

NEW YORK CITY  
OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS  
ENVIRONMENTAL CONTROL BOARD

BOARD MEETING

Training Room 143, 12th Floor  
100 Church Street, New York, New York

December 5, 2019

9:39 A.M. to 9:54 A.M.

December 5, 2019

## MEMBERS PRESENT:

Shamonda Graham - Department of Buildings (DOB)  
Joseph Gregory, Esq. - New York City Fire Department  
(FDNY)  
Elizabeth Knauer, Esq. - Appointed Member  
**Madelynn Liguori, Esq. - Department of Sanitation (DSNY)**  
Jorge Martinez, Esq. - Department of Health & Mental  
Hygiene (DOHMH)  
**Russell Pecunies, Esq. - Department of Environmental  
Protection (DEP)**  
Matthew Smith, Esq. - New York City Police Department  
(NYPD)  
Douglas Swann - Appointed Member  
Jarrod Whittington - Appointed Member

## ALSO PRESENT:

**Kelly Corso, Esq. - Assistant Commissioner for Hearings  
Division Adjudications, OATH**  
**Nicholas Dietz, Esq. - Assistant General Counsel, OATH**  
Timothy Jones, Esq. - Assistant General Counsel, OATH  
Susan Kassapian, Esq. - Deputy Commissioner Appeals, OATH  
Richard J. LaPlant - Office of Management and Budget (OMB)  
Svetlana Losilevich - Business Integrity Commission (BIC)  
Maggie Nieves - Public Affairs Associate, OATH  
**Tynia Richard, Esq. - Acting Commissioner/Chief  
Administrative Law Judge, OATH**  
**Peter Schulman, Esq. - Assistant Director for Appeals,  
OATH**  
Frances Shine - Secretary to the Board, OATH  
**Amy Slifka, Esq. - Deputy Commissioner Hearings Division,  
OATH**  
Olga Statz, Esq. - Acting General Counsel, OATH

December 5, 2019

INDEX

Tynia Richard, Esq.	4
Madelynn Liguori, Esq.	4
Russell Pecunies, Esq.	4
Kelly Corso, Esq.	7
Peter Schulman, Esq.	9
Amy Slifka, Esq.	9
Nicholas Dietz, Esq.	9

1 December 5, 2019

2 (The board meeting commenced at 9:39  
3 A.M.)

4 MS. TYNIA RICHARD, ESQ., ACTING  
5 COMMISSIONER/CHIEF ADMINISTRATIVE LAW JUDGE  
6 (OATH): Alright. Good morning everyone.

7 Welcome to the December 5th Board Meeting. I'd  
8 like to call the meeting to order. Is there a  
9 motion to adopt the minutes of the October 17th  
10 meeting? Okay.

11 MADELYN LIQUORI, ESQ., DEPARTMENT OF  
12 SANITATION (DSNY): I abstain.

13 ACTING COMMISSIONER RICHARD: You have  
14 the vote? Alright. And one abstention.  
15 Alright. Thank you. So we have the  
16 introduction. There's a presentation for the  
17 cease and desist orders?

18 MR. RUSSELL PECUNIES, ESQ., DEPARTMENT  
19 OF ENVIRONMENTAL PROTECTION: Okay.

20 ACTING COMMISSIONER RICHARD: Alright.  
21 By Russell Pecunies.

22 MR. PECUNIES: Okay. Good morning.  
23 Russell Pecunies with Bureau of Legal Affairs at  
24 the Department of Environmental Protection. So

1 December 5, 2019

2 this, for this board meeting, we have the usual  
3 batch of requests for cease and desist orders  
4 relating to backflow prevention devices. In each  
5 of these cases, the DEP Commissioner has  
6 determined that the premises in question requires  
7 the installation of backflow prevention devices,  
8 and an order has been issued to the property  
9 owner requiring the installation of such devices.  
10 After that order was not complied with in each of  
11 these cases, a summons was issued to the property  
12 owner for failing to install, which has been  
13 adjudicated in violation. And the, in each of  
14 these cases, there is a continuing failure to  
15 install the required devices. So for each of  
16 these, DEP is asking that the Board issue an  
17 order to cease and desist.

18 ACTING COMMISSIONER RICHARD: Okay. How  
19 many do we have today?

20 MR. PECUNIES: I believe the count is  
21 75, but I'm not -- I, I think that's right.

22 ACTING COMMISSIONER RICHARD: Alright.  
23 Are there any questions? Okay. So is there a  
24 motion to approve? Motion. Okay. And all in

1 December 5, 2019

2 favor? Alright. Unanimous.

3 MR. PECUNIES: Okay. I also have one  
4 request for a cease and desist order from the  
5 Bureau of Wastewater Treatment. This pertains to  
6 New Grain Earth Food Corp. at 380 East 205th  
7 Street in the Bronx. The situation here is that  
8 DEP inspected the cited premises and issued a  
9 Commissioner's order in March requiring the  
10 respondent to install a number of different  
11 pieces of equipment related to grease interceptor  
12 capabilities, so they were directed to install,  
13 basically, grease traps on the floor drains and  
14 two different sinks. They did not comply with  
15 that order and were subsequently issued a series  
16 of summonses in, during most of 2019. They had a  
17 mandatory compliance meeting scheduled for  
18 November 13th, which they failed to appear for.  
19 The summonses have been adjudicated in violation.  
20 They failed to appear on three of them. As of  
21 today, they are still out of compliance with the  
22 order and are still in violation of the sewer  
23 code. And based on that, DEP is asking the Board  
24 to issue an order to cease and desist.

1 December 5, 2019

2 ACTING COMMISSIONER RICHARD: Okay. Any  
3 questions on this one? Okay. Is the motion to  
4 approve? All in favor? Okay. It's unanimous.

5 MR. PECUNIES: Okay. That's it. Thank  
6 you.

7 ACTING COMMISSIONER RICHARD: Thank you.  
8 Alright, so next we have a presentation for  
9 requests for presealing reports by Kelly Corso.

10 MS. KELLY CORSO, ESQ., ASSISTANT  
11 COMMISSIONER FOR HEARINGS DIVISION ADJUDICATIONS,  
12 OATH: Good morning. I'm Kelly Corso, Assistant  
13 Commissioner for Adjudications with the Hearings  
14 Division, and we have 18 presealing reports today  
15 for the Board. They all involve backflow cases  
16 and in all of the cases, the respondents brought  
17 in evidence to demonstrate compliance. So the  
18 hearing officers in all the cases have agreed  
19 with DEP's recommendation that there be no  
20 further action of sealing.

21 ACTING COMMISSIONER RICHARD: Okay.

22 MS. CORSO: And that's it.

23 ACTING COMMISSIONER RICHARD: Alright.  
24 Any questions on this one? Motion to approve?

1 December 5, 2019

2 All in favor. It's unanimous.

3 MS. CORSO: Okay.

4 ACTING COMMISSIONER RICHARD: Thank you.

5 Alright. So we will need a motion to go into  
6 Executive Session to discuss the Judicial Report.

7 Okay. We have a motion. And anyone who's not a  
8 part of the OATH or the Board will have to leave  
9 while we're in Executive Session. Alright. Thank  
10 you. I think someone was waiting to come back in.

11 MS. LIQUORI: Yeah. Frances is coming  
12 out.

13 [OFF THE RECORD]

14 [ON THE RECORD]

15 ACTING COMMISSIONER RICHARD: Alright.

16 So we're back in public session. Are there any  
17 additional questions?

18 MR. PECUNIES: Yeah.

19 ACTING COMMISSIONER RICHARD: Yes.

20 MR. PECUNIES: Had we determined what  
21 the next board meeting dates were yet?

22 ACTING COMMISSIONER RICHARD: Right. Do  
23 we have dates.

24 PETER SCHULMAN, ESQ., ASSISTANT DIRECTOR

1 December 5, 2019

2 FOR APPEALS, (OATH): I think we, I think we  
3 ended up the end of the year. Right? Last time?

4 AMY SLIFKA, ESQ., DEPUTY COMMISSIONER  
5 HEARINGS DIVISION, OATH: We, we did the first --  
6 did we do January?

7 UNIDENTIFIED FEMALE 1: No.

8 MR. SCHULMAN: I don't think we went --  
9 did we go into February?

10 NICHOLAS DIETZ, ESQ., ASSISTANT GENERAL  
11 COUNSEL, OATH: It was February 13th.

12 MS. SLIFKA: Oh, okay.

13 MR. SCHULMAN: February 13th.

14 MR. DIETZ: Yeah.

15 ACTING COMMISSIONER RICHARD: February  
16 13th is the next meeting? Okay.

17 UNIDENTIFIED FEMALE 1: That's what I  
18 think.

19 ACTING COMMISSIONER RICHARD: Thank you.

20 UNIDENTIFIED FEMALE 1: Sure.

21 MR. SCHULMAN: Do we want to go further  
22 for more dates now or --

23 ACTING COMMISSIONER RICHARD: Do you all  
24 want to pick some more dates?

1 December 5, 2019

2 MS. SLIFKA: Well, we're missing.

3 UNIDENTIFIED FEMALE 2: I don't think we  
4 should. We don't have enough people.

5 UNIDENTIFIED MALE 1: Should be more  
6 people.

7 ACTING COMMISSIONER RICHARD: We're  
8 missing some.

9 UNIDENTIFIED FEMALE 2: Yeah.

10 ACTING COMMISSIONER RICHARD: Okay. So  
11 it looks like --

12 UNIDENTIFIED FEMALE 2: February 13th is  
13 the day before my birthday. I doubt I'll be  
14 here.

15 UNIDENTIFIED MALE 2: All I need to know  
16 is when the next one is.

17 ACTING COMMISSIONER RICHARD: February  
18 14. No other questions? I mean 13. I'm sorry.  
19 Sorry.

20 UNIDENTIFIED FEMALE 2: That's my  
21 birthday. I'll be in a board meeting.

22 ACTING COMMISSIONER RICHARD: That's  
23 another day too, so we'll stay away from the  
24 14th. Alright.

1 December 5, 2019

2 MR. DIETZ: That's how I remember.

3 ACTING COMMISSIONER RICHARD: Alright.

4 Alright. Thank you. Yes, Singles Awareness Day.

5 UNIDENTIFIED FEMALE 2: I like that.

6 ACTING COMMISSIONER RICHARD: Okay.

7 Great. Thank you all and enjoy the holidays.

8 UNIDENTIFIED FEMALE 2: Close, motion to

9 --

10 ACTING COMMISSIONER RICHARD: We're  
11 having our, our party today if anybody wants to  
12 come.

13 MS. LIQUORI: Where is it?

14 ACTING COMMISSIONER RICHARD:  
15 Surrogate's Court.

16 UNIDENTIFIED FEMALE 2: That's tonight?

17 UNIDENTIFIED FEMALE 3: Tonight. 5:30?  
18 What is the time?

19 UNIDENTIFIED FEMALE 2: Surrogate's  
20 Court is beautiful. Oh my god.

21 ACTING COMMISSIONER RICHARD: 5:00.

22 UNIDENTIFIED FEMALE 4: Nice.

23 UNIDENTIFIED FEMALE 2: Is this the  
24 first time you're going there?

1 December 5, 2019

2 ACTING COMMISSIONER RICHARD: No.

3 UNIDENTIFIED FEMALE 2: It's beautiful.  
4 I love it.

5 UNIDENTIFIED MALE 2: First time at  
6 Surrogate's court though?

7 UNIDENTIFIED FEMALE 2: First party, our  
8 first party at Surrogate's Court.

9 ACTING COMMISSIONER RICHARD: Yeah, I  
10 think so. Yeah, we've gone to other events  
11 there.

12 UNIDENTIFIED FEMALE 2: It's nice.

13 UNIDENTIFIED MALE 3: Is there a pending  
14 motion for us to adjourn?

15 UNIDENTIFIED FEMALE 2: Yeah, to, to  
16 adjourn the meeting.

17 ACTING COMMISSIONER RICHARD: Oh, motion  
18 to adjourn. Right. We all want to adjourn.  
19 Thank you.

20 (The board meeting concluded at 9:54  
21 A.M.)

Environmental Control Board, December 5, 2019

CERTIFICATE OF ACCURACY

I, Ryan Manaloto, certify that the foregoing transcript of Environmental Control Board - Board Meeting on December 5, 2019 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



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Date: January 9, 2020

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