

May 17, 2011

# LOS ANGELES FIRE DEPARTMENT

MILLAGE PEAKS  
FIRE CHIEF

April 28, 2011

BOARD OF FIRE COMMISSIONERS  
FILE NO. **11-067**

TO: Board of Fire Commissioners

FROM: Millage Peaks *ell. P*

**SUBJECT: 2010 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 Withdrawn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 23, 2011 regarding the Noncompliance Fee and Brush Clearance costs from the 2010 Brush Clearance Season.
2. Approve the appointment of Kelly O'Brien, Adam Kretzmar and Janice Irving 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 and this 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 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:**

Kelly O'Brien scored the highest of all candidates interviewed. She has 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 30 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.

Janice Irving holds a Master of Science Degree in School Administration and has an extensive background in labor-management arbitration. She has served as an independent hearing officer and arbitrator for the Los Angeles Police Department, Los Angeles Fire Department, US Postal Service and the County of Los Angeles.

**CONCLUSION:**

The Brush Clearance Unit is prepared to handle all associated administrative responsibilities necessary to complete the 2010 Brush Clearance and Noncompliance Appeals. If the Board wishes to avail themselves of the services of Kelly O'Brien, Allan Kretzmar and Janice Irving 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

## Hearing Officers

- ❑ Conducted an extensive outreach plan to seek qualified hearing officers. Job Announcement Bulletin and the Citywide Employment Opportunity Network.
- ❑ Candidates were instructed to submit a resume, writing sample and participate in an oral interview examination conducted by Captain Robert Knight of the Brush Clearance Unit and Ms. Janet Jackson of the City Attorney's Office.
- ❑ 7 individuals applied for the position and the top three candidates were selected. Ms. Kelly O'Brien, Mr. Allan Kretzmar, and Ms. Janice Irving.
- ❑ Candidates were evaluated on their personal qualifications, organizational skills, computer knowledge, communication and writing skills.
- ❑ 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, municipal codes and procedures of the Fire Department.
- ❑ The Hearing Officers will be compensated on a per diem rate for Fire Prevention Assessment Appeals as follows:
  1. Hourly Rate of \$33.94
  2. Paid for orientation
  3. 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, the Hearing Officer will be paid for 50 hours or 100 reports divided by two per hour equaling 50 hours of work (100 reports / 2 reports per hour = 50 hours of pay).
  4. Brush Clearance Assessment Appeals – Hearing Officers are to preside over the verbal hearings and prepare a Proposed Decision and Recommendation for the 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.
- ❑ Currently the Fire Department has received 180 Noncompliance appeals and 190 Brush Clearance Assessment appeals.

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- Noncompliance Appeals Estimated Hours - 90 Hours
- Brush Clearance Hearings Estimate Hours - 190 Hours
- Total Number of Estimated Hours – 280 Hours
- Total Estimate Cost for FY 2010-11 - \$9,600.00