

MAY 04 2010

LOS ANGELES FIRE DEPARTMENT



MILLAGE PEAKS
FIRE CHIEF

April 20, 2010

BOARD OF FIRE COMMISSIONERS
FILE NO. 10-033

TO: Board of Fire Commissioners

FROM: Millage Peaks *mls*

**SUBJECT: 2009 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 Withdrawn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 on May 10, 2010 regarding the Noncompliance Fee and Brush Clearance costs from the 2009 Brush Clearance Season.
2. Approve the appointment of Erika Holmes, Kelly O'Brien, and Adam Kretzmar as the designated Hearing Officers.

SUMMARY:

The Fire Department, in accordance with Los Angeles Municipal Codes, 57.03.05 and 57.21.07, is responsible for enforcing municipal fire codes. If the property owner fails to comply with the order to abate a fire nuisance, the municipal codes allows the Fire Department to bill the owner of record for the cost of removal, or other abatements, which includes the administrative cost of processing the contract.

An invoice is sent to the property owner by way of the United States Postal Service and included 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 owner may appear before a Hearing Officer at the time, date, and location specified in the notice, or may request to appear at an alternate later time and/or date. The Board of Fire Commissioners, or its designee, act as the City's Hearing Officer and conduct a hearing, consider the report setting forth the cost of abatement, receive testimony from the departmental personnel and consider the testimony and other evidence of property owners who appear at the hearing.

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 three Hearing Officers to preside over the appeal process. The Hearing Officer as the designated representative for the Board of Fire Commissioners is responsible for determining whether the Fire Department has met its obligation to provide the property owner with due process in disputing the brush clearance or fire prevention process and any assessed charges. The Hearing Officer Bulletin advertised the position under the title of "Hearing Officer (1328)" and is paid at an hourly rate of \$25.38 - \$31.54. Each Hearing Officer would be an "As Needed" hire, and will be paid under the Salaries As Needed Account, 107. Typically, Hearing Officers have been utilized for a period of three to four weeks.

The Fire Department met with Janet Jackson from the City Attorney's office and Fire Personnel Services Section to discuss the various aspects of the appeals process regarding the selection of Hearing Officers, ethics and conflict, and legal requirements. Based on this discussion, the Fire Department conducted an extensive outreach plan to search for the most qualified individuals. A job announcement bulletin was released, inviting candidates to apply for an examination consisting of submitting a resume, a writing sample, and participating in an oral interview examination. At the Conclusion of this examination process, the top three candidates were selected.

FINDINGS:

Erika Holmes scored the highest of all candidates interviewed. She holds a law degree from Northwestern University School of Law and has worked for several law firms. She worked for the Writers Guild of America and participated in collective bargaining agreement negotiations.

Kelly O'Brien served as an Administrative Law Judge for California Department of Social Services in Los Angeles, San Diego, and San Bernardino. She is also a member of the California Bar, practicing in California for 29 years in Juvenile Law, both Dependency and Delinquency including Criminal Law, Personal Injury, and Civil Litigation.

Allan Kretzmar holds a Juris Doctor Degree, a Master's Degree in Urban and Regional Planning. He is an experienced mediator, having obtained training through the City of Los Angeles City Attorney's Office. He has also served as a Hearing Officer for the City of Bellflower conducting hearings for the public to contest parking citations.

CONCLUSION:

The Brush Clearance Unit is prepared to handle all associated administrative responsibilities necessary to complete the 2009 Brush Clearance and Noncompliance Appeals. If the Board wishes to avail themselves of the services of Erika Holmes, Kelly O'Brien, and Allan Kretzmar as 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

SELECTION CRITERIA

HEARING OFFICER (1328) FIRE PREVENTION & PUBLIC SAFETY BUREAU LOS ANGELES FIRE DEPARTMENT

The City of Los Angeles Fire Department is seeking qualified individuals to serve as Hearing Officers in the Fire Prevention and Public Safety Bureau. Hearing Officers preside over impartial hearings pertaining to Fire Department Codes and Ordinances. These positions are on an "as-needed" basis and exempt from the Civil Service Provisions of the L.A. City Charter.

JOB LOCATION

The Valley Fire Prevention Office, 6262 Van Nuys Blvd., Van Nuys, CA 91401

SUMMARY OF DUTIES

The Los Angeles Fire Department is responsible for enforcing compliance with Los Angeles Municipal Codes 57.03.05 and 57.21.07. Fire Department inspections that are not in compliance with the ordinance are issued a Notice of Non-compliance, indicating the violations(s) found during the inspection. If the violation still exists upon re-inspection, a non-compliance fee and additional charges will be applied if the property owner or responsible party fails or refuses to comply. Property owners may appeal such charges to the Board of Fire Commissioners or their designee.

A Fire Department Hearing Officer is an appointed designee of the Board of Fire Commissioners who presides over appeal hearings. The Hearing Officer receives oral or broadly written assignments, determines the admissibility and applicability of evidence, and prepares written decisions based on fact-finding research and interpretation of laws and ordinances. The Hearing Officer's proposed decisions and recommendations are forwarded to the Board of Fire Commissioners for review and/or approval.

Duties consist of, but are not limited to the following:

- ❑ Conducts hearings, and interviews respondents and witnesses.
- ❑ Informs and advises respondents of their rights, applicable hearing procedures, and substantive provisions of Fire Code Ordinances.
- ❑ Reads, interprets and explains laws, codes, ordinances, departmental policies, and/or regulations related to Fire/Life and Safety violations to respondents and responsible parties.
- ❑ Determines the admissibility and applicability of evidence.
- ❑ Verifies information on violations and/or evidence presented by respondents through the use of personal computers, and various databases, such as the Vegetation Management and Integrated Inspection System, and others.

- ❑ After evaluation of evidence, determines if the respondent is liable for the charges assessed.
- ❑ Prepares and submits written proposed decisions and recommendations to the Board of Fire Commissioners for review and approval.

KNOWLEDGE

A good working knowledge of:

- ❑ Municipal Codes, laws, ordinances, rules and regulations related to fire prevention inspections.
- ❑ Knowledge of Los Angeles Fire Municipal Codes highly desired.
- ❑ Procedures used to locate specific sections of infrequently used laws, ordinances, rules and regulations related to Fire/Life and Safety, which may be applicable to a specific situation.
- ❑ Procedures for conducting administrative hearings on Fire Code violations to ensure that legal requirements are met.
- ❑ The type of information required on notices of noncompliance.
- ❑ Information necessary to make and support decisions on appealed citations.
- ❑ The appeals hearing process, including timelines and deadlines.
- ❑ Procedures used for entering information and accessing a variety of data based programs.
- ❑ Use of personal computers and word processing software.
- ❑ Conflict resolution techniques.

ABILITIES

- ❑ Communicate orally in a clear, concise and diplomatic manner.
- ❑ Explain laws, ordinances, rules and regulations, relating to notices of noncompliance.
- ❑ Discuss technical information, problems and solutions with supervisors, coworkers and other interested parties.
- ❑ Exercise appropriate judgment in answering questions and providing the required information to interested parties for appropriate action and/or resolution.
- ❑ Interact diplomatically with people from a variety of ethnic backgrounds or social-economic groups, under stressful situations.
- ❑ Obtain relevant information from appellants through logical and appropriate line of questioning.
- ❑ Handle each case in a fair, impartial and consistent manner without being influenced and/or distracted from a prior unpleasant incident in the same or different case.
- ❑ Analyze and identify relevant facts, while interpreting and applying provisions of the law and various legal principles to the evidence.
- ❑ Prepare written reports, including proposed decisions and recommendations.
- ❑ Work independently.

MINIMUM REQUIREMENTS

- ❑ *Graduation from a recognized four-year college or university is required.
- ❑ Two years of full-time paid professional experience performing duties in analyzing and applying laws and regulations, legislative analysis, administrative analysis, research procedures and personnel administration.
- ❑ A valid California driver's license may be required.

*Additional full-time paid experience in work related to conducting hearings, reading, interpreting and explaining laws, codes, ordinances, departmental policies and/or regulations, evaluating evidence, preparing written recommendations, and analyzing, interpreting and applying provisions of the law and various legal principles or education may be substituted on a year for year basis for the required Bachelor's Degree.

Persons with disabilities may be able to perform the essential duties of this class with reasonable accommodation. Reasonable accommodation will be evaluated on an individual basis and depends, in part, on the specific requirements for the job, the limitations related to the disability, and the ability of the hiring department to reasonably accommodate the limitation.