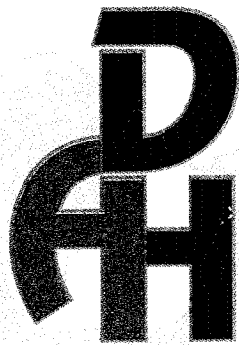


CITIZENS' GUIDE



DEPARTMENT OF ADMINISTRATIVE HEARINGS



kids cops clean



It is with great pleasure that I introduce a new department of City government, and with it, a whole new approach to keeping our city clean. The newly established Department of Administrative Hearings will hear blight violations, quickly and effectively, handing down stiffer penalties to those who would pollute our streets and neighborhoods.

At the same time, a more aggressive code enforcement strategy has been launched. Police officers, City inspectors and Neighborhood City Hall managers will be issuing Blight Violation Notices to those who blatantly disregard city ordinances that are in place to keep our city clean and healthy.

Detroiters have voiced their concern about the proliferation of trash and illegal dumping in our city. In survey after survey, residents of cities throughout Michigan and nationwide rank cleaning their neighborhoods at the top of their wish list for government intervention.

My administration has heard you loud and clear. We started with Motor City Makeover, our annual spring-cleaning program that engages thousands of volunteers to help us sweep the city and bag thousands of tons of debris.

Now, with the creation of the Department of Administrative Hearings and a stepped-up code enforcement effort, we are taking aim at the root of the problem - those individuals who pollute our streets and disrespect our city.

In this guide, you'll learn what the DAH means to you, how it works and why it is an effective way to handle blight violations. You will find important information for residents, renters, businesses and property owners about blight violations and City ordinances. And you will have a step-by-step guide to responding to a Blight Violation Notice.

Thank you for joining me in our efforts to make our city beautiful. I urge everyone to embrace this exciting new department as we continue to grow Detroit.

Sincerely,

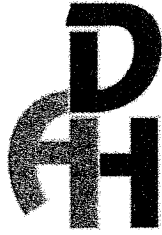
A handwritten signature in black ink that reads "Kwame M. Kilpatrick". The signature is stylized and fluid.

Kwame M. Kilpatrick
Mayor

City of Detroit
Department of Administrative Hearings

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DEPARTMENT OF
ADMINISTRATIVE
HEARINGS



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Director

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www.detroitmi.gov/dah

This guide is intended for general information and overview purposes only. Matters before the Department of Administrative Hearings (DAH) are judged on a case-by-case basis. Nothing contained in this guide shall act to bind the City of Detroit, or to confer on, or waive any rights or obligations of any individual or entity.

Individuals who have received a Blight Violation Notice should carefully review Part Three of this Citizens' Guide for more details.

Citizens who are cited for violations are also advised to review the City ordinance governing the DAH as well as the City ordinance that governs the nature of the violation. Citizens also may want to review the Administrative Rules & Procedures, & Process of the department (available in brochure form or on the Department's Web site at www.detroitmi.gov/dah).



PART ONE - THE DEPARTMENT OF ADMINISTRATIVE HEARINGS

WHAT IS THE DEPARTMENT OF ADMINISTRATIVE HEARINGS?

Established on January 1, 2005, the Department of Administrative Hearings (DAH) is an independent department of City government. The department is a quasi-judicial body that handles blight violations.

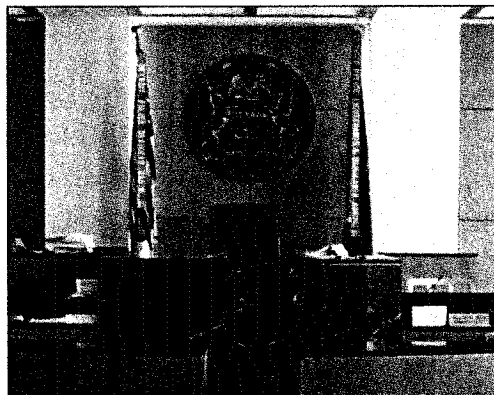
Property maintenance, zoning, and illegal dumping and solid waste ordinances are now within the jurisdiction of the department. Previously, these types of cases were heard in the 36th District Court.

Cases that come before the department include violations of building, zoning, health, sanitation, and environmental ordinances.

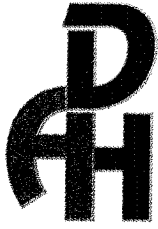
Licensed attorneys serve as administrative hearing officers and are independent contractors.

HOW IS THE DEPARTMENT ORGANIZED?

The department is administered by a director, who also serves as the chief hearing officer; and administrative staff. The department itself is divided into the Property Maintenance Division, the Zoning Division, and the Illegal Dumping/Solid Waste Division, with each division hearing certain types of blight violations.



The **Property Maintenance Division** hears cases filed by the Buildings & Safety Engineering Department. In these cases, Blight Violation Notices are issued by building and health inspectors, and by police officers. Violations in these cases include, but are not limited to:



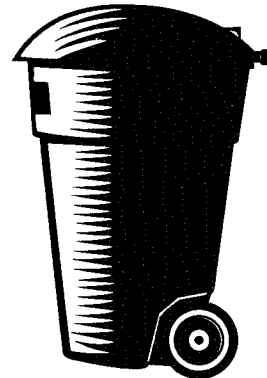
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- Failure to obtain certificates of compliance
 - Failure to register a rental property
 - Rat infestation or problems with rodents
 - Failure to remove snow and ice from sidewalks
 - Inoperable vehicles
 - Failure to maintain exterior of property
 - Failure to comply with emergency orders

The **Zoning Division** hears cases filed by the Buildings & Safety Engineering Department. In these cases, Blight Violation Notices are issued by building inspectors. Violations in these cases include, but are not limited to:

- Violations of special land use grants
- Change of land use without a permit
- Change of building use without a permit
- Failure to obtain the required certificate of maintenance of grant conditions

The **Illegal Dumping and Solid Waste Division** hears cases filed by the Department of Environmental Affairs. Blight Violation Notices in these cases are issued by health and environmental inspectors, police officers, and Neighborhood City Hall managers. Violations in these cases include, but are not limited to:

- Early bulk refuse placement at the curb
- Early or late placement of Courville (residential garbage) containers at the curb
- Improper storage of solid waste
- Animal and fowl excrement violations
- Illegal dumping

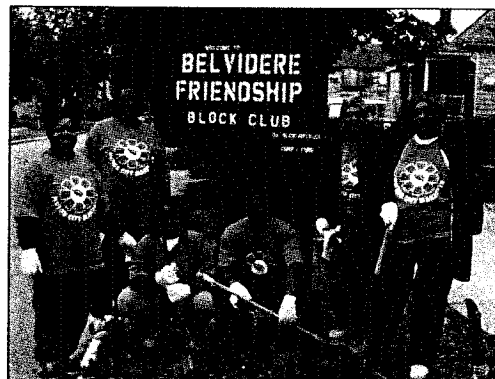




WHY WAS THE DEPARTMENT CREATED?

Mayor Kwame M. Kilpatrick created this innovative approach to enforcing ordinances in Detroit because he believes that blight violations have a major impact on the quality of life in Detroit and the City must have an effective system to handle violations.

Blight is not just an urban issue. In surveys across the nation, residents have ranked blight-related offenses among their top concerns. The Mayor has made combating blight violations a priority. The DAH provides a legal forum where such cases are heard in a fair, expedient, and cost-effective manner.

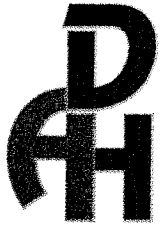


HOW IS THE DAH SYSTEM DIFFERENT FROM THE FORMER (STATE COURT) SYSTEM?

The single biggest difference between the DAH and the old system is that blight violations were formerly considered criminal misdemeanors and were handled by the 36th District Court. However, cases were backlogged and often did not incur appropriate, effective fines or penalties.

Detroit broke from that mold when it created this new department. Perhaps most important, the cases in the DAH are blight violations, not criminal misdemeanors (which will still be handled by the 36th District Court).

Under the new system, cases can be heard and resolved more quickly - and penalties are more appropriate, providing a deterrent. The department has its own hearing facility, independent of the 36th District Court, at 561 E. Jefferson in downtown Detroit.



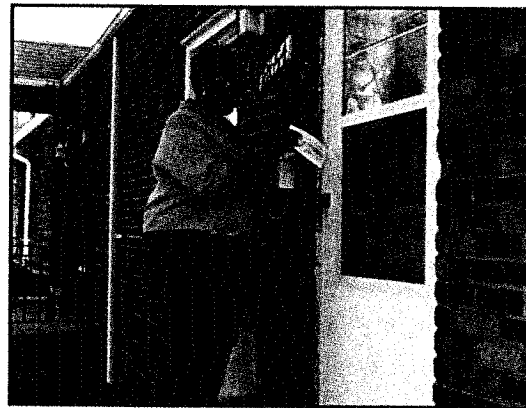
HOW IS AN ADMINISTRATIVE HEARING DIFFERENT FROM A JUDICIAL HEARING?

The nature of an administrative hearing is not as complex as a judicial court proceeding. The strict and often complicated rules of evidence and procedure do not apply; plain language is used instead of legal language; penalties do not include jail; and, hearing officers do not exercise all of the powers of a judge. A case before the department is therefore more time- and cost-effective for both the City and the citizen. However, the hearing - while less complex than a state court trial - still follows a basic structure to ensure fairness and due process of law.

HOW IS A CASE HEARD BY THE DAH?

The DAH does not investigate, initiate, file or present the City's case. Other City departments charged with protecting the public's safety, health, and welfare can file a case with the department, based on the observations or investigation by a police officer or City inspector.

When a police officer or City inspector determines that an ordinance violation has occurred, it will serve the party responsible for the alleged violation with a Blight Violation Notice (Notice) that outlines the City's allegations. **The responsible party may be served with the Notice in person, by mail, or by posting upon the property that is the subject of the alleged violation.**



Hearing dates are scheduled by the police officer or City inspector at the time the Notice is issued. The police officer or City inspector will then file a copy of the Blight Violation Notice with the DAH for a hearing.



WHERE ARE THE HEARINGS HELD?

The DAH is located at 561 E. Jefferson Ave. (between Beaubien and St. Antoine), Detroit, Michigan. Hearing rooms accommodate the needs of alleged violators and interested citizens, and provide proper and dignified forums for the hearings.

The facility is accessible from Jefferson Avenue as well as the Lodge and Fisher freeways, and is on - or within two blocks of - the following Detroit Department of Transportation (D-DOT) bus routes: Jefferson, Downtown Red Loop, Cadillac-Harper, Grand River/Limited, Hamilton, John R, Woodward, Dexter Limited, and Imperial Limited. For more DDOT travel information, call (313) 933-1300. For parking information, call the DAH at (313) 224-0098.

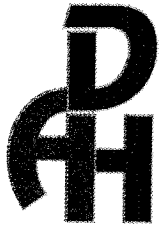
WHAT ARE HEARING OFFICERS, AND WHAT DO THEY DO?

A hearing officer is a licensed Michigan attorney who is appointed to preside over the hearing as an independent, fair and impartial "judge." A hearing officer does not represent either party.

The hearing officer maintains the structure of the hearing, swears in witnesses, and rules on objections and the admissibility of evidence. He or she reviews the documents, exhibits, testimony, and legal arguments presented by both sides. The hearing officer may also ask questions of both sides in order to clarify the record of the case. The hearing officer then makes a blight violation determination (finding the alleged violator either responsible or not responsible), based upon the evidence presented.

HOW IS A HEARING OFFICER APPOINTED AND TRAINED?

The hearing officers are appointed by the Mayor and are chosen because of their qualifications. However, all hearing officers receive additional and continual training regardless of their legal backgrounds.



Michigan State University College of Law staff members offer their time and expertise in providing hearing officers with in-depth substantive and procedural legal training.

The DAH director makes sure that hearing officers fully appreciate the impact that blight violations have on the day-to-day quality of life of a community. Quality-of-life perspectives are an ingrained part of the training program for hearing officers. Therefore, hearing officers visit neighborhoods and watch City inspectors and police officers at work.

HOW CAN COMMUNITY MEMBERS PROVIDE INPUT TO THE DEPARTMENT ON CERTAIN CASES?

All hearings are open to the public. The department's facility is designed to allow citizens to watch proceedings.

Because of Detroit's community policing program, community members may appear at a hearing on a matter that affects the quality of life in their neighborhood. For example, a Blight Violation Notice issued for a run-down building, an abandoned vehicle, or overgrown weeds will interest community members. Citizens with information relevant to a particular case are encouraged to speak with the City's attorneys or representatives, and may - in some limited circumstances - be called to testify by the City's attorneys. Community groups or individuals wishing to express their concerns about a particular case to the City's attorneys or an enforcing department's representatives may fill out a **Notice of Public Concern** form. The form may be requested from the enforcing departments' representatives/liaisons, or from any staff member at the DAH.

TELL US HOW WE'RE DOING

Individuals with comments about the DAH, a hearing officer, or a staff member may call (313) 224-0098. Please note, however, that the law prevents department representatives from commenting on pending or potential cases.



A citizen can comment on his or her hearing - or on an experience with DAH representatives - by completing a DAH **Public Comment** form, available at DAH offices or online at the department's Web site, www.detroitmi.gov/dah. The DAH staff appreciates feedback.

PART TWO - WHAT YOU NEED TO KNOW ABOUT BLIGHT VIOLATIONS

To keep our community clean, healthy and a pleasant place to live, the City of Detroit has adopted some new ordinances. The City is also taking a new approach to residents and business owners who violate local property maintenance, safety, zoning and health-related ordinances.

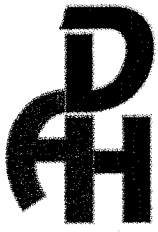
WHAT IS A BLIGHT VIOLATION?

The City of Detroit will cite citizens and business owners for violations of solid waste, illegal dumping, zoning, and property maintenance ordinances. Penalties range from a minimum of \$100 per day up to as much as \$10,000 per day, depending on the violation. The City reserves the right to enforce its judgment by:

- Garnishing the violator's wages or bank accounts
- Placing a lien against his or her property or driver's license
- Impounding or seizing vehicles used for illegal dumping
- Compelling the violator to pay for the City's cleanup of the property



The City will be aggressive in its collection measures.



Violators should remember that it's not enough to pay penalties. Violators must correct problems. If not, a second or third violation may be cited, with a higher fine.

Those who receive a Blight Violation Notice or want more information on the Department of Administrative Hearings should call the Department at (313) 224-0098. The DAH Web site at www.detroitmi.gov/dah also offers information, brochures, and forms.

WHAT EVERYONE SHOULD KNOW

- Solid waste can only be stored in licensed containers and disposed of at a licensed facility.
- Those who own, rent or occupy property cannot grant anyone the right to store or dispose of solid waste on that property.
- Public property, parks, and open spaces are for everyone to enjoy. Residents can help keep them litter-free and should place any trash in a waste container.
- Disposing of solid waste on a vacant lot or in an abandoned building is illegal dumping. The violation of illegal dumping carries hefty fines and penalties.
- Open burning within city limits is prohibited.
- Bulk waste cannot be placed at the curb for pickup more than 24 hours before the scheduled pickup day.
- Courville (residential garbage) containers should be placed at curbs for regular garbage pickup no earlier than 6 p.m. on the day before pickup. They must be removed from curbs by 9 p.m. on pickup day. Moreover, Courville containers should not be stored in the front of a property or in a side driveway.
- Animal waste from dogs, cats, or other pets is solid waste. Residents shouldn't allow such waste to accumulate on their property or on others' properties.



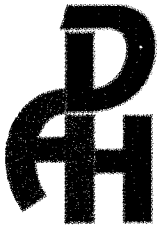
- Items such as auto parts, building materials, household items, or commercial equipment should not be stored in yards.
- Commercial, recreational, or inoperable (non-running) vehicles cannot be stored on residential property. An “inoperable vehicle” is defined as any vehicle that cannot be legally driven on city streets due to damage, malfunctioning equipment, expired license plates, etc.
- Vehicles of any kind cannot be parked on unpaved portions of a yard, including front or back lawns.



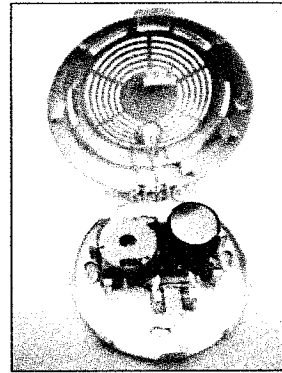
WHAT RENTERS AND RENTAL PROPERTY OWNERS SHOULD KNOW

- Owners and renters are responsible for the cleanliness of their income property. If a Blight Violation Notice is issued, the Department of Administrative Hearings may order one party to pay the entire fine or may split the fine between the owner and the tenant.
- Landlords who evict renters - as well as renters who are evicted - have 72 hours to remove any household items or belongings placed at the curb. If the items aren't taken away, the landlord, the renter, or both, may be cited.
- All rental property owners must get a certificate of registration and a certificate of inspection for their properties from the Buildings & Safety Engineering Department (B&SE).





- Smoke detectors must be installed near all bedrooms to provide early warning of fire. Maintain smoke detectors with fresh batteries so they will properly sound during any emergency.
- Any graffiti or other defacing should be removed from buildings and fences to maintain a neat and clean neighborhood appearance.
- All renters are entitled to live in housing that is well maintained and safe. Renters are encouraged to report rental properties that require inspection and repair. Tenants can arrange for an inspection (at no cost to them) by notifying the City of Detroit Buildings & Safety Engineering Department.



WHAT OWNERS OF BUSINESSES AND OTHER COMMERCIAL ESTABLISHMENTS SHOULD KNOW

- Grocery stores, fast food restaurants and other commercial establishments must have at least one 30-gallon trash container available for, and accessible to, customers.
- Business owners (and residents) are prohibited from storing solid waste on their properties if it is not in an approved container and properly wrapped.
- If an owner/proprietor wishes to change the use of a property or business, he or she must first get a permit for the new use.
- If a business owner/operator has a permit to operate that includes special conditions, those conditions must be met at all times.



-
- Those who are operating a business without a license and/or permit should contact the City of Detroit Buildings & Safety Engineering Department to find out whether they need a license and/or permit.
 - Commercial buildings are subject to an annual inspection and must get a certificate of inspection from the Buildings & Safety Engineering Department.

CONTACT INFORMATION

Those with specific questions or complaints regarding alleged violations should contact the appropriate City of Detroit code enforcement department.

Property Maintenance

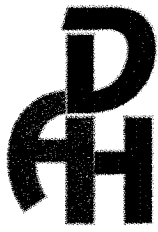
City of Detroit Buildings & Safety Engineering Department
Coleman A. Young Municipal Center
2 Woodward Ave., Suite 418
Detroit, MI 48226
(313) 224-2733

Zoning

City of Detroit Buildings & Safety Engineering Department
Coleman A. Young Municipal Center
2 Woodward Ave., Suite 407
Detroit, MI 48226
(313) 224-2733

Solid Waste and Illegal Dumping

City of Detroit Department of Environmental Affairs
First National Building
660 Woodward Ave., Suite 1800
Detroit, MI 48226
(313) 471-5100



PART THREE - HOW TO RESPOND TO A BLIGHT VIOLATION NOTICE

WHY WAS I ISSUED A BLIGHT VIOLATION NOTICE?

If an official representing the City of Detroit determines that an ordinance violation has occurred, the official will serve the party responsible for the alleged violation with a Blight Violation Notice that outlines the City's allegations. **The responsible party may be served with the Notice in person, by mail, or by posting upon the property that is the subject of the alleged violation.**

The DAH does not investigate, file or present the City's case. However, other City departments or agencies charged with protecting the public safety, health, and welfare can file a case with the DAH, based on the observations of, or investigation by, a police officer or City inspector. Therefore, questions about why you were cited **must** be directed to the City agency that issued the Notice.

WHAT DO I DO IF I RECEIVED A NOTICE?

In general, the Blight Violation Notice will inform you of:

- The specific alleged violation
- The date, time, and place that the alleged violation occurred
- What your options are concerning payment

An appearance at a hearing is required, where you can contest the alleged violation. The Notice will state the date, time and place for your hearing. Remember that questions about why you were cited must be directed to the City agency that issued the Notice. Also, if you believe that you or your property was cited by mistake, you are strongly encouraged to appear for the scheduled hearing. Ignoring a Notice may result in a decision and order of default being entered against you.



WHAT SHOULD I BRING TO MY HEARING?

It is in your best interest to appear at the hearing. You can bring an attorney to represent you, at your own expense. You are encouraged to bring all of your evidence (photos, receipts, invoices, permits, etc.) with you. If English is not your first language, you are encouraged to bring a friend or family member to help translate.

WHAT DO I DO WHEN I ARRIVE FOR MY HEARING?

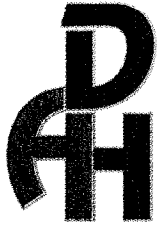
When you arrive at the hearing facility, you must proceed through security. Then, check the lobby display case for your hearing room's location, and proceed to the assigned room. If you have difficulty locating the hearing room, please ask the department staff for information or assistance in finding it. When you arrive at your hearing room, **you must sign the sheet (located on the respondent's table) next to your name**, and take a seat until your case is called.

A City inspector, police officer, or City attorney (not employed by the DAH) may wish to speak with you before your hearing to discuss a settlement offer. For more information on settlements, please see the section of this guide entitled "Pre-hearing settlement offer."

Please note that everyone who enters the hearing facility is subject to inspection. Weapons (including, but not limited to: pocket or utility knives; chemical sprays; and knife- or chemical spray-keychains) are strictly prohibited and will be confiscated without being returned.

WHO MAY PARTICIPATE ON THE CITY'S SIDE IN THE HEARING?

Who may participate in the hearing will vary, depending on the nature of the code violation. The hearing officer is a licensed Michigan attorney appointed by the DAH director to preside over the hearing as an independent and impartial "judge."



A City inspector, City attorney, or police officer will present the City's case. The City may also call witnesses, including members of the public who have been affected by the alleged blight violation.

WHAT ARE MY RIGHTS AT THE HEARING?

Again, you have the right to represent yourself or to hire an attorney to represent you. If the City presents its case through the testimony of a City official or other witness, you have the right to ask questions of the City's witness.

You have the right to tell your side of the story to the hearing officer. You may do so through: a sworn affidavit; your own testimony; the testimony of witnesses; or other evidence, such as photos, invoices, or receipts. You are expected to bring all of your witnesses and evidence with you to the hearing.

WHAT IS A PRE-HEARING SETTLEMENT OFFER?

A pre-hearing settlement offer is when the City lawyer or representative offers to settle (end) the case against you for an agreed-upon fine or penalty - if you agree to plead responsible to the violation. Please note that the City is not obligated to make a settlement offer, and you are not obligated to accept a settlement offer. If you reject a settlement offer, the fact that you rejected it cannot be held against you in a hearing. Moreover, the hearing officer is not obligated to approve the settlement offer and may instead require the involved parties to proceed to a hearing.

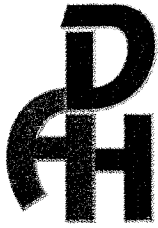
HOW IS A HEARING CONDUCTED?

The nature of an administrative hearing is not as complex as a judicial court proceeding. The strict and often complicated rules of evidence and procedure do not apply, and plain language is used, not legal jargon. Although some alleged violators hire attorneys to represent them, many choose to represent themselves. Hearings are open to the public.



The hearing follows a basic structure to ensure fairness and due process of law. All testimony is under oath and recorded. Here's a summary of the steps in a hearing:

- The hearing officer begins by giving his or her opening remarks, which outlines the hearing process.
- Since the City initiated the case against you, it has to present its evidence before you present your defense(s). The City is required to establish what is called a "prima facie case." That simply means that the City must set forth the necessary allegations that a code violation has occurred. The City must introduce the Blight Violation Notice and may present its case through: the testimony of City of Detroit employees or representatives, or other witnesses; and documentary evidence.
- The hearing officer will carefully review the City's case to determine if it has established the necessary elements of the alleged violation as required by law. If the City has not established the necessary elements, the case will be dismissed. If the City has properly established its case, the hearing will proceed.
- If the hearing proceeds, you will be given an opportunity to present your defense(s) to the alleged violation and/or tell your side of the story. You may present your case through your own testimony, the testimony of other witnesses, and documentary evidence.
- After both sides have had an opportunity to present their cases, the hearing officer will make a determination of responsibility, and will issue a written decision and order within three (3) days of the hearing.
- The City's burden of proof is "by a preponderance of the evidence." That means that the City must demonstrate that "it is more likely than not" that a code violation has occurred.



WHAT IF I AM FOUND RESPONSIBLE?

If you are found responsible for the violation, the hearing officer is required by law to impose the penalties set forth by the Detroit City Code. If the penalty is a set fine, the hearing officer must impose that amount. If the penalty has a minimum and maximum fine range, the hearing officer must impose a fine within that range. A hearing officer does not have the legal authority to waive a fine. Penalties may also include remediation (the cost to clean up a violation) and administrative costs.

WHAT IF I AM FOUND NOT RESPONSIBLE?

If you are found not responsible, the hearing officer will dismiss the case against you and will not impose any penalties.

WHAT IF EITHER SIDE DISAGREES WITH THE HEARING OFFICER'S DECISION?

Either side may appeal the hearing officer's decision within 28 days after the decision and order is issued, by:

- Filing a copy of the Claim of Appeal and a copy of the final decision and order with the DAH
- Paying a bond in the amount of the fines, fees, costs, and the appeal fee to the DAH
- Ordering and paying for the hearing transcript
- Filing all documentary evidence that was presented at the original hearing

The appealing party must also - within the 28-day period - file a Claim of Appeal at the Wayne County Circuit Court, present proof of payment of the DAH bond, and pay any applicable circuit court filing fees.



WHAT HAPPENS IF A BLIGHT VIOLATION NOTICE IS IGNORED?

If you ignore a Blight Violation Notice, a hearing officer will enter a decision and order of default against you, based upon the violations alleged in the Notice. A decision and order of default can be used to place a lien on your property, garnish your wages, and/or affect your credit. The City usually requests that the maximum fine be imposed in default matters if the violation alleged in the Notice was subject to a range of fines.

WHAT CAN I DO ABOUT A DECISION AND ORDER OF DEFAULT?

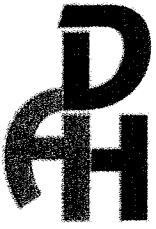
If you missed your hearing date, and a decision and order of default is issued, you may file a written Motion to Set Aside a Decision and Order of Default with the DAH. **Your motion must be filed within 21 days after the decision and order of default is issued.**

Motions are not granted automatically. You must file your motion on time, provide a good reason why you did not respond to the Notice, present a defense that could result in the violation being dismissed, and pay the applicable motion fee.

A motion form may be obtained from the DAH and should be filed in person Monday through Friday, 8:30 a.m. to 4:30 p.m., at the department offices, 561 E. Jefferson.

WHAT HAPPENS IF SOMEONE DOES NOT COMPLY WITH A HEARING OFFICER'S ORDER?

A hearing officer's order can be enforced in the same manner as a judge's order. It can be used to place a lien on your property; garnish your wages; and/or negatively affect your credit.



HOW CAN I PAY A FINE?

Fines are paid directly to the Department of Administrative Hearings. Payment can be made directly, or by mail, to the Department's main office at 561 E. Jefferson, Detroit, MI 48226, during normal business hours. For more payment information, please call the Department at (313) 224-0098 or visit the Web site at www.detroitmi.gov/dah.

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