

# BUILDING CODE VIOLATION ENFORCEMENT PROCESS

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## DEPARTMENT OF BUILDINGS (DOB)

- The Chiefs and/or Supervisors for each bureau review all 311 complaints received at the start of each business day to determine if any complaints need to be prioritized for immediate inspection.
- DOB inspects the premises to verify the complaint and checks for working smoke and carbon monoxide detectors, along with means of egress, including interior and exterior stairs and porches. Inspector issues building code violations, if observed.
- When an inspector is not able to gain entry to the premises, the inspector does one of the following based on the conditions of the building:
  - leaves a notice requesting the building owner to contact DOB for an interior inspection.
  - plans to return at a later date.
  - issues exterior violations and processes for Administrative Hearings or Circuit Court.
  - closes out the complaint if the basis for the inspection is determined to be unfounded.

Note: Should the tenant or owner not let an inspector in, the Department of Buildings is obligated to get a court order.

- A DOB Supervisor determines level of enforcement for building code violations:
  - 20 notice – violations involving maintenance (warning notice)
  - 50 notice – life safety/non-dangerous and -hazardous violations (Administrative Hearings)
  - 80 notice – life safety/dangerous and hazardous violations (Circuit Court)
- DOB sends building code violations to the Title Group (Collections, Ownership and Administrative Litigation “COAL”) in the Department of Law (DOL) to run title and determine ownership.
- COAL begins the title work.
  - Individual cases with dangerous and hazardous conditions may be prioritized and expedited for Circuit Court based on feedback from DOB and the DOL prosecutors.

Note: Often property is held in trust, and DOL will submit a trust beneficiary disclosure request to the land trust to determine the trust beneficiaries which can take several weeks or longer, in some cases. Circuit Court title work includes all title holders, trust holders, mortgage holders, lien holders, taxpayer of records, and all other parties with a recorded interest on title.

- For Administrative Hearings, title typically includes only the legal title holder but may also include other parties in possession or control of the property, which are defined as “owners” in the Code.
- If there is no living owner in an Administrative Hearings case, the case is automatically upgraded to Circuit Court.
- Once title is complete, COAL enters information into the system which prints at DOB.
- DOB mails the Administrative Hearing notices to the responsible owners, which includes both a notice of hearing and a notice of building code violations. DOB sends copies of the notices and the violations to Administrative Hearings to file the case, and sends a copy to the DOL prosecutors.

## ADMINISTRATIVE HEARINGS

- COAL sets the dates at Administrative Hearings. Certain cases, such as insufficient heat, are given priority on dates.
  - The prosecution of Administrative Hearings cases ends when the Administrative Law Judge enters one of the following types of orders:
    - a) finding the property owner liable or not liable;
    - b) granting the City’s motion to nonsuit the case;
    - c) defaulting the owner when they fail to appear at the hearing; or
    - d) dismissing the case when the prosecution fails to move forward on the case.
  - A finding of liable occurs when the owner agrees to plead liable or is found by the Court to be responsible for the violations following a hearing.
  - A finding of not liable occurs when the Administrative Law Judge determines the owner is not responsible for the violations.
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- A case is nonsuited in its entirety by the prosecution when:
    - a) the complaint is brought in error against a person who does not own the property;
    - b) the complaint is defective;
    - c) DOB wants to proceed against the owner in Circuit Court;
    - d) the owner has timely provided proof that they have fixed the violations; or
    - e) DOB wants to work with the owner outside of the judicial system.
  - A default judgment is entered when the respondent fails to appear.
  - When a case is nonsuited because the incorrect owner has been named, the DOL prosecutor asks the COAL Division to refile the complaint against the correct owner.
  - When a case is nonsuited against the correct party, but the code violations have not been fixed, the DOL prosecutor sends an email to DOB requesting that another complaint be issued against the owner, if appropriate.
  - When a default judgment and fine are entered because the owner fails to appear, the DOL prosecutor sends an email to DOB to request that another complaint be issued if the code violations still exist and present a danger or hazard.
  - Finally, when cases are closed by a finding of liable, not liable, or nonsuit, the City's file is returned to the DOB for review.

## CIRCUIT COURT

- Dangerous and hazardous life safety conditions are sent to Circuit Court where the City has more enforcement options, such as vacating the building and appointing a receiver. Unlike Administrative Hearings, the court can also set "case management" dates to monitor the status of compliance.
- DOL prosecutors set the initial court date based on a variety of factors, such as the seriousness and type of violations that are cited in the complaint, including any life safety violations that warrant an expedited filing. The initial court hearing date is determined by the number of cases the presiding judge allows on their court call.
- Prior to the initial court date, DOL must attempt to personally serve the owner and all parties of record, including those parties that reside out of state.
- At the initial court date, DOL prioritizes violations for missing smoke and carbon monoxide detectors and, if the owner has been served, asks for an abatement order requiring compliance within 24-48 hours.
- A DOB court inspector is assigned to closely monitor the building during the court process. Court inspectors conduct inspections prior to every subsequent hearing and work with the building owner and the judge to gain entry to all areas of the building. The court inspector relays the current conditions of the building at each hearing and makes recommendations for repairs to be included in the court order. If the inspector is unable to gain entry to the building, the prosecutors will ask the court to order an interior inspection.
- City prosecutors follow the case through with the judge until the violations are brought into substantial compliance. In certain cases where the owner has abated all the dangerous and hazardous condition, but minor violations remain, the prosecutor may agree to dismiss the case subject to a consent decree, the terms of which are created in collaboration with the court inspector. The consent decree takes the case out of court and gives the owner additional time to remedy the remaining violations. DOL does not dismiss cases where dangerous and hazardous life safety violations remain.
- If a case is dismissed subject to a consent decree, DOB inspectors continue to monitor the case until all violations are resolved. If violations are not resolved within the agreed upon period of time, DOL will file a motion to bring the case back to court.
- A receiver is appointed when the building owner/landlord is unwilling or unable to abate dangerous living conditions. A receiver works to abate dangerous and hazardous living conditions such as restoring heat and/or gas service to the property and can provide relocation funds if the building is too dangerous to inhabit.
- When dangerous and hazardous conditions are not abated by the owner in Circuit Court, and the appointment of a receiver is not feasible, the City prosecutor can ask the court for an order authorizing the City to vacate the property. Ultimately, the decision as to whether a property should be vacated lies with the judge.
- If a building is vacated by the court, DOL may ask for authorization to allow DOB to conduct a demolition inspection. If DOB determines the property is demolition worthy, the City prosecutor may ask the court to transfer the case to the demolition court call.