

**APPROVED**  
BY THE CITY COUNCIL

**FEB 16 1999**

OFFICE OF THE  
CITY CLERK



1.8

NEIGHBORHOODS, PLANNING &  
DEVELOPMENT SERVICES  
DEPARTMENT

MAX FERNANDEZ  
AREA 1 DIRECTOR

**CITY OF SACRAMENTO**  
CALIFORNIA

1231 I STREET, SUITE 400  
SACRAMENTO, CA  
95814

PH 916 264-7940  
FAX 916 264-7643

February 3, 1999

City Council  
Sacramento, California

Honorable Members in Session:

**SUBJECT: CITY INDEMNIFICATION OF NUISANCE CODE HEARING EXAMINERS**

**LOCATION AND COUNCIL DISTRICT:** City-wide.

**RECOMMENDATION:**

It is recommended that the City Council, by resolution, approve the provision of indemnification and legal defense for the panel of hearing examiners appointed by the City Council.

**CONTACT PERSONS:** Max Fernandez, Director - Area 1, 264-7940  
Jack Crist, Deputy City Manager, 264-7598

**FOR COUNCIL MEETING OF:** February 16, 1999

**SUMMARY:**

The City Council, in adopting Resolution No. 98-336, appointed a panel of hearing examiners for the purpose of conducting hearings on matters relating to public nuisances and related matters. The panel of hearing examiners has requested that the City of Sacramento provide to them indemnification and legal defense in case of litigation cases when they are named as a party defendant or respondent, and which arise out of a decision made in a proceeding over which a hearing examiner has presided.

**COMMITTEE/COMMISSION ACTION:** None.



*building better neighborhoods block by block*

[www.sacto.org/npdsl/](http://www.sacto.org/npdsl/)

**BACKGROUND:**

In June 1998, the City Council adopted Resolution No. 98-339 appointing a panel of nuisance code hearing examiners. The current panel of hearing examiners includes: Felton "Mac" Mailes, Walter Thompson and Tamara L. Milligan-Harmon. This panel provides a high quality of service to the City. A lack of legal defense provided to them would jeopardize the City's ability to obtain qualified individuals to serve in this capacity. It is in the best interests of the City of Sacramento that indemnification and legal defense be provided to these hearing examiners.

**FINANCIAL CONSIDERATIONS**

When the criteria specified in the proposed resolution have been met, legal defense shall be provided to the hearing examiner by an independent private attorney selected by the City Attorney. Should the need arise, the cost of the independent private attorney shall be paid by the City of Sacramento, from available funds of the Neighborhoods, Planning and Development Services Department, with the possibility of recoupment of costs from the plaintiff when the hearing examiner prevails.

**ENVIRONMENTAL CONSIDERATIONS**

There are no environmental considerations applicable to this report.

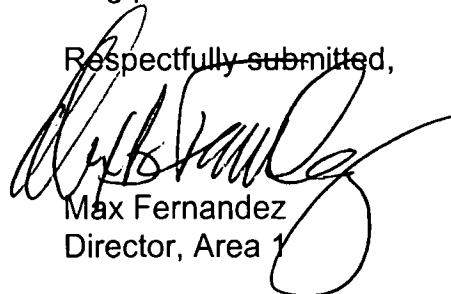
**POLICY CONSIDERATIONS**

Nuisance code hearing examiners are appointed by the City Council. It is in the best interests of the City of Sacramento that indemnification and legal defense be provided to hearing examiners in case of litigation cases when they are named as a party defendant or respondent, and which arise out of a decision made in a proceeding over which a hearing examiner has presided.

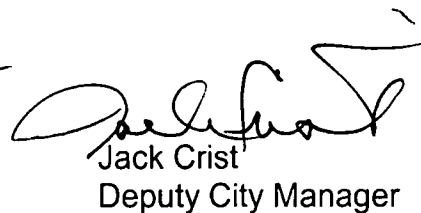
**MBE/WBE EFFORTS**

No goods or services are being purchased under this report.

Respectfully submitted,

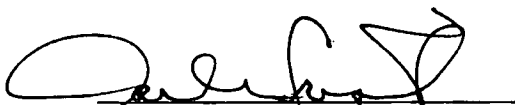


Max Fernandez  
Director, Area 1



Jack Crist  
Deputy City Manager

Recommendation:



William H. Edgar  
City Manager

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BY THE CITY COUNCIL

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OFFICE OF THE  
CITY CLERK

**RESOLUTION NO. 99-060**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**A RESOLUTION PROVIDING FOR CITY INDEMNIFICATION  
OF NUISANCE CODE HEARING EXAMINERS**

**WHEREAS:**

A. The City Council, in adopting Resolution No. 98-336, appointed a panel of hearing examiners for the purpose of conducting hearings on matters relating to public nuisances and related matters; and

B. The panel of hearing examiners has requested that the City of Sacramento provide to them indemnification and legal defense in case of litigation cases when they are made a party defendant or respondent, and which arise out of a decision made in a proceeding over which a hearing examiner has presided; and

C. It is in the best interests of the City of Sacramento that indemnification and legal defense be provided to hearing examiners in such circumstances.

D. It is specifically the intention of the City Council that this resolution and all of its provisions shall apply to any litigation case, whether such case is filed prior to or after the date of adoption of this resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
SACRAMENTO that:**

1. The City Council finds and determines that, based upon the staff reports and presentation, and other facts and circumstances within the Council's knowledge, the matters set forth in the recitals above are true and correct.

2. It is in the best interests of the City of Sacramento that indemnification and legal defense be provided to the panel of hearing examiners appointed by the City Council pursuant to Resolution No. 98-336, and to any other hearing examiners hereafter appointed by the City Council for the purpose of hearing city nuisance code violation cases, when the following criteria are met:

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a. A petition for writ of mandate or a complaint in a civil action has been filed in a state or federal court wherein a nuisance code hearing examiner is named as a party respondent or defendant;

b. The case arises out a nuisance code violation case wherein a nuisance code hearing examiner presided over a hearing in, and rendered a decision on the case; and

c. The City Attorney has made a determination that a conflict of interests exists which prevents the City Attorney from representing the hearing examiner in the litigation.

3. Where the above criteria have been met, legal defense shall be provided to the hearing examiner by an independent private attorney selected by the City Attorney. The cost of the independent private attorney shall be paid by the City of Sacramento, from available funds of the Department of Neighborhoods, Planning and Development Services.

4. For purposes of this resolution, "nuisance code violation case" includes all types of nuisance and related cases and cases arising under applicable housing and dangerous building ordinances.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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