



# SUING THE CODE ENFORCEMENT SCOFFLAW

*The Story of the Lawnmower Man*

JEFF FAHEY

PIERCE BROSNAN



God Made Him Simple. Science Made Him A God.



STEPHEN KING'S  
THE LAWNMOWER MAN

ALLIED VISION LANE PRINGLE PRODUCTIONS A FLUJ EIGHT CO. LTD. PRESENTS A BRETT LEONARD FILM  
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PETER McRAE MASAO TAKYAMA MILTON SUBOTSKY EDWARD SIMONS STEVE LANE CLIVE TURNER ROBERT PRINGLE  
SCREENPLAY BY BRETT LEONARD BASED UPON A STORY BY STEPHEN KING PRODUCED BY GIMEL EVERETT DIRECTED BY BRETT LEONARD



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# NOTICE OF VIOLATION

- Attach the ordinances
- Spell out the way that the ordinance is violated





# NOTICE OF VIOLATION

- Chapter 54 civil penalty requires prior notice
- Effective jury argument requires the same thing
- A chance to comply



# THE LAWSUIT – STATUTES

- Chapter 54
  - 12 categories of ordinances
    - Building codes
    - Fire Safety
    - Zoning
    - Subdivision regulations



# THE LAWSUIT – STATUTES

- Chapter 54
  - 12 categories of ordinances
    - Class C misdemeanors
    - Dilapidated structures
    - Insect and rodent harborage
    - SOB regulations



# THE LAWSUIT – STATUTES

- Chapter 54
  - 12 categories of ordinances
    - Pollution into sewer systems
    - Floodplain regulations
    - Animal control
    - Water conservation



# THE LAWSUIT – STATUTES

- Chapter 211
  - Zoning statute or regulations adopted under statute
    - Historic Preservation
    - Fences
    - Setbacks
    - Outdoor storage



# THE LAWSUIT – REMEDIES

- Chapter 54
  - Civil Penalties (\$1,000 per day)
  - Injunctive Relief (harm to health or the property of another)



# THE LAWSUIT – REMEDIES

- Chapter 211
  - Civil Penalties (if in ordinance)
  - Injunctive Relief (no discretion?)





# SETTLEMENT

- Key question – how can you compromise to allow violations to continue?





# SETTLEMENT

- Areas of compromise:
  - Amount of penalty
  - Time to comply
  - Specific requirements to comply
  - Enforcement realities





# DISCOVERY

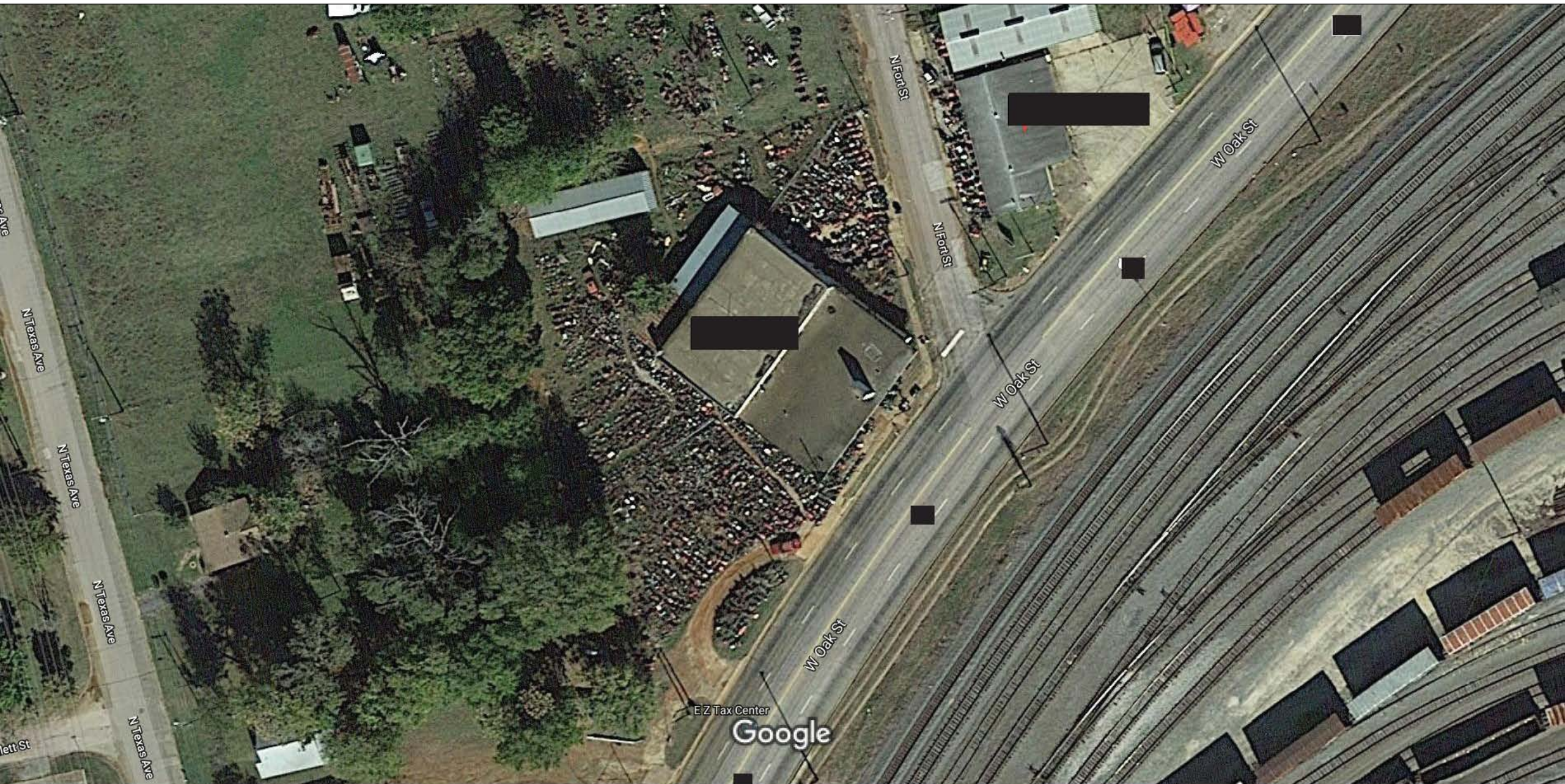
- Deposition
- Interrogatories
- Request for Production
  - Documentation of business operations



# DISCOVERY

- Inspection
  - Rule 196.7
  - A picture is worth a thousand words
  - A video may be worth a million









# INTERIM RELIEF

- Temporary Injunction
  - Stop a violation from occurring
  - Interrupt a violative process
  - Permanently abate a violation





# INTERIM RELIEF

- Temporary Injunction
  - Quick trial as solution



# TRIAL

- Publicity
- Sympathy
- Improper defenses
  - Laches
  - Waiver





# JUDGMENT

- Civil Penalties
- Permanent Injunction
  - Specific enough to clearly follow
  - Specific enough to clearly enforce
  - General enough to prevent evasion
  - Entry onto land

# ENFORCEMENT

- An injunction ain't nothin' but a piece of paper
- Maximum penalties
  - \$500 fine
  - 6 months in jail
- Jail – makes it a criminal case
- Coercive contempt is civil



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