

QUASI-JUDICIAL HEARINGS

WHAT IS A QUASI-JUDICIAL HEARING?

In a quasi-judicial hearing the body making the decision, whether it be the City Commission or an appointed citizen board, must apply specific rules or criteria to a particular situation or application as opposed to formulating policy. . The decision must be based on the evidence presented at the hearing. This means that the decision making body must follow carefully laid out procedures which take into account oral, written and demonstrative testimony or evidence presented at the hearing. Opposing sides may also ask those presenting testimony questions, similar to cross-examination in a courtroom.

WHAT IS THE DIFFERENCE BETWEEN A QUASI-JUDICIAL HEARING AND A LEGISLATIVE PUBLIC HEARING?

Like a hearing on a legislative matter, a quasi-judicial hearing allows for public comment. A quasi- judicial hearing, however, also requires all speakers to be sworn-in and cross-examined. In addition, the decision of the City Commission in a quasi-judicial hearing must be based on competent, substantial evidence presented at the hearing.

WHY DOES THE CITY HOLD A QUASI-JUDICIAL HEARING?

In 1993, the Florida Supreme Court (Board of County Commissioners of Brevard County v. Snyder) determined that certain types of hearings are quasi-judicial in nature as opposed

to legislative. As a result, certain formalities and requirements must be followed.

WHAT ARE SOME EXAMPLES OF DECISIONS THAT REQUIRE A QUASI-JUDICIAL HEARING?

- ★ Zoning (of one parcel)
- ★ Conditional Use
- ★ Variance
- ★ Site Plan

WHEN DOES THE QUASI-JUDICIAL HEARING OCCUR?

The City conducts one (1) quasi-judicial hearing on each application. Generally, this hearing occurs before the City Commission unless the application is for a variance; in which case the hearing is held before the Board of Zoning Appeals. If the application involves an ordinance (such as a rezoning of a single parcel) which requires two (2) readings before the City Commission, then the quasi-judicial hearing will occur in conjunction with the first reading, or hearing, before the City Commission. Hearings before the City's Planning and Zoning Board are *not* quasi-judicial.

WHAT IS CONSIDERED COMPETENT SUBSTANTIAL EVIDENCE?

In the case of a quasi-judicial hearing, the decision-making body is not allowed to utilize popular sentiment or unsubstantiated evidence as the basis for making a decision. All decisions must be based upon substantial competent evidence. Substantial competent evidence consists of relevant evidence that a reasonable person would accept as adequate to support a

conclusion, and must relate to the merits of the application. This may include the factual testimony of lay witnesses and the opinion testimony of experts. Planning and Zoning Board decisions may also constitute substantial competent evidence. Information presented by the City's staff also has been determined to constitute substantial competent evidence.

WHO QUALIFIES AS AN EXPERT?

An expert is someone who has the background and technical training as a professional in their field. For example, planners, traffic engineers, civil engineers, environmentalists, property appraisers and other professionals often qualify as experts if the facts they present are relevant to the application. Experts may offer opinion testimony. Opinion testimony of the public generally does not constitute substantial competent evidence on matters which are technical in nature, but may be relevant where testimony presents particular factual knowledge relevant to the application. For example, the public can provide firsthand knowledge of the area in question.

WHO HAS THE BURDEN OF PROVIDING SUBSTANTIAL COMPETENT EVIDENCE?

Initially, the applicant has the burden of providing evidence that the application complies with the City's rules and regulations. If this can be reasonably demonstrated, then the burden shifts to the City or those objecting to the application to show that the application does not meet the applicable criteria.

PROCEDURES FOR QUASI-JUDICIAL PUBLIC HEARINGS:

- ★ The Mayor (or Chairman) will ask if anyone wishes to be considered affected parties, other than the applicant and the City. To be considered a party one must have a direct interest in the application. Affected parties can cross-examine witnesses and present expert witnesses.
- ★ All those intending to give testimony will be sworn in by the City Clerk (or recording secretary).
- ★ All City Commissioners (or Board members) will disclose whether they have had communications regarding the application outside of the hearing format, and will disclose the nature of any such communications (ex parte communications).
- ★ Staff will make a presentation, and will be subject to cross-examination By the Applicant and Affected Parties.
- ★ The applicant will present evidence and witnesses. Their witnesses will also be subject to cross-examination by the City and Affected Parties.
- ★ Other Affected Parties will present their case.
- ★ The general public will be allowed to speak.
- ★ Rebuttal evidence will be received from the parties. This does not include the general public.

- ★ Closing statements will be permitted by the parties. This does not include the general public.
- ★ A decision is made by the decision-making body.



QUASI-JUDICIAL PUBLIC HEARINGS



This handout is intended for informational purposes only and is not intended to provide legal advice. Readers are advised that you may wish to consult a lawyer or other professional with regard to your involvement in or opposition to any application which involves a quasi-judicial hearing.

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