

## NCCOQB Complaint Form

I am hereby filing a complaint against the following inspector for violation(s) of GS 143-151(a).

BYRON KICKOX of the WAYNESVILLE Inspection Department.  
(Name of Inspector, if unknown please indicate  
"the inspector who performed the (building, electrical, :  
Mechanical, plumbing, or fire prevention) inspection) (Name of Jurisdiction, city or county)

I allege that this inspector: (Choose at least one.)

- ☐ (1) has been convicted of a felony against the State of North Carolina or the United States, or convicted of a felony in another state that would also be a felony if it had been committed in this state;
- ☐ (2) has obtained certification through fraud, deceit, or perjury;
- ☐ (3) has knowingly aided or abetted any person practicing contrary to the provision of GS Chapter 143, Article 9C, or of the state building code;
- ☐ (4) has defrauded the public or attempted to do so;
- ☐ (5) has affixed his signature to a report of inspection or other instrument of service if no inspection had been made by him or under his immediate and responsible direction; or
- ☒ (6) has been guilty of willful misconduct, gross negligence, or gross incompetence.

By signing this complaint, I agree that the information contained herein is true to the best of my knowledge.

Monica A. Miller  
(Complainant Signature)

### VERIFICATION

Sworn to and subscribed before me, Anita S. Gentry

This, the 12 day of June, 2015.

Anita F. Gentry  
Notary Public (Printed Name)

Anita S. Gentry  
Notary Public (Signature)  
My commission expires: October 22, 2016



Complainant Information:

Name **UF** Monroe A. Miller, Jr.  
19 Big Spruce Lane  
Waynesville, NC 28786

Address

(828) 456-3718  
Daytime Phone Number

Email address (optional)

The violations alleged in this complaint occurred during the inspections of the structure at:

SEE ATTACHED.  
(Address of property involved)

Details of Complaint Allegations:

SEE ATTACHED.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please use additional sheets if necessary, and attach any additional information necessary to document your complaint.

Monroe A. Miller, Jr.  
19 Big Spruce Lane  
Waynesville, NC 28786  
June 12, 2015

Sam Whittington  
Code Consultant/Investigator  
**North Carolina Department of Insurance/OSFM**  
1202 Mail Service Center, Raleigh, NC 27699-1202  
(919) 661-5880 ext. 504  
sam.whittington@ncdoi.gov

**Subject:** Formal Complaint - Waynesville Inspection Department, re: Selective Enforcement.

Mr. Whittington,

This is a charge against **Byron Hickox**, a code enforcement official with the Town of Waynesville, for selectively enforcing code. This complaint is not the first incident Byron Hickox has been involved regarding selectively enforcing code. [Re: See four page attachment (pp: 11-14) dated July 16, 2013, predating this complaint].

Byron Hickox  
**Code Enforcement Official**  
Town of Waynesville, NC  
9 South Main Street, Suite 110  
Waynesville, NC 28786  
(828) 452-0401  
[bhickox@waynesvillenc.gov](mailto:bhickox@waynesvillenc.gov)

This complaint involves two (2) instances, i.e., to show selective enforcement.

- A zoning violation against Michael Burke and Judy Lanning Johnson in Crowheart, Wyoming on August 30, 2013, in which Hickox classifies the use of their property as “a salvage yard” [Re: see attachment (pp: 15)], and
- Failure of Hickox to issue a zoning violation against Art Singleton at 706 Hazelwood Avenue, Waynesville, NC for actually running a Salvage Yard once alerted via the Town Manager.

The statute for this complain is based on § 143-151.17. Grounds for disciplinary actions; investigation; administrative procedures, Section (6):

(6) Has been guilty of willful misconduct, gross negligence or gross incompetence.

A background and supporting documentation are included in this complaint.

## Background

No one likes it when it appears that people with who are elected or appointed to a position of authority abuse their power, in this case, selectively enforce laws and ordinances. The two properties in question are located on Lickstone Road and at 706 Hazelwood Avenue, both in Waynesville. The property at 706 Hazelwood Avenue used to belong to Terry Ramey until he was foreclosed upon, then purchased by Art Singleton, winning with the highest bid. The property was offered “AS IS” in the public notice. [re: See attachment- **67A Am. Jur. 2d Sales § 771** (pp: 60-62)]. The property was foreclosed under the direction of June L. Ray, Clerk of Superior Court of Haywood County. June L. Ray’s middle name is “Lanning”, same as that of the middle name of Judy “Lanning” Johnson, the recipient of the first Notice of Zoning Violation by Byron Hickox. June Ray and Judy Johnson are sisters.

See the following for a flow diagrams of this foreclosure process:

<http://haywoodtp.net/pubII/140429FlowDiagram1of6.PDF>  
<http://haywoodtp.net/pubII/140429FlowDiagram2of6.PDF>  
<http://haywoodtp.net/pubII/140429FlowDiagram3of6.PDF>  
<http://haywoodtp.net/pubII/140429FlowDiagram4of6.PDF>  
<http://haywoodtp.net/pubII/140429FlowDiagram5of6.PDF>  
<http://haywoodtp.net/pubII/140429FlowDiagram6of6.PDF>  
<http://haywoodtp.net/pubII/140429CastOfCharacters.PDF>

Terry Ramey had considerable “stuff” on the property, which he was required to move from 706 Hazelwood Avenue to a different location. Ramey negotiated moving some of his equipment and tractor trailers to a property leased by David Trantham on Lickstone Road (PIN 8604-83-7269), who runs a hay business. This property is owned by Judy Johnson, June Ray’s sister. Several days prior to Byron Hickox’s citation on August 30, 2013, Byron Hickox received a telephone complaint regarding extra equipment at the Johnson’s property on Lickstone Road. When Byron Hickox was confronted after he issued the complaint by Terry Ramey and myself as to who filed the complain, Hickox would only say it was by a woman who lived at the top of Camp Branch Road. He said he did not recall the name.

On September 10, 2013, I sent a letter to Byron Hickox regarding the “Apparent Zoning Violation” PIN 8604-83-7269. It included a transcribed version of the citation letter Hickox sent to the Johnson’s and photographs Hickox took of the alleged “violations”. The letter carefully reviewed each photograph, and identified which equipment belonged to David Trantham and to Terry Ramey.

During this foreclosure process (exact date not known), Terry Ramey, Art Patton and myself had a meeting with Marcy Onieal, Town Manager, in her office, to discuss Byron Hickox’s activities. Among other things. Ramey disclosed to Marcy Onieal during that meeting, some of the potential hazardous waste that was buried under ground at 706 Hazelwood Avenue, material Ramey learned of after he originally purchased the property at 706 Hazelwood Avenue. Additionally, Onieal brought up that a new buyer would have to install new trees and sidewalks on the property. “That is something I could enforce”, Marcy Onieal said. No sidewalks or trees were ever installed at 706 Hazelwood Avenue.



## **Present Day**

Terry Ramey had noted that there was a build-up of stored wrecked vehicles behind the building at 706 Hazelwood Avenue. Art Singleton was apparently using his property for a Salvage Yard, storing wrecked vehicles!

Why was he allowed to do that, when Ramey was not? Ramey's business permits always said "Repair", not "Salvage". In fact, the City of Waynesville had issued Ramey a warning for removing some vehicles, otherwise he would have received a citation and fine for operating a Salvage Yard.

A meeting and e-mail Dialog was initiated with Marcy Onieal regarding the operation of 706 Hazelwood Avenue, and why Byron Hickox failed to issue a citation to Art Singleton for operating a Salvage Yard, as he had done in August 2013 against the Johnson's. In retrospect, the original complaint against the Johnson's was nothing more than alleged retaliation from June Ray to harass Terry Ramey to move his equipment. As we shall see, the alleged retaliation continued with a complaint filed against Terry Ramey with DENR.

## **E-mail Dialog with Marcy Onieal starting on 5/11/2015 and meeting on 5/14/2015.**

An e-mail dialog was initiated with Marcy Onieal, Town Manager of Waynesville. Byron Hickox is in her reporting chain. Gavin Brown, Mayor of Waynesville, is Marcy Onieal's boss.

E-mails are attached in date sequence in this complaint after my 9/10/2013 letter to Byron Hickox [Re: pp:24-58]

On 5/13/2015, I took photos of 706 Hazelwood Avenue, and sent them to Marcy Onieal, copying various county officials in Byron Hickox's reporting chain, including Gavin Brown.

On 5/14/2015, Terry Ramey and I had a three (3) hour meeting with Marcy Onieal in the Municipal Building Conference Room. Byron Hickox **was not** present. All manner of issues were brought up, including the following from my hand written notes:

- Any challenges to Byron Hickox would be through a "Board of Adjustment".
- Continuation of Existing Use (Salvage Yard) - Interpreted by Code Official.
- Ramey - he did not have a junk yard.
- Continuing Non-Conforming use.
- May not be a proper Interpretation.
- Stuff buried at 706 Hazelwood Avenue (the bricks and asbestos from the burned down Waynesville Middle school were dumped there).
- Bid Rigging during the foreclosure process [re: Gavin Brown, Flow Diagrams] was also discussed.

Two documents were provided to Marcy Onieal during this meeting, for her files.

- FORECLOSURE NOTICE, Rusty McLean, BK: RB 851, PG: 2402 - 2404
- SUBSTITUTE TRUSTEES DEED, Art Singleton, new owner, BK: RB: 851, PG:599-601.

On 5/15/2015, I sent another e-mail, with the definitions of Salvage Yard and Salvage Motor Vehicles:

First, "Salvage Yards". This was the term Byron Hickox used in the now infamous citation to Michael and Judy Johnson on 8/30/2013, where he stated that "Given the condition of several of the items being stored on the property, this use would be classified as a salvage yard. Salvage yards are not permitted within the Town of Waynesville's jurisdiction."

As we reviewed, about half of the items on that field were Trantham's and about half were Ramey's [re: see attached 130910 Hickox.pdf (pp: 16 - 23)].

From a Dictionary, looking up **"Salvage Yard" - a place where old machines, cars, etc. are broken up so that the metal can be sold or used again.**

Also, checking out our North Carolina General Statutes, § 20-4.01. Definitions (33) (d) -

**d. Salvage Motor Vehicle. - Any motor vehicle damaged by collision or other occurrence to the extent that the cost of repairs to the vehicle and rendering the vehicle safe for use on the public streets and highways would exceed seventy-five percent (75%) of its fair retail market value, whether or not the motor vehicle has been declared a total loss by an insurer. Repairs shall include the cost of parts and labor. Fair market retail values shall be as found in the NADA Pricing Guide Book or other publications approved by the Commissioner.**

Byron Hickox will now be challenged to provide his justification for issuing a citation to the Johnson's, because I did not see anything in those photographs that Byron Hickox took that fit the definition of a "Salvage Yard" or "Salvage Motor Vehicle". Ramey indicated all of this equipment was tagged and operable. On the other hand, I would be willing to wager that there is not a single tagged - operable vehicle sitting in the rear lot of Singleton Automotive. Of course, I did not trespass on Singleton's Property to verify that, but you indicated Hickox inspected the place the day before our meeting.

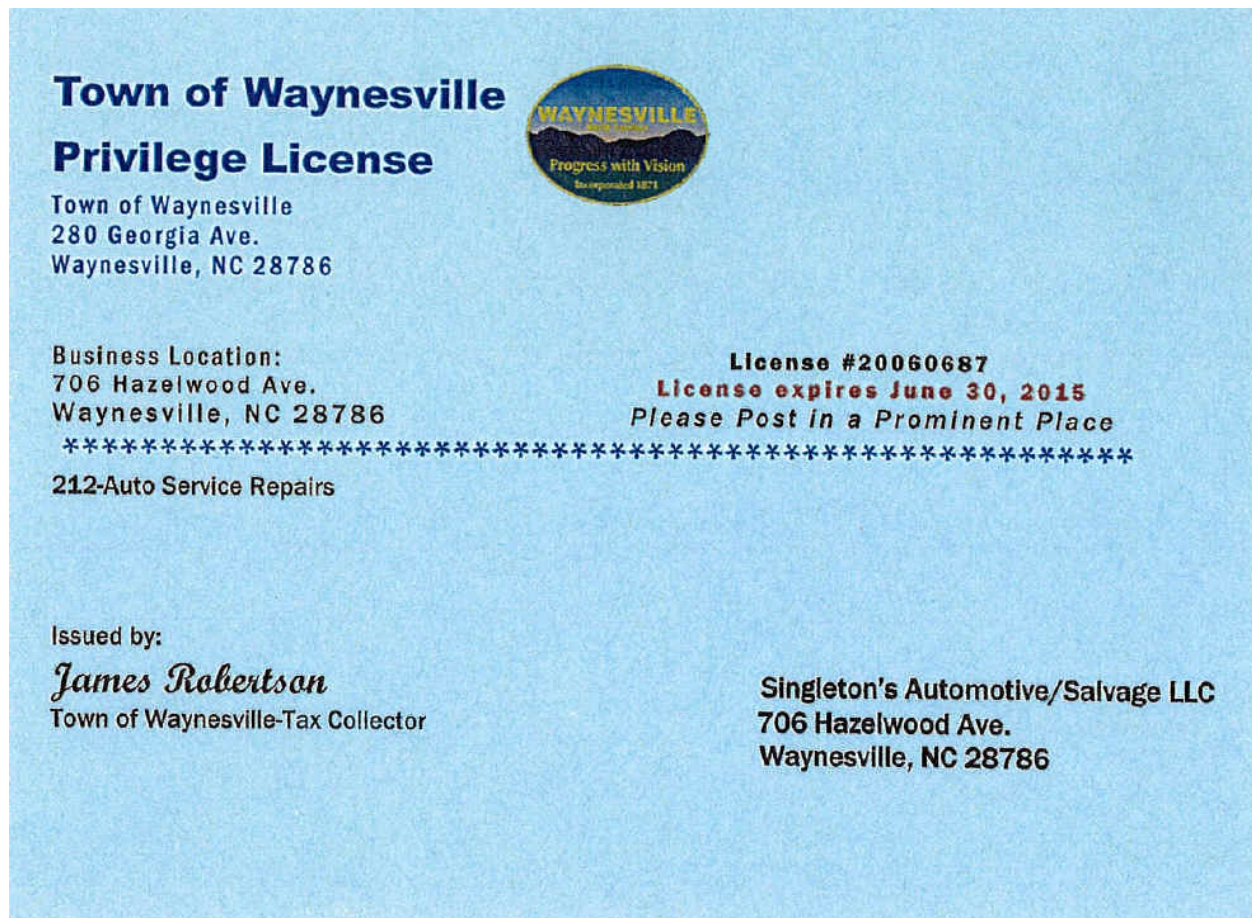
You also mentioned something, during the course of our meeting, that people not operating a proper type of business would be denied a permit.

So, I would like to request the following:

- Please send me all of the color photographs that Byron Hickox (or whoever took the photos you had yesterday) of the back lot of Singleton's Salvage Yard.
- Please provide the Municipal Ordinance(s) that Hickox used to make his judgements on both the Johnson's property and Singleton's Salvage Yard (if there was more than one ordinance).
- Please provide the permit that was issued to Singleton Automotive to operate a Salvage Yard.

Of these requests, Marcy Onieal responded only to the first and third. **Marcy Onieal never provided the Municipal Ordinance(s) that Hickox used to make his judgements on both the Johnson's property and Singleton's Salvage Yard (if there was more than one ordinance). Byron Hickox never provided the Ordinances either.**

On 5/16/2015, Marcy Onieal provided to tax documents and a Business License to Art Singleton, issued by James Robertson, Town of Waynesville Tax Collector.



In the lower right corner of the license, it says: **Singleton's Automotive/Salvage LLC**

Singleton was issued a Salvage License? How can this be? Ramey never had one!

Art Singleton was not “grand fathered” as Byron Hickox originally alluded to Ramey at Wendy’s.

This points to a conspiracy / collusion of more than one person here, but now provides cover for Byron Hickox to sit on his hands and do nothing. Who issued a Salvage License? No Code Violation for Art Singleton had been issued up to this point, and none ever has up to the date of this complaint.

On 5/15/2015, Byron Hickox forwarded to me six pictures in three separate e-mails. [Re: See attached (pp: 46-49)].

### **Surprise Snap Inspection by DENR.**

On May 15, 2015, Brett Laverty, NCDENR, inspected the property where Terry Ramey lives by. The reason, an anonymous complaint reported oil in the creek. See the next series of e-mails with Marcy Onieal, this date. Boy, this was a real coincidence! Imagine the odds someone going after Terry Ramey this day.

As it turned out, this dialog on this day regarding this SNAP DENR inspection was the last of any meaningful information from Marcy Onieal on this matter. There has been a complete shutdown of information flow to Terry Ramey and me from Marcy Onieal. It’s like they dove into a bunker.

## **“100 Year Flood”**

Where is the Town of Waynesville variance allowing Art Singleton to operate a Salvage Yard in a 100 Year Flood Plain [re: § 143-215.51. - § 143-215.61.]?

### **Part 6. Floodway Regulation.**

#### **§ 143-215.51. Purposes.**

#### **§ 143-215.52. Definitions.**

(a) As used in this Part:

(1a) "Base flood" or "100-year flood" means a flood that has a one percent (1%) chance of being equaled or exceeded in any given year. The term "base flood" is used in the National Flood Insurance Program to indicate the minimum level of flooding to be addressed by a community in its floodplain management regulations.

### **Buried Hazardous Material**

- NCDENR has been appraised that there could be some carcinogenic contaminants buried at 706 Hazelwood Avenue, Singleton Automotive / Salvage LLC that had been buried prior to Ramey's purchase of the property. [re: See attached letter (pp: 59)].

These carcinogenic contaminants may include, but are not limited to the following:

- Demolished Highway Bridge concrete and metal coated with lead paint.
- Hundreds of old lead acid batteries
- Debris from Waynesville Middle School when it burned down, including bricks and asbestos
- Jackpot - rumors of a wax sealed bale of \$100,000 worth of Marijuana was buried (location unknown).

This buried debris was with the knowledge of a Bill Norris and Tim Welch. Gavin Brown became aware of this about two years ago, before the sale to Singleton was final. Town gave Singleton a clear approval. Town told Jeff Norris (Singleton's closing lawyer) it was clear.

Where was Wally Leatherwood (cousin of current county commissioner Michael Sorrells), a now retired EPA guy during all this?

- Where is the Zoning Board Variance the city issued for having a Salvage Yard in such close proximity to a flowing creek (Richland Creek) [re: NCGS]?
- The water table is only a couple of feet down whenever a hole is dug on Singleton Automotive / Salvage LLC property.

All I can think of is that people fish in Richland Creek and eat fish that has battery lead and asbestos flowing into the creek via the same leachate mechanism that the county is having such a problem with Francis Farm leachate.

This water is flowing into Lake Junaluska (the same lake that Gavin Brown is attempting to annex). There are ducks and white swans that swim in and drink that water. People fish in that lake and eat the fish. I am beside myself with worry and concern.

## Summary

There has been a history of violations within the Town of Waynesville Code Enforcement Department.

- Byron Hickox issued selectively enforced code violations during the Sign Fiasco in Frog Level. Remedy was handled “in house”.
- Jason Rogers was negligent with inspections at the Gateway Club fiasco (re: NCDOI investigation, May 8, 2012).

Byron Hickox selectively enforced code violations in two instances, the first by issuing a violation when it should not have been issued, the second, not issuing a violation when it should have been issued.

- Byron Hickox issued a code violation to the Johnson’s in August 2013 regarding Terry Ramey’s temporary storage, calling the location a Salvage Yard.
- James Robertson issued a Permit for Art Singleton to operate a Salvage Yard at Ramey’s old property, even though Ramey never had a Salvage Yard permit. Hickox said Singleton was “grand fathered”.
- Byron Hickox never issued a code violation to Singleton Automotive for having Salvage vehicles located in his salvage yard.

Monroe A. Miller Jr.

## ATTACHMENTS



Monroe A. Miller Jr.  
19 Big Spruce Lane  
Waynesville, NC 28786  
July 16, 2013

Byron Hickox  
Code Enforcement Official  
City of Waynesville  
[landuse@townofwaynesville.org](mailto:landuse@townofwaynesville.org)

**Subject:** Request for Public Information.

Mr. Hickox,

It was brought to my attention by Yvonne Mazet & Jack Wadham yesterday that they have been unable to get a satisfactory response from you as to why they received a "ticket" for a sign displayed on Mr. Wadham's truck. See the e-mail correspondence on this matter following this letter.

If you skip down to the last e-mail by Yvonne Mazet, she indicates:

" ... Also Bryon ask my husband to leave his office before we got the ticket. His words were he did have time for this? So talking to him, is like not happening. So no help from him. ..."

Do you have time for me?

The one guiding principle that I have is that if someone that is elected or appointed to a position of power, either abuses their power or intimidates someone because of that power, I will do something about it.

I would like to inspect the file(s) you have regarding anything to do with Yvonne Mazet & Jack Wadham.

I would also like to have you forward to me a copy of the Land Development Standards you reference for your issuance of their ticket.

I would like for you to explain to me why this is not a case of selective enforcement [re: Yvonne Mazet & Jack Wadham concerns in their e-mails].

I noticed you had copied Jason Rogers on your reply to Brown and me. Please check with Jason Rogers (your boss?), as I'm confident that he can confirm to you that I am sensitive to cases of selective enforcement.

Let me know when I can drop by your office either today or tomorrow to inspect these files.

Thank you,

Monroe A. Miller Jr.

cc: See e-mail copy list.

----- Original Message -----

Subject: can you help?  
Date: Mon, 15 Jul 2013 06:51:06 -0700 (PDT)  
From: YVONNE MAZET <worktobuy@yahoo.com>  
Reply-To: YVONNE MAZET <worktobuy@yahoo.com>  
To: Monroe Miller

Monroe, my husband and I have had a run in with the sign ordinance bullie in Waynesville. His name is Bryon Hickox. We got a 200 fine for having a sign on our truck. My truck is personal property. We have no right any more. Is there any way, with your email list that we can fine other small business owners, than have had a run in with the town of Waynesville? Thank you for your time. Yvonne Mazet & Jack WAdham 828 734-3874

---

----- Original Message -----

Subject: Fwd: can you help?  
Date: Mon, 15 Jul 2013 10:00:07 -0400  
From: Monroe Miller  
To: Gavin Brown <Mayor@townofwaynesville.org>, Gavin Brown <GBrown7013@aol.com>

Mayor Brown,

Can you explain this?

Monroe Miller

---

----- Original Message -----

Subject: Re: Fwd: can you help?  
Date: Mon, 15 Jul 2013 07:22:05 -0700 (PDT)  
From: YVONNE MAZET <worktobuy@yahoo.com>  
Reply-To: YVONNE MAZET <worktobuy@yahoo.com>  
To: Monroe Miller

thank you for your help Monroe, I also send a email to Jackie. I feel as if small business is being signal out. Look at walmart and big stores and ther signage??? Yvonne Mazet

---

----- Original Message -----

Subject: Re: can you help?  
Date: Mon, 15 Jul 2013 10:59:41 -0400 (EDT)  
From: GBrown7013@aol.com  
To: Monroe Miller  
CC: landuse@townofwaynesville.org

In short order, signs on vehicles are considered "mobile signs." I will forward this to Byron for his response.

Gavin A. Brown  
Brown & Patten, PA  
370 N. Main Street, Suite 206  
Waynesville, NC 28786  
828-452-1454  
828-456-4660 (FAX)

----- Original Message -----

Subject: thank you  
Date: Mon, 15 Jul 2013 10:22:25 -0700 (PDT)  
From: YVONNE MAZET <worktobuy@yahoo.com>  
Reply-To: YVONNE MAZET <worktobuy@yahoo.com>  
To: Monroe Miller

Monroe, thank you. But Gavin and Bryon or on the same page. There doesn't seem to be any way a small business can make it any more. they tie your hands in every way. What is good for one is not the same for everyone. Just go down main street in Waynesville and look at all the violations about signs. Sandwich board signs are illegal. Also we were pick out for signs for a three day business. Estate sale in our building in frog level. what gives. thank you I am so upset with the unfairness of this. Yvonne Mazet

---

----- Original Message -----

Subject: Re: thank you  
Date: Mon, 15 Jul 2013 13:30:12 -0400  
From: Monroe Miller  
To: YVONNE MAZET <worktobuy@yahoo.com>

It's called "selective enforcement" Still have not heard back from Bryon yet...

Monroe Miller

---

----- Original Message -----

Subject: RE: can you help?  
Date: Mon, 15 Jul 2013 13:55:16 -0400  
From: Byron Hickox <landuse@townofwaynesville.org>  
To: <GBrown7013@aol.com>, Monroe Miller  
CC: 'Jason Rogers' <inspections1@townofwaynesville.org>

Mr. Miller,

Mayor Brown summed up very succinctly the point at hand. The Land Development Standards state that portable or movable signs are prohibited, with a few exceptions such as signs for garage sales, political advertisement, or real estate. Simply placing a portable or movable sign on a vehicle does not lessen its portability or mobility, and does not make it a permissible sign.

If you, Ms. Mazet, or Mr. Wadham would like to pursue the process of changing or amending the sign portion of the Land Development Standards, I would be glad to discuss this with you.

Sincerely,

Byron Hickox  
Code Enforcement Official

---

----- Original Message -----

Subject: Fwd: RE: can you help?  
Date: Mon, 15 Jul 2013 13:59:40 -0400  
From: Monroe Miller  
To: YVONNE MAZET <worktobuy@yahoo.com>

FYI.

Do you have these "Land Development Standards"?

Monroe Miller

----- Original Message -----

Subject: thank you for your help today.  
Date: Mon, 15 Jul 2013 19:34:34 -0700 (PDT)  
From: YVONNE MAZET <worktobuy@yahoo.com>  
Reply-To: YVONNE MAZET <worktobuy@yahoo.com>  
To: Monroe Miller

Monroe, thank you for your help with sign fine. There so many different meaning. A garage sale sign is ok on a truck? Did I understand that right? Also Bryon ask my husband to leave his office before we got the ticket. His words were he did have time for this? So talking to him, is like not happening. So no help from him. The town of Waynesville is having there town meeting at 7 pm Tuesday the July16 over the police station. Hope you can make it to hear the outcome. I want to thank you in person, but already left the commission meeting. I hope that other small business will stick together. We need some common sense. To many rules. Hope to see you at the next meeting at the Waynesville. Yvonne Mazet Wadham



SEP 10 2013

## Town of Wayne

August 30, 2013

Michael Burke Johnson  
Judy Lanning Johnson  
P.O. Box 575  
Crowheart, WY 82512

Mr. and Mrs. Johnson,

I am writing this letter to inform you of an apparent zoning violation that has come to the attention of the Town of Waynesville's Development Services Department. Numerous vehicles, trailers, and various large pieces of equipment are being stored on your 7.92-acre property on Lickstone Road (PIN 8604-83-7269).

Given the condition of several of the items being stored on the property, this use would be classified as a salvage yard. Salvage yards are not permitted within the Town of Waynesville's jurisdiction.

Please remove the above-mentioned vehicles and equipment within 14 days of receipt of this letter. Failure to comply shall result in the assessment of a civil penalty in the amount of \$200.00 per day for each day the violation continues.

Thank you in advance for your cooperation regarding this matter. If you have any additional questions or comments, please do not hesitate to contact me at 828-452-0401.

Sincerely,

Byron Hickox  
Code Enforcement Official  
Town of Waynesville, NC

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL™ RECEIPT</b>	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage	\$ .46
Certified Fee	3.10
Return Receipt Fee (Endorsement Required)	2.55
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.11
Postmark Here	
9-3-13	
Sent To: Michael Burke Johnson, Judy Lanning Johnson	
Street, Apt. No., or PO Box No. PO Box 575	
City, State, ZIP+4® Crowheart WY 82512	
PS Form 3800, August 2006 See Reverse for Instructions	

Monroe A. Miller Jr.  
19 Big Spruce Lane  
Waynesville, NC 28786  
September 10, 2013

Byron Hickox  
Code Enforcement Official  
Town of Waynesville, NC

**Subject:** "Apparent Zoning Violations", PIN 8604-83-7269.

Thank you for e-mailing me a copy of the letter to Michael and Judy Lanning (June Ray's sister, Clerk of Superior Court, now with an open case against Ramey) Johnson regarding Terry Ramey's equipment on this parcel. [re: your letter next page]. As Terry Ramey and I discussed with you in your office this morning, the pages and pages of "evidence" that you took when you entered the Johnson property do not all belong to Terry Ramey. Rather, the equipment you portray as a problem is a combination of David Trantham and Terry Ramey. Most of the stuff that appears as "junk laying on the ground" does not belong to Ramey at all. So I will take the time to include each picture you took and caption it with what is and what is not Ramey's equipment.

You know, when you get these "Anonymous" complaints over the phone, you would do well to actually get a name. For all we know, it could have been June Ray calling this complaint in - you said it was a woman.

My concern here is similar to what had happened previously with you and Mr. Wadham, when you singled him out for an outside sign, with all the other outside signs around Waynesville, i.e. potential Selective Enforcement. I hope you will help me understand why this is not a case of selective enforcement here when similar movement of trailers and equipment appears to be happening all around the city on a continuous basis, even on June Ray's sisters lot by Mr. Trantham.

Terry Ramey indicated to you that he would be moving the equipment from 8604-83-7269. I was glad to hear you say that once you saw progress, you were prepared to offer some latitude with the 14 day schedule you demanded in your letter. You indicated that you had not received the returned green certified mail coupon as of yet, and the 14 day period would commence once you received that certified mail coupon. Please let me know when you receive that coupon and when the 14 day period commences.

Thank you,

Monroe A. Miller Jr.

p.s. Please remind Jason Rogers to gather all of the documentation regarding inspections Rogers has done since Hayes Singleton took possession of Ramey's foreclosure property at 706 Hazelwood Avenue, Waynesville, NC 28786. I would like to make a Request for Public Information to see that file.



August 30, 2013

Michael Burke Johnson  
Judy Lanning Johnson  
P.O. Box 575  
Crowheart, WY 82512

Mr. and Mrs. Johnson,

I am writing this letter to inform you of an apparent zoning violation that has come to the attention of the Town of Waynesville's Development Services Department. Numerous vehicles, trailers, and various large pieces of equipment are being stored on your 7.92-acre property on Lickstone Road (PIN 8604-83-7269).

Given the condition of several of the items being stored on the property, this use would be classified as a salvage yard. Salvage yards are not permitted within the Town of Waynesville's jurisdiction.

Please remove the above-mentioned vehicles and equipment within 14 days of receipt of this letter. Failure to comply shall result in the assessment of a civil penalty in the amount of \$200.00 per day for each day the violation continues.

Thank you in advance for your cooperation regarding this matter. If you have any additional questions or comments, please do not hesitate to contact me at 828-452-0401.

Sincerely,

Byron Hickox  
Code Enforcement Official  
Town of Waynesville, NC



These old tires Belong to David Trantham. There are weeds growing around them. They were not placed there by Terry Ramey.



These are Ramey's trailers.



These trailers belong to Trantham. The only item of Ramey's is the bulldozer.



This is Ramey's equipment.



This is Ramey's equipment.



This is Ramey's equipment.





This is Ramey's equipment.



The open trailer belongs to Trantham. Others are Ramey's



This is Ramey's equipment.



The stacked pallets belong to Trantham. Other equipment is Ramey's



The smaller trailer in the center is Trantham's. Other equipment is Ramey's.



None of this belongs to Ramey.





None of this belongs to Ramey.



None of this belongs to Ramey.



None of this belongs to Ramey.





None of this belongs to Ramey.

End of Photos.

Subject: Salvage Yards

Date: Mon, 11 May 2015 12:36:25 -0400

From: Monroe Miller

To: Marcy Onieal <manager@townofwaynesville.org>

CC: Amie Owens <townclerk@townofwaynesville.org>, Byron Hickox <landuse@townofwaynesville.org>

Ms. Onieal,

Terry Ramey and I dropped by to pay you a visit this morning, but you were busy with some power utility people.

We would like to set up an appointment to visit with you, say Tuesday or Wednesday. Please include Byron Hickox, as that smart-mouthed [Expletive Deleted] got a preview of what the subject of the meeting will be during a dialog with Terry Ramey over at Wendy's this afternoon, and he will be a focus of the meeting.

Looking forward to a suggested day and time, and I will check with Terry to insure that he can coordinate.

Thank you,

Monroe Miller

Subject: Re: Salvage Yards

Date: Mon, 11 May 2015 15:14:48 -0400

From: Monroe Miller

To: Marcy Onieal <manager@townofwaynesville.org>

CC: Amie Owens <townclerk@townofwaynesville.org>, Byron Hickox <landuse@townofwaynesville.org>, Gavin Brown <Mayor@townofwaynesville.org>

Ms. Onieal,

I understand Terry was able to have a meeting with you this afternoon. Sounds like a great and informative meeting.

Unfortunately, Terry sat on Byron Hickox's letter on the way over this morning, and it was, well, all sweaty and crumpled up. Please find attached a nice fresh copy.

The company you are using to teach your employees communication skills would appear to get a failing grade [re: Byron Hickox at Wendy's]. Try another one.

As you must be aware, Singleton is operating a Salvage yard in Ramey's old foreclosed property. I don't see how Hickox has allowed this to go by unnoticed for two years. He mouthed off something about "grandfathered in" or some nonsense. Well, why don't you take a drive out and take a look for yourself. If need be, I can take some pictures of this Salvage Yard and send them off to a couple of state agencies that we are thinking of. Several under consideration are NCDOT, EPA and DENR. We can get their opinion whether or not Byron Hickox is selectively enforcing City Code.

Why don't we do this? When Byron Hickox issues his Code Violation Complaint to Art Singleton, why don't you copy both Terry Ramey and I as the complainants.

Did you know that you are likely to have a new boss after this next election? Terry Ramey and I will be having our Second Annual Pig Pickin' - an event that is non-partisan. You can come and are likely to meet your new boss there.

Thank you,

Monroe Miller

Subject: RE: Salvage Yards

Date: Mon, 11 May 2015 21:25:08 +0000

From: Marcy Onieal <monieal@waynesvillenc.gov>

To: 'Monroe Miller'

CC: Amie Owens <aowens@waynesvillenc.gov>, Byron Hickox <bhickox@waynesvillenc.gov>, Gavin Brown <gbrown@waynesvillenc.gov>

Dear Mr. Miller:

Mr. Ramey did see me in the office this afternoon and we had a nice conversation. He expressed concerns about the possibility of selective enforcement with regard to Singleton Automotive. I am not personally aware of code violations in association with Mr. Singleton's business, but will certainly have our staff investigate Mr. Ramey's concerns.

My goal is to see that Town Codes are enforced fairly and consistently, and while I trust that has been the case heretofore, if the facts prove otherwise as regards Singleton Automotive, we will certainly take immediate steps to address any violations.

If you would still like to meet with me later in the week, please call Amie Owens to schedule an appointment. I have availability Thursday and Friday. Thanks for being in touch.

Marcy

Marcy Onieal | Town Manager

Town of Waynesville, NC

16 S. Main Street | PO Box 100 | Waynesville, NC 28786

(o) 828.452.2491 | (m) 828.775.9433 | (direct) 828.454.8890 | (f) 828.456.2000

monieal@waynesvillenc.gov | www.waynesvillenc.gov

Subject: Re: Salvage Yards

Date: Tue, 12 May 2015 09:13:26 -0400

From: Monroe Miller

To: Amie Owens <aowens@waynesvillenc.gov>

CC: Marcy Onieal <monieal@waynesvillenc.gov>, Byron Hickox <bhickox@waynesvillenc.gov>, Gavin Brown <gbrown@waynesvillenc.gov>

Ms. Owens,

Per Marcy, Terry and I would like to schedule a time-slot with Marcy Onieal either Thursday or Friday. Please propose an available time or two and I will discuss with Terry (as he does not have e-mail) to confirm. We plan to bring photographs.

Thank you,  
Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: RE: Salvage Yards  
Date: Tue, 12 May 2015 13:43:48 +0000  
From: Amie Owens <aowens@waynesvillenc.gov>  
To: 'Monroe Miller'  
CC: Marcy Onieal <monieal@waynesvillenc.gov>, Byron Hickox <bhickox@waynesvillenc.gov>, Gavin Brown <gbrown@waynesvillenc.gov>

Mr. Miller:

Ms. Onieal has time available at 1:30 p.m. on Thursday, 9:00 a.m. on Friday morning or 1:00 p.m. Friday afternoon. Please let me know which, if any, of these times will work for you and Mr. Ramey.

Thank you.

Amie Owens  
Town Clerk/Project Specialist  
[aowens@waynesvillenc.gov](mailto:aowens@waynesvillenc.gov)

Pursuant to North Carolina General Statutes Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) sent in response to it, may be considered public record and as such are subject to request and review by anyone at any time.



Subject: Re: Salvage Yards

Date: Tue, 12 May 2015 12:09:19 -0400

From: Monroe Miller

To: Amie Owens <aowens@waynesvillenc.gov>

CC: Marcy Onieal <monieal@waynesvillenc.gov>, Byron Hickox <bhickox@waynesvillenc.gov>, Gavin Brown <gbrown@waynesvillenc.gov>

Hi Amie,

Checked with Ramey, 1:30pm on Thursday would be fine.

Thank you,  
Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: RE: Salvage Yards  
Date: Tue, 12 May 2015 16:11:59 +0000  
From: Amie Owens <aowens@waynesvillenc.gov>  
To: 'Monroe Miller'  
CC: Marcy Onieal <monieal@waynesvillenc.gov>, Byron Hickox <bhickox@waynesvillenc.gov>, Gavin Brown <gbrown@waynesvillenc.gov>

Mr. Miller:

I have added it to Ms. Onieal's calendar.

Thank you.

Amie Owens  
Town Clerk/Project Specialist  
[aowens@waynesvillenc.gov](mailto:aowens@waynesvillenc.gov)

Pursuant to North Carolina General Statutes Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) sent in response to it, may be considered public record and as such are subject to request and review by anyone at any time.

Subject: Re: Salvage Yards

Date: Wed, 13 May 2015 08:42:47 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Amie Owens <aowens@waynesvillenc.gov>, Byron Hickox <bhickox@waynesvillenc.gov>, Gavin Brown <gbrown@waynesvillenc.gov>

Ms. Onieal,

In order to save you a little legwork, having to make a visual inspection of Singleton's Savage Yard and all, I snapped some photographs yesterday.

But to get calibrated, here is a Google satellite photo taken 3/18/2013 of then Ramey's property. I have to admit, a little bit of a mess.



In this photo, you can see a bridge crossing a creek at the lower left corner of Ramey's property (Hazelwood Avenue). I stood there and took my photographs. I did not enter the property, based on a previous bad experience I had with Art Singleton (See attached). I hope you have better luck than I did if you attempt to inspect this property. My next visit will be accompanied by a Haywood County Sheriff's Deputy, if that ever happens.

I checked with Haywood County Maps Online, and there are no satellite photos more current than the above photo.

I have also attached the photos I took on 5/12/2015 while standing on the aforementioned bridge.

As a reference, I am also including some of Byron Hickox's previous handiwork, see also attached.



This should expedite our meeting providing this information in advance. Hope this is helpful.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.





















Subject: Selective Enforcement

Date: Fri, 15 May 2015 08:32:44 -0400

From: Monroe Miller

To: Marcy Onieal <manager@townofwaynesville.org>

CC: Byron Hickox <landuse@townofwaynesville.org>, Gavin Brown <Mayor@townofwaynesville.org>

Ms. Onieal,

Thank you for meeting with Terry and I in our nearly three (3) hour meeting. It was interesting and informative. Since I am just getting into this, there are a couple of initial points and questions I have.

First, "Salvage Yards". This was the term Byron Hickox used in the now infamous citation to Michael and Judy Johnson on 8/30/2013, where he stated that "Given the condition of several of the items being stored on the property, this use would be classified as a salvage yard. Salvage yards are not permitted within the Town of Waynesville's jurisdiction."

As we reviewed, about half of the items on that field were Trantham's and about half were Ramey's [re: see attached 130910 Hickox.pdf].

From a Dictionary, looking up "Salvage Yard" - a place where old machines, cars, etc. are broken up so that the metal can be sold or used again -

[re:<http://www.oxfordlearnersdictionaries.com/us/definition/english/salvage-yard>].

Also, checking out our North Carolina General Statutes, § 20-4.01. Definitions (33) (d) -

d. Salvage Motor Vehicle. - Any motor vehicle damaged by collision or other occurrence to the extent that the cost of repairs to the vehicle and rendering the vehicle safe for use on the public streets and highways would exceed seventy-five percent (75%) of its fair retail market value, whether or not the motor vehicle has been declared a total loss by an insurer. Repairs shall include the cost of parts and labor. Fair market retail values shall be as found in the NADA Pricing Guide Book or other publications approved by the Commissioner.

Byron Hickox will now be challenged to provide his justification for issuing a citation to the Johnson's, because I did not see anything in those photographs that Byron Hickox took that fit the definition of a "Salvage Yard" or "Salvage Motor Vehicle". Ramey indicated all of this equipment was tagged and operable. On the other hand, I would be willing to wager that there is not a single tagged - operable vehicle sitting in the rear lot of Singleton Automotive. Of course, I did not trespass on Singleton's Property to verify that, but you indicated Hickox inspected the place the day before our meeting.

You also mentioned something, during the course of our meeting, that people not operating a proper type of business would be denied a permit.

So, I would like to request the following:

- Please send me all of the color photographs that Byron Hickox (or whoever took the photos you had yesterday) of the back lot of Singleton's Salvage Yard.
- Please provide the Municipal Ordinance(s) that Hickox used to make his judgements on both the Johnson's property and Singleton's Salvage Yard (if there was more than one ordinance).
- Please provide the permit that was issued to Singleton Automotive to operate a Salvage Yard.

We are only beginning to get into this, and we will be cross-correlating North Carolina General Statutes to verify that all Waynesville Municipal Ordinances are in comportment with the General Statues, and we will be pulling all of the business permits and licenses of business related to Junk Yards, Salvage Yards in Waynesville, as a start.

To me, this is the clearest instance of Selective Enforcement by this character since the Sign Fiasco in Frog Level.

Thank you,

Monroe Miller

Subject: FW: Scanned image from Town of Waynesville

Date: Fri, 15 May 2015 19:47:21 +0000

From: Marcy Onieal <monieal@waynesvillenc.gov>

To: 'Monroe Miller'

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Mr. Miller:

Thank you for the additional follow-up from our meeting yesterday. Attached are the documents you requested from our tax office. By copy of this email, I am requesting that our staff send you copies of the photos taken at Singleton's earlier this week per your request.

I will get back in touch with you next week after I've had a chance to review all the appropriate ordinance references and review with staff the additional information you brought to my attention yesterday. I appreciate the time you and Mr. Ramey spent with me yesterday clarifying your concerns, and I can assure you that I share your interest that the Town not engage in selective enforcement -- whether intentional or unintentional -- under any circumstance. I hope you have a good weekend.

Marcy

Marcy Onieal | Town Manager

Town of Waynesville, NC

16 S. Main Street | PO Box 100 | Waynesville, NC 28786

(o) 828.452.2491 | (m) 828.775.9433 | (direct) 828.454.8890 | (f) 828.456.2000

[monieal@waynesvillenc.gov](mailto:monieal@waynesvillenc.gov) | [www.waynesvillenc.gov](http://www.waynesvillenc.gov)

Subject: Photographs 3

Date: Fri, 15 May 2015 20:01:26 +0000

From: Byron Hickox <bhickox@waynesvillenc.gov>

To: 'monroemillerjr@bellsouth.net' , Marcy Onieal <monieal@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, 'GBrown7013@aol.com' <GBrown7013@aol.com>, 'wgriffin@wnclawfirm.com' <wgriffin@wnclawfirm.com>

Mr. Miller,

As requested, please find attached the final group of photographs taken at Singleton Automotive on May 13, 2015.

Byron Hickox

Byron Hickox | Code Enforcement Official

Town of Waynesville, NC

9 South Main Street, Suite 110 | Waynesville, NC 28786

(O) 828.452.0401 | (F) 828.452.1492

bhickox@waynesvillenc.gov | www.waynesvillenc.gov

Subject: Photographs 2 (Another Attempt)

Date: Fri, 15 May 2015 20:05:47 +0000

From: Byron Hickox <bhickox@waynesvillenc.gov>

To: 'monroemillerjr@bellsouth.net' , Marcy Onieal <monieal@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, 'GBrown7013@aol.com' <GBrown7013@aol.com>, 'wgriffin@wnclawfirm.com' <wgriffin@wnclawfirm.com>

Mr. Miller,

This is the second attempt to send my e-mail of the images in an e-mail titled Photographs 2.

Byron Hickox

Subject: Photographs from Singleton Automotive (Hopefully Last Attempt)

Date: Fri, 15 May 2015 20:07:40 +0000

From: Byron Hickox <bhickox@waynesvillenc.gov>

To: 'monroemillerjr@bellsouth.net' , Marcy Onieal <monieal@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, 'GBrown7013@aol.com' <GBrown7013@aol.com>, 'wgriffin@wnclawfirm.com' <wgriffin@wnclawfirm.com>

Mr. Miller,

Hopefully, this is the final attempt to send photographs taken at Singleton Automotive on May 13, 2015.

Byron Hickox

Subject: Re: FW: Scanned image from Town of Waynesville

Date: Fri, 15 May 2015 16:38:24 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Mr. Onieal,

Do you know what just happened?

A fella from the State made a snap - surprise visit to Ramey's property. Here is the info on the guy:

Brett Laverty

NCDENR

Water Resources

Hydro Geologist

2090 Us Highway 70

Swannanoa, NC 28778

(828) 296-4500

[brett.laverty@ncdener.gov](mailto:brett.laverty@ncdener.gov)

He had been given a complaint by someone fluent in the terms, a professional speaking person (no name given).

He was told there was oil in the creek.

He inspected the property and everything was all clear, no problem.

He said, [expletive Deleted], another wild goose chase (or something to that effect), and told Ramey he would never bother him again.

If I didn't know any better, I would say someone is trying to retaliate against Terry Ramey. Do you remember what I had mentioned in the meeting? If someone who is either elected or appointed to a position of authority, either abuses that authority, or intimidates someone because of that authority, I will go after that person.

Why don't you, as Town Manager, canvas your employees and see if any of them own up to turning Terry Ramey in. Notice I am not accusing anyone of this, yet.

All I need is for DENR to show up at my house...

Can you imagine what I am feeling right now?

Monroe Miller

Subject: RE: FW: Scanned image from Town of Waynesville

Date: Fri, 15 May 2015 21:00:42 +0000

From: Marcy Onieal <monieal@waynesvillenc.gov>

To: 'Monroe Miller'

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Mr. Miller:

I just spoke with Brett Laverty at NCDENR, and he shared with me very openly who lodged the complaint against the condition of the property at 146 Dakota. The complainant was Al Stowers of 688 Lee Road, whose property is just along the stream from Mr. Ramey's property. This complaint is a matter of public record, and I'm sure Mr. Laverty will be glad to share the same information with you that he just shared with me.

Marcy

Marcy Onieal | Town Manager

Town of Waynesville, NC

16 S. Main Street | PO Box 100 | Waynesville, NC 28786

(o) 828.452.2491 | (m) 828.775.9433 | (direct) 828.454.8890 | (f) 828.456.2000

[monieal@waynesvillenc.gov](mailto:monieal@waynesvillenc.gov) | [www.waynesvillenc.gov](http://www.waynesvillenc.gov)

Subject: Re: FW: Scanned image from Town of Waynesville

Date: Fri, 15 May 2015 17:39:44 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Ms. Onieal,

Upon checking further on this DENR incident, Ramey was told by Lavery, for whatever reason, that the complaint was anonymous. It would not have occurred to me to call Lavery directly, although it is unknown if I would have received the same answer that Ramey did. Maybe they have a policy of not ratting out on neighbors. One of the perks of being a Town Manager - you have more clout than I do, a simple casual observer. Thanks again for taking the initiative and making the call to getting to the bottom of this.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

On 5/15/2015 5:07 PM, Monroe Miller wrote:

> Thank you for checking.

Subject: RE: FW: Scanned image from Town of Waynesville  
Date: Fri, 15 May 2015 21:42:46 +0000  
From: Marcy Onieal <monieal@waynesvillenc.gov>  
To: 'Monroe Miller'

You're welcome – have a nice weekend.

Marcy



Subject: Re: FW: Scanned image from Town of Waynesville

Date: Fri, 15 May 2015 21:43:40 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Ms. Onieal,

This fellow, Al Stowers of 688 Lee Road, is now under a microscope. I understand he is a commercial roofing contractor. He may be doing or have done business with the Town of Waynesville, and may have direct ties to either Jason Rogers or Byron Hickox. We will be searching for current building permits or anything else that may directly tie him to Jason Rogers or Byron Hickox. Will keep you informed of what we find.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Re: FW: Scanned image from Town of Waynesville

Date: Sat, 16 May 2015 09:22:33 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Ms. Onieal,

Your employee, Byron Hickox, is still having the same degree of difficulty sending pictures as he did two years ago when he sent the photos of the now infamous Johnson Citation. In addition to sending him to school to improve his communication skills, I recommend sending him to "How to send a photo by e-mail" school. I have no clue if I received all the photos or not. There is a break in the numbered sequence of the photos.

Additionally, I had asked the other day for the following:

- Please send me all of the color photographs that Byron Hickox (or whoever took the photos you had yesterday) of the back lot of Singleton's Salvage Yard.
- Please provide the Municipal Ordinance(s) that Hickox used to make his judgements on both the Johnson's property and Singleton's Salvage Yard (if there was more than one ordinance).
- Please provide the permit that was issued to Singleton Automotive to operate a Salvage Yard.

Somehow, the second item was overlooked. Can you have Bryon Hickox send those over?

Let's review the photos your boy took. Note that these have been resized, contrast and color corrected, and you did not have a problem getting these.



Here is a great picture of a nice field, grass, trees, cement surface. Where are the Salvage Vehicle's?



Another great photo of a nice stream, grass, some houses in the background, a little cement on the ground.



This photo must be a mistake. It actually shows salvage vehicle's. Most of the photo concentrates on the cement surface foreground. Does not show if the vehicles are tagged.





Super picture of a nice grass field. Some salvage vehicles way off in the background.

\*\*\* There is a break in the number sequence of Photo's at this point, but somehow, I don't think I am missing much.



Great picture of a pile of stones. You know, I think this guy ought to go to "How to take a Code Enforcement Picture" School also.



Another great photo of a driveway and a motor home in the background.

Next time, tell your boy to concentrate on taking pictures of the Salvage Vehicles.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Re: FW: Scanned image from Town of Waynesville

Date: Mon, 18 May 2015 08:05:08 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Mr. Onieal,

Do you recall in our meeting with you that Ramey indicated he was never licensed for a Salvage Yard? Yet, you sent me this permit for Singleton signed off by James Robertson (reattached) for Singleton Automotive / Salvage LLC. How can that be? Ramey is rifling through his stuff to locate his old licenses, but can you have James Robertson do the same thing for Licenses issued to Ramey over the period of time (from the beginning of time) he was issued City of Waynesville Permits?

Additionally, look what was brought to my attention...

**§ 143-151.17.** Grounds for disciplinary actions; investigation; administrative procedures.

(a) The Board shall have the power to suspend any or all certificates, revoke any or all certificates, demote any or all certificates to a lower level, or refuse to grant any certificate issued under the provisions of this Article to any person who:

(1) Has been convicted of a felony against this State or the United States, or convicted of a felony in another state that would also be a felony if it had been committed in this State;

(2) Has obtained certification through fraud, deceit, or perjury;

(3) Has knowingly aided or abetted any person practicing contrary to the provisions of this Article or the State Building Code or any building codes adopted by a federally recognized Indian Tribe under G.S. 153A-350.1;

(4) Has defrauded the public or attempted to do so;

(5) Has affixed his signature to a report of inspection or other instrument of service if no inspection has been made by him or under his immediate and responsible direction; or,

(6) Has been guilty of willful misconduct, gross negligence or gross incompetence.

(b) The Board may investigate the actions of any qualified Code-enforcement official or applicant upon the verified complaint in writing of any person alleging a violation of subsection (a) of this section. The Board may suspend, revoke, or demote to a lower level any certificate of any qualified Code-enforcement official and refuse to grant a certificate to any applicant, whom it finds to have been guilty of one or more of the actions set out in subsection (a) as grounds for disciplinary action.

(c) A denial, suspension, revocation, or demotion to a lower level of a certificate issued under this Article shall be made in accordance with Chapter 150B of the General Statutes.

(d) The Board may deny an application for a certificate for any of the grounds that are described in subsection (a) of this section. Within 30 days after receipt of a notification that an application for a certificate has been denied, the applicant may make a written request for a review by a committee designated by the chairman of the Board to determine the reasonableness of the Board's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written request for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome.

(e) The provisions of this section shall apply to Code-enforcement officials and applicants who are employed or seek to be employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1. (1977, c. 531, s. 1; 1987, c. 827, s. 228; 1993, c. 504, s. 36; 1993 (Reg. Sess., 1994), c. 678, s. 36; 1999-78, s. 5; 2007-120, s. 3.)'

I'm kind of looking at Section (6) here.

I believe we are at the point in this thing where every rock Ramey and I turn over, two cockroaches jump out.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Re: FW: Scanned image from Town of Waynesville

Date: Tue, 19 May 2015 20:15:43 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Ms. Onieal,

Have you had a chance to meet with your staff to discuss this matter yet? Please let me know what the outcome is and how you would like to proceed.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Selective Enforcement

Date: Thu, 21 May 2015 08:44:56 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Ms. Onieal,

[?]

Can you tell me where we stand?

Will Byron Hickox be sending Art Singleton a code violation letter instructing Singleton that he has to remove his Salvage Vehicles within ten (10) days or face a \$200 per day fine, as he sent to Michael and Judy Johnson on August 30, 2016 instructing them to move Ramey's "Salvage Vehicles" (re-attached)?

If Byron Hickox sends a code violation letter to Art Singleton, please have him copy Terry Ramey and myself as the complainants.

If no such code violation citation will be forthcoming, please let me know that also.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.



Subject: Re: Selective Enforcement

Date: Thu, 21 May 2015 14:18:20 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Paul Benson <pbenson@waynesvillenc.gov>

Ms. Onieal,

You must be very busy with town manager stuff, like with that incredibly insane no smoking ordinance Gavin Brown just passed. I guess classes will have to be held to instruct county employees on how to issue \$50 citations.

Take a look at this item on my website I posted today. It is one of my famous 'e-mail dialogs'. Updated Commissioners Leasing County Acquired Property for Private Use, a violation of AmJur §471 Property for municipal or public purposes. 5/21/2015... This particular one does not make Ira Dove or Chip, a.k.a. Leon, Killian look too good.

There is a county public hearing this afternoon which I plan on attending, but I can start to put one together one of these "e-mail dialogs" tomorrow for this selective enforcement thing. If you get a chance, please let me know how this is coming along on your end.

Thank you,

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: RE: Selective Enforcement

Date: Fri, 22 May 2015 11:28:28 +0000

From: Marcy Onieal <monieal@waynesvillenc.gov>

To: 'Monroe Miller'

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>

Mr. Miller:

Thank you for recognizing my very busy schedule. I have been out of the office several days this week on legislative matters and other important town business. As promised, I will respond to your multiple inquiries as soon as I have had the opportunity to complete my review with staff of the files and the various enforcement activities you have questioned over the last two years. Thank you for your patience.

Marcy Onieal | Town Manager

Town of Waynesville, NC

16 S. Main Street | PO Box 100 | Waynesville, NC 28786

(o) 828.452.2491 | (m) 828.775.9433 | (direct) 828.454.8890 | (f) 828.456.2000

[monieal@waynesvillenc.gov](mailto:monieal@waynesvillenc.gov) | [www.waynesvillenc.gov](http://www.waynesvillenc.gov)

Subject: Re: Selective Enforcement

Date: Sun, 24 May 2015 08:03:58 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>

Ms. Onieal,

Please be sure to see my new posting on [www.haywoodtp.net](http://www.haywoodtp.net), E-mail dialog with Stoney Blevins, HC Assistant County Manager, regarding a debacle with the county Environmental Health Division obtaining a permit to re-drill a private well that has gone dry. 5/24/2015.... Interestingly enough, it is about some county inspector people giving Haywood County Taxpayers a difficult time. Another in my great e-mail dialog series.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Re: Selective Enforcement

Date: Wed, 27 May 2015 08:48:00 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Amie Owens <townclerk@townofwaynesville.org>

Ms. Onieal,

[?]

How long will it be before I get the town ordinances Brian Hickox referenced for his selective enforcement? Have you had the meeting with him yet to determine is he is going to cut loose a code enforcement violation against Art Singleton?

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Re: Selective Enforcement  
Date: Wed, 27 May 2015 17:28:54 -0400  
From: Monroe Miller  
To: Marcy Onieal <monieal@waynesvillenc.gov>  
CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Amie Owens <townclerk@townofwaynesville.org>, Woodrow Griffin <wgriffin@wnclawfirm.com>

Ms. Onieal,

Just to keep you informed, there will be a small entourage visiting NCDENR in Asheville in the next few days, as soon as I can arrange and confirm times. Plan to cover a bunch of wide ranging stuff... Hope you can find the time to have a meeting with your staff about this selective enforcement issue in the near future.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Re: Selective Enforcement

Date: Thu, 28 May 2015 15:55:31 -0400

From: Monroe Miller

To: Marcy Onieal <monieal@waynesvillenc.gov>

CC: Gavin Brown (gbrown7013@aol.com) <gbrown7013@aol.com>, Byron Hickox <bhickox@waynesvillenc.gov>, James Robertson <jrobertson@waynesvillenc.gov>, Jason Rogers <jrogers@waynesvillenc.gov>, Amie Owens <townclerk@townofwaynesville.org>, Woodrow Griffin <wgriffin@wnclawfirm.com>

Ms. Onieal,

I came across the original Citation against the Johnson's by Byron Hickox. Attached for your records.

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

<End of E-mail Dialog>

Monroe A. Miller Jr.  
19 Big Spruce Lane  
Waynesville, NC 28786  
June 2, 2015

Brett Lavery  
**NCDENR**  
Water Resources  
Hydro Geologist  
2090 Us Highway 70  
Swannanoa, NC 28778  
(828) 296-4500  
[brett.lavery@ncdener.gov](mailto:brett.lavery@ncdener.gov)

**Subject:** Complaint of buried Hazardous Waste.

706 Hazelwood Avenue, Waynesville, owned by Art Singleton.

Buried Hazardous Waste -

- Lead Acid Batteries
- Asbestos and bricks from Waynesville Middle High that burned down.
- Lead paint on demolished bridge concrete, buried and partially sticking out into Richland Creek.
- Surprise package - \$100K marijuana in a wax sealed enclosure, location unknown.

First three items are buried under layers of cement. You will need a drill.

Monroe Miller



67A Am. Jur. 2d Sales § 771

American Jurisprudence, Second Edition  
Database updated August 2013  
Sales

Laura Dietz, J.D., Alan Jacobs, J.D., Theresa Leming, J.D., William Lindsley, J.D., Anne E. Melley, J.D., of the staff of the National Legal Research Group, Inc., Anne Payne, J.D., Jaqualin Friend Peterson, J.D., of the staff of the National Legal Research Group, Inc., Jeffrey J. Shampo, J.D., Lisa Zakolski, J.D.

X. Warranties

F. Exclusion or Modification of Warranties

1. In General

c. Exclusion of Implied Warranties and Warranties of Title and Against Encumbrances and Infringement

[Topic Summary Correlation Table References](#)

§ 771. Sale “as is” or in similar terms; as excluding implied warranties

**West’s Key Number Digest**

West’s Key Number Digest, [Sales](#) 🔑?267

A.L.R. Library

[Who is a “consumer” entitled to protection of state deceptive trade practice and consumer protection acts, 63 A.L.R. 5th 1](#)  
[Liability on implied warranties in sale of used motor vehicle, 47 A.L.R. 5th 677](#)  
[Construction and effect of affirmative provision in contract of sale by which purchaser agrees to take article “as is,” in the condition in which it is, or equivalent term, 24 A.L.R. 3d 465](#)

Forms

Provision of sales agreement—Disclaimer of implied warranties—Goods sold “as is,” [Am. Jur. Legal Forms 2d, Uniform Commercial Code Art 2—Sales § 253:633](#)

Provision of sales agreement—Disclaimer of implied warranties—Goods sold “as is”—Machinery, equipment and fixtures, [Am. Jur. Legal Forms 2d, Uniform Commercial Code Art 2—Sales § 253:634](#)

Answer—Defense—Implied warranties excluded by “as is” clause in contract, Am. Jur. Pleading and Practice Forms, Commercial Code Art 2—Sales §§ 2:293, 2:294

Instruction to jury—“As is” or “with all faults” clause as excluding implied warranty, Am. Jur. Pleading and Practice Forms, Commercial Code Art 2—Sales § 2:300

Notwithstanding the restrictive requirements of the Uniform Commercial Code on disclaimer of implied warranties of merchantability and fitness for the particular purpose,<sup>1</sup> all implied warranties are excluded by expressions like “as is,” “with all faults,” or other language which in common understanding calls the buyer’s attention to the exclusion of warranties and makes plain that there is no implied warranty.<sup>2</sup>

Comment:

The Code recognizes that such terms, in ordinary commercial usage, are understood to mean that the buyer takes the entire risk as to the quality of the goods involved.<sup>3</sup>

Observation:

There is a conflict as to whether the expression “in their present condition” is<sup>4</sup> or is not<sup>5</sup> equivalent to “as is,” “with all faults,” and similar expressions.

Under the law of Louisiana, which has not adopted Article 2, statutory warranties are implied in all sales<sup>6</sup> and “as is,” even in the sale of secondhand goods, merely puts the buyer on notice that the warranty is significantly qualified.<sup>7</sup>

Observation:

It has been held that the phrase “sold as is” is not ambiguous and a buyer therefore cannot introduce parol evidence to contradict its meaning.<sup>8</sup>

In determining whether an “as is” sales agreement is enforceable, the nature of the transaction and the totality of the circumstances surrounding the agreement must be considered, and where the “as is” clause is an important part of the basis of the bargain, not an incidental or boilerplate provision, and is entered into by parties of relatively equal bargaining position, a buyer’s affirmation and agreement that the seller’s representations are not being relied on should be given effect.<sup>9</sup>

## CUMULATIVE SUPPLEMENT

Statutes:

[UCC § 2-316\(2\)](#), which deals with the exclusion or modification of warranties, was amended in 2003 to provide that a disclaimer of the implied warranty of merchantability in a consumer contract (defined in new [UCC § 2-103\(1\)\(d\)](#) as a contract between a merchant seller and a consumer) must be in a record, be conspicuous, and use understandable language that states “[T]he seller undertakes no responsibility for the quality of the goods except as otherwise provided in this contract.” The section as amended also provides that a disclaimer of the implied warranty of fitness for a particular purpose in a consumer contract must be in a record, be conspicuous, and use understandable language that states “[T]he seller assumes no responsibility that the goods will be fit for any particular purpose for which you may be buying these goods, except as otherwise provided in this contract.” The official commentary was also substantially revised or replaced. Also, [UCC § 2-316\(3\)](#), which deals with the exclusion or modification of warranties, was amended to provide that an “as is” or “with all faults” disclaimer in a consumer contract must be conspicuously set forth in a record if the consumer contract is evidenced by a record. The official commentary was also substantially revised or replaced.

Cases:

Document labeled “agreement reached in settlement” was a settlement and not a “sale of goods” to which Uniform Commercial Code (UCC) and its implied warranties applied; agreement involved sale of very same goods in previous alleged sales contract and the ensuing litigation between parties in which customer alleged defects in goods, that litigation involved more than a mere obligation vel non to purchase goods, the suit being settled included issue of whether goods were merchantable and fit for particular purpose, settlement allowed purchaser to determine quality of over half of contract amount of goods, and thus, application of warranties to settlement would frustrate purpose of that agreement. [Ole Mexican Foods, Inc. v. Hanson Staple Co., 285 Ga. 288, 676 S.E.2d 169, 68 U.C.C. Rep. Serv. 2d 607 \(2009\).](#)

[END OF SUPPLEMENT]

Footnotes

<sup>1</sup> [Uniform Commercial Code § 2-316\(2\).](#)

<sup>2</sup> [Uniform Commercial Code § 2-316\(3\)\(a\).](#)  
Where contract for sale of airplane specifically recited that purchase was “subject to the terms and conditions of an ‘as is’ sale,” buyer had no cause of action for breach of warranty when defective engine caused airplane to crash. [Mid Continent Aircraft Corp. v. Curry County Spraying Service, Inc., 572 S.W.2d 308, 24 U.C.C. Rep. Serv. 574 \(Tex. 1978\).](#)

<sup>3</sup> Comment 7 to [Uniform Commercial Code § 2-316.](#)

<sup>4</sup> [Overland Bond & Inv. Corp. v. Howard, 9 Ill. App. 3d 348, 292 N.E.2d 168, 11 U.C.C. Rep. Serv. 945 \(1st Dist. 1972\); Sylvia Coal Co. v. Mercury Coal & Coke Co., 151 W. Va. 818, 156 S.E.2d 1, 4 U.C.C. Rep. Serv. 650 \(1967\).](#)

<sup>5</sup> [Hull-Dobbs, Inc. v. Mallicoat, 57 Tenn. App. 100, 415 S.W.2d 344, 3 U.C.C. Rep. Serv. 1032 \(1966\).](#)

<sup>6</sup> [§ 728.](#)

<sup>7</sup> [McLain v. Cuccia, 259 So. 2d 337 \(La. Ct. App. 4th Cir. 1972\)](#) (holding that an “as is” automobile sold as an automobile, not as scrap or as a car body with no engine, must run); [Knight v. Davenport, 71 So. 2d 388 \(La. Ct. App. 1st Cir. 1954\)](#) (holding that an “as is” milch cow must be fit for purpose intended).

<sup>8</sup> [Harper v. Calvert, 687 S.W.2d 227, 39 U.C.C. Rep. Serv. 1655 \(Mo. Ct. App. W.D. 1984\).](#)

<sup>9</sup> [Prudential Ins. Co. of America v. Jefferson Associates, Ltd., 896 S.W.2d 156 \(Tex. 1995\).](#) reh’g of cause overruled, (May 11, 1995).