

MINUTES OF PUBLIC MEETING  
New York City Loft Board Public Meeting

May 18, 2023

The meeting began at 2:04 PM

**Attendees:** Elliott Barowitz, Public Member; Charles DeLaney, Tenants' Representative; Heather Roslund, Nicole Oddo, Public Member; and Guillermo Patino, Chairperson Designee

**INTRODUCTION:**

**Chairperson Patino** welcomed those present to the May 18, 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.

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**VOTE ON MEETING MINUTES:**

**April 20, 2023, Meeting Minutes**

**Chairperson Patino** asked if there were any comments on or corrections to the April 20, 2023, minutes. Hearing none, Chairperson Patino then asked for a motion to accept the April 20, 2023, meeting minutes and for a second.

**Mr. Barowitz** moved to accept the April 20, 2023 meeting minutes, and **Ms. Oddo** seconded.

**The vote**

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

**EXECUTIVE DIRECTOR'S REPORT -- Martha Cruz**

Personnel:

It is my pleasure to introduce the Board's new auditor, Howard Edelbaum. Howard has his own business helping start-ups improve their accounting systems. Welcome to the Team, Howard.

Litigation:

We received one new case and two decisions since the April Meeting. The first case involves the building at 99 Sutton Street in Brooklyn. The owner seeks an Order from the court directing the Loft Board to schedule a Narrative Statement conference or issue certification for a Narrative Statement process. The staff is working with the Law Department.

The first decision involves a building at 72 Warren Street. The court denied the tenant's motion to renew. The Supreme Court found the tenant's challenge to DOB's issuance of a Temporary Certificate of Occupancy moot because the TCO had not been renewed by the Department.

The second decision involves 13 East 17<sup>th</sup> Street. The petitioner-owner is challenging the Loft Board's Removal Order, finding that two units in the building are subject to rent regulation. The Court denied the temporary restraining order against the Loft Board.

The answer in this case is due in June, and we are working with the Law Department.

Meeting with HPD about CONH Process:

Next, I'd like to report on a meeting the staff had with the Certificate of No Harassment ("CONH") Unit of the Department of Housing Preservation and Development. The staff requested this meeting because there are several IMD buildings in Brooklyn will be required to obtain a CONH prior to issuance of an alteration permit, and we have at least one building that is involved in HPD's CONH Pilot Program.

Overall, we think the meeting went well. We introduced ourselves; explained the Loft Law process; and they explained the application process for a CONH. The major take-away from that meeting was that owners are encouraged to file complete applications to avoid processing delays.

Buildings List:

Right before this meeting, I sent an updated version of this list, which gives the legalization status of each building under Loft Board jurisdiction. Updating this list is always an interesting exercise. It is a way to gain insight about where we are and where we're going.

The last time I updated this list was in November of 2022. Some interesting takeaways from the current numbers are the following.

November 2022 Statistics:

51 buildings had met the fire and safety standards of Article 7-B  
102 buildings had met the permit deadline  
67 buildings in the Narrative Statement process

Now:

80 have met those standards  
114 have met that deadline  
53 buildings in that process

These numbers show that we are trending in the right direction, and I want to congratulate the staff for all their hard work. It's their work, and the Board's work, that has kept these numbers moving in the right direction.

**Mr. Barowitz** asked how many buildings were in the system at the beginning, and **Ms. Cruz** said she believed it was about 900.

**Mr. Barowitz** reiterated the concerns he voiced at the previous meeting: not knowing how many people live in each unit, and the general ignorance in the city about the Loft Law and Loft Board.

**Ms. Cruz** stated that the latter would be addressed by Mr. Clarke in the next presentation about the fact sheets.

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DEPUTY EXECUTIVE DIRECTOR/DEPUTY GENERAL COUNSEL'S REPORT -- Stephan Clarke

FACT SHEETS

Thank you, Executive Director Cruz. Good afternoon, Board members.

Staff continued its efforts to create fact sheets that provide information about specific areas and functions of the Loft Board. The third fact sheet is for the Narrative Statement process. The first page of the Narrative Statement fact sheet is a flowchart that corresponds with the various stages of the Narrative Statement process. This includes owner's filing of the Narrative Statement and legalization plans; information about the Narrative Statement conference; the opportunity for tenants to file comments or an alternate plan; the filing of waivers or a Loft Board Determination on comments or an alternate plan; and finally, certification of an owner's legalization plan. After the Loft Board issues certification, owner must obtain a DOB permit for legalization work. The next two pages of the fact sheet give a written overview of the Narrative Statement process and then a step-by-step breakdown of the process.

I hope all the Board members had an opportunity to review this fact sheet. It's probably one of the more important fact sheets, as we get many questions about this subject. I've heard Mr. DeLaney say that we're demystifying this process. If there are any comments or questions about the Narrative Statement fact sheet, we are happy to answer them.

**Mr. DeLaney:** First, congratulations for taking on such an ambitious undertaking. At the last meeting, it was mentioned that maybe there should be two fact sheets. Looking at this, I'm definitely in agreement; however, not divided between owners and tenants, as proposed. I would suggest the first explain what the Narrative Statement process is. Just go through it. Then the second might be something along the lines of how to prepare for or what to expect when you attend a Narrative Statement conference. This is wonderful, but the diagram on the front is pretty complicated, and I think it would be better to put the overview ahead of the diagram. Otherwise, you're looking at this and saying, Narrative Statement conference, yeah well what's that? People who don't know much about the process will not have enough information in their possession to make sense of page 1 without going to page 2 first.

**Mr. DeLaney:** Maybe it's something like fact sheet 3a and 3b. I would suggest you start with an overview describing the process; defining the terms used in the diagram, for example, what is a clock, what is certification, so that when I get to the diagram, I have some idea of what it's referring to. And

there are a few places in the diagram where additional steps may need to be added. Between what is now Step II and Step III, for example. Narrative Statement conference is held. I think there's a threshold question. Was the prep for the Narrative Statement satisfactory? As has occurred in the past, owner shows up with plans that don't bear much relationship to what's actually in the unit. It's got to be a satisfactory Narrative Statement conference before we can even think about the question of is it necessary to start a clock. So, between two (II) and three (III), to my eyes, there's a question of, was the Narrative Statement prepped satisfactorily? Yes or No. If yes, is it necessary to have another meeting? If no, what needs to be done? I realize the Narrative Statement process is actually pretty complicated. I think trying to define things ahead of time, before you start discussing might be helpful.

**Mr. Clarke:** Like having a glossary or definition section first?

**Mr. DeLaney:** Definitions, or most of what's in the Overview box on the top of page 2. I think it would be helpful if I read that first or some of that. And I know that the Department of Social Services/ Human Resources have at the end of every public flyer a little required wording, which is something to the effect of, are you able to understand this, and if not call this phone number. After you've made a good-faith effort to read all this, if you need further guidance, do something. If we're in a position to offer that.

**Mr. Clarke:** We actually do have that, but on the third page, at the bottom. You're suggesting moving it to the first page?

**Mr. DeLaney:** Yes. And just if you have any questions. If this is 20,000 feet over your head, you may not even have questions, because you don't know the questions to formulate. So, for more information, maybe we direct them to someplace on the website. I don't know. This is a lot. But it seems to me, the first fact sheet could be the Narrative Statement conference: what it is and how it fits into the scheme. And then the second one would be what to pack to go to your Narrative Statement conference and what to expect.

**Mr. Clarke:** I think those are great points. We made a decision to simply. There is so much information that we could put in here. The original chart had about fifteen bubbles with arrows going everywhere. It was just too much for anybody to reasonably follow and understand. So, we decided to make it as bare-

bones as possible. Then those who want more information can go on to the second or third page and read more about it. But I do take your point about terminology. There are a lot of terms that the average person might not fully understand in this context. And it would be easier for them to familiarize themselves with the terminology first, before diving into the diagram.

**Ms. Oddo:** I'm new to all of this, and I liked the diagram. And because I'm an accountant, I'm used to doing tax returns and other forms where the instructions come on the second page. Personally, if I saw the words first, I would get overwhelmed, and I would never continue and see the chart. One idea I did have though, especially since these are digital documents, is that perhaps we could have certain things on the chart that are hyperlinked. You click it, and it sends you to a definition or other relevant information.

**Ms. Cruz:** The original diagram had the Overview here and the flow chart here. But it required smaller type to fit, and we thought it was overwhelming. That's why we did it this way.

**Mr. DeLaney:** Maybe the answer would be to have two charts. One that's very simple and shows how it would work in a perfect world. Everybody goes; everything's ready; everything's good; there aren't a lot of discussions; the plans are accurate; and boom, out it comes the other end. Now let's see how the chart would look in a more complex situation, with any number of variables inserted. And oh, by the way, you can't record the meeting. There's a lot in here. So, this is a great first start.

**Ms. Roslund:** But then what do you do? Break the chart down further? Add all that additional information into the sections described? Or do you add sections, so we now have fifteen steps instead of six or seven?

**Mr. Clarke:** That's the problem. We're trying to balance it. Not to overcomplicate it. This is just a bare-bones explanation. It includes what you need to know about the Narrative Statement process. Because if it gets any more than that, it starts to feel overwhelming.

**Ms. Cruz:** But I think it is important to know what this document is, what is the next step; and how to prepare for the conference. Those are the questions we are asked most often. Or we hear, I didn't know I had to come here prepared to do that. So, I think we can add some of what you are proposing. I

think we do say something like, as soon as you get your Narrative Statement, you should speak to an architect. So, we'll try to find a way to fit more language in.

**Mr. DeLaney:** That's why I feel like the first fact sheet is, the Everglades are a beautiful place. They've got this, and they got that, and here's a little history of the Everglades. And then fact sheet two is, if you're planning to go to the Everglades, bring insect repellent; bring sunscreen. The nitty-gritty of my building just got covered; for all I know, my landlord's not going to be ready for a Narrative Statement conference until 2030. So, step one would be to understand what it is and how it fits in. In one of the tenant chats groups this past month, I saw someone say, we're having some kind of conference at the Loft Board. Does anybody have any advice? The person was completely clueless. So maybe there's a way to have a more detailed version that, once things are scheduled, you're inclined to sit down and read.

**Mr. Clarke:** I hear a lot of feedback about the actual conference. Are there any other places that you think we should add a bit more color about preparing, having more information about that? Or is it more the conference?

**Mr. DeLaney:** To tell you the truth, I've read this twice, and I probably need to read it a couple more times to be able to give more cogent and advice.

**Ms. Oddo:** When I get to part two (II) on page 2 about the Narrative Statement conference, how to prepare is a hyperlink. As I'm reading, it just feels natural to be able to click a word and get more detailed information.

**Mr. Clarke:** That's a good idea.

**Mr. Barowitz** reminded everyone of a comment he often makes: to keep it simple.

**Mr. Clarke:** Are there any more comments on this Narrative Statement fact sheet?

**Ms. Cruz:** We'll come back with another version next month.

**Mr. Clarke:** The next fact sheet is easier. None of them should be as complex of the Narrative Statement fact sheet. The next fact sheet is for the Letter of No Objection, also known as a LONO. All work in IMDs

must be reviewed by the Loft Board staff. To work in IMD spaces, the owner must serve a Narrative Statement and at the end of the Narrative Statement Process, the Loft Board will issue a certification. If the work is not in an IMD space, an owner can request a LONO.

This LONO fact sheet explains how owners may request a LONO and under what conditions a LONO may be granted or denied. Are there any questions about the LONO fact sheet? This one is a little bit more straightforward.

**Mr. DeLaney:** One thing is under Denial Part (4), we mention that the owner must prepare and execute the Tenant Protection Plan. It struck me that that might be a fact sheet unto itself.

**Mr. Clarke:** I'm thinking of Ms. Oddo's hyperlink idea for all definitions in the fact sheets.

**Mr. DeLaney:** The last three lines of (7) seem to come out of nowhere. "The owner of the above-referenced building has not provided..."

**Mr. Clarke:** That is an error. It should be Legalization Report, instead of monthly.

**Ms. Cruz:** If an owner fails the legalization report, it is a basis for denial.

**Mr. Clarke:** Thank you. Are there any other questions or comments? We will continue our work on the Narrative Statement Fact Sheet and have an updated version for the next meeting. As far as the next Fact Sheet in the series is the Sale of Rights Fact Sheet. Our goal is to complete about two per month, but that number is subject to change, depending on staff resources.

With respect to distribution, we are compiling a list of libraries, elected officials, and community boards to mail the fact sheets to. We are asking the libraries and the elected officials to place them on their information tables. As the Board approves new fact sheets, we will repeat this process.

Also, we have updated our website to include the first two fact sheets. Members of the public can access these fact sheets by visiting our website at [www.nyc.gov/loftboard](http://www.nyc.gov/loftboard). And from the homepage, you can either scroll down to the related links at the bottom or click the Resources tab. New sheets will be posted as they are approved.

**Ms. Oddo:** If the libraries don't print these out, is there a way to make a QR code on them that someone could do with their cell phone?

**Mr. Barowitz:** That could be done, and as far as I know, any librarian can actually do that. In which case, it will be available in libraries all over the country.

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## **ENFORCEMENT REPORT -- Renee Storey**

Before we begin, I would like to send a special thank you to three amazing staff members who worked tirelessly behind the scenes to help me with enforcement. That is Ms. Irma Rivera; Ms. Tracey Rivers; and Mr. Curtis Lewis. Thank you so much for your hard work.

At the last Board meeting, we discussed three areas of enforcement: Reasonable and Necessary, Registration, and Legalization Reports. We have expanded that to include Sales of Rights and Housing Maintenance.

### 1. Reasonable and Necessary Enforcement

- > 21 remaining Administrative Determinations to be issued.
  - 5 owners have complied.
  - Others have been given more time to come into compliance.

### 2. Building Registration

- > July 1 begins the new fiscal year. If you do not receive your package before then, please contact us.

### 3. Legalization Reports

- > 323 building owners have been issued letters informing them of our new rules regarding legalization.
- > 40 more legalization reports have been received, in addition to the 88 reported last month.

### 4. Payment Plans

- > 3 payment plans have been negotiated.
  - 2 for failure to legalize
  - 1 for failure to register

5. Sales of Right Filings:

- > We have started issuing violations against owners who untimely file Sales of Rights. Our rules provide that Sales of Rights information must be filed with the Board within thirty (30) days of the sale. A fine of \$4,000 may be issued.
- > 4 violations have been issued.

6. Housing Maintenance

- > 2 housing maintenance actions have been filed against two owners.
    - 5-7 Mercer Street – freight elevator
    - 117-119 West 26<sup>th</sup> Street – improper drainage
  - > 1 building owner alleges compliance. We need to investigate and confirm.
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**NARRATIVE STATEMENT REPORT** -- James Kim

In front of you are updated statistics about the buildings that are currently in the “Open Narrative Statement” stage of legalization. In the last month, as always, several buildings have moved along in the legalization process. We received new Narrative Statement filings; scheduled Narrative Statement conferences; and followed up on several buildings that were inactive for some time. I would like to bring to the Board’s and the public’s attention several take-aways and observations.

<b>Open Narrative Statement</b>	<b>53 buildings</b>
Incomplete Narrative Statement:	5
Narrative Statement Conference (NSC) to be scheduled:	1
NSC upcoming:	3
Owner revising plans and/or NS, working with DOB through PE:	16
Notice of opportunity to comment (“clock”) to be issued	3
“Clock” currently ongoing:	1
Cert must be evaluated prior to LB issuance (w/tenant comments, requires AD):	2
Cert must be evaluated prior to LB issuance (no tenant comments):	2
Cert evaluated but add’l docs needed from Owner:	3
Cert on hold for alternate plan dispute:	4
LB will follow up after past inactivity by parties:	13

Inactive buildings:

As we discussed in April, there are several buildings that are not actively making efforts to legalize. Upon review of recent progress reports, the architects for some of these buildings state that they're working through DOB plan examination, revising Narrative Statements, or evaluating how to move forward after having plans disapproved from the Department of Buildings. I reallocated these buildings to other stages as appropriate. Other buildings have not filed progress reports at all, and we have some buildings where the architects state that owner has been unresponsive. We are pursuing enforcement and penalties against these buildings. For those professionals listening, we would encourage them to remind their clients of their responsibility to legalize, and that they can avoid unnecessary penalties, or even legal fees after-the-fact if they choose to contest the penalties, by acting now, as they should have for years.

Loft Board approval letters:

We have had meetings with architects and engineers, and we’ve been making efforts via creating checklists and fact sheets to make the process of submitting applications for Loft Board approval letters, certifications, and LONOs clear to all applicants. However, despite all our efforts, we keep seeing the same mistakes on submissions by architects, engineers, and expeditors. It is extremely resource-intensive for Loft Board staff to spend time reviewing a submission in depth, request more information

or documentation that should have been provided up front, and then days or weeks later upon receipt to spend additional time getting up to speed again. We want to remind everyone to provide complete and accurate submissions at one time to expedite processing. This also goes for the processing of requests to lift Loft Board holds, for which we require a form that must be filled out, along with an email address for submissions.

Alternate plan disputes:

We have seen more and more tenants file alternate plans and comments during the clock periods as of late. Although it is, of course, their right to do so to preserve their rights under the law, the filing and processing of alternate plans requires a lot of time and resources by Loft Board staff to process. We encourage both tenants and owners, as well as their representatives, to do their best to work and negotiate with their counterparts to avoid such filings, if at all possible. Are there any questions?

**Mr. DeLaney:** Maybe a fact sheet on alternate plans? Because it's a whole thing unto itself, in some respects.

**Ms. Roslund:** Are we going to have a fact sheet on what the Multiple Dwelling Law is? What constitutes legalization?

**Mr. Clarke:** The first fact sheet does go into Article 7-C. It breaks down what the Loft Law is, why it was enacted.

**Ms. Roslund:** I'm thinking more in terms of some things that James said and Mr. DeLaney mentioned. If you're a loft tenant, and you don't understand what is legal and what is not legal, how do you know what you can and cannot do? As someone who's in this business all the time, I always hear comments such as why can't I have a step into my bathroom? Why can't I have a room without a window? I'm not suggesting that everyone try to be their own architect, but I wonder if there's a way to add the fact that you have to follow the rules, which come from the Zoning Resolution, Building Code, Multiple Dwelling Law.

**Mr. Clarke:** Both the owner's plan and a tenant's alternate plan must comply applicable law.

**Ms. Roslund:** Yes. How do you encourage people think creatively about a problem and possible solutions?

**Mr. Clarke:** I understand.

**Ms. Roslund:** There were many things discussed in the last two to five minutes that could be addressed.

**Mr. Clarke:** The Narrative Statement Process is a complex process. Architects have differing opinions about the requirements in the Building Code and Zoning Resolution. Tenants are hiring their own professionals both architects and attorneys to the conference.

We can go back and see if we can add some type of language to these sections that might encourage the parties to compromise and negotiate a little bit more in the Narrative Statement conferences. Because ultimately, that's the goal. A Dispute Resolution Proceeding should only happen when all options have been explored and determined unsuccessful. If the issue goes to OATH, legalization will be delayed significantly.

We'll consider the language, but we must balance that with Mr. Barowitz's – and our – desire to keep it simple.

**Mr. Barowitz:** I was just thinking that the original loft buildings in Soho and Noho were relatively easy. But now, these buildings are enormously difficult. Which got my mind wandering to all the large, old buildings in Europe. How do they legalize them? You probably know that the window in the bedroom was from the mid-19th century tenement buildings. They had to have a draft space in the center – a window to the sky. That makes a certain amount of sense to me. Now we see that that's not even partly so anymore.

**Ms. Cruz:** I think the hyperlinking is going to help, because it allows us to be brief but still provide a lot of information.

**Mr. DeLaney:** And the QR code. If I were an architect or attorney going to a tenant meeting, I'd like to be able to pass out papers. I'm not going to bring my laptop and have fourteen people clustered around it. So, if with a QR code, they can then get right to the document, that would be great.

**Chairperson Patino:** Thank you for the work on the very popular fact sheets and for the presentations. They were very thorough, and I appreciate it.

**THE CASES:**

Appeal and Reconciliation Calendar

**Chairperson Patino** announced that Case number 1 was being tabled.

#	Applicant(s)	Address	Docket No.
1	Thomas Brigham	72 Warren Street, New York	AD-0116
<i>The Loft Board tabled the case. The Loft Board did not issue a final order in this case.</i>			
2	Thomas Warnke	39 Pearl Street, Brooklyn	AD-0109
<i>The Loft Board denied the reconsideration application for Order No. 4836 finding that the unit was not deregulated pursuant to § 2-10 and remanded the protected occupancy claims.</i>			

**Ms. Storey** presented this case.

**Chairperson Patino** asked if there were any comments on this case. Hearing none, he asked for a motion to accept the case, and for a second.

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

The vote

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

Summary Calendar

**Chairperson Patino** explained that these cases are usually voted on as a block.

#	Applicant(s)	Address	Docket No.
3	Julie Gamble, Rudolf Baltera and Yoko Kubo	1139-1141 Manhattan Avenue, Brooklyn	TA-0300
<i>The Loft Board deemed the rent dispute application withdrawn with prejudice.</i>			

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4	Various Tenants	538 Johnson Avenue/ 75 Stewart Avenue, Brooklyn	TR-1042 TR-1260 TR-1304
<i>The Loft Board deemed the coverage claims resolved because the units seeking coverage were registered pursuant to MDL § 281(5).</i>			
5	Kathrina LaPorta	156-170 North 4 Street, Brooklyn	PO-0217
<i>The Loft Board deemed the protected occupancy application withdrawn without prejudice.</i>			

**Chairperson Patino** asked if there were any comments on these cases. Hearing none, he asked for a motion to accept these cases, and for a second.

**Mr. DeLaney** moved to accept these cases, and **Ms. Roslund** seconded.

The vote

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

**Chairperson Patino:** Thank you. This will conclude our May 18, 2023, Loft Board meeting. Our next public meeting is scheduled to be held on June 15, 2023. Thank you, everyone.