

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

**January 19, 2017**

The meeting began at 2:48 p.m.

Attendees: Robert Carver, Esq., Owners' Representative; Richard Roche, Fire Department ex officio; Robinson Hernandez, Manufacturer Representative; Charles Delaney, Tenants' Representative; Daniel Schachter, Public Member; LeAnn Shelton, Public Member; and Chairperson Designee Renaldo Hylton.

Absentees: Elliott Barowitz, Public Member; and Gina Bolden-Rivera, Public Member.

**INTRODUCTION**

**Chairperson Hylton** welcomed those present to the January 19, 2017 public meeting of the New York City Loft Board and wished everyone a very happy new year. **Chairperson Hylton** also introduced the Board's new manufacturer representative, Mr. Robinson Hernandez.

**Mr. Hernandez** is currently the Executive Director of the Urban Tech Hub at Grand Central Tech. **Mr. Hernandez** has eleven years of working with government and was also responsible for the creation of the industrial business zones. **Mr. Hernandez** works very closely with manufacturing organizations throughout the city and has gotten to know them very well. **Mr. Hernandez** is looking forward to being an integral part of the Board.

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**VOTE ON November 17, 2016 MINUTES**

**Motion:** Ms. Shelton moved to accept the November 17, 2016 meeting minutes. Mr. Schachter seconded the motion.

**Members Concurring:** Mr. Roche, Mr. Delaney, Mr. Schachter, Ms. Shelton, Chairperson Hylton (5).

**Members Abstaining:** Mr. Carver, Mr. Hernandez (2).

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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**Report of the Executive Director, Helaine Balsam, Esq.**

**Ms. Balsam** informed the Board that the staff has begun re-drafting the Loft Board's rules and the staff currently has a working draft of chapter 1. **Ms. Balsam** stated that the staff hopes to present the proposed draft for the Board's consideration in April or May of 2017.

**Ms. Balsam** reported that in December of 2016, the staff received complaints of no heat, no hot water and no gas from several tenants of 57 Jay Street, Brooklyn, New York. The Loft Board's HPD inspector went out to 57 Jay Street and wrote and served several violations. The Landlord of 57 Jay Street cured the conditions very quickly. Since then however, the staff has received complaints of intermittent gas service. Staff is now trying to work through what is causing those gaps in service.

In addition, **Ms. Balsam** mentioned that the staff worked with the Department of Buildings ("DOB") to facilitate an inspection of 255 18<sup>th</sup> Street, Brooklyn, New York. The staff received complaints from the tenants of 255 18<sup>th</sup> Street alleging a number of dangerous and illegal conditions including the sprinkler system not working. DOB issued several violations but fortunately the tenants of 255 18<sup>th</sup> Street did not have to vacate.

**Ms. Balsam** reported that on December 29, 2016, the Appellate Division, First Department, issued a decision in the case of Stephen Grant vs. The New York City Loft Board. The Board had previously found

that Stephen Grant failed to timely object to the owner's plan to legalize the fourth floor as two separate units. Mr. Grant wanted the fourth floor to be legalized as one unit. The Supreme Court dismissed the case and Mr. Grant appealed. The Appellate Division found that the Board's determination was rationally based on the record and not contrary to the law. Mr. Grant had waived his right to object to the configuration of the fourth floor as two units, because although he attended the narrative statement conference and raised multiple issues, Mr. Grant did not raise the issue of the configuration of the fourth floor as two units.

**Ms. Balsam** also updated the Board members on the annual building registrations. **Ms. Balsam** stated that as of today, there are thirty (30) owners who have not renewed their registrations for the 2016-2017 fiscal year. The staff is double checking the addresses of the owners and will be sending them notices by the end of this month for failure to register. **Chairperson Hylton** asked whether the notice is just a notice or will there be a fine issued. **Ms. Balsam** stated that there will be a fine if the owners do not pay.

**Mr. Delaney** stated on record that the Board electing to meet in private to discuss the cases on today's agenda is the first time that the Board has done this. While it can be justified by section 108 of the Open Meetings Law, a portion of the Public Officers Law, there is no provision in the Board's current rules under section 1-03 or 1-05 that would allow the Board to hold such a private meeting, in which case no minutes or recordings are made. **Mr. Delaney** stated that in his view, if there is the potential to meet in private, it can only be done after sections 1-03 and 1-05 have been amended. **Mr. Delaney** encourages the Board, based on what got discussed today during the private session, to reconsider its wisdom.

**Ms. Balsam** stated that legally, the Board is allowed under the Public Officers Law § 108 to meet, in its quasi-judicial capacity, during a private session. It is exempt under the Public Officers Law.

**Mr. Delaney** also asked a question about tracking heat complaints. **Mr. Delaney** commented that in the minutes from the November 2016 Board meeting, Ms. Balsam mentioned that she would look into figuring out a mechanism of reporting to the Board members the amount of complaints the staff receives. **Mr. Delaney** asked whether this mechanism will be Ms. Balsam giving a summary of the complaint. **Ms. Balsam** replied only if that is acceptable to the Board members. **Ms. Balsam** further stated that if the Board members want statistics, the staff has created a database to track complaints, so the staff can provide statistics to the Board members. **Mr. Delaney** replied it depends on if you are getting two or three complaints a month compared to thirty complaints. **Mr. Delaney** thinks persistent cases, for example, if you have complaints month after month from a single building, then that's something that should be reported.

**Mr. Delaney** asked a question about the staff's re-drafting of the Loft Board rules. **Mr. Delaney** asked whether the re-drafting of the rules has to do with making the rules more comprehensible, rather than for creating policy changes. **Ms. Balsam** replied that the staff is looking at steam lining processes, so there may be some changes to the processes. **Mr. Delaney** replied that he is more concerned with policy changes, rather than changes to the processes. **Ms. Balsam** responded that changes to the processes results from policy considerations. **Mr. Delaney** further clarified that rather than editing the rules to make them easier to read and follow the plain language guidelines, if there were to be changes that would address some of the issues raised during today's private session, it would be very nice if, at a minimum, the Board members were given a chance to provide input and have a discussion about what areas may be under review, rather than having 400 pages of rules re-drafted. **Ms. Balsam** replied that she is looking to the Board members to tell her what is important. **Mr. Carver** asked whether Board members would be given an opportunity to look at the draft prior to voting on the entire re-draft. **Ms. Balsam** replied absolutely as the rules require that kind of review.

**Mr. Delaney** offered an example: every owner of an IMD that is registered with the New York City Loft Board is required to file a monthly report. **Mr. Delaney** stated that very few do and they are all out of compliance. **Mr. Delaney** asked do we want to enforce that law, ignore that law, or consider changing the requirement to filing a quarterly report. **Ms. Balsam** responded that she disagrees with Mr. Delaney's statement because the staff has looked into enforcing the monthly report requirement and the staff has put together a list of owners who are not in compliance. **Mr. Michael Bobick, Esq., Assistant General Counsel**, responded that there may be a little more than fifty owners who have not filed a monthly report in 2016. **Mr. Bobick** further stated that every other building in the Loft Board's jurisdiction that is required

to file a monthly report has filed at least one monthly report in 2016. **Mr. Bobick** mentioned that the staff looks to see whether a monthly report has been filed when reviewing requests for letters of no objection. **Mr. Delaney** responded that owners are required to file monthly, not just once a year. **Ms. Balsam** replied that the staff will first look to enforce this requirement against those owners who have not filed a monthly report at all. **Mr. Delaney** further clarified his belief that the number of owners who have filed monthly reports every month for the last four or five years that this requirement has been in place is a very small fraction.

**Mr. Schachter** clarified whether Mr. Delaney was bringing the monthly report topic up as a symbolic example. **Mr. Delaney** responded that it is symbolic of the type of topic that, in his opinion, should be discussed with the Board members first in order to get their input prior to the first draft being published. **Mr. Delaney** recommended that rather than having the staff write out vast changes to all the rules, the staff should come up with fifteen topics and get input from the Board members. In his experience, once revisions are published, that is a significant step in the revision becoming a rule. **Ms. Balsam** stated that the rules cannot be published without the Board members' approval. **Ms. Shelton** recommended that prior to re-drafting, the staff should poll the Board members to see what they think are the issues. **Ms. Shelton** mentioned that the last time the rules were amended, there was a schedule informing the Board members of which topics would be discussed and when.

**Mr. Roche** commented that Ms. Balsam and her staff have already reached out to each of the Board members to offer them the opportunity to offer their advice/suggestions on what they would like to see tweaked. Further, **Mr. Roche** agrees with Ms. Balsam in that the onus is on the Board members to provide the staff with the information that the Board members believe the staff should use. **Mr. Delaney** replied that Ms. Balsam met with the Board members individually, but not with the Board as a whole. **Mr. Hernandez** suggested that at the next private meeting, the Board members discuss some of these issues. **Ms. Balsam** replied that the problem of discussing rule making during the private session is that rule making is not a quasi-judicial function and is not exempt under the Open Meetings Law. **Mr. Hernandez** clarified that he meant the discussion of providing their feedback to the staff. **Ms. Balsam** stated that the Board members can always send their feedback to her, individually. **Mr. Roche** asked about the possibility of discussing rule changes in a group email.

**Mr. Delaney** asked about the buildings in which the Board, in the October 2016 public Board meeting, directed the owners to register the buildings/units within thirty days of the mailing date of the orders. **Ms. Balsam** replied that one building registered, and the others the staff registered.

With regard to the Article 78 decision in Stephen Grant vs. The New York City Loft Board, **Mr. Delaney** mentioned that traditionally, the Article 78 decisions get circulated to the Board members. **Ms. Balsam** replied that she will circulate the decisions as the staff receives them.

With respect to the thirty buildings who have not renewed their registrations for this fiscal year, **Mr. Delaney** stated that the deadline to renew registrations was July 1. **Mr. Delaney** further commented that traditionally, these owners were already put on notice of their failure to renew and fines were levied around October. **Mr. Delaney** does realize that there has been a change in the Loft Board's leadership, but requests that this process move swiftly.

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#### VOTE ON APPEAL/RECONSIDERATION CALENDAR CASES

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|----|------------------|-------------------------------|--------|
| 1. | BYG Realty Corp. | 979-987 Dean Street, Brooklyn | R-0350 |
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**Mr. Delaney** asked whether any summary of the case and its decision is given to the public. **Ms. Balsam** replied that if the Board members want a summary read, the staff has prepared a summary for each case on the reconsideration and master calendar. **Mr. Delaney** moved that if the Board continues the policy of having cases discussed in the private session, with the understanding that questions will not be answered about cases in public, that at a minimum to let the public know what it is the Board members are voting on. **Mr. Delaney** believes that a summary should be provided prior to the Board members voting for at least the cases on the reconsideration and master calendar.

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**Motion:** Mr. Delaney moved to require the staff to provide a summary of the reconsideration and master calendar cases prior to the Board members voting.

**No Second. Motion Failed.**

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

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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**VOTE ON SUMMARY CALENDAR CASES**

Chairperson Hylton presented the below summary calendar cases for vote by the Board.

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| 2.  | South Five Holdings, LLC   | 347 Bedford Avenue, Brooklyn               | LA-0049 |
| 4.  | Various Tenants of 57-59 Grand Street  | 57-59 Grand Street, Manhattan              | TR-0895 |
| 5.  | Robert Selwyn, Alina Preciado, Amber Kirsch, Josephine Shiele, Leandro Maciel and Jesse Pesta  | 8-10 Grand Avenue, Brooklyn                | TR-1010 |
| 6.  | Catherine Clark, Wayne Douglas Romines, Andrea Loefke, Amanda Jane South, Wylie Wirth, Petra Hanson, Gil Seon Pak, Jung Hur and Hyobin Ahn   | 46-48 Old Fulton Street, Brooklyn          | TR-1100 |
| 7.  | Marie-Christine Giordano   | 220 25th Street, Brooklyn                  | TR-1154 |
| 8.  | James Chien-Hwa Yeh  | 496 Broadway, Brooklyn                     | TR-1160 |
| 9.  | Various Tenants of 255 18th Street   | 255 18th Street, Brooklyn                  | TR-1164 |
| 10. | Sunok Chun, Cesar Gabriol Luisi, Lilia Luis, Jee Hye Kwon, Aruna Naimji, Soonok Jung, Paul Olsen, Ronnit keha, Jesse Lello, Kammie Mann, Jessica Yu, Grandharv Bhagat, Lenka Prstakova, Kaniel Disipio, Sasha Brownfeld, Allen Nahrayoff, Bradley Rhodes, Leonard Phillips, Aurelai Hug, Gaspar Guerra, Matt Horton, Chandra Baker and Chris Platt | 8-10 Grand Avenue, Brooklyn                | TR-1167 |
| 11. | Brett Herman   | 476-498 Jefferson Street, Brooklyn         | TR-1230 |
| 12. | Amar Ibrahim   | 108 North 6 <sup>th</sup> Street, Brooklyn | TR-1306 |

Prior to the vote, **Mr. Delaney** requested that case 3 on today's agenda, Thomas Loback and Susan Ryan, 270 Water Street, Manhattan, PO-0010 and TA-0208, be voted on separately.

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

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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| 3. | Thomas Loback and Susan Ryan | 270 Water Street, Manhattan | PO-0010,<br>TA-0208 |
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**Motion:** Ms. Shelton moved to accept the proposed order. Mr. Carver seconded the motion.

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

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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**VOTE ON MASTER CALENDAR CASES**

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| 13. | Redsky JZ Roebing, LLC | 143-155 Roebing Street, Brooklyn | LC-0168 |
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**Mr. Delaney** commented that this case, as stated, is seeking de-coverage of a unit. The Board will vote on it but the audience won't know whether the unit is de-covered or not. **Mr. Delaney** believes that this does not make sense. **Mr. Carver** asked whether the proposed order would be available to all once it is voted on. **Ms. Balsam** replied that once the orders are mailed out, they are uploaded to the New York Law School's CityAdmin online library. **Mr. Roche** sees Mr. Delaney's point, but does not have a definitive answer to address it. **Mr. Delaney** further commented that people watch the video. The public will see how the Board members vote, but how will they know what issue is being addressed. **Ms. Shelton** commented that it is a timing question, not an issue of transparency because eventually the proposed order will be published. **Chairperson Hylton** asked if there was a motion to have staffs' prepared summaries read.

**Motion:** Mr. Schachter moved to have the order itself read prior to the Board members voting.

**No Second. Motion Failed.**

**Motion:** Mr. Roche moved to table the concept of reading a summary for the cases on the reconsideration and master calendar prior to the Board members voting for thirty days to give everyone an opportunity to think this through. **Mr. Roche** does not personally think that everyone has enough information to make the best decision for the citizens of New York City. Mr. Hernandez seconded this motion.

Prior to the vote tally, **Mr. Carver** asked what will happen now in today's public meeting. **Mr. Schachter** proposed that the proposed orders be read aloud prior to the tallying of the votes. **Mr. Roche** responded that the current protocol should be followed. **Mr. Delaney** commented that if you watch a football game and the score was 28-4, imagine not knowing who won. **Mr. Delaney** stated that one thing that everyone can agree on is that there are some questions about how this new procedure will work that the Board has not quite thought through yet.

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**Motion:** Chairperson Hylton moved that going forward the staff will read their recommendation for each reconsideration and master calendar case prior to the vote. Mr. Schachter seconded this motion.

**Members Concurring:** Mr. Carver, Mr. Delaney, Mr. Schachter, Chairperson Hylton (4).

**Members Dissenting:** Mr. Roche, Ms. Shelton (2).

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

**Motion Failed.**

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**Motion:** Mr. Roche moved to table the concept of reading and/or providing a summary for the public for the reconsideration and master calendar cases prior to the Board members voting until the next Board meeting. Mr. Hernandez seconded this motion.

**Ms. Martha Cruz, Esq., Deputy General Counsel,** recommended that the staff provide the Board members with a summary of what type of case it is and the staff's recommendation without going into the details. **Ms. Cruz** further recommended that the issue of whether a summary will be given be discussed at the next Board meeting.

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

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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| 14. | Redsky JZ Roebing, LLC | 143-155 Roebing Street, Brooklyn | LN-0026 |
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**Motion:** Mr. Hernandez moved to accept the proposed order. Mr. Schachter seconded the motion.

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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| 15. | Rehana Esmail and Sina Zekavat | 1083-1095 Flushing Avenue, Brooklyn | PO-0031 |
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**Mr. Delaney** commented that this is the first of three cases on today's agenda where the Board ends up fining an owner four thousand (\$4,000.00) dollars for failing to turn in, in a timely fashion, a Multiple Dwelling Law ("MDL") § 286(12) sale of rights record. **Mr. Delaney** stated that the failure of owner to turn in the sales record form in a timely manner resulted in the applicants spending time and money, the Loft Board and the Office of Administrative Trials and Hearings spending time and money to move through the case, only to have the owner/landlord produce a MDL § 286(12) sale document after this case has begun, which automatically defeats the applicants application. **Mr. Delaney** wishes that the fine was higher. **Chairperson Hylton** responded that the four thousand (\$4,000.00) dollar fine is set by the Loft Board's rules.

**Mr. Carver** commented that he has an issue with fining an owner without first putting that owner on notice that he could be fined. **Chairperson Hylton** responded that the rule could be the notice.

**Mr. Delaney** further commented that the discussion that was had during the private session about filing timely sales record forms is exactly the kind of discussion that should be held in public, so that owners could be put on notice. That notice would be in addition to the note that is already on the sales record forms, in our renewal registration package and on the Loft Board's website. **Chairperson Hylton** further mentioned that the staff will send out a notice to all owners informing them of their responsibilities.

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

**Members Concurring:** Mr. Roche, Mr. Hernandez, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (6).

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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| 16. | James Gubelmann | 442 Broadway, Manhattan | TR-0870 |
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**Chairperson Hylton** asked if there was a motion to table this case so that the Board members have more time to review the proposed order.

**Motion:** Mr. Roche moved to table the case. Mr. Carver seconded the motion.

**Members Concurring:** Mr. Carver, Mr. Roche, Mr. Hernandez, Mr. Schachter, Chairperson Hylton (5).

**Members Dissenting:** Ms. Shelton (1).

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

**Tabled for February 16, 2017 Board Meeting.**

**Mr. Delaney** commented that under our rules, the Chair has the right to table a case on his/her own initiative or the Board can vote on it.

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| 17. | Talon Anthony Geer and Mike Seeler | 151 Kent Avenue, Brooklyn | TR-1231 |
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**Motion:** Ms. Shelton moved to accept the proposed order. Mr. Hernandez seconded the motion.

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

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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| 18. | Jonathan Huddleson | 141 Spencer Street, Brooklyn | TR-1263 |
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**Mr. Delaney** commented that this is the third case in which the tenant coverage application was a losing coverage case because the landlord pulled out a MDL § 286(12) sales document after the fact. **Mr. Delaney** further commented that this is the third case in which the Board is fining the landlord four thousand (\$4,000.00) dollars and noted that the money goes to the Loft Board, not the tenants.

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

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

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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**VOTE ON REMOVAL CALENDAR CASES**

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| 19. | Harrison Street Residences, LLC | 7-9 Harrison Street, Manhattan | LE-0669 |
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**Motion:** Mr. Carver moved to accept the proposed order. Mr. Delaney seconded the motion.

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

**Members Absent:** Mr. Barowitz, Ms. Bolden-Rivera (2).

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**Mr. Roche** commented that he is not convinced that the public understands why the Board made some procedural changes. **Mr. Roche** stated that the change arose out of the new administrations concern for the attorney-client privilege.

**Chairperson Hylton** asked Ms. Balsam to explain the Board's new procedure. **Ms. Balsam** stated that the Board, when discussing cases, is exercising its quasi-judicial function. A quasi-judicial function of the Board is exempt from Public Officers Law § 108. **Ms. Balsam** further added that in those discussions, the

Board members will often ask the staff questions. The staff is counsel to the board, and as their attorneys, those conversations should be privileged. Board members are still free to and are encouraged to offer comments for each case, but the staff will not be answering questions during the public session.

**Chairperson Hylton** concluded the January 19, 2017 Loft Board public meeting at 3:49 pm and thanked everyone for attending. The Loft Board's next public meeting will be held at 280 Broadway, third floor, on February 16, 2017 at 2:30p.m.