



# THE CITY RECORD

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## THE CITY RECORD

MICHAEL R. BLOOMBERG, Mayor

EDNA WELLS HANDY, Commissioner, Department of Citywide Administrative Services.  
ELI BLACHMAN, Editor of The City Record.

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## PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

## QUEENS BOROUGH PRESIDENT

### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Borough President of Queens, Helen Marshall, on Thursday, April 26, 2012 at 10:30 A.M., in the Borough Presidents Conference Room located at 120-55 Queens Boulevard, Kew Gardens, New York 11424, on the following items:

NOTE: Individuals requesting Sign Language Interpreters should contact the Borough President's Office, (718) 286-2860, TDD users should call (718) 286-2656, no later than FIVE BUSINESS DAYS PRIOR TO THE PUBLIC HEARING.

CD11 - BSA #808-55 BZ — IN THE MATTER of an application submitted by Sheldon Lobel, P.C. on behalf of 35 Bell Realty Inc., pursuant to Section 11-411 of the NYC Zoning Resolution, to reopen and amend a previously granted variance to extend the term of variance and allow for the continued uses of an automotive service station with accessory uses in an C2-2/R4 district located at 35-04 Bell Boulevard, Block 6169, Lot 6, Zoning Map 11a, Bayside, Borough of Queens.

CD07 - BSA #64-96 BZ — IN THE MATTER of an application submitted by Vassalotti Associates Architects LLP on behalf of Michael Koloniaris and Nichol Koloniaris, pursuant to Section 11-411 of the NYC Zoning Resolution, to reopen and extend the term of variance for an additional ten (10) years for an existing automobile repair shop in an R3A/C1-2 district located at 148-20 Cross Island Parkway, Block 4645, Lot 3, Zoning Map 7d, Whitestone, Borough of Queens.

CD09 - BSA #02-12 BZ — IN THE MATTER of an application submitted by Rothkrug Rothkrug & Spector LLP on behalf of Tehila Development LLC, pursuant to Section 72-21 of the NYC Zoning Resolution, for variances to permit construction of a cellar and three-story, two-family dwelling on a vacant lot in R5 district located at 95-36 115th Street, Block 9416, Lot 24, Zoning Map 18a, Richmond Hill, Borough of Queens.

CD09 - BSA #10-12 BZ — IN THE MATTER of an application submitted by Rothkrug Rothkrug & Spector LLP on behalf of Natalie Hardeen pursuant to Section 72-21 of the NYC Zoning Resolution, for legalization of an existing cellar and two-story two-family detached dwelling that does not provide required front yards and a side yard in an R5 district located at 114-01 95th Avenue, Block 9400, Lot 37, Zoning Map 18a, Richmond Hill, Borough of Queens.

CD05 - BSA #26-12 BZ — IN THE MATTER of an application submitted by Sheldon Lobel, PC on behalf of Michael Elmnic, LLC, pursuant to Section 73-52 of the NYC Zoning

Resolution, for a special permit to allow use group 5 accessory parking in the residential portion of a split zoning lot in C1-2/R6B and R4-1 district located at 73-49 Grand Avenue, Block 2491, Lot 40, Zoning Map 13c, Maspeth, Borough of Queens.

CD11 - BSA #49-12 BZ — IN THE MATTER of an application submitted by Sheldon Lobel, P.C. on behalf of Laterra, Inc., pursuant to Sections 32-31 and 73-36 of the NYC Zoning Resolution for a special permit permitting the continued operation of a physical culture establishment in an R5B/C2-2 district located at 43-09 Francis Lewis Boulevard, Block 6077, Lot 1, Zoning Map 10c, Bayside, Borough of Queens. **a20-26**

## STATEN ISLAND BOROUGH PRESIDENT

### ■ PUBLIC MEETING

Notice of public meeting on Wednesday, May 2, 2012 of the Staten Island Borough Board in Conference Room 122 at 5:30 P.M. in the Staten Island Borough Hall, Stuyvesant Place, Staten Island, New York 10301. **a26-m2**

## CITY COUNCIL

### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN THAT the Council has scheduled the following public hearing on the matter indicated below:

The Subcommittee on Landmarks, Public Siting and Maritime Uses will hold a public hearing on the following matter in the Council Committee Room, 250 Broadway, 16th Floor, New York City, New York 10007, commencing at 11:00 A.M. on Tuesday, May 8, 2012:

**BATTERY MARITIME BUILDING LEASE  
MANHATTAN CB - 1 20125571 PNM**  
Application pursuant to §1301(2)(f) of the New York City Charter concerning the proposed maritime lease at the Battery Maritime Building between the Department of Small Business Services and the Governors Island Corporation d/b/a The Trust for Governors Island. **a25-m8**

## CITY PLANNING COMMISSION

### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN THAT RESOLUTIONS Have been adopted by the City Planning Commission Scheduling public hearings on the following matters to be held at Spector Hall, 22 Reade Street, New York, New York, on Wednesday, May 9, 2012 at 10:00 A.M.

**BOROUGH OF QUEENS  
No. 1  
SILVERCREST SENIOR HOUSING  
CD 8 C 110042 ZSQ**  
IN THE MATTER OF an application submitted by Silvercrest Center for Nursing and Rehabilitation pursuant to

Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-902 of the Zoning Resolution to modify the requirements of Section 24-111 (Maximum floor area ratio for certain community facility uses) to permit the allowable community facility floor area ratio of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to a 6-story non-profit with sleeping accommodations on property located at 144-45 87th Avenue a.k.a. 86-19 144th Street (Block 9724, Lots 96 and 196), in an R4-1 District.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, NY, 10007.

**No.2  
83 WALKER STREET**

**CD 1 C 100149 ZSM**  
IN THE MATTER OF an application submitted by 83 Walker LLC pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-712 of the Zoning Resolution to modify the height regulations of Sections 23-633 (Street wall location and height and setback regulations in certain districts) and 23-692 (Height limitations for narrow buildings or enlargements) to facilitate the development of a nine-story residential building, on property located at 83 Walker Street (Block 195, Lot 12), in a C6-2A District within the Tribeca East Historic District.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

**YVETTE V. GRUEL, Calendar Officer  
City Planning Commission  
22 Reade Street, Room 2E  
New York, New York 10007  
Telephone (212) 720-3370**

**a26-m9**

## COMMUNITY BOARDS

### ■ PUBLIC HEARINGS

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

### BOROUGH OF QUEENS

COMMUNITY BOARD NO. 08 - Monday, April 30, 2012 at 7:30 P.M., Margaret Tietz Nursing Center, 164-11 Chapin Parkway (Rec. Room), Jamaica, NY

The Department of Transportation conducted an investigation to determine the feasibility of installing a speed hump on 82nd Drive between Parsons Blvd. and 161st Street. This meeting is to solicit your comments as to whether or not a speed hump should be installed. **a24-30**

## HOUSING AUTHORITY

### ■ MEETING

### SPECIAL NOTICE

Please be advised that the New York City Housing Authority's Board Meeting scheduled for **Wednesday, April 25, 2012**, has been **rescheduled to Thursday, April 26, 2012 at 10:00 A.M. in the Board Room on the 12th Floor at 250 Broadway, N.Y., N.Y.** **a25-26**

## INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

### FRANCHISE ADMINISTRATION

### ■ PUBLIC HEARINGS

NOTICE OF A FRANCHISE AND CONCESSION REVIEW COMMITTEE ("FCRC") PUBLIC HEARING to be held on Monday, May 7, 2012 commencing at 2:30 P.M. at 22 Reade

Street, Borough of Manhattan in the matter of approval of a change of control of mobile telecommunications franchisee Mobilitie Investments II, LLC (“Mobilitie”) arising from the sale of all of the equity interests of Mobilitie by the parent company of Mobilitie, Mobilitie Holdings II, LLC to SBA Monarch Acquisition, LLC. Mobilitie’s franchise from the City of New York (“the City”) grants the non-exclusive right to install, operate and maintain telecommunications equipment and facilities on City owned and managed street light poles, traffic light poles, highway sign support poles and certain utility poles (“utility” being defined as it is defined in 47 U.S.C. Section 224). The franchise runs until November 14, 2019. The franchisee is limited to the use of 3,000 poles City-wide during the term of the franchise.

Copies of organizational charts reflecting the controlling ownership of the franchisee before and after the above-described change of control (including name changes for the franchisee and its parent), and a copy of Mobilitie’s existing franchise agreement with the City, may be viewed at the Department of Information Technology and Telecommunications, 2 Metrotech Center, 4th Floor, Brooklyn, New York 11201, from April 16, 2012 through May 7, 2012, between the hours of 9:30 A.M. and 3:30 P.M., excluding Saturdays, Sundays and holidays. Hard copies of Mobilitie’s franchise agreement with the City and copies of the organizational charts may be obtained, by appointment, at a cost of \$.25 per page. All payments shall be made at the time of pickup by check or money order made payable to the New York City Department of Finance. The franchise agreement and copies of the organizational charts may also be obtained in PDF form at no cost, by email request. Interested parties should contact Roxanne Chambers at (212) 788-6610 or by email at RChambers@doitt.nyc.gov.

NOTE: Individuals requesting sign language interpreters at the public hearing should contact the Mayor’s Office of Contract Services, Public Hearing Unit, 253 Broadway, 9th Floor, New York, New York 10007, (212) 788-7490, no later than SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING. TDD users should call Verizon relay service.

The Hearing may be cablecast on NYC Media Group channels.

a13-m7

## LANDMARKS PRESERVATION COMMISSION

### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Title 25, chapter 3 of the Administrative Code of the City of New York (Sections 25-307, 25-308, 25-309, 25-313, 25-318, 25-320) (formerly Chapter 8-A, Sections 207-6.0, 207-7.0, 207-12.0, 207-17.0, and 207-19.0), on Tuesday, **May 8, 2012 at 9:30 A.M.** in the morning of that day, a public hearing will be held in the Conference Room at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should call or write the Landmarks Commission no later than five (5) business days before the hearing or meeting.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 13-0937 - Block 266, lot 30-210 Joralemon Street - Borough Hall Skyscraper Historic District  
A neo-Classical style civic building designed by McKenzie Voorhees & Gmelin and built in 1923-26. Application is to modify window openings at the ground floor, replace second story windows and install awnings and signage. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 12-8078 - Block 244, lot 17-177 Montague Street - Former Brooklyn Trust Company Bank - Individual Landmark, Interior Landmark  
A neo-Italian Renaissance style bank building and banking hall designed by York & Sawyer and built in 1913-16. Application is to install HVAC units at the roof and HVAC controls within the banking hall. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 12-9037 - Block 247, lot 35-214-216 Hicks Street, aka 82-84 Montague Street - Brooklyn Heights Historic District  
A commercial building designed by Murray Klein and built in 1930. Application is to alter an existing storefront, and install new storefront infill. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 12-6998 - Block 2120, lot 36-368 Adelphi Street - Fort Greene Historic District  
An Italianate style rowhouse built c. 1858. Application is to legalize the removal of ironwork without Landmarks Preservation Commission permits and install new ironwork. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 12-8403 - Block 2090, lot 37-206 Adelphi Street - Fort Greene Historic District  
An Italianate style frame rowhouse built circa 1866. Application is to demolish an existing rear yard addition and construct a new rear yard addition. Zoned R6B. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 12-8323 - Block 2090, lot 44-220 Adelphi Street - Fort Greene Historic District  
A highly altered Italianate style rowhouse built in the 1860s. Application is to demolish the existing rear yard addition and construct a new rear yard addition. Zoned R6B. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 12-2897 - Block 312, lot 8-

285 Clinton Street - Cobble Hill Historic District  
A Greek Revival style rowhouse built between 1845 and 1854. Application is to legalize the construction of a rear yard addition without Landmarks Preservation Commission permits. Zoned R6. Community District 6.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF BROOKLYN 12-8582 - Block 1061, lot 53-223 Berkeley Place - Park Slope Historic District  
A neo-Grec style rowhouse with Italianate style features built in 1874. Application is to construct a rear addition. Zoned R7B. Community District 6.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-7776 - Block 149, lot 29-287 Broadway - 287 Broadway Building - Individual Landmark  
An Italianate/Second Empire style bank and office building designed by John B. Snook and built in 1871-1872. Application is for structural and facade work to right the leaning building, and to raise the rooftop cresting, install storefront infill and a ramp. Zoned C6-4A. Community District 1.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-6956 - Block 46, lot 3-100 Broadway - American Surety Company Building - Individual Landmark  
A neo-Renaissance style office building built in 1894-96 designed by Bruce Price, and enlarged in the 1920s with additions designed by Herman Lee Meader. Application is to install signage. Zoned C5-5. Community District 1.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-5412 - Block 220, lot 35-46 Laight Street - Tribeca North Historic District  
An Italianate style tenement building designed by William H. Waring and built in 1874. Application is for installation of new ground floor infill, extension of a chimney, alterations at the roof level, and installation of air-conditioning equipment without permits. Zoned M1-5. Community District 1.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-0434 - Block 228, lot 7-371 Canal Street - SoHo-Cast Iron Historic District  
A cast-iron store building designed by Samuel Warner and built in 1883-84. Application is to alter the cast iron facades and reinforce the fire escape. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-0939 - Block 7510, lot 475-60 Grand Street - SoHo-Cast Iron Historic District  
A neo-Classical style building designed by Cleverdon and Putzel and built in 1895-96. Application is to install a painted wall sign. Zoned M1-5B. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-8104 - Block 487, lot 30-83 Wooster Street - SoHo-Cast Iron Historic District  
A neo-Grec style store and loft building designed by J.B. Snook and built in 1876. Application is to modify storefront infill and the loading dock to provide barrier free access. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-0884 - Block 544, lot 72-27 East 4th Street - NoHo Historic District Extension  
A garage and repair shop designed by Herman Kron and built in 1945-46. Application is to demolish existing building and construct a new building. Zoned M1-5B. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-9612 - Block 640, lot 66-24 Bethune Street - Greenwich Village Historic District  
A Greek Revival style rowhouse built in 1844-45. Application is to reconstruct the facade. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-7860 - Block 588, lot 12-30 Grove Street - Greenwich Village Historic District  
A vernacular Greek Revival style townhouse with early Italianate style and transitional features built in 1851-52. Application is construct rooftop and rear yard additions and alter the ironwork. Zoned R6. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-9115 - Block 620, lot 1-520-524 Hudson Street, aka 243-247 West 10th Street - Greenwich Village Historic District  
An apartment building designed by Samuel Roth and built in 1947. Application is to install storefront infill and excavate the cellar. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-9605 - Block 591, lot 4-88-90 7th Avenue South, aka 305-307 Bleecker Street - Greenwich Village Historic District  
An Art Deco style building built in 1931. Application is to install storefront infill. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-9114 - Block 622, lot 38-278 West 11th Street - Greenwich Village Historic District  
An Italianate style house built in 1853 and altered. Application is to construct a stoop and alter windows, and construct a rear yard addition. Zoned R6. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 11-3893 - Block 644, lot 51 & 52-10-12 Little West 12th Street - Gansevoort Market Historic District  
Two vernacular rowhouses built circa 1849. Application is to legalize the installation of storefront infill, signage, and the construction of a rear yard addition, without Landmarks Preservation Commission permits. Zoned M1-5. Community District 2.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-7343 - Block 744, lot 20-333 West 20th Street - Chelsea Historic District  
A rowhouse built in 1855, and altered in 1893. Application is to construct a rear yard addition. Zoned R7B. Community District 4.

**ADVISORY REPORT**  
BOROUGH OF MANHATTAN 13-0241 - Block 1257, lot 2-Bryant Park - Scenic Landmark  
A formal French-style garden designed in 1933 by Lusby Simpson and reconstructed and partially redesigned by Hanna/Olin in 1988-91. Application is to establish a master plan governing seasonal installations. Community District 5.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-0066 - Block 1378, lot 70-825 Fifth Avenue - Upper East Side Historic District  
A neo-Classical style apartment building designed by J.E.R. Carpenter and built in 1926. Application is to reconstruct balconies and railings. Community District 8.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 13-0199 - Block 1408, lot 20-149 East 73rd Street - Upper East Side Historic District Extension  
A Renaissance Revival style apartment building designed by J. E. R. Carpenter and built in 1924. Application is to establish a Master Plan governing the future installation of windows. Community District 8.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-9093 - Block 1409, lot 50-170 East 75th Street - Upper East Side Historic District Extension  
An Art and Craft style rowhouse designed by Hill and Stout and built in 1880-81, and converted into an automobile stable in 1902.. Application is to construct additions. Zoned C1-8X. Community District 8.

**CERTIFICATE OF APPROPRIATENESS**  
BOROUGH OF MANHATTAN 12-8722 - Block 1504, lot 29-63 East 92nd Street - Carnegie Hill Historic District  
A rowhouse built in 1886 and altered in the neo-Colonial style in 1928 by Edward Webber. Application is to construct rooftop and rear yard additions and alter front and rear facades. Zoned R8B. Community District 8.

**ADVISORY REPORT**  
BOROUGH OF MANHATTAN 13-1115 - Block 2106, lot 1-2301 Amsterdam Avenue - Highbridge Play Center – Individual Landmark  
An Art Moderne style pool complex designed by architect Aymar Embury II, landscape architects Gilmore D. Clarke and Allyn R. Jennings, and civil engineers W. Earle Andres and William H. Latham, and built in 1934-36. Application is to demolish a mezzanine and install new infill within the breezeway. Community District 12.

a25-m8

## OFFICE OF THE MAYOR

### ■ PUBLIC HEARINGS

#### NOTICE OF PUBLIC HEARING ON PROPOSED LOCAL LAWS

PURSUANT TO STATUTORY REQUIREMENT, NOTICE IS HEREBY GIVEN that proposed local laws numbered and titled hereinafter have been passed by the Council and that a public hearing on such proposed local laws will be held in the Blue Room at City Hall, Borough of Manhattan, New York City, on **Tuesday, May 1, 2012 at 2:00 P.M.:**

**Int. 534-A** - in relation to requiring the department of environmental protection to undertake an assessment of the electricity generation capability of the city’s water supply and wastewater treatment systems and bodies of water within the city’s jurisdiction.

**Int. 711-A** - in relation to requiring various agencies to distribute information on how to obtain a library card.

**Int. 838** - in relation to the date of submission by the Mayor of the proposed executive budget and budget message...

Michael R. Bloomberg  
Mayor

**NOTE:** Individuals requesting Sign Language Interpreters should contact the Mayor’s Office of City Legislative Affairs, 253 Broadway, 14th Floor, New York, NY 10007, (212) 788-3678, no later than five business days prior to the public hearing.

a26

## MAYOR’S OFFICE OF OPERATIONS

### REPORT AND ADVISORY BOARD REVIEW COMMISSION

#### ■ NOTICE

#### PUBLIC HEARING NOTICE

The Report and Advisory Board Review Commission will hold its first public hearing to solicit public feedback on whether the Commission should waive the 21 reporting requirements and advisory boards listed below.

- **DATE:** Friday, May 11, 2012
- **TIME:** 2:00 P.M.
- **PLACE:** Department of City Planning, Spector Hall  
22 Reade Street  
MANHATTAN

Members of the public may also provide comments to Commission staff by email ([ReportsandBoards@cityhall.nyc.gov](mailto:ReportsandBoards@cityhall.nyc.gov)), or by mail: The Report and Advisory Board Commission, Mayor's Office of Operations, Attn: Alexis Offen, 253 Broadway, 10th Floor, New York, NY, 10007. As of April 20, 2012, all new comments sent by mail or email to the Commission will be posted on a weekly basis to [www.nyc.gov/ReportsandBoards](http://www.nyc.gov/ReportsandBoards). Publishing of comments is subject to policies posted on the Commission's website.

Individuals requesting sign language interpreters or other reasonable accommodation for a disability at the public hearing should contact Rosa Reinat by emailing [rreinat@cityhall.nyc.gov](mailto:rreinat@cityhall.nyc.gov) or by calling (212) 788-1400.

Press may contact the Mayor's Press Office at (212) 788-2958.

### Background

In November 2010, New York City voters approved a Charter Revision Commission referendum proposal to review and assess the continued usefulness of certain reporting requirements and advisory boards. The Commission is chaired by the Director of the Mayor's Office of Operations and consists of representatives from the City Council, the Office of the Corporation Counsel, the Office of Management & Budget (OMB), and the Department of Information Technology and Telecommunications (DOITT).

More information about the Commission is available at [www.nyc.gov/ReportsandBoards](http://www.nyc.gov/ReportsandBoards) or by contacting the Commission staff at [ReportsandBoards@cityhall.nyc.gov](mailto:ReportsandBoards@cityhall.nyc.gov).

### Items for Potential Waiver

Statutory provisions for the following can be found at [www.nyc.gov/ReportsandBoards](http://www.nyc.gov/ReportsandBoards) and the Charter and Administrative Code can be reviewed at the City Hall Library, 31 Chambers Street, Room 112, New York, NY, 10007:

### Reports

1. Arson Strike Force Report (Administrative Code §15-303)  
*A report to be published annually on arson-related statistics.*
2. Class Size Report (partial waiver) (Charter §522(c)-(f))  
*A report to be published twice a year comparing the number of classes by school, grade, and program to the number of students in the same categories, in order to show the average class size. Note: The Commission is considering a partial waiver of this report in order to change the frequency of the report from biannual to annual.*
3. Criminal Justice Account Allocation of Funds Report (Administrative Code §5-605)  
*A report to be published annually on the allocation of funds from the criminal justice account and status of the implementation of the safe streets-safe city program.*
4. Drug Enforcement/Drug Abuse Task Force Report (Administrative Code §3-111)  
*A report to be published quarterly on the task force's ongoing coordination activities, as well as a formal annual report on findings and recommendations of the task force.*
5. Horse Drawn Cab Stand Report (Administrative Code §19-174)  
*A report to be published annually on existing locations of horse drawn cab stands, as well as any proposals to establish or eliminate horse drawn cab stands.*
6. Industrial and Commercial Incentive Program Report (Administrative Code §11-267)  
*A report to be published annually on the status of the Industrial and Commercial Incentive Program and its effects in the City.*
7. Outreach Programs Report (Charter §612(a)(7))  
*A report to be published quarterly on Department of Homeless Services or contractor outreach programs, and the number of chronically homeless individuals placed into permanent or temporary housing.*
8. Permanent Housing Needs Report (Charter §614)  
*A report to be published annually on expected needs for permanent housing and transitional housing and services in the upcoming fiscal year.*
9. Preliminary Mayor's Management Report (Charter §12)  
*A report to be published annually showing a mid-year snapshot of agency performance across all mayoral agencies.*
10. Sustainable Stormwater Management Plan Report (Administrative Code §24-526.1)  
*A report to be published biennially on the status of the sustainable stormwater management plan.*
11. Temporary and Non-Standard Classroom Report (Charter §522(b))  
*A report to be published annually on the use of non-standard classrooms within the public school system.*
12. Ultra Low Sulfur Diesel Fuel for Ferries Report (Administrative Code §19-307)  
*A report to be published annually on the use of ultra low sulfur diesel fuel and the best available technology for reducing the emission of pollutants for diesel fuel-powered City ferries.*
13. Use of Refuse Burning Equipment without Control Apparatus Report (Administrative Code §24-158)  
*A report to be published twice a year on the extent of compliance with the law prohibiting unauthorized incinerator use.*
14. Zoning and Planning Report (Charter §192(f))  
*A report to be published every four years on the planning agenda and zoning reform of the*

Department of City Planning.

### Advisory Boards

1. Arson Strike Force (Administrative Code §15-301)  
*A multi-agency strike force to foster cooperation in controlling incidences of arson.*
2. Consumers Council (Charter §2204)  
*A council representing consumer interests to advise the Department of Consumer Affairs on needed programs, reports, and cooperative efforts.*
3. Drug Enforcement and Drug Abuse Task Force (Administrative Code §3-111)  
*A multi-agency task force to foster cooperation and coordination in the battle against drug use and in providing abuse services.*
4. Inter-Agency Advisory Council on Towing (Administrative Code §20-521)  
*A council to make recommendations to the Department of Consumer Affairs concerning the criteria for issuing towing company licenses and participation in the rotation tow and directed accident programs.*
5. NYC Commission for the Foster Care of Children (Administrative Code §21-118)  
*A commission to study and recommend programs and standards addressing phases, facilities, and services of foster care.*
6. Resource Recovery Task Force (Charter §1403)  
*A Department of Environmental Protection and Department of Sanitation task force to advise and make recommendations on the planning and implementation of energy and materials recovery for solid and liquid wastes.*
7. Tattoo Regulation Advisory Committee (Administrative Code §17-361)  
*A Department of Health and Mental Hygiene committee to advise the Commissioner on health issues relating to tattooing.*

a20-m11

## TRANSPORTATION

### ■ PUBLIC HEARINGS

### COMMUTER VAN SERVICE AUTHORITY APPLICATION Queens

NOTICE IS HEREBY GIVEN that the Department of Transportation has received an application for an expansion of vans for an existing commuter van service authority in the Borough of Queens. The existing territory is from a residential area of Queens bounded on the north by Jamaica Avenue from Guy Brewer Boulevard to Hollis Avenue/Farmers Boulevard, bounded on the east by Hollis Avenue/Farmers Boulevard/Merrick Boulevard/along Hook Creek Boulevard to 149th Street, bounded on the south by 149th Street/Huxley Street/147th Avenue/225th Street/North Conduit Avenue to Rockaway Boulevard, bounded on the west by Rockaway Boulevard..Baisley Boulevard/ Guy Brewer Boulevard to Jamaica Avenue. The applicant is CEDI Transportation. They can be reached at 161-36 118TH Avenue, Jamaica, NY 11434. The applicant is proposing to add 4 van(s) daily to provide this service 24 hours a day.

There will be a public hearing held on Friday, May 18, 2012 at the Queens Borough Hall, 120-55 Queens Blvd., Room 213, Part 1, Kew Gardens, New York 11424 from 2:00 P.M. - 4:00 P.M. so that you may have an opportunity to voice your position on this application. In addition, written comments in support or in opposition to this application may be sent to Ms. Dorothy Szorc at the New York City Department of Transportation, Division of Traffic and Planning, 55 Water Street, 9th Floor, New York, NY 10041 no later than May 18, 2012. Any written comments received after this date may not be considered. Those opposing the application must clearly specify why the proposed service will not meet present and/or future public convenience and necessity.

a23-27

NOTICE IS HEREBY GIVEN, pursuant to law, that the following proposed revocable consents, have been scheduled for a public hearing by the New York City Department of Transportation. The hearing will be held at 55 Water Street, 9th Floor, Room 945 commencing at 2:00 P.M. on Wednesday, May 16, 2012. Interested parties can obtain copies of proposed agreements or request sign-language interpreters (with at least seven days prior notice) at 55 Water Street, 9th Floor SW, New York, NY 10041, or by calling (212) 839-6550.

#1 In the matter of a proposed revocable consent authorizing 46 West 69th Street LLC to continue to maintain and use a fenced-in area on the south sidewalk of West 69th Street, east of Columbus Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - \$25/annum.

the maintenance of a security deposit in the sum of \$3,500 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

#2 In the matter of a proposed revocable consent authorizing 208 East 72nd Street LLC to continue to maintain and use a fenced-in area on the south sidewalk of East 72nd Street, east of Third Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

For the period July 1, 2012 to June 30, 2013 - \$286  
For the period July 1, 2013 to June 30, 2014 - \$294  
For the period July 1, 2014 to June 30, 2015 - \$302  
For the period July 1, 2015 to June 30, 2016 - \$310  
For the period July 1, 2016 to June 30, 2017 - \$318  
For the period July 1, 2017 to June 30, 2018 - \$326  
For the period July 1, 2018 to June 30, 2019 - \$334  
For the period July 1, 2019 to June 30, 2020 - \$342  
For the period July 1, 2020 to June 30, 2021 - \$350  
For the period July 1, 2021 to June 30, 2022 - \$358

the maintenance of a security deposit in the sum of \$5,000 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

#3 In the matter of a proposed revocable consent authorizing Bottle Tower, Inc. to continue to maintain and use a stoop and a fenced-in area on the east sidewalk of Bedford Street, between Grove and Barrow Streets, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among other terms and conditions for compensation payable to the city according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - \$25/annum.

the maintenance of a security deposit in the sum of \$2,500 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

#4 In the matter of a proposed revocable consent authorizing Doves' Nest NYC, LLC to continue to maintain and use a stoop and a fenced-in area on the south sidewalk of West 10th Street, between Fifth Avenue and Sixth Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among others terms and condition for compensation payable to the city according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - \$25/annum.

the maintenance of a security deposit in the sum of \$7,500 and the insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate.

#5 In the matter of a proposed revocable consent authorizing Texas Eastern Transmission Partners, LP to construct, maintain and use a 30-inch diameter natural gas pipeline in submerged lands within the New York City owned portion of the Hudson River, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from the date of Approval by the Mayor to June 30, 2022 and provides among other terms and conditions for compensation payable to the City:

The annual fee will be calculated pursuant to the Rules of the City of New York

the maintenance of a security deposit in the sum of \$22,000 and the insurance shall be in the amount of Two Million Dollars (\$2,000,000) per occurrence, and Thirty Five Million Dollars (\$35,000,000) aggregate.

#6 In the matter of a proposed revocable consent authorizing The Brooklyn Union Gas Company d/b/a National Grid USA to construct, maintain and use 30-inch gas main in the vicinity of Paerdegat Basin, between Bergen Avenue and Seaview Avenue, in the Borough of Brooklyn. The proposed revocable consent is for a term of ten years from the date of Approval by the Mayor to June 30, 2022 and provides among other terms and conditions for compensation payable to the City:

The annual fee will be calculated pursuant to the Rules of the City of New York

the maintenance of a security deposit in the sum of \$40,000 and the insurance shall be in the amount of Two Million Dollars (\$2,000,000) per occurrence, and Thirty Five Million Dollars (\$35,000,000) aggregate.

a26-m16

## PROPERTY DISPOSITION

### CITY UNIVERSITY

#### ■ SOLICITATIONS

Goods

**SALE OF 2007 DARK SILVER CHEVROLET IMPALA LS (AUTOMATIC TRANSMISSION)** – Competitive Sealed Bids – PIN# JJ000412A – DUE 05-11-12 AT 4:00 P.M.  
● **SALE OF 2004 BLACK CHEVROLET IMPALA LS** – Competitive Sealed Bids – PIN# JJ000412 – DUE 05-11-12 AT 4:00 P.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*John Jay College, Purchasing Department, 555 West 57th St., Rm. 606, New York, NY 10019. Att: Hazel Stewart (212) 237-8510; Fax: (212) 237-8922; hstewart@jjay.cuny.edu*

a25-m2

**CITYWIDE ADMINISTRATIVE SERVICES**

**ASSET MANAGEMENT**

■ AUCTION

**PROPOSED SALE OF CERTAIN NEW YORK CITY REAL PROPERTY PARCELS BY PUBLIC AUCTION**

PUBLIC NOTICE IS HEREBY GIVEN THAT The Department of Citywide Administrative Services, Asset Management proposes to offer the properties listed herein for sale at Public Auction.

In accordance with Section 384 of the New York City Charter, a Public Hearing was held on March 6, 2012 for these properties at Spector Hall, 22 Reade Street, Main Floor, Borough of Manhattan.

These properties will be sold in accordance with the Standard Terms and Conditions of Sale dated January 18, 2012. An asterisk (\*) appears adjacent to those parcels subject to Special Terms and Conditions.

They have been approved for sale by the Mayor of the City of New York, and will be offered at public auction on May 10, 2012.

The brochure for this sale is available on the DCAS website at nyc.gov/dcas. Additionally, brochures are available at 1 Centre Street, 20th Floor South, New York, New York 10007, or by calling (212) 669-8888.

32 Parcels

**Borough of The Bronx**

Block	Lot(s)	Upset Price
3520	34	\$374,500

**Borough of Brooklyn**

Block	Lot(s)	Upset Price
1339	38	\$ 82,500
1465	29,42,43,44	\$262,500
1473	14	\$247,500
3432	42	\$101,500
5289	46	\$467,500
7208	302	\$780,000

**Borough of Queens**

Block	Lot(s)	Upset Price
3916	136	\$114,000
*10107	68,69,70	\$525,000
*10107	74,75,76	\$506,500
10108	316	\$615,000
10193	85	\$ 9,000
12041	99	\$ 28,500
14240	113	\$126,000
14243	1119	\$ 37,500
14243	1169 and 14246, 1169	\$ 36,000
*14246	1189	\$ 60,000
14251	1666	\$ 30,000
14253	1488,1492	\$195,000
14253	1512,1513,1514	\$169,000
14254	1638,1639,1640,2037	\$169,000
*15306	11	\$191,500
*15317	16	\$ 66,000
15600	325	\$ 51,000
15819	145	\$ 62,500
16066	50	\$ 66,000
16103	83,84	\$178,000
16290	999	\$403,500

**Borough of Staten Island**

Block	Lot(s)	Upset Price
1012	57	\$ 34,000
3671	15	\$ 49,000
6253	9	\$217,500
6353	42	\$487,500

m23-my10

**MUNICIPAL SUPPLY SERVICES**

■ SALE BY SEALED BID

**SALE OF: 18 LOTS OF USED PARKING METERS.**

S.P.#: 12019 DUE: April 27, 2012

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
DCAS, Division of Municipal Supply Services, 18th Floor Bid Room, Municipal Building, New York, NY 10007.  
For sales proposal contact Gladys Genoves-McCauley (718) 417-2156.

a16-27

**HOUSING PRESERVATION & DEVELOPMENT**

■ NOTICE

**ASSET SALES PROGRAM**

**REQUEST FOR OFFERS**

The Department of Housing Preservation and Development ("HPD") of the City of New York (the "City") is issuing a Request for Offers for the purchase of occupied and vacant City-owned residential properties, in the following Boroughs/Community Boards.

Manhattan	Community Board 11
Bronx	Community Board 2
Brooklyn	Community Board 4,5,8,14,16,17 and 18
Queens	Community Board 8,10,12 and 13
Staten Island	Community Board 3

The buildings will be sold in their "as is" condition. After the sale, the new owner would be responsible for complying with all applicable building, zoning and other legal requirements. All purchasers would be solely responsible for securing sufficient financial resources to purchase and operate the properties and perform any necessary rehabilitation or repair work. HPD will NOT offer any subsidies or financial incentives related to the sale or rehabilitation or redevelopment of these properties.

The Request for Offers is available on HPD's website at www.nyc.gov/hpd from Monday, April 30, 2012, 10:00 A.M. through Friday, May 18, 2012, 5:00 P.M.

All sales will be subject to applicable governmental approvals.

a16-27

**POLICE**

**OWNERS ARE WANTED BY THE PROPERTY CLERK DIVISION OF THE NEW YORK CITY POLICE DEPARTMENT.**

The following listed property is in the custody, of the Property Clerk Division without claimants.

Recovered, lost, abandoned property, property obtained from prisoners, emotionally disturbed, intoxicated and deceased persons; and property obtained from persons incapable of caring for themselves.

Motor vehicles, boats, bicycles, business machines, cameras, calculating machines, electrical and optical property, furniture, furs, handbags, hardware, jewelry, photographic equipment, radios, robes, sound systems, surgical and musical instruments, tools, wearing apparel, communications equipment, computers, and other miscellaneous articles.

**INQUIRIES**

Inquiries relating to such property should be made in the Borough concerned, at the following office of the Property Clerk.

**FOR MOTOR VEHICLES**

(All Boroughs):

- \* College Auto Pound, 129-01 31 Avenue, College Point, NY 11354, (718) 445-0100
- \* Gowanus Auto Pound, 29th Street and 2nd Avenue, Brooklyn, NY 11212, (718) 832-3852
- \* Erie Basin Auto Pound, 700 Columbia Street, Brooklyn, NY 11231, (718) 246-2029

**FOR ALL OTHER PROPERTY**

- \* Manhattan - 1 Police Plaza, New York, NY 10038, (212) 374-4925.
- \* Brooklyn - 84th Precinct, 301 Gold Street, Brooklyn, NY 11201, (718) 875-6675.
- \* Bronx Property Clerk - 215 East 161 Street, Bronx, NY 10451, (718) 590-2806.
- \* Queens Property Clerk - 47-07 Pearson Place, Long Island City, NY 11101, (718) 433-2678.
- \* Staten Island Property Clerk - 1 Edgewater Plaza, Staten Island, NY 10301, (718) 876-8484.

j1-d31

**PROCUREMENT**

*"Compete To Win" More Contracts! Thanks to a new City initiative - "Compete to Win" - the NYC Department of Small Business Services offers a new set of FREE services to help create more opportunities for minority and women-owned businesses to compete, connect and grow their business with the City. With NYC Construction Loan, Technical Assistance, NYC Construction Mentorship, Bond Readiness, and NYC Teaming services, the City will be able to help even more small businesses than before.*

- Win More Contracts at nyc.gov/competetowin

*"The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination. The contracting opportunities for construction/construction services and construction-related services that appear in the individual agency listings below reflect that commitment to excellence."*

**ADMINISTRATION FOR CHILDREN'S SERVICES**

■ SOLICITATIONS

*Human/Client Services*

**NON-SECURE DETENTION GROUP HOMES** - Negotiated Acquisition - Judgment required in evaluating proposals - PIN# 06811N0004 - DUE 05-31-13 AT 2:00 P.M. - The Administration for Children's Services, Division of Youth and Family Justice is soliciting applications from organizations interested in operating non-secure detention group homes in New York City. This is an open-ended solicitation; applications will be accepted on a rolling basis until 2:00 P.M. on 5/31/13.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Administration for Children's Services, 150 William Street, 9th Floor, New York, NY 10038.  
Patricia Chabla (212) 341-3505; Fax: (212) 341-3625; patricia.chabla@dca.state.ny.us

j1-n14

**CITYWIDE ADMINISTRATIVE SERVICES**

**MUNICIPAL SUPPLY SERVICES**

■ AWARDS

*Goods*

**SAFETY EQUIPMENT AND SUPPLIES** - Competitive Sealed Bids - PIN# 8571100119 - AMT: \$2,960,000.00 - TO: ARJ MED, 17 West 39th Street, Suite 505, NY, NY 10018.

a26

**SCIENTIFIC EQUIPMENT AGILENT** - Intergovernmental Purchase - PIN# 8571200550 - AMT: \$202,803.99 - TO: Agilent Technologies Incorporated, 2850 Centerville Road, Wilmington, DE 19808. NYS Contract #PC63716.  
● **MICROCOMPUTER SYS AND RELATED SVCS DELL - NY** - Intergovernmental Purchase - PIN# 8571200556 - AMT: \$155,442.62 - TO: Dell Marketing LP, One Dell Way, MS RR8-07, Round Rock, TX 78682. NYS Contract #PT65340.

Suppliers wishing to be considered for a contract with the Office of General Services of New York State are advised to contact the Procurement Services Group, Corning Tower, Room 3711, Empire State Plaza, Albany, NY 12242 or by phone: 518-474-6717.

a26

**VESTS, SAFETY RE-AD** - Competitive Sealed Bids - PIN# 8571000834 - AMT: \$24,300.00 - TO: Sunwest Group of Companies dba Sunwest Sales Co., 2359 Lincoln Avenue, Hayward, CA 94545.

a26

■ VENDOR LISTS

*Goods*

**EQUIPMENT FOR DEPARTMENT OF SANITATION** - In accordance with PPB Rules, Section 2.05(c)(3), an acceptable brands list will be established for the following equipment for the Department of Sanitation:

- A. Collection Truck Bodies
- B. Collection Truck Cab Chassis
- C. Major Component Parts (Engine, Transmission, etc.)

Applications for consideration of equipment products for inclusion on the acceptable brands list are available from: Mr. Edward Andersen, Procurement Analyst, Department of Citywide Administrative Services, Office of Citywide Procurement, 1 Centre Street, 18th Floor, New York, NY 10007. (212) 669-8509.

j5-d31

**DESIGN & CONSTRUCTION**

■ AWARDS

*Construction/Construction Services*

**RQ A AND E, ENGINEERING REQUIREMENTS CONTRACT FOR HVAC, FIRE PROTECTION ELECTRICAL AND PLUMBING WORK, CITYWIDE** - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 8502011VP0010P - AMT: \$5,000,000.00 - TO: Syska Hennessy Group, 1515 Broadway, New York, NY 10036.  
● **RQ A AND E, ENGINEERING REQUIREMENTS CONTRACT FOR HVAC, FIRE PROTECTION ELECTRICAL AND PLUMBING WORK, CITYWIDE** - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 8502011VP0011P - AMT: \$5,000,000.00 - TO: WSP Flack plus Kurtz, 512 Seventh Avenue, New York, NY 10018.  
● **RQ A AND E, ENGINEERING REQUIREMENTS CONTRACT FOR HVAC, FIRE PROTECTION ELECTRICAL AND PLUMBING WORK, CITYWIDE** - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 8502011VP0013P - AMT: \$5,000,000.00 - TO: Joseph Loring and Associates, Inc., 21 Pennsylvania Plaza, New York, NY 10001.  
● **RQ A AND E, ENGINEERING REQUIREMENTS CONTRACT FOR HVAC, FIRE PROTECTION ELECTRICAL AND PLUMBING WORK, CITYWIDE** - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 8502011VP0012P - AMT: \$5,000,000.00 - TO: Tetra Tech Engineers, P.C. d/b/a Cosentini Associates, 2 Pennsylvania Plaza, New York, NY 10121.  
● **RQ A AND E, ENGINEERING REQUIREMENTS CONTRACT FOR HVAC, FIRE PROTECTION ELECTRICAL AND PLUMBING WORK, CITYWIDE** - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 8502011VP0014P - AMT: \$5,000,000.00 - TO: Goldman Copeland and Associates, PC, 520 Eighth Avenue, New York, NY 10018.  
● **RQ A AND E, ENGINEERING REQUIREMENTS CONTRACT FOR HVAC, FIRE PROTECTION ELECTRICAL AND PLUMBING WORK, CITYWIDE** - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 8502011VP0010P - AMT: \$5,000,000.00 - TO: Syska Hennessy Group, 1515 Broadway, New York, NY 10036.

a26

**EDUCATION**

**CONTRACTS AND PURCHASING**

■ SOLICITATIONS

*Human/Client Services*

**NYC SCHOOL SURVEY** - Request for Proposals - PIN# R0934040 - DUE 06-05-12 AT 1:00 P.M. - The New York City Department of Education (NYCDOE), on behalf of the Division of Academics, Performance and Support, is seeking proposals to assist in the management and



administration of the annual NYC School Survey. Each annual survey administration period will run from February through April, with survey results provided to the DOE by June of each year. The successful proposer will facilitate survey design, prepare survey and survey-related materials, organize and assist in trainings, manage participant identity, document translation performed by DOE's in-house translation unit, the printing and distribution of paper survey materials, online survey hosting, results reporting, issue tracking/troubleshooting and school support during survey administration, among other services provided. This RFP may result in a single requirements contract award. It is anticipated that services will commence in the fall of 2012. If you cannot download this RFP, please send an e-mail to VendorHotline@schools.nyc.gov with the RFP number and title in the subject. For all questions related to this RFP, please send an e-mail to psimms@schools.nyc.gov with the RFP number and title in the subject line of your e-mail.

There will be a pre-proposal conference on May 3rd, 2012 at 11:00 A.M., located at 65 Court Street, Conference Room 1201, Brooklyn, NY 11201.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Department of Education, 65 Court Street, Room 1201, Brooklyn, NY 11201. VendorHotline (718) 935-2300; vendorhotline@schools.nyc.gov

a26

## HEALTH AND HOSPITALS CORPORATION

The New York City Health and Hospitals Corporation is regularly soliciting bids for supplies and equipment at its Central Purchasing Offices, 346 Broadway, New York City, Room 516, for its Hospitals and Diagnostic and Treatment Centers. All interested parties are welcome to review the bids that are posted in Room 516 weekdays between 9:00 a.m. and 4:30 p.m. For information regarding bids and the bidding process, please call (212) 442-4018.

j1-d31

## HEALTH AND MENTAL HYGIENE

### AGENCY CHIEF CONTRACTING OFFICER

#### SOLICITATIONS

Human / Client Services

### NEW YORK/NY III SUPPORTED HOUSING CONGREGATE

Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 81608PO076300R0X00-R – DUE 09-18-12 AT 4:00 P.M. – The Department is issuing a RFP to establish 3,000 units of citywide supportive housing in newly constructed or rehabilitated single-site buildings for various homeless populations pursuant to the New York III Supported Housing agreement. The subject RFP will be open-ended and proposals will be accepted on an on-going basis. The RFP is available on-line at <http://www.nyc.gov/html/doh/html/acco/acco-rfp-nynycongregate-20070117-form.shtml>. A pre-proposal conference was held on March 6, 2007 at 2:00 P.M. at 125 Worth Street, 2nd Floor Auditorium, New York, N.Y. Any questions regarding this RFP must be sent in writing in advance to Contracting Officer at the above address or e-mailed to the above address. All proposals must be hand delivered at the Agency Chief Contracting Officer, Gotham Center, CN#30A, 42-09 28th Street, 17th Floor, Queens, NY 11101-4132, no later than September 18, 2012.

As a minimum qualification requirement for (1) the serious and persistent mentally ill populations, the proposer must be incorporated as a not-for-profit organization, and (2) for the young adult populations, the proposer must document site control and identify the source of the capital funding and being used to construct or renovate the building.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Health and Mental Hygiene, ACCO, Gotham Center, CN#30A, 42-09 28th Street, 17th Floor, Queens, NY 11101-4132. Huguette Beauport (347) 396-6633; hbeauport@health.nyc.gov

a6-s17

## HOUSING AUTHORITY

#### SOLICITATIONS

Construction / Construction Services

### EXTERIOR RESTORATION AT ALBANY AND ALBANY II

Competitive Sealed Bids – PIN# BW1128041 – DUE 05-17-12 AT 10:00 A.M. – Bid documents are available Monday through Friday, 9:00 A.M. to 4:00 P.M., for a \$25.00 fee in the form of a money order or certified check made payable to NYCHA. Documents can also be obtained by registering with I-supplier and downloading documents.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Housing Authority, 90 Church Street, 11th Floor, New York, NY 10007. Gloria Guillo (212) 306-3121; Fax: (212) 306-5151; gloria.guillo@nycha.nyc.gov

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### GENERAL SERVICES

#### SOLICITATIONS

Goods & Services

### GSD INSPECTION, TESTING AND REPAIR OF FIRE STANDPIPE AND SPRINKLER SYSTEMS

Small Purchase – DUE 05-08-12 – PIN# 29507 - Various Bronx North Due at 10:00 A.M. PIN# 29508 - Various Brooklyn East Due at 10:05 A.M. PIN# 29509 - Various Manhattan South due at 10:10 A.M.

No Bid Security required.

Interested firms may obtain a copy and submit solicitation responses on NYCHA's website: Doing Business with NYCHA. <http://www.nyc.gov/nychabusiness>. Vendors are instructed to access the "Doing Business with NYCHA" link; then "Selling Goods and Services to NYCHA." Click on "Getting Started" to register, establish Log-in credentials or access your log in. Upon access, reference applicable RFQ number per solicitation.

Vendors electing to submit a non-electronic bid (paper documents) will be subject to a \$25.00 non-refundable fee; payable to NYCHA by USPS-Money Order/Certified Check only for each set of RFQ documents requested. Remit payment to NYCHA Finance Department at 90 Church Street, 6th Floor; obtain receipt and present it to 12th Floor, General Services Procurement Group. A bid package will be generated at time of request. Note (\*): Vendor/Supplier submitting sealed non-electronic ("paper") bids must include a copy of your receipt as proof of purchase.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Housing Authority, 90 Church Street, 12th Floor, New York, NY 10007. Sabrina Steverson (212) 306-6771; Fax: (212) 306-0755; sabrina.steverson@nycha.nyc.gov

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## PARKS AND RECREATION

### REVENUE AND CONCESSIONS

#### SOLICITATIONS

Services (Other Than Human Services)

### SNACK BAR AT BEACH 17TH STREET, ROCKAWAY BEACH, QUEENS

Request for Proposals – PIN# Q162-2-SB – DUE 06-25-12 AT 3:00 P.M. – Requests for Proposals for the renovation, operation, and maintenance of a snack bar/beach shop and the optional operation of up to five (5) mobile food units at Rockaway Beach, Queens, N.Y.

The RFP is also available for download, commencing on April 19, 2012 through June 25, 2012, on Parks' website.

TELECOMMUNICATION DEVICE FOR THE DEAF (TDD) 212-504-4115

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Parks and Recreation, The Arsenal-Central Park, 830 Fifth Avenue, Room 407, New York, NY 10021. Evan George (212) 360-3495; Fax: (917) 849-6623; evan.george@parks.nyc.gov

a19-m2

### OPERATION AND MAINTENANCE OF CONCESSIONS FOR THE SALE OF CHRISTMAS TREES AND RELATED HOLIDAY MERCHANDISE

Competitive Sealed Bids – PIN# TR2012 – DUE 05-23-12 AT 11:00 A.M. – At various locations, Citywide.  
● SALE OF FOOD FROM MOBILE FOOD UNITS – Competitive Sealed Bids – PIN# CWB2012A/B – DUE 05-30-12 AT 11:00 A.M. - At Central Park and Theodore Roosevelt Park, Manhattan.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Parks and Recreation, The Arsenal-Central Park, 830 Fifth Avenue, Room 407, New York, NY 10021. Glenn Kaalund (212) 360-1397; Fax: (212) 340-3434; glenn.kaalund@parks.nyc.gov

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## SCHOOL CONSTRUCTION AUTHORITY

### CONTRACT ADMINISTRATION

#### SOLICITATIONS

Construction / Construction Services

GYMNASIUM UPGRADE – Competitive Sealed Bids – PIN# SCA12-14210D-1 – DUE 05-16-12 AT 11:00 A.M. – JHS 296 (Brooklyn). Project Range: \$1,140,000.00 to \$1,202,000.00. Non-refundable bid documents charge: \$100.00, certified check or money order only. Make checks payable to the New York City School Construction Authority. Bidders must be pre-qualified by the SCA.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
School Construction Authority, 30-30 Thomson Avenue, Long Island City, NY 11101. Rookmin Singh (718) 752-5843; rsingh@nyscsa.org

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### CONTRACT SERVICES

#### SOLICITATIONS

Construction / Construction Services

EXTERIOR MASONRY/PARAPETS/ROOFS – Competitive Sealed Bids – PIN# SCA12-12885D-1 – DUE 05-14-12 AT 10:00 A.M. – PS 269 (Queens). Project Range: \$1,790,000.00 - \$1,885,000.00. Non-refundable bid document charge: \$100.00, certified check or money order only. Make payable to the New York City School Construction Authority. Bidders must be pre-qualified by the SCA.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
School Construction Authority, 30-30 Thomson Avenue, Long Island City, NY 11101. Lily Persaud (718) 752-5852; lpersaud@nyscsa.org

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## SMALL BUSINESS SERVICES

### PROCUREMENT

#### INTENT TO AWARD

Services (Other Than Human Services)

CITY-WIDE ECONOMIC DEVELOPMENT SERVICES IN THE BROOKLYN NAVY YARD – Sole Source – Available only from a single source - PIN# 80112S0004 – DUE 05-16-12 AT 3:00 P.M. – The New York City Department of Small Business Services intends to enter into sole source negotiations to purchase the above services from the Brooklyn Navy Yard Development Corporation, with experience and in-house expertise in a wide variety of economic development services. Any firm that believes it is qualified and has the in-house expertise to provide such services or would like to provide such services in the future is invited to do so. Please indicate your interest by letter, which must be received no later than May 16, 2012, 3:00 P.M. to Daryl Williams, Agency Chief Contracting Officer, NYC Department of Small Business Services, 110 William Street, 7th Floor, New York, New York 10038.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Department of Small Business Services, 110 William Street, 7th Floor, New York, NY 10038. Daryl Williams (212) 618-8731; Fax: (212) 618-8867; procurementhelpdesk@sbs.nyc.gov

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## TRANSPORTATION

#### SOLICITATIONS

Services (Other Than Human Services)

### OUTDOOR PUBLIC MARKET AT CHELSEA PLAZA

Request for Proposals – PIN# 84112MNAD663 – DUE 05-04-12 AT 5:00 P.M. – If you choose to respond to this RFP, please deliver a Proposal via paper or electronic means to Ben Donsky at bdonsky@urbanmgt.com or 1065 Avenue of the Americas, Suite 2400, New York, New York 10018, on or before May 4, 2012. CIC will not accept oral Proposals. All questions regarding this RFP must be submitted in writing, on paper or electronically (such as an email), and should be directed to Ben Donsky at the contact information listed above. Questions should be submitted no later than 5:00 P.M. on May 1, 2012. Questions from Proposers and CIC's responses to these questions will be shared with other Proposers.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
Chelsea Improvement Company, 1065 Avenue of the Americas, Suite 2400, New York, New York 10018. Ben Donsky (212) 584-1019; Fax: (212) 719-3499; bdonsky@urbanmgt.com

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## AGENCY RULES

## OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

#### NOTICE

### NOTICE OF PUBLIC HEARING

**Subject:** Opportunity to Comment on Proposed Amendments to Title 48 of the Rules of the City of New York (Rules of Practice Applicable to Cases Before the Health Tribunal at OATH)

**Date / Time:** May 29, 2012, at 3:30 P.M.

**Location:** New York City Office of Administrative Trials and Hearings  
40 Rector Street, Floor 6  
New York, NY 10006

**Contact:** Peter Schulman  
212-442-4917

### Proposed Rule

Pursuant to the authority vested in the Office of Administrative Trials and Hearings ("OATH") by §§ 1043 and 1049 of the New York City Charter ("the Charter") and § 1(c) of Mayoral Executive Order No. 148 (June 8, 2011) ("E.O. 148"), OATH is proposing an amendment to Title 48 of the Rules of the City of New York ("RCNY") by adding a new Chapter 6, "Rules of Practice Applicable to Cases Before the Health Tribunal at OATH".

Section 1043(a) of the Charter empowers all City agencies to adopt rules necessary to carry out the powers and duties delegated to it by law. Charter § 1049 (a) specifically authorizes the Chief Administrative Judge of OATH to establish rules for the conduct of hearings; and section 1(c) of E.O. 148, which ordered the consolidation of the Administrative Tribunal of the Department of Health and Mental Hygiene into OATH pursuant to the authority set forth in Charter § 1048 (2), further specifies the continuing power of OATH to promulgate rule amendments.

This rule amendment was not included in OATH's Regulatory Agenda for Fiscal Year 2012 because the need for the amendment was not known until after the Regulatory Agenda was published.

#### Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to Peter Schulman, Assistant General Counsel, OATH, 40 Rector Street, 6th Floor, New York, NY 10006, or electronically through NYC RULES at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules) on or before 5:00 P.M., on May 28, 2012.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact Peter Schulman at the phone number shown above by May 22, 2012.
- Copies of written comments and a summary of oral comments received at the hearing will be available within a reasonable time after receipt between the hours of 9:00 A.M. and 5:00 P.M. at the  
  
Office of Administrative Trials and Hearings  
40 Rector Street, 6th Floor  
New York, NY 10006  
Attention to: Peter Schulman
- OATH's general policy is to make written comments available for public viewing on the internet. The comments it receives, including any personal information provided with the comment, will be posted without change to <http://www.nyc.gov/html/comment/comment.shtml>.

#### Statement of Basis and Purpose

##### Background of Rule Amendments

On November 2, 2010, New York City voters approved a number of Charter revisions including an amendment authorizing the Mayor, by executive order, to consolidate City administrative tribunals into the Office of Administrative Trials and Hearings ("OATH"). In addition, they required the establishment of a committee whose mandate was to recommend which tribunals or types of cases should be transferred to OATH. The Mayor's Committee on Consolidation of Administrative Tribunals issued its "Report and Recommendations," dated June 7, 2011, containing an Appendix with recommended modifications to rules of the various tribunals ("Report" and "Appendix"). The set of rules contained in the Appendix that were designated as OATH rules, referred to below as "interim rules," would be continued until OATH conducted rulemaking governing the procedures of the tribunals to be under its jurisdiction.

As further authorized by the Charter amendments, on June 8, 2011, the Mayor issued E.O. 148, which, among other things, transferred to OATH the administrative tribunals then located within the Department of Health and Mental Hygiene ("DOHMH"), and the Taxi and Limousine Commission, effective July 3, 2011.

With respect to the Health Tribunal, E.O. 148, by approving the Report and adopting its Appendix, provided that the rules and procedures governing adjudication at the DOHMH Administrative Tribunal would generally be continued with some modifications as interim rules of OATH applicable to the Health Tribunal within OATH. These rules and procedures were contained in Article 7 of the Health Code. This set of interim rules would be continued until such time as OATH completed rulemaking in accordance with the Charter. See E.O. 148, § 1(b) and (c).

As further background, two sets of rules containing provisions that are being amended by this rule are included as an endnote to this publication: (1) the interim rules applicable to the Health Tribunal that were contained in the Appendix to the Report, and (2) Article 7 (Administrative Tribunal) of the Health Code as it existed prior to the promulgation of E.O. 148.

Moreover, the Board of Health has proposed repealing the remaining provisions of Article 7 of the Health Code within its jurisdiction and making certain other conforming changes to the Health Code, including adding a new § 3.12 concerning the operations of the Health Tribunal at OATH. The rulemaking actions of DOHMH, the Board of Health, and OATH are being coordinated so that the amendments proposed by each entity will take effect on the same date.

Health Code provisions, as described in this proposal, are set forth in a separate portion of Title 24 of the Rules of the City of New York. Unless otherwise specified, references to the Health Code that are included here refer to provisions modified in accordance with E.O. 148.

##### Summary of Rule Amendments

OATH now proposes to codify these interim rules by incorporating them, with some further modifications reflecting OATH practice, into a new Chapter 6 in Title 48 of Rules of the City of New York. The interim rules would now be renumbered and further modified, and they cover the following areas:

- Replacing all references to the existence and jurisdiction of the DOHMH Tribunal with references to OATH;
- Modifying various hearing procedures relating to adjournments, notifications, defaults, appeals, and other matters in order to reduce the burden on OATH and respondents, as well as to improve record-keeping;
- Providing language assistance services to

respondents when needed; and

- Where appropriate, making these procedural rules consistent with OATH's practices generally and with respect to other tribunals.

##### Specific Amendments Proposed

Section 6-01 ("Definitions Specific to this Chapter") sets forth the meanings of terms specifically applicable to the Health Tribunal.

Section 6-02 ("Jurisdiction, powers and duties of the Health Tribunal") closely tracks the interim rule (Health Code § 7.03) that transferred the jurisdiction from DOHMH to OATH.

Health Code § 7.05 "Director/Chief Administrative Law Judge" is repealed and not re-enacted because, under the current proposal, the position "Director of the Administrative Tribunal" would no longer exist and therefore there would no longer be references to such position in the OATH rules.

Section 6-03 ("Proceedings before the Health Tribunal") continues, with technical changes, interim rule Health Code § 7.07, which retained the existing DOHMH rule while reflecting the transfer to OATH. The new rule reflects the transfer by specifying that the reference to the "Department" refers to the Health Tribunal at OATH.

Section 6-04 ("Appearances") continues, with several changes, interim rule Health Code § 7.09, which retained the former DOHMH rule (except for subdivision (e) governing DOHMH's settlement authority, which will remain with DOHMH with the added requirement that DOHMH notify OATH of all notices of violation that are withdrawn once DOHMH receives payment from respondents). The proposed rule makes several substantive changes to the interim rule, described below:

- It moves the provision in subdivision (a) for adjourning telephone or electronic hearings for live hearings to Section 6-05 (h). This section addresses procedures for hearings by phone or other electronic media. It also provides that DOHMH, in addition to the respondent and respondent's authorized representative, may request an adjournment of a scheduled hearing.
- It removes requirements from former § 7.09(e) for certain findings by the hearing examiner before a default judgment is issued, to make them consistent with procedures currently in place at the Environmental Control Board.
- It replaces the requirement for notice of default judgments by certified mail with notice by regular mail. OATH has found that requiring default decisions to be sent by certified mail is an administrative and financial burden on the Tribunal and, in addition, has downsides for respondents, who often do not follow the extra procedures necessary to claim certified mail. The new rule is consistent with procedures currently in place at the Environmental Control Board.
- Finally, it changes the requirement for when motions for vacating default judgments must be received. The original rule requires receipt within 60 days of the *Tribunal's mailing of the judgment* to the respondent; the proposed rule requires receipt within 60 days of the *date of the decision*, resulting in improved record keeping at the Tribunal.

Section 6-05 ("Hearings and Adjudications by mail, telephone or other electronic media") continues, with several changes, interim rule Health Code § 7.11, which retained the existing DOHMH rule as a rule of OATH. The new subdivision (f) provides that if a motion is made at a hearing for the presence of the inspector who issued the violation in question, the hearing examiner must only grant the motion if he or she determines that the inspector's presence would contribute to a full and fair hearing. This change will result in more efficient hearings and reduce unnecessary delay. The new rule is consistent with procedures currently in place at the Environmental Control Board.

Subdivision (j) of § 6-05 provides that OATH will provide appropriate language assistance services to respondents when needed. This subdivision describes how the hearing examiner may make such a determination. The new rule is consistent with procedures currently in place at the Environmental Control Board.

Section 6-06 ("Subpoenas") continues, with changes, interim rule Health Code § 7.13, which retained the existing DOHMH rule. To be consistent with OATH authority, the proposed rule broadens subpoena power by removing the limitation which restricts the issuance of subpoenas to records and witnesses solely within the control of DOHMH.

Section 6-07 ("Disqualification of hearing examiners") continues, with changes, interim rule Health Code § 7.15, which retained the existing DOHMH rule as a rule of OATH. The proposed rule makes several substantive changes to the interim rule, described below:

- It modifies the procedure for making a motion for disqualification by eliminating the need to submit supporting affidavits.
- It shortens the time frame for the hearing examiner's reply to the motion.
- It allows for a brief adjournment for the purpose of prompt appeal to the Chief Administrative Law Judge or his/her designee in the event that a hearing officer denies the motion for disqualification.

- It provides that a party may raise a denial of a motion for disqualification on appeal.
- The new rule is consistent with procedures currently in place at the Environmental Control Board.

Section 6-08 ("Appeals") continues, with changes, interim rule Health Code § 7.17, which superseded the DOHMH provisions for appeals by a "Review Board" and established an Appeals Unit within the Health Tribunal. Having appeals decided by an Appeals Unit within the Health Tribunal rather than the DOHMH Review Board promotes more independent decision making. Additionally, interim rule Health Code § 7.17 granted DOHMH the right to appeal adverse decisions. In addition to those changes, the proposed rule now does the following:

- It re-orders some of provisions and adjusts some of the technical requirements for notice and filing in subdivision (c).
- It provides that all appeals be decided on written submissions and the record of the hearing.
- It no longer contains a provision of the prior rule that had allowed parties to make requests to appear before the Appeals Unit (in order to be consistent with the changes above).
- In subdivision (d) of the proposed rule, it states that a respondent may apply for a waiver of prepayment of fines prior to appealing a decision, thereby making the appeals process more accessible to all respondents regardless of their ability to pay the fines.
- Consistent with its experience with appeals at the ECB Tribunal, OATH anticipates that these changes will increase efficiency and mitigate scheduling difficulties and backlogs without an impact on due process.

Former Health Code § 7.19 ("Disqualification of member of Review Board") was superseded in the interim rule and is no longer in effect.

Section 6-09 ("Registration and disqualification of certain authorized representatives") continues and makes technical conforming changes to interim rule Health Code § 7.21, which retained the DOHMH rule as a rule of OATH. The prior changes are contained in Article 7 of the Health Code and Chapter 7 of Title 24 of the Rules of the City of New York.

Section 6-10 ("Computation of time") continues, with modification, interim rule Health Code § 7.23, which retained the existing DOHMH rule as a rule of OATH. Under the interim rule and the former DOHMH rule, when a party had the right or requirement to do an act within a period of time from the date of service of a document, and if service of the document was by mail, *five* days were added to the period of time. In the new Chapter 6 in Title 48 of RCNY, all such time periods, with the exception of a non-appealing party's time to respond to an appeal, start from the date of a Tribunal decision instead of the date of service of the document. Accordingly, subdivision (b) of this section is modified to provide that if a Tribunal decision is mailed to a party, *seven* days will be added to period of time within which the party has the right or requirement to act. This change is made to account for the extra time it is expected to take the Health Tribunal to process and mail the decision.

Deleted text is in [brackets]; new text is underlined.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

#### Chapter 6 of Title 48

##### Rules of Practice Applicable to Cases Before the Health Tribunal at OATH

- § 6-01. Definitions Specific to this Chapter.
- § 6-02. Jurisdiction, powers and duties of the Health Tribunal.
- § 6-03. Proceedings before the Health Tribunal.
- § 6-04. Appearances.
- § 6-05. Hearings and adjudications in person, by mail, or by telephone.
- § 6-06. Subpoenas.
- § 6-07. Disqualification of hearing examiners.
- § 6-08. Appeals.
- § 6-09. Registration and disqualification of certain authorized representatives.
- § 6-10. Computation of time.

##### § 6-01 Definitions Specific to this Chapter.

As used in this chapter:

**Board of Health** means the board established by section 553 of the New York City Charter, authorized to add, amend or repeal provisions of the Health Code.

**Charter** means the New York City Charter.

**Chief Administrative Law Judge** means the director of OATH appointed by the Mayor pursuant to New York City Charter section 1048.

**Department** means the New York City Department of Health and Mental Hygiene ("DOHMH").

**Health Code** means the New York City Health Code, codified separately within Title 24 of the Rules of the City of New York.

**Hearing Examiner** means a person designated by the Chief Administrative Law Judge of OATH, or his/her designee, to carry out the adjudicatory powers, duties and responsibilities of the Health Tribunal at OATH.

**Notice of Violation** or "NOV" means the document issued by the petitioner to a respondent which specifies the charges forming the basis of an adjudicatory proceeding before the Tribunal.

**Party** means the petitioner or the person named as respondent, or intervening as of right, in a proceeding before the Tribunal.

**Person** means any individual, partnership, unincorporated association, corporation or governmental agency.

**Petitioner** means the New York City Department of Health and Mental Hygiene.

**Respondent** means the person against whom the charges alleged in a notice of violation have been filed.

**Tribunal** means the hearing examiners and staff of the Health Tribunal at OATH, who under the direction of the Chief Administrative Law Judge of OATH, or his/her designee, are charged with holding hearings on notices of violation.

#### § [7.03] 6-02 Jurisdiction, powers and duties of the [Administrative] Health Tribunal.

(a) *Jurisdiction.* In accordance with [the executive order] Mayoral Executive Order No. 148, dated June 8, 2011, and pursuant to Charter section 1048 and consistent with the delegations of the Commissioner of Health and Mental Hygiene and the Board of Health, the Health Tribunal at OATH shall have jurisdiction to hear and determine notices of violation alleging non-compliance with the provisions of the [New York City] Health Code, the New York State Sanitary Code, those sections of the New York City Administrative Code relating to or affecting health within the City, and any other laws or regulations that the Department has the duty or authority to enforce.

(b) *General powers.* The [Administrative] Tribunal or the hearing examiners assigned thereto shall have the following powers:

- (1) To impose fines and pecuniary penalties in accordance with Article 3 of [this] the Health Code or other applicable law; and
- (2) To compile and maintain complete and accurate records relating to its proceedings, including copies of all notices of violation served, responses, [notices of appeal] appeals and briefs filed and decisions rendered by the hearing examiners [and the Review Board];
- (3) To adopt, through the Department's rulemaking process, such other rules and regulations as may be necessary or appropriate to effectuate the purposes and provisions of this Article;

(c) *Hearing Examiners.* Hearing examiners may:

- (1) Hold conferences for the settlement or simplification of the issues;[.]
- (2) Administer oaths and affirmations, examine witnesses, rule upon offers of proof or other motions and requests, admit or exclude evidence, grant adjournments and continuances, and oversee and regulate other matters relating to the conduct of a hearing;[.]
- (3) Upon the request of any party, or upon the hearing examiner's own volition, and when the hearing examiner determines that necessary and material evidence will result, issue subpoenas or adjourn a hearing for the appearance of individuals, or the production of documents or other types of information, that are in the possession or control of [the Department] a party and in accordance with §[7.13] 6-06 of this [article] chapter;[.]
- (4) Bar from participation in a hearing any person, including a party, representative or attorney, witness or observer who engages in disorderly, disruptive or obstructionist conduct that disrupts or interrupts the proceedings of the Tribunal; and
- (5) [take] Take any other action authorized by applicable law, rule or regulation, or that is delegated by the [Director] Chief Administrative Law Judge or otherwise authorized by applicable law, rule or regulation.

#### §[7.05] Director/Chief Administrative Law Judge.

All references in the Health Code to the Director of the Administrative Tribunal shall be deemed to refer to the Chief Administrative Law Judge of OATH or his/her designee."

#### § [7.07] 6-03 Proceedings before the [Administrative] Health Tribunal.

(a) *Notice of Violation.* All proceedings before the [Administrative] Tribunal shall be commenced by the issuance and service of a notice of violation ("NOV") upon the respondent and by the [transmittal] filing thereof [to] with the [Administrative] Tribunal. Each NOV shall be prima facie evidence of the facts alleged therein. The notice of violation may include the report of the public health sanitarian, inspector or other person who conducted the inspection or investigation that culminated in the notice of violation. When such report is served in accordance with this section, such report shall also be prima facie evidence of the factual allegations contained therein.

(b) *Service of the Notice of Violation.* The [notice of violation] NOV may be served in person upon the person alleged to

have committed the violation, the permittee or registrant, upon the person who was required to hold the permit or to register, upon a member of the partnership or other group concerned, upon an officer of the corporation, upon a member of a limited liability company, upon a management or general agent or upon any other person of suitable age and discretion as may be appropriate, depending on the organization or character of the person, business, or institution charged. Service may also be made by certified or registered mail through the U.S. Postal Service, or by any type of mail utilizing any other mailing service that provides proof of mailing and receipt, to any such person at the address of the premises that is the subject of the NOV or, as may be appropriate, at the residence or business address of (1) the alleged violator, (2) the individual who is listed as the permittee or applicant in the permit issued by the Board of Health or the Commissioner of DOHMH or in the application for a permit, [or] (3) the registrant listed in the registration form, or (4) the person filing a notification of an entity's existence with DOHMH where no permit or registration is required. In the case of service by mail, documentation of delivery or receipt provided by the delivery or mailing service shall be proof of service of the notice of violation.

(c) *Contents of notice of violation.* The [notice of violation] NOV shall contain:

- (1) A clear and concise statement sufficient to inform the respondent with reasonable definiteness and clarity of the essential facts alleged to constitute the violation or the violations charged, including the date, time where applicable and place when and where such facts were observed;
- (2) Information adequate to provide specific notification of the section or sections of the Health Code or other law, rule, or regulation alleged to have been violated;
- (3) Information adequate for the respondent to calculate the maximum penalty authorized to be imposed if the facts constituting the violation are found to be as alleged;
- (4) Notification of the date and place when and where a hearing will be held by the [Department] Tribunal, such date to be at least fifteen calendar days after receipt of the [notice of violation] NOV, unless another date is required by applicable law;
- (5) Notification that failure to appear on the date and at the place designated for the hearing shall be deemed a waiver of the right to a hearing, thereby authorizing the rendering of a default decision; and
- (6) Information adequate to inform the respondent of his or her rights under §[7.09] 6-04 of this [Article] chapter.

(d) *Amendment.* The hearing examiner may allow an amendment to [a notice of violation] an NOV at any time if the subject of the amendment is reasonably within the scope of the original [notice of violation] NOV; provided, however, that such amendment does not allege any additional [violation] violations based on an act not specified in the original notice, alleged to have occurred subsequent to the service of such notice, and does not prejudice the rights of the respondent to adequate notice of the allegations made against the respondent.

#### § [7.09] 6-04 Appearances.

(a) *Types of appearances.* A respondent may appear for a hearing by:

- (1) appearing in person at the place and on the date scheduled for the hearing;
- (2) sending an authorized representative to appear on behalf of such person at the place and on the date scheduled for the hearing who is:
  - (i) an attorney admitted to practice law in New York State, or
  - (ii) a representative registered to appear before the Tribunal pursuant to §[7.21] 6-09, or
  - (iii) any other person, subject to the provisions of §[7.21] 6-09; or

(3) making a written request for an adjudication by [mail] U.S. postal service or other mailing service, provided that the request is received by the Tribunal before the scheduled date of the hearing or bears a postmark or other proof of mailing indicating that it was mailed to the Tribunal before the scheduled date of a hearing. If the request bearing such a postmark or proof of mailing is received by the Tribunal after a decision on default has been issued, such default shall be vacated automatically; or

(4) participating in a hearing conducted by telephone or other electronic media when the opportunity to do so is offered by the [Department, provided, however, that a telephone or electronic hearing may be adjourned for a live hearing if the hearing officer determines that such an adjournment is necessary, or if any party requests an adjournment] Tribunal.

(b) *Appearance by mail.* If the respondent chooses to appear by mail, the written request for mail adjudication shall contain any denials, admissions and explanations pertaining to the individual violations charged, and documents, exhibits or statements to be considered as evidence in support of respondent's defense, or in the determination of penalties. If, after a review of the record, the hearing examiner is of the opinion that it is necessary for the respondent to submit additional evidence, the hearing examiner may require the submission of additional documentary evidence or deny a

request for adjudication by mail and adjourn the matter for a hearing. Violations that are not denied or explained shall be deemed to have been admitted; defenses not specifically raised shall be deemed to have been waived.

(c) [A] *Pre-hearing adjournment requests.* The petitioner, respondent, or authorized representative may request that a scheduled hearing be adjourned to a later date. Such a request may be made in writing to the Tribunal, provided that it is received by the Tribunal no later than three business days prior to the date of the scheduled hearing, or the request may be made in person on the date of the scheduled hearing at any time prior to the hearing. A maximum of three requests for adjournments prior to the hearing by the respondent, and a maximum of three requests for adjournments prior to the hearing by the petitioner [or by the Tribunal,] will be granted administratively as of right. [Thereafter, all]

(d) *Other requests for adjournment.* All requests for adjournments that are not provided for as of right in accordance with subdivision (c) of this section must be made in person to a hearing examiner [or the Director of the Tribunal] at the time of the scheduled hearing, and may be granted only upon a showing of good cause as determined by the hearing examiner [or the Director] in his or her discretion. A denial of an adjournment request shall not be subject to separate or interlocutory review [by the Review Board] or appeal.

[(d)] (e) *Failure to appear.*

(1) A respondent who fails to appear or to make a timely request for an adjournment shall not be entitled to a hearing. [Without further notice to the respondent,] If the respondent fails to appear, a hearing examiner may, without further notice to the respondent, find that the respondent is in default [if the respondent has failed to appear and], The hearing examiner will then render a default decision sustaining the violations cited in the notice of violation[, subject to findings the hearing examiner must make with respect to the service of the notice of violation and the sufficiency of the factual allegations contained therein], and imposing [a penalty] penalties pursuant to Article 3 of [this] the Health Code or as authorized by other applicable law. [If, before a default decision is issued, it is determined that the failure of the party to appear was caused by circumstances beyond the party's reasonable control, a default decision may not be issued and the matter may be adjourned to a new hearing date. A decision that is adverse to a respondent shall be issued on default only after the hearing examiner has determined that the notice of violation was served as required by applicable law, and that the notice of violation alleges sufficient facts to support the violations charged.]

(2) The Tribunal shall notify [a defaulting] the respondent of the issuance of a default decision by mailing a copy of the decision [by certified mail] or by providing a copy to [a] the respondent or respondent's representative who appears personally at the Tribunal and requests a copy.

(3) [A] The respondent may make a motion in writing requesting that a default be vacated[, if the] A motion to vacate [is] postmarked [or received by the Tribunal] within sixty days of the date of [mailing of] the default decision [to the respondent or the date a copy was provided to the respondent or the respondent's representative at the Tribunal, whichever date is earlier. One such request] shall be granted administratively as of right, provided that the Tribunal's records show that there have been no other failures to appear in relation to the particular notice of violation. A motion to vacate a default that is [received] postmarked more than sixty days after [mailing or personal receipt of] the date of the default decision [shall] must be filed within one year of the date of the default decision and be accompanied by a statement setting forth good cause for the respondent's failure to appear. Such statement, and any documents to support the motion to vacate the default, shall be reviewed by a hearing examiner who shall determine if it establishes a reasonable excuse for the default. Denial of a motion to vacate a default decision shall not be subject to review [by the Review Board] or appeal.

#### § [7.11] 6-05 Hearings and [mail] adjudications in person, by mail, or by telephone.

(a) A notice of violation may be adjudicated at a hearing, by telephone, or by [mail] U.S. postal service or other mailing service.

(b) The hearings shall be open to the public, shall be presided over by a hearing examiner, shall proceed with reasonable expedition and order, and, insofar as practicable, shall not be postponed or adjourned.

(c) Each party to a proceeding shall have the right to be represented by counsel or other authorized representative as set forth in §§[7.09] 6-04 (a) and [7.21] 6-09 of this [Article] chapter, to present evidence, to examine and cross-examine witnesses and to have other rights essential for due process and a fair and impartial hearing.

(d) The Department shall have the burden of proving the factual allegations contained in the [notice of violation] NOV by a preponderance of the evidence. A respondent shall have the burden of proving an affirmative defense, if any, by a preponderance of the evidence.

(e) In addition to evidence submitted, the hearing examiner may request further evidence to be submitted by the petitioner or respondent or may adjudicate the matter based on the record before him or her.

(f)[(1)] Appearances of inspectors

(1) A public health sanitarian, inspector or other person who issued an NOV (the "inspector") may be required to appear at a hearing under the following circumstances:

(a) A respondent may request the presence at the hearing of the [public health sanitarian, inspector or other person who issued the NOV (the "inspector")] inspector, provided that the request is made in writing and is received by the Tribunal no later than seven business days prior to the scheduled hearing. [In such event] Upon such request, the hearing shall be rescheduled to allow for the appearance of the inspector, and the respondent need not appear at the originally scheduled hearing.

(b) A respondent may [also], at the time of the hearing, request the presence of the inspector[; in which case the hearing shall be adjourned]. Upon such request, the hearing examiner shall determine whether the presence of the inspector would afford the respondent a reasonable opportunity to present relevant, non-cumulative testimony or evidence that would contribute to a full and fair hearing of each party's side of the dispute. Upon such finding, the hearing examiner shall adjourn the hearing to allow for the appearance of the inspector if the inspector is unavailable at the time of the hearing.

(c) [In addition, if] If at a hearing a respondent denies the factual allegations contained in the NOV, the hearing examiner may require the presence of the inspector without a request by the respondent, and, if needed, adjourn the hearing.

(2) In the event that the inspector does not appear, the hearing examiner may adjourn the hearing, or may take testimony, and sustain or dismiss all or part of the [notice of violation] NOV, as the hearing examiner may deem appropriate. In determining the appropriate action, the hearing examiner may consider any relevant facts, including the availability of the inspector, the reason for the failure to appear, the need for and relevance of the requested testimony, and the potential prejudice to either party if the hearing is adjourned or proceeds without the inspector. In no event shall a hearing be adjourned on more than three occasions by the hearing examiner because of the unavailability of an inspector. If the respondent requests that the hearing proceed in the absence of the inspector, the respondent shall be deemed to have waived the appearance of such inspector.

(g) A record shall be made of all [notices of violation] NOV's filed, proceedings held, written evidence admitted and decisions rendered, and such record shall be kept in the regular course of business for a reasonable period of time in accordance with applicable law. Hearings shall be mechanically, electronically or otherwise recorded by the [Administrative] Tribunal under the supervision of the hearing examiner, and the original recording shall be part of the record and shall constitute the sole official record of the hearing. A copy of [a tape] the hearing recording [of a hearing] shall be made available within five business days of receiving a request, upon payment of a reasonable fee in accordance with applicable law, to any respondent requesting a copy, to enable such respondent to appeal a notice of decision [to the Review Board] or for other legal proceedings.

(h) With the consent of all parties, a hearing examiner may conduct a hearing by telephone or other electronic media. At any time during such proceeding, the hearing examiner may adjourn the matter for an in-person hearing if he or she determines it is necessary.

(i) A written decision sustaining or dismissing each charge in the notice of violation shall be promptly rendered by the hearing examiner who presided over the hearing, or who conducted the adjudication by mail, or who rendered a default decision. Each decision, other than a default decision, shall contain findings of fact and conclusions of law. Where a violation is sustained, the hearing examiner shall impose a penalty. A copy of the decision, other than a default decision mailed or otherwise provided in accordance with §[7.09] 6-04(e) hereof, shall be served forthwith on the respondent or on the respondent's counsel, registered representative or other authorized representative, either personally or by [certified] mail. Any fines imposed shall be paid within thirty days of [service of] the date of the decision. If full payment of fines is not made within thirty days, an additional penalty in an amount of fifty dollars may be imposed per NOV [in an amount of fifty dollars,] if paid between thirty-one and sixty days after [service of] the date of the decision, and one hundred dollars if paid more than sixty days after [service of] the date of the decision.

(j) Language assistance services.

(1) Appropriate language assistance services shall be afforded to respondents whose primary language is not English to assist such respondents in communicating meaningfully at the hearing. Such language assistance services shall include interpretation of hearings and of pre-hearing conferences conducted by hearing examiners, where interpretation is necessary to assist the respondent in communicating meaningfully with the hearing examiner and others at the hearing.

(2) At the beginning of any hearing or pre-hearing conference, the hearing examiner shall advise the respondent of the availability of interpretation. In determining whether interpretation is necessary to assist the respondent in communicating meaningfully with the hearing examiner and others at the hearing, the hearing examiner shall consider all relevant factors, including but not limited to the following: (i) information from Tribunal administrative personnel identifying a respondent as requiring language assistance services to communicate meaningfully with a hearing examiner; (ii) a request by the respondent for interpretation; (iii) even if interpretation was not requested by the respondent, the hearing examiner's own assessment whether interpretation is necessary to enable meaningful communication with the respondent. If the respondent requests an interpreter and the hearing examiner determines that an interpreter is not needed, that determination and the

basis for the determination shall be made on the record.

(3) When required by paragraph (1) of this subdivision, interpretation services shall be provided at hearings and at pre-hearing conferences by a professional interpretation service that is made available by the Tribunal, unless the respondent requests the use of another interpreter, in which case the hearing examiner in his/her discretion may use the respondent's requested interpreter. In exercising that discretion, the hearing examiner shall take into account all relevant factors, including but not limited to the following: (i) the respondent's preference, if any, for his or her own interpreter; (ii) the apparent skills of the respondent's requested interpreter; (iii) whether the respondent's requested interpreter is a child under the age of eighteen; (iv) minimization of delay in the hearing process; (v) maintenance of a clear and usable hearing record; (vi) whether the respondent's requested interpreter is a potential witness who may testify at the hearing. The hearing examiner's determination and the basis for this determination shall be made on the record.

§ [7.13] 6-06 Subpoenas.

(a) At any time after a hearing has commenced, a subpoena may be issued by the hearing examiner, upon a form approved by the Tribunal, to compel the timely production of any record or document for examination or introduction into evidence, or to compel the appearance of persons to give testimony, when the hearing examiner finds that such record, document or testimony is reasonably related, relevant and necessary to the adjudication. [Such subpoenas shall be issued only for production of records maintained within the Department, or the appearance of a person who is employed by the Department at the time such appearance is demanded.] Such subpoena may be issued on the hearing examiner's own motion or on the motion of a party. If made by a party, a motion for a subpoena may be made on an ex parte basis. Upon the issuance of a subpoena the hearing examiner may proceed with the hearing [and] or adjourn such hearing until the subpoenaed documents or witnesses are produced[, or immediately adjourn the hearing until such time].

(b) Subpoenaed documents must be produced and made returnable on a date certain prior to the adjourned date [for the continued hearing]. Witnesses subpoenaed to testify must appear on the adjourned date.

(c) [A hearing examiner who has issued a subpoena, upon] Upon receipt of a motion timely made [by the Department] before the return date of the subpoena, or on the hearing examiner's own motion, a hearing examiner who has already issued a subpoena may [deny,] quash or modify [a] such subpoena if it is shown to be unreasonable, insufficiently relevant to the adjudication or has [been shown to be] wrongfully been issued.

(d) If the hearing examiner determines that a subpoena has not been complied with, and that there is no good cause for such failure to comply, the hearing examiner may proceed with the hearing upon finding that the record, document or testimony subpoenaed is not necessary to the proof or defense of a violation or a fair adjudication of the merits, or [the hearing examiner] may preclude evidence offered by the non-complying party that is related to the subpoena, or may dismiss the particular violation the proof of which appears to the hearing examiner to be reasonably dependent on the material or person subpoenaed, but not produced.

§ [7.15] 6-07 Disqualification of hearing examiners.

(a) Grounds for disqualification. A hearing examiner shall not preside over a hearing [in accordance with the provisions of] under the circumstances set forth in subdivisions (D) and (E) of §103 of Appendix A of [Title 48 of the Rules of the City of New York] this title. A hearing examiner who determines his or her disqualification shall [withdraw] disqualify himself or herself from the proceeding by notice on the record and shall notify the [Director] Chief Administrative Law Judge or his/her designee of such [withdrawal] disqualification.

(b) Motion to disqualify. [Whenever a party asserts for any reason that a hearing examiner must be disqualified from presiding over a particular proceeding, such party may file with the Director a motion to disqualify and remove the hearing examiner. Such a motion must be supported by affidavits setting forth the alleged grounds for disqualification. The Director shall furnish a copy of the motion to the hearing examiner whose removal is sought, and the hearing examiner shall have seven days to reply. Unless the hearing examiner disqualifies himself or herself within seven days of the receipt of the motion, the Director shall promptly determine the validity of the alleged grounds, either directly or on the report of another hearing examiner appointed to conduct a hearing for that purpose.] A party may, for good cause shown, request that the hearing examiner disqualify himself or herself. The hearing examiner in the proceeding will rule on such motion. If the hearing examiner denies the motion, the party may obtain a brief adjournment in order to promptly apply for review by the Chief Administrative Law Judge or his/her designee. If the Chief Administrative Law Judge or his/her designee determines that the hearing examiner should be disqualified, the Chief Administrative Law Judge or his/her designee will appoint another hearing examiner to continue the case. If a hearing examiner's refusal to disqualify is upheld by the Chief Administrative Law Judge or his/her designee, the party may raise the issue again on appeal.

§ [7.17] 6-08 Appeals.

(a) There shall be an Appeals Unit within the Health Tribunal at OATH.

(b) (1) The Appeals Unit shall have jurisdiction to review all final decisions, other than default decisions, of [the] hearing [examiner] examiners to determine whether the facts found

therein are supported by substantial evidence in the record, and whether the findings and determinations of the hearing [examiner] examiners, as well as the [penalty] penalties imposed, are supported by law. In addition, the Appeals Unit may determine whether a monetary penalty, even if it is lawful, should be increased or decreased.

(2) Appeals decisions are made upon the entire record of the hearing and the evidence before the hearing examiner. The NOV, the recording of the hearing, and all briefs filed and exhibits received in evidence, together with the hearing examiner's decision, constitute the hearing record. The Appeals Unit shall not consider any evidence that was not presented to the hearing examiner. The Appeals Unit shall have the power to affirm, reverse, [to] remand or [to] modify the decision appealed from [or] and to increase or reduce the amount of the penalty imposed within the limits established by the Health Code or other applicable law.

(c) (1) A party may seek [to] review, in whole or in part, of any final decision of a hearing examiner, other than a decision rendered on default by the respondent. However, neither a denial of a motion to vacate a default decision nor a plea admitting the violations charged shall be subject to review by the Appeals Unit.

(2) Within 30 days of the date of [Health Tribunal at OATH delivering or mailing] the hearing [officer's] examiner's decision [to a party or the party's authorized representative], [the] a party [may] seeking review of the decision must file [two copies of a notice of] an [appeal] Appeal Application on a form prescribed by the [tribunal] Tribunal, accompanied by two copies of a brief statement setting forth the specific reasons why the decision should be reversed, remanded or modified]. At the time the Appeal Application is filed, the party seeking review must also serve the Appeal Application on the non-appealing party and file proof of such service with the Tribunal. [Upon receipt of a notice of appeal, the tribunal shall promptly deliver or mail a copy of it, together with a copy of any accompanying statement, to the adverse party.]

(3) Within 30 days [of the tribunal delivering or mailing to a party a notice of appeal filed with the tribunal, the party may file two copies of a response to the appeal with the tribunal, and the tribunal shall promptly deliver or mail a copy of the response to the appealing party.] of service of the Appeal Application, or 35 days if service of the Appeal Application is made by mail, the non-appealing party may file a Response to Appeal on a form prescribed by the Tribunal. At the time that the Response to Appeal is filed, the party responding to the appeal must also serve the Response to Appeal on the appealing party and file proof of such service with the Tribunal.

(4) Further filings by either party are not permitted.

(d) Filing [a notice of appeal] an Appeal Application shall not stay the collection of any fine or other penalty imposed by the decision. No appeal by or on behalf of a respondent shall be permitted unless the fine or penalty imposed has been paid [before] prior to or at the time of the filing of the [notice of appeal] Appeal Application, or the respondent may post a cash or recognized surety company bond in the full amount imposed by the decision and order appealed from. [Appeals decisions shall be made upon the entire record of the hearing and the evidence before the hearing examiner. Appeals may be decided without the appearance of the appealing party, but the appealing party may make a request to appear before the Appeals Unit at the time of the filing of the notice of appeal. If the appealing party makes such a request, the tribunal shall provide notice to the parties whether the request is granted and, if so, the date of argument on the appeal, at which either party may appear before the Appeals Unit.] Any application for a waiver of prior payment of the civil penalty must be made prior to or at the time of the filing of the Appeal Application and must be supported by evidence of financial hardship. Waivers of prepayment may be granted in the discretion of the Chief Administrative Law Judge or his/her designee.

[(d)(i)] (e) The Appeals Unit shall promptly issue a written decision affirming, reversing, remanding or modifying the decision appealed from, a copy of which shall be delivered to [DOHMH] the Department and served on the respondent by [certified or registered] mail, stating the grounds upon which the decision is based. Where appropriate, the decision shall order the repayment to the respondent of any penalty that has been paid. The decision of the Appeals Unit shall be the final determination of [DOHMH] the Department, except in the case of a violation arising under Article 13-E of the New York State Public Health Law, entitled "Regulation of Smoking in Certain Public Areas[.]" in accordance with § 3.12 of the Health Code.

§[7.21] 6-09 Registration and disqualification of certain authorized representatives.

(a) Any person who represents two or more respondents before the Tribunal within a calendar year shall, as a condition precedent to such representation, register with the Tribunal as a representative. Any person who appears on behalf of a respondent before the Tribunal shall be prohibited from appearing before the Tribunal on behalf of any other respondent within the same calendar year without having completed such registration. A representative shall register by completing and submitting a form provided by the [Department] Tribunal, and such form shall be accompanied by proof acceptable to the [Department] Tribunal identifying the representative, and shall include such other information as the [Department] Tribunal may require. Registered representatives shall notify the Tribunal within ten business days of any change in the information required to be stated on the registration form. The [Department] Tribunal may charge a reasonable fee in accordance with applicable law to cover the cost of processing and maintaining registrations and may issue each representative a registration card and identification number. Attorneys admitted to practice in New York State shall not be required to ~~so~~ register.



(b) Attorneys, registered representatives or other authorized representatives may be permanently or temporarily barred by the [Commissioner] Chief Administrative Law Judge or his/her designee from representing any respondents before the Tribunal, and in the case of registered representatives their registration revoked or suspended, upon a finding by the Office of Administrative Trials and Hearings, or successor agency, issued after an opportunity to be heard [has been afforded], that they have engaged in improper conduct, including but not limited to one or more of the following:

- (1) Disorderly, disruptive or obstructive conduct, as set forth in §[7.03] 6-02(c)(4) of this [Article] chapter, on more than one occasion, regardless of whether the representative was barred from participating in a specific hearing by a hearing examiner in accordance with [said] such §[7.03] 6-02(c)(4);
- (2) Submitting any false or forged document either as evidence in a matter being adjudicated at the Tribunal, or as proof of representation of a respondent;
- (3) Any violation of §3.15 or §3.19 of [this] the Health Code; or
- (4) Any criminal conviction of a type that does not fall within the protections afforded under Article 23-A of the New York State Correction Law.

#### §[7.23] 6-10 **Computation of time.**

(a) In computing any period of time prescribed or allowed by this [Article] chapter, the day of the act or default from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which case the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. [Whenever a party has the right or is required to do some act within a prescribed period of time after the service of a document and the document is served by mail, five days must be added to the prescribed period of time.]

(b) Whenever a party has the right or is required to do some act within a prescribed period of time after the date of a Tribunal decision, seven days shall be added to such prescribed period of time if the decision is mailed to the party.

#### Endnotes

Interim rules applicable to the Health Tribunal contained in the Appendix to the Report

#### §7.03 **Jurisdiction, powers and duties of the Administrative Tribunal.**

(a) Jurisdiction. In accordance with the executive order of the Mayor pursuant to Charter section 1048 and consistent with the delegations of the Commissioner of Health and Mental Hygiene and the Board of Health, the Health Tribunal at OATH shall have jurisdiction to hear and determine notices of violation alleging non-compliance with the provisions of the New York City Health Code, the New York State Sanitary Code, those sections of the New York City Administrative Code relating to or affecting health within the City, and any other laws or regulations that the Department has the duty or authority to enforce.

(b) General powers. The Administrative Tribunal or the hearing examiners assigned thereto shall have the following powers:

- (1) To impose fines and pecuniary penalties in accordance with Article 3 of this Code or other applicable law;
- (2) To compile and maintain complete and accurate records relating to its proceedings, including copies of all notices of violation served, responses, notices of appeal and briefs filed and decisions rendered by the hearing examiners and the Review Board;
- (3) To adopt, through the Department's rulemaking process, such other rules and regulations as may be necessary or appropriate to effectuate the purposes and provisions of this Article;

(c) Hearing Examiners. Hearing examiners may:

- (1) Hold conferences for the settlement or simplification of the issues,
- (2) Administer oaths and affirmations, examine witnesses, rule upon offers of proof or other motions and requests, admit or exclude evidence, grant adjournments and continuances, and oversee and regulate other matters relating to the conduct of a hearing,
- (3) Upon the request of any party, or upon the hearing examiner's own volition, and when the hearing examiner determines that necessary and material evidence will result, issue subpoenas or adjourn a hearing for the appearance of individuals, or the production of documents or other types of information, that are in the possession or control of the Department and in accordance with §7.13 of this article.
- (4) Bar from participation in a hearing any person including a party, representative or attorney, witness or observer who engages in disorderly, disruptive or obstructionist conduct that disrupts or interrupts the proceedings of the Tribunal; and
- (5) take any other action authorized by applicable law, rule or regulation, or that is delegated by the Director.

#### §7.05 **Director/Chief Administrative Law Judge.**

All references in the Health Code to the Director of the Administrative Tribunal shall be deemed to refer to the Chief

Administrative Law Judge of OATH or his/her designee."

#### §7.07 **Proceedings before the Administrative Tribunal.**

(a) Notice of Violation. All proceedings before the Administrative Tribunal shall be commenced by the issuance and service of a notice of violation ("NOV") upon the respondent and by the transmittal thereof to the Administrative Tribunal. Each NOV shall be prima facie evidence of the facts alleged therein. The notice of violation may include the report of the public health sanitarian, inspector or other person who conducted the inspection or investigation that culminated in the notice of violation. When such report is served in accordance with this section, such report shall also be prima facie evidence of the factual allegations contained therein.

(b) Service of the Notice of Violation. The notice of violation may be served in person upon the person alleged to have committed the violation, the permittee or registrant, upon the person who was required to hold the permit or to register, upon a member of the partnership or other group concerned, upon an officer of the corporation, upon a member of a limited liability company, upon a management or general agent or upon any other person of suitable age and discretion as may be appropriate, depending on the organization or character of the person, business, or institution charged. Service may also be made by certified or registered mail through the U.S. Postal Service, or by any type of mail utilizing any other mailing service that provides proof of mailing and receipt, to any such person at the address of the premises that is the subject of the NOV or, as may be appropriate, at the residence or business address of (1) the alleged violator, (2) the individual who is listed as the permittee or applicant in the permit issued by the Board or the Commissioner or in the application for a permit, or (3) the registrant listed in the registration form. In the case of service by mail, documentation of delivery or receipt provided by the delivery or mailing service shall be proof of service of the notice of violation.

(c) Contents of notice of violation. The notice of violation shall contain:

- (1) A clear and concise statement sufficient to inform the respondent with reasonable definiteness and clarity of the essential facts alleged to constitute the violation or the violations charged, including the date, time where applicable and place when and where such facts were observed;
- (2) Information adequate to provide specific notification of the section or sections of the Code or other law, rule, or regulation alleged to have been violated;
- (3) Information adequate for the respondent to calculate the maximum penalty authorized to be imposed if the facts constituting the violation are found to be as alleged;
- (4) Notification of the date and place when and where a hearing will be held by the Department, such date to be at least fifteen calendar days after receipt of the notice of violation, unless another date is required by applicable law;
- (5) Notification that failure to appear on the date and at the place designated for the hearing shall be deemed a waiver of the right to a hearing, thereby authorizing the rendering of a default decision; and
- (6) Information adequate to inform the respondent of his or her rights under §7.09 of this Article.

(d) Amendment. The hearing examiner may allow an amendment to a notice of violation at any time if the subject of the amendment is reasonably within the scope of the original notice of violation; provided, however, that such amendment does not allege any violation not specified in the original notice, alleged to have occurred subsequent to the service of such notice, and does not prejudice the rights of the respondent to adequate notice of the allegations made against the respondent.

#### §7.09 **Appearances.**

(a) A respondent may appear for a hearing by:

- (1) appearing in person at the place and on the date scheduled for the hearing;
- (2) sending an authorized representative to appear on behalf of such person at the place and on the date scheduled for the hearing who is:
  - (i) an attorney admitted to practice law in New York State,
  - (ii) a representative registered to appear before the Tribunal pursuant to §7.21, or
  - (iii) any other person, subject to the provisions of §7.21; or
- (3) making a written request for an adjudication by mail, provided that the request is received by the Tribunal before the scheduled date of the hearing or bears a postmark indicating that it was mailed to the Tribunal before the scheduled date of a hearing. If the request bearing such a postmark is received by the Tribunal after a decision on default has been issued, such default shall be vacated automatically; or
- (4) participating in a hearing conducted by telephone or other electronic media when the opportunity to do so is offered by the Department, provided, however, that a telephone or electronic hearing may be adjourned for a live hearing if the hearing officer determines that such an adjournment is necessary, or if any party requests an adjournment.

(b) If the respondent chooses to appear by mail, the written request for mail adjudication may contain denials, admissions and explanations pertaining to the individual violations charged, and documents, exhibits or statements to be considered as evidence in support of respondent's defense, or in the determination of penalties. If, after a review of the record, the hearing examiner is of the opinion that it is

necessary for the respondent to submit additional evidence, the hearing examiner may require the submission of additional documentary evidence or deny a request for adjudication by mail and adjourn the matter for a hearing. Violations that are not denied or explained shall be deemed to have been admitted; defenses not specifically raised shall be deemed to have been waived.

(c) A respondent or authorized representative may request that a scheduled hearing be adjourned to a later date. Such a request may be made in writing to the Tribunal, provided that it is received by the Tribunal no later than three business days prior to the date of the scheduled hearing, or the request may be made in person on the date of the scheduled hearing at any time prior to the hearing. A maximum of three requests for adjournments by the respondent, and a maximum of three requests for adjournments by the petitioner or by the Tribunal, shall be granted administratively as of right. Thereafter, all requests for adjournments must be made in person to a hearing examiner or the Director of the Tribunal at the time of the scheduled hearing, and may be granted only upon a showing of good cause as determined by the hearing examiner or the Director in his or her discretion. A denial of an adjournment request shall not be subject to separate or interlocutory review by the Review Board.

(d) A respondent who fails to appear or to make a timely request for an adjournment shall not be entitled to a hearing. Without further notice to the respondent, a hearing examiner may find that the respondent is in default if the respondent has failed to appear and render a default decision sustaining the violations cited in the notice of violation, subject to findings the hearing examiner must make with respect to the service of the notice of violation and the sufficiency of the factual allegations contained therein, and imposing a penalty pursuant to Article 3 of this Code or as authorized by other applicable law. If, before a default decision is issued, it is determined that the failure of the party to appear was caused by circumstances beyond the party's reasonable control, a default decision may not be issued and the matter may be adjourned to a new hearing date. A decision that is adverse to a respondent shall be issued on default only after the hearing examiner has determined that the notice of violation was served as required by applicable law, and that the notice of violation alleges sufficient facts to support the violations charged. The Tribunal shall notify a defaulting respondent of the issuance of a default decision by mailing a copy of the decision by certified mail or by providing a copy to a respondent or respondent's representative who appears personally at the Tribunal and requests a copy. A respondent may make a motion in writing requesting that a default be vacated, if the motion to vacate is postmarked or received by the Tribunal within sixty days of the date of mailing of the default decision to the respondent or the date a copy was provided to the respondent or the respondent's representative at the Tribunal, whichever date is earlier. One such request shall be granted administratively as of right provided that the Tribunal's records show that there have been no other failures to appear in relation to the particular notice of violation. A motion to vacate a default that is received more than sixty days after mailing or personal receipt of the default decision shall be accompanied by a statement setting forth good cause for the respondent's failure to appear. Such statement, and any documents to support the motion to vacate the default, shall be reviewed by a hearing examiner who shall determine if it establishes a reasonable excuse for the default. Denial of a motion to vacate a default decision shall not be subject to review by the Review Board.

(e) Where the notice of violation or an accompanying document, or a related document served on the respondent by certified mail, sets forth a monetary amount that may be paid in full satisfaction of the notice of violation, a respondent may, in lieu of attending a scheduled hearing, pay said amount by mail in the manner and time provided for in such notice. Such payment shall constitute an admission of liability for the violations charged and no further hearing or appeal shall be allowed. If an adjudication is open or completed before the Health Tribunal at OATH, DOHMH shall promptly notify the tribunal that it has received payment in full satisfaction of the notice of violation. If DOHMH withdraws a notice of violation, even if it has been adjudicated, that is open or has been completed before the Health Tribunal at OATH, DOHMH shall promptly notify the tribunal.

#### §7.11 **Hearings and mail adjudications.**

(a) A notice of violation may be adjudicated at a hearing or by mail.

(b) The hearings shall be open to the public, shall be presided over by a hearing examiner, shall proceed with reasonable expedition and order, and, insofar as practicable, shall not be postponed or adjourned.

(c) Each party to a proceeding shall have the right to be represented by counsel or other authorized representative as set forth in §§7.09 (a) and 7.21 of this Article, to present evidence, to examine and cross-examine witnesses and to have other rights essential for due process and a fair and impartial hearing.

(d) The Department shall have the burden of proving the factual allegations contained in the notice of violation by a preponderance of the evidence. A respondent shall have the burden of proving an affirmative defense, if any, by a preponderance of the evidence.

(e) In addition to evidence submitted, the hearing examiner may request further evidence to be submitted by the respondent or may adjudicate the matter based on the record before him or her.

(f)(1) A respondent may request the presence at the hearing of the public health sanitarian, inspector or other person who issued the NOV (the "inspector"), provided that the request is

made in writing and is received by the Tribunal no later than seven business days prior to the scheduled hearing. In such event, the hearing shall be rescheduled, and the respondent need not appear at the originally scheduled hearing. A respondent may also, at the time of the hearing, request the presence of the inspector; in which case the hearing shall be adjourned. In addition, if a respondent denies the factual allegations contained in the NOV, the hearing examiner may require the presence of the inspector and adjourn the hearing.

(2) In the event that the inspector does not appear, the hearing examiner may adjourn the hearing, or may take testimony, and sustain or dismiss all or part of the notice of violation, as the hearing examiner may deem appropriate. In determining the appropriate action, the hearing examiner may consider any relevant facts, including the availability of the inspector, the reason for the failure to appear, the need for and relevance of the requested testimony, and the potential prejudice to either party if the hearing is adjourned or proceeds without the inspector. In no event shall a hearing be adjourned on more than three occasions by the hearing examiner because of the unavailability of an inspector. If the respondent requests that the hearing proceed in the absence of the inspector, the respondent shall be deemed to have waived the appearance of such inspector.

(g) A record shall be made of all notices of violation filed, proceedings held, written evidence admitted and decisions rendered, and such record shall be kept in the regular course of business for a reasonable period of time in accordance with applicable law. Hearings shall be mechanically, electronically or otherwise recorded by the Administrative Tribunal under the supervision of the hearing examiner, and the original recording shall be part of the record and shall constitute the sole official record of the hearing. A copy of a tape recording of a hearing shall be made available within five business days of receiving a request, upon payment of a reasonable fee in accordance with applicable law, to any respondent requesting a copy, to enable such respondent to appeal a notice of decision to the Review Board or for other legal proceedings.

(h) With the consent of all parties, a hearing examiner may conduct a hearing by telephone or other electronic media.

(i) A written decision sustaining or dismissing each charge in the notice of violation shall be promptly rendered by the hearing examiner who presided over the hearing, or who conducted the adjudication by mail, or who rendered a default decision. Each decision, other than a default decision, shall contain findings of fact and conclusions of law. Where a violation is sustained, the hearing examiner shall impose a penalty. A copy of the decision, other than a default decision mailed or otherwise provided in accordance with §7.09(d) hereof, shall be served forthwith on the respondent or on the respondent's counsel, registered representative or other authorized representative, either personally or by certified mail. Any fines imposed shall be paid within thirty days of service of the decision. If full payment of fines is not made within thirty days, an additional penalty may be imposed per NOV in an amount of fifty dollars, if paid between thirty-one and sixty days after service of the decision, and one hundred dollars if paid more than sixty days after service of the decision.

#### §7.13 Subpoenas.

(a) At any time after a hearing has commenced a subpoena may be issued by the hearing examiner to compel the timely production of any record or document for examination or introduction into evidence, or to compel the appearance of persons to give testimony, when the hearing examiner finds that such record, document or testimony is reasonably related, relevant and necessary to the adjudication. Such subpoenas shall be issued only for production of records maintained within the Department, or the appearance of a person who is employed by the Department at the time such appearance is demanded. Upon the issuance of a subpoena the hearing examiner may proceed with the hearing and adjourn such hearing until the subpoenaed documents or witnesses are produced, or immediately adjourn the hearing until such time.

(b) Subpoenaed documents shall be produced and made returnable on a date certain prior to the adjourned date for the continued hearing. Witnesses subpoenaed to testify shall appear on the adjourned date.

(c) A hearing examiner who has issued a subpoena, upon receipt of a motion timely made by the Department before the return date of the subpoena, or on the hearing examiner's own motion, may deny, quash or modify a subpoena if it is unreasonable, insufficiently relevant to the adjudication or has been shown to be wrongfully issued.

(d) If the hearing examiner determines that a subpoena has not been complied with, and that there is no good cause for such failure to comply, the hearing examiner may proceed with the hearing upon finding that the record, document or testimony subpoenaed is not necessary to the proof or defense of a violation or a fair adjudication of the merits, or the hearing examiner may preclude evidence offered by the non-complying party that is related to the subpoena, or may dismiss the particular violation the proof of which appears to the hearing examiner to be reasonably dependent on the material or person subpoenaed, but not produced.

#### §7.15 Disqualification of hearing examiners.

(a) Grounds for disqualification. A hearing examiner shall not preside over a hearing in accordance with the provisions of subdivisions (D) and (E) of §103 of Appendix A of Title 48 of the Rules of the City of New York. A hearing examiner who determines his or her disqualification shall withdraw from the proceeding by notice on the record and shall notify the Director of such withdrawal.

(b) Motion to disqualify. Whenever a party asserts for any reason that a hearing examiner must be disqualified from presiding over a particular proceeding, such party may file with the Director a motion to disqualify and remove the hearing examiner. Such a motion must be supported by affidavits setting forth the alleged grounds for disqualification. The Director shall furnish a copy of the motion to the hearing examiner whose removal is sought, and the hearing examiner shall have seven days to reply. Unless the hearing examiner disqualifies himself or herself within seven days of the receipt of the motion, the Director shall promptly determine the validity of the alleged grounds, either directly or on the report of another hearing examiner appointed to conduct a hearing for that purpose.

#### §7.17 Appeals.

(a) There shall be an Appeals Unit within the Health Tribunal at OATH.

(b) The Appeals Unit shall have jurisdiction to review all final decisions, other than default decisions, of the hearing examiner to determine whether the facts found therein are supported by substantial evidence in the record, and whether the findings and determinations of the hearing examiner, as well as the penalty imposed, are supported by law. In addition, the Appeals Unit may determine whether a monetary penalty, even if it is lawful, should be increased or decreased. The Appeals Unit shall not consider any evidence that was not presented to the hearing examiner. The Appeals Unit shall have the power to reverse, to remand or to modify the decision appealed from or to increase or reduce the amount of the penalty imposed within the limits established by the Health Code or other applicable law.

(c) A party may seek to review, in whole or in part, any final decision of a hearing examiner, other than a decision rendered on default by the respondent. However, neither a denial of a motion to vacate a default decision nor a plea admitting the violations charged shall be subject to review by the Appeals Unit. Within 30 days of the Health Tribunal at OATH delivering or mailing the hearing officer's decision to a party or the party's authorized representative, the party may file two copies of a notice of appeal on a form prescribed by the tribunal, accompanied by two copies of a brief statement setting forth the specific reasons why the decision should be reversed, remanded or modified. Upon receipt of a notice of appeal, the tribunal shall promptly deliver or mail a copy of it, together with a copy of any accompanying statement, to the adverse party. Within 30 days of the tribunal delivering or mailing to a party a notice of appeal filed with the tribunal, the party may file two copies of a response to the appeal with the tribunal, and the tribunal shall promptly deliver or mail a copy of the response to the appealing party. Filing a notice of appeal shall not stay the collection of any fine or other penalty imposed by the decision. No appeal by or on behalf of a respondent shall be permitted unless the fine or penalty imposed has been paid before or at the time of the filing of the notice of appeal, or the respondent may post a cash or recognized surety company bond in the full amount imposed by the decision and order appealed from. Appeals decisions shall be made upon the entire record of the hearing and the evidence before the hearing examiner. Appeals may be decided without the appearance of the appealing party, but the appealing party may make a request to appear before the Appeals Unit at the time of the filing of the notice of appeal. If the appealing party makes such a request, the tribunal shall provide notice to the parties whether the request is granted and, if so, the date of argument on the appeal, at which either party may appear before the Appeals Unit.

(d) (i) The Appeals Unit shall promptly issue a written decision affirming, reversing, remanding or modifying the decision appealed from, a copy of which shall be delivered to DOHMH and served on the respondent by certified or registered mail, stating the grounds upon which the decision is based. Where appropriate, the decision shall order the repayment to the respondent of any penalty that has been paid. The decision of the Appeals Unit shall be the final determination of DOHMH, except in the case of a violation arising under Article 13-E of the New York State Public Health Law, entitled "Regulation of Smoking in Certain Public Areas."

#### §7.21 Registration and disqualification of certain authorized representatives.

(a) Any person who represents two or more respondents before the Tribunal within a calendar year shall, as a condition precedent to such representation, register with the Tribunal as a representative. Any person who appears on behalf of a respondent before the Tribunal shall be prohibited from appearing before the Tribunal on behalf of any other respondent within the same calendar year without having completed such registration. A representative shall register by completing and submitting a form provided by the Department, and such form shall be accompanied by proof acceptable to the Department identifying the representative, and shall include such other information as the Department may require. Registered representatives shall notify the Tribunal within ten business days of any change in the information required to be stated on the registration form. The Department may charge a reasonable fee in accordance with applicable law to cover the cost of processing and maintaining registrations and may issue each representative a registration card and identification number. Attorneys admitted to practice in New York State shall not be required to so register.

(b) Attorneys, registered representatives or other authorized representatives may be permanently or temporarily barred by the Commissioner from representing any respondents before the Tribunal, and in the case of registered representatives their registration revoked or suspended, upon a finding by the Office of Administrative Trials and Hearings, or successor agency, issued after an opportunity to be heard has been afforded, that they have engaged in

improper conduct, including but not limited to one or more of the following:

- (1) Disorderly, disruptive or obstructive conduct, as set forth in §7.03(c)(4) of this Article, on more than one occasion, regardless of whether the representative was barred from participating in a specific hearing by a hearing examiner in accordance with said §7.03(c)(4);
- (2) Submitting any false or forged document either as evidence in a matter being adjudicated at the Tribunal, or as proof of representation of a respondent;
- (3) Any violation of §3.15 or §3.19 of this Code; or
- (4) Any criminal conviction of a type that does not fall within the protections afforded under Article 23A of the New York State Correction Law.

#### §7.23 Computation of time.

In computing any period of time prescribed or allowed by this Article, the day of the act or default from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which case the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. Whenever a party has the right or is required to do some act within a prescribed period of time after the service of a document and the document is served by mail, five days shall be added to the prescribed period of time.

Article 7 (Administrative Tribunal) of the Health Code as it existed prior to the promulgation of E.O. 148.

#### §7.01 Administrative Tribunal.

The Administrative Tribunal (the "Tribunal") established by the Board of Health pursuant to §558 of the Charter is hereby continued.

#### §7.03 Jurisdiction, powers and duties of the Administrative Tribunal.

(a) Jurisdiction. The Administrative Tribunal shall have jurisdiction to hear and determine, in accordance with §1046 of the New York City Charter, notices of violation alleging non-compliance with the provisions of this Code, the New York State Sanitary Code, those sections of the New York City Administrative Code relating to or affecting health within the City, and any other laws and regulations that the Department has the duty or authority to enforce.

(b) General powers. The Administrative Tribunal or the hearing examiners assigned thereto shall have the following powers:

- (1) To impose fines and pecuniary penalties in accordance with Article 3 of this Code or other applicable law;
- (2) To compile and maintain complete and accurate records relating to its proceedings, including copies of all notices of violation served, responses, notices of appeal and briefs filed and decisions rendered by the hearing examiners and the Review Board;
- (3) To adopt, through the Department's rulemaking process, such other rules and regulations as may be necessary or appropriate to effectuate the purposes and provisions of this Article;

(c) Hearing Examiners. Hearing examiners may:

- (1) Hold conferences for the settlement or simplification of the issues,
- (2) Administer oaths and affirmations, examine witnesses, rule upon offers of proof or other motions and requests, admit or exclude evidence, grant adjournments and continuances, and oversee and regulate other matters relating to the conduct of a hearing,
- (3) Upon the request of any party, or upon the hearing examiner's own volition, and when the hearing examiner determines that necessary and material evidence will result, issue subpoenas or adjourn a hearing for the appearance of individuals, or the production of documents or other types of information, that are in the possession or control of the Department and in accordance with §7.13 of this article.
- (4) Bar from participation in a hearing any person including a party, representative or attorney, witness or observer who engages in disorderly, disruptive or obstructionist conduct that disrupts or interrupts the proceedings of the Tribunal; and
- (5) take any other action authorized by applicable law, rule or regulation, or that is delegated by the Director.

#### §7.05 Organization of the Administrative Tribunal; Director.

(a) The head of Adjudications at the Administrative Tribunal shall be its Director, who shall be appointed by the Board and who, in addition to having all of the powers of a hearing examiner, shall be responsible for the conduct of hearings and for all administrative matters of law and professional practice related to adjudications, including the management and supervision of hearing examiners; provided that the Director shall neither hold nor delegate any of the powers and duties of the Review Board under §7.17. The Director shall be subject to re-appointment by the Board every three years, but if the Director is not re-appointed he or she may continue to serve until a successor is appointed and ready to assume the powers of office. The Board may at any time remove the Director for cause following an opportunity to be heard. The Director shall devote full time to the Administrative Tribunal and shall not perform any other services for the Department.

(b) The Director shall appoint a sufficient number of hearing examiners to carry out the adjudicatory powers, duties and responsibilities of the Administrative Tribunal. Hearing

examiners shall exercise such powers, duties and responsibilities as the Director may assign. The Director may delegate any or all of the powers and duties vested in him or her. The hearing examiners, who shall be attorneys admitted to practice in the State of New York, may be appointed by the Director to serve on a full time, part time or per diem basis, but no hearing examiner shall perform any other services for the Department. Hearing examiners shall be subject to the provisions of the rules of conduct promulgated pursuant to §1049(2)(b) of the New York City Charter.

#### §7.07 Proceedings before the Administrative Tribunal.

(a) Notice of Violation. All proceedings before the Administrative Tribunal shall be commenced by the issuance and service of a notice of violation ("NOV") upon the respondent and by the transmittal thereof to the Administrative Tribunal. Each NOV shall be prima facie evidence of the facts alleged therein. The notice of violation may include the report of the public health sanitarian, inspector or other person who conducted the inspection or investigation that culminated in the notice of violation. When such report is served in accordance with this section, such report shall also be prima facie evidence of the factual allegations contained therein.

(b) Service of the Notice of Violation. The notice of violation may be served in person upon the person alleged to have committed the violation, the permittee or registrant, upon the person who was required to hold the permit or to register, upon a member of the partnership or other group concerned, upon an officer of the corporation, upon a member of a limited liability company, upon a management or general agent or upon any other person of suitable age and discretion as may be appropriate, depending on the organization or character of the person, business, or institution charged. Service may also be made by certified or registered mail through the U.S. Postal Service, or by any type of mail utilizing any other mailing service that provides proof of mailing and receipt, to any such person at the address of the premises that is the subject of the NOV or, as may be appropriate, at the residence or business address of (1) the alleged violator, (2) the individual who is listed as the permittee or applicant in the permit issued by the Board or the Commissioner or in the application for a permit, or (3) the registrant listed in the registration form. In the case of service by mail, documentation of delivery or receipt provided by the delivery or mailing service shall be proof of service of the notice of violation.

(c) Contents of notice of violation. The notice of violation shall contain:

- (1) A clear and concise statement sufficient to inform the respondent with reasonable definiteness and clarity of the essential facts alleged to constitute the violation or the violations charged, including the date, time where applicable and place when and where such facts were observed;
- (2) Information adequate to provide specific notification of the section or sections of the Code or other law, rule, or regulation alleged to have been violated;
- (3) Information adequate for the respondent to calculate the maximum penalty authorized to be imposed if the facts constituting the violation are found to be as alleged;
- (4) Notification of the date and place when and where a hearing will be held by the Department, such date to be at least fifteen calendar days after receipt of the notice of violation, unless another date is required by applicable law;
- (5) Notification that failure to appear on the date and at the place designated for the hearing shall be deemed a waiver of the right to a hearing, thereby authorizing the rendering of a default decision; and
- (6) Information adequate to inform the respondent of his or her rights under §7.09 of this Article.

(d) Amendment. The hearing examiner may allow an amendment to a notice of violation at any time if the subject of the amendment is reasonably within the scope of the original notice of violation; provided, however, that such amendment does not allege any violation not specified in the original notice, alleged to have occurred subsequent to the service of such notice, and does not prejudice the rights of the respondent to adequate notice of the allegations made against the respondent.

#### §7.09 Appearances.

(a) A respondent may appear for a hearing by:

- (1) appearing in person at the place and on the date scheduled for the hearing;
- (2) sending an authorized representative to appear on behalf of such person at the place and on the date scheduled for the hearing who is:
  - (i) an attorney admitted to practice law in New York State,
  - (ii) a representative registered to appear before the Tribunal pursuant to §7.21, or
  - (iii) any other person, subject to the provisions of §7.21; or
- (3) making a written request for an adjudication by mail, provided that the request is received by the Tribunal before the scheduled date of the hearing or bears a postmark indicating that it was mailed to the Tribunal before the scheduled date of a hearing. If the request bearing such a postmark is received by the Tribunal after a decision on default has been issued, such default shall be vacated automatically; or
- (4) participating in a hearing conducted by telephone or other electronic media when the opportunity to do so is offered by the Department, provided, however, that a telephone or electronic hearing may be adjourned for a live hearing if the hearing officer determines that such an adjournment is necessary, or if any party requests an adjournment.

(b) If the respondent chooses to appear by mail, the written request for mail adjudication may contain denials, admissions and explanations pertaining to the individual violations charged, and documents, exhibits or statements to be considered as evidence in support of respondent's defense, or in the determination of penalties. If, after a review of the record, the hearing examiner is of the opinion that it is necessary for the respondent to submit additional evidence, the hearing examiner may require the submission of additional documentary evidence or deny a request for adjudication by mail and adjourn the matter for a hearing. Violations that are not denied or explained shall be deemed to have been admitted; defenses not specifically raised shall be deemed to have been waived.

(c) A respondent or authorized representative may request that a scheduled hearing be adjourned to a later date. Such a request may be made in writing to the Tribunal, provided that it is received by the Tribunal no later than three business days prior to the date of the scheduled hearing, or the request may be made in person on the date of the scheduled hearing at any time prior to the hearing. A maximum of three requests for adjournments by the respondent, and a maximum of three requests for adjournments by the petitioner or by the Tribunal, shall be granted administratively as of right. Thereafter, all requests for adjournments must be made in person to a hearing examiner or the Director of the Tribunal at the time of the scheduled hearing, and may be granted only upon a showing of good cause as determined by the hearing examiner or the Director in his or her discretion. A denial of an adjournment request shall not be subject to separate or interlocutory review by the Review Board.

(d) A respondent who fails to appear or to make a timely request for an adjournment shall not be entitled to a hearing. Without further notice to the respondent, a hearing examiner may find that the respondent is in default if the respondent has failed to appear and render a default decision sustaining the violations cited in the notice of violation, subject to findings the hearing examiner must make with respect to the service of the notice of violation and the sufficiency of the factual allegations contained therein, and imposing a penalty pursuant to Article 3 of this Code or as authorized by other applicable law. If, before a default decision is issued, it is determined that the failure of the party to appear was caused by circumstances beyond the party's reasonable control, a default decision may not be issued and the matter may be adjourned to a new hearing date. A decision that is adverse to a respondent shall be issued on default only after the hearing examiner has determined that the notice of violation was served as required by applicable law, and that the notice of violation alleges sufficient facts to support the violations charged. The Tribunal shall notify a defaulting respondent of the issuance of a default decision by mailing a copy of the decision by certified mail or by providing a copy to a respondent or respondent's representative who appears personally at the Tribunal and requests a copy. A respondent may make a motion in writing requesting that a default be vacated, if the motion to vacate is postmarked or received by the Tribunal within sixty days of the date of mailing of the default decision to the respondent or the date a copy was provided to the respondent or the respondent's representative at the Tribunal, whichever date is earlier. One such request shall be granted administratively as of right provided that the Tribunal's records show that there have been no other failures to appear in relation to the particular notice of violation. A motion to vacate a default that is received more than sixty days after mailing or personal receipt of the default decision shall be accompanied by a statement setting forth good cause for the respondent's failure to appear. Such statement, and any documents to support the motion to vacate the default, shall be reviewed by a hearing examiner who shall determine if it establishes a reasonable excuse for the default. Denial of a motion to vacate a default decision shall not be subject to review by the Review Board.

(e) The Department may extend an offer to settle any notice of violation by setting forth a monetary amount that a respondent may pay in full satisfaction of the violations cited in the notice of violation. A respondent may, in lieu of attending a hearing, pay the department the monetary amount. Such payment shall constitute an admission of liability for the violations charged and no further hearing or appeal shall be allowed.

#### §7.11 Hearings and mail adjudications.

(a) A notice of violation may be adjudicated at a hearing or by mail.

(b) The hearings shall be open to the public, shall be presided over by a hearing examiner, shall proceed with reasonable expedition and order, and, insofar as practicable, shall not be postponed or adjourned.

(c) Each party to a proceeding shall have the right to be represented by counsel or other authorized representative as set forth in §§7.09 (a) and 7.21 of this Article, to present evidence, to examine and cross-examine witnesses and to have other rights essential for due process and a fair and impartial hearing.

(d) The Department shall have the burden of proving the factual allegations contained in the notice of violation by a preponderance of the evidence. A respondent shall have the burden of proving an affirmative defense, if any, by a preponderance of the evidence.

(e) In addition to evidence submitted, the hearing examiner may request further evidence to be submitted by the respondent or may adjudicate the matter based on the record before him or her.

(f)(1) A respondent may request the presence at the hearing of the public health sanitarian, inspector or other person who issued the NOV (the "inspector"), provided that the request is

made in writing and is received by the Tribunal no later than seven business days prior to the scheduled hearing. In such event, the hearing shall be rescheduled, and the respondent need not appear at the originally scheduled hearing. A respondent may also, at the time of the hearing, request the presence of the inspector; in which case the hearing shall be adjourned. In addition, if a respondent denies the factual allegations contained in the NOV, the hearing examiner may require the presence of the inspector and adjourn the hearing.

(2) In the event that the inspector does not appear, the hearing examiner may adjourn the hearing, or may take testimony, and sustain or dismiss all or part of the notice of violation, as the hearing examiner may deem appropriate. In determining the appropriate action, the hearing examiner may consider any relevant facts, including the availability of the inspector, the reason for the failure to appear, the need for and relevance of the requested testimony, and the potential prejudice to either party if the hearing is adjourned or proceeds without the inspector. In no event shall a hearing be adjourned on more than three occasions by the hearing examiner because of the unavailability of an inspector. If the respondent requests that the hearing proceed in the absence of the inspector, the respondent shall be deemed to have waived the appearance of such inspector.

(g) A record shall be made of all notices of violation filed, proceedings held, written evidence admitted and decisions rendered, and such record shall be kept in the regular course of business for a reasonable period of time in accordance with applicable law. Hearings shall be mechanically, electronically or otherwise recorded by the Administrative Tribunal under the supervision of the hearing examiner, and the original recording shall be part of the record and shall constitute the sole official record of the hearing. A copy of a tape recording of a hearing shall be made available within five business days of receiving a request, upon payment of a reasonable fee in accordance with applicable law, to any respondent requesting a copy, to enable such respondent to appeal a notice of decision to the Review Board or for other legal proceedings.

(h) With the consent of all parties, a hearing examiner may conduct a hearing by telephone or other electronic media.

(i) A written decision sustaining or dismissing each charge in the notice of violation shall be promptly rendered by the hearing examiner who presided over the hearing, or who conducted the adjudication by mail, or who rendered a default decision. Each decision, other than a default decision, shall contain findings of fact and conclusions of law. Where a violation is sustained, the hearing examiner shall impose a penalty. A copy of the decision, other than a default decision mailed or otherwise provided in accordance with §7.09(d) hereof, shall be served forthwith on the respondent or on the respondent's counsel, registered representative or other authorized representative, either personally or by certified mail. Any fines imposed shall be paid within thirty days of service of the decision. If full payment of fines is not made within thirty days, an additional penalty may be imposed per NOV in an amount of fifty dollars, if paid between thirty-one and sixty days after service of the decision, and one hundred dollars if paid more than sixty days after service of the decision.

#### §7.13 Subpoenas.

(a) At any time after a hearing has commenced a subpoena may be issued by the hearing examiner to compel the timely production of any record or document for examination or introduction into evidence, or to compel the appearance of persons to give testimony, when the hearing examiner finds that such record, document or testimony is reasonably related, relevant and necessary to the adjudication. Such subpoenas shall be issued only for production of records maintained within the Department, or the appearance of a person who is employed by the Department at the time such appearance is demanded. Upon the issuance of a subpoena the hearing examiner may proceed with the hearing and adjourn such hearing until the subpoenaed documents or witnesses are produced, or immediately adjourn the hearing until such time.

(b) Subpoenaed documents shall be produced and made returnable on a date certain prior to the adjourned date for the continued hearing. Witnesses subpoenaed to testify shall appear on the adjourned date.

(c) A hearing examiner who has issued a subpoena, upon receipt of a motion timely made by the Department before the return date of the subpoena, or on the hearing examiner's own motion, may deny, quash or modify a subpoena if it is unreasonable, insufficiently relevant to the adjudication or has been shown to be wrongfully issued.

(d) If the hearing examiner determines that a subpoena has not been complied with, and that there is no good cause for such failure to comply, the hearing examiner may proceed with the hearing upon finding that the record, document or testimony subpoenaed is not necessary to the proof or defense of a violation or a fair adjudication of the merits, or the hearing examiner may preclude evidence offered by the non-complying party that is related to the subpoena, or may dismiss the particular violation the proof of which appears to the hearing examiner to be reasonably dependent on the material or person subpoenaed, but not produced.

#### §7.15 Disqualification of hearing examiners.

(a) Grounds for disqualification. A hearing examiner shall not preside over a hearing in accordance with the provisions of subdivisions (D) and (E) of §103 of Appendix A of Title 48 of the Rules of the City of New York. A hearing examiner who determines his or her disqualification shall withdraw from the proceeding by notice on the record and shall notify the Director of such withdrawal.

(b) Motion to disqualify. Whenever a party asserts for any reason that a hearing examiner must be disqualified from presiding over a particular proceeding, such party may file with the Director a motion to disqualify and remove the hearing examiner. Such a motion must be supported by affidavits setting forth the alleged grounds for disqualification. The Director shall furnish a copy of the motion to the hearing examiner whose removal is sought, and the hearing examiner shall have seven days to reply. Unless the hearing examiner disqualifies himself or herself within seven days of the receipt of the motion, the Director shall promptly determine the validity of the alleged grounds, either directly or on the report of another hearing examiner appointed to conduct a hearing for that purpose.

#### §7.17 Review Board.

(a) There shall be a Review Board within the Department which shall consist of three persons, namely a person appointed by the Board who is an attorney in the Office of the General Counsel of the Department and who has been admitted to practice law in the State of New York for a period of at least five years; another person appointed by the Board who is an attorney admitted to practice in the State of New York for a period of at least five years; and a person appointed by the Board who has at least five years experience in public health activities who may, but need not be, an employee of the Department. The attorneys appointed to the Review Board shall be in good standing at the time of appointment and continuously during their term of service, and shall meet any additional requirements of experience and knowledge of administrative law as the Board may impose. Hearing examiners are not qualified to be members of the Review Board. The Board of Health may at any time remove a member of the Review Board for cause following an opportunity to be heard.

(b) The Review Board shall have jurisdiction to review all final decisions, other than default decisions, of the hearing examiners to determine whether the facts found therein are supported by substantial evidence in the record, and whether the findings and determinations of the hearing examiner, as well as the penalty imposed, are supported by law. The Review Board shall not consider any evidence that was not presented to the hearing examiner. Decisions of the Review Board shall be made by a majority of its members. The Review Board shall have the power to reverse, to remand or to modify the decision appealed from or to reduce the amount of the penalty imposed within the minimums established by this Code or other applicable law.

(c) A respondent may seek to review, in whole or in part, any final decision of a hearing examiner, other than a decision rendered on default by the respondent. However, neither a denial of a motion to vacate a default decision nor a plea admitting the violations charged shall be subject to review by the Review Board. Within thirty days of the Tribunal delivering or mailing the decision to the respondent or authorized representative, such respondent may file a notice of appeal on a form prescribed by the Department, accompanied by a brief statement setting forth the specific reasons why the decision should be reversed, remanded or modified. Filing a notice of appeal shall not stay the collection of any fine or of the penalty imposed by the decision. No appeal shall be permitted unless the fine or penalty imposed has been paid prior to or at the time of the filing of the notice of appeal, or the respondent may post a cash or recognized surety company bond in the full amount imposed by the decision and order appealed from. Appeals decisions shall be made upon the entire record of the hearing and the evidence before the hearing examiner. Appeals may be decided without the appearance of the respondent, but the respondent may make a request to appear before the Review Board at the time of filing the notice of appeal.

(d) The Review Board shall promptly issue a written decision affirming, reversing, remanding or modifying the decision appealed from, a copy of which shall be served on the respondent by certified or registered mail, stating the grounds upon which the decision is based. Where appropriate, the decision shall order the repayment to the respondent of any penalty that has been paid. If the Review Board does not act on an appeal within one hundred eighty days after the notice of appeal is filed, or within such an extended time as may be agreed upon by the parties, the appeal shall be deemed to be granted. The decision of the Review Board shall be the final determination of the Department as to the imposition of any fine, penalty and forfeiture.

(e) The Review Board shall have no jurisdiction to entertain appeals by the Department of any decision of a hearing examiner.

(f) The Commissioner may appoint a person of suitable experience and similar qualifications to serve on the Review Board temporarily whenever there is a vacancy on the Review Board or a member is absent and unable to serve, pending the appointment of a person by the Board to fill the vacancy.

#### §7.19 Disqualification of member of Review Board.

(a) Grounds for disqualification. A member of the Review Board shall not review a final decision of a hearing examiner in accordance with the provisions of subdivisions (D) and (E) of §103 of Appendix A of Title 48 of the Rules of the City of New York. A member who determines his or her disqualification shall withdraw from the review by notice on the record and shall notify the Board of such withdrawal.

(b) Whenever a party asserts for any reason that a member of the Review Board must be disqualified from presiding over a particular proceeding, such party may file with the Board a motion to disqualify and remove such member. Such a motion must be supported by affidavits setting forth the alleged grounds for disqualification. The Board shall furnish a copy of the motion to the member whose removal is sought, and,

thereafter, the member shall have seven days to reply. Unless the member disqualifies himself or herself within seven days of the receipt of the motion, the Board shall promptly determine the validity of the alleged grounds, either directly or on the report of another hearing examiner appointed to conduct a hearing for that purpose.

(c) Whenever a member of the Review Board is disqualified, the Board shall appoint a person of suitable experience to serve on the Review Board to determine the appeal in question.

#### §7.21 Registration and disqualification of certain authorized representatives.

(a) Any person who represents two or more respondents before the Tribunal within a calendar year shall, as a condition precedent to such representation, register with the Tribunal as a representative. Any person who appears on behalf of a respondent before the Tribunal shall be prohibited from appearing before the Tribunal on behalf of any other respondent within the same calendar year without having completed such registration. A representative shall register by completing and submitting a form provided by the Department, and such form shall be accompanied by proof acceptable to the Department identifying the representative, and shall include such other information as the Department may require. Registered representatives shall notify the Tribunal within ten business days of any change in the information required to be stated on the registration form. The Department may charge a reasonable fee in accordance with applicable law to cover the cost of processing and maintaining registrations and may issue each representative a registration card and identification number. Attorneys admitted to practice in New York State shall not be required to so register.

(b) Attorneys, registered representatives or other authorized representatives may be permanently or temporarily barred by the Commissioner from representing any respondents before the Tribunal, and in the case of registered representatives their registration revoked or suspended, upon a finding by the Office of Administrative Trials and Hearings, or successor agency, issued after an opportunity to be heard has been afforded, that they have engaged in improper conduct, including but not limited to one or more of the following:

- (1) Disorderly, disruptive or obstructive conduct, as set forth in §7.03(c)(4) of this Article, on more than one occasion, regardless of whether the representative was barred from participating in a specific hearing by a hearing examiner in accordance with said §7.03(c)(4);
- (2) Submitting any false or forged document either as evidence in a matter being adjudicated at the Tribunal, or as proof of representation of a respondent;
- (3) Any violation of §3.15 or §3.19 of this Code; or
- (4) Any criminal conviction of a type that does not fall within the protections afforded under Article 23A of the New York State Correction Law.

#### §7.23 Computation of time.

In computing any period of time prescribed or allowed by this Article, the day of the act or default from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which case the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. Whenever a party has the right or is required to do some act within a prescribed period of time after the service of a document and the document is served by mail, five days shall be added to the prescribed period of time.

### NEW YORK CITY LAW DEPARTMENT DIVISION OF LEGAL COUNSEL 100 CHURCH STREET NEW YORK, NY 10007 212-788-1087

#### CERTIFICATION PURSUANT TO CHARTER §1043(d)

**RULE TITLE:** OATH Health Tribunal Rules

**REFERENCE NUMBER:** 2011 RG 083

**RULEMAKING AGENCY:** Office of Administrative Trials and Hearings

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: April 17, 2012 (*revised*)  
Acting Corporation Counsel

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10th FLOOR  
NEW YORK, NY 10007  
212-788-1400**

#### CERTIFICATION / ANALYSIS PURSUANT TO CHARTER SECTION 1043(d)

**RULE TITLE:** Proposed Amendments to Title 48 of the Rules of the City of New York (Rules of Practice Applicable to Cases Before the Health Tribunal at OATH)

**REFERENCE NUMBER:** OATH/ECB-13

**RULEMAKING AGENCY:** Office of Administrative Trials and Hearings

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Provides a cure period.

Rachel Squire  
Mayor's Office of Operations

04/17/12  
Date

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### BUILDINGS

#### ■ NOTICE

#### NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to sections 104-06 and 104-09 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding hoist machine operator training and examinations.

This rule was first published on December 30, 2011 and a public hearing thereon was held on February 3, 2012.

Dated: 4/20/12 /s/  
New York, New York Robert D. LiMandri  
Commissioner

#### STATEMENT OF BASIS AND PURPOSE

Sections 104-06 and 104-09 of Chapter 100 of Title 1 of the Rules of the City of New York are being amended pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter and sections 28-401.5, 28-401.6, 28-401.7, 28-401.14, and Article 405 of Title 28 of the New York City Administrative Code (Administrative Code).

For the purposes of this rule, "shall" and "must" have the same meaning.

Rule changes pertaining to operators of power operated hoisting machines:

#### New OSHA Licensing Requirements

Section 28-405.1 of the Administrative Code requires the operators of power operated hoisting machines (including cranes and derricks) with a rated capacity of over one ton to hold a valid Hoisting Machine Operators (HMO) license from the New York City Department of Buildings (the Department). HMO licenses are divided into three classes, class A, B, and C. Section 28-401.7 further requires all applicants for a license to pass an examination.

In November 2010, new rules promulgated by the Occupational Safety and Health Administration (OSHA) governing the operation of cranes and derricks became effective (29 CFR 1926 Subpart CC). Section 1926.1427 of the OSHA rule requires all crane operators in the United States to be certified. Licenses issued by a state or local government are recognized as fulfilling the OSHA certification requirement, if the "testing meets industry recognized criteria for written testing materials, practical examinations, test administration, grading, facilities/equipment and personnel," and the licensees are retested at least every five years.

#### Examination

Section 104-09 of Title 1 of the Rules of the City of New York requires applicants for a Class C HMO license to pass an examination administered by "an organization accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner." Such an organization meets the OSHA requirement for testing. Section 104-09 further requires Class C HMO licensees to maintain their national certification for the license period. To maintain their national certification, licensees are subject to retesting every five years, which satisfies the OSHA retesting requirement.

The amendment to section 104-09 will bring the examinations for Class A and Class B HMO licenses in line with the new OSHA requirements by requiring applicants to pass an examination administered by the same type of organization as Class C examinations. The exams for Class A and B HMO applicants are currently administered through the New York City Department of Citywide Administrative Services (DCAS).

Section 28-405.2 of the Administrative Code establishes a Class B HMO license as authorizing the "operation of



hoisting machine without limitation or restriction.” Accordingly, the amendment to section 104-09 requires Class B applicants to be certified to operate all classes of cranes. Further, the examination currently administered through the DCAS occurs on a friction crane. The amendment requires at least one of the certification exams for a Class B applicant to have been passed on a friction crane. Similarly, where a Class A or C applicant seeks to operate a friction crane, the amendment requires that such applicant pass a certification exam on a friction crane.

#### Years of Experience

Section 28-405.3 of the Administrative Code further requires applicants for a Class A, B or C HMO license to possess a number of years of experience operating a hoisting machine under the direct and continuing supervision of a licensed operator before applying for their license. Section 104-09 clarifies that for a Class C HMO, the experience may be obtained within New York City or in an “urban area of comparable density within the United States,” under the supervision of a hoisting machine operator licensed by that jurisdiction. The amendment to section 104-09 expands this provision to Class A HMO license applicants and adds a requirement that at least one year of experience be obtained within New York City. As an alternative to the one year of experience in New York City, the requirement may be satisfied by having held a license issued by another jurisdiction within the United States for the past ten years prior to application, with at least five years of experience in an urban area of comparable density. Section 104-09 also requires applicants for a Class C HMO license to have performed “outrigger placement incorporating at least 100 crane set-ups.” The amendment to Section 104-09 expands this requirement to Class A HMO applicants.

#### Training Course

Section 104-09 specifies that applicants for a Class C HMO license are to complete a 40-hour training course. The amendment to section 104-09 expands this requirement to Class A and B HMO applicants.

Section 28-401.14 of the Administrative Code authorizes the Commissioner to require applicants for the renewal of a license to complete education courses approved by the Department. Section 104-06 requires individuals applying to renew other licenses issued by the Department, including but not limited to electricians, plumbers, and site safety managers, to complete a refresher course. The amendment to section 104-06 requires individuals seeking to renew a Class A, B, or C HMO license to complete an 8-hour refresher course.

#### Section 1. Subdivision a of section 104-06 of subchapter D of chapter 100 of title 1 of the rules of the City of New York is amended by adding a new paragraph 5 to read as follows:

(5) Hoisting Machine Operator

#### §2. Paragraphs 5 through 9 of subdivision a of section 104-06 are renumbered 6 through 10, respectively.

#### §3. Subdivision b of section 104-06 is amended by adding a new paragraph 5 to read as follows:

(5) Hoisting Machine Operator. Beginning July 1, 2013, during the one (1) year immediately prior to renewal, the licensee must have successfully completed a Department-approved eight- (8) hour course covering those provisions of the administrative code and regulations that are unique to New York City for the operation of a hoisting machine and the unique hazards of operating a hoisting machine within New York City.

#### §4. Paragraphs 5 through 10 of subdivision b of section 104-06 are renumbered 6 through 11, respectively.

#### §5. Paragraph 3 of subdivision a of section 104-09 of subchapter D of chapter 100 of title 1 of the rules of the City of New York is amended to read as follows:

(3) An applicant for a Class A, B or C Hoisting Machine Operator license shall satisfy the [qualification and] examination requirements of the Administrative Code by complying with the following requirements:

(i) [An applicant shall furnish] For a Class A or C applicant, providing to the Department [a] one or more certifications issued by an organization accredited to offer crane certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The certification shall authorize operation of the type of equipment for which the applicant seeks a license. The applicant shall provide to the Department a copy of the certification, a copy of future re-certifications and documentation of new specialties acquired. The applicable certification shall be maintained continuously for the duration of the license term.

(ii) For a class B applicant, providing to the Department all crane operator certifications issued by an organization accredited to offer tower, mobile, and crawler crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The

applicant must have passed at least one of the certification exams on a friction crane. The applicant must provide to the Department a copy of the certifications, a copy of future re-certifications and documentation of new specialties acquired. The applicable certifications must be maintained continuously for the duration of the license term.

(ii)(4) An applicant for a Class A or C Hoisting Machine Operator license shall provide proof of experience demonstrating [two (2) years of work, within the three (3) years prior to application, under the direct and continuing supervision of a Hoisting Machine Operator licensed by the Department or by another jurisdiction that regulates crane operators.]the years of experience required by the Administrative Code and compliance with the following requirements:

(i) For a Class A Hoisting Machine Operator license at least three (3) years of work within the five (5) years prior to application must have been under the direct and continuing supervision of a Hoisting Machine Operator licensed by the Department or by another jurisdiction within the United States that regulates crane operators.

(A) At least one (1) year of the qualifying experience must have been undertaken in the City of New York.

(B) Notwithstanding the above, in lieu of the one (1) year of qualifying experience undertaken in the City of New York, the applicant may have, for at least the past ten (10) years prior to application, held a Hoisting Machine Operator license issued by a jurisdiction within the United States, with at least five (5) years of experience within those (10) years having been in an urban area of comparable density within the United States, as determined by the Commissioner.

(C) In addition to the requirements of either (A) or (B), above, the other two (2) required years of qualifying experience must have been undertaken either in the City of New York or in an urban area of comparable density within the United States, as determined by the Commissioner.

(ii) For a Class C Hoisting Machine Operator license at least two (2) years of work within the three (3) years prior to application must have been under the direct and continuing supervision of a Hoisting Machine Operator licensed by the Department or by another jurisdiction within the United States that regulates crane operators. At least one (1) year of the qualifying work must have been undertaken in the City of New York or in an urban area of comparable density within the United States, as determined by the Commissioner.

(5) [The] For a Class A or C Hoisting Machine Operator license, the qualifying work shall include [instruction in] outrigger placement incorporating at least one hundred (100) crane set-ups. [At least one (1) year of the qualifying work must have been undertaken in the city of New York or in an urban area of comparable density, as determined by the Commissioner.] For a Class A Hoisting Machine Operator license, at least 25 of the set-ups must have occurred on machinery for which a Class A license is required. Where an applicant for a Class A Hoisting Machine Operator license already possesses a Class C Hoisting Machine Operator license, the requirement for the remaining 75 set-ups on non Class A machinery is waived.

(iii)(6) Additional qualification requirements. In addition to the qualification requirements set forth in the Administrative Code and in this subdivision (a), all Hoisting Machine Operator Class A, B, and C license applicants shall complete a forty- (40) hour training course, approved by the Department, covering those provisions of local law and regulation that are unique to New York City for the operation of a hoisting machine and the unique hazards of operating a hoisting machine within New York City.

#### §6. Paragraph 2 of subdivision b of section 104-09 is amended to read as follows:

(2) Valid national certification(s) as follows:

(i) For Class A Hoisting Machine Operators whose license is renewed or reinstated on or after July 1, 2013, one or more valid certification(s) issued by an organization accredited to offer crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The certification(s) shall authorize the

operation of the type of equipment for which the license is held or sought and the licensee shall provide to the Department a copy of the certification(s), a copy of future re-certifications and documentation of new specialties acquired. The applicable certification(s) must be maintained continuously for the duration of the license term.

(ii) For Class B Hoisting Machine Operators whose license is renewed or reinstated on or after July 1, 2013, all crane operator certifications issued by an organization accredited to offer tower, mobile and crawler crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The applicant must have passed at least one of the certification exams on a friction crane. The licensee must provide to the Department a copy of the certifications, a copy of future re-certifications and documentation of new specialties acquired. The applicable certifications must be maintained continuously for the duration of the license term.

(iii) For Class C Hoisting Machine Operators, [a] one or more valid certification(s) issued by an organization accredited to offer crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The certification(s) shall authorize the operation of the type of equipment for which the license is held or sought and the licensee shall provide to the Department a copy of the certification(s), a copy of future re-certifications and documentation of new specialties acquired. The applicable certification(s) must be maintained continuously for the duration of the license term.

#### §7. Subdivision d of section 104-09 is amended to read as follows:

(d) A Class A, B or C Hoisting Machine Operator license issued following compliance with this rule shall authorize the operation of only that type of [equipment] crane for which Department records indicate the licensee is qualified or certified. For a Class A or C Hoisting Machine Operator license, where the applicant or licensee wishes to operate a friction crane, the applicant must have passed at least one of the certification exams on a friction crane.

#### §8. Paragraph 1 of subdivision f of section 104-09 is amended to read as follows:

(1) [For a Class C licensee only, the] The certification(s) issued to him or her by an organization accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner; and

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## TAXI AND LIMOUSINE COMMISSION

### ■ NOTICE

#### Notice of Public Hearing and Opportunity to Comment on Proposed Rules

**What are we proposing?** The Taxi and Limousine Commission is considering changing its rules. The change would amend the requirements for vehicle licensure to permit the Commission to collect New York City's Commercial Motor Vehicle Tax on some vehicles licensed by the TLC.

**When and where is the Hearing?** The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 A.M. on Thursday, May 31, 2012. The hearing will be in the public hearing room at 33 Beaver Street, New York, New York, on the 19th Floor.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Mail.** You can mail written comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street – 22nd Floor, New York, New York 10014.
- **Fax.** You can fax written comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email written comments to [tlcrules@tlc.nyc.gov](mailto:tlcrules@tlc.nyc.gov).
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC rules Web site at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules).
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-676-1135. You can also sign up in the hearing room before the hearing begins on May 31, 2012. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by May 29, 2012.

**Do you need assistance to participate in the Hearing?** You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-676-1135. You must tell us by Thursday, May 24, 2012.

**Can I review the comments made on the proposed rules?** A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

**What authorizes the Commission to make this rule?** Sections 1043 and 2303 of the City Charter, section 19-503 of the City Administrative Code, and Local Law 73 of 2011 authorize the Commission to make this proposed rule. This proposed rule was not included in the Commission's regulatory agenda for this Fiscal Year because it was not contemplated when the Commission published the agenda.

**Where can I find the Commission's rules?** The Commission's rules are in title 35 of the Rules of the City of New York.

**What rules govern the rulemaking process?** The Commission must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

**Statement of Basis and Purpose of Proposed Rule**

Chapter 8 of Title 11 of the Administrative Code of the City of New York imposes a New York City Commercial Motor Vehicle Tax (CMVT) on motor vehicles transporting passengers for hire in New York City. All vehicles licensed by the Commission, including taxicabs, for-hire vehicles, paratransit vehicles and commuter vans, must pay the CMVT because, with a Commission license, such vehicles are authorized to transport passengers for hire in New York City. In December 2011, the City Council passed Local Law 73 of 2011, which authorized the Commission to collect the CMVT on certain vehicles licensed by the Commission. Among other things, Local Law 73 changed the collection cycle for the tax from 1 to 2 years. However, the amount of tax due and the persons required to pay it remain the same.

The purpose of the proposed rule amendments is to implement Local Law 73 of 2011 and to provide guidance to medallion owners, and licensees of for-hire vehicles, paratransit vehicles, and commuter vans about how the Commission will administer the CMVT.

In accordance with Local Law 73, these proposed rules provide that:

- Medallion Taxicab Owners must ensure that the CMVT is paid to the Commission by vehicle owners for a period of 2 years upon initial issuance of the license and at the time of license renewal. Formerly, the CMVT was paid directly to the NYC Department of Finance.
- Other Commission vehicle licensees (for-hire vehicles, paratransit vehicles, and commuter vans) must pay the CMVT to the Commission for a period of 2 years upon initial issuance of the license and at the time of license renewal IF the licensee has NOT already paid the tax to the New York State Department of Motor Vehicles as part of the routine vehicle registration process.
- The TLC will deny any TLC vehicle license application, including a renewal application, if the CMVT has not been paid.
- An interim tax payment will be required on certain Medallion Taxicabs and other vehicles licensed by TLC to account for the transition of the tax cycle from 1 to 2 years. Such payment will be based on a formula set forth in the Local Law 73, which takes into account the amount of time remaining on the license.
- Medallion Taxicab Owners and other vehicle licensees will be subject to a fine and suspension of the license, if the vehicle license is operated after the interim CMVT payment is past due.

New material is underlined.  
[Deleted material is in brackets.]

Section 1. Section 51-03 of Title 35 of the Rules of the City of New York is amended by adding a definition of "Commercial Motor Vehicle Tax" in the correct alphabetical order, to read as follows:

**Commercial Motor Vehicle Tax** is the tax imposed by Section 11-800 *et. seq.* of the Administrative Code and includes the amount of any fines and penalties that are due for late or non-payment. Under Section 11-802 of the Administrative Code, the vehicle owner, as defined in Section 11-801, is responsible for payment of the Commercial Motor Vehicle Tax.

§ 2. Section 58-04 of Title 35 of the Rules of the City of New York is amended by adding new subdivisions (j) and (k) to read as follows:

(j) Commercial Motor Vehicle Tax.

(1) An Applicant, including an applicant for a renewal License, must demonstrate that the Commercial Motor Vehicle Tax applicable to the Applicant's Vehicle(s) in the amount provided in subdivision (k) of this section has been paid to the Commission.

(2) If the Commercial Motor Vehicle Tax on the Applicant's vehicle has already been paid to the New York City Department of Finance, the Applicant must provide proof of

payment in the form of a receipt from the Department of Finance showing the amount of tax paid, the date the tax was paid, and the tax year covered by the payment.

(k) Commercial Motor Vehicle Tax – Amount Due

(1) New Medallions. The Commercial Motor Vehicle Tax due on a Vehicle upon issuance of a new medallion issued after December 27, 2011 will be the amount provided in Section 11-809.2(f) of the Administrative Code. The tax must be paid by the Vehicle Owner, as defined in Section 11-801 of the Administrative Code, upon issuance of the Medallion.

(2) License Renewals for Licenses Expiring on or After May 31, 2012.

(i) The Commercial Motor Vehicle Tax due on each Vehicle (including a Stand-by Vehicle) with a license expiring on or after May 31, 2012 will be \$2000 for each renewal License period. The tax must be paid by the Vehicle Owner, as defined in Section 11-801 of the Administrative Code, upon renewal.

(ii) No additional payment will be required for any replacement Vehicle during the renewal License Period.

(3) Interim Payments.

(i) For Licenses expiring on May 31, 2012, no interim payment is due.

(ii) For Licenses expiring on May 31, 2013, an interim payment of \$1000 per Vehicle is due on June 1, 2012 (the "Interim Tax Due Date"). The tax must be paid by the Vehicle Owner, as defined in Section 11-801 of the Administrative Code.

(iii) If a Vehicle Owner does not pay the interim payment due by the Interim Tax Due Date, a Medallion Owner cannot operate the Owner's Taxicab License used with that vehicle until the interim payment is paid.

(iv) The Commission can notify Owners of Taxicab Licenses with respect to which the Vehicle Owners will owe an interim payment pursuant to this paragraph and the consequences if the Vehicle Owner fails to pay the interim payment by the Interim Tax Due Date.

(4) Refunds.

(i) The Commission will not refund any payment of the Commercial Motor Vehicle Tax.

(ii) Applications for refunds, including but not limited to refunds upon transfer, revocation, surrender or termination, must be made to the NYC Department of Finance. The application will be reviewed in accordance with the Administrative Code and the Rules of the NYC Department of Finance.

§ 4. Section 58-08 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (j) to read as follows:

(j) Commercial Motor Vehicle Tax.

(1) The Commission will deny an application, including a renewal application, if the following Commercial Motor Vehicle Tax amounts are not paid for any Vehicle subject to the application:

(i) The Commercial Motor Vehicle Tax amount required under subdivision (k) of section 58-04 of this Chapter, including the interim payment, if any, or

(ii) Any additional Commercial Motor Vehicle Tax amount for any tax year or period which the New York City Department of Finance has notified the Commission is due and unpaid.

(2) Payment of the Commercial Motor Vehicle Tax amount described in paragraph (1) of this subdivision is a condition to issuance of a License, including a renewal License, and the maintaining of such License.

§ 5. Section 58-12 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (e) to read as follows:

(e) Commercial Motor Vehicle Tax.

(1) An Owner must ensure that the Owner's Taxicab License is not operated if the Commercial Motor Vehicle Tax on the Vehicle used with such License is past due.

(2) Operating a vehicle as a Medallion Taxicab when the payment of the Commercial Motor Vehicle Tax is past due will be considered the same as operating without a Valid Taxicab License.

§58-12(e) Fine: \$1000 and suspension until compliance Appearance NOT REQUIRED

§ 6. Subdivision (a) of section 58-33 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (6) to read as follows:

(6) A copy of the receipt issued by the Commission or other proof of payment of the Commercial Motor Vehicle Tax.

§58-33(f)(6) Fine: \$75 Appearance NOT REQUIRED

§ 7. Section 59A-04 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (u) to read as follows:

(u) Commercial Motor Vehicle Tax.

(1) An Applicant, including an applicant for a renewal License, must pay the Commercial Motor Vehicle Tax applicable to the Applicant's Vehicle. If the Applicant has not made payment to the NYS DMV, the Applicant must pay the Commercial Motor Vehicle Tax to the Commission.  
(2) An Applicant who has already paid the Commercial Motor Vehicle Tax must provide proof of payment in the form of a copy of the New York State issued registration receipt, or a receipt from the New York City Department of Finance.

§ 8. Section 59A-07 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (g) to read as follows:

(g) Commercial Motor Vehicle Tax.

(1) For Licenses Issued on or after June 1, 2012 if Tax NOT paid to NYS DMV.

(i) The Commercial Motor Vehicle Tax for each Vehicle will be \$800, to paid with the application for the license.

(ii) No additional payment will be required for any replacement Vehicle during the renewal License Period.

(iii) If the Applicant paid the Commercial Motor Vehicle Tax directly to NYS DMV, this paragraph does not apply.

(2) At License Renewal for Licenses Expiring on or After June 1, 2012 if Tax NOT paid to NYS DMV.

(i) The Commercial Motor Vehicle Tax for each Vehicle will be \$800 for each renewal License period. The tax must be paid with the renewal application.

(ii) No additional payment will be required for any replacement Vehicle during the renewal License Period.

(iii) If the Applicant paid the Commercial Motor Vehicle Tax directly to NYS DMV, this paragraph does not apply.

(3) Interim Payments for licenses expiring on or after June 1, 2012 and before June 1, 2014 if Tax NOT paid to NYS DMV.

An interim payment of Commercial Motor Vehicle Tax is due on June 1, 2012 for licenses expiring on or after June 1, 2012 and before June 1, 2014, provided that the Licensee has not paid the Commercial Motor Vehicle Tax to the NYS DMV.

(i) The amount of the interim payment is:

<b>If a license expires during:</b>	<b>The licensee must make an interim payment of:</b>
June, July or August 2012	\$100
September, October or November 2012	\$200
December 2012, January 2013 or February 2013	\$300
March, April or May 2013	\$400
June, July or August 2013	\$500
September, October or November 2013	\$600
December 2013, January 2014 or February 2014	\$700
March, April or May 2014	\$800

(4) Refunds.

(i) The Commission will not refund any payment of Commercial Motor Vehicle Tax.

(ii) Applications for refunds, including but not limited to refunds upon transfer, revocation, surrender or termination, must be made to the NYC Department of Finance. The application will be reviewed in accordance with the Administrative Code and the Rules of the NYC Department of Finance.

§ 9. Section 59A-08 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (g) to read as follows:

(g) Commercial Motor Vehicle Tax.

(1) The Commission will deny an application, including a renewal application, if the Applicant owes the Commercial Motor Vehicle Tax required under subdivision (c) of section 59A-14 of this Chapter on any Vehicle subject to the application.

(2) Payment of the Commercial Motor Vehicle Tax amount described in paragraph (1) of this subdivision is a condition to issuance of a License, including a renewal License, and the maintaining of such License.

§ 10. Section 59A-14 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (c) to read as follows:

(c) Commercial Motor Vehicle Tax.

(1) An Owner must pay the Commercial Motor Vehicle Tax due as described in paragraphs (2) and (3) of this subdivision on an Owner's Vehicle as and when required by the Commission in these Rules.

(2) An Owner must pay the amounts required in subdivision (g) of Section 59A-07 of this Chapter, including interim payments, if any.

(3) An Owner must also pay any additional Commercial Motor Vehicle Tax amount for any tax year or period which the New York City Department of Finance has notified the Commission is due and unpaid.

§59A-14(c) Fine: \$400 and suspension until compliance Appearance NOT REQUIRED

§ 11. Subdivision (a) of section 59A-30 is amended by adding a new paragraph (6) to read as follows:

(6) A copy of the receipt issued by the Commission, if any, or

other proof of payment of the Commercial Motor Vehicle Tax.

§59A-30(a)(5) Fine: \$75 Appearance NOT REQUIRED

§ 12. Section 60A-04 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (o) to read as follows:

(o) Commercial Motor Vehicle Tax.

(1) An Applicant, including an applicant for a renewal License, must pay the Commercial Motor Vehicle Tax applicable to the Applicant's Vehicle. If the Applicant has not made payment to the NYS DMV, the Applicant must pay the Commercial Motor Vehicle Tax to the Commission.

(2) An Applicant who has already paid the Commercial Motor Vehicle Tax must provide proof of payment in the form of a copy of the New York State issued registration receipt.

§ 13. Section 60A-06 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (f) to read as follows:

(f) Commercial Motor Vehicle Tax.

(1) For Licenses Issued on or after June 1, 2012 if Tax NOT paid to NYS DMV.

(i) The Commercial Motor Vehicle Tax for each Vehicle will be \$800, to be paid with the application for the license.

(ii) No additional payment will be required for any replacement Vehicle during the renewal License Period.

(iii) If the Applicant paid the Commercial Motor Vehicle Tax directly to NYS DMV, this paragraph does not apply.

(2) At License Renewal for Licenses Expiring on or after June 1, 2012, if Tax NOT paid to NYS DMV.

(i) The Commercial Motor Vehicle Tax for each Vehicle will be \$800 for each renewal License period. The tax must be paid with the renewal application.

(ii) No additional payment will be required for any replacement Vehicle during the renewal License Period.

(iii) If the Applicant paid the Commercial Motor Vehicle Tax directly to NYS DMV, this paragraph does not apply.

(3) Interim Payments for licenses expiring on or after June 1, 2012 and before June 1, 2014 if Tax NOT paid to NYS DMV.

An interim payment of Commercial Motor Vehicle Tax is due on June 1, 2012 for licenses expiring on or after June 1, 2012 and before June 1, 2014, provided that the Vehicle Licensee has not paid the Commercial Motor Vehicle Tax to the NYS DMV.

(i) The amount of the interim payment is:

<b>If a license expires during:</b>	<b>The licensee must make an interim payment of:</b>
June, July or August 2012	\$100
September, October or November 2012	\$200
December 2012, January 2013 or February 2013	\$300
March, April or May 2013	\$400
June, July or August 2013	\$500
September, October or November 2013	\$600
December 2013, January 2014 or February 2014	\$700
March, April or May 2014	\$800

(4) Refunds.

(i) The Commission will not refund any payment of the Commercial Motor Vehicle Tax.

(ii) Applications for refunds, including but not limited to refunds upon transfer, revocation, surrender or termination, must be made to the NYC Department of Finance. The application will be reviewed in accordance with the Administrative Code and the Rules of the NYC Department of Finance.

§ 14. Section 60A-07 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (h) to read as follows:

(h) Commercial Motor Vehicle Tax.

(1) The Commission will deny an application, including a renewal application, if the Applicant owes the Commercial Motor Vehicle Tax required under subdivision (b) of section 60A-13 of this Chapter on any Vehicle subject to the application.

(2) Payment of the Commercial Motor Vehicle Tax amount described in paragraph (1) of this subdivision is a condition to issuance of a License, including a renewal License, and the maintaining of such License.

§ 15. Section 60A-13 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (b) to read as follows:

(b) Commercial Motor Vehicle Tax.

(1) An Owner must pay the Commercial Motor Vehicle Tax due as described in paragraphs (2) and (3) of this subdivision on an Owner's Vehicle as and when required by the Commission in these Rules.

(2) An Owner must pay the amounts required in subdivision (f) of Section 60A-06 of this Chapter, including interim payments, if any.

(3) An Owner must also pay any additional Commercial

Motor Vehicle Tax amount for any tax year or period which the New York City Department of Finance has notified the Commission is due and unpaid.

§60A-13(b) Fine: \$400 and suspension until compliance Appearance NOT REQUIRED

§ 16. Subdivision (a) of section 60A-29 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (10) to read as follows:

(10) A copy of the receipt issued by the Commission, if any, or other proof of payment of the Commercial Motor Vehicle Tax.

§ 17. Section 61A-04 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (k) to read as follows:

(k) Commercial Motor Vehicle Tax.

(1) An Applicant, including an applicant for a renewal License, must pay the Commercial Motor Vehicle Tax applicable to the Applicant's Vehicle. If the Applicant has not made payment to the NYS DMV, the Applicant must pay the Commercial Motor Vehicle Tax to the Commission.

(2) An Applicant who has already paid the Commercial Motor Vehicle Tax must provide proof of payment in the form of a copy of the New York State issued registration receipt or a receipt from the New York City Department of Finance.

§ 18. Section 61A-06 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (g) to read as follows:

(g) Commercial Motor Vehicle Tax.

(1) For Licenses Issued on or after June 1, 2012 if Tax NOT paid to NYS DMV.

(i) The Commercial Motor Vehicle Tax for each Vehicle will be \$800, to be paid with the application for the license.

(ii) No additional payment will be required for any replacement Vehicle during the renewal License Period.

(iii) If the Applicant paid the Commercial Motor Vehicle Tax directly to NYS DMV, this paragraph does not apply.

(2) At License Renewal for Licenses Expiring on or after June 1, 2012 if Tax NOT paid to NYS DMV.

(i) The Commercial Motor Vehicle Tax for each Vehicle will be \$800 for each renewal License period. The tax must be paid with the renewal application.

(ii) No additional payment will be required for any replacement Vehicle during the renewal License Period.

(iii) If the Applicant paid the Commercial Motor Vehicle Tax directly to NYS DMV, this paragraph does not apply.

(3) Interim Payments for licenses expiring on or after June 1, 2012 and before June 1, 2014 if Tax NOT paid to NYS DMV.

An interim payment of the Commercial Motor Vehicle Tax is due on June 1, 2012 for licenses expiring on or after June 1, 2012 and before June 1, 2014, provided that the Licensee has not paid the Commercial Motor Vehicle Tax to the NYS DMV.

(ii) The amount of the interim payment is:

<b>If a license expires during:</b>	<b>The licensee must make an interim payment of:</b>
June, July or August 2012	\$100
September, October or November 2012	\$200
December 2012, January 2013 or February 2013	\$300
March, April or May 2013	\$400
June, July or August 2013	\$500
September, October or November 2013	\$600
December 2013, January 2014 or February 2014	\$700
March, April or May 2014	\$800

(4) Refunds.

(i) The Commission will not refund any payment of Commercial Motor Vehicle Tax.

(ii) Applications for refunds, including but not limited to refunds upon transfer, revocation, surrender or termination, must be made to the NYC Department of Finance. The application will be reviewed in accordance with the Administrative Code and the Rules of the NYC Department of Finance.

§ 19. Section 61A-07 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (f) to read as follows:

(f) Commercial Motor Vehicle Tax.

(1) The Commission will deny an application, including a renewal application, if the Applicant owes the Commercial Motor Vehicle Tax required under subdivision (e) of section 61A-13 of this Chapter on any Vehicle subject to the application.

(2) Payment of the Commercial Motor Vehicle Tax amount described in paragraph (1) of this subdivision is a condition to issuance of a License, including a renewal License, and the maintaining of such License.

§ 20. Section 61A-13 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (e) to read as follows:

(e) Commercial Motor Vehicle Tax.

(1) An Owner must pay the Commercial Motor Vehicle Tax due as described in paragraphs (2) and (3) of this subdivision on an Owner's Vehicle as and when required by the Commission in these Rules.

(2) An Owner must pay the amounts required in subdivision (g) of Section 61A-06 of this Chapter, including interim payments if any.

(3) An Owner must also pay any additional Commercial Motor Vehicle Tax amount for any tax year or period which the New York City Department of Finance has notified the Commission is due and unpaid.

§61A-13(e) Fine: \$400 and suspension until compliance Appearance NOT REQUIRED

§ 20. Section 82-12 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (h) to read as follows:

(h) Commercial Motor Vehicle Tax. A Street Hail Livery Licensee must comply with all requirements of Chapter 59A of these Rules concerning payment of Commercial Motor Vehicle Tax.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10th FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE:** Commercial Motor Vehicle Tax

**REFERENCE NUMBER:** TLC-25

**RULEMAKING AGENCY:** TLC

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because rule violations arise from completed events, the consequences of which are immediate, which makes a cure period impracticable under the circumstances.

/s/ Francisco Navarro April 18, 2012  
Mayor's Office of Operations Date

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-788-1087**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Commercial Motor Vehicle Tax

**REFERENCE NUMBER:** 2012 RG 027

**RULEMAKING AGENCY:** Taxi and Limousine Commission

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: April 18, 2012  
Acting Corporation Counsel

**SPECIAL MATERIALS**

**CITY PLANNING**

■ NOTICE

**DEPARTMENT OF CITY PLANNING  
OFFICE OF MANAGEMENT AND BUDGET  
COMMUNITY DEVELOPMENT BLOCK GRANT  
PROGRAM  
NOTICE OF PROPOSED PROGRAM CHANGES TO  
THE 2012 CONSOLIDATED PLAN  
NOTICE OF AVAILABILITY OF THE PROPOSED CITY  
FISCAL YEAR 2013**

### COMMUNITY DEVELOPMENT PROGRAM DESCRIPTIONS & BUDGET

TO ALL AGENCIES, COMMUNITY BOARDS, GROUPS AND PERSONS:

#### Modification to the Community Development Block Grant Program (CD)

Pursuant to Section 91.105(c) of the Department of Housing and Urban Development's (HUD) Consolidated Plan Regulations, the City proposes changes in the 2012 Consolidated Plan/Thirty-Eighth Community Development Program Year (CD 38), effective July 1, 2012. The proposed changes are identified in the "Proposed City Fiscal Year 2013 Community Development Program". This document contains the Proposed City Fiscal Year 2013 budget, the Proposed Revised CD Year 38 budget (which will be incorporated into the Amended 2012 Consolidated Plan) and the Proposed CD 39 budget.

On May 3, 2012, the "Proposed City Fiscal Year 2013 Community Development Program" document will be available, one copy per person or organization, at the following locations:

The Department of City Planning, The Book Store, 22 Reade Street, 1st Floor, New York, New York 10007. Monday: 12:00 P.M. to 4:00 P.M. Tuesday - Friday: 10:00 A.M. to 1:00 P.M.

The Office of Management and Budget, 75 Park Place, 8th Floor Reception Area. New York, New York 10007, Monday - Friday: 10:00 A.M. to 5:00 P.M.

The Proposed City Fiscal Year 2013 Community Development Program document will also be made available for downloading in Adobe PDF format through the internet via the Department of City Planning's website at [www.nyc.gov/planning](http://www.nyc.gov/planning).

Written comments on the proposed changes should be directed to Charles V. Sorrentino, Consolidated Plan Coordinator, Department of City Planning, 22 Reade Street, 4th Floor, New York, New York 10007, (email: [amended2012CDBG@planning.nyc.gov](mailto:amended2012CDBG@planning.nyc.gov)) by close of business June 4, 2012.

City of New York:  
Amanda M. Burden, Director, Department of City Planning  
Mark Page, Budget Director, Office of Management and Budget

Date: April 25, 2012.

a25-m3

### COLLECTIVE BARGAINING

NOTICE

#### NOTICE OF AMENDED CERTIFICATION

This notice acknowledges that the Board of Certification has issued an Order Amending Certification as follows:

DATE: April 18, 2012 DOCKET #: AC-66-12

DECISION: 5 OCB2d 12 (BOC 2012)

EMPLOYER: City of New York,  
Department of Transportation,  
55 Water Street,  
New York, NY 10041

#### CERTIFIED/RECOGNIZED BARGAINING REPRESENTATIVE:

Organization of Staff Analysts, 220 East 23rd Street, Suite 707, New York, NY 10010

AMENDMENT: Certified No. 3-88 has been amended as follows:

Added: Supervisor of Traffic Device Maintainers Levels II and III (Title Code No. 90904)

To be Deleted when Vacant:

Supervising Superintendent of Maintenance (Title Code No. 91350)

a26

### COMPTROLLER

NOTICE

NOTICE OF ADVANCE PAYMENT OF AWARDS PURSUANT TO THE STATUTES IN SUCH cases made and provided, notice is hereby given that the Comptroller of the City of New York, will be ready to pay, at 1 Centre St., Rm.

629, New York, NY 10007 on May 9, 2012, to the person or persons legally entitled an amount as certified to the Comptroller by the Corporation Counsel on damage parcels, as follows:

Damage Parcel No.	Block	Lot
2	5699	69
3	5699	72

Acquired in the proceeding, entitled: IONIA AVENUE subject to any liens and encumbrances of record on such property. The amount advanced shall cease to bear interest on the specified date above.

JOHN LIU  
Comptroller

a25-m9

### OFFICE OF MANAGEMENT AND BUDGET

NOTICE

#### THE CITY OF NEW YORK - OFFICE OF MANAGEMENT AND BUDGET COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (C.D.) NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

#### TO ALL INTERESTED AGENCIES, COMMUNITY BOARDS, GROUPS AND PERSONS:

This document constitutes the Notice of Intent to Request Release of Funds for the projects identified below. These projects are funded in the Thirty-Eighth Community Development Year (CD 38/Calendar Year 2012). The allocations for CD 38 reflect a spending pattern that was based on the City's assuming its CD 38 grant would be the same as it received for CD 37. The allocations reflected below are expected to be effective only in January - June, 2012. Funds reserved for the last six months of CD 38 will be reallocated in accordance with the adopted City Fiscal Year 2013 Community Development budget. On May 3, 2012 the City will submit to HUD its Request for Release of Funds for these projects. In accordance with 24 CFR Part 58.35 of the HUD Environmental Review Procedures for Title I Community Development Block Grant Programs, the activities conducted under the programs listed below have been determined to be categorically excluded from the Environmental Assessment requirements of the National Environmental Policy Act. This notice is prepared on a programmatic basis.

#### 7A PROGRAM

CD funds are used by the Department of Housing Preservation and Development (HPD) to address hazardous conditions by correcting code violations and to provide systems renovations through 7A Financial Assistance packages to buildings under the management of a 7A administrator. CD 38 Allocation: \$1,405,000.

#### ALTERNATIVE ENFORCEMENT PROGRAM

The Alternative Enforcement Program is an additional HPD enforcement mechanism that is intended to alleviate the serious physical deterioration of the most distressed multiple dwellings in New York City by forcing the owner to make effective repairs or have city government do so in a more comprehensive fashion so that emergency conditions are alleviated and the underlying physical conditions related to the emergency housing code violations are addressed.

As described in the law, an owner will be notified by HPD that based upon criteria in the law, his or her multiple dwelling has been chosen for participation in the Alternative Enforcement Program. An owner will have four months to repair the violations, pay all outstanding HPD emergency repair charges and liens, submit a current and valid property registration statement and request an HPD re-inspection. If the owner fails to meet all of the requirements for discharge within the first four months, HPD will perform a building-wide inspection and issue an order outlining the action necessary to address the emergency conditions and the underlying causes of those conditions (to minimize recurrence of those conditions). HPD will prepare a scope of work that will address the conditions cited in the order. Should an owner fail to comply with the order (which is similar to the current issuance of repair orders for emergency conditions in privately owned properly covered under CD regulations by the Emergency Repair Program, although with a broader scope), HPD will perform the work. CD 38 Allocation: \$7,712,000.

#### PROJECT OPEN HOUSE

Under Project Open House, CD funds are used to remove architectural barriers from the homes of New York City residents (Section 8 income eligible) who have mobility impairments. The program is administered by the Mayor's Office for People With Disabilities. CD 38 Allocation: \$240,000.

#### LANDMARKS HISTORIC PRESERVATION GRANT PROGRAM

The Landmarks Historic Preservation Grant Program provides grants to homeowners and not-for-profits who own or occupy a property that has been designated as a landmark, is located within a designated historic district or is listed in or is eligible to be listed in the National Register of Historic Places. Grants are awarded to homeowners and non-profits for facade improvement. Additionally, non-profits may be awarded grants for interior improvements provided the building has a designated interior. CD 38 Allocation: \$176,000.

#### BRONX RIVER PROJECT

The Bronx River Alliance, with the support of the New York City Department of Parks and Recreation, helps to restore, protect and manage the terrestrial and aquatic resources of the Bronx River corridor. In addition to monitoring, managing and improving river conditions, the Project's education component helps teachers and community educators to inform students and residents about the river and how to use it appropriately. River-wide recreational activities are also offered. CD funds are used to purchase education and outreach materials, office and restoration supplies, and field equipment; to print and mail newsletters and brochures; and for ecological restoration personnel and program consultants. CD 38 Allocation: \$207,000.

#### CODE VIOLATION REMOVAL IN SCHOOLS

The Department of Education will use CD funds to prevent or remove code violations in New York City Schools. The activities may include the installation of emergency lighting, fire rated doors and hardware, fire alarm systems, fire suppression systems, fire extinguishers, flame proofing curtains, sprinkler/standpipe, potable water systems, sewage systems, kitchen ventilation/exhaust systems, heating/cooling/refrigeration systems; building elevator and sidewalk elevator upgrades; and the repair of damaged flooring, ceilings, electrical fixtures and wiring, and the emergency repainting of brick. CD 38 Allocation: \$5,000,000.

#### DFTA SENIOR CENTER IMPROVEMENTS

CD funds will be used for the renovation of the physical plant and the rectification of code violations in senior centers. Activities may include plumbing upgrade, installation of lighting and emergency lighting systems, security systems, air conditioning/heating/ventilation systems, kitchen fire extinguishing systems, hot water heaters, fire doors, and ramps, window upgrade/replacement, ceiling and roof rehabilitation, kitchen upgrade, bathroom renovation, re-wiring, floor replacement, handicapped access, and security and elevator improvements. CD 38 Allocation: \$2,174,000.

Environmental Review Records respecting the within projects have been made by the City of New York which document the environmental review of the projects. These Environmental Review Records are on file and copies may be obtained at the Office of Management and Budget, Community Development Unit, 75 Park Place, 8th Floor, New York, New York 10007, between 10:00 A.M. and 5:00 P.M., Monday through Friday. Please call (212) 788-6177 to make an appointment to view or obtain a copy of the documents.

The City of New York will undertake the projects described above with CD funds from HUD, under Title I. The City of New York is certifying to HUD that the City and Budget Director Mark Page, in his official capacity as the Certifying Officer for the CD Program, consent to accept the jurisdiction of the federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making and action and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval, New York City may use the CD funds, and HUD will have satisfied its responsibilities under the National Environmental Policy Act of 1969. HUD will accept an objection to its approval of the release of funds and acceptance of the certification only if it is one of the following bases: a) That the certification was not in fact executed by the recipient's Certifying Officer, b) the recipient has failed to make one of the two findings pursuant to 58.41 or to make the written determination decision required by 58.47, 58.53 or 58.64 for the project as applicable, c) the recipient has omitted one or more of the steps set forth at Subparts F and G for the preparation and completion of an environmental assessment, d) the recipient has omitted one or more of the steps set forth at Subparts H and I for the preparation and completion of an environmental impact statement, e) the recipient did not comply with the historic review provisions of 36 CFR Part 800, f) with respect to a project for which a recipient has decided that 58.47, 58.53 or 58.64 apply, the recipient has failed to include in the ERR the written decision required, or its decision is not supported by the facts specified by the objecting party. Objections must be prepared and submitted in accordance with the required procedure (24 CFR Part 58), and may be addressed to HUD, Office of Community Planning and Development, 26 Federal Plaza, 35th Floor, New York, New York 10278. Objections to the release of funds on bases other than those stated above will not be considered by HUD. No objection received after May 18, 2012 will be considered by HUD.

City of New York: Office of Management and Budget,  
Mark Page, Budget Director. Date: April 25, 2012.

a25-m1

### CHANGES IN PERSONNEL

HRA/DEPT OF SOCIAL SERVICES FOR PERIOD ENDING 03/30/12						
TITLE						
NAME		NUM	SALARY	ACTION	PROV	EFF DATE
CAPELLAN	DIOMARIS	E	10104	\$31828.0000	APPOINTED	NO 03/11/12
CARTY	ALEIDA	M	31113	\$34977.0000	APPOINTED	NO 03/11/12
CERDA	SARITA		10251	\$28588.0000	APPOINTED	NO 10/23/11
CHUGUNOV	BOGDAN		31113	\$34977.0000	APPOINTED	NO 03/11/12
CIFU	CONSTANT		31113	\$34977.0000	APPOINTED	NO 03/11/12
COLON	THOMAS	D	10026	\$106894.0000	INCREASE	NO 03/04/12
CREWE	ROBERT	E	10104	\$31828.0000	APPOINTED	NO 03/11/12
CROFT	SYDELIA	T	31113	\$34977.0000	APPOINTED	NO 03/11/12
DAUGHTERY	ROBIN	A	52304	\$40224.0000	RESIGNED	NO 03/11/12
DEMASI	JOSEPH	F	92071	\$312.9700	INCREASE	YES 03/11/12
DEMASI	JOSEPH	F	92005	\$291.9700	APPOINTED	NO 03/11/12
DEMBY	ALEXIS	K	10124	\$51445.0000	INCREASE	NO 03/18/12
DIAZ-FLORES	YANET	A	31113	\$40224.0000	INCREASE	NO 03/11/12
DOBBS	GINA	T	10251	\$30683.0000	INCREASE	NO 03/18/12
DRAYTON	WILLIAM		70810	\$30260.0000	APPOINTED	NO 03/09/12
DUBOIS	ANTHONY	E	13641	\$89393.0000	INCREASE	YES 03/11/12
EVANGELIST	APRIL		10124	\$45978.0000	PROMOTED	NO 03/11/12
FAITELEWICZ	JASON		31113	\$34977.0000	APPOINTED	NO 03/11/12
FERDOUSE	NAZIA		10104	\$31828.0000	APPOINTED	NO 03/11/12
FORTE-CHANDLER	DANIELLA		10104	\$31828.0000	APPOINTED	NO 03/11/12
FRAVIEN	ROMAIN		10026	\$110293.0000	INCREASE	YES 03/11/12
GARCIA	JOSE		10104	\$31828.0000	TERMINATED	NO 03/21/12
GITTENS	PAULA		10104	\$31828.0000	APPOINTED	NO 03/11/12

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### LATE NOTICE

#### CITY COUNCIL

HEARINGS

#### HEARING BY THE COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS

THE COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS WILL HOLD A HEARING ON MONDAY, APRIL 30 AT 10:30 A.M. IN THE COMMITTEE ROOM AT CITY HALL, NEW YORK, NY 10007 ON THE FOLLOWING MATTER:

#### Appointment

- **Pre-considered-M**, Michael M. McSweeney, a candidate for re-appointment by the Council as City Clerk and Clerk of the Council pursuant to Section 48 of the *New York City Charter*. If re-appointed by the Council, Mr. McSweeney will be eligible to serve a six-year term that begins on May 13, 2012 and expires on May 12, 2018.

#### AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

A Calendar of speakers will be established in advance. Persons interested in being heard should write to the Honorable Christine C. Quinn, Speaker of the City Council, City Hall, New York, New York 10007, setting forth their name, representation and viewpoints.

Alisa Fuentes  
Deputy City Clerk

a26-30