

**MINUTES OF PUBLIC MEETING
New York City Loft Board Public Meeting Held at
22 Reade Street, First Floor**

November 30, 2017

The meeting began at 11:05 a.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, and Chairperson Designee Renaldo Hylton.

INTRODUCTION

Chairperson Hylton welcomed those present to the November 30, 2017 public meeting of the New York City Loft Board.

Chairperson Hylton first turned to a vote on the minutes for the October 26, 2017, Loft meeting. He asked if there are any corrections or comments. **Mr. DeLaney** stated No. **Chairperson Hylton** stated OK, there are no comments or corrections to the minutes. **Mr. Barowitz** stated one sentence ends up with leads instead of live or lived. **Executive Director, Ms. Helaine Balsam, Esq.** stated that was from last month and that was fixed. **Mr. Barowitz** stated oh it was fixed. **Ms. Balsam** stated these are from a different meeting. The minutes we are talking about now are for the October 26 meeting. **Mr. Barowitz** stated OK. **Chairperson Hylton** asked are there anymore comments or concerns, no?

VOTE ON October 26, 2017 MINUTES

Motion: Mr. Roche moved to accept the October 26, 2017 meeting minutes. Mr. DeLaney seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Chairperson Hylton (5)

Members Absent: Mr. Schachter, Mr. Hernandez (2)

Chairperson Hylton stated Ms. Balsam will now do her executive director report.

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

Ms. Balsam stated the first issue she wanted to talk about is the requirement for a quorum and a majority when there are vacancies on the Board. As you know, due to two vacancies, the Loft Board currently consists of 7 members. After consultation with the Law Department it has been determined that during the period in which the Board has its current compliment of 7 members, 4 members will constitute a quorum, and the affirmative vote of 4 members will constitute a majority acting on behalf of the Board. For most boards, the makeup of the board is fixed by law, but the Loft Board is actually different from other boards. Pursuant to MDL § 282 read in conjunction with Executive Order No. 129 of 2009, the Board must have from 5 to 9 members and include representatives of specified interests. Because all specified interests are presently represented and the Board has 7 members, it is fully constituted without a legal vacancy. The Mayor may change the required quorum and majority by making additional appointments up to a maximum of 9, or by amending or replacing Executive Order No. 129, to alter or fix the number of members on the Board.

Mr. Barowitz asked, so if there were 8 members, has there been any discussion as to what happens if there are 8 members? **Ms. Balsam** responded, if there were 8 members, and all of the specified interests were constituted, the majority would be 5. **Mr. Barowitz** thanked Ms. Balsam. **Ms. Balsam**

stated we actually had that situation when we had 8 members. **Mr. Barowitz** responded we had 8 members for a long time. **Mr. DeLaney** asked how did this question come up? **Ms. Balsam** responded it was raised by an attorney. **Chairperson Hylton** stated therefore we had to get guidance. **Ms. Balsam** agreed and stated therefore we sought guidance.

Ms. Balsam stated next we have the economic impact of sales of right. At the last Board meeting the Board requested a presentation of different viewpoints on the possible economic impact of changing the sale of rights rule, so we would like to renew the Chairperson's request for the Board to submit names of possible presenters because we are not exactly sure who to go to for that, so if you could give use guidance with that, that would be wonderful. **Chairperson Hylton** stated I think that Mr. Carver requested in conjunction with Mr. DeLaney, so we are kind of counting on you to give us some names. **Mr. Carver** stated yes in fact he has some names in mind which he will send. **Chairperson Hylton** stated great, thank you. **Mr. DeLaney** asked, on this topic, what exactly are we looking for? **Ms. Balsam** responded, information on how it is going to affect owners, tenants. It is a big change and what are the possible ramifications of making this change. **Mr. DeLaney** asked, what kind of people have positions that speak to that? **Mr. Carver** responded, he happens to think one class of people would be attorneys for landlords and tenants who have been in the field since the start of Loft Law who have insight into how the change would affect owners and tenants and buildings. There's also some sort of independent scholars who work on housing issues. **Chairperson Hylton** stated it impacts the tenants also so perhaps hearing from them. **Mr. DeLaney** asked are we trying to get people to come here soon? There's a lot of work to do. **Chairperson Hylton** stated let's try for January. Is that alright? **Mr. Carver** stated sure.

Ms. Balsam stated, on failure to file the monthly reports for the December 2016 violation there are only 4 owners that still owe fines. For the violations that were issued in May of 2017, the appeals deadline has passed, no one has filed. We issued \$28,000 fines, we collected \$6,000. There is currently \$22,000 outstanding. We will continue to try to collect those. For the registration renewals there are 38 Buildings that still have not registered. We are working to get those buildings registered. Unofficial total revenue for October was \$53,833. And in litigation, we were served with a petition by the owner of 517-525 West 45th Street. The petition challenges the denial of an extension of code compliance deadlines. **Chairperson Hylton** asked, the buildings that have not re-registered, do you know if this is still a normal range for what happens annually? Is it better or worse? **Ms. Balsam** stated she thinks it's a little worse. If she remembers correctly, last year we had more buildings registered at this point in time. **Mr. DeLaney** stated, following up on that, generally at some point, we bring the...**Ms. Balsam** stated the FO's, I think that will be January. **Mr. DeLaney** stated so in January. That's a little later than what has been the case in recent years. **Ms. Balsam** stated last year was a little later. We are working on getting it done sooner. We tried very hard to make it for this meeting but we missed by just a few days in terms of notice. There are requirements for how long people have to answer so we do not want to step on that. So we will do it in January. **Mr. DeLaney** asked not December? **Ms. Balsam** stated the meetings in December are really supposed to be rules meetings because normally the Board does not meet in December. **Mr. DeLaney** asked if both are going to be rules meetings. **Ms. Balsam** stated yes they are supposed to. **Chairperson Hylton** asked is it possible to bring the FO's to one of those meetings? **Ms. Balsam** stated yes. **Mr. DeLaney** stated the FO cases are fairly straightforward. Obviously among other things, if there has been a change in building management, contact phone number is supposed to be supplied. It seems reasonable. **Ms. Balsam** stated ok.

VOTE ON APPEAL/RECONSIDERATION CALENDAR CASES

Chairperson Hylton stated there are three cases on the Reconsideration Calendar. The first case is Alaml Corp, 763 Avenue of the Americas, Manhattan, Docket No. AD-0080, Mr. Clarke, will be presenting this case.

Mr. Stephan Clarke, Esq., Assistant General Counsel presented the below reconsideration calendar case for vote by the Board:

1.	Alaml Corp.	763 Avenue of the	AD-0080
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	Americas, Manhattan	
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Chairperson Hylton thanked Mr. Clarke and asked the Board members if they had any comments on the case.

As there were no comments, **Chairperson Hylton** asked for a motion to accept this case.

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

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

Members Absent: Mr. Schachter (1)

Chairperson Hylton thanked the Board and indicated this motion is passed.

Chairperson Hylton stated the second case, on the agenda is being tabled. It raises some issues about the Certificate of Occupancy which the Department of Buildings is reviewing at this time. So we are going to table the case of Peter Malerba and others, 255 18th Street, Brooklyn, AD-0086, until further notice.

Chairperson Hylton tabled the following case prior to vote by the Board:

2.	Peter Malerba Elizabeth Malerba, Katya Moorman, Karen Dunn, Elizabeth Ziman, Kimberly Mongello, Matthew Schoch And Maureen Newman	255 18 th Street, Brooklyn	AD-0086
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Chairperson Hylton stated the third case is Kathrine Laval, 39 Ainslie Street, Brooklyn, Docket No. R-0353. Mr. Bobick can you please present this case?

Mr. Michael Bobick, Esq., Assistant General Counsel presented the below reconsideration calendar case for vote by the Board:

3.	Karine Laval	39 Ainslie Street, Brooklyn	R-0353
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Chairperson Hylton thanked Mr. Bobick and asked the Board members if they had any comments on the case.

As there were no comments, **Chairperson Hylton** asked for a motion to accept this case.

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

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

Members Absent: Mr. Schachter (1)

Chairperson Hylton thanked the Board and indicated this motion is passed.

VOTE ON SUMMARY CALENDAR CASES

Chairperson Hylton stated there are nine cases on the summary calendar, usually voted on as a block, however, we will separate out case number 4, Michael Bent and Aniwarti Lavett at 53 Pearl Street,

Brooklyn, Docket No. PO-0035 and number 11, Michael Bent and Aniwarti Lavett at 53 Pearl Street, Brooklyn, Docket No. TR-1313 for separate voting. With that in mind, does anyone have any comments about the remaining cases?

Block Vote on Summary cases:

5.	Monica Hernandez	143-153 Roebling Street, Brooklyn	PO-0038
6.	Peter and Elizabeth Malerba	255 18 th Street, Brooklyn	TA-0217
7.	Jacques and Silvie Salle	365-369 Seventh Avenue, Manhattan	TH-0208
8.	Jacques and Silvie Salle	365-369 Seventh Avenue, Manhattan	TN-0226
9.	Various Tenents of 300 Richardson Street	300 Richardson Street, Brooklyn	TR-1280
10.	Marjorie Kouns	15 Minetta Street, Manhattan	TR-1305
12.	Jordan Ring and Elvira Kachapova	85 Chambers Street, Manhattan	TR-1321

Chairperson Hylton asked the Board members if they had any comments on the case.

As there were no comments, **Chairperson Hylton** asked for a motion to accept this case.

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

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

Members Absent: Mr. Schachter (1)

Chairperson Hylton thanked the Board and indicated this motion is passed.

Chairperson Hylton mentioned that the remaining cases on the Summary Calendar will be voted on individually.

4.	Michael Brent and Aniwarti Lavett	53 Pearl Street, Brooklyn	PO-0035
11.	Michael Brent and Aniwarti Lavett	53 Pearl Street, Brooklyn	TR-1313

Chairperson Hylton asked the Board members if they had any comments on the case. **Mr. DeLaney** stated he is going to vote against these two cases because even though they are on the summary calendar for withdrawal, one for protected occupancy and the other for coverage request, the same two individuals in the same unit at 53 Pearl Street, suffers from the curious history that the owner registered three units, not including the unit in question. In 2015 the owner allegedly purchased rights in this unit under MDL § 286(12) from someone name Holly Baxter, but in the papers the owner submitted, the owner goes out of his way to claim the unit in question was not occupied residentially during the window period. So he doesn't understand how you can purchase rights under MDL § 286(12) from someone who is not a registered occupant. He also learned that the document has still not even been filed. Even though the tenants for whatever reason chose to withdraw their application, there is something about this that is so contrary to what he thinks we are supposed to be doing at the Loft Board that he plans to vote no.

Chairperson Hylton thanked Mr. DeLaney and asked if there are any more comments?

As there were no further comments, **Chairperson Hylton** asked for a motion to accept this cases.

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

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

Members Dissenting: Mr. DeLaney (1)

Members Absent: Mr. Schachter (1)

Chairperson Hylton thanked the Board and indicated this motion is passed.

VOTE ON MASTER CALENDAR CASES

Chairperson Hylton stated there are two cases on the master calendar case. The first case is Joel Saladino, Pablo Castro, Veronica Schwartz, Frank Hughes, Julian Asfour Jean Costello, and 401 Wythe Tenants. The address is 401 Wythe Avenue, Brooklyn. The Docket Nos. are TR-1033 and TR-1158 and the Executive Director, Ms. Balsam will now present this case.

Ms. Helaine Balsam, Esq., Executive Director, presented the below case for vote by the Board:

13.	Joel Saladino, Pablo Castro, Veronica Schwartz, Frank Hughes, Julian Asfour jean Costello And 401 Wythe Tenants	401 Wythe Avenue, Brooklyn	TR-1033 TR-1158
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Chairperson Hylton thanked Ms. Balsam and asked the Board members if they had any comments on the case. **Mr. Carver** stated he has several. He thinks the legal analysis of the OATH judge, as adopted by the staff opinion, is frankly wrong. The opinion concedes that the MDL definition of basement is the first place to look. But then the opinion goes on to deviate from the MDL, because within the definition of basement, it talks about curb level, and looking at the curb level definition of the MDL. That is to be used to determine building height. That is not a reason to deviate from the MDL because our own rule says for our own purposes to use the MDL definition. It's our rule. We must abide by our rule. Our rule has the advantage of being consistent with Loft Law section 281(5), which says to use the zoning resolution to define outer court, but makes no mention of the zoning resolution to define basement. Nevertheless, the opinion goes on to use the zoning resolution instead of the MDL to define basement. But even assuming for the sake of argument that the zoning resolution should be consulted for this purpose, consulting the zoning resolution does not lead to the conclusion that is drawn by the opinion. The opinion applies that portion of the zoning resolution definition that says to use the curb level nearest to a story to determine whether that story is a basement, but that definition applies only to through lots. The OATH judge specifically found that the subject lot is not a through lot, therefore this definition under the zoning resolution does not apply. But of course the zoning resolution should play no role in the analysis, our rule says to use the MDL and that's what the opinion should do.

Mr. Carver stated a second reason he believes the analysis is flawed is on the legal window issue. Loft Law section 281(5) precludes coverage for a unit without a window that opens onto a street or lawful yard or court. The staff opinion regards any yard or court as enough to qualify a unit for coverage, even if it does not meet the width and depth requirements of the zoning resolution which are the very factors that make a yard or a court lawful. Every word in the statute should be given effect. The staff opinion renders the word lawful meaningless. For these reasons I am going to vote no on this case.

Chairperson Hylton thanked Mr. Carver and asked if anyone else has a comment. **Mr. Roche** stated he also has some comments on this particular case. His esteemed colleague to his right actually brought up some of the points that support his statement that there really isn't, in his opinion, any definitive evidence of defining a basement. Even Judge Lewis herself stated that she recommends comparing floor elevation

in each unit. She uses the terminology “recommends” several times. Although he has the utmost respect for a judge, had she used the word “ruled”, he would have been much more comfortable with that versus “recommends.” He intends to vote no based on the fact that the current certificate of occupancy for this property actually considers it a ground floor and not a basement. And therefore, he believes if we take this order as written we are in essence, without greater evidence to the contrary, penalizing the Schwartz-Castro unit for being a basement when the Department of Buildings who is sworn by the city to establish those parameters states very clearly in the existing C of O that it is a ground floor. He intends to vote no based on that.

Mr. DeLaney asked why no? **Mr. Roche** responded he is not in favor of penalizing the Schwartz-Castro unit as being considered a basement and the other units not being considered a basement. It is his belief that this is not a basement and that no hard body of evidence has been supported. But ultimately, his concern is that the judge recommends, she did not rule. Had she ruled or been more definitive, he would have been much more comfortable with a different vote but he thinks we have to default to the Certificate of Occupancy which states that this is a ground floor. Thus, he thinks that the Schwartz-Castro unit should be protected occupants as well. **Mr. Barowitz** stated he does not know if we are able to resolve this unless it goes into housing court or some other court so he feels conflicted on this although he agrees that he does not want to deny Schwartz-Castro coverage, so he thinks he will vote no.

Chairperson Hylton asked if anyone else has comments. **Mr. DeLaney** stated he would just stress that the OATH judge found five of the six units to be covered. Obviously Mr. Carver would read things differently which would result in a very limited number of units being covered. And Mr. Roche is in favor of broader coverage. This highlights the incredibly poor drafting that was done in the chapter amendment that added these exclusionary provisions to MDL §281(5). Obviously under the original Loft Law, units that were in basements were legalized. In §281(5), the legislature went out of its way to state the unit cannot be in either a basement or cellar, without providing much guidance. At least in the window issue they referred to the zoning resolution, here they were silent. He respects the fire department’s view that if they went out they would look at the C of O and view these as ground floor units. So it seems like we are in a bit of a dilemma. His question would be, is there a way to reverse the OATH judge recommendation with regard to the Schwartz-Castro unit. **Chairperson Hylton** stated just to clarify Mr. Roche, the judge’s report and recommendation is simply that. It is a recommendation to the Board. Just to clarify that piece. **Ms. Balsam** stated the judge cannot rule in her decision. She cannot say “I rule.” **Mr. Roche** stated he respects that, but taking that piece of it, and adding it to the other pieces. And he stated a few of his colleagues are aware that he puts in a tremendous amount of time into trying to make a determination here. He reached out to some experts in the field and he also discussed it with counsel. He understands the judge is limited but there isn’t anything else that has been presented that is concrete enough for him to feel comfortable to go against what the New York City Department of Buildings has ruled as being a ground floor. The C of O, issued by the Department of Buildings who’s tasked by the law to make these determinations says it’s a ground floor. He does not even go as far as to support the language when we start talking about basements and cellars because nobody has convinced him that it’s a basement or a cellar. It is the ground floor as has been determined by the NYC DOB. That is his position. He is troubled by the fact that a “no” vote is going to affect a handful of units that would otherwise be covered at least temporarily. But he also doesn’t feel that the Schwartz-Castro unit should take the hit so to speak and be the only one excluded when the only concrete legal document that has been shown to him is the C of O that states it’s a ground floor, which means the whole discussion is a moot point. He just wants to make sure that everybody understands, both his colleagues on the Board and the audience in attendance that his position is it is not a basement or a cellar. The Fire Department of the City of New York is not saying we advocate you living in a basement or a cellar. His position based on evidence provided and research over the last two months is this is a ground floor.

Chairperson Hylton stated it seems we have different votes against the order for different reasons. He stated he is just going to allow a vote on this even though it seems like it is not going to pass. **Mr. DeLaney** asked if we could amended the Order to say that the Board looks to the Certificate of Occupancy issued by the Department of Buildings. **Chairperson Hylton** asked if that decision should be made now. **Mr. DeLaney** responded yes. **Chairperson Hylton** asked for Mr. DeLaney to say that again. **Mr. Carver** asked how could we justify using a C of O when our own rule says look at the definition of

basement in the MDL. **Chairperson Hylton** asked if the C of O has already made that determination would you have to look somewhere else. **Mr. Roche** stated one thing he would like to add is twice in this very meeting our very own Loft Board and it's staff has stated we are waiting on word from the C of O or we have made a determination based on the C of O. So this is his whole point, how can we sit here at the same meeting and say "We are awaiting a determination from the Department of Buildings on a C of O" and "we have referred to the C of O" and in another case we aren't even mentioning the fact the C of O says that it's the ground floor. He wants to add that in there because he thinks that's an important piece of this puzzle because somebody that is following this is going to say wait a minute, you guys seem to refer to the C of O and in the next breath you didn't bring up the C of O but yet the C of O is a major factor in the issue. So again, he wants to be clean about this process. **Chairperson Hylton** stated ok good. I think Mr. DeLaney is making a motion.

Mr. DeLaney responded if it would be appropriate in the form of a motion. And he would like to add this is obviously a very complicated case as he said in the private meeting, a month ago he gives Judge Lewis and the Board staff a lot of credit for trying to look through this. And this is not like a real basement. The amendments that were offered to limit coverage of certain types of units in the expanded Loft Law as opposed to the original Loft Law was a really a mean spirited, quickly conjured up, very poorly drafted set of provisions. The fact that the window refers to the zoning resolution and the basement and cellar don't refer to anything is just in his mind another example of that. So to that end if the majority vote of the Board is that we should look to the Certificate of Occupancy which has been given very serious consideration in other cases he would make a motion to amend the order to state the Board finds all 6 units covered based on the Department of Buildings' Certificate of Occupancy which identifies them as all being ground floor units. **Mr. Carver** stated he does not think it is an appropriate motion. **Mr. DeLaney** stated well without a second it's not even a motion. **Mr. Carver** responded all the Board members should have the benefit of the analysis and the research of the staff and being able to talk to them in private session like we do any case. **Mr. Roche** stated he would agree with Mr. Carver. As much as he would like to say he would like to put this to bed in a positive way today, we have to allow staff an opportunity to go back and look at things. Just us as individuals have said we need to have 30 days to step back or in this case it might be 60 days if we are not going to rule on cases in December, we need to have 60 days to step back and look to maybe vote on this in January. He does support Mr. DeLaney's theory, he just doesn't think we should ramrod it though. **Mr. DeLaney** stated well in that case he will withdraw his proposed motion. **Ms. Balsam** stated that if the Board directs us to redraft the Order to say that the C of O is binding, I think that is legally defensible. It's not illegal to say that so we are not opposed to doing that. **Mr. Barowitz** stated if you're not opposed to that, why can't you do it as Mr. DeLaney said through a motion. **Chairperson Hylton** stated because of Mr. Carver. **Mr. Barowitz** stated he understands but we all have a vote, he can vote the way he wishes and the rest of us can vote the way we wish. **Mr. Roche** stated Mr. Carver does not really have an opportunity to make his argument in a proper manner in a spur of the moment situation. **Mr. Carver** asked was this issue even raised prior to being here. **Ms. Balsam** responded Judge Lewis addressed it in the report and recommendation. **Mr. Carver** stated he will not oppose Mr. DeLaney making a motion, if it means we just get the case out of here, it will go into an Article 78 and rather than hold it up let's move forward. He thinks that the C of O legal analysis is even worse than as drafted now. He has no objection to seeing that go forward because he believes that it will not survive. **Mr. DeLaney** stated that he will reintroduce his motion

Motion: Mr. DeLaney reintroduced his motion. Barowitz seconded the motion.

Members Dissenting: Mr. Carver

Mr. DeLaney stated wait. What are we voting on? **Chairperson Hylton** stated we are voting on Mr. DeLaney's motion to change the Proposed Order to include the C of O and grant coverage. **Ms. Balsam** stated the draft would take out the entire basement analysis and just find that the C of O shows it is a ground floor. That is the easiest thing to do. **Mr. Roche** stated he knows we have a motion and a second on the floor but he really feels like it would be a cleaner process fairer to the staff who drafts these orders to redraft these orders and read it aloud. Either way his vote is not going to change but here we are talking about hypotheticals, we don't have anything on paper. **Chairperson Hylton** stated that in the interest of time he would like to go into a private session right now for 10 minutes if that is ok. And could

the members of the public please allow us to go into private session for 10 minutes just to discuss this to get the new language for the Order and come back in. Thank you.

Private Session Break 11:58 AM-12:15 PM

Chairperson Hylton stated we are back from private session and we are discussing the case Joel Saladino, Pablo Castro, Veronica Schwartz, Frank Hughes, Julian Asfour Jean Costello, and 401 Wythe Tenants. The address is 401 Wythe Avenue, Brooklyn. The Docket Nos. are TR-1033 and TR-1158. Earlier we suspended the meeting to go into private session to discuss changing the proposed order based on a motion. We do ask Mr. DeLaney to repeat.

Motion: Mr. DeLaney motioned to revise the Proposed Order to modify the finding of Judge Lewis in the Report and Recommendation and to acknowledge that the current C of O for these properties recognizes that the units are ground floor rather than basements. Therefore based on the Certificate of Occupancy and the requirements that we looked at in Section 645(b)(3)(e) of the New York City Charter that it is incumbent on us to find the units in question to be ground floors units, also making the Schwartz-Castro unit a protected unit and recognize Schwartz and Castro as protected occupants. Mr. Barowitz seconded the motion.

Mr. Carver asked if he would have an opportunity to speak. **Mr. Barowitz** responded you can't do it after a second is made. Mr. Carver asked why was the second taken without the opportunity to speak. **Chairperson Hylton** asked if Mr. Barowitz was able to withdraw his second. **Mr. Barowitz** stated Mr. DeLaney would have to withdraw his motion.

Motion Withdrawn: Mr. DeLaney withdrew his motion.

Chairperson Hylton asked Mr. DeLaney to reintroduce his motion.

Motion: Mr. DeLaney reintroduced his motion.

Chairperson Hylton asked does anyone have any comments on the motion.

Mr. Carver stated he does. He thinks that the opinion has now gone from bad to worse. We continue to ignore our own rule. It ignores the state statute, the MDL in favor of a provision of the City Charter and a C of O that has no bearing on our issue. So I will be voting no. **Chairperson Hylton** asked does anyone else have any comments? Is there a second?

Motion Seconded: Mr. Barowitz seconded the motion.

Members Concurring: Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Chairperson Hylton (5)

Members Dissenting: Mr. Carver (1)

Members Absent: Mr. Schachter (1)

Chairperson Hylton thanked the Board. He stated this Order will be redrafted by the staff based on the contents of the motion.

Chairperson Hylton stated the final case on the master calendar case is a removal case. It is Keung Tat Realty Corp. and Lichun Hu, 163 Bowery, Manhattan, Docket No. LE-0672.

14.	Keung Tat Realty Corp. and Lichun Hu	163 Bowery, Manhattan	LE-0672
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Chairperson Hylton asked does anyone have any comments? **Mr. DeLaney** stated this is the first time we have formalized a provision we put into our rules around the year 2000. Here the owner filed for an increase and indicated that it was not waiving its right to a rent adjustment based on the necessary and reasonable costs of obtaining a residential certificate of occupancy, but our rule as currently drafted states that if you want to apply for cost of code compliance with an additional adjustment beyond the Rent Guidelines Board increase, he believes you have to do that within 9 months of obtaining the Certificate of Occupancy. So in this case, while the owner said I want to keep my options open to seek pass-along for the necessary and reasonable cost of obtaining a residential Certificate of Occupancy, we are closing that out and saying that you are only entitled to the RGB increase. I think that's noteworthy and he plans to vote yes. **Chairperson Hylton** asked does anyone have any other comments?

As there were no further comments, **Chairperson Hylton** asked for a motion to accept this case.

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

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

Members Absent: Mr. Schachter (1)

Chairperson Hylton thanked everyone and concluded the November 30, 2017, Loft Board public meeting at 12:20 pm.