

City of Sacramento
Mechanical & Code Advisory and Appeals Board
Procedure for Public Hearings

A. Rules for Conducting Hearings

Whenever any action of the Mechanical & Plumbing Code Advisory and Appeals Board ("Board") requires an administrative hearing where findings of fact are required by law, the provisions of this section shall govern. These rules shall not be applied to alter the substantive or procedural rights granted to any person under the law.

B. Opening Hearing

At the time and place fixed in the notice of the hearing or by the Board, the Chair shall proceed to open the hearing by introducing the item of business which is the subject of the hearing. The Chair shall inform all parties of the nature of the proceedings and of their procedural rights contained in these Rules. Those persons wishing to testify at the hearing shall not be required to testify under oath or affirmation unless the Board or a person who may be adversely affected by the decision made on the issue being heard requests that all testimony in the hearing be under oath or affirmation. If such a request is made, the Chair shall swear in all persons intending to testify during the hearing. The Chair, unless objected to by a majority of the Board, may collectively swear in all persons intending to testify at any of the administrative hearings schedules at the Board meeting where testimony is to be under oath or affirmation.

C. Order

The Chair may then undertake to receive evidence in the matter in the following order:

1. The City of Sacramento or its representative(s) and witness(es).
2. The applicant, proponent, appellant and his/her representative(s) and witness(es).
3. Members of the public.
4. Closing statement/rebuttal of the applicant, proponent, appellant and his/her representative(s).
5. The Chair, for good cause and without objection from the Board, may alter the order of presentation of evidence.

D. Questions

After presentation of evidence by any person, the Chair may entertain questions from members of the Board directed at the person presenting evidence.

E. Closing the Hearing

The hearing may be closed by motion or, absent objection, by the Chair upon completion of the presentation of evidence. The Board may thereafter take the matter under submission or proceed to render a decision.

F. Reopening the Hearing

The hearing may be reopened for purposes of accepting additional evidence upon motion of the Board.

G. Decision

1. At the conclusion of a hearing where written findings of fact have been proposed, the Board may act on the findings of fact and make its final decision.
2. At the conclusion of a hearing where written findings of fact have not been proposed, the action taken by the Board on the hearing matter shall be considered an intended decision, regardless of the form of the actual motion, which action is not final, effective, or appealable until written findings of fact in support of the decision have been prepared and adopted by the Board. The Chair shall announce the intended decision and direct staff to prepare and submit written findings within the time determined by the Board. Alternatively the Board, in its discretion, may direct the prevailing party to prepare written findings of fact and submit a draft to the Board or City support staff within the time determined by the Board. Once presented with the written findings of fact, the Board shall adopt the findings of fact if it determines them to be consistent with its decision. The decision on the issue shall then be final.

H. Evidence

Any relevant evidence will be admitted at the hearing if it is the type of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs regardless of the existence of common law or statute which might make improper the admission of the evidence over objection in civil actions. Unduly repetitious and irrelevant evidence shall be excluded by the Chair. Written staff reports and attachments submitted to the Board with the agenda material or at the hearing shall be deemed to be, and shall become, a part of the record of the hearing proceedings. A copy of the staff report and attachments shall be

available in the meeting room for public inspection during the hearing. The Board may take official notice of all official documents, resolutions, and ordinances of the City.

I. Ex Parte Communications

After the hearing is opened and prior to the time that members of the public are called to present testimony or other evidence, each member of the Board shall place on the record the subject and substance of any written or oral ex parte communication concerning the subject matter of the hearing and the identity of the person, group, or entity with whom the communication took place, including but not limited to members of government agency staff, applicants, appellants, and members of the public. Members of the Board who conduct site visits pertaining to the subject of the hearing shall place on the record the date and time of the site visit.

J. Rights

Each party shall have the following rights:

To introduce oral, documentary, and physical evidence;
To ask questions of other parties and witnesses, by addressing the question through the Chair, on any matter relevant to the issues of the hearing;
To represent himself or herself or to be represented by any one of his or her choice who is lawfully permitted to do so.

K. Time Limits

The Chair, without objection from a majority of the Board members present and participating in the hearing, may impose reasonable time limits on any person addressing the Board, including applicants, proponents, and opponents, when the Chair determines time limits are necessary for the orderly conduct of the hearing and the limits are fairly applied.

L. Exhibits

Any person submitting architectural renderings, models, conceptual drawings, or other graphic representation of a proposed project shall exclude any and all features of the project site not currently in existence nor reasonably expected to be on the site in the future. All the renderings, models, drawings, and representations of a project shall become a part of the record and shall remain in the custody of the Board; provided, however, that photographs or appropriate size, color, and clarity may be accepted at the discretion of the Board in lieu of the actual renderings, models, drawings, and other representations.

M. Continuing Body

The Board shall be a continuing body. No measure pending before the Board shall be abated or discontinued by reason of the expiration of the term of office, resignation, or removal of a Board member. No Board member shall be disqualified from participating in any decision on an item of business that was the subject of a hearing during the absence of that member if the member listens to the tape recording or reads the transcript of the hearing prior to participating in the decision on the item. The Board member shall state on the record that he/she listened to the tape recording or read the transcript of the hearing prior to participating in the decision.

N. Additional Rules

The Chair may, without objection from the Board, establish other rules of procedure for the orderly and expeditious administration of hearings as may be necessary or convenient.

O. Strict Compliance Not Necessary

The Board's failure to strictly comply with these administrative hearing rules of procedure shall not affect the validity of any proceedings taken.
