

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA

ROBERT LITTELL and  
RAMONA LITTELL,

Appellants,

v.

THE CITY OF ORLANDO, FLORIDA,

Appellee.

---

CASE NO.: 2017-CV-000041-A-O

An appeal from a decision of the  
Code Enforcement Board,  
City of Orlando, Florida.

Christopher C. Cathcart, Esquire,  
for Appellants.

Victoria Cecil Walker, Esquire,  
for Appellee.

Before APTE, KEST, and CARSTEN, J.J.

PER CURIAM.

Appellants Robert and Ramona Littell challenge the order reducing penalty entered by the Code Enforcement Board of the City of Orlando. We reverse and remand for further proceedings.

Appellee City of Orlando, in its response to appellants' motion to compel production of recording, acknowledges that it is "unable to produce" a tape that would have contained a recording of the second part of the Code Enforcement Board meeting, and "most likely the remainder of Appellants' case." Thus, Appellee proposes that Appellants' request for reduction of penalty be heard again by the Code Enforcement Board, and states it "will ensure that this proceeding will be properly recorded on tape." Appellee adds that if, after rehearing, Appellants

“are not satisfied with the Board’s second ruling on their request, then they may appeal it to this Court anew.”

Under Florida law, the proper remedy in these circumstances is a hearing de novo. *See, e.g., Alexander v. Fla. Dept. of Revenue*, 174 So. 3d 1127 (Fla. 1st DCA 2015) (reversing and remanding for hearing de novo when transcript of the administrative proceeding that resulted in the order on appeal could not be produced due to malfunction in recording equipment).

Accordingly, we reverse and remand for a hearing de novo on Appellants’ request for reduction of penalty. As Appellee suggests, if Appellants are not satisfied with the Code Enforcement Board’s ruling after the hearing de novo, they may appeal again to this Court.

REVERSED and REMANDED for further proceedings.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
ALAN S. APTE  
Presiding Circuit Judge

KEST and CARSTEN, J.J., concur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing order was furnished on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, to the following: Christopher C. Cathcart, Esquire, Cathcart Law Group, P.A., 225 S. Westmonte Drive, Suite 1160, Altamonte Springs, FL 32714; Victoria Cecil Walker, Esquire, Assistant City Attorney, Orlando City Hall, 400 S. Orange Avenue, Orlando, Florida 32801.

\_\_\_\_\_  
Judicial Assistant