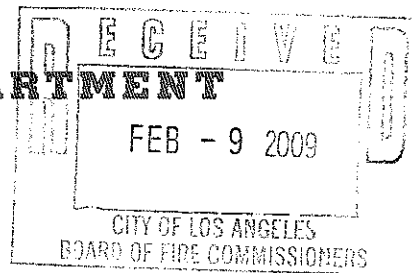


FEB 17 2009

LOS ANGELES FIRE DEPARTMENT



DOUGLAS L. BARRY
FIRE CHIEF

January 23, 2009

Board of Fire Commissioners
File No. **09-015**

TO: Board of Fire Commissioners
FROM: Douglas L. Barry, Fire Chief *DLB*
SUBJECT: **2008 BRUSH CLEARANCE APPEALS PROCESS AND APPOINTMENT OF THE HEARING OFFICERS**

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

Recommendations: That the Board:

1. Approve starting the appeal process in April 2009 regarding the Noncompliance Fee and Brush Clearance costs from the 2008 Brush Clearance Season.
2. Approve the appointment of Paula Petrotta, Lloyd Heyne, and Gary Mattingly as the designated hearing officers.

Summary:

The Fire Department, in accordance with Los Angeles Municipal Codes, 57.03.05 and 57.21.07, will mail invoices to property owners for the Noncompliance Fee and for Brush Clearance cost in the latter part of January 2009. Enclosed with each invoice is an appeal request form, which gives the property owner an opportunity to challenge all charges or penalties associated with the brush clearance process.

The hearing officer, as the designated representative for the Board of Fire Commissioners, will be responsible for determining whether the Fire Department has met its obligation to provide the property owner with due process in disputing the brush clearance process and charges.

The Board of Fire Commissioners has traditionally not presided over the appeal process but instead has opted to appoint qualified individuals as their representative for these proceedings. Generally, the Board of Fire Commissioners uses two hearing officers and one alternate hearing officer to preside over the appeal process.

As established in the Los Angeles Municipal Code, Section 57.03.05 regarding noncompliance fees, once a property is inspected and found to be in noncompliance, a reinspection date is scheduled. Upon reinspection of the property, if the property remains in noncompliance, the property owner is responsible for a noncompliance fee for all subsequent inspections. Property owners assessed a noncompliance fee are required by municipal code to appeal their assessment to the Board of Fire Commissioners in writing.

Los Angeles Municipal Code, Section 57.21.07 regarding Brush Clearance Appeals only, provides that the Board of Fire Commissioners will review the decision proposed by the hearing officer and present its recommendation to the City Council for review. The Code also provides that the City Council shall adopt or refer the matter for further hearing. The City Council may conduct any further hearings itself or may require the hearing officer to do so. The hearing officer and the Fire Department have no further ability to modify or reverse the proposed decision unless directed to do so by either the Board of Fire Commissioners or the City Council.

The appeals hearings are tentatively scheduled to begin in April 2009. This will allow enough time for the report and proposed decisions to be submitted to the Board of Fire Commissioners and to City Council for review as required by municipal code.

Findings:

Mr. Lloyd Heyne has acted as hearing officer for the Fire Department in Fiscal Year 2005-06 and Fiscal Year 2006-07, and has proven to be a highly qualified individual. He is a retired City employee who's last worked assignment was with the central Personnel Department as the Department's Budget Officer.

Ms. Petrotta was appointed in Fiscal Year 2007-08 as a hearing officer for the Fire Department and she has proven to be a highly qualified individual. In her last position before retiring, she was the Director of the Commission on the Status of Women where she was responsible for formulating policies, programs, special projects, and legislation for adoption concerning issues addressing the needs and problems of women in Los Angeles. Before her appointment with the Commission on the Status of Women, Ms. Petotta served for more than a decade in the Mayor's Office (Tom Bradley) where she was the liaison for the Fire Department, Library, and Convention Center.

Mr. Gary Mattingly is the newest hearing officer who will serve as a representative for the Board of Fire Commissioners if appointed. Mr. Gary Mattingly's last position with the City before retiring was General Manager and administrative head of the Los Angeles City Fire and Police Pensions Department. In this capacity, he supervised 95 employees and reported directly to the Fire and Police Pension's Commission.

Conclusion:

The Brush Clearance Unit is prepared to handle all associated administrative responsibilities necessary to complete the 2007 Brush Clearance Appeals. If the Board wishes to avail themselves of the services of Lloyd Heyne, Paula Petrotta, and Gary Mattingly as the designees, the Fire Department will proceed with the necessary arrangements to accomplish this.

Board report prepared by Robert Knight, Captain II, Brush Clearance Unit.

Attachment

HEARING OFFICER FOR THE LOS ANGELES FIRE DEPARTMENT
Valley Fire Prevention- Brush Clearance Unit
Classification Code: 1328

Location: Los Angeles Fire Department
6262 Van Nuys Boulevard, Suite 451
Van Nuys CA 91401

INTRODUCTION:

The City of Los Angeles Fire Department, Brush Clearance Unit, is seeking qualified Hearing Officers who will be responsible for conducting an impartial hearing pertaining to facts presented by the Fire Department and property owners. The Hearing Officer as the designated representative for the Board of Fire Commissioners will be responsible for determining whether the Fire Department has met its obligation to provide the property owner with due process in disputing the brush clearance process and charges.

HISTORY

The Brush Clearance Unit is responsible for enforcing compliance with the Los Angeles Brush Clearance Ordinance, LAMC 57.03.05 and 57.21.07. Beginning in May of each year, approximately 130,000 land parcels identified in the Very High Fire Hazard Severity Zones are inspected by the Brush Clearance Task Force. Properties not in compliance with the ordinance are issued a *Notice of Noncompliance* indicating the violation(s) found during the inspection by the Fire Department. Property owners are given 15 days to complete the work described on the *Notice of Noncompliance*.

The property is automatically reinspected; and if work is completed by the second inspection (reinspection), a Cleared-by-Owner (CBO) is issued. If not, then a *Second Notice of Noncompliance* is issued along with a City Attorney Hearing letter giving the property owner an opportunity to discuss the Second Notice of Noncompliance. At this time the property is also subjected to being charged a Noncompliance Fee.

Those properties issued a Second Notice of Noncompliance and City Attorney hearing letter will be reinspected to determine if the property owner has complied with the ordinance. If not, then the property is posted with a *Notice to Abate a Fire Nuisance* and a work order is written by the Inspector to have the property cleared by a contractor and the property owner is billed for the clearance costs, plus an additional administrative fee for processing the contract. If not paid, these assessments (Noncompliance Fee, brush clearance cost, and the administrative fee) will be forwarded to the County Tax Assessor for collection.

SCOPE OF RESPONSIBILITIES:

The Board of Fire Commissioners appoints the Hearing Officers as its representatives in the appeals proceedings. The Hearing Officer must weigh and decide the pertinent facts and render a Proposed Decision and Recommendation that will be submitted to the Board of Fire Commissioners.

The Hearing Officer should have the following experiences and abilities:

- Must have two-year experience as participant in administrative hearings with public entities.
- Must be familiar with Los Angeles Municipal Code §57.03.05 and §57.21.07.
- Ability to interpret those Sections to deliver a ruling on both weed abatement verbal appeals and the noncompliance written appeals.
- Decides whether the appellant is liable or not liable for payment of fines or assessments after evaluating the evidence in accordance with the Los Angeles Municipal Code.
- Must have a laptop computer available to use during the proceedings and be familiar with Microsoft Word.
- Must submit written reports within two-weeks of the conclusion of Brush Clearance Assessment hearings and/or after the Noncompliance Fee Appeals.
- Must partake in an orientation session.
- Every Hearing Officer is expected to maintain the highest standard of professional decorum. To that end, Hearing Officers shall give their full attention to the proceedings.

ORIENTATION

Perspective Hearing Officers will be required to attend an orientation. That is generally 3-4 hours long. The purpose of the orientation/training is to familiarize the Hearing Officer with the Brush Clearance Program, Los Angeles Municipal Code, policies, and procedures of the Fire Department.

COMPENSATION:

The Hearing Officer is compensated on a per diem rate for Brush Clearance Assessment Appeals as follows:

- Attendance at the orientation.
- Noncompliance appeals- Hearing Officers are required to complete two reports per hour and not to exceed 16 reports per day. Example, if given 100 Noncompliance Fee appeals, Hearing Officer will be paid for 50 hours or 100 reports divided by 2 per hour equaling 50 hours of work (100 reports / 2 reports per hour = 50 hours of pay).
- Brush Clearance Assessment Appeals- two hearing officers will preside over the verbal hearings and prepare a *Proposed Decision and Recommendation* for Fire Commissioners. The Hearing Officers are paid for hearing one appeal per hour and

for the report. All reports are due 14-days from when they were assigned or otherwise specified by the Fire Department.

DISTRIBUTION OF CASES

There are two types of cases where the Hearing Officer will review and render a proposed recommendation. The first is the Noncompliance Fee Appeal, which is a written appeal and the second is the Brush Clearance Assessment Appeal, which is verbally presented by the property owner or its representative. The Fire Department makes every effort to give the Hearing Officer an equal number of appeals.

- **Noncompliance Fee Appeals (Written Appeals):**

Generally, the Fire Department receives a larger amount of Noncompliance Fee Appeals compared to the Brush Clearance Assessment Appeals. The average number of Noncompliance Appeals is between 200 and 300.

- **Brush Clearance Assessment Appeals (Verbal Appeals):**

The Brush Clearance Assessment Appeals average between 100 to 150 verbal appeals per year. No more than eight (8) cases are heard per day, with forty-five (45) minutes given per case. Each appellant is given one-half hour to present their case, which allows the Hearing Officer the remaining fifteen (15) minutes to prepare their Proposed *Decision and Recommendation*.

REPORTS

The Brush Clearance Unit has developed a standard template to be used by the Hearing Officer. The template is downloaded onto a 3 ½ Floppy Disc. A template contains pertinent information related to the property such as the owner's name, mailing address, cited property address, Assessor's Parcel Number (APN), assessment amount, inspection dates, and actions taken by the Fire Department.

The Hearing Officer will be responsible for completing the following sections of the template:

- *Substance of Protest*
- *Proposed Decision and Recommendation.*

The hearing officer will complete the aforementioned sections and submit all reports by a specified due date.