

## **RULE 114.4 - COMPLIANCE HEARING; FINDINGS**

- A. At the place and time set forth in the notice of hearing, the Hearing Officer shall conduct a hearing on the citation issued pursuant to these Rules & Regulations.
- B. The Hearing Officer shall consider written and oral evidence. Evidence regarding the alleged violation or compliance actions may be presented by any party, including the alleged violator, the owner or occupant of any real property affected by the alleged violation, and/or by the District.
- C. The Hearing Officer shall further consider any objectively reasonable efforts made by a Person who is subject to an Administrative Citation, Administrative Compliance Order, or Cease & Desist Order to comply with that citation prior to the compliance date. The Hearing Officer may take into consideration any condition or situation beyond the control of a Person subject to an Administrative Compliance Order or Cease & Desist Order that prevents compliance with that order.
- D. The citation or order, and any additional material submitted by the District Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents. A report on the alleged violation shall set forth a detailed recommendation as to relevant findings and conclusions that flow from the facts presented and a recommended decision based upon those findings and conclusions. This report shall meet the standards for administrative findings set forth in *Topanga Assn. for a Scenic Community v. County of Los Angeles*, 11 Cal.3d 506 (1974).
- E. The Hearing Officer may question witnesses and/or request additional information from the Enforcement Officer or any party prior to closing the hearing.
- F. Within a reasonable time following the conclusion of the hearing, the Hearing Officer shall make findings and issue a determination, as to each alleged violation, regarding:
  - 1. The existence of the violation;
  - 2. Whether a nuisance or water waste occurs that requires abatement;
  - 3. The identity of each responsible Person;
  - 4. The failure of the violator or owner to take required corrective action within the required time period;
  - 5. The absence or extent of mitigating conditions or situations beyond the control of the Person subject to the citation or order.
- G. Findings shall be supported by evidence received at the hearing.

- H. If the Hearing Officer finds by a preponderance of the evidence that a violation has occurred and that the violation was not corrected within the time period specified in the citation or order, the Hearing Officer shall issue an Administrative Order in accord with this Regulation and may order reimbursement to the District for the District's administrative costs incurred in the proceeding pursuant to Rule 115.2-A. Any fine amount on deposit with the District shall be retained by the District. If no fine has been deposited pursuant to an advance deposit hardship waiver, the Hearing Officer shall set forth in the order a payment schedule for the fine.
- I. If the Hearing Officer finds that no violation has occurred or that the violation was corrected within the time period specified in the citation or order, the Hearing Officer shall issue a finding as to those facts and may order reimbursement to the alleged violator for reasonable and necessary costs incurred to defend that proceeding pursuant to Rule 115.2-B. Any fine deposited with the District shall be refunded.
- J. If the Hearing Officer finds a nuisance or water waste requires abatement, the Hearing Officer shall also issue an Abatement Order and may impose any or all of the following:
1. An order to discontinue the use of or certain activity at the subject property, temporarily or permanently, as needed to protect the health, safety or welfare of Persons or property on or near the subject property or to eliminate, lessen or prevent the continuation, exacerbation or reoccurrence of the detrimental impacts created by the activity; and
  2. An order imposing conditions on the continued use of or certain activity at the subject property, as needed to protect the health, safety or welfare of Persons or property on or near the subject property or to eliminate, lessen or prevent the continuation, exacerbation or reoccurrence of the detrimental impacts created by the nuisance; and
  3. Where the implementation of conditions requires a permit or an amendment to an existing permit, an order conditioned upon the property owner applying for and obtaining the permit or modification of an existing permit applicable to the subject property.

*Rule added by Ordinance No. 133 (5/19/2008)*