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ANTHONY P. CAPUTO
CHAIRMAN

MEMORANDUM

TO: Appellants with cases scheduled before Fire Prevention Regulations Appeals Board

FROM: Anthony P. Caputo, Chairman

DATE: March 30, 2023

RE: Fire Prevention Regulations Appeals Board Remote Hearing Procedures

On March 29, 2023, Governor Healey into law *An Act Making Appropriations For the Fiscal Year 2023 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects*, which, among other things, extends the expiration of the provisions pertaining to the Open Meeting Law to **March 31, 2025**.

Specifically, this extension allows DFS boards and commissions to continue holding meetings remotely without a quorum of the public body physically present at a meeting location, and to provide "adequate, alternative" access to the public for remote meetings.

The Act does not make any new changes to the Open Meeting Law other than extending the expiration date of the temporary provisions regarding remote meetings from March 31, 2023, to **March 31, 2025.**

In the event the Appeals Board elects to meet remotely, the following procedures shall apply:

All remote hearings will be conducted as if they were in person pursuant to the State Administrative Procedures Act, Massachusetts General Laws Chapter 30A and the Adjudicatory Rules of Practice and Procedure, 801 CMR 1.02 and 1.03, regarding informal hearings will apply.

The device you are accessing the hearing from must have video/audio capabilities as you will be required to appear on camera for your hearing.

The Board will send an email to all parties prior to the hearing that contains a Microsoft Teams meeting invitation and details the process on how to access the hearing remotely. All parties must access the hearing at the start time of the hearing. Parties will follow the below instructions in order to access the hearing:

Requirements: You will need to have a Microsoft Teams meeting link. If you are accessing the meeting from a smartphone or tablet, you may need to download the Microsoft Teams app.

Navigation: Locate the Microsoft Teams meeting invitation; no need to take down the Meeting Number (access code).

Step 1: From there, select the “Join Microsoft Teams Meeting” button.

Step 2: If you do not already have a Microsoft Teams account, a web page will open where you’ll see two choices: **Download the Windows app** and **Join on the web instead**. If you join on the web, you can use either Microsoft Edge or Google Chrome. Your browser may ask if it’s okay for Teams to use your mic and camera. Be sure to allow it so you’ll be seen and heard during the hearing

Step 3: Enter your name and choose your audio and video settings.

Using Computer or Phone Audio

Before selecting “**Join now**”, determine if you will use computer audio or phone audio. Computer audio is usually easier, as long as your computer has a microphone and speakers built in. If you are unsure about this, please follow the phone directions.

Computer Audio (Speaking and Listening)

Ensure that your computer volume is turned up. Selecting the Computer Audio option will transmit the sound through your computer speakers and use your computer’s microphone.

Phone Audio (Speaking and Listening)

Please dial the number included in your meeting invitation and enter the required information as prompted.

Step 4: When you’re ready, click **Join now**.

Step 5: This will bring you into the meeting lobby. The Board will be notified that you are there and you will be admitted shortly.

Parties must have access to technology that will allow them to be clearly audible to members of the Board and to each other during the hearing. If technical difficulties arise once the hearing is underway, the Chair will determine how to address such difficulties, but the preferred practice will be to suspend the hearing while reasonable efforts are made to correct the problem.

“Screen sharing” by the Parties during the hearing will not be permitted. As a result, the Board will distribute copies of documents or exhibits expected to be used at the hearing to the remote participants ahead of time. As such, parties are required to submit all documents or exhibits (not previously filed with their initial appeal application) they intend to use at least fourteen (14) days prior to the scheduled hearing date. If circumstances prevent parties from accessing technology that would allow for remote participation or the parties are unable to timely submit their documents to the Board in advance of their scheduled remote hearing, it will be necessary for the Board to postpone the hearing or to instead conduct the hearing in-person.

Tips for All Hearing Participants

Determine in advance what device you will use to access the hearing (i.e. computer, laptop, tablet). Make sure your device’s camera and speakers are working properly.

Be aware others can see what’s behind you. Pay attention to lighting—sitting in front of a window can make you difficult to see.

Minimize noises and distractions to the extent possible. When you are not speaking, mute your microphone. Turn your phone on silent and minimize or close other windows on your computer screen to avoid sounds and notifications (this may also help the program run more smoothly).

Speak slowly and clearly. There may be an audio lag, so pause before and after speaking to account for this.

After both parties have finished presenting their respective cases to the Board, the Board will enter executive session utilizing the “Breakout Room” feature of Microsoft Teams prior to rendering a decision. This feature allows the Board to communicate and deliberate outside of the view of the parties and public while also allowing them to remain connected to the subject hearing. While the Board is in executive session, parties are required to stay connected to the hearing and remain accessible for potential questions from the Board. Once the Board reaches a decision, it will end its use of “Breakout Room” and resume the subject hearing to issue its decision.

Finally, as these hearings will remain open to the public, all spectators must have their microphone muted and they shall not speak or otherwise communicate with any party during the hearing. Further, members of the public shall not utilize the chat feature or in any way interfere with the hearing.