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BOARD OF STANDARDS AND APPEALS

MEETING OF: June 6, 2022

Proposed declaration to authorize the Board of Standards and Appeals to suspend in-person meetings, as authorized by, and in accordance with the requirements established by, the State of New York in section 2 of Part WW of Chapter 56 of the Laws of 2022.

ACTION OF BOARD — Declaration adopted.

THE VOTE —

**Affirmative: Chair Perlmutter, Vice-Chair Chanda,
 Commissioner Ottley-Brown, Commissioner Sheta, and
 Commissioner Scibetta.....5
Negative:.....0**

THE DECLARATION —

The Board of Standards and Appeals (the “Board”) has been holding its review sessions and public meetings remotely since April 2020, with the exception of the meeting held on June 30, 2021, as a consequence of the COVID-19 pandemic and the resulting states of emergency declared by the Governor of New York and the Mayor of the City of New York, and as authorized by Executive Orders issued by the Governor and legislation adopted by the State Legislature, all of which, among other things, suspended the requirement of the New York State Open Meetings Law (the “OML”) that members of the public be allowed to be present at any location from which a member of a public body subject to the OML participates in the public body’s meetings (the “OML in-person meeting requirement”).

Paragraph 3 of section 2 of Part WW of Chapter 56 of the Laws of 2022, codified at OML § 103-a(3), empowers the Board to meet entirely remotely, and without regard to the OML in-person meeting requirement, if during a state disaster emergency declared by the Governor or a state of emergency declared by the Mayor, the Board determines that the circumstances necessitating the emergency declaration affect or impair its ability to hold in-person meetings.

In Executive Order 11.6, dated May 15, 2022, Governor Kathy Hochul continued the state disaster emergency for an additional 30 days, or through June 14, finding that “New York continues to experience COVID-19 transmission, with the rate of new COVID-19

hospital admissions remaining at over 100 new admissions a day,” and that “the SARS-CoV-2 variant known as Omicron, determined a variant of concern by the World Health Organization and the Centers for Disease Control and Prevention, is known to be highly-transmissible”.

In Emergency Executive Order 83, dated April 28, 2022, Mayor Eric Adams continued the city state of emergency for an additional 30 days, or through May 28, 2022, and again in Emergency Executive Order 103, dated May 26, 2022, or through June 27, 2022, identifying “the propensity of the virus to spread person-to-person” as a reason for the extension.

On or about May 17, 2022, the New York City Department of Health and Mental Hygiene raised the City’s COVID-19 Alert Level to High, meaning that there is “high community spread” and “substantial pressure on the health system.”

During the suspension of the in-person meeting requirement of the OML, Board Commissioners participated in Board meetings by videoconference and enabled the public, including applicants, to participate in Board meetings by videoconference or telephone, to observe Board meetings by webcast over the internet, and to listen to Board meetings by telephone.

The ability of the public to testify at, observe, and listen to Board meetings remotely has benefited the public and the Board by eliminating the need for indoor gatherings and thereby protecting public health while at the same time providing greater flexibility for public participation, and increased public access to and participation in Board meetings, and has resulted in a greater number of people testifying at public hearings.

Therefore, it is Resolved, that the Board of Standards and Appeals, consistent with the authority granted to the Board by the State of New York, determines that the circumstances necessitating the emergency declarations by the Governor and Mayor would affect or impair the ability of the Board to hold in-person meetings and, therefore, Board meetings shall continue to be held entirely by remote means and the in-person participation requirements of OML shall not apply; and

THAT this Declaration shall take effect immediately and shall remain in effect until the earliest of: 1) such time as the Governor ends the state disaster emergency and the Mayor ends the city state of emergency based on COVID-19 transmission; or 2) such time that the Board concludes that the circumstances necessitating the emergency declarations by the Governor and Mayor would no longer affect or impair the ability of the Board to hold in-person meetings.

Adopted by the Board of Standards and Appeals, June 6, 2022.

CERTIFICATION

**This copy of the declaration
dated June 6, 2022,
is hereby filed by the
Board of Standards and Appeals
on June 7, 2022.**



**Carlo Costanza
Executive Director**