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BenchNOTES

Last Month's OATH Decisions

The documents below are in PDF format. [Download the Adobe Reader now.](#)

Personnel

AWOL charges dismissed against correction officer who did not report due to snowstorm.

ALJ Susan J. Pogoda dismissed AWOL charges against a correction officer who did not report to work during a snowstorm. Respondent testified that there was a travel ban in place and she could not get her car out of her driveway. [Dep't of Correction v. Hernandez](#), OATH Index No. 106/16 (Mar. 23, 2016).

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Licensing

Engineer's filing privileges revoked for false statements.

A professional engineer submitted construction plans and applications for several worksites proposing work in violation of the applicable laws and codes, and containing misrepresentations about the nature of the work. [Dep't of Buildings v. Ali](#), OATH Index No. 2751/15 (Mar. 16, 2016), *modified on penalty*, Comm'r Dec. (Mar. 21, 2016).

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Real Property

Tenant entitled to Loft Law protection.

A resident of an interim multiple dwelling building applied for protected occupant status under the Loft Law. The owner argued that a sale of rights and improvements took place prior to the petitioner's tenancy, therefore removing the unit from rent regulation and depriving the resident of protected occupant status. [Matter of Waid](#), OATH Index No. 345/15 (Mar. 7, 2016).

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Vehicle Retention

ALJ orders release of seized car.

Respondent's vehicle was seized following his arrest for possession of drugs and a weapon. ALJ Kara J. Miller found that respondent received timely notice of his right to a retention hearing and so the vehicle could not be released on procedural grounds. [Police Dep't v. Walker](#), OATH Index No. 1462/16, mem. dec. (Mar. 25, 2016).

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Human Rights

Employer discriminated on basis of age.

ALJ John B. Spooner found sufficient evidence to prove that a building maintenance company engaged in age discrimination when it terminated the complainant, a security guard, based upon a policy of mandatory retirement at the age of 65. [Comm'n on Human Rights ex rel. Joo v. UBM Building Maintenance, Inc.](#), OATH Index No. 384/16 (Mar. 25, 2016).

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Contracts

CDRB dismisses some claims, other claims may proceed.

The Department of Parks filed a motion to dismiss 29 different claims in a contract dispute with a construction company working on McCarren Park Pool and Bathhouse in Brooklyn. The Contract Dispute Resolution Board, chaired by ALJ Alessandra F. Zorogniotti, granted the motion with respect to 22 claims based on the timeliness and waiver. [Commodore Construction Corp. v. Dep't of Parks & Recreation](#), OATH Index No. 2040/15, mem. dec. (Mar. 22, 2016).

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