

**105.5.5.6 Additional authority.** In considering appeals, the commission may exercise the following powers:

1. To appoint one or more hearing officers to conduct hearings and make recommendations to the same extent and in the same manner as the Superintendent of Building acting pursuant to Section 98.0602 of the *Los Angeles Municipal Code*.
2. To request the attendance of witnesses and the production of evidence before it.
3. To request the city attorney, or an assistant or deputy designated by the city attorney to appear at any hearing before the commission.
4. To adopt rules regarding the filing of appeals, the conduct of its hearings and any other procedural rules in keeping with the provisions of this Chapter.

**105.5.5.7 Limitations on jurisdiction.** Notwithstanding any other provision of this Code, the commission's jurisdiction shall not include the right to hear and determine an appeal from a department determination, order or action if such appeal is filed:

1. On or after the date a criminal citation is issued, charging the appellant with a violation of law based on the facts underlying such determination, order or action; or
2. On or after the date a criminal complaint is filed, charging the appellant with a violation of state laws based on such determination, order or action.

Further, the commission's jurisdiction shall not include the right to hear appeals from or otherwise review any action, order or determination of the Board of Building and Safety Commissioners.

**105.6 Administrative penalties for disabled access violations.**

**105.6.1 Order of abatement and notice of proposed penalty.** If the superintendent determines that a person has violated or failed to comply with any requirement of the law relating to access to public accommodations and housing by the physically disabled, then the superintendent may issue an order of abatement and notice of proposed penalty to that person.

The order and notice shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of law that has been violated. The order shall fix a reasonable time for correction of the violation, and the notice of proposed penalty shall set forth the amount of the penalty.

The order of abatement and notice of proposed penalty shall be served upon the person either personally, or by deposit in the United States mail in a sealed envelope, postage prepaid to the person's last known address.

The order and notice shall also set forth the person's right to a hearing as described in Section 105.6.2.

**105.6.2 Right to hearing.** Any person served with an order of abatement or notice of proposed penalty, may apply in

writing to the Disabled Access Appeals Commission for a hearing with respect to the violation alleged, the abatement period, and the amount of the penalty. This request shall be filed within 15 days after the date of service.

If the person does not request a hearing within the prescribed time, then the notice of proposed penalty shall be final, and the amount of any penalty included in the notice shall immediately be due and owing to the City of Los Angeles. The city then shall have the right to bring an action in any court of competent jurisdiction to enforce the order and collect the amount of the penalty.

If the Department determines that there has been compliance with the order of abatement within the time for correction, then the Department may rescind the notice of penalty.

**105.6.3 Time of hearing; notice.** If the person requests a hearing, the superintendent shall cause the matter to be set for hearing before the Disabled Access Appeals Commission. The hearing shall be scheduled not later than 30 days after the date of the application for hearing. This time limit may be extended with the mutual consent of the person and the commission. It shall be a defense to the affirmation of any penalty that the person complied with the order of abatement within the time for correction.

The decision of the commission on the order of abatement and notice of proposed penalty shall be final, and the amount of any penalty affirmed by the commission shall immediately be due and owing to the City of Los Angeles. The city then shall have the right to bring an action in any court of competent jurisdiction to enforce the order and collect the amount of penalty.

**105.6.4 Civil penalties.** Any penalty required to be paid under the provisions of this section is a debt owed to the City of Los Angeles. Any person owing a penalty due under the provisions of this section shall be liable in an action brought in the name of the City of Los Angeles in any court of competent jurisdiction for recovery of any such amount.

The conviction of any person for violating any law shall not relieve the person from the obligation to pay any penalty that the person may owe the city, nor shall such payment prevent a prosecution under appropriate provisions of law for any violation of the law. The remedies provided in this section are cumulative. The use of one or more of the remedies prescribed in this section shall not bar the use of any other remedy provided for the enforcement of law.

**105.6.5 Fee schedules.** The Superintendent shall submit a schedule for the assessment of civil penalties under this section to council for the approval by ordinance.

This schedule shall give due consideration to the appropriateness of the penalty with respect to the following factors:

1. The gravity of the violation;
2. The good faith of the violator being charged; and
3. The history of previous violations.