

LOS ANGELES FIRE DEPARTMENT




BRIAN L. CUMMINGS
FIRE CHIEF

March 30, 2012

BOARD OF FIRE COMMISSIONERS
FILE NO. 12-057

TO: Board of Fire Commissioners

FROM: Brian L. Cummings, Fire Chief 

SUBJECT: 2012 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 Withdrawn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 2012 regarding the Noncompliance Fee and Brush Clearance Assessment costs from the 2011 Brush Clearance Season.
2. Approve the appointment of Kelly O'Brien, Allan Kretzmar, and Ako B. Eluma 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 assess a penalty against the owner of record for the reinspection, the cost of removal of a public nuisance and the administrative cost of processing the contract.

An invoice is sent to the property owner by way of the United States Postal Service. Included with the invoice, is an appeals request form, which gives the property owner their due process to challenge all charges and penalties levied against them during 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)" is paid at an hourly rate of \$33.94. Each Hearing Officer would be hired "As Needed," and will be paid under the Salaries As Needed Account 1070. 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, ethics, conflict, and legal requirements regarding the selection of Hearing Officers. 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 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 Doctorate 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.

Ako B. Eluma holds a Juris Doctorate Degree and a Masters Degree in Public Policy and Management. Currently, Ms. Eluma is serving an internship with the City of Los Angeles Public Works Bureau of Contract Administration.

CONCLUSION:

The Brush Clearance Unit is prepared to handle all associated administrative responsibilities necessary to complete the 2012 Brush Clearance and Noncompliance Appeals. If the Board wishes to avail of the services of Kelly O'Brien, Allan Kretzmar, and Ako B. Eluma 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.