HOUSING APPEALS COMMITTEE

Practice Guidelines

1. Initial Pleadings
   a. The Initial Pleading shall be accompanied by a completed Cover Sheet, which is available on the Committee's website and from the Committee's Docket Clerk.
   b. Form – No single form for the Initial Pleadings is required; however, the Initial Pleading shall summarize the nature of the Appellant's complaint. An example of a well-drafted Initial Pleading is available from the Docket Clerk. A copy of the decision of the local board of appeals should be attached to the Initial Pleading. No exhibits should be attached to the Initial Pleading; rather, they shall be filed with the draft Pre-Hearing Order.
2. Filings
   a. All filings must be by U.S. Mail or hand delivery. See 760 CMR 30.03, 30.08.
   b. Prefiled Testimony – Prefiled Testimony shall be single-spaced and in numbered paragraphs. It should normally be prepared in narrative, rather than question-and-answer form. It should be signed under the pains and penalties of perjury, but need not be notarized. Counsel should provide a copy of all Prefiled Testimony in electronic form, in addition to a paper filing. Each witness's testimony will be admitted into evidence and numbered as an exhibit. It need not be adopted by the witness during testimony in person, and therefore, if opposing counsel agrees to waive cross-examination, the witness need not attend the hearing. See Standing Order 04-02.
   c. Audio-visual materials – DVDs, VHS videotapes, and audiotapes may not be submitted without prior permission by the Presiding Officer, which will be granted only on a showing of good cause.
3. Scheduling
   a. Generally, requests concerning scheduling and rescheduling of hearings should be made to the Docket Clerk.
   b. The Docket Clerk will normally reschedule any matter (if the requested date is available) upon receiving a letter, fax, or email, indicating that all parties (including interveners) and proposed interveners assent. If there is not full assent, a motion should be filed pursuant to 760 CMR 30.07.
   c. A general sense of the normal timeframe for hearings appears in the document entitled "Typical Housing Appeals Committee Schedule".

4. Emails and Faxes

   a. Occasional informal requests (e.g., concerning scheduling of teleconferences) may be made by email directly to the Presiding Officer. All counsel of record (or unrepresented parties, interveners, proposed interveners, and interested persons) should be sent copies by email in order to avoid *ex parte* communication. Email messages and faxes are neither formal filings nor part of the Committee's proceedings pursuant to 760 CMR 30.03, 30.08 and G.L. c. 30A, § 14(4)(a).

5. Conference Calls

   Conference Calls are scheduled on an as needed basis. When scheduled, they are initiated by the developer's attorney.

6. Pre-Hearing Orders

   a. Pursuant to 760 CMR 30.09(4)(a) a draft Pre-Hearing Order must be filed one week prepared prior to the Pre-Hearing Conference. This order should be prepared in the form and according to the instructions available on the Committee's website or from the Docket Clerk. See "Forms for Pre-Hearing Orders". Normally, the Pre-Hearing Order will be signed at the Pre-Hearing Conference or soon thereafter.

   b. All exhibits must be individually identified in the Pre-Hearing Order and filed with the Draft Pre-Hearing Order.

7. Hearings

   a. The first hearing session is held in the town, followed by a Site Visit. The town's attorney is asked to secure a room in the town hall. The remaining hearing sessions are held at 100 Cambridge Street, Boston, MA 02114.

   b. A stenographer will be provided by the Committee for evidentiary hearings. The parties may purchase copies of the transcript directly from the stenographer.

   c. Exhibits admitted into evidence will be prepared by counsel and will usually be marked by the Presiding Officer and kept in his/her possession. In addition to copies provided for counsel, an extra set of copies of all exhibits should be prepared (and normally kept in the possession of the developer's lawyer) and made available to witnesses, as necessary.

   d. Oversized Plans – Oversized plans or drawings admitted into evidence may not be permanently mounted on poster board. They must be foldable to 8½" x 11" size. It is often convenient to use large paper clips to attach large exhibits to a piece of poster board set on an easel. Counsel should supply their own easels, since one is not typically available in the hearing room.

e. Sets of Oversized Plans – Sometimes it is necessary to admit a multi-sheet set of oversized plans. If so, counsel should consider reducing some or most of the sheets to 11" x 17" size. Sheets that are not central to the issues in the case or that are clearly legible at the smaller size can often be reduced; sheets that will be used frequently during testimony or that have critical information in small print should not be reduced.

f. Chalks – No "chalks" should be used. If a plan or drawing will be used during the hearing, it should be admitted into evidence.

8. Participation by Interested Persons

   a. Unless the Presiding Officer has ruled explicitly to the contrary, persons permitted to participate as Interested Persons pursuant to 760 CMR 30.04 (4) participate as follows pursuant to 760 CMR 30.08 and 30.09 and the Committee's practice:

      (i) They receive all written notices, copies of pleadings, faxes, emails, etc.

      (ii) They do not participate in Conferences of Counsel, Pre-Hearing Conferences, or teleconferences. They may choose to *attend* Conferences of Counsel and Pre-Hearing Conferences, since they are open to the public.

      (iii) They do not sign Pre-Hearing Orders.

9. Proposed Interveners and Proposed Interested Persons

   a. Upon filing of a motion to intervene or a request to participate and prior to the Presiding Officer's ruling, Proposed Interveners and Proposed Interested Persons are entitled to be served with all documents pursuant to 760 CMR 30.08 as if the motion or request had been granted.

   b. Proposed Interveners are also entitled to participate in hearing sessions and teleconferences. Proposed Interveners do not have full rights of parties, and thus, their consent is not required for assented-to motions pursuant to 760 CMR 30.07(1)(b)(2), joint motions, stipulations, or similar matters. See Standing Order 05-01.

10. Standing Orders

    The following Standing Orders are currently in effect:

    Standing Order 04-02 – Prefiled Testimony

    Standing Order 05-01 – Service Upon Proposed Interveners and Interested Persons