

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 12-1(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).

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.