



**CITY OF NORTH PORT**  
SARASOTA COUNTY, FLORIDA  
4970 City Hall Boulevard  
North Port, FL 34286

City of North Port # \_\_\_\_\_

**APPEAL OF PUBLIC PROPERTY TRESPASS HEARING**

**DAVID WINSTON**

Appellant,

vs.

**CITY OF NORTH PORT, FLORIDA**

Appellee.

**ADDRESS OF VIOLATION:**

**6207 West Price Boulevard**

**North Port, Florida 34287**

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CASE NO.: 22-017820

**MOTION FOR REHEARING**

The City of North Port, Florida, Appellee, files this Motion for Rehearing as Appellant was not properly served with the Notice of Hearing, and the Appellee moves the Hearing Officer to issue a Notice of Rehearing on the Appeal of Public Property Trespass, and as grounds state as follows:

**STATEMENT OF FACTS**

1. On May 26, 2022, a Final Hearing of Appeal was heard by the Hearing Officer, pursuant to a public property trespass warning issued by the City of North Port Police Department, pursuant to Section 46-2 of the Code of the City of North Port, Florida ("City Code"). Appellant did not attend the Final Hearing.
2. After considering testimony, reports, and other documentary evidence presented at the Final Hearing, the Hearing Officer denied the appeal finding the Appellee presented clear and convincing evidence that the Officer had sufficient probable cause to determine the Appellant committed the violation at the location. Consequently, the Hearing Officer found the trespass warning was properly issued pursuant to the criteria set forth in Section 46-2 of the City Code.

3. On July 13, 2022, Appellee was notified that Appellant had not received the Notice of Hearing.
4. Appellee determined that the Notice of Hearing was not sent to Appellant's current address.  
Appellant's current address is now correct in Appellee's database.
5. The Appellant was unable to be reached regarding the Motion for Rehearing but will receive proper service via U.S. mail if the motion is granted.

#### **AUTHORITY**

1. Pursuant to City Code Section 46-2(d)(2), the Notice of Hearing is properly provided pursuant to the requirements in Florida Statutes Section 162.12, and the City provides written notice of the hearing to the appellant through one of the following methods:
  - a. *Hand delivery.* Providing a copy of the notice of hearing by hand delivery to appellant at the time appellant submits their notice of appeal in person;
  - b. *Posting.* By posting the notice of hearing at least ten days prior to the hearing at the North Port Police Department, at city hall, and at the property upon which the violation is alleged to have occurred. Proof of posting shall be as provided in F.S. § 162.12; or
  - c. *Certified mail.* By certified mail, return receipt requested, to the appellant. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described herein.
2. Pursuant to City Code Section 2-512, a party may request a rehearing within ten days from the date the Hearing Officer mails its order. While the Appellee's motions is outside the City Code's ten day requirement, the parties respectfully request the Hearing Officer grant the rehearing based on improper service of the Notice of Hearing.

**CONCLUSION**

**WHEREFORE**, the parties respectfully move the Hearing Officer to Grant this Motion for Rehearing and set a hearing date.

Respectfully submitted this 29<sup>th</sup> day of July 2022.

Respectfully submitted,

/s/ Katlyn Coughlin

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ATTORNEYS FOR APPELLEE  
CITY OF NORTH PORT, FLORIDA

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of this MOTION FOR REHEARING has been furnished to Appellant this 29<sup>th</sup> day of July 2022.



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**ORDER ON MOTION FOR REHEARING**

THIS CAUSE having come before this Hearing Officer for consideration on the Motion for Rehearing for **David Winston**, and appropriate notice having been given, it is hereby, ORDERED AND ADJUDGED as follows:

\_\_\_\_\_ ORDERED that the Motion is GRANTED. The City is directed to set the hearing on the next available Code Enforcement docket.

\_\_\_\_\_ ORDERED that the Motion is DENIED.

DONE AND ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2022. in City of North Port, Sarasota County Florida.

\_\_\_\_\_  
Hearing Officer