

New York City Housing Court

New York City Civil Court - Housing Part

Appearing on an HP Case: Tenant Initiated Action

[In General](#)

[Respondent/Owner's Answer or Appearance](#)

[Courtroom Procedure](#)

[Settling an HP Action](#)

[Inspections](#)

[Inquest](#)

[Trial](#)

[Post-appearance Proceedings](#)

In General

The law requires that an owner maintain adequate services, and to keep a building and apartment in good repair. An inspector may be sent out by DHPD to see if the owner is providing essential services such as heat, hot water, or extermination, and is making repairs such as leaky faucets, faulty electrical outlets or peeling paint and plaster. If an inspector goes out to a premises and finds that the owner is not maintaining the building and apartment, the inspector will place violations against the building.

A tenant/petitioner may request that an inspector be sent out when bringing an HP case, or in the courtroom. However, an inspection report is not necessary for an HP case. A tenant can also prove the existence of conditions through photographs and testimony. If an inspector does go out and places a violation against the building, the violation can be classified in three different ways:

"A" violations are nonhazardous and must be corrected within 90 days.

"B" violations are hazardous and must be corrected within 30 days.

"C" violations are immediately hazardous and must be corrected within 24 hours.



Respondent/Owner's Answer or Appearance

If you are the respondent or owner and have been served with an [order to show cause](#) starting an HP case against you, you must appear in court on the date and time stated in the order to show cause. When your case is called, you will have a chance to raise before the judge any affirmative [defenses](#) you have.

Your possible defenses may include:

- lack of jurisdiction
- that petitioners lack standing to maintain the proceeding because they have no lawful right of possession
- that the conditions alleged do not constitute a violation of the Housing Maintenance Code or other laws relating to housing standards
- [economic infeasibility](#).

In defense of your liability for civil penalties you may show:

- you timely corrected the violation and filed a [certificate of compliance](#), or
- that the violation did not exist at the time the notice of violation was served.

In [mitigation](#) of your liability you may show that:

- although you quickly tried to correct the violation, you could not complete it in time due to technical difficulties
- you were unable to obtain necessary materials, funds or labor, or gain access
- you made a diligent and prompt application to get a permit or a license necessary to correct the violation, but you were unsuccessful
- the violation was caused by the act or negligence, neglect or abuse of another not in your employ or subject to your direction.



Courtroom Procedure

After the papers are served on the respondent and DHPD, all the parties are to appear in the HP part on the court date. Please check the [calendar](#) posted outside the courtroom to be sure that the case is scheduled for that day. If it is not listed, tell the clerk immediately. If it is listed, follow the check-in procedure. Find out who the DHPD attorney is and let him or her know who you are. The DHPD attorney appears on behalf of the City of New York, since you have sued it along with your landlord, and generally shares common interests with you. However, this attorney is not your attorney.



Settling an HP Action

Most of the conferences on HP cases are mediated by the attorney from DHPD. However, if there is a problem or if for some reason you are dissatisfied, the judge or his or her court attorney are also available. Most conferences lead to a settlement or an [order to correct](#). In a [stipulation of settlement](#) the respondent will generally agree to make repairs in a short period of time. If the respondent requires more time, the stipulation may provide for an order to correct, which will allow the respondent the statutory time to make the repairs. It is always better to specify the days, the times, and the repairs that are to be done.

After the stipulation or order to correct is written, usually by the attorney for DHPD, all parties should review it to be sure that they understand what is to happen. The stipulation will also be reviewed by the court attorney and ultimately by the judge, who will 'so order' it. It is also important to understand that in an HP case the issue is the maintenance of the building. Other common landlord/tenant issues, such as payment of rent or breaches of a lease will not be discussed.



Inspections

In most cases the petitioner will be able to get an inspection scheduled at the time that the action is filed. This inspection will be carried out between the time that the action is filed and the court date. You can ask the clerk about this procedure or you can click on [Inspection Request](#) for more information. If no inspection can be scheduled, or if there is no one home to allow the inspector access, the inspection may be requested in the courtroom.

If there is a disagreement as to the existence or severity of repair, any party may ask for an inspection in the courtroom. This will result in the case being [adjourned](#) so that an inspector can visit the apartment. The inspection form must be filled out properly so that the inspector can know what he or she is to look for.



Inquest

If the respondent/landlord fails to come to court, the attorney for DHPD will request an inquest. In the inquest the judge will take testimony from the petitioner, look at any inspection reports, etc., then may direct an 'order to correct.' The order to correct will be prepared by the DHPD staff in the HP part. It will be signed by the judge and will direct that work be done (violations be cured) by the respondent and will be served on the respondent by DHPD.



Trial

If the case can not be settled, the parties may have to go before the judge for a trial. In an HP case, the issue to be tried is the existence of violations and the respondent's failure to correct them. The petitioner's case can be proven by supplying [evidence](#) relating to the existence of violations. This can be done by a report from an inspector, by testimony from the petitioner and from other witnesses, by introducing pictures into evidence showing the violation, etc. A respondent may defend by showing that the repairs were corrected, do not exist, or were caused by the respondent or someone under her or his control, or that the tenant does not cooperate with the respondent to get the violations corrected. This is explained more fully in [Respondent/owner's answer and appearance](#). At the end of the trial the judge will weigh the evidence and, if appropriate, direct an order to correct.



Post-appearance Proceedings

Both a so-ordered stipulation and an order to correct can form the basis for further proceedings. If the repairs are completed and the petitioner is satisfied, the case is finished. If the repairs are not completed, or are completed improperly, the petitioner may return to the clerk's office, explain what happened, and ask that the case be restored to the calendar for a finding of non-compliance with the judge's order. The clerk will supply the required forms and instructions. If the respondent has failed to correct the violations that he or she agreed to repair in a stipulation, the petitioner may seek an order to correct on the return to court. If there already was an order to correct, the respondent may seek an application for contempt. A motion to punish for contempt requests that the respondent be fined, jailed, or both for his or her failure to comply with a judge's order. The DHPD attorney will assist the petitioner with this process. Contempt is a 'last-resort' measure, and should only be utilized sparingly. In addition to that, it is difficult process which must be done correctly. In general, repairs can be secured without contempt proceedings, but in extreme cases this remedy is available. For more information, click on [Contempt and Penalties](#).