

**SUPERIOR COURT RULES OF CIVIL PROCEDURE  
AGENCY REVIEW**

Rule 1. Superior Court review of agency orders pursuant to D.C. Code 1981, Title 1, Chapter 6.

(a) Time and manner of filing application.

Unless a different time is prescribed by statute an appeal to the Superior Court of the District of Columbia permitted by the Act, shall be obtained by filing a petition for review with the Clerk of the Civil Division, within 30 days after service of formal notice of the final decision to be reviewed or within 30 days after the decision to be reviewed becomes a final decision under applicable statute or agency rules, whichever is later. The petition shall show service, in accordance with Civil Rule 5, upon all other parties to the agency proceeding and the Office of the Corporation Counsel of the District of Columbia. The Clerk shall designate the petition as a miscellaneous action and affix the suffix "MPA" after the number assigned to the case. A nonrefundable fee as prescribed in Civil Rule 202 shall accompany the filing of the petition. If two or more persons are entitled to petition for review of the same order or decision and their interests are such as to make joinder practicable, they may file a joint petition and proceed as a single petitioner.

(b) Stay.

A motion for stay of the agency's decision or order pending direct review in this Court may be filed with the Clerk. The motion shall show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the motion shall be supported by affidavits or other sworn statements or copies thereof. A copy of the order or decision sought to be stayed shall be appended to the motion unless the agency record has previously been filed with the Court. The Court, upon such conditions as may seem to be required and to the extent necessary to prevent irreparable injury, may take appropriate and necessary action to preserve the status or rights of a petitioner or other party pending conclusion of the review proceedings. The Court may require a party seeking a stay of the decision or order on appeal in this Court to post a supersedeas bond on such conditions, in such amount, and with such sureties as the Court deems necessary.

(c) Intervention.

A party to the proceeding before the agency who desires to intervene in this Court shall serve upon all parties to the proceeding and file with the Clerk 1 copy of a notice of intention to intervene, whereupon such party shall be deemed an intervenor without the necessity of filing a motion. Any other person who desires to intervene shall file a motion containing a concise statement of the interests of the moving party and the grounds upon which intervention is sought. The notice of intention or motion for leave to intervene shall be filed within 30 days after the date on which the petition for review is filed unless such time is extended by order of the Court for good cause shown.

(d) Content of petition for review; answer.

The petition for review shall contain the information called for in the "Petition for Review of Agency Decision" form available from the Clerk, including the names of all the petitioners seeking review, and all the respondents, together with a concise statement of the agency proceedings, the decision sought to be reviewed, and the nature of the relief requested. In addition, a copy of the agency order or decision sought to be reviewed shall accompany the petition.

(e) Procedure following application.

Within sixty (60) days from the date of service of petition upon the agency and the office of the Corporation Counsel, the agency shall certify and file with the Clerk the entire agency record, including all of the original papers comprising that record, and shall notify the petitioner of the date on which the record is filed. The pages of the agency record shall be numbered sequentially and the documents included listed in an index. At the expiration of thirty (30) days after the filing of the record, or the time the record is due to be filed, whichever shall occur first, it shall be set down for a scheduling and settlement conference and certified by the Clerk to the judge assigned to review the case. The Court, for good cause shown, may shorten or extend the time above prescribed. If the case is not settled, the judge assigned to review the case shall then establish a briefing schedule for the parties. Briefs shall conform to the requirements of Civil Rule 12-I(e) and shall include specific references to the pages of the agency record that support the averments relied upon by the parties.

(f) [Deleted].

(g) Determination of appeal, standard of review.

This Court shall base its decision exclusively upon the administrative record and shall not set aside the action of the agency if supported by substantial evidence in the record as a whole and not clearly erroneous as a matter of law.

(h) Incorporation of certain civil rules.

Except where inconsistent with D.C. Code 1981, Title 1, Chapter 6 or with this Rule, the following Superior Court Rules of Civil Procedure shall apply to proceedings under this Rule: SCR Civ 5 (Service and filing of pleadings and other papers); SCR Civ 5-I (Proof of service); SCR Civ 6 (Time); SCR Civ 7-I (Stipulations); SCR Civ 10 (Form of pleadings); SCR Civ 10-I (Pleadings: Stationery and locational information); SCR Civ 11 (Signing of pleadings); SCR Civ 54-II (Waiver of costs); SCR Civ 63-I (Bias or prejudice of a judge); and SCR Civ 101 (Appearance and withdrawal of attorneys).

Appendix to SCR Agency Review 1. SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION

PETITION FOR REVIEW OF AGENCY DECISION

..... :  
Petitioner(s) :  
:  
v. : Docket Number .....

MPA :  
:  
..... :  
Respondent(s) :

A Notice is hereby given that ..... appeals to the Superior Court of the District of Columbia from the order of ..... (insert name of agency or official issuing the order from which review is sought) issued on the .... day of ....., 19... A copy of that order or decision is attached to this petition.

Description of judgment or order: .....  
.....  
.....

Concise statement of the Agency proceedings and the decision as to which review is sought and the nature of the relief requested by petitioner:

.....  
.....

B Address of Respondent Agency or Official: .....

.....

C Names and addresses of all other parties to the Agency proceeding:

.....  
.....  
.....

D Names and addresses of parties or attorneys to be served:

	NAME	ADDRESS
1.	.....	s Office of the Corporation Counsele
	.....	.....
2.	.....	.....
	.....	.....

E A copy of the Agency decision or order sought to be reviewed is attached to this petition.

F .....  
.....

Printed name of attorney                      Signature of petitioner's counsel  
for petitioner                                      or petitioner

Address: .....

.....

Unified Bar No.: ..... Telephone No.: .....

(File an original and .. copies with the Civil Clerk's Office.)

**COMMENT:**

Paragraph (d) has been amended to make plain that a petition for review of an agency decision is not analogous to a brief but to a notice of appeal, and to ease the burden on petitioner who, under the current practice, must file the equivalent of a full-fledged brief before the record itself is filed. The petition need only contain the names of the parties, designate the precise agency order to be reviewed, and indicate briefly what the agency proceeding concerned and the nature of the order from which judicial review is sought. A copy of the agency order is to accompany the petition. The petition must be served on the agency involved with a copy to the attorney in the office of the Corporation Counsel handling the case. The agency then has 60 days (a reasonable period that corresponds to current actual practice) during which it will gather together the original record, number the pages, list each of the included documents in an index and then certify the record to the Clerk. When the record is filed the case will be calendared for scheduling and settlement conference before the judge assigned to review the agency decision. If the case cannot be settled, that judge will establish a briefing schedule for the parties. In their briefs, the parties shall designate the page or pages in the agency record where rulings complained of or evidence referred to appear. The Court will then have before it for decision a record and briefs similar to that presented to the Court of Appeals in "contested cases" from administrative agencies.

Rule 2. Appeals from the Traffic Adjudication Appeals Board to the Superior Court pursuant to D.C. Code § 40-635 [§ 50-2304.05, 2001 Ed.].

(a) Time and manner of filing application.

An application for leave to appeal from a decision of the Traffic Adjudication Appeals Board of the District of Columbia Department of Public Works pursuant to D.C. Code § 40-635 [§ 50-2304.05, 2001 Ed.] shall be filed with the Clerk of the Superior Court within thirty (30) days of such decision in the format set forth in the appendix to this Rule. A brief statement of the points and authorities relied upon may be filed with the application. An original and three legible copies shall be filed with the Clerk and shall show service upon the Traffic Adjudication Appeals Board and the Corporation Counsel of the District of Columbia. A nonrefundable fee as prescribed in Civil Rule 202 shall accompany the filing of each such application. Within ten (10) days after service, the Corporation Counsel may file a response.

(b) Procedure following application.

At the expiration of ten (10) days following the filing of the application, the application and any response which may have been filed shall be transmitted by the Clerk to the judge designated by the Chief Judge to consider the application. Whenever, in the opinion of the judge, further information is necessary to determine such application, the judge may request the record and any exhibits from the Traffic Adjudication Appeals Board. In such cases the original record and any exhibits thereto shall be transmitted by the Traffic Adjudication Appeals Board to the Superior Court with twenty (20) days of the receipt of such a request. If no response to the application has been filed, the judge may request the Corporation Counsel to file a response.

(c) Denial of application.

The application for leave to appeal shall be granted unless, applying the standard of review set forth in D.C. Code § 1-1510(a)(3) [§ 2-510(a)(3), 2001 Ed.], the application states no grounds on which the applicant would be entitled to relief. If the judge denies the application for leave to appeal, the denial shall stand as an affirmation of the decision of the Traffic Adjudication Appeals Board, and there shall be no further appeal in the Superior Court. An order shall be entered by the judge when an application is denied, stating the reason for the denial, and a copy thereof shall be sent to the applicant, the Traffic Adjudication Appeals Board and the Corporation Counsel.

(d) Grant of leave to appeal.

If the judge grants the application for leave to appeal, notice of the allowance of the appeal shall be sent by the Clerk to the applicant, the Traffic Adjudication Appeals Board and the Corporation Counsel. If the record has not previously been filed, the Traffic Adjudication Appeals Board shall transmit to the Clerk the original record and any exhibits within twenty (20) days of receipt of the notice of the allowance of the appeal. If no response in opposition to the application for leave to appeal was filed by the Corporation Counsel or the judge wishes a more detailed submission from either the plaintiff or the Corporation Counsel, the judge may order that such additional pleadings be filed within ten (10) days of the date of such order, and the opposing party served in accordance with SCR Civil 5.

(e) Record of appeal; determination of appeal; standard of review.

If the application for leave to appeal is granted, the record for appeal shall consist of the application, the answer, if one has been filed, the notice of the allowance of the appeal and the original record including a certified copy of the original Notice of Infraction and any exhibits previously filed and any additional pleadings ordered by the judge pursuant to paragraph (d) of this Rule. No further pleadings shall be filed except by leave of the judge. The judge shall determine the appeal exclusively upon the record for appeal as provided in this Rule and in accordance with the standards for review provided in D.C. Code § 1-1510(a)(3) [§ 2-510(a)(3), 2001 Ed.]. The judge may order oral argument. Otherwise, the decision shall be made on the pleadings and the record. The decision of the judge shall be in writing, shall be accompanied by a statement of reasons and shall be sent to the applicant, the Traffic Adjudication Appeals Board and the Corporation Counsel.

Appendix to SCR Agency Review 2. SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION APPLICATION  
FOR LEAVE TO APPEAL  
from the Traffic Adjudication Appeals Board of the  
District of Columbia Department of Public Works



SUBSCRIBED AND SWORN TO ME THIS ..... DAY OF ....., 2...

.....

Notary Signature

Copies to:

Traffic Adjudication Appeals Board

65 K Street, N.E.

Washington, D.C. 20002

Corporation Counsel

441 4th Street, N.W.

6th Floor, South

Washington, D.C. 20001

COMMENT

It is contemplated that the Traffic Adjudication Appeals Board record shall include the Board's opinion, any findings of fact and conclusions of law made by the hearing examiner, any transcript or tape recording of the fact-finding proceeding and any other pertinent documents.