

Executive Order No. 148

June 8, 2011

TRANSFER OF CERTAIN TRIBUNALS AND ADJUDICATORY FUNCTIONS
CONSISTENT WITH MAYOR'S COMMITTEE REPORT

WHEREAS, the City of New York consistently seeks to implement innovations to provide excellent and accountable customer service; and

WHEREAS, it is essential that all residents have meaningful access to professional, expeditious administrative justice, which includes the opportunity to have more hearings held locally and to have increased online hearing options; and

WHEREAS, the voters of the City of New York adopted the recommendation of the 2010 Charter Revision Commission to amend the Charter with the purpose of enhancing the quality of administrative justice in the City; and

WHEREAS, the Charter revisions approved by the voters authorize the Mayor, by executive order, to consolidate administrative tribunals and caseloads by transferring adjudicatory functions of various tribunals to the Office of Administrative Trials and Hearings ("OATH"); and

WHEREAS, the 2010 Charter revisions adopted by the voters further authorize the Mayor to convene the Committee on Consolidation of Administrative Tribunals ("Committee") to evaluate and make recommendations regarding consolidation; and

WHEREAS, the Committee has delivered its report ("Report"), dated June 6, 2011, which includes recommendations to transfer to OATH the tribunals of the Department of Health and Mental Hygiene ("DOHMH") and of the Taxi and Limousine Commission ("TLC"), which together adjudicate approximately 160,000 cases per year, along with certain cases originated by the Department of Housing Preservation and Development ("HPD") and the Business Integrity Commission ("BIC"); and

WHEREAS, the Charter of the City of New York provides for the Committee to hold a public hearing with notice before recommending transfers to the Mayor and such hearing with notice has been held; and

WHEREAS, the City of New York has achieved great gains in professionalism, efficiency, independence and use of technology with the prior consolidation of the Environmental Control Board (“ECB”) into OATH through the enactment of Local Law 35 of 2008;

WHEREAS, consolidation of the above-mentioned tribunals and cases with OATH enhances and reflects the role of OATH as a centralized, professional, independent and impartial adjudicative body;

NOW, THEREFORE, by virtue of the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Administrative Tribunals at the Department of Health and Mental Hygiene and Taxi and Limousine Commission.

a. The administrative tribunals established by the Board of Health pursuant to Section 558 of the Charter, and by the Taxi and Limousine Commission pursuant to Section 2303 of the Charter, together with all matters pending before them, are hereby transferred to OATH, effective July 3, 2011 or as soon thereafter as may be practicable.

b. The transfer of the tribunals shall be implemented in furtherance of the Committee’s recommendations as set forth in its Report, and in particular shall be implemented consistent with the procedures and requirements set forth in the appendix thereto, pending further rulemaking consistent with subdivision c of this Section. Provisions of the Rules of the City of New York, including the New York City Health Code, relating to such tribunals shall be deemed to be rules of OATH to the extent specified in such appendix.

c. Nothing in this executive order shall prevent OATH from amending or repealing rules governing matters covered by this Section, including rules deemed to be rules of OATH pursuant to subdivision b of this Section, or any other agency from promulgating amendments to provisions of the Rules of the City of New York, including the New York City Health Code, relating to such matters through appropriate rulemaking procedures within the jurisdiction of such agency. Such amendments may supersede such appendix where appropriate in furtherance of implementing the transfer otherwise directed by this section.

§ 2. Certain Cases Originated by the Department of Housing Preservation and Development. Effective July 3, 2011, any administrative hearings conducted pursuant to Section 39-02 of Chapter 39 of Title 28 of the Rules of the City of New York shall be conducted before an administrative law judge of OATH. Pursuant to Section 39-01 thereof, implementation of this subdivision shall be contingent upon designation of the Chief Administrative Law Judge of OATH or his or her designee as a “hearing officer.” HPD and OATH may enter into appropriate arrangements to effectuate HPD rules governing revocation of tax benefits consistent with this Order after July 3, 2011.

§ 3. Certain Cases Originated by the Business Integrity Commission.

a. Any administrative hearings conducted pursuant to Section 1-03 of Subchapter A of Chapter 1 of Title 17 of the Rules of the City of New York shall be transferred to OATH upon the adoption by the affected agencies of appropriate rules to govern such transfer and hearings.

b. BIC and OATH shall continue their current planning regarding the agency rulemaking necessary to effectuate such transfer and govern such hearings.

§ 4. Agency Cooperation. The Commissioner of Citywide Administrative Services, the Commissioner of Health and Mental Hygiene and the Chairperson of the Taxi and Limousine Commission shall take all steps necessary, consistent with applicable law, to implement Section 1 of this Order, including ensuring the transfer of all necessary employees substantially engaged in the performance of the functions to be assumed pursuant to this Order.

§ 5. Ensuring Continuity. With the purpose of ensuring continuity in operation of the functions described in Section 1, DOHMH, TLC and OATH may make appropriate arrangements, prior to the date of the functional transfer, with respect to appropriate disposition of contracts and agreements entered into by DOHMH or TLC in relation to the functions being transferred and any other appropriate matters, including but not limited to budgetary arrangements. Employees who are subject to pending disciplinary charges on the date of the functional transfer, or against whom a disciplinary penalty has been assessed but not yet served or paid on or prior to such date, shall be retained in the employment of DOHMH or TLC, as the case may be, until the resolution of the adjudicatory or administrative proceedings and until any outstanding disciplinary penalty has been served or paid.

§ 6. Effective Date. This Order shall take effect immediately.

Michael R. Bloomberg
Mayor