

# Appeal Procedures of the Hospital Building Safety Board

The Hospital Building Safety Board (Board) was established in the original Hospital Seismic Safety Act (Act) of 1973. The purpose of the Board is to advise the Director of the Department of Health Care Access and Information (HCAI) on the administration of the Act and serve as a board of appeals in all matters relating to the administration and enforcement of building standards relating to the design, construction, alteration, and seismic safety of hospital building projects submitted to HCAI.

The Board acts as a board of appeals in matters relating to all fire and panic safety regulations and alternate means of protection determinations for hospital building projects. The regulations covering this process, California Building Standards Administrative Code, Part 1, Title 24, California Code of Regulations, can be located on the [California Building Standards Commission](#) website.

For more information, please contact:

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## Appeal Procedures of the Hospital Building Safety Board

From time to time, differences will occur between the Department of Health Care Access and Information (HCAI) and its clients about building standards and regulations relating to the design, construction, alteration, seismic compliance or fire and life safety protection of a hospital project. Before these disagreements escalate to the level of a formal appeal to the Hospital Building Safety Board (Board), the hospital's Governing Board ("appellant") must first try resolving the issue using the Comment and Process Review (CPR) procedure. Comment and Process Review is a dispute resolution process, implemented by HCAI's Facilities Development Division, to help resolve issues between HCAI and its clients, promptly.

### Comment and Process Review (CPR)

1. When an appellant disagrees with HCAI on a decision made on a hospital construction project, the appellant initiates the **First Level Review** of CPR by discussing the issue directly with the original decision maker (staff member), assigned to the project; generally the appellant's primary contact at HCAI.
2. If the issue is not resolved at the First Level, the appellant may elevate the issue by submitting a written request\* for a **Second Level Review** to the staff member's immediate supervisor within 10 calendar days of the initial decision.
3. If the issue is not resolved at the Second Level, or the appellant does not receive a response from the Second Level Reviewer within 10 calendar days, the appellant may elevate the issue by submitting a written request\* for a **Third Level Review** to the Deputy Division Chief,
4. If the issue is not resolved at the Third Level, or the appellant does not receive a response from the Third Level Reviewer within 10 calendar days, the appellant may elevate the issue by submitting a written request\* for a **Fourth Level Review** to the Deputy Director.
5. If the issue is not resolved at the Fourth Level, or the appellant does not receive a response from the Deputy Director within 10 calendar days, the appellant may request a **formal hearing** before the Board by submitting a written request\* for an appeal to HCAI within 15 calendar days of the Deputy Director's final decision. *Requests submitted after 15 days may be considered at HCAI's discretion.*

**\* All written requests for CPR must include the following:**

- a. *The appellant's name, mailing or email address, and phone number*
- b. *The specific ruling, order, decision, or act to be reviewed*
- c. *The appellant's reason for requesting the review*
- d. *The specific aspects of the ruling/decision that the appellant disagrees with and proposed alternative(s) the appellant wishes the reviewer to consider*
- e. *Copies of any documentation the appellant believes supports his or her case or will assist the reviewer*

## **Formal Hearings**

A public hearing on the appeal will be conducted within 45 calendar days of receipt of the written request, at a location chosen by the Chair of the Board. Parties to the appeal will receive written notification of the date, time, and location of the hearing within 15 calendar days of receipt of the request.

At least three (3) voting members of the Board will be present at the hearing, and the Board's decision must have the endorsement of a simple majority of the Board members present. Audio of the proceedings will be recorded. At their own expense, appellants may arrange to have a transcript prepared or a stenographer present at the hearing.

## **Rights of the Appellant**

During the hearing, Appellants may, at their own expense:

- Have attorney(s) present
- Introduce and present evidence and exhibits
- Have witnesses appear and testify
- Question any witness presenting testimony or documents, including HCAI representatives

## **Appeal Hearing Procedure**

Strict rules of evidence and courtroom procedures are not adhered to during appeal hearings. The Chair may accept into the record, without formal proof, any generally accepted technical or scientific evidence related to seismic, architectural, structural, mechanical, electrical, fire and life safety, or health facilities. Hearsay evidence may be allowed if it is provided to supplement or explain other evidence, but it will not be sufficient, by itself, to support the findings.

During the appeal hearing, the Chair will determine the order of the witnesses and presentations, and introduction of documents, evidence and exhibits into the record.

The Chair may also:

- Impose reasonable time limits
- Rule on the admissibility of evidence
- Maintain decorum of the hearing
- Call recesses and rule on continuation of the hearing
- Request counsel from HCAI for advise on points of law

## **Decision on Appeal**

The Board will reach a decision as follows:

1. Before closing of the hearing, the Chair will announce the decision rendered by the Board
2. The Board may affirm, reverse or amend the original HCAI decision being appealed
3. The Board's decision becomes effective immediately unless the Chair specifies otherwise
4. The Board's decision will be provided to the parties, in writing, within 15 days of the hearing

## Appeal Procedures of the Hospital Building Safety Board

Before HCAI's decision or ruling on a hospital construction project may be formally appealed to the Hospital Building Safety Board ("Board"), the owner or governing board of the hospital ("appellant") must complete a **Comment and Process Review (CPR)**

The appellant initiates a **1<sup>st</sup> Level Review** by discussing the issue directly with the staff member who made the decision

*If the issue is not resolved:*

The appellant submits request\* for a **2<sup>nd</sup> Level Review** to the staff member's supervisor within 10 calendar days

*If the issue is not resolved or the supervisor does not respond within 10 calendar days:*

The appellant submits request\* for a **3<sup>rd</sup> Level Review** to the Deputy Division Chief

*If the issue is not resolved or the Deputy Division Chief does not respond within 10 calendar days:*

The appellant submits request\* for a **4<sup>th</sup> Level Review** to the Deputy Director

*If the issue is not resolved or the Deputy Director does not respond within 10 calendar days:*

The appellant submits request\* for a **Formal Appeal Hearing** to HCAI within 15 calendar days of the Deputy Director's final decision (REQUESTS SUBMITTED AFTER 15 DAYS WILL BE CONSIDERED AT HCAI'S DISCRETION)

A public, formal appeal hearing is held **within 45 calendar days** of receipt of request  
Written notification of the date, time and location of the hearing is sent **within 15 calendar days** of receiving a request

### The decision rendered by the Board on the appeal:

- Is announced by the Chair before closing of the hearing
- Becomes effective immediately unless otherwise specified by the Chair
- Is provided in writing within 15 calendar days of the formal hearing

\* **ALL** REQUESTS SUBMITTED THROUGH CPR **MUST** BE IN WRITING AND INCLUDE:

- 1) APPELLANT'S CONTACT INFO; 2) EXACT INTERPRETATION OR RULING BEING DISPUTED;
- 3) APPELLANT'S REASON FOR THE REQUEST; 4) SPECIFIC ASPECTS OF RULING THE APPELLANT DISAGREES WITH AND A PROPOSED ALTERNATIVE FOR THE REVIEWER TO CONSIDER; AND 5) COPIES OF SUPPORTING DOCUMENTS