

**CITY OF ST. PETERSBURG  
APPEAL HEARING PROCEDURES FOR NOTICES OF CONDEMNATION AND  
INTENT TO SECURE**

I. Authority to Appoint Hearing Officers and Conduct Appeal Hearings  
Chapter 8, Section 8-271 specifically provides for Appeal Hearings to be conducted by Hearing Officers. The Hearing Officer is defined as a member in good standing of the Florida Bar, a resident of the City of St. Petersburg, appointed by the Mayor and confirmed by the City Council to hear and decide appeals from orders of condemnation, demolition and securing a structure issued pursuant to City Code Chapter 8.

**II. Filing A Condemnation Appeal**

Appeals of a notice of condemnation/order to demolish or a notice of intent for securing a structure may be filed by any interested party who has been aggrieved, except in the case of an emergency order (emergency orders are addressed in further detail in City Code Chapter 8). A written request for an Appeal Hearing must be submitted to the City Clerk with payment of a \$35.00 fee within ten (10) days of service of the notice of intent, or posting or publication of the notices, whichever is later. Appeal Hearing Request forms may be obtained from the City Clerk. The written request must contain the following information:

- **Legal Name of the Appellant** - (if the appellant is a corporation, trust, or other legal entity, the names of the officers, trustees or others authorized to represent the legal entity must be provided)
- **Daytime Telephone Number**
- **Mailing Address For All Notifications To Appellant** - this is the address where the Notice of Hearing and Orders resulting from the Hearing will be mailed.
- **Name and Address of Legal Counsel/Attorney Representing Appellant** - this name and address will receive a copy of the notice of Hearing. If no name is provided, the Appellant may still be represented by legal counsel at the Hearing, however no notice of hearing will be sent to counsel.
- **Date Appellant Received Notice of Condemnation**
- **Reason For Appeal**
  - 1) Appellant should indicate whether they are interested in repairing/rehabilitating the condemned property. A stipulated agreement will be required.
  - 2) Appellant should indicate if they disagree with the Building Official's Condemnation Order and/or the Notice of Intent to Secure, and intend to present evidence at the appeal to prove that the structure is fit and safe.

### **III. Notification of Appeal Hearing To Appellant**

At least twenty (20) days prior to the scheduled Appeal Hearing date, a Notice of the Appeal Hearing will be mailed via certified mail to the Appellant at the address indicated on the Appeal Hearing Request form. Notice of all Appeal Hearings will be provided to the City Administration for inclusion on the City's published schedule of public meetings and events.

### **IV. Appeal Hearing Guidelines**

**Generally:** the purpose for establishing these guidelines is to provide fundamental fairness to the parties at the hearing. Should the Hearing Officer decide to grant additional time or other consideration to one party, the other party should also be provided the same consideration or time. Failure to adhere to these procedures *will not* invalidate any action of the Hearing Officer.

**Orders:** the Hearing Officer will render oral decisions by the close of each hearing; and if written orders are not made at the Appeal Hearing, the Hearing Officer will enter written orders with the City Administration within two business days of the hearing. Copies of written orders will be made available as soon as possible within normal City Administration business hours, and copies of written orders will also be sent to the Appellant at the name and mailing address indicated on the original Appeal Hearing Written Request within three (3) business days of receipt of the orders by the City Administration.

**Recording:** audio tape and limited written minutes will be recorded by a staff secretary provided by the City.

**Appellant's Recording:** should any interested party seek to appeal any decision made by the Hearing Officer with respect to any matter considered at an Appeal Hearing, the interested party is responsible to make a recording of the proceedings. It is the City's intention to make all of its Appeal Hearing records available for public inspection, and to make copies of such records for any person for a fee. However, the City's record may be incomplete or lost due to recording or storage failures and **therefore, interested parties are encouraged to ensure that a verbatim record of the Hearing proceedings is made which includes the testimony and evidence upon which any further appeal might be based.**

**Oath Taken:** representatives of City Administration, the Appellant and their witnesses who intend to testify at the hearing must declare that they will testify truthfully by taking an oath or affirmation in the following form:

"Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?"

The oath or affirmation will be administered prior to the presentation of testimony and will be administered enmasse to those who wish to testify. Persons who have not been previously sworn during the proceeding must be sworn prior to testifying.

**Questioning By Hearing Officer:** at any time during the proceeding, the Hearing Officer may

ask questions of the Appellant, witnesses, and the City Administration. The time consumed by Hearing Officer's questions and answers to such questions shall not count against the time frames allowed herein. City Administration representatives and anyone authorized by the Appellant may speak during the proceedings, as described below. The Hearing is conducted as a public meeting and the general public may attend; however, the general public may not speak.

**Order of Presentation and Time Limits during the Hearing:** the detailed rules are outlined in City Code Chapter 8; additionally, the hearings will be patterned after City Council Quasi-Judicial Proceedings, as follows:

- City Administration presents their case first (limited to 10 minutes)
- Appellant and their authorized representatives present their case (limited to 10 minutes)
- Cross examination is allowed, first by one representative of City Administration (questions limited to 5 minutes), and then by one representative of the Appellant (questions limited to 5 minutes). Any appropriate speaker may respond to cross-examination.
- Rebuttal is allowed, first by the Appellant (5 minute limit), then by the City Administration (5 minute limit).

**Record Evidence:** any records submitted as evidence to the Hearing Officer by any party during the course of the Hearing will become part of the evidence file, marked with appropriate exhibit numbers and entered into the case file by the recording secretary. All evidence and records of the proceedings are considered Public Record under Florida Statute and must be opened and available for inspection and copying upon request by the public.

The Appellant may bring any record evidence and/or witnesses deemed relevant, such as a contractor, engineer, or legal advisor, to help present their case.

The City Administration will also submit evidence during the presentation of its case. The list of evidence may include, but will not be limited to the following:

- ✓ Written explanations from staff
- ✓ Written chronology of events prepared by staff
- ✓ Affidavits from technical experts and city staff
- ✓ Building Demolition Coordinator and/or Code Investigator Inspection Report
- ✓ Demolition Violation Notice
- ✓ Fire Department Inspection comments or opinions
- ✓ Historic Potential Review comments or opinions
- ✓ Consulting Engineer's Report and Statement of Credentials
- ✓ Building Official's Review and Decision
- ✓ Notice of Condemnation/Order To Demolish

- ✓ Notice of Intent to Secure
- ✓ Appeal Hearing Request form
- ✓ Real Estate Owner Record
- ✓ Ownership and Encumbrance Report
- ✓ Pinellas County Official Records Recording of Notice of Intent
- ✓ Legal Advertisement of Notice of Intent
- ✓ Photographs, slides, transparencies, video tapes, plats

**Witnesses for City Administration:** the City Administration will call witnesses during the presentation of their case. The list may include, but will not be limited to the following:

- ✓ Building Official for the City of St. Petersburg
- ✓ Building Demolition Coordinator
- ✓ Codes Investigator
- ✓ Consulting Engineer under contract to the City of St. Petersburg
- ✓ City Plan Reviewers
- ✓ Other City Staff

#### **V. Hearing Schedules**

In the case of an emergency condemnation and emergency appeal, an Appeal Hearing will be conducted as soon as possible. Other hearings will be scheduled and conducted as needed, but generally will adhere to the following guidelines:

Written Requests for Appeal Hearing received by the City Clerk on or before 4:00 p.m. of the third (3<sup>rd</sup>) Wednesday of any month will be scheduled for a hearing on the second (2<sup>nd</sup>) Wednesday of the following month. Each Notice of Appeal Hearing sent to Appellant shall indicate a scheduled time at which an individual hearing will begin. Appellant shall appear not later than their scheduled time and be ready to present their case. Every effort will be made to hear all cases according to the schedule. If no Requests for Appeal Hearing are filed by the 3<sup>rd</sup> Wednesday of any month, no hearing will be set in the following month (except for emergency hearings). If more appeals are filed than can reasonably be conducted on one hearing date, a second hearing date will be set in the same month and will usually be the day immediately following the scheduled hearing date. Hearings will be conducted at the place and time set forth in the Notice of Appeal Hearing.

**If the Appellant fails to appear for their scheduled Appeal Hearing, the Hearing Officer may still proceed with the case, hear testimony and admit evidence, and render a decision and final order regarding the appeal at that time.**

#### **VI. Minimum Requirements To Enter Into A Stipulated Agreement For A Property That Has Been Condemned**

Should an Appellant wish to repair a property that has been condemned, the appeal process allows for negotiation of a stipulated agreement between the property owner and the City of St. Petersburg to repair the property. Stipulated agreements must be negotiated prior to the Appeal Hearing. A stipulated agreement becomes the basis for a conditional approval of the appeal if approved by the Hearing Officer at an Appeal Hearing. Stipulated

agreements must outline specific time frames to obtain permits, conduct work and obtain a certificate of occupancy. Under any stipulated agreement, failure to complete requirements by deadlines outlined in the agreement will result in termination of the agreement and demolition of the structure(s). Although agreements will govern conditions and requirements that apply specifically to a unique property, all property owners preparing to negotiate a stipulated agreement must meet the following minimum pre-requisites.

(1) Select a **Design Professional (Architect and/or Professional Engineer)** to conduct a complete inspection of the structure(s), provide a detailed written report of the conditions and disrepair and prepare **Preliminary Rehabilitation/Construction Plans** for the renovation.

(2) Select a **Licensed Contractor** to provide a detailed written **Cost Estimate** based on the preliminary rehabilitation/construction plans.

(3) Outline a **Time Frame** for all phases of the renovation work to be completed which will include appropriate approved permit inspections and finals.

(4) Devise and provide a **Plan for Financing** which must include evidence of available funds set aside to cover the total cost of the contractor's written cost estimate for the renovation. The evidence must be in the form of loan commitments, bank statements, or other verifiable documentation, as required by the Building Official.

**Sec. 8-374. - Appeal procedure.**

Appeals may be taken of an order a notice of condemnation/order to demolish, or notice of violation for securing a structure issued pursuant to this division by any interested party who has been aggrieved, except in emergency cases as set forth in Section 8-377. Such party is afforded a right of hearing upon payment of a filing fee of \$35.00 and a written request for such hearing to the City Clerk within ten days of service of notice of violation or the posting or publication of the second notice or notice of condemnation/order to demolish required by Section 8-370 whichever is later. Failure to effect personal notice shall not prevent the City from performing the demolition of an attaching a lien on the property.

A notice of the appeal hearing by a Hearing Officer shall be published once in a newspaper of general circulation in the City at least ten days prior to the time and place of hearing. When the findings of the Hearing Officer sustain the POD, the Hearing Officer may set a new deadline date for compliance or authorize the POD to proceed at the expiration of 30 days to demolish and remove the dwelling or structure, including accessory buildings and manmade bodies of water, and report the cost to the City Council as provided herein.

In any hearing before the Hearing Officer, formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida. Each party shall have the right to be represented by counsel, to call and examine witnesses under oath, to introduce documentary evidence or exhibits, to cross-examine opposing witnesses on any relevant matter even though the matter was not covered under direct examination, to impeach any witness regardless of which party first called him to testify, and to submit rebuttal evidence. Each hearing shall be electronically recorded, the cost of which shall be included in the costs referenced in Section 8-373 if a final order of demolition is entered.

The burden of proof by a preponderance of the evidence is upon the enforcing agency to show that the subject building or structure is unfit or unsafe as defined in Section 8-206. At the hearing, the Hearing Officer shall affirm, modify, or reverse the findings of the POD that the subject building or structure is unfit or unsafe as defined in Section 8-206. If the Hearing Officer agrees with the determination of the POD, he or she shall enter a final order approving the demolition.

The Hearing Officer may grant an extension of time for demolition if at the hearing evidence is presented that families with minor children are residing in the building and that immediate relocation is not possible. However, no such extension of time shall exceed four months. If the Hearing Officer disagrees with the determination of the POD, he or she shall enter an order reversing the order of demolition. All orders shall be issued in writing and shall contain findings of fact and conclusions of law supporting the decision.

Any person aggrieved by the decision of the Hearing Officer may seek judicial review in accordance with the Florida Appellate Rules or other applicable law.

*(Ord. No. 219-G, § 1, 1-4-96; Ord. No. 469-G, § 3, 3-15-01)*

**Appeal Application for Notice of Condemnation & Notice of Intent to Secure**

**Address of Property:** \_\_\_\_\_

**Legal Name of the Appellant:** \_\_\_\_\_

(If the appellant is a corporation, trust, or other legal entity the names of the officers, trusts, or others authorized to represent the legal entity must also be provided)

**Daytime Telephone Number:** \_\_\_\_\_

**Mailing Address for All Notifications to Appellant:** \_\_\_\_\_

**Name, Address, and Phone Number of Legal Counsel/Attorney Representing Appellant:** \_\_\_\_\_

**Date Appellant Received Notice of Condemnation/Notice of Intent to Secure:** \_\_\_\_\_

**Reason for Appeal:** \_\_\_\_\_

- For Notice of Condemnation, Appellant should indicate whether they are interested in repairing/rehabilitating the property. A stipulated agreement will be required for rehabilitation of a condemned property.
- Appellant should indicate if they disagree with the Building Official’s Order and/or issued Notice of Intent to Secure and intend to provide evidence at the appeal to prove that the structure is fit and safe for its intended use.

**The application must be filed in person or by certified mail with the City Clerk’s office located at 175 Fifth Street North, St. Petersburg FL 33701. A Copy of the Notice of Condemnation/Order to Demolish and a \$35.00 fee is required with this application, paid in the form of a credit card, cash, check or money order.**

I/We, the undersigned hereby make application to appeal the Building Official’s decision rendered under City Code Chapter 8, Division 4, that has resulted in the condemnation or the issuance of a Notice of Intent to Secure of the above referenced property; and affirm that all information provided on this application is complete and correct. I/We further affirm that I/We have received a copy of the completed application and the Appeal Hearing Procedures. I/We understand that the procedures additionally contain important information regarding the requirements to consider any rehabilitation of the condemned structure(s).

\_\_\_\_\_  
Signature of Above Named Appellant(s)

\_\_\_\_\_  
Date

Or Authorized Representative

Received:

Receipt # \_\_\_\_\_

(City Clerk Use Only)