

MINUTES OF PUBLIC MEETING
New York City Loft Board Public Meeting

January 19, 2022

The meeting began at 2:01pm

Attendees: Elliott Barowitz, Public Member; Charles DeLaney, Tenants' Representative; Heather Roslund, Public Member; Samira Rajan, Public Member; Richard Roche, FDNY Representative; Guillermo Patino, Chairperson Designee;

INTRODUCTION:

Chairperson Patino welcomed those present to the January 19, 2023 public meeting of the New York City Loft Board. 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.

VOTE ON MEETING MINUTES:

October 20, 2022 Meeting Minutes

Chairperson Patino asked if there were any comments on or corrections to the October 20, 2022, meeting minutes (none); then for a motion to accept the minutes, and for a second.

Mr. DeLaney moved to accept the October 20, 2022 meeting minutes, and **Mr. Roche** seconded.

The vote

Members concurring: Mr. Roche, Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson Patino

Members dissenting: 0

Members abstaining: Mr. Barowitz

Members absent: Mr. Hylton and Ms. Oddo

Members recused: 0

November 17, 2022 Meeting Minutes

Chairperson Patino asked if there were any comments on or corrections to the November 17, 2022, meeting minutes.

Mr. DeLaney had an enforcement question that **Ms. Cruz** said would be answered in the Executive Director's report.

Mr. Barowitz asked about an issue he had raised at the previous meeting, regarding how many units the Loft Board has been able to verify over the years and how many tenants actually lived in each.

Ms. Cruz said they are currently evaluating a complete list of all buildings that have been removed from the Loft Board's jurisdiction, not just Soho-NoHo, but they are determining which zip codes they are in, so she hoped to be able to answer the question about the number of units in the next couple months.

Chairperson Patino asked for a motion to accept the November 17, 2022, meeting minutes; and for a second.

Ms. Roslund moved to accept the November 17, 2022, meeting minutes, and **Mr. Barowitz** seconded.

The vote

Members concurring: Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson Patino

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Hylton and Ms. Oddo

Members recused: 0

EXECUTIVE DIRECTOR'S REPORT

Good afternoon Board members,

I have four topics to report on today.

The first topic is the rules. As you know, we are close to finalizing the proposed rules. After today's discussion, if there are changes based on the comments and testimony provided at the public hearing, the staff will incorporate the changes into the draft rules and send them to the Law Department for review. The Board will vote on the changes during the February meeting, and the staff will work with the Law Department to get final approval after that. The rules will then be published and be effective thirty days after publication.

Regarding personnel, we have again posted the attorney Level 2 position and encourage anyone interested in working for Loft Board to please submit a resume. Yesterday, we interviewed for the Loft Board's auditor position and hope to fill that position soon.

Regarding enforcement, we have two buildings that that have failed to comply with the Annual Registration Requirement. If we are unable to resolve the issues with these owners, the staff will prepare the proposed orders for these two buildings.

Our enforcement efforts under the Reasonable and Necessary Rule continue. In total, the staff has issued fifty-nine (59) notices of violation under this rule. So far, we've identified nine owners that have cured the violation. Of these nine, six cures were timely. The other three cures were untimely but have cured. The staff is discussing next steps.

The last topic to discuss is litigation. On December 15, the Appellate Division 1st Department issued a decision in One Double Nine Dashing LLC versus the Loft Board. In this case, the landlord challenged Order No. 4898, which granted coverage and protected occupant status. The court found that the Loft Board's Order was arbitrary and capricious. The court noted that loft tenants are required to occupy the IMD as their primary residence and further found that, in this case, the rent deductions made on the tenants' business and personal tax returns precluded the tenants from claiming that they used the unit as their primary residence. The Law Department has filed a motion to re-argue or leave to appeal to the Court of Appeals.

The next litigation item is regarding the building at 224 Centre Street in Manhattan. On December 15, the DOB filed a criminal complaint against the owner for failure to maintain the façade of the building.

The first court date was scheduled for January 3, 2023, and the owner failed to appear. The court adjourned the case until February 14, 2023. The owner may be subject to fines totaling \$25,000 for failing to maintain the façade of the building.

Mr. DeLaney: With regard to 224 Center Realty LLC, the actual building is 60 East 11, correct?

Ms. Cruz: No. This ownership owns three buildings: 58 East 11 Street, 60 East 11 Street, and 224 Centre Street. 60 East 11 Street is the address of the owner.

Mr. DeLaney: Okay. And to my knowledge, this is the first time we've gone down this route, and I think it's something the loft community should know more about because, hopefully, it will encourage people to go through the necessary steps for legalization. Can you expand on what caused you to do this?

Ms. Cruz: It was in communication with the Chair. They had several buildings that needed some encouragement with regard to facade repairs and other things. We spoke to enforcement at DOB, and we came up with this. So, we're trying it out to see if we can get compliance.

Ms. Roslund: Is this a tool that's always been available in our toolbox?

Ms. Cruz: It's not in our toolbox; it's DOB's toolbox. DOB's spearheading this enforcement effort.

THE CASES:

Appeal and Reconsideration Calendar:

	Applicant(s)	Address	Docket No.
1	John F. Peachy	50 Bond Street, New York	AD-0123
<i>The Loft Board granted the appeal but found that the Revised Administrative Determination issued on September 14, 2022 remained in full force and effect. Owner was directed to pay \$17,500.00 within 30 days.</i>			

Ms. Storey presented this case.

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

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

Chairperson Patino asked if there were any comments on this case (none).

The vote

Members concurring: Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson Patino
Members dissenting: 0
Members abstaining: 0
Members absent: Mr. Hylton, Ms. Oddo
Members recused: 0

Master Calendar

Chairperson Patino: There are three cases on the Master Calendar today. The first case is an enforcement case, proposing to fine the owners for failure to comply with the annual registration requirements, and there's usually no presentation for this type of enforcement case.

	Applicant(s)	Address	Docket No.
2	Bijan Realty, Inc., 60-62 E. Eleventh Street Corp.	60 East 11 Street, New York	FO-0995
<i>The Loft Board imposed a fine for the failure to pay registration fees.</i>			

Chairperson Patino asked if there were any comments on this case (none); then for a motion to accept the case, and for a second.

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

The vote

Members concurring: Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson Patino
Members dissenting: 0
Members abstaining: 0
Members absent: Mr. Hylton, Ms. Oddo
Members recused: 0

Chairperson Patino introduced the next case on the Master Calendar.

	Applicant(s)	Address	Docket No.
3:	Triad Capital, LLC	13 East 17 Street, New York	LB-0196
<i>The Loft Board granted the abandonment finding and the building was removed from the Loft Board's jurisdiction effective 35 days from the mailing date of the order.</i>			

Mr. Kim presented this case.

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

Ms. Roslund: Just a point of clarification. It's one docket number, but we're actually voting on two different items? One is the abandonment, and one is the removal?

Ms. Cruz: The removal has already been granted. The Loft Board already issued its Order for the removal.

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

Mr. Barowitz moved to accept this case and Ms. Rajan seconded.

The vote

Members concurring: Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson Patino

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Hylton, Ms. Oddo

Members recused: 0

Chairperson Patino introduced the last case on the Master Calendar, which was a removal case.

	Applicant(s)	Address	Docket No.
4	On Starr Inc.	207 Starr Street, Brooklyn	LE-0729
<i>The Loft Board granted the removal application.</i>			

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

Mr. Clarke: There's a correction on page 6. The first paragraph begins, "In 2015." That should be, In 2013. The sentence should read, "In 2013, the legislature adjusted the milestone percentage increases in MDL section 286(2)(ii), effective June 1, 2012." Because of that change, there are two other changes. The January 30, 2013, dates that are in that paragraph should be June 1, 2012.

Chairperson Patino asked for a motion to accept this case; and for a second.

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

The vote

Members concurring: Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson
Patino

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Hylton, Ms. Oddo

Members recused: 0

RULES:

Ms. Cruz: First, I would like to note that the type of changes the Board makes at this point in the rule-making process matters. If there are significant changes made to the proposed rules, the Law Department may require another public hearing on the proposed changes.

The staff understands there were reoccurring themes presented both in the written and oral testimony during the public hearing. Some of the themes included issues with the housing maintenance standards, the Narrative Statement process, and enforcement.

Since the public hearing, the staff has been discussing possible amendments to the housing maintenance standards in § 2-04 of the Loft Board's rules to include some of the problems and concerns that were raised during the public hearing. We are also looking at the buildings in the Narrative Statement process and discussing ways to improve the process. However, we ask that the Board take up these concerns during future rulemaking because it is likely that these changes will require a hearing.

There is one rule the staff would like to discuss, the Reasonable and Necessary Rule in § 2-01.1. On page 83 of the Loft Board's rules is a list of the factors to be considered in determining whether an owner has exercised all reasonable and necessary action.

The Reasonable and Necessary Rule involves two types of enforcement. Two different "tracks," if you will. The first track requires a Notice of Violation. These violations do not require a hearing. The Loft Board staff issues a Notice of Violation; the owners have an opportunity to respond to it; and then the staff issues an Administrative Determination, as in the first Appeal case you heard today.

The other type of enforcement we can do under the same rule requires a hearing. Instead of a Notice of Violation, the staff will issue a Notice of Proceeding, and that will eventually go before an Administrative Law Judge at OATH. We have not started the second type of enforcement yet.

In reviewing the comments from the hearing, the staff discovered that there seems to be a big gap in both of these tracks. We think it is important to include actions during the narrative statement process in the factors we consider in determining whether an owner has exercised all reasonable and necessary actions. We believe the Law Department would not require a new public hearing to add this to the rules. That being said, if the changes requires a hearing, of course, we would be of the opinion that we should let the proposed rules go forward as they stand today, and we will revisit that addition to the rules in future rulemaking.

Ms. Roslund: Your proposal is to add the Narrative Statement process to the list of items we can consider in determining whether the owner has engaged in all reasonable and necessary action.

Ms. Cruz: Right now, we have nine buildings that have filed an Alteration application but have not begun the Narrative Statement process.

Ms. Roslund: And that could be seen as a violation?

Ms. Cruz: Yes. It should be both. Loft Board rules require that fifteen days after filing an Alteration application, the owner must file a Narrative Statement with the Loft Board. These nine building owners have yet to do that.

Ms. Roslund: Can it also be the opposite? Meaning, if the building does not reach the next step because it's mired in the Narrative Statement process, is that a legitimate reason for failure to meet the compliance deadlines?

Ms. Cruz: If after the Narrative Statement conference, the owner is supposed to make some amendments and doesn't do anything, the staff should have the authority to issue a violation. That's what we would like to accomplish.

Ms. Roslund: Would this also be the time to talk about the number of comments regarding the Narrative Statement process?

Ms. Cruz: Yes. But first, is there some consensus amongst the Board members that we can add this language to the proposed rules?

All present agree.

Ms. Roslund: First, I'd like to thank the public for all the comments. I read through all of them. They were, for the most part, very constructive, well-written, and well-presented. There were a number of comments regarding the Narrative Statement process in general, and it does seem to be a place where projects often get stuck. What happens if there's a stalemate? There should be more Narrative Statement conferences so there's more of a back-and-forth.

Mr. Clarke: I agree. Those are situations that have occurred during the Narrative Statement process. For the Board members that are newer and are not really familiar with the Narrative Statement process, that's what the Executive Director likes to call the heart and soul of the Loft Board and the Loft Board's rules. It is the owner's architect creating the legalization plans to do exactly what the law requires the owner to do, which is to legalize these spaces for residential use.

Once the owner files that the Alt 1 for the legalization work, they're required to file a Narrative Statement with the Loft Board. The Narrative Statement is a plain-language description of the legalization work required to legalize the building. After we receive a full Narrative Statement filing, the staff will schedule a Narrative Statement conference. Even in the beginning, the scheduling of these conferences takes some back-and-forth. It can take time to schedule the conference.

When we finally are able to schedule the conference, we have a meeting. Some conferences can last an hour; but with larger buildings, some conferences can take several hours, and we still might not even finish.

Ms. Roslund: I would just like to point out that I've had six-hour-long meetings with clients when I'm doing one apartment. There were also quite a few comments. This notion that there's not enough

time. Not enough time for the owner to file with DOB; for the architect to create drawings; for the owners to come with a corresponding extension being granted for the alternative plan; as well as multiple other extensions. I know on the face of it, it maybe seems antithetical to what we're trying to do, but the more thought and planning that's given at the beginning, the faster the legalization process will go, because you won't waste a lot of time and energy along the way arguing, filling out paperwork, answering violations, all of those kinds of issues.

Mr. Clarke: I agree. I think that's a very good point. What we've been trying to do is meet with some of the architects to get their insight on what they think would help the Narrative Statement process move forward efficiently, and that is one of the things that came up. We discussed front-loading issues before the Narrative Statement conference to encourage the parties to engage with one another and start the flow of ideas.

Ms. Roslund: Has the Narrative Statement conference always been after filing the Alt 1?

Mr. Clark: Yes

Ms. Roslund: Why is it not before? So that the architect doesn't have to amend the application?

Mr. Clarke: That's another good point. Legal issues could arise. Lawyers might say, this is not necessarily a proper and complete document. And if it's not in an official forum where official comments can be issued and the process started, then the tenants might be wasting their money hiring professionals. Architects can just change the plans.

From what I gathered from the architects, they do see it as a problem. However, they prefer to follow the procedure of filing that Alt 1. Then start the discussion.

Ms. Roslund: And there's something in the rules, I think, about minimum work required for legalization, right? This isn't about making a different building than what's there. And in a lot of the back up, there is a lot about things like installing sanitary basins in the bathroom. It's not like, hey, make a really nice apartment. It's fix this; it's broken. So, along the lines of what Mr. Clarke was saying, I can see that the

owners would be looking to DOB for compliance. You want that application approved to show that you're presenting a project that is addressing compliance for legalization.

Mr. Clarke: Something else that comes to mind is that whenever an owner achieves certain milestones, they get percentage increases (in rent), like what you saw in the removal application you voted on earlier. The first milestone is actually filing an application. So, I would think that the owners would want to make sure they file that application with DOB so they can actually benefit from achieving that milestone and get the percentage increase. That is surely another reason why an owner would not want to delay filing the alteration type 1.

Mr. Barowitz: When the owner submits the application, are the architects required to submit initial plans?

Mr. Clarke: Yes

Ms. Roslund: Are they also submitted to the tenants and the Loft Board?

Mr. Clarke: They file it with the DOB, and they submit a copy to the Loft Board. But not to the tenants.

Ms. Roslund: They don't receive their package until the Narrative Statement conference?

Mr. Clarke: Tenants receive copy of the narrative statement. The owners file a copy of the narrative statement and plans with the Loft Board. Tenants can view the plans at the Loft Board, or they can request a copy from the owner. The proposed rules will require owners to serve an electronic copy of the plans to the tenants if they have email information. I think this is a great idea.

Ms. Roslund: I agree.

Mr. Clarke: Unless there's any other questions, I'll try to be a bit quicker explaining the Narrative Statement process. So, just scheduling the conference can take a lot of time, as can conducting the conference. Then after the conference, the next step might be that the Loft Board starts a clock. If the tenants and owner can't agree on a legalization plan, then the Loft Board starts a clock that gives the

tenants a certain amount of time to explain to the Loft Board and to the owner why the legalization plan causes unreasonable interference in the use of the units or diminution of services.

We try to be fair in starting the clock. We've heard that once we start that clock, the balance of power shifts. We've heard tenants say the minute the Loft Board starts this clock, it's like putting a gun to their heads and saying, you have forty-five days; hurry up and get it done. And it's not fair. They have to rush things; scramble; if they didn't have a professional at first, now they might need to change their mind and get a lawyer, or an architect involved.

So, we try to balance that, but James and I, and the whole Loft Board staff understand that the owners have a backdrop of the milestones the law says they have to achieve by a certain date. So, we have to balance that everyday -- making sure that the tenants have time to prepare and get their professionals, while trying to avoid unreasonable delays. An owner only has a certain amount of time to get through the legalization process. So, after that clock is issued, we'll either receive comments from the tenants, or if they're able, the tenants will submit an alternate plan.

Once that happens, full-blown litigation frequently follows. Lawyers are heavily involved. The staff may initiate an alternate plan case which may then be transferred to OATH for a trial. The OATH judge will then issue a report, which will then come before the Board for an order.

After the legalization plan is established, the owner must clear the DOB objections for the plan. It is at this point that the Loft Board staff will issue a certification. The narrative statement process is complete.

These are the challenges we face daily. Once the Loft Board issues certification, an owner can pull the permit and start the work, which can be the beginning of another set of problems. The Narrative Statement process is an important part of the legalization process, and it is also time consuming.

Mr. Barowitz: Stephan, once the Narrative Statement is approved, and the loft is in the process of being legalized, neither the owner of the unit or the renter could then get an architect in to redesign that space, is that correct?

Mr. Clarke: After the owner gets a permit, they will actually start doing the work. The owner can do PAA's, which are Post-Approval Amendments, which the Loft Board must approve. All the buildings in the Loft Board's jurisdiction have a hold on them, and the owner can't get a Post-Approval Amendment until the Loft Board lifts the hold. Whenever the owner wants to do anything related to the building, they must come to us and ask us to lift the hold. So, to answer your question, after the permit is issued, if the owner wants to make any type of change to the legalization plan, they must file the documents with the Loft Board. If we find that it affects the IMD spaces, then we might ask the owner to go back into the Narrative Statement process again before we approve that Post-Approval Amendment.

Ms. Rajan asked about the comments from the public regarding recording the Narrative Statement process and if that had been addressed.

Mr. Clarke: Yes, there were comments, but we didn't change that part of the rule. From what we heard, the feeling was it could stifle the parties' ability to negotiate openly and honestly. Things might be said that could come back later in a litigation. I do understand the need for proof. Some tenants say the owner promises something, and then later on, when the owner submits the final plan, it's not included in the final plan because it wasn't memorialized.

The staff did not propose this change during this rulemaking because we want the parties to discuss all their issues openly. The parties are allowed to take their own notes, and at the end of the conference, if the parties are in agreement with something, we encourage them to write it down and sign it; and in so doing, create a document for future reference.

Ms. Rajan: I understand that you don't want an actual recording and that things can be misused. But I wonder why there couldn't be minutes or a transcript or something. People are going to do what they're going to do. But if there is a complete record, then there would be something to reference to see what the whole context was. I wonder if there really are that many downsides.

Ms. Roslund: I don't know that you would even need the full record. It could be more like a community report. There's a meeting, and everyone talks, and at the end, there's a summary. This is what the issues were; this is what was agreed to. So, the meat of it is memorialized without all the chatter.

Mr. Clarke: James has started doing something like that. Not to the extent of having a transcript or minutes, but before he closes out the Narrative Statement conference, he goes through each of the major, important items that were discussed. He makes sure to ask, did I miss anything? And he will then send out dates.

What we try to do at the end of the conference is say, okay, the owner needs to make an amendment. He needs to do that in two weeks. And then we'll give the tenants another two weeks to read over those changes and respond. So, James will have the dates, and he'll send out calendar reminders for when parties are supposed to act, or send things to the Loft Board, things of that nature. I think that's very helpful. But the Board members can certainly weigh in on the importance of possibly having recordings, or minutes, or transcripts.

Ms. Rajan: Those action items you're describing, do they become a document you could go back to?

Mr. Clarke: They're emails.

Ms. Rajan: So, you have an original email from Mr. Kim, dated January 23, and it says all these things. So that could be considered definitive or the description of what was originally agreed upon?

Mr. Kim: We've found that memorializing that information ensures that everyone knows what the expectations are after the conference. Without that, what I've seen is just conversations, but basically no impetus for anything to actually happen until we start the clock. And so, we have to make sure that those expectations are explained.

I think the question is how binding that list of deadlines is. I understand the ultimate question might be is this admissible in litigation? That's not really a question we can answer, but I would just note that if we were to require that these conferences be recorded, my concern is that a lot of the free flowing conversations that happens -- that I've seen in my experience happen between the architects as both of them discuss their different interpretations of the law or different ways to legalize -- that would be replaced by only the attorneys talking in these conferences and basically saying what they often already do on both sides: we'll look at the law, and we'll make the appropriate determination in accordance with the minimum standards of law. There will be a lot of that. And although we understand there is a

time and a place for that -- and as Mr. Clarke mentioned, things will often times, ultimately, end there -- we want things to be as collaborative as possible in the process early on. The devil's is in the details, also.

As I said, I foresee a lot of issues with recording it. We're making the best possible compromise right now by laying out what's been discussed and what the expectations are going forward. As a staff member working in this office, I'm concerned about the increased responsibilities that might fall on someone like myself if we were to take a more structured approach. If we record it, then we have to go through the recording and issue a transcript. It would just add a lot more to our plate, which I don't think is necessary at this early stage of the process.

Ms. Rajan: Okay, I appreciate that's it going to end up just being the lawyers. But at the beginning of the Narrative conference, is it made clear to the parties that at the end you will be issuing a list of action items?

Mr. Kim: Yes. We also understand that, in these situations, there is a lot of trust required on behalf of both parties, owners as well as tenants. The Loft Board also has responsibilities, though due to a lack of resources and time, it's difficult for us to act as quickly as a lot of parties would like, but we do understand that we have a degree of accountability in this process as well, and we're not kicking the ball down the road, but when the Loft Board is required to do something, we'll do our best to hold up our end of the bargain.

Mr. Clarke: Are there any other comments on the Narrative Statement process?

Mr. DeLaney: I think I'm the only person on the Board who's ever been to one, because it was the Narrative Statement conference for my own building. It's a shame there isn't a way the Board members could be a fly on the wall and see what happens. We saw a lot of suggestions come in, from both owners and tenants, advocating various changes. Don't give more time for bigger buildings because they'll just slow things down. Make it more formal. My sense is what we should do is move the rules we have before us. And whether there's a way to tweak the Narrative Statement conference in the rules is

something that I think we can look at again down the line, because there's definitely more rulemaking right on our windshield.

But as with the legalization work, what I've found, and what I found very sobering at the public hearing is there's a percentage, and I don't think it's a big percentage, but there's a percentage of owners who kind of try to weaponize the Narrative Statement process and the legalization process.

When the Narrative Statement process first went into effect, we had owners who would go through the Narrative Statement process and then make radical changes to their plans. And in those early days, we didn't have a mechanism to say, no, you're coming back. Well, we've fixed that. And I also think that, while I've often expressed the idea that it might be good to have a formal summary and maybe allow the parties to record the Narrative Statement conference, I think it's also a little bit like a wrestling match in that how well it's going to come off depends in part on the referee.

A number of people have conducted the Narrative Statement conferences over the years, and I've heard some very entertaining stories that I won't share at the moment, but it sounds like you guys are still working on coming up with how best to make sure it's a productive experience. And obviously, the tenants are in react mode. What are you doing to my unit? When's it going to happen? Are you going to change the windows in the winter or in the summer? What are we going to do for a bathroom while the bathroom's being done? So, the opportunity for trickery lies more with the owner who's doing the work. Heather's also made the point repeatedly that trying to do work in an already occupied unit, you're likely to come upon surprises. So, it's a messy process, but it sounds like you guys are trying pretty hard.

At the moment, I'd be happy to give us more time to see how things proceed. I think the idea of sending out a summary or a to-do list is an excellent one.

Mr. Barowitz: I commend you all for what you're doing. I find it really is, with all due respect to the lawyers present, the simpler you can make it, the better. Because the last thing you want to happen is, for a lawyer for the landlord to raise concerns about the language. I think it's certainly a wonderful process the Loft Board originally went through, yet we're still burdened by this to this very day. So, I

have no idea how we can make it simpler. That's what we were trying to think about. Don't make it so complicated, where either architects or lawyers begin to object.

Ms. Cruz: I can tell you that it is a topic that touches on just about every conversation in our office. How do we make it better? We have meetings about individual buildings on the Narrative Statement list; how do we move these buildings forward; what exactly is the problem; trying to figure out what to do next. How can we make this better? So, we are trying to make some changes that don't require rule changes to move this forward faster.

Ms. Roslund: I imagine that some of the complications have arisen over time because of the real estate costs, quite honestly, right? And the building typology. We had one today. The seven-story, skinny building. One unit per floor. Pretty straightforward. As opposed to some of the newer buildings in Brooklyn, where they've been carved up, and carved up, and carved up, and people have interior bedrooms, no access to the fire stair. They're ridiculous layouts. I can see how what forty years ago was probably something more straightforward has turned into something more contentious, and complicated, and harder to resolve, harder to legalize, harder to agree upon.

A lot of tenant comments had to do with removal of bedrooms and losing roommates, and that's exactly that. You can't just keep taking a space and dividing it in half, and dividing it in half, and dividing it in half. And then you're living in a closet.

Mr. Barowitz: I absolutely agree with you. Reading about I don't know how many people talking about the bedrooms was very disturbing to me. Are we able to live in the city of New York or not? If there's not a sufficient number of bedrooms, how can we do that?

Mr. DeLaney: That goes to another change in the last forty years of the Loft Law, in that the original loft tenants, for the most part, put in the fixtures and generally tried to do it either right or did it wrong, knowing it was wrong. For example, using PVC as opposed to copper for plumbing. But for the most part, now, it seems that a lot of these units are developed by the owner and then advertised for rent. So, people respond to an ad for a three-bedroom unit, and sign a lease based on three people living there and sharing the rent. And then, unfortunately, oh, guess what? This building doesn't have a C of O.

You're covered under the Loft Law. The owner has to bring this up to code, and two of the bedrooms can't be legalized. So, which of you would now like a six-thousand-dollar, one-bedroom apartment -- whereas the three of you thought you were paying \$2,000 for a bedroom in a three-bedroom apartment. And that's a problem I think we're going to be seeing more of. I suspect we're seeing a lot of it already. And in that case, it's not the artist-live-work-carpenter who created this, this is a landlord who clearly did the work.

Ms. Roslund: This is my personal experience. The Williamsburg of the 90s was this interim step, where you had artists and artisans. You didn't have the ability to rent small spaces. A lot of the spaces were quite large, so you would have the subtenant situation, which was very prevalent, because someone would rent an entire ten-thousand-square-foot floor of a building, and even at eight dollars a square foot, couldn't afford it. So, they would build out these other spaces, which was neither of those two scenarios you just outlined. So, I guess it's always changing.

Mr. Roche: Mr. Chairman, I don't want to digress, but when we talk about the Narrative Statement, and the obvious concerns of simplifying it, and how does it work, one of the things that's always concerned me is actually having some sort of regularly scheduled question-and-answer session for the public, the end user.

I attended one just up the street here when Helaine was our General Counsel. We seem to be living in a complicated age. It's not just a Narrative Statement process or how do you divide up bedrooms. Everything seems to be complicated. We've talked about it over the years, and I would like us to revisit the idea of how do we, as the Loft Board, reach out to the community -- owners and tenants -- and explain to them what exactly we can and cannot do for them in question-and-answer type sessions. I really feel that's something you should look at.

In the Fire Department, daily, we deal with people in bad situations. Tenants do not often know what to do if a fire occurs in their building. They might experience frustration in trying to reach the building owner. I just feel we owe it to the citizens of the city as the people who specialize in certain areas to get

the information they need to them. Because these days, if you can't afford to hire an expert to explain things to you, you're almost left on your own.

Technology is fantastic, and these processes are all fantastic, and I have the utmost respect for attorneys. They're the ones that have figured this all out. But we may have overcomplicated some things. And perhaps the way to alleviate that is by offering opportunities, even if it's twice a year, for folks to come in, ask questions, and get feedback. This is my situation. What is my process? What are my options? I feel that ties into the Narrative Statement process somewhat. So, thank you for obliging me. I think it's something we should think about.

Mr. Clarke: I agree. I think it's good to have that in-person forum, where people can come in and have that back-and-forth question-and-answer. But I think along with that should be a more robust online presence. I think we've been doing a good job updating our website, providing more information, providing more instructions, creating more forms that could simplify the process a bit, and we'll continue to do that. These days, when someone has a question about anything, the first thing they do is Google it. So, if we can have that information available for them, it will help a lot.

Ms. Cruz: When I first started working here, we did a public forum for owners who were very close to the end of the process, or post-certificate of occupancy. The agenda was how to exit the Loft Board's jurisdiction. Many people came. I think it's a great idea to have these informational sessions. I think it's worthwhile, and I would consider doing it. The staff can make presentations about certain topics. I think that would be a great thing. I'm open to it.

Mr. DeLaney (to Mr. Roche): I don't think what you suggested is really digression at all. In fact, one of the things that struck me and made the experience at our hearing in December really sobering was, I knew they had problems at 8-10 Grand Avenue. I knew there were situations at 151 Kent, 475 Kent, 538 Johnson, 255 18th Street, 517-525 West 45th. But to see all these people come in at one time, I thought...This has made an impression on me, and I know these stories. What are the new members of the Board thinking? How do they react to this?

Also, the public hasn't had a chance to address us in a public hearing for something like nine years. And as I read the new language in Chapter 1 on hearings, it seems pretty clear to me that we could hold a public hearing on a subject such as, how's it going in your house? Or how's it going in your building? And people could come and have a chance to let us know what the experience is like on the ground. And again, that's part of the reason I wish the other Board members could attend a Narrative Statement hearing, because when you read the rules, and you see the statistics, it's one thing; but certainly, when you're in the heat of a Narrative Statement conference, you really get to see the details. But we're kind of shielded from that. And I think we should plan to have at least an annual public hearing to allow people -- not necessarily with a rule pending -- but just to come in and tell us what the experience is like on the ground.

Mr. Barowitz: Absolutely. By the way, the brief descriptions of the comments are just terrific. The way you've distilled it all, I was incredibly impressed. Thank you for that. And I find reading these descriptions, for some reason, made even more of an impression upon me than the live hearings. Perhaps we could get these on our website. Who's going to read them, Lord only knows, but the more people that are aware of what the tenants and some of the landlords are feeling about the whole process, the better it is for all of us in the city of New York in general.

Ms. Cruz and other Board members agreed that there would be no harm in putting the comments on the web site, and agreed that, in the interest of fairness, it would have to be all comments or none.

Mr. DeLaney then asked if Ms. Cruz could summarize the next steps, regarding the rules.

Ms. Cruz: The staff will work on adding those two factors to the Reasonable and Necessary rule. We will forward that to the Law Department, and we'll present it to the Board members in February. The Law Department will not issue final approval until the Board votes on a final version of the rules, which will hopefully be in February. Once that's done, we can present the vote to the Law Department and say, it's up to you now to issue final approval.

Mr. DeLaney: And that final approval would start the process of the rule changes going into effect without it coming back to us again?

Ms. Cruz: The final approval authorizes the final publication and then thirty days after publication the rules will be effective.

Mr. DeLaney: Right. But it wouldn't have come back to the Board again?

Ms. Cruz: No, it doesn't have to come back.

Chairperson Patino: So, February might be the last time it comes back to the Board?

Ms. Cruz: February would be the last time, yes.

Ms. Roslund: How long do you think the Law Department review will take?

Ms. Cruz: It depends on the changes we make and how substantial they are. Do you agree?

Mr. Clarke: Right

Ms. Roslund: So, we're probably looking at somewhere around June 1? So, if we vote on it in February, then Law, then it's published, then in thirty days...

Ms. Cruz: Yes

Mr. Clarke: I think it should be before that.

Chairperson Patino: Thank you everyone. This will conclude our January 19, 2023, public hearing. The next public meeting is scheduled to be held on February 16, 2023. Thank you everyone.