

MINUTES OF PUBLIC MEETING

New York City Loft Board Public Meeting

September 21, 2023

The meeting began at 2:07 PM

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

**INTRODUCTION:**

**Chairperson Patino** welcomed those present to the September 21, 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:**

**June 15, 2023, Meeting Minutes**

**Chairperson Patino** asked if there were any comments on or corrections to the June 15, 2023, minutes. Hearing none, Chairperson Patino then asked for a motion to accept the June 15, 2023, meeting minutes and for a second.

**Mr. Hylton** moved to accept the June 15, 2023 meeting minutes, and **Ms. Oddo** seconded.

**The vote**

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

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

Loft Board Office Relocation: The Loft Board staff is now on the fifth floor of 280 Broadway. The Loft Board still has a customer service window on the first floor. There's been no change to our number. We ask that members of the public call the general number, 212.393.2616, to speak to the Loft Board's staff.

Litigation:

Since the June meeting, we've received one decision and one new case. The decision involved removal Order No. 4938 and reconsideration Order No. 5124 for 13 East 17<sup>th</sup> Street. In these Orders, the Loft Board found that the units on the fifth floor and the eighth/ninth floors were subject to rent regulation. It was the owner's position that the units were not subject to rent regulation because Sales of Rights were executed for these units. The court found that the Orders were not arbitrary and capricious and dismissed the petition. The owner has filed a notice of appeal in this case.

The new case involves 385 Troutman Avenue in Brooklyn. The owner in this case seeks an order from the court directing the Loft Board to decide an issue raised in the comment period of the Narrative Statement process. The staff is working with the Law Department.

Personnel:

One of our paralegals will be starting on October 2. We don't have a date yet for the second paralegal, but based on emails I received this morning, I'm hopeful that the start date will be soon. Regarding our Deputy position, we've completed the interviews, and we've selected a candidate.

Legalization and Narrative Statement:

All emails regarding legalization, including scheduling of a conference, requesting forty-five-day clocks, requesting certification of the Narrative Statement process, should be sent to the [nycloftboard@buildings.nyc.gov](mailto:nycloftboard@buildings.nyc.gov) email. Requests will be handled in the order they are received.

The Narrative Statement Process is an important part of the legalization process. However, the Board is having critical staffing issues. Florence, Renee, and I have been handling this important function. There is hope that with the onboarding of new personnel, our operations will improve, and we ask for your continued patience on this front.

**Mr. DeLaney:** At the June meeting, you and I discussed the eighty or ninety buildings we don't quite have a category for.

**Ms. Cruz** said she would send him the list.

**Mr. DeLaney:** And lastly, I know you've been super-short-staffed, but getting a handle on how many cases are pending, at some point, would be helpful. I'm particularly interested now that there's more talk about alternate plans. Are a lot of alternative plans being filed? Is access an issue? Are there harassment claims? That data would be very helpful.

**Ms. Cruz:** I can provide the number of cases in each category without the status information.

**Mr. DeLaney:** The status information is not as urgent to me as just the overall numbers.

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

**Ms. Storey** noted:

1. Failure to Register

107 buildings did not pay annual registration on or before July 1<sup>st</sup>

33 Buildings paid after July 1<sup>st</sup> but before August 21<sup>st</sup>

74 Buildings were issued Notices of Proceeding on August 21<sup>st</sup>

1 Building requested a conference with Staff

For the October meeting, we will prepare Proposed Orders imposing fines ranging from \$5,000 to \$25,000.

2. Legalization

The Loft Board is currently focusing on legalization efforts, which includes scheduling Narrative Statement conferences, issuing notices to file Comments, and issuing certifications of the Narrative Statement Process.

**Mr. DeLaney** asked, now that legalization reports are due quarterly rather than monthly, if more were received, and in a timely manner.

Ms. Storey said that she could not provide a number, but believed about half were received on time, and that some enforcement had been enacted against the remainder.

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**THE CASES:**

Appeal and Reconciliation Calendar

Chairperson Patino stated that there is one case on the appeal calendar. The case is:

#	Applicant(s)	Address	Docket No.
1	73 Tribeca LLC	73 Leonard Street, New York	AD-0127
<i>The Loft Board denied the appeal challenging an administrative determination which found that the owner failed to exercise all reasonable and necessary action to legalize.</i>			

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

Summary Calendar

	Applicant(s)	Address	Docket No.
2	The Brocho V'Hatzlocho Corp.	538 Johnson Avenue/75 Stewart Avenue, Brooklyn	LS-0298
<i>The Loft Board deemed the access application withdrawn without prejudice.</i>			
3	Madeline Rombes	239 Banker Street, Brooklyn	PO-0123
<i>The Loft Board deemed the protected occupancy application settled after the owner recognized the tenants as protected occupants of unit 3P.</i>			
4	Michael Lennicx and Wiley Mathews	78 Kingsland Avenue, Brooklyn	TR-1366 TR-1375
<i>The Loft Board deemed the coverage applications as settled. The units are registered and the tenants are listed as protected occupants.</i>			
5	Darren Francis Eboli	85 Franklin Street, New York	TR-1453

*The Loft Board deemed the coverage application withdrawn with prejudice.*

**Chairperson Patino** asked if there were any comments on these cases.

**Mr. DeLaney:** With regard to case number 4, 78 Kingsland Avenue. Thankfully, this is the only case on the agenda today that was settled through a stipulation. We have the usual Loft Board language that we neither accept nor reject the remainder of the terms of the stipulation, which is deemed withdrawn. It's quite a remarkable stipulation, and it is more grist for my opinion that if an application comes in seeking coverage and not raising other issues, and as the answer comes in disputing coverage but not raising other issues, to then have a global settlement that addresses all kinds of issues, to me seems not the way to proceed. That's just my opinion. It's the only time you'll hear it from me today.

**Chairperson Patino** asked for a motion to accept these cases, and for a second.

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

The vote

**Members concurring:** Mr. Barowitz, Mr. Hylton, Mr. DeLaney, Ms. Roslund, Ms. Oddo, Chairperson Patino

**Members dissenting:** 0

**Members abstaining:** 0

**Members absent:** Mr. Roche, Ms. Rajan

**Members recused:** 0

Master Calendar

	Applicant(s)	Address	Docket No.
6	Karen Nourse and Zachary Bennett	521 West 26 <sup>th</sup> Street, New York	TN-0229
<i>The Loft Board granted the application for a finding of noncompliance with the legalization timetable and imposed a \$10,000 against the owner for its failure to comply.</i>			

**Ms. Chung** 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. Oddo** seconded.

The vote

**Members concurring:** Mr. Barowitz, Mr. Hylton, Mr. DeLaney, Ms. Oddo, Chairperson Patino

**Members dissenting:** Ms. Roslund  
**Members abstaining:** 0  
**Members absent:** Mr. Roche, Ms. Rajan  
**Members recused:** 0

#	Applicant(s)	Address	Docket No.
7	Aaron Smulkkis	226 Franklin Street, Brooklyn	PO-0140
<i>The Loft Board granted the protected occupancy application.</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. Hylton** moved to accept this case, and **Mr. DeLaney** seconded.

The vote

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

**Mr. DeLaney:** Before we go to the last case, I notice we did not spend any time on the two fact sheets that were distributed. Is that intentional? I have some notes, but I can provide them to the Executive Director at some other point in time, if that works better.

**Chairperson Patino** said the Board would discuss the fact sheets after this last case.

#	Applicant(s)	Address	Docket No.
8	Brett Herman	476 Jefferson Street, Brooklyn	PO-0147
<i>The Loft Board granted the protected occupancy application.</i>			

**Ms. Oyegue** presented this case.

**Ms. Roslund:** In the beginning, second paragraph, it says that Brett Herman is the protected occupant of unit 405 and filed an application seeking protected occupancy. So, he would not already be a protected occupant. It should read, the occupant not protected occupant.

**Ms. Cruz and Chairperson Patino** discussed the comment.

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

Mr. Hylton moved to accept this case, and Mr. Barowitz seconded.

The vote

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

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**FACT SHEETS:**

**Mr. DeLaney:** I think these are very good and very helpful. And I know the Narrative Statement piece is still a work in progress. On fact sheet number 3, the Letter of No Objection, in part two, Application, the fifth bullet-point reads "...a Letter of No Objection cannot be processed unless it includes... a copy of the DOB objection sheet/required items list, with the requirement to obtain the Loft Board Certificate as the last objection;" but we haven't defined Loft Board Certificate anywhere. So, I think we need a couple of words about that. And it is capitalized here, but not at the bottom of the right-hand column.

And on Sale of Rights Overview and Sale of Improvements, there is a lot on that one page. There might be good reason to make them two separate sheets, so you have a little more room for the Sale of Rights. Then at the end of that third paragraph, "If the tenant and owner agree to a sale, the owner will ask the tenant to sign a Sales Record form," which is actually ours. It's the Loft Board's Sales Record Form. It would be helpful to make it clear that there is a prescribed form.

And in the last piece, titled Effect of Sale of Rights, the language is "The unit will no longer be subject to rent regulation, where coverage under Article 7- C was the sole basis for such rent regulation. " Do we still want to keep that in, despite the wisdom of the Court of Appeals?

**Ms. Cruz and Mr. DeLaney** referred to the Aurora case and decided it should stay in.

**Mr. DeLaney:** The Sale of Improvements could also use a little more fleshing out, which also makes the case for each having its own sheet, but perhaps cross-referenced. The second

paragraph under Sale of Improvements, “A protected occupant may sell improvements to the owner or prospective incoming tenant at any time,” leaves out the requirement that the sale to prospective incoming tenant must be an arms-length transaction and the owner may challenge the sale to a prospective incoming tenant or match it. If we tried to explain this to loft tenants back in the day, it was the PIT and the POT - the potential incoming tenant and the potential outgoing tenant. This explanation should be added to the fact sheets.

Regarding the text about the Improvement Sales Record Filing, the text starts with “Within thirty days of the Sale of Improvements, the owner must file an Improvement Sales Record Form, which provides the following information” and ends with a colon but there’s nothing after the colon. There is missing text there.

**Chairperson Patino:** Thank you. This will conclude our September 21, 2023, Loft Board meeting. Our next public meeting is scheduled for October 19<sup>th</sup>, 2023. Thank you, everyone.