

MINUTES OF PUBLIC MEETING
New York City Loft Board Public Meeting

September 19, 2024

The meeting began at 2:10 PM

Attendees: Elliott Barowitz, Public Member; Charles DeLaney, Tenants' Representative; Heather Roslund, Public Member; Samira Rajan, Public Member; Kenneth Wong, FDNY's *ex officio*; Lenny Singletary, Manufacturer Representative; Linda Rzesniowiecki, Owners Representative; Guillermo Patino, Chairperson Designee.

INTRODUCTION:

Chairperson Patino welcomed those present to the September 19, 2024 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:

April 18, 2024, Public Meeting Minutes

Chairperson Patino tabled the vote for the April Meeting.

June 20, 2024, Public Meeting Minutes

Chairperson Patino asked if there were any comments on or corrections to the June 20, 2024 minutes. Hearing none, Chairperson Patino then asked for a motion to accept the June 20, 2024 meetings.

Ms. Roslund moved to accept the June 20, 2024 meeting minutes and **Mr. DeLaney** seconded.

The vote

Members concurring:	Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson Patino (4)
Members abstaining:	Mr. Wong, Ms. Rzesniowiecki, Mr. Barowitz, Mr. Singletary (4)

July 18, 2024, Public Hearing Minutes

Chairperson Patino asked if there were any corrections to the minutes for July 18, 2024 public meeting. Hearing none, he asked for a motion to accept the July 18, 2024 minutes.

Mr. DeLaney: moved to accept the July 18, 2024 meeting minutes and **Ms. Rajan** seconded.

The vote

Members concurring:	Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson Patino (4)
Members dissenting:	0
Members abstaining:	0
Members absent:	Mr. Barowitz, Mr. Wong, Ms. Rzesniowiecki, Mr. Singletary (4)
Members recused:	0

Mr. DeLaney asked why the April 18, 2024 minutes were tabled.

Chairperson Patino explained that Chief Archer attended the April 2024 meeting not Richard Roche.

Mr. Barowitz asked why the minutes for May and June meetings were combined.

Chairperson Patino explained the minutes were voted on separately.

Chairperson Patino turned to the staff reports and introduced the Executive Director.

REPORT OF THE EXECUTIVE DIRECTOR

1. Personnel

We have re-posted the job notice for a legalization attorney. I encourage anyone who is interested to apply.

2. Litigation

We received one Article 78 in August. The case involves the building at 79 Lorimer Street in Brooklyn. We are working with the Law Department.

3. Building List

We have 305 buildings. The highlights are:

The first group are the buildings in the pre-construction phase. The blue piece of the pie chart. We have 83 buildings or 27% of the buildings are in this group. An owner in this group has not filed the Alt 1, has filed the Alt 1 but has done nothing else, is in the NS process or has received cert of the narrative process but has not obtained a permit.

The second group are buildings that are the Construction Phase. The orange piece of the pie. The number in this is 118 buildings or 39% of the buildings.

The third group are buildings that have achieved Article 7-B compliance. The grey piece of the pie. We have 71 buildings in this group.

The staff has concerns about this group. Approximately 40 buildings in this group have noted their Article 7-B compliance by way of certificate signed by an architect not a temporary certificate of

occupancy issued by the Department of Buildings. Some of the certificates are years old. At least one certificate dates back to 1999.

In my opinion, the rule that provides for certification of Article 7-B should be revisited. The process at the Department has improved. Inspections can happen within days. I recommend that the Board consider changing this rule.

The last group in yellow is 33 buildings or 11% of the buildings in our jurisdiction. This group has achieved compliance or there is a removal application pending.

4. Upcoming Rules

The staff has been reviewing the fees in 29 RCNY § 2-11. Some of these fees have not changed in many years. We believe it is time to review these rules to determine whether the fees are appropriate.

In some instances, we believe certain functions should include a fee. RGB filings are an example of a filing that should have a fee. As evidenced by the removal case on today's agenda, RGB filings can involve considerable work.

We are considering adding a fee for LONO requests.

In light of recent court decisions, the staff would like to review the rules for protected occupancy.

As mentioned earlier, rules governing certification of Article 7-B compliance should also be reviewed. The questions are whether the certificate option should be eliminated or whether certificates should expire.

The staff is interested in exploring these issues and hearing your thoughts. If you agree that we should consider additional rule making on these points, we ask that you vote for the staff to initiate the rulemaking process.

Ms. Roslund asked if the seven buildings with the "no alt-1 filed" status were newly registered IMDs or buildings with a history of loft coverage.

Mr. Cruz responded that the group includes both.

DISCUSSION ABOUT THE PROPOSED AMENDMENTS FOR IMPLEMENTING NEW FILING FEES AND INCREASING CURRENT FILING FEES

Mr. Cruz asked the Board members about implementing new rules that would require fees for LONOs, RGB filings; increasing current fee structures for applications and updating the protected occupancy provision.

Ms. Roslund motioned for Loft Board to add an agenda item for the staff to review the potential for fees for LONO requests and RGB filings, increasing fees for applications and review the protected occupancy rules.

Mr. Singletary moved and **Mr. DeLaney** seconded.

The vote

Members concurring:	Mr. Barowitz, Mr. DeLaney, Ms. Roslund, Ms. Rajan, Mr. Singletary, Chairperson Patino (6)
Members abstaining:	Ms. Rzesniowiecki, Kenneth Wong(2)

Chairperson Patino introduced Ms. Storey to present on legalization matters.

ENFORCEMENT AND LEGALIZATION REPORTS

ENFORCEMENT REPORT:

- 1. 24** Administrative Determination for failure to file quarterly legalization reports.
 - a. **20** Imposed fines ranging from \$1,000 to \$2,000.
 - b. **4** Withdrawn

LEGALIZATION REPORT:

Narrative Statement Conferences

1. **28** Narrative Statement Conferences.
2. **17** Narrative Statement Conferences have been scheduled for end of September to early December.
3. **1** request for a Narrative Statement Conference is pending.

We continue to appreciate the help of all professionals throughout this process.

Ms. Storey sent a special thank you to three amazing staff members who work tirelessly behind the scenes to help me with enforcement and legalization.

Tracy Rivers
Amara Hyde and
Rosa Vargas

Thank you so much for always lending a helping hand no matter the task.

Mr. DeLaney commented that the staff conducted many narrative statement conferences during the summer.

Ms. Storey answered that on several days she conducted two conferences in one day.

Mr. DeLaney ask if most were virtual or in person.

Ms. Storey responded that some were virtual and others were hybrid.

Mr. DeLaney asked about the status of the annual registration submissions.

Ms. Storey answered that the registration filings were still being processed.

DISCUSSION ABOUT THE PROPOSED AMENDMENT TO § 2-04, § 2-05 AND § 2-11.1

Ms. Cruz explained that some of the changes made were in part due to the comments made at the July 18, 2024 hearings, a discussion with Board Member Roche and Board Member Roslund. The changes were made in red. The changes included:

- (1) One change on page two – add an explanation about what constitutes a defect.
- (2) Three changes on page three – the words “scraped and” to section per a FDNY request, the word “unobstructed” to subsection K, and the acronym DOB to subsection F.
- (3) Four changes on page 4 – the addition requiring Owner to serve all tenants with a notice, if Owner did not know who the owner of the property in hallway; required proof of service of the posting and service to individual tenants; and added language prohibiting the storage of battery charging devices in the path of egress per FDNY request.
- (4) Four changes on page 6 – additional language requiring Owner to certify that if defects exist repairs will be made prior to August 1st, requiring Owner to file a LONO if a permit is required to repair the defect, the job description in the DOB application must only include work on fire escape and requiring Owner to provide a certification after completion of the work by August 6, 2024.

In creating the certification form, we noticed additional information may be needed. Board Members do you want the Owners to tell us that they found a defect and fix the defect within 30 days? Do you want to require Owner to file a new certification informing us that the defect is cured and now defect free?

Ms. Roslund stated that the public comment about the 14- day deadline for the certification was interesting.

Ms. Cruz stated when the rule was drafted, we did not envision requiring structural engineers for these inspections. The goal was to ensure someone from ownership would do visual inspection to ensure the that the escape were not damaged or detached from the façade. If repairs were required, then ownership would hire the necessary professional to repair.

Ms. Roslund state that structural engineers were an integral part of the inspection process.

Ms. Cruz stated the proposed rule gives the Board the authority to direct Owner to repair the fire escape and if repairs are not completed, we can begin enforcement.

Ms. Rzesniowiecki suggested that a notice or an informative pamphlet should be created to notify tenants not to block fire egress, store items in hallway or fire escape.

Ms. Rzesniowiecki also suggested that the Loft Board send a notice to the tenants requesting removal of the personal items. If after 30 to 60 days, the tenant failed to remove the items from the hallways then Owners should be able to discard the items. Owners should not be penalized for what tenants do. Tenants should be penalized after notification.

Mr. Barowitz stated that the Department of Buildings already places notifications about items being stored in the hallway.

Mr. Barowitz stated that the question is who should be penalized if personal items are stored in the hallway or on the fire escape.

Ms. Roslund stated that she had some similar questions. There may already be a provision within the tenant's lease that prohibits placing items in the hallway and if they do the tenant will be responsible for the payment of any fees, violations or fines incurred due to their actions. Also, the Owner may not even know that the item was stored in the hallway. Shouldn't the super be the one to inform the tenant to remove the item from the hallway not necessarily the Owner? In my building, we have issues with tenants leaving items in the hallways. The building owner places a sign in the hallway that tenants have 30 days to remove the item from the hallway. Sometimes the building super comes and removes the items. Lastly, it should already be common knowledge that it is illegal to leave items in the hallway or fire escape. I realize some people may not know this, but ignorance of the law is not an excuse.

Ms. Cruz stated that it is our intention to send out notices to every building owner and unit to inform them about the dangers of storing personal items in the hallways.

Mr. Barowitz stated that it should already be clear that tenants cannot store personal items in the hallway.

Ms. Roslund stated that Tenants rent a space and are allowed to use the shared spaces in a manner that does not interfere with someone else's use. Tenants are only allowed to keep their personal items in their apartments. I maintain a little garden on my fire escape that I know is prohibited but I have to defend this because it makes sense. It is logical. It is the lease and the law.

Ms. Rzesniowiecki stated that Tenants should be notified for safety concerns. Even though the rule does not explicitly say this, it implies that Owners would have to store tenants belongings for 59 days. Some these belongings can be extremely expensive, and Owners should not be responsible for the storing. I think Owners should be free to clear the hallway. After the Loft Board notifies the tenant not to store their items in the hallway, then the Owner should free to discard the personal items within 30 to 60 days.

Mr. Barowitz stated that should be the responsibility of the super to inform tenants not the Owner.

Ms. Rzesniowiecki stated that the super is still the owner's agent. A reference to Owner means Owner, Owner's agent or anyone working for the owner.

Ms. Cruz stated that the current proposal gives tenants ten (10) days to remove it and if not removed the Owner must store it for 60 days. Is your question to remove the 60-day storage provision?

Chairperson Patino stated that the next step for the board is to get final approval for publishing. If approved, it would go into effect within 30 days. This is the one outstanding issue.

Ms. Rajan asked if there was going to be a separate vote on the outstanding issue or a vote on all of it?

Chairperson Patino we must resolve this one outstanding point first and then vote to finalize the rule.

Ms. Rajan stated that the method for resolving this issue is a vote.

Ms. Rzesniowiecki stated that she is proposing a change of the rule that removes the proposed duty to store the items for 60 days and to add that the Loft Board will notify tenants of the dangers associated with storing items in the path of fire egress.

Chairperson Patino asked what would happen if something was identified in the fire egress pass path. The owner would give the tenant 10 days, after which they would remove but not store the items. That's a departure from the 60 days storage requirement.

Ms. Roslund stated that 10 days may not be enough time for the tenant to remove the time. A tenant can be on vacation. It should be 30 days.

Ms. Rzesniowiecki stated that the Loft Board would notify tenants to remove items. Then, if the item is not removed within 30 days, the Owner can discard the items without being obliged to store the item.

Ms. Roslund stated that there is an extra step. The rule says the owner themselves may post the notification.

Ms. Cruz answered yes. The notice comes from the owner. Prior to the effective date of this rule, the Loft Board will send a notification of the new rule to inform the public not store any items in a public hallway, entrance, stairwell or any hallway that's used to access the street. If there is a problem, the Owner must take action to correct the issue.

Ms. Roslund asked if the only time a violation will be issued is if there is a DOB or Loft Board inspection.

Mr. Barowitz asked if welcome mats will be a problem.

Ms. Rzesniowiecki answered that mats are a trip hazard.

Ms. Rzesniowiecki restated that a warning from the Loft Board about personal items is stored in the pathway, may be helpful. Every tenant may not have a lease that clearly prohibits personal items from being stored in the hallways.

Ms. Roslund asked if the notice could be changed from 10 days to 30 days and remove the storage requirement.

Ms. Rzesniowiecki clarified that there was nothing in the rule about a storage requirement but it was implied.

Ms. Roslund so, we motion to remove the 60-day requirement from the rule?

Ms. Rzesniowiecki agreed that owners should be allowed to remove and discard items.

Chairperson Patino Is there a second on that motion?

Ms. Rajan seconded the motion.

Chairperson Patino thank you, Ms. Rajan

Mr. DeLaney asked to be clear.

Ms. Cruz stated that the owner is responsible for removal of any items stored in violation of the fire egress rule and may discard items.

Ms. Roslund It would be in sections B on page four on page 4.

Ms. Cruz pointed to section B as in boy. The owner's responsible for removal of any items stored in violation of a above and may discard items. We can add "in violation of."

Ms. Roslund that the proposed rule says that the owner must serve a 10-day notice prior to the removal of the items.

Ms. Cruz asked if the 10 days should be thirty.

Ms. Roslund said yes.

Ms. Roslund And in D as in David.

Ms. Cruz We're removing that whole sentence. The Owner only may remove the items from the pathway after 30 days and discard them.

Ms. Roslund suggested that the first sentence of paragraph D, as in David, should be part of paragraph C because it involves notice. The paragraph about the owner having the right to remove the items after 30 days should be its own paragraph.

Ms. Rzesniowiecki opined that the problem with the 30-day notice is that fires can happen at any time. The item should be removed quickly.

Ms. Roslund the idea of giving it a longer time is because people are away. And I've seen a lot of belongings in the hallway.

Mr. Singletary stated that if the concern was safety, then safety should not be jeopardized because of a vacation schedule.

Ms. Rzesniowiecki agreed.

Ms. Roslund stated that it seems to be cruel outcome if you make a mistake.

Mr. Singletary stated if the purpose is safety then the Owner or the Owner's agent should be allowed to remove the item if someone's circumstance doesn't lend them the ability to immediately move the item themselves.

Ms. Roslund stated that the rule should provide for extenuating circumstances.

Mr. Singletary stated that he did not agree with the 30-day change because the intent is safety. Safety issue should be addressed immediately.

Ms. Roslund acknowledged that requiring owners to store the item for any period may be burdensome and issues may happen if the item is damaged.

Mr. Singletary stated that the Owner could store the items in the basement or some other space within the building for up to 60 days.

Ms. Rzesniowiecki if we require Owner to store the item, then we should relieve Owner from any responsibility if the item is damaged, lost or stolen.

Mr. DeLaney stated that as much as he was hoping we could get this rule done today. There were still issues to discuss. The construction noise outside was affecting the discussion.

Mr. DeLaney stated that he had a few questions. He would consider the suggestion that if the owner is expected to store a tenant's personal item, then Owner is relieved from liability. It makes all the sense in the world.

Ms. Rzesniowiecki agreed.

Mr. DeLaney asked about a definition for hallway.

Ms. Roslund agreed and noted that the term "pathway" was not defined. She suggested a definition for corridor as an enclosed public passage, providing a means of access from rooms or spaces to an exit.

Ms. Roslund stated that vestibule or corridor is the defined term in the building code. So even if it's only two like 5 feet long, it's still a corridor. A hall is within your apartment. A corridor is a fire rated enclosure that allows you to egress the building safely.

Ms. Cruz agreed to add a definition of corridor to the definition section. I do not think it's a good idea to talk about fire rating because that is legalization work.

Mr. DeLaney stated the requirement to store the items was still in the rule and he asked why structural adequacy language was removed.

Ms. Cruz stated that the purpose of the rule was not to require a structural engineer. It was to ensure that the Owner conducted a visual inspection to make sure the fire egress is properly lit, the railings are secure and free of defects.

Mr. DeLaney stated that the owner can do that or the super can do it.

Mr. DeLaney asked if we would issue a violation and that would be the violation of failure to maintain fire egress.

Ms. Cruz answered yes.

Mr. DeLaney asked if the repairs are not completed, would the same violation be appropriate.

Ms. Cruz answered yes.

Mr. DeLaney asked how will we notify Owner that the certifications are due July 1st of each year?

Ms. Cruz answered that a mailing will be prepared.

Mr. DeLaney there was testimony from the public that the fine amount be higher than \$5,000.00.

Ms. Cruz said no. I am going to investigate the DOB violation.

Mr. Barowitz asked whether packages would be a problem.

Ms. Cruz stated that even if packages are left at the entrance, egress is usually not affected. There is still clear passageway. I don't think that shelving should be part of what's captured in this rule. If it's not obstructing the ability to go in and out and or run in and out in case for emergency.

Ms. Cruz stated that the goal of the rule is to prevent storage of items. A package that was delivered on that on one day is not storage.

Ms. Roslund suggested consistency in the definitions. The definitions are not consistent with the building code. The definitions were from the multiple dwelling law, the housing maintenance code, the 1969 building code, the 2022 building code, and the zoning resolution. The term "fire escape" is defined. We have is fire stairway but that's not a term that any of the other codes use.

Ms. Cruz recommended that the language "in the case of emergency" be removed because the purpose is safety.

Ms. Roslund suggested that instead of fire stairway, it should just be fire stair or egress stair. Instead of path for fire egress, it should either be path of egress which include the corridor, the stair and the lobby. Additionally, the term "pathway of fire egress" is not a known term. It is the path of egress.

Mr. DeLaney also in the comments, some people expressed concerns about current fire egress issues. Did we follow up?

Ms. Cruz answered Yes.

Chairperson Patino turned to the case agenda. There are three cases on the summary calendar.

THE CASES:

Summary Calendar:

	Applicant(s)	Address	Docket No.
1.	Alex Sussman, Melissa Locker, Brian Benavidez	135 Kent Avenue, Brooklyn	LI-0059

	and Drew McDowall		
<i>The Loft Board deemed the application discontinued and withdrawn with prejudice.</i>			
2.	Irena Musial	187 Duane Street, New York	TN-0235
<i>The Loft Board deemed the application settled.</i>			
3.	James Frazier and Tyler Hay	442 Broadway, New York	TR-1478
<i>The Loft Board deemed the application withdrawn with prejudice.</i>			

The vote

Members concurring:	Ms. Rzesniowiecki, Mr. Barowitz, Mr. DeLaney, Mr. Singletary, Ms. Roslund, Ms. Rajan, Chairperson Patino (7)
Members abstaining:	Mr. Wong (1)

Master Calendar:

	Applicant(s)	Address	Docket No.
4.	Jerold Huebner	449 Troutman Street, Brooklyn	LI-0048, LI-0049, TM- 0103, TM-0106
<i>The Loftboard did not issue a final order in the case of TM-0106. The Loftboard has denied LI-0049. The Loftboard has deemed both LI-0048 and TM-0103 are withdrawn without prejudice.</i>			

Florence Oyegue presented the case.

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

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

The vote

Members concurring:	Ms. Rzesniowiecki, Mr. Barowitz, Mr. DeLaney, Mr. Singletary, Ms. Roslund, Ms. Rajan, Chairperson Patino (7)
Members abstaining:	Mr. Wong (1)

	Applicant(s)	Address	Docket No.
5.	Stephanie Lin	950 Hart Street, Brooklyn	PO-0108, TA-0261
<i>The Loft Board did not issue a final order in this case.</i>			

Renee Storey presented the case.

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

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

The vote

Members concurring:	Ms. Rzesniowiecki, Ms. Roslund, Ms. Rajan, Chairperson Patino (4)
Members dissenting:	Mr. DeLaney (1)
Members abstaining:	Mr. Barowitz, Mr. Wong, Mr. Singletary (3)

Master Calendar:

	Applicant(s)	Address	Docket No.
6.	Decker Associates, LLC.	33 Union Square West, New York	LE-0393
<i>The Loft Board granted the removal application.</i>			
<i>The proposed order was amended on pages one to state that Owner registered one residential unit on each the fourth, sixth, and eleventh floors; two residential units on the fifth, seventh, eighth and tenth floors, and three residential units on the third floor. Thereafter, on June 22, 2011, Owner registered one residential unit on the second floor. The proposed order was also amended to include 3M/3R, 8F/805 and 9F as deregulated units.</i>			

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

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

The vote

Members concurring:	Ms. Rzesniowicecki, Mr. Barowitz, Mr. DeLaney, Mr. Singletary, Ms. Roslund, Ms. Rajan, Chairperson Patino (7)
Members abstaining:	Mr. Wong (1)

Chairperson Patino concluded the September 19, 2024 meeting at 3:38pm.