

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

BOARD MEETING

VIA VIDEO CONFERENCING

February 18, 2021

9:31 A.M. - 9:53 A.M.

February 18, 2021

MEMBERS PRESENT:

Joseph Gregory - New York City Fire Department (FDNY)
Joni Kletter, Esq. - Commissioner/Chief Administrative Law
Judge, OATH, Chair/Executive Director, OATH ECB
Elizabeth Knauer, Esq. - Appointed Member (Water)
Madelynn Liguori, Esq. - Department of Sanitation (DSNY)
Jorge Martinez, Esq. - Department of Health & Mental
Hygiene (DOHMH)
Russell Pecunies, Esq. - Department of Environmental
Protection (DEP)
Tom Shpetner, Esq. - Appointed Member
Matthew Smith, Esq. - New York City Police Department
(NYPD)
Douglas Swann - Appointed Member (Air)
Jarrod Whittington - Appointed Member (Noise)

ALSO PRESENT:

Rachel Amar - Special Assistant to Commissioner, OATH
John Castelli - Deputy Commissioner for Legislative
Affairs, OATH
Svetlana Iosilevich, Esq. - Executive Agency Counsel,
Business Integrity Commission (BIC)
Timothy Jones, Esq. - Senior Counsel, OATH
Susan Kassapian, Esq. - Deputy Commissioner for Appeals,
OATH
Richard J. LaPlant - Office of Management and Budget (OMB)
Nancy Lin - Office of Management and Budget (OMB)
Frank Ng, Esq. - Deputy General Counsel, OATH
**Peter Schulman, Esq. - Assistant Commissioner for Appeals,
OATH**
Frances Shine - Secretary to the Board
Amy Slifka, Esq. - Deputy Commissioner/Hearings Division,
OATH
Samuel Solomon, Esq. - Chief of Staff/Special Counsel,
OATH
Thomas Southwick, Esq. - Supervising Attorney for Appeals,
OATH
Olga Statz, Esq. - Deputy General Counsel, OATH
Joy A. Thompson, Esq. - Assistant General Counsel, OATH

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2 (The board meeting commenced at 9:31
3 A.M.)

4 JONI KLETTER, ESQ., CHAIR, EXECUTIVE
5 DIRECTOR, OATH ECB, COMMISSIONER/CHIEF
6 ADMINISTRATIVE LAW JUDGE, OATH: Good morning,
7 everybody. I'm going to call the meeting to
8 order. I'm going to ask Joy to do a roll call to
9 verify quorum.

10 JOY A. THOMPSON, ESQ., ASSISTANT GENERAL
11 COUNSEL, OATH: Yes. We will start with the cor-
12 , roll call. Good morning. We're going to start
13 with, of course, Commissioner Kletter.

14 MS. KLETTER: Present.

15 MS. THOMPSON: Joseph Gregory.

16 JOSEPH GREGORY, NEW YORK CITY FIRE
17 DEPARTMENT: Present.

18 MS. THOMPSON: Elizabeth Knauer.

19 ELIZABETH KNAUER, ESQ., APPOINTED
20 MEMBER: Present. Present.

21 MS. THOMPSON: Thank you. Madelynn,
22 Madelynn Liguori.

23 MADELYNN LIGUORI, ESQ., DEPARTMENT OF
24 SANITATION: Present.

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2 MS. THOMPSON: Jorge Martinez.

3 JORGE MARTINEZ, ESQ., DEPARTMENT OF
4 HEALTH & MENTAL HYGIENE: Present.

5 MS. THOMPSON: Russell Pecunies.

6 RUSSELL PECUNIES, ESQ., DEPARTMENT OF
7 ENVIRONMENTAL PROTECTION: Present.

8 MS. THOMPSON: Thomas Shpetner.

9 TOM SHPETNER, ESQ., APPOINTED MEMBER:
10 Present.

11 MS. THOMPSON: Matthew Smith.

12 MATTHEW SMITH, ESQ., NEW YORK CITY
13 POLICE DEPARTMENT: Here.

14 MS. THOMPSON: Douglas Swann.

15 DOUGLAS SWANN, APPOINTED MEMBER: I'm
16 present, but I'm going to have to drop off in a
17 few minutes. I'll stay as long as I can.

18 MS. THOMPSON: Thank you. Jarrod
19 Whittington.

20 JARROD WHITTINGTON, APPOINTED MEMBER:
21 Present.

22 MS. THOMPSON: Thank you. I believe
23 Shamonda Graham is absent today. Shamonda? Do
24 we have a DOB representative? Okay. We have

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2 quorum. Thank you, Commissioner.

3 MS. KLETTER: Okay, thank you so much,
4 Joy. I'm going to ask for a motion to adopt the
5 minutes from the December 17, 2020 meeting. Does
6 anyone have any corrections? Okay, I'm not
7 hearing anyone. I'm going to ask Joy to call for
8 a vote to approve the minutes as presented.

9 MS. THOMPSON: Thank you. I am going
10 to, right now, ask if there are any objections to
11 the approval of the minutes. If so, please
12 speak. Any abstentions? Okay, the motion is
13 passed, the minutes are approved. Thank you,
14 Commissioner.

15 MS. KLETTER: Great. Thank you so much.
16 I'm now going to ask Olga Statz to introduce
17 OATH's proposed rule to protect the status of
18 immigrants who appear before OATH tribunals.

19 OLGA STATZ, ESQ., GENERAL COUNSEL, OATH:
20 Thank you. Thank you very much, Commissioner.
21 Yes, OATH has, is very pleased to say that we
22 have received certification from both the Law
23 Department and the Mayor's Office for a, a rule
24 proposal, a relatively all-encompassing rule

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2 proposal that we've made that will cover both the
3 Trials Division and the Hearings Division to plug
4 in certain holes that we were having with respect
5 to persons inappropriately using people's
6 immigration status in a threatening fashion.

7 Specifically, we're giving, we are
8 giving the ALJs authority under 1-33(d) to, to
9 actually formalize their ability to issue
10 protective orders when certain information is
11 sought or used that would be intimidating to the
12 witnesses and, and not relevant.

13 We're also allowing -- we're also
14 restricting individuals from offering information
15 about a person's immigration status without the
16 ALJ or the Hearing Officer first making a
17 determination, a private determination, whether
18 that information is both relevant and not being
19 introduced solely to harass and threaten and
20 intimidate.

21 And while we were on the subject of
22 immigration, we took the opportunity to clean up
23 the language, some of the language in the
24 appendices of our rules that use the word

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2 alienage rather than the word immigration. The,
3 the City Council has -- there, there's now a law,
4 actually, that says that any word, anytime the
5 word aliena- alienage appears in a rule or in a
6 statute, it should be substituted with the word
7 immigration. So we took this opportunity, also,
8 to do that.

9 And I'm happy to answer any questions
10 anyone might have about this. If there's, if
11 there are no questions, Commissioner, I say, I
12 turn it over to you again.

13 MS. KLETTER: So I'm going to ask for a
14 motion to approve the rule, to be introduced.

15 MR. GREGORY: Motion.

16 MS. KLETTER: Thank you. Joy, can you
17 please call a vote?

18 MS. THOMPSON: Sure. Who made the
19 motion? I, I didn't catch that, please.

20 MR. GREGORY: Jo- Joseph Gregory from
21 the Fire Department.

22 MS. THOMPSON: Oh, thank you. Joseph
23 Gregory. Okay. I'm going to actually, instead
24 of the poll, because we have so many dial-ins,

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2 I'm going to go through the roll call and I'm
3 also going to start, hopefully, with Mr. Gregory.

4 MR. GREGORY: Yes.

5 MS. THOMPSON: Okay, very good. Okay,
6 now we're going to go to Commissioner Kletter.

7 MS. KLETTER: Yes.

8 MS. THOMPSON: Elizabeth Knauer?

9 MS. KNAUER: Yes.

10 MS. THOMPSON: I'm going to go down to
11 Douglas Swann, since he has to step off.

12 MR. SWANN: Yes.

13 MS. THOMPSON: Okay. Jorge Martinez.

14 MR. MARTINEZ: Yes.

15 MS. THOMPSON: Russell Pecunies.

16 MR. PECUNIES: Yes.

17 MS. THOMPSON: Thomas Shpetner.

18 MR. SHPETNER: Yes.

19 MS. THOMPSON: Matthew Smith.

20 MR. SMITH: Yes.

21 MS. THOMPSON: Jarrod Whittington.

22 MR. WHITTINGTON: Yes.

23 MS. THOMPSON: Madelynn Liguori.

24 MS. LIGUORI: Yes.

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2 MS. THOMPSON: It has been approved
3 unanimately. I don't believe I've, I've, I
4 missed anyone. So, Commissioner, the motion
5 passes.

6 MS. KLETTER: Okay. Thank you so much
7 for your work on this, Olga, and to the team at
8 the General Counsel's office. Really.

9 MS. STATZ: Thank you, Commissioner.

10 MS. KLETTER: I'm now going to ask for a
11 motion to go into Executive Session to discuss
12 the new decisions in the cases that were listed
13 in the judicial report.

14 PETER SCHULMAN, ESQ., ASSISTANT
15 COMMISSIONER FOR APPEALS, OATH: So I just wanted
16 to just ask, Nancy, if you could just identify
17 yourself in the Chat, your last name and your
18 affiliation for attendance purposes?

19 NANCY LIN, OFFICE OF MANAGEMENT AND BUDGET:
20 Sorry. I don't know where the text function is on my
21 phone, but --

22 MR. SCHULMAN: Okay, if you could just -

23 -

24 MS. LIN: -- this is Nancy, this is

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2 Nancy Lin from OMB, Miscellaneous Revenues.

3 MR. SCHULMAN: Okay, great. Thank you.

4 MS. LIN: No problem.

5 MR. SCHULMAN: I'm sorry, Commissioner.

6 MS. KLETTER: No worries. Did, did

7 someone make the motion?

8 MS. LIGUORI: Motion.

9 MS. KLETTER: Thank you so much. So we
10 are now going into Executive Session.

11 MR. SCHULMAN: So if, if somebody wants
12 to come back after the Executive Session -- I
13 don't know if there's much -- you can wait and
14 I'll put you into a waiting room. Otherwise, if
15 you disconnect, then, then that's fine, as well.

16 [OFF THE RECORD]

17 [ON THE RECORD]

18 MR. SCHULMAN: Okay. We are recording
19 again.

20 MS. KLETTER: Great. I also wanted to
21 announce today, and I'm sure most of you already
22 know this, that future panel meetings are now
23 going to be divided into AM and PM sessions, with
24 different Board members participating, so that we

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2 have lighter packages of draft decisions to
3 review, because we know there are a lot of
4 decisions being reviewed. So we appreciate
5 everyone's time and efforts in this process, but
6 we wanted to make it a little bit easier. So I
7 believe you're all aware of that.

8 And in terms of Board dates for our next
9 meeting, the suggestion right now is April 15th
10 or April 22nd. Does anyone have a preference?

11 MR. SHPETNER: No.

12 MS. KNAUER: Does anybody know -- oh,
13 I'm sorry. Go ahead, Tom.

14 MR. SHPETNER: Oh, well, I just haven't
15 cross-referenced any calendars. In the abstract,
16 I don't know if it conflicts with, you know, a
17 school holiday or something like that. But if
18 those dates have already been vetted for that
19 sort of reason, no.

20 MS. KNAUER: It, it looks from my
21 calendar like the school, the -- our, my
22 children's school follows the public school
23 holidays, and it looks like it's the prior week,
24 the, the, the first week of April that's the

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2 school holiday.

3 MR. SHPETNER: Exactly.

4 MS. KLETTER: Okay. So we'll put a hold
5 on the 15th for now. And then, for June, the
6 suggestions are June 10th or June 17th. Does
7 anybody have a preference?

8 MR. WHITTINGTON: I'd prefer the 10th.

9 MS. KLETTER: Okay, great. So we'll put
10 a hold on the 10th. Thank you.

11 I hope everybody stays safe today. Stay
12 healthy. I, I, I know Peter just circulated the
13 article that was in the Gotham Gazette this week
14 about our Hearings Division, which just finished
15 its 100,000th case in terms of adjudications,
16 which is really incredible. And all the work
17 that you all have done in the hundreds of cases
18 that you have reviewed is extraordinary. So
19 thank you, again, for all your work during this
20 difficult time.

21 And I'm now going to ask for a motion to
22 adjourn the meeting.

23 MS. KNAUER: Motion.

24 MS. KLETTER: Great. Thanks so much,

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everyone. We'll talk soon. Meeting adjourned.
(The board meeting concluded at 9:53
a.m.)

Environmental Control Board, 2/18/2021

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on February 18, 2021, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: March 1, 2021

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