

**MINUTES OF PUBLIC MEETING  
New York City Loft Board Public Meeting Held at  
Department of Buildings  
280 Broadway, Third Floor**

**October 20, 2016**

The meeting began at 2:08 p.m.

Attendees: Robert Carver, Esq., Owners' Representative; Elliott Barowitz, Public Member; Richard Roche, Fire Department ex officio; Charles Delaney, Tenants' Representative; Gina Bolden-Rivera, Public Member; Daniel Schachter, Public Member; LeAnn Shelton, Public Member; and Chairperson Designee Renaldo Hylton.

**INTRODUCTION**

**Chairperson Hylton** welcomed those present to the October 20, 2016 public meeting of the New York City Loft Board. **Chairperson Hylton** handed out to the Board-Members the definition of a "basement" pursuant to the Building Code and the Zoning Resolution. For those who need more clarity, **Chairperson Hylton** offered to put them in touch with an expert from the Department of Buildings.

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**VOTE ON September 15, 2016 MINUTES**

**Mr. Delaney** commented that he was very impressed with the added degree of transparency and the amount of detail in the Minutes.

**Chairperson Hylton** appreciated Mr. Delaney's comment and thanked Ms. Balsam and her staff.

**Motion:** Mr. Carver moved to accept the September 15, 2016 meeting minutes. Mr. Roche seconded the motion.

**Members Concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Delaney, Ms. Shelton, Chairperson Hylton (6).

**Members Abstaining:** Mr. Schachter (1).

**Members Absent:** Ms. Bolden-Rivera (1).

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**REPORT OF THE EXECUTIVE DIRECTOR, Helaine Balsam, Esq.**

**Ms. Balsam** thanked those who had reached out to her with suggestions in terms of the agenda and other items of business. **Ms. Balsam** is in the process of incorporating these suggestions for future Board-meetings.

**Ms. Balsam** pointed out that usually a quarterly report regarding case statistics is given. However, because there is no December Board-meeting, **Ms. Balsam** will give her report regarding case statistics during the November Board-meeting in order to give the Board-members the totals for the year.

In terms of registration, **Ms. Balsam** reported that at the moment the Loft Board is down to 52 un-registered buildings. Some of these buildings have sent in their registration renewal applications but have not paid the outstanding late fees. **Ms. Balsam** mentioned that the Loft Board staff will begin its annual registration call-a-thon shortly.

**Ms. Balsam** reported that a few ministerial changes were made to some of the proposed orders:

1. In the reconsideration case, the applicant's name was misspelled so the Loft Board staff corrected it;

2. In the second summary case, PO-0007, the word “dismissed” was absent from the last sentence; and
3. In the second master case, TR-1197, on top of page two, “three months” was changed to “seven weeks”.

**Ms. Balsam** mentioned that some of the Board-members noticed a theme with the summary calendar cases. **Ms. Balsam** calls these cases “stalled settled cases.” These are cases in which the owner and tenant settled the case while the case was pending at the Office of Administrative Trials and Hearings. These settlement agreements included an agreement by the owner to register the building, units or tenants with the Loft Board (where applicable). However, owner has failed to comply. **Ms. Balsam** explained that the Loft Board staff is asking the Board-members to issue orders based on these settlement agreements, ordering the owners to register the building, units or tenants within thirty (30) days of the mailing date of the order. If they do not, the Loft Board staff is asking the Board-members for authority to assign these buildings an interim multiple dwelling (“IMD”) registration number or do whatever registration task is necessary or required.

**Mr. Delaney** believes this a good policy. Out of the 21 cases on today’s calendar, **Mr. Delaney** noted that this theme applies to about 13 of the cases. **Mr. Delaney** also raised a number of questions regarding this topic.

**Mr. Delaney** noted that the template used for these orders seems to be that if the owner fails to register and pay the applicable registration fees within 30 days, the Board-members will direct the Loft Board staff to issue an IMD registration number, list the units as IMD units, list the tenants as the protected occupants, and collect applicable registration fees and late fees. **Mr. Delaney** wondered, moving forward, if there was any enforcement mechanism that would trigger a fine in this kind of situation. **Ms. Balsam** stated that the Loft Board’s rules do not provide for a fine for failure to register but there is a fine for failure to timely renew registration. **Ms. Balsam** wants to add to the fine schedule a fine for failure to comply with an order of the Board. **Ms. Balsam** believes that once we get this in place, the Loft Board staff will be able to enforce. **Ms. Balsam** further pointed out that the way the system has been set up, nothing can move forward without the issuance of an IMD registration number. **Mr. Delaney** also mentioned that it would be unfair to fine a party without first giving prior notice.

**Mr. Delaney** pointed out that some of these cases are over a year old and in the stipulations, owner has promised to register the building, units or tenants within a certain amount of time. **Mr. Delaney** asked if we had any ideas about what is causing these owners to clog the system. **Ms. Balsam** indicated that there are theories, but nothing concrete.

**Mr. Delaney** further noted that in some of these cases, there seems to have been an “I’ll register the building if you pay something”. If that criterion has not been satisfied, is it still the Loft Board’s intent to go ahead and register the building? **Ms. Balsam** believes that Mr. Delaney is referring to two cases on the case calendar. **Ms. Balsam** stated that in one of the cases, we know that there was a payment because the owner did something at a later time based on such payment. In addition, in the other case, **Ms. Balsam** mentioned that these are tenants who have participated in the narrative statement process, so clearly the owner is including them and hasn’t raised any objections to their participation.

**Mr. Roche** thanked Ms. Balsam and her staff for giving the Board-members an additional 24 hours to review the case materials.

**Mr. Barowitz** asked about the vacant manufacturing representative. **Chairperson Hylton** mentioned that a candidate has been identified by the Mayor’s Office, so hopefully that person will be approved in the coming months.

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**DISCUSSION AND VOTE ON APPEAL/RECONSIDERATION CALENDAR CASES**

Ms. Balsam presented the below reconsideration calendar case for discussion and vote by the board.

|    |            |                                   |        |
|----|------------|-----------------------------------|--------|
| 1. | Kyle Doris | 143-155 Roebling Street, Brooklyn | R-0348 |
|----|------------|-----------------------------------|--------|

**Mr. Delaney** brought up the fact that the Loft Board's rules provide for four grounds for reconsideration. The papers filed on behalf of applicant cite that an erroneous determination was made in the underlying proceeding. **Mr. Delaney** asked if that was the same ground under which the Loft Board is making this determination. **Ms. Balsam** stated yes.

**Mr. Delaney** further recalled that in the underlying proceeding, there were two tenants involved and the same erroneous determination was applied to both in that neither of them were found to be protected occupants. **Ms. Balsam** responded that only one of the individuals filed for reconsideration of the underlying determination. In addition, the other applicant's determination was based solely on the papers submitted.

**Motion:** Ms. Bolden-Rivera moved to accept the proposed order. Mr. Delaney seconded the motion.

**Members Concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (8).

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## DISCUSSION AND VOTE ON SUMMARY CALENDAR CASES

Chairperson Hylton presented the below summary calendar cases for discussion and vote by the board.

|     |   |  |   |
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| 1.  | Arthur Greig, As Receiver   | 365-369 Seventh Avenue                         | LF-0130   |
| 2.  | Gregory Burgett   | 210 Cook Street, Brooklyn                      | PO-0007   |
| 3.  | Case Voted On Separately  |  |   |
| 4.  | Don Maclean   | 365-369 Seventh Avenue                         | TM-0072   |
| 5.  | Davis Bailis, Ann Matson, Diana Shpungin, Blane De St. Croix, Ellen Harvey, Thomas Campbell, Tobias Campbell and Peter Mattei   | 111 North 10 <sup>th</sup> Street, Brooklyn    | TR-0840   |
| 6.  | John L. Sabback, Alexander Matchneer, David Koenig, Stewart Stone, Zamari Smith, Yoichiro Fujita, Evan Briggs, Michael Gardner, Elena Gaudino, Derek Sexton and Grant Harding | 252 Norman Avenue, Brooklyn                    | TR-1035<br>TR-1036<br>TR-1037<br>TR-1038<br>TR-1039<br>TR-1040<br>TR-1041<br>TR-1116<br>TR-1135 |
| 7.  | Jessica Barenfeld   | 156-170 North 4 <sup>th</sup> Street, Brooklyn | TR-1046   |
| 8.  | Grigori Levit, Michael Delledera and Matthew Feick  | 111 North 10 <sup>th</sup> Street, Brooklyn    | TR-1073   |
| 9.  | Nicola Tranquillino   | 278 Broadway, Brooklyn                         | TR-1124   |
| 10. | Robert Price  | 70 Commercial Street, Brooklyn                 | TR-1156   |
| 11. | Grace Loftus a.k.a. Grace Moon, Patrick Gallagher, Chris Klapper, Jonathan Plummer, Thera Choice, James Chance Johnston and Jordan Bayne                                      | 210 Cook Street, Brooklyn                      | TR-1181   |
| 12. | Sofie Iommi   | 156-170 North 4 <sup>th</sup> Street, Brooklyn | TR-1189   |
| 13. | Daniel Jones, Alan Reid, Nic Offer, Donny Burlin and Justin Van Der Volgen  | 54 Taaffe Place, Brooklyn                      | TR-1195   |
| 14. | Sarah Phillips and Beena Ahmad  | 75 Third Street, Brooklyn                      | TR-1220   |
| 15. | Gerard Abbot, Allison Schlegel and Chris Cuzme  | 47-53 South 5 <sup>th</sup> Street, Brooklyn   | TR-1266   |
| 16. | Michael Davis   | 210 Cook Street, Brooklyn                      | TR-1279   |

**Ms. Bolden-Rivera** wondered, for case 11, TR-1181, if unit 211 is included in the recommendation to register. **Ms. Balsam** responded yes. The occupant of unit 211 had a separate settlement agreement and that is why the Loft Board staff separated it out.

**Mr. Delaney** raised questions regarding a few cases and also requested that the Board-members vote on case 3, PO-0017, separately.

**Mr. Delaney** asked about case 6, where there are nine applications for coverage for 252 Norman Avenue. The applicants requested to withdraw their applications with prejudice. **Mr. Delaney** asked what follow up was down by the Loft Board staff. **Ms. Balsam** stated that this building has a final certificate of occupancy.

**Mr. Delaney** also asked about case 8, TR-1073. **Mr. Delaney** asked what the philosophy was behind putting this case on the summary calendar because of the controversy surrounding it. **Ms. Balsam** noted that the rules state that settled cases will be on the summary calendar. **Mr. Delaney** responded even though the recommendation is to reject the settlement? **Ms. Balsam** said yes. **Mr. Delaney** brought up that previous cases dealing with public policy issues were on the master calendar. **Mr. Delaney** further asked how this building is to proceed. **Ms. Balsam** stated that if the owner were to register the building and register Mr. Levit's unit as an IMD, then Mr. Levit's occupancy would be legal and they would then go through the legalization process. Rather, owner does not want to do that and wants to legalize outside the Loft Law.

**Mr. Schachter** asked what the primary issue is to this agreement. **Ms. Balsam** stated that the issue is that the residential occupancy is illegal. If the owner registered the building or a unit in the building for Mr. Levit to live in, then Mr. Levit would be allowed to stay. **Mr. Schachter** asked if the Loft Board cares which unit he lives in. **Ms. Cruz** stated that he cannot stay in the building. Either the owner registers the building or Mr. Levit leaves.

**Mr. Schachter** further asked how the building got a temporary certificate of occupancy ("TCO"). **Ms. Balsam** stated that the building has had two TCO's but both have expired and haven't been renewed. **Mr. Schachter** asked if a TCO could be obtained outside the Loft Law process. **Ms. Balsam** stated yes because if the Loft Board hasn't assigned the building an IMD registration number, then there is nothing in the Department of Buildings' system that would demonstrate that the building is under the Loft Board's jurisdiction. **Mr. Delaney** pointed out that the building is also subject to case 5, TR-0840, in which the Loft Board is ordering the owner to register.

**Motion:** Ms. Shelton moved to accept the proposed orders. Mr. Carver seconded the motion.

**Members Concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (8).

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| 3. | David Heyerman | 151 Kent Avenue, Brooklyn | PO-0017 |
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**Motion:** Ms. Shelton moved to accept the proposed order. Mr. Carver seconded the motion.

**Members Concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (7).

**Members Dissenting:** Mr. Delaney (1).

#### DISCUSSION AND VOTE ON MASTER CALENDAR CASES

Ms. Martha Cruz, Esq. presented the below master calendar cases for discussion and vote by the board.

|    |                                |                               |   |
|----|--------------------------------|-------------------------------|---|
| 1. | Tenants of 87-95 Dobbin Street | 87-95 Dobbin Street, Brooklyn | TR-0880<br>TR-1137<br>TR-1185<br>TR-1214<br>TR-1224 |
|----|--------------------------------|-------------------------------|---|

**Mr. Delaney** raised questions/comments about this case. **Mr. Delaney** pointed out that there seems to be a secondary theme with these cases: when a withdrawal is with or without prejudice. **Mr. Delaney** gathers that the determining factor is whether the hearing has been marked final. **Mr. Delaney** also mentioned that Dobbin Street appears to now have many residential units. **Mr. Delaney** pointed out that the 14 individuals who sought coverage decided to withdraw their claims with prejudice. **Mr. Delaney**

asked whether the withdrawal is against the individual occupant or against the unit. **Ms. Balsam** stated that it is against the applicant. In reply, **Mr. Delaney** asked if someone else were in one of those units who did not originally apply for coverage, but was there during that period, could that individual still apply for coverage. **Ms. Cruz** stated yes.

**Mr. Delaney** further mentioned that under the original Loft Law, the average number of units in an IMD building was 6. Here, we have 29 units and the majority of them are under the Loft Board's jurisdiction. **Mr. Delaney** asked how the Loft Board staff would proceed with such a building during the narrative statement process. **Ms. Cruz** stated that all the units that applied for coverage are on the chart to be registered. **Ms. Cruz** pointed out that it is the people who are not being granted protected occupant status.

**Mr. Barowitz** commented what happens to those people in such a situation. Do they want to stay or leave?

**Mr. Delaney** asked during the narrative statement process, who speaks up for these units without a protected occupant? **Ms. Balsam** replied that the owner will have to legalize the units regardless of who the occupant is. Those tenants who defaulted on their claims, they technically have no right to speak up because they did not pursue their coverage claims to the end. However, **Ms. Balsam** stated that the Loft Board staff may not necessarily stop them from speaking up in a conference.

**Mr. Delaney** further commented that if the protected occupant for a unit is unknown, and the owner needs to gain access, who will the access order be against?

**Motion:** Mr. Carver moved to accept the proposed order. Ms. Shelton seconded the motion.

**Members Concurring:** Mr. Carver, Mr. Roche, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (7).

**Members Dissenting:** Mr. Barowitz (1).

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| 2. | Erika Keck, Addison Blakemore, Stefanie Modares, Sheri Depoy, Nicholas Brunner | 210 Cook Street, Brooklyn | TR-1197 |
|----|--|---------------------------|---------|

**Motion:** Ms. Bolden-Rivera moved to accept the proposed order. Mr. Schachter seconded the motion.

**Members Concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (8).

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| 3. | Ethan Goldwater and Jacob Boeskov | 83 Canal Street | TR-1216 |
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**Mr. Delaney** asked whether the case was marked final. **Ms. Cruz** stated no, there was no hearing date, no default by the applicant. **Mr. Delaney** further asked about the other coverage applications pending for this building. **Mr. Delaney** asked whether the cases were consolidated. **Ms. Cruz** mentioned that the cases were consolidated, but Judge Casey issued a report and recommendation only on Mr. Goldwater's claims.

**Motion:** Ms. Shelton moved to accept the proposed order. Mr. Carver seconded the motion.

**Members Concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (7).

**Members Dissenting:** Mr. Delaney (1).

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**Chairperson Hylton** concluded the October 20, 2016 Loft Board public meeting at 3:05 pm and thanked everyone for attending. The Loft Board's next public meeting will be held at 280 Broadway, third floor, on November 17, 2016 at 2 p.m.