

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

June 12, 2025

09:35 AM to 11:25 AM

MEMBERS PRESENT:

**Asim Rehman, Esq. - Chairperson; Commissioner & Chief
Administrative Law Judge (OATH)**
Shamonda Graham - Department of Buildings (DOB)
Jose Marquez, Esq. - New York City Fire Department (FDNY)
Elizabeth Knauer, Esq. - Appointed Member (Water)
**Russell Pecunies, Esq. - Department of Environmental
Protection (DEP)**
**Harminderpal Rana, Esq. - Department of Health & Mental
Hygiene (DOHMH)**
Matthew Schneid, Esq. - Appointed Member (Real Estate)
**Matthew Smith, Esq. - New York City Police Department
(NYPD)**
Lisa Urban, Esq. - Appointed Member (General)
Jarrold Whittington - Appointed Member (Noise)

ALSO PRESENT:

Rachel Amar - Senior Advisor to the Commissioner (OATH)
Kelly Corso, Esq. - Deputy Commissioner, Hearings Division
(OATH)
Leon Dawson, Esq. - Assistant General Counsel (OATH)
Diana Haines, Esq. - Deputy General Counsel (OATH)
Madeline Halimi, Esq. - Parliamentarian; Assistant General
Counsel (OATH)
Kailey Homoky - Summer Intern (DEP)
Isabella Husein - Summer Intern (OATH)
Diamond McAllister - Summer Intern (DEP)
Karin McAvoy - Administrative Coordinator (OATH)
Michelle Musheyev - Summer Intern (OATH)
Raphael Nahon - Summer Intern (DEP)
Annika Naramreddy - Summer Intern (DEP)
Cindy Nesbit, Esq. - Assistant General Counsel (OATH)
Frank Ng, Esq. - General Counsel (OATH)
Laura Quaigraine-Kamaru, Esq. - Assistant General Counsel
(OATH)
Jiyeon Roh - Summer Intern (OATH)
Harley Ruscio - Summer Intern (DEP)

1 (The board meeting commenced at 09:35 a.m.)

2 COMMISSIONER ASIM REHMAN: Good morning,
3 everyone. I am Commissioner Asim Rehman, and I'm calling
4 the June 12th, 2025, meeting of the Environmental Control
5 Board to order. It's good to see everyone. I'd like to ask
6 our parliamentarian to conduct a roll call to verify
7 quorum.

8 ASSISTANT GENERAL COUNSEL MADELINE HALIMI: Good
9 morning. Commissioner Asim Rehman?

10 COMMISSIONER ASIM REHMAN: Present.

11 ASSISTANT GENERAL COUNSEL HALIMI: Shamonda
12 Graham?

13 MS. SHAMONDA GRAHAM: Present:

14 ASSISTANT GENERAL COUNSEL HALIMI: Jose Marquez?

15 MR. JOSE MARQUEZ: Present.

16 ASSISTANT GENERAL COUNSEL HALIMI: Elizabeth
17 Knauer?

18 MS. ELIZABETH KNAUER: Present.

19 ASSISTANT GENERAL COUNSEL HALIMI: Madelynn
20 Liguori? Russell Pecunies? Harminderpal Rana?

21 MR. HARMINDERPAL RANA: Present.

22 ASSISTANT GENERAL COUNSEL HALIMI: Matthew
23 Schneid?

24 MR. MATTHEW SCHNEID: Present.

25 ASSISTANT GENERAL COUNSEL HALIMI: Matthew Smith?

1 MR. MATTHEW SMITH: Present.

2 ASSISTANT GENERAL COUNSEL HALIMI: Douglas Swann?
3 Lisa Urban?

4 MS. LISA URBAN: Present.

5 ASSISTANT GENERAL COUNSEL HALIMI: Jarrod
6 Whittington?

7 MR. JARROD WHITTINGTON: Present.

8 ASSISTANT GENERAL COUNSEL HALIMI: We have a
9 quorum, 9 out of 12.

10 COMMISSIONER ASIM REHMAN: All right. We'll first
11 move on to the minutes of the April 3rd, 2025, board
12 meeting. Hopefully, everyone's had a chance to review
13 those. I'd like to ask for a motion and a second to adopt
14 the minutes. The motion from Shamonda, a second from
15 Matthew. [crosstalk].

16 ASSISTANT GENERAL COUNSEL HALIMI: Are there any
17 objections to the motion adopting the minutes of the April
18 3rd, 2025, ECB meeting? Seeing none and hearing none, the
19 motion is approved unanimously.

20 COMMISSIONER ASIM REHMAN: Next, we have a few
21 items on the agenda that involve DEP. Russ is not with us
22 yet. Hopefully, he'll be here soon. What we can do is move
23 into executive session to cover the business there. I'd
24 like to ask for a motion and a second to go into executive
25 session. I see a motion from Matt and a second from

1 Shamonda, so we're going to go into executive session. For
2 the folks who are non-public, we will return when the
3 executive session-- For the folks who are in the public
4 audience [audio cut].

5 We are returning to a public session after our
6 executive session. We've been joined by Russ Pecunies from
7 DEP. The next order of business will be to discuss a full
8 board appeal, which is DOB v. City Wide Builders Group
9 Incorporated, appeal number 2500093. There is a decision
10 under consideration to dismiss the summons, and we can now
11 ask for a motion to vote on the dismissal. We have a
12 motion. I see a motion from Matthew and a second from
13 Matthew.

14 ASSISTANT GENERAL COUNSEL HALIMI: Are there any
15 objections to the motion to call for a roll call vote?
16 Seeing none and hearing none, the motion is approved
17 unanimously.

18 COMMISSIONER ASIM REHMAN: Let's move to a vote
19 for the dismissal in DOB v. City Wide Builders Group
20 Incorporated, appeal number 2500093.

21 ASSISTANT GENERAL COUNSEL HALIMI: Commissioner
22 Asim Rehman?

23 COMMISSIONER ASIM REHMAN: Dismiss.

24 ASSISTANT GENERAL COUNSEL HALIMI: Shamonda
25 Graham.

1 MS. SHAMONDA GRAHAM: Abstain.
2 ASSISTANT GENERAL COUNSEL HALIMI: Jose Marquez.
3 MR. JOSE MARQUEZ: Dismiss.
4 ASSISTANT GENERAL COUNSEL HALIMI: Elizabeth
5 Knauer.
6 MS. ELIZABETH KNAUER: Dismiss.
7 ASSISTANT GENERAL COUNSEL HALIMI: Madelynn
8 Liguori
isn't
here.
9
10 ASSISTANT GENERAL COUNSEL HALIMI: Russell
11 Pecunies.
12 MR. RUSSELL PECUNIES: Dismiss.
13 ASSISTANT GENERAL COUNSEL HALIMI: Harminderpal
14 Rana.
15 MR. HARMINDERPAL RANA: Abstain.
16 ASSISTANT GENERAL COUNSEL HALIMI: Matthew
17 Schneid.
18 MR. MATTHEW SCHNEID: I dismiss.
19 ASSISTANT GENERAL COUNSEL HALIMI: Matthew Smith.
20 MR. MATTHEW SMITH: I dismiss.
21 ASSISTANT GENERAL COUNSEL HALIMI: Douglas Swann
22 is not here. Lisa Urban.
23 MS. LISA URBAN: Abstain.
24 ASSISTANT GENERAL COUNSEL HALIMI: Jarrod

1 MR. JARROD WHITTINGTON: Dismiss.

2 ASSISTANT GENERAL COUNSEL HALIMI: Okay. One,
3 two, three, four, five, six, seven for dismiss, and one,
4 two, three abstentions. The dismissal passes.

5 COMMISSIONER ASIM REHMAN: Okay. Thank you very
6 much, everyone. All right. We will now move to items in
7 the agenda that are being led by DEP. We'll start with the
8 request for cease and desist orders. Russell?

9 MR. RUSSELL PECUNIES: All right. Thank you.
10 Russell Pecunies with DEP Legal. For this meeting, DEP has
11 five requests for cease and desist orders. We can start,
12 unless there's any particular order that you want to do
13 them in. We can start with the one for Bridgeview 3
14 Housing Corp. This is an apartment building located at 8-N
15 27th Avenue in Queens. It has two federal boilers with
16 Gordon-Piatt burners. That equipment has had its air code
17 permits expired since 2011.

18 They have been issued a series of summonses. The
19 first summons for fuel-burning equipment without a valid
20 certificate of operation was issued in July of 2021. They
21 defaulted on that violation, but did pay the default
22 penalty. They were then issued two summonses last year in
23 January and in September and were found in violation after
24 hearing on both of those. A fourth summons was issued last
25 month. At this point, DEP does not feel like it's gaining

1 anything to continue to issue summonses. We are requesting
2 that the board issue an order to cease and desist.

3 COMMISSIONER ASIM REHMAN: Thanks. Just a
4 question, Russ. I'm looking and

5 [00: 06: 24] seeing a default paid in full and
6 then twice in 2024, two violations, were those after
7 hearings?

8 MR. RUSSELL PECUNIES: Yes, the violation means
9 after hearing.

10 COMMISSIONER ASIM REHMAN: Got it. Okay. They had
11 a full opportunity to present their case.

12 MR. RUSSELL PECUNIES: Yes. They've been aware of
13 all three of the previous.

14 COMMISSIONER ASIM REHMAN: No question by me.
15 Elizabeth?

16 MS. ELIZABETH KNAUER: I was just wondering if
17 you had an understanding of why the permit wasn't renewed.
18 It looked like this was natural gas or number two
19 equipment, so.

20 MR. RUSSELL PECUNIES: This is not one of those
21 number four oil issues. This is a valid permit to use
22 number two and natural gas. They have just not renewed it.
23 It's just operating without a current permit.

24 MS. ELIZABETH KNAUER: Okay.

25 MS. SHAMONDA GRAHAM: It says here there's a

1 hearing on 6-18-25. I know you're also asking the board to
2 approve this request. How does that square? Is that
3 hearing going to be-- because it's after we approve this
4 request, isn't there a special hearing?

5 MR. RUSSELL PECUNIES: Yes, there would be a
6 special hearing scheduled separately, which would be not--
7 I mean, 6-18 is next week. [crosstalk]. The special
8 hearing will be after the 6-18.

9 MS. SHAMONDA GRAHAM: Okay.

10 COMMISSIONER ASIM REHMAN: Another question?

11 MR. RUSSELL PECUNIES: Okay. All right.

12 COMMISSIONER ASIM REHMAN: What I'd like to
13 propose is, Russ, you go through all of these. If
14 individuals have any concerns or objections that they
15 think might cause them to vote against one of these, raise
16 those as these come up individually.

17 MR. RUSSELL PECUNIES: Okay. We may then want to
18 go to the second. Okay. Because the second one is quite an
19 unusual one. This pertains to 40 Arden Street in
20 Manhattan, which is way up there in Inwood. We had been
21 receiving complaints last year, quite persistently, about
22 noise from roosters crowing.

23 MR. HARMINDERPAL RANA: How many people would
24 think we would have that in New York City? Anyway, my
25 aside.

1 MR. RUSSELL PECUNIES: Inspections in July and
2 October of last year resulted in summonses being issued to
3 the building owner. This is an apartment building. They
4 had hearing dates scheduled in October and January. They
5 defaulted on both of those summonses. In response, so then
6 this year, on April 1st, there was an article which is
7 attached at the end of your package, in the New York Post,
8 as well as several reports on local news Channel 2, 4, 5,
9 and 7, I think all had stories on this.

10 MR. HARMINDERPAL RANA: April Fool's Day, I'll
11 just add. I'm sorry. Another gratuitous aside.

12 MR. RUSSELL PECUNIES: In response to the media
13 coverage, we went back-- well, in response to the media
14 coverage, I was asked to prepare this as a request for a
15 cease and desist order for this board meeting. Then, about
16 two or three weeks ago, in response to complaints, we went
17 back and found the chickens, these Indonesian black
18 chickens, apparently very rare and a great delicacy, had
19 disappeared. The chickens had disappeared. I'm not sure
20 about the parrot or the turtle, but the chickens had
21 disappeared.

22 I then went to the Bureau and said, "Do you want
23 me to pull the request for a cease and desist order?" They
24 said present it anyway because, number one, and this was
25 confirmed earlier this week, the only thing that has

1 disappeared is the chickens. Everything else that in the
2 photographs in the New York Post story, the cages that
3 they were keeping them in, all the rest of it, is still
4 there as of this week. Only the birds have disappeared.

5 My instructions were to still present it to the
6 board first because restoring the condition would be as
7 simple as just bringing the birds back and putting them
8 back. This is in a courtyard of this building. The second
9 thing is, it was discussed amongst us that the Health
10 Department and the Police Department, both of whom may
11 have the authority, which we would not have, to go in and
12 clear this out, both sit on the board.

13 My instructions were, as a result of those two
14 things, to present this to the board even though the
15 chickens are gone.

16 COMMISSIONER ASIM REHMAN: To be clear, you're
17 asking for a cease and desist order. order with respect to
18 violations of the noise code?

19 MR. RUSSELL PECUNIES: To the noise code that
20 would-- for compliance would require the courtyard to be
21 cleared, since that-- normally a cease and desist order
22 for noise is based on the equipment making the noise.
23 Here, the equipment making the noise is birds. We can't
24 seal them unless we were going to wrap them around their
25 beaks or something. We cannot seal the equipment. The idea

1 would be to render this impossible to happen again by
2 means of requiring them to remove the infrastructure that
3 this guy has in the courtyard that allows him to keep the
4 chickens there. Recognizing that this is an extremely
5 unusual and outside-the-box request, I was still directed
6 to make it.

7 COMMISSIONER ASIM REHMAN: One more question.
8 Sorry, Elizabeth. There's reference to different birds.
9 When you say the chickens are gone, are there any animals
10 remaining who are making noise?

11 MR. RUSSELL PECUNIES: The two summons is both
12 specifically referenced roosters. According to the New
13 York Post, there is also a parrot. I don't know that any
14 of the violations were connected to the parrot.

15 COMMISSIONER ASIM REHMAN: In your request for a
16 cease and desist order, are there continuing offending
17 conditions?

18 MR. RUSSELL PECUNIES: As of the inspection that
19 we did the other day, the information that I was given was
20 specifically that the chickens are gone.

21 MS. LISA URBAN: The rooster is still there? Are
22 the roosters still there?

23 COMMISSIONER ASIM REHMAN: All the fowl.

24 MS. LISA URBAN: All the fowl. [crosstalk]

25 COMMISSIONER ASIM REHMAN: Elizabeth?

1 MS. ELIZABETH KNAUER: A few things. My
2 understanding was that roosters are not permitted in New
3 York.

4 MR. HARMINDERPAL RANA: That is correct. They are
5 specifically prohibited by the health code.

6 MS. ELIZABETH KNAUER: Right. I think it has a
7 relationship to noise, the purpose of that being illegal.
8 I guess in terms of removing the infrastructure, I don't
9 know if they only had roosters there. That seems unlikely.

10 MR. RUSSELL PECUNIES: No, they have roosters and
11 chickens. They have a flock of chickens.

12 MR. HARMINDERPAL RANA: You're allowed to have
13 chickens.

14 MS. ELIZABETH KNAUER: Right. The chickens, the
15 hens, are not making the noise. Removing the
16 infrastructure would also be taking away the home of the
17 permitted and non-noisy fowl. I guess that's one issue.
18 Then the other, so the other one is sort of like, is there
19 like a live violation now if they're gone?

20 MR. RUSSELL PECUNIES: The offending flock having
21 been removed, if it stays removed, then it's fine.

22 MS. ELIZABETH KNAUER: No, but if we issue this--
23 I guess I'm just wondering how this would play out. If we
24 issue this cease and desist order, and the inspectors go
25 back, and I guess there's a hearing first, right? They'd

1 have an opportunity to present their case. I guess they
2 could come in and say we found new homes for them in the
3 country, and we only have none.

4 MR. RUSSELL PECUNIES: There'd be nothing for us
5 to seal. Our only authority is to seal equipment. It's not
6 to remove anything. That was, again, why it was suggested
7 that, because there were agencies on the board that may
8 have the authority to require them to move, remove
9 something, which we don't, that we should present this
10 anyway.

11 COMMISSIONER ASIM REHMAN: Yes. Not much to
12 cease.

13 MS. LISA URBAN: I remember at our-- I think it
14 was at our last board meeting, we had a whole discussion
15 about cease and desist orders when, I think, it was an air
16 conditioning, an HVAC unit. [crosstalk]. There was a whole
17 discussion about the fact that the HVAC wasn't running at
18 the time that we were asking for the HVAC, the cease and
19 desist. We said, well, it doesn't matter because the cease
20 and-- we all, but I think there was a discussion and
21 ultimately the determination that it didn't matter. We
22 could still issue the cease and desist order.

23 If I'm not wrong about what the ultimate result
24 was, which I think is what it was. I think that the
25 precedent that we set was, you could, based on that

1 discussion last time, the equipment's still there or the
2 roosters, make the assumption that he hasn't really
3 complied, even though he's taken the roosters somewhere
4 else, perhaps, or put them somewhere else.

5 MS. ELIZABETH KNAUER: A little different. The
6 air conditioner made the noise versus this person's
7 hearing the roosters.

8 MS. LISA URBAN: The roosters you can move
9 quickly, as opposed to an air conditioning unit. It's
10 still the same theory on a cease and desist that you're
11 asking someone to cease and desist something that was not
12 going on at the time that we issued our determination on
13 it.

14 MR. RUSSELL PECUNIES: The only time in the past
15 that we have asked the board to issue a cease and desist
16 order for violation of this section for excessive noise
17 from animals related to a veterinarian's office where they
18 had a separate building that they boarded animals and
19 dogs. The complaints were about dog barking. at all hours
20 of the day and night, from the part of the veterinarians
21 that they were using to board dogs.

22 The board did approve that request. On the
23 theory, I think that that was a business that the part of
24 the business that could be closed if they didn't comply
25 with it. That's not really very analogous to this, but

1 it's the only other time when we've asked for a cease and
2 desist order about noise from live animals.

3 MS. LISA URBAN: Now, my issue is not so much the
4 type of violations. Obviously, I know roosters are very
5 noisy. My issue is that we've said in the past, at least
6 for the short time I've been on the board, that you can
7 issue a cease and desist order, even though the violation
8 is not occurring.

9 MR. MATTHEW SMITH: Not occurring at the time. I
10 think the cease and desist order is good for notice that
11 if you bring your birds back and they make noise, we're
12 going to give you a noise violation that has nothing to do
13 with go knock your hen house down. I think that's a
14 separate issue that's more in your backyard, which is we
15 have to issue [crosstalk].

16 MR. RUSSELL PECUNIES: I don't know if there's
17 anything about this the way it is now. I have been there
18 myself. I've seen the photos and the post article that
19 would constitute a violation that would allow either the
20 Health Department or the Police Department to do anything
21 about this.

22 MR. MATTHEW SMITH: I think if we narrowly
23 construe this to just have to do with the noise and not
24 have to do with have a structure that can't be here or you
25 have animals that can't be here. I think it's notice that

1 you can't have the noise.

2 COMMISSIONER ASIM REHMAN: Matthew and then
3 Shamonda.

4 MR. MATTHEW SCHNEID: I agree with the other
5 Matthew. It's like, first of all, if there's a rooster,
6 the police should be called, right? That's an illegal pet.
7 It's not really.

8 MR. HARMINDERPAL RANA: Yes, we could be
9 notified. To my knowledge, we haven't been notified, so.

10 MR. MATTHEW SCHNEID: [crosstalk] cease and
11 desist doesn't say you have to do down the structure,
12 right? Because if that's a legal structure, I don't know
13 if it is, but assuming it is, it doesn't say you'd have to
14 remove the offending animal, I guess.

15 MS. ELIZABETH KNAUER: I think what Russ is
16 saying is that if we issue a cease and desist order, the
17 remedy that if they don't show compliance at a hearing,
18 the remedy that DEP could do is removing the "physical
19 equipment."

20 MR. RUSSELL PECUNIES: That's right.

21 MS. ELIZABETH KNAUER: [crosstalk] is I don't
22 think that's appropriate because that equipment is not
23 making the noise, and it also houses other animals, which
24 are not the offender.

25 MR. MATTHEW SCHNEID: That's what actually my

1 whole entire question here. What are we doing here? Are we
2 saying you have to remove the pet, which is, I guess,
3 fine, or you have to take down this entire apparatus,
4 which I'm assuming is legal, but it may not be. For the
5 purpose of this conversation, I'm assuming it's legal.
6 That's not the right outcome. At the hearing, you
7 determine what the outcome will be. That you either remove
8 the patent or do X, Y, and Z.

9 COMMISSIONER ASIM REHMAN: Well, there's also--
10 I'm sorry, Shamonda, you had your hand up.

11 MS. SHAMONDA GRAHAM: Go ahead.

12 COMMISSIONER ASIM REHMAN: There's the request
13 for order, cease and desist, start a process, and the next
14 step in the process is a hearing. If the EP's only remedy
15 is to seal the equipment, then there's a scenario under
16 which a hearing officer could say yes, or the hearing
17 officer could say no. If there's evidence presented that
18 this is not happening, it's not going to happen again, or
19 the only animals that are going to be there are chickens
20 or pigeons or whatnot, and not roosters.

21 In which case, there wouldn't be a sealing, in
22 which case it would still allow for the respondent to
23 engage in other lawful activity involving animals. I don't
24 think it's excessive punishment if respondent is able to
25 demonstrate that they will use that structure lawfully. I

1 think, but I'm not sure. Shamonda and then Lisa.

2 MS. SHAMONDA GRAHAM: My question is, the
3 previous summonses were issued to the owner? Correct?

4 COMMISSIONER ASIM REHMAN: To the building.

5 MS. SHAMONDA GRAHAM: To the property. The
6 building owner.

7 MR. RUSSELL PECUNIES: This is the LLC that owns
8 the apartment building. Because this is in the courtyard
9 of the apartment [unintelligible 00: 22: 31].

10 MS. SHAMONDA GRAHAM: They've defaulted.

11 MR. RUSSELL PECUNIES: They defaulted on the two
12 summons. Yes.

13 MS. SHAMONDA GRAHAM: My question is, does DEP
14 have the authority? This all seems to be stemming from a
15 tenant. If taken for true what the article is saying that
16 there are other complaints, wrote into legal encampments,
17 unsanitary conditions, then isn't it possible that we have
18 a business entity that's a landlord that is really being
19 unresponsive to violating conditions that are at their
20 property? Even for something to get this bad, if you own a
21 property, think of this as a building, there are other
22 tenants. I don't see an active landlord allowing a zoo to
23 be placed in the courtyard, knowing that they have these
24 other tenants and roosters.

25 My fear is that the landlord is going to be just

1 as unresponsive as they have been in the past, and that's
2 not going to get compliance. I'm wondering if DEP has the
3 authority, like DOB, where you can determine that the
4 tenant, the responsible party. Now, don't get me wrong.
5 Look, I really don't want the tenant to be in here, stuck
6 with a vial, but the tenant is the person doing the act.
7 Maybe you will get movement if the respondent was actually
8 the tenant opposed to the landlord. As long as it's the
9 landlord.

10 MR. RUSSELL PECUNIES: Well, he declines to give
11 his name to the reporter from the post. As far as I know,
12 he has also declined to give his name to our inspectors.

13 MS. SHAMONDA GRAHAM: The tenant, you mean?

14 MR. RUSSELL PECUNIES: The guy in the photos
15 holding the chicken and the one [crosstalk]

16 COMMISSIONER ASIM REHMAN: Lisa?

17 MS. LISA URBAN: Two things. One is, we don't
18 know if the landlord started an eviction proceeding
19 against the tenant. It's very possible they might have
20 started.

21 MR. RUSSELL PECUNIES: We don't know that, but we
22 do know that somebody has filed some kind of a lawsuit
23 because it's mentioned in the article.

24 MS. LISA URBAN: Yes. It's possible that because
25 that's really the landlord's remedy is that they can't

1 move this stuff without getting an order, although it is
2 in the public area. Maybe they can. The other thing is,
3 looking at the items there, it's not really a structure.
4 They're basically dog crates. If they're unsanitary, I
5 would think that DEP could come in and--[unintelligible
6 00: 24: 57]

7 MR. RUSSELL PECUNIES: That'd be helpful.

8 MS. LISA URBAN: Yes, Department of Health,
9 actually, I guess it would come in. The last thing I'm
10 going to say on the topic is that, I don't think they're
11 pets. He says in the article, the meat is good, so maybe
12 he eats them. Also, he's using the eggs. He's got 24
13 chickens there.

14 MR. RUSSELL PECUNIES: He is selling the eggs for
15 \$25 a dozen [inaudible 00: 25: 21].

16 MS. SHAMONDA GRAHAM: I'll also add that DOB has
17 some open violations for 10 roosters. They were issued to--
18 - I'd like to say that-- Well, the violation says,
19 "Failure to maintain observed approximately 10 roosters
20 being stored in the courtyard at exposure number one,
21 repair and replace, and remove your roosters."

22 COMMISSIONER ASIM REHMAN: This is the courtyard
for that

23 address? [crosstalk]

24 MR. HARMINDERPAL RANA: Against the landlord,
25 owner of the property.

1 MS. SHAMONDA GRAHAM: I was just about to say
2 against the owner of the property. The way you comply with
3 DOB violations are, is to certify correction, which is to
4 prove that everything has ceased and they're gone. DOB
5 would run into the same issues that you would have, that,
6 first of all, the cages are not illegal unless they're
7 blocking egress or something like that. We may be able to
8 go another route, but if they wanted to prove compliance
9 and they showed us photos that there's no more roosters,
10 my team would actually have to accept that.

11 I really think, as a city, the Health Department
12 collaboration is what really needs to happen here in order
13 to address the roosters themselves. Then even if we go
14 forward with the cease and desist just to address noise
15 overall, I think both things should happen. I really do.

16 COMMISSIONER ASIM REHMAN: There's a lot of
17 options, it seems, this city has. There's a number of
18 enforcement agencies around the table here whose
19 individual agencies can discuss if they want to take
20 additional enforcement. The question in front of us is,
21 should we approve a cease and desist order request for DEP
22 that would take the building owner to a hearing on why
23 this equipment should not be sealed at their at their
24 property?

25 While we're all brainstorming, generally, I want

1 to kind of refocus that to that question of, is this
2 something that should be approved? Maybe the answer's yes
3 because of the potential, because of the evidence so far
4 and the potential ongoing noise, or maybe the answer's no
5 because the last inspection shows that there's been no
6 noise, or maybe there's other reasons where one might vote
7 against it. Is it effective going to the landlord? I want
8 to kind of bring us back to that and see what people think
9 as to the cease and desist order request.

10 MS. LISA URBAN: Let me just say one more thing.
11 In terms of the landlord, landlord can't just remove this
12 guy's personal property without an eviction order, or some
13 other order from [crosstalk]

14 MR. HARMINDERPAL RANA: Even in a common area.

15 MS. LISA URBAN: Yes. It's somebody's property.
16 He can't just go-- he could [crosstalk]

17 MR. HARMINDERPAL RANA: Isn't that a violation?
18 Forgive me, my lack of real estate and property law. If
19 I'm a tenant, I'm not allowed to just put my stuff in a
20 common area. Isn't that a

21 violation of the tenant?

22 MS. LISA URBAN: It's not.

23 COMMISSIONER ASIM REHMAN: We don't know what the
24 arrangement is.

25 MS. LISA URBAN: Well, it depends.

1 MR. MATTHEW SCHNEID: Just general. [crosstalk]
2 For all we know, two landlords ago said you can do this,
3 and he has some writing, and they're fighting [crosstalk]

4 MS. LISA URBAN: More exclusive access. I would
5 [crosstalk]

6 MR. MATTHEW SCHNEID: I assume if there's all
7 these violations, my gut reaction's telling me the
8 landlord does not want the animals there.

9 MS. LISA URBAN: I'm sure they start in there.

10 MR. MATTHEW SCHNEID: I'm sure every neighbor is
11 really, really annoyed. I would be upset if a rooster is
12 crowing up at 5: 00 AM.

13 COMMISSIONER ASIM REHMAN: There could be a third
14 option. We can vote to approve the cease and desist order.
15 We can vote against the request for a cease and desist
16 order, or we can ask DEP to represent it at the next
17 meeting. Who knows what might transpire between now and
18 then? That's proverbial to kicking the can down the road.
19 I just want to put that out there as [crosstalk]

20 MR. JARROD WHITTINGTON: My only question, if we
21 did
22 issue the cease and desist order when you seal the
23 equipment, is that the only option is to take the cages
24 out? Just remove everything?

24 MR. RUSSELL PECUNIES: Our inspectors would not
25 even have the authority to take the cages out. They could

1 probably wrap some sealing tape around them so that you
2 wouldn't be able to use the cages without breaking the
3 sealing tape. Our inspectors have no authority to remove
4 anything.

5 MS. ELIZABETH KNAUER: If the inspector arrived
6 with the cease and desist order operable and the chickens
7 were there, then what happens?

8 MS. LISA URBAN: [inaudible 00: 29: 53]

9 MR. RUSSELL PECUNIES: Our authority under the
10 cease and desist order would be if they showed up for the
11 hearing, normally, the recommendation that comes to the
12 board is that they be allowed to continue using the
13 equipment, subject to inspection for six months. If we
14 find the violation within the next six months, we can seal
15 the equipment. If they default on the hearing, then we are
16 authorized as soon as we get the official confirmation
17 from oath of the default, we can go seal the equipment.
18 What we would be able to seal here would be, in effect,
19 cages, which are currently empty.

20 MS. ELIZABETH KNAUER: If you showed up and the
21 cages were not empty, then what would happen?

22 MR. RUSSELL PECUNIES: I guess then it would
23 become an issue of what was in the cages.

24 MR. JARROD WHITTINGTON: If the roosters are there
25 and
they're making noise, what do you do?

1 [laughter]

2 MR. RUSSELL PECUNIES: That again, [crosstalk].
3 Can we seal the cages with the roosters in them? I don't
4 think we can because you can't do that.

5 MR. HARMINDERAL RANA: You can call Animal Care and
Control.

6 MS. LISA URBAN: [crosstalk] When you would do an
7 eviction proceeding. If there's an animal in an apartment,
8 when you go with your legal document to evict a tenant,
9 you have to call animal control. I would think it would be
10 the same theory. [crosstalk]

11 MR. RUSSELL PECUNIES: I would think if we went
12 and found chickens again, that what we would probably do
13 is call Health Department.

14 MR. HARMINDERAL RANA: Animal Care and Control.

15 MS. ELIZABETH KNAUER: Animal Care and Control.

16 MS. LISA URBAN: You would call Animal Care and
17 Control.

18 MR. HARMINDERAL RANA: Care and Control. I think
so.

19 I can't speak for [crosstalk]

20 MR. RUSSELL PECUNIES: We would have the
21 authority-- [crosstalk]

22 [laughter]

23 [crosstalk]

24 COMMISSIONER ASIM REHMAN: There's a question

25

mark here of is this the right path to take? There is

1 something I think attractive to putting someone on notice
2 that you have to come and here's a cease and desist order.
3 If the tools on the backend are so limited, and maybe not
4 the right tools. The right tools are to get rid of the
5 animals, but that's not something DEP can do. Then I'm
6 struggling with if this is the right path to take.

7 MS. LISA URBAN: That starts the process. Doesn't
8 it start the process?

9 COMMISSIONER ASIM REHMAN: It starts the process,
10 but a process that has an odd end to it, whereas if it was
11 brought by other agencies, maybe it would line up better.

12 MR. RUSSELL PECUNIES: If they never bring the
13 chickens, the roosters specifically, the roosters back,
14 apparently this is a dead issue as far as we're concerned
15 because it was the roosters that were making the noise,
16 and this is a noise issue. Whether there are other issues
17 around what this guy is doing in this space, it would no
18 longer be a noise issue. As long as there are no roosters.

19 COMMISSIONER ASIM REHMAN: Correct. If we proceed
20 with the cease and desist order and they default, then
21 you've got an interesting situation.

22 MR. RUSSELL PECUNIES: Then we have a situation
23 where we really couldn't do anything to enforce that..

24 MS. SHAMONDA GRAHAM: I'm so sorry. If you went
25 and the cages were, and I have to ask this question, and

1 the cages were there and the roosters were outside of the
2 cages, then what? The reason why I'm bringing that up is
3 because sealing the cages does not prevent animals from
4 being there when you have a person who's taken over your
5 entire courtyard.

6 MR. RUSSELL PECUNIES: It also doesn't prevent
7 them from going to Petco and buying more door cages.

8 MS. SHAMONDA GRAHAM: Yes, that's true as well.

9 MR. MATTHEW SMITH: [crosstalk] like the
10 cages aren't the noise-making equipment.

11 MS. SHAMONDA GRAHAM: Yes.

12 MR. MATTHEW SMITH: Honestly, it's not a DEP
13 issue.

14 MS. SHAMONDA GRAHAM: I would have said it's not
15 jurisdictional.

16 COMMISSIONER ASIM REHMAN: It's a DEP issue from
the
17 noise standpoint, but the solution, the back-end solution,
18 is not a DEP back-end solution.

19 MR. MATTHEW SCHNEID: I think it's fair, though,
20 we're bringing this to a head, and that's important. I
21 think if you live in this building, there's roosters
22 there. It's like a very unpleasant way to live your life,
23 I would think. It would be unpleasant to me, I guess I'd
24 say, as a normal citizen. This is the tool we have, and I
25 would encourage the other departments who are here to look

1 into it on their time.

2 I think it's fair for us to say we'll bring this
3 matter to a head. They'll be hearing and they'll have an
4 opportunity, which they should have, to explain why
5 they're not currently making noise, what they're going to
6 do to prevent the noise, and if the noise issue stops,
7 then great, congratulations. Then the Department of Health
8 or whoever can continue looking into it. I would encourage
9 them to do that because this sounds like a really
10 unpleasant place to live for their neighbors.

11 COMMISSIONER ASIM REHMAN: Okay. Let's do this.
12 If anyone has any final points to contribute, please do.
13 Then hold your points of view, hold your thoughts. We'll
14 get through the others and we'll vote them all at the end.
15 Anyone, any other on this topic? Any other questions for
16 us? Okay, good. All right. Russ, let's move on.

17 MR. RUSSELL PECUNIES: Yes, move on to the sewer-
18 related ones, of which there are three for this meeting.
19 We'll do Act Boston Management first. This is located at
20 3770 Boston Road in the Bronx. It is a KFC. Based on a DEP
21 inspection in August of 2023, they were served with a
22 commissioner's order requiring them to install grease
23 traps on a four compartment sink on each of four floor
24 drains, on a one compartment sink, and on a mop sink, all
25 within 60 days, i.e., by October 13th of '23.

1 When they did not comply with that order, they
2 were then issued a series of summonses between February of
3 '24 and April of this year. They were then also notified
4 to appear at a mandatory compliance meeting at DEP's
5 offices, which was scheduled for April 16th of this year.
6 They did not appear. Based on the failure to comply with
7 the commissioner's order and failure to come in to comply
8 in response to the repeated summonses that have been
9 issued, the department is requesting that the board issue
10 an order to cease and desist.

11 COMMISSIONER ASIM REHMAN: Thanks. Russ, if you
12 know, Mr. Hoffman's statement refers to several summonses,
13 refers to one oath hearing February 20th, 2025. Are there
14 future oath hearings?

15 MR. RUSSELL PECUNIES: There are reschedule dates
16 for a couple of these. The reschedule dates are 6/16 of
17 '24.

18 COMMISSIONER ASIM REHMAN: Oh, I see. I got it.

19 MR. RUSSELL PECUNIES: For both of them. Two of
20 them are rescheduled for 6/16.

21 COMMISSIONER ASIM REHMAN: Thank you. Reschedule
22 means that they responded affirmatively.

23 MR. RUSSELL PECUNIES: That's through the clerk's
24 office, not an adjournment.

25 COMMISSIONER ASIM REHMAN: They're aware and

1 responsive. They reached out. Thank you. The service--

2 MR. RUSSELL PECUNIES: The only thing that's a
3 little surprising about this is that it is a KFC, and
4 normally, they have corporate compliance things, and it's
5 a little surprising that a KFC would not be in compliance
6 with this type of stuff.

7 COMMISSIONER ASIM REHMAN: Not a Kennedy Fried
8 Chicken, which is a whole -[crosstalk] New Yorkers know
9 Kennedy Fried Chicken is a different all-wax.

10 MR. RUSSELL PECUNIES: Different thing.

11 COMMISSIONER ASIM REHMAN: Any other questions or
12 comments on this one? Thank you. Russ.

13 MR. RUSSELL PECUNIES: Now we are done,
14 hopefully, with the chicken related requests. The next one
is Stop

15 1 Deli Gourmet Core 320 Lafayette Avenue in Brooklyn. As
16 you can see from the photograph at the end, this is a
17 fairly standard deli and grocery type of operation of the
18 type that are all over the place in New York City. Based
19 on an inspection, an order was issued to them in July of
20 2023, requiring them to install a grease trap on a three-
21 compartment sink. within 60 days, that is by September
22 18th of '23, beginning in November of '23.

23 Continuing in February and May of '24, and
24 January and March of this year, they were issued a series
25 of summonses for not complying with the commissioner's

1 order. They were also notified to appear at a mandatory
2 compliance meeting on April 16th of this year, which they
3 failed to appear for. Based on their continuing failure to
4 comply with the order to install and also in response to
5 the repeated summonses, most of which and perhaps all of
6 which appear to have gone into default except for one
7 which was paid in full, the department is requesting that
8 the board issue an order to cease and desist.

9 COMMISSIONER ASIM REHMAN: Questions?

10 MR. RUSSELL PECUNIES: The last one is Nabaya
11 African & American Restaurant at 860 Melrose Avenue in the
12 Bronx. Again, the last page is a photo of the storefront.
13 This one, based on a DEP inspection in March of 2024, was
14 issued an order to install grease traps on a three-
15 compartment sink, and also, as part of a separate order,
16 required to submit written proof of the proper disposal of
17 the grease that they're generating. Apparently, they do
18 have some grease traps but are missing one on the three-
19 compartment sink. The cease and desist order would be
20 basically for the installation on the sink. It doesn't
21 really pertain to the paperwork part of it.

22 In response to the failure to comply with the
23 commissioner's order to install, summonses were issued in
24 October of '24, December of '24, and February of '25. When
25 they had still not complied, they were directed to appear

1 at a mandatory compliance meeting on April 16th, which
2 they did not appear at. Based on the continuing failure to
3 comply with the order, and also in response to the
4 summonses, the department is requesting that the board
5 issue an order to cease and desist. There is one summons
6 that is paid in full, and it looks like the rest of them
7 are in default.

8 COMMISSIONER ASIM REHMAN: Okay. Any questions or
9 comments? Okay. I'd like to ask for a motion for us to go
10 through the whole group of these to vote on them. Is there
11 a motion? Okay, a motion. Lisa, second. Second for
12 Matthew.

13 ASSISTANT GENERAL COUNSEL HALIMI: Are there any
14 objections to the motion approving all five of the cease
15 and desist orders?

16 COMMISSIONER ASIM REHMAN: I'm sorry. Let me
17 clarify. This is a motion to just proceed to vote, but
18 we're going to go on each one individually. Yes. It's okay
19 to recall. Do you want to go through them one by one?

20 ASSISTANT GENERAL COUNSEL HALIMI: No, I don't
21 think we have to go through them.

22 COMMISSIONER ASIM REHMAN: Okay. Then, are you
23 going to-- would you like to ask the group if we can
24 proceed to voting?

25 ASSISTANT GENERAL COUNSEL HALIMI: Oh, we usually

1 don't, but I can.

2 COMMISSIONER ASIM REHMAN: Okay.

3 ASSISTANT GENERAL COUNSEL HALIMI: Oh, I see. Are
4 there any objections to the motion proceeding to a vote on
5 all five?

6 COMMISSIONER ASIM REHMAN: Okay, no objections.
7 All right. Let's go through these individually. Let's
8 start with the chicken coop case. This is a request for an
9 order to cease and desist by DEP concerning the premises
10 at 40 Arden Avenue Street, Manhattan. We're voting whether
11 to approve the request for an order to cease and desist.

12 ASSISTANT GENERAL COUNSEL HALIMI: Okay. Are
13 there any objections to the motion approving the cease and
14 desist order? Seeing none, hearing none, the motion is
15 approved unanimously.

16 COMMISSIONER ASIM REHMAN: Okay. Thank you. We'll
17 move to the request for an order to cease and desist
18 regarding respondent Bridgeview 3 Housing Corp. This
19 concerns a sealing of boilers and burners.

20 ASSISTANT GENERAL COUNSEL HALIMI: Are there any
21 objections to the motion approving the cease and desist
22 order? Seeing none, hearing none, the motion is approved
23 unanimously.

24 COMMISSIONER ASIM REHMAN: The next is PAC Boston
25 Management Incorporated, request for an order to cease and

1 desist. This concerns the grease interceptors.

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 COMMISSIONER ASIM REHMAN: Okay. The next request
7 for an order to cease and desist concerns respondent Stop
8 1 Deli Gourmet Corp, also related to the grease
9 interceptor issue.

10 ASSISTANT GENERAL COUNSEL HALIMI: Are there any
11 objections to the motion approving the cease and desist
12 order? Seeing none, hearing none, the motion is approved
13 unanimously.

14 COMMISSIONER ASIM REHMAN: Then, finally, request
15 for order to cease and desist regarding respondent Nabaya
16 African American Restaurant Inc., also related to grease
17 interceptor issues.

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

22 COMMISSIONER ASIM REHMAN: Okay. Thanks,
23 everyone. The next item in our agenda is a brief update
24 from DEP regarding the final rule regarding the Water
25 Penalty Schedule. Yes.

1 MR. RUSSELL PECUNIES: Right. I don't think this
2 is something that requires the board to take any action.
3 It's just an FYI that we got approval from the Law
4 Department yesterday to publish as a final rule, the Water
5 Penalty Schedule, which if you remember, this was the one
6 DEP penalty schedule that for sort of an obscure legal
7 reason in the water code had been left behind in our rules
8 and not moved to oaths rules.

9 Oath has already, I think, completed the process
10 of promulgating their rule, repealing the Water Penalty
11 Schedule from Oath's rules. Now that this rule is ready to
12 be finalized as part of DEP's rules, those two things will
13 happen simultaneously. The oath repeal will take effect on
14 the same date that the Water Penalty Schedule becomes
15 effective in DEP's rules.

16 Now that we have gotten the final certification
17 from the Law Department, I would anticipate that we're
18 going to submit this to the city record at the beginning
19 of next week, and that the effective date will probably be
20 sometime in July.

21 COMMISSIONER ASIM REHMAN: Okay, thank you, Russ.
22 Next, we'll move on to selecting dates for our next ECB
23 meeting. I'd like to propose, this would be in August. We
24 understand that there may be holidays and vacations. I'd
25 like to propose August 7th or August 14th. Does anyone

1 have any conflicts with those dates?

2 MS. SHAMONDA GRAHAM: No conflict, but I prefer
3 the 7th. [crosstalk] I wouldn't be able to come on the
4 14th.

5 COMMISSIONER ASIM REHMAN: I'm saying here, I
6 would be out on the 14th, but Frank would share. Is August
7 7th amenable to everyone? Okay, our next meeting will be
8 on August the 7th. I'd like to just remind everyone, if
9 you haven't signed the attendance sheet, please do. I'd like
10 to ask for a motion and a second to adjourn today's
11 meeting. I see a motion, I see a second.

12 ASSISTANT GENERAL COUNSEL HALIMI: Are there any
13 objections to the motion to adjourn the meeting? Seeing
14 none, hearing none, the motion is approved unanimously.

15 COMMISSIONER ASIM REHMAN: Okay, thank you very
16 much, everyone. We'll adjourn this meeting.

(The board meeting concluded at 11:25 a.m.)

**Reviewed and
corrected
by OATH Office of
the
General Counsel
7/2/25**



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Gladys S. Gist

Dated: **06/19/2025**

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