

April 22, 2014

LOS ANGELES FIRE DEPARTMENT



JAMES G. FEATHERSTONE
INTERIM FIRE CHIEF

April 2, 2014

BOARD OF FIRE COMMISSIONERS
FILE NO. 14-036

TO: Board of Fire Commissioners

FROM: James G. Featherstone, Interim Fire Chief

SUBJECT: 2014 BRUSH CLEARANCE APPEALS PROCESS AND APPOINTMENT
OF THE HEARING OFFICER

FINAL ACTION: ☐ Approved
☐ Denied

☐ Approved w/Corrections
☐ Received & Filed

☐ Withdrawn
☐ Other

SUMMARY

The Los Angeles Fire Department (LAFD), in accordance with Los Angeles Municipal Codes, 57.104.21.1 and 57.322.1, 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 allow the LAFD to 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 time and/or date. The Board of Fire Commissioners, or its designee, act as the City's Hearing Officer, conducting a hearing that considers the report setting forth the cost of abatement, receives testimony from departmental personnel and considers the testimony and other evidence of property owners who appear at the hearing.

The Board of Fire Commissioner 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 or 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 LAFD 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.

RECOMMENDATIONS

That the Board:

1. Approve starting the appeal process in April 2014 regarding the Non-Compliance Fee and Brush Clearance Assessment costs from the 2013 Brush Clearance Season.
2. Approve the appointment of David Shapiro, Allan Kretzmar, as the designated Hearing Officers with Karen Onifer, as an alternate.

FISCAL IMPACT

In order to advertise the position, the Hearing Officer bulletin is posted on the Personnel Department's website, under the title of "Hearing Officer (1328)." The position is paid at an hourly rate of \$33.94. Each Hearing Officer is hired, "As Needed," and will be paid under the "Salaries As Needed," Account 1070. This allows the LAFD more flexibility in scheduling hearings throughout various times of the year based on the number of appeal requests received. The LAFD typically receives approximately 275 to 350 requests for appeals each year and utilizes Hearing Officers for a period of three to four weeks. Revenue generated annually is between \$850,000 to over one million dollars, which includes the abatement costs, non-compliance and administrative fees. This amount is directly linked to the number of assessed properties.

DISCUSSION

The LAFD met with Janet Jackson, from the City Attorney's Office, and Fire Personnel Services Section to discuss the various aspects of the appeal process, ethics, conflict, and legal requirements regarding the selection of Hearing Officers. Based on this discussion, the LAFD conducted an extensive outreach plan to search for the most qualified individuals. A job announcement bulletin 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.

Mr. David Shapiro is a partner in a law firm with over 30 years experience in law. He possesses an extensive legal background including numerous jury and court trials. Mr. Shapiro is an experienced Hearing Officer for both the LAFD and Los Angeles Police Department and has received numerous awards.

Mr. Allan Kretzmar holds a law degree and possesses an extensive background in presiding over administrative hearings for the LAFD and City of Bellflower.

Ms. Karen Onifer (alternate), also has an extensive background as a mediator, consultant and presided over hearings for the LAFD.

CONCLUSION

The Brush Clearance Unit is prepared to handle all associated administrative responsibilities necessary to complete the 2014 Brush Clearance and Non-Compliance Appeals. If the Board of Fire Commissioners wishes to avail the services of David Shaprio, Allan Kretzmar and Karen Onifer, as designees, the LAFD will proceed with the necessary arrangements to begin the process to conduct these hearings.

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