

The OAH



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Vol. 36

August 2005

www.azoah.com

Official Newsletter of the Arizona Office of Administrative Hearings

Videoconferencing in Registrar of Contractors Hearings

by Cliff J. Vanell, Director

The mission of the Office of Administrative Hearings (OAH) is to provide full, fair, impartial, independent and prompt hearings to parties appearing before us. Government is a scarce resource and must be managed to find efficiencies so that more people can be served in a timely way. With the increased level of home construction, there has been a corresponding increase in the number of complaints filed with the Registrar of Contractors (ROC) and, therefore, an increase in hearings referred to the OAH. In FY 2003 (July 1, 2002 - June 30, 2003), the number of ROC cases set for hearing was 1648. By FY 2005 (July 1, 2004 - June 30, 2005), the number had risen to 2065, representing a 25% increase.

The Need to Increase the Frequency of Hearings Convened Outside of the Phoenix and Tucson Metropolitan Areas

The OAH convenes hearings in seven areas outside of the metropolitan areas of Phoenix and Tucson: Flagstaff, Kingman, Lake Havasu City, Prescott, Show Low, Sierra Vista, and Yuma. From January 1996 through July 2005, hearings were conducted by 8 Administrative Law Judges traveling for week-long dockets in these outlying areas. From FY 2003 to FY 2005, the number of requests for hearing rose from 356 to 535, representing a 50% increase. The number of travel weeks increased from 57 to 79.

In FY 2004, the hearing date for the average ROC case in the metropolitan areas was set 68 days after receipt of a request for hearing. Because of the logistics of travel, the hearing date for the average case in the outlying areas was set 108 days from the request for hearing. By FY 2005, the hearing date setting had remained 68 days for the average case in the metropolitan areas, but had risen to 111 days in the outlying areas.

In FY 2004, when an ROC case was continued, it could be restored to the calendar in an average of 48 days in the metropolitan areas, but required 70 days for the



"Videoconferencing"
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The Office of Administrative Hearings (OAH) began operations on January 1, 1996. Administrative Hearings previously provided by regulatory agencies (except those specifically exempted) are now transferred to the OAH for independent proceedings. Our statutory mandate is to "ensure that the public receives fair and independent administrative hearings."

The process of unifying the administrative hearings function in OAH-style agencies began in 1945 with California. The current American states and cities, and Canadian

provinces, having adopted the model, with year of inception are: Alabama (1998); Alaska (2004); Arizona (1996); California (1961); City of Chicago (1997); Colorado (1976); Florida (1974); Georgia (1995); Iowa (1986); Kansas (1998); Louisiana (1996); Maine (1992); Maryland (1990); Massachusetts (1974); Michigan (1996); Minnesota (1976); Missouri (1965); New Jersey (1979); New York City (1979); North Carolina (1986); North Dakota (1991); Oregon (1999); South Carolina (1994); South Dakota (1994); Tennessee (1975); Texas (1991); Washington D.C. (1999); Washington (1981); Wisconsin (1978); Wyoming (1987); and Province of Quebec ().

Mission Statement:

We will contribute to the quality of life in the State of Arizona by fairly and impartially hearing the contested matters of our fellow citizens arising out of state regulation.

4th Quarter Statistics At A Glance

Acceptance Rate:

ALJ findings of fact and conclusions of law were accepted in **83.13%** of all Administrative Law Judge Decisions acted upon by the agencies.* ALJ Decisions, including orders, were accepted without modification in **71.69%** of all Administrative Law Judge Decisions acted upon by the agencies. **50.7%** of all agency modification was of the order only (i.e. penalty assessed).

Appeals to Superior Court:

There were **30** appeals filed in Superior Court.

Rehearings:

The rehearing rate was **1.82%**, defined as rehearings scheduled (13) over hearings concluded (714).**

Completion Rate:

The completion rate was **87.38%**, defined as cases completed (2028) over new cases filed (2321).

Continuance:

The average length of a first time continuance based on a sample of cases (first hearing setting and first continuance both occurred in the 4th quarter) was **48.02 days**. The frequency of continuance, defined as the number of continuances granted (241) over the total number of cases first scheduled (2278), expressed as a percent, was **10.57%**. The ratio of first settings (1953) to continued settings on the calendar (215) was **1 to 0.11**

Dispositions:

Hearings conducted: **49%**; vacated prior to hearing: **47.5%**; hearings withdrawn by the agency: **3.6%**.

Contrary Recommendations and Agency Response:

20.65% of Administrative Law Judge Decisions were contrary to the original agency action where the agency took a position. Agency acceptance of contrary Administrative Law Judge Decisions was **78.20%**.

* 2.32% of Administrative Law Judge Decisions were certified as final by the OAH due to agency inaction or were rendered moot by settlement.

** Cases which were vacated or which settled on the day of hearing are not included.



outlying areas. By FY 2005, 104 days were required to reset a case in the outlying areas, versus 54 days in the metropolitan areas.

More Travel Not a Solution

Aside from the tremendous personal burden on the 8 Administrative Law Judges assigned to preside over all ROC cases, the amount of time lost in transit and the increasing amount of delay in scheduling and hearing cases in the outlying areas made increasing the number of travel weeks an untenable solution.

In FY 2003, 733 hours were spent in travel preparation, transit time to the various sites, and down time due to settled cases. In FY 2004, the total climbed to 777.8 hours and in FY 2005, that

number continued to increase to 881.7 hours. Those hours equate to 18.3 weeks in FY 2003, 19.5 weeks in FY 2004 and 22 weeks in FY 2005. That time could have been used in productive hearing and writing time. Such hidden costs of travel illustrate that increasing the number of travel weeks would not be efficient.

The Videoconferencing Solution

The explosion in ROC cases in the outlying areas and the delay and inefficiencies occasioned by travel dockets required a rethinking of how services could be better supplied to the outlying areas.

In June 2005, the OAH began implementing ROC hearings by videoconferencing in the following order: Kingman, Show Low, Prescott, Lake Havasu City, Flagstaff, Sierra Vista, and Yuma. As a result, the 79 travel weeks of FY 2005 will be replaced in FY 2006 with 104 week-long videoconference dockets devoted to those outlying areas. Settings and continued settings for the outlying areas are now comparable to the metropolitan areas. The time normally lost to travel and vacated hearings in a travel situation has been reallocated to the setting of an estimated 110 additional hearings in FY 2006.

Videoconference technology has allowed the OAH to level the field in providing efficient services to both the metropolitan and outlying areas. The OAH will continue to look for ways to further refine its processes to better contribute to the quality of life in Arizona.

The Nuts and Bolts of Videoconferencing

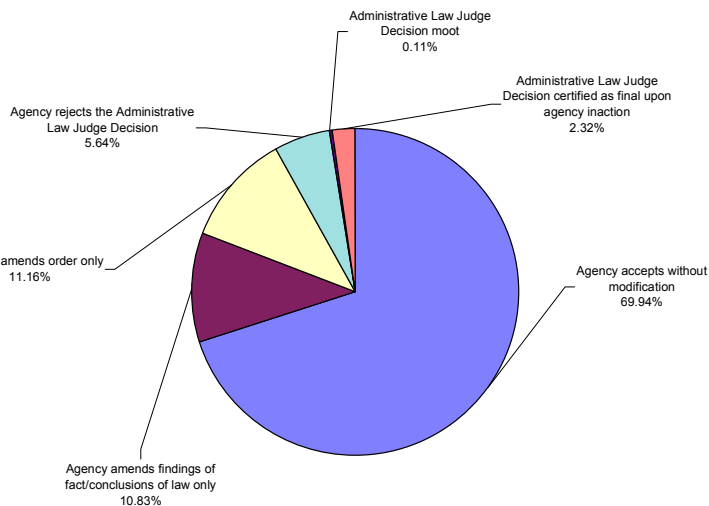
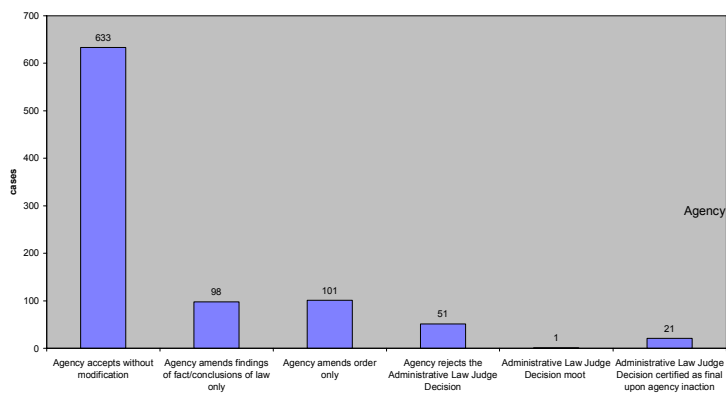
Hearings continue to be held in the outlying areas, and all parties, witnesses and counsel must appear at those ROC offices. The ALJ appears at those locations via videoconference from either Phoenix or Tucson. The ALJ views the parties, witnesses and counsel on a 32" monitor set up in the ALJ's chambers. A camera and monitor is also located at the various ROC offices permitting the parties to see the ALJ. Although the parties' view of the ALJ remains static, the ALJ has the ability to move the camera to permit closer observation of parties, witnesses and exhibits. A document camera is also set up in the hearing rooms to allow closer inspection of physical evidence.

Because the ALJ is not physically present, parties are informed by Minute Entry prior to the hearing that they must presubmit documents to the ALJ. Parties are also informed that they must have copies available for all other parties at the time of the hearing. Although documents are presubmitted, opposing parties may still make objections to their admission.

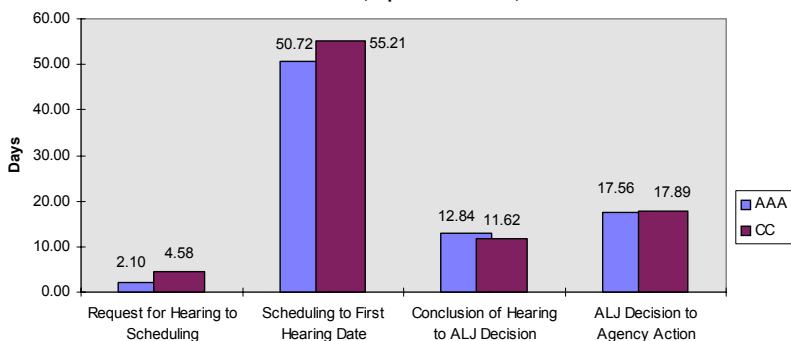
A digital recorder preserves the audio record. The video portion is not recorded or preserved.

To view a streaming video demonstrating videoconferencing, visit our website at <http://www.azoah.com/Video2.htm>

Agency Response to Administrative Law Judge Decisions April 1, 2005 - June 30, 2005



Average Time Between Selected Events - Appealable Agency Actions v. Contested Cases*, April 1 - June 30, 2005



*Note: *Appealable Agency Actions* are agency actions taken before an opportunity for a hearing. A typical example would be the denial of a license. A party is entitled to a hearing before the OAH before the action becomes final. *Contested Cases* involve actions yet to be determined by an agency. An example would be proposed discipline on a professional license with the possibility of suspension or revocation. Parties are entitled to a hearing before the OAH prior to the agency acting.

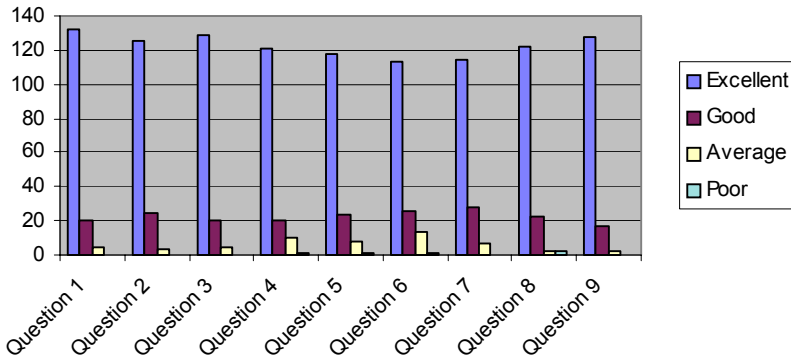
2321 Cases Filed April 1, 2005- June 30, 2005

	4th Q	FY 2005		4th Q	FY 2005		4th Q	FY 2005
Accountancy	4	12	Economic Security-CPS	45	195	Physical Therapy	0	0
Acupuncture Board	0	0	Education (Board)	0	1	Podiatry	0	0
Administration	2	8	Education (Department)	2	7	Psychologist Examiners	0	2
Admin. Parking	90	335	Environ. Quality	40	163	Public Safety - CW	0	9
Agriculture	0	2	Fingerprinting	2	218	Public Safety - Trans	4	25
Ag. Empl. Rel. Bd.	0	0	Funeral	0	0	Public Safety - Adult CC	0	0
AHCCCS	1170	4050	Gaming	3	10	Pvt. Post. Ed.	0	0
Alternative Fuel	0	0	Health Services	67	346	Racing	1	1
Appraisal	6	44	Insurance	14	71	Radiation Regulatory	0	0
Arizona Trial Courts	0	0	Land	0	6	Registrar of Contractors	566	2065
Arizona Retirement Sys.	8	19	Liquor	17	61	Real Estate	43	161
Attorney General	1	2	Lottery	0	0	Revenue	20	80
Arizona Works	0	0	Maricopa Cty. Housing	0	0	School - Deaf & Blind	0	0
Athletic Board	0	0	Massage Therapy	4	8	Secretary of State	2	14
Banking	11	46	Medical Board	0	14	State Board of Education	0	0
Behavioral Health Ex.	2	4	Medical Radiologic	0	0	Structural Pest Control	8	19
Building/Fire Safety	32	86	Naturopathic	1	2	Technical Registration	1	4
Charter Schools	2	13	Nursing	34	110	Veterans Home	1	1
Chiropractic	6	12	Nursing Care Admin.	0	9	Veterinary Board	0	0
Clean Elections	3	3	Occupation Therapy	0	0	Water Qual. App. Bd.	0	5
Community Colleges	0	0	Optometry	0	3	Water Resources	2	6
Cosmetology	1	11	Osteopathic	0	0	Weights and Measures	98	213
Dental	5	18	Parks	0	0			
Economic Security	1	1	Peace Ofc. Standards	3	16			

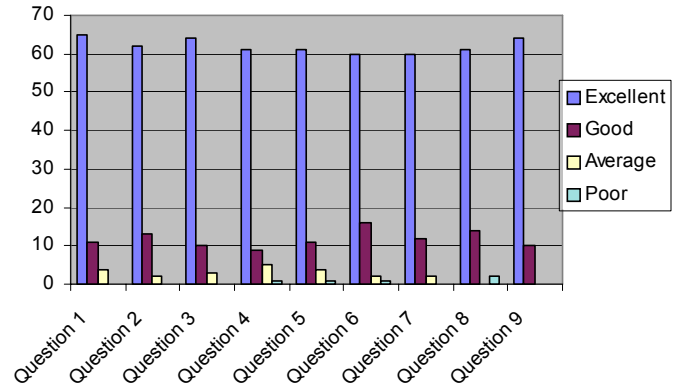
Evaluations of OAH Services

Note: The four major groups of those who responded are: represented private party; unrepresented private party; counsel for a private party; and counsel for the agency. The evaluations are filled out immediately after the hearing, and the evaluations are not disclosed to the ALJ involved. They are used by management to improve the OAH process and do not affect the decisions issued.

All Responses 4th Quarter



Unrepresented Responses 4th Quarter



Questions:

1. Attentiveness of ALJ
2. Effectiveness in explaining the hearing process
3. ALJ's use of clear and neutral language
4. Impartiality
5. Effectiveness in dealing with the issues of the case
6. Sufficient space
7. Freedom from distractions
8. Questions responded to promptly and completely
9. Treated courteously

Our Thanks

The support of Israel G. Torres, Director of the Registrar of Contractors, was essential to the OAH's rapid conversion to Videoconferencing. Each ROC remote office made room for OAH's videoconference equipment, and made time for setup and training. The ROC made the necessary technical adjustments, including installing high speed internet access in its remote offices. The ROC is in the process of making further technical changes to permit full control of the remote cameras by the ALJs. Each videoconference hearing day, ROC staff members in the outlying areas take the necessary steps that allow the hearing to take place. We recognize the degree of coordination and interagency cooperation by the ROC, and in particular the following individuals:

Israel G. Torres, Director of the Registrar of Contractors.

Phoenix: Nancy Kyser, Information Technology Manager; Ken Roundtree, Information Technology Specialist.

Kingman: Shelly Stein, Support Staff; Bill Redman, Inspector; Jim Stull, Investigator.

Prescott: Mary Rondinara, Support Staff; Dan LaFond, Inspector; John Prince, Inspector; Gary Fell, Investigator.

Flagstaff: Stella Ousley, Support Staff; Mark Schweiger, Inspector; Dan Fishel, Investigator.

Show Low: Sparkey Snyder, Support Staff; Tom Sandoval, Inspector; Dawn Wilson, Investigator.

Sierra Vista: Renee Knoll, Support Staff; Mike Nieves, Inspector; Doc Moore, Investigator.

Lake Havasu City: Linda Giesen, Support Staff; Don Herman, Inspector; Cliff Corlett, Investigator.

Yuma: Rosie Lucero, Support Staff; Luis Rodriguez, Inspector; Jeff Cedar, Investigator.