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County establishes hearing officers to handle ordinance violations

By Jerry Crimmins

Law Bulletin staff writer

Cook County has launched a hearing officer system that could remove thousands of county ordinance violations from the court system, including many marijuana and prostitution cases.

The new system is also intended to hear violations of certain county taxes, violations of building and zoning laws, environmental control and public health cases, some automobile violations and parking tickets.

"It will increase the efficiency of collections and it can bring in millions more" in revenue to the county, said Jack R. Weinrauch, director of the county's new Department of Administrative Hearings.

Currently, Weinrauch said, "It would be fair to say that compared to more serious cases the court hears," ordinance violations "are considered a nuisance. I've heard that from judges."

He said judges' calendars are so crowded that judges have been dismissing a number of county ordinance violations, "particularly the building and zoning and a lot of the sheriff's cases."

The new hearing officer system is patterned after the City of Chicago's system for matters like parking tickets, according to Weinrauch.

Chicago's system "is considered one of the more successful programs in the country," he added.

The county's version was created by ordinance that became effective Jan. 1.

The hearing officer system started operating June 15, only for cigarette tax violations from the Department of Revenue. Just 122 cases have been heard so far.

"On certain cases, the State's Attorney's Office will be presenting the case on behalf of the administrative agency. We don't know how many lawyers will be needed yet," said Patrick T. Driscoll Jr., chief of the state's attorney's Civil Actions Bureau.

County officials expect to expand the system rapidly to other types of violations.

The hearings will also be expanded before the year is out, Weinrauch said, to offices in the five suburban courthouses to conduct matters closer to where people live. Eventually, evening and Saturday hearings and telephone hearings may be available.

The tentative plan, he said, is to begin hearing building and zoning violations on Sept. 28; environmental control cases (such as asbestos and air pollution) in October; public health cases, such as restaurant violations, in

December.

Violations of the new civil ordinances against prostitution and possession of small amounts of marijuana may be heard starting in October; the rest of the Sheriff's cases in December.

The Department of Revenue cases will be expanded to include alleged violations of liquor taxes, sales taxes, use taxes on automobile sales, amusement taxes and parking lot taxes.

The Sheriff's Department is planning how to enforce the new county ordinances regarding prostitution and possession of 10 grams or less of marijuana, Weinrauch said.

If a person is given a ticket for possession of 10 grams or less of marijuana, the mandatory fine is not less than \$200, according to the new Ordinance 09-O-51 sponsored by Commissioner Earlean Collins. No criminal record will result for a violation of this sort.

The county's first two hearing officers, who both work part time, are Thomas Joseph Grippando, a legal assistance lawyer, and Denis E. Guest, who is also a hearing officer for Chicago and the Illinois tollway system.

They sit now in room 1140 of the County Building. Three hearing rooms are available there, Weinrauch said, with space for three more, and additional space for settlement conferences.

Cases will be heard "as if they are in court," Weinrauch said, with rules of evidence, objections, a digital recording of all proceedings, and opening and closing statements.

However, the rules of evidence will be relaxed compared to court, and the burden of proof will be preponderance of the evidence rather than such higher standards as clear and convincing evidence that applies in some civil cases, or the beyond a reasonable doubt standard employed in criminal proceedings.

The prostitution ordinance, for instance gives a sheriff's officer the option to deal with some prostitution cases as "public morals nuisance violations," (Ordinance 09-O-09). It says as follows:

"The formal ... rules of evidence shall not apply.... Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs."

It also says the proof shall be "a preponderance of the evidence, provided, however, that a violation notice, or a copy thereof, shall be prima facie evidence of the correctness of the facts specified therein."

Patrons of prostitutes and prostitutes who

are cited by sheriff's police for violating the new county ordinance and found in violation by a hearing officer can be fined from \$500 to \$1,000 and possibly be required to perform community service.

"It eliminates the criminal record," Weinrauch said.

Under state law, prostitution or patronizing a prostitute on first offense is a misdemeanor that can lead to up to a year in jail, he said.

The county currently produces 14,000 vehicle tickets a year, including parking violations and faulty auto equipment violations, that could fit into the hearing officer system, Weinrauch said.

The money involved in the county tax cases that could be heard by hearing officers is substantial, according to Weinrauch.

Some car dealers are alleged to owe over \$1 million.

"Quite a few" such cases involve tax liabilities ranging from \$40,000 to several hundred thousand dollars, he continued.

Prosecutors will not be required for most cases, Weinrauch said. Agents of the various department involved may present the evidence for their departments "to make a prima facie case and shift the burden of proof to the defendant," he said.

"The arresting officer or person issuing the citation does not have to appear," he added.

One major benefit of the new system will be to reduce the amount of time sheriff's officers spend in court and thus expand the amount of time they are on the street, Weinrauch said.

The same benefit is expected to be gained by other county departments that use the new hearing officer system.

The county produces about 3,000 building and zoning cases that would fit the system, about 2,000 Department of Revenue cases, about 500 environmental control cases, about 800 minor marijuana cases and about 400 prostitution arrests that could, in the future, be treated as civil citations.

The number of lawyers who appear to contest these cases is starting to increase, according to Weinrauch, but so far most defendants appear pro se.

The principal sponsor of the ordinance setting up the system was County Board President Todd H. Stroger. Commissioner Lawrence J. Suffredin Jr. assisted.

Weinrauch, who is an attorney and former chief counsel to the Pennsylvania state senate, said he drafted much of the state legislation that had to be passed to enable the new system.