

City of Sacramento

Legislation Text

File #: 2021-00378, Version: 1

Title:

Appointment of Hearing Examiners for Code Compliance Hearings

File ID: 2021-00378

Location: Citywide

Recommendation:

Pass a Motion pursuant to Sacramento City Code section 1.24.050 appointing Sheila Byars, Barbara Dellamarie, Darin Noonan, and Christopher Wooten as hearing examiners to hear appeals of administrative penalties, monitoring fees, Notice and Orders, and other enforcement matters for violations of the Sacramento City Code for a four-year term effective May 1, 2021.

Contact: Tina Lee-Vogt, Program Manager, (916) 808-2679, Community Development Department

Presenter: None.

Attachments:

1-Description/Analysis

2-Hearing Examiner Applications

Description/Analysis

Issue Detail: Various chapters of the Sacramento City Code provide appeal of administrative penalties, monitoring fees, and Notices and Orders imposed for code violations, and staff decisions which otherwise would be heard by the City Council. Under City Code section 1.28.010 (D)(4)(c), administrative penalty appeals shall be heard by a hearing examiner appointed by the City Council. The Community Development Department Code Compliance Division conducts bi-monthly code compliance hearings for administrative penalties issued by its building inspectors and code enforcement officers for code violations and failure to comply with a Notice and Order after the owner was given a preliminary notice of the violations. However, the subject matters of these hearings have expanded to include cases involving decisions of other city departments and divisions, including Animal Control, Police, Fire, Urban Forestry, and Solid Waste, being appealed. Additionally, although hearing examiners routinely hear code violation cases, they are also utilized by other city departments when an independent decision is necessary, such as Department of Utilities for service disconnections and the Revenue Division for fee collections.

For code violations resulting in an administrative penalty, the hearing examiner can affirm the

administrative penalty amount, reduce the penalty to a lower amount, or find that imposition of the penalty is not warranted. The hearing examiner's decision is based on the evidence presented, the costs of the correction, and the appellant's financial situation. The hearing examiner has the discretion to impose a lower, but not a higher penalty amount. In making the decision, the hearing examiner considers evidence presented by all witnesses, the seriousness of the violation, the responsible party's efforts to correct the violation, the impact on the neighborhood, any instances in which the responsible party has been in violation of the same or similar code provisions in the previous three years, and the amount of city staff time which was expended investigating and addressing the violation. In accordance with City Code Section 1.24.090, decisions made by the hearing examiner are final.

Hearing examiner openings were posted on the City Clerk Boards and Commissions recruitment website. Four applications were received and validated and are included in Attachment A. The applications were reviewed by the Community Development Department staff and applicants were interviewed by the Code and Housing Enforcement Chief. Based on their qualifications, experience, and interview, it was determined that all the applicants were qualified to serve as hearing examiners and would be able to provide fair decisions.

Once appointed, hearing examiners cannot be removed during their term unless they fail to meet the requirements of a hearing examiner such as not properly administering the hearing, failing to issue decisions that are based on the facts disclosed at the hearing, or if they are unable to continue serving due to scheduling conflicts, health conditions, or similar reasons. Staff is recommending appointment of hearing examiners to a four-year term. Hearing examiners could apply to be reappointed and the end of their term. There are no term limits for hearing examiners or limit to the number that may be appointed.

Policy Considerations: None.

Economic Impacts: Not Applicable.

Environmental Considerations: Not Applicable.

Sustainability: Not Applicable.

Commission/Committee Action: Not Applicable.

Rationale for Recommendation: Hearing examiners are necessary to ensure due process for appeals of administrative penalties. They are non-city employees who conduct hearings and issue opinions based on findings of fact.

Financial Considerations: The rate for hearing examiners for code compliance hearings is \$50.00 per hour. This rate applies to review of the hearing packet, the hearing length, and the time to review

the evidence and prepare the decision. Hearing costs are partially offset by hearing appeal fees. There are sufficient resources in the Fiscal Year 2020/21 Community Development Department Operating budget to fund the hearing costs.

Local Business Enterprise (LBE): Not Applicable.