

Administrative Hearings

A Guide for Businesses

The Department of Consumer Affairs (DCA) created this guide to answer common questions about administrative hearings. If your business received a Notice of Hearing from DCA, this guide will help you understand what a hearing involves.



Department of
Consumer Affairs

I. GENERAL INFORMATION

My business has been ordered to appear at a hearing at the Department of Consumer Affairs. What happens at a hearing?

At a hearing an Administrative Law Judge (ALJ) will hear testimony and take evidence from the consumer or from DCA's representative, and from you and your witnesses. The purpose of the hearing is to give business owners an opportunity to appear before a fair and impartial ALJ and present a defense to the charge(s) in the Notice of Hearing.

Where are hearings held?

Hearings are held at the Department of Consumer Affairs' Administrative Tribunal, which is located on the 11th floor at 66 John Street in lower Manhattan.

What if I can't appear on the hearing date?

You must submit a written request for a new hearing date at least three (3) business days before the scheduled hearing date. Your letter should state the reason why you will not be able to attend the hearing on the scheduled date. Use ONE of the following methods to submit your written request for a new hearing date:

- E-mail your request to AdjournmentRequests@dca.nyc.gov (preferred method) OR
- Fax your request to (212) 361-7766 OR
- Mail your request to:
Director of Adjudication
NYC Department of Consumer Affairs
66 John Street, 11th floor
New York, NY 10038

If you are not notified by DCA's Administrative Tribunal that your request for a new hearing date has been granted, you or your representative must appear on the original hearing date. (See the section "THE DECISION" for what happens if you do not appear on a scheduled hearing date.)

Important: If you received a Notice of Hearing with a violation number that starts with the letters "CD" (which means Consumer Docket), make sure to send a copy of your request for a new hearing date to the consumer at the address listed on the Notice of Hearing. Your request for a new hearing date may be denied if you do not send a copy to the consumer and you do not state in your request that you have done so.

What should I do if my business receives a *PL violation for unlicensed activity?

Stop the unlicensed activity immediately. You may be required to pay a fine for every day that your business has operated without a license. The owner, a corporate officer, or a representative with written authorization to settle the violation on behalf of your business should come to DCA's Administrative Tribunal at 66 John Street as soon as possible to meet with a settlement officer. An authorized representative should prepare an **Affidavit Granting Authority to Act** form and have it signed and notarized by the owner or a corporate officer before meeting with a settlement officer. This form is available at the back of this guide and online at nyc.gov/consumers.

*Note: "PL" stands for Padlock Violation.

Can I apply for a license before the hearing date?

Yes. To obtain a license application or to apply for some licenses online, visit nyc.gov/consumers. You can also call 311 to request that the license application packet be mailed to you.

Important: Even if you apply for a license or obtain a license before the hearing date, you still must settle the PL violation on or before the hearing date or appear for the hearing on the hearing date.

II. HOW TO SETTLE A VIOLATION WITHOUT A HEARING

Can I settle the violation instead of appearing at a hearing?

If you received a Notice of Hearing with a violation number that does NOT start with the letters "CD," you may be able to settle the violation before the hearing date by:

1. Paying the ***pleading letter** fine by mail or online OR
2. Coming to DCA's Administrative Tribunal at 66 John Street, 11th floor, **before the hearing date** and meeting with a settlement officer. The best time to come to the Tribunal is at 2:00 p.m. Monday through Friday.

*In certain cases, you may receive a **pleading letter** in the mail before the hearing date that will offer you the opportunity to plead guilty and

pay a reduced fine instead of attending the hearing. If you pay the reduced fine before the hearing date, you will not be required to appear for a hearing at DCA's Administrative Tribunal.

What forms of payment are accepted?

You may pay the settlement or pleading letter fine by check, money order, or credit card (online only).

What if I settle my case with the consumer before the hearing date?

If you and the consumer resolve the consumer's complaint before the hearing date, the consumer should notify DCA in writing that the consumer does not wish to proceed with the hearing. The consumer should notify DCA before the hearing date using ONE of the following methods:

- E-mail issettled@dca.nyc.gov OR
- Fax (212) 487-4390 OR
- Mail written notification to:
NYC Department of Consumer Affairs
Attn: Legal Division
42 Broadway, 9th floor
New York, NY 10004

III. HOW TO PREPARE FOR YOUR HEARING

How should I prepare for my hearing?

Although you are not required to appear at the hearing with an attorney, you may wish to consult an attorney before the hearing. You should review the law(s) and/or rule(s) that you are charged with violating. You may also wish to review the rules that apply to administrative hearings at DCA, which can be found in Title 6 of the Rules of the City of New York, Sections 6-01 through 6-45.

All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are accessible online via nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Law and Rules governing categories licensed by DCA are available as downloadable handouts on nyc.gov/consumers.

You should also review the facts of your case and collect and organize all of your evidence so you can present your case to the judge in an organized fashion.

What evidence should I bring to the hearing?

You should bring any documents and/or witnesses that can help you prove your defense. Documents might include:

- receipts
- photographs
- a survey certified by a licensed surveyor that clearly indicates the property lines (if you are charged with operating a sidewalk café without a license)
- licenses
- business records
- checks
- contracts
- estimates

Since the judge will need to keep either the original or a copy of each of your documents, and you may be required to provide a copy to DCA's representative or the consumer, make sure you bring TWO copies of every document to the hearing.

What is a “discovery request”?

A discovery request is a written demand for copies of the documents and names of the witnesses that will be brought to the hearing. Both you (the business) and the opposing party have the right to serve discovery requests on each other. Discovery requests must be received at least five (5) business days before the scheduled hearing.

What should I do if I receive a discovery request from DCA or the consumer?

You must send the opposing party copies of any documents and names of any witnesses that you intend to bring to the hearing. The opposing party must receive these documents at least two (2) business days before the hearing.

IV. DAY OF THE HEARING

Do I need to be represented by an attorney or bring an attorney to the hearing?

Although it is not required, you may choose to bring a lawyer with you to the hearing.

Do I need to bring my own interpreter to the hearing?

You may not use your own interpreter at the hearing. The settlement officer will arrange to have an “official” interpreter available by telephone for any party or witness who needs an interpreter during the settlement conference. (See “What will happen on the day of the hearing?” for information about the settlement conference.) If your case does not settle and goes to hearing, the Administrative Law Judge will arrange to have an “official” interpreter available by telephone at the hearing.

Who can I bring to the hearing?

Anyone can accompany you to the hearing and anyone with knowledge of your case can testify at the hearing as a witness on your behalf. You may also authorize a lawyer or non-lawyer to represent you at the hearing or to appear on your behalf.

What will happen on the day of the hearing?

Make sure to appear on time for your hearing. You (and your representative, if you have one) will be asked to fill out a Notice of Appearance. Make sure to provide your e-mail address on the Notice of Appearance so you can receive important information about your case quickly and easily.

If you received a Notice of Hearing with a violation number that does NOT start with the letters “CD,” you and/or your representative will meet with a settlement officer for a settlement conference before you appear before an ALJ for a hearing. The settlement officer will explain the charge(s) and offer you the option of pleading guilty to the charge(s) in exchange for a reduced penalty.

If you received a Notice of Hearing with a violation number that starts with the letters “CD,” you and your representative (if you have one) and the consumer will meet with an ALJ for a settlement conference. The ALJ will try to help you and the consumer reach an agreement to resolve your dispute without having to attend a hearing.

Why do I have to participate in a settlement conference?

Generally, it is in the best interests of parties to settle a case rather than proceed with a hearing. Settlements save parties the time, energy, and resources necessary to prove their cases at a hearing.

What will happen during a hearing?

You and your witnesses, DCA’s witnesses and/or representative,

and/or the consumer and the consumer's witnesses and representative will appear before an ALJ. The ALJ will turn on a tape recorder and make an official recording of the hearing. The ALJ will swear in each witness before the witness testifies. Usually, DCA's witnesses or the consumer and the consumer's witnesses will testify and present their evidence first. You will be given the opportunity to question each witness. After the opposing party presents its case, you will be given an opportunity to testify and present witnesses and other evidence to support your defense. The ALJ may question any of the witnesses during their testimony.

V. THE DECISION

When will I receive the decision?

The ALJ will make a decision after the hearing is concluded and you will receive the decision in the mail or by e-mail if you provide DCA with an e-mail address. In most cases, you can expect to receive a decision within 30 days of the conclusion of the hearing or the close of the record.

Can I appeal the decision?

Yes. You have the right to file an appeal with the Director of Adjudication. The decision you receive in the mail will include instructions on how to file the appeal. For additional information, visit nyc.gov/consumers or call 311 and ask for "Consumer Hearing Update."

What will happen if I don't appear on the scheduled hearing date?

If you don't appear on the scheduled hearing date, a **default decision** may be issued in which you will be found guilty of the charge(s), you will be ordered to pay a fine for each charge, and you may be ordered to pay an additional fine for failing to appear at the hearing. In addition, your license may be suspended or revoked.

Can I appeal a default decision?

Yes. If you miss the hearing and receive a default decision, you have the right to file a motion to vacate the default decision and request a new hearing. You will be required to provide a valid reason for your failure to appear at the hearing, as well as a good defense for each of the charges. The decision you receive in the mail will include instructions on how to file a motion to vacate the decision. For additional information, visit nyc.gov/consumers or call 311 and ask for "Consumer Hearing Update."



AFFIDAVIT GRANTING AUTHORITY TO ACT

Date: _____

Violation Number (circle one code): PL / LL / CL / TP / WH / OL / WS _____

My name is: _____.

I **SWEAR** to the following:

1) I am the owner or a corporate officer of _____,
Full Name of Business
located at _____
Full Business Address
_____.

2) I authorize _____, whose telephone
Name of Authorized Representative
number is _____ and whose e-mail address is
_____, to enter into a settlement agreement for the
above violation on behalf of my business.

3) I understand that I or my business will be bound by the terms of the settlement agreement
signed by my authorized representative.

Signature of Owner/Corporate Officer

Sworn to before me this _____ day
of _____, 20____

Print Name

Notary Public

OR

Corporate Seal

REASONABLE ACCOMMODATION

If you have a disability and require a reasonable accommodation on the day of the hearing, you must send a request, with proof, before the hearing date to the Adjudication Division at mycase@dca.nyc.gov

The New York City Department of Consumer Affairs ensures that consumers and businesses benefit from a fair and vibrant marketplace. For additional information about the Department, visit nyc.gov/consumers

**If you have a consumer-related complaint,
call DCA at 311 or (212) NEW-YORK.**

New York City employees are not allowed to ask for or accept anything of value, such as money, gifts, or tips for doing their job. To report corruption, contact the New York City Department of Investigation at www.nyc.gov/doi



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