



New York City Council Committee on Government Operations

Oversight Hearing

Agency Responses to Failures to Pay Civil Penalties: The
Implementation of Local Law 47 of 2016

Testimony of Jeffrey Shear,
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Good afternoon Chairman Kallos and members of the Committee on Governmental Operations. I am Jeffrey Shear, Deputy Commissioner for Treasury and Payment Services for the Department of Finance (DOF). Thank you for the opportunity to present on the collection of debt resulting from violations adjudicated by the Environmental Control Board (ECB), which now refers to an adjudication process within the Office of Administrative Trials and Hearings (OATH). ECB summonses are issued by many City agencies for safety and environmental infractions, such as building code and sanitation violations. The primary purpose of the summonses is to change behavior so that we may all live in a safer, cleaner city. Collecting past due debt on these violations provides incentive for this behavior and has the additional benefit of generating revenue for essential City services.

ECB/OATH process

There are over twenty City agencies that issue summonses that are adjudicated by OATH. Upon issuance, summonses are stored in a computer system maintained by OATH. Respondents to such summonses can address them either by paying or disputing them at an OATH/ECB hearing.

As the Council is aware OATH is an independent administrative tribunal. As part of the City's administrative law court, OATH/ECB's function is to provide due process in cases that originate from the City's many enforcement agencies in a forum that is unbiased and neutral.

In 2014, approximately 60% of City agency summonses were paid in full and 9% were dismissed for various reasons before referral to DOF. OATH files judgments for the unpaid remaining balances and then transfers the judgments to NYC Department of Finance for collection. This in turn means DOF is working hard to collect on approximately 30% of remaining summonses.

FORGIVING FINES: the ECB AMNESTY PROGRAM

Thanks to support from the City Council, the Department of Finance administered Forgiven Fines: the ECB Amnesty program for judgment summonses. The 90-day program, which ran from September 12 through December 12, 2016, forgave interest and 100 percent of default penalties for debtors who complied with the program's terms and conditions. More than \$100 million in default penalties and interest were waived during the program, and as a result, DOF was able to collect \$45 million dollars associated with 128,000 paid violations.

As a result of Forgiving Fines, total ECB judgment revenue in FY17 was \$91.7 million, a 50 percent increase over the \$60.9 million collected in FY16 and more than double the \$42 million collected as recently as FY14, when DOF began ramping up its collection efforts. I'd like to thank Chairman Kallos, Council Finance Chair Ferreras-Copeland, and CM Peter Koo for helping us spread the word to raise awareness about the program. I also would like to thank City summons-issuing agencies for handling an increased number of inquiries from respondents needing to address underlying conditions for compliance summonses in order to qualify for amnesty.

Now that the amnesty program is over, DOF is ramping up enforcement for unpaid and uncontested violations issued by the City enforcement agencies. Enforcement efforts for violations in judgment include referrals to the City Marshals and the City Sheriff to make on-site visits and, if necessary, seize assets to collect. For example, in FY' 16 DOF issued 1464 execution referrals and in FY '17 DOF issued 1511 execution referrals, a 3 percent increase despite the fact that DOF did not issue executions for the first half of FY 17 due to our preparation for and implementation of the amnesty program. In FY'18, we expect a much higher number of legal executions since we will be issuing them throughout the entire year. Also, pursuant to Local Law 45 of 2016, which established the amnesty program, we have modified settlements offered to respondents and others seeking to pay a reduced amount for ECB/OATH judgments in return for an admission of liability. We now offer settlements that abate one half of default penalties with no abatement of interest. Borrowing from the success of amnesty, however, we now offer settlements online at <http://a836-citypay.nyc.gov/citypay/ecb>. This is a faster, more convenient process than paper submission of settlement agreements.

IMPLEMENTATION OF LOCAL LAW 47

In response to Local Law 47, DOF took a close look at our own internal processes even though we do not issue licenses and permits. We identified one opportunity where it would make sense to check for OATH/ECB judgment debt; the merger and apportionment (i.e. sub-division) of property parcels. Since most OATH/ECB violations are issued against property owners, we want to make sure owners requesting such changes are properly maintaining their buildings and land.

This could have significant impact. In 2016, DOF received 1071 requests for mergers and apportionments on property parcels. On February 10, 2017, DOF published draft rules pertaining to the merger and apportionment process, including a requirement to resolve outstanding OATH/ECB judgments. Owners could resolve the judgments by either making full payment or entering into a payment plan prior to DOF completing the requested action. A public hearing was held on March 28, 2017. DOF has just finished making revisions to the draft rules in response to public comments and has submitted them to the Law Department for review before they are formally promulgated.

By its own actions, DOF is supportive of the concept that agencies should suspend, revoke, and deny licenses and permits for certain reasons. While City agencies may seek information and assistance from either OATH or DOF when making OATH/ECB debt a required step in the licensing or permitting process, we welcome all inquiries and referrals. We also regularly share OATH/ECB judgment inventory statistics with other agencies so that they may better understand the nature of the outstanding debt. However, since the provisions of LL 47 are clearly aimed at agencies that issue licenses, permits, and registrations, there is little additional action we can take other than the aforementioned merger/apportionment rule promulgation and supporting any agency that chooses to issue rules to reflect its current or expanded practices.

The Department of Finance appreciates the attention the Council has brought to this issue and our ongoing work to improve our collection efforts. I welcome any questions you may have.