

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisors Marion Ashley and John J. Benoit

SUBMITTAL DATE:

SUBJECT: Policy Direction on Administrative Protocol for Reducing Code Enforcement's Administrative Hearing Costs, CEQA Exempt, All Districts [\$0]

RECOMMENDED MOTION: That the Board of Supervisors Direct the Department of Code Enforcement to Utilize Independent Hearing Officers to Preside Over All Abatement and Cost Recovery Hearings.

BACKGROUND:

Summary

Pursuant to Government Code section 25845 and Riverside County Ordinance No. 725, the County is authorized to abate a public nuisance when, after proper notice and passage of a reasonable time to comply, the responsible party does not abate the public nuisance. The same authorities provide that the County may recover all costs associated with prosecution of code violations.

Departmental Concurrence

Marion Ashley
Marion Ashley
Supervisor, Fifth District

John J. Benoit
John J. Benoit
Supervisor, Fourth District

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$	\$	\$	\$	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$	\$	\$	\$	

SOURCE OF FUNDS:	Budget Adjustment:
	For Fiscal Year:

C.E.O. RECOMMENDATION:

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Washington and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended with direction to County Counsel to bring forward an amendment to allow Supervisors the option to "assert jurisdiction" in a code case to bring the matter to the Board for hearing.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
 Nays: None
 Absent: None
 Date: October 4, 2016
 xc: Supvr. Benoit, Supvr. Ashley, Co.Co., Code Enforce.

Kecia Harper-Ihem
 Clerk of the Board
 By: *[Signature]*
 Deputy

Prev. Agn. Ref.: N/A | **District:** All | **Agenda Number:**

3-18

- A-30
- Positions Added
- 4/5 Vote
- Change Order

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Reducing Code Enforcement's Administrative Hearing Costs**

DATE: [DATE]

PAGE: 2 of 2

BACKGROUND:

Summary (continued)

Currently, the Board of Supervisors ("Board") presides over all abatement and some cost recovery hearings. Code Enforcement staff review abatement case files and prepare a Form 11 for each hearing, which are also reviewed by County Counsel. As with all Form 11s, each has to be routed through various departments for approval. Responsible parties are provided with notice of the hearing and may address the Board when their respective cases are heard. With Code Enforcement staff present, a deputy with the Office of County Counsel presents the case to the Board during the 9:30 a.m. public hearings.

With Riverside County's rapid growth over the years, the Board agenda is ever increasing as are the number of abatement and cost recovery hearings – over 50 to 100 per year. Realizing that it may not be reasonable for larger, more populated counties to hold such hearings during their respective board meetings, the Legislature enacted Government Code sections 27720, et seq. Pursuant to these statutes, the County may delegate presiding over administrative hearings to an independent hearing officer ("hearing officer"). The County adopted Government Code sections 27720, et seq. with the adoption of Riverside County Ordinance No 643. Hearing officers must meet the following minimum qualifications: licensed attorney in good standing with the California State Bar, practicing law for at least five years and no record of disciplinary action.

While the County currently utilizes hearing officers on a limited basis, all Southern California counties and two major Northern California counties, Sacramento and San Francisco, employ the use of independent hearing officers to preside over all Code Enforcement hearings. By delegating all Code Enforcement hearings to a hearing officer, the County will be in line with other major counties throughout the State.

The County may select hearing officers through the State or select hearing officers through a competitive process. Individual attorneys or law firms may be considered as hearing officer and are deemed to be independent contractors. The County compensates hearing officers at a flat rate, be it hourly, *per deim* or per case, without regard to the hearing officers' decision.

The cost of compensating hearing officers is more than offset by the savings that will result by the increased utilization of hearing officers. Code Enforcement has determined that an administrative hearing before the Board costs approximately \$3,100, which includes \$1,500 in County Counsel fees. A Board item is reviewed by the Executive Office and must be processed by the Clerk of the Board. Additionally, County Counsel and Code Enforcement personnel are present for each Board hearing. Whereas, a hearing before a hearing officer typically only costs approximately \$1,100 in Code Enforcement staff preparation costs, including the charge for the hearing officer. Cases heard before the hearing officer also have minimal County Counsel costs, if any.

The County will reap significant cost savings by increasing the utilization of hearing officers which will result in less time and costs preparing items for the Board's agenda. The actual cost of preparing and presenting a given case to the hearing officer will depend on the complexity of issues to be addressed at hearing. As always, County Counsel is available assist in case preparation and to represent the County at hearing if so requested to do so or if the other party is represented by counsel. It is therefore estimated that the County will save at least \$50,000-\$100,000 per year.

Impact on Citizens and Businesses

In addition to allowing the Board more time to conduct the County's business, delegating all Code Enforcement hearings to a hearing officer permits more time to review the cases, flexible hearing schedules and reduced hearing costs. Hearing officers are neutral, independent, and uninvolved parties who have expertise in this field and are dedicated to provide the responsible party with a full and fair hearing on each case brought before them. Further, the final abatement costs assessed on each property will reflect the County's reduced costs.

Please find below my concerns with Agenda Item 3-18 which purposes to eliminate Board member oversight of Change Code Enforcement Hearings involving our constituents.

Respectfully, Kevin Jeffries 10/4/16

1. **Code Enforcement is the subject of a KPMG review.** On numerous occasions I have been told by my fellow Board members that proposals to change processes or procedures should be held off when KPMG is already evaluating the Department. The same should apply to this proposal.
2. If efficiencies and savings are the actual goals, **the entire enforcement process from start to finish (initial inspection, follow-ups, lien's, collections, extended delays, counsel costs, etc) should be the actual reform effort.**
3. If saving time & money during meetings of the Board is the goal, in fairness it has to be pointed out that roughly 50 (or more) county employees, plus 3 Deputies, are attending nearly every board meeting. Yet nearly every Board meeting immediately consumes nearly one hour or more of valuable staff time (at a rough cost at \$75hr pp, w/benefits x 53 attendees = \$3,975 per hour, per meeting) sitting through Board member power point presentations, as well as the respectful Adjourn in Memories (done at the beginning of meeting). **If saving time and money was truly an important objective (and it should be) - Board presentations would be respectful of staff time and the cost for all of them to wait for actual business to begin** (which could easily occur after a majority of the business of the Board was conducted - similar to L.A County Board of Supervisors).
4. The proposal seeks to hand off a duty and responsibility during a time that could arguably be considered one of the most critical times that a constituent may be seeking the leadership, compassion or firsthand understanding from his/her directly elected official (not to mention the financial impact of a possible \$1000 a DAY fine). **It simply cannot be argued that an unknown Hearing attorney could realistically appreciate all the possible complexities and circumstances that we as Board members encounter within the neighborhoods** of our respective Districts.
5. Will our constituents or the respective Board member have the right to appeal a Hearing Officer ruling to the full Board? Will Board members enjoy the right to review and verify that the constituent was treated fairly and equally compared to other similar circumstances - or **will this become a subject area where our constituents will absolutely not have an option or right to address or seek review with his/her duly elected representative? If Pre &/or Post-hearing representation is being stripped away under this proposal, will a Board member or a staff member be allowed to attend and testify at a hearing?**

10/4/2016
3.18

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