

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

BOARD MEETING

VIA VIDEO CONFERENCING

100 Church Street, New York, New York

June 10, 2021

9:35 a.m. to 10:44 a.m.

June 10, 2021

MEMBERS PRESENT:

Joni Kletter, Esq. - Commissioner/Chief Administrative Law Judge, OATH, Chair/Executive Director, OATH ECB
Shamonda Graham - Department of Buildings (DOB)
Jose Marquez - New York City Fire Department (FDNY)
Elizabeth Knauer, Esq. - Appointed Member (Water)
Madelynn Liguori, Esq. - Department of Sanitation (DSNY)
Jorge Martinez, Esq. - Department of Health & Mental Hygiene (DOHMH)
Russell Pecunies, Esq. - Department of Environmental Protection (DEP)
Matthew Schneid, Esq. - Appointed Member (Real Estate)
Tom D. Shpetner, Esq. - Appointed Member (Business)
Jarrold Whittington - Appointed Member (Noise)

ALSO PRESENT:

Rachel Amar - Special Assistant to Commissioner, OATH
John Castelli - Deputy Commissioner for Legislative Affairs, OATH
Kate Cocklin, Esq. - Deputy Counsel to the Mayor
Kelly Corso, Esq. - Assistant Commissioner for Hearings Division Adjudications, OATH
Brian Gatens - Member of Public
Samyung Han - Summer Intern, OATH
Svetlana Iosilevich, Esq. - Executive Agency Counsel, Business Integrity Commission (BIC)
Timothy Jones, Esq. - Senior Counsel, OATH
Susan Kassapian, Esq. - Deputy Commissioner/Appeals, OATH
Richard J. LaPlant - Office of Management and Budget (OMB)
Michael Ligeti - Summer Intern, OATH
Karin McAvoy - Administrative Coordinator, OATH
Frank Ng, Esq. - Deputy General Counsel, OATH
Catherine Pelham - Summer Intern, OATH
Teresa Piccolo - Summer Intern, OATH
Peter Schulman, Esq. - Asst. Director for Appeals, OATH
Ruth Silverfarb - Summer Intern, OATH
Amy Slifka, Esq. - Deputy Commissioner/Hearings Division, OATH
Samuel Solomon, Esq. - Chief of Staff/Special Counsel, OATH
Olga Statz, Esq. - General Counsel, OATH
Joy A. Thompson, Esq. - Assistant General Counsel, OATH
Kevin Trimmer - Summer Intern, OATH

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2 (The board meeting commenced at 9:35
3 A.M.)

4 JONI KLETTER, ESQ., CHAIR, EXECUTIVE
5 DIRECTOR, OATH ECB, COMMISSIONER/CHIEF
6 ADMINISTRATIVE LAW JUDGE, OATH: I'm going to
7 call the meeting to order. Good morning,
8 everyone. I'm going to ask Joy to roll call to
9 verify quorum.

10 JOY A. THOMPSON, ESQ., ASSISTANT GENERAL
11 COUNSEL, OATH: Thank you, Commissioner. I'm
12 going to ask for Shamonda Graham.

13 SHAMONDA GRAHAM, DEPARTMENT OF
14 BUILDINGS: Here.

15 MS. THOMPSON: Thank you. Joseph
16 Gregory?

17 JOSE MARQUEZ, NEW YORK CITY FIRE
18 DEPARTMENT: Jose Marquez in his, in his place.
19 Fire Department.

20 MS. THOMPSON: And your name is?

21 MR. MARQUEZ: Jose Marquez.

22 MS. THOMPSON: Okay, you are, your name?
23 I'm sorry? I'm sorry. Can you repeat that?

24 MR. MARQUEZ: Sure. Jose Marquez, Fire

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2 Department.

3 MS. THOMPSON: Thank you.

4 OLGA STATZ, ESQ., GENERAL COUNSEL, OATH:
5 She has a mic here.

6 MS. THOMPSON: Okay, thank you so much.
7 Of course, Commissioner Kletter.

8 MS. KLETTER: I'm not sure that's
9 amplifying or if it's just for recording.

10 UNIDENTIFIED MALE 1: Why don't you move
11 a little bit closer?

12 MS. THOMPSON: Yes. Thank you.

13 UNIDENTIFIED MALE 1: Sure.

14 MS. THOMPSON: Okay. All right, thank
15 you. Oh, Mr. Marquez?

16 MR. MARQUEZ: I'm here.

17 MS. THOMPSON: Oh, okay. Thank you so
18 much. Commissioner Kletter?

19 MS. KLETTER: Present.

20 MS. THOMPSON: Yes. Okay. We have
21 Elizabeth Knauer?

22 ELIZABETH KNAUER, ESQ., APPOINTED MEMBER
23 (WATER): Present.

24 PETER SCHULMAN, ESQ., ASSISTANT DIRECTOR

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2 FOR APPEALS, OATH: Did, did we just lose -- we
3 just lost the, the room. All right, hang on a
4 second. Okay, so IT is on it and they are
5 working on getting the room back right now. I'm
6 going to pause the recording until the room comes
7 back, because I guess the meeting is on hold.

8 [OFF THE RECORD]

9 [ON THE RECORD]

10 MS. THOMPSON: I think we're back.

11 MR. SCHULMAN: Okay, great.

12 MS. THOMPSON: Okay, let's, let's --
13 Commissioner, would you like to introduce
14 yourself?

15 MS. KLETTER: Yeah. So if you can do
16 roll call over again.

17 MS. THOMPSON: Okay.

18 MS. STATZ: Oh, it's recording?

19 MS. KLETTER: Yes.

20 MS. THOMPSON: Very good. So we'll
21 start, and I have Commissioner Kletter.

22 MS. KLETTER: Here.

23 MS. THOMPSON: Shamonda Graham?

24 MS. GRAHAM: I'm here.

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2 MS. THOMPSON: Great. Jose Marquez?

3 MR. MARQUEZ: Present.

4 MS. THOMPSON: Thank you. Elizabeth
5 Knauer?

6 MS. KNAUER: Present.

7 MS. THOMPSON: Elizabeth Knauer?

8 MS. KNAUER: I'm here. Could you hear
9 me?

10 MS. THOMPSON: Thank you. Yes, we can.
11 Thank you. And to you, too, good morning.
12 Madelynn Li- Liguori?

13 MADELYNN LIGUORI, ESQ., DEPARTMENT OF
14 SANITATION: Present.

15 MS. THOMPSON: Okay. Jorge Martinez?

16 JORGE MARTINEZ, ESQ., DEPARTMENT OF
17 HEALTH & MENTAL HYGIENE: Present.

18 MS. THOMPSON: Thank you. Russ
19 Pecunies?

20 RUSSELL PECUNIES, ESQ., DEPARTMENT OF
21 ENVIRONMENTAL PROTECTION: Present.

22 MS. THOMPSON: Thank you. Thomas
23 Shpetner?

24 TOM SHPETNER, ESQ., APPOINTED MEMBER

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2 (BUSINESS): Present.

3 MS. THOMPSON: Thank you. Matthew
4 Schneid?

5 MATTHEW SCHNEID, ESQ., APPOINTED MEMBER
6 (REAL ESTATE): Present. Hello.

7 MS. THOMPSON: Thank you. And welcome.

8 MR. SCHNEID: Thank you.

9 MS. THOMPSON: And I believe Matthew
10 Smith is not here today. Douglas Swann? Okay.
11 And Jarrod Whittington?

12 JARROD WHITTINGTON, APPOINTED MEMBER
13 (NOISE): Present.

14 MS. THOMPSON: Thank you. We do have a
15 quorum. Ten present.

16 MS. KLETTER: Thank you so much. Thank
17 you. And I'm glad we were able to accomplish
18 this hybrid proceeding today. It's so nice to
19 see some of you in person. I hope to see others
20 of you in person soon, to be able to formally
21 meet you in person as we continue to recover from
22 COVID.

23 And, hopefully, we'll have a very nice,
24 positive summer with the, and the infection rates

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2 continue to decline and vaccination rates
3 continue to go up.

4 So, with that, does anyone have any
5 corrections to the minutes from the last meeting
6 of April 15, 2021? No. Okay. So I'm going to
7 ask for a motion to adopt the minutes as
8 presented for the April 15, 2021 meeting.

9 MS. LIGUORI: Motion.

10 MS. KLETTER: Thank you. I'll ask Joy
11 to call for a vote to approve the minutes, as
12 presented.

13 MS. THOMPSON: Thank you. Commissioner,
14 at this time, I will just ask if there are any
15 objections to the adoption of the minutes from
16 the April 15, 2021 ECB Board Meeting. And
17 hearing and seeing no objec- -- excuse me? Okay.
18 Hearing and seeing no objections, they are
19 approved.

20 MS. KLETTER: Great. Thank you so much.
21 I want to now introduce our new ECB Board Member,
22 Matthew Schneid, who was just approved with
23 advice and consent of the City Council and
24 nominated by the Mayor. I know it's been a very

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2 long process, Matthew, because you came to
3 appointments almost two years ago with an
4 interest in serving on this Board, and I really
5 appreciate your commitment and perseverance and
6 your service to the City. It will be of great
7 value to have you as the real estate expert on
8 the ECB Board. So, welcome.

9 And I hope you get to meet all of us.
10 I've already met you, but I hope you get to meet
11 the rest of the Board in person sometime soon.
12 And we're really excited to have you.

13 MR. SCHNEID: Thanks so much. It's an
14 honor and a privilege.

15 MS. KLETTER: You want to say, say
16 hello?

17 MR. SCHNEID: Yes, hi. I'm, my name is
18 Matthew Schneid. As Joni mentioned, this process
19 started a long time ago, before COVID interrupted
20 this. But, it's a really great honor and
21 privilege to be here with everyone. I look
22 forward to giving my input and getting to know
23 everyone as we proceed. So thank you so much and
24 I appreciate the introductions.

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2 MS. KLETTER: Great, thank you. I'm now
3 going to ask Olga Statz to introduce the proposed
4 rules on updating some of our language in the
5 OATH Rules.

6 MS. STATZ: Hi. Good morning,
7 everybody. It's nice to be here. Oh, good
8 morning, everybody. Are you able to hear me? I
9 can't tell. I'll speak loudly.

10 And I want to pre- present to you, for
11 your consideration, a draft of corr- corrections
12 to Rules language.

13 Now, as you know, we've been doing a lot
14 of rulemaking over the last few months. And as
15 we've been doing that rulemaking, it required us
16 to read the rules again and again and again.
17 And, as we've done that, we have, we've picked up
18 errors, faulty pro-, faulty cross-references and
19 grammatical problems in the Rules as we've been
20 reading them. So, one of the things that we're
21 trying to do is as, as, as we put together the
22 substantive rules as we [unintelligible]
23 [09:43:13] [00:08:13] at almost every meeting, we
24 also, we also wanted to pick up some of the

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2 [unintelligible] [09:43:17] [00:08:17] errors
3 that we've been seeing and correct those, as
4 well. And they are presented here for your
5 consideration.

6 And, so, the, the ones that are really
7 of the greatest importance to us are the ones
8 that fix broken cross references. I'm wanting to
9 give you just an example. For the change of
10 proposed subdivision (c) in section 2-29, Title
11 48, changes the subdivision re- re- reference in
12 1-33 from (e) to (d)(3), and that has since been
13 changed. And the rest, the rest of the changes
14 are also along that line. So we propose that for
15 your consideration. Nothing substantive, but we
16 think that the rules should be clear and, and
17 grammatically correct.

18 Does anyone have any questions? I'll be
19 happy to answer any questions.

20 MR. WHITTINGTON: Hey, Olga, it's, it's
21 really hard to hear you. Is, is there a
22 microphone that you could maybe move closer?

23 MS. STATZ: Yes. Oh, can you hear me
24 better now?

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2 MR. WHITTINGTON: No.

3 MS. STATZ: The, is, is this better?

4 MR. WHITTINGTON: I mean, it sounds very
5 muffled.

6 MS. STATZ: But, it's, it's, it's got to
7 be --

8 MR. MARTINEZ: And there's a lot of
9 [unintelligible] [09:44:37] [00:09:37], too.

10 MS. STATZ: -- it's got to be the mask.
11 So I'm going to, I'm going to say, it's very
12 short and it's not substantive. So I beg, beg
13 everyone else's patience. I'm just going to
14 repeat myself. This --

15 MS. KLETTER: If you want to take down
16 the mask, we all have masks on.

17 MS. STATZ: Yeah. Do, do you guys mind?
18 I'm going to take down my mask, because I'm, I'm
19 sure no one else [unintelligible] [09:44:56]
20 [00:09:56]. So as, as, as I noted earlier, over
21 the course of this year, during this time, we've
22 putting forth a lot of substantive rules for the
23 Board's consideration. And, as we've done that,
24 we've had to read the, the [unintelligible]

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2 [09:45:12] [00:10:12] rules again and again and
3 again. And, as we've done that, we've noticed
4 that there were some broken cross-references,
5 some grammatical problems, and some things that
6 should just be corrected in order to make the
7 rules as clear and as useful as possible.

8 So, during this, during this period of
9 time, as we go through the rules to make sure
10 that, that they're up-to-date substantively and
11 legally, we're also making sure that they're up-
12 to-date and clear, grammatically and in terms of
13 the cross-references. So what you have before
14 you are just some of the, some of the, the non-
15 substantive corrections that we thought were
16 important to make.

17 Of, of particular note are some broken
18 cross-references that we've since corrected,
19 because either amended rules or added rules or
20 repealed rules that now have different numbering,
21 numbers, so that, now, in the remaining sections,
22 we want those numbers to be properly reflected.

23 If anyone has any questions, I'd be
24 happy to answer them.

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2 MS. GRAHAM: Olga, this is Shamonda
3 Graham from DOB.

4 MS. STATZ: Hi, Shamonda.

5 MS. GRAHAM: Good morning. I would just
6 like to repeat back what you said, just to make
7 sure that I did understand and hear you
8 correctly, only because it is a bit muffled. So,
9 if I understood you correctly, these are just
10 minor, non-substantive -substantive changes to
11 the rule, based on either the incorrect numbering
12 or incorrect grammar or something you wanted to
13 fix like that. Did I --

14 MS. STATZ: Yes. Uh-huh.

15 MS. GRAHAM: -- understand that
16 correctly? Okay. And my second question --

17 MS. STATZ: That is correct.

18 MS. GRAHAM: Okay, that's good. And
19 then, the second question I have based on my
20 reading, it doesn't really look like any of these
21 impact the cases that go before the OATH Hearings
22 Division. I mean, I, I -- sorry. I should say
23 it correctly. The DOB cases that go before the
24 OATH Hearings Division. Is that correct? Am I

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2 seeing that correctly?

3 MS. STATZ: Yes. My, my -- yes. My
4 understanding and my recollection, because we did
5 this a while ago. As you know, this process
6 takes very, very long. By the time they get to
7 you, it's been before the Law Department for a
8 few months and --

9 MS. GRAHAM: Yes.

10 MS. STATZ: -- in our hands for a few
11 months. But, yes, my recollection --

12 MS. GRAHAM: Okay.

13 MS. STATZ: -- is that there is nothing
14 that affects DOB here.

15 MS. GRAHAM: Okay, thank you so much.

16 MS. STATZ: No problem. Any other
17 questions? Thank you.

18 MS. KLETTER: Thank you, Olga. I'm
19 going to ask for a motion to approve the proposed
20 rules.

21 MS. GRAHAM: Motion. Shamonda.

22 MS. LIGUORI: Motion.

23 MS. KLETTER: Thank you. Great, thank
24 you. I'm going to ask Joy to call for a vote.

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2 MS. THOMPSON: Okay. At this time, as,
3 as -- thank you, Commissioner. At this time, I'm
4 going to ask if there are any objections to the
5 approval of the motion that we introduced, or
6 approve the proposed rule updating, correcting
7 the language and the rules, as proposed. Okay.
8 Seeing and hearing no objections, the motion
9 passes, Commissioner. Thank you.

10 MS. KLETTER: Okay. Thank you so much.
11 I'm now going to ask Olga Statz to introduce
12 OATH's proposed final rule regarding the
13 authority of the Chief Administrative Law Judge
14 to transfer cases between different divisions of
15 OATH.

16 MS. STATZ: Thank you, Commissioner.
17 This is a final, this is, we're presenting this
18 for your consideration. This is the final, your
19 final approval of a, of a rule that we've already
20 discussed, that you, for which you gave previous
21 approval. It's the authority of the Chief
22 Administrative Law Judge to transfer cases
23 between divisions.

24 I'm just going to give you a short

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2 summary of this again. As you know from the last
3 time, it's within OATH's rules, the Chief
4 Administrative Law Judge always had specific
5 authority to transfer cases from Trials to
6 Hearings. So what we've done, and, and, in
7 actuality, the Chief Administrative Law Judge al-
8 also had, and exercised, the authority to
9 transfer from Hearings to Trials. So what we did
10 is that we wanted to make that rule clear and we
11 wanted to, to, to memorialize that in the rules
12 and also make the rules symmetrical. And, in
13 doing that, we also cleaned up the Trials
14 Division transfer rule for, for, for grammar. So
15 what you have before you is just a transparent
16 statement of authority that the Chief
17 Administrative Law Judge has.

18 And it's been final-, it's been, it's
19 been through the hearings process, it received
20 final approval from the Law Department, and we're
21 putting it before you once again. Did you have
22 any questions? I'd be happy to answer them.

23 MS. SCHNEID: Hi. This is Matt Schneid.
24 Would it be accurate to say that this is

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2 essentially already happening in terms of moving
3 the cases around, but you want to formalize it?

4 MS. STATZ: Yes. Any questions? Any
5 additional questions?

6 MS. KLETTER: Okay, thank you. I'm
7 going to ask for a motion to approve this
8 proposed final rule.

9 MS. KNAUER: Motion.

10 MS. KLETTER: Thank you, Elizabeth. I'm
11 going to ask Joy to call the vote.

12 MS. THOMPSON: Thank you so much,
13 Commissioner. And for this proposed final rule
14 regarding the authority of the Chief
15 Administrative Law Judge to transfer cases
16 between OATH's divisions, I'm going to ask if
17 there are any objections. If you could speak or
18 indicate if you are objecting to this rule, there
19 will be approval of this rule.

20 MS. GRAHAM: Yes, Shamonda Graham, DOB.
21 I object.

22 MS. THOMPSON: Thank you. Thank you,
23 Shamonda. I have your, I have you down. Any
24 other objections? Thank you again. The motion

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2 passes, Commissioner.

3 MS. KLETTER: Thank you so much. I'm
4 now going to ask Kelly Corso to introduce the
5 pre-sealing reports.

6 KELLY CORSO, ESQ., ASSISTANT
7 COMMISSIONER FOR HEARINGS DIVISION ADJUDICATIONS,
8 OATH: Good morning. Can everyone hear me?

9 MS. THOMPSON: Yes.

10 MS. KLETTER: Yes.

11 MS. CORSO: Okay, great. Hi, I'm Kelly
12 Corso. I'm the Assistant Commissioner for the
13 Hearings Division, Adjudications, and I'm
14 presenting the cease and desist pre-sealing
15 reports for today. We have seven of them to
16 report.

17 Six of the reports involve backflow
18 cases and, in all of those cases, hearing
19 officers agreed with DEP's recommendation for no
20 further action or sealing in those cases.

21 The last case we have is an air case,
22 which involves a kitchen exhaust unit. And, on
23 that hearing, the respondent's representative
24 provided proof of work done to bring the unit

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2 into compliance with the Air Code. And based on
3 that information, the hearing officer recommended
4 that there be no sealing or further action
5 provided at DEP's initial re-inspection of the
6 unit and re-inspections over a period of 180 days
7 to show that the respondent remains in
8 compliance.

9 And that's it.

10 MS. KLETTER: All right. Any questions?
11 Okay. I'm going to ask for a motion to approve.

12 MS. LIGUORI: Motion.

13 MS. KLETTER: Thank you, Madelynn. I'm
14 going to ask Joy to call for a vote.

15 MS. THOMPSON: Thank you, Commissioner.
16 I will now also ask if there are any objections
17 to the approval of the pre-sealing report as
18 presented by Kelly Corso? Seeing and hearing
19 none, the motion passes. The report is approved.
20 Thank you.

21 MS. KLETTER: Great. Thank you so much.
22 I'm now going to introduce a question that was
23 raised by Elizabeth Knauer regarding the issue of
24 res judicata in these cases in the Hearings

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2 Division with respect to when and how it's
3 applied. So I know this is something Elizabeth
4 had raised at one of the panel meetings, and I'm
5 going to ask her to just kick it off, and then we
6 can respond.

7 MS. KNAUER: Thank you, Commissioner.
8 Great, and thanks for giving me the opportunity
9 to bring up this issues that's sort of been
10 nagging at me for a long time, probably since
11 2012, when, when we, the Board first adopted the
12 clarification of the Goldstein decision, which
13 essentially lays out the parameters of the res
14 judicata doctrine as has been applied by, by the
15 Board in various appeals since then.

16 So the, I hope everybody had an
17 opportunity to review the, the materials that
18 were circulated, the Goldstein case itself and
19 the, the clarification document. And, and I'll
20 just, I'll just note that I confirmed with Peter
21 that the, the res judicata rule that was adopted
22 into the, into the, into the Board rules does not
23 lay out the parameters of the doctrine. It's
24 just, it's more of the procedural aspect in which

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2 it needs to be raised at the hearing, but then
3 actually applied by the Board.

4 So the issue that I want to raise with
5 it is, is specifically, in the clarification
6 document, it specifically states that the res
7 judicata doctrine will not be applied to
8 continuing violations, including ones that are
9 sort of a maintenance type violation, like
10 occupancy contrary to a certificate of occupancy.
11 And that is not, that, that rule was not
12 established by Goldstein, it was not an issue in
13 Goldstein, which was not a continuing violation.
14 But there was a, a reference in the Goldstein
15 case to the fact that it was not a continuing
16 violation.

17 And I just, you know, it's something
18 that's bothered me for a while in terms of how,
19 how we've sort of had to apply it to exclude from
20 the application of res judicata cases where a
21 hearing officer has determined that an occupancy
22 is legal. And, and thereafter, another violation
23 or another summons is issued for the same
24 condition on the sa-, and, arguably, at least,

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2 the same facts. And res judicata cannot apply,
3 although the respondent would, you know, would
4 naturally rely on the prior holding that the
5 occupancy was legally maintained.

6 So I, I think it's a fairness issue for
7 respondents that, if they win, and I'm, and I'm
8 saying on the merits, substantively, that, and
9 with a finding that an occupancy is legal, that
10 they should be able to maintain that in reliance
11 that they won't later get a violation for the
12 same thing that OATH has already determined is
13 legal.

14 So I don't, and I don't think that
15 applying res judicata to cases like that would,
16 would even require changing anything in Goldstein
17 itself, because I think Goldstein recognized that
18 for res judicata apply, to apply in any case, it
19 would have to be on the exact same facts. So, if
20 an occupancy changed from between the original
21 hearing and the, and the later summons, then,
22 obviously, res judicata would not apply. But I,
23 I think that the notion that it doesn't apply to
24 any "continuing violations," even if the, even if

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2 the condition is exactly the same as was already
3 adjudicated, it's, it's an un-, it's unfair to
4 respondents who are relying on a prior hearing
5 decision that they can maintain that condition
6 because it's been deemed legal.

7 So that's, I just, it's something that's
8 bothered me for a while and I guess, I can't
9 remember the case that it came up in. I don't
10 think it really affected the out-, this, this
11 issue didn't affect the outcome of that appeal,
12 but it reminded me of, of, of the, of this issue
13 and I, and I wanted to request that the Board
14 revisit it and maybe consider revising the
15 clarification document. And I'm happy to answer
16 any questions, but that, that was basically
17 [unintelligible] [09:58:44] [00:23:44].

18 MS. KLETTER: Thank you. No, and I
19 think I'm going to ask Peter to respond, because
20 I know he spent a lot of time researching this.
21 I guess my, my question to you would just be
22 whether this is something you all have seen
23 happen where there might be overzealous
24 enforcement agents who are coming back to the

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2 same property shortly, like within the same year
3 or within the, within six months? Or is it, like
4 is, yeah, is, is it a problem where there's just
5 too much enforcement and it's happening, you
6 know, just too, like, consistently? Or is this,
7 is it not something you're seeing?

8 MR. SCHULMAN: I couldn't say that it's
9 something that we've seen on appeal very often.
10 We don't necessarily see Department of Buildings
11 going out and issuing multiple violations to the
12 same property over and over again. Cases have
13 generally held, though, that for maintenance
14 requirements, like the one, the ones Elizabeth
15 mentioned, if it's a class 1 violation, the
16 Department of Buildings does have that right that
17 every day a respondent fails to maintain a
18 premises in a Code-compliant manner, engages in
19 an occupancy contrary to a C of O, that
20 potentially is a new violation. So that's
21 really, I think, where the line got drawn
22 originally, back when Goldstein laid out this
23 standard between continuing violations and non-
24 contin- continuing violations.

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2 It was looking to see whether or not it
3 was a discreet act which happened once, like in
4 Goldstein, where it was the actual installation
5 of non-ADA-compliant steps. The respondent in
6 that case installed steps. They were being
7 charged with installing the wrong steps. Having
8 been dismissed, they didn't install any new
9 steps. That one type of, that one action was
10 very discreet. And, in fact, in that case, it
11 was very specific. The IO didn't even go out on
12 another day. The IO simply reissued a violation
13 citing the same exact condition, same date of
14 occurrence, without going out again. Just wanted
15 another shot at the apple.

16 And I think in adopting the continuing
17 versus non-continuing violation standard, the
18 Board was trying to balance factors of fairness
19 versus safety, that what you would potentially
20 end up having is, say this applied to just a
21 basic maintenance requirement that a building,
22 walls need to be maintained in a safe condition.
23 If, on a certain day, a certain hearing officer
24 dismisses a charge against a building that's five

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2 stories tall on the grounds that this only ap-,
3 that the requirement to maintain a building wall
4 only applies to buildings that are six stories,
5 that, that's an issue which has come up in cases.
6 Respondents claim that, because of the way it's
7 phrased. The Board has said no, it applies to
8 all buildings, that all buildings need to
9 maintain their walls. But if this hearing
10 officer dismisses on that and, for some reason,
11 it doesn't get appealed, we would essentially be
12 saying that, because of res judicata, as long as
13 a wall doesn't necessarily get worse, this
14 dangerous condition that is this wall could stay
15 --

16 MS. KNAUER: Yes.

17 MR. SCHULMAN: -- until it actually
18 falls down, potentially. So I think that --

19 MS. KNAUER: Can I interject something
20 that you --

21 MR. SCHULMAN: Sure.

22 MS. KNAUER: -- mentioned that was very
23 important? But you say if, for some reason, it
24 doesn't get appealed. And I think that's the,

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2 that is the, that's the critical issue. If the,
3 if the Agency de-, for whatever reason, decides
4 not to appeal it, that's on them. I mean, if,
5 if, if the decision was wrong, it should be
6 appealed.

7 But, I, I just, you know, I think in
8 terms of the safety issue, if, if it's deemed
9 legal, and this, and I think this often comes up
10 in this occupancy contrary where there's a
11 dispute over what the legal occupancy is, if the
12 hearing officer says I agree with the respondent,
13 this occupancy is legal, then for the, for the,
14 for Buildings to be able to come back a week, two
15 weeks, two years later and say the exact same
16 occupancy is no longer, is, is, is not legal, but
17 there's nothing that's changed, no facts have
18 changed, the certificate of occupancy hasn't
19 changed, it, it just, it seems unfair to me for a
20 respondent not to be able to rely on that. And
21 if Buildings thinks that the decision was wrong,
22 then they should have appealed it in the first
23 place.

24 MR. SCHULMAN: I, I, I understand that,

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2 but Buildings --

3 MR. MARTINEZ: But what if --

4 MR. SCHULMAN: I'm sorry?

5 MR. MARTINEZ: This is Jorge Martinez.

6 What -- this is Jorge Martinez, Department of
7 Health. What if a decision is incorrect, but
8 somehow the, the Department or the agencies
9 didn't appeal it? I mean, then res judicata
10 could be used as a shield to, for the, you know,
11 improper act. What happens in those cases?

12 MS. KNAUER: But that's, I mean, in, in
13 my mind, that's the agency's fault, though.
14 That's their decision not to appeal it. So I
15 think --

16 MR. MARTINEZ: It is true, but the fact
17 remains that --

18 MS. KNAUER: -- it's, it's just, to say
19 that they, to say that a hearing is --

20 MR. MARTINEZ: -- the decision might
21 have been wrong.

22 MS. KNAUER: I just feel like that makes
23 the whole hearing process kind of worthless for
24 the respondent. Other than getting a dismissal

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2 of that initial violation, it, it, the legal
3 ruling is meaningless to them, because they can't
4 rely on it.

5 MS. GRAHAM: So this is Shamonda Graham
6 from DOB. Can -- I'd like to weigh in a bit,
7 just to provide a bit of clarity for you,
8 Elizabeth, because I do understand your concern.

9 So, to provide a bit of clarity, when
10 we, the DOB, write a summons for occupancy
11 contrary, and if the hearing officer determines
12 that the occupancy is acceptable, that does not
13 mean that the condition that are at the location
14 and the fact, and the observations by the
15 inspector were not in violation of other sections
16 of our rules or laws, even if they were,
17 according to the hearing officer, occupying
18 correctly.

19 I do agree with you that, if we lose a
20 case like that and we do not appeal, that is on
21 the issuing agency and I do not expect the Board
22 or, you know, the, the Hearings Division to, to
23 have any sympathy for the enforcement agency that
24 does not appeal. But, at the same time, as it

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2 relates to occupancy, many times, in order to
3 allow for the occupancy, there are conditions
4 created that may have been described in the
5 occupancy violation, which, I have to really
6 stress, is, is violating the person for the way
7 they are occupying the space. That is very
8 different from how they set up the space in order
9 to allow for such occupancy.

10 So, let's say the hearing officer at the
11 hearing level, they dismiss the occupancy. You
12 know what? And I'm just making this up. This
13 location can be occupied in this way. That does
14 not mean that the walls, the sinks, the
15 restrooms, the things that were put in place to
16 allow for that, that does not mean that those
17 things are acceptable.

18 So I think that, even with the same set
19 of facts and the same observations, if the
20 inspector observed other areas of our rules and
21 laws that were in violation, then I think it is,
22 it is correct to issue a new violation.

23 MS. KNAUER: Well, I agree, Shamonda,
24 that those would be different, those would be

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2 different charges and res judicata would not
3 apply to the adjudication of those charges,
4 because those would be separate. So I, I, I
5 agree with you there that --

6 MS. GRAHAM: But, yeah.

7 MS. KNAUER: Yeah. So I, I don't --

8 MS. GRAHAM: But that is why Peter, but,
9 Elizabeth, that is why Peter is saying it doesn't
10 happen. And speaking for Buildings, because I am
11 the Executive Director of Enforcement, I can tell
12 you that if an occupancy contrary summons is
13 dismissed and we do not successfully appeal, we
14 are not going to go out and write that same
15 occupancy contrary if we did not successfully
16 appeal it. We would not do that. That is not
17 part of our practice.

18 MS. KNAUER: Well, I'm not suggesting,
19 Shamonda, that, that you would intentionally do
20 that or, you know, would direct that on the part
21 of inspectors. But I do think it's, it's,
22 there's a, there's a possibility --

23 [CROSSTALK] [10:07:33] [00:32:33]

24 MR. SCHULMAN: Did we lose the --

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2 MS. GRAHAM: Well, if the inspector,
3 even, even a zealous inspector that sent out and
4 did such things, there are only two things that
5 could happen. Either (1) the respondent may be
6 able to argue res judicata because --

7 [CROSSTALK] [10:07:54] [00:32:54]

8 MR. SCHULMAN: Okay, they're back.
9 Okay. I'm sorry, we lost the, we lost the
10 conference room for a second.

11 MS. GRAHAM: You know, either the --
12 there are only two things that can happen in a
13 case like that, and I understand what you're
14 saying, because you can get an inspector who
15 maybe (1) is zealous, or maybe (2) did not
16 necessarily do the proper research and they
17 issued the same, the same exact infraction that
18 was already dismissed by the Board. But, in such
19 case, there would be two things that would
20 happen. (1) The hearing officer, you know,
21 depending on how the hearing went, may, may look
22 at the previous case, which the inspector should
23 have done, or (2) the respondent may very well
24 raise res judicata. And depending on what the

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2 circumstances are, the Board would make the
3 decision. And that's really, I, I believe that
4 that was why the rule was changed, to make it, to
5 make it something that the Board needed to make
6 the final decision, because there's so many nooks
7 and crannies as it relates to res judicata.

8 MS. KNAUER: But under the Board's
9 current policy, we would not apply res judicata
10 in an occupancy case, even if it, even if it was
11 raised at the hearing level. We wouldn't, we
12 wouldn't apply it based on the parameters set
13 forth in the clarification document.

14 MR. SCHULMAN: And that, yeah, that's
15 correct. I just want to clarify. What, what he
16 had discussed, what, what you had mentioned
17 earlier about what was codified in our rule, it
18 primarily is simply that a hearing officer shall
19 establish the record, not rule on it, but the
20 Board shall.

21 But it does contain one little bit about
22 what the Board would consider, which is the
23 interest of justice, as well as public safety.
24 So I do think that res judicata, in the

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2 enforcement context, and the rule acknowledges
3 this, does require a bit of a different analysis
4 than maybe res judicata in a civil litigation or
5 something else like that. It isn't just the
6 enforcement agency that loses, that's on the hook
7 for losing. If you have a, a single-family house
8 that converts to 25 SROs into it and, for some
9 reason, it's dismissed and isn't appealed,
10 essentially, applying res judicata would be
11 legalizing a one-family house into a 25-family
12 house without the required fire safety, without
13 the required egress, lighting, all of those
14 things. And it would potentially allow them to
15 continue to occupy that, despite the, the
16 inherent risks that it would pose to all those
17 occupants.

18 Just like the wall instance I mentioned
19 earlier, it's not really Department of Buildings
20 that, that, that has suffered from that, but I
21 wouldn't want to walk past a wall that isn't
22 being maintained and, and which the Department of
23 Buildings cannot charge any further as not being
24 maintained because they lost one case. And, each

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2 day, it's not being maintained.

3 MR. SCHNEID: Can I ask a question? And
4 I apologize. It's my first meeting, so I don't
5 have the same benefit of the background as
6 everyone else. But isn't at issue the same
7 facts? So we're saying the same facts could be
8 applied. So if there's a violation as to the 25
9 units in your example, wouldn't we be saying that
10 if the facts were exactly the same, then we have
11 to apply the law as we, or the regulation that's
12 based, that we decided, right? So if there's
13 different facts, it would be a different outcome,
14 potentially. Are, are -- isn't that the point,
15 that we shouldn't be relitigating the same fac-
16 tual issues?

17 MS. KNAUER: Yes.

18 MR. SCHNEID: And I imagine in your
19 scenario, there could be many different factual
20 scenarios.

21 MS. KNAUER: That, that's my point. I
22 think Peter's point is that there, there, there
23 could be this extreme situation where something
24 falls through the cracks. I think it's, it's, I

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2 mean, Shamonda, you can respond to that. But it
3 seems highly unlikely to me that Buildings would
4 not appeal that case.

5 MR. SHPETNER: Also --

6 MS. GRAHAM: I'll tell you one thing,
7 you know I'm over here biting at the bit,
8 Elizabeth. Buildings had better appeal a case
9 like that, so I wouldn't really worry about
10 something like that. And I think what I need to
11 make very clear, like the way the inspectors
12 write the summonses, right. So if there's
13 occupancy contrary, the inspector is going to
14 write all of the facts that make them believe
15 that the occupancy is contrary, but those facts
16 would include other things that they observe that
17 are, actually, violations of other sections of
18 our rules, of our laws.

19 So what happens is you have this big
20 summons that tells you this person is occupying
21 this space incorrectly. They don't have
22 sprinklers, they don't have this or they have 25
23 rooms where it should be a one-family apartment,
24 and the inspector has given all those facts when,

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2 in actuality, the only fact that they have to
3 give was the current occupancy or what is legally
4 acceptable versus what they saw, which would have
5 been the 25 rooms. Our inspectors are going
6 further to state the other things that they saw.
7 And when they do that, that is because they're
8 writing that one summons opposed to writing the
9 10 or 15 or however many could be written.

10 I mean, in these cases -- I'm going to
11 tell you now -- it is really simple. Once you
12 have that occupancy contrary, depending on the
13 type of scenario you have, like Peter said, you
14 get, especially if it's like an AirBNB situation,
15 it depends on the situation. You've got
16 sprinkler requirements coming into play, egress
17 requirements coming into play, ventilation
18 requirements coming into play. There's all of
19 these different requirements that then kick in,
20 and the inspector may very well only write
21 occupancy sometimes -- not all the time. But,
22 when they do, if that were dismissed, then we're
23 saying, oh, my gosh, we have this 25-room one-
24 family house. People can really, really get hurt

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2 in situations like that.

3 So the Department would (1) appeal, and,
4 then, (2) if we did not prevail or, for whatever
5 reason, lost the appeal, we would try to ramp up
6 our enforcement in other ways, keeping in mind
7 that the major goal is compliance and to get that
8 location to a safe space. Because these, in
9 these instances, this is where people lose their
10 lives in emergencies, fires and things of that
11 sort.

12 MS. KNAUER: I'll, I'll just say that I
13 think that the concerns that Peter are raising
14 are, are like, that the hearing officers are
15 going to get it wrong and that, and that
16 Buildings isn't, is going to get it wrong by not
17 appealing. And, and/or that the Board is going
18 to get it wrong on the appeal. So I, I think
19 those concerns are -- I, I mean the, I, I would
20 just say that we shouldn't be making policy based
21 on concerns that, like, a multiple chain of
22 events will go wrong in that fashion at OATH.
23 You know, sort of to the, to the detriment of, of
24 respondents who are try-, you know, who might be

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2 trying to just comply with the law and, and
3 maintain their building in what they think is
4 leg-, a legal manner.

5 I think in many, many cases, likely
6 where the, you know, there's a dismissal because
7 Buildings, for example, just didn't produce
8 enough, enough evidence of illegal occupancy,
9 that that also, if they, if they came forward
10 with more evidence of illegal occupancy on a
11 subsequent summons, then, again, res judicata
12 wouldn't apply in that case because the ruling
13 was not based on the same evidence.

14 MR. SCHULMAN: I, I, I don't think
15 that's the way that the Board has applied res
16 judicata, as far as not having sufficient
17 evidence. If it was simply, we can go back to
18 the, the stairs case. If it was dismissed
19 because DOB didn't come forward with sufficient
20 evidence that these stairs weren't ADA compliant,
21 and then they reissued that, the Board would say
22 that is res judicata.

23 MS. KNAUER: All right. Fair enough,
24 fair enough.

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2 MR. SCHULMAN: DOB had its chance to, to
3 submit the evidence. They didn't. But I think
4 part of what the distinction that, that is a
5 distinction between res judicata and collateral
6 estoppel and, really, the Goldstein case speaks
7 to claim preclusion, not issue preclusion, and I
8 don't think the Board has been very stringent on
9 issue preclusion. And a lot of the reasons why a
10 occupancy contrary charge would be dismissed
11 would be based on particular issues. Like you're
12 saying, they, DOB failed to, the issue of what is
13 illegal occupancy of this building or the issue
14 of how many rooms were actually being occupied on
15 a particular day. Those are things that the
16 Board hasn't applied and those are the reasons
17 why you would generally say, okay, you can't
18 issue another occupancy contrary charge on
19 Tuesday if it was dismissed Monday, because you
20 haven't shown that the issue of how many
21 occupants, how, how many rooms were being
22 occupied has changed, or you haven't shown that
23 the legal occupancy of this premises has changed.
24 So that's the distinction, to some degree, of

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2 what continuing violations versus non-continuing
3 violations also hinges on, is collateral estoppel
4 versus res judicata.

5 [CROSSTALK] [10:17:22] [00:42:22]

6 MS. KNAUER: I mean, I, I think that's
7 splitting hairs, to a certain extent. The
8 collateral estoppel is, is a part of the doctrine
9 of res judicata. And I guess, I guess I'm just
10 raising this issue as, as sort of a, from a
11 policy perspective of allowing people to rely on
12 decisions of the Board and whether, whether
13 that's, whether we, in fact, do that. So --

14 MS. KLETTER: If I may, [unintelligible]
15 [10:17:50] [00:42:50].

16 MS. KNAUER: -- versus --

17 MR. SCHNEID: Is there a proposed change
18 --

19 MS. KLETTER: Can you guys hear me?

20 MR. SCHNEID: -- to the, the document
21 that's on the, the on the table?

22 MS. KLETTER: I don't think they can
23 hear me.

24 [OFF MIC CONVERSATION]

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2 MS. KNAUER: I don't, I, I just brought
3 this up at a panel meeting and was invited to
4 present on it. But I, you know, I could propose
5 a, I could propose modifications to the, to the
6 clarification document if, if there was interest
7 in that.

8 MR. SCHULMAN: It might be appropriate
9 to do that when a case comes up. Then, then,
10 they take it itself and go to the full Board. A
11 decision could be issued after debate by the full
12 Board, and then the document could be modified
13 based on how that decision comes out.

14 MS. KNAUER: I mean, I'm not on every
15 panel, so if, you know, I may not --

16 MR. SCHULMAN: Well, we could, if
17 there's a claim on a continuing violation where
18 res judicata is raised, we will ask that the
19 panel brings it to the full Board.

20 MS. KNAUER: Okay.

21 MR. SHPETNER: Sorry, could I --

22 MS. KLETTER: Hello? Hello?

23 MR. SHPETNER: This is, this is Tom
24 Shpetner.

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2 MS. KLETTER: Hi.

3 MR. SHPETNER: [Unintelligible]

4 [10:18:50] [00:43:50]. I could be in favor of us
5 coming [unintelligible] [10:18:53] [00:43:53]
6 worked on in 20-, I think it was 2012. I
7 remember Julian Folsom [phonetic] cornering me
8 back in the day.

9 I, I think waiting for a case to come up
10 might, might be too little, too late. I don't
11 mean it like we can't get it, get it right, but I
12 think this is a very worthy debate. I think it,
13 at face value, Shamonda's diligence and, and
14 willingness to, you know, hunt down any, any
15 violation, you know, you know, that isn't fully
16 fleshed out or, you know, her thoroughness is
17 not, not up for debate here.

18 I, what I'm concerned is that, if we do
19 have an ongoing violation, I mean, a lot of our
20 jur-, a lot of our cases, you know, we just kind,
21 we write them and then we expect compliance, and
22 we don't have any kinds of equitable means by
23 which we can, you know, cram down change. What
24 we do have is the ability to write new summonses.

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2 So I do think that coming up with
3 something, you know, we can take a couple of
4 meetings if we have to, to do it, but I would be
5 more than happy to team up with Elizabeth and
6 whomever from the agencies to, to flesh this out.

7 I, I, you know, I live in a crumbling
8 building and I, and I do take very seriously the,
9 the need to be vigilant for ongoing violations,
10 and where something like a stop work order isn't
11 observed, that's very cut and dry. But where we
12 have a dangerous commis- condition that isn't
13 abated promptly, we do need the ability to take
14 action, punitive or otherwise.

15 So I, I, I think, Peter, you're, you're,
16 you're right that we could probably hold on until
17 one of these becomes ripe, but I'd rather get the
18 information, you know, the, the, the respective
19 views of everybody, you know, memorialized into
20 something we think is appropriate. That's just
21 my reaction to the debate, which I think is, you
22 know, important and lively and I wish we did more
23 of this, frankly.

24 MR. SCHULMAN: All right. I think Olga

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2 wanted to say something.

3 MS. STATZ: Yeah, hi. Hi, everybody. I
4 just wanted to point something out. It's very,
5 it would be very difficult, I think, if you want
6 to --

7 MR. SHPETNER: All right, Olga, can you
8 get closer to a microphone? You're very hard to
9 hear.

10 MS. STATZ: Yes, I am, I'm as close to a
11 microphone as I can get.

12 MR. SCHULMAN: That, that's better.
13 That's better.

14 MS. STATZ: Can you hear me?

15 MR. SHPETNER: You're better now,
16 whatever you -- yeah.

17 MS. STATZ: So what I wanted to say,
18 basically, is we have to keep in mind that
19 there's a, there are police powers that we have
20 to keep in mind here. OATH, of course, is the
21 tribunal, but the enforcement agencies have
22 police powers that we really cannot legislate
23 beforehand or, or decide on beforehand. And I
24 think that the reason that there's so much room

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2 in the res judicata rule, as it exists, is to
3 allow the Appeals Panel to do things on a case-
4 by-case basis, which I think is critical in this,
5 in this, in this area. I don't think that this
6 section is really amenable to having a policy
7 that is set in stone. There are too many
8 factors. When we listen to Shamonda speaking or
9 Peter, or when we just review the cases, too many
10 things come up in individual cases for us to have
11 some sort of a policy that will apply in every
12 single case.

13 I think, perhaps, we can look at it and,
14 and say, perhaps, not do an absolute refusal to
15 do a continuing violation. But it's absolutely
16 critical that we give the a-, the agency the
17 flexibility, on a case-by-case basis, to do this.
18 I don't think it would be very -- this is not
19 really amenable to a hard and fast rule because I
20 don't know the extent to which oath has authority
21 to interfere with the police powers of like the
22 Fire Department or Buildings Department, if they
23 decide that they have to go back in a particular
24 place within a number, within a particular

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2 number, number of days.

3 So I think that those are things that
4 have to be kept in mind as we, we try to reach
5 some sort of consensus here. I think a consensus
6 can be reached, but we have to be very careful
7 about what it's going to look like and whether
8 we're going to do something set in stone. Thank
9 you.

10 MS. KNAUER: And Olga, just to respond
11 to that, if I may. I, I didn't, I was not
12 proposing that the rule be changed, which, as
13 Peter mentioned, references public saf-, public
14 interest and safety or whatever. I was just, I
15 was proposing revisiting our internal
16 clarification document, which now reads that it
17 nev-, that res judicata will never apply to a
18 continuing violation and has been sort of
19 interpreted as kind of set in stone, I think,
20 through, through the, through the appeals
21 decisions. So I was just proposing maybe making
22 it more flexible, but not proposing to put
23 further res-, put further restraints on the Board
24 or change the actual rule.

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2 MS. KLETTER: Yeah, no. Thank you so
3 much for raising it. I think it's definitely
4 something we should think about and talk about
5 more. Again, from my perspective, I'm a little
6 hesitant to consider any kind of clar-
7 clarification change or rule change without
8 knowing how often this actually happens, because
9 I'm, I haven't seen evidence of, again, like
10 overzealous, overaggressive enforcement where
11 someone is inspecting and then, six months later,
12 it's the same condition, as opposed to maybe four
13 or five years later, going back to the same unit.

14 Now, you, again, you're all seeing more
15 cases than I am, but I would be interested in
16 seeing evidence of that kind of overzealous
17 enforcement that would require some type of
18 clarification change.

19 Is there anyone else that wanted to
20 speak on this issue, or can we move on?

21 MR. MARQUEZ: Just quickly, this is
22 FDNY. As the first responders, I would just
23 remind that everyone that's put this forth to
24 remember that this deals with the health and

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2 safety standards, which are changing constantly.
3 So I, we wouldn't be in favor of putting a legal
4 straitjacket on OATH; rather, allowing OATH, as
5 they have been doing, to decide on a case-by-case
6 basis, what they, they deem appropriate and what,
7 when res judicata should apply. Remember, this
8 has a, a definite finality to it, and, and I, I
9 believe that in order to protect life and
10 property, the agency should not be prevented from
11 relitigating these issues and, and for OATH to
12 then consider it in the light of what is best for
13 the public.

14 Remember, the one side of it is, well,
15 this is a burden for the respondent. However,
16 the other side of it is that lives are in danger
17 and what's best for the public at large. And, as
18 first responders, we're very concerned with that,
19 because if Department of Buildings loses a case
20 like this -- and let's face it, there is no
21 system that's perfect. So with all respect to
22 Department of Buildings and their ability, and I
23 know they're very competent, but no system is
24 perfect. And if something does fall through the

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2 cracks, we're the ones responding to the building
3 and we're the ones that are trying to save the
4 lives that are in there. So please take this
5 into account when deciding. It's not just one
6 sided, well, you know, it's not fair to the
7 respondent. It's also what's in the best
8 interests of the public at large.

9 MS. KLETTER: Okay, thank you. I think
10 we're going to move on, unless someone wants to
11 make a final comment.

12 MS. KNAUER: I'll just make one, that
13 having heard, having heard all of those concerns,
14 I, I would say, if we were going to revisit the
15 clarification, certainly, the egregious case or
16 the dangerous case could be taken into account,
17 that there would be a caveat on the application
18 of res judicata where there was a real danger to,
19 to the public or, or occupants, etcetera.

20 MS. KLETTER: Okay. Very good. Thank
21 you, again, Elizabeth, for bringing this to us.
22 I'm now going to ask for a motion to go into
23 Executive Session to discuss new decisions and
24 the cases listed in the Judicial Report.

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2 MS. LIGUORI: Motion.

3 MS. KLETTER: Thank you.

4 MR. SCHULMAN: Okay. So if everybody
5 who is not employed or interning with OATH or
6 part of the Board either want to disconnect. If
7 you don't want to disconnect, I can put you into
8 a waiting room and bring you back in when the
9 Executive Session is over. I don't think there's
10 much to discuss after that, but I can do that.
11 There's a lot of new names, particularly interns.
12 So, Tim, you're, you recognize all the intern
13 names and you can tell me if anybody is on who is
14 not an intern?

15 TIMOTHY JONES, ESQ., SENIOR COUNSEL, OATH:
16 Done. LaPlante, that doesn't, I'm not sure who
17 that is. But the other names --

18 MR. SCHULMAN: All right. Okay.

19 MR. JONES: -- all seem familiar.

20 MR. SCHULMAN: Yeah. Hold on a second.
21 Okay, I'm going to pause the recording now.

22 [OFF THE RECORD]

23 [ON THE RECORD]

24 MS. THOMPSON: Thank you, Commissioner.

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MS. KLETTER: Okay. Is there any additional questions? We're now back in public session. Okay. And, as you all know, additional, future panel meetings are divided into A.M. and P.M. sessions with different Board members for lighter packages of draft decisions. The next Board meeting will be August 12, 2021. And I'm going to ask for a motion to adjourn the meeting.

MS. LIGUORI: Motion.

MS. KLETTER: Great. Meeting adjourned. Thank you all so much.

MS. LIGUORI: Thank you. Bye, everybody.

MS. THOMPSON: Bye.

MS. GRAHAM: Thank you. Bye, everybody.


(The board meeting concluded at 10:44 A.M.)

Environmental Control Board, 6/10/2021

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on June 10, 2021, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: July 26, 2021

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