



**Beverly Hills City Council Liaison / Sunshine Task Force
Committee will conduct a Regular Meeting, at the following time and place, and
will address the agenda listed below:**

**City Hall
455 North Rexford Drive
Conference Room 4A
Beverly Hills, CA 90210**

**Thursday, September 12, 2019
5:00 p.m.**

AGENDA

1) Public Comment

Members of the public will be given an opportunity to directly address the Committee on items not listed on the agenda.

2) An invitation for those who are joining the Task Force to introduce themselves and identify their areas of interest (Thomas White)

3) Follow Up from Previous Meetings

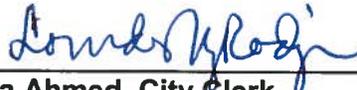
- Review of the legislative advocate form regarding who is the applicant (should be the actual owner or entity benefitting from the project) – the City Clerk’s Office is reviewing this information on submitted applications
- Installation of CART searchable software for public meeting access – IT to provide an update
- Community Development process for projects falling under the retaining walls and/or basement ordinances – City Attorney/Community Development to provide an update
- Revision of the legislative advocate registration form to include penalty of perjury statement that the lobbyists have notified residents impacted by the projects – City Clerk’s Office is working with the City Attorney’s Office and IT to add the penalty of perjury clause to the form
- Inclusion of attestation information (that includes listing of violations, team members, investors) on Planning Commission/Council agenda packets – Community Development/City Attorney to provide an update
- Add the Assessor’s Parcel Number (APN) to the legislative advocate form – City Clerk’s Office is working with City Attorney’s Office and IT to add this information on the form.

4) Transparency in the Legislative Advocate Administrative Hearing Process (Steve Mayer)
(The Legislative Advocate Registration Violation Administrative Hearing is scheduled for Wednesday, October 2, 2019 at 9:30am at City Hall Room 280B.)

5) Publication of Home Sharing Lawsuits (AirBNB) (Steve Mayer)

6) Community Outreach Plan for Planning Commission Agenda Reports (Steve Mayer)

7) Adjournment


pv Huma Ahmed, City Clerk

Posted: September 10, 2019

**A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW IN THE
LIBRARY AND CITY CLERK'S OFFICE.**



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TO: SUNSHINE TASK FORCE COMMITTEE MEMEBERS
FROM: STEVE MAYER
DATE: SEPTEMBER 9, 2019
RE: TRANSPARENCY IN THE LEGISLATIVE ADVOCATE
HEARING PROCESS

Introduction

With the announcement of the first Administrative Hearing of a Legislative Advocate, it has become obvious that additional policies need to be implemented via instructions to the Hearing Officer.

For a Legislative Advocate, the Administrative Hearing Process is governed primarily by BHMC 1-9-108 ("Remedies For Violations") and BHMC 1-3-318 ("Procedures At Administrative Hearing").

Policies Needed

There is currently a lack of written policy regarding transparency in the Administrative Hearing process of a Legislative Advocate.

The areas where the transparency is lacking are:

- ▶ The Administrative Hearing is conducted in a public forum
- ▶ The Hearing Officer materials are made public prior to the hearing
- ▶ The public has the opportunity to provide input
- ▶ No minimum prohibition guideline

It is proposed that instructions be provided the Hearing Officer to address these issues. Such proposed instructions are in Exhibit A.

Attachments

Exhibit A: Proposed Instructions To Hearing Officer

Exhibit B: Pertinent Code Sections

EXHIBIT A:

PROPOSED INSTRUCTIONS TO HEARING OFFICER

INSTRUCTIONS TO ADMINISTRATIVE HEARING OFFICER

(Legislative Advocate Administrative Hearings)

- (1) **PUBLIC HEARING.** The Administrative Hearing for a Legislative Advocate will be public:
 - (A) It will either be held in City Hall Room 280-A, the Municipal Gallery, and/or the Council Chamber;
 - (B) The Administrative Hearing will be streamed live and available on Beverly Hills Television (BHTV) and the City's website. It will also be available via a replay on the City's website

- (2) **PUBLIC DISCLOSURE.** The Administrative Hearing Officer shall make public all materials that will be potentially utilized at the Administrative Hearing:
 - (A) Available to the public at least *ten (10)* business days prior to the hearing
 - (B) Such materials will be made available on the City's website
 - (C) Such materials will also be emailed directly to those individuals who have so requested

- (3) **PUBLIC TESTIMONY.** Members of the public may testify at the Administrative Hearing:
 - (A) Any member of the public may provide testimony for up to three (3) minutes
 - (B) Both parties may cross examine such public members. Such cross examination will not count toward the three (3) minutes

- (4) **MINIMUM PROHIBITION.** While the BHMC defines 1-9-108 ("Remedies For Violations") maximum prohibitions, there is no guideline for a minimum:
 - (A) The guideline for the minimum prohibition is one day for every day out of compliance:
 - (1) If, for example, a Legislative Advocate filed 14 days late, the minimum prohibition would be 14 days

EXHIBIT B

PERTINENT CODE SECTIONS

CHAPTER 9
LEGISLATIVE ADVOCATES

(Excerpt)

1-9-108: REMEDIES FOR VIOLATIONS:

Pursuant to the administrative remedies and procedures set forth in chapter 3 of this title, any person who knowingly and willfully violates any provision of this article, may be assessed an administrative penalty not to exceed five hundred dollars (\$500.00) per violation.

Additionally, the City Prosecutor is delegated the authority to investigate any charge that a person has knowingly and willfully violated this article. If the City Prosecutor determines that there is probable cause to believe that a legislative advocate has knowingly, willfully and materially violated the provisions of this article, the City Prosecutor may request that the City conduct an administrative hearing to determine whether such a violation has occurred and, if so, whether the legislative advocate should be prohibited from engaging in legislative advocacy for a period of time.

Upon the request of the City Prosecutor, a Hearing Officer shall be retained and an administrative hearing shall be conducted substantially in accordance with the procedures set forth in chapter 3 of this title for conducting hearings on administrative citations.

If, after conducting a hearing pursuant to this section, a Hearing Officer determines that the legislative advocate has knowingly, willfully and materially violated the provisions of this article, then for the first violation of this article, the Hearing Officer shall prohibit the legislative advocate from engaging in legislative advocacy for a minimum period of six (6) months, for a second violation, the Hearing Officer shall prohibit the legislative advocate from engaging in legislative advocacy for a minimum period of one year, and for a third or subsequent violation, the Hearing Officer shall prohibit the legislative advocate from engaging in legislative advocacy for a minimum period of four (4) years. The Hearing Officer may issue an order prohibiting the legislative advocate from engaging in legislative advocacy for a period of less than the maximum period set forth in this paragraph if the Hearing Officer determines that mitigating circumstances justify a lesser period of prohibition.

If the Hearing Officer determines that the legislative advocate has knowingly, willfully and materially violated the provisions of this article, or if the legislative

advocate accepts the allegation of knowing, willful and material violation and waives the opportunity for a hearing, then the City's website shall identify the legislative advocate and indicate that the legislative advocate has violated the City's regulations governing legislative advocacy. The website identification shall remain posted on the website for one year.

Notwithstanding the provisions of chapter 3 of this title, any decision by a Hearing Officer pursuant to this section shall be a final decision and not subject to appeal or review by the City Council. (Ord. 18-O-2749, eff. 2-9-2018)

CHAPTER 3
CODE VIOLATIONS

(Excerpt)

1-3-318: PROCEDURES AT ADMINISTRATIVE HEARING:

Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of that party's case and to cross examine witnesses. The city bears the burden of proof at an administrative hearing to establish a violation of this code. The administrative citation and any additional reports submitted by the citing official shall constitute prima facie evidence of the facts contained in those documents. The administrative hearing officer must use preponderance of evidence as the standard of review in deciding the issues. (Ord. 07-O-2516, eff. 6-29-2007)

PROBLEM:

During the winter at the Planning Commission, there were numerous hearings where an Applicant's representative stated that the Applicant had engaged in "outreach efforts" to the neighbors. Then, at the hearing, it is discovered that was not the case.

At the hearing, neighbors would express specific concerns, and in many cases, it was the first time the Applicant team knew about them.

Enormous amounts of the Commission's time, and the public's time, was wasted, because the true issues could have been identified prior to the hearing.

PROPOSED SOLUTION:

There is a way to save everyone's time, and let the hearings be less contentious.

There is a section of every Planning Commission Staff Report entitled "*Applicant Outreach Efforts.*"

It is recommended that this section be enhanced.

It is proposed that a three -step process be followed in preparation of the "*Applicant Outreach Efforts*" portion of the report:

- (1) The Applicant or its representatives submit to the Planner, in writing, the exact nature of the communication with the neighbors, identifying the neighbor's concerns, and the mitigation measures that the Applicant would employ;
- (2) The Planner forwards that document to the neighbors, asking for either verification or clarification;
- (3) The Planner then receives the response from the neighbors and summarizes the respective positions (of the Applicant and the neighbors) in the "*Applicant Outreach Efforts*" section of the Staff report.

Such a process would help define the issues relative to the neighbors, in advance of the meeting.