

DRAFT
MINUTES OF PUBLIC MEETING
New York City Loft Board Public Meeting Held at
22 Reade Street, Main Floor
Spector Hall

March 19, 2015

The meeting began at 2:15 p.m. The attendees were Chief Spadafora, Fire Department Representative; Chuck Delaney, Tenants' Representative; Elliott Barowitz, Public Member; Daniel Schachter, Public Member; and Chairperson Alexandra Fisher.

INTRODUCTION

Chairperson Fisher welcomed those present to the March 19, 2015 public meeting of the New York City Loft Board.

VOTE ON FEBRUARY 12, 2015 MINUTES

Prior to polling the Board, **Mr. Barowitz** asked that a correction be made to the February 12, 2015 minutes. **Mr. Delaney** complimented the Loft Board on the February minutes.

Motion: Mr. Delaney moved to accept the February 12, 2015 minutes. Mr. Schachter seconded the motion.

Members Concurring: Chairperson Fisher, Chief Spadafora, Mr. Delaney, Mr. Schachter (4)

Members Abstaining: Mr. Barowitz (1)

Members Absent: Ms. Bolden-Rivera, Ms. Shelton (2)

Motion did not pass. The February 12, 2015 minutes will be brought before the Board for a vote at the next Board meeting.

REPORT OF EXECUTIVE DIRECTOR

Ms. Alexander reported that **Mr. Foggin** will no longer serve as a member of the Loft Board.

Ms. Alexander reported that **Ms. Kurzman** will no longer be working with the Loft Board on behalf of the FDNY.

Ms. Alexander reported that **Ms. Bender**, Assistant General Counsel with the Loft Board, will be leaving the Loft Board in May. Ms. Bender has been an integral member of the Loft Board's staff and she will be missed.

Ms. Alexander reported on the statistics regarding the Loft Board's extension applications. As of February 12, 2015, there were 14 pending extension applications. As of March 6, 2015, there were 6 pending extension applications. One application is still in the answer period. Two applications relate to the same building. Of the 8 cases that were issued administrative determinations, 7 were denied extensions, and 1 was granted an extension pursuant to the "new owner" exception.

Ms. Alexander mentioned that she has been receiving phone calls from City Hall and Community Board 2 regarding the Loft Law. Owners have applied for variances at City Council to make interior renovations in their buildings. **Ms. Alexander** mentioned that the Loft Board cannot prevent owners from building around or on top of an IMD or former IMD building, but the Loft Board does have the authority to control what is done internally.

Ms. Alexander spoke with the City Council Housing Committee about rent regulation of former IMD buildings. **Mr. Delaney** asked for clarification regarding the distinction between joint living/work quarters (JLWQ) units legalized under Article 7-B versus Article 7-C. **Ms. Alexander** clarified that JLWQ units legalized under Article 7-C do not require artist certifications from the New York City Cultural Affairs for residential occupancy.

Mr. Delaney discussed a period in 1985 when there was action by City Planning that allowed a one-time opportunity to file a Non-Artist Grandfathering Application in order to be eligible for the Loft Law. These applications were then sent to the Department of Cultural Affairs. **Mr. Delaney** mentioned that there were hundreds of grandfathering applications filed with the Loft Board in order to allow non-artists to live in IMD buildings, and was therefore confused about the correct interpretation of the law. **Mr. Delaney** requested that the staff conduct further research on this topic.

Mr. Delaney asked for clarification regarding a protected occupant's rights after a building is removed from the Loft Board's jurisdiction. He stated that his understanding is that a rent regulated unit that is removed from the Loft Board's jurisdiction cannot be decontrolled by the "vacancy decontrol" or "luxury decontrol" provisions of the NYC Rent Stabilization Law. He stated that he believes that a tenant retains the right to sell fixtures and Article 7-C rights to a former IMD unit under MDL § 286(12). **Ms. Cruz** stated that MDL § 286(6) survives a building's removal from Loft Board jurisdiction under the provisions of the Rent Stabilization Law; however, she was unclear regarding the survival of MDL § 286(12) rights after a unit is removed from the Loft Board's jurisdiction.

Ms. Alexander mentioned that she forwarded the Article 78 Supreme Court decision upholding the *Matter of Grant*, Loft Board Order No. 4155 (June 20, 2013) to the Board members.

Ms. Alexander mentioned that the *Matter of Parrish*, Loft Board Order No. 4027 (Oct. 4, 2012) case is being appealed to the Appellate Division.

Ms. Alexander sent a memo to the Loft Board members regarding the provisions in the Loft Law that will sunset in June. **Mr. Delaney** suggested to **Chairperson Fisher** and the DOB's Commissioner that certain changes be made in order to retain certain elements that are due to sunset.

Ms. Alexander suggested, among other things, removing the eligibility requirements established under the chapter amendments, despite the fact that the requirements do not sunset. She also mentioned that a proposal to repeal the statute of limitations for registration and coverage applications is currently in the Senate; and a proposal regarding legalization compliance deadlines is in the Assembly.

Chief Spadafora asked about the eligibility versus legalization requirements. **Ms. Alexander stated that she believed** tenants and owners should have the option to legalize a unit if it is possible, rather than to bar that unit from coverage. **Mr. Delaney** would like all of the additional eligibility requirements specified in MDL § 281(5) repealed.

Chief Spadafora discussed his concerns regarding the "incompatible use" restriction in MDL § 281(5). **Ms. Alexander** stated that the Department of Environmental Protection did not conduct any study for the Loft Board regarding hazardous conditions in mixed use buildings and emphasized that there was never an issue regarding incompatible uses prior to the 2010 Amendment.

Ms. Alexander referenced **Mr. Foggin's** statements from the previous Loft Board meeting, in which he stated that manufacturers are being displaced by other commercial businesses, such as stores, hotels and restaurants, rather than by residential tenants and believes that tenants and manufacturers can co-exist without a "use group" restriction.

Mr. Schachter mentioned milestone increases, and inquired as to whether current rents are near or at market level. **Ms. Alexander** stated that the market rent is not the Loft Board's expertise, and the focus in the rent levels should be on incentivizing owners of IMD buildings to legalize and not making the rent onerous. **Mr. Schachter** suggested that reference to market rents be removed from the memo.

Ms. Alexander said her proposal will be reviewed by **Chairperson Fisher** who will then move it along accordingly.

DISCUSSION AND VOTE ON SUMMARY CALENDAR CASES

1	365 Canal Corp.	293 Church Street	LB-0190
2.	Achi Adamit	247-240 West 30 Street	LS-0226
3.	Kathryn E. Smith	26-32 Tiffany Place, Brooklyn 36-40 Tiffany Place, Brooklyn	PO-0003
4.	Anthony Friend	323-325 West 37 Street	TA-0197
5.	Joe Dezzi, David Dimango and Mark Gering	225 Cook Street, Brooklyn	TR-1003
6.	Andreea Avram Rusu	79 Quay Street, Brooklyn	TR-1011
7.	Eva Lawrence and Carlos Pacheco	79 Quay Street, Brooklyn	TR-1021
8.	Victoria Dearing, Francesco Gastelo and Linda Keil	27 Broadway, Brooklyn	TR-1075
9.	Anthony Friend	323-325 West 37 Street	TR-1093
10.	Dennis Delzotto	1050-1054 Manhattan Avenue, Brooklyn	TR-1114
11.	Amy Wiggins	449-465 Troutman Street, Brooklyn	TR-1144
12.	Mira De Jong, Emma Krautheim and Chelsea Lewkow	141 Spencer Street, Brooklyn	TR-1212

Mr. Delaney proposed correcting the order in Case #5 to properly dismiss the application without prejudice, rather than with prejudice. **Chairperson Fisher** called for a Motion to accept the summary calendar cases, with that correction made.

Motion: Mr. Barowitz moved to accept the proposed orders. Mr. Schachter seconded the motion.

Members Concurring: Chief Spadafora, Mr. Delaney, Mr. Barowitz, Mr. Schachter, Chairperson Fisher (5)

Members Absent: Ms. Bolden-Rivera, Ms. Shelton (2)

DISCUSSION AND VOTE ON MASTER CALENDAR CASES

13.	Bridge Associates of Soho, Inc.	533 Greenwich Street	FO-0709
14.	35 West 26th Street Realty, LLC	35 West 26 Street	FO-0712

Motion: Mr. Schachter moved to accept the proposed order. Mr. Delaney seconded the motion.

Members Concurring: Chief Spadafora, Mr. Delaney, Mr. Barowitz, Mr. Schachter, Chairperson Fisher (5)

Members Absent: Ms. Bolden-Rivera, Ms. Shelton (2)

Ms. Alexander mentioned that there are only 5 buildings that have not registered. The Loft Board has made great strides over the last couple years. These two buildings are two of the worst.

15.	Chazon, LLC	280 Nevins Street, Brooklyn	LF-0129
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Motion: Mr. Barowitz moved to accept the proposed order. Mr. Schachter seconded the motion.

Members Concurring: Chief Spadafora, Mr. Delaney, Mr. Barowitz, Mr. Schachter, Chairperson Fisher (5)

Members Absent: Ms. Bolden-Rivera, Ms. Shelton (2)

Mr. Delaney asked about the language of Title 29 of the Rules of the City of New York § 2-07. **Ms. Cruz** just clarified that the rule was completely changed around, but really only the citations are different.

16.	Miranda Gandall-Danish, Sydney Costley, Bennet Schlesinger. Michael Berman and Tom Underwood Ethan Gabriel Hunt and Justin Burk	239 Banker Street, Brooklyn	TR-1002 TR-1004
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Motion: Chief Spadafora moved to accept the proposed orders. Mr. Schachter seconded the motion.

Members Concurring: Chief Spadafora, Mr. Delaney, Mr. Schachter, Chairperson Fisher (4)

Members Dissenting: Mr. Barowitz (1)

Members Absent: Ms. Bolden-Rivera, Ms. Shelton (2)

This case did not carry. The proposed decision will be brought to the Board for another vote at the next meeting.

17.	Mary Ann and Eric William Allison, Marshall Weber and Chelsea Bailey, Andrew Barlow, Heather Troy and Michael K, Renee McNamara and Camilo Cerro, Robert and Tanya Kolb, Andrew and Eric Frasz, Oliver and Evan Haslegrave, Alan Tansey, Thiago de Mello Beuno, Steffan Ringelmann, Kathryn Downie and Fredrick Urbanelli	226-240 Franklin Street, Brooklyn	TR-1014 LC-0161
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Motion: Mr. Delaney moved to accept the proposed orders. Mr. Barowitz seconded the motion.

Members Concurring: Chief Spadafora, Mr. Delaney, Mr. Barowitz, Mr. Schachter, Chairperson Fisher (5)

Members Absent: Ms. Bolden-Rivera, Ms. Shelton (2)

DISCUSSION AND VOTE ON REMOVAL CALENDAR CASES

18.	307 Canal Street Condominium	307 Canal Street	LE-0634
19.	Maple West 25th Owner, LLC	119-125 West 25 Street	LE-0645

Motion: Mr. Delaney moved to accept the proposed order. Chief Spadafora seconded the motion.

Members Concurring: Chief Spadafora, Mr. Delaney, Mr. Barowitz, Mr. Schachter, Chairperson Fisher (5)

Members Absent: Ms. Bolden-Rivera, Ms. Shelton (2)

Chairperson Fisher concluded the March 19, 2015 Loft Board public meeting at 3:45 pm and thanked everyone for attending. The Loft Board will hold its next public meeting at Spector Hall, 22 Reade Street, on April 16, 2015 at 2 pm.