

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

October 13, 2022

9:31 a.m. to 9:57 a.m.

October 13, 2022

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)
Elizabeth Knauer, Esq. - Appointed Member (Water)
Madelynn Liguori, Esq. - Department of Sanitation (DSNY)
Jorge Martinez, Esq. - Department of Health and Mental Hygiene (DOHMH)
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:

Rachel Amar - Senior Advisor to Commissioner, OATH
Cindy Chen - Analyst, Office of Management and Budget (OMB)
Kelly Corso, Esq. - Assistant Commissioner/Hearings Division Adjudications, OATH
David Feldman, Esq. - Deputy Commissioner of Legal Affairs/General Counsel, Business Integrity Commission (BIC)
Svetlana Iosilevich, Esq. - Executive Agency Counsel, Business Integrity Commission (BIC)
Timothy Jones, Esq. - Senior Counsel, OATH
David C. Kim, Esq. - Assistant General Counsel, OATH
Peter Schulman, Esq. - Deputy Commissioner/Appeals Division, OATH
Frances Shine - Secretary to the Board, OATH
Amy Slifka, Esq. - Deputy Commissioner/Hearings Division, OATH
Tom Southwick, Esq. - Supervising Attorney for Appeals, OATH
Olga Statz, Esq. - Deputy Commissioner/General Counsel, OATH

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2 (The board meeting commenced at 9:31
3 a.m.)

4 DAVID C. KIM, ESQ. - ASSISTANT GENERAL
5 COUNSEL, OATH: Okay, we'll start with
6 Commissioner Asim Rehman.

7 ASIM REHMAN, ESQ. - COMMISSIONER, OATH:
8 Hi. Good morning, everyone. Asim Rehman,
9 Commissioner and Chief Administrative Law Judge
10 at OATH. Happy to be with you all this morning
11 for this meeting and to call it to order, and we
12 will continue with the roll.

13 MR. KIM: Thank you. Shamonda Graham?

14 SHAMONDA GRAHAM - DEPARTMENT OF
15 BUILDINGS (DOB): Yes, Shamonda Graham here,
16 representing the New York City Department of
17 Buildings.

18 MR. KIM: Thank you. Joseph Gregory?

19 OLGA STATZ, ESQ., DEPUTY COMMISSIONER /
20 GENERAL COUNSEL, OATH: Is there anyone here from
21 the Fire Department?

22 PETER SCHULMAN, ESQ. - DEPUTY
23 COMMISSIONER/APPEALS DIVISION, OATH: Yes. Joe,
24 Joe Gregory is here. He's muted.

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2 MR. KIM: Oh, okay.

3 MS. STATZ: Joe, can you unmute
4 yourself, please?

5 MR. KIM: I can see Joseph.

6 MS. STATZ: Okay. Could you go onto the
7 next person?

8 MR. KIM: Okay. Elizabeth Knauer?

9 ELIZABETH KNAUER, ESQ., APPOINTED MEMBER
10 (WATER): Good morning. Elizabeth Knauer,
11 Appointed Member, Water Pollution Control
12 Specialist.

13 MR. KIM: Thank you. Madelynn Liguori?

14 MADELYNN LIGUORI, ESQ., DEPARTMENT OF
15 SANITATION (DSNY): Hi. I'm Madelynn Liguori and
16 I'm the Department of Sanitation Representative.

17 MR. KIM: Thank you. Jorge Martinez?

18 JORGE MARTINEZ, ESQ. - DEPARTMENT OF
19 HEALTH AND MENTAL HYGIENE (DOHMH): Good morning.
20 I'm Jorge Martinez. I represent the New York
21 City Department of Health.

22 MR. KIM: Thank you. Russell Pecunies?

23 RUSSELL PECUNIES, ESQ., DEPARTMENT OF
24 ENVIRONMENTAL PROTECTION (DEP): Russell Pecunies

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2 is present, representing the Department of
3 Environment Protection.

4 MR. KIM: Thank you. Matthew Schneid?

5 MS. STATZ: Matthew, are you on mute?
6 Because I see your name, but I don't hear you.

7 MATTHEW SCHNEID, ESQ., APPOINTED MEMBER
8 (REAL ESTATE): Hi. Can you hear me now?

9 MS. STATZ: Yeah.

10 MR. SCHNEID: Hi.

11 MR. KIM: Thank you.

12 MR. SCHNEID: Matt Schneid, Real Estate
13 Specialist. Apologies I can't be on the video
14 today. I'm having some technical issues. But
15 I'm happy to be here.

16 MR. KIM: Oh, no problem. Matthew
17 Smith?

18 MATTHEW SMITH, ESQ., NEW YORK CITY
19 POLICE DEPARTMENT (NYPD): Matt Smith, NYPD.

20 MR. KIM: Douglas Swann?

21 DOUGLAS S. SWANN, APPOINTED MEMBER
22 (AIR): Douglas Swann, present. Air Specialist.

23 MR. KIM: Thank you. Jarrod
24 Whittington?

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2 JARROD WHITTINGTON, APPOINTED MEMBER
3 (NOISE): Jarrod Whittington, here. Appointed
4 member, Noise Specialist.

5 MR. KIM: Thank you. We have a quorum,
6 12 out of 12.

7 MS. STATZ: But you didn't call, you
8 didn't ask for Thomas Shpetner. Can, can you
9 call -- can you ask if he's present?

10 THOMAS SHPETNER, ESQ., APPOINTED MEMBER
11 (BUSINESS): Hi. I, I am -- I am here and
12 present. Thank you, Olga.

13 MS. STATZ: No problem.

14 MR. KIM: Thank you, Olga. We have a
15 quorum, 12 out of 12.

16 MR. REHMAN: Thank you very much. Happy
17 to proceed. The first order of business today is
18 a resolution that's been submitted for
19 consideration. The resolution is entitled
20 Resolution Respecting the Continuation of
21 Electronic Meetings, and I'd like to ask General
22 Counsel Statz to provide a description of the
23 resolution for the group.

24 MS. STATZ: Hi. Good morning,

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2 everybody. Nice to see everyone. As you know,
3 the State has withdrawn its state of -- its state
4 of emergency for COVID and we thought, initially,
5 that because the State had done that, we would
6 have to have the meeting in person. However, in
7 kee-, in carefully looking at section 103-a(3) of
8 the Public Officers Law, it seems that if the
9 local -- if the locality still has its state of
10 emergency in effect, we can continue to hold our
11 meetings electronically. And so OA-, so OATH is
12 proposing to, to the Board to consider having --
13 holding the meetings, con-, to continue holding
14 the meetings electronically throughout the, the
15 local state of emergency. That's what's before
16 you today. I'm happy to answer any questions
17 that you might have.

18 MR. REHMAN: And Olga, just to add the,
19 the final point to that, and the, and the
20 locality has, indeed, continued to extend --

21 MS. STATZ: Yes.

22 MR. REHMAN: -- its state of emergency.

23 MS. STATZ: Yes, yes.

24 MR. REHMAN: Thank you. Thank you,

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2 Olga. Are there any questions or comments from
3 our members regarding this resolution? Okay.
4 I'd like to ask the General Counsel Unit -- I'm
5 sorry, Matthew. Were you going to say something?
6 Okay.

7 MR. MARTINEZ: I have a --

8 MR. REHMAN: Yes, go ahead, Jorge.

9 MR. MARTINEZ: When was the last time
10 the locality extended the state of emergency?

11 MS. STATZ: My understanding is that
12 it's extended every five days. So, presently,
13 we're at -- we're with Executive Order 210.
14 These things are extended every few days, so
15 that's where we are right now. And it's likely
16 to continue to be extended.

17 MR. REHMAN: Any other comments or
18 questions? Okay. I'd like to ask for a motion
19 to approve the resolution, and I'll turn it over
20 to the GC Unit to manage that process.

21 MS. STATZ: Tom just --

22 MR. KIM: Okay. Okay.

23 MS. STATZ: Okay, but Tom, Tom -- Tom
24 did the first motion.

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2 MR. REHMAN: And is there a motion to
3 second? I see Madelynn. Thank you. I'd like to
4 ask the General Counsel Unit to move towards a
5 vote.

6 MR. KIM: Okay. At this time, are there
7 any objections to the motion to make a resolution
8 respecting the continuation of electronic
9 meetings? Seeing none, hearing none, the motion
10 is approved unanimously.

11 MR. REHMAN: Thank you, everyone. Next,
12 we'd like to move to the adoption of the minutes
13 of the August 4th ECB meeting. Does anyone have
14 any corrections to the minutes as submitted?

15 MR. MARTINEZ: No corrections, but I
16 abstain.

17 MR. REHMAN: I was not present. I will
18 also abstain. Any other comments or questions?

19 MS. STATZ: Shamonda, you're, you're on
20 mute. I can't hear you.

21 MS. GRAHAM: I believe I missed the last
22 meeting, so I must abstain. I do believe.

23 MR. REHMAN: I think that's correct.
24 Shamonda, I do see you noted on the minutes.

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2 MS. GRAHAM: Yeah, I couldn't -- like,
3 if I remember correctly, I had a difficult time,
4 like logging in. But it's up to you guys. I was
5 -- I think I should abstain.

6 MR. REHMAN: Is it appropriate,
7 Shamonda, to keep you on those minutes? Or
8 should we remove you from the minutes of the
9 meeting?

10 MS. GRAHAM: If it's okay, can I review
11 them in their entirety again and then follow up?
12 I think it's okay, because I did, I did, you
13 know, make myself known. I was trying to get in.
14 But, if I remember correctly, no matter what I
15 did, I had difficulty.

16 MR. REHMAN: Olga, do we have a process
17 by which -- I mean, would that mean we'd have to
18 hold this over until the next meeting? Or, or
19 can we --

20 MS. STATZ: Okay, I think that since
21 Shamonda is not comfortable approving the minutes
22 because she doesn't recall the substance of the
23 meeting, I think that we're fine with letting --
24 with, with accepting her abstention and then

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2 proceeding. So we have, we would have three
3 abstentions and -- yeah.

4 MR. REHMAN: I think that's -- that
5 sounds appropriate. Okay. Any other comments?
6 Very well. Would the GC Unit please move towards
7 a vote to adopt the minutes?

8 MR. KIM: I think there are two
9 abstentions, right? From the Jorge Martinez --
10 three? Okay.

11 MR. REHMAN: Myself, as well.

12 MR. KIM: Oh, okay, got it. Sorry for
13 this. Okay. The motion is approved with three
14 abstentions from Jorge Martinez and Asim Rehman,
15 Commissioner, and Shamonda Graham.

16 MR. REHMAN: Alright. Thank you very
17 much. Okay. I'd like to ask for a motion for us
18 to go into Executive Session to discuss some new
19 decisions listed in the judicial report.

20 MR. GREGORY: Motion.

21 MR. REHMAN: Okay. And a second?
22 Alright. Do we -- Olga, are we proceeding into
23 Executive Session, or do we need a full Board
24 vote on that?

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2 MS. STATZ: We usually do a, a Board
3 vote.

4 MR. REHMAN: Okay.

5 MR. KIM: Okay.

6 MR. REHMAN: David?

7 MR. KIM: At this time, are there any
8 objections to the motion to go into Executive
9 Session at this time? Seeing none, hearing none,
10 the motion is approved.

11 MR. SCHULMAN: I will move anybody who
12 is not an employee of OATH or the Board into a
13 waiting room.

14 MR. REHMAN: Thank you, Peter. Peter,
15 let me know when we're all set.

16 MR. SCHULMAN: I will.

17 MR. REHMAN: Okay. Peter, let me know
18 when we're ready to go. Okay.

19 [OFF THE RECORD]

20 [ON THE RECORD]

21 MR. REHMAN: Okay. We'll now discuss
22 the selection of the date for the next Board
23 meeting. My understanding is possible dates --
24 and Olga will correct me -- for discussion are

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2 December 1 or December 8.

3 MS. LIGUORI: Sanitation can't do
4 December 1st.

5 MR. REHMAN: Okay. Is December 8th an
6 acceptable date for our members? Any objections
7 to December 8th? One moment. Okay. Do we have
8 a general agreement on December 8th? I'm seeing
9 heads nodding. Olga, is that a matter we need to
10 vote on? Or we're just --

11 MS. STATZ: We're, we're just --

12 MR. REHMAN: -- okay?

13 MS. STATZ: It's December 8th.

14 MR. REHMAN: Great, December 8th. Thank
15 you very much. Please mark your calendars. And
16 I'd like to request a motion to adjourn today's
17 meeting.

18 MR. KIM: Okay.

19 MR. REHMAN: A motion. A second.
20 David?

21 MR. KIM: Okay. Are there any
22 objections to adjourn the meeting at this time?
23 Seeing and hearing none, the motion is approved
24 unanimously.

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MR. REHMAN: Okay. With that, we'll adjourn today's meeting. Thank you very much, everyone, for your preparation and your participation today. I hope you have a good day.

MR. KIM: Bye.

MS. STATZ: Bye, everybody.

MS. LIGUORI: Thanks, everybody.

MS. STATZ: Thank you. Bye.

MR. SCHNEID: Thanks, everyone.

MR. MARTINEZ: Alright, bye.

MR. REHMAN: Take care.

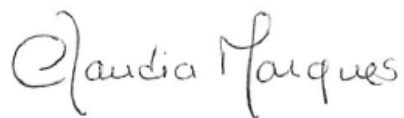
(The board meeting concluded at 9:57 a.m.)

Environmental Control Board, 10/13/2022

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on October 13, 2022, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Claudia Marques

Date: October 24, 2022

GENEVAWORLDWIDE, INC

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Reviewed and corrected by OATH General Counsel
office. November 4, 2022