

**RESOLUTION NO. 055-16**

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, ESTABLISHING  
RELOCATION ASSISTANCE APPEALS PROCESS POLICY AND PROCEDURES**

**WHEREAS**, the City of Port Orchard has responsibility, to the extent of its resources, for the improvement, maintenance protection and operation of public ways within the corporate limits of the city; and

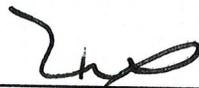
**WHEREAS**, pursuant to the United States Code, 42 USC 4601 et seq., Public Law 91-646, and the implementing regulations found in 49 Code of Federal Regulations, CFR Part 24, and the Revised Code of Washington, RCW 8.26, and the implementing regulations of the Washington Administrative Code, WAC 468-100, relocation assistance is provided to property owners in the course of the City's improvements to public ways; and

**WHEREAS**, the City of Port Orchard has established Relocation Assistance Appeals Process Policy and Procedures (Exhibit A attached); now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES  
AS FOLLOWS:**

**THAT:** The City Council adopts a resolution, thereby establishing Relocation Assistance Appeals Process Policy and Procedures.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage on this 24th day of May, 2016.



Robert Putaansuu, Mayor

ATTEST:



City Clerk, Brandy Rinearson, CMC



**EXHIBIT A**  
**CITY OF PORT ORCHARD**  
**RELOCATION ASSISTANCE APPEALS PROCESS**  
**POLICY AND PROCEDURES**

**PURPOSE**

The purpose of this City policy is to establish a uniform appeals procedure for the fair and equitable treatment of persons displaced as a result of a City capital improvement(s) project whose claim for relocation assistance has been denied.

**1.0 RELOCATION ASSISTANCE APPEALS PROCESS**

The City will promptly review appeals of relocation payments in accordance with the requirements of applicable law and these policies and procedures.

**1.1. APPEALABLE ACTIONS: INITIATING THE APPEAL**

Any aggrieved party may file a written appeal with the City in any case in which the appellant believes that the City has failed to properly determine the appellant's eligibility for, or the method of determination of, or the amount of, a relocation payment required or authorized by 49 CFR 2410, Chapter 8.26 RCW and Chapter 468-100 WAC as they may be amended from time to time.

**1.1.1 FORM AND CONTENTS OF NOTICE**

Appeals must be in writing. It may be in any form or format such as a notice or letter. The appeal must clearly state the date, the name and address of the appellant, and the basis or reasons for the appeal, including what issues are being claimed, the reason(s) why the appellant believes the claim should be allowed, and how the appellant believe he or she is aggrieved. The appeal must clearly identify the City's project title and the parcel number of the real property involved and should bear the signature, address, and telephone number of the appellant or the appellant's authorized representative. The City may refuse to schedule any informal review or formal hearing on an appeal until these requirements have been complied with, or may issue an order dismissing the appeal upon the appellant's failure to comply within a reasonable time specified to the appellant by the City, which shall not be less than fourteen (14) days. The appellant must file an appeal within the time limit for initiating the appeal at the following address:

City Clerk  
City of Port Orchard  
216 Prospect Street  
Port Orchard, WA 98366

With a copy to:  
Public Works Director

City of Port Orchard  
216 Prospect Street  
Port Orchard, WA 98366

#### 1.1.2 TIME LIMIT FOR INITIATING APPEAL

The City must receive a written appeal no later than sixty (60) days after the appellant receives written notification of the City's determination on the appellant's claim for relocation payments.

#### 1.1.3 APPELLANT'S REVIEW OF FILES

The City will permit the appellant to inspect and copy all materials pertinent to the appeal, except materials or data that are classified as confidential by the City. The City may, however, impose reasonable conditions on the appellant's right to inspect, consistent with applicable laws. For the purpose of this section, "Confidential Materials" or "Data" means, information that is exempt from disclosure to the public or other unauthorized persons under RCW 42.56 or other federal or state laws. Confidential material includes; but is not limited to, personal information.

#### 1.1.4 SCOPE OF APPEAL

In deciding an appeal, the City will consider all pertinent justification and other material submitted by the appellant, and all other available information that is needed to ensure a fair and full review of the appeal.

#### 1.1.5 LOCATION AND SCHEDULING OF APPEAL MEETINGS OR HEARINGS

Any hearing described in these procedures shall be held at Port Orchard City Hall. At its discretion, the City may identify an alternative location for the participants' mutual convenience. To the extent practicable, hearings shall be held on consecutive days until concluded.

#### 1.1.6 RIGHT TO REPRESENTATION

The appellant has a right to be represented by legal counsel or another representative in connection with any phase of his or her appeal under these procedures, but solely at the appellant's expense.

#### 1.1.7 LIMITATIONS

A person is entitled to only such benefits as are specifically delineated by Chapter 8.26 RCW and Chapter 468-100 WAC.

### 1.2. REVIEW OF APPEAL

#### 1.2.1 REVIEW OF APPEAL – INFORMAL PROCESS

Within thirty (30) days of receiving an appeal, the City Clerk, or such other City employee as designated by the Mayor, who is not, and has not been, directly involved in the action appealed, will review the appeal and either accept the appeal,

in whole or in part, or reject the appeal. The City Clerk will notify the appellant in writing of his or her decision at the address listed in the appeal. If the appeal is rejected, the appellant may present his/her/its appeal in a formal hearing before the City's Land Use Hearing Examiner (Hearing Examiner), pursuant to section 1.3 herein.

#### 1.2.2 EXTENSION OF REVIEW TIME

The City may extend the Review time set forth in section 1.2.1 beyond thirty (30) days in the interest of consolidating appeals by agreement of the City and the appealing party.

### 1.3. FORMAL HEARING

#### 1.3.1 APPELLANT'S REQUEST FOR FORMAL HEARING

Within fifteen (15) days after receiving written decision, referred to in section 1.2.1, the appellant must notify the City, at the address set forth in section 1.1.1 above, that the appellant requests a Formal Hearing (Request for Formal Hearing). This Request for Formal Hearing shall contain the same information required for the initial notice of appeal as set forth above. If appellant accepts the written decision referred to in section 1.2.1 or fails to file a request for a Formal Hearing within fifteen (15) days after receiving the decision, then the appeal shall be deemed dismissed and the matter closed.

#### 1.3.2 SCHEDULING OF FORMAL HEARING

The Hearing Examiner shall have authority to hold and conduct Formal Hearing relocation assistance appeals. Within thirty (30) days of the Request for Formal Hearing the City Clerk, or such other City employee as designated by the Mayor, shall schedule the Formal Hearing before the Hearing Examiner. The City Clerk shall provide the appellant, or its representative, if any, at least thirty (30) days' notice of the date of the Formal Hearing.

#### 1.3.3 DISCOVERY

Discovery will be available in Relocation Appeals as follows:

Any party to a relocation appeal may obtain discovery from any other party by written interrogatories, written admissions, oral depositions, subpoena *duces tecums*, and written requests for production of documents. The procedures regarding these methods of discovery are found at Washington Court Civil Rule (CR) 28-36, 45(b) and Kitsap County Superior Court Local Rules (KCLCR) 28-36, 45(b) as now or hereafter amended and are hereby incorporated in this section.

#### 1.3.4 CONDUCT OF FORMAL HEARING

The Hearing Examiner shall conduct the Formal Hearing as follows:

- a. Opening Statements. Both the appellant and the City may make opening statements.
- b. Appellant's case. The appellant may offer lay and expert testimony; may cross-examine the City's testimony; and may re-direct appellant's witnesses.
- c. The City's case. The City's representative may offer lay and expert testimony; may cross-examine the appellant's testimony; and may re-direct the City's witnesses.
- d. Closing argument. Both the appellant and the City's representative may make closing arguments. The Hearing Examiner conducting the Formal Hearing shall determine whether closing arguments will be delivered orally or in writing. He/she shall have the discretion to allow submission of post-hearing written argument. Any post-hearing written argument allowed will be due five (5) working days after the hearing. The Hearing Examiner conducting the Formal Hearing will provide for rebuttal to any post-hearing argument, as appropriate.
- e. The Hearing Examiner may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony. Testimony shall be concise and non-repetitious.

#### 1.3.5 TRANSCRIPT OF FORMAL HEARING

The Hearing Examiner conducting the Formal Hearing or the City shall provide for a transcript to be made of the Formal Hearing. An electronically recorded transcript shall comply with this requirement.

#### 1.3.6 FINAL DECISION

Within fifteen (15) days of conclusion of the Formal Hearing (including any post-hearing argument), the Hearing Examiner shall issue a decision regarding the appeal, setting forth his or her findings and conclusions. This decision shall constitute the final decision and it shall advise the appellant of his or her right to seek judicial review. This appeal process shall establish the record for use in any subsequent judicial appeal proceedings, consistent with applicable law.