

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

August 27, 2015

9:26 A.M. to 10:00 A.M.

August 27, 2015

## MEMBERS PRESENT:

Lt. Dan Albano, Esq. - Police Department  
Robert Carver, Esq. - Citizen Member  
Fidel F. Del Valle, Esq. - Chair, OATH  
Joseph Gregory, Esq. - Fire Department  
**Renaldo Hylton - Exec. Dir., Dept. of Buildings**  
Elizabeth Knauer, Esq. - Citizen Member  
Madelynn Liguori, Esq. - Dept. of Sanitation  
Jorge Martinez, Esq. - Dept. of Health and Mental Hygiene  
**Russell Pecunies, Esq. - Dept. of Environmental Protection**  
Thomas D. Shpetner, Esq. - Citizen Member

## ALSO PRESENT:

Jim Macron, Esq. - Counsel to the Board, OATH/ECB  
Frances Shine - Secretary to the Board, OATH/ECB  
Rachel Amar - Special Assistant to the Commissioner, OATH  
James Armstrong, Esq. - Law School Fellow, OATH  
**Helaine Balsam, Esq. - Deputy General Counsel, OATH**  
Denis Brogan, Esq. - Assist. General Counsel, OATH  
John Burns, Esq. - First Deputy Commissioner, OATH  
John Castelli, Esq. - Assist. Commissioner for Legislative  
Affairs, OATH  
Vanessa Caughman - Computer Service Technician, OATH  
**Kelly Corso, Esq. - Assist. Director of Adjudications, ECB**  
Fana Garrick - Public Affairs Assistant, OATH  
David Goldin, Esq. - Administrative Justice Coordinator,  
Mayor's Office  
Shamonda Graham - Department of Transportation  
Vivienne Kahng, Esq. - Staff Attorney, Appeals, OATH/ECB  
Mark H. Leeds, Esq. - Special Senior Counsel, ECB  
Nancy Lin - Office of Management & Budget  
Maria Marchiano, Esq. - Sr. Counsel/Assistant  
Commissioner, OATH  
Carol Moran, Esq. - Deputy Commissioner of Health and  
Consumer Hearings and Taxi, OATH  
Doris Stewart - Department of Transportation  
Peter Schulman, Esq. - Deputy Supervising Attorney,  
Appeals, ECB  
Amy Slifka, Esq. - Deputy Commissioner, ECB  
Thomas Southwick, Esq. - Supervising Attorney, Appeals,  
ECB  
Ari Wax, Esq. - Assist. Commissioner of Administrative  
Policy & Enforcement, DOB

August 27, 2015

## INDEX

	Page
Fidel F. Del Valle, Esq.	4
Renaldo Hylton	4
Lt. Dan Albano, Esq.	5
Elizabeth Knauer, Esq.	11
Helaine Balsam, Esq.	13
Jorge Martinez, Esq.	17
Russell Pecunies, Esq.	19
Kelly Corso, Esq.	22

1 August 27, 2015

2 (The Board Meeting commenced at 9:26

3 A.M.)

4 MR. FIDEL F. DEL VALLE, ESQ.,  
5 CHAIRPERSON, COMMISSIONER & CHIEF ADMINISTRATIVE  
6 LAW JUDGE, OATH: Good morning.

7 ALL: Good morning.

8 CHAIR DEL VALLE: This is a meeting of  
9 the Environmental Control Board and I'm calling  
10 it to order at this time. Is there a motion to  
11 adopt the minutes of the July 30th meeting? And  
12 no corrections I assume? So the minutes are  
13 adopted. The Buildings Department has got a  
14 pretty full agenda today. And I'll ask Renaldo  
15 Hylton to brief us.

16 MR. RENALDO HYLTON, EXECUTIVE DIRECTOR,  
17 DEPARTMENT OF BUILDINGS: Thank you. Good  
18 morning.

19 ALL: Good morning.

20 MR. HYLTON: The Department of Buildings  
21 has three different proposals today. And I'll  
22 just go over -- I'll start with the first to  
23 amend the penalty schedule with respect to  
24 mitigated penalties after default and correction,

1 August 27, 2015

2 certification of correction.

3 So, the Department of Buildings seeks to  
4 amend the ECB penalty schedule to allow reduction  
5 in its default penalty amount if and when a  
6 respondent files an acceptable certificate of  
7 correction with the Department. We believe, as  
8 you know, default penalties are calculated at  
9 five times standard defaults -- standard  
10 penalties. And so -- and with the strict default  
11 reopening rules, we believe that this would kind  
12 of empower respondents a little bit more to -- or  
13 encourage respondents a bit more to correct,  
14 leading to increased public safety in exchange  
15 for half that penalty. And that is the first  
16 request. Any questions?

17 LT. DAN ALBANO, ESQ., POLICE DEPARTMENT:  
18 How long after they've defaulted can they correct  
19 and have the penalty reduced? Is there a time  
20 period?

21 MR. HYLTON: Respondents can correct a  
22 violation at any time after its issued. So, after  
23 default they can correct. What's happening  
24 though, the defaulted -- the penalty section is

1 August 27, 2015

2 -- the penalty is being administered by ECB and  
3 corrections is being administered by Buildings.  
4 And so when a respondent defaults, they normally  
5 don't even -- to certify a correction, they don't  
6 have to go to ECB at all. They come to the  
7 Department of Buildings. What we're trying to do  
8 is to empower or give them an incentive to  
9 correct.

10 LT. ALBANO: Gotcha.

11 MR. HYLTON: And increase public safety  
12 awareness. Also help the City to correct -- to  
13 collect on a default debt.

14 LT. ALBANO: Okay.

15 CHAIR DEL VALLE: That question was for  
16 the record -- that question was from Lt. Albano.

17 LT. ALBANO: Thank you. Sorry.

18 CHAIR DEL VALLE: That's okay. Are there  
19 any other questions? Is there a motion to go  
20 forward with publication? It's unanimously  
21 approved with one abstention.

22 MR. HYLTON: One abstention. Thank you.  
23 My second proposal to the Board involves just  
24 some amendments to our penalty schedule, kind of

1 August 27, 2015

2 a clean-up of the penalty schedule. What we found  
3 -- that we found some duplicative charge, which  
4 we are asking to delete the charge of use of  
5 support scaffold without a user's certificate. We  
6 find that it's already captured in another  
7 charge. So, we're going to ask that that be  
8 deleted from our penalty schedule.

9 The second is the addition of our Class  
10 2, which is a major violation of BC 3314.4.5.8.  
11 Which really requires a worker on a supported  
12 scaffold or on a scaffold to show that they're  
13 qualified -- two things: by training and by  
14 carrying the card around. It's like a driver's  
15 license. So you have to go through a driver's ed  
16 class. That's one requirement. Then the next  
17 thing is to have your driver's license on you at  
18 all times. The same thing for those people who  
19 you see climbing on scaffolds and working on  
20 scaffolds. And this addition of a Class 2, it is  
21 a Class 1 offense if you don't have the training,  
22 right, unqualified. But we are allowing a Class  
23 2: if you have had the training but you don't  
24 meet the other requirement, which is you're

1 August 27, 2015

2 driving without a license kind of thing. You're  
3 working and not having that card on you. And so  
4 that's the second proposal that we're asking to  
5 add that Class 2 charge to that.

6 CHAIR DEL VALLE: Any questions?

7 MR. HYLTON: Third. Another one, we're  
8 asking to amend an infraction, which failed to  
9 provide pedestrian protection on sidewalks, to  
10 add the 2014 code section that was inadvertently  
11 left off when I did a couple months ago; we did a  
12 general amendment to the penalty schedule to add  
13 the 2014 code sections. On this particular  
14 infraction, we inadvertently left off the 2014  
15 code reference. We're also asking to amend a  
16 Class 1 infraction, B107, which talks about new  
17 buildings or open lots occupied without a valid  
18 certificate of occupancy. And as written  
19 currently, that particular section -- 118.2  
20 refers to buildings that were built in accordance  
21 with the 2008 code. That was an oversight. We  
22 oversee all other buildings. And so we're asking  
23 that the section be changed to 118.1, which would  
24 cover all buildings that are occupied without a

1 August 27, 2015

2 valid C of O.

3 And we are also asking to amend an  
4 infraction code for failing to obey a vacate  
5 order. We believe that -- we think that it could  
6 be interpreted that that section that we cited --  
7 207.4 may be interpreted as not being a Charging  
8 section. So we're amending to a 28-201.1, which  
9 is failure to obey the Commissioner's Order and  
10 just change the language a little bit to make it  
11 very clear to respondents that they're disobeying  
12 an Order of the Commissioner. Any questions?  
13 There is no changes to penalties at all. This is  
14 a clean-up.

15 CHAIR DEL VALLE: Is there a motion?

16 It's approved.

17 MR. HYLTON: The main reason why we're  
18 here today is, as you know, there's a recent  
19 outbreak of Legionnaire's Disease in the South  
20 Bronx. And the City has enacted a new local law  
21 in order to hold owners of buildings responsible  
22 for maintaining their cooling towers, their  
23 evaporating condensers and so on and fluid  
24 coolers. Whatever that means, ask a mechanical

1 August 27, 2015

2 engineer.

3 So effective August 18, 2015 the Mayor  
4 signed in law, Local Law 77, which basically  
5 amended the building code, the administrative  
6 section of the building code to require the  
7 registration of these towers; any time they're  
8 discontinued also, the inspection, testing and  
9 cleaning, disinfecting and maintenance of all  
10 cooling towers. In order to effectively enforce  
11 that, the Department proposes three infractions  
12 and associated penalties. Because of the severity  
13 however, and because of discussions with City  
14 Hall, we are just asking that the Board  
15 promulgate these rules with a finding of special  
16 need for early implementation. And Helaine will  
17 address that after.

18 So the first infraction would be for  
19 failure to register a cooling tower prior to  
20 operation. And we are asking for a \$2,000 penalty  
21 for that, with no opportunity to cure but the  
22 opportunity for mitigation. Which means that if  
23 they correct on time but prior to the hearing,  
24 they would be having a half a penalty.

1 August 27, 2015

2 And second is if respondent failed to  
3 notify of discontinued use or removal of the  
4 cooling tower, which required them to do some  
5 cleaning before they discontinue it. So it is a  
6 major violation. However, the penalty there is  
7 less -- it's much less. It's a \$800 penalty with  
8 a opportunity to cure and mitigate at hearing.

9 And finally the building owners are  
10 required by section 317.5 to file an annual  
11 certification of the cooling tower inspection,  
12 testing, cleaning, disinfecting and maintenance  
13 as per the health code. And if they don't do  
14 that, we're asking for a \$2,000 penalty with no  
15 opportunity to cure or mitigation. Any questions?

16 MS. ELIZABETH KNAUER, ESQ., CITIZEN

17 MEMBER: Elizabeth Knauer, citizen member. I had  
18 a question about the penalties in comparison to  
19 what the maximums are under the local law, in  
20 terms of the default penalties. If the local law  
21 says that the maximum civil penalty would be  
22 \$2,000 for a first violation. But we have -- but  
23 there's --

24 MR. HYLTON: The local law or the rule?

1 August 27, 2015

2 The local law just states that our maximum  
3 penalties are \$10,000 dollars.

4 MS. KNAUER: I'm sorry, the code  
5 provision.

6 MR. HYLTON: Okay. The code provision  
7 says that these are major violations of the code.  
8 And our major violations have a maximum penalty  
9 in chapter two of our code of \$10,000.

10 MS. KNAUER: But there's a provision in  
11 here and it's difficult for me to tell you which  
12 section it is. But it --

13 MR. HYLTON: Of the local law?

14 MS. KNAUER: The printout that we  
15 received on page five. And if you look, there's a  
16 section two, little i -- in the middle of that  
17 page. It says: Any owner of a building who  
18 violates any provision of this section or any of  
19 the rules promulgated thereunder shall be liable  
20 for a civil penalty of not more than \$2,000 for a  
21 first violation and not more than 5,000 for a  
22 second or subsequent violation.

23 MR. HYLTON: I think this local law,  
24 what you're reading is this local law amends both

1 August 27, 2015

2 the building code and the health code. And that  
3 part you're reading is amending the health code.  
4 Right?

5 MS. KNAUER: It seems to be the  
6 provisions relating to inspections and testing.

7 MS. MADELYNN LIGUORI, ESQ.,:No, it's  
8 under title 17.

9 MS. KNAUER: Okay.

10 MR. HYLTON: It's in both.

11 MS. KNAUER: Okay.

12 MR. HYLTON: It's in both, right. And  
13 health is --

14 MS. KNAUER: I see.

15 MR. HYLTON: Yeah, Health is a --  
16 they're doing their own recommended --

17 MS. KNAUER: So the building code  
18 provision is a general maximum?

19 MR. HYLTON: Right.

20 MS. KNAUER: Okay.

21 CHAIR DEL VALLE: We received a notice  
22 from City Hall for the expedited process.

23 MR. HYLTON: Well, did we -- did we ask  
24 for --

1 August 27, 2015

2 CHAIR DEL VALLE: We received one. I  
3 think you mentioned --

4 MR. HYLTON: Oh, we're asking that it be  
5 expedited because of our discussions with City  
6 Hall.

7 CHAIR DEL VALLE: The City Hall has to  
8 sign off on it.

9 MR. HYLTON: Okay. We'll bring that  
10 back.

11 CHAIR DEL VALLE: I think it requires a  
12 sign-off by the Mayor.

13 MR. HYLTON: Sure.

14 CHAIR DEL VALLE: I don't think we have  
15 a problem with it; but crossing our T's and  
16 dotting our I's.

17 MR. HYLTON: I understand.

18 CHAIR DEL VALLE: Any other questions?

19 MR. HYLTON: Thank you.

20 CHAIR DEL VALLE: Did we vote to  
21 publish? No. Alright, it's a follow up. But are  
22 we publishing -- yes? Is there a motion to  
23 publish? Okay.

24 MR. HYLTON: Abstain.

1 August 27, 2015

2 CHAIR DEL VALLE: The motion is  
3 approved.

4 MS. BALSAM: Good morning, Helaine  
5 Balsam, Deputy General Counsel for OATH. In  
6 relation to the last proposal from Renaldo Hylton  
7 of the Building Department, we did our best to  
8 push through once the Mayor signed the law; we  
9 actually drafted a proposed rule and sent it out  
10 to the Law Department and the Mayor's Office of  
11 Operations and not surprisingly got their  
12 approval very quickly. And although you haven't  
13 actually approved it yet, we published it; since  
14 it's a proposed rule.

15 So it was published in the -- the  
16 proposal was published in the City Record on  
17 August 21st and the public hearing is scheduled  
18 for September 21st. Since it's a proposed rule,  
19 you can still comment like anybody else and we  
20 can change it in any way that you feel is  
21 warranted. But we felt in terms of pushing things  
22 through and getting this done as soon as  
23 possible, that we should go ahead and do that.

24 CHAIR DEL VALLE: Subject to your

1 August 27, 2015

2 ratification.

3 MS. BALSAM: Right. So, we have the  
4 proposed rule. I don't know whether or not the  
5 copy that you have actually had the date and time  
6 of the hearing on it. The copy that was  
7 downloaded for me does not. But the date is  
8 September 21st and that was what published --  
9 what was published in the City Record.

10 So we have the three different charges  
11 that Renaldo just talked about. And just to  
12 address your question, Elizabeth; under the  
13 health code, the maximum penalty is \$2,000 for a  
14 first offense.

15 MS. KNAUER: Can I ask one more question  
16 about -- just about the actual implementation? So  
17 for the inspection and testing, I guess there are  
18 levels of contamination that the Health  
19 Department is going to set. How does that -- I  
20 mean, if this -- if the penalty schedule is  
21 finalized earlier than that happens, how does;  
22 there just won't be enforcement of the inspection  
23 or testing requirement until those -- until the  
24 levels are promulgated by the Health Department;

1 August 27, 2015

2 is that correct?

3 MR. JORGE MARTINEZ, ESQ., DEPARTMENT OF  
4 HEALTH AND MENTAL HYGIENE: There's a  
5 Commissioner's Order in place. So, the  
6 Commissioner Order basically advises people that  
7 they have to inspect their -- have their cooling  
8 towers inspected.

9 MS. KNAUER: Just inspect -- visually  
10 inspected?

11 MR. MARTINEZ: I believe so, yes.

12 MS. KNAUER: Okay. And then --

13 MR. MARTINEZ: But that's in place --  
14 that's in place now.

15 MS. KNAUER: And then once the levels,  
16 the thresholds are established, then the testing  
17 requirement will kick in.

18 MR. MARTINEZ: Right. And we're working  
19 on actual rules that we're going to promulgate  
20 that will override the Commissioner's Order and  
21 have a permanent rule in place covering that.

22 MS. BALSAM: That was Jorge Martinez,  
23 just for the record. It's Jorge Martinez from the  
24 Health Department. Yeah, and these -- if you look

1 August 27, 2015

2 at these sections, these sections really pertain  
3 to the registration or the de-registration if you  
4 want to say it. And then the certifications  
5 actually aren't due until November. So there's  
6 some time.

7 MS. KNAUER: Okay. By that time, the --

8 MS. BALSAM: Yeah.

9 MS. KNAUER: Okay.

10 MS. BALSAM: Any other questions?

11 CHAIR DEL VALLE: Excuse me. I'll ask  
12 the Board to ratify publication of the proposed  
13 rules for the hearing. And I so move. Any  
14 questions?

15 LT. ALBANO: No.

16 CHAIR DEL VALLE: All in favor? I think  
17 it's unanimous. In connection with that, because  
18 there's a provision in the Charter that we can't  
19 vote on the proposed rules until three days after  
20 the hearing; next month's hearing is I believe  
21 scheduled for the 24th. If we move next month's  
22 hearing to the 25th, we will be able to vote on  
23 the proposed rules.

24 MS. BALSAM: Final rule.

1 August 27, 2015

2 CHAIR DEL VALLE: Yes, the final rule is  
3 what I meant. Because the hearing is scheduled  
4 for the 21st. We need a three-day gap and to send  
5 out the reports and transcripts to the Board  
6 members. So, I would like to move that next  
7 month's meeting back one day for that purpose, in  
8 order to expedite this whole process. Doing so  
9 will basically knock off two or three months out  
10 of the process normally it takes to do a  
11 rulemaking and everything will be set to go in  
12 November when the rest of the mechanics involving  
13 these cooling towers will be in place.

14 MR. RUSSELL PECUNIES, ESQ., DEPARTMENT  
15 OF ENVIRONMENTAL PROTECTION: So the meeting  
16 would be moved from Thursday to Friday?

17 CHAIR DEL VALLE: Yeah. I hope that  
18 doesn't ruin anybody's Fridays. And we'll be  
19 sending out a notice to that effect, unless  
20 anybody's got a particular problem with that. Oh,  
21 you got -- you're planning your vacation? Oh,  
22 sorry about that. You can send the Commissioner.  
23 I mean, he can come over. Is there anything else  
24 on that?

1 August 27, 2015

2 MS. BALSAM: No.

3 CHAIR DEL VALLE: Okay. I will refrain  
4 from saying that's cool. DEP has some requests.

5 MR. PECUNIES: Yep. Okay, good morning.  
6 Russell Pecunies, Assistant Counsel with  
7 Department of Environmental Protection. This  
8 month, DEP is requesting that the Board approve a  
9 cease and desist order under the noise control  
10 code. The respondent is T.D. Bank and the  
11 location is 1470 Second Avenue in Manhattan. The  
12 air conditioner at this location has been cited  
13 for being too loud on four occasions; most  
14 recently just a couple of weeks ago on August  
15 14th. Due to the repeated violations and  
16 continuing failure of the respondent to bring the  
17 equipment into compliance, the Department is  
18 requesting that the Board issue an order to cease  
19 and desist.

20 CHAIR DEL VALLE: Any questions? Motion?  
21 Approved with one abstention.

22 MR. PECUNIES: Yeah, thank you. The  
23 second matter is from the Bureau of Waste Water  
24 Treatment. The respondent here is PGB 38 LLC.

1 August 27, 2015

2 This is a restaurant located at 1572 Second  
3 Avenue. The restaurant has been repeatedly issued  
4 with Commissioner's Orders and notices of  
5 violation for failing to install the proper  
6 grease interceptor equipment. Based on the  
7 establishment's continuing failure to comply with  
8 those orders and with the notices of violation,  
9 DEP is requesting that the Board issue an order  
10 to cease and desist.

11 CHAIR DEL VALLE: Motion? Approved with  
12 one abstention.

13 MR. PECUNIES: And finally, DEP has 28  
14 requests for cease and desist orders to building  
15 owners who have failed to comply with  
16 Commissioner's Orders to install backflow  
17 prevention devices. In each of these cases, an  
18 NOV has been issued for failing to comply with  
19 the Order. And in each of these cases, respondent  
20 has been adjudicated in violation and is still  
21 not in compliance with the requirement. So based  
22 on that in each of these 28 cases, DEP is asking  
23 the Board to issue an order to cease and desist.

24 CHAIR DEL VALLE: Motion? Unanimously

1 August 27, 2015

2 approved.

3 MR. PECUNIES: Yes, thank you.

4 CHAIR DEL VALLE: Thank you. With one  
5 abstention. Kelly Corso?

6 MS. KELLY CORSO, ESQ., ASSISTANT  
7 DIRECTOR OF ADJUDICATIONS, ECB: Good morning.  
8 Kelly Corso, Assistant Director for Adjudications  
9 for ECB. We have 11 pre-sealing reports for  
10 today's Board; seven of them pertain to backflow  
11 violations, three pertain to air code violations  
12 and one pertains to a sewer code violation. In  
13 all of the cases, the hearing officers recommend  
14 that the C&D's either be discontinued or that no  
15 further action be required because of the  
16 establishment of compliance by the respondents at  
17 the hearings. Short and sweet today.

18 CHAIR DEL VALLE: Is there a motion?  
19 Unanimously approved. Thank you. Is there a  
20 motion to retire to Executive Session? Approved.  
21 We will now retire to Executive Session.

22 [OFF THE RECORD]

23 [ON THE RECORD]

24 CHAIR DEL VALLE: We're back on. Is

1 August 27, 2015

2 there a motion to affirm the appeals decisions?

3 It's unanimous and see you on the 25th.

4 MS. BALSAM: The ECB rules just --

5 CHAIR DEL VALLE: ECB rules -- where did  
6 we miss that?

7 MS. BALSAM: It's not in there.

8 CHAIR DEL VALLE: Oh.

9 MS. BALSAM: So, we -- the Commissioner  
10 had talked before about amending some ECB  
11 procedural rules to bring the Environmental  
12 Control Board in the Hearings Division. So that  
13 project is proceeding and we should have a  
14 presentation for you next month. So, there's been  
15 a lot of cutting and pasting. So, I just wanted  
16 to give you a heads up.

17 CHAIR DEL VALLE: Yeah, this is a little  
18 in-house housekeeping. In the next couple of  
19 months, there will be an announcement, a very  
20 public announcement about a major reorganization  
21 of the Office of Administrative Trials and  
22 Hearings in the City of New York. And the  
23 mechanics involve essentially having to do with  
24 hearings that are a result of summonses being

1 August 27, 2015

2 issued, as opposed to Trials Division stuff.

3 There will be a lot of consolidation.

4 Essentially what it distills down to is  
5 this. Over the last 30, 40 years there have been  
6 a lot of piecemeal changes in various tribunals  
7 in the City. And there's a lot of legacy flotsam  
8 attached with that stuff. Some of it is arcane.  
9 Some of it is stuff that just doesn't make sense  
10 anymore. I mean, it's kind of like having to  
11 serve notice by carrier pigeon kind of thing. We  
12 don't have carrier pigeons anymore. PETA made  
13 sure of that.

14 So it's a major effort. It's going to be  
15 essentially a two-year effort to bring the  
16 process into the early 20th century. And maybe  
17 the next step will be to bring it into the 21st  
18 century. It sounds kind of silly but just as an  
19 example, we're dealing with some computer systems  
20 from the 1980's before there was the worldwide  
21 web. The telephone in my office is a zillion  
22 times more sophisticated than some of the stuff  
23 that is done on paper right now.

24 So it's a lot of streamlining. A lot of

1 August 27, 2015

2 bringing things into line with the essential  
3 philosophy of the adjudicatory process has to be  
4 impartial, unbiased, neutral. And in my seven or  
5 eight months here so far, I have seen  
6 particularly on that level that there is a  
7 dramatic dissonance between the perception of the  
8 people who work at the tribunals and the public  
9 -- the perception of the tribunals.

10 This is an effort to bring those two  
11 things into sync; that is that it is mutual, that  
12 it is fair and impartial. I have no doubt that it  
13 is. But that is clearly not the public  
14 perception. And most attorneys will tell you that  
15 the perception of something being broken or  
16 improper or inappropriate is just as mortal a sin  
17 as actually it being broken. And we intend to  
18 deal with that. So that's what that's all about  
19 basically.

20 MR. MARTINEZ: Jorge Martinez,  
21 Department of Health again. These new changes,  
22 are they -- do you think they will affect how we  
23 function here, the Board functions or how the  
24 appeals process functions? Can you give us a

1 August 27, 2015

2 heads up in any kind of way?

3 CHAIR DEL VALLE: Not right away.

4 Perhaps down the road. I'm talking about years  
5 down the road. There's mechanical procedures that  
6 tie for example the Health Department and the  
7 Buildings Department, particularly into a very  
8 arcane dance to get something done. And that's  
9 something that will be addressed further down the  
10 line. But that requires legislation for a lot of  
11 it. Because a lot of it is embedded in the  
12 Charter or the Ad code.

13 It's in fact in some cases, as we found  
14 out recently with changing the venue of cases  
15 going to Consumer Affairs to OATH, which will  
16 happen sometime in September; we, much to  
17 everybody's surprise, we had to deal with some  
18 State laws regarding tobacco sales and how to  
19 deal with that. Because whomever wrote the State  
20 law back in whenever the heck they wrote it,  
21 didn't conceive of the hearing process being what  
22 it is.

23 Part of the legacy stuff we're dealing  
24 with is when a lot of this stuff was conceived,

1 August 27, 2015

2 the volume of hearings was nothing approaching to  
3 what it is now. When this Board was conceived in  
4 1967 -- it was created in '71 but it was  
5 conceived in 1967; they were talking about we  
6 would be sitting around here having the  
7 respondents come in front of us and having the  
8 hearings on the summonses issued, which was nuts  
9 because we do 700,000 summonses a year. And  
10 that's why we have hearing officers and all that  
11 today.

12 So it's taking care of a lot of that  
13 arcane stuff. The only thing we don't have right  
14 now that we have to take care of that the hearing  
15 officers have to wear powdered wigs. But I kind  
16 of like the idea the older I get. But that's a  
17 different problem.

18 MR. HYLTON: Commissioner, do you  
19 foresee any changes to the -- what do you call  
20 it, you know, the Charter?

21 CHAIR DEL VALLE: There might be changes  
22 to the Charter but that's at a pay grade above  
23 any of us here.

24 MR. HYLTON: Would any of that require

1 August 27, 2015

2 changes; would any of those changes be required  
3 before some of those changes that you talked  
4 about in the case --

5 CHAIR DEL VALLE: No, no. I mean, we are  
6 gauging our changes according to what we can do  
7 now and what would have to be done later. A lot  
8 of the changes that are coming down the line are  
9 tied to IT capability, computer programming  
10 capability.

11 OATH has four computer systems that  
12 don't talk to each other very well. At the end of  
13 the exercise, we're going to have one. It  
14 interfaces with 12 different computer systems  
15 from other agencies. Some of them are very  
16 modern, very new. And some of them are ancient.  
17 Part of the process will involve streamlining all  
18 of that. We're going to be spending close to \$3  
19 million just on upgrading the computer systems  
20 and bringing them into line to one system just in  
21 OATH itself.

22 MR. HYLTON: Alright.

23 LT. ALBANO: It'll be a big help.

24 CHAIR DEL VALLE: Hopefully, we will

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

August 27, 2015

complete this before the oldest stuff becomes  
obsolete and somebody has to do it all over  
again. Next. Any other questions?

MR. HYLTON: Thank you.

CHAIR DEL VALLE: I mean, I'll have more  
for you -- hopefully, we'll have more information  
for you at the next meeting on this stuff. Is  
there a motion to adjourn? We are adjourned.

MR. PECUNIES: Alright.

(The Board Meeting concluded at 10:00  
A.M.)

1  
2  
3  
4  
5

August 27, 2015

August 27, 2015

CERTIFICATE OF ACCURACY

I, Lea Simmons, certify that the foregoing transcript of Environmental Control Board on August 27, 2015 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

A handwritten signature in black ink, appearing to read "Lea Simmons", written over a horizontal line.

Date: August 28, 2015

GENEVAWORLDWIDE, INC

256 West 38th Street - 10th Floor

New York, NY 10018