

**CITY OF CHICAGO
DEPARTMENT OF
ADMINISTRATIVE HEARINGS**



GLOSSARY OF TERMS

RICHARD M. DALEY
MAYOR

SCOTT V. BRUNER
DIRECTOR &
CHIEF ADMINISTRATIVE LAW JUDGE

Department of Administrative Hearings
August, 2009

DEPARTMENT OF ADMINISTRATIVE HEARINGS

Glossary of Administrative Adjudication Terms

1. *Administrative Adjudication*

The legal process by which an Administrative Law Judge decides whether a municipal code violation has occurred after conducting an administrative hearing.

2. *Administrative Hearing*

A hearing in which a City agency such as the Department of Buildings and one or more private parties (called the “respondent”) present testimony, photographs, documents or other evidence and make legal arguments pertaining to whether the respondent has violated a section of the Chicago municipal code.

3. *Administrative Law Judge (“ALJ”)*

This is the person who conducts the administrative hearing and decides whether a municipal code violation has occurred and, if so, what penalty should be imposed. The Department of Administrative Hearings contracts with approximately 82 Administrative Law Judges to conduct hearings in three hearing facilities located throughout the City of Chicago. Administrative Law Judges are private attorneys who have been licensed to practice law in the State of Illinois for a minimum of 3 years.

4. *Administrative Record*

The official record of an administrative hearing. This will usually consist of the pleadings (such as notice of hearing or notice of violation often referred to as the “ticket”, the request for hearing, the motion to set-aside the default), the hearing exhibits, the testimony given under oath, and the arguments of the parties. The Administrative Law Judge is permitted to consider only the administrative record, as well as the law applicable to the case.

5. *Appeal*

A request to review the decision or order of the Administrative Law Judge. A party may appeal the administrative decision to the Circuit Court of Cook County. The rules governing appeals vary depending on the decision being appealed and usually involve strict deadlines.

6. *ANOV (Administrative Notice of Violation)*

A citation/ticket issued by a Chicago police officer, inspector or investigator from a City department which cites the ordinance allegedly violated. The ANOV also includes the date, time, and location of the offense, identity of person named, with details to support the allegation.

7. Burden of Proof

This is the obligation of a party (the City or the Respondent) to prove a fact or facts in dispute.

8. Coordinated Advice & Referral Program for Legal Services (CARPLS)

This is an independent legal assistance agency that provides legal advice, information and referral services to low income residents of Cook County. Among other services, CARPLS operates a legal assistance help desk at the Central Hearing Facility, 400 W. Superior St.. The CARPLS hot line number is 312.738.9200.

9. Complaint

This is the initial pleading which initiates a case. In an administrative adjudication this is usually in the form of a notice of ordinance violation, ticket or citation that is written by a police officer, City inspector or other City employee. The ticket alleges that the respondent named in the ticket has violated a section of the municipal code. The ticket will usually contain a brief description of the supporting facts and state what the City is asking for, such as a fine, repairs to property, or some other penalty to be imposed against the respondent.

10. Continuance

This is a request to postpone the hearing to a later date.

11. Default

The failure of the respondent to appear at a hearing. The maximum fine may be assessed for default judgments as allowed by City ordinances.

12. Evidence

Exhibits, pictures, documents, receipts, or witness testimony presented during an administrative hearing to prove a fact or facts. The Administrative Law Judge will consider evidence in the hearing record in order to decide the case.

13. Filing

A City agency must file a case against a party with the Department of Administrative Hearings in order for the case to be heard. During the course of a case, either the City or the respondent may file other documents with the Department of Administrative Hearings or with the Administrative Law Judge.

14. Final Order

The final decision in the case issued by the Administrative Law Judge. A final order may be appealed to the Circuit Court of Cook County by either the City or the respondent.

15. Freedom of Information (FOIA)

The public records and case files maintained by the Department of Administrative Hearings may be viewed during normal business hours (Monday through Friday,

9:00 a.m. to 4:30 p.m.). No records or file items may be removed from the premises. You have a right to request paper and audio copies of public records and files. The Department reserves the right to require that requests be made in writing and that extensive or multiple requests be made by appointment. Written requests must be directed to 2nd Floor Receptionist, Department of Administrative Hearings, 740 N. Sedgwick, Chicago, Illinois 60654.

16. Full Hearing

All owners of record (including those who lost at a preliminary hearing and those who have already paid for the release of their vehicle from the auto pound) may contest the impoundment by filing a written request for a full hearing. An owner may file a written request for a full hearing within 15 days of the date that the Owner Notification form was personally served or mailed by the City to the owner. The full hearing must be no later than 30 days after the Owner's Request for Hearing was filed with the Central Hearing Facility, 400 W. Superior St. At the full hearing, the hearing officer will decide whether the preponderance of the evidence shows that the owner is liable for the municipal code violation for which impoundment applies. The owner may be represented by counsel and may produce witnesses and introduce evidence at the full hearing. If the hearing officer makes a finding that the vehicle owner is liable, the vehicle will remain impounded until all fines, penalties, towing and storage fees have been paid. If the hearing officer determines the owner is not liable, the vehicle will be ordered released without the owner being required to make any payment. If the owner has already paid for the release of the vehicle from the auto pound, a refund will be due the owner. A full hearing is different from a preliminary hearing which is also defined in this glossary.

17. Initial Order

The first order entered by an Administrative Law Judge in a case.

18. Jurisdiction

The authority of the Administrative Law Judge to hear and decide a case. The Administrative Law Judge's authority is limited by statutes, ordinances and regulations. Generally speaking, an administrative agency has the authority to act if it has personal jurisdiction over the parties and subject matter jurisdiction over the particular type of case.

19. Language Line

A foreign language interpretation service used by the Department of Administrative Hearings to ensure that non-English speaking respondents are afforded their due process rights to fully participate in the hearing. When needed, the Administrative Law Judge can connect an interpreter to the hearing room using a speaker telephone. Language Line provides interpreting services for approximately 174 languages. This service is provided at no cost to the citizen. Respondents can still bring an interpreter with them to the hearing.

20. Liable

A decision that the respondent is responsible for an alleged Municipal Code violation.

21. Motion to Set-Aside the Default

Pursuant to section 2-14-108 of the Municipal Code of Chicago, a party may file a written motion to set-aside the default order. The motion must 1) be filed within twenty-one days after the issuance of the default order and 2) present a good cause for the respondent's prior failure to appear for the hearing. The respondent must also be prepared to proceed with an immediate hearing if the motion is granted. If the respondent fails to appear on the date and time the motion is scheduled for a hearing, the motion will not be heard and will be stricken or voided. Subsequent motions to set-aside for good cause will not be heard if they are outside the twenty-one day time limitation. "Issuance of the default order", as used in this rule and pursuant to section 1-2.1-5 of the Illinois Municipal Code, shall be the date that the default order was deposited in the United States mail.

22. Municipal Code of the City of Chicago

Ordinances enacted by the Chicago City Council.

23. Non-Suit

This means the City attorney or the enforcing department has decided not to proceed to a hearing to enforce the ticket or a particular count of the ticket. The Administrative Law Judge will not decide the case pertaining to a charge that is non-suited. In some cases, the City attorney may decide to re-file the citation and proceed to hearing at a later date.

24. Not Liable

A decision is made by the Administrative Law Judge that the respondent is not responsible for an alleged municipal code violation.

25. Notary Public

A person who authenticates a signature by determining that the person signing is truly the person of that name. Most banks and currency exchanges have a notary public who can notarize documents. The document must be signed in the presence of the notary public.

26. Party

One of the participants in a hearing. The parties to the administrative hearing are identified on the ticket or notice of violation. They are often given special names in an administrative hearing, depending on the type of hearing. These names might be

respondent (you), appellant, petitioner or witness. The City of Chicago, or one of the City agencies, is also one of the parties to an administrative hearing.

27. *Petition to Vacate*

A formal request to set-aside or cancel an administrative decision.

28. *Pre-trial Conference*

A conference between the City agency and other parties, usually face-to-face, but sometimes by telephone in which the procedural issues and sometimes settlement are discussed. This may include exchanging evidence, clarifying the hearing issues and reaching agreement on some or all of the issues.

29. *Preliminary Hearing*

The owner of record (which means either the title holder or lessee) may request a preliminary hearing to contest a vehicle impoundment before the owner pays to have the vehicle released from the auto pound. A request for a preliminary hearing must be made within 15 days of the impoundment at the Central Hearing Facility, 400 W. Superior. The preliminary hearing will be scheduled within 48 hours of the request except for Saturdays, Sundays and legal holidays. The sole purpose of the preliminary hearing is to determine whether there is probable cause to continue to impound the vehicle. (In other words, probable cause to believe the vehicle was used in a municipal code violation for which impoundment applies.) The owner may be represented by counsel and may produce witnesses and introduce evidence at the preliminary hearing. If the hearing officer makes a finding that probable cause exists, the vehicle will remain impounded until all fines, penalties, towing and storage fees have been paid. If the hearing officer determines there is no probable cause, the vehicle will be ordered released without the owner being required to make any payment. A preliminary hearing is different from a full hearing. If the vehicle owner loses the preliminary hearing, he /she may still request a full hearing which is also defined in this glossary.

30. *Previously Liable*

The disposition of a violation at a hearing after the respondent was found liable for that violation at a prior hearing. Typically, this disposition is used at the hearing to determine fines and penalties, and is usually followed by a finding either that the violation has been brought into compliance or that it is still not in compliance.

31. *Prima Facie Case*

Prima facie case means the City has presented sufficient evidence to prove that a Municipal Code violation has occurred and that the Respondent is responsible for the violation. The City can establish a prima facie case through a notice of violation (ticket) or written complaint signed by a City employee (such as a police officer or inspector) and/or evidence (such as photographs, documents and/or the testimony of one or more witnesses). If the City fails to present a prima facie case, the

Respondent need not present any evidence at all. However, if the Administrative Law Judge decides that the City has established a prima facie case, the Respondent should be prepared to present Respondent's own evidence (testimony, photographs, documents, etc.) to rebut the City's prima facie case.

32. *Pro Se*

Acting without the aid of an attorney; representing yourself.

33. *Representative*

A person, such as an attorney, family member or friend who represents one of the parties at a hearing.

34. *Respondent*

One of the parties to a case. The respondent (usually you) is called this because he or she is responding to (answering) an action started by another party (a City agency), who might be the petitioner.

35. *Rules & Regulations*

Pursuant to the authority stated in the Chicago Municipal Code, the Director of the Department of Administrative Hearings has issued procedural rules and regulations to facilitate the administrative hearings process and to implement or supplement the provisions contained in the Municipal Code. These rules and regulations address among other issues, the operation of the Central Hearing Facility, the recording of proceedings, and pre-hearing matters. In the event the rules and regulations conflict with the Chicago Municipal Code, the Municipal Code controls and takes precedence over the rules and regulations. The rules and regulations of the Department of Administrative Hearings are posted on the Department's web site.

36. *Service*

Delivering documents to the other party (or, in the case of a subpoena, to a witness). There are different requirements in the law about how documents must be served, depending on what type of hearing is involved, and what type of documents are served. Types of service include personal service (hand delivered), posting (on a door or business), certified mail return receipt, or regular United States postal mail.

37. *Standing*

The right to be a party to a hearing or to assert a claim. An Administrative Law Judge might dismiss a case based on a person having no standing if the person would not be affected by the outcome. For example, if person A files a case asserting that they are the responsible party although person B is indicated, the ALJ might find that person A has no standing.

38. *Stipulation*

An agreement between all parties to a hearing. For example, during a pretrial conference the parties might stipulate (or agree) to some or all of the facts, and therefore will not have to present evidence about those facts. Stipulations will either be made in writing before the hearing or may be stated on the record by the parties after the hearing begins.

39. Stricken with Prejudice

The effect of the words “with prejudice” is to act as a final disposition of the matter and to prevent it from being re-litigated or re-heard.

40. Testimony

A statement made by a party or witness during an administrative hearing under oath.

41. Vacate

To vacate means to make void or cancel the order so that the ticket is canceled, or in some instances the hearing or appeal may be reinstated.

42. Waive

To voluntarily give up, such as give up a right. Sometimes an Administrative Law Judge will ask a party if they wish to waive their rights to something.

For a list of the Department of Administrative Hearings “Frequently Asked Questions” (FAQs), please visit our website at: www.cityofchicago/adminhearings.