

NOTICE OF RULE MAKING

Pursuant to the power vested in me as Commissioner of Finance by New York City Charter Code sections 26-045, 26-509 and 26-605 and sections 1043 and 1504 of the New York City Charter, I hereby promulgate the rule concerning allowing the a respondent at a New York City parking ticket appeal hearing to submit additional or new evidence in the interest of justice and upon consent of the respondent. This rule was published in the proposed form on March 16, 2016. A hearing for public comment was held on April 22, 2016.

S/S

Jacques Jiha, Commissioner of Finance

STATEMENT OF BASIS AND PURPOSE

The Department of Finance's Parking Violation Bureau adjudicates parking summonses issued in New York City. An Administrative Law Judge (ALJ) conducts a hearing and writes a decision and order that includes a finding of fact and conclusion of law after a review of all the evidence presented. If the ALJ finds the respondent guilty, the respondent can appeal the decision to an appeals panel within 30 days. Currently, the appeals panel may only review the case for errors of fact or law or jurisdictional defects in the summons and is bound by the record established at the hearing. No additional evidence may be reviewed except in the very limited circumstance where that evidence was not reasonably available at the time of the hearing.

This new rule allows the respondent to submit on appeal additional or new evidence in the interest of justice and upon consent of the respondent.

Matter underlined is new. Matter in brackets [] is to be deleted.

"Will" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department unless otherwise specified or unless the context clearly indicates otherwise.

Amendments to Rules Relating to Parking Violations

§1. Paragraph (2) of subdivision (a) of Section 39-12 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) The Appeals Board may review the facts and the law in any matter [,] and, except in the interests of justice and upon consent of the respondent, shall not consider any evidence which was not presented to the administrative law judge. A concurring vote by two members of the Appeals Board panel will be required to make a determination on an appeal.