

Federal Housing Enterprise Oversight

§ 1780.35

§ 1780.33 Scheduling and prehearing conferences.

(a) *Scheduling conference.* Within 30 days of service of the notice or order commencing a proceeding or such other time as the parties may agree, the presiding officer shall direct representatives for all parties to meet with him in person at a specified time and place prior to the hearing or to confer by telephone for the purpose of scheduling the course and conduct of the proceeding. This meeting or telephone conference is called a “scheduling conference.” The identification of potential witnesses, the time for and manner of discovery and the exchange of any prehearing materials including witness lists, statements of issues, stipulations, exhibits and any other materials may also be determined at the scheduling conference.

(b) *Prehearing conferences.* The presiding officer may, in addition to the scheduling conference, on his own motion or at the request of any party, direct representatives for the parties to meet with him (in person or by telephone) at a prehearing conference to address any or all of the following:

- (1) Simplification and clarification of the issues;
- (2) Stipulations, admissions of fact and the contents, authenticity and admissibility into evidence of documents;
- (3) Matters of which official notice may be taken;
- (4) Limitation of the number of witnesses;
- (5) Summary disposition of any or all issues;
- (6) Resolution of discovery issues or disputes;
- (7) Amendments to pleadings; and
- (8) Such other matters as may aid in the orderly disposition of the proceeding.

(c) *Transcript.* The presiding officer, in his discretion, may require that a scheduling or prehearing conference be recorded by a court reporter. A transcript of the conference and any materials filed, including orders, becomes part of the record of the proceeding. A party may obtain a copy of the transcript at such party’s expense.

(d) *Scheduling or prehearing orders.* Within a reasonable time following the conclusion of the scheduling con-

ference or any prehearing conference, the presiding officer shall serve on each party an order setting forth any agreements reached and any procedural determinations made.

§ 1780.34 Prehearing submissions.

(a) Within the time set by the presiding officer, but in no case later than 10 days before the start of the hearing, each party shall serve on every other party the serving party’s—

- (1) Prehearing statement;
- (2) Final list of witnesses to be called to testify at the hearing, including name and address of each witness and a short summary of the expected testimony of each witness;
- (3) List of the exhibits to be introduced at the hearing along with a copy of each exhibit; and
- (4) Stipulations of fact, if any.

(b) *Effect of failure to comply.* No witness may testify and no exhibits may be introduced at the hearing if such witness or exhibit is not listed in the prehearing submissions pursuant to paragraph (a) of this section, except for good cause shown.

§ 1780.35 Hearing subpoenas.

(a) *Issuance.* (1) Upon application of a party showing general relevance and reasonableness of scope of the testimony or other evidence sought, the presiding officer may issue a subpoena or a subpoena *duces tecum* requiring the attendance of a witness at the hearing or the production of documentary or physical evidence at such hearing. The application for a hearing subpoena must also contain a proposed subpoena specifying the attendance of a witness or the production of evidence from any State, commonwealth, possession, territory of the United States, or the District of Columbia, or as otherwise provided by law at any designated place where the hearing is being conducted. The party making the application shall serve a copy of the application and the proposed subpoena on every other party.

(2) A party may apply for a hearing subpoena at any time before the commencement of or during a hearing. During a hearing, a party may make an application for a subpoena orally on the record before the presiding officer.