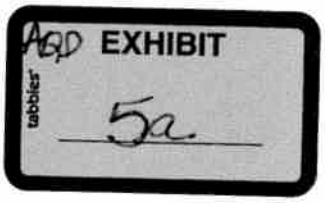
Wright, Janice C.



From: Matthew Cross-Guillen [MatthewC@bernco.gov]
Sent: Friday, November 19, 2010 3:16 PM
To: Wright, Janice C.
Cc: jens.deichmann@gmail.com; Margaret Menache; ssbaca@computer.org
Subject: questions about 20.11.2 Fees

Good afternoon Janice,

I am reviewing the proposed regulation changes scheduled for a hearing on December 8th and I have a few questions. I see that in Section 20.11.2.22 Miscellaneous Fees (page 16 of 20.11.2 Fees), the fee for professional services is $92.00. What is an example of this type of service?
Also, in the same section, I am confused by the public records research fee of $92 per hour. If a member of the public requests public records, what is the fee for that? A charge for the copies themselves is implied, but is there a fee for staff time to find the documents?
Finally, how is the $125 filing fee determined for requesting a hearing before the board?
Thank you,
Matt

"Whether you think you can or whether you think you can't, you're right." Henry Ford

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Richard J. Berry, Mayor

City of Albuquerque
Environmental Health Department
Air Quality Division
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P.O. Box 1293
Albuquerque, NM 87103

Mary Lou Leonard, Director

November 23, 2010

Air Quality Division's Response to the November 19, 2010 Bernalillo County Comments on 20.11.2 NMAC, *Fees* Public Review Draft

Environmental Health Educator Matthew Cross-Guillen's Public Comment:

1) I see that in Section 20.11.2.22 Miscellaneous Fees (page 16 of 20.11.2 Fees), the fee for professional services is $92.00. What is an example of this type of service?

Response: Example: A business is considering moving to Albuquerque. They want to know what's involved, so they contact Planning, Zoning and Env. Health. They ask Env. Health to do an applicability determination. An applicability determination isn't a formal review of an application (for which an application review fee would be paid), but an applicability review requires research and may require modeling by Env. Health. Pursuant to the current and proposed regulation, Env. Health may charge an hourly rate for the work involved in making an applicability determination.

2) Also, in the same section, I am confused by the public records research fee of $92 per hour. If a member of the public requests public records, what is the fee for that? A charge for the copies themselves is implied, but is there a fee for staff time to find the documents?

Response: Regarding staff time expended to find documents pursuant to an Inspection of Public Records (IPRA) request (see 20.11.2.22 A.(2) NMAC), no charge is imposed. Both current 20.11.2.18.I(4) NMAC and proposed 20.11.2.22 A.(2) NMAC state: "The charge for copying public records shall ***not*** *include a separate charge for staff time for locating and copying documents". For additional clarification, proposed Part 2 adds: "or for determining whether documents are exempt from inspection and copying." If the Environmental Health Department agrees to do work beyond what is required by IPRA, the staff may impose a charge. Examples: compiling a list of information that previously did not exist or compiling information in a format that does not exist. However, the Environmental Health Department may decline such requests, not only because the department is not required by IPRA to do the work, but also because the department may not have adequate staff to take on non-essential work.*

3) Finally, how is the $125 filing fee determined for requesting a hearing before the board?

Response: The $125 filing fee is comparable to other hearing fees, but does not begin to offset the costs to the Environmental Health Department for conducting a hearing, which includes rental of venues and equipment, paying the hearing officer and court reporter, paying for the transcript, extensive photocopying, etc. This $125 fee is not a proposed amendment. The hearing fee was decreased the last time the regulation was amended in 2006 from $1,000 to $125.