

Late Night Commercial Operations Licenses- Denials on Renewal- Administrative Review

1. Authority

Pursuant to Baltimore City Code, Art. 15, § 9-3, these Rules apply to hearings conducted by the Department of Finance ("Department") concerning renewals of, but not original applications for, Late-Night Commercial Operations licenses ("licenses"). These Rules adopt and incorporate the terms as defined and used in Subtitle 9 of Art. 15.

2. Eligibility/Notice

Any licensee who is denied renewal and is notified by the Department of the right to appeal the decision to the Finance Director ("Director") pursuant to Art. 15, § 9-10, will also be notified by the Department of the right to a hearing on that appeal.

3. Requesting a Hearing

Unless a licensee requests the Director to conduct a hearing, the Director shall decide the appeal on the record before the Department and on any arguments submitted in writing by the licensee and the Department. If a licensee desires a hearing, then a request for a hearing must be made in writing to the Director at the same time as filing of the appeal. The Director shall grant a timely hearing request and may waive the deadline for good cause if requested by the licensee. The Department may not request a hearing. A request for a hearing must contain the following:

- a. The name and address of the licensee;
- b. The name and address of the business location subject to the license;
- c. A copy of the decision rendered by the Department to deny the renewal; and
- d. A statement of the law and facts, including any disputed facts, in support of the claim on appeal.

4. Scheduling of Hearing/Notice

Within 7 days after receiving a request for a hearing, the Director shall schedule the date for the hearing to be held within 20 days after receiving the request. The licensee shall be notified by regular mail of the hearing date and location no less than 5 days prior to the hearing. The Director also may notify the licensee of the date and location of the hearing by e-mail if the licensee provides an e-mail address with the request for the hearing. Notice of the hearing date and location also shall be conspicuously posted by the licensee at the business location subject to the license no less than 5 days prior to the hearing and shall remain posted until the hearing is held.

5. Postponement

The Director shall grant one written request for a postponement of the hearing if the request is made at least 48 hours prior to the time of the hearing. Any further requests for postponement are within the sole discretion of the Director.

6. Failure to Appear

Should the licensee fail to appear at the hearing, the Director may affirm, reject, or modify the Department's decision on the renewal or schedule a new hearing within his or her sole discretion.

7. Hearing Officer Designation and Responsibilities

The Director may designate a City official or employee as a Hearing Officer to preside over the hearing. The Hearing Officer shall be impartial. The administration of oaths, receipt and ruling on evidence, overseeing procedural requests and general regulation of the procedure are the responsibilities of the Hearing Officer. The Hearing Officer may notify City personnel involved in the matter of the hearing date and location and a copy of the information detailed in Section 3.

8. Conduct of Hearing

The Hearing Officer may reasonably limit the time allowed to either party at the hearing to make arguments. The appeal shall be limited to the record before the Department, the request for the hearing, and the arguments made at the hearing. No additional or new evidence or testimony shall be introduced or considered at the hearing, other than as specified in this Rule. If the licensee asserts any disputed facts in his or her request for a hearing, then the licensee and Department may proffer evidence to the Hearing Officer that is relevant to the dispute. In his or her sole discretion and for good cause shown, the Hearing Officer may admit additional evidence into the record as to the disputed facts. The Hearing Officer need not apply the technical rules of evidence at the hearing but may hear any probative argument and may admit hearsay in his or her sole discretion.

9. Open Hearing

The hearing shall be open to the public. However, the public shall not be permitted to speak, to address the participants or to ask questions at the hearing and shall not be permitted to record the audio or visual portion of the hearing. Those being disruptive to the proceedings may be asked to leave.

10. The Hearing Record

An official record shall be kept by the Department of the hearing to preserve the appeal for judicial review. The audio portion of the hearing shall be recorded and the Department shall retain a copy file of the written applications, documentary evidence, procedural requests, list of all those testifying at the hearing, and any motions filed or stipulations made. A visual record of the hearing need not be made.

11. Final Decision

The Hearing Officer shall issue a written report and transmit the official record to the Director within 5 days after the close of the hearing. The report shall make findings of fact, conclusions of law, and a recommendation to affirm, to reject, or to modify the Department's decision on the renewal. Within 5 days after receiving the report and record, the Director shall render his or her decision in accordance with Art. 15, §9-9. If no hearing has been requested, then the Director shall enter his or her final decision in accordance with Art. 15, §9-9 within 30 days after receiving the appeal.

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Henry J. Raymond
Director of Finance

4/3/77

Date

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Henry J. Raymond
Director of Finance

6/23/17

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