

**CORRECTED**

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

BOARD MEETING

VIA VIDEO CONFERENCE

100 Church Street, New York, New York

April 20, 2023

9:31 a.m. to 10:33 a.m.

April 20, 2023

## MEMBERS PRESENT:

**Asim Rehman, Esq. - Commissioner/Chief Administrative Law Judge, OATH, Chair/Executive Director, OATH ECB**  
**Shamonda Graham - Department of Buildings (DOB)**  
**Joseph Gregory, Esq. - New York City Fire Department (FDNY)**  
**Elizabeth Knauer, Esq. - Appointed Member (Water)**  
**Madelynn Liguori, Esq. - Department of Sanitation (DSNY)**  
**Russell Pecunies, Esq. - Department of Environmental Protection (DEP)**  
**Harminderpal Rana, Esq. - Department of Health and Mental Hygiene (DOHMH)**  
**Matthew Schneid, Esq. - Appointed Member (Real Estate)**  
**Thomas D. Shpetner, Esq. - Appointed Member (Business)**  
**Matthew Smith, Esq. - New York City Police Department (NYPD)**  
**Jarrold Whittington - Appointed Member (Noise)**

## ALSO PRESENT:

Rachel Amar - Senior Advisor to Commissioner, OATH  
Sola Best, Esq. - Assistant General Counsel, OATH  
Cindy Chen - Analyst, Office of Management and Budget (OMB)  
Kelly Corso, Esq. - Assistant Commissioner/Hearings Division Adjudications, OATH  
David Feldman, Esq. - Deputy Commissioner of Legal Affairs/General Counsel, Business Integrity Commission (BIC)  
Timothy Jones, Esq. - Senior Counsel, OATH  
**David C. Kim, Esq. - Assistant General Counsel, OATH**  
**Maria L. Marchiano, Esq. - Deputy Commissioner/Chief Clerk, OATH**  
**Peter Schulman, Esq. - Deputy Commissioner/Appeals Division, OATH**  
Marisa Senigo - Deputy Commissioner for Public Affairs & Communications, OATH  
Frances Shine - Secretary to the Board, OATH  
Amy Slifka, Esq. - Deputy Commissioner/Hearings Division, OATH  
Tom Southwick, Esq. - Assistant Commissioner/Appeals Division, OATH  
**Olga Statz, Esq. - Deputy Commissioner/General Counsel, OATH**

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2 (The board meeting commenced at 9:31  
3 a.m.)

4 ASIM REHMAN, ESQ., COMMISSIONER/CHIEF  
5 ADMINISTRATIVE LAW JUDGE, OATH, CHAIR/EXECUTIVE  
6 DIRECTOR, OATH ECB: Good morning, everyone.

7 This is Asim Rehman, the Chair of the  
8 Environmental Control Board. I'd like to call  
9 today's April 20, 2023, ECB Meeting to order.  
10 I'd like to first ask David Kim of our GC Unit to  
11 do a roll call to verify quorum.

12 DAVID C. KIM, ESQ., ASSISTANT GENERAL  
13 COUNSEL, OATH: Good morning, all. We will start  
14 with Commissioner Asim Rehman.

15 MR. REHMAN: Present.

16 MR. KIM: Shamonda Graham?

17 SHAMONDA GRAHAM, DEPARTMENT OF BUILDINGS  
18 (DOB): Present.

19 MR. KIM: Thank you. Joseph Gregory?  
20 Joseph Gregory?

21 JOSEPH GREGORY, ESQ., NEW YORK CITY FIRE  
22 DEPARTMENT (FDNY): Yes, here.

23 MR. KIM: Thank you. Elizabeth Knauer?  
24 Madelynn Liguori?

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2 MADELYNN LIGUORI, ESQ., DEPARTMENT OF  
3 SANITATION (DSNY): Present.

4 MR. KIM: Jorge Martinez? Russell  
5 Pecunies?

6 RUSSELL PECUNIES, ESQ., DEPARTMENT OF  
7 ENVIRONMENTAL PROTECTION (DEP): Here.

8 MR. KIM: Thank you. Matthew Schneid?

9 MATTHEW SCHNEID, ESQ., NEW YORK CITY  
10 POLICE DEPARTMENT (NYPD): Here. Present.

11 OLGA STATZ, ESQ., DEPUTY COMMISSIONER /  
12 GENERAL COUNSEL, OATH: I'm, I'm sorry. I don't  
13 mean to interrupt. But the, the Health person is  
14 not Jorge anymore, is it?

15 PETER SCHULMAN, ESQ., DEPUTY  
16 COMMISSIONER/APPEALS DIVISION, OATH: Right.  
17 Harminderpal Rana.

18 HARMINDERPAL RANA, ESQ. - DEPARTMENT OF  
19 HEALTH & MENTAL HYGIENE (DOHMH): Present.

20 MR. KIM: Okay, thank you, Rana. Thomas  
21 Shpetner?

22 THOMAS SHPETNER, ESQ., APPOINTED MEMBER  
23 (BUSINESS): Present.

24 MR. KIM: Thank you. Matthew Smith?

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2 MATTHEW SMITH, ESQ., NEW YORK CITY  
3 POLICE DEPARTMENT (NYPD): Present.

4 MR. KIM: Douglas Swann? Jarrod  
5 Whittington?

6 JARROD WHITTINGTON, APPOINTED MEMBER  
7 (NOISE): Present.

8 MR. KIM: Thank you. Okay, we have a  
9 quorum, 10 out of 12.

10 MR. REHMAN: Thank you, David. Okay,  
11 we'll move forward with the review and adoption  
12 of the minutes of our past meetings. We'll start  
13 with the February 2, 2023, meeting minutes. Does  
14 anyone have any corrections to the minutes you  
15 received? Okay. Would anyone like to make a  
16 motion to adopt the minutes? I see a motion from  
17 Matthew Smith. A second, a second from Madelynn.  
18 And, David, would you call a vote?

19 MR. KIM: Okay. Are there any  
20 objections to the motion approving the minutes of  
21 the February 2, 2023, ECB Meeting? Seeing none,  
22 hearing none, the motion is approved unanimously.

23 MR. REHMAN: Thank you. I'd like to ask  
24 for a motion to adopt the minutes of the February

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2 7th meeting. I'm sorry. With, with respect to  
3 the minutes of the February 7th meeting, does  
4 anyone have any changes? Hearing none, I'll  
5 request a motion to adopt the February 7th  
6 meeting minutes. I see Madelynn. Is there a  
7 second? Thank you, Matthew Smith. David?

8 MR. KIM: Okay. Are there any  
9 objections to the motion approving the minutes of  
10 the February 7, 2023, ECB Meeting? Hearing none,  
11 seeing none, the motion is approved unanimously.

12 MR. REHMAN: Thank you. I'll now turn  
13 it over to Russ Pecunies from DEP to introduce  
14 requests for cease and desist orders. Russell?

15 MR. PECUNIES: Yes, good morning,  
16 everyone. Thank you. DEP has three requests for  
17 the Board, for the Board's consideration at this  
18 meeting.

19 The first, the first one that I'll do is  
20 the one under the Air Code. This is for 753  
21 Classon Avenue in Brooklyn, and, and names the  
22 building owner, 753 Classon Avenue Housing Corp.  
23 This is a building that has a large boiler. The  
24 permit under the Air Code for that boiler expired

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2 in May of 2021 and has still not been reviewed --  
3 renewed. The building owner was cited for having  
4 an expired permit for the boiler in October of  
5 2022, and they were found in violation in  
6 January. A second summons for having an expired  
7 permit was issued in January, and they were found  
8 in violation at the end of February. The permit,  
9 as of now, has still not been renewed.

10 Also, there have been numerous  
11 complaints through 311 regarding black, smoky  
12 emissions from the stack of this building. We  
13 have only been able to get there when it was  
14 smoking on one occasion, which was back in 2021,  
15 which the respondent defaulted on, but did pay  
16 the fine.

17 We had also been alerted by the New York  
18 State Department of Environmental Conservation  
19 that they had received complaints regarding smoke  
20 from this building, and that they had observed  
21 it. But, again, we have not been able to catch  
22 it smoking, except for the one time in '21.

23 Based on the fact that the building has  
24 an expired permit for nearly two years, has been



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2 cited twice for that, and has been found in  
3 violation twice, and has still not renewed the  
4 permit, and given the prior violation for smoke  
5 and odors -- smoke, actually -- and the complaint  
6 being forwarded to us through the State, DEP  
7 believed that it was appropriate, at this point,  
8 to ask the Board for a cease and desist order to  
9 compel the building to obtain a valid permit for  
10 the boiler, which they will not be able to do  
11 without an inspection that certifies that the  
12 smoke problem has also been resolved.

13 So, based on that, DEP is asking the  
14 Board to order -- to issue an order to cease and  
15 desist.

16 MR. REHMAN: Russ, thanks. Does anyone  
17 have any questions for Russ? Okay. Why don't we  
18 do these individually? I'm sorry, I see a  
19 question from Elizabeth Knauer. And, David, if  
20 you can kindly mark Elizabeth as present, that'd  
21 be great.

22 ELIZABETH KNAUER, ESQ., APPOINTED MEMBER  
23 (WATER): I, I apologize for joining late. I had  
24 some technical difficulties logging in.

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2 I guess I'm just wondering, this, I  
3 presume this is a residential building. Is that  
4 correct, Russ?

5 MR. PECUNIES: I, I believe it is an  
6 apartment building, yes.

7 MS. KNAUER: So the, the -- if a cease  
8 and desist order were issued, then the, I guess  
9 the, the, the course of action for the, required  
10 for the building ownership would, would be to get  
11 a temporary sort of mo- mobile boiler to provide  
12 hot water?

13 MR. PECUNIES: Well, as long --

14 MS. KNAUER: They would -- I mean,  
15 there's some ability --

16 MR. PECUNIES: -- as long as --

17 MS. KNAUER: -- to maintain, there,  
18 there would be some ability for them to maintain  
19 service of hot water if they, if they -- because,  
20 you know, I'm presuming it will take them some  
21 time to either renew their permit or get a new  
22 boiler that can be permitted. So they --

23 MR. PECUNIES: Yeah. Well, I mean, that  
24 would be part of the cease and desist process.

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2 Once they showed up for the cease and desist  
3 hearing, they would have to explain to the  
4 hearing officer why the boiler should not be  
5 sealed. And normally, in cease and desist for  
6 something like this, that would be for them to  
7 show the judge what they were doing in order to  
8 get the permit renewed.

9 Since this is a certificate of  
10 operation, it does require the retention of an  
11 engineer. So, presumably, the first thing that  
12 they would show would be that they had retained a  
13 PE to, to get the certificate of operation. And  
14 assuming that they showed that to the judge at  
15 the cease and desist hearing, they would be  
16 permitted to continue operating the boiler until  
17 they get it into compliance.

18 MS. KNAUER: Alright. So what happens -  
19 -

20 MR. PECUNIES: The only -- the, the  
21 sealing would, the sealing would be if they  
22 didn't show up and they defaulted on the cease  
23 and desist order. Then, theoretically, we could  
24 go seal the boiler. (A) Hopefully, it wouldn't

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2 come to that. They have been responsive to the  
3 summonses. The two recent ones, they did show up  
4 on them. So, hopefully, they would also show up  
5 for the cease and desist hearing. And even if  
6 they did default on it, we would send someone to  
7 the building at that point to basically do a, a  
8 warning sort of thing. So I think it's highly  
9 unlikely that it would come to actually sealing  
10 the boiler, one, one would hope.

11 MS. KNAUER: But have you had cases  
12 where you act-, where, because of just total  
13 intransigence -- I mean, this appears to be a  
14 case where they've been, while showing up in some  
15 cases, have been intransigent towards curing the,  
16 correcting the violations. So where you had to  
17 actually seal a boiler where there's, where there  
18 are res-, affected residential occupants?

19 MR. PECUNIES: I think that that would  
20 be a call that would have to be made at the time.  
21 I think the time of the year might play into it,  
22 because, hopefully, now, we're coming out of the  
23 heating season, and this would not be something  
24 where the residents would lose heat. They would,

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2 if the boiler were sealed, lose hot water. The  
3 building might have to bring in a temporary  
4 boiler in that situation, a mobile boiler, to  
5 maintain the hot water in the building, which,  
6 obviously, they would have to do at their  
7 expense.

8 MS. KNAUER: And then they, just based  
9 on their obligations as a, as a landlord, they  
10 would have to do that to avoid, you know, HPD  
11 issues, correct?

12 MR. PECUNIES: Having other issues, yes,  
13 I, I think so.

14 MR. REHMAN: Thanks, Elizabeth. Any  
15 other questions?

16 MR. PECUNIES: I think we just think  
17 that this case, at, at this, at this point,  
18 issuing another summons doesn't seem to be, you  
19 know, the way to go. The summonses don't seem to  
20 have gotten their attention. So we're hoping  
21 that a cease and desist order, with the language  
22 that it contains, will.

23 MR. REHMAN: Thank you. And Russ,  
24 again, this is Classon Avenue, correct?

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2 MR. PECUNIES: I'm sorry?

3 MR. REHMAN: Are we talking about --  
4 this is the Classon Avenue?

5 MR. PECUNIES: It is 753 Classon Avenue.

6 MR. REHMAN: Right. Okay. So I'd like  
7 to move for a motion to -- I'm sorry, Olga, were  
8 you going to say something? Okay, sorry. I, I'd  
9 like to lo- move for a motion to approve the  
10 cease and desist order request with respect to  
11 753 Classon Avenue Housing Corp. I see a motion  
12 a motion from Tom, a second from Madelynn.  
13 David?

14 MR. KIM: Yes. Are there any objections  
15 to approving the cease and desist order? Seeing  
16 none, hearing none, the motion is approved  
17 unanimously.

18 MR. REHMAN: Thank you. Russ, would you  
19 like to --

20 MR. PECUNIES: Alright, thank --

21 MR. REHMAN: -- move on to the next one?

22 MR. PECUNIES: -- thank, thank you.

23 Yes, we'll move on to the next one. So the next  
24 one is under the Sewer Code. The respondent on

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2 this one is 180 Brooklyn Livingston, LLC. The  
3 business in question here is a Dallas BBQ  
4 restaurant, and it is at 180 Livingston Street in  
5 Brooklyn.

6 Back in 2019, DEP performed an  
7 inspection at this location, based on which a  
8 Commissioner's order was issued, requiring the  
9 respondent to install grease interceptors within  
10 30 days on several items of equipment -- three 2-  
11 compartment sinks, two chicken roasters, a  
12 scraper sink, a dishwasher, and each of nine  
13 floor drains.

14 When, by October, respondent had not  
15 complied with the Commissioner's order, DEP  
16 issued a summons under 24-524(f) of the  
17 Administrative Code for failing to comply with  
18 the Commissioner's order. That was the first of  
19 a series of summonses that were issued for  
20 failing to comply with this order in 2019, then,  
21 in January 2020.

22 Then, there was a long hiatus in  
23 enforcement of the grease trap requirements due  
24 to COVID, both because of the issues that were

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2 confronting the restaurant industry due to COVID,  
3 and because the staff that normally enforces the  
4 grease trap requirements had been largely  
5 reassigned to enforcing COVID regulations. So  
6 the summonses -- there were no summonses between  
7 January of 2020 and August of 2021.

8 And then there was another summons in  
9 March of 2022. So it, it appeared that  
10 respondent had begun work to comply, but there  
11 was an issue related to the inspection port being  
12 required to determine whether the interceptors  
13 were properly connected. So a new Commissioner's  
14 order was issued, requiring the installation of  
15 such an inspection port, and also a separate  
16 order requiring respondent to make sure that none  
17 of the interceptors had been connected in series,  
18 meaning that they were not connected through each  
19 other, but were each connected separately.

20 So, in June of last year, the  
21 respondent, having not yet fully complied with  
22 the original order that was issued in 2019,  
23 installed the inspection -- had not installed the  
24 inspection port or ensured that the interceptors



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2 were not connec-, installed in series. So, now,  
3 a summons was issued for failing to comply with  
4 all three of the orders. And further summonses  
5 were then issued in July of last year, and  
6 January of this year.

7 So, at that point, the respondent,  
8 having failed to appear on the most recent  
9 summonses, and with still no full compliance  
10 under the original order and no compliance under  
11 the second and third orders, based on all of this  
12 extensive history, the Department is requesting,  
13 at this point, that the Board issue an order to  
14 the respondent to cease and desist.

15 MR. REHMAN: Russ, just for  
16 clarification, the two most recent summonses from  
17 July '22 and January '23 have not yet had their  
18 scheduled appearance at OATH?

19 MR. PECUNIES: I'm looking for the  
20 printout on those. You're referring to the  
21 7/19/22 and 1/25/23 --

22 MR. REHMAN: Yes.

23 MR. PECUNIES: -- summonses?

24 MR. REHMAN: Yes.

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2 MR. PECUNIES: Okay. So the 7/19/22  
3 summons appears to have been admitted and paid in  
4 full without an appearance having been made. And  
5 the one that was issued in January, the one that  
6 was issued in January is -- had a hearing date a  
7 week ago today.

8 MR. REHMAN: Okay.

9 MR. PECUNIES: And is still showing on  
10 Ticket Finder as a new issuance. So I don't know  
11 whether that means that they didn't appear or  
12 whether Ticket Finder just hasn't been updated  
13 yet.

14 MR. REHMAN: I see. And the last onsite  
15 from DEP, meaning the, that the last time that  
16 DEP was able to confirm that no corrective action  
17 has been taken was last June?

18 MR. PECUNIES: Let me just see if I can  
19 confirm that.

20 MR. REHMAN: Understanding, of course,  
21 that if we proceed with cease and desist, they'd  
22 have an opportunity at the hearing to show that -  
23 -

24 MR. PECUNIES: Yes.

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2 MR. REHMAN: -- the, the conditions have  
3 been corrected. I'm just curious to know when,  
4 when, when was the last time that was done.

5 MR. PECUNIES: Yeah, I would, I would  
6 have to, I would have to e-mail the attorney for  
7 this, for Wastewater Treatment, to find out when  
8 the last time they were actually there was. From  
9 the paperwork, the last time that does appear to  
10 have been the last time we were there was last  
11 year. But in order to confirm that, I would have  
12 to, I would have to contact them in, in  
13 Wastewater Treatment.

14 MR. REHMAN: Thanks. I'm, I'm not  
15 asking you to contact them. Does anyone have any  
16 other questions or comments? Okay. I'll ask for  
17 a motion to approve the request for a cease and  
18 desist order concerning 180 Brooklyn Livingston,  
19 LLC. I see a motion from Joseph. I see a second  
20 from Elizabeth. David?

21 MR. KIM: Are there any objections to  
22 approving the cease and desist, desist order?  
23 Seeing none, hearing none, the motion is approved  
24 unanimously.

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2 MR. PECUNIES: Okay.

3 MR. REHMAN: Thank you. Russ?

4 MR. PECUNIES: Thank you. The third one  
5 pertains to 1715 St. Johns Place in Brooklyn.  
6 The respondent is We Stay Fresh Corp., and the  
7 business is the Stay Fresh Deli and Grill.

8 For this one, DEP did an inspection in  
9 October of '21, which resulted in a  
10 Commissioner's order being issued requiring the  
11 respondent to install a grease interceptor on the  
12 three-compartment sink within 60 days. When  
13 there had been no compliance by March of '22, DEP  
14 issued a summons for failing to comply with the  
15 Commissioner's order. Further summonses were  
16 then issued in March, July, September and  
17 November of 2022.

18 On the most recent one, which is the one  
19 that was issued on November 29th of last year,  
20 the respondent defaulted. And I believe,  
21 according to the information provided by the  
22 Bureau of Wastewater Treatment, that they  
23 defaulted on the other ones, as well. They were  
24 then also sent a letter, requiring them to appear

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2 for a mandatory compliance meeting on January  
3 18th, which was to have been done over the phone.  
4 And they did not respond to that, either.

5 So, since the respondent has still not  
6 complied with the Commissioner's order, and has  
7 also been non-responsive to the series of  
8 summonses and the certified letter requiring them  
9 to call in for the compliance meeting, at this  
10 point, DEP is asking the Board to issue an order  
11 to cease and desist.

12 MR. REHMAN: Thank you. Any questions  
13 for Russ? Okay, I'd like to ask for a motion to  
14 approve DEP's request for an order to cease and  
15 desist with respect to respondent We Stay -- We  
16 Stay Fresh Corp. I see a motion from Jarrod  
17 Whittington and a second from Tom. David?

18 MR. KIM: Are there any objections to  
19 approving the cease and desist order? Seeing  
20 none, hearing none, the motion is approved  
21 unanimously.

22 MR. REHMAN: Very good. Russ, thank you  
23 for taking us through these in detail and  
24 providing the information to the questions. We

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2 appreciate it. Before we move to --

3 MR. PECUNIES: Alright Thank, thank you  
4 all very much.

5 MR. REHMAN: Sure. Before we move to  
6 the next agenda item, let me pause to do  
7 something that I should have done at the outset  
8 of the meeting, and that is to note that, with  
9 respect to one of our participant agencies,  
10 DOHMH, we have a, a new representative, and you  
11 could see him smiling. It's Har- Harminderpal  
12 Rana. Welcome, Harminderpal. We look forward to  
13 working with you in the, in this meeting and  
14 future meetings. You are not required to  
15 introduce yourself, but if you want to say a few  
16 words, the floor is yours.

17 MR. RANA: Thank you, Your Honor. I  
18 appreciate it. Thank you all. I look forward to  
19 this. It's already been quite informative.

20 My first exposure to the Board's  
21 activities was, I think several weeks ago, where  
22 I was involved in a panel to review, I think over  
23 a hundred appeals decisions, which was highly  
24 informative. I'm used to reviewing, and have

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2 reviewed, obviously, Department of Health  
3 summonses and, and related matters. But this was  
4 actually very informative in terms of getting  
5 exposure to the range of other agencies who, who,  
6 who appear before this Board. So thank you, Your  
7 Honor. I appreciate it.

8 MR. REHMAN: We, we, we appreciate that  
9 you're, you, you jumped right in and are taking  
10 it seriously. So, welcome, welcome aboard.

11 MR. RANA: Thank you, sir.

12 MR. REHMAN: Okay, let's move on to Item  
13 No. 6 of the agenda. General Counsel Olga Statz  
14 will be presenting on a proposed revision of the  
15 summons form for particular matters. Olga?

16 MS. STATZ: Good morning, everybody.  
17 I'm happy to see everyone. You -- I'm, I'm  
18 presuming that all of you have received the form  
19 that we're proposing for a new summons. And, and  
20 so, before we get into a more substantive  
21 discussion, I'd like to know if anyone has just  
22 any technical questions on it? Yeah, Madelynn.

23 MS. LIGUORI: Is this only going to be  
24 used for civilian petitioner --

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2 MS. STATZ: Yes.

3 MS. LIGUORI: -- purposes? So this  
4 language won't appear, we wouldn't have to put  
5 this on our notice system?

6 MS. STATZ: Yeah, absolutely. This is,  
7 this -- this summons that we're propo-, that  
8 we're, we're presenting for your consideration is  
9 only designed for citizen petitioners. So  
10 everything you see here would not be applicable  
11 to any agency at this point. Your universal  
12 summons will remain your universal summons.

13 MR. REHMAN: Shamonda?

14 MS. GRAHAM: Good morning, everyone.  
15 Olga, I just want to confirm that, as it relates  
16 to the citizen even issuing summonses returnable  
17 to OATH, is this limited to DEP in cases where  
18 DEP declines to write a summons, where the ci-,  
19 where the citizen has submitted a complaint?  
20 Because my reading of that section was basically  
21 that if the citizen submits a complaint to DEP,  
22 and DEP does not write a summons, they can  
23 actually write the summons themselves and make it  
24 returnable to OATH. I just want to confirm that



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2 that is correct.

3 MS. STATZ: You are absolutely correct.

4 This --

5 MS. GRAHAM: Okay.

6 MS. STATZ: -- these summonses apply in  
7 limited circumstances where the law specifically  
8 allow -- where and how the law specifically  
9 allows them to do it. This is not an expansion  
10 on anything that's permitted in the  
11 Administrative Code. This is a, this is just  
12 what we're doing in order to, to differentiate  
13 between the two types of petitioners and to make  
14 clear that there are ob-, different obligations  
15 on both end, ends.

16 MS. GRAHAM: Okay. So, I'm sorry, I  
17 have a few questions.

18 MS. STATZ: No, not at all.

19 MS. GRAHAM: So can you also confirm  
20 that this is limited to DEP? Because I did a  
21 search of the Ad Code, and I really didn't see  
22 anywhere else or any other agency where a citizen  
23 actually has this authority. But I'm sure you  
24 guys know a lot better than me, so I figured, why

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2 keep searching, just ask the question.

3 MS. STATZ: Well, that's, that's a very  
4 good question, and your instinct is correct. So  
5 far, it is only limited to DEP. And I say so  
6 far, because it seems that City Council is  
7 interested in expanding the citizen petitioner  
8 stuff. So, so far, it's limited to, to DEP, both  
9 for idling violations and noise violations.

10 MS. GRAHAM: Yes, I, I saw that. Okay.  
11 So my next question, and this is actually more  
12 related to, I guess the citizen themselves,  
13 because, I mean, I get where the Council is going  
14 and I know it's part of the Ad Code, but I, I do  
15 have a little bit of concern about the citizen's  
16 contact information being on this form. Because,  
17 and basically, we -- the City has granted the  
18 citizen the authority to sort of serve as an  
19 officer and an agent. And I, I guess the  
20 respondent would have the right to sort of compel  
21 the citizen's appearance, right? I guess that's  
22 what I'm worried about.

23 I know that you guys can adjudicate  
24 without the petitioner necessarily being present,

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2 but is there any plan on how that would be  
3 handled when the respondent sort of demands the  
4 petitioner? I, I, I'm very -- I don't know. I,  
5 I feel a bit concerned about that.

6 MS. STATZ: Well, sev- several things.  
7 This, the requiring the appearance of a witness  
8 is something that we've been doing since time  
9 immemorial. Let's go back to taxi, to, to taxi  
10 cases. For example, if the, if someone is  
11 challenging a taxi, is, is challenging a taxi  
12 driver for having done something to them, that  
13 person must appear. And, so, there are -- that,  
14 that already is the precedent for that. Then,  
15 for -- and, and that's just for the witness.

16 Now, here, we're talking about the  
17 petitioner, him or herself. This is, this  
18 citizen complainant is really, is acting as an  
19 agency, in the agency's stead. And the same  
20 sorts of obligations that an agency would have,  
21 the petitioner has in terms of setting out  
22 allegations and proving those allegations. And,  
23 so, this is not identifying the complainant. It,  
24 so far, has not been problematic for us, because

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2 a lot of the com-, a lot of the citizen  
3 petitioners put in their e-mail addresses. But  
4 their -- so, since -- so that's just an  
5 obligation. That's just part of being a  
6 petitioner. Someone has to know who you are and  
7 someone has to be able to contact you.

8 So far, it's been e-mail addresses.  
9 Sometimes it's phone numbers, but that's at the  
10 choice of the citizen petitioner.

11 MS. GRAHAM: Okay, that makes absolute  
12 sense. And, then, the last question is that I  
13 also understand that the, the big message on the  
14 form that says this is not a sworn affidavit, is  
15 that basically addressing that it's not an  
16 automatic prima facie case, the way with the City  
17 agencies, because the issuing officer is -- you  
18 know, they have a different capacity than a  
19 citizen?

20 MS. STATZ: That is absolutely correct.  
21 The Charter gives the Board authority to  
22 determine the forms and the content of summonses,  
23 and the Charter specifically says that when a  
24 summons, whatever its form, is sworn to, that

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2 summons becomes prima facie evidence.

3 Now, we all understand that the charter,  
4 when it was passed, and the Admin Code, et  
5 cetera, the, the ob-, the object was to have City  
6 agencies with City employees issuing these  
7 summonses. And, as we all know, City agencies  
8 and City employees are subject to a lot of anti-  
9 fraud, anti-crime obligations. They're, they --  
10 they receive special training, not only in the  
11 substantive matter, but also in due process  
12 related matters and adjudicatory related matters.

13 So, when the City made this, this --  
14 we're surmising that when the City made this  
15 possible as a prima facie case, the City was  
16 taking all of this into account, that they  
17 weren't pitting people who did not have  
18 boundaries around them against respondents.

19 So, in this, in this instance, in order  
20 to make sure that a citizen complainant, who is  
21 basically putting himself in the stead -- this is  
22 basically more like a private right of action  
23 than it is a, than, than it is the City going  
24 against someone. Although the City gets a

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2 portion of the proceeds, this is more a private  
3 right of action. So we wanted to make sure that  
4 the citizen petitioner was in the, in the place  
5 of a regular plaintiff or a regular petitioner  
6 who has -- who is obligated to (1) appear, and  
7 also obligated to prove every aspect of the  
8 complaint or, or the petition that he or she puts  
9 forward.

10 So, basically, we're just putting these  
11 citizen petitioners in the same place, where they  
12 should be in the scale of, of things, in, in  
13 adjudications.

14 MS. GRAHAM: And I said that was the  
15 last one, but, I'm sorry, I just have one more.  
16 Does DEP have any authority or ability -- I guess  
17 what I'm thinking about is, if the citizen  
18 submits a complaint to DEP -- and maybe Russ  
19 should answer this -- and DEP declines to  
20 prosecute, but yet the citizen maybe insists or  
21 the citizen decides to write this summons, does  
22 DEP have any authority or any -- basically, DEP  
23 is out of the equation? I guess I'm trying, I'm,  
24 I'm trying to reconcile the situation where DEP

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2 has intentionally declined prosecution and a  
3 citizen member writes a summons anyway, you know.

4 MS. STATZ: Well, that's, that's a very  
5 -- and Russ can, can fill in what --

6 MR. PECUNIES: Yeah, sure. So when a,  
7 when a complaint comes in from a citizen, DEP has  
8 three options. DEP can issue a summons based on  
9 that complaint, which we write and prosecute.  
10 DEP can declare that that complaint is frivolous  
11 or duplicitous, which, in effect, kills that  
12 complaint. And not only will DEP obviously not  
13 issue a summons in that case, but the complainant  
14 also cannot issue a summons. Or DEP can take no  
15 action within the time period specified in the  
16 statute, which is 45 days in the Air Code and 30  
17 days in the Noise Code. If DEP does that, option  
18 3, takes no action, then the citizen acquires the  
19 right to issue their own summons.

20 MS. GRAHAM: So, in other words, they do  
21 not have the right, unless you guys take  
22 absolutely no action. And, and your results of  
23 their complaint submission is communicated to the  
24 citizen, and that they do not have those rights.

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2 I, I guess I'm thinking about how would the  
3 citizen know that they don't have the right, and  
4 I think that needs to be --

5 MR. PECUNIES: Oh, believe me, they  
6 know. They are, they are -- because they have to  
7 get the, the summons forms through us. The  
8 moment those deadlines expire, they are  
9 requesting blank summons forms so that they can  
10 issue their own summonses. They want, most of  
11 them, or many of them, want to issue their own  
12 summonses because they get more reward money if  
13 they issue it themselves. So they are keeping  
14 track of when the 4-, the, the 45 or 30-day  
15 periods expire.

16 MS. GRAHAM: Got it. So you have your  
17 frequent flyers who have basically suited and  
18 booted up. They're our idling police. I gotcha.  
19 And they are making lots of money from it. Okay.

20 MR. REHMAN: Alright. Well, and, and  
21 this is, you know, again, while there are those  
22 frequent flyers, you know, we're, we're looking  
23 at this from a totality, that, you know, this  
24 should be, whether it's the frequent flyers or



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2 whether it's someone doing it for the first time,  
3 you know, what's the right, right approach from  
4 a, from an adjudicative perspective.

5 Let me, let me turn it over to  
6 Elizabeth. And then I see a hand from Tom. If  
7 anyone else has a question, just raise your hand.  
8 I'll keep the stack. Elizabeth?

9 MS. KNAUER: Thanks. Thanks,  
10 Commissioner. I had a, I had sort of a couple of  
11 questions about the form itself, from the  
12 perspective of maybe a non-frequent flyer  
13 potentially filling it out, and how some of the,  
14 some of the boxes, to me, as, as somebody who  
15 isn't familiar with filling them out as an  
16 agency, were a lit-, maybe a little confusing and  
17 could lead this to sort of someone filling it out  
18 maybe incorrectly in a way that may confuse the  
19 respondent, leading to dismissal and, you know,  
20 notice bases or that sort of thing. And maybe  
21 you can just assuage those concerns by how the  
22 procedure works. But I guess my --

23 MR. PECUNIES: Elizabeth, Elizabeth, I,  
24 I think maybe I could answer that, at least

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2 partly.

3 MS. KNAUER: Okay.

4 MR. PECUNIES: They have to get the  
5 forms to issue their own summonses through DEP.

6 MS. KNAUER: Uh-huh.

7 MR. PECUNIES: They have, they have to  
8 come to our building in Queens to pick them up.  
9 And they are provided with an instruction form  
10 and, and a guide on how to complete the summons -  
11 -

12 MS. KNAUER: Okay.

13 MR. PECUNIES: -- when they pick up the  
14 blank forms.

15 MS. KNAUER: Okay. So, I mean, can I  
16 just bring up the couple of things that I  
17 thought? And maybe those are handled in the, in  
18 the guide, which wasn't, you know, part of this  
19 package.

20 One of them is, you know, that where it  
21 says details of violation, there's a, there's a  
22 sec-, a box for the OATH code. How would, how  
23 would the citizen petitioner know what the OATH  
24 code is? Is that something that's, like is it,

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2 is there a table --

3 MR. PECUNIES: Yeah, they're, they're,  
4 they're given the OATH codes for --

5 MS. KNAUER: Okay.

6 MR. PECUNIES: -- for, for idling and/or  
7 the, the relevant noise section when they pick up  
8 the summons.

9 MS. KNAUER: Okay. And then there's  
10 these, underneath -- I guess, I mean one  
11 suggestion that I would have would, I mean, but  
12 may- maybe it's obvious in the guide, is where  
13 there is those three lines, which I presume are  
14 intended for them to like put in the substantive  
15 description of what they saw or, or heard. You  
16 know, that, that could be specified with like  
17 description of violation or description of  
18 occurrence. But maybe, again, that might be in  
19 the guide.

20 Then, there's these boxes below, which  
21 say property removed, one to two family. I'm  
22 just wondering if there should be one for like  
23 N/A, because it's, because so many of these are  
24 idling cases where there's no property, you know,

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2 premises involved specifically. It's just on the  
3 street. So that --

4 [CROSSTALK] [10:12:46] [00:41:46]

5 MR. PECUNIES: You know, the  
6 instructions that we give them, the, the  
7 instructions that we give them tell them to leave  
8 inapplicable boxes alone.

9 MS. KNAUER: Okay.

10 MR. PECUNIES: I mean, it, it, it's a  
11 step-by-step guide as to which boxes they should  
12 and should not be --

13 MS. KNAUER: Okay.

14 MR. PECUNIES: -- checking or filling  
15 in.

16 MS. KNAUER: And then, the one other  
17 thing that I wonder -- well, two other things.  
18 Sorry. Report level, fill four spaces --  
19 command, squad, unit, et cetera. I wondered why  
20 that was relevant to a citizen petitioner  
21 summons. Or is that just a thing that --

22 MR. REHMAN: I'm sorry, what -- oh, I  
23 see. You're, you're in the bottom quadrant under  
24 the word authorities?

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2 MS. KNAUER: Yes, exactly.

3 MR. REHMAN: Okay.

4 MS. STATZ: Those are, those are boxes  
5 that the citizen doesn't have to fill in. It's  
6 complicated for us to, to restructure the summons  
7 entirely. So we leave -- so, basically, what you  
8 have before you is the typical, a typical  
9 universal summons with certain things changed for  
10 the citizen petitioner. We haven't changed it  
11 wholesale, so a lot of the -- there -- so accord-  
12 , in the instructions, DEP tells them what is not  
13 necessary, and we're, we're able to maintain the  
14 general form without getting too complicated.  
15 It's important for o-, for, for other ordering  
16 protocols, et cetera, et cetera, for printing,  
17 that we not mess around with this too much.

18 MS. KNAUER: Oh, okay, okay. I just, I  
19 just -- that, that, that is, you know, I'm good  
20 with just an explanation. I mean, I guess one  
21 option, I don't know if this would help, would be  
22 to just like blacken it out and leave the spaces,  
23 formatting the same. But, you know.

24 MR. REHMAN: Or, alternatively, Russ,

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2 can you clarify if the instructions that are  
3 given make mention of that report level field and  
4 if they, if they should just skip that field?

5 MR. PECUNIES: Yeah, they're, they're  
6 told to leave it blank.

7 MR. REHMAN: Okay, thank you.

8 MS. KNAUER: And what --

9 MR. REHMAN: And, and a follow-up  
10 question that I have is, earlier in the  
11 conversation, when Shamonda was asking about  
12 contact information, it was noted by one of my  
13 OATH colleagues that sometimes e-mail addresses  
14 are just put in lieu of an actual physical  
15 address. Is that also something noted in the  
16 instructions?

17 MR. PECUNIES: We, you know, as we are  
18 not a party to this summons, we leave that up to  
19 them to put what they choose to put in terms of  
20 how they should be contacted.

21 MR. REHMAN: Okay.

22 MR. PECUNIES: Obviously, OATH needs to  
23 contact them because they have to appear at the  
24 hearing, so OATH has to have a way of getting in

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2 touch with them. Also, the Respondent has the  
3 right to make a discovery request for this, for  
4 these summonses, and they can't make that request  
5 to us because we don't have the evidence because  
6 we're not issuing the summons. So there has to  
7 be a way for the respondent to contact the  
8 petitioner to request discovery

9 What I have noted, I believe, I'm pretty  
10 sure that the people that are doing this -- and  
11 with regard to the earlier conversation about  
12 frequent flyers and non-frequent flyers -- as far  
13 as I know, pretty much, the only people that are  
14 issuing their own summonses are frequent flyers,  
15 people who are heavily involved in citizen  
16 complaining. And I think some of them have  
17 actually set up P.O. boxes, and they put a P.O.  
18 box on the, on the form so that they're not  
19 giving the respondent their home or other actual  
20 address, they're giving a P.O. box. I've seen  
21 that from, from several of them.

22 MR. REHMAN: Thank you, Russ.

23 Elizabeth?

24 MS. KNAUER: I'd just like -- and I, I

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2 guess that, I've been taking it, Russ, from your,  
3 from what you were saying, that the guide  
4 explains that, that it's, it's the petitioner's  
5 choice of what contact information to provide.  
6 But they have to provide one means of contact?

7 MR. PECUNIES: Yes, they, they are told  
8 --

9 MS. KNAUER: Okay.

10 MR. PECUNIES: -- that they have to  
11 provide a means of, of being contacted by OATH,  
12 and we then leave them to specify what address,  
13 whether it's physical, P.O. box, e-mail, whatever  
14 they, they want to put. I, I don't know if the  
15 Clerk's office has any preference as to what they  
16 put, but we, I, I don't believe our instructions  
17 specify what type of address has to be put there.

18 MS. KNAUER: I will note that there  
19 doesn't seem to be a line for e-mail address. So  
20 that might be something to consider.

21 MS. STATZ: It, it just, it just says  
22 citizen petitioner contact information. I mean,  
23 the citizen petitioner can figure out what  
24 contact information --



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2 MS. KNAUER: Oh, I see. There's a line  
3 -- okay.

4 MS. STATZ: -- he or she wants to put in  
5 there.

6 MS. KNAUER: Okay, okay. And then the  
7 one other question I had was the tax, towards the  
8 bottom, tax registry number, what that referred  
9 to.

10 MS. STATZ: Maria, are you, are you on?

11 MARIA L. MARCHIANO, ESQ., DEPUTY

12 COMMISSIONER/CHIEF CLERK, OATH: I am.

13 MS. STATZ: Maybe you'll --

14 MR. REHMAN: Go ahead, Maria.

15 MS. MARCHIANO: Actually, just to answer  
16 the previous question, we need the mailing  
17 address so that we can serve them with the  
18 decision. But I assure they contact us regularly  
19 via e-mail, and that's how we get their e-mail  
20 address, and we have a registry of their e-mail  
21 addresses, as well.

22 As for a tax registry, again, this is  
23 something -- this is a universal summons, so we  
24 couldn't rearrange the entire summons just for

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2 this very small population. So what we did was  
3 we took what we had and then just made certain  
4 modifications that were tailored specifically for  
5 the citizen. We just didn't blank out everything  
6 that's there because, like Olga said, I have a  
7 printer, and the printer charges for, you know,  
8 if we decide to reformat anything. So it's  
9 really just, we want to keep the universal  
10 summons the same for everyone in the City of New  
11 York so that it's recognizable. But, in this  
12 particular situation, we did modify it somewhat  
13 to accommodate for the citizen petition.

14 MR. REHMAN: If I may clarify, Russ, if  
15 you know, does your instruction guide for citizen  
16 petitioners say, with respect to tax registry  
17 number, you can leave that blank?

18 MR. PECUNIES: Yes, they are told to, to  
19 leave that one blank.

20 MR. REHMAN: Okay. Alright, Elizabeth,  
21 anything else?

22 MS. KNAUER: No. Thanks very much for  
23 answering my questions.

24 MR. REHMAN: Sure. Tom? You're good.

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2 Okay. I next have Joseph.

3 MR. GREGORY: Okay.

4 MR. REHMAN: Then, if anyone else has a  
5 question, please raise your hand.

6 MR. GREGORY: Yes, hi. Good morning.  
7 Just a question or a concern. The alternate  
8 service, does that, do you feel that that poses  
9 any problem as far as it being consistent with  
10 charter service? And the, the possibility maybe  
11 the citizen petitioner -- I'm not saying they  
12 would, but utilizing like [unintelligible]  
13 [10:19:56] [00:48:56] service or, or not being,  
14 you know, handling that properly?

15 MS. STATZ: Alternative services is  
16 what's allowed under the Charter. I mean, this  
17 is, this is basically charter service, the  
18 ability to, to mail, to mail the summons in. And  
19 what, what happens is we also -- if, if someone  
20 defaults, that person also receives a notice, and  
21 they can, they can answer that notice. If, if  
22 one of their ob- objections is that they never  
23 received it, that's the time in which they are  
24 able to make that statement.

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2 Maria, did you want to add something?

3 MS. MARCHIANO: I did. I, I know where  
4 you're going, Joseph, but these are not auto-  
5 docketed. So we do not have to comply with the  
6 charter service -- or, we -- they, because these  
7 are not automatic judgments. These actually go  
8 to the Law Department for collection. So they're  
9 allowed to, to do mail service, they're allowed  
10 to do CPLR service. It doesn't really matter.

11 MR. GREGORY: Okay. So [unintelligible]  
12 [10:21:01] [00:50:01].

13 MR. REHMAN: Okay. Any other questions?  
14 I have a question. And it's for Olga, Peter and  
15 Maria. Joseph has, has had me looking at the  
16 back where we have the affidavit of service. And  
17 if the whole point here is to have an affidavit  
18 that's unsworn, for the reasons that Olga talked  
19 about, something that might confuse a user on the  
20 back is, it says under affidavit of service:

21 The undersigned, being duly sworn,  
22 deposes and says:

23 Now, I think we understand that that  
24 swearing is, is, is limited to the swearing for

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2 the purposes of service and not for the purposes  
3 of the, the kind of allegations.

4 MS. STATZ: Yes.

5 MR. REHMAN: Okay. I wonder, should we,  
6 should there be an amendment that says, for  
7 example:

8 The undersigned, being duly sworn for  
9 the limited purposes of service, deposes and  
10 says.

11 MS. STATZ: That's going to depend,  
12 again, on what, what the -- what's going to  
13 happen with the printer. I'm presuming that, if  
14 it's not going to be too much of a problem with  
15 the printer, we can, perhaps, add something like  
16 that. But I also would hesitate to mess around  
17 with a notarization for an affidavit of service.

18 MR. REHMAN: Yeah. And so, so --

19 MS. STATZ: So --

20 MR. REHMAN: -- I open, I open up here,  
21 do we think that is going to create confusion?  
22 Or am I, am I making something out of --

23 [CROSSTALK] [10:22:26] [00:51:26]

24 MS. STATZ: It, it hasn't created -- I

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2 mean, it hasn't created confusion in the past.  
3 They, although -- so I'm not, I'm not exactly  
4 sure it would create confusion here. Also, given  
5 the fact, also, that it's on the other side of  
6 the paper. Right, so --

7 MR. REHMAN: Yeah.

8 MS. STATZ: -- you have your first  
9 signature where your, your -- it says you cannot  
10 swear to this and you have just one line for your  
11 signature on the front, and then you have to  
12 swear that you served. You have to notarize.

13 I mean, I suppose someone could get  
14 confused, but it would prob-, to me, it would  
15 probably be a rather extreme situation which a  
16 person would not know what's going on in that, in  
17 that instance.

18 MR. REHMAN: And then, in terms of it  
19 being legally defensible, you know, the fact it's  
20 on both -- well, we haven't had the issue yet,  
21 because everything has been sworn to so far, and  
22 this is the first time that we're having not  
23 sworn on one side and sworn on the other. And,  
24 if it's challenge, are there -- you know, are we

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2 comfortable with this? Or do we think any  
3 additional clarification language is needed?

4 MS. STATZ: I mean, I don't see --

5 MR. SCHULMAN: I don't think there would  
6 be a printer --

7 MS. STATZ: I'm sorry. Go ahead, Peter.

8 MR. SCHULMAN: I, I don't think, and  
9 Maria can correct me, that there would be a  
10 printer issue on, on adding that language that  
11 the Commissioner recommended on the second page.  
12 It's just, that's not a, that's not a new field.  
13 It's just some additional words to the, to the  
14 statement at the top.

15 MS. MARCHIANO: Oh, I agree. But  
16 wouldn't it be easier just to put that in the  
17 instructions that DEP sends out as clarification,  
18 instead of, you know, changing the affidavit?  
19 Just making it clear in DEP's instructions?

20 MS. STATZ: And I would have more of a,  
21 of a litigation concern if I'm messing -- because  
22 this is a, this is a standard notarization jurat  
23 portion, and it has, and it probably has a legal  
24 meaning that we're not even thinking about right

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2 now.

3 MR. REHMAN: Sure.

4 MS. STATZ: So I would not be  
5 comfortable messing around with this right now.

6 MR. REHMAN: And, and I like Maria's  
7 suggestion, if, if -- and we'll come to Russ in a  
8 minute -- if it's possible to have the, the  
9 instructions clarify that. If, if it, if you're  
10 submitting an affidavit, a summons on your own  
11 after DEP has decided not to pursue, that it's  
12 not sworn to, which is separate from swearing to  
13 the affidavit of service.

14 I just would like to just add a comment  
15 that underscores what Olga said before about what  
16 the big picture here is. I mean, the picture  
17 here is that, in, in courts of law and  
18 administrative courts, the, if the baseline is  
19 fairness, the agency making -- the entity making  
20 an allegation should have a fair opportunity to  
21 present its case, and the entity that is on the  
22 receiving end should have a fair opportunity to  
23 confront and, and see who it is that's making the  
24 case against them. That's the baseline. And



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2 then there are exceptions to that rule, and we  
3 have an exception in New York City that allows  
4 for the prima facie case. And why do we allow  
5 that exception? It's for the reasons that Olga  
6 said. All of those particular controls are in  
7 place that, including a person's own professional  
8 obligation, their job is on the line if they do  
9 something wrong or if they do something improper.

10 And because those same protections are  
11 not in place when we talk about a, a, a citizen  
12 complainant, then we should revert to the  
13 default. And the default is, you need to present  
14 your case. And, and so that this is a, a part of  
15 the reason behind this idea of having the non-  
16 sworn to aff- affir- affidavit -- non-sworn to  
17 summons that, that doesn't get the same prima  
18 facie presumption.

19 Shamonda?

20 MS. GRAHAM: One quick comment, and I'm,  
21 I'm not sure if it fits -- where it fits here,  
22 but I just want to throw it out there. Our  
23 agency had one -- at one point, looked at the  
24 notarization of the affidavit of service. And

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2 we, what we were trying to determine is whether  
3 or not our inspec-, whether or not we should be  
4 notarizing when the inspector serves the summons.  
5 And what we determined was that we would  
6 notarized whenever the person serving the summons  
7 was not an inspector. And the other thing we  
8 determined was that the summons is an affi-, the  
9 back of the summons, the affidavit of service, is  
10 an affidavit when it is sworn to or notarized,  
11 and it, when it is not, it's a certificate of  
12 service.

13 MR. REHMAN: Thank you.

14 MS. GRAHAM: And then, and then it would  
15 be up to the hearing officer to make a  
16 determination as to the amount of weight they  
17 would give it, because there are differences  
18 between an affidavit versus a certificate.

19 So I'm not sure if the language is there  
20 on the back. I don't -- I could grab it, but as  
21 long as the back says certificate/affidavit,  
22 which the universal summons, I do believe says, I  
23 think it's good to go.

24 MR. REHMAN: Well --

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2 MS. STATZ: We're taking out the word  
3 certificate here. For the citizen complainant,  
4 we're taking out the word certificate so that  
5 they can only do it by affidavit.

6 MS. GRAHAM: Got it. Makes sense to me.

7 MS. STATZ: So we're taking out -- so  
8 that's one of the things that we did do, we  
9 removed that word to make it clear that you must  
10 have this notarized, as a citizen petitioner.  
11 You have to swear to this.

12 MR. REHMAN: Russ, did you want to chime  
13 in with anything?

14 MR. PECUNIES: Yeah. We will -- just to  
15 say that one, assuming this form is approved, and  
16 when it gets printed and when we're in a position  
17 to start giving them out, that the instructions  
18 will be, will be amended accordingly.

19 MR. REHMAN: Great. Thank you. Any  
20 other comments or questions? Okay. I would like  
21 to ask for a motion in support of adoption of  
22 this summons, which is intended only for use by  
23 citizen petitioners authorized under the  
24 Administrative Code to serve and file summonses.

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2 Do we have a motion? I see a motion from Matthew  
3 Smith. A second from Matthew Schneid. David?

4 MR. KIM: Yes. Are there any objections  
5 to approving the motion to adopt the new form of  
6 summons? Seeing none, hearing none, the motion  
7 is approved unanimously.

8 MR. REHMAN: Okay, thank you, everyone.  
9 Appreciate the thoughtful discussion. Item 7 on  
10 the agenda are any other additional questions or  
11 matters not discussed today? Okay. Let's  
12 discuss our options for the next Board meeting.  
13 David, can you please walk us through that?

14 MR. KIM: Yeah. Possible dates for the  
15 June Board Meeting are June 1, 2023, or June 8,  
16 2023.

17 MR. REHMAN: Does anyone have any  
18 objections to either of those dates?

19 MR. PECUNIES: June 8th, I would not be  
20 able to attend.

21 MS. LIGUORI: I will not be able to  
22 attend June 1st.

23 MS. KNAUER: I may not be able to attend  
24 June 8th, but I'm not positive.

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2 MR. SMITH: I actually don't think I  
3 could do either of those.

4 MS. STATZ: Let's see.

5 MR. REHMAN: Let's see. Well, Tom?  
6 Tom, you're muted.

7 MR. SHPETNER: Excuse me. Can I offer a  
8 suggestion that we maybe send out meeting  
9 planners for both days? People reply, RSVP. We  
10 go asynchronously and then, you know, if we don't  
11 get a critical mass, we, we reopen the, the  
12 question.

13 MR. REHMAN: I think that's fine. We're  
14 heading into the summer months. People have  
15 schedules that are less predictable. Perhaps we  
16 can do this in a, in an offline manner, if that's  
17 okay with the GC Unit. Matt, did you want to add  
18 something, Matt Smith? Oh, I'm sorry, I saw, I  
19 saw a hand. Is that, from a process standpoint,  
20 GC Unit, is that okay for us to manage the date  
21 selection outside of the formal meeting? David  
22 or Olga? Olga, we can't hear you.

23 MS. STATZ: I think it's fine. I think  
24 that Tom's suggestion is going to work.

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2 MR. REHMAN: Okay.

3 MS. STATZ: We'll just, we'll just note  
4 it down as we, we all agree that we'll meet  
5 sometime in June, and, and steps will be taken  
6 to, to select a precise date.

7 MR. REHMAN: And we'll, of course, as  
8 always, make sure that that date is, is  
9 published.

10 MS. STATZ: Tom has something to say.

11 MR. REHMAN: Yes, Tom?

12 MR. SHPETNER: Yeah. I had one other  
13 [unintelligible] [10:30:51] [00:59:51]. I only  
14 just started mine, but the Conflicts of Interest  
15 Board filing is due on the 21st, for those of you  
16 who have to execute those. So they're a little  
17 bit of work, and I, I just started mine this  
18 morning, and it's due on the 21st. So, you know.

19 MS. STATZ: Thanks for the reminder.

20 MR. REHMAN: Thank you very much for  
21 that --

22 [CROSSTALK] [10:31:09] [01:00:09]

23 MS. KNAUER: And first, first tax day,  
24 first tax day, then disclosure day, right?

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2 MR. REHMAN: Yeah.

3 MR. SHPETNER: Yeah.

4 MS. KNAUER: One right after another,  
5 same week.

6 MR. SHPETNER: Well, this is one that's  
7 a little lengthy, so delaying it isn't a great  
8 idea.

9 MR. REHMAN: Okay. Alright. Any other  
10 comments or concerns? Can I have a motion to  
11 adjourn the meeting? I see a motion from  
12 Madelynn. I see a second from Joseph. And,  
13 accordingly, we are adjourned. Thank you very  
14 much, everyone. I hope you have a good day. And  
15 we will reconvene in June. Stay tuned for  
16 information on that. Thank you.

17 MS. GRAHAM: Have a great day guys.  
18 Bye.

19 MS. STATZ: Goodbye.

20 (The board meeting concluded at 10:33  
21 a.m.)

22  
23  
24

Environmental Control Board, 4/20/2023

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on April 20, 2023, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: April 24, 2023

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**Reviewed and corrected by OATH General Counsel  
office. May 11, 2023**