

## **ARTICLE 10 - Hearing and Appeal Procedures**

### 10.1 Application.

The hearing and appeal procedures established by this Article shall apply to all complaints concerning the interpretation, application, or enforcement of the Rules and Regulations of the District, as they now exist or may hereafter be amended. The hearing and appeal procedures established by this Article shall not apply to the following complaints:

10.1.1 Complaints arising out of the interpretation of the terms of District contracts.

10.1.2 Any other complaint, which does not concern the interpretation, application, or enforcement of the Rules and Regulations of the District.

### 10.2 Initial Complaint Resolution.

Complaints concerning the interpretation, application, or enforcement of the Rules and Regulations of the District must first be presented to the General Manager in writing. Upon receipt of a complaint and after a full and complete review of the allegations contained in the complaint, the General Manager shall take such action or make such determination as he shall determine to be warranted and shall notify the complainant of the action or determination by mail within twenty (20) days after receipt of the complaint.

### 10.3 Formal Hearing.

In the event the decision of the General Manager is deemed unsatisfactory by the complainant, a written request for formal hearing may be submitted to the General Manager or such hearing officer as shall be designated by the Board within twenty (20) days from the date written notice of the determination under Section 10.2 was mailed.

Upon receipt of the request for a formal hearing, if it be timely and if any and all other prerequisites prescribed by the Rules and Regulations have been met, the General Manager or hearing officer shall conduct a hearing at the District's convenience, but in any event not later than thirty (30) days after the receipt of the request for a formal hearing. The formal hearing shall be conducted in accordance with and subject to all pertinent provisions of these Rules and Regulations.

### 10.4 Conduct of Formal Hearing.

At the hearing, the General Manager or the hearing officer designated by the Board shall preside. The complainant and representatives of the District shall be permitted

to appear in person, and the complainant may be represented by legal counsel or an agent designated in writing.

Both the complainant or his representative and the District representatives shall have the right to present evidence and arguments; the right to confront and cross-examine any person who appears and testifies; and the right to oppose any testimony or statement that may be presented in support of or in opposition to the matter complained of. The General Manager or hearing officer may receive and consider any evidence which has probative value and which is commonly accepted and relied upon by reasonable and prudent persons in the conduct of their affairs.

The General Manager or hearing officer shall determine whether the weight of the evidence presented is sufficient to justify a change in the interpretation, application, and/or enforcement of the Rules and Regulations that are the subject of the complaint.

#### 10.5 Findings.

Subsequent to the formal hearing, the General Manager or hearing officer shall make written findings and an order disposing of the matter and shall mail a copy thereof to the complainant not later than fifteen (15) days after the date of the formal hearing.

#### 10.6 Appeals to the Board.

In the event the complainant disagrees with the findings and order of the General Manager or hearing officer, the complainant may, within twenty (20) days from the date of their mailing, file with the District a written request for a review of the findings and order by the Board. The request for review by the Board shall set forth with specificity the facts or exhibits presented at the formal hearing upon which the complainant relies and shall contain a brief statement of the complainant's reasons for the appeal. In response the District shall compile a written record of the appeal consisting of (1) a transcript of the recorded proceedings at the formal hearing (if such hearing was recorded), (2) all exhibits or other physical evidence offered and received in evidence at the formal hearing, (3) a copy of the written findings and order, and (4) additional written comments which the General Manager may wish to submit in response to the written request for review by the Board. The Board shall consider the complainant's written request for review and the written record on appeal at the next regularly scheduled Board meeting held not earlier than ten (10) days after the filing of the complainant's written request for review. No further evidence shall be presented by any party to the appeal during the review by the Board unless the Board, in the exercise of its sole and absolute discretion, shall permit the complainant and the General Manager to make oral presentations to the Board.

#### 10.7 Board's Findings.

The Board shall make written findings and an order concerning the disposition of the appeal presented either affirming the decision of the General Manager or hearing officer or making its own determination as to how the Rules & Regulations shall be applied. The Secretary of the Board shall cause notice of the decision to be sent by certified mail to the complainant within thirty (30) days after the meeting at which the matter is reviewed. The findings of the Board shall be final.

#### 10.8 Notice.

A complainant shall be given notice of any hearing before the General Manager or the designated hearing officer, or that such determinations will be reviewed by the Board at an open meeting by certified mail at least seven (7) calendar days prior to the date of the formal hearing or the Board meeting, unless the complainant requests or agrees to a hearing upon shorter notice. When a complainant has been represented by an attorney at any stage of these proceedings, notice of any action, finding, determination, decision, or order affecting the complainant shall also be mailed to the attorney by regular U.S. Mail, postage prepaid.