



NEW YORK CITY LAW DEPARTMENT  
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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*For Immediate Release*

## STATE'S HIGHEST COURT RULES THAT NEW YORK CITY CAN COLLECT HOTEL TAXES FROM ONLINE TRAVEL COMPANIES

### ***EXPEDIA, PRICELINE, AND OTHER ONLINE "ROOM REMARKETERS" FOUGHT TO EXCLUDE THEIR SERVICE AND BOOKING FEES FROM CITY'S HOTEL TAX***

New York, N.Y., November 21, 2013 – New York State's highest court today affirmed New York City's authority to tax the full cost of booking a room through online travel companies such as Expedia, Priceline, and Hotwire.

The plaintiffs—a group of online companies that remarket hotel rooms to customers—sued the City in 2009 after the City Council passed Local Law 43, an amendment to the City's Hotel Room Occupancy Tax. Local Law 43 extended the tax to include the full amount online companies charge their customers for a room, at a rate of up to six percent per day. As a hypothetical example, if a customer purchasing a hotel room online pays \$80, Local Law 43 provides that the entire \$80 is subject to City tax even if the online company only pays the hotel \$40 for the same room. The plaintiffs argued that Local Law 43 was unconstitutional and that under State law, only the amount the online travel companies directly paid to hotels could be taxed. The Court of Appeals rejected that position.

"We are gratified that the courts have agreed with our long-held view that room remarketers are obligated to collect and remit the full Hotel Room Occupancy Tax," said Finance Commissioner Beth E. Goldman. "I would like to thank the Law Department for their tireless work on this issue."

"We are pleased that the Court acknowledged the City's broad authority to impose a tax on the full amount paid for a hotel room, regardless of whether that payment is made online or directly to a hotel operator," said Senior Counsel Joshua Wolf, who oversaw the litigation. "The decision further cements the City's power to draft legislation addressing technological innovations that may not have been foreseeable when an enabling statute was drafted, but which clearly fall within its original purpose."

In 2010, the State Legislature further amended the City's hotel occupancy tax law, explicitly extending the local tax to include the entire price charged by the online travel company. The lawsuit therefore concerned the collection of the hotel tax for the 2009 tax year, worth several million dollars in revenue. Today's ruling upholds the City's ability to tax the markup charged by online travel companies for use of a hotel room under the original 1970 State law permitting the collection of hotel taxes.

The City initially prevailed on this question in State Supreme Court, New York County. The plaintiffs appealed that decision, and the Appellate Division, First Department (a mid-level State appeals court) ruled in their favor. Today's decision reinstated the State Supreme Court ruling.

The City's core legal team on the case includes Senior Counsels Joshua Wolf, formerly of the Law Department's Tax & Bankruptcy Litigation Division, and Andrew Lipkin of the same Division.

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