Code Enforcement

Best Practices for Government Attorneys

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Jurisdiction

Hearings Officer Authority

Statutes, Regulations, **Local Code**

- ORS 215.406 – Counties
- ORS 227.165 – Cities
- ORS 197 – Quasi-judicial land use hearings
- ORS 197.375 – Expedited land divisions

Types of Code Hearings

- Land use
- Building / Development
- Short-term Rental
- Nuisance
- Animal
- Tow

Applicable Law

Rules of Evidence
Oregon Code of Ethics
Oregon Code of Judicial Conduct
ORS Chapter 183 / APA

Purpose

Why Use a Hearings Officer?

- Administrator
- Planning Commission
- City Council
- County Commission
- Legal Counsel

Trends

Why Use a Hearings Officer?

- Robust enforcement system
- Non-political / neutral, third-party
- Distanced decisionmaker
- Ad hoc

How to be effective

Code Audit

- Are provisions enforceable?
- What proof do you need?
- Where do challenges go?
- Timelines for decisions and appeals
- Fees for appeals
- Is the code being enforced?
- Is your code working?

How to be effective

When appearing before a Hearings Officer

Preparation is key:

- Train code enforcement officers & compliance planners.
- Prepare witnesses to speak to applicable code standards.
- Consider your goal in recommendation for sentencing.
- Who is being cited? One versus multiple hearings. LL/Tenant.

How to be effective

When appearing before a Hearings Officer

At the hearing:

- Represent your client.
- Government has the burden of proof.
- Track facts to law / each criterion.
- Include proposed findings.
- Take advantage of pre-hearing memos and final legal arguments.
- Avoid redundancies.
- Address weaknesses.
- Short and to the point.

Hybrid /Virtual Hearings

Best Practices

- Use technology.
- Have a moderator.
- Use a clear script and process.

Questions?

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Thank you!

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