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June 26, 2022

SENT VIA EMAIL TO:

ERIN E. KROM, RECORDS TECHNICIAN AT EKROM@NORTHPORTPD.COM &
N.R. "RICK" FITZGERALD, RECORDS MANAGER AT RECORDS@NORTHPORTPD.COM

Re: EXHIBIT "A" - PUBLIC PROPERTY TRESPASS WARNING APPEAL

Issued to: Michael A. Messina
Case No.: 22034472

To Whom it May Concern:

Please be advised that Mantoni Legal, P.A. represents the interests of Michael A. Messina, in appealing and disputing the Written Notice of Public Property Trespass Warning, because no trespass occurred.

My Client entered 4970 City Hall Blvd (the "Property" and/or the "Premises"), with the express permission and consent of Derek Applegate. In fact, Mr. Applegate opened the door of the Premises, (after my Client knocked), and stepped to the side to allow my Client to enter the building. At no time did Mr. Applegate, nor anyone acting on his behalf, ask my Client to leave the Property. In fact, Mr. Applegate asked my Client to step into the reception area and await the plans examiner, Mr. David Forbes, the person with whom my Client was there to speak. As my Client waited for Mr. Forbes in the reception area, as requested, to his surprise numerous officers arrived at the scene.

By way of brief background: prior to my Client arriving at the Property, he was on the telephone with Mr. Forbes. Mr. Forbes started cursing and screaming at my Client and, in fact, told my Client to come down to the Property in order to address the permitting issue my Client was attempting to address with him over the phone. My Client did not want to drive to the Property but was instructed to do so by Mr. Forbes. My Client has two witnesses who heard the entire conversation with Mr. Forbes, who was on speaker, and can attest to the fact that Mr. Forbes was rude and confrontational and initiated the hostile conversation during which he was screaming and cursing at my Client.

Interestingly, this is not the first incident other contractors have had with Mr. Forbes. My Client also has several witnesses who can attest to the fact the Mr. Forbes has initiated hostile and aggressive communications with them also - escalating what should be professional conversations into cursing and unprofessional dialogues.

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My Client must frequent the Property in order to address permit related matters for his business and prohibiting him from doing so will negatively interfere with his business practices and undoubtedly cause him and his company financial harm.

There are no legal grounds or justification to issue my Client a trespass warning or deny him access to the Property under these facts. This is a public building, which my Client has, and had, the right to enter and access. Mr. Applegate authorized my Client's entry into the building and never asked him to leave. No trespass occurred. Accordingly, we are respectfully asking that this Trespass Warning be revoked and discharged.

Duty to Preserve

This letter shall further serve as notification that you are under a duty to preserve all records, documentation and information you may have concerning this matter. This includes not only written records and documentation, but also video recordings and electronically stored information such as e-mails and all attachments thereto. Failure to immediately take steps to preserve all such records and information, and cease the destruction or deletion thereof, may constitute actionable conduct on your part and result in sanctions for spoliation of evidence against you.

Regards,



Jennifer Manton
jlm@mantonilegal.com

Cc:

Alaina Ray - Neighborhood Development Services Director at aray@cityofnorthport.com

Derek Applegate - Neighborhood Development Services Assistant Director/Building Official at daaplegate@cityofnorthport.com

David Forbes, Mechanical Plans Examiner & Inspector, at dforbes@cityofnorthport.com

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