

MINUTES OF PUBLIC MEETING
New York City Loft Board Public Meeting

June 17, 2021

The meeting began at 2:14 PM

Attendees: Elliott Barowitz, Public Member; Charles DeLaney, Tenants' Representative; Kei Hayashi, Manufacturers' Representative; Nicole Oddo, Public Member; Samira Rajan, Public Member; Richard Roche, Fire Department's *ex officio*; Heather Roslund, Public Member; Renaldo Hylton, Chairperson Designee; Kevin Schultz, Executive Director

INTRODUCTION:

Chairperson Hylton welcomed those present to the June 17, 2021, public meeting of the New York City Loft Board and explained that the meeting was being held via teleconference due to the coronavirus emergency, pursuant to the Governor's Executive Order 202.1. He then briefly summarized Section 282 of the New York State Multiple Dwelling Law, which establishes the New York City Loft Board, and described the general operation of the Board as consistent with Article 7-C of the New York State Multiple Dwelling Law.

OPENING COMMENTS:

Chairperson Hylton informed the public that just before the cases, he will entertain a motion for the Board to enter an Executive Session to discuss an active litigation against the Loft Board -- *Matter of Dezer Properties II, LLC versus New York City Loft Board* -- and its impact on new proposals and future, similarly situated cases. At that time, the public will be asked to sign off and leave the teleconference for about ten minutes. The public can then call back and enter a waiting room while the meeting is locked for Executive Session. After ten minutes, the public will be allowed to rejoin the teleconference, and at that time, the Chair will advise as to whether or not the public session will resume or if more time is needed in Executive Session.

VOTE ON MEETING MINUTES:

April 15, 2021, Meeting Minutes

Chairperson Hylton asked if there were any comments on or corrections to the minutes. As there were none, he asked for a motion to accept the April 15, 2021, meeting minutes, and for a second.

Mr. DeLaney moved to accept the April 15, 2021, meeting minutes, and **Mr. Barowitz** seconded.

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Ms. Hayashi, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Roche, Mr. Hylton

Members recused: 0

May 20, 2021, Meeting Minutes

Chairperson Hylton asked if there were any comments on or corrections to the minutes. As there were none, he asked for a motion to accept the May 20, 2021, meeting minutes, and for a second.

Mr. Barowitz moved to accept the May 20, 2021, meeting minutes, and **Ms. Rajan** seconded.

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Ms. Hayashi, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Roche, Mr. Hylton

Members recused: 0

EXECUTIVE DIRECTOR'S REPORT

Mr. Schultz welcomed the Board members, Chair, and members of the public to the meeting and began his report.

Executive Order

Due to the ongoing public health crisis and in accordance with the Governor's Executive Order 202.109, issued on May 25, 2021, the suspension of required, in-person Board meetings has been extended to June 24, 2021, which includes today. It remains to be seen what the Governor will do after that, and we will advise everyone as soon as possible if we will be resuming live, in-person meetings.

Revenue

The unofficial Loft Board revenue for May was \$506. As we approach the end of the fiscal year, annual registrations come due, so future reports will show a much larger number. And I will be speaking more about registrations in the Enforcement section of this report.

Violations

The Loft Board issued two violations in May, both on May 21, and at the same building and unit: 124 Chambers Street, unit number 2, in Manhattan, for no gas and no hot water.

Enforcement

At the last meeting, I responded to some questions about enforcement, and I intend to do that regularly. As mentioned at the last meeting, we now have our enforcement attorney back as well as an Executive Director, myself, in place. So, with that, we are working to turn up the machine on a lot of different initiatives, and enforcement is one of them.

The item I want to be sure to address is annual registration, which is coming up. Our enforcement attorney's time over the next several months will be devoted to that, if not exclusively, primarily, insofar as using the enforcement powers and the rules to make sure that registrations arrive promptly and that they are accurate. We want our members and everyone to be aware that registration is one of the areas we are going to be paying particular attention to in terms of enforcement.

Next, some of what I call the simpler things in terms of enforcement, though I know that nothing is ever really simple. In response, again, to some questions posed by the Board about enforcement, generally, but also concerning what Mr. Barowitz brought up at the last meeting: the need for the public, our constituents of all types, to know about us. Something in the rules, which will be even better in the new rules, is the requirement that owners have in their vestibule or in their entrances some kind of notice that states this is a Loft Board building; gives the Loft Board's phone number; and provides some important information. As a matter of enforcement, we have asked our inspector to look for that notice every time he goes to a site; to take a picture of it and send that picture to me. And if it is not there, that is an enforcement case. So, this is simple, but important on a few different levels. And as we continue to develop our enforcement plans, I can envision a sweep of certain areas for this in particular. It is important but arguably low-hanging fruit that we are working on. It is an enforcement issue but also a visibility initiative.

At the last meeting, a Board member inquired about specific performance and the rules; what the rules say about that; what kind of tool it might be for us. So, our enforcement attorney looked at it, and it was noted that it is not often, if ever, used. The reason is that it is a hefty tool that, seemingly, requires a lot of energy and effort. But we are having these regular enforcement meetings, and it is something we have familiarized ourselves with since the last meeting because we want to be able to use it if and when we can.

There was also mention of a list of buildings shared with the Board a few years ago that were, by various criteria, of concern or that could warrant enforcement; and we did identify such a list from 2018. So, we are doing what we can to update it to see what criteria would apply to the most viable candidates for the various kinds of enforcement we have.

The other areas of enforcement that we are all familiar with and that we, again, are working to build into an omnibus plan, are housing maintenance violations and how we could more efficiently and more vigorously enforce those when called for. And of course, also seeking compliance when we can. We are also going to pay attention to late sales filings, and if they are not filed promptly, there is a penalty for that, which we would work towards implementing.

We are continuing to scour the rules, and our enforcement attorney is working very hard, along with his supervisor and myself, to put together a plan that captures these things and more in a very real way, shooting for compliance when possible, and enforcement when not possible.

That is the enforcement update for this month. I have more to report, but I will pause here, if there are any questions or comments from members about anything I mentioned so far.

Litigation

There are two cases -- one is a new case, and one is a decision. The new case is *Jody Pinto versus 124 LLC, William Radmin, New York City Loft Board and HPD (Department of Housing Preservation)*. This is in the housing court, index number 303304/2021. In this case, the petitioner is a tenant at 124 Chambers Street, who filed in the housing court against the owner in order to correct alleged health and safety violations. This is the same address I just mentioned in the enforcement section, where we issued two violations for no gas and no hot water. The items mentioned in the petition at the housing court were failing to provide heat, hot water, and venting; the restoration of a gas dryer; debris; and broken windows. The Loft Board and HPD are named as co-respondents, and the petition calls for immediate correction of the violations and unlawful conditions. Obviously, we are going to cooperate with the court in any way we can on that matter.

The second is a decision: *Nazor and Mickle versus New York City Loft Board and Sydney Sol Group, Limited*, index number 160900/18. In this case, the petitioners are tenants of 544 West 27th Street. They filed an Article 78 seeking an Order to compel the Loft Board to reconsider an application a second time. The tenants had unsuccessfully challenged two Loft Board Orders in a prior Article 78. The Loft Board's 2017 Order, number 4668, dated April 28, 2017, accepted an OATH ALJ's recommendation and

denied an application seeking coverage and protected occupant status, and found that neither tenant resided in the building for the twelve consecutive months of the Window Period.

Another Loft Board Order, dated September 20, 2018, number 4796, denied a reconsideration application on that matter. More recently, just in the last month or so, the court dismissed a second Article 78 petition and found that the Loft Board's denial of that second reconsideration application was rational. Basically, the court said, you reconsidered it; you do not have to reconsider it again. And that decision was not arbitrary, capricious, or contrary to law or procedure.

I'll pause for any comment or questions on either of those cases.

Brochure

Next is largely a response to items the Board brought up at the last meeting. It may not be everything the Board members want, but I do not want to leave anything out. Mr. Barowitz, I already mentioned your comment about the visibility of the Board and what we can do about that. I mentioned the notices in the buildings, but another update I have and was glad to hear is that, apparently, before I came on board, work had begun on a brochure for distribution that would discuss the Loft Board, rights, the law, etc. That brochure was awaiting translation which, I believe, is required by the city, and that translation has been completed. So that is something we will be monitoring and working on. The content was decided long ago, and it is now in the printing and distribution stage.

(**Mr. Roche** joined the meeting, and his attendance was noted).

Mr. Barowitz reiterated his point from the last meeting, that two long articles in the *Daily News* about Soho and Noho did not once mention the Loft Board, and he hoped that all the candidates for mayor could be educated on the Loft Board and its importance.

Status Report on Buildings and Loft Board Operations

Mr. Schultz agreed; said he would be watching the brochure situation closely; and continued: There was a request for quarterly reports on the status of loft buildings and various relevant statistics, and we are preparing a report for September. In the meantime, we do have some information to share today, based

on the data we have and some older data we do not think the Board has seen before. It is based on data that most of us on the staff have inherited, but we have no reason to think it is not accurate, so we did want to present it. And the process of reporting regularly, as was suggested, is going to help ensure everything is right and accurate.

(A pdf of this presentation is attached)

Mr. Schultz described the first PowerPoint slide, which provided statistics for 2020 about areas of the Loft Board staff's regular, daily responsibilities other than working on cases and preparing Orders. Created in January of this year, it reports on the Narrative Statement conferences, certifications, and LONOs – Letters of No Objection -- for 2020. Twenty-seven Narrative Statement conferences were held; fifty-four certifications were issued; and two hundred and fifteen LONOs were processed.

Mr. DeLaney asked if there was more of a breakdown of the three areas of certification.

Mr. Schultz: Six of them were initial certifications; forty-one were amended; and seven were partial. Initial certification is usually granted after we get through the Narrative Statement process on what was included in those plans. Amended would be a time thereafter, where there is any kind of change to those plans. And a partial is issued from time to time, if there is a piece of the Narrative Statement that can or should move forward, but not all of it.

And while we are talking about breakdown, on the two hundred and fifteen LONOs -- approved versus denied -- rarely are they denied. But we do look at those closely to make sure that everything is in order -- outstanding fees and fines or any issues with the building.

The next shows the revenue month-to-month. Unsurprisingly, you see that spike in July. I think that will always be the case. And then a little spike in August and some carryover probably to November. That is the annual registration effect, and that is the revenue for 2020: a little over \$1.5 million.

Next is another illustration of one of those tasks that none of you see, but on which a lot of energy is spent, and credit to our staff who handles these. FOILs are a big part of what we do. We get requests from all kinds of people, pretty consistently, all year long. Three hundred and eighty-eight were processed in 2020, and as that was the COVID year, I do not know how it compares to prior years.

The next slide is pretty simple because I made it, and it is to show where we are so far this year in some of these same areas. Narrative Statement conferences: fourteen. Certifications: twenty-seven. Letters of No Objection: seventy-seven. FOILs: one hundred and sixty-one requests received. I do not have any further breakdown right now, but we will progress towards that as we obtain more data.

The next slide speaks much more to what was talked about last month: How many buildings do we have in our jurisdiction? The answer is three hundred and thirty, as of this exact moment. And where are we with each of these? Based on the data we have right now, you can see a third of them are in a permit stage. The next largest group is at an Alt-1 stage, closely followed by some that are at 7B/ Temporary Certificate of Occupancy stage. A smaller section have not filed any application. Nine percent, or twenty-nine of them. And the rest are either in a Certificate of Occupancy stage, where they have gotten the C of O, but they have not applied for removal. And then there is a group of eighteen, or five percent, that have filed for and are pending removal from the Loft Board. So, that is all the buildings, regardless of what section of the law they came in under. The next slide illustrates this same data but broken down by what section of the law they are covered by.

The broad takeaways are not surprising. There are more under the older sections of the law, and they have advanced further, generally speaking. Those under the most recent sections of law are fewer, and they have not moved along to any sort of completion stage, which is unsurprising.

That is all. It is not a big presentation, but I wanted to respond with what we have even before the quarterly requests.

Ms. Hayashi: While you figure that out, kudos to you and the staff, especially on the FOIL requests. Those take a long time.

Mr. Schultz: Thank you very much. Yes, I need to be very clear that all those numbers you see are reflective of a lot of work by the staff.

Mr. DeLaney: I join in extending my congratulations.

Mr. Schultz: Thank you.

Mr. DeLaney: Would you circulate the PowerPoint to the members?

Mr. Schultz: Yes, certainly. And this is my way of saying that I, too, am a fan of data. I think data is very important and that it does lead us. Sometimes it is inconvenient; sometimes it does not tell the story you want to tell. But it is the thing that will get us going in the right direction. So, I have a commitment to data, and we have a lot of it. We just need to get it together. I feel quite good about what I shared, but we want to make sure we are continually giving the best data; the most updated data. I have dealt with data long enough to know that sometimes you look back, and you say this could have been better or different. So, we will be giving you everything we have as we have it, with quarterly reports starting in September. Hopefully matching the kind of reports you have seen in the past.

Are there questions on that? I know this Report is pretty long, and I will move through the rest of it more quickly, but I do have more, and I do not want to leave anything on the table.

Bill A-7667

Last month, we discussed bill A-7667, which involves the Loft Law. In short, what it does is clarify tenants' rights to go to other venues, specifically housing court, to address housing maintenance issues. It confirms, or codifies, that IMD (Interim Multiple Dwelling) tenants can do that because a certain reading of the law could cast doubt on that. This bill has made it to the Assembly and the Senate and will presumably go to the Governor -- the next step, as I understand it. Are there any questions on that? I am not sure I can give you the answer today, but I am happy to try for the next time.

Chairperson Hylton asked Mr. Schultz if he could repeat, for the public, the significance of the bill.

Mr. Schultz: A-7667 is a bill in Albany that amends language within the MDL -- the Multiple Dwelling Law. This language will confirm that current IMD tenants can access courts of competent jurisdiction, including the housing part of the courts.

Mr. DeLaney offered some background on what led to this adjustment: The need for this arose from a very clever argument that was made. Section 282-a of the Loft Law, the Multiple Dwelling Law, went out of its way to say that tenants who were applying for coverage could go to housing court for protection if they were being denied services. What? You had the nerve to apply for coverage? I am

going to cut off your heat and water. But the argument was made -- and there were a couple of judges in Brooklyn that bought it -- that since the law only said tenants who were applying for coverage could go to housing court, that must mean, then, that tenants who are covered cannot go to housing court. Clever argument. Kind of nasty. This law just clarifies that both tenants who are covered by the Loft Law and tenants applying for coverage have the right to seek corrections via an HP (housing part) proceeding in housing court; because there are a lot of things that the Loft Law's minimum housing maintenance standards do not talk about. Like vermin infestation. We do not have anything in our regulations that talks about that. So, if you cannot go to housing court, then you have a problem on your hands. That is what this bill seeks to correct.

Rules

Mr. Schultz: Thank you. Three more items. The first is very short. We did pass our proposed rules last month, and those have been forwarded on to the Law Department for review, which is the next stage in the process. Hopefully, they will find them to be absolutely perfect and have no comments, which will then move them along to the next stage. To the extent they have comment, I will keep the Board updated. I do not know how long it will take them, but I will be in regular communication with them on that. We have done our work for now, and again, as we said last month, kudos and thanks to everyone involved with getting us to this stage.

Soho/Noho

Regarding the Soho/Noho rezoning, all I can report at this point is that it is controversial to be sure, and there is ongoing litigation about it between the city and at least two public groups that are challenging it. That project has been certified, is in public view, and I believe there is going to be a public meeting with the Community Board this month. It will be a live, public hearing, and what I saw online is that it is scheduled for June 23. It will then go to the Borough President, to the Council, and the Mayor, presumably. But there is concurrent litigation, which could affect that at any time.

I would add that anything I know is public. I do not have any specific internal knowledge. Insofar as I did see in the released information that existing, rent-regulated homes, many covered by the Loft Law, will

remain protected -- that was in a press release. As requested, I will continue to update the Board as the meetings continue.

Professional and Self-Certification

At the last meeting, a Board member asked whether I knew or had access to information about the efficacy of it or the prevalence of problems with it. The short answer is no. I did make an inquiry with some of the senior staff in Development, and there really is not any data or report that speaks to that. There are some Comptroller audits from 2003 and 2011, which I did know about. The 2011 one speaks more about the Department of Buildings making sure they are doing the twenty percent auditing and less about the efficacy or the good/bad value metric or value judgment of the program. The 2003 one is quite old, but it did more of the same and also seemed to give DOB some feedback on the accuracy of their reviews. And those are publicly available.

The other thing I can share is that the Department of Buildings does have a disciplinary unit, which does result in auditing and disciplinary procedures for bad actors within the pro-cert program. These parties may agree to surrender, or they might choose a proceeding at OATH; and there is a page on the DOB website where offenders are listed. That is all I can add right now to the pro-cert conversation. I do not have anything else in my Executive Director's Report, but I am happy to answer any questions from the Board members on anything I mentioned.

Chairperson Hylton: Good job. Thank you, Mr. Schultz

Ms. Roslund: Yes, that was a lot. Thank you.

PROFESSIONAL AND SELF-CERTIFICATION

Chairperson Hylton turned the floor over to Mr. DeLaney for the discussion on self-certification and professional certification.

Mr. DeLaney: Thank you. This issue was originally raised in a letter to the Chair by a prior public member, Julie Torres-Moskovitz, which led to some of us meeting with Mr. Rebholz from the

Department of Buildings, who is an expert on this. From that meeting, the question arose as to whether the Board should request that the Department of Buildings consider IMDs going through the legalization process as immediately eligible for auditing, which happens to about twenty percent of buildings where professional certification takes place.

Ms. Roslund, Ms. Torres-Moskovitz, and I presented to the Board about this, and there is ample documentation in the minutes, so I do not want to repeat myself because some of you have heard this multiple times. At present, I am much more interested in hearing what other people think, and I am sorry that Mr. Hylton is not here today, because last month, he raised some interesting questions as to how prevalent this is, and I do not have a sense of that.

Part of what interests me about this topic is that some past circumstances have been so egregious that it makes you stop and wonder, for example, how a building with five units in the basement could get a C of O without that being noted. There is also 99 Sutton, remarkable for numbers on the final C of O that were different than those in the Narrative Statement proposals. So, there are some really jaw-dropping circumstances. But whether it would make good sense to have all professional certifications audited is an open question. But as I said, I have been repeating myself over the past couple of meetings, so now, I would really much rather hear what other people's thoughts are.

Ms. Hayashi: As a newer Board member, I still feel like I am learning the risks and benefits of things, so I do not want to comment. But I am happy to listen, and I appreciate your comments, Mr. DeLaney.

Mr. DeLaney acknowledged that.

Ms. Rajan said she would refer to the past meeting minutes for a more thorough understanding but wondered if Mr. DeLaney had a particular action item in mind. If there was something about the process or the rules that he was suggesting should be changed.

Mr. DeLaney: Yes. The suggestion was made that an action step the Board could take without any other involvement, such as a bill in the City Council, would be for the Board to pass a resolution asking the Department of Buildings to, as a matter of course, audit situations where professional certification is used in IMD conversions. And again, to distinguish, for years I used the term self-certification which, in

fact, is what appears on the agenda. Self-certification, as I learned, partly thanks to Ms. Roslund, Ms. Torres-Moskovitz, and Mr. Rebholz, is actually something that licensed people like plumbers can do. Professional certification is what architects do. Ms. Roslund, can you add anything to this?

Ms. Roslund: Yes. A professional certification, an application that is professionally certified, does not get reviewed by a plans examiner at the Department of Buildings. When an architect submits an application to the Department of Buildings for whatever kind of work -- an Alt-1, for example -- there are two ways they can submit the application. The standard route is when you submit the documents, which include the drawings, to a plans examiner, who reviews them. If they find any objections, the architect then makes an appointment to sit down with the examiner and review them. Sometimes the objections can be answered without an appointment, but typically, there is an appointment. The necessary corrections are made, and the documents are resubmitted for review as part of a process that could be repeated several times. But by the time the application is approved, the applicant, the architect, and the Department of Buildings are fairly certain that everything is up-to-code; it works; there are no issues. So, it is a longer, more involved process. But at the end, you are more confident that your project meets with all the building codes and the Zoning Resolution.

The second method, professional certification, is a shortcut. You, as the architect, say, I professionally certify that everything in this application meets with the code; you do not have to look at it. And then you can go right to the permitting process and into construction. But what can happen is, there may, in fact, be something in there that is not right. It can be a legitimate mistake. We -- architects -- have all made mistakes. You missed something. But more often than not, it is a tricky application. There are a number of architects who are well known for using professional certification to slip things in without anyone noticing. And that is the concern. The Department of Buildings signs-off on the drawings, and then the owner has a permit to begin construction, even if what they are about to build is not legal; does not comply with the Building Code or the Zoning Resolution. And if it is caught at any time during construction or during the Certificate of Occupancy inspection, now it is already built. So, then there is the problem of how to undo it. Usually, a violation is issued. Sometimes modifications have to be made. But oftentimes, it is a way to get something that is not a hundred percent legitimate through the process. And of course, if nobody checks, then great. You could have an extra room or an extra

apartment, as Mr. DeLaney pointed out. The mezzanine rule was a big thing in Williamsburg for many years. So, you basically have extra square footage.

And that is just for new buildings or legitimate projects. When you have lofts, and projects, and buildings that come through the Loft Board, it is even stickier, because you now have spaces that are already built-out for the most part; have been built-out without planning, but organically, without a lot of forethought. Sometimes the space has been changed many times over the years. You can have means of egress that are very circuitous. There are so many issues that come up with loft buildings, which is why there is even more of a risk that there would be something that is not legitimate, or not legal, or not to code, that could get passed either accidentally or on purpose by an unscrupulous team.

So, what we are saying is that any project that comes through the Department of Buildings that is under the jurisdiction of the Loft Board should automatically be flagged for plan review. Or, if they are filing it under professional certification, it should be audited, which is the same thing. It is subject to review by a plans examiner, who sits down and looks through all the documents, finds any issues, and then submits a list of objections to the design professional. Did that make sense? Was that clear?

Ms. Rajan: Yes, that was great. But would this then also extend the legalization process?

Ms. Roslund: Potentially, yes

Ms. Oddo asked what the consequences were for a professional who certified illegitimate documents.

Ms. Roslund: Professional certification is a privilege, so it can be revoked.

Chairperson Hylton: Just to recall, I think I did mention at the last meeting that the Department does have a disciplinary page on its website. If you search disciplinary actions, it will take you to a list of all bad actors we have prosecuted in the past and continue to by suspension or revocation of privileges. Some of those were so aggressive that they voluntarily surrendered that privilege, without a hearing. So, we have a robust system, where we do get these people, and they do suffer the consequences.

Ms. Oddo: And I assume that part of the reason professional certification is allowed is a capacity issue? If we made it a requirement that documents for buildings in the legalization process under Loft Board

jurisdiction had to submit to traditional plan review – that they could not be professionally certified – would that significantly delay movement through the system?

Ms. Roslund: That is a great point, because the professional certification program was established to allow expediting smaller projects, and because the plans examiners were quite overwhelmed. It was part of an overhaul of the Department of Buildings. Chairperson Hylton, was that maybe fifteen, twenty years ago?

Chairperson Hylton: Twenty, yes

Ms. Roslund: There was a backlog, and it was taking a long time. Sometimes you would submit an application, and it would take three months to get an appointment. So, it was meant as a way to make it easier for everybody and to help out, particularly, smaller clients, who were penalized by having such a long period of time to wait.

Ms. Oddo: I am just wondering, then, if it is just logistically easier to be stronger on enforcement so that the risk is higher for someone who wants to do something that they should not. If they are really putting their license on the line, and they know the risk of being caught is great, it might stop them from doing it as often. Or, if it would be easier to build up capacity on the other end, to be able to move these items through faster if we did require that every single thing had to be looked at.

Ms. Roslund: That was why we talked a lot about the numbers. The Department of Buildings randomly audits twenty percent of all professionally certified applications. Say there are only ten Loft Board projects submitted to the Department of Buildings every year. Twenty percent of them would be two, correct? Two of them are already audited, so, it is only eight more. So that is what we are talking about. If it were thousands of projects, then it would perhaps be a different discussion. But if it is a handful of projects, does this make sense for us? Your other point is also equally valid. If enforcement were stepped up, and there were steeper penalties for proceeding with something that was non-compliant, that might discourage the non-compliance of the application in the first place.

Mr. DeLaney: I think your question is a very good one. And before I comment, I want to commend Ms. Roslund for the way she described how people who abuse this do it. I could not do it without sinking

into vulgarity. There is one architect who has been involved in three or four major transgressions in IMD buildings, who has also made the newspapers for doing such things in other buildings that have nothing to do with lofts. So, if you are looking for someone dirty, this individual seems to be a go-to for this. And he suffered the mild penalty of not being able to self-certify for a few years. Now, maybe if the New York State Department of Education had revoked his architect's license, that would have made a noise. But frankly, for the amount of money I assume this individual walked away with, he got a slap on the wrist.

Chairperson Hylton: Point well taken, Mr. DeLaney, but in response to that, and to tie it back to what Ms. Oddo asked about enforcement, the Department of Buildings does not issue architects and engineers their licenses. That is done by the Department of Education, the Department of Regents. So, all we can do is refer our cases to them for discipline. The most we can do is to revoke their filing privileges with us. So yes, it would be stronger if we could revoke their license, as we can do for plumbers or electricians. But the most we can do with state-licensed offenders, such as engineers and architects, is a revocation of filing privileges -- professional certification privileges -- with us.

Ms. Roslund: There are also penalties for the building owner. In one of the most famous cases in the city, a developer was required to remove four floors of a twenty-story tower. Those are the big headline-grabbers. So, you could say, okay, there could be stricter penalties or more enforcement during construction, and then if something does not meet code, there is the cost of rebuilding. So, a developer may save money at the beginning by going through the filing process more quickly, but may then have to pay to build something twice.

Mr. DeLaney: I think this has been very helpful. I appreciate both the comments and the questions. We are going to meet again in July, and in all likelihood, it appears we will take August off. So, what I suggest we do is put this back on the agenda for September. In the meantime, I will pull the relevant portions of the minutes, including today's discussion, and also assemble some of the more serious examples as well as potential problems, like some that have come to light. We have been very fortunate that for all these years, while buildings are being brought up to fire and safety compliance, we have not seen any serious fires or other situations. There have been a few vacates, in some instances entirely warranted; in some

instances, maybe not so much. But I am happy to assemble that material and circulate it prior to the September meeting, if that sounds like a reasonable next step.

Chairperson Hylton: That is more than reasonable. Thank you so much for taking the lead on this. I just want to preface all of this by saying that the resolution that the Board is considering is a non-binding recommendation to the Department of Buildings. The Department of Buildings is the entity that does this, and they will make a decision on whether or not they could legally and operationally accommodate it.

Executive Session

Chairperson Hylton: The next item concerns an active litigation matter against the Loft Board: *Matter of Dezer Properties II, LLC versus the New York City Loft Board*. Pursuant to Open Meetings Law section 105, a public body may conduct an Executive Session to discuss proposed, pending, or current litigation.

Chairperson Hylton asked for a motion from the Board to go into Executive Session to discuss litigation strategy in the matter of *Dezer Properties II, LLC versus the New York City Loft Board*, and related strategy for future, similarly situated cases and relevant, proposed litigation, and for a second.

Mr. Roche moved for the Board to go into Executive Session, and **Ms. Hayashi** seconded.

Chairperson Hylton then asked all members of the public to log-off of the teleconference.

----- Break for Executive Session -----

Chairperson Hylton: Good afternoon. Again, this is Renaldo Hylton, Chair of the New York City Loft Board. We are back in public session, and we will now go immediately to a vote on cases.

THE CASES:

Summary Calendar

	Applicant(s)	Address	Docket No.
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New York City Loft Board: Minutes of Public Meeting: June 17, 2021

1.	Antonio Scarlata	476-498 Jefferson Street A/K/A 16 Cypress Avenue Brooklyn, New York	PO-0135
<i>The residential tenant of unit 203 filed an application seeking protected occupant status. The parties executed a stipulation of settlement whereby Owner agreed to purchase any and all of tenant's rights in exchange for tenant's vacatur. The protected occupant application is deemed to be resolved. The Loft Board neither accepts nor rejects the remaining terms of the Agreement.</i>			

Chairperson Hylton asked for a motion to accept this case, and for a second.

Mr. Barowitz moved to accept this case, and Ms. Oddo seconded.

Chairperson Hylton asked if there were any comments on this case (None).

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Mr. Roche, Ms. Hayashi, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Hylton

Members recused: 0

Master Calendar

Chairperson Hylton: Thank you. There are four cases on the Master Calendar. They are removal cases, so, there is no staff presentation. The first case is

	Applicant(s)	Address	Docket No.
2.	Dorina Realty Corp.	1099 Flushing Ave., Brooklyn, New York	LE-0693, LE-0725
<i>The owner filed an application for a final rent order and removal from the Loft Board's jurisdiction. The order finds that the owner is in compliance with MDL § 284(1). The order also finds that, solely with respect to Article 7-C of the MDL, Units 202, 203, 205, 206, 207, 208, 209, 303, 307, 309, 402, 403, 404, 405, 406, 407, 408, and 409 are not subject to rent regulation because sales of rights pursuant to MDL § 286(12) were executed for these IMD spaces. In addition, the order finds that Units 201, 204, 301, 302, 304, 305, 306, 308, and 401 remain subject to rent regulation pursuant to Article 7-C of the</i>			

MDL because, according to the Loft Board's records, there is no evidence of a valid deregulating event for any of these IMD spaces. In setting the initial legal regulated rents for Units 201, 204, 301, 302, 304, 305, 306, 308, and 401, the owner is not entitled to rent adjustments based on the costs of code compliance because the owner has waived its right to such adjustments. However, seeking RGB Increases for these nine IMD units, the owner submitted an RGB Filing. Although the residential tenants of Units 201, 301, 302, 304, 306, 308, and 401 filed TRFs, opposing the owner's claims in its RGB Notices, the order finds that the disputes raised in the TRFs are moot because they have been either adjudicated or resolved. The order grants the owner's removal application and directs the owner to register the building as a multiple dwelling with HPD, as well as Units 201, 204, 301, 302, 304, 305, 306, 308, and 401 as rent-stabilized units with DHCR. The owner is further directed to provide the occupants of Units 201, 204, 301, 302, 304, 305, 306, 308, and 401 with residential leases subject to the provisions of the order.

Chairperson Hylton asked for a motion to accept this case, and for a second.

Mr. Barowitz moved to accept this case, and **Ms. Hayashi** seconded.

Chairperson Hylton asked if there were any comments on this case.

Mr. DeLaney: There was some discussion in the private session about a number of cases on today's docket involving 286(12) sales; and I would like to make a request of the Chair that we consider putting a discussion of how to handle 286(12) sales on the agenda for, hopefully, next month.

Mr. Schultz: Yes, some amount of time, certainly. How much would depend on everything else, but certainly. And staff will be prepared to contribute to that conversation.

Chairperson Hylton: Mr. DeLaney, are you asking the staff to present it? Or are you asking for open discussion?

Mr. DeLaney: If the staff has the opportunity to review some of the questions we discussed in the private session with regard to whether a 286(12) sale is filed versus accepted or rejected and what the mechanism for that is, that would be helpful.

Mr. Schultz: Should it be an agenda item or perhaps an update in the Executive Director's Report?

Mr. DeLaney: I think it would be helpful for the Board members to have the opportunity to discuss it.

Chairperson Hylton: Okay, we will limit that to fifteen minutes. Is that okay, Mr. DeLaney? Please note that for the agenda next month. Thank you. Are there any further comments on this case?

Mr. Schultz: I do need to call something to the Board's attention on this one. On page 10, there are two items that need review and to be edited along with the passage. It is just two anachronistic dates on page 10. After Conclusion, the second paragraph reads, "Assuming that this Order is mailed to the affected parties on or after..."-- it currently says May 28, but it should read June 25. May 28 has passed. And following from that, the sentence should continue, "...all rent adjustments shall take effect on August 1, 2021." It currently reads July 21. So, we would like the passage to include those changes because the current version is anachronistic.

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Mr. Roche, Ms. Hayashi, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Hylton

Members recused: 0

Chairperson Hylton introduced the next case, and asked for a motion to accept this case, and for a second.

	Applicant(s)	Address	Docket No.
3.	33-39 East 60th Street, LLC	33 East 60th Street, New York, New York	LE-0677
<i>The owner filed an application for a final rent order and removal from the Loft Board's jurisdiction. The order finds that the owner is in compliance with MDL § 284(1). The order also finds that, solely with respect to Article 7-C of the MDL, the "fourth-floor front" unit, also known as Unit 4F, and the entire fifth floor are not subject to rent regulation because sales of improvements and rights pursuant to MDL §§ 286(6) and 286(12) were executed for these IMD spaces. The order finds that the "third-floor front" unit, also known as Unit 3F, and the "fourth-floor rear" unit, also known as Unit 4R, remain subject to rent regulation pursuant to Article 7-C of the MDL because, according to the Loft Board's records, there is no evidence of a valid deregulating event for either of these IMD spaces. In setting the initial legal</i>			

regulated rents for Units 3F and 4R, the owner is not entitled to RGB Increases or rent adjustments based on the costs of code compliance because the owner did not apply for either adjustment. The order grants the owner's removal application and directs the owner to register the building as a multiple dwelling with HPD, as well as Units 3F and 4R as rent-stabilized units with DHCR. The owner is further directed to provide the occupants of Units 3F and 4R with residential leases subject to the provisions of the order.

Mr. DeLaney moved to accept this case, and **Mr. Barowitz** seconded.

Chairperson Hylton asked if there were any comments on this case (None).

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Mr. Roche, Ms. Hayashi, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Hylton

Members recused: 0

Chairperson Hylton introduced the next case, and asked for a motion to accept this case, and for a second.

	Applicant(s)	Address	Docket No.
4.	240-242 LLC	242 West 14 Street, New York, New York	LE-0724, RG-0212
<i>The owner filed an application seeking to remove the building from the Loft Board's jurisdiction and set a final rent order for all three IMD units. The Loft Board finds that the owner was in compliance with MDL § 284(1) and granted Owner's request to remove the building.</i>			

Ms. Rajan moved to accept this case, and **Mr. DeLaney** seconded.

Chairperson Hylton asked if there were any comments on this case (None).

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Mr. Roche, Ms. Hayashi, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Hylton

Members recused: 0

Chairperson Hylton introduced the next case, and asked for a motion to accept this case, and for a second.

	Applicant(s)	Address	Docket No.
5.	54 W 22nd Owner LLC	54 West 22 Street, New York, New York	LE-0715
<i>The owner filed an application for a final rent order and removal from the Loft Board's jurisdiction. The order finds that none of the units are subject to the legalization requirements of MDL § 284(1) and this order removes the building from the Loft Board's jurisdiction. According to Loft Board records, the owner executed sales of rights and improvements and filed declaration of intent forms for all 3 IMD units to convert them to commercial spaces. The Loft Board inspector inspected all three units and found them to be vacant and containing no residential fixtures.</i>			

Mr. Barowitz moved to accept this case, and **Mr. Roche** seconded.

Chairperson Hylton asked if there were any comments on this case (None).

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Mr. Roche, Ms. Hayashi, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Hylton

Members recused: 0

Chairperson Hylton: The motion carries for all four cases, eight in favor; no dissensions. Thank you, Ms. Rivera. And before I close the meeting, is there anything any of the Board members would like to raise at this point? Anything not on the agenda? Mr. Roche?

Mr. Roche asked if there was any indication yet of the format for the July meeting.

Mr. Schultz: We do not know, but I am personally hopeful that it will be in-person. The current Order extends through June 24, and the new announcement will be made around that time. We do have a pretty reliable way to look into it and follow up on that; so, we will be doing that and will let everyone know as soon as possible.

Mr. DeLaney: Before we adjourn, I would just like to make two notes. Number one is, once again, I want to commend Ms. Ryan and the rest of the staff for the excellent minutes, and I think I am going to send an email to this effect, but I would also like to commend Mr. Schultz. I think that was the most comprehensive and thorough report by an Executive Director that I have heard in many a year. So, thanks to the staff for all their hard work.

Mr. Schultz: Yes, thanks to the staff. I will accept some part of the credit since I did all the talking. But trust me, this staff deserves --- I have said it enough times. Thank you for the compliment, and it goes to everyone on the staff. I will also thank you and thank the staff, truly and sincerely. They are an amazing bunch. And working very, very hard.

Ms. Hayashi: Here, here. Thank you.

Chairperson Hylton: Thank you. I appreciate the comments to the staff. Mr. Roche has something else?

Mr. Roche: Mr. Chair, if I just may get a little safety message in here at the end. With the city coming out of the COVID pandemic, and the wonderful weather, we are seeing an uptick in folks heading to the rooftops of their buildings to celebrate the beautiful weather and fellowship with their neighbors. I would like to just remind everybody that unless your rooftop has been approved by the New York City Department of Buildings for public venues, that it is really unsafe to be up there. Please, please, do not just go to the roof of any building in the city and assume that it is okay to hang out up there. Recently,

we lost a young lady who was trying to cross from one rooftop to the next, and they really should not have been on the roof at all. So, we are all excited; we all want to get back to normal; the Fourth of July is coming; but please, please if you have questions, contact the Department of Buildings. Find out if the building where you are is considered a legal venue and just exercise good safety here as we come out of the pandemic and look for ways to celebrate in fellowship. Thank you, Mr. Chairman.

Chairperson Hylton: Thank you, Mr. Roche. If I may follow up with you on that, is it not a violation for owners not to secure access to the rooftops that are not approved by the Fire Department?

Mr. Roche: To my knowledge, the rooftops should be secured in some fashion. However, we do run into cases on some older buildings where rooftops are considered a second means of egress, and as such, cannot be secured. So again, the Loft Board community is just a wonderful community, and I have met many of them. All seem to be very responsible folks. So just research before you act. There are some out there that may indeed be accessible, but that does not necessarily mean that you can, legally, go up.

Chairperson Hylton: Thank you for that clarity.

Mr. Barowitz: I have one comment in general to make. I heard from several loft buildings about these bridges that are up, either because the façade needs to be checked or something else on the roof or the windows. Mr. Chair, I do not know whether you can help with this, but apparently, the city is very slow in approving new façade work, and I have been told it costs about \$1,000 a month for the building to keep the bridgework up. And in some instances, it is up for months, and months, and months, and nothing much is being done by the Department of Buildings to certify that this thing is right. At one time, apparently, the Department of Buildings could use binoculars to check. Now they have to bring a mechanism in to secure and look at the brick or whatever, and I think this is causing a burden to a lot of residents in Soho and Noho.

Chairperson Hylton: Thank you, Mr. Barowitz. I will look into it. I happen to know who the Assistant Commissioner for façades is, so I will see what the issue is here. And I may connect with you for clarity on exactly what you are asking.

Is there any other comment? I am about to end the meeting, and I really do appreciate this meeting and the way it went. Mr. Schultz, thank you so much. I echo the sentiment from Mr. DeLaney that we had a good meeting today. And for the members of the public, I thank you for your patience in allowing us to go into Executive Session and then return.

This will conclude our June 17, 2021, Loft Board meeting. Our next public meeting will be held Thursday, July 15, 2021, at 2pm. The Governor's suspension of the in-person meeting requirement of the Open Meetings Law is in effect until June 24, 2021, and at this time, we do not know whether the meeting will be held virtually or not. When we have further information, we will update the Board members, post the information on the Loft Board website, and send an announcement via Listserv. Board members, please sign and email your attendance sheets, and to all the fathers, have a great Father's Day. Cheers and thank you, everybody.