

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

BOARD MEETING

Office of Administrative Trials and Hearings  
OATH Multi-Purpose Training Room  
100 Church Street, 12th Floor, New York, New York

February 6, 2025

09:48 AM to 10:55 AM

MEMBERS PRESENT:

Asim Rehman, Esq. - Chairperson; Commissioner & Chief  
Administrative Law Judge (OATH)  
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 & Mental  
Hygiene (DOHMH) [remote]  
Matthew Schneid, Esq. - Appointed Member (Real Estate)  
Thomas Shpetner, Esq. - Appointed Member (Business)  
Matthew Smith, Esq. - New York City Police Department  
(NYPD)  
Lisa Urban, Esq. - Appointed Member (General)  
Jarrod Whittington - Appointed Member (Noise)

ALSO PRESENT:

Rachel Amar - Senior Advisor to the Commissioner (OATH)  
Sola Best, Esq. - Assistant General Counsel (OATH)  
Cindy Chen - Office of Management & Budget  
(OMB) [remote]  
Kelly Corso, Esq. - Deputy Commissioner, Hearings Division  
(OATH) [remote]  
Diana Haines, Esq. - Deputy General Counsel (OATH)  
[remote]  
Madeline Halimi, Esq. - Parliamentarian; Assistant General  
Counsel (OATH)  
Arlene Jobe - Administrative Staff Deputy Supervisor,  
Appeals (OATH)  
Karin McAvoy - Administrative Coordinator (OATH)  
[remote]  
Cindy Nesbit, Esq. - Assistant General Counsel (OATH)  
[remote]  
Frank Ng, Esq. - General Counsel (OATH)  
Laura Quaigraine-Kamaru, Esq. - Assistant General  
Counsel (OATH) [remote]  
Peter Schulman, Esq. - Deputy Commissioner, Appeals (OATH)  
Frances Shine - Secretary to the Board (OATH)  
Thomas Southwick - Assistant Commissioner, Appeals (OATH)  
[remote]

1 (The board meeting commenced at 09:48 a.m.)

2 COMMISSIONER ASIM REHMAN: Are we on the record?

3 ASSISTANT GENERAL COUNSEL HALIMI: Yes.

4 COMMISSIONER ASIM REHMAN: Good morning,  
5 everyone. I'd like to call to order the February 6th,  
6 2025, Environmental Control Board meeting. Hope you're all  
7 doing well. It's our first meeting for the calendar year.  
8 I'd like to ask our parliamentarian to do a roll call to  
9 verify quorum.

10 ASSISTANT GENERAL COUNSEL HALIMI: Good morning.  
11 Commissioner Asim Rehman?

12 COMMISSIONER ASIM REHMAN: Present.

13 ASSISTANT GENERAL COUNSEL HALIMI: Shamonda  
14 Graham?

15 MS. SHAMONDA GRAHAM: Present.

16 ASSISTANT GENERAL COUNSEL HALIMI: Joseph  
17 Gregory?

18 MR. JOSEPH GREGORY: Present.

19 ASSISTANT GENERAL COUNSEL HALIMI: Elizabeth  
20 Knauer?

21 MS. ELIZABETH KNAUER: Present.

22 ASSISTANT GENERAL COUNSEL HALIMI: Madelynn  
23 Liguori?

24 MS. MADELYNN LIGUORI: Present.

25 ASSISTANT GENERAL COUNSEL HALIMI: Russell

1 Pecunies?

2 MR. RUSSELL PECUNIES: Present.

3 ASSISTANT GENERAL COUNSEL HALIMI: Harminderpal

4 Rana?

5 MR. HARMINDERPAL RANA: Present.

6 ASSISTANT GENERAL COUNSEL HALIMI: Matthew

7 Schneid?

8 MR. MATTHEW SCHNEID: Present.

9 ASSISTANT GENERAL COUNSEL HALIMI: Thomas

10 Shpetner?

11 MR. THOMAS SHPETNER: Present.

12 ASSISTANT GENERAL COUNSEL HALIMI: Matthew Smith?

13 MR. MATTHEW SMITH: Present.

14 ASSISTANT GENERAL COUNSEL HALIMI: Douglas Swann?

15 [not available]

16 ASSISTANT GENERAL COUNSEL HALIMI: Lisa Urban?

17 MS. LISA URBAN: Present.

18 ASSISTANT GENERAL COUNSEL HALIMI: Jarrod

19 Whittington?

20 MR. JARROD WHITTINGTON: Present.

21 ASSISTANT GENERAL COUNSEL HALIMI: We have a  
22 quorum, 11 out of 13.

23 COMMISSIONER ASIM REHMAN: Thank you. We have all  
24 participants who have noted themselves as present are  
25 here at 100 Church Street with the exception of

1 Harminderal Rana who is joining us by a video conference.  
2 First order of business is the minutes from the December  
3 5th, 2024, meeting. I'd like to ask if anyone has any  
4 corrections to the minutes. Before I do that, there's one  
5 typographical correction that we actually noted. Is that  
6 right?

7 ASSISTANT GENERAL COUNSEL HALIMI: Yes. In the  
8 list of members who are present there is a 'c' missing  
9 from Matthew Schneid's name, so I will correct that.

10 COMMISSIONER ASIM REHMAN: That's just a  
11 ministerial correction to a name. Any substantive comments  
12 or questions regarding the minutes?

13 MR. THOMAS SHPETNER: Yes, I have one.

14 COMMISSIONER ASIM REHMAN: Thank you, Tom.

15 MR. THOMAS SHPETNER: In the second to last  
16 paragraph on second page, the answer I provided to Matthew  
17 was that this came from city hall and it wasn't -- the TLC  
18 part was really dicta, and not substantively important to  
19 the question.

20 COMMISSIONER ASIM REHMAN: That's the paragraph  
21 that starts Matthew Schneid asks whether it was city  
22 council or the board that voted to make this shift. Does  
23 anyone have any-- I'm sorry. So, Tom, are you suggesting  
24 that we include that content?

25 MR. THOMAS SHPETNER: No. I'm suggesting that

1 content isn't dispositive to Matthew's question. It was  
2 city hall. He asked about the board or city council, and I  
3 told him no. It was, I thought, city. My belief, I don't  
4 know the exact words I used, but my belief that it was  
5 city hall. TLC had no substantive input into that outcome.

6 COMMISSIONER ASIM REHMAN: Would you propose a  
7 particular line edit?

8 MR. THOMAS SHPETNER: Sure. I would say Shpetner  
9 responded that it was his belief that it was city hall and  
10 not the city council.

11 COMMISSIONER ASIM REHMAN: City hall and not city  
12 council that-- how would you continue that?

13 MR. THOMAS SHPETNER: Period.

14 COMMISSIONER ASIM REHMAN: And delete everything up  
15 until an hour?

16 MR. THOMAS SHPETNER: Yes.

17 COMMISSIONER ASIM REHMAN: Okay.

18 MR. THOMAS SHPETNER: Yes.

19 COMMISSIONER ASIM REHMAN: So let me propose the  
20 following. Since that was all done on the record, would  
21 folks be okay if we-- I'm going to suggest that we  
22 provisionally vote on, adopting the minutes with Tom's  
23 proposed change and then any other things that we add here  
24 subject to the team just verifying that that matches the  
25 actual recording. If it does, we'll move it through. If it

1 doesn't, we'll just revisit that.

2 MR. THOMAS SHPETNER: Yes. I don't have access to  
3 the recording yet, so I'm working from my best  
4 recollection.

5 COMMISSIONER ASIM REHMAN: Great. Any other  
6 comments on the minutes? Okay. Does anyone have any  
7 concerns with that plan that I just outlined? Okay. I'd  
8 like to ask for a motion and a second to adopt the minutes  
9 with the change that Tom proposed, that is that the second  
10 sentence of said paragraph will read, "Shpetner responded  
11 that it was his belief that it was city hall and not city  
12 council, subject to the OATH team, checking that against  
13 the audio recording, in which case, if it matches, we'll  
14 adopt the minutes. If it doesn't, we'll revisit that at  
15 the next meeting. Okay, motion? Thank you, Tom. Second?  
16 Second from Matthew. May we have a vote on the minutes,  
17 please?

18 ASSISTANT GENERAL COUNSEL HALIMI: Are there any  
19 objections to the motion adopting the minutes of the  
20 December 5th, 2024, ECB meeting? Seeing none, hearing  
21 none, the motion is approved unanimously.

22 COMMISSIONER ASIM REHMAN: Thanks everyone. Next,  
23 we have a cease and desist order from Russ Pecunies, from  
24 DEP. Russ?

25 MR. RUSSELL PECUNIES: Thank you. This month, DEP

1 is asking the board to issue a cease and desist order for  
2 Grenadier Realty Management. This is for 3415 Neptune  
3 Avenue in Brooklyn. They have been cited on 3 occasions  
4 for excessive noise from a generator at the building. They  
5 were most recently found in violation in December.

6 Based on the fact that we are continuing to get  
7 complaints, there does not appear to have been any  
8 correction in response to the three summonses that have  
9 been issued to date. Accordingly, the department is  
10 requesting that the board issue an order to respondent to  
11 cease and desist.

12 COMMISSIONER ASIM REHMAN: Does anyone have any  
13 questions? Elizabeth.

14 MS. ELIZABETH KNAUER: Do you know what the use  
15 of the building and what the purpose of the generator is?

16 MR. RUSSELL PECUNIES: I'm sorry, Elizabeth?

17 MS. ELIZABETH KNAUER: Sorry, do you know what  
18 the use of the building is and what the purpose of the  
19 generator is?

20 MR. RUSSELL PECUNIES: Actually, usually, I do  
21 Google these buildings to find out what they are. I don't  
22 think I did for this one. I believe it's an apartment  
23 building of some kind, but I actually did not look this  
24 one up to see what it is.

25 MS. ELIZABETH KNAUER: It's possible that the



1 generator is providing electricity or either [crosstalk]  
2 hot water--

3 MR. RUSSELL PECUNIES: This was going on through  
4 all of last year. The violations were in October of '23  
5 and through September of last year, so this has been going  
6 on for almost a year. I don't know if the building would  
7 be using a generator for that period of time.

8 MR. JARROD WHITTINGTON: Is this an emergency  
9 generator?

10 MR. RUSSELL PECUNIES: It was just on the  
11 summons. It's just identified as a generator. The  
12 inspectors just indicated that it's a generator and it's--

13 MR. JARROD WHITTINGTON: Are generators  
14 considered, by definition, a circulation device?

15 MR. RUSSELL PECUNIES: It appears to be a rental  
16 apartment building. There are reviews for the apartments  
17 and it's in Coney Island. It appears to be a rental  
18 apartment building.

19 MS. ELIZABETH KNAUER: It's occupied? It's just I  
20 would think--

21 MR. RUSSELL PECUNIES: Yes. It's apparently been  
22 around for a while. There are news stories from 10 years  
23 ago about an accident where a child fell out a window at  
24 the building. So, it's an existing rental apartment  
25 building, apparently for at least 10 years.

1                   COMMISSIONER REHMAN: Russ, do we know if the  
2 recent penalties have been paid? The hearing dates, the  
3 violations from September of '24 and December of '23.

4                   MR. RUSSELL PECUNIES: The printouts indicate  
5 that for the most recent one, there apparently actually  
6 seems to be a balance on all of them. The first one is  
7 still in default, but they did appear on the last two, so  
8 they know about them.

9                   MR. MATTHEW SCHNEID: We know what they said  
10 when they appeared? They appeared the last two. They usually  
11 have a defense of some sort.

12                  MR. RUSSELL PECUNIES: If they had submitted  
13 appeals, it would show on ticket finder that it had been  
14 referred to appeals, and it just says, 'in violation'.

15                  COMMISSIONER REHMAN: Elizabeth's question  
16 again, there would be a cease and desist, but a direction  
17 to respond at a special hearing.

18                  MR. RUSSELL PECUNIES: In the hearing.

19                  COMMISSIONER REHMAN: They could, of course, at  
20 the special hearing present, if there's a need for the use  
21 despite the sound.

22                  MR. RUSSELL PECUNIES: Absolutely. The inspectors  
23 only appear to have referred to this equipment as a  
24 generator.

25                  MR. JARROD WHITTINGTON: My understanding was that

1 an emergency generator at least wouldn't necessarily fall  
2 under the circulation device portion of the code but would  
3 rather fall under the unreasonable noise section of the  
4 code. Is that not true in this case?

5 MR. RUSSELL PECUNIES: That would be a defense  
6 for them to raise at a hearing if they felt that the wrong  
7 section was issued. There's been three summons, as they  
8 defaulted on the first one, and they've been found in  
9 violation on--

10 MR. JARROD WHITTINGTON: Okay, so they had their  
11 chance to argue that?

12 MR. MATTHEW SCHNEID: Is the remedy for them to  
13 pay the fine or do they need to update--

14 MR. RUSSELL PECUNIES: No, the remedy is going to  
15 be for them to correct the condition. The fine payment is  
16 as far as the cease and desist order is concerned, and the  
17 payment of the fine is something that collections issue.  
18 Now, they do not comply with the cease and desist order by  
19 paying the fines, although they should obviously pay the  
20 fines. They comply with the cease-desist order by  
21 satisfying DEP on the hearing officer, that they've  
22 corrected the violation.

23 COMMISSIONER ASIM REHMAN: Other questions,  
24 comments? Can I have a motion to vote on the cease and  
desist order? A motion from Joseph. A second. Second from

1 Madeline. Thank you. Please.

2 ASSISTANT GENERAL COUNSEL HALIMI: Are there any  
3 objections to the motion approving the cease and desist  
4 order? Seeing none, hearing none, the motion is approved  
5 unanimously.

6 MR. RUSSELL PECUNIES: Fine. Thank you.

7 COMMISSIONER ASIM REHMAN: All right, thank you.  
8 Before we move on to the next item, just thinking about  
9 the questions that some of you raised with Russ, regarding  
10 the cease and desist order and the types of questions that  
11 sometimes repeat themselves, I'm wondering-- I also don't  
12 know how feasible this is. That's a question for Russ. I'm  
13 wondering if it would be beneficial to the board if the  
14 packets included-- and maybe this could be mandatory, it  
15 could be discretionary, the copies of both hearing officer  
16 decisions when there's a violation. A question was raised  
17 right now, did they have a chance to raise that defense?

18 If we had a copy of the hearing officer  
19 decision, we could know what was raised and also probably  
20 get a sense not in detail, but just a sense of what do we  
21 think the respondents are doing here. Are they really  
22 being responsive or are they just not really making a  
23 strong case which might warrant a cease-and-desist order?  
24 First, let me ask, is that something people might want to  
25 see? Yes.

1 MR. THOMAS SHPETNER: I think it's a terrific  
2 idea. More information as we plow through these is great,  
3 but I also have a caveat. I think you asked another good  
4 question, which is whether it's mandatory or  
5 discretionary, you probably should put it at the  
6 discretion of the agency and make it a very good to have  
7 and nice to have.

8 It just would maybe cut down on some of these  
9 pretty good questions. Seeing the record in another matter  
10 we're going to be talking about today reinforces my  
11 thinking on this, so that's where I'm coming from, but  
12 it's a great idea.

13 COMMISSIONER ASIM REHMAN: Elizabeth?

14 MS. ELIZABETH KNAUER: I agree. I also just add  
15 that in cases where there isn't a lot of information in  
16 the hearing decisions or maybe they were all defaulted, so  
17 there are no hearing decisions, Russ, I would greatly  
18 appreciate having any background information that you can  
19 get from the-- .

20 MR. RUSSELL PECUNIES: [crosstalk] Yes. I think  
21 that's not a problem. I think we can include for any of  
22 them that have decisions. Obviously, if they're not  
23 defaults or stipulations or whatever, if there are  
24 decisions, we can include those decisions. We can also  
25 include some kind of background on the building, and what

1 it is and what it's used for that time.

2 COMMISSIONER ASIM REHMAN: Good. By including  
3 that, it goes without saying that that's an incremental  
4 amount of preparatory work that we will all need to do  
5 reading that coming in. It sounds like everyone's  
6 comfortable with that. Okay, Russ, let's do that going  
7 forward.

8 MR. RUSSELL PECUNIES: I don't see a problem with  
9 that.

10 COMMISSIONER ASIM REHMAN: Excellent. If there  
11 are any concerns, just let us know, Tom's point, the more  
12 information we have up front with that. Good. Okay.  
13 Thanks, everyone. All right. We are now going to stick  
14 with DEP and we have a presentation from Russ, who's going  
15 to educate us on the noise cameras that DEP has been  
16 using.

17 MR. RUSSELL PECUNIES: Briefly, I promise. Yes.  
18 Now, some questions have been raised and I had asked  
19 whether it would be beneficial for the board to have a  
20 brief sort of introduction to what's going on with these  
21 things, because it is a novel thing that this technology  
22 is now being used to enforce the noise code. In  
23 particular, with regard to a section that it had never  
24 really been possible to enforce before, because we weren't  
25 going to have inspectors standing around on the side of

1 roads, with noise meters, waiting for noisy vehicles to go  
2 by. This technology has now allowed the department to  
3 begin to enforce sections that have been in the code, but  
4 really have never been capable of regular enforcement  
5 before, despite the fact that they are the subject of a  
6 lot of complaints. Just one page, basically, of  
7 background, you have in the noise code section 236E, which  
8 states that no person shall cause or permit the total  
9 sound from a motor vehicle, operating on any public right-  
10 of-way, to exceed the sound level set forth in section 386  
11 of the VTL.

12 In the vehicle and traffic law, subsection 3C,  
13 you have the prohibition on operating a motor vehicle on a  
14 public highway with a maximum gross weight of less than  
15 10,000 pounds, which basically, we're talking about cars,  
16 SUVs, that sort of thing, in such a manner as to exceed  
17 the sound level set forth in the table. Then I sort of,  
18 there is a little table, but because it would have taken  
19 up a lot of room, I sort of summarize what's in the table.  
20 The table says that at a distance of 50 feet from the  
21 center of the lane in which the car is traveling, the  
22 allowable level is 76 decibels on roads where the speed  
23 limit is 35 or less. That, basically, is going to be with  
24 the current city speed limits. Almost every road has a  
25 speed limit of 35 or less.

1                   In the late teens, I think, sometime,  
2                   enforcement with noise cameras began in London. It was  
3                   using technology that had been developed by a British  
4                   company called Intelligent Instruments. DEP became  
5                   interested in this. In 2021, began a pilot program at the  
6                   beginning, not even issuing violations, but just using one  
7                   of these rigs that we got from the UK as a pilot to sort  
8                   of test it, see what was involved, what the results of it  
9                   that it generated were. In the meantime, at the state  
10                  level, the state had enacted something called the SLEEP  
11                  Act. One of the things that the SLEEP Act did was to raise  
12                  to \$1000, the penalty for vehicles that violated 386 of  
13                  the VTL. At the time, our penalty for 236, which was  
14                  something that we could never enforce, was \$220. Keeping in  
15                  mind the fact that we were testing this technology and  
16                  that the state had just passed the SLEEP Act, we amended  
17                  the noise code penalty schedule, to raise the penalty for  
18                  a violation of 236e from \$220 to \$880, which was as high  
19                  as we could make it, given the legal range in the noise  
20                  code. At the same time, the city council was starting to  
21                  look at this, and they passed Local Law 7 which became  
22                  effective at the beginning of 2024.

23                  Local Law 7 added a new section to the Noise  
24                  Code 236.1 to establish parameters for a photo noise  
25                  violation monitoring program, which was the very long



1 title that they gave this section, and there were  
2 provisions in this, pertaining to requirements for the  
3 calibration and the placement of the devices for the  
4 handling of the evidence generated by the devices, in  
5 particular, to address any privacy concerns. It states  
6 that the only thing that we can do with the evidence  
7 generated by these cameras is to use them as evidence at  
8 OATH hearings for violations resulting from the evidence  
9 collected. It cannot be foiled.

10 It can only be shared with anybody pursuant to a  
11 subpoena from a court in connection with a criminal case,  
12 or investigation, or something of that matter. The  
13 legislation also requires that by the end of September of  
14 this year, there'll be at least five of these cameras in  
15 each borough, which would be a total of at least 25  
16 cameras. Currently, we have nine. The cameras cost about  
17 \$20,000 a piece.

18 Right now, because it says in the legislation,  
19 in Local Law 7 that the cameras need can be obtained,  
20 subject to budgetary provisions, and OMB is telling us  
21 that right now, they're not generating enough fines to  
22 justify getting the additional cameras.

23 Not because the violations are not being issued,  
24 and then fines are not being imposed, but because they're  
25 not being paid, the collection rate on these fines is

1       terrible. People are ignoring the summonses. They're not  
2       paying the fines when they do show up. The last slide will  
3       address that a little bit.

4               The next few slides are a presentation from the  
5       company in the UK concerning this equipment. You see that  
6       this is on the right-hand side of that slide, you can see  
7       what the gear kind of looks like. There's a microphone and  
8       there is a camera. This is all really state-of-the-art  
9       kind of technology. On the next slide, that there is, on  
10      the left side, a precision microphone, a microphone array.  
11      The precision microphone basically takes the reading. The  
12      microphone array basically identifies which vehicle the  
13      noise is coming from. Then you have the cameras. Then  
14      there's a processor and a router that all of this goes  
15      through and gets processed by, and it, this is all self-  
16      explanatory.

17             The gear is calibrated in the UK. The  
18      legislation, Local Law 7, requires that the equipment be  
19      calibrated by the manufacturer. Once a year, these will  
20      have to be boxed up and sent back to England to be  
21      calibrated by the manufacturer and then sent back over  
22      here with the proof of calibration. That's a requirement  
23      in Local Law 7. Then on the next slide, you can see the  
24      what it generates. On the photograph, on the lower right-  
25      hand side, it's a little bit hard to see, but you can see

1       that there is a red dot on one of the vehicles. That is  
2       how this technology tells us which of the vehicles is  
3       generating the excessive sound. Is that a red dot appears  
4       on the vehicle that the sound is coming from.

5               MR. JARROD WHITTINGTON: Russ, it's worth  
              mentioning

6       on this company's website, they actually show the video.  
7       You can see the red dot following. It's worth checking it.

8               MR. RUSSELL PECUNIES: Yes. The red dot will  
9       follow the noisy vehicle down the road. Then there's a bit  
10      of a blow-up of one of these actually deployed in New York  
11      City. Now what these look like? If you see one of these  
12      things mounted on a pole, what it is? There's a DEP  
13      sticker on it and you know where it is. The locations are,  
14      being selected, currently, based on 311 calls. Wherever  
15      we're getting the most calls that there are a lot of  
16      really loud vehicles going by is where they're trying to  
17      deploy them. As I said, right now, we have nine of them.  
18      If OMB gives us the money, the legislation will require us  
19      to have at least 25 of them deployed by September.

20              MS. ELIZABETH KNAUER: Russ, do you move them  
21      around? Have you been moving them around?

22              MR. RUSSELL PECUNIES: Yes. They move around.  
23      People tend to learn where they are. Yes, we do move them  
24      around. We have had vehicles getting hit, the same  
25      vehicles getting hit over and over again. We have, I

1 think, the most one license plate has got hit so far has  
2 been 11 or 12 times.

3 MR. MATTHEW SCHNEID: That's like bankruptcy-  
4 level fines for that person.

5 MS. SHAMONDA GRAHAM: Were there any education  
6 efforts  
7 for the public done by DEP? I only ask that because I  
8 imagine that lay people don't necessarily know what level  
9 their music is supposed to be. Of course, you have those  
10 cars with extra horsepower, I'll say. I have one in my  
11 neighborhood at 2 a.m. every morning that starts up. My  
12 point is, besides the violation, does the public know? How  
13 would they know to keep their vehicles at a certain level?  
14 What about people who simply travel with very loud music?  
15 They may have been doing this their whole lives.

16 MR. RUSSELL PECUNIES: Yes, that, I really  
17 don't know what we've done in terms of any campaign or any  
18 event like that, given that right now there are only nine  
19 cameras.

20 MR. MATTHEW SCHNEID: Is it, basically, that you've had to  
21 have souped  
22 up your car or motorcycle for it to pick you up? I recall  
23 we had a case where someone claimed they had a factory  
24 car. It was admittedly a sports car of some sort, and they  
got a fine. It was, "out of the box" or they alleged  
anyway.

25 MR. RUSSELL PECUNIES: In London, a lot of the  
26 enforcement, there were articles in the newspapers in the

1 UK about how everybody was complaining that their  
2 Lamborghinis and Ferraris were now getting ticketed in  
3 London because these cameras were deployed. The code does  
4 not differentiate between vehicles that have been altered  
5 to be excessively noisy and vehicles that come out of the  
6 dealership being excessively noisy.

7 This has been raised as a defense at hearings  
8 because we have given summonses to Lamborghinis and  
9 Ferraris. The comedian, Tracy Morgan, got a ticket for his  
10 Lamborghini because he was sitting in tunnel traffic in  
11 Manhattan, gunning the throttle while he was sitting in  
12 traffic, having a good time gunning his throttle on his  
13 Lamborghini, and he got picked up by a camera and got a  
14 summons.

15 The thing with vehicles that come out of the  
16 factory, and we have researched this and talked to the  
17 manufacturers, is that they almost all come with something  
18 that, like Lamborghini, I think, at least calls an urban  
19 setting, which is for driving around in densely built-up  
20 areas that mutes the exhaust. It's for slow traveling at  
21 slow speeds, and it mutes the exhaust. It's either the  
22 Lamborghini or Ferrari calls it the urban setting, and it  
23 is meant to be used when you drive around in [crosstalk]

24 MR. MATTHEW SCHNEID: I don't think anyone's  
25 going to be shedding tears for people driving

1       Lamborghinis, but is your data showing that the cars are  
2       what we think are souped up generally, other than the  
3       handful of people with Lamborghinis in New York City  
4       getting tickets?

5               MR. RUSSELL PECUNIES: We get a lot of cars that  
6       are from 15 to 20 years old that are getting these  
7       summonses because they've been taken to shops and altered  
8       to be really noisy because the owner wants to be noticed  
9       when they drive down the street. They want to be heard  
10      from six blocks away. A lot of these vehicles are older  
11      vehicles that have been altered [crosstalk]

12             MR. RUSSELL PECUNIES: No, I know. I--

13             MR. THOMAS SHPETNER: It's a full board  
14      meeting, by the way, that's going on. You can come in  
15      though, it's okay. I'm not--

16             MR. PETER SCHULMAN: Tom, you're not muted.  
17      [unintelligible 00:33:10]

18             MR. MATTHEW SCHNEID: I understand that. I  
19      think we all have seen these cars that are souped out to  
20      do that, and I think that's a problem. If you just have a  
21      20-year-old car that would meet different standards, are  
22      those in general tripping this? I don't know what the  
23      volume of a 20-year-old car is [crosstalk]--

24             MR. RUSSELL PECUNIES: No properly functioning

1 car should be this loud-

2 MR. MATTHEW SCHNEID: Got it.

3 MR. RUSSELL PECUNIES: -if it's a normal car and  
4 not a \$200,000 sports car. If it's this loud, it needs to  
5 go to the shop and be repaired.

6 MS. ELIZABETH KNAUER: Get a [inaudible 00:33:42]  
7 replacement.

8 MR. MATTHEW SCHNEID: I see.

9 MR. JARROD WHITTINGTON: Even those sports cars,  
10 they don't get that loud unless you do it on  
11 purpose. [00:33:46]

12 [crosstalk]

13 MR. MATTHEW SCHNEID: Sorry, one more  
14 question. Apologies. There's no first-time free situation  
15 here or anything. These things do happen. People are  
16 stealing, I don't know what this piece is called.

17 MR. MATTHEW SCHNEID: The catalytic  
18 converters. I notice a lot of loud cars are stolen. I'm  
19 wondering if there's any allowance for that.

20 MR. RUSSELL PECUNIES: In other words, is there a  
21 zero penalty for a first violation-

22 MR. MATTHEW SCHNEID: Yes.

23 MR. RUSSELL PECUNIES: -if you remove the--

24 MR. MATTHEW SCHNEID: You [crosstalk]



1 MR. RUSSELL PECUNIES: Not currently.

2 MR. MATTHEW SCHNEID: I know mine was  
3 stolen, for example. Many people in my neighborhood's  
4 catalytic converters are stolen. Your car is very loud for  
5 two days until you can get it fixed.

6 MR. RUSSELL PECUNIES: Not currently. Currently,  
7 the first violation penalty is-

8 MR. MATTHEW SCHNEID: That's not a defense.  
9 At some point-

10 MR. RUSSELL PECUNIES: -880.

11 MR. MATTHEW SCHNEID: -[unintelligible  
12 00:34:27] alter your car.

13 MR. RUSSELL PECUNIES: Is it [crosstalk]

14 MS. ELIZABETH KNAUER: If you were driving to the  
15 mechanic.

16 MR. MATTHEW SCHNEID: Driving to the  
17 mechanic is not a defense.

18 MS. ELIZABETH KNAUER: [unintelligible 00:34:33]

19 MR. RUSSELL PECUNIES: What's the defense?

20 MR. MATTHEW SCHNEID: It's not a defense if  
21 you were driving to the mechanic.

22 MS. ELIZABETH KNAUER: Because your catalytic  
23 converter [unintelligible 00:34:39]

24 MR. RUSSELL PECUNIES: No, I don't think so.

25 LISA URBAN: Have you had any--

1 MS. ELIZABETH KNAUER: There's only nine cameras.

2 MR. MATTHEW SCHNEID: That's true.

3 MS. ELIZABETH KNAUER: Chances are slim.

4 MS. SHAMONDA GRAHAM: [unintelligible 00:34:44] had  
any

5 difficulty with the respondent selected? I would imagine  
6 that you would be required to make it the registered  
7 owner. Correct?

8 MR. RUSSELL PECUNIES: The ticket goes to the  
9 registered owner.

10 MS. SHAMONDA GRAHAM: I could see someone coming in  
and

11 saying, "I wasn't the person driving the vehicle.

12 MR. RUSSELL PECUNIES: The statute makes the  
13 register owner-

14 MS. SHAMONDA GRAHAM: Owner responsible.

15 MR. RUSSELL PECUNIES: -responsible. In fact,  
16 there is somewhere in here in the stuff from Intelligent  
17 Instruments, they mentioned that they have face-blurring  
18 technology so that it is not possible to identify who's  
19 driving the car.

20 MS. LISA URBAN: I have a question just on the  
21 technology itself. This is a London-based, a UK-based  
22 company.

23 MR. RUSSELL PECUNIES: Southampton, I think. Yes.

24 LISA URBAN: You have to send it back every year

25 to be calibrated, right?

1 MR. RUSSELL PECUNIES: To be calibrated.

2 MS. LISA URBAN: There's no American companies that  
3 are making a comparable product that--

4 MR. RUSSELL PECUNIES: I don't think so.

5 MS. LISA URBAN: Okay. Just thinking in terms  
6 [crosstalk]

7 MR. RUSSELL PECUNIES: This is state of the art.  
8 London is where this was pioneered. We have a meeting,  
9 actually, tomorrow with folks from Boston because Boston  
10 is thinking about doing this, but it would deal with this  
11 equipment. This is state of the art. Intelligent  
12 Instrument stuff is the state of the art here.

13 MR. JOSEPH GREGORY: Am I correct that it's not  
14 just vehicles that have performance or other enhancements?  
15 If you're blasting your music, it's going to pick that up  
16 also. Correct? A lot of people ride through the  
17 neighborhood with their music blasting. That's what--

18 MR. RUSSELL PECUNIES: Well, we'll get to that in  
19 a second because, actually, we anticipated using this only  
20 for noisy exhausts, but it has also come in really handy  
21 with enforcing the prohibition on horn honking and for a  
22 very small number of cases for excessively loud music  
23 coming from vehicles.

24 COMMISSIONER ASIM REHMAN: We can pull that slide  
25 up. It's the first to last, is it?

1 MR. RUSSELL PECUNIES: Yes, it's the next to the  
2 last slide. [crosstalk]

3 MS. ELIZABETH KNAUER: Which is subwoofer-type  
4 [crosstalk]

5 MR. RUSSELL PECUNIES: Yes.

6 MR. JOSEPH GREGORY: [unintelligible 00:37:03]

7 MR. RUSSELL PECUNIES: We've only issued 41  
8 tickets for music. It wasn't something that we had  
9 originally anticipated that we were going to be using this  
10 for. The type of noise that sets it off, it doesn't really  
11 matter whether it's the exhaust or somebody out leaning on  
12 their horn or somebody blasting music out of the speaker.  
13 It's set off either way.

14 MS. ELIZABETH KNAUER: It would have to be  
15 somebody leaning on their horn because of the way the  
16 sound is measured. It wouldn't just be a one-time.

17 MR. RUSSELL PECUNIES: There are different  
18 standards for each of these sections. Horn honking, it's  
19 no decibel or other noise standard. It's just that you're  
20 not supposed to honk the horn unless as a sign of imminent  
21 danger. If we have a camera at an intersection, and the  
22 light is red, and somebody is stopped at the light, and  
23 they're sitting there leaning on their horn because they  
24 want the car in front of them to go through the light,  
25 this detects that. We can review that.

1                   If the video shows that they're honking the horn  
2                   for no reason, we can issue a violation for horn honking.

3                   MS. ELIZABETH KNAUER: Okay.

4                   MR. RUSSELL PECUNIES: For the music, it has to  
5                   be plainly audible 25 feet or more from the vehicle. Since  
6                   the cameras are way more than 25 feet away, if the video  
7                   and the recording show that you can clearly hear music  
8                   coming from the car with the red dot on it, we can issue  
9                   the summons.

10                  MR. JARROD WHITTINGTON: Russ, does that  
11                  triggered at 85 dBA then for music as well? [crosstalk]

12                  MR. RUSSELL PECUNIES: It will only go off if the  
13                  music is exceeding the same level that we set it for the  
14                  exhaust. The standard for a violation for that section is  
15                  not a decibel level. It's plainly audible more than  
16                  [crosstalk]

17                  MR. JARROD WHITTINGTON: I guess that's my  
18                  question is, if it's plainly audible, that could be much  
19                  lower than 85.

20                  MR. RUSSELL PECUNIES: It can be. Oh yes. It  
21                  won't get if you can hear it, but it wouldn't be captured.  
22                  It wouldn't set this off. We are only getting music when  
23                  it's way louder-

24                  MR. JARROD WHITTINGTON: I see.

25                  MR. RUSSELL PECUNIES: -and plainly audible.

1 MS. LISA URBAN: It's not like a red light camera  
2 where when you go through red light, it automatically  
3 generates the ticket and sends it to you. You actually at  
4 the-- you get the alert that--

5 MR. RUSSELL PECUNIES: No, we are setting these  
6 to go off at-- We're giving them 9 decibels. over-

7 MS. LISA URBAN: Okay.

8 MR. RUSSELL PECUNIES: -what's allowed in the  
9 code before the hammer goes off.

10 MS. LISA URBAN: Is it reviewed? It's reviewed by  
11 somebody at the EP, but what does [unintelligible  
12 00:40:12]

13 MR. RUSSELL PECUNIES: Yes, what we get is the  
14 inspector's review in the same way that they review the  
15 evidence that's submitted by citizen complainants.

16 MS. LISA URBAN: Okay. [unintelligible 00:40:21]

17 MR. RUSSELL PECUNIES: We review the evidence  
18 that we get from the system. That consists of the stuff on  
19 the earlier slide with the video and the graph and the  
20 other stuff that tracks the time of the event and all of  
21 that other stuff that we need to be able to issue a  
22 summons.

23 MS. LISA URBAN: Interesting, keep catching the  
24 same  
25 guy.

MS. ELIZABETH KNAUER: On payment, I-- with

1 buildings type things, there's a motivation to pay your  
2 fine so that it does not-- an encumbrance on your  
3 building. Here, is there any sort of mechanism to induce  
4 payment based on driving license or [crosstalk]

5 MS. LISA URBAN: [unintelligible 00:41:14] yes.

6 MR. RUSSELL PECUNIES: Yes. One of the problems,  
7 and I guess we could go unless anybody has any questions  
8 about the stats on this slide. Obviously, it's been going  
9 up each year as we get more cameras. You might, if you  
10 extrapolate from this last year with nine cameras, if we  
11 have 25, almost three times as many, you're probably going  
12 to be now seeing 3,000 or 4,000 a year of these  
13 violations.

14 MR. THOMAS SHPETNER: I'm not without  
15 sympathy for OMB and their position, but if there was--  
16 it's truly a problem of game theory. If everyone decided  
17 to never pay their fines, we'd never have a proliferation  
18 of cameras.

19 MR. RUSSELL PECUNIES: That's the last slide.  
20 What do we do if people aren't paying these things?

21 MR. THOMAS SHPETNER: If you substitute this  
22 violation for another one, it's not like we would stop  
23 enforcing something or creating if it was a violent crime  
24 or so--

25 MR. RUSSELL PECUNIES: One of the issues is that



1       these being noise code violations do not give us any  
2       authority to do any of the things that you can do to  
3       vehicles that violate other vehicular types of things. You  
4       can't suspend somebody's driver's license. You can't  
5       suspend their registration. You can't boot the vehicle.  
6       There's nothing you can do for noise code violations.

7               One idea that we're going to discuss is, and  
8       we've been told and I actually inquired with Madelynn  
9       about this because there is in the charter a provision  
10      that allows certain kinds of violations that are issued by  
11      her department for the fines to be automatically  
12      docketable just based on mail service, I guess, where we  
13      don't have to-- serving these things, we don't use a  
14      process server. They're issued to individuals. Basically,  
15      the service on these is noise code service, which is by  
16      mail, which means that the judgments are not automatically  
17      docketed.

18             One of the things that we think we may want to  
19      try and do in order to improve collections is to seek-- we  
20      were told we would need state legislation in order to get  
21      this added as a charter provision where these types of  
22      violations, the fines would be automatically docketable.  
23      Another thing that we've been discussing internally is  
24      this something that we could ask the board for a cease and  
25      desist order for on a vehicle? We ask the board for cease

1 and desist orders on stationary equipment, something that  
2 doesn't drive around. The remedy, if they don't comply  
3 with the cease and desist order, is that that stationary  
4 equipment can be sealed. How would that work with a car?

5 MR. THOMAS SHPETNER: I see one deformity  
6 with that, which is that we don't know who the operator of  
7 the vehicle is. There could be some due process problem,  
8 or is it ultra vires? Do we have the authority? Just fancy  
9 Latin [crosstalk]

10 MR. RUSSELL PECUNIES: The noise code authorizes  
11 the board to issue cease and desist orders for equipment  
12 or devices that are in violation of the code, and motor  
13 vehicles do fall within that definition.

14 MR. THOMAS SHPETNER: [crosstalk]

15 MR. RUSSELL PECUNIES: I think the question is  
16 just, how would it work?

17 MS. LISA URBAN: There's no reciprocity  
18 with DMV on these?

19 MR. RUSSELL PECUNIES: We've talked preliminarily  
20 to the police department, and the police department has  
21 said they would be willing to talk about-- the police  
22 department has lists of vehicles that they go around  
23 booting for unpaid tickets. We have discussed with the  
24 police department, just on an exploratory basis, the  
25 possibility that vehicles, that if a cease and desist

1 order was issued and they didn't show up for the hearing,  
2 the vehicle would be added to PDs list to be booted. That  
3 would raise issues of how did they get the boot off?

4 For unpaid tickets, they get the boot off by  
5 paying the tickets, which I think you can even do online  
6 now.

7 For this, they're not getting a cease and desist  
8 order because they haven't paid the tickets. They're  
9 getting it because the vehicle keeps getting summonses for  
10 being too noisy. The cease and desist order would require  
11 them to appear before a hearing officer where they have to  
12 show up at the hearing and have the hearing officer direct  
13 that the boot be removed from the vehicle. There are a lot  
14 of issues with doing this for vehicles.[00:45:17]

15 MS. ELIZABETH KNAUER: In the ordinary course for  
16 a noise code violation like for this generator when they  
17 had unpaid balances in that case, so when they show up for  
18 their hearing with the evidence that they've corrected,  
19 but would they also have to pay all of their unpaid  
20 penalties to--

21 MR. RUSSELL PECUNIES: Paying the unpaid penalty  
22 is again, not typically part of what the hearing officer  
23 is looking at in terms of whether they've come into  
24 compliance.

25 MS. ELIZABETH KNAUER: Okay.

1 MR. JOSEPH GREGORY: Also, if it's a boot, they  
2 can't come in compliance because they can't remove the  
3 car.

4 [crosstalk]

5 MR. RUSSELL PECUNIES: That's the thing. If the  
6 vehicle's booted, it can't be moved, and they can't take  
7 it to the mechanic to fix it.

8 MS. ELIZABETH KNAUER: I really think that--  
9 compliance might just mean not gutting your engine, so--

10 MR. RUSSELL PECUNIES: The judge-- I guess the  
11 hearing officer could direct that the boot be removed if  
12 they showed up at the hearing and said, "I am going to  
13 take it to the mechanic to get it."

14 MS. ELIZABETH KNAUER: They might not need to  
15 take it to the mechanic to avoid violating the code again.

16 MR. RUSSELL PECUNIES: Generally, the way that  
17 these vehicles are altered to be really loud, I think  
18 you'd probably have to take it-

19 MS. ELIZABETH KNAUER: Oh, the ones that are  
20 altered. [crosstalk]

21 MR. RUSSELL PECUNIES: -to a mechanic to get it-

22 MS. ELIZABETH KNAUER: The [unintelligible]  
23 00:48:37]

24 MR. RUSSELL PECUNIES: -which is most of them.

25 MS. ELIZABETH KNAUER: You could [unintelligible]

1 00:48:39]

2 MR. RUSSELL PECUNIES: The Lamborghinis and the  
3 Ferrari's are a small percentage.

4 MR. MATTHEW SCHNEID: Is it illegal to have  
5 your car altered? It's not illegal to have your car  
6 altered.

7 MS. ELIZABETH KNAUER: Some ways. You can't have  
8 your car altered to have it to the--

9 MR. MATTHEW SCHNEID: They can drive to the  
10 middle of nowhere and have it be loud where we're now  
11 making it-- Either they should make it illegal to have  
12 your car altered or not. If we decided Big Brother's now  
13 watching you all the time, the city decided that, I think  
14 that's a horrible step forward that we're under constant  
15 surveillance, but that's not my decision. Now, we're even  
16 expanding the scope of these noise cameras to say it was  
17 really for loud cars, but we're going to follow you every  
18 time you're making noise. No one wants noise in their  
19 neighborhood, myself included. I live in a noisy  
20 neighborhood. With cars going down the street, no one  
21 likes it. Now we're saying now we're having Big Brother  
22 watching you at all times. Frankly, you're making it much  
23 worse by expanding the scope of this. I think it's a very  
24 bad precedent for us to be doing.

25 MS. SHAMONDA GRAHAM: Russ, I think that gets to my

point

1 of the education efforts and the outreach. It seems that  
2 the public is not taking this seriously, that they just  
3 think, "What is this, this complaint about my vehicle  
4 being loud?" My only point is because DEP may have-- if  
5 you have the ability to let the public know, perhaps  
6 people will comply on their own. There's also the question  
7 of, there's one thing when a car is very loud in your  
8 neighborhood and you're trying to sleep because you have  
9 to get up at five o'clock to be to a board meeting by  
10 9:00. It's another thing when a car is on the highway. I  
11 thought I heard you say it's less than 35 miles per hour.

12 MR. RUSSELL PECUNIES: Yes, these cameras will  
13 not be deployed on highways.

14 MS. SHAMONDA GRAHAM: They won't be on the highway,  
but I

15 think that goes to what Matthew was saying. Imagine that a  
16 person fixes their vehicle so that they are not making  
17 this noise in these zones that are less than 35 miles per  
18 hour, but yet it's okay to have your vehicle this way if  
19 you're in another place that's more than 35 miles per  
20 hour. I think there may be some issues down the road, but  
21 I suspect if the public is aware that, just stop or just  
22 not don't make this noise in these neighborhoods, then you  
23 might get some compliance. I imagine that's the ultimate  
24 goal.

25 COMMISSIONER ASIM REHMAN: In the same way that

1 DEP did the Billy Doesn't Idle campaign around the idling.  
2 They had a big public -

3 MS. SHAMONDA GRAHAM: Yes, [unintelligible  
00:50:49].

4 COMMISSIONER ASIM REHMAN: -education campaign  
5 about idling. This may be something where that's done.

6 MR. RUSSELL PECUNIES: Which, unfortunately, does  
7 not appear to have deterred many people from idling based  
8 on the number of people [crosstalk]

9 COMMISSIONER ASIM REHMAN: [unintelligible  
10 00:50:58] aware of that campaign. Maybe that's fair.

11 MR. RUSSELL PECUNIES: [unintelligible 00:51:03]

12 MS. ELIZABETH KNAUER: I do feel compelled to  
13 state for the record that it is not everybody that doesn't  
14 like the noise from these cars. Even some people who  
15 aren't driving them do enjoy hearing that noise because I  
16 live with one of them.

17 COMMISSIONER ASIM REHMAN: [unintelligible  
18 00:51:22]?

19 MS. ELIZABETH KNAUER: Yes. Not of driving age  
20 yet, but I do-- It's probably a hobbyist or it's a certain  
21 people that share a certain interest do enjoy the noise as  
22 well as like very particular drivers. I just--

23 MS. THOMAS SHPETNER: Can I piggyback on  
24 that? I recollected an article from maybe a year or more  
25 ago about Lamborghini's electric vehicles being too quiet,



1 and they've now added a soundtrack so that you can make  
2 them do exactly what this is intended to interdict. I find  
3 the irony wonderful. Then, I have a question. Does the  
4 company have any data they can-- have they shared with you  
5 about the potential for false positives or  
6 misidentifications?

7 MR. RUSSELL PECUNIES: I'm not aware, but I can--

8 MR. THOMAS SHPETNER: Just an interesting  
9 question. The annual calibration seems necessary. If I  
10 were the attorney representing someone, I would probably  
11 bring up the accuracy or the correctness of the reading,  
12 probably in a losing effort.

13 MR. RUSSELL PECUNIES: I can find out. The only  
14 Article 78 that I think we've had on this subject so far  
15 is from, I believe, a Ferrari or a Lamborghini owner on  
16 the grounds that this was the way the car was purchased,  
17 that New York State registers it and allows it to be  
18 driven on New York State roads. Therefore, it's allowed.

19 MR. THOMAS SHPETNER: That actually made me--  
20 - your question about like, can you modify your car? You  
21 can do it up until the point of which you fail an  
22 inspection, can't register your car. This is the way it's  
23 always been explained to me. I'm not a mechanic lady from  
24 the depth.

25 MR. RUSSELL PECUNIES: Actually, one of the

1 reasons just to close this out that we thought it would be  
2 a good idea to do this presentation this month is that  
3 there is in our air and noise unit, a lot of talk about  
4 trying, bringing a cease and desist request for one of  
5 these before the board. Thought it would be a good idea to  
6 do this at this meeting. There's a possibility that they  
7 may want me to, if there's a case where somebody has been  
8 getting repeated violations for this, we may think about  
9 having you guys debate this at the next meeting if we  
10 decide to make a request.

11 COMMISSIONER ASIM REHMAN: We'll have to look  
12 into the legality there. Thank you. I'd like to just--  
13 people can make it just a few more short points. We have a  
14 lot more to discuss. I do want to keep us to the agenda.  
15 Real quick? [crosstalk]

16 MR. JOSEPH GREGORY: I just want to say out of  
17 state vehicles. When you say New York state registers, if  
18 I come from Florida, what happens?

19 MR. RUSSELL PECUNIES: It would be sent to the  
20 registered owner in Florida.

21 MR. JOSEPH GREGORY: Is it?

22 MS. ELIZABETH KNAUER: Based on the photo that  
23 you had of that one particular vehicle, I noticed that it  
24 appeared to be one of these four-wheelers, which I don't  
25 actually think are street legal [crosstalk]

1 MR. RUSSELL PECUNIES: The state, the VTL has  
2 different noise levels for vehicles over 10,000.

3 MS. ELIZABETH KNAUER: My only question was  
4 whether there's been any sort of collaboration with the  
5 police department in identifying some of these non-street  
6 legal vehicles that, at least in my neighborhood, are the  
7 biggest effectors of--

8 MR. RUSSELL PECUNIES: Yes, I don't really know  
9 how PD does-- if PD will pull over people when somebody  
10 whizzes by them, and it's really noisy. I don't know how  
11 that works on the PD level.

12 MR. MATTHEW SMITH: [unintelligible 00:55:22]  
13 Your question about the four-wheelers, those are not even  
14 legal in New York City.

15 MS. ELIZABETH KNAUER: That's what I'm saying.

16 MR. MATTHEW SMITH: It wouldn't matter what  
17 level of noise it made.

18 COMMISSIONER ASIM REHMAN: It wouldn't have  
19 plates to get captured.

20 MS. ELIZABETH KNAUER: Oh, [unintelligible  
21 00:55:33]

22 COMMISSIONER ASIM REHMAN: [unintelligible  
23 00:55:34]

1 MS. ELIZABETH KNAUER: There's no way  
2 to issue a summons to those folks.

3 COMMISSIONER ASIM REHMAN: Okay, well, I'd like  
4 it to keep us moving. Russ, thank you very much for a very  
5 thorough presentation and for everyone's questions.  
6 Hopefully, that you've gotten some good feedback from  
7 everyone [unintelligible 00:55:51]

8 MR. RUSSELL PECUNIES: [unintelligible 00:55:50]  
9 I think we'll probably be talking about this again-

10 COMMISSIONER ASIM REHMAN: Good.

11 MR. RUSSELL PECUNIES: -in the future.

12 COMMISSIONER ASIM REHMAN: I'd like to call a  
13 vote to go into Executive Session.

14  
15 ASSISTANT GENERAL COUNSEL HALIMI:  
16 [unintelligible 00:56:05]

17 COMMISSIONER ASIM REHMAN: Okay. I'd like to ask  
18 for a motion to move into Executive Session. All right. We  
19 have a motion and a second. I see a second. Thank you.

20 ASSISTANT GENERAL COUNSEL HALIMI: Thank you. Are  
21 there any objections to the motion to go into Executive  
22 Session? Seeing none, hearing none, the motion is approved  
23 unanimously.

24 COMMISSIONER ASIM REHMAN: Okay. Please let us  
25 know when we can proceed. We are going to--

1 [sound cut]

2 COMMISSIONER ASIM REHMAN: Okay, we are back on  
3 the record. We are moving on to the agenda item, which  
4 concerns the adoption of a decision in DEP versus JNR  
5 Tours Limited, which is appeal number 240-1556. The board  
6 has been presented with two alternative options. The first  
7 is an appeal decision which applies the VTL definition of  
8 school bus and in applying that definition would reverse  
9 the JHO's decision and dismiss the summons.

10 I'd like to ask for a motion to adopt the appeal  
11 decision version that I just outlined. Okay, I see a  
12 motion. Second? Second. Okay, we'll take a vote. Then  
13 those in favor of voting would be in support of that. By  
14 extension, those who are not in favor, their vote would be  
15 deemed a support for affirming the JHO's decision and not  
16 dismissing.

17 ASSISTANT GENERAL COUNSEL HALIMI: Okay, so it's  
18 affirming or reversing?

19 COMMISSIONER ASIM REHMAN: A vote in favor is a  
20 vote to support dismissing the summons, reversing the  
21 JHO's decision, and adopting the VTL definition for these  
22 purposes.

23 ASSISTANT GENERAL COUNSEL HALIMI: Okay.  
24 Commissioner Asim Rehman?

25 COMMISSIONER ASIM REHMAN: Yes.

1 ASSISTANT GENERAL COUNSEL HALIMI: Shamonda  
2 Graham?  
3 SHAMONDA GRAHAM: Yes.  
4 ASSISTANT GENERAL COUNSEL HALIMI: Joseph  
5 Gregory?  
6 JOSEPH GREGORY: Yes.  
7 ASSISTANT GENERAL COUNSEL HALIMI: Elizabeth  
8 Knauer?  
9 Elizabeth Knauer: Yes.  
10 ASSISTANT GENERAL COUNSEL HALIMI: Madelynn  
11 Liguori?  
12 MADELYNN LIGUORI: Yes.  
13 ASSISTANT GENERAL COUNSEL HALIMI: Russell  
14 Pecunies?  
15 RUSSELL PECUNIES: I'll abstain.  
16 ASSISTANT GENERAL COUNSEL HALIMI: Harminderpal  
17 Rana?  
18 HARMINDERPAL RANA: No.  
19 ASSISTANT GENERAL COUNSEL HALIMI: Matthew  
20 Schneid?  
21 MATTHEW SCHNEID: Yes.  
22 ASSISTANT GENERAL COUNSEL HALIMI: Thomas  
23 Shpetner?  
24 THOMAS SHPETNER: Yes.  
25 ASSISTANT GENERAL COUNSEL HALIMI: Matthew Smith?



1 MATTHEW SMITH: Yes.

2 ASSISTANT GENERAL COUNSEL HALIMI: Lisa Urban?

3 LISA URBAN: Yes.

4 ASSISTANT GENERAL COUNSEL HALIMI: Jarrod  
5 Whittington?

6 JARROD WHITTINGTON: Yes.

7 ASSISTANT GENERAL COUNSEL HALIMI: That is one,  
8 two, three. 10 in favor of dismissing, 1 abstention, and  
9 Douglas Swann is not here.

10 COMMISSIONER ASIM REHMAN: Okay. One vote no.

11 ASSISTANT GENERAL COUNSEL HALIMI: Sorry, one  
12 vote no.

13 COMMISSIONER ASIM REHMAN: All right. Thank you  
14 very much. We will proceed with the dismissal on appeal.  
15 Does anyone have any other business that you raised before  
16 we get into scheduling our next meeting? All right.  
17 Possible dates for our next ECB meeting are the 3rd of  
18 April or the 10th of April. Does anyone have any concerns  
19 with either of those dates?

20 [pause 00:59:33]

21 MR. MATTHEW SCHNEID: My preference is for  
22 the 3rd, if no one cares.

23 COMMISSIONER ASIM REHMAN: Okay. Any objection to the 3rd?  
24 Seeing general agreement. All right. We will schedule our  
25 next meeting for April 3rd. Please stay tuned for the





1 everyone, to please sign the sign-in sheet, which we will  
2 keep at the front of the desk on the clipboard. I'd like  
3 to ask for a motion to adjourn today's meeting. A motion,  
4 a second. Thank you very much.

5 ASSISTANT GENERAL COUNSEL HALIMI: Are there any  
6 objections to the motion to adjourn the meeting? Seeing  
7 none, hearing none, the motion is approved [unintelligible  
8 01:00:22]

9 COMMISSIONER ASIM REHMAN: Okay. Thank you very  
10 much for your participation today, everyone. The meeting  
11 is adjourned.

(The board meeting concluded at 10:55 a.m.)

**Reviewed and corrected  
by OATH Office of the  
General Counsel  
03/03/25**



# Certificate of Accuracy

**Audio File: "February 6, 2025 Meeting of the Environmental Control Board"**

**Language: English**

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Dated: **02/17/2025**

20967 SW 92 PLACE, CUTLER BAY, FL 33189 ☎ 786 326 3909

[gistg@a1translations.com](mailto:gistg@a1translations.com), [gistg20@gmail.com](mailto:gistg20@gmail.com), <http://www.a1translations.com/>