

LOS ANGELES FIRE DEPARTMENT



WILLIAM R. BAMATTRE
FIRE CHIEF

February 20, 2006



TO: The Honorable Board of Fire Commissioners
City of Los Angeles

FROM: William R. Bamattre, Fire Chief

SUBJECT: APPROVAL FOR HEARING OFFICERS AND THE
2005 BRUSH CLEARANCE APPEAL HEARINGS

SUMMARY

The 2005 Brush Clearance Appeal Hearings are scheduled to begin April 2006. Traditionally, the Board of Fire Commissioners have utilized Hearing Officers as their designee due to the large number of appeals and strict time schedule being adhered to in order to place an assessment on the owner's Annual Property Tax Bill. The Fire Department has developed a list of qualified individuals selected as Hearing Officers and placed on a rotational schedule as required by the City Attorney. These qualified individuals have current or previous experience conducting administrative hearings. The Fire Department has selected Mr. David Shapiro and Ms. Patricia Heyne as this year's designated Hearing Officers and Mr. Lloyd "Jim" Heyne as the alternate Hearing Officer.

RECOMMENDATIONS

1. That the Honorable Board of Fire Commissioners approve the 2005 Brush Clearance Appeal Hearings scheduled to begin April 2006.
2. That the Honorable Board of Fire Commissioners approve the appointment of Mr. David Shapiro and Ms. Patricia Heyne as the designated Hearing Officers and Mr. Lloyd Heyne as the alternate Hearing Officer.

FINDINGS

On December 1, 2005, the Brush Clearance Unit held its last bid session for the 2005 Brush Clearance Season. Invoices setting forth the cost of abatement, Administrative Fee, and/or a Noncompliance Fee were mailed to property owners. A letter informing the property owner of the appeals process was included with these invoices. These letters describe both the Brush Clearance Verbal Appeal process and the Written Appeal process with instructions on filing this request to schedule a Brush Clearance Appeal Hearing.



Inspection Process

The process in which the Fire Department enforces the Fire Code is through field inspections. Properties found not in compliance with the Fire Code during the initial inspection will be issued an F-1308 Notice of Noncompliance indicating the violations found.

A follow-up inspection is conducted after 15 days, and if the nuisance has not been abated, then an F-1308 Second Notice is issued that is accompanied with a letter from the City Attorney. At this point, the property owner is charged a Noncompliance Fee of \$254.

A final inspection of the property is made to determine if the property owner has complied with the Los Angeles Municipal Code. If the property owner has complied, then a "Cleared-by-Owner" record is mailed to the property owner and no further action is taken. However, if the property owner has not complied to abate the public nuisance, the Fire Department will prepare a work order to have the property cleared by a private contractor. The property owner is then billed for the clearance cost in addition to an Administrative Fee of \$314 for processing the contract.

Appeals Process

The Fire Department's Brush Clearance Appeal Hearings process utilizes two different formats in accordance with the Los Angeles Municipal Code, the Noncompliance Written Appeal and the Brush Clearance Verbal Appeal.

The Noncompliance Written Appeal is in the form of a questionnaire and is included with the Noncompliance Fee invoice. It is a simple questionnaire that requires the property owner to answer "yes" or "no" to approximately half of the questions and the other half require the property owner to fill in blank spaces. The Hearing Officer reviews this Appeal to make a proposed decision and recommendation. Prior to the Board of Fire Commissioners processing the Appeal and making a determination, the appellant must submit an Appeal-Processing Fee of \$50.

The Brush Clearance Verbal Appeal is presented to the Hearing Officer. The property owner may appear before the Hearing Officer at the time, date, and location specified on the Brush Clearance Property Assessment Appeal Information Letter. On that date, the property owner will be given the opportunity to present evidence to show cause why the property should not be assessed for the cost of abatement or not be assessed in the amount specified on the invoice.

The Hearing Officer will consider the evidence, the report setting forth the cost of the abatement, and receive testimony from Fire Departmental personnel with respect to the existence of a nuisance and cost of abatement. After the Hearing has been closed, the Hearing Officer will prepare a report and proposed decision and recommendation to be presented to the City Council based on all of the evidence presented at the Hearing. The report identifies and includes the name and mailing address of the owner of each parcel from which a public nuisance was abated. The Hearing Officer will include its findings, conclusion, proposed decision, and recommendation in its report to the Council with respect to each parcel and whether the proposed assessment should be: (1) confirmed in the amount set forth in the invoice, (2) disallowed, or (3) confirmed in an amount less than set forth in the invoice. In each Hearing, the Hearing Officer must give the reasons for his or her proposed decision and recommendation.

The Brush Clearance Appeal Hearings are held at 6262 Van Nuys Boulevard, Van Nuys California, Monday through Friday, from 8:00 a.m. to 3:30 p.m.

Hearing Officers

A recent California Supreme Court decision "Haas v. County of San Bernardino" required City departments that conduct administrative hearings with non-City employees to review their procedures for selecting Hearing Officers. This is to ensure that the selection, retaining, and rotating of Hearing Officers complies with this mandated case.

The case mandates that when using Hearing Officers, each department must implement a process that avoids the appearance that the Hearing Officer may favor the City in hopes of obtaining future employment with the City. Based upon the Court's decision, the City Attorney prepared methods that City departments may employ in their selection of Hearing Officers such as:

1. Appointing Hearing Officers for a set time period, with the provision that at the end of that time, their services will not be used for a set number of years.
2. The department may appoint Hearing Officers from a list of potential Hearing Officers who will hear cases assigned in a pre-ordained, rotational manner.
3. When the number of cases is relatively small, departments may hire one Hearing Officer for a specific time period that will be used for all cases for the term of service.

The Fire Department has taken steps to comply with the City Attorney by establishing a list of five Hearing Officers that are assigned in a pre-ordained, rotational manner not to exceed two consecutive years of service at a time. The Fire Department has established policies and procedures that have been reviewed and approved by the Board of Fire Commissioners.

The Fire Department has utilized the services of the following four qualified individuals for previous Brush Clearance Appeal Hearings:

1. Mr. Lloyd "Jim" Heyne is a retired Senior Personnel Analyst II. Mr. Heyne was employed with the Personnel Department for the last nine years as the Budget Officer, Chief Accounting Employee, and Contract Compliance Officer.
2. Ms. Patricia Heyne is a retired Senior Personnel Analyst II. Ms. Heyne trained and supervised five Senior Personnel Analyst who were Management Advocates in Civil Service Appeal and Arbitration Hearings. Ms. Heyne worked 15 years as a Management Advocate preparing and presenting cases before an arbitrator. Her staff also chaired Skelly Hearings and investigated EEO/Sexual Harassment complaints.
3. Mr. Jess Miller is a retired Senior Management Analyst II. Mr. Miller worked for the Administrative Services Section of the Department of Recreation and Parks. Mr. Miller was responsible for the Department's Minority and Women Business Enterprise Outreach Program and the preparation and evaluation of the Request for Proposal process.
4. Mr. David Shapiro is a practicing Attorney with the private law firm of Lewis, Brishois, Bisgaard & Smith, LLP. He was admitted to the State Bar of California in 1982. Mr. Shapiro has several years of experience as Hearing Officer for the Fire Department and Police Department.

CONCLUSION

The Brush Clearance Unit is prepared to handle all associated administrative responsibilities to complete the 2005 Brush Clearance Appeal Hearings. If the Honorable Board of Fire Commissioners wishes to avail themselves the services of Mr. David Shapiro and Ms. Patricia Heyne as the designated Hearing Officers and Mr. Lloyd Heyne as the alternate Hearing Officer, the Fire Department will proceed with the necessary arrangements to begin the 2005 Brush Clearance Appeal Hearings.

Respectfully submitted,



WILLIAM R. BAMATTRE
Fire Chief