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Administrative Law—Board Member Absent from Administrative Hearing Entitled to Vote

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COURT OF APPEALS, 1956 TERM

ADMINISTRATIVE LAW

Board Member Absent From Administrative Hearing Entitled To Vote

Courts, in reviewing the decisions of administrative tribunals, are limited to ascertaining whether or not there is a rational, legal basis for such determinations.¹ This does not mean that the courts will "Probe the mental processes" of the body² but rather that they will determine only whether there has been an independent appraisal and conclusion based on sufficient knowledge.³

In *Taub v. Pirnie*,⁴ an application for a variance from a local zoning ordinance, the Court of Appeals unanimously held that, though a member of the Board was absent from the public hearing and did not read the transcript of the record, he nevertheless possessed adequate knowledge to make an informed decision. The Court pointed out that because the absent member had for years been a resident of the village and a village trustee, and because he had discussed the arguments presented at the hearing before voting, he possessed sufficient information to reach an independent and competent conclusion.

Thus the Court has held that an administrative board member may vote on the disposition of a proceeding, though absent from the hearing thereon, provided that he has acquired independent knowledge of the issues involved. It is submitted that this proposition is susceptible of unwarranted extension and its application should be restricted to similar factual settings.

Hotels Not Special Class Of Housing Accomodations Within Rent Control Law

In *Hotel Association of New York City v. Weaver*⁵ the Court held that the Temporary State Housing Commission did not act in an arbitrary and capricious manner when it ruled that hotels as such did not constitute a "particular class of housing accommodations" within the meaning of the Emergency Housing Rent Control Law.⁶

Petitioner, an association of one hundred and seventy-one hotels in New York City, petitioned the Rent Administrator to find that hotels as such are a particular class of housing accommodations within the meaning of the statute and entitled

1. *Mounting & Finishing Co. vs McGoldrick*, 294 N.Y. 104, 60 N.E.2d 825 (1945).

2. *Kilgus v. Board of Estimate of the City of New York*, 308 N.Y. 620,628, 127 N.E.2d 705, 710 (1955).

3. *Ibid.*

4. 3 N.Y.2d 188, 165 N.Y.S.2d 1 (1957).

5. 3 N.Y.2d 206, 165 N.Y.S.2d 17 (1957).

6. N.Y. EMERGENCY HOUSING RENT CONTROL LAW §12.