

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

HEARING
BOARD MEETING

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

July 31, 2014

9:20 A.M. to 10:20 A.M.

July 31, 2014

MEMBERS PRESENT:

Lt. Dan Albano, Esq. - Police Department
Suzanne Beddoe, Esq. - Chair, OATH
Hon. Ernest J. Cavallo - Citizen Member
Renaldo Hylton - Exec. Dir., Dept. of Buildings
Elizabeth Knauer, Esq. - Citizen Member
Tayo Kurzman, Esq. - Fire Department
Emily Lally - Citizen Member
Madelynn Liguori, Esq. - Dept. of Sanitation
Russell Pecunies, Esq. - Dept. of Environmental Protection
Douglas Swann - Citizen Member

ALSO PRESENT:

Zoe Atlas - Intern, OATH
Helaine Balsam, Esq. - Deputy General Counsel, OATH
Denis Brogan - Assistant General Counsel, OATH
Brandon Chiazza - Office of Budget and Management
Arisleyda Fernandez - Facilities Assist. OATH/ECB
Fana Garrick - Public Affairs Assistant, OATH/ECB
David Goldin, Esq. - Administrative Justice Coordinator
Jalie Zhao Hu - Office of Budget and Management
Kyoung Jung - Intern, OATH
Mark H. Leeds, Esq. - Special Counsel, ECB
Jim Macron, Esq. - Counsel to the Board, ECB
Teresita O'Neill - Assist. Director of Public Data
Peter Schulman, Esq. - Deputy Supervising Attorney,
Appeals, ECB
Marisa Senigo - Assistant Commissioner for Public Affairs
& Communications
Amy Slifka, Esq. - Deputy Commissioner/Executive Director,
ECB
Thomas Southwick, Esq. - Supervising Attorney, Appeals,
ECB
Ron Su - Intern, ECB
Eftyhia Xidias, Esq. - Hearing Officer, ECB

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2 (The public hearing commenced at 9:20
3 A.M.)

4 MS. SUZANNE BEDDOE, ESQ., CHAIRPERSON,
5 COMMISSIONER & CHIEF ADMINISTRATIVE LAW JUDGE,
6 OATH: Okay everyone, I think we are ready to get
7 started with our meeting. First of all, I want to
8 thank everyone for, particularly our public
9 members. I know during the summer it's always
10 challenging to make meetings. But in any event,
11 let us get started. We have a quorum. Is there a
12 motion to adopt the minutes from our last meeting
13 of June 26th? Okay.

14 So we are going to start our meeting
15 today with a presentation by Amy Slifka, the
16 Executive Director of ECB. And she is going to
17 bring us up to speed on all that's been happening
18 at that tribunal. You should know that we have
19 just come to an end of our fiscal year. The
20 City's fiscal year runs from July 1st to June
21 30th. So, Amy will be giving us an overview in
22 terms of the comparison from fiscal year to
23 fiscal year. So, Amy, I'll turn it over to you.
24 Is there --

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2 MS. TAYO KURZMAN, ESQ., FIRE DEPARTMENT:
3 Could we shut this light here? Because there's a
4 really bad glare.

5 MS. BEDDOE: How's that? Can you --

6 MR. THOMAS SOUTHWICK, ESQ., SUPERVISING
7 ATTORNEY, APPEALS, ECB: That's good.

8 MS. BEDDOE: Amy, can you see if you --

9 MS. AMY SLIFKA, ESQ., DEPUTY
10 COMMISSIONER/EXECUTIVE DIRECTOR, ECB: I can see.

11 MS. BEDDOE: Okay. Fair enough.

12 MS. SLIFKA: Yeah, that's good. Thank
13 you.

14 MS. BEDDOE: Okay.

15 MS. KURZMAN: Thank you.

16 MS. SLIFKA: There we go, okay.

17 MS. BEDDOE: Can we, can we, could we
18 turn one row of lights on? It seems like we
19 turned off all the lights in the room. I don't
20 think we need to do that. No?

21 MR. SOUTHWICK: It's one switch.

22 MS. BEDDOE: No? It's all or none?

23 MS. SLIFKA: Yeah.

24 MS. BEDDOE: Okay, then none.

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2 MS. SLIFKA: Okay. As the Commissioner
3 explained, this is a, a comparison of the number
4 of violations issued and the number of violations
5 heard; the number of violations and the number of
6 decisions rendered basically. So, we'll get
7 started.

8 Okay. So, violations received by ECB,
9 the [unintelligible][00:05:25] 2014. So, for the
10 Department of Sanitation, we see a 43 percent
11 increase in violations received. For the
12 Department of Buildings, we see a two percent
13 increase from 11,391 to 11,581. For the
14 Department of Transportation, a ten percent
15 increase. FDNY, a nine percent increase.
16 Department of Environmental Protection, a 17
17 percent increase. And Department of Health and
18 Mental Hygiene, a 62 percent increase. For the
19 Department --

20 MS. BEDDOE: Amy, just to clarify.

21 MS. SLIFKA: Sure.

22 MS. BEDDOE: The increase is from third
23 quarter to fourth quarter?

24 MS. SLIFKA: Yes. Third quarter -- this

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2 is a third quarter to fourth quarter comparison,
3 correct.

4 MS. BEDDOE: Mm-hmm.

5 MS. SLIFKA: Department of Parks and
6 Recreation is an 84 percent increase. That
7 probably is due to the summer months. New York
8 Police Department is a 14 percent increase.
9 Department of Information and Technology and
10 Telecommunications is a decrease of 24 percent.
11 The Business Integrity Commission is a 325
12 percent increase but it's from eight to 34. And
13 the Landmarks Preservation Commission is a 49
14 percent decrease from 61 to 31. Okay.

15 Alright. And the violations received,
16 comparing fiscal year 2013 to fiscal year 2014.
17 For the Department of Sanitation, it's
18 interesting; it's a 31 percent increase. For the
19 Fire Department, it's a six percent increase. For
20 the Department of Buildings, also a six percent
21 increase. For Department of Transportation, 24
22 percent. For Department of Health and Mental
23 Hygiene, four percent. NYPD was three percent.
24 DEP, six percent. Department of Parks and

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2 Recreation, it's negligible; so it's like zero.
3 DoITT is a decrease of 24 percent. Landmarks is a
4 decrease of 39 percent. And BIC is a decrease of
5 41 from 142 to 84. And the miscellaneous agency
6 codes missing is an increase of 56 percent. Any
7 questions? Good.

8 Total violations heard. Then this is
9 comparing fiscal year 2013 with fiscal year 2014.
10 Department of Sanitation is down approximately 25
11 percent. Department of Buildings is down about
12 one percent. FDNY is up 36 percent. Department of
13 Health and Mental Hygiene is up eight percent.
14 DEP is up 16 percent. NYPD is down three percent.
15 How come Dan's not here? DOT is down two percent.
16 DoITT is up about 65 percent. Department of Parks
17 and Recreation is down two percent. Landmarks is
18 down 46 percent. BIC is down 49 percent.

19 And decisions rendered. You'll see
20 decision rendered is down with Sanitation five
21 percent. Department of Buildings is down about
22 five percent. FDNY is up 35 percent. Department
23 of Health and Mental Hygiene is up eight percent.
24 NYPD is down two percent. But DEP is up nine

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2 percent. DOT is down four percent. Department of
3 Parks and Recreation is down 19 percent. DoITT is
4 up about 20 percent. But Landmarks is down 14
5 percent. BIC is down 42 percent.

6 MS. BEDDOE: And Amy, just for people
7 who are unfamiliar with some of these. Can you
8 explain why the decision rendered numbers differ
9 from the hearing numbers?

10 MS. SLIFKA: Right. Well, when we count
11 hearings, we also count adjournments. So, an
12 adjournment is not counted as a decision. A
13 decision is in violation or dismissed. So that's
14 why the numbers, it's never going to be a one to
15 one match. Okay? Also, for decisions we also do
16 master decisions. So that -- well, that'll count
17 [unintelligible][00:09:29] one decision. So,
18 actually I think I'm wrong about that. I'm sorry.
19 Take that part away.

20 MS. BEDDOE: Okay.

21 MS. SLIFKA: So, it has to do with the
22 adjournments and such for the hearings. Okay. The
23 hearing to decision rate. You'll see that where
24 in less than ten days; we get 90 percent of our

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2 decisions are completed in less than ten days.
3 And 99 percent of our decisions are completed
4 between 11 to 20 days; so, as you can see from
5 the numbers. Okay?

6 Okay. Decisions rendered after hearings.
7 This is giving you the comparison of in
8 violations and dismissals. So you can see for
9 fiscal year '13, approximately 56.6 percent of
10 our decisions were in violation; 42.3 were
11 dismissed. For fiscal year '14, pretty close;
12 56.1 were in violation and 42.9 were dismissed.

13 MS. BEDDOE: Wow.

14 MS. SLIFKA: Okay. For the Department of
15 Sanitation, 61 percent is dismissed; 39 percent
16 is in violation. For Buildings Department, 88
17 percent is in violation; ten percent is
18 dismissed. For DOB, 75 percent in violation; 25
19 percent dismissed. And then for DEP, 71 percent
20 in violations; 17 percent dismissed. Department
21 of Transportation, 66 percent in violation; 34
22 percent dismissed. NYPD, 54 percent dismissed; 46
23 percent in violation. Questions?

24 MS. KURZMAN: Sorry, just a correction.

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2 You said buildings was 88 percent in violation.

3 MS. SLIFKA: Well, no, no. I said Fire
4 was 88 percent in violation.

5 MS. BEDDOE: Oh, I'm sorry. I heard you
6 say Buildings too. So, I was likely --

7 MS. SLIFKA: Oh, I'm sorry. Oh, I'm
8 sorry. And DOB is 75 percent.

9 MR. RENALDO HYLTON, EXECUTIVE DIRECTOR,
10 DEPARTMENT OF BUILDINGS: We'll take those
11 numbers.

12 MS. SLIFKA: I thought I said -- in my
13 head, it, it sounded like it was.

14 MS. KURZMAN: They're trying to steal
15 our numbers.

16 MS. SLIFKA: I know. I know. Oh, either
17 way, you're both high. So, and I think that has
18 to do with your presence at the hearings. Health
19 is 50/50; 50 percent dismissed, 50 percent in
20 violation. Department of Parks, 57 percent in
21 violation; 43 percent dismissed. Landmarks, 70
22 percent in violation, 30 percent dismissed. And
23 DoITT, 58 percent in violation, 42 percent
24 dismissed. Okay.

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2 And the most commonly issued violations
3 by agency for the second quarter of 2014. For
4 DoITT -- for DOT, Department of Transportation,
5 it was failure to obtain a confirmed number of
6 protect-, fairly to comply with the terms and
7 conditions of the permit and open in the street
8 without a permit.

9 MS. BEDDOE: Amy, just let me just back
10 up for a second.

11 MS. SLIFKA: Sure.

12 MS. BEDDOE: Since we switched
13 timeframes, let's just explain to folks why we
14 moved from fiscal year to calendar year in
15 looking at the most frequently issued violations.

16 MS. SLIFKA: So, back here we're looking
17 at fiscal year 2013, fiscal year 2014. For the
18 comparisons per agency, we've done this each
19 year; reports we look at quarter by quarter. And
20 we have the overall on the prior page. So, this
21 is just something we've always been reporting
22 from --

23 MS. BEDDOE: No, I, I, what I'm getting
24 at is; let me just jump in and explain. You get

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2 seasonal issuance during the course of a year. So
3 what we do is because you don't want to compare
4 snow removal to, you know, the increase in the
5 Parks Department, you know, if people are using
6 the parks more frequently. So what we chose to do
7 with some of these statistics is look at it by
8 calendar year because you get seasonal types of
9 tickets. So that's just what I was getting here.
10 Okay?

11 MS. SLIFKA: Oh, okay.

12 MS. BEDDOE: Okay?

13 MS. SLIFKA: Very good. Okay. For NYPD,
14 your most common tickets are vending in a bus
15 stop, failure to display a license and items not
16 in or under the cart. For DOB, Department of
17 Buildings, it's failure to maintain building in
18 code compliant manner. It's work without a
19 permit. And it's failure to maintain building in
20 a code compliant manner your service equipment.
21 And for sanitation, it's dirty area, storage of
22 receptacles and dirty sidewalk, dirty area.

23 For DEP it's failure to submit your
24 annual test report for your backflow preventer.

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2 It's failure to install a backflow preventer. And
3 it's operating without renewing or other expired
4 operating certificate. For Fire, it's inspection
5 and testing. And then it's the fail to prevent
6 unnecessary, unwarranted alarms. And it's posting
7 of permits of records.

8 For Health, it's failure to eliminate
9 rodent infestation by active rodent signs first.
10 And then it's failure to eliminate conditions
11 conducive to rodent debris. And it's failure to
12 eliminate conditions conducive to pests. For
13 Landmarks, it's work without a permit. Just for
14 different things; one is flags, sign or banner.
15 One is work without a permit and not having your
16 appropriate approval certificates. And the other
17 was basically the same thing. They're just
18 different codes.

19 For DoITT, it's failure to provide work
20 -- working public pay telephones; failure to
21 clean and maintain your public pay telephone and
22 install, operate and maintain public pay
23 telephones without a permit. And who still uses
24 the public pay telephones? For Parks, you do. But

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2 it's unauthorized vending; failure to comply with
3 directions; unauthorized consumption of alcoholic
4 beverage. And for BIC, it's idling of motor
5 vehicles and failure to obtain identification
6 cards and failure to register your market
7 business. Okay.

8 The appeals comparison for the second
9 quarter of 2014. Well, it's not a comparison.
10 It's the appeals numbers. For Sanitation, we have
11 594. DOB, 266. FDNY, 83. DEP, 48. DOHMH, 35. DOT,
12 32. NYPD, 24. And Parks, 13.

13 MR. RENALDO HYLTON, EXECUTIVE DIRECTOR,
14 DEPARTMENT OF BUILDINGS: And that's, sorry, Amy
15 -- Renaldo from DOB. Those numbers are everything
16 inclusive of what the agency appealed and first;
17 then also what comes in from --

18 MS. SLIFKA: Yes, that's correct.

19 MS. BEDDOE: Yes, so it's respondent and
20 agency combined.

21 MS. SLIFKA: It's respondent and agency.

22 MR. HYLTON: Right.

23 MS. SLIFKA: Exactly. Total number of
24 defaults: 75,421. That's April, May and June

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2 2014. So, and then for the number of defaults
3 second quarter's calendar year 2014. For DSNY
4 it's 54,564, which is about 72 percent of its
5 issuance. DOT is 6,057; very low, 8.3. And Fire
6 Department, 4,309; 5.71 percent. And that's it.
7 Okay.

8 MS. BEDDOE: Great, thank you.

9 MS. SLIFKA: Any questions? Okay, thank
10 you.

11 MS. BEDDOE: Thank you, Amy. Okay, thank
12 you. Any questions for Amy on the quarterly
13 presentation? Any other questions? Okay. Let's
14 move on. We are going to hear from I believe Mr.
15 Su? Ron Su, who is going to talk to us about the
16 asbestos and air code penalty schedules in our
17 proposed rule.

18 MR. RON SU, LEGAL INTERN, OATH: Hello.
19 My name is Ron Su. I'm a legal intern here at
20 OATH this summer. Today I will be presenting the
21 ECB proposals to amend the air asbestos and air
22 code penalty schedules. These were also brought
23 up in the last board meeting. And it should also
24 be noted that it's already been approved by the

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2 both the Law Department and the Mayor's Office.

3 And now I'll just give a quick run-
4 through of the proposals. So, first we have the
5 requested changes to the air asbestos penalty
6 schedule. From here we have the administrative
7 code section 24-1002C. And this amendment
8 requires the DEP to establish a program to
9 provide for the registration of practicing master
10 environmental hazard remediation technicians. It
11 also makes it unlawful to identify oneself as a
12 master hazard remediation technician without
13 being registered by the DEP.

14 Next we have 15RCNY1-91N. And this
15 section requires contractors to carefully install
16 ducting for negative pressure units. And next we
17 have the requested changes to the air code
18 penalty schedule. This includes 15RCNY12-18A,B,C
19 and D. And 15RCNY12-18 essentially provides for
20 the posting of notices by dry cleaning
21 facilities. And the notices address the use of
22 chemicals in the dry cleaning process.

23 And then we have 15RCNY2-09 and
24 15RCNY40-02B. And first off, section 2-09 states

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2 that boilers requiring a certificate of operation
3 undergo an annual tune-up and combustion
4 efficiency test.

5 And next we have -- I'm trying to find
6 it. Oh, here, sorry. Section 40-02(d), which
7 requires the owner or operator of an emergency
8 generator to maintain records documenting the
9 generator's hours of operation and provide these
10 records to DEP upon request. And finally we have
11 administrative code section 24-168.1. And this
12 one prohibits the use or delivery of heating oil
13 that contains less than two percent biodiesel by
14 volume. Are there any questions?

15 MS. BEDDOE: Any questions? Okay. Is
16 there a motion to approve? Yes?

17 MS. ELIZABETH KNAUER, CITIZEN MEMBER:
18 Can we --

19 MS. BEDDOE: Yes?

20 MS. KNAUER: -- vote in this all at
21 once? Because I think we can tackle them -- I'm
22 sorry, it's Elizabeth Knauer, Citizen Member. But
23 looking back at the minutes from last time, there
24 were dif-, some people voted differently with

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2 respect to different provisions.

3 MS. BEDDOE: Okay. So, we've gotten the
4 revised provisions, right?

5 MS. BALSAM: Well, it's what -- we
6 presented it as one rule.

7 MS. KNAUER: Okay. Oh, it is? It's just
8 all one rule?

9 MS. BALSAM: It's all in one rule.

10 MS. BEDDOE: Mm-hmm.

11 MS. KNAUER: Okay. But I think when we
12 voted on it last time, they were all separate.
13 Okay.

14 MS. BEDDOE: Okay. Does that answer your
15 question, Elizabeth?

16 MS. KNAUER: So, we're voting it all as
17 one?

18 MS. BEDDOE: Yeah, we're voting on it as
19 a --

20 MR. ERNEST J. CAVALLO, CITIZEN MEMBER:
21 It's either all or none?

22 MS. BEDDOE: Yes?

23 MS. BALSAM: Yeah.

24 MS. BEDDOE: Okay. So let's take the

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2 vote again. All in favor? Anyone against? Any
3 abstentions? One, Emily. Mm-hmm. Okay, thank you.
4 And next we're going to hear from Russ Pecunies,
5 DEP, about requests for cease and desist orders.

6 MR. RUSSELL PECUNIES, ESQ., DEPARTMENT
7 OF ENVIRONMENTAL PROTECTION: Okay. Okay, good
8 morning. This month DEP has two requests for
9 cease and desist orders under the noise code. The
10 first one is for Baca Fall LLC or Bukefal LLC,
11 which does business as Cibo e Vino, 2418 Broadway
12 in Manhattan. This is a restaurant. They have
13 been cited on four occasions since November of
14 last year for noise from the exhaust fan. And
15 based on the continuing failure to correct this
16 violation, DEP is asking the board to issue an
17 order to cease and desist. Should I do the other
18 noise one first, or, yeah, as well?

19 MS. BEDDOE: Yeah, let's do them
20 together.

21 MR. PECUNIES: The other one is for
22 respondent, Norman Chew, at 4903 Seventh Avenue
23 in Brooklyn. This is for noise from the kitchen
24 exhaust. Norman Chu is the owner of the premises.

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2 He's not the owner of the restaurant because the
3 restaurant has changed repeatedly. And we have
4 also issued violations to the, I think three
5 restaurants that have been there over the last
6 period of time since we've been getting
7 complaints about this location. But the cease and
8 desist order we're asking for is against the
9 owner because he has been the owner for the whole
10 period of time. And he has been cited for causing
11 or permitting this noise to continue. So, we're
12 asking for a cease and desist order on that one
13 for noise from the kitchen exhaust.

14 MS. BEDDOE: Okay. Any questions on
15 either of these two noise requests? No? Okay.
16 Russ, do you want to go on?

17 MR. PECUNIES: Do you want to vote on
18 those? Or then go to the --

19 MS. BEDDOE: Let's go ahead with the
20 others.

21 MR. PECUNIES: Go there? Okay. We have
22 nine requests for cease and desist orders for
23 failing to renew certificates of operation. These
24 are all for boilers that are currently, that

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2 currently have expired certificates for number
3 six oil. We did not have nearly as many of these
4 I think last month. I indicated that we were
5 going to have maybe 20 to 25 of these a month
6 regularly. But we, as we've been going through
7 these cases, we've been finding a lot of
8 ownership changes, a lot of managing agent
9 changes, a lot of people who have complied by
10 getting Buildings Department permits and doing
11 the conversion without renewing the DEP
12 certificates.

13 So since we know that those people have
14 converted, we're pursuing those people by other
15 means to get them to renew the certificate. But
16 we're not asking the board for cease and desist
17 orders because we know they've converted. And so
18 we won't seal a boiler that we know is in
19 compliance. So, a large number of them that we
20 looked at for this month actually washed out for
21 various reasons. So we only have nine of these
22 this month.

23 MS. BEDDOE: Okay.

24 MR. PECUNIES: And then for backflow --

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2 MS. BEDDOE: Well, let me just ask if
3 there are any questions on any of these boiler
4 C&D requests? This is the one starting I guess
5 with Prestige Management, the packet in your --
6 anyone? No? Okay.

7 MR. PECUNIES: Okay?

8 MS. BEDDOE: Mm-hmm.

9 MR. PECUNIES: And for the backflow, we
10 have normally 27 -- 28 requests for cease and
11 desist orders. Helaine pointed out before the
12 meeting that there were some inconsistencies in
13 the various addresses involved with one of them,
14 as far as where the order was sent, where the
15 violation was sent and the mailing address that
16 was indicated on the request for the order. That
17 one was for -- I actually left it over by where
18 I'm sitting. Yeah. Yeah, that's it. So, we're
19 going to, we're going to pull back the one for
20 228-14 West 36th Street in Brooklyn. The
21 respondent is Ali N. Twaiti; to verify what the
22 correct addresses are. And so we have 27 requests
23 for cease and desist orders for backflow this
24 month.

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2 MS. BEDDOE: Okay. So let's vote on
3 these various bundles. First of all, anyone --
4 all approving the two requests for the noise
5 violations? Anyone against? And Russ, you abstain
6 I assume?

7 MR. PECUNIES: Okay.

8 MS. BEDDOE: Okay.

9 MR. PECUNIES: Alright.

10 MS. BEDDOE: Let's take a vote on the
11 nine cease and desist requests for the failure to
12 renew the certificates for the boilers. Everyone
13 in favor? Anyone against? Any abstentions? One,
14 Elizabeth. And we had, as Russ indicated, 28
15 requests for the backflow prevention devices. We
16 are pulling back the one relating to 28-14 West
17 36th Street in Brooklyn. So with respect to the
18 remaining 27, is there a motion to approve?
19 Anyone against? And one abstention.

20 MR. PECUNIES: I mean, and I abstain on
21 all of them.

22 MS. BEDDOE: Okay, thank you.

23 MR. PECUNIES: Okay, thank you.

24 MS. BEDDOE: I, I just want to say I

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2 actually appreciate that extra review in terms of
3 the addresses to ensure that we get it all
4 consistent. So, thank you for catching that,
5 Helaine. Now we're doing the presealing reports.
6 And we are going to hear from Effie Xidias.
7 Effie, did I say your last name correctly?

8 MS. EFTYHIA XIDIAS, ESQ., HEARING
9 OFFICER, ECB: You did.

10 MS. BEDDOE: Okay, good. Thank you.

11 MS. XIDIAS: Okay. Good morning. And
12 today we have 32 presealing reports for the
13 board; all of which were issued after hearings.
14 Seventeen of the presealing reports recommended
15 C&D actions be discontinued as requested by DEP,
16 given respondent's compliance or the fact that
17 the named respondents no longer owned the cited
18 property. Likewise, 11 of the presealing reports
19 recommend that there be no sealing, given
20 respondent's compliance and are therefore
21 unremarkable.

22 However, I would like to bring the
23 board's attention to presealing reports issued
24 for air and noise C&Ds. In C&D order 2014A, the

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2 predicate NOV was issued to Radio Shack for noise
3 coming from its air conditioner on October 15,
4 2012. A C&D was approved by the board in January
5 2014, following respondent's default and the
6 issuance of two subsequent NOVs.

7 At the presealing hearing held on July
8 4th, respondent's representative testified that
9 the problem had been corrected and insulation to
10 the underside of the unit had been installed and
11 provided proof of purchase and installation.
12 Therefore, based upon the foregoing, the ALJ
13 recommended that the premises remain unsealed
14 pending reinspection by DEP and further
15 reinspection confirming no violation.

16 In C&D order 2014H, the predicate NOV
17 was issued to Orsid Realty Corp for failure to
18 obtain a valid operating certificate for its
19 boiler/burner on September 12, 2013. A C&D was
20 approved by the board in February of 2014. On
21 July 8th, respondent's representative appeared
22 and presented proof of a valid operating
23 certificate, bringing the equipment into
24 compliance. Therefore, based upon the foregoing,

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2 the ALJ recommended no sealing and no further
3 action.

4 MS. BEDDOE: I'm sorry, Effie, this is
5 for Orsid?

6 MS. XIDIAS: Correct.

7 MS. BEDDOE: The second one? Okay.

8 MS. XIDIAS: Correct.

9 MS. BEDDOE: Mm-hmm.

10 MS. XIDIAS: In C&D order 24-14L, the
11 predicate NOV was issued to Classic Cooking LLC
12 for noise coming from respondent's refrigeration
13 unit. A C&D was approved by the board in April
14 2013, following the issuance of subsequent NOV's.
15 At the presealing hearing conducted recently on
16 July 22nd, respondent's representative presented
17 proof that the offending refrigeration units had
18 been removed, bringing respondent into
19 compliance. Therefore, the ALJ has recommended
20 that the equipment remain unsealed pending
21 installation and reinspection confirming no
22 violation.

23 Finally, in C&D order 20-14V, the
24 predicate NOV was issued to GDA Realty Corp for

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2 failure to obtain a valid operating certificate
3 for its boiler/burner on May 16, 2013. A C&D was
4 approved by the board in April 2014. On July 8th,
5 the respondent's representative appeared and
6 presented proof of a valid operating certificate,
7 bringing the equipment into compliance.

8 Therefore, based upon the foregoing, the ALJ has
9 recommended no sealing and no further action.

10 Thank you.

11 MS. BEDDOE: Okay. Any questions on any
12 of those presealing reports? No questions? Okay.
13 Is there a motion to approve? Anyone against?
14 Abstentions? Thanks, Russ. Okay, thank you.

15 MS. XIDIAS: Thank you.

16 MS. BEDDOE: Okay. And now we have to
17 turn our attention to some legal matters. So is
18 there a motion to go into executive session to
19 discuss appeals? Okay. So, anyone who isn't a
20 part of OATH ECB will have to excuse us for a
21 short period of time. Interns are welcome to
22 stay.

23 [OFF THE RECORD]

24 [ON THE RECORD]

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2 MS. BEDDOE: Is that back on? Okay. We
3 are back in public session after being in
4 executive session for a few minutes. And we'll
5 resume in one moment. I'm just checking to see if
6 anyone's waiting.

7 MS. SLIFKA: I don't think that
8 anybody's there.

9 LT. DAN ALBANO, ESQ., POLICE DEPARTMENT:
10 Unless he's running down the hallway.

11 MS. BEDDOE: Yeah. Well, since no one's
12 rejoined us, let's proceed. Is there a motion to
13 approve the decisions from the panels of July,
14 the appeals panels from July 10th and July 24th
15 respectively?

16 LT. ALBANO: Can, can I just ask a
17 question that what --

18 MS. BEDDOE: Wait. Let's take the vote.
19 Do you have a question in advance of the vote?

20 LT. ALBANO: Yeah.

21 MS. BEDDOE: Okay.

22 LT. ALBANO: There was two different
23 sets of -- when I got in here this morning, there
24 was a set of the panel decisions. And then we

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2 were E-mailed stuff. Is it two different ones? Or
3 is it the same?

4 MR. SOUTHWICK: Okay, I think I can
5 speak to that. Yesterday a revised version of the
6 recommendations --

7 LT. ALBANO: Right.

8 MR. SOUTHWICK: -- from the July 24th
9 panel went out. That should be the same as the,
10 the board is voting on today. This morning
11 because of another change, this one to the July
12 10th panel recommendations, there was a new July
13 10th set of recommendations out. So that what we
14 have before you is the same as yesterday's July
15 24th; new July 10th.

16 LT. ALBANO: Got you. Okay.

17 MS. BEDDOE: Okay? Any questions? Okay?
18 Is there a motion to approve? Anyone against?
19 Okay. Two orders of business before we formally
20 adjourn. The first thing is our next board
21 meeting will be the last Thursday in August. What
22 date is that? August 28th. I know people with
23 vacations etc. So I don't know if we're going to
24 have a quorum. But if you let us know sooner

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2 rather than later about your availability for the
3 August meeting, so that we can make appropriate
4 plans; particularly for getting the appeals
5 decisions out. We don't want to have that back up
6 for 30 days, 60 days then. So, I just ask that
7 you check your calendars. And if by the end of
8 the week, you could reach out to us and let us
9 know if you'll be available for that meeting, I'd
10 very much appreciate it.

11 And then the second thing I just wanted
12 to -- I always like to kind of keep you posted on
13 things that are going on internally at ECB. We
14 had a promotion. Peter Schulman is now going to
15 be an assistant director of adjudication. Peter
16 is taking over the oversight of -- we have, I
17 think you've met Kelly Corso, you know Kelly. She
18 oversees different branches: Brooklyn, Bronx,
19 Staten Island, Manhattan. Peter is going to be
20 sort of a co-director with her. And he's actually
21 going to take over the oversight of the Special
22 Motion Part, which is the Part that people seek
23 to reopen defaults; very high volume. He's going
24 to oversee the hearings by mail area -- MAU. And

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then he's also going to oversee our Queens office and Appeals. So, we want to congratulate Peter on his, his promotion. Well done. [APPLAUSE]

LT. ALBANO: Congratulations, Peter.

MS. BEDDOE: And with that, is there a motion to adjourn? Okay. Thank you everyone. Thanks again.

(The public hearing concluded at 10:20 A.M.)

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CERTIFICATE OF ACCURACY

I, Andrew Slawsky, certify that the foregoing transcript of the Board Meeting of the Environmental Control Board on July 31, 2014 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: August 4, 2014

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