

**CORRECTED**

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

BOARD MEETING

VIA VIDEO CONFERENCE

100 Church Street, New York, New York

August 4, 2022

9:34 a.m. to 9:55 a.m.

August 4, 2022

## MEMBERS PRESENT:

**Shamonda Graham - Department of Buildings (DOB)**  
**Joseph Gregory, Esq. - New York City Fire Department (FDNY)**  
**Elizabeth Knauer, Esq. - Appointed Member (Water)**  
**Madelynn Liguori, Esq. - Department of Sanitation (DSNY)**  
**Russell Pecunies, Esq. - Department of Environmental Protection (DEP)**  
**Matthew Schneid, Esq. - Appointed Member (Real Estate)**  
**Thomas D. Shpetner, Esq. - Appointed Member (Business)**  
**Matthew Smith, Esq. - New York City Police Department (NYPD)**  
**Douglas S. Swann - Appointed Member (Air)**  
**Jarrold Whittington - Appointed Member (Noise)**

## ALSO PRESENT:

Cindy Chen - Analyst, Office of Management and Budget (OMB)  
**Kelly Corso, Esq. - Assistant Commissioner/Hearings Division Adjudications, OATH**  
Timothy Jones, Esq. - Senior Counsel, OATH  
**David Kim, Esq. - Assistant General Counsel, OATH**  
**Peter Schulman, Esq. - Assistant Commissioner for Appeals, OATH**  
Frances Shine - Secretary to the Board, OATH  
Amy Slifka, Esq. - Deputy Commissioner/Hearings Division, OATH  
Samuel Solomon, Esq. - Chief of Staff/Special Counsel, OATH  
**Olga Statz, Esq. - Deputy Commissioner/General Counsel, OATH**  
**Joy A. Thompson, Esq. - Assistant General Counsel, OATH**

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2 (The board meeting commenced at 9:55  
3 a.m.)

4 OLGA STATZ, ESQ., DEPUTY COMMISSIONER /  
5 GENERAL COUNSEL, OATH, DESIGNEE FOR ASIM REHMAN,  
6 ESQ., COMMISSIONER/CHIEF ADMINISTRATIVE LAW  
7 JUDGE, OATH, CHAIR/EXECUTIVE DIRECTOR, OATH ECB:  
8 Good morning, everyone. Nice to see you all  
9 again. Before we start the meeting, I'd like to  
10 introduce you to David Kim, the newest member of  
11 GC. He's in a little, I see him in a little  
12 square. Do you want to wave, David?

13 DAVID KIM, ESQ. - ASSISTANT GENERAL COUNSEL,  
14 OATH: Hello. Nice meeting you. I'm the new  
15 Assistant General Counsel. This is really good, a  
16 pleasure to meet all of you. I look forward to  
17 working with you. Thank you.

18 MS. STATZ: Thank you so much. And, so, I'm  
19 now going to turn things over to Joy to ask her to,  
20 for a roll call.

21 JOY A. THOMPSON, ESQ., ASSISTANT GENERAL  
22 COUNSEL, OATH: Good morning, all. We will start  
23 with Deputy Commissioner Olga Statz.

24 MS. STATZ: Here. Present.

25 MS. THOMAS: Present?

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2 MS. STATZ: Yes.

3 MS. THOMPSON: Shamonda Graham. I see  
4 you on the screen.

5 SHAMONDA GRAHAM - DEPARTMENT OF  
6 BUILDINGS (DOB): Here.

7 MS. THOMPSON: Hi. Joseph Gregory.

8 JOSEPH GREGORY, ESQ., NEW YORK CITY FIRE  
9 DEPARTMENT (FDNY): Present.

10 MS. THOMPSON: Elizabeth Knauer.

11 ELIZABETH KNAUER, ESQ., APPOINTED MEMBER  
12 (WATER): Present.

13 MS. THOMPSON: Madelynn Liguori?

14 MADELYNN LIGUORI, ESQ., DEPARTMENT OF  
15 SANITATION (DSNY): Present.

16 MS. THOMPSON: I believe that Jorge  
17 Martinez is out today. Russ Pecunies, are you  
18 dialing in?

19 RUSSELL PECUNIES, ESQ., DEPARTMENT OF  
20 ENVIRONMENTAL PROTECTION (DEP): Yeah, I'm  
21 present. I'm here.

22 MS. THOMPSON: Thank you. Matthew  
23 Schneid?

24 MATTHEW SCHNEID, ESQ., APPOINTED MEMBER

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2 (REAL ESTATE): Present. Hi.

3 MS. THOMPSON: Hi. Thomas Shpetner.

4 THOMAS SHPETNER, ESQ., APPOINTED MEMBER  
5 (BUSINESS): Present. Excuse me. I was on mute.

6 MS. THOMPSON: Sure. No problem.

7 Matthew Smith?

8 MATTHEW SMITH, ESQ., NEW YORK CITY  
9 POLICE DEPARTMENT (NYPD): Here.

10 MS. THOMPSON: Douglas Swann? I see  
11 your name. Okay, I'm -- are you -- yeah, I'm  
12 assuming you're present.

13 DOUGLAS S. SWANN, APPOINTED MEMBER  
14 (AIR): Can you hear me? Can you hear me?

15 MS. THOMPSON: Yes, I do now. Yes,  
16 thank you, Mr. Swann.

17 MR. SWANN: Yes, I'm sorry. I'm  
18 present.

19 MS. STATZ: You're, you're, I can't, I  
20 can't hear you very well, though, Doug, so.

21 MR. SWANN: I've been having this  
22 problem. I don't know why. But I'm here.

23 MS. STATZ: Okay, now we hear you.  
24 Okay.

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2 MS. THOMPSON: Jarrod Whittington.

3 JARROD WHITTINGTON, APPOINTED MEMBER

4 (NOISE): Present.

5 MS. THOMPSON: We have a quorum, 11 out  
6 of 12.

7 MS. STATZ: Wonderful. I'm going to ask  
8 for a motion to adopt the minutes of the June 2nd  
9 meeting. Thanks, Matt. Do I have a second?  
10 Thanks, Madelynn. All in favor? Does any-,  
11 first of all, does anyone have any corrections?  
12 No corrections? All in favor of adopting the  
13 minutes?

14 MS. GRAHAM: I abstain.

15 MS. STATZ: Okay. Can you, can you call  
16 a vote, please, Joy?

17 MS. THOMPSON: Sure. Oh, sure. Are  
18 there any -- I have, it seems that everyone has  
19 voted to approve the minutes with one abstention  
20 from Shamonda Graham, who was not at that  
21 meeting. Are there any other objections or  
22 abstentions from the Board members? Okay, the  
23 motion is approved. The minutes are approved.

24 MS. STATZ: Thank you. The next item on

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2 the agenda is the, the final rule for appearances  
3 and representations at hearings. When we first  
4 proposed this rule, we had some, some robust  
5 discussion. We went through everything and we've  
6 submitted it now for final approval. I'm going  
7 to give you some background, just so you can ref-  
8 , have your reco-, your recollections reflected.

9 The Environmental Control -- you guys  
10 voted on this, to approve the proposed version on  
11 April 7th of this year. The proposed version was  
12 published in The City Record. A public hearing  
13 was held on May 18th. And, unlike most of our  
14 rules, we actually had comments on this rule and  
15 people participated. And there were four oral  
16 comments, my notes say, and 11 written comments.  
17 And, and in response to Section 6 -- and in  
18 response to those comments, we made a change to,  
19 from the proposed rule to the final rule. So the  
20 final rule you have before you has a mild change  
21 in it, and it's in Rule 6-24(a)(4), because  
22 according, in the comments, it was raised, the  
23 fact was raised that pro se respondents might not  
24 have the technology to submit all of the evidence

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2 electronically. So we only make it a requirement  
3 for attorneys and representatives to submit the  
4 evidence electronically. We don't require pro se  
5 respondents to do so. Pro se respondents can  
6 hand in their, their evidence in, in sheet form,  
7 in paper form.

8 So that's the only, that's the only  
9 substantive change that was made to this rule.  
10 Are there any questions? I don't see any  
11 questions, so I'm going to ask for a motion --

12 MR. SCHNEID: Actually, I do have a  
13 question. I'm sorry.

14 MS. STATZ: Oh, sure.

15 MR. SCHNEID: Unfortunately, I missed  
16 the, the last meeting we had. But when it was  
17 first respondent, there was a question about the  
18 nature in which a respondent can engage their  
19 counsel, whether it had to be written, and the  
20 nature of that written agreement and submitting  
21 an original. And I think, subsequent to that, I  
22 assume we all did, but I got one of the responses  
23 sent directly to me where they were raising a  
24 point that we also initially discussed where

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2 sometimes that doesn't happen in the way that  
3 maybe the City would like, in terms of getting an  
4 original in. And I think what we discussed  
5 initially was that maybe there was a way that we  
6 were going to clarify the nature of the  
7 confirmation of the representation. And I don't  
8 know if that ever occurred.

9 MS. STATZ: Yeah. Actually, when, when  
10 you were at that meeting, what we did at that  
11 point was we decided that we were going to change  
12 the statement of baseme-, basis and purpose to  
13 make e-signatures possible.

14 MR. SCHNEID: Okay.

15 MS. STATZ: And since then, actually,  
16 I'm glad you brought it up, because I forgot to  
17 mention it. Since then, we tweaked the section  
18 itself to include e-signatures.

19 MR. SCHNEID: Okay.

20 MS. STATZ: So that's, so that the  
21 reference to e-signatures appears both in the  
22 statement of basis and purpose and in the, in the  
23 text itself, in the, in the final version.

24 MR. SCHNEID: Okay, great. Thank you.

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2 MS. STATZ: No problem. Are there any  
3 other questions? Are there any other questions?  
4 I don't see any questions, so I'm going to ask  
5 for a motion to approve the, the final rules.  
6 Thanks, Madelynn. Do I have a second? Thanks,  
7 Matthew. Can you call for a vote, Jo- Joy?

8 MS. THOMPSON: Yes. Okay, at this point  
9 I'm going to ask if there are any objections to  
10 the approval of OATH's final rule regarding  
11 appearances and representation at OATH hearings?  
12 Seeing no objections, hearing none, the motion is  
13 approved.

14 MS. STATZ: Thank you very much. The  
15 next rule that, the next final rule that we're  
16 introducing is the, the rule for the conduct of  
17 registered representatives and attorneys at OATH.  
18 Again, we proposed this, I believe, again, at the  
19 April 7th meeting and we had some discussion on  
20 that. The proposed version was published in The  
21 City Record. A public hearing was held on May  
22 18th, and attorneys who reg- regularly practice  
23 at OATH presented their testimony and, and we  
24 received three written comments. And in light of

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2 the comments that we've received, we did make one  
3 amendment to the section that's, that states that  
4 failure to appear on behalf of a respondent  
5 within a certain number of days constitutes  
6 abandonment.

7 So we, we removed that, because we  
8 understood, from the comments that were made,  
9 that there are ambiguities in attorney-client  
10 relationships and it's not always, it's not  
11 always that clear. And, so, we just removed that  
12 particular section and we'll deal with those as,  
13 as they come up, based on the totality of the  
14 circumstances. So, that's the only substantive  
15 change that we've made to, to that rule.

16 And I'd like to know if there are any  
17 questions. I don't hear any questions. Do I  
18 have a motion?

19 MS. THOMPSON: Madelynn.

20 MS. STATZ: Madelynn. Thank you,  
21 Madelynn. Second, do I have a second?

22 MR. GREGORY: Second.

23 MS. STATZ: Hi. Thank you, Joseph.

24 Thanks, Joe. Joy?

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2 MS. THOMPSON: Okay. Okay. At this  
3 time, since, do we have any objections to the  
4 approval of OATH's final rule regarding the  
5 conduct of registered representatives and  
6 attorneys at OATH hearings? Seeing, hearing  
7 none, the motion is approved.

8 MS. STATZ: Thank you. Now, I'd like to  
9 turn things over to Kelly Corso, who is the  
10 Assistant Commissioner for Hearings, to do the,  
11 to discuss the pre-sealing reports. There you  
12 are.

13 KELLY CORSO, ESQ., ASSISTANT  
14 COMMISSIONER/HEARINGS DIVISION ADJUDICATIONS,  
15 OATH: Hi, everyone. Can you hear me? I'm  
16 sorry. I'm having some problems with my video.  
17 Okay.

18 MS. STATZ: Got it.

19 MS. CORSO: I'm getting the thumbs up  
20 from Joy, so I guess you can. So we only have  
21 four pre-sealing reports today for the Board.  
22 And, in all of those, they involve backflow  
23 cases. And the hearing officers in all of them  
24 did agree with the DEP's recommendation of no

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2 further action and no sealing because all of the  
3 respondents presented evidence of compliance at  
4 those hearings. And that's all we have.

5 MS. STATZ: Are there any questions? Do  
6 I have a motion to approve pre-sealing reports?  
7 Madelynn, thank you. Do I have a second? Thank  
8 you, Elizabeth. Joy?

9 MS. THOMPSON: Sure. Are there any  
10 objections to the approval of the four pre-  
11 sealing reports? Okay. Seeing and hearing none,  
12 the motion is approved.

13 MS. STATZ: Thank you. Now, I'd like --

14 MS. THOMPSON: Thanks, everyone.

15 MS. STATZ: Thank you. Now, I'd like to  
16 ask for a motion to go into Executive Session.  
17 Matt. Second? Okay, thank you Joe.

18 PETER SCHULMAN, ESQ. - ASSISTANT  
19 COMMISSIONER FOR APPEALS, OATH: I was going to  
20 pause the recording and I'm going to move anybody  
21 not employed by OATH --

22 MS. STATZ: Who is 4-, who, who ends in  
23 46? I, I --

24 MR. SCHULMAN: That's, that's Russ.

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2 [OFF THE RECORD]

3 [ON THE RECORD]

4 MS. STATZ: So, does anyone have any  
5 additional questions about anything? Okay. So  
6 let's see if we can come up with a date for our  
7 next meeting, which is going to be in October.  
8 The two dates that we're proposing are either the  
9 13th or the 20th. Which works best for everyone?  
10 Shall we say the 13th?

11 MR. SHPETNER: No objection.

12 MS. STATZ: Okay. So, so let's just use  
13 the first one. Let's do the 13th. That'll be a  
14 Thursday. So, our next Board meeting will be  
15 Thursday, October 13.

16 Do I have, unless there's anything else,  
17 do I have a motion to adjourn the meeting?  
18 Thanks, Matt. Do I have a second? Thanks,  
19 Madelynn. Joy? I can't -- you're, you're muted.  
20 I can't hear you.

21 MS. THOMPSON: Yes, I was trying to find  
22 my mouse. There's usually, we don't need a vote  
23 to adjourn, but are there any objections to  
24 adjourning the meeting at this time?

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2 MS. GRAHAM: No.

3 MS. STATZ: Okay, great.

4 MS. GRAHAM: It's good to see you guys.

5 Bye.

6 MS. STATZ: So nice to see everybody.

7 Have a great --

8 (The board meeting concluded at 9:55  
9 a.m.)

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Environmental Control Board, 8/4/2022

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on August 4, 2022, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Claudia Marques

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Date: August 17, 2022

GENEVAWORLDWIDE, INC

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Reviewed and corrected by OATH General Counsel

Office. September 13, 2022