

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

August 28, 2014

9:20 A.M. to 9:49 A.M.

August 28, 2014

MEMBERS PRESENT:

Suzanne Beddoe, Esq. - Chair, OATH  
Robert Carver, Esq. - Citizen Member  
**Renaldo Hylton - Exec. Dir., Dept. of Buildings**  
Elizabeth Knauer, Esq. - Citizen Member  
Tayo Kurzman, Esq. - Fire Department  
Emily Lally - Citizen Member  
Jorge Martinez, Esq. - Dept. of Health and Mental Hygiene  
**Russell Pecunies, Esq. - Dept. of Environmental Protection**

ALSO PRESENT:

Denis Brogan - Assistant General Counsel, OATH  
**Kelly Corso, Esq. - Assist. Director of Adjudications, ECB**  
Arisleyda Fernandez - Facilities Assistant, OATH/ECB  
Fana Garrick - Public Affairs Assistant, OATH/ECB  
Shamonda Graham - Department of Transportation  
David Goldin, Esq. - Administrative Justice Coordinator  
Diane Haines - Assistant General Counsel, OATH  
Peggy Kuo - Deputy Commissioner and General Counsel, OATH  
Jim Macron, Esq. - Counsel to the Board, ECB  
Maria Marchiano - Senior Counsel/Assistant Commissioner,  
OATH  
Charles Shelhamer - Department of Buildings  
Mathew Shapiro - Urban Justice Center  
Amy Slifka, Esq. - Deputy Commissioner/Executive Director,  
ECB  
Thomas Southwick, Esq. - Supervising Attorney, Appeals,  
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: First of all, thank you for being here. I  
7 know in the past we haven't had August meetings  
8 for vacation schedules and so on. So, I just  
9 really appreciate the fact that you were able to  
10 come here and serve and make sure that we  
11 continue to make sure that the appeals go through  
12 the process and aren't delayed for a month  
13 because of that. So, thank you so much.

14 One quick order of business. The first  
15 thing I just wanted to draw your attention to is  
16 on the June 26th meeting -- so not last month but  
17 the month before; there were two cease and desist  
18 orders that had been approved by the board but  
19 were omitted from the minutes. So when the board  
20 approved the minutes from that meeting, two of  
21 those C&Ds were omitted. It was just a  
22 ministerial error. So, I just want to ensure that  
23 you're aware of that and just correct that  
24 process. So, is there a motion to approve the

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2 minutes from the June 26th with those two  
3 different C&Ds added to it? Okay. Thank you.

4 And then on that note, is there a motion  
5 to approve the minutes from our last meeting of  
6 July 31st? Okay, thank you, and one abstention.

7 Okay. So, I guess the first item of our  
8 agenda today is Renaldo Hylton from Department of  
9 Buildings. He is going to be presenting on some  
10 new infrac-, infractions and amendments to the  
11 penalty schedule. Renaldo?

12 MR. RENALDO HYLTON, EXECUTIVE DIRECTOR,  
13 DEPARTMENT OF BUILDINGS: Thanks. Good morning.  
14 In your packages, I gave a letter but I also sent  
15 -- gave, gave it an updated version to the  
16 program this morning. There was a typo. Just a  
17 little thing -- a minor typo. I typed 11 instead  
18 of ten in the letter. But in 2008, the New York  
19 City Department of Buildings underwent a big code  
20 revision, as you remember. And the new New York  
21 City Construction Codes, as it was called, also  
22 required that the Department update the, the  
23 Building Code every three years, to be, just to  
24 modify and be in consistence with the -- to be

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2 consistent with the ICC version.

3 So today I am here to present and ask  
4 that your -- that you approve some new  
5 infractions as they -- as the 2014 update  
6 affected the penalty schedule. These become the  
7 schedule. Just to let you know that New York's  
8 Department of Buildings also promulgated its own  
9 rule, reclassifying or updating the  
10 classifications of violations that were affected  
11 by this code review.

12 So, this 2014 code update is what's  
13 contained in local law 141, which takes effect on  
14 October 1st of 2014. It amends Administrative  
15 Code, the New York's Administrative Code and New  
16 York's Plumbing Code, the Building Code,  
17 Mechanical Code and the fuel gas -- and New York  
18 City Fuel Gas Code. And these sections basically,  
19 all it does was, it was amended some  
20 requirements, added new requirements and  
21 renumbered some existing requirements. Not a  
22 major thing. But it does, as far as notice goes  
23 to respondent, it does change some sections. So,  
24 we have to kind of change the penalty schedule to

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2 make it better.

3 So, in your -- in your packages ladies  
4 and gentlemen, I gave you some updates, an  
5 updated spreadsheet of the affected infractions.  
6 And I'm not sure -- it's a lot of them; it's like  
7 50. There are three deletions because of, for  
8 example, there was 1 RCNY 9-03 was, was not the  
9 cease to exist. So, I removed those infractions  
10 that are no longer required. And there was one  
11 infraction on there about plumbing work, not  
12 contrary to approved plans, which the Department  
13 has never used. And so we wanted to just remove  
14 that one because it hasn't, they haven't been  
15 using it. We don't see the need for it because  
16 it's specific to plumbing and we already have an  
17 infraction that covers all work contrary to  
18 approved plans.

19 I just want to draw your attention to  
20 the second page of the spreadsheet. And it has to  
21 do with one of the highlights of the code  
22 originally was the changes to what, what --  
23 changes to the illegal conversion aspect of the  
24 code. And as you recall, prior to -- in its 2008

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2 code, the first class one or immediately  
3 hazardous illegal conversion was defined as a one  
4 or two-family home converted to four or more  
5 families. And those infractions of that -- those  
6 infractions then would subject the respondent to  
7 a daily penalty of \$1,000 a day up to 45 days.

8 We -- the new code has revised what a  
9 class one illegal conversion would be. And in  
10 addition to those one or two-family converted to  
11 four or more families, it would be any offense of  
12 then office buildings; any other offense  
13 including residential buildings that add to their  
14 approved number of occupants -- approved number  
15 of apartments or families; three, three  
16 additional. So for example, a 15-family apartment  
17 building, if they were to add three illegal  
18 rental units, it would be classified as a class  
19 one and be eligible for an illegal conversion --  
20 excuse me, the additional daily penalty aspect.

21 And that's just -- I think that was  
22 making the whole aspect of class one illegal  
23 conversion a little more fair. Before it was  
24 really on the backs of one or two-family homes.



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2 You have to start off at what, what, two-family  
3 homes. Now, it would be any kind of egregious  
4 illegal alteration; illegal alteration of the  
5 building to add three or more families.

6 And so we had to add some new infraction  
7 codes to cover those instances, such as multiple  
8 dwelling converted or maintained occupied with  
9 three or more families, other than what's legally  
10 authorized. And the second one is industrial or  
11 manufacturing building converted to three or more  
12 families.

13 The yellow highlights will show you some  
14 additional ones that we've made. We were  
15 requesting for example: failed to comply with the  
16 manufacturer's specifications that are on  
17 equipment being used in construction equipment.  
18 And we have added a class one and two charge on  
19 that. And failed to maintain or display site  
20 documents required; on-site documents required by  
21 the Chapter 33, which is the construction --  
22 building construction chapter of the code.

23 We've also asked for new infractions  
24 such as failure to main-, perform slurry

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2 operations according to section; slurry  
3 operations is -- oh, by the way, I didn't  
4 introduce someone that came with me. I'm sorry. I  
5 have Charles Shelhamer with me. He's a code  
6 analyst for the Department. But I think I prefer  
7 to call him a code expert. He is very much  
8 involved with the code revision. And so, Charles,  
9 I'm sorry.

10 Slurry operations in accordance with  
11 section. And slurry operation is actually  
12 concrete foundational type of work going on,  
13 where the slurry -- picture the slurries;  
14 concrete slurry, correct, has been poured into  
15 the foundation. And that's very serious. And so  
16 we've asked for immediate; that those violations  
17 be immediately hazardous. And failure to obtain a  
18 registered design professional evaluation prior  
19 to using existing structures to support formwork  
20 loads. And formwork is also concrete work. That's  
21 a class one.

22 No site specific formwork design  
23 drawings present. That's also a class one  
24 request. And failure to perform required formwork

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2 observation. Which means that during the formwork  
3 operations, there must be someone there  
4 constantly monitoring the work. And failure to do  
5 so would be a class one; it's immediately  
6 hazardous infraction.

7 The penalty amounts requested are there.  
8 And if you have any questions about that? But  
9 just so you understand, the existing, we did; on  
10 existing fractions, I never -- we never changed  
11 any penalty amounts. Only, only for the new  
12 infractions we're requesting penalties. We just  
13 modified the code sections. As the, as the code  
14 changed, we modified code sections. And we found  
15 the schedule to consistent with the code, with  
16 the law.

17 And we -- and the inspector has to  
18 specify, for example, if they're citing to the  
19 2014 code or the 2008 code. Because the  
20 requirements did change in the ones that we're  
21 asking for. There may be a different requirement  
22 that was added in the 2014 code and never existed  
23 in 2008. So that inspector, if a job was filed  
24 after October 1st of 2014, which is when the code

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2 takes effect; the inspector must charge the 2014  
3 code section. And so that's, that's why you have  
4 in red a notation there as to which code we're,  
5 we're charging. And with that, I'm just  
6 requesting that that penalty schedule be  
7 approved.

8 MS. BEDDOE: Well, I have a few quick  
9 questions, as to make sure I'm looking at the  
10 right things and that we're all on the same page.  
11 So, I'm looking now at the spreadsheet; which is  
12 a one, two, three, four-page document. I'm  
13 looking at the second column from the left. And  
14 there are markings in here in red. So, I'm  
15 looking at the sections in red as the modified  
16 sections, right?

17 MR. HYLTON: Um --

18 MS. BEDDOE: The sections that have been  
19 -- where the enumeration has been changed.

20 MR. HYLTON: Yes.

21 MS. BEDDOE: Okay? So, I'm looking -- so  
22 that is just reflected in the 2008 versus the  
23 2014 --

24 MR. HYLTON: That's right.

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2 MS. BEDDOE: -- citations. And then all  
3 of the highlighted -- this, the highlighted  
4 insertions. So there are 11 of those, starting on  
5 page two and continuing through the document,  
6 would be all of the new infractions requested?

7 MR. HYLTON: Yes. And which, which takes  
8 effect in 2014.

9 MS. BEDDOE: In 2014. And as you said,  
10 anything, any inspection that occurs on or after  
11 October 1, 2014, would -- this, this would apply?

12 MR. HYLTON: Yes, the entire thing would  
13 apply. But --

14 MS. BEDDOE: I mean, these new --

15 MR. HYLTON: The new ones, yes.

16 MS. BEDDOE: Right. These new  
17 infractions.

18 MR. HYLTON: And we want to do on site  
19 right now.

20 MS. BEDDOE: Okay. And then the  
21 penalties that go with each of these new  
22 infractions, where, I, I'm trying to see --

23 MR. HYLTON: Okay. So, it's -- yeah,  
24 it's the --

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2 MS. BEDDOE: The header of the page --

3 MR. HYLTON: The header, yes, did not  
4 cover.

5 MS. BEDDOE: -- cover.

6 MR. HYLTON: Yes.

7 MS. BEDDOE: So, it would be -- it would  
8 be the standard penalty?

9 MR. HYLTON: So the penalty in the first  
10 column, in the first column is standard penalty  
11 column.

12 MS. BEDDOE: Okay.

13 MR. HYLTON: The other -- the other  
14 penalty columns are just by law definitions of  
15 what; say for example, the default penalty is  
16 just five times the standard penalty. So we  
17 really should just look at the standard penalty  
18 column as the approval.

19 MS. BEDDOE: As the approval piece,  
20 okay. So just to be clear, I'm looking at the  
21 second page of the spreadsheet. It is the first  
22 of the newly requested infractions. It is a class  
23 three and it's numbered as 20-118.3.2.1.

24 MR. HYLTON: Yes.

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2 MS. BEDDOE: And I see that the penalty  
3 that I would be looking at as a standard penalty  
4 would be four.

5 MR. HYLTON: Okay.

6 MS. BEDDOE: The second one on that page  
7 is 2,400.

8 MR. HYLTON: That's right.

9 MS. BEDDOE: The third one would be  
10 3,200.

11 MR. HYLTON: That's right.

12 MS. BEDDOE: Okay. Alright. I understand  
13 what I'm looking at now. Okay? Any other  
14 questions from the board? Elizabeth?

15 MS. ELIZABETH KNAUER, ESQUIRE, CITIZEN  
16 MEMBER: Elizabeth Knauer, Citizen Member. I just  
17 -- I had a few minor questions about some of the  
18 violation descriptions.

19 MR. HYLTON: Sure. What page?

20 MS. KNAUER: So for the -- the ones that  
21 we were, that you were just discussing: the new  
22 class one violations for 28-210.1 for conversion.

23 MR. HYLTON: Yes.

24 MS. KNAUER: Though -- it seems like

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2 there's; from the description it seems like  
3 there's a word missing. Because it says: multiple  
4 dwelling converted, maintained or occupied with  
5 three or more dwelling units than. It seems like  
6 it should be: three or more more dwelling units  
7 than. Do you see what I mean?

8 MR. HYLTON: Now, um, it's three or more  
9 dwelling units than legally authorized.

10 MS. KNAUER: Than.

11 MR. HYLTON: Or other than. But --

12 MS. KNAUER: But it's, it's not three  
13 more dwelling units than. It's three or more more  
14 dwelling units than legally authorized.

15 MR. HYLTON: And must have been  
16 converted --

17 MS. KNAUER: And if it's --

18 MR. HYLTON: -- or maintained with three  
19 or more dwelling units.

20 MS. KNAUER: Three or more more  
21 dwelling, shouldn't it be?

22 MR. HYLTON: No. It's already more for  
23 dwelling.

24 MS. KNAUER: Right.



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2 MR. HYLTON: And we're saying you're  
3 maintaining with three additional --

4 MS. KNAUER: It's not, it's not three  
5 more though. It's three --

6 MS. BEDDOE: Or more.

7 MS. KNAUER: -- or more more than are  
8 legally --

9 MR. HYLTON: Additional.

10 MS. KNAUER: -- than are legally auth-,  
11 --

12 MR. HYLTON: You mean additional?

13 MS. BEDDOE: Yeah.

14 MS. KNAUER: There's just a -- there's a  
15 word; I mean, three or more more I know doesn't  
16 sound very eloquent.

17 MR. HYLTON: Well, because that's --  
18 the, the, the last phrase says than legally  
19 authorized.

20 MS. KNAUER: But that there's nothing  
21 before then. There's nothing describing what --

22 MR. HYLTON: Three or more dwelling  
23 units than legally authorized.

24 MS. AMY SLIFKA, ESQUIRE, DEPUTY

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2 COMMISSIONER/EXECUTIVE DIRECTOR, ECB: But so  
3 give an example.

4 MR. HYLTON: Um --

5 MS. KNAUER: I understand what the  
6 concept is.

7 MR. HYLTON: Yeah.

8 MS. KNAUER: I feel like there's just a  
9 grammatical error here because --

10 MR. HYLTON: Yeah, I don't think --

11 MS. KNAUER: If it said three more than  
12 legally authorized, that would make sense. But it  
13 says three or more; meaning, three, four, five,  
14 six, etc.

15 MR. HYLTON: Yes, that's true though.

16 MS. KNAUER: And then you have to have  
17 another word -- three; I'm having trouble. I'm  
18 not --

19 MR. HYLTON: I understand. Let me  
20 explain though.

21 MS. KNAUER: It's a syntax issue.

22 MR. HYLTON: So, let me, let me explain.  
23 Yeah, I understand what you're saying.

24 MS. BEDDOE: Yes.

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2 MR. HYLTON: So multiple dwelling  
3 converted, maintained or occupied with three or  
4 more dwelling units --

5 MS. KNAUER: More than are legally  
6 authorized.

7 MR. HYLTON: Well, the word than --

8 MS. TAYO KURZMAN, ESQ. - FIRE  
9 DEPARTMENT: If you took out three or and you just  
10 said the sentence --

11 MS. KNAUER: Three more.

12 MS. KURZMAN: If you took out three or -  
13 -

14 MS. KNAUER: But then it would just be  
15 --

16 MS. KURZMAN: And you just say with more  
17 dwelling units than, so that would be --

18 MS. KNAUER: That would make sense. But  
19 it says -- the more is being used to describe the  
20 number of units.

21 MS. BEDDOE: Of existing units. So, is  
22 that what you're saying?

23 MS. KNAUER: Well, no. It --

24 MS. BEDDOE: So for example, if you have

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2 a multiple dwelling with three units.

3 MS. KNAUER: If you had -- well, no;  
4 what I'm trying to say is that the way, the way  
5 it reads is it's describing three or more  
6 dwelling units. Right? The three or more is  
7 what's being added, three or more?

8 MR. HYLTON: Yes.

9 MS. KNAUER: But then than is not  
10 modified to say: it should be three or more  
11 dwelling units in addition to what is legally  
12 authorized or something like that. That would  
13 make more sense.

14 MR. HYLTON: That would be the perfect  
15 thing, Ms. Knauer.

16 MS. BEDDOE: Right.

17 MR. HYLTON: But I still think -- I  
18 understand. But I still think it, it conveys --

19 MS. KNAUER: I don't think -- I don't  
20 think it's grammatically correct.

21 MR. HYLTON: You don't think so?

22 MS. KNAUER: No.

23 MR. HYLTON: Okay.

24 MS. KNAUER: But --

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2 MR. ROBERT CARVER, ESQ. - CITIZEN

3 MEMBER: You have to just clean it up a little  
4 bit. It just needs to be cleaned up a little bit.

5 MS. KNAUER: I would -- I would suggest:  
6 three or more than legally authorized.

7 MS. BEDDOE: Do you think that somebody  
8 reading this would not be on notice for; do you  
9 think that, that the description is misleading  
10 somehow?

11 MS. KNAUER: I don't --

12 MS. BEDDOE: Or could be misread?

13 ALL: Yes.

14 MS. BEDDOE: Yes. Okay.

15 MS. KNAUER: Only because it just  
16 doesn't really make sense. So, I think it's -- I  
17 think it's one can, you know, decipher it but  
18 there's clearly --

19 MR. HYLTON: Okay. Okay. I understand  
20 where you're coming from. The -- this has also  
21 passed the Law and the Mayor's Office review  
22 already.

23 MS. KNAUER: Okay.

24 MR. HYLTON: But, but, I mean, I don't

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2 know if, if --

3 MS. KURZMAN: The other concern is that  
4 all the other violations read this way. So if we  
5 changed it in this one, we would have to change  
6 all the other infractions.

7 MS. KNAUER: Which ones --

8 MS. KURZMAN: Because then they would be  
9 providing different notice, which would make the  
10 other ones --

11 MR. RUSSELL PECUNIES, ESQUIRE,  
12 DEPARTMENT OF ENVIRONMENTAL PROTECTION: Is this  
13 -- is this --

14 MS. KNAUER: Which ones are you  
15 referring to?

16 MS. KURZMAN: So, if you look at the  
17 ones that are not highlighted and you look at the  
18 ones directly above, the two directly above and  
19 you --

20 MS. KNAUER: Yeah, but that -- those  
21 make sense. Those are for -- it's, it's --

22 MS. KURZMAN: -- four or more families.

23 MS. KNAUER: For four or more families.

24 But there's not -- that's; what I'm saying is

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2 that there's nothing describing what than;  
3 there's nothing, there's no comparison word.

4 MR. PECUNIES: But now --

5 MS. KNAUER: So that, it doesn't apply;  
6 the other ones I don't think or I think the other  
7 ones makes sense because it's for four or more  
8 families. It's not the same issue.

9 MR. HYLTON: Okay. I, I understand.  
10 Would a change to this be, just a clarified  
11 change be a --

12 MS. BEDDOE: Yeah, I think we need to --

13 MR. HYLTON: So, we'll, we'll --

14 MS. BEDDOE: Yes, Russ?

15 MR. PECUNIES: In, in, in, you know, the  
16 letter and all though, the italicized language on  
17 the second page, is that the actual text of what  
18 we're talking about?

19 MR. HYLTON: Yes.

20 MR. PECUNIES: Well, that's what it says  
21 in the actual text.

22 MS. KNAUER: In the actual code?

23 MR. PECUNIES: Three or more dwelling  
24 units than are legally authorized.

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2 MR. HYLTON: I think this actually comes  
3 from the code itself.

4 MR. PECUNIES: That's the way it reads  
5 in the text.

6 MS. KNAUER: Alright. Well, I mean, I  
7 don't, I can't -- I mean, let's not argue.

8 MR. HYLTON: But if you think, I mean, I  
9 think --

10 MS. KNAUER: It's your bailiwick.

11 MR. HYLTON: But --

12 MS. KURZMAN: I don't think it has to  
13 match the code exactly. So, if it's really  
14 confusing, it can be changed I think.

15 MR. HYLTON: If it's really confusing,  
16 we can in ECB penalty schedule, we can just --

17 MS. BEDDOE: Insert.

18 MR. HYLTON: Insert the word other --

19 MS. BEDDOE: An additional.

20 MS. KURZMAN: Or additional.

21 MS. KNAUER: In addition to --

22 MR. HYLTON: Okay.

23 MR. CARVER: Additional itself is -- I  
24 think the only issue where the --



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2 MS. KNAUER: Yeah, yeah, additional. Or  
3 something, something to just as --

4 MS. BEDDOE: So, read it -- say it back  
5 to me how you would propose..

6 MS. KNAUER: Well, how I would have  
7 proposed it: multiple dwelling converted,  
8 maintained or occupied with three or more  
9 dwelling units in addition to what is legally  
10 authorized. But if that's changing it too much?

11 MS. KURZMAN: Three or more additional  
12 dwelling units than --

13 MS. KNAUER: Yeah, three or more  
14 additional dwelling --

15 MS. KURZMAN: Additional dwelling units.

16 MS. KNAUER: Yeah, yeah, that's, that's  
17 just adding one word.

18 MS. BEDDOE: Okay? So, we're just adding  
19 additional in front of the word dwelling.

20 MS. KNAUER: And I had one other --

21 MR. HYLTON: Okay. Is that -- that's all  
22 then?

23 MS. BEDDOE: Okay. So, we're, we're done  
24 with that.

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2 MS. KNAUER: That would -- that would be  
3 for those two.

4 MR. HYLTON: So, just the word  
5 additional in front of dwelling units, right?

6 MS. KNAUER: Yes.

7 MR. HYLTON: Okay.

8 MS. KNAUER: And then --

9 MR. HYLTON: For the, for the two  
10 charges that, that are highlighted?

11 MS. KNAUER: The two new class one  
12 charges. And then on -- I don't have page numbers  
13 on my print-out. So, I'll see what I can get from  
14 my computer. But, um, for -- it's, it's before  
15 the four highlighted rows, a couple of pages  
16 later.

17 MR. HYLTON: What, what page? Are you  
18 using the same one I'm --

19 MS. BEDDOE: No, she's not.

20 MS. KNAUER: I'm not plain marked --

21 MS. BEDDOE: We're, we're looking at the  
22 third page.

23 MS. KNAUER: I think it should be the  
24 fourth; I think it's the fourth page.

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2 MS. BEDDOE: The fourth page?

3 MS. KNAUER: Yes.

4 MS. BEDDOE: The very last page of the  
5 document, where the highlights are on top?

6 MS. KNAUER: No.

7 MR. HYLTON: Just tell me the charge and  
8 I'll find it.

9 MS. KNAUER: Okay. It's -- the charge is  
10 BC; the section of code is BC 3303.8.1. It's not  
11 a new infraction.

12 MR. HYLTON: Oh, it's not? Okay.

13 MS. KNAUER: It's modified.

14 MR. HYLTON: 3303.8.1. Charles, do you  
15 know where?

16 MS. KNAUER: It's on the --

17 MS. BEDDOE: It's on the third page, the  
18 last row.

19 MS. KNAUER: Oh, oh, I'm sorry. This --  
20 the, the rows are different.

21 MS. SLIFKA: It's B1C3.

22 MS. KNAUER: B1C3 right.

23 MS. SLIFKA: It's failure to provide  
24 standpipe or air pressurized alarm.

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2 MS. BEDDOE: Yeah.

3 MS. KNAUER: So, and this was actually  
4 not in; the issue wasn't the violation  
5 description but the remedy. Because the, the  
6 violation description was changed to say failure  
7 to provide, provide standpipe or air pressurized  
8 alarm system. The remedy is just provide air  
9 pressurized alarm system. Is that correct? Or, or  
10 should standpipe be in the rem-, I just, I don't  
11 know the answer to that. But should standpipe be  
12 in the remedy?

13 MR. HYLTON: Oh, I see. I see, okay.  
14 Okay. I take -- yeah, I'll take that into  
15 advisement. The, the remedy here is not for ECB.  
16 So, we'll --

17 MS. KNAUER: Okay.

18 MR. HYLTON: So, we'll change that in;  
19 but yes, you're right. Thank you.

20 MS. KNAUER: That was it.

21 MS. BEDDOE: That's it? Okay. Any other  
22 questions for the moment? Yes, Jorge?

23 MR. JORGE MARTINEZ, ESQUIRE, DEPARTMENT  
24 OF HEALTH AND MENTAL HYGIENE: Yeah, Jorge

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2 Martinez, DOH. I just have a basic question. When  
3 do aggravated one penalties and aggravated two  
4 penalties kick in? What is the --

5 MR. HYLTON: Okay. So the law defines  
6 aggravated one as the same charge or section of  
7 the law on the same property, the same respondent  
8 every -- within a three-year period. So, at, if  
9 the inspector notes that he was charged with it  
10 before within a three-year period, the same exact  
11 thing, the same respondent; then aggravated one  
12 count would kick in.

13 The law is defined in aggravated two  
14 infraction as anything -- if I can remember;  
15 that, that causes or might affect a death or  
16 injury to someone or something like that; that  
17 it, it, it rises to aggravated two level. Or, or  
18 if there's a history of noncompliance with that  
19 respondent throughout the city. So, not a lot of  
20 -- well, there are a lot of charges for  
21 aggravated one but mostly with failure to comply  
22 with the Commissioner's order and we have to keep  
23 going back and back and back. But these are,  
24 these penalties may never be used sometimes on

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2 these particular charges. But they're just there  
3 as a, as a placeholder just in case we need to  
4 ever use them.

5 MS. BEDDOE: Anything else? Good. Is  
6 there a motion to approve the penalty schedule  
7 concerning the 2014 construction codes? Anyone in  
8 favor? Anyone against? An abstention, well, of  
9 course. Okay. Thank you.

10 MR. HYLTON: Thank you.

11 MS. BEDDOE: Okay. Next up, we have Russ  
12 Pecunies from DEP, regarding the request for the  
13 cease and desist orders. Russ?

14 MR. PECUNIES: Okay. Good morning. There  
15 are no requests for air, noise or boiler C&Ds  
16 this month due to August vacations. We couldn't  
17 get the paperwork together on them. But we will  
18 have those back in September. For this month, we  
19 have 28 new backflow cease and desist requests.  
20 We are also bringing back one from the July 31st  
21 meeting that was pulled back to review a possible  
22 discrepancy in one of the addresses -- I think  
23 specifically the, the mailing address. That one  
24 is 2814 West 36th Street in Brooklyn. The

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2 respondent is Ali N. Twaiti. The mailing address  
3 has been verified and is correct. So, we are  
4 resubmitting that one, that was pulled back on  
5 July 31st. And then there are 28 new ones.

6 MS. BEDDOE: Any questions for Russ on  
7 any of those 29 backflow C&D requests? Okay.  
8 We'll vote on those collectively. Is there a  
9 motion to approve? Anyone against? An abstention,  
10 Russ? Okay. Thank you very much.

11 MS. PECUNIES: Thank you.

12 MS. BEDDOE: Okay. And then now we have  
13 Kelly Corso from ECB, who is going to be  
14 presenting the presealing reports.

15 MS. KELLY CORSO, ESQUIRE, ASSISTANT  
16 DIRECTOR OF ADJUDICATIONS, ECB: Good morning. We  
17 have 18 presealing reports today for the board.  
18 Four of the reports pertain to violations of the  
19 air code and are related to boiler burners. In  
20 two of those cases, the judge has recommended  
21 that the C&D proceedings be discontinued because  
22 the respondents are no longer the managing agent  
23 or the owner of the property. In the other two  
24 air code cases, the judge -- the judge has agreed

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2 with the DEP's recommendation that the C&D orders  
3 be discontinued because the boiler burners have  
4 been removed from the property.

5 The 14 remaining reports are -- pertain  
6 to backflow violations. In 13 of those cases, the  
7 judge has recommended that no sealing or other  
8 action be taken, given the respondent's  
9 compliance. And in the one remaining backflow  
10 case, the judge recommended that the C&D order be  
11 discontinued because the respondent is no longer  
12 the owner of the property. And that's all we  
13 have.

14 MS. BEDDOE: Okay. Any questions for  
15 Kelly on any of those presealing reports -- air,  
16 backflow? Okay. Then is there a motion to  
17 approve? Anyone against? Abstentions? Russ. Okay.  
18 That was easy. Thank you, Kelly. Okay.

19 Okay. At this juncture, we will have to  
20 move to go into the executive session to discuss  
21 the appeals and litigation. So, is there a motion  
22 to approve that we go into executive session?  
23 Okay, thank you. So anyone who is not a member of  
24 OATH/ECB will have to excuse us for the time



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2 being.

3 [OFF THE RECORD]

4 [ON THE RECORD]

5 MS. BEDDOE: Okay. We are back in public  
6 session. I just want to note for the record that  
7 during our executive session, we discussed a  
8 litigation matter that presented a conflict for  
9 Ms. Knauer. Elizabeth recused herself from the  
10 meeting for the duration of that discussion.

11 Okay. Now that we are back in public  
12 session, we have appeals that were presented at  
13 panels on August 7th and August 21st. Is there a  
14 motion to approve the appeals? Anyone against?  
15 Abstentions? No? Okay. I think that that is all  
16 of our business for today. Any -- anything else  
17 before we adjourn? Okay. Motion to adjourn? Thank  
18 you very much everyone. See you next month.

19 (The public hearing concluded at 9:49  
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 August 28, 2014 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



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Date: September 3, 2014

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