

# Ex-Giuliani Aides Criticize City Handling of 9/11 Claim

By SEWELL CHAN

Several associates of former Mayor Rudolph W. Giuliani took the rare step of publicly criticizing the Bloomberg administration yesterday as they reacted with anger and confusion to the city's handling of a workers' compensation claim filed by a former deputy mayor who served Mr. Giuliani for eight years.

New details emerged yesterday about the claim filed by the former deputy mayor, Rudy Washington, 51, who has asserted that he has severe respiratory ailments, requiring prescription drugs and emergency hospitalizations, as a result of his work near ground zero on Sept. 11, 2001, and afterward.

On March 14, a state administrative law judge ruled that Mr. Washington was entitled to health-care benefits because he had been injured on the job. On April 10, lawyers for the city appealed, arguing that Mr. Washington was not entitled to the benefits because he did not file his claim within two years of the injury.

Mayor Michael R. Bloomberg said yesterday that he believed the appeal was based on "a technicality" and that the lawyers had erred. "A lawyer was probably reading the law too closely and shouldn't have done that," he said.

Yesterday afternoon, city lawyers requested a meeting with Mr. Washington's lawyer "to discuss the claim" and present any supporting documentation, so that we may move forward," the Law Department said in a statement. It stopped short of saying that it would drop the appeal.

Mr. Bloomberg emphasized that Mr. Washington had not sought special treatment and was not getting it.

"Rudy Washington happened to be in my office about two months ago, and he told me that he had a medical problem, and I said, 'Is there anything I can do in helping you with City Hall, with bureaucracy?' and he said no, things were fine and he was going through the normal process," Mr. Bloomberg said.

He added, "The next thing I knew was, one of our lawyers — on a technicality, I thought — was trying to appeal a court decision, and when I heard it, I thought that it was wrong and that we should just go ahead."

Three former deputy mayors who served Mr. Giuliani said that while

they appreciated Mr. Bloomberg's comments, they were irritated by the city's handling of the case.

"Policy should not be made by mid- to low-level people within the Law Department," said Joseph J. Lhota, who served as budget director, finance commissioner and deputy mayor for operations. "Policy is made at City Hall."

Randy M. Mastro, who preceded Mr. Lhota as deputy mayor for operations, said Mr. Washington had won his case and should not have to wait any longer for medical benefits. "The issues here were potentially so sensitive — and the right thing to do so obvious — that it's surprising to me that someone in authority in city government didn't get this case properly resolved long before today," he said.

Robert M. Harding, who was budget director and then deputy mayor for economic development, noted that police officers, firefighters and sanitation workers — who are all exempt from the state workers' compensation system — have more generous benefits than noncareer civilian employees like Mr. Washington. "He's not entitled to a pension, he's not entitled to health insurance, and now he has suffered a work-related injury," Mr. Harding said.

Mr. Giuliani, who was in Atlanta yesterday afternoon for a fund-raiser, said he was glad that Mr. Washington's case appeared to be near a resolution. "He was a true hero of Sept. 11," Mr. Giuliani said.

Robert E. Grey, a lawyer for Mr. Washington, said the former deputy mayor filed his claim on Dec. 20, 2004, after his respiratory problems began. Over four hearings — on June 22 and Nov. 2, 2005, and Jan. 11 and March 8, 2006 — an administrative law judge with the State Workers' Compensation Board considered the evidence, including witness testimony and medical reports.

Although workers generally must file their claim within two years of an on-the-job injury, there is an exception if the employer has already paid wages or medical expenses related to the injury. Mr. Washington missed four days of work after 9/11 and the city paid his wages for those days, Mr. Grey argued, because it had acknowledged that the missed days were related to the attack.

It was on that point that the city's lawyers appealed. They argued that Mr. Washington did not qualify for the exception.