

How Do I Request the Recording of the Hearing?

- If you want to listen to the hearing before you write your appeal, use this form to request a copy of the recording.



(Top portion of the Request for Appeal Extensions and Hearing Recordings)

- If your request is granted, you get an extra 20 days (called an extension) after you receive the recording to file your appeal.
- Asking for an extension does not give you more time to pay the penalty. You still have to pay the penalty within 20 days from the mailing date of the Decision.

Who Decides Your Appeal?

- The members of the Board decides your appeal. Board members include:
 - Private citizens like you
 - Representatives of city agencies that issue violations
- The agency that charged you with the violation never has a part in deciding your appeal.
- ECB will mail the decision within 180 days of receiving your appeal.

Where Can I Find Help Online?

- ECB forms are found at www.nyc.gov/oath.
- To find out what ECB has decided in cases like yours, visit the *Legal Resources* section of the ECB website and click on *ECB Decisions*.



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

Environmental Control Board Appeals Unit

Should I Appeal?

- Did the decision:
 - get the facts wrong?
 - ignore something presented at the hearing?
 - get the meaning of the law wrong?

If so, you have the right to appeal.

Just being unhappy about paying the penalty is not a reason to appeal.

How Do I File an Appeal?

STEP 1

The easiest way to appeal is to use our online appeal application form. You can find the form online at www.nyc.gov/oath. Using this form will help you file your appeal correctly. If you do not want to appeal online, you can appeal using ECB's appeal application form. You can get a copy of the form at any ECB office or from the website.

OATH The Environmental Control Board
A Division of the Office of Administrative Trials and Hearings

ECB Appeals
65 John St., 10th Floor
New York, NY 10038
Telephone (212) 436-0624
Fax: (212) 436-0714

ECB APPEAL APPLICATION
You may use this form for your appeal. Please read the instructions carefully. Mail the completed form and any supporting documents to the address above. You MUST attach a copy of your Hearing Decision.

Information About You and Your Violation
If you list a representative, ECB will mail the decision on your appeal to your representative at the representative's address. If you do not list a representative, ECB will mail the decision to you at your address listed below.

Violation Number(s) (use an extra page if needed): _____
Name on Ticket: _____ Representative Name: _____

(Top portion of an Appeal Application)

STEP 2

The appeal has to be received by ECB within **30 days** from the mailing date of the Decision & Order. This date is at the bottom of the Decision & Order.

THE CITY OF NEW YORK ENVIRONMENTAL CONTROL BOARD

HEARING LOCATION:
Environmental Control Board
66 John Street
9th Floor
New York, NY 10038
(212) 361-1400

Method of Appearance:
Live Hearing

74269771220828235F

DECISION AND ORDER
Violation #: 01111177 (1 NOV)
Hearing Date: June 22, 2009

MAIL DATE
JUN 23 2010

John Smith, Administrative Law Judge Date

(top portion of the Decision & Order)

(Mailing date at the bottom of the Decision & Order)

STEP 3

You have to pay the penalty within **20 days** from the mailing date of the Decision & Order.

“Paying the penalty” means you either:

- Pay the full amount; or
- Post a bond promising payment of the full amount; or
- Request a hardship waiver when you appeal.*

STEPS YOU MUST TAKE TO HAVE ECB DECIDE YOUR APPEAL	
1) Will the appeal be received within 30 days of the mailing date on the decision? <small>Your appeal will be rejected unless it is received no more than 30 days after the mailing date of the decision. This date is stamped next to the ALJ's signature on the front of your hearing decision. You must send your appeal to both ECB and the agency responsible for the violation (see Step 3).</small>	YES <input type="checkbox"/> NO <input type="checkbox"/>
2) Have you paid? (you <u>MUST</u> check yes to one of the below choices)	
• I have paid the penalty for my violation <small>You must first pay the penalty imposed in the recommended decision and order before you can appeal.</small>	YES <input type="checkbox"/> NO <input type="checkbox"/>
• I have posted a bond for the amount of penalty <small>Alternatively, you are also allowed to post a bond acceptable to the Board.</small>	YES <input type="checkbox"/> NO <input type="checkbox"/>
• I am requesting a hardship waiver of payment of the penalty <small>If you cannot pay or post a bond because of financial hardship, you may ask to not pre-pay while your appeal is being decided. If ECB grants your request, you will not have to pay the penalty while your appeal is being decided. If you lose the appeal you must pay all penalties. If you are requesting a hardship waiver of payment of the penalty pending a decision on your appeal, you <u>MUST</u> attach proof of hardship, such as the first two pages of your Federal tax return, and explain below how paying the penalty before you appeal would be a financial hardship.</small>	YES <input type="checkbox"/> NO <input type="checkbox"/>

(2nd page of Appeal Application)

*Attach documents that support your request for a waiver. For example, send the first 2 pages of your tax return.

STEP 4

Write your appeal.

Use the space provided on the ECB Appeal Application form to write your appeal.

This is Why The Decision Is Wrong

You have to show that the hearing decision was based either on facts that were incorrect or an error in applying the law, or both. You may only rely on facts, evidence, and arguments that were used at the hearing. ECB will not consider new facts, evidence, or arguments in deciding your appeal.

(1st page of an Appeal Application)

STEP 5

(a) If you are mailing your appeal, send a copy of your completed appeal to the agency responsible for the violation. The copy gives the agency a chance to reply.

- You can find the agency's address on the back of the Decision & Order.

(b) If you are mailing your appeal, send ECB proof that a copy of the appeal was also sent to the agency responsible for the violation.

- Do this by filling in the box on the bottom of page two (2) of the ECB Application Form.

3a) I am sending a copy of my appeal to (check the box next to the agency that you are sending the copy of your appeal to):

<input type="checkbox"/> Health Code Department of Health 112 Broadway, 12 th Floor New York, NY 10037	<input type="checkbox"/> Sanitation, Pesticide Control Department of Sanitation 100 West Street, 12 th Floor New York, NY 10038	<input type="checkbox"/> The Child Care Licensing Commission 100 West Street, 12 th Floor New York, NY 10038	<input type="checkbox"/> Food Service, 5th & 6th Class Cooks Department of Health 112 Broadway, 12 th Floor New York, NY 10037
<input type="checkbox"/> The Police, Marine, Fire, Police Department of Police 100 West Street, 12 th Floor New York, NY 10038	<input type="checkbox"/> Subsistence Control, Adm. Services Department of Social Services 100 West Street, 12 th Floor New York, NY 10038	<input type="checkbox"/> Public Employment, Public Health, Park & Recreation Department of Parks, Recreation & Cultural Affairs 100 West Street, 12 th Floor New York, NY 10038	<input type="checkbox"/> Public Use, Temporary Lodging Department of Parks, Recreation & Cultural Affairs 100 West Street, 12 th Floor New York, NY 10038
<input type="checkbox"/> Health Code Department of Health 112 Broadway, 12 th Floor New York, NY 10037	<input type="checkbox"/> General Code, Safety Department of Consumer Affairs, General Counsel 100 West Street, 12 th Floor New York, NY 10038	<input type="checkbox"/> Laboratory Code Department of Health 112 Broadway, 12 th Floor New York, NY 10037	

Your appeal will be rejected unless you send a copy of your completed application, including any attachments, to the agency responsible for the violation. Note: If you are requesting a hardship waiver, do not send the agency copies of your proof of hardship.

3b) You can prove that you sent a copy of your appeal to the agency by checking the box next to the agency in Step 3a above AND completing and signing the statement below.

I declare under penalty of perjury that on (date) _____ I SENT A COPY OF THIS APPEAL TO THE AGENCY RESPONSIBLE FOR THE VIOLATION(S) AT ITS ADDRESS LISTED ABOVE BY PLACING IT IN A U.S. POSTAL SERVICE MAILBOX OR BY OTHER MAILING SERVICE.

YOUR SIGNATURE: _____

(2nd page of Appeal Application)