§ 385. Administrative appeals panel. a. There shall be one or more administrative appeals panels within the bureau. Each panel shall consist of three administrative law judges. In no event shall the administrative law judge from whom such appeal of a decision, determination or order is taken be included in the panel determining such appeal. Administrative law judges serving on the administrative appeals panel shall not regularly conduct administrative hearings, but shall serve primarily as administrative appeals panel members.

b. A respondent may appeal, on the facts and/or the law, a final decision, final determination or final order. An agency aggrieved by a final decision, final determination or final order may appeal on the law, but only after notice to the respondent and a finding by the appeals panel that the issue upon which the agency seeks to appeal is significant and affects the agency's legitimate enforcement functions.

c. Upon rendering a decision, making a final determination or issuing a final order, the administrative law judge shall provide the non-agency party with a form notice of appeal and shall explain to such party on the record (1) the method of filing the notice and the applicable time limits; (2) the requirements of subdivision f of this section concerning the payment of penalties and posting of bonds pending appeal, including the right to request exemption therefrom; and (3) that no further court challenge is permitted by law unless an administrative appeal is taken.

d. Notice of appeal shall be filed with the appeals panel within thirty days of the entry of such decision, determination or order. If no such notice of appeal is filed within such thirty day period, such decision, determination or order shall finally and irrevocably determine all the issues in the proceeding before the administrative law judge.

e. For good cause shown, the administrative appeals panel may permit the filing of a notice of appeal after the thirty day period.

f. The appeals panel shall have the power to review the record and the findings of the administrative law judge and may reverse, modify or remand any such decision, determination or order appealed therefrom.

g. Except as otherwise provided in this subdivision no appeal of a decision, determination or order of an administrative law judge imposing civil penalties shall be decided unless such civil penalties are paid or a cash or recognized surety company bond shall have been posted in the full amount of such civil penalties. No such payment or posting of such bond shall be required where the respondent is the holder of a current license or permit for the operation of a business issued by an agency or officer of such municipality. Upon a showing of undue hardship or where justice may require, the administrative law judge who decided the case or appellate panel to which the appeal is assigned may order that the appeal shall be decided without requiring such payment or posting of such bond.

h. The director of the bureau shall promulgate rules governing the practice and procedure of appeals to the administrative appeals panel pursuant to this section.

i. The determination of the appeals panel shall be rendered within ninety days after the submission of all relevant papers to the panel, or if oral argument is permitted, within ninety days after such oral argument.

j. The determination of the appeals panel shall be the final determination of the bureau for the purposes of review pursuant to article seventy-eight of the civil practice law and rules.

k. Where the respondent prevails in any proceeding pursuant to this section, civil penalties paid to the municipality shall be returned with interest at the rate set by the commissioner of finance of the city of New York for the refund of overpayments of business taxes pursuant to section 11-537 of the administrative code of the city of New York.