

Board Meeting

November 15, 2022

Questions and Comments Regarding the Permit Appeal Process	
Name / Affiliation	Comment
Angela Johnson Meszaros, Earth Justice	<p>Commented about the meetings planned for December 12 and January 26 and suggested that this topic may get pushed out to March and it could be mid-year 2023 before the procedures are ready, given the importance of the topic. Most interested in reading the procedures in draft form at this point rather than having more discussion in the abstract.</p> <p>Asked for clarification about the timing for filing; Board confirmed that there would be an initial 30 days to file, followed by an additional 30 days to prepare a petition for review.</p> <p>Regarding standing, suggested limiting the issues that can be raised rather than the range of persons who can raise those issues.</p> <p>The current standards already allow people to raise procedural issues.</p> <p>Raised a concern about the ability to raise CEQA issues in appeals, as this has not been allowed under the former process.</p> <p>Expressed agreement with a deferential standard of review for technical and factual matters but not legal and procedural matters.</p> <p>Raised a concern about relying on libraries to serve as repositories for records because the libraries have not performed that function well because the information does not get updated consistently.</p> <p>Questioned what the main difference was between parties and nonparties, other than parties having the ability to go to court.</p>

	<p>Recommended that the Board take care to create a clear record because a party would then pursue the issues in court and should not be put at a disadvantage.</p> <p>Regarding the administrative record, the Board should be cautious about allowing additions to the record on appeal, but the Board should also know that in the City of Los Angeles, when the decision of the zoning administrator is appealed to an appointed board, parties are allowed to add new material to the administrative record.</p> <p>Commented that while DTSC does include information about compliance history in the administrative record, questions remain about how that affects the outcome of the permitting decision.</p> <p>Questioned who will serve as hearing officer for the appeals. Suggested that while having alternative dispute resolution could make the process more efficient, it raises other concerns about fairness and transparency which make it unlikely to be a helpful addition to the appeal process. In a situation where a business is appealing its own permit, then they can always sit down with DTSC to work it out.</p> <p>Discussed situations where multiple parties are appealing the same permit and considered whether they would be required to consolidate their briefs and how that would work. Suggested that it is better to allow all parties to have the ability to raise their issues separately without being too limited.</p>
Ingrid Brostrom, Center for Race Poverty and the Environment	Expressed concern about the issue of what issues are presented for the Board on appeal, or issue exhaustion, which she finds to be problematic because of unequal access and lack of attorneys for some community members. Requiring community members to raise issues with specificity is going to be a high burden. If the board is imposing a standing or exhaustion requirement then that needs to be very expansive and accommodating and not overly narrow or restrictive because community members may not raise issues in precisely the right manner. Community members should not need to be

	<p>represented by an attorney in order to participate in the appeal process.</p> <p>Expressed that appeals should not be limited to only permit conditions as that ignores a lot of important procedural issues and CEQA matters. Boards and agencies at all levels are called upon to make decisions related to CEQA compliance, and it is not too much to expect that the Board will be able to consider CEQA issues as the Board has its own staff and attorney.</p>
Matt Williamson, Manatt	Commented that the administrative record in permit matters can take up several bankers boxes and so the Board should be thinking about the burden involved in making the administrative record available during the permit review process.