorous fecal depository**. Privacy is no longer a reason for their plan, as Mr Williams’ drawing shows our windows in the building will not be covered by their hedges

If trees are very high near our structure, it becomes **arduous for Council to spell out a ruling**. Almost **like trying to “iguana proof” our building**. Easier to write a ruling if plants near our structure are simply required to be under **7 feet height, and no trunked Pitch Apple trees**, as trunked trees cannot be kept cut lower.

What the lorio’s lose by council requiring a 7 foot height limit: **ABSOLUTELY NOTHING.**

We have at risk: **OUR HEALTH** from iguana feces on our roof with rainwater, and life with threat to our health daily, and ability to live in our home, use of our garage and driveway, loss of home value, ability to sell our home, and more.

Thank you for your time reading this important letter.

Respectfully, your neighbors
Martha and Steve Greenwald

Photo on right (9/22/2020). We still cut the lorio’s whitefly infested hedges far from our soffits, as they don’t trim at all. They have owned now for 10 months. What of the future? We won’t be **allowed** to cut their



planned hedges lower, nor their huge **trunked** pitch apple trees they want exactly where these hedges are. Pitch apple trees cannot be top cut lower, they are **trunked** trees. The lorio's will just let them grow. The past 10 months show nothing different. There will be no way we (or they) can cut them. Iguana feces will be back on our roof. A **7 foot height limit is very reasonable**.



Pic on left (9/22/2020) shows the great distance we keep their hedges **away** (not down as we can't cut support branches from our side). The angle from the lorio's house in photos can appear like their hedges are only 2 feet from our soffits. Anyone can come see the true distance, at least 6 feet. As it grows, we cut it back.

It would be no burden for the lorio's plants *near our structure* to be limited to **7 feet height**, and no trunked trees as they cannot be cut lower. That will protect us as they let plants grow. A minor redesign where iguanas have been severe, that will cost them nothing, and prevent a **real** threat to our **health**.

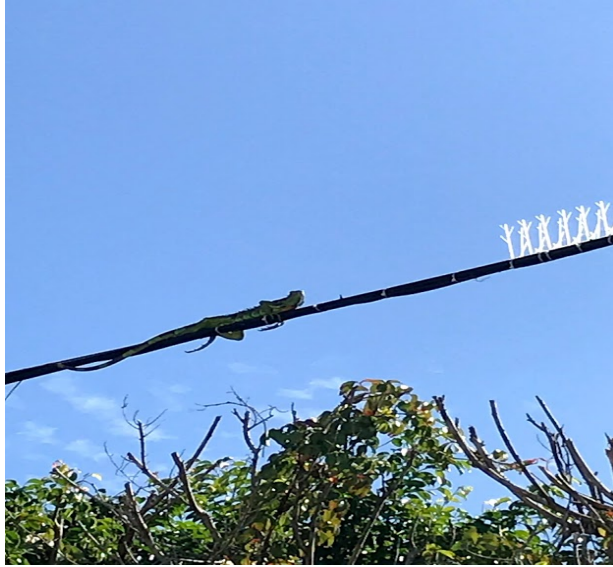
Important fact notes:

WHY WOULD WE ASPHALT OUR ROOF VENT SHUT?

Anyone can come and have a look outside and inside at our 9 foot long roof attic vent. SEALED SHUT WITH ASPHALT. We must have been *really* trying to stop something from getting in. IGUANAS? Yes, big iguanas trying to get into our attic. Tearing the grid apart. Yes, **sealing our important nine foot long roof attic vent was a drastic effort someone would only do if iguanas on the roof were horrific**. Very common problem in South Florida. See link: <https://www.animalcontrolsolutions.com/animals/iguana-in-attic>

WHY WOULD WE HANG 75 CD'S NEAR OUR REAR ROOF?

The lorio's told us the elderly prior owner (wife) recalls complaining to us about **CD music disks** we hung all over our rear balconies (at Sept 22 meeting). We did hang about seventy-five CD's! These were hung per the **TOWN OF PALM BEACH** web advice on iguanas. See Link: <https://www.townofpalmbeach.com/910/Deterring-Iguanas>



There must have been a bad problem with **iguanas** near our rear roof, for us to do something like that. That is what we told the prior owner, a few times as to **why we were hanging 75 CD's!** The CD's did not help, but we followed our TOWN's good advice to try hanging CD's, and also to cut away hedges that could aid iguanas. After we cut their hedges far away from our roof soffits, no more Iguana feces on our roof, finally after 3 awful years.

Photo left, iguana at our spikes: Iguanas in Florida will be even worse in 3 years when the lorio's move into their home.



On the ground Iguanas are a problem we can live with. But helping them to roofs, via trees anywhere near a neighbor's roof structure, is a **FS 386.01** act of maintaining a sanitary nuisance, as iguana feces on a roof are a clear health threat, due to it mixing with rainwater.

Photo of daily **feces** from our roof we will see again, if the lorio's plan at our structure is approved. Florida cities, towns strongly advise keeping any iguana useful trees far away from structures, to keep iguanas off of roofs. A seven foot hedge height at our structure would be fine for the lorio's.



Photo (Sept 2020) taken at **140 Seaspray**, showing trees encroaching severely on **Lily Rovin's** Landmarked structure. Keith Williams' group was the adjacent owner's planner, same as the lorio's. Lily's lawyer nephew just sent a well written letter to the Town. Lily says her objections were ignored by the planners, and the same assurances we are all hearing were also made to Lily.

Lily is very upset. Her alarming concerns are severe iguanas, feces, and constant bad dampness at her Landmarked structure. It would have been harmless,

nothing at all, zero burden to their client, for Mr Williams' group to have avoided Lily's situation. The days of planting anything anywhere are really over. The reason? The iguana invasion, and neighbors' historic properties are badly affected.



Photo (Sept 2020) at **333 Seaspray**. The **Peppers'** complaint is also severe hedge encroachment from the lot line to their structure. They explain that their rear neighbor's property hedge is installed just at their lot line, and is causing big problems. The Peppers validly complain in their Sept 29, 2020 letter to the Town: "*we don't want ficus growing in our windows.*"

The Peppers made the key point in their letter to Town staff: "*This is a common situation in older neighborhoods*" ... "*with new, larger houses being built on sites of smaller, older housing, the placement of landscape material needs to be addressed in order to prevent encroaching on and crowding neighboring properties.*"

There are others with awful situations like these, including **Dorothy Martin (312 Seabreeze)** but no space to tell all their stories. We can provide the Town with phone numbers and photos if desired.

LINKS BELOW are some of many medical journal links. Iguana feces are a severe danger:

From the publication: "*Clinical Orthopaedics and Related Research*." The authors present a case of a **7-month-old girl** who contracted **Salmonella osteomyelitis** of her proximal humerus with septic arthritis of the glenohumeral joint secondary to **iguana exposure**. See link: https://journals.lww.com/clinorthop/Fulltext/2000/03000/Salmonella_Osteomyelitis_Secondary_to_Iguana.27.aspx

Feces are not the only risk. See article: *On the extreme severity of Iguana bites*. American Board of Family Medicine Journal See the link and **photo**: <https://www.jabfm.org/content/jabfp/14/2/152>. Bites or exposure to feces can create severe health risks for those who are bitten by or exposed to the feces of Iguanas. **Photo of severe serratia marcescens cellulitis following an iguana bite to the face.**

Journal of the American Veterinary Medical Association Study link: [Prevalence of fecal shedding of Salmonella organisms among captive green iguanas and potential public health implications. Green Iguana Carry Diarrheagenic Escherichia coli Pathotypes](#), published in [Frontiers in Veterinary Science](#), 26 February 2020 See link: <https://www.frontiersin.org/articles/10.3389/fvets.2020.00099/full>

Journal of Preventive Veterinary Medicine: *Explores dangers of salmonella in green iguanas and the environment*: <https://www.sciencedirect.com/science/article/pii/S0167587700001240>

[Antimicrobial resistance patterns of commensal Escherichia](#)
www.veterinaryworld.org December-2019

Link to medical journal article, explains severe dangers of **antimicrobial resistance** generally in **commensal Escherichia coli**. Escherichia antibiotic resistance genes in animals and its **risk to humans**.

[Antibiotic resistant Escherichia coli in green iguanas](#) *Salmonella Marina infection in children: A Reflection of the Increasing Incidence*. From [RESEARCHGATE](#) (2014)

Link: [Animal sources of salmonellosis in humans](#) [Journal of the American Veterinary Med Assoc](#)

<https://aricjournal.biomedcentral.com/articles/10.1186/s13756-020-0691-3>

Article: **Salmonella escherichia coli antimicrobial resistance is a very serious public health problem**. Fecal carriage of drug-resistant bacteria has been suggested as a dangerous source of antimicrobial resistant genes. [Journal of Antimicrobial Resistance](#), BMC volume 9, Article number: 31 (2020).

Other Florida nuisance definition, in addition to FS 386.01 sanitary nuisance:

Prior v. White, 80 So. 347 (1938) the **Florida Supreme Court**: a common law nuisance is *anything that “either annoys, injures, or endangers the comfort, **health, repose or safety** of the citizen, or which unlawfully interferes with ... or in any way renders unsafe and **unsecure** other persons in life or in the use of their property.”*