

**CORRECTED**

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 13, 2024

09:34 AM to 10:31 AM

## MEMBERS PRESENT:

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

## ALSO PRESENT:

Sola Best, Esq. - Assistant General Counsel, OATH  
 Cindy Chen - Analyst, Office of Management and Budget  
 (OMB)  
 Kelly Corso, Esq. - Assistant Commissioner/Hearings  
 Division  
 Adjudications, OATH  
 Madeline Halimi, Esq. - Assistant General Counsel, OATH  
 Kathryn Koroloshin - summer intern, OATH  
 Karin McAvoy - Administrative Coordinator, OATH  
 Frank Ng - Deputy General Counsel, OATH  
 Latisha Pender - Department of Transportation  
 Frances Shine - Secretary to the Board, OATH  
 Amy Slifka, Esq. - Deputy Commissioner/Hearings  
 Division, OATH  
 Thomas Southwick - Assistant Commissioner, Appeals, OATH  
 Olga Statz, Esq. - Deputy Commissioner/General Counsel,  
 OATH  
 Christian Zavardino - summer intern, OATH

1 (The board meeting commenced at 9:34 a.m.)

2 COMMISSIONER ASIM REHMAN: Good morning, everyone. It is  
3 June 13th, and we are assembled for our public ECB meeting  
4 here at the Office of Administrative Trials and Hearings.  
5 Chair Asim Rehman and calling the meeting to order. I'll ask  
6 our GC attorney for a roll call to verify that we have  
7 quorum.

8 ASSISTANT GENERAL COUNSEL HALIMI: Commissioner Asim  
Rehman.

9 COMMISSIONER ASIM REHMAN: Present.

10 ASSISTANT GENERAL COUNSEL HALIMI: Shamonda Graham.

11 MS. SHAMONDA GRAHAM: Present.

12 ASSISTANT GENERAL COUNSEL HALIMI: Joseph Gregory.

13 MR. JOSEPH GREGORY: Present.

14 ASSISTANT GENERAL COUNSEL HALIMI: Elizabeth Knauer.  
Madelynn

15 Liguori.

16 MS. MADELYNN LIGUORI: Present.

17 ASSISTANT GENERAL COUNSEL HALIMI: Russell Pecunies.

18 MR. RUSSELL PECUNIES: Present.

19 ASSISTANT GENERAL COUNSEL HALIMI: Harminderpal Rana.

20 MR. HARMINDERPAL RANA: Present.

21 ASSISTANT GENERAL COUNSEL HALIMI: Matthew Schneid.

22 MR. MATTHEW SCHNEID: Present.

23 ASSISTANT GENERAL COUNSEL HALIMI: Thomas Shpetner.

24 MR. THOMAS D. SHPETNER: Present.

25 ASSISTANT GENERAL COUNSEL HALIMI: Matthew Smith. Douglas

**Accurate Communication Inc.**  
**85 Broad Street, New York, NY 10004**

Swann.

1 Lisa Urban. Jarrod Whittington.

2 MR. JARROD WHITTINGTON: Present.

3 COMMISSIONER ASIM REHMAN: Just to note, in place of  
4 Matthew Smith, we have another representative from the Police  
5 Department. Would you kindly introduce yourself?

6 MR. SCOTT HIGGINS: Sure. My name is Scott Higgins.

7 COMMISSIONER ASIM REHMAN: Thank you, Mr. Higgins.

8 ASSISTANT GENERAL COUNSEL HALIMI: We have a quorum, 9  
out of 13.

9 COMMISSIONER ASIM REHMAN: Wonderful. Let's proceed with  
10 our agenda. The first item are the adoption of the April 4th,  
11 2024 minutes. Everyone should have received those with time  
12 to review them. Are there any corrections or comments on the  
13 minutes of the April 4th meeting? Seeing none, hearing none,  
14 I'd like to ask for a motion to adopt the minutes.

15 MS. MADELYNN LIGUORI: I'll motion.

16 COMMISSIONER ASIM REHMAN: Motion from Member Liguori.  
17 Any second?

18 MR. MATTHEW SCHNEID: Second.

19 COMMISSIONER ASIM REHMAN: A second from Member Schneid.  
20 Can we take a quick vote?

21 ASSISTANT GENERAL COUNSEL HALIMI: Are there any  
objections to the

22 motion adopting the minutes of the April 4th, 2024, ECB  
23 meeting? Seeing none, hearing none, the motion is approved  
24 unanimously.

25 COMMISSIONER ASIM REHMAN: Thank you. All right. We'll

1 now turn it over to our representative from DEP, Member  
2 Pecunies, for a presentation on cease-and-desist orders.  
3 After each individual presentation, we can pause to see if  
4 there's any questions on that individual matter, and we will  
5 vote on each one individually. Thank you.

6 MR. RUSSELL PECUNIES: There is one that is unrelated to  
7 the other 10. The other 10 are all related. I'll do the one  
8 that's unrelated first.

9 COMMISSIONER ASIM REHMAN: Thank you.

10 MR. RUSSELL PECUNIES: The first cease-and-desist  
11 request that DEP has for this month's meeting is in relation  
12 to Footprints Cafe Express, Inc., which is located at 1377  
13 Flatbush Avenue in Brooklyn, and which is, as the name  
14 indicates, a restaurant and cafe. DEP performed an inspection  
15 at this location quite a while ago in June of 2021 and  
16 determined that the establishment needs to

17 install a number of grease interceptors for various  
18 facilities in the kitchen. In accordance with that, a  
19 commissioner's order was issued with compliance due within  
20 two months, which would've been by August 20th of 2021.

21 Summonses were subsequently issued for failing to  
22 comply with the commissioner's orders in March of 2022,  
23 October of 2022, July of 2023. Then starting in July of '23  
24 and up until April of this year, the respondent began  
25 providing DEP with the updates and submitted a receipt and

1 retained the services of a plumber, but by June 1st of this  
2 year, no work had actually commenced. After three years of  
3 trying to get compliance from these folks in accordance with  
4 the original commissioner's order, the bureau has decided to  
5 ask for a cease-and-desist order.

6 COMMISSIONER ASIM REHMAN: Any questions? Okay. I'll ask  
7 for a motion for a vote to approve the cease-and-desist order  
8 concerning Footprints Cafe Express, Inc.

9 MS. MADELYNN LIGUORI: Motion moved.

10 COMMISSIONER ASIM REHMAN: Okay. Motion from the  
11 sanitation department. Second? All right. Second from Member  
12 Shpetner. Let's call a vote.

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

16 MR. RUSSELL PECUNIES: Good. All right, thank you.

17 COMMISSIONER ASIM REHMAN: The next one is for Footprints  
Cafe  
18 Express.

19 MR. RUSSELL PECUNIES: All right, very good. I'll  
20 address the other 10 collectively by way of background. These  
21 relate to Local Law 32 which was enacted I think in 2022.  
22 Under Local Law 32, the use of No. 4 fuel oil is prohibited  
23 as of June 30th of 2027.

24 In order, since our air permits are good for three  
25 years, you can, as of June 30th, the end of this month, no

1 longer renew a permit to use No. 4 fuel oil. As of July 1st,  
2 you will have to renew by converting to No. 2 or natural gas.

3 These 10 are the first group of approximately 40  
4 buildings that have expired permits. All of them expired for  
5 a long time to use No. 4 fuel oil. As of the end of this  
6 month, they will no longer be able to renew these permits for  
7 No. 4. Each of these buildings has been issued at least two  
8 summonses for the permit being expired. Some of them have  
9 been issued up to four summonses for the permit being expired.

10 As of today, none of them have renewed the permit.  
11 Because we want to force buildings off of No. 4 as quickly as  
12 we can, we actually would have brought all 40 of them to this  
13 board meeting. When I suggested that, it was suggested that  
14 as a matter of just administratively getting 40 orders issued  
15 at once for OATH, it would be better to break them up. We're  
16 going to be bringing 10 of these to each of the next three  
17 board meetings after this. This will be the first batch of 10  
18 today and we'll have 10 more in August, in October, and in  
19 December. The Bureau prioritized them based on the size of  
20 the boilers and the locations of the boilers.

21 I don't know exactly all that went into prioritizing  
22 them, but they broke them up into four groups of 10. This is  
23 basically the same pattern for each of these. In each of  
24 these cases, the building has a boiler that has been  
25 permitted to use No. 4 fuel oil. They have had an expired



1 permit for years. They have been issued at least two  
2 summonses for their permit being expired. They are no longer  
3 able, at least, by the time they get the cease-and-desist  
4 order, they will no longer be able to renew the permit to use  
5 No. 4, since they would have approximately two more weeks  
6 that they could do that. In each of these--

7 COMMISSIONER ASIM REHMAN: Sorry, could you repeat that  
8 last part? They'll no longer?

9 MR. RUSSELL PECUNIES: Yes. As of the end of this month,  
10 they will no longer be able to renew the existing expired  
11 permits. By the time they get these cease-and-desist orders,  
12 which I'm assuming by the time they get written up and  
13 served, it'll be after June 30th, they will not be able to  
14 renew these permits anymore. In order to comply with the  
15 cease-and-desist order, by renewing the permit, they will  
16 have to renew it for either No. 2 fuel oil or natural gas if  
17 they can get a hookup from ConEd, which is what we're trying  
18 to force all of these buildings to do, is to get them off No.  
19 4 fuel oil soon as possible.

20 Of course, the way the law is written, if people have  
21 been coming to us to renew for No. 4, they're allowed to  
22 renew for three more years, but these buildings will not be  
23 able to renew for No. 4. We've given them at least two  
24 summonses. In some cases, up to four summonses. They've had  
25 their chance to renew for No. 4, and now we would ask the

1 board to issue them cease-and-desist orders so that in order  
2 to comply with those orders, they will have to get off of No.  
3 4.

4 I don't know if you have any questions about individual  
5 locations here. To me, in going through these and preparing  
6 the requests for the orders, the only differences really seem  
7 to be the make and model of the boilers, but other than that,  
8 I don't think there are any real substantive differences  
9 amongst the 10. Yes?

10 MR. THOMAS D. SHPETNER: Just a quick question. If we  
11 carry this forward and the permits are not renewed, does that  
12 prevent, say, the delivery of oil or does that-- or will they  
13 just be running an unpermitted boiler at that point?

14 MR. RUSSELL PECUNIES: They would be running an  
15 unpermitted boiler at that point, which they are now. These  
16 are all currently--

17 MR. THOMAS D. SHPETNER: No, I understand.

18 MR. RUSSELL PECUNIES: It may turn out that some of  
19 these people have actually gotten rid of these boilers and  
20 replaced them, and just never gotten a permit for the new  
21 boilers because some of these things-- I think there's one of  
22 them here that the permit has been expired for about 30  
23 years. Many of these boilers may no longer actually be there.  
24 If they come in response to the cease-and-desist order and  
25 say, "We got a new boiler 15 years ago, and we just never

1       bothered to get a permit for it," then that will be something  
2       that they'll have to bring into compliance with the new  
3       equipment.

4               MS. SHAMONDA GRAHAM: Shamonda Graham Department of  
5       Buildings. What would happen if they tried to renew the  
6       permit before the 30th? I get what you're saying that it'll  
7       take time for processing, and by the time this is processed,  
8       it'll be after the 30th. If we left here today and one of  
9       them came in to renew, what would happen?

10              MR. RUSSELL PECUNIES: They'd be in compliance with the  
11       order, which the order is for having an expired permit. The  
12       order is not for using No. 4 because they're allowed to use  
13       No. 4 for another three years. If any of these buildings do,  
14       for some reason, even though they've all been expired for  
15       years, renew the permit in the next two and a half weeks,  
16       they're allowed to, and that would put them in compliance  
17       with the cease-and-desist order.

18              MS. SHAMONDA GRAHAM: They would--

19              COMMISSIONER ASIM REHMAN: Cease-and-desist order. I'm  
20       so sorry. Go ahead.

21              MS. SHAMONDA GRAHAM: They will still be using No. 4--

22              MR. RUSSELL PECUNIES: They're allowed to. If any of  
23       these buildings come to us in the next two and a half weeks  
24       to renew, they are allowed to renew, along with any other  
25       buildings that have expiring permits to use No. 4. They are

1 allowed to renew until June 30th to use No. 4 for another  
2 three years.

3 COMMISSIONER ASIM REHMAN: If they do in the next two  
4 weeks renew, the cease-and-desist order, if approved today,  
5 would be in process. Would it then, the cease-and-desist  
6 order not be issued to the people?

7 MR. RUSSELL PECUNIES: If somebody renewed in the next  
8 three weeks before July 1st, we would just notify you not to  
9 issue the order.

10 COMMISSIONER ASIM REHMAN: Okay, thank you. There's a  
11 question.

12 MR. JARROD WHITTINGTON: Yes, just curious. The  
summonses summons  
13 that were issued were just for an expired permit. Was there  
14 anything on there that was indicative of this law changing on  
15 June 30th or do they have to wait longer?

16 MR. RUSSELL PECUNIES: For these, normally, this sort of  
17 thing for expired permits is issued off a review of office  
18 records. For each of these, I believe that they have sent an  
19 inspector to the premises. In a lot of cases, I think they  
20 haven't gotten access. They compiled this list of about 40  
21 buildings because these are ones that have all had expired  
22 permits for a long time in the violation histories on the  
23 bottom of the second page, I think it is, or the third page,  
24 somewhere in here. Where the list of the violations is on the  
25 bottom of that page, it gives the date of the expiration of

1 the order. Just this one here has been expired since March  
2 10th of 2006. That's one of the more recently expired ones in  
3 this batch.

4 MS. SHAMONDA GRAHAM: [unintelligible 00:15:14]

5 MR. RUSSELL PECUNIES: These are basically scofflaw  
6 buildings in this regard at this point that we need to clean  
7 up now that we have this weapon of Local Law 32 becoming  
8 effective on July 1st. We have this group of 40 buildings  
9 that we need to get cleaned up into compliance. Okay?

10 MR. MATTHEW SCHNEID: I actually have a series of  
11 questions I want to understand a couple of things. One, it  
12 sounds like the law itself say they couldn't renew after 2024  
13 because it sounds like we're forcing these people to comply  
14 with the law for 2027, three years earlier. There's an  
15 administrative issue regarding the timing of the--

16 MR. RUSSELL PECUNIES: Oh, the permits are good for  
17 three years and you are not allowed to use No. 4 after June  
18 30th of 2027.

19 MR. MATTHEW SCHNEID: I understand that, but we're  
20 really telling people the law's not effective in '27. It's  
21 effective--

22 MR. RUSSELL PECUNIES: No, the law's effective now.

23 MR. MATTHEW SCHNEID: I understand, but we're saying,  
24 "If you happen to be in this cycle, you actually have to  
25 replace your boiler three years earlier than you otherwise

1       would've had to."

2               MR. RUSSELL PECUNIES: It doesn't usually involve  
3       replacing the boiler. It usually converting from one gra--  
4       Well, we went through this exercise a bunch of years ago with  
5       getting people off No. 6, and we brought a whole slew of  
6       cease-and-desist requests to the board at that time in order  
7       to get people off No. 6.

8               When people got off No. 6, most of them did it by just  
9       converting to 4 because that was by far the cheapest way to  
10      do it. Most people to get off No. 4 will do it by converting  
11      to 2 because it's still oil and you won't, in most cases,  
12      have to replace the boiler. Although these boilers-- I don't  
13      know, because a lot of these boilers sound really, really  
14      old. Usually, conversion involves having somebody come and  
15      clean out the fuel tank because when you switch from dirtier  
16      oil to cleaner oil, there's usually a tremendous amount of  
17      gunk in the tank that has to be cleaned out before you can  
18      start using the new grade and replacing the burner.

19              You usually have to switch the burner to use the new  
20      grade of oil, but you usually don't have to switch the whole  
21      oiler. To switch the natural gas, of course, you have to get  
22      a hookup from ConEd, and that's a whole different procedure.  
23      Some people may want to do that. That will take longer, but  
24      we're happy for people to do that too as long as they get off  
25      of 4.

1 MR. MATTHEW SCHNEID: `I have no doubt that these  
2 people are not in compliance, and some for many years,  
3 apparently. The cease-and-desist in this case, the only  
4 solution to it is changing to 2 [00:18:18] or the alternate  
5 method at this point, right? You couldn't otherwise bring  
6 compliance.

7 MR. THOMAS D. SHPETNER: Isn't it just to get a renew a  
8 permit?

9 MR. MATTHEW SCHNEID: No, they can't renew the permit at  
10 this point.

11 MR. RUSSELL PECUNIES: They will have to renew the  
12 permit for something other than 4.

13 MR. MATTHEW SCHNEID: Right, so that means they have  
14 to switch today.

15 MR. RUSSELL PECUNIES: Which means they'll have to have  
16 some work done.

17 MR. MATTHEW SCHNEID: [crosstalk] done; this is three  
18 years earlier than the law provides-- [crosstalk] the permit  
19 issue.

20 MS. SHAMONDA GRAHAM: They could also renew. If I  
21 understood correctly, they could also renew and continue to  
22 use 4 if they do it before June 30th.

23 MR. MATTHEW SCHNEID: They can do it for  
24 [unintelligible 00:18:54].

25 MR. RUSSELL PECUNIES: They do it in the next two and a

1 half weeks.

2 MR. MATTHEW SCHNEID: We're forcing them to comply  
3 with the law three years early [unintelligible 00:18:58] of a  
4 permitting issue.

5 MR. RUSSELL PECUNIES: Given their histories, there's no  
6 reason to think any of these buildings will renew their  
7 permits in the next two and a half weeks.

8 MR. MATTHEW SCHNEID: Almost zero chance.

9 GENERAL COUNSEL STATZ: If they do renew, they get to  
10 keep 4.

11 MR. RUSSELL PECUNIES: They get to use 4 for three  
12 years.

13 GENERAL COUNSEL STATZ: That's it. Isn't that your  
14 question?

15 MR. MATTHEW SCHNEID: Yes, but it makes no sense.  
16 We're saying if he misses by a month, then you have to  
17 convert your system three years earlier than the law  
18 requires.

19 MR. RUSSELL PECUNIES: The idea is that we don't want  
20 people-- The law allows them to renew, but once they're no  
21 longer allowed to renew for 4, we want to get them out of 4.  
22 They will be illegally using 4 in an unpermitted boiler, and  
23 we want to force them into compliance as soon as we can.

24 MR. MATTHEW SCHNEID: : The law says 2027, but that's  
25 not what we're doing here. We're doing it right now.



1 MR. RUSSELL PECUNIES: The law says you can use 2027 if  
2 you have a permit by June 30th of this year. Otherwise, you  
3 can't use 4.

4 MR. JOSEPH GREGORY : If I understand it correctly,  
5 that goes for everybody after that. It's not just the 10--

6 MR. RUSSELL PECUNIES: After June 30th of '27, no one is  
7 allowed to use 4.

8 MR. JOSEPH GREGORY: You're not being penalized.

9 COMMISSIONER ASIM REHMAN: It's a phaser.

10 MR. RUSSELL PECUNIES: It's a phaser. In other words,  
11 over the next three years, as people's permits expire to use  
12 4, they will not be able to renew them for 4. They will have  
13 to renew them for 2 or natural gas. It will be a rolling  
14 [unintelligible 00:20:37] over the next few years.

15 MR. MATTHEW SCHNEID: I haven't studies the law, but  
16 does the law say it needs to be in 2027, or does the law  
17 itself say you have to have a permit for '27?

18 MR. RUSSELL PECUNIES: The law specifies you have to  
19 have a permit.

20 COMMISSIONER ASIM REHMAN: The law sets the deadline for  
21 the permit at June 30th?

22 MR. RUSSELL PECUNIES: The law says that no permit to  
23 use No. 4 may be issued after June 30th of 2024.

24 COMMISSIONER ASIM REHMAN: Okay, so it's not that  
25 [unintelligible 00:21:03] '27, but it starts now.

1 MR. MATTHEW SCHNEID: Okay, that's helpful.

2 COMMISSIONER ASIM REHMAN: Thank you.

3 MR. THOMAS D. SHPETNER: This might have been a decade  
4 ago, as I remember this well. I believe it was somebody from  
5 Navy Health Department who gave a great presentation. They  
6 had a map of all of the boilers in the city and an overlay of  
7 all the asthma cases in the city. It was Bed-Stuy, East  
8 Harlem, all the places where you have the crummy boilers, you  
9 have the poor health outcomes. It was like the most  
10 extraordinary morning of my time here, still remains it. It  
11 was a real seminal moment in my thinking about how this whole  
12 thing works.

13 If we could dust off that, I don't know where that  
14 presentation came from. Maybe Jorge Martinez, if we can find  
15 him, remembers.

16 MR. RUSSELL PECUNIES: It might have been health that  
17 actually, I think when we first brought the cease-and-desist  
18 for No. 6 to the board, it could have been-- I think I did a  
19 presentation-- [crosstalk] [unintelligible 00:22:04]

20 MR. THOMAS D. SHPETNER: Maybe you should. I don't  
21 [unintelligible 00:22:04]. This isn't an all you-all lumped  
22 together thing. It was a fascinating presentation though, and  
23 I think we really need to dust it off so people can get a  
24 little bit of historical context. I really I'm racking my  
25 brain to remember when that was, but we were in this room, we

1       were not in the old room. The Venn diagram was crazy, the  
2       maps were--

3               MR. RUSSELL PECUNIES: I'm happy to see if we can put  
4       together-- [crosstalk] [unintelligible 00:22:31] presentation  
5       for the next one.

6               MR. THOMAS D. SHPETNER: Well, I just feel like this is  
7       such a pungent problem that we actually could fix. It's a  
8       serious one. I remember it well; the cases of asthma were  
9       just right where all the bad boilers were.

10              MR. RUSSELL PECUNIES: The map of people who had permits  
11       to use No. 6 was really like-- the Bronx was like  
12       [unintelligible 00:22:53]

13              MR. THOMAS D. SHPETNER: Who was these old buildings  
14       that had fallen to-- [crosstalk] [unintelligible 00:22:58].

15              MR. RUSSELL PECUNIES: Old buildings, old boilers, and  
16       running on probably tight financial margins. The dirtier the  
17       oil is, the cheaper it is to buy.

18              MR. THOMAS D. SHPETNER: Yes, just I remember this too,  
19       the old oil gets recycled, and like, excuse me, the oil from  
20       your oil changes gets recycled into six, for example. It's  
21       really dirty, moldy stuff.

22              MS. SHAMONDA GRAHAM: Got you.

23              MR. RUSSELL PECUNIES: Yes, I think I may have brought a  
24       bottle of No. 6 oil, maybe, to that meeting.

25              MR. THOMAS D. SHPETNER: I hope not-- [crosstalk]

1 [unintelligible 00:23:29].

2 MR. RUSSELL PECUNIES: If you turned a bottle of No. 6  
3 oil upside down-- [crosstalk] [unintelligible 00:23:33]

4 MR. THOMAS D. SHPETNER: No, it's got-

5 MR. MATTHEW SCHNEID: It doesn't move.

6 MR. THOMAS D. SHPETNER: -the viscosity of it is  
7 extraordinary. It really is gross, so if we could dust that  
8 off somehow, I think that would be-- [crosstalk]

9 [unintelligible 00:23:41]

10 MR. RUSSELL PECUNIES: I will look into that.

11 MR. MATTHEW SCHNEID: During the period-- Sorry, one  
12 more question.

13 COMMISSIONER ASIM REHMAN: Yes.

14 MR. MATTHEW SCHNEID: During the period of getting  
15 into compliance with cease-and-desist, they still have heat?  
16 How does that work in this context?

17 MR. THOMAS D. SHPETNER: Running on permitted boilers.

18 MS. SHAMONDA GRAHAM: What kind of boilers

19 [unintelligible 00:23:55]?

20 MR. MATTHEW SCHNEID: What's different? They're still  
21 currently running, and they still have a million violations,  
22 most of these people, it sounds like.

23 What's the process to get them to get the new boiler?

24 MR. RUSSELL PECUNIES: In order to come into compliance-

25 MR. MATTHEW SCHNEID: What change [unintelligible]

1 00:24:08]

2 MR. RUSSELL PECUNIES: -they would need to replace the  
3 boiler. Since these are certificates of operation and not  
4 registrations, they would probably have to retain an engineer  
5 and submit plans because these are certificates of operation,  
6 which means that they have bigger BTU installations. Under  
7 certain BTU level, the boiler only needs a registration.  
8 Registrations you can get and renew without the services of a  
9 professional just by going online, filling out a form, and  
10 paying a fee.

11 Certificates of operation, in order to get one  
12 initially, they require the services of an engineer. To  
13 replace the installation, I think you would probably also  
14 need to have an engineer submit plans. I'm not 100% sure  
15 about that, but I think they probably would have to. Again,  
16 I'm not sure, given the age of these in terms of when the  
17 last time they had a valid permit was, a lot of these may  
18 turn out to not have these boilers anymore. This one is July  
19 1st of 2000.

20 MR. MATTHEW SCHNEID: [crosstalk] [unintelligible  
21 00:25:30] and I'm trying to understand what happens then. My  
22 gut is telling me that someone who hasn't renewed their  
23 boiler for 20 years is going to take cease-and-desist and put  
24 it in the same file with the other violations.

25 MR. RUSSELL PECUNIES: Something has been heating these

1 buildings. If the permit's been expired for 25 years, the  
2 building has had heat and hot water for the last 25 years,  
3 I'm assuming. They've been using some kind of a boiler,  
4 whether they've been keeping these dinosaurs going for 25, 30  
5 years since the last time they had a permit, or whether they  
6 just replaced them and never told us is something that I  
7 guess, hopefully, we will find out when all of these people  
8 respond to the cease-and-desist orders.

9 COMMISSIONER ASIM REHMAN: If they don't respond  
10 [unintelligible 00:26:18]

11 MR. RUSSELL PECUNIES: If they don't respond  
12 [unintelligible 00:26:21] normally with any cease-and-desist  
13 order, if it goes into default, BP is authorized by the board  
14 in the order to seal the equipment.

15 MR. MATTHEW SCHNEID: Then the people who I assume, or  
16 guessing are like these [unintelligible 00:26:40] buildings  
17 and will have [unintelligible 00:26:41]

18 MR. RUSSELL PECUNIES: What [unintelligible 00:26:41]  
19 normally have to do is bring in a temporary boiler, one of  
20 those ones in the trucks that they park outside to provide  
21 temporary heat and hot water until they can get a permit for  
22 the boiler.

23 COMMISSIONER ASIM REHMAN: These businesses or these  
24 [unintelligible 00:26:59]

25 MR. RUSSELL PECUNIES: The other thing is, of course, if

1 we seal it, they can then request a post-sealing hearing from  
2 you guys, and then they will get in front of a judge within a  
3 week or two, and they can talk to the judge, and the judge  
4 may tell us to unseal it because they're doing x, y, and z to  
5 come into compliance.

6 MS. SHAMONDA GRAHAM: I think you have a good point. I'm  
7 just thinking about the boys and girls club and what you  
8 said. You have all of these asthma cases. These people have  
9 not renewed permits. They're operating boilers without  
10 permits. Then to top it off, they're not using the  
11 appropriate grade [unintelligible 00:27:43] children in and  
12 out of these buildings. To me, if they have the opportunity  
13 to renew and they do that, great, not necessarily great, but  
14 at least they're in compliance and permitted. I don't think  
15 any of them are going to respond.

16 MR. MATTHEW SCHNEID: No, I don't think so either.

17 MS. SHAMONDA GRAHAM: Their summons is defaulted in a  
18 lot of cases as well.

19 MR. RUSSELL PECUNIES: A lot of them are all defaults or  
20 a mix of defaults and steps. In all of these, I think we've  
21 come to the conclusion at this point that issuing additional  
22 summonses is not really an effective means of going forward.

23 COMMISSIONER ASIM REHMAN: Do we know, is it a mix of  
24 business, residential, or commercial?

25 MR. RUSSELL PECUNIES: No, but I believe that most of

1       these are residential. There's one for the Boys Club of  
2       Queens. I'm not sure exactly what they use that building for.  
3       I actually did not-- for the next batch in August, I can go  
4       through the addresses and let you know whether these are  
5       commercial or residential. There's one for the Bethel Gospel  
6       Assembly, which sounds like a church, but I can do that for  
7       the next batch in August to let you know what this building  
8       is being used for.

9               COMMISSIONER ASIM REHMAN: Okay. There's a note here  
10       which I think is just a matter of form that says that DEP  
11       will also requests that the board director respond to appear  
12       at a special hearing and request that a penalty for \$800 for  
13       two days, \$1600, be imposed at the hearing not-- [crosstalk]  
14       [unintelligible 00:29:34]

15              MR. RUSSELL PECUNIES: Well, that is something that's  
16       always been put in cease-and-desist order requests in the  
17       cover memo. At one point-- because that penalty that's  
18       requested in the memo is actually never imposed. I don't  
19       remember it ever being imposed. I said to whoever was around  
20       that time that, "Can we just take this out of the memo?" This  
21       was people here at OATH, and we were told, "No." We were told  
22       that that little blurb about penalties has to stay in the  
23       memo.

24              I think that when the judge makes the recommendations,  
25       the pre-ceiling report to the board that there's something in



1           that about penalties, and the judge always just recommends  
2           that no additional penalty be imposed.

3           COMMISSIONER ASIM REHMAN: Any other questions or  
4           concerns?

5           MR. HARMINDERPAL RANA: Do we know how many permits are  
6           potentially affected here?

7           MR. RUSSELL PECUNIES: We know we have this batch of 40  
8           buildings, and we think that over the next three years, as  
9           permits to use No. 4 expire on a rolling basis over the next  
10          three years, if people don't renew them, which, again,  
11          remember, over the next three years, they'll have to renew  
12          them for either No. 2 or natural gas. If they don't renew  
13          them, we're going to summons them, and if they don't come  
14          into compliance in response to the summons, then we're going  
15          to come here to get cease-and-desist orders. Over the next  
16          three years, there's probably going to be a trickle of these  
17          if people don't renew expiring No. 4 permits, because, again,  
18          we want to get everyone off of 4 as soon as we can get them  
19          off of 4.

20          MR. HARMINDERPAL RANA: Understood. Now, I understand  
21          the process. I was just asking a very basic question. We know  
22          the-- [crosstalk] [unintelligible 00:31:46] currently right  
23          now [unintelligible 00:31:49].

24          MR. RUSSELL PECUNIES: There are [unintelligible  
25          00:31:46] scofflaws that have been expired for a long time

1       that we want to get into compliance soon as possible, but  
2       there will be off and on again, one or two of these, maybe at  
3       a time, over the whole next three years as we get buildings  
4       that go out of compliance with us.

5               COMMISSIONER ASIM REHMAN: Any other comments or  
6       questions? What I would like to do is vote on these as a  
7       group, but for purposes of the meeting, the public meeting,  
8       could you-- [crosstalk] [unintelligible 00:32:33]

9               MR. RUSSELL PECUNIES: Just outline, respond, and  
10      address.

11              COMMISSIONER ASIM REHMAN: Exactly. Thank you.

12              MR. RUSSELL PECUNIES: All right, so the ten cease-and-  
13      desist orders that are being requested are four Stag Studios,  
14      LLC at 361 Stag Street in Brooklyn, 41-41 43rd Street Corp at  
15      41-43 43rd Street in Queens.

16              Boys Club of Queens, Inc at 21-12 30th Road in Queens.  
17      2074 Arthur Avenue LLC at 2074 Arthur Avenue, Bronx. 1021-27  
18      Avenue, St. John HDFC at 1021 Avenue, St. John, Bronx. JMV  
19      Realty Corp at 2767 Morris Avenue, Bronx. 1962 Realty LLC at  
20      1962 University Avenue, Bronx. 3681 Broadway, HDFC at 3681  
21      Broadway, Manhattan. [unintelligible 00:34:05] Park Property  
22      Management at 241 West 36th Street in Manhattan, and Bethel  
23      Gospel Assembly, Inc. at 2 East 120th Street in Manhattan.

24              COMMISSIONER ASIM REHMAN: Okay, thank you. I'd like to  
25      request a motion to approve the DEP's request for cease-and-

1 desist orders on the 10 properties that were just listed out.  
2 On the understanding that for each of these properties, there  
3 have been at least two summonses as represented and based on  
4 the prior representations made by DEP during this discussion.  
5 Do we have a motion? Okay. We got a motion from the fire  
6 department, second. Okay. Second from the sanitation  
7 department.

8 ASSISTANT GENERAL COUNSEL HALIMI: Are there any  
objections to the  
9 motion approving this group of 10 related cease-and-  
10 desist orders? Seeing none, hearing none, the motion is  
11 approved unanimously.

12 COMMISSIONER ASIM REHMAN: Before we leave this topic, I  
13 understand the prior strategy was rather than do 40 in one  
14 meeting, let's break them up into groups. If our next meeting  
15 is in August and the following meeting after that would be in  
16 October, and we're talking about boiler, we're talking about  
17 heat, I'd like to ask the group if we would instead recommend  
18 that we use the next meeting in August to do the balance of  
19 30 so that we're not pushing some of these into later  
20 meetings. I'm getting a look from members of our team. Our  
21 Hearing Division folks would like to make a comment?

22 AMY SLIFKA, DEPUTY COMMISSIONER/HEARING DIVISION: Yes,  
that could be a little  
23 bit-- We have to have these hearings pretty quickly after we  
24 approve them. That could be a little bit problematic with the  
25 calendar.

1 COMMISSIONER ASIM REHMAN: I see.

2 MS. SLIFKA: That's why the issue is maybe

3 a little less where we have 40 left plus. How many left?

4 MR. RUSSELL PECUNIES: There are approximately 40

5 altogether. I have some prior split into four buckets by

6 priority.

7 MS. SLIFKA: We did 10, so we have 30 left.

8 Maybe 15 and 15.

9 MR. RUSSELL PECUNIES: 15 in August and 15 in October?

10 COMMISSIONER ASIM REHMAN: Okay.

11 MR. RUSSELL PECUNIES: We can do that. Let's take that  
12 approach.

13 COMMISSIONER ASIM REHMAN: Yes, we can do that.

14 MR. RUSSELL PECUNIES: All right, thank you.

15 COMMISSIONER ASIM REHMAN: All right. Thanks, everyone.

16 [silence] Yes, we did [unintelligible 00:36:39] we already  
17 covered.

18 MR. RUSSELL PECUNIES: We did [unintelligible 00:36:45].

19 COMMISSIONER ASIM REHMAN: I'd like to ask for a motion  
20 for us to go into executive session. Okay. Motion. Second?  
21 Okay, second.

22 ASSISTANT GENERAL COUNSEL HALIMI: Are there any  
objections to the

23 motion to go into executive session? Seeing none, hearing  
24 none, the motion is approved unanimously.

25 COMMISSIONER ASIM REHMAN: All right. I'd like to

1 request that our staff confirm when we got our public guests  
2 in a room so that we can proceed with the executive session.

3 KARIN MCAVOY: Okay. Please hold.

4 COMMISSIONER ASIM REHMAN: Thank you. [silence] We're  
5 returning to public session. That brings us to the end of our  
6 agenda. We will talk about dates, and then I have some other  
7 business looking ahead to possible dates for next meeting. We  
8 have August 1st or August 8th. Any particular preferences?  
9 Yes.

10 MR. RUSSELL PECUNIES: First maybe better.

11 COMMISSIONER ASIM REHMAN: August 1st all right for  
12 other members?

13 MS. SHAMONDA GRAHAM: It's okay for me.

14 COMMISSIONER ASIM REHMAN: All right, thank you. We will  
15 set down August 1st for our next meeting. I hope to all see  
16 you at that meeting, but there's someone at that meeting who  
17 we will not see, and that's our general counsel, Olga Statz.  
18 Today is Olga's last meeting in front of the board. She will  
19 be departing OATH for greener pastures in city service, and I  
20 just wanted you to take a moment to acknowledge the hard work  
21 that you've done for the board.

22 So much of what the board does, the very important work  
23 that the board does for the City of New York is because the  
24 board has significant power and significant authority, and  
25 that power and authority isn't out of thin air. It comes from

1 our laws, and we have to be very careful about how we  
2 interpret those laws. We have to be very thoughtful about the  
3 application of those laws.

4 In that process, as we saw in today's discussion, Olga,  
5 you have been a steadfast guardian of that authority and of  
6 that power, in making sure that the board continue on the  
7 correct path when it comes to what we're entitled to do, what  
8 we're allowed to do, and so we appreciate your guardianship,  
9 we appreciate the care that you've brought and the insights,  
10 and we will miss you very much.

11 GENERAL COUNSEL STATZ: I'll miss you guys also.

12 MR. RUSSELL PECUNIES: Thank you very much.

13 [silence]

14 COMMISSIONER ASIM REHMAN: Would anyone like to add?

15 MR. MATTHEW SCHNEID: I could just say I thought you  
16 both been very thoughtful and helpful to the entire board and  
17 the process and we, as a government, need to take what we do  
18 very seriously and that's very clear, so thank you so much  
19 for your service.

20 GENERAL COUNSEL STATZ: Thank you very much. I've really  
21 been honored working with this board. You guys have worked so  
22 hard, so impressive to me. When I have to slog through these  
23 things that Tom puts together and Peter put together, and I  
24 think to myself, "That's my job," but you have lives and you  
25 still sit and read this phone book full of information and

1       you analyze, you think about it, and you argue it. I'm just  
2       so impressed with that, and I'm going to miss you guys.  
3       You've really meant a lot to me for a long time, so thank you  
4       very much.

5               COMMISSIONER ASIM REHMAN: Anyone else?

6               MS. SHAMONDA GRAHAM: I'll miss you. I am going to miss  
7       you, but I'll probably track you down. I just want to throw  
8       out there all of the help that you've given us, the memos  
9       that you've written. I remember when we were trying to figure  
10      out what a quorum was, there's just been so many helpful  
11      things you've done. I also appreciate the fact that you stick  
12      tight to the law, the text of the law, what it means and  
13      interpreting it, and regardless of what the outcome is going  
14      to be.

15              As an attorney, it's very admirable because oftentimes,  
16      our gut wants to go with the purpose. The purpose and what  
17      the law's supposed to do, and sometimes the text just doesn't  
18      allow that. I think it's brave, it's admirable, and I just  
19      love working with you and I'm going to miss you.

20              GENERAL COUNSEL STATZ: Thank you so much.

21              COMMISSIONER ASIM REHMAN: Anyone else?

22              MR. THOMAS D. SHPETNER: Are we allowed to know where  
23      you're going? Is it an open secret?

24              GENERAL COUNSEL STATZ: No, I'm going to the Business  
25      Integrity Commission. I'm going to be general counsel over

1           there.

2                   ?MR. THOMAS D. SHPETNER: Sounds like [unintelligible  
3           00:41:21]

4           MS. SHAMONDA GRAHAM: Well suited.

5           MS. MADELYNN LIGUORI: I'll still be working with Olga,  
6           obviously.

7                   [crosstalk]

8           GENERAL COUNSEL STATZ: I'm so excited [unintelligible  
9           00:41:29]

10           COMMISSIONER ASIM REHMAN: We're all very happy that  
11           she's going to continue in City Circle, so that's great. With  
12           that motion to adjourn the meeting, right? We have a motion,  
13           we have a second, thank you.

14                   ASSISTANT GENERAL COUNSEL HALIMI: Are there any  
                  objections to the  
15           motion to adjourn the meeting? Seeing none, hearing none, the  
16           motions passes unanimously.

17           COMMISSIONER ASIM REHMAN: Meeting adjourned. See you  
18           all in August, thank you very much. (crosstalk)

19                   (The board meeting concluded at 10:31 a.m.)


**REVIEWED AND CORRECTED BY  
OATH GENERAL COUNSEL  
OFFICE on JULY 3, 2024.**



## CERTIFICATE OF ACCURACY

I, Gladys Gist, certify that the foregoing transcript of ENVIRONMENTAL CONTROL BOARD- BOARD MEETING on June 13, 2024 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

**Certified By:**

  
Gladys Gist (June 21, 2024 11:14 EST)

**Date:** June 21, 2024

I, Ayesha Sikder, conducted a quality control review of the certified foregoing transcript.

**Reviewed By:**

  
Ayesha Sikder (June 21, 2024 11:45 EST)

**Date:** June 21, 2024

**Accurate Communication Inc.  
85 Broad Street,  
New York, NY 10004**

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85 Broad Street, New York, New York 10004**