



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
New York, NY 10038
Telephone: 1-844-OATH-NYC (1-844-628-4692)

Fidel F. Del Valle, Esq.
Commissioner & Chief Administrative Law Judge
Amy Slifka, Esq.
Deputy Commissioner & Executive Director

April 13, 2015

Joseph Gregory
Director of Enforcement
Fire Department of the City of New York
9 MetroTech Center
Brooklyn, New York 11201

Re: Letter of Agreement Regarding ECB Adjudications of Violation
Category 12 (Unnecessary and/or Unwarranted Alarm(s)) by Telephone

Dear Mr. Gregory:

On March 13, 2015, you, on behalf of Fire Department of the City of New York ("FDNY"), and I, on behalf of the Environmental Control Board ("ECB"), discussed the adjudication of FDNY cases returnable to ECB. This letter memorializes the agreement made on March 13, 2015, as follows:

48 RCNY 3-34 authorizes ECB to designate certain classes of alleged violations for adjudication by mail ("Mail Adjudication") and to prescribe procedures for such adjudications. ECB has prescribed procedures for remote adjudication that include hearings by mail, One Click hearings (internet), and hearings by telephone.

FDNY consents to a Pilot Program to run from May 1, 2015 thru October 30, 2015, wherein a respondent who is issued a violation of Violation Category 12 "Fire Protection Systems- Fail to Prevent Unnecessary/Unwarranted Alarms" may appear for a hearing by telephone.

All hearings by telephone will be conducted on the second and third Friday of each month by a hearing officer at the Manhattan office. A FDNY representative will be present at the contested hearings. For the purposes of this agreement, "contested" hearings shall be deemed to be hearings in which the respondent explicitly or impliedly interposes a defense. Under the specific circumstance in which the hearing is not being "contested" by respondent, FDNY consents to the telephone hearing being conducted without the presence of a FDNY representative. If a Notice of Violation ("NOV") is subsequently contested by a respondent during a telephone hearing, then in accordance with the rights of the parties to a fair hearing, as set forth in 48 RCNY 3-51(c), the hearing officer shall impose a brief recess of the proceeding for the presence of a FDNY representative or adjourn the matter.



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In light of FDNY's concern for public safety, whenever telephone hearings are appropriately conducted without the presence of FDNY representation, the hearing officer will ensure that any evidence submitted by a respondent complies with the remedy set forth within the NOV. Moreover, when a FDNY representative is not present at the hearing, and the NOV is cited as a Repeat Violation, if the Respondent contests said fact the hearing officer shall impose a brief recess of the proceeding for the presence of a FDNY representative or adjourn the matter.

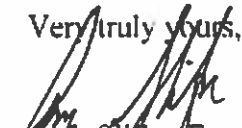
Upon completion of the Pilot Program, the parties will evaluate the results of the program and determine whether to continue the program, make revisions to the program, or discontinue the program.

This Letter of Agreement constitutes the entire agreement of the parties and merges all prior discussions, agreements or understandings into it. This Letter of Agreement may be modified in writing signed by authorized representatives of the parties. It may not be modified, rescinded or extended orally.

If you agree, please countersign below and return a copy of this Letter of Agreement to me so that we each have a formal record of our agencies' agreement.

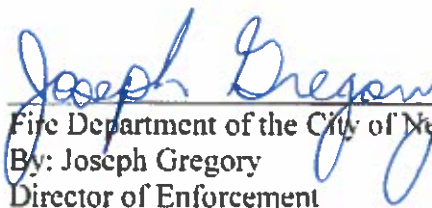
Thank you and your staff for your assistance in this matter.

Very truly yours,



Amy Slifka, Esq.
Executive Director and Deputy Commissioner
Environmental Control Board

Agreed:



Fire Department of the City of New York
By: Joseph Gregory
Director of Enforcement