

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

BOARD MEETING

Training Room 143, 12th Floor  
100 Church Street, New York, New York

November 19, 2015

9:21 A.M. to 9:42 A.M.

November 19, 2015

## MEMBERS PRESENT:

Lt. Dan Albano, Esq. - Police Department  
Robert Carver, Esq. - Citizen Member  
Fidel F. Del Valle, Esq. - Commissioner, OATH, Chair, ECB  
Hon. Ernest J. Cavallo - Citizen Member  
Joseph Gregory, Esq. - Fire Department  
Renaldo Hylton - Exec. Dir., Dept. of Buildings  
Ellen Cooper, Esq. - Assoc. Counsel, Dept. of Sanitation  
Thomas D. Shpetner - Citizen Member  
Douglas Swann - Citizen Member

## ALSO PRESENT:

Jim Macron, Esq. - Counsel to the Board, ECB  
Frances Shine - Secretary to the Board, ECB  
Rachel Amar - Special Assistant to the Commissioner, OATH  
Helaine Balsam, Esq. - Deputy General Counsel, OATH  
Denis Brogan - Assistant General Counsel, OATH  
Vanessa Caughman - Computer Service Technician, OATH  
Kelly Corso, Esq. - Assist. Director of Adjudications, ECB  
Dwayne Crispell - General Counsel Intern, OATH  
Fana Garrick - Public Affairs Assistant, OATH  
David Goldin, Esq. - Administrative Justice Coordinator,  
Mayor's Office  
Shamonda Graham - Department of Transportation  
Diana Haines - Assistant General Counsel, OATH  
Vivienne Kahng - Deputy Supervising Attorney, Appeals, ECB  
Mark H. Leeds, Esq. - Special Senior Counsel, ECB  
Nancy Lin - Office of Management & Budget  
Carol Moran - Deputy Commissioner of Health and Consumer  
Hearings and Taxi, OATH  
Elizabeth Prael, Esq. - Agency Attorney, Fire Department  
Doris Stewart - Department of Transportation  
Peter Schulman, Esq. - Assist. Director of Adjudications,  
ECB Appeals, ECB  
Amy Slifka, Esq. - Deputy Commissioner, ECB  
Thomas Southwick, Esq. - Supervising Attorney, Appeals,  
ECB

## INDEX

November 19, 2015

	Page
Fidel F. Del Valle, Esq.	4
Ellen Cooper, Esq.	4
Lt. Dan Albano, Esq.	4
Diana Haines, Esq.	4
Renaldo Hylton	5
Kelly Corso, Esq.	7
Hon. Ernest J. Cavallo	8
Amy Slifka, Esq.	9
Jim Macron, Esq.	9

1 November 19, 2015

2 (The Board Meeting commenced at 9:21  
3 A.M.)

4 MR. FIDEL DEL VALLE, ESQ., COMMISSIONER,  
5 OATH, CHAIR, ECB: Welcome everyone. We have a  
6 quorum I think. We do. Is there a motion to adopt  
7 the minutes of the last meeting or are there any  
8 questions on it? It's unanimous with one  
9 abstention because I don't think you were here,  
10 right?

11 MS. ELLEN COOPER, ESQ., DEPARTMENT OF  
12 SANITATION: No, I was not here.

13 LT. DAN ALBANO, ESQ., POLICE DEPARTMENT:  
14 I should -- I wasn't here either. So, I shouldn't  
15 be voting.

16 CHAIR DEL VALLE: Okay, two abstentions;  
17 for the same reason. Building Department I  
18 believe has a schedule reflecting recent changes  
19 to the construction code.

20 MS. DIANA HAINES, ASSISTANT GENERAL  
21 COUNSEL, OATH: Good morning. I'm Assistant  
22 General Counsel, Diana Haines. I am presenting a  
23 final rule proposal, which was published in the  
24 City Record on October 8th and a public hearing

1 November 19, 2015  
2 was held on November 10th of this year. No  
3 written comments or oral testimony were received.  
4 This Department of Buildings rule proposal  
5 modifies the ECB Buildings Penalty Schedule to  
6 reflect the 2014 updates to the New York City  
7 Construction Codes and to more clearly and  
8 effectively allow the New York City Department of  
9 Buildings to enforce particular sections of law;  
10 specifically it updates sections of law,  
11 descriptions of law, descriptions for certain  
12 violations. It deletes one existing violation and  
13 adds one new violation. Are there any questions?

14 LT. ALBANO: Was this -- was the failure  
15 to vacate, was that included in this? Or did I  
16 read that somewhere else?

17 MR. RENALDO HYLTON, EXECUTIVE DIRECTOR,  
18 DEPARTMENT OF BUILDINGS: Failure to obey the  
19 vacate order.

20 LT. ALBANO: Right. Failure to obey the  
21 vacate order?

22 MR. HYLTON: This was an update to that,  
23 just to clarify the language and the section of  
24 law.

1 November 19, 2015

2 LT. ALBANO: Right. Is there a criminal  
3 penalty to it?

4 MR. HYLTON: That's a different route.  
5 This is the ECB route, yes; if you wanted to just  
6 do an administrative enforcement. We never did  
7 administrative enforcement but we would still  
8 continue on the criminal route if needed.

9 LT. ALBANO: Okay.

10 MR. HYLTON: For egregious situations,  
11 yeah.

12 LT ALBANO: Alright.

13 CHAIR DEL VALLE: For the record, which  
14 is being recorded, the question was from Daniel  
15 Albano and the response was from Renaldo Hylton.  
16 And I'm remiss in the same thing too. I keep on  
17 forgetting that we don't have a live stenographer  
18 here and someone is supposed to be transcribing  
19 this later on and can't see us and doesn't know  
20 who's who unless we identify ourselves when we  
21 speak.

22 LT. ALBANO: Sorry.

23 CHAIR DEL VALLE: And I'm Fidel Del  
24 Valle, by the way, the guy with the microphone.

1 November 19, 2015

2 Are there any other questions? Is there a motion  
3 to accept? And it is unanimous with one  
4 abstention, Mr. Hylton for obvious reasons.

5 The representative from DEP I understand  
6 is somewhere in the bowels of the subway system  
7 right now.

8 LT. ALBANO: Yes.

9 CHAIR DEL VALLE: So, we're going to  
10 move his issue and call it later when he arrives,  
11 hopefully. If not, we'll just table it. Pre-  
12 sealing reports, Kelly? Kelly Corso will give us  
13 our pre-sealing reports.

14 MS. KELLY CORSO, ESQ., ASSISTANT  
15 DIRECTOR OF ADJUDICATIONS, ECB: Good morning.  
16 Kelly Corso, Assistant Director of Adjudications  
17 for ECB. We have ten pre-sealing reports today.  
18 Five of them pertain to backflow violations. Four  
19 of them pertain to air code violations and one  
20 pertains to a violation of the sewer code. The  
21 hearing officers in the backflow and air code  
22 cases recommend no sealing or other action based  
23 on evidence of compliance that was presented at  
24 the hearing. And in the sewer case, the

1 November 19, 2015

2 respondent didn't show up for the hearing but DEP  
3 recommends discontinuance of the proceeding  
4 because a recent inspection showed that the  
5 respondent is now in compliance. And the hearing  
6 officer agreed with the recommendation for  
7 discontinuance. And that's it.

8 CHAIR DEL VALLE: Any questions? Is  
9 there a motion to approve? I think it's unanimous  
10 of those present. This is going dramatically  
11 fast. Is there a motion to go into executive  
12 session?

13 [OFF THE RECORD]

14 [ON THE RECORD]

15 CHAIR DEL VALLE: Is everybody who's  
16 coming back back?

17 MS. AMY SLIFKA, ESQ., DEPUTY

18 COMMISSIONER, ECB: And Russell is not here.

19 CHAIR DEL VALLE: Yeah.

20 MS. SLIFKA: So, I guess we're going to  
21 just --

22 CHAIR DEL VALLE: I guess he's going to  
23 be in default.

24 MS. SLIFKA: Table to another meeting.

1 November 19, 2015

2 CHAIR DEL VALLE: So, let's wait until  
3 we're just about to adjourn before we table him.  
4 He might come running in like the Dashing Dan  
5 from the subway. Is there a motion to affirm the  
6 appeals decisions from November 12th and November  
7 13th from the Appeals Panel as presented? Wow.  
8 Okay. I think it's unanimous.

9 LT. ALBANO: Dan Albano. Am I voting on  
10 the ones I had to be recused from? How does that  
11 work?

12 MR. JIM MACRON, ESQ., COUNSEL TO THE  
13 BOARD, ECB: It is noted that the respective  
14 issuing agency is abstaining. This is Jim  
15 Macron, Counsel to the Board or you can recuse  
16 yourself.

17 LT. ALBANO: Okay.

18 MR. MACRON: And it is reflected in the  
19 minutes.

20 LT. ALBANO: Got it.

21 CHAIR DEL VALLE: Those are the vendor  
22 ones, right?

23 LT. ALBANO: Right.

24 CHAIR DEL VALLE: Okay. With that

1 November 19, 2015  
2 exception, they are adopted. So, we will be  
3 tabling DEP's requests for Cease and Desist  
4 orders because the DEP representative is lost  
5 somewhere in the bowels of the subway system. The  
6 last report, he was seen going in there.

7 LT. ALBANO: Yes. He never came out.

8 MR. HYLTON: Does anyone know if -- this  
9 is Renaldo Hylton of Buildings; but does anyone  
10 know if there's any consequence in terms of time  
11 for DEP?

12 MS. SLIFKA: I don't think there is. I  
13 mean, he still has the option to request it. It  
14 just means next month, as opposed to this month  
15 and then they'll have that much more time to try  
16 to comply is what happens I guess.

17 MR. HYLTON: Alright, very good.

18 CHAIR DEL VALLE: That was Deputy  
19 Commissioner Slifka.

20 MS. SLIFKA: Yes.

21 CHAIR DEL VALLE: Alright then, is there  
22 a motion to adjourn? We are adjourned.

23 LT. ALBANO: Alright.

24 (The public hearing concluded at 9:42

1

November 19, 2015

2

A.M.)

November 19, 2015

CERTIFICATE OF ACCURACY

I, Lea Simmons, certify that the foregoing transcript of Environmental Control Board on November 19, 2015 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

A handwritten signature in cursive script, appearing to read "Lea Simmons", written in black ink. The signature is positioned above a horizontal line that serves as a signature line.

Date: November 20, 2015

GENEVAWORLDWIDE, INC

256 West 38th Street - 10th Floor

New York, NY 10018