

## **PROPOSED ORDER**

### **NEW YORK CITY LOFT BOARD**

*In the Matter of the Application of*

[REDACTED]

Loft Board Order No.: \_\_\_\_\_

Docket No.: LI-0052

RE: 72 Warren Street  
New York, New York

IMD No.: 10903

### **ORDER**

The Loft Board accepts the Report and Recommendation of Administrative Law Judge Astrid B. Gloade dated April 23, 2024 ("Report").

On January 20, 2021, [REDACTED] ("Tenant"), the occupant of unit 3E ("Unit") of 72 Warren Street, New York, New York ("Building") filed an application seeking a finding of unreasonable interference pursuant to Title 29 of Rules of the City of New York ("29 RCNY") § 2-01(h)<sup>1</sup> by failing to complete the necessary code compliance work within estimated time schedule in the narrative statement and the statutory code compliance deadlines; failing to address outstanding Department of Buildings objections; failing to serve the revised narrative statement after the narrative statement conference. See Application Rider.

On February 16, 2021, [REDACTED] ("Owner"), owner of the Building filed an answer in opposition.

On February 17, 2021, [REDACTED] filed an answer in support of the unreasonable interference application.

On February 22, 2021, [REDACTED] of the 2<sup>nd</sup> floor unit filed an answer to the unreasonable interference application. On March 22, 2021, [REDACTED] an amended answer taking no position on the unreasonable interference claims but wished to be kept informed of the developments in the case.

The Loft Board transferred the application to the New York City Office of Administrative Trials and Hearings ("OATH") which assigned the matter to Judge Gloade for adjudication.

By motion dated December 21, 2022, Owner moved to dismiss the unreasonable interference application for failure to state a claim. Among other arguments, Owner alleged that the unreasonable interference claim is moot because the estimated time schedule in the narrative statement dated January 29, 2020 was incomplete and eventually superseded by an amended narrative statement dated October 18, 2021.

Tenant opposed the motion to dismiss in a filing dated January 5, 2023.

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<sup>1</sup> In the application, Tenant cited 29 RCNY § 2-01(d) but in the opposition papers, Tenant corrected the citation. See *Tenant's Opposition dated January 5, 2023* at ¶ 14 ("... Applicant in-artfully typed 29 RCNY § 2-01(d)(5), with the intention of referencing certain specific criteria for Unreasonable Interference provided by § 2-01(h)(5)").

In the Report, Judge Gloade recommended dismissal of the unreasonable interference claim as moot because the January 2020 narrative statement, which was the only narrative statement pending at the time of the application filing, was found to be incomplete. [REDACTED], Loft Bd. Order No. 5069 (Sept. 23, 2021). We agree. Under § 2-01(h)(5)(iii), the Loft Board may issue an unreasonable interference finding if, in the course of performing the code-compliance work, an owner departs significantly from the estimated time schedule listed in the narrative statement. Here, there was no estimated time schedule because the January 2020 narrative statement was incomplete, and it is also not clear that Owner was engaged in code compliance work.

Additionally, we note that, although Tenant describes with meticulous specificity, Owner's actions which have allegedly caused delays in achieving code compliance, Owner's noncompliance with the statutory code compliance deadlines in MDL § 284 and 29 RCNY § 2-01(a) is not relevant. The standard for unreasonable interference in 29 RCNY § 2-01(h) does not contain a reference to MDL § 284 or § 2-01(a). It only refers to the "estimated time schedule" required in the narrative statement pursuant to § 2-01(d). Noncompliance with statutory code compliance deadlines is not a basis for an unreasonable interference finding under 29 RCNY § 2-01(h). The Loft Board has rejected attempts to impute other grounds for unreasonable interference in 29 RCNY § 2-01(h)(5). [REDACTED], Loft Bd. Order No. 4428 (Sept. 17, 2015).

The application for a finding of unreasonable interference is dismissed.

DATED: June 26, 2025

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Guillermo Patino  
Chairperson

Board Members Concurring:

Board Members Dissenting:

DATE LOFT BOARD ORDER MAILED: