

**LANE TRANSIT DISTRICT
RESOLUTION**

CONTESTED CASE HEARING PROCEDURES

WHEREAS, the Lane Transit District (LTD) by this Resolution desires to provide for a hearing substantially of the character required by ORS 183.415, 183.425, 183.450, 183.460, and 183.470, whenever a written complaint received by the LTD is deemed by the General Manager in her or his sole discretion to materially affect the interests of the District and its patrons, and

WHEREAS, the Lane Transit District Board of Directors believes that its Resolution on "Procedures for Receiving Public Testimony at LTD Board Meetings" may not adequately protect the rights of individuals who allege that certain acts or omissions of the District have injured substantial interests of individuals or the public, and

WHEREAS, the Board desires that there be a process by which the Board may reach a quasi-judicial determination on the merits of any such complaint,

NOW, THEREFORE, IT IS HEREBY RESOLVED that when the General Manager, in her or his sole discretion, determines that the interests of the District and its patrons may be materially affected as the result of a written complaint received by LTD, the following procedure shall apply.

- A. After the General Manager determines that a written complaint requires that a contested hearing be held, the District shall determine who, other than the complainant, may have an interest in the outcome of the proceeding to the extent such person or entity should be also designated as a party, and shall give written or oral notice to each party to the hearing of the following matters.
 - 1. The general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence;
 - 2. Whether a record will be made of the proceedings, the manner of making the record and its availability to the parties;
 - 3. Whether the parties ordinarily and customarily are represented by an attorney;
 - 4. Whether the person presiding at the hearing, or the Board itself, has the authority to make a final independent

determination;

- B. The information required by the preceding section may be given in writing or orally before the commencement of the hearing. This requirement is met if a copy of this Resolution is attached to any notice of a contested case hearing. The failure of LTD to give notice of any item specified shall not invalidate any determination by the agency unless it is thereafter determined by a court that the failure affects the substantial rights of the complaining party.
- C. In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice, served personally or by registered or certified mail, upon the party or, if the written complaint to LTD is submitted by a representative attorney, upon that representative attorney.
- D. The notice of hearing shall include a statement of the party's right to hearing, or a statement of the time and place of the hearing; a statement of the authority under which the hearing is to be held and reference to any particular statute or rule involved; a short and plain statement of the matters asserted or charged. Furnishing the party with a copy of the complaint received by LTD and this Resolution shall satisfy the requirements for the authority and the particular rule that justifies the holding of the hearing and the statement of matters asserted or charged.
- E. In its discretion the District may order discovery, as that term is defined in OAR 137-03-025, by the District and any party in appropriate cases.
- F. The contested case hearing may be conducted by and under the control of the Board or the presiding officer. The presiding officer may be the General Manager, a member of the District Board, or any other person designated by the District.
- G. The hearing shall be conducted, subject to the discretion of the presiding officer, so as to include the following:
 - 1. The statement and evidence of the complainant in support of its complaint or claim;
 - 2. The statement and evidence of the LTD in support of its action;
 - 3. Any rebuttal evidence; and
 - 4. Any closing arguments.
- H. Testimony at the hearing shall be taken upon oath or affirmation of the witness from whom received. The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

- I. The record in a contested case shall include all pleading, motions and intermediate rulings, evidence received or considered, stipulations, a statement of matters officially noticed, offers of proof, objections and rulings thereon, a statement of any ex parte communications on a fact in issue made to the officer presiding at the hearing. In addition, the record shall include proposed findings and any proposed or final order prepared by the District or its hearing officer.
- J. Except as otherwise agreed upon between the parties, the evidence offered and the cross-examination of witnesses who testify shall be as provided in ORS 183.450.
- K. The Final Order shall be made by the Board, unless the Board, prior to the commencement of the hearing, determined that the Final Order shall be made by the General Manager.
- L. The Final Order shall be accompanied by Findings of Fact and Conclusions of Law.
- M. If the contested case hearing involves one or more of the subjects described in ORS 192.660(1)(a) through (j), the contested case hearing shall be conducted in executive (non-public) session.

July 14, 1997
Date Adopted

Patricia Hocken
Board President