

**RULES CONCERNING THE APPOINTMENT OF HEARING OFFICERS, POWERS
AND DUTIES OF HEARING OFFICERS, CONDUCT OF HEARINGS, AND REPORTS
AND RECOMMENDATIONS**

Pursuant to Section 19, Adoption of Rules and Regulations, Chapter 95-488, Laws of Florida, as amended (“**Enabling Act**”), the Tampa Port Authority, d/b/a Port Tampa Bay (“**Port Tampa Bay**” or “**PTB**”), adopts these rules related to the appointment of independent hearing officers, conduct of hearings and the presentation of evidence at hearings to hear objections to proposed work, projects, applications, permits, actions or leases from any affected party or reviewing agency and make reports and recommendations to the Port Director or PTB Board of Commissioners, as applicable.

A. Appointment of Hearing Officers.

The Port Tampa Bay Board Commissioners (“**Board**”) may appoint one or more independent hearing officer (“**Hearing Officer(s)**”), all of whom shall be attorneys, preferably with experience in land use, environmental, construction or real estate law. The Port President and Chief Executive Officer serving as the “Port Director” under the Enabling Act (hereinafter the “Port President and CEO”) shall submit recommended appointees to the Board for consideration and appointment. Each Hearing Officer is to be appointed for a term of not more than three (3) years, provided that the terms of the appointees may be staggered so that all terms do not expire simultaneously. A Hearing Officer may be removed for cause by the Board. Each Hearing Officer shall be compensated from the Authority’s annual budget, or by the applicant if required by the Enabling Act.

B. Powers and Duties of Hearing Officers.

The Hearing Officer shall conduct hearings pursuant to the Enabling Act and rules adopted thereunder, as amended from time to time, with regard to certain applications for proposed work, projects, applications, permits, actions or leases from any affected party or reviewing agency and make findings and recommendations to the Port President and CEO or Port Authority, as requested by the Port President and CEO or his designee.

The Hearing Officer shall have the power to:

- Issue notices of hearings.
- Take testimony and receive evidence, and to require such additional evidence as the Hearing Officer may deem necessary.
- Accept true copies of such documentary evidence as may be offered in lieu of originals.
- Request the submittal of additional evidence from the applicant, staff or other reviewing agencies, and may continue the hearing on the application in order to receive the requested information.
- Visit the property which is the subject matter of the application.

It shall be the duty of the Hearing Officer to inquire fully into the facts of each case.

No applicant, opponent, proponent, or interested party who is or may become a party of record before a Hearing Officer, nor anyone appearing on behalf of such party of record, shall communicate ex parte with any Hearing Officer about pending proposed work, projects, applications, permits, actions or leases .

The Hearing Officer shall disqualify himself or herself from a particular case when it reasonably appears that he or she has a conflict of interest. When the Hearing Officer disqualifies himself or herself, the case shall be randomly assigned to another Hearing Officer, if available. The Port President and CEO may request the Port Counsel to provide an attorney otherwise qualified to sit as a Hearing Officer for an individual case where all Hearing Officers disqualify themselves or are unavailable.

C. Conduct of Hearings.

Hearings before the Hearing Officer shall be held in accordance with the schedule provided in the Enabling Act or rules adopted thereunder, as amended from time to time, and as requested in writing by the Port President and CEO or his designee. All hearings shall be opened to the public. The PTB staff shall tape record the proceedings before the Hearing Officer and a verbatim transcript of the proceedings shall be provided to the Hearing Officer and filed with the Port President and CEO or the Board, as requested.

The participants before the Hearing Officer shall be the applicant, PTB staff, reviewing agencies, proponents, and opponents, interested parties, inclusive of the public and witnesses with relevant testimony. The proponent shall be defined as a participant in favor of the proposed work, project, application, permit, action or lease, exclusive of the applicant; whereas, the opponent shall be defined as a participant against the proposed work, project, application, permit, action or lease. Both definitions are inclusive of the public and any other parties of record.

The Hearing Officer shall afford all parties properly appearing before him or her the requisite due process of law.

The order of presentation shall be as follows:

- a. PTB staff -- Presentation of a summary of the matter, reviewing agency reports and findings: Five (5) minutes.
- b. Applicant and witnesses -- Presentation of the proposal: Fifteen (15) minutes, plus an additional Fifteen (15) minutes if requested by the applicant.
- c. Proponents -- Argument for the application: Fifteen (15) minutes.
- d. Opponents --Argument against the application: Fifteen (15) minutes.
- e. Staff -- Recommendations, if any: Five (5) minutes.

f. Applicant -- Rebuttal and summation: Five (5) minutes.

For good cause shown, the Hearing Officer may grant additional time.

To the maximum extent practicable, these hearings shall be informal. The Hearing Officer may call and question witnesses as he or she deems necessary and appropriate. The Hearing Officer shall decide all questions of procedure.

Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Any part of the evidence may be received in written form or testimony.

D. Reports and Recommendations.

The Hearing Officer shall within thirty (30) calendar days after the hearing or receipt of the hearing transcript, whichever is later, submit to the Port President and CEO, a report titled "Report and Recommendation." which shall include a caption, time and place of hearing, statement of the issues, findings of fact and conclusions, and a recommendation for final action by the Port President and CEO or the PTB Board, as applicable, based upon the evidence submitted to the Hearing Officer and upon the application of applicable laws and rules.