



4-1978

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### Recommended Citation

Crawford, Gary L. (1978) "Administrative Law: Practical Pointers," *University of Baltimore Law Forum*: Vol. 8: No. 3, Article 10.  
Available at: <http://scholarworks.law.ubalt.edu/lf/vol8/iss3/10>

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In this regard, see *E.E.O.C. v. A.T. & T.*, 556 F.2d 167 (3d Cir. 1977), cert filed 8-12-77 sub nom. *Alliance of Independent Telephone Unions v. E.E.O.C.*, #77-243, *Communication Workers of America v. E.E.O.C.*, #77-241, *Telephone Coordinating Council v. E.E.O.C.*, #77-242, --U.S.--.

## Administrative Law: Practical Pointers

by Gary L. Crawford

In recent years, the field of administrative law has expanded in scope and significance. This growth has been caused by a number of factors but its impact is clear. Practitioners are now called upon to represent clients in proceedings which may vary widely from the more familiar practice of the courts. This article will suggest some practical pointers which should help chart the way through State Boards of Review proceedings.

In particular, this article will focus on the Boards of the Department of Licensing and Regulations. Within this regulatory agency are nineteen licensing boards which have been given the authority to regulate the activities of licensees. Consequently, the Boards have the power to suspend or revoke licenses. The Real Estate Commission also has the unique authority to order compensatory payment to an aggrieved complainant from its guaranty fund.

Typically, then, an aggrieved consumer or licensee will consult an attorney regarding the Board proceeding perhaps as a prelude to a civil suit. After a complaint is given to a Board, an investigation is made. If the Board's review panel votes to hold a hearing on the matter in question, a "charge" letter is sent to the licensee. The letter specifies the date of the hearing and the laws and regulations the licensee has allegedly violated. Prior

to the hearing, the attorney should routinely do several things:

1. *Review the Applicable Statute and Regulations*—A number of lawyers appear at hearings and then request a mini-course on Board procedure. This approach, of course, does not impress clients or the Board. All regulations can be found in the Code of Maryland Regulations (COMAR), supplemented by new regulations found in the Maryland Register in conformity with Art. 41, Sec. 255 of the Maryland Code (Administrative Procedure Act). Some regulations outline the relevant Board procedures for pre-hearing discovery. Other regulations in fact provide for a pre-hearing informal meeting (See e.g., Home Improvement Commission), at which time the dispute may be settled.

2. *Prepare Pleadings in Advance For a Guaranty Fund Claim*—Frequently, the Real Estate Commission will decide the merits of a case the same day. Therefore, evidence regarding the amount of the guaranty fund claim may be received during the course of the hearing. The combination of a claim from the fund and a subrogation agreement with other pleadings may obviate the need for a subsequent hearing on the amount of the claim which might be heard months later.

3. *Watch a Hearing Prior to Your Hearing Date*—Due to the wide range of businesses licensed, each of the various boards is unique in the way in which cases are handled. Most Boards schedule hearings at regular intervals. Consult the Daily Record, the Maryland Register, or call the Executive Director of the Board for hearing information.

At the hearing, it is important that several points be kept in mind.

1. *Procedure*—The complainant's case is argued by an Assistant Attorney General who is known as the Presenter of the Evidence. After presentation of the complainant's witnesses and case, the licensee is allowed to put on his case. During the hearing, the Board and both sides may ask questions of the witnesses. A closing argument which is brief is generally favored over a more lengthy presentation.

2. *Evidence*—It is well settled that hearsay is admissible due to the fact that the

proceeding is administrative in nature. See generally, DAVIS, ADMINISTRATIVE LAW; See also, *Redding v. Bd. of County Comm. for Prince George's County*, 263 Md. 94, 282 A.2d 136, cert. denied 406 U.S. 923 (1971). It is important to remember that usually the members of the Board are very experienced in their field. Since the Board has a great deal of discretionary power, successful petitioners will argue the facts of the case rather than complex legal technicalities.

3. *Appeals*—After the hearing, the Board will issue its Findings of Fact and Conclusions of Law. If the decision of the Board is adverse, an aggrieved party may pursue an appeal under the statutory framework contained in the Administrative Procedure Act, *supra*. For a concise summary of the process of appeal from an Administrative Board see Mr. Henry R. Lord's article in the *Maryland Bar Journal*, Summer 1977, at page 49.

While the growth of administrative law provides new challenges and problems for the busy practitioner, the administrative hearing procedure also provides an effective structure for dispute settlement.



photo by John Clark Mayden