



# Appeal Application

City Clerk's Office  
100 Civic Center Drive / P.O. Box 1768  
Newport Beach, CA 92658-8915  
949-644-3005

Clerk's Date & Time Stamp  
**RECEIVED**  
2018 JAN -5 PM 4:27  
OFFICE OF  
THE CITY CLERK  
CITY OF NEWPORT BEACH

### Appeal the Decision of:

- Hearing Officer - NBMC \$20.64
- Operator License - NBMC \$5.25.060 (Attention: City Manager)
- Planning Commission - NBMC \$20.64
- Zoning Administrator - NBMC \$20.64 and \$15.45.080 (F)
- City Manager re: Special Events Permit - NBMC \$3.36.030

### Applicable Appeal Fees Pursuant to Master Fee Schedule effective 10-24-16:

- Hearing Officer - \$1,536.00
- Operator License - \$710.00
- Planning Commission - \$1,536.00
- Zoning Administrator - \$1,536.00
- Special Events Appeal to the City Council - \$1,639.00

NO FEE PROVIDED.

### Appellant Information:

Name(s): James M. Mosher  
 Address: 2210 Private Rd.  
 City/State/Zip: Newport Beach CA 92660  
 Phone: (949) 548-6229 Fax: \_\_\_\_\_ Email: jimmosher@yahoo.com

### Appealing Application Regarding:

Name of Applicant(s): n/a Date of Decision: Jan. 2, 2018  
 Project No.: \_\_\_\_\_ Activity No.: \_\_\_\_\_  
 Site Address: \_\_\_\_\_  
 Description of application: This is an appeal of a Director interpretation of NBMC sec. 21.64.030(C)(1).  
 Reason(s) for Appeal (attach a separate sheet if necessary): see attached.

Signature of Appellant: James M. Mosher Date: Jan 5, 2018

### FOR OFFICE USE ONLY:

Date Appeal filed and Administrative Fee received: January 5, 2018.

Rafael D. Brown  
City Clerk

cc: Department Director, Deputy Director, Staff, File Cashier Code: CDD004



January 5, 2018

Dear Director Jurjis,

This is an appeal to the Planning Commission, pursuant to NBMC Section 21.12.020.A, of a Director's interpretation of the meaning of NBMC Section 21.64.030(C)(1), for which the Community Development Department tells me they have no proper appeal form.

By way of background, on December 21, 2017, pursuant to NBMC Chapter 21.64, I filed with the Newport Beach City Clerk a timely appeal requesting City Council review of the Planning Commission's December 7 approval of Coastal Development Permit CD2017-080, as I was invited to do by Section 4.3 on page 7 of PC Resolution No. 2075, and as I am allowed to do by Title 21. I provided no fee, both because no fee is authorized in Chapter 21.64 and because Section 21.62.020 clearly states that if any fee is required for a local appeal of a CDP decision, it must be disclosed in the Notice of Public Hearing (and no fee was disclosed).

Late on the evening of January 2, 2018, I received a letter from the City Clerk giving me less than 72 hours to acknowledge my December 7 appeal was also an appeal of Variance VA2016-005 (an item related to NBMC Title 20 that approved at the same hearing) and to pay the variance appeal fee. Failure to do so by January 5, I was told, would result in my CDP appeal being rejected.

I have since learned the City Clerk was relaying an interpretation of the Title 21 appeal procedure made by Deputy Director Jim Campbell.

I am not appealing a project, but I am appealing that interpretation, the essence of which, as I understand it from the Clerk's letter, is that Section 21.64.030(C)(1) contains "*language that provides an appeal of part of a project/decision is an appeal of the whole project/decision.*"

I am appealing it because I can find nothing that supports that interpretation in Section 21.64.030(C)(1), which reads in full: "*1. The decision [about a Title 21 matter, such as a CDP] from which an appeal or call for review has been made has no force of effect as of the date on which the appeal or call for review is filed. When an appeal or call for review has been filed, the Director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority identified in Section 21.64.020 (Appeals or Calls for Review).*"

and I doubt a majority of the Planning Commission can find such language in that.

Pursuant to the clear language of Section 21.64.030(C)(1), it is my belief that the filing of this appeal "stays" the determination on which the City Clerk's letter is based. I further believe that if the Planning Commission affirms my belief that the Director's interpretation was erroneous, the City's challenge to my December 21 CDP appeal goes away, and I will be entitled to City Council review of the PC's granting of a CDP, as originally requested.

I am again providing no fee. Both because nothing I can find in Title 21 authorizes the collection of any fee for appeals of Director's interpretations, and because I cannot conceive putting so simple a question before the Commission could cost much.

Yours sincerely,

Jim Mosher