

General Public Comment



June 30, 2025

VIA EMAIL AND HAND DELIVERY

Santa Barbara County Clerk of the Board
Santa Barbara County Board of Supervisors
Santa Barbara County Planning Commission
Santa Barbara County Planning and Development
123 E Anapamu St. Santa Barbara, CA 93101

RECEIVED
2025 JUN 30 P 4: 50
COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT

Jason Johnston
County of Santa Barbara Health Department
300 N San Antonio Rd
Santa Barbara, CA 93110

**RE: Objection and Formal Appeal – Record Correction and Request for
Reconsideration Based on Procedural Misconduct and Due Process Violations
(Retaliatory Enforcement Case No. 24ZEV-00213; NOV #1; Appeal Hearing Date:
June 20, 2025)**

Dear Board of Supervisors, Planning Commission, Director Plowman, and Mr. Johnston:

This letter constitutes a formal appeal and request for reconsideration of the "NOD Appeal Determination" issued by Hearing Officer Jason Johnston on June 23, 2025, and received June 25th, concerning retaliatory Case No. 24ZEV-00213. This appeal is necessary due to significant procedural irregularities and a fundamental denial of due process leading to and during the appeal hearing held on June 20, 2025, which resulted in a determination based on an incomplete administrative record and a failure to consider critical evidence.

I. EXECUTIVE SUMMARY

This appeal challenges the Hearing Officer's determination to uphold the retaliatory Notice of Violation and associated fine for the lawful fence located at 3196/3200 Serena Avenue, Carpinteria. The determination is fundamentally flawed due to the Hearing Officer's admitted failure to review the Appellant's submitted rebuttal and supporting documents prior to the hearing. This procedural oversight, coupled with the Hearing Officer's knowledge of an incomplete administrative record and the enforcement officer's admission that the staff report is not factually verified, the hazardous conditions, demonstrates a clear abuse of discretion and a denial of the Appellant's constitutional rights to due process and equal protection under the law. The County's actions represent a pattern of selective and retaliatory enforcement, aimed at pressuring the Appellant amidst ongoing civil litigation, while simultaneously disregarding severe safety violations by Robert Seidler/Polodoney LLC (3215 Foothill Road).

II. HISTORY AND BACKGROUND

The history of this matter reveals a concerning pattern of selective enforcement and procedural deficiencies by Santa Barbara County:

- **November 24, 2021:** Appellant formally notified Mark Walters, Zoning Planner, of the fence's existence, which was acknowledged without objection. (Appeal5.15.25.pdf, Page 2, Section III.A.1)
- **June 17, 2022:** Appellant informed Paul Hannah, Enforcement Officer & Planner, of the fence's presence. No objections were made by Planning at that time. (Appeal5.15.25.pdf, Page 2, Section III.A.2)
- **August 11, 2022:** Inspector Carl Lindberg conducted a site inspection related to Violation No. 22BDV-00076 (concerning an unlawful tertiary access road and bridge). No objections were made by Planning regarding the fence. (Appeal5.15.25.pdf, Page 2, Section III.A.3)
- **April 11, 2023:** County records explicitly state that "at the time of the last visit, both ends of the bridge were fenced off to prevent entrance from either parcel," confirming awareness of the fence without objection. (Appeal5.15.25.pdf, Page 2, Section III.A.4)
- **November 2, 2023:** Director Lisa Plowman acknowledged that the bridge was fenced off and confirmed the matter was a "private issue" between the Appellant and Robert Seidler, again with no objections from Planning. (Appeal5.15.25.pdf, Page 2, Section III.A.5; REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 3, Section 3.0)
- **November 18, 2024:** Robert Seidler (Polodonkey LLC) conducted unpermitted fence construction at 3215 Foothill Road. On the same day, Seidler reported the Appellant's pre-existing fence to the County, which immediately opened a retaliatory violation against the Appellant. (Appeal5.15.25.pdf, Page 2, Section III.A.6; REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 3, Section 3.0)
- **November 27, 2024:** Appellant's counsel submitted a formal "Objection to Complaint Notice (24ZEV-00213)," highlighting the County's error in issuing the violation against the Appellant instead of addressing Seidler's unpermitted construction. (Appeal5.15.25.pdf, Page 2, Section III.A.7; REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 3, Section 3.0)
- **January 10, 2025:** The County finally opened a complaint against Robert Seidler for his fence construction, nearly two months after being formally notified. (REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 3, Section 3.0)
- **January 16, 2025:** Inspector Paul Hannah inspected the Appellant's fence but failed to inspect Seidler's construction, further undermining the investigation's integrity. (Appeal5.15.25.pdf, Page 3, Section III.A.8; REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 3, Section 3.0)
- **January 24, 2025:** Paul Hannah issued the Notice of Violation (NOV) for the Appellant's lawful fence, misclassifying it as a "fence/gate" in an unlawful attempt to force a

commercial road and illegal bridge entryway onto the Appellant's property.
(Appeal5.15.25.pdf, Page 3, Section C.3)

- **June 20, 2025:** The appeal hearing was held, during which the Hearing Officer admitted to not reviewing the Appellant's rebuttal and supporting documents prior to the hearing. Additionally, Paul Hannah erroneously stated the fence was erected on November 18, 2024 at 3196 Serena which resulted in a violation.

III. APPELLANT STANDING

Pursuant to Article II, Section 35-182.4.A.2.A of the Coastal Zoning Ordinance, the Appellant is entitled to appeal the Director's decision regarding "Any determination on the meaning or applicability of the provisions of the Article." The Appellant is the property owner directly affected by the Notice of Determination of Fine and the underlying Notice of Violation, which are contended to be retaliatory, unfounded, and based on misapplication of law and procedural errors. As such, the Appellant has clear standing to bring this appeal.

IV. GROUNDS FOR APPEAL

The Hearing Officer's determination must be overturned due to multiple severe procedural and substantive flaws, demonstrating a clear abuse of discretion and a denial of due process.

A. Hearing Officer's Abuse of Discretion by Not Reviewing Appellant's Rebuttal and Supporting Documents

The most egregious procedural irregularity is the Hearing Officer's explicit admission that he did not review the Appellant's comprehensive rebuttal to the staff report and its supporting documents prior to the hearing.

1. **Direct Admission:** When asked by the Appellant if he had received and reviewed the rebuttal, Hearing Officer Jason Johnston stated, "I am not seeing that document." When pressed for clarification, he confirmed that the rebuttal "was not reviewed for this hearing," stating, "Correct."
2. **Denial of Due Process:** This constitutes a fundamental denial of due process. A fair hearing requires that the decision-maker consider all submitted evidence and arguments. By failing to review the Appellant's detailed response and supporting documents, the Hearing Officer rendered the hearing a mere formality, devoid of genuine consideration for the Appellant's defense. This directly violates the Appellant's right to be heard and to have her evidence impartially evaluated.
3. **Predetermined Outcome:** The Hearing Officer's decision to proceed with the hearing and issue a determination without reviewing all critical submitted documents strongly suggests a predetermined outcome, undermining the impartiality and integrity of the administrative process.

B. Knowledge of an Incomplete Administrative Record

The Hearing Officer proceeded with the determination despite being made aware that the administrative record was incomplete, further compromising the fairness of the proceedings.

1. **Appellant's Assertion:** During the hearing, the Appellant explicitly stated, "I do want to call out that the administrative record is incomplete for this hearing." This concern was also detailed in the Appellant's submitted rebuttal: "Paul Hannah and the County have refused to provide key documentation or include critical correspondence in the administrative record, violating due process and property rights." (REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 2).
2. **Missing Correspondence:** Specifically, all correspondence between the County and land use planner Eva Turenchalk concerning the alleged violation and the fence were omitted from the record. These communications are "directly relevant to Appellant's due process claims and to the retaliatory nature of the enforcement action" and are not protected by privilege, yet their exclusion "undermines the completeness, accuracy, and integrity of the administrative record and constitutes a due process violation." (REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 2). The enforcement officer, Paul Hannah, "continued to exclude the correspondence from the record" (Appeal5.15.25.pdf, Page 3, Section C.1).
3. **Impact on Fairness:** An incomplete administrative record prevents a full and fair review of the facts and circumstances surrounding the violation, rendering any determination based on such a record inherently unreliable and unjust.

C. Knowledge that the Staff Report is Not Factually Correct or Verified by the Enforcement Officer's Own Admission

The Hearing Officer was made aware that the very foundation of the County's case, the staff report, was admitted by the enforcement officer to not be factually correct or verified.

1. **Enforcement Officer's Admission:** The Appellant highlighted during the hearing that Mr. Hannah "states that the staff report is not required to be factually accurate or verified." This critical admission is also documented in the Appellant's rebuttal: "The County's own staff have stated that the hearing is 'informal' and does not require staff statements in official documents to be accurate or substantiated, which is a direct violation of due process and further undermines the legitimacy of the County's actions." (REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 5, Issue #3).
2. **Unsubstantiated Claims:** The County's staff report relied on unverified assertions, such as characterizing the structure across the creek as a "residential use" without providing any supporting permit or Certificate of Occupancy, despite repeated requests from the Appellant. (REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 4, Issue #2).
3. **Burden of Proof Misplacement:** The Hearing Officer improperly shifted the burden of proof onto the Appellant to verify the County's statements. The Hearing Officer letter states: "The documents, evidence, and ordinances that the appellant provided in support

of their affirmative defense that the placement of the fence without a permit is legal were found to be insufficient and unconvincing, as the appellant did not establish that the ordinance they relied upon exempts development from obtaining a permit, did not establish an abutting non-residential parking area, and that the structure across the creek had a non-residential use that the ordinance that was relied upon would require." (NOD Appeal Determination.pdf, Page 4, Section: HEARING OFFICER REVIEW AND FINDINGS, Point 5). This statement improperly shifts the burden to the Appellant to disprove "factual" assertions made by the County, assertions the County itself has claimed do not require verification, highlighting a biased and fundamentally unfair process.

4. **Violation of Legal Standards:** Relying on a staff report acknowledged to be unverified and inaccurate as the basis for an enforcement action and fine constitutes a severe breach of administrative and legal standards. It demonstrates a disregard for factual accuracy and reinforces the perception of arbitrary and retaliatory enforcement.

D. Hearing Officer's Disregard for Safety and Omission of Hazardous Conditions

The Hearing Officer's determination is notably void of any consideration for public safety or the documented hazardous conditions related to the property, despite these issues being explicitly raised in the Appellant's rebuttal and during the hearing.

- **Ignoring Documented Hazards:** The Appellant's rebuttal explicitly detailed the "significant safety hazard posed by a documented drop-off at the time the fence was installed, despite a history of falls, including a 2017 lawsuit for injuries at the site." (REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 6, Issue #8). This history of falls and the documented hazardous conditions of the bridge and its abutments were also presented during the hearing.
- **Omission in Determination Letter:** Despite this critical information, the Hearing Officer's "NOD Appeal Determination" letter makes no mention of these safety concerns, focusing solely on administrative requirements. This omission is a serious oversight, as public safety should be a paramount consideration in any enforcement action, especially given the County's own Ordinance 5196 which requires safety fencing in hazardous drop-off areas. (REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 6, Issue #8).
- **Unsafe, Unlawful Development:** The Appellant further noted that there have been "no structural calculations made on the illegal bridge, the abutments remain unrepaired, a dropoff still remains, and it lacks proper permitting," all contributing to an unsafe and unlawful development. (REBUTTAL TO SANTA BARBARA COUNTY.pdf, Page 6, Issue #8). The Hearing Officer's decision to uphold the retaliatory violation without addressing these fundamental safety issues demonstrates a profound disregard for the well-being of the public and the appellant.

V. REQUEST FOR RELIEF AND CONCLUSION

For the reasons stated above, the Appeal Hearing dated June 20, 2025 and the "NOD Appeal Determination" dated June 23, 2025, are procedurally flawed, substantively baseless, and indicative of a predetermined outcome. The Hearing Officer's admitted failure to review critical evidence, his knowledge of an incomplete administrative record, and the reliance on an unverified staff report collectively constitute a profound denial of due process.

The Appellant respectfully requests that the Santa Barbara County Board of Supervisors and Planning Commission:

1. **Grant this Appeal** and overturn the Hearing Officer's determination for all the foregoing reasons.
2. **Void the Notice of Violation (24ZEV-00213)** and the associated Notice of Determination of Fine, as they are based on an unfair and unverified process.
3. **Void Staff Fees** as they are directly tied to an enforcement action initiated and pursued through a process marred by procedural irregularities and a denial of due process, rendering them invalid.
4. **Prioritize Public Safety** and mandate an immediate, comprehensive assessment and remediation of the hazardous and illegal bridge to ensure public safety and compliance with all applicable local, state, and federal laws and regulations.
5. **Order a comprehensive review** of the County's enforcement practices, particularly concerning allegations of selective and retaliatory actions.
6. **Ensure that all future administrative proceedings** involving the Appellant, or any other tax-payer, adhere strictly to principles of due process, including the thorough review of all submitted documents and the maintenance of a complete and accurate administrative record.

The integrity of the County's administrative processes and the protection of its citizens' constitutional rights depend on a fair and impartial application of the law.

Sincerely,



Diana Sandoval, Appellant

June 30, 2025

3196/3200 Serena Ave.

Carpinteria CA 93013