

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

BOARD MEETING

VIA VIDEO CONFERENCING

August 20, 2020

9:32 A.M. - 10:28 A.M.

August 20, 2020

## MEMBERS PRESENT:

**Shamonda Graham - Department of Buildings (DOB)**  
**Joseph Gregory - New York City Fire Department (FDNY)**  
**Joni Kletter, Esq. - Commissioner/Chief Administrative Law  
Judge, OATH, Chair/Executive Director, OATH ECB**  
**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**  
**Jarrod Whittington - Appointed Member**

## ALSO PRESENT:

John Castelli - Deputy Commissioner for Legislative  
Affairs, OATH  
Kelly Corso, Esq. - Assistant Commissioner for Hearings  
Division Adjudications, OATH  
Timothy Jones, Esq. - Assistant General Counsel, OATH  
Vivienne Kahng, Esq. - Senior Attorney, Hearings Division,  
OATH  
Susan Kassapian, Esq. - Deputy Commissioner/Appeals, OATH  
Richard J. LaPlant - Office of Management and Budget (OMB)  
Kevin McAvoy - Administrative Coordinator, OATH  
Frank Ng - Assistant Director for Appeals, OATH  
Craig Porges, Esq. - Deputy Ombudsperson and Deputy Pro Se  
Clerk, OATH  
**Peter Schulman, Esq. - Asst. Director 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**  
Jean Wesh, Esq. - Managing Attorney, Ombudsperson, OATH

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2 (The board meeting commenced at 9:32  
3 A.M.)

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

10 JOY A. THOMPSON, ESQ., ASSISTANT GENERAL  
11 COUNSEL, OATH: I mean, good morning and thank  
12 you. I would like to first just acknowledge, if  
13 you just would say, unmute yourself and say here.  
14 Commissioner Kletter, of course.

15 MS. KLETTER: Here.

16 MS. THOMPSON: Russell Pecunies?

17 RUSSELL PECUNIES, ESQ., DEPARTMENT OF  
18 ENVIRONMENTAL PROTECTION: Here.

19 MS. THOMPSON: Thank you. Madelynn  
20 Liguori?

21 MADELYNN LIGUORI, ESQ., DEPARTMENT OF  
22 SANITATION (DSNY): Here.

23 MS. THOMPSON: Thank you. Shamonda  
24 Graham?

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2 SHAMONDA GRAHAM, DEPARTMENT OF  
3 BUILDINGS: Here.

4 MS. THOMPSON: Thank you. Jorge  
5 Martinez?

6 JORGE MARTINEZ, ESQ., DEPARTMENT OF  
7 HEALTH & MENTAL HYGIENE: Here.

8 MS. THOMPSON: Thank you. Matthew  
9 Smith? I see you, Matthew. Thank you. Joseph  
10 Gregory?

11 JOSEPH GREGORY, NEW YORK CITY FIRE  
12 DEPARTMENT: Here.

13 MS. THOMPSON: Thank you. Douglas  
14 Swann?

15 DOUGLAS SWANN, APPOINTED MEMBER: Here.

16 MS. THOMPSON: Thank you. Jarrod  
17 Whittington?

18 JARROD WHITTINGTON, APPOINTED MEMBER:  
19 Here.

20 MS. THOMPSON: Thank you. Thomas  
21 Shpetner. Tom?

22 TOM SHPETNER, ESQ., APPOINTED MEMBER:  
23 Here.

24 MS. THOMPSON: Thank you. And I

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2 understand Elizabeth Knau- Knauer will not be  
3 joining the call. So, we have a quorum.

4 MS. KLETTER: Great. Thank you. Is  
5 there a motion to adopt the minutes for the June  
6 11th -- if you're on a phone, please mute  
7 yourself if you're on a phone. Thank you. Okay.  
8 Is there a motion to adopt the minutes for the  
9 June 11, 2020 minutes meeting?

10 MS. Liguori: Motion.

11 MS. KLETTER: Does anyone have any  
12 corrections? I'm going to ask for a vote to  
13 approve the minutes as presented, or as  
14 corrected, which there are none. So, does anyone  
15 have a no vote on the minutes? Please speak up  
16 now. Okay. So unanimously approve the motion  
17 adopting the minutes for the June 11th meeting.  
18 Thank you.

19 I'm going to ask Olga Statz to introduce  
20 the OATH proposed rule regarding identification  
21 requirements for representatives who appear at  
22 OATH.

23 OLGA STATZ, ESQ. GENERAL COUNSEL, OATH:  
24 Hi. Good morning, everybody. Nice to see

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2 everyone. OATH is proposing to amend Section 6-  
3 23 of 48 RCNY, which is the rule that governs  
4 registered representatives.

5 Specifically, what we'd like to do is to  
6 require registered representatives, when they are  
7 filing documents in person, to present  
8 government-issued ID in order to record their  
9 identity when they submit documentation. We  
10 propose to add, actually, a subdivision (g) to 6-  
11 23 and to make corresponding amendments to (e)  
12 and to (f).

13 So, basically, this is, this is a rule  
14 that came about because DOI had been conducting  
15 investigations of certain fraudulent activities  
16 that were taking place at OATH, and one of the  
17 difficulties it ran into was actually identifying  
18 the individuals who were engaged in that  
19 activity. So, they, they felt that it would be  
20 important to record their identities to assist in  
21 their investigations going forward.

22 As you know, OATH, like many other  
23 agencies and many other entities, is frequently  
24 targeted for, by fraudsters, and we're do-, we're

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2 taking whatever steps we can to facilitate  
3 investigation and prosecution of those  
4 individuals. I'm happy to answer any questions.

5 MR. MARTINEZ: Yes. These are people  
6 who are on record for representing respondents or  
7 parties to a, to a case, correct?

8 MS. STATZ: Yes, yes. Only for, this  
9 applies only to registered representatives.

10 MR. MARTINEZ: So, the, the problem is,  
11 from what you're saying, the problem is that  
12 people are showing up, saying they, they are X  
13 person when, in fact, they are not that person?

14 MS. STATZ: Yes.

15 MR. MARTINEZ: So --

16 MS. STATZ: And there is no, and -- I'm  
17 sorry, go ahead.

18 MR. MARTINEZ: And does, is there any  
19 record of, at any point, where, let's say,  
20 respondent affirms or indicates that X person is  
21 representing them?

22 MS. STATZ: Can you, can you rephrase,  
23 can you reph--

24 MR. MARTINEZ: Right. So, do you know,



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2 if someone shows up saying I represent, let's say  
3 the respondent.

4 MS. STATZ: Yeah.

5 MR. MARTINEZ: Do, do you have a record  
6 anywhere saying that the respondent affirmed that  
7 this particular person or a person with this name  
8 is actually representing them?

9 MS. STATZ: Well, usually, the way we  
10 find out about it is that the respondent makes no  
11 objection when a decision comes down or something  
12 happens that that representative created or when  
13 the, that person represents them at a hearing.  
14 There's usually no objection, and that's how we  
15 know that the respondent is, is accepting that.

16 When we do here it, it's usually with  
17 the respondent saying this, I don't know this  
18 person. I did not hire this person. I don't  
19 know that person. That's usually. So, they  
20 don't usually affirm that -- although we do have  
21 documentation that is signed by a respondent that  
22 says that this person is my rep. But we usually  
23 don't, don't have representatives -- not  
24 representatives -- respondents going forward and

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2 saying this, in fact, is my rep, other than the  
3 document. Where we do hear from respondents is  
4 when they come in and say I don't know this guy.  
5 I don't know how he could have come in and  
6 represented me and, and accepted this settlement  
7 or done whatever he did, it was he did.

8 MR. MARTINEZ: Okay. And to be a, a  
9 representative, you don't have to be an attorney,  
10 correct?

11 MS. STATZ: No, you do not have to be an  
12 attorney.

13 MR. MARTINEZ: My concern is that many  
14 people in the immigrant communities may have  
15 folks who represent them because they can't  
16 afford attorneys, who may not, may not have  
17 documentation that, that will fulfill what this  
18 new rule wants to happen or these new changes.  
19 So how do you address that? Because they may  
20 have someone representing them who might be  
21 undocumented themselves, but they can't afford a  
22 representative.

23 And it might be a question of language,  
24 too. They feel more comfortable with someone

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2 representing them who speaks their lang-,  
3 English, that can, that can speak to, and speaks  
4 their language, who may not be able to show  
5 documentation that fulfills this rule. How do  
6 you address that?

7 MS. STATZ: Well, actually, that's a  
8 very good question. That's already taken into  
9 account by this, by focusing only on the  
10 registered representatives.

11 So, OATH respondents and OATH one, let's  
12 just call them one-off representatives. So,  
13 someone brings their son or grandson or uncle or  
14 aunt or a friend to come and speak for them on a  
15 particular hearing. That, no, no identification  
16 is required in those instances.

17 A registered representative are only  
18 those individuals who have registered with OATH  
19 and, and filled out an application and have  
20 already somewhat identified themselves. And they  
21 handle -- correct me if I'm wrong, Amy -- I think  
22 18, they have 18 matters on, or they, there's a  
23 certain number of matters that they represent.  
24 So, these are actually, it's a professional class

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2 of people. These are not individuals who are  
3 coming in with a relative or a friend to assist a  
4 one-off. Those individuals are not required to  
5 have identification. That was very specifically  
6 understood when we were drafting this rule.

7 MR. MARTINEZ: But if any, if a  
8 representative is at a hearing, let's say before  
9 the hearing happens, they want to submit, let's  
10 say a motion. Can they do that, even though  
11 they're not registered? Or do you need to be  
12 registered in order to submit a motion on behalf  
13 of a, of a respondent, let's say?

14 MS. STATZ: No. So, if you have a one-  
15 off representative who is going to submit a  
16 motion or something, that person can do that on  
17 behalf of the respondent who is, who is being,  
18 who, who has the hearing. So, again, they're, in  
19 the, in the representative class, what this, what  
20 this rule is targeting is specifically the  
21 registered representatives who are basically  
22 prof-, although they are not attorneys, they are  
23 professionals in this, in this field, and they  
24 have a number of clients that they're represent-

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2 representing. This is their profession.

3 [CROSSTALK] [09:41:16] [00:09:16]

4 MS. KLETTER: Yeah, I also just want to  
5 add be-, regarding the issue of being concerned  
6 that immigrants and other communities might be  
7 taken advantage of, that's, the purpose of this  
8 rule is actually to protect against fraudulent  
9 rep- representation. So, it's actually to  
10 protect immigrant communities and others who  
11 might not be as sophisticated.

12 MR. MARTINEZ: Can -- understood. Can  
13 you give me some idea why, you know, let's say a  
14 registered representative might want to, to  
15 engage in this kind of fraudulent behavior, since  
16 they're not being retained by the, let's say a  
17 party. How would they get paid? Why are they  
18 doing this?

19 MS. STATZ: That's --

20 AMY SLIFKA, ESQ., DEPUTY COMMISSIONER/  
21 HEARINGS DIVISION, OATH: The reps --

22 MS. STATZ: I'm sorry. Go ahead. Go  
23 ahead, Amy.

24 MS. SLIFKA: I was going to say, the

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2 registered reps are getting paid for their  
3 services. Maybe I'm misunderstanding the  
4 question.

5 MR. MARTINEZ: Well, why, why would they  
6 misrepresent themselves as being, representing  
7 someone who they're not representing when they  
8 may not have an agreement to represent someone  
9 and, therefore, can't collect.

10 MS. SLIFKA: But they have, they have  
11 done this in the past, which is why we created  
12 the registered rep rules. So, what happened, has  
13 happened in the past, and we've really cut down  
14 on this, is people will go up to people as  
15 they're entering, and this happened, in  
16 particular, in Taxi. And they say, well, we'll  
17 take care of your case and the driver would say,  
18 great. And pay him. And then that  
19 representative actually never went into court.  
20 And we've had a lot of issues.

21 MR. MARTINEZ: Ah, okay.

22 MS. SLIFKA: Which is why we've  
23 developed all these rules. So, and why  
24 identification is necessary, in case something

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2 like this happens, we'll have someone to go to.

3 You know, so --

4 MR. MARTINEZ: Okay.

5 MS. SLIFKA: -- to find.

6 MR. MARTINEZ: Okay.

7 MS. SLIFKA: It's really, it's really to  
8 protect that, that pro se respondent who really  
9 doesn't understand the system.

10 MR. MARTINEZ: Thank you.

11 MS. STATZ: Any additional questions?

12 MR. GREGORY: Yeah. I had one  
13 additional question, just to kind of clarify what  
14 you're talking about with the respondent's  
15 representative. Suppose the res-, if the respon-  
16 , that the respondent has to be present with the  
17 representative, and al-, although that  
18 representative may not be registered, suppose he  
19 --

20 MS. SLIFKA: No, the respondent --

21 MR. GREGORY: -- sends someone in his,  
22 his place that's not a registered --

23 MS. SLIFKA: If it's a, if it's a one-  
24 off. So, if I say to my neighbor, could you take

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2 care of this ticket? I know you're going to  
3 yours.

4 MR. GREGORY: Right.

5 MS. SLIFKA: Then I don't have to be  
6 present and, and documentation would not have to  
7 be submitted.

8 MR. GREGORY: Okay.

9 MS. STATZ: Yes.

10 MS. STATZ: Any other questions?

11 MR. SHPETNER: Hi. This is Tom. Do we  
12 have a practice of, like, people absconding?  
13 Like who are just unfindable?

14 MS. STATZ: Say that again? I'm sorry?

15 MR. SHPETNER: Do we have a prac-, or a  
16 problem with people just being impossible to  
17 reach? I mean, is ID helping us track them down?

18 MS. STATZ: Well, actually, in this  
19 parti-, in, in the case that, that created the  
20 straw that broke the camel's back, there was  
21 someone who was submitting fraudulent documents  
22 on behalf of, of individuals. And when we were  
23 able to figure out that this person had done it,  
24 he was able to say it wasn't me, someone used my



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2 name. And so that's, that's another aspect of  
3 this, is to be able to actually identify the  
4 people who are submitting the fraudulent, the  
5 fraudulent documents.

6 So, this is not so much about, this is  
7 about making sure we have the right person,  
8 making sure we are linking the fraudulent  
9 activity to an, to the right person and not a,  
10 not falsely accusing someone. Or when the --

11 MR. SHPETNER: Yeah, that makes, yeah,  
12 per- perfect sense. And just one other quick  
13 thing. What are we going to do to safeguard some  
14 of this information? Because, I mean, it could  
15 be sensitive. Driver's license, passport.

16 MS. STATZ: Well, the only thing, the  
17 only thing we're, the only thing we're doing, and  
18 this was, this was actually, I think it works out  
19 very well. The only thing that has to be done,  
20 we're not taking photocopies of the  
21 identification.

22 The only thing that has to be done is  
23 that the I-, the government-issued ID has to be  
24 presented to a, a member of the Clerk's office.

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2 That person looks at the ID and checks off a  
3 little box at the bottom of the form that says ID  
4 reviewed. So, there's no, so the, the, the  
5 sensitive information on that identification is  
6 not recorded. It's just that a clerk is, is  
7 basically affirming that he or she actually saw  
8 the identification and is checking off and  
9 affirming that they saw the identification so  
10 that when, if we're looking for that person, we  
11 have that as proof that this person on this day,  
12 this clerk on this day looked at something that  
13 was either a driver's license or any other kind  
14 of license and that that person's name appeared  
15 on that and it was a valid, validly issued  
16 govern- government ID. So, we're not recording  
17 the sensitive information. We thought that  
18 through, also.

19 MR. SHPETNER: Thanks.

20 MS. STATZ: No problem.

21 MS. KLETTER: Okay. [Unintelligible]

22 [00:14:16] ask for a motion to approve? Just --

23 MS. LIGUORI: Motion.

24 MS. KLETTER: Thank you. Joy, please do

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2 a roll call vote.

3 MS. THOMPSON: And I will begin the roll  
4 call on the ID rule. Joni Kletter?

5 MS. KLETTER: Yes.

6 MS. THOMPSON: Russell Pecunies?

7 Russell?

8 MR. PECUNIES: Yes.

9 MS. THOMPSON: Madelynn Liguori?

10 MS. LIGUORI: Yes.

11 MS. THOMPSON: Shamonda Graham?

12 MS. GRAHAM: Yes.

13 MS. THOMPSON: Jorge Martinez?

14 MR. MARTINEZ: Yes.

15 MS. THOMPSON: Matthew Smith?

16 MR. SMITH: Yes.

17 MS. THOMPSON: Thank you. Joseph

18 Gregory?

19 MR. GREGORY: Yes.

20 MS. THOMPSON: Douglas Swann?

21 MR. SWANN: Yes.

22 MS. THOMPSON: Jarrod Whittington?

23 MR. WHITTINGTON: Yes.

24 MS. THOMPSON: Thomas Shpetner?

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2 MR. SHPETNER: Yes.

3 MS. THOMPSON: Thank you. It was  
4 unanimately passed.

5 MS. KLETTER: Okay. [Unintelligible]

6 [09:47:33] [00:15:33] understanding is that

7 [unintelligible] [09:47:36] [00:15:36] today.

8 Please go on mute. Everybody, please go on mute.

9 So, I just want to find a date for the next board  
10 meeting now, before Shamonda leaves. Are there  
11 proposed dates? Joy, are there, do we have a  
12 proposed date for the next Board meeting?

13 MS. THOMPSON: I can check.

14 MS. KLETTER: Okay.

15 MS. STATZ: I, I, the next Board meeting  
16 -- this is Olga. The next Board meeting, we're  
17 in August right now, so it should be in October.  
18 My understanding is that it should be in October.

19 PETER SCHULMAN, ESQ., ASSISTANT DIRECTOR  
20 FOR APPEALS, OATH: Yes.

21 MS. STATZ: And it's, it's one of, it's  
22 usually one of the Thur-, one of the last two  
23 Thursdays in October, right?

24 MR. SCHULMAN: Yeah, that'd be good.

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2 MS. STATZ: So, so why don't, can -- I  
3 guess people have to come up with dates, either  
4 the third Thursday or the fourth Thursday, that  
5 work for them.

6 MS. KLETTER: Excuse me. Olga, why  
7 don't we just pick a proposed date for now?

8 MS. STATZ: Okay, let me see. Okay.  
9 How about --

10 MS. GRAHAM: Guys, hello?

11 MS. STATZ: -- how about the 22nd?

12 MS. GRAHAM: Hello? Can you hear me?  
13 This is Shamonda Graham.

14 MS. STATZ: Yeah.

15 MS. GRAHAM: I'm usually on vacation the  
16 last week, the Halloween week in October. So, if  
17 you guys can do the Thursday before the third  
18 Thursday, which is the one we usually do, that  
19 would be great for me. If not, I can, I may or  
20 may not move, I don't, move the vacation. I'm  
21 not sure.

22 MS. STATZ: Do you, do -- Shamonda, do  
23 you mean you could do the 22nd, not the 29th?  
24 Because the 29th is the one --

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2 MS. GRAHAM: Exactly.

3 MS. STATZ: Huh?

4 MS. GRAHAM: Exactly. Yes.

5 MS. STATZ: Okay. So, so far, the  
6 suggested date is October 22nd.

7 MS. KLETTER: Okay.

8 MS. STATZ: And then I guess if, and  
9 then maybe we can do, then, the, the next meeting  
10 for December, just to have the next two meetings  
11 set. That would be Dec-, the next suggested date  
12 would be December 18. So, it would be October 22  
13 and December 18.

14 MR. SCHULMAN: No, that's a Friday.

15 MS. STATZ: Oh, I'm sorry. December 17.  
16 Do those work for people?

17 MS. GRAHAM: I think they're great,  
18 because we beat the Christmas rush.

19 MS. STATZ: Yes.

20 MR. SHPETNER: Yes. Yep, yep.

21 MS. KLETTER: Okay, great.

22 MR. SHPETNER: There may not be a rush,  
23 but I agree with you.

24 MS. GRAHAM: Well, the Christmas frenzy

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2 to go off on vacation.

3 MS. KLETTER: Although I don't know how  
4 many people are going on vacation this year, but.

5 MR. SHPETNER: Right.

6 MS. KLETTER: Okay. So, let's put a  
7 hold for those two dates. Thank you. I'm going  
8 to ask for a motion to go into Executive Session  
9 to discuss some new decisions in the cases listed  
10 in the Judicial Report.

11 MS. LIGUORI: Motion.

12 MS. GRAHAM: Motion.

13 MR. SHPETNER: Motion.

14 [OFF THE RECORD]

15 [ON THE RECORD]

16 MR. SCHULMAN: Okay. The recording is  
17 resuming.

18 MS. KLETTER: Thank you.

19 MR. SCHULMAN: [Unintelligible]

20 [00:18:43]. Okay.

21 MS. KLETTER: Okay, thank you. We're  
22 back in Public Session. I want to introduce the  
23 full Board Appeal, DOB v. The Centurion  
24 Condominium, Appeal No. 2000466, referred by May,

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2 on May 21, 2020, to the panel by Thomas  
3 Southwick. I'm going to ask for a motion to  
4 approve the de-, revised decision.

5 MS. LIGUORI: Motion.

6 MS. KLETTER: I'm going to call for a  
7 vote. Joy?

8 MS. THOMPSON: Thank you. Thank you.  
9 Okay, we're going to start with Commissioner  
10 Kletter.

11 MS. KLETTER: Yes.

12 MS. THOMPSON: Russell Pecunies?

13 MR. PECUNIES: Yes.

14 MS. THOMPSON: Thank you. Madelynn  
15 Liguori?

16 MS. LIGUORI: Yes.

17 MS. THOMPSON: Thank you. Shamonda  
18 Graham? Could you repeat, Shamonda?

19 MR. SCHULMAN: Shamonda Graham is muted.

20 MS. GRAHAM: I'm sorry, guys. You were  
21 muted. Yes.

22 MS. THOMPSON: Thank you, Shamonda.  
23 Jorge Martinez?

24 MR. MARTINEZ: Yes.



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2 MS. THOMPSON: Matthew Smith?

3 MR. SMITH: Yes.

4 MS. THOMPSON: Thank you, Matthew.

5 Joseph Gregory?

6 MR. GREGORY: Yes.

7 MS. THOMPSON: Doug Swann?

8 MR. SWANN: No.

9 MS. THOMPSON: Jarrod Whittington?

10 MR. WHITTINGTON: Yes.

11 MS. THOMPSON: And Thomas Shpetner?

12 Tom?

13 MR. SHPETNER: Unambiguously

14 no. [unintelligible] [00:20:39].

15 MS. THOMPSON: Thank you. We have nine  
16 for, one vote against. The motion passes. Thank  
17 you.

18 MR. SHULMAN: I think it's seven, it's  
19 seven votes for and [unintelligible] [00:20:54].

20 MR. SHPETNER: You, you recorded that  
21 wrong. We, we should be using polling or the  
22 chat function. There's too much back and forth  
23 on the microphones.

24 MR. SCHULMAN: Seven votes for, two

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2 votes against [unintelligible] [00:21:14].

3 MS. THOMPSON: What was the second vote  
4 against? I'm sorry, I missed that.

5 MR. SCHULMAN: It's, it's Doug.

6 MS. THOMPSON: He voted against. And  
7 the second vote against?

8 MR. SCHULMAN: Yes, and Tom. Tom.

9 MS. THOMPSON: Thank you. Thank you so  
10 much. Thank you so much.

11 MS. KLETTER: Can you repeat the results  
12 [unintelligible] [00:21:33]?

13 MS. THOMPSON: You have seven in favor  
14 and two against.

15 MS. KLETTER: Thank you. Okay. That's  
16 all of our official business for today. Are  
17 there any other comments?

18 MR. SHPETNER: I had a couple. This is  
19 Tom Shpetner. In the last meeting, I had asked  
20 about how many more penalty schedules we were  
21 going to move, and I don't know if that's still  
22 happening. But do we have a sense of what we  
23 were going to do about that?

24 MR. SCHULMAN: Can you repeat that?

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2 MR. SHPETNER: I mean, it was in the  
3 minutes we approved. Yeah. I don't -- can you  
4 hear me? Yeah. We had discussed at the prior  
5 meeting how many more penalty schedules needed to  
6 be moved as part of the two-year reshuffle, and  
7 we said we were going to come back with some  
8 stats on that. I, I don't know. If anybody has  
9 an update, or if anyone just knows offhand. It's  
10 not, not intended to be a, a tough question.

11 MS. SLIFKA: We're moving them out as we  
12 can. We have the sanitation --

13 MR. SHPETNER: No, I understand -- yeah.

14 MS. SLIFKA: No, no, no. I'm, I'm --  
15 let me, let me just finish.

16 MR. SHPETNER: Yeah.

17 MS. SLIFKA: So, Sanitation still has to  
18 move theirs out. And I don't think there are  
19 many. I really haven't looked recently, Tom. I  
20 don't think that, that we still have many within  
21 our jurisdiction. But we're working with the  
22 agencies. For some of the agencies, it's a  
23 little bit harder --

24 MR. SHPETNER: Right.

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2 MS. SLIFKA: -- than for other agencies.

3 MS. KLETTER: And I'm so sorry.

4 MS. SLIFKA: So that, that's what's  
5 happening.

6 MS. KLETTER: Olga is having trouble  
7 right now, but she said there are two more.

8 MS. SLIFKA: Yeah, okay. So, it's  
9 Sanitation and, and one other that I'm just, it's  
10 not on the top of my head.

11 MS. LIGUORI: And Sanitation is working  
12 to move their penalty schedules. The Law  
13 Department has been reviewing it, but there's a  
14 little bit of a hard time right now.

15 MS. SLIFKA: Right. There's a, yeah.  
16 So, so we're working with them and they're  
17 working with us.

18 MR. SHPETNER: Yeah. I can't imagine  
19 COVID has made anything more efficient. It just  
20 can't be true, so I got you.

21 MS. SLIFKA: Well, that's true, too.

22 MR. SHPETNER: Yeah.

23 MS. KLETTER: The answer is two.

24 MR. SHPETNER: Yeah. So, second

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2 question or topic I wanted to raise was just  
3 online hearings. We're getting a lot of tough  
4 decisions where I think the factual record isn't  
5 complete. And I think that's just, not anyone's,  
6 really, fault. It's just the structural  
7 shortcoming of the online forum. It doesn't  
8 allow any iterative -- or it cuts down on the  
9 opportunity for iterative fact finding in the  
10 terms of, you know, you just can't cross examine  
11 a document. You can't necessarily follow up  
12 every, every angle the way you might in a fairly  
13 straightforward discussion on a, on a telephonic  
14 hearing where a hearing officer might probe a, a  
15 question.

16 So, I do want to raise this, because I  
17 feel like it's been a steady, steady problem. It  
18 seems somewhat chronic and I want to explore how  
19 to, how to get the record better. It may result  
20 in a higher conviction rate. I accept that.

21 I just want to make sure that these are  
22 factually more complete because I think  
23 sometimes, the person says, I really sweep all  
24 day long, and we, we tag them with a fine, when

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2 the fact is they have a super that's there from,  
3 you know, 8:00 to 6:00 who, really, his job is,  
4 all day long, to do that. And the question isn't  
5 really twice daily, it's whether the, it's the  
6 reasonableness of the super.

7 Like, if it's Madison Square Garden,  
8 it's probably not sufficient, because there's  
9 concerts at night. But if it's a tree-lined  
10 street in Ditmas Park, it's probably okay. So,  
11 we need to kind of understand, you know, I think  
12 the record in a lot of these cases, a lot more,  
13 in a lot more of a nuanced way. And I feel like  
14 the forum doesn't lend itself well to that.

15 MS. KLETTER: Yeah. And I just want to  
16 be clear for the record. When Tom says online  
17 hearing, he's referring to our one-click form.

18 MR. SHPETNER: Yeah, thank you.

19 MS. KLETTER: Yeah, just so people don't  
20 confuse the online, what the online hearing  
21 means. And one of the issues, yeah, that --  
22 well, one of the kind of things we're discussing  
23 is, at the top of the form on the web page,  
24 making it clear that people have the option to do

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2 a telephonic hearing. It is on our web page in  
3 multiple places, but it's not on the, the actual  
4 page where people fill out that one-click form.  
5 So, I do want to make that more conspicuous, that  
6 people have the option to, to have a telephonic  
7 hearing, because I think it is a very convenient  
8 way to, to have a hearing.

9 And I agree that in terms of being able  
10 to present evidence and make arguments,  
11 obviously, to create a fuller factual record,  
12 it's better to have a hearing where people are in  
13 discussions and answering questions, right? So,  
14 I do understand what you're saying around the  
15 challenge with the one-click.

16 I will say that there are some people  
17 that don't want to participate in a hearing and  
18 would rather just submit their documents via an  
19 online form, and that's their right to do that,  
20 even if it results in a process that involves  
21 less evidence and discussion, right?

22 So, I don't know. Amy, do you want to  
23 add anything to what I just said?

24 MS. SLIFKA: No. I, I agree with you.

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2 I mean, we are trying to promote the hearing by  
3 telephone, especially since all hearings are  
4 being done by telephone. We are trying to  
5 increase adjournments. You know, we do grant  
6 adjournments with questions to the respondents,  
7 and a lot of times we don't get responses. So,  
8 we just, rather than default, we decide the case  
9 based on the original submission.

10 And then, I, I agree that, for some  
11 people, like for myself with a parking ticket, I  
12 don't go to Parking. I write it in and I know I  
13 have more of a chance of losing the case when I  
14 write in than if I appeared in, in, in public.  
15 But it's the expediency of it.

16 So, but we hear your concerns and we're  
17 trying to address them.

18 MR. SHPETNER: So, can I just respond  
19 very briefly? I, I think it's really important  
20 that we do make that disclosure that telephonic  
21 is available. I don't think people appreciate  
22 how, probably, it could be somewhat better. So,  
23 I think that's a very positive, you know, good  
24 thing to, like, make sure that people understand



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2 their options. And I do credit, Amy, the,  
3 especially the thing you said where people don't  
4 reply. If people don't reply, we should get that  
5 into the record.

6 MS. SLIFKA: Well --

7 MR. SHPETNER: But what I would also  
8 say, if we can do it, is some sort of an  
9 Ombudsman or somebody who, who collects these  
10 Disney cases, in particular, and says, hey, you  
11 know, we could have followed up on the pleadings  
12 schedule. I don't know how many of those  
13 schedule -- how many of those cases there are.  
14 But if we send somebody a, a follow-up question  
15 saying, hey, we got your one-click submission, we  
16 have a question, and they don't reply in 10 days  
17 after two requests, we put that in the record.  
18 And I think we have a very good record. You  
19 know, it says respondent didn't answer. Just  
20 like the way we do for many cases.

21 I just feel like there's an extra layer  
22 of security we need, and it, and it, it's great  
23 that we have the telephonic thing more prominent,  
24 but it's like a surgeon general's warning to your

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2 parking, parking ticket example, Amy. I'd rather  
3 pay it, too, than go down to Chamber Street or  
4 wherever to pay it, you know, and, and contest  
5 it. But if we have another layer of security,  
6 like you do for a bank where you type in a second  
7 number, that's a hassle but, you know, we need  
8 something of a backstop for the, some small  
9 number of cases where it's mostly Sanitation and  
10 it's mostly cleaning schedule ambiguity.

11 MS. SLIFKA: I'll tell you, you know,  
12 it's, it's definitely something to think about,  
13 Tom, and we're also, you know, we've also thought  
14 about ways and, and, you know, it's just getting  
15 the technology. We have the technology. It's  
16 being able to spend the money on it type of  
17 thing, where we can get the Help Center more  
18 involved.

19 You know, there are ideas there that,  
20 before you even submit a one-click, maybe a pop-  
21 up can come up that says do you want to speak to  
22 someone at the Help Center? And they could talk  
23 to them. We just, it just takes time to develop  
24 these things.

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2 MR. SHPETNER: I, I think creative --

3 [CROSSTALK] [00:30:11]

4 MS. SLIFKA: So, we hear you and we're  
5 working on it.

6 MR. SHPETNER: Yeah. Any creative idea  
7 is great. I just think that there's a special  
8 flag we need for this sliver of cases where more  
9 eyeballs will get us a better record. And enable  
10 us to say, hey, you're, you owe us money, 100  
11 bucks.

12 And I also am not insensitive to the  
13 fact that I'm talking about things that are  
14 mostly \$100.00 and not cranes falling across  
15 Worth Street. I, I, you know, I'm acutely aware  
16 of, you know, these cases being somewhat small,  
17 but, you know, to a homeowner, it's, it's tough  
18 when you, you feel like you have a, you know, a  
19 good case and you, you maybe got a ticket you  
20 didn't deserve. A lot of people deserve it. And  
21 Madelynn, I'll spare you the trouble of saying  
22 it. I see a lot of dirty, you know, places on my  
23 block.

24 So, the third thing I want to just

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2 mention is I really want the minutes to be clear  
3 that I don't think the, the, the decision we  
4 voted on --

5 [OFF MIC CONVERSATION]

6 MR. SHPETNER: -- that I, that I don't,  
7 I don't think the decision we voted on was  
8 decided correctly. I have profound misgivings.  
9 It really is somewhat impractical to, given the  
10 premium on parking, for bicycles throughout the  
11 City -- and I just want to cross-reference a  
12 Time, a New York Times article on this that  
13 appeared probably, you know, 48 hours ago, maybe  
14 72. Really, this, this decision, I think,  
15 doesn't really reflect the record accurately and  
16 I'm really concerned that we may have created  
17 more problems than we, than we solved here.

18 So that, those are my three things for  
19 the, the, any other business.

20 MS. KLETTER: Okay. Anyone else?  
21 Motion to adjourn? Does anyone want to make the  
22 motion?

23 MS. LIGUORI: Motion to adjourn.

24 MS. KLETTER: Thank you. Okay,

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everybody, have a, have a good one. Meeting  
adjourned.

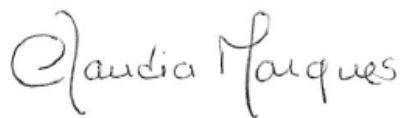
(The board meeting concluded at 10:28  
a.m.)

Environmental Control Board, 8/20/2020

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on August 20, 2020, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Claudia Marques

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Date: October 13, 2020

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