

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

April 20, 2017

The meeting began at 2:38 p.m.

Attendees: Robert Carver, Esq., Owners' Representative; Elliott Barowitz, Public Member; Richard Roche, Fire Department ex officio; Robinson Hernandez, Manufacturers' Representative; Charles DeLaney, Tenants' Representative; LeAnn Shelton, Public Member; and Chairperson Designee Renaldo Hylton.

Absentees: Gina Bolden-Rivera, Public Member; Daniel Schachter, Public Member;

INTRODUCTION

Chairperson Hylton welcomed those present to the April 20, 2017 public meeting of the New York City Loft Board.

VOTE ON MARCH 16, 2017 MINUTES

Motion: Mr. Carver moved to accept the March 16, 2017 meeting minutes. Mr. Hernandez seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Chairperson Hylton (6).

Members Abstaining: Ms. Shelton (1).

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

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

Ms. Balsam welcomed Cynthia Leveille, Esq., Assistant General Counsel, as Staff's newest attorney. Ms. Leveille will be focusing on enforcement matters.

In terms of rulemaking, **Ms. Balsam** mentioned that Staff is still working through chapter one, but hopes to have chapter one ready for the Board members next month. **Ms. Balsam** further mentioned that she will get the Board members the draft of chapter one as far in advance of the May Board meeting as possible so that the Board members could look through it.

Ms. Balsam reported that the unofficial revenue total for the month of March was fifty five thousand, two hundred and forty (\$55,240) dollars.

In terms of the upcoming deadline for filing registration and coverage applications, **Ms. Balsam** mentioned that the deadline is June 15, 2017. Anyone thinking of applying for coverage under the Loft Law or filing a registration application must do so by the June 15th deadline.

Ms. Balsam reported that Staff re-sent the June 15th deadline reminder emails to city council members, community boards and borough presidents. In addition, Staff mailed out a hard copy of this reminder. **Ms. Balsam** also reported that there is a workshop scheduled with the Loft Board Staff and the Department of Cultural Affairs for April 28, 2017 at 4:30 in the afternoon. The workshop will be held at 31 Chambers Street, on the second floor. The workshop will include discussions of issues of coverage and how to file an application for coverage.

Ms. Balsam mentioned that the Board members had asked for maps of the location of Loft properties by assembly district, state senate district and council district. The maps are a work in progress, but **Ms. Balsam's** hope is to have them interactive and on the Loft Board's website. **Ms. Balsam** commented that on the maps, each dot represents a Loft Board building, and hopefully the public will be able to click on a property and get more information regarding that specific building. **Mr. DeLaney** asked if **Ms. Balsam** would be sending these maps to the Board members. **Ms. Balsam** responded that she would be more than happy to. **Ms. Balsam** also mentioned that the information contained in these maps is based on a new spreadsheet. The spreadsheet has to be updated but **Ms. Balsam** wants to post that as well. The spreadsheet is missing certain information and hopefully the Loft Board's summer intern will help with completing it. **Mr. Barowitz** thinks this is terrific and thanked the Staff for creating it. **Mr. Barowitz** asked if a determination could be made on when these buildings first came in under the Loft Board's jurisdiction. **Ms. Balsam** replied that you cannot tell based on the maps, but one of the fields on the spreadsheet is the date that the interim multiple dwelling registration number was assigned, which would be when the building came under the Loft Board's jurisdiction. **Ms. Balsam** mentioned that if the Board members want that information on the maps, we can make sure that it is in there. **Mr. Barowitz** responded that it would be good information to have. **Ms. Shelton** mentioned that she would like to see it color coded for old buildings vs. new buildings, i.e. Multiple Dwelling Law ("MDL") § 281(1) vs. MDL § 281(4) vs. MDL § 281(5). **Mr. Barowitz** asked if Staff knows how many MDL § 281(1) buildings there are still under the Loft Board's jurisdiction. **Ms. Balsam** replied that Staff can try to get the Board members that information. **Ms. Shelton** responded that the number got down to around three hundred (300). **Mr. Barowitz** replied that it started at seven hundred and fourteen (714), in the year 2000, it was two hundred and eighty one (281) and now we still have three hundred (300) buildings. **Ms. Balsam** responded that there have been buildings that have come and gone and it seems like the figure always hovers around three hundred (300). **Ms. Balsam** did acknowledge that there is a big difference between MDL § 281(1) buildings and MDL § 281(5) buildings. **Mr. DeLaney** mentioned that the previous Executive Director, Ms. Alexander, would report these kinds of figures to the Board members quite regularly and that there is a template.

Mr. DeLaney asked **Ms. Balsam** if she has given any thought about how to proceed with the rulemaking. **Mr. DeLaney** asked if the rules will be published first and then will the Board members discuss. **Ms. Balsam** responded that we cannot publish the rules until they are approved by the Board members and the rules will be discussed during the public session. **Mr. DeLaney** asked will you then seek to move forward on section one of the rules. **Ms. Balsam** clarified with the City Administrative Procedure Act (CAPA) process? **Mr. DeLaney** stated yes. **Ms. Balsam** replied no. **Mr. DeLaney** then clarified that section one would spend more time in the discussion phase. **Ms. Balsam** stated that she hopes to finish chapter one next week and then do chapter two. **Ms. Balsam** mentioned that Chapter two might take two months because it is much longer and there will be more to discuss. **Ms. Balsam** further mentioned she wants to do the CAPA process all at once. Passing rules by piecemeal is very dangerous. **Mr. DeLaney** asked whether the draft of the first section passed out to the Board members would only be for discussion. **Ms. Balsam** replied yes, and if there are any changes, Staff will make the changes and once it is finalized and once chapter two is finalized, then we will start the CAPA process and that will be the Law Department and the Mayor's office of Operations and that could take at least two months. **Mr. DeLaney** asked if there will be a public hearing. **Chairperson Hylton** and **Ms. Balsam** responded absolutely. **Mr. DeLaney** further asked if those discussions will be held during the public session. **Ms. Balsam** responded of course. Rulemaking is done in public. **Chairperson Hylton** reiterated that the Board members need to approve the draft first, prior to starting CAPA. **Ms. Balsam** mentioned that the Mayor's Office of Operations and the Law Department will have changes, so we will submit those changes to the Board members for their approval. **Mr. DeLaney** asked if **Ms. Balsam** envisions sharing the proposed rules, changes, modifications with the public prior to starting the CAPA process. **Ms. Balsam** responded no. The public has a very defined role in terms of when they can comment and that is at the public hearing. **Chairperson Hylton** mentioned that if the Board members feel that the public discussion or public comments are valid and want to make the changes to the comments that the public made, it is still up to the Board to make those changes and go forward with the rule. So the rules can be modified after the public hearing. **Mr. DeLaney** stated that his interest is in getting the proposed changes into the public's realm as quickly as possible to give them as long as possible. **Chairperson Hylton** stated that there will not be a longer period of time for the public to comment. The time is 35 days. It cannot be longer or shorter. **Ms. Balsam** responded that the problem is you get so much input that you cannot move forward. **Ms. Balsam** thinks the reason that CAPA is structured that way is to make sure that the process can be completed. **Mr. DeLaney** stated that he dislikes the approach in the sense that,

when say under other procedures, there is a limited clock for comment/action by various bodies, but frequently what the proposal is has been debated in public for a much longer period of time. **Mr. DeLaney's** concern is that given the complexity of the rules and detail, he would like to make sure that the public, both owners and tenants, as well as attorneys who represent owners and tenants, have as much time as possible to study the rules. **Ms. Balsam** responded that they are more than welcome to submit a Freedom of Information Law request for anything that is a public record including the document that will be given to the Board members.

VOTE ON APPEAL/RECONSIDERATION CALENDAR CASES

Chairperson Hylton tabled the below case:

1.	Kent Ave Holdings I LLC	151 Kent Avenue, Brooklyn	AD-0083
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Mr. Michael Atzlan, Esq., Assistant General Counsel, presented the below reconsideration calendar case for vote by the Board:

2.	Grigori Levit	103-111 North 10th Street, Brooklyn	R-0351
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Mr. Delaney stated that he is going to vote in favor of denying this reconsideration order but wanted to reiterate that his concern is that the Board has a tendency to look at stipulations and sometimes say we will accept the withdrawal notwithstanding the contents of the rest of the stipulation. Here, we took issue with the stipulation as a matter of public policy, and he has expressed this sentiment before both in the public session and the private session, that he thinks we either read stipulations and adhere to all or ignore it. **Mr. DeLaney** thinks Mr. Levit is trapped and the landlord should fix up the unit and have him stay where he was.

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

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Ms. Shelton, Chairperson Hylton (7).

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

VOTE ON SUMMARY CALENDAR CASES

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

3.	57 Jay Street LLC	57 Jay Street, Brooklyn	LC-0165
4.	57 Jay Street LLC	57 Jay Street, Brooklyn	LC-0167
5.	Alpana Bawa and Einar Mar Eidsson	181 Chrystie Street, Manhattan	PO-0036 and TR-1309
6.	Lilah Wilson	243 Grand Street, Brooklyn	PO-0044
7.	Matthew Coch	1099 Flushing Avenue, Brooklyn	TA-0225
8.	Eric Richard Buechel, Kathleen Ann Luker, Terese Monica Paolini and Sean Monahan	324 Canal Street, Manhattan	TR-1286
10.	Deborah Kammer	35 Claver Place, Brooklyn	TR-1316
11.	Lilah Wilson	243 Grand Street, Brooklyn	TR-1317

Prior to vote, **Chairperson Hylton** informed the public about two administrative changes to two proposed orders:

For PO-0044 – the word “occupant” should be added to the second to last sentence and should read “withdrew the protected occupant application with prejudice”.

For TR-1317 – the word “protected” should be removed from the second to last sentence and should read “withdrew the application with prejudice”.

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

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Ms. Shelton, Chairperson Hylton (7).

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

Chairperson Hylton presented the below summary calendar case for vote by the Board:

9.	Aaron Steinberg	397 Bridge Street, Brooklyn	TR-1312
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Mr. DeLaney stated that he will be voting against this case. Here is an instance where the tenant, with his attorney, filed an application seeking coverage of the eighth floor and in his coverage application, stated that there are a total of nine residential units in the building. The tenant subsequently entered into a stipulation which the Loft Board neither accepts nor rejects the remaining terms of the stipulation. The stipulation afforded tenant a so called one hundred and sixty thousand (\$160,000) dollar surrender payment and the waiver of rent to the tune of thirty one thousand, five hundred and ninety one (\$31,591) dollars. This case is now withdrawn and there is no coverage application before the Loft Board because Mr. Steinberg accepted a surrender payment. **Mr. DeLaney** further states that he was told in private session that there are other coverage applications pending that relate to this building. **Mr. DeLaney** reiterated his position that once someone applies for coverage and says that there additional residential units in the building, the individual should not be able to withdraw that case in a way that takes Loft Board scrutiny away. In other words, an owner should not be allowed to buy people off and evade the Loft Law. **Mr. DeLaney** thinks the Board should have a mechanism in place to keep a case like this active. **Mr. DeLaney** added that the stipulation that the Loft Board neither accepted nor rejected, allowed Mr. Steinberg to live there from October 31st when the stipulation was signed, to conveniently April 3rd, a few weeks before this meeting. So in the other case of Mr. Levit, where the Loft Board won't let him live in a space that is not covered, we allowed Mr. Steinberg to stay in his space for several months. That doesn't make sense.

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

Members Concurring: Mr. Carver, Mr. Hernandez, Ms. Shelton, Chairperson Hylton (4).

Members Dissenting: Mr. Barowitz, Mr. Roche, Mr. DeLaney (3).

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

MOTION FAILED. Will be revisited.

VOTE ON MASTER CALENDAR CASES

Ms. Balsam presented the below master calendar case for vote by the Board:

12.	Estate of Minda Bikman By Its Administratrix, Charla Bikman	595 Broadway, Manhattan	LF-0132
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Motion: Mr. Barowitz moved to accept the proposed order. Mr. Hernandez seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Ms. Shelton, Chairperson Hylton (7).

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

Ms. Balsam presented the below master calendar case for vote by the Board:

13.	Maria Nazor and Peter Mickle	544 West 27th Street, Manhattan	TR-1184
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Mr. DeLaney stated that he will be voting no on this case because he is not persuaded that the level of residential use by the landlord in the second unit was not sufficient. In his view there is an argument that the unit should be covered.

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

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

Members Dissenting: Mr. DeLaney (1).

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

Chairperson Hylton tabled this case:

14.	73 Washington, LLC	73 Washington Avenue, Brooklyn	LE-0673
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Mr. Roche wanted to discuss the letter that all the Board members received from the New York City Loft Tenants. **Mr. Roche** mentioned that it was also sent to the Public Advocate, Manhattan Borough President and Council Member Levin. Mr. Roche wants to know how Staff will respond to the letter. **Mr. Barowitz** read the last sentence of the letter so that the public knows what the letter is about: "We strongly urge you to keep the entire Loft Board meeting process open to the public. We look forward to your response..." **Mr. Roche** stated that for the record, the way he reads the letter is that these tenants have taken the time to write to the Loft Board and cc several city officials and they deserve some sort of response. What kind of response, **Mr. Roche** leaves that up to Staff. **Chairperson Hylton** responded that if the Board members want Staff to respond, that they need to give some suggestions on how to respond. **Mr. Roche** stated that we are all here for the benefit of the public and the City of New York and isn't sure how Staff wouldn't respond. **Mr. Carver** stated that having a private session is lawfully authorized by the statute and there are good public policy reasons behind the private session. Further, **Mr. Carver** stated that specifically, it gears towards the process by which the opinions in specific cases are reached. Frankly, there is no lack of transparency to meet in private because the rationale of the Board is stated in a written opinion. That opinion is subject to appeal into the court system. **Mr. Carver** further thinks that the private session is healthy in that it allows Board members to offer their opinions in a frank manner in a way that they could not do in public. **Mr. Roche** is only concerned with the tenants getting a response.

Motion: Mr. Roche moved to have Staff officially respond to the New York City Loft Tenants. Mr. Carver seconded the motion.

Mr. DeLaney asked whether the Board members were voting on Staff responding or drafting a response for the Board member's consideration prior to sending the response out. **Chairperson Hylton** responded that Board members are voting on Staff responding based on the Board members feedback. In that case **Mr. DeLaney** offered his opinion. **Mr. DeLaney** doesn't know where Mr. Carver sees it in the statute. As he said when the Loft Board started this procedure, which he still thinks is wrong, yes, under the Public Meetings Law, it carves out an exception for quasi-judicial functions to be done in private. If the Board wants to, it probably could hold private sessions once it changes the Loft Board rule, which currently doesn't reference the Public Meeting Law. The discussion of cases has been done in public for thirty plus years. The Board could hold private sessions once the rule is amended, but whether it is a good idea is another matter altogether. **Chairperson Hylton** added that if Board members have additional suggestion/comments, to please send them to Ms. Balsam.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Ms. Shelton, Chairperson Hylton (7).

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

Chairperson Hylton concluded the April 20, 2017 Loft Board public meeting at 3:29 pm and thanked everyone for attending. The Loft Board's next public meeting will be held at 280 Broadway, third floor, on May 18, 2017 at 2:30p.m.