

Rule 2. Appeals From the Traffic Adjudication Appeals Board to the Superior Court Pursuant to D.C. Code § 40-635

(a) Time and manner of filing application. An application for leave to appeal from a decision of the Traffic Adjudication Appeals Board of the District of Columbia Department of Public Works pursuant to D.C. Code § 40-635 shall be filed with the Clerk of the Superior Court within thirty (30) days of such decision in the format set forth in the appendix to this Rule. A brief statement of the points and authorities relied upon may be filed with the application. An original and three legible copies shall be filed with the Clerk and shall show service upon the Traffic Adjudication Appeals Board and the Corporation Counsel of the District of Columbia. A nonrefundable fee as prescribed in Civil Rule 202 shall accompany the filing of each such application. Within ten (10) days after service, the Corporation Counsel may file a response.

(b) Procedure following application. At the expiration of ten (10) days following the filing of the application, the application and any response which may have been filed shall be transmitted by the Clerk to the judge designated by the Chief Judge to consider the application. Whenever, in the opinion of the judge, further information is necessary to determine such application, the judge may request the record and any exhibits from the Traffic Adjudication Appeals Board. In such cases the original record and any exhibits thereto shall be transmitted by the Traffic Adjudication Appeals Board to the Superior Court with twenty (20) days of the receipt of such a request. If no response to the application has been filed, the judge may request the Corporation Counsel to file a response.

(c) Denial of application. The application for leave to appeal shall be granted unless, applying the standard of review set forth in D.C. Code § 1-1510(a)(3), the application states no grounds on which the applicant would be entitled to relief. If the judge denies the application for leave to appeal, the denial shall stand as an affirmance of the decision of the Traffic Adjudication Appeals Board, and there shall be no further appeal in the Superior Court. An order shall be entered by the judge when an application is denied, stating the reason for the denial, and a copy thereof shall be sent to the applicant, the Traffic Adjudication Appeals Board and the Corporation Counsel.

(d) Grant of leave to appeal. If the judge grants the application for leave to appeal, notice of the allowance of the appeal shall be sent by the Clerk to the applicant, the Traffic Adjudication Appeals Board and the Corporation Counsel. If the record has not previously been filed, the Traffic Adjudication Appeals Board shall transmit to the Clerk the original record and any exhibits within twenty (20) days of receipt of the notice of the allowance of the appeal. If no response in opposition to the application for leave to appeal was filed by the Corporation Counsel or the judge wishes a more detailed submission from either the plaintiff or the Corporation Counsel, the judge may order that such additional pleadings be filed within ten (10) days of the date of such order, and the opposing party served in accordance with SCR Civil 5.

(e) Record of appeal; determination of appeal; standard of review. If the application for leave to appeal is granted, the record for appeal shall consist of the application, the answer, if one has been filed, the notice of the allowance of the appeal and the original record including a certified copy of the original Notice of Infraction and any exhibits previously filed and any additional pleadings ordered by the judge pursuant to paragraph (d) of this Rule. No further pleadings shall be filed except by leave of the

judge. The judge shall determine the appeal exclusively upon the record for appeal as provided in this Rule and in accordance with the standards for review provided in D.C. Code § 1-1510(a)(3). The judge may order oral argument. Otherwise, the decision shall be made on the pleadings and the record. The decision of the judge shall be in writing, shall be accompanied by a statement of reasons and shall be sent to the applicant, the Traffic Adjudication Appeals Board and the Corporation Counsel.

COMMENT

It is contemplated that the Traffic Adjudication Appeals Board record shall include the Board's opinion, any findings of fact and conclusions of law made by the hearing examiner, any transcript or tape recording of the fact-finding proceeding and any other pertinent documents.