



Transcript of the February 18, 2021

Meeting of the

New York City Loft Board

This transcript has been prepared pursuant to Governor Cuomo's Executive Order 202.1, which suspended Article 7 of the Public Officers Law, to the extent necessary to permit any public body to meet and take such actions authorized by the law without permitting in public in-person access to meetings and authorizing such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

The meeting began at: 3:25

Chairperson Hylton: Good afternoon. My name is Renaldo Hylton, the Chairperson designee of the New York City Loft Board. Welcome to our February 18th, 2021, public meeting. This meeting is being held via teleconference pursuant to Governor Cuomo's Executive Order 202.1 due to the coronavirus emergency.

I first want to apologize to everyone for the late start of this meeting. Because of some technical issues, there was a capacity issue with another link that we had, so we've created another one, and your patience is much appreciated. And I thank everyone for joining in.

Section 282 of the New York State Multiple Dwelling Law established the New York City Loft Board. The Board is charged with overseeing the legalization of Interim Multiple Dwelling buildings, from commercial and manufacturing spaces to safe, rent-regulated residences that comply with the minimum standards of safety and fire protection stated in Article 7-B of the New York State Multiple Dwelling Law. To achieve this goal, the Board adjudicates and mediates disputes between owners and tenants, tracks the progress of each building undergoing legalization, and prosecutes parties who violate the Loft Law and the Loft Board rules.

We first turn our attention to a vote on the minutes from the December 10th public meeting. Are there any corrections or comments on the minutes?

Mr. DeLaney: Believe it or not, these minutes are perfect in my view.

Mr. Hylton: Thank you, Mr. DeLaney. We needed that.

Ms. Torres-Moskovitz: Renaldo, I don't have a comment on the minutes, but I was just wondering, since you just started recording, if we should take official attendance again, even though we've done it.

Chairperson Hylton: Okay, sure.

Ms. Torres-Moskovitz: To make sure we have a quorum.

Chairperson Hylton: Okay, for the record, Mr. Roche?

Mr. Roche: Present

Chairperson Hylton: Ms. Roslund?

Ms. Roslund: Present

Chairperson Hylton: Ms. Rajan?

Ms. Rajan: Present

Chairperson Hylton: Mr. Hernandez?

Mr. Hernandez: Present

Chairperson Hylton: Mr. DeLaney?

Mr. DeLaney: Present

Chairperson Hylton: Ms. Torres?

Ms. Torres-Moskovitz: Present

Chairperson Hylton: Mr. Hylton?

Mr. Hylton: Present

Chairperson Hylton: Mr. Barowitz?

Mr. Barowitz: Present

Chairperson Hylton: Great. And, we have yours truly. We have a full attendance of nine members present. Thank you, Ms. Torres. So, any comments? Let's continue on where we are. Any comments on the minutes? No comments. Ms. Rivera, could you please poll the Board members. I'm sorry. Is there a motion to accept the minutes?

Mr. DeLaney: I'll move.

Chairperson Hylton: Who's second?

Mr. Hylton: Hylton

Chairperson Hylton: Mr. Hylton, second. Ms. Rivera, can you please poll the Board members?

Ms. Rivera: Who was the first? I'm sorry....

Chairperson Hylton: Mr. DeLaney and then Mr. Hylton second.

Ms. Rivera: Ok, thank you. Mr. Barowitz?

Mr. Barowitz: Yes

Ms. Rivera: Mr. Roche?

Mr. Roche: Yes

Ms. Rivera: Mr. Hernandez?

Mr. Hernandez: Yes

Ms. Rivera: Mr. Hylton?

Mr. Hylton: Yes

Ms. Rivera: Mr. DeLaney?

Mr. DeLaney: Yes

Ms. Rivera: Ms. Torres?

Ms. Torres: Yes

Ms. Rivera: Ms. Roslund?

Ms. Roslund: Yes

Ms. Rivera: Ms. Rajan?

Ms. Rajan: Yes

Ms. Rivera: Chairperson Hylton?

Chairperson Hylton: Yes

Ms. Rivera: Nine in favor

Chairperson Hylton: Thank you, Ms. Rivera. So, the next item on the agenda is the Executive Director's Report. Is Ms. Lin doing this or Ms. Lee? Who is available?

Mr. Clarke: Chairperson Hylton, this is Stephan Clarke. If Acting Executive Director Lin is not on the line, I can go ahead and do that for her.

Chairperson Hylton: Sure

Mr. Clarke: First, the Governor's Order. On January 27th, the Governor issued Executive Order 202-92, which suspended the in-person meeting requirements of the Open Meetings Law to February 26th, 2021.

Revenue. The unofficial Loft Board revenue for January 2021 was \$12,900.

Enforcement. We issued two violations in January 2021. On January 21st, 2021, one violation was issued at 517- 525 West 45th Street for inadequate heat in unit 2A. On January 27th, 2021, one violation was issued at 117 West 26th Street, New York, New York 10001 for inadequate heat. These issues have not been resolved yet. In addition, at the last Board meeting, there was a report that one violation was issued at 144 Spencer Street, unit 610, Brooklyn, New York 11205, for inadequate heat. That was reinspected last week, and the issue has yet to be resolved.

Litigation. We have one new case for 475 Owner, LLC versus New York City Loft Board, index number 151133/ 2021. This is an Article 78, challenging *Matter of David Coventry*, Loft Board Order number 4943, dated February 20, 2021. In this Order, the Loft Board found that unit 1109 at 475 Kent Avenue, Brooklyn, New York, should have been covered under the Loft Law and its occupant granted protected occupancy status. The Loft Board found that the unit's exterior terrace/ balcony space should be considered in determining whether the unit met the requirement under MDL 281.5, that the IMD unit must be at least four hundred square feet in area. Owner of the building now challenges that determination. And that is the end of the Executive Report.

Chairperson Hylton: Thank you Mr. Clarke. Are there any questions for Mr. Clarke? Thank you. Thank you, Mr. Clarke. I appreciate you picking up the slack on that.

So now we turn to a vote on the cases. First, we turn to the Appeal and Reconsideration Calendar. There are three cases on the Appeal and Reconsideration calendar. And the first case is -- I'm going to say it the way I know how to say it -- is

Quay Plaza LLC 79 Quay Street Brooklyn, New York Docket #: AD 0106

Ms. Lin....Who is presenting for Ms. Lin?

Ms. Lee: It'll be me, Chairperson Hylton.

Chairperson Hylton: Thank you. Ms. Lee will present this case.

Ms. Lee: Thank you, Chairperson Hylton. Case number one is an administrative appeal filed by the owner of 79 Quay Street, Brooklyn, New York, which challenges the administrative determination dated

May 28th, 2020, made by the former Executive Director. The former Executive Director determined that the owner's application for removal from the Loft Board should be held in abeyance pending the completion of a sale of rights for the building's sole protected occupant. Owner appealed this determination, arguing that the Multiple Dwelling Law does not require that the sale of rights be completed prior to removal and that the Loft Board staff has sufficient information to set the legal and regulated rent for the unit. This Proposed Order agrees with the owner. An incomplete sale of rights is not a basis for denying the process of a removal application. The Loft Board staff is directed to proceed with processing the removal application.

Chairperson Hylton: Thank you, Ms. Lee. Are there any.... Is there a motion to accept this case?

Ms. Roslund: I'll make a motion.

Chairperson Hylton: That's Ms. Roslund. Do I have a second?

Mr. Hylton: Second

Chairperson Hylton: Mr. Hylton seconded. Thank you. Are there any comments on this case?

Ms. Torres-Moskovitz: This is Julie Torres. I have one comment. I was wondering, when a case took place a couple years ago, is there any further information on the second portion of the tenant's... The tenant and the landlord were agreeing to a buyout, I think. But half the payment wasn't made yet. And that was a couple years ago. Has it been made since? Or is that information that we don't know?

Ms. Lee: Ms. Torres-Moskowitz, we will have to get back to you on that question.

Ms. Torres-Moskowitz: Okay. Thank you.

Ms. Roslund: The date was December, yeah? So, it should have passed. And if it did, if they did conclude their business, it would be done with.

Chairperson Hylton: Okay. Any other comments? Absent comments, Ms. Rivera, can you please poll the Board members.

Mr. Barowitz? Did you call my name?

Ms. Rivera: Yes

Chairperson Hylton: Who's next? We're polling the Board members. Ms. Rivera, they're having a volume issue with you. Maybe...could you start over polling the Board members?

Ms. Rivera: Mr. Barowitz?

Mr. Barowitz: Yes

Ms. Rivera: Mr. Roche?

Mr. Roche: Yes

Ms. Rivera: Mr. Hernandez?

Mr. Hernandez: Yes

Ms. Rivera: Mr. Hylton?

Mr. Hylton: Yes

Ms. Rivera: Mr. DeLaney? Mr. DeLaney?

Mr. DeLaney: Yes

Chairperson Hylton: Mr. DeLaney has indicated yes.

Ms. Rivera: Ms. Torres?

Ms. Torres: Yes

Ms. Rivera: Ms. Roslund?

Ms. Roslund: Yes

Ms. Rivera: Ms. Rajan?

Ms. Rajan: Yes

Ms. Rivera: Chairperson Hylton?

Chairperson Hylton: Yes

Ms. Rivera: Nine in favor

Chairperson Hylton: Thank you. The second case on the Appeal and Reconsideration Calendar is 470 Manhattan Avenue, LLC. 18-22 Eckford Street, Brooklyn, New York Docket # AD-0107

Ms. Lee: Thank you, Chairperson Hylton. This case involves an administrative appeal application that was filed by the owner of the building located at 18 to 20 Eckford Street in Brooklyn, New York. The

owner challenges an administrative determination that was made by the former Executive Director on June 25th, 2020. In the administrative determination, the former Executive Director lifted a suspension on the answer period for Loft Board docket number LN-0028, the subject of which is a de-coverage application that was filed by the owner. The former Executive Director directed the residential tenants of the building to submit their answers in response to the owner's de-coverage application within thirty-five calendar days from the mailing date of the administrative determination.

The owner makes several arguments on appeal; however, this Proposed Order finds that there's insufficient evidence to establish that the owner has been aggrieved by the administrative determination. The owner has not persuasively demonstrated that the administrative determination has caused or will cause the owner to suffer any actual injury. In fact, by lifting the suspension on the residential tenants' time to answer the owner's de-coverage application, the administrative determination provides remedy which the owner had been seeking from the Loft Board. Accordingly, this Proposed Order finds that the owner's appeal is procedurally deficient, and that a denial of the owners application is appropriate.

Chairperson Hylton: Thank you, Ms. Lee. Do I have a motion to accept this case? And I can't see everyone, so no raising hands. You'll have to say it out loud.

Mr. Barowitz: Elliott, I move.

Chairperson Hylton: Mr. Barowitz has moved. Who seconded?

Mr. Hernandez: Robinson Hernandez

Chairperson Hylton: Mr. Hernandez a second. Thank you. Do we have any comments on this case? Absent any comment, Ms. Rivera, please poll the Board members.

Ms. Rivera: Mr. Barowitz?

Mr. Barowitz: Yes

Ms. Rivera: Mr. Roche?

Mr. Roche: Yes

Ms. Rivera: Mr. Hernandez?

Mr. Hernandez: Yes

Ms. Rivera: Mr. Hylton?

Mr. Hylton: Yes

Ms. Rivera: Mr. DeLaney?

Mr. DeLaney: Yes

Ms. Rivera: Ms. Torres?

Ms. Torres: Yes

Ms. Rivera: Ms. Roslund?

Ms. Roslund: Yes

Ms. Rivera: Ms. Rajan?

Ms. Rajan: Yes

Ms. Rivera: Chairperson Hylton?

Chairperson Hylton: Yes

Ms. Rivera: Nine in favor

Chairperson Hylton: I'm sorry, what was that count, Ms. Rivera?

Ms. Rivera: Nine in favor

Chairperson Hylton: Thank you. The last case on the Appeal and Reconsideration Calendar is Workable 239 LLC. 239 Banker Street, Brooklyn, New York Docket # AD-0108 and Ms. Lee will again present this case.

Ms. Lee: Thank you Chairperson Hylton. This case involves an administrative appeal application that was filed by the owner of the building located at 239 Banker Street in Brooklyn, New York. The owner challenges an administrative determination that was made by the former Executive Director on April 13th, 2020. In the administrative determination, the former Executive Director denied the owner's application for an extension of the code-compliance deadlines set forth in MDL section 284 and the Loft Board's rules. According to the Loft Law and the Loft Board's rules, the Executive Director may only grant an extension of code-compliance deadlines where an owner has demonstrated that it has met the statutory standards for an extension. An owner must demonstrate, first, that the necessity for the

extension arises from conditions or circumstances beyond the owner's control, and second, that the owner has made good-faith efforts to meet the code-compliance deadlines.

In the administrative determination, the former Executive Director found that the owner here had satisfied the first statutory standard but had failed to satisfy the second statutory standard. That is, the good-faith-effort standard. In order to satisfy the good-faith-effort standard, the Loft Board has held that an owner is required to demonstrate good-faith effort, not merely good faith intentions. This means that an owner must show with corroborating evidence concrete acts that it has taken towards legalization. Here, in the underlying extension application, the owner had failed to provide adequate details and corroborating evidence to support its claim that it had made good-faith efforts towards legalization.

The additional facts and information which the owner offers on appeal to bolster the facts that were presented in the underlying extension application are derived from new evidence, which the Loft Board is prohibited from considering on appeal. Pursuant to 29 RCNY section 1-07.1(1)(d), the Loft Board may not consider any evidence not presented to the Loft Board staff unless good cause is shown as to why the evidence was not previously available. Here, although the owner explains the reason as to why it offers additional documents on appeal, it fails to sufficiently demonstrate good cause as to why the additional documents were not previously submitted in its extension application.

Furthermore, the owner claims, among other things, that the former Executive Director misapplied governing law by holding the owner to a higher burden of proof than is usually applied to new owners. Specifically, the owner argues that the 2006 amendments to 29 RCNY section 2-01(b), which granted more time for new owners to file an extension application, were intended to treat new owners differently from the existing owners. The owner asserts that the type of proof required to demonstrate a new owner's good-faith efforts is significantly less rigorous than that of an existing owner.

This Proposed Order disagrees. According to the 2006 amendments, the Loft Board clearly intended the standard of proof that is applied to new owners to be the same standard as that applied to all owners seeking an extension. Although the 2006 amendments modified 29 RCNY section 2-01(b)(1), allowing an

additional ninety days for new owners to apply for an extension of code-compliance deadlines, they did not alter the good-faith-effort standard, 29 RCNY section 2-01(2).

Moreover, this Proposed Order finds that the former Executive Director did not err in her reliance on *Matter of the Bar Realty Corporation*, Loft Board Order number 2234, and *Matter of 145 Reade LLC*, Loft Board Order number 2839. Insofar as the owner alleges that the former Executive Director failed to credit the owner for actions that were found to be sufficient in other cases, this Proposed Order finds that this argument is also unavailing. The owner specifically cites *Matter of 140 Metropolitan Avenue Owner LLC*, Loft Board docket number EX-0107, which this Proposed Order finds to be distinguishable because in that case, the owner was further along in the legalization process than the owner was here, in the instant case.

In sum, this Proposed Order finds that the former Executive Director did not err in denying the owner's extension application and correctly applied the law. Accordingly, this Proposed Order finds that a denial of the owner's application is appropriate.

Chairperson Hylton: Thank you again, Ms. Lee. Do we have a motion?

Mr. DeLaney: I move.

Chairperson Hylton: Mr. DeLaney. Second?

Ms. Rajan: I can second.

Chairperson Hylton: Ms. Rajan. Ms. Rajan is second. Thank you. Do we have any comments on this case?

Mr. DeLaney: I would just comment that this is exactly the kind of case that is part of the reason we have so many visitors here today – guests -- because there is a widespread concern in the tenant community about landlords getting extensions under various circumstances. This particular case is not one where the owner has a pre-established track record of being a bad actor -- we'll talk about that a little later -- but I commend the Board for researching this case as carefully as they have, laying it out, and coming to the proper conclusion.

Mr. Hylton: I would comment that while the...

Chairperson Hylton: For the record, Mr. Hylton is speaking.

Mr. Hylton: Thank you, Renaldo, Mr. Chairperson. I would comment that, while the applicant in this case has been seen not to make a good-faith effort, I think there are facts within the information that was subsequently provided that, I understand, we cannot, by rule, include or use in consideration. But I think this actually makes the argument for where an applicant has actually put forward a good-faith effort; (but) maybe has not demonstrated (that) within the application, initially, and now is trying to correct, so the full information (is) provided. This actually is more of an argument as to why there is a need to look.... not have a hard rule of one extension only.

Chairperson Hylton: Thank you, Mr. Hylton. Any other comments? Ms. Rivera, could you please call the Board members.

Ms. Rivera: Mr. Barowitz?

Mr. Barowitz: Yes

Ms. Rivera: Mr. Roche?

Mr. Roche: Yes

Ms. Rivera: Mr. Hernandez?

Mr. Hernandez: Yes

Ms. Rivera: Mr. Hylton?

Mr. Hylton: Abstain

Ms. Rivera: Abstain? Can you repeat?

Chairperson Hylton: He's abstained.

Mr. Hylton: Abstain

Ms. Rivera: Mr. DeLaney?

Mr. DeLaney: Yes

Ms. Rivera: Ms. Torres?

Ms. Torres: Yes

Ms. Rivera: Ms. Roslund?

Ms. Roslund: No

Ms. Rivera: Ms. Rajan?

Ms. Rajan: Yes

Ms. Rivera: Chairperson Hylton?

Chairperson Hylton: Yes

Ms. Rivera: Seven in favor; one abstain; one against.

Chairperson Hylton: Thank you. Motion carries. Thank you, Ms. Rivera. There are three cases on the Summary Calendar. They are voted on as a group. The cases are

Case #4: American Package Company, Inc 226-240 Franklin Street, Brooklyn, NY Docket # LS-0262

Case #5: Nicholas Spector 250 Moore Street, Brooklyn, NY Docket #s PO-0136, TA-0272

Case #6: Keith Kozlowski 193-199. Newell Street, Brooklyn, New York Docket #s TR 1379, TR 1380

Is there a motion to accept these cases?

Mr. Hernandez: Yes, Robinson

Chairperson Hylton: Mr. Hernandez voted to accept the cases. Any second?

Ms. Rajan: I can second.

Chairperson Hylton: Ms. Rajan. Thank you. Mr. Rivera..... I'm sorry, are there comments on these cases? No one wants to comment? So, therefore, Ms. Rivera, could you please poll the Board members.

Ms. Rivera: Mr. Barowitz?

Mr. Barowitz: Yes

Ms. Rivera: Mr. Roche?

Mr. Roche: Yes

Ms. Rivera: Mr. Hernandez?

Mr. Hernandez: Yes

Ms. Rivera: Mr. Hylton?

Mr. Hylton: Yes

Ms. Rivera: Mr. DeLaney?

Mr. DeLaney: Yes

Ms. Rivera: Ms. Torres?

Ms. Torres: Yes

Ms. Rivera: Ms. Roslund?

Ms. Roslund: Yes

Ms. Rivera: Ms. Rajan?

Ms. Rajan: Yes

Ms. Rivera: Chairperson Hylton?

Chairperson Hylton: Yes

Ms. Rivera: Nine in favor

Chairperson Hylton: What was that?

Ms. Rivera: Nine in favor

Chairperson Hylton: Thank you. Thank you, Ms. Rivera. Without objection, the last case on the calendar, I would like to table until next month. That case is

Case #7: 54 West 22nd Owner LLC 54 West 22 Street, New York, NY Docket # LE-0715

The Chair is tabling this case until next month. Any objections? Thank you. That ends our cases. The next item on the agenda is rulemaking and updates. And Mr. Clarke is going to lead that discussion. Just before we...

Mr. DeLaney: Mr. Chairman?

Chairperson Hylton: Yes, Mr. DeLaney?

Mr. DeLaney: Before we start, I would like to make request of the Chair and Mr. Clarke. It's my understanding from prior email correspondence with Acting Executive Director Lin that the working plan for today was to resume the rather dry discussion of the comparison between the OATH procedural rules and the Loft Board procedural rules. And while I agree that that's important, I'm of the impression that the large number of guests that we have today are here because they have a concern about the

Board's discussion about the extension provisions in 201(b), I believe it is. Since it's already almost four o'clock, I wonder if (we could) start with that discussion, rather than take up the procedural issue.

Chairperson Hylton: You're actually first on that Mr. DeLaney. Yes, Mr. Clarke, that would be my direction. Let's do that. And I just wanted to say I do intend to take this meeting up until five, if Board members are available.

Mr. Clarke: Can everybody hear me?

Mr. DeLaney: Yes

Mr. Clarke: Okay, great. So, we'll go ahead, and we'll table the comparison for OATH -- the procedure rules between OATH and the Loft Board rules -- and we'll take up the discussion with the extension rule discussions.

So, Board members, the document that we're going to be working off of to facilitate this discussion, it's the chart that, at the top of the of the page says, notes, current rule, proposed rule, and the NYCLT suggestion. So, with this document and the discussion -- for the new Owners' Representative that we have, Mr. Hylton, I would just like to say that the Board members have previously discussed this extension rule, and we prepared.... we've come up with a proposed rule for the extension rule. We are revisiting that now, because we do have a new Owners' Rep that we want to weigh-in on the proposed rule; and also, we have suggestions for the extension rule from the NYCLT. It's a tenant association that has made suggestions on the proposed extension rule that we currently have.

So, the way that we'll discuss this for the next hour is the Board members have already drafted a proposed rule; so, what the Board members would need to take into consideration are the suggestions from the Tenant Association. If they would like to comment on that, if they would like to include that in the proposed rule that we already have, that's just something for the Board members to discuss here. And for Mr. Hylton, who is now the Owners' Rep, you have an opportunity to look and comment on the proposed rule that the Board members discussed and came up with before you officially joined the Loft Board. You can comment not only on the proposed rule that we have, but also on the suggestions from the Tenant Association as well.

Mr. DeLaney: Mr. Clarke?

Mr. Clarke: Yes?

Mr. DeLaney: Before we turn to the proposed rule and/or the suggestions that were put forth, roughly a year ago by New York City Loft Tenants -- I would just like to remind those Board members who were with us then and explain to the Board members who have joined since then -- Ms. Rajan and Mr. Hylton -- that the draft that is currently on the table that provides for an amnesty period, where anyone can apply for an extension and also provides for multiple extensions, differs from the rule that we currently have and that has been in place for fifteen years or so.

And earlier today, we had a number of appeal cases of administrative determinations, taking issue with the actions of the former Executive Director. And I have to say that one thing I would be critical of with regard to the former Executive Director is that there was never really an articulation of the rationale for changing the rule that's currently in effect. And so, before we start to discuss the merits of either the current proposal or the NYCLT call it counter-proposal, I think it would be very helpful to have the staff articulate the reasoning behind the current proposal.

And the other thing I would just like to point out is that the actual New York City Loft Tenants position is -- what we would really like you to do is -- do away with this proposed amendment all together. And that's really the first step that we think should be taken, rather than discussing alternative language.

Chairperson Hylton: Mr. DeLaney, in that case, I don't want to waste people's time. If the rest of the Board wants to chime in on that first piece, we should do that before we even go further. That is, deciding whether or not you want to change the rule. Otherwise.... You get my point? I don't want to debate the rule and realize that the Board doesn't want to change it.

Mr. DeLaney: I think the threshold step is to ask the staff to explain why they were proposing a change in the first place. I mean, for example, if we decided to change the minimum housing maintenance standard heat requirement to a lower heat requirement, or even a higher heat requirement, you'd expect that the staff could explain why a change would be a good thing.

Chairperson Hylton distorted

Mr. Clarke: Chairperson Hylton, I'm not sure if anybody heard that distortion. But can everybody hear me clearly?

Ms. Rajan: Yes

Mr. Clarke: Okay. I'm sorry. You were a little bit distorted, Chairperson Hylton, but I'll try to address Mr. DeLaney's....

Chairperson Hylton distorted

Mr. Clarke: I'm sorry, you were still very distorted, Chairperson Hylton.

Chairperson Hylton distorted

Ms. Torres-Moskovitz: Chairperson, it's impossible to hear you.

Mr. DeLaney: There's a suggestion in the chat, Renaldo, that maybe you should leave the meeting and come back in.

Ms. Torres-Moskovitz: Or call in.

Ms. Rajan: In the meantime, can Mr. Clarke proceed at least?

Mr. Hylton: Yeah, Mr. Clarke, can you proceed at this moment, so we can at least have some conversation about this?

Chairperson Hylton distorted

Mr. Clarke: Chairperson Hylton, we can hear you, but you're just greatly distorted.

Chairperson Hylton distorted

Mr. Clarke: Okay, so I'm going to go ahead and try to answer the question as best I can. I know that we had discussions about this in the past. Why the Loft Board even fathomed changing this rule, I would have to go back in the minutes to try to get an exact answer of why the former Executive Director -- what her rationale, what her reasoning was. And also, the Board members at the time that agreed to

coming up with a proposed rule -- what the rationale was behind that. But from my recollection, it's basically a balancing of two interests.

Obviously, there are some severe ramifications for an owner that falls out of compliance. And there are various reasons why an owner might fall out of compliance. And when we say compliance, we mean the deadlines that are set for the owner to reach specific milestones. There are specific dates that the owner needs to meet certain milestones, and if the owner does not meet those milestones on that specific day, then we consider that owner to be out of compliance. And there are consequences for owners that are not in compliance. We understand that many of the buildings that come under the Loft Board's jurisdiction, some owners are not familiar with how the Loft Board works and how the Loft Law works. But there are many instances where buildings come into our jurisdiction already out of compliance.

Additionally, there are certain actions that the owner needs to take, specifically with getting that permit. That permit involves sometimes a very long narrative statement process. Sometimes it's a contentious narrative statement process. And it does take a significant amount of time. If it's particularly contentious between tenants and owner, it might get to an alternate plan, where OATH has to take it over. There's a full hearing that's presented. And that takes some time for them to make a report and recommendation; make a decision; give a report and recommendation; send it back to the Loft Board; Loft Board staff reviews it; makes a Proposed Order; and sends it back to the Board members for them to ultimately vote on. That sometimes takes a tremendous amount of time. And it does impact how quickly an owner can move through the legalization process, and hit their milestones, and stay in compliance.

Now that's really just me working as a staff member and balancing the issue. Sometimes there is an owner that is just not doing what they're supposed to be doing. They're dragging their feet with submitting documentation that they need, sending out narrative statements, things of that nature. There are owners that are not being diligent in moving through the legalization process, but there are other owners that might face situations and circumstances that might prolong the legalization process. So, I know that the discussion and the reason for the proposed rule hinged on allowing owners that are

really trying to move the legalization process forward the additional time to try to get things done in good faith before the severe consequences come down on an owner for falling out of compliance.

So that is the basic idea of it. Like I said, for the specific reasoning of the previous Executive Director and what the Board members were discussing as the rationale to change the current rule -- I can research that and come back with some bullet points next month, but that is the basic idea. It's a balancing between the owners and the tenants that need a safe place to reside. But at the same time, understanding of the process. There might be hiccups and bumps along the road that might prolong the process. And it might not be fair to have such a draconian consequence for falling out of compliance, when there are some owners that are actually trying their best to legalize the building.

So sorry, that was a little long-winded, but we can just start the discussion there and find out where the Board members are. If there's a change of heart, or members don't feel we need to make any changes to the current rule, then, we're here to listen to the arguments on both sides and try to see if we can come up with some type of middle ground; or if we need to change it at all; or if we do need to change it, are we happy with the change that we already have? Or do we want to incorporate other ideas and arguments and take other perspectives into consideration?

Chairperson Hylton distorted

Mr. Clarke: No, you're not any better, Chairperson Hylton.

Mr. DeLaney: Mr. Clarke, I appreciate your explanation, which I don't find long-winded. There are basically two things that are highly questionable, and, frankly, from the tenant point of view, offensive, and kind of threatening to a lot of people's health and safety in their unit. One is allowing every owner -- the current proposal allowing every owner-- a chance to apply for an extension. And the other, which you did not touch on, is the rationale for allowing multiple extensions for a single code-compliance deadline. I wonder if you can comment on that.

Mr. Clarke: Sure. With the proposed rule, as you said, Mr. DeLaney, there are, I think, the two major points with this proposed rule. Allowing all owners to have an opportunity to file an extension application within thirty days. I'm sorry...I think it's...our rule says within thirty days of the effective date of the amendment, all owners can submit an extension application. That is one key point. The reason

and the rationale behind that, I believe, is just to allow owners, I guess, one more opportunity to get it right. Whether or not the Board feels at this time that that's still a good idea....I know at the time, we understood that there were many owners out of compliance that would not otherwise get an opportunity to be in compliance -- to let them have an opportunity to get an extension and try to move the legalization process forward at that time. That is one point. I think it was a compromise at the time between the Board members to allow that.

And the second point, as you said, Mr. DeLaney, is to allow multiple extensions. And I believe that also was a compromise, because as the Board members know, proving that good faith and the reasonable efforts, it's a very hard standard to meet. I can say, statistically, many, most of the extension applications that are submitted to the Loft Board, are denied. And it's a process that the Loft Board has. We look at all the information; we look at everything that's presented before us to meet that statutory standard, and we write our Proposed Orders. And it's a very difficult standard to meet. So that is, I guess, one of the compromises.

And also, sometimes it just might take more time to move through the legalization process. There's always something, or there can potentially be something, that just causes a hiccup; that might just take more time than anybody could have foreseen. It might be, just an example, maybe all the tenants in the building are on board with the legalization plan, and it might just be one tenant that's holding out; wants to go to OATH; wants to drag out the process. It's not that the owner hasn't made changes to their plan and tried to engage in conversations and agreements with the other tenants of the building. It's not like the owner is completely dismissive of the conditions that the tenants are in. But it might just be one tenant that's holding out and delaying the entire process.

So I think the compromise was, in situations like that, if the owner misses the date in which they are supposed to be hitting that milestone, for good reason, it shouldn't be that the owner can't get a little bit more time to fall into compliance and move the legalization forward. And I think that was the idea when the Board members were discussing it at that time, to have multiple extensions.

And it's also... the proposed rule also allows not just the Executive Director the opportunity to issue multiple extensions, it's also the staff members. And then, if there's more than two extensions, then it

would have to come before the Board. And if it's the same owner, and it's the same compliance deadline, then it would come before the Board, and the Board members will make the decision whether or not...

A member of the public: Can you confirm that the Loft Board members are actually reading the chat? Because there's hundreds of people in here that this argument and examples just aren't making any sense for.

Ms. Roslund: We see the chat. I see the chat.

A member of the public: What is stopping landlords from actually doing something now? Why do they need an extension? If they have an intention of fixing the conditions in a building, why aren't they doing it?

Chairperson Hylton distorted

Mr. Clarke: Chairperson Hylton, you're still a little bit distorted, but as you were saying, this portion of the Board meeting is not an open meeting for the public to discuss and submit comments. The public will have that opportunity in the future, but this is for the Board members. This is the time set aside for the Board members, each of the Board members, to discuss, openly, their opinions and their views on this proposed rule. And this is not the time for the public to comment or speak on the issue yet. There will be a time again, but right now, this is just for the Board members to express their opinions and their views on the matter.

Mr. Hylton: Stephan, this is Christian Hylton. I want a little more background in terms of how this rule came up, because it didn't come out of a vacuum, and the discussions that took place previously in terms of developing the proposed limit, I believe it was contribution from Board members, including Mr. DeLaney and Ms. Moskowitz and other folks who have been here previously, am I correct? Or am I wrong in that?

Mr. Clarke: Yes, I believe...I'll allow the Board members to chime in, Mr. Hylton.

Ms. Torres-Moskovitz: I'll just say, I'm Julie Torres-Moskovitz. I joined the Board, May 2018. I'm an architect and a tenant. And I remember, this is my memory, and I want to go back, like Stephen said, go back to meeting minutes. Because I remember that this was already, to me, this was already on the table, and I was trying to dissect it when I joined the Board. I didn't understand why there would be... why they would want to all of a sudden give a carrot to every single landlord who's out of compliance. And I understand that carrot-and-stick idea, and maybe some of these, as an architect, ideas, safety for these buildings, they take forever to get through the system. If you can make it go forward faster and in compliance, that theoretically sounds like a good idea.

At the same time, concern for just giving a reward to a bad actor is not good. So, I remember, I feel like I entered it in the middle of the discussion. And I was trying to break it down. I remember with the former Executive Director, I didn't want to offend her, but I kept saying, it's not you, it's the next Executive Director. I don't know who the next person is and if they'll just keep offering new extensions. Because I don't know who they are, and we have to imagine the worst-case scenario and politics. So that's where I stood at that time. Today, I'm liking going back to just the current rule that we had in place before. So that's where I stand. Thank you.

Mr. Clarke: Thank you, Ms. Moskowitz. Are there any other Board members that would like to comment?

Mr. DeLaney: I would comment that the history of the Loft Board is such that there are a number of times that things have either been done or proposed without them being discussed at length by the Board. And my recollection is that this draft, the proposed language that -- frankly, I don't know which is worse when I think about it -- whether it's giving multiple extensions or giving a free bite at the apple to every single owner, regardless of their track record. I think they're both bad ideas. And by the way, the legislature continually, in the last two times the Loft Law was being discussed, rejected extensions in the timetable, as was proposed by the owners. Also, in addition to this rule, to my recollection, kind of just popping up from the staff-- back in 2014, 2015 -- the application for coverage was bifurcated from protected occupant status with no notice to the Board, no public hearing, and no rulemaking. So, I

appreciate your attempt, Mr. Clarke, to kind of explain this from your recollection, but I think it's got a way to go.

Mr. Barowitz: I agree with Chuck. I think it was very important for us, particularly with the last Executive Director, to be as fair as possible to all parties. But I think we ought to go back to the original resolution on this. Let me tell you, it's very hard for me to talk here where I can't quite see myself or some of the other people. I think this is the last comment I'll make today. Sorry.

Mr. Hylton: You know, as the new representative on this, and hearing the various points of view, the over-arching guidance for me is what moves applications most efficiently through the Loft Board and towards legalization. And, this, I believe, in terms of my understanding of it, came up as an improvement on the existing system that was not showing that level of efficiency in terms of moving applications towards legalization. I think having just one extension is also not the answer to that. So, I would look to still have more conversation, discussion, around this rule and see whether it needs tailoring or whether we can grasp in terms of how it could be applied and see whether it will be effective. Because I'm trying to figure out the genesis of this. And the discussion, I know does not come out of a vacuum, and I think it looked to see a remedy to the situation in terms of applications and moving buildings towards legalization.

Mr. Clarke: Thank you, Mr. Hylton. And I understand as well that it might seem like owners are getting another free bite at the apple, but it's... there's a standard that still has to be met. It's not like an owner applies, and we just give them that free extension. That's not how it works.

Mr. DeLaney: But that's part of the problem, as we saw today. And we have a case almost every meeting or two, where, if an owner applies for an extension and it gets turned down, then they file for an appeal to the Board. We had one last month that ran a thousand pages. So my personal opinion is that allowing every owner a free lottery ticket with the chance that they might win something, even if they don't have a lot of good grounds, is just going to swamp the Board in a way that makes no sense whatsoever. So, I think at this point, I'm inclined to suggest that it might make sense, and I'd like to move that the Board consider, going back to the original rule as it currently exists and reject any modification.

Mr. Clarke: Thank you, Mr. DeLaney. Are there any other Board members that want to chime in? I think Mr. Barowitz was speaking.

Mr. Barowitz: Well, I think we'd like to call that question. Can we call it?

Mr. DeLaney: Somebody needs to second it, if that's going to happen.

Ms. Torres-Moskovitz: I'll second it.

Mr. Clarke: So, Mr. DeLaney made the motion. And Julie second....

Ms. Torres-Moskovitz: Yeah. Julie Torres- Moskowitz seconded.

Mr. Clarke: I'm going to allow Chairperson Hylton if he's available to...

Chairperson Hylton: Is anyone hearing me at all? I'm having really big issues here.

Various Board members respond that they can hear him.

Chairperson Hylton: Oh, excellent. I was on the phone with Tina, trying to figure this out -- how I'm going to actually take control of the meeting again. But thank you. Thank you. So, what was the motion? Because I was speaking to someone just now to try and straighten this out.

Mr. DeLaney: My motion is to keep the extension rule as it currently is and to reject the ...take off, take out of the proposed draft rule changes the one-time shot at the moon and the multiple extensions.

Chairperson Hylton: In other words, to keep the rule intact, or the way it is...

Mr. DeLaney: As it currently is on the books today.

Chairperson Hylton: Folks, I just want to understand -- is there anything else, except for those changes that Mr. DeLaney is talking about, that are good in the proposed rule? Meaning, are there language changes that were there that we need to keep or are we just going to go...

A member of the public: He said to keep the rule intact.

Chairperson Hylton: I'm sorry. I'm sorry, sir. I'm on the Board. You're not on Board, and I'm asking you please...

A member of the public: Excuse me.

Chairperson Hylton: I've just asked the Board members for clarity of what their motion is. And is it just to completely disregard all changes that were being proposed here or just those things that Mr. DeLaney was mentioning before? Because there may be some other stylistic stuff that was in this rule. Stephan, maybe you can clear that up. Is that in the motion?

Mr. Clarke: You mean, Mr. DeLaney's motion?

Chairperson Hylton: Yes

Mr. Clarke: I don't want to speak for Mr. DeLaney, but to summarize what he just said, it just seems like he wants to reject the proposed rule and also the NYCLT suggestions and just leave the current rule as-is on the books.

Mr. DeLaney: That's correct. You distributed --or the Board, the staff distributed-- a document, which is described as current Loft Board rules for 2-01(b), which is the extension piece. And then it also distributed proposed rules that are the staff's recommendation for changing it. My motion is to let the current Loft Board rules for section 2-01 stand as they are without any changes.

Chairperson Hylton: Thank you. I just needed clarity on the motion. Thank you very much, Mr. DeLaney. And did I hear a second on that motion?

Ms. Torres-Moskovitz: Yes, I seconded it. This is Julie Torres-Moskovitz. I second the motion.

Chairperson Hylton: So, we're recording this motion as keeping the current rule as it stands and rejecting all changes, correct?

Mr. DeLaney: Yes, and I would point out to Board members that there already is provision for extensions for new owners or owners who contested coverage, and the coverage does not...and the

coverage decision is not made at OATH or by the Loft Board until after the deadline has expired. Those owners would still be allowed to apply for an extension.

Chairperson Hylton: Okay. Any other comments on the motion? Mr. Rivera, please poll the Board members. Ms. Rivera, are you available to poll the Board members?

Ms. Rivera: Mr. Barowitz?

Mr. Barowitz: Yes

Ms. Rivera: Mr. Roche?

Mr. Roche: Yes

Ms. Rivera: Mr. Hernandez?

Mr. Hernandez: Yes

Ms. Rivera: Mr. Hylton?

Mr. Hylton: No

Ms. Rivera: Mr. DeLaney?

Mr. DeLaney: Yes

Ms. Rivera: Ms. Torres?

Ms. Torres: Yes

Ms. Rivera: Ms. Roslund?

Ms. Roslund: Yes

Ms. Rivera: Ms. Rajan?

Ms. Rajan: Yes

Ms. Rivera: Chairperson Hylton?

Chairperson Hylton: Yes

Ms. Rivera: Eight in favor; one against.

Chairperson Hylton: Thank you. The motion carries, meaning that there will be no change to the rule in this round of rule-revision. This piece, this rule on extensions. Mr. Clarke, does that make your life easier?

Mr. Clarke: Yes, it does. Now we can get on to the exciting stuff.

Chairperson Hylton: Right. As Mr. DeLaney...he loves this stuff. Go ahead Mr. Clarke.

Mr. Clarke: Okay, so the next portion of the rulemaking that we're going to discuss today, we're picking up with the OATH comments to our proposed rules. And we finished most of....We went through most of the comments from OATH. Right now, with the chart that you have, the other sheet that we have is a chart that compares OATH procedural rules with the Loft Board's procedural rules. And again, the reason why we're comparing OATH's procedural rules with the Loft Board's procedural rules is because in the proposed rules (sic),1-27 says,

“Where OATH conducts a hearing, and the Loft Board rules conflict with OATH's procedural rules, OATH's procedural rules or practice will apply unless otherwise provided by law. Where there is no old rule or practice regarding procedural issue, the Loft Board's rules will apply.”

So, we are discussing this portion....Mr. DeLaney wanted to just highlight any differences between OATH's procedural rules and the Loft Board's procedural rules and find out if.... to encourage discussion and maybe make modifications to our rule if it's needed. If not, then we can just adopt OATH's procedural rules when they don't comply with the Loft Board rules.

So, picking up the discussion, I won't go through the sections that we went through last month, but we did get to... and this is the sheet that, at the top of the sheet, it says, OATH Rule, Loft Board Rule, Difference OATH Language, and Loft Board Language. And we did get to section 1-25, which is Amendment of Pleadings. And we'll pick up from 1-25, and this is the Amendments to the Pleadings.

OATH requires pleadings to be amended twenty-five days prior to the start of trial, unless there's consent from the parties or if approved by the ALJ. The Loft Board rules allow pleadings to be amended at any time, up to and including the first day of the scheduled conference. So, there is a bit of a conflict here. OATH requiring that twenty-five days to amend any pleadings and the Loft Board saying that you can amend the pleadings at any time.

And so I asked... I don't really handle the amendments when they come in for the applications, but I asked some of the staff members here, when we do get amendments after we have an application that we send to OATH, when we do get an amendment to that application, what typically happens? And I

was told that, typically, once we get that amendment (and) it's already at OATH, (we) just send that amendment to OATH, and we wait for the specific time period for the answer to come in. If we do get an answer to that amendment, we send it over to OATH. If not, then OATH pretty much determines how they're going to proceed with the hearing that's already in place.

So, I'm not sure, in actuality, if there will be a conflict. If OATH simply just takes the amendment and makes the determination if they want to amend and include any type of amendments into the hearing that's already in place; or if they are strictly adhering to the twenty-five- day period that they have for their amendments. But this is an issue that might potentially cause a conflict, and we would like to hear the Board members' opinions on whether or not they're fine with OATH's procedures or amendments that come in, if we want to just basically...

Chairperson Hylton: Mr. Clarke, this is Renaldo. So, what do you think is the rationale behind OATH's twenty-five-day requirement prior to the start of the trial? Is it just for time for parties to consider or record?

Mr. Clarke: I think that's what it is. They just need time to consider the amendments and make their decision.

Chairperson Hylton: Do you think that's not reasonable?

Mr. Clarke: I don't see a problem with it. Staff members discussed it with the other staff members, and we don't see that as being unreasonable. But the Loft Board's rules seem to be a little bit more generous, allowing an amendment to take place at any time. So, are there any comments on this procedural aspect? OATH requiring twenty-five days prior to the start of trial? Unless there's consent to the parties or...

Chairperson Hylton: I would ask the Board members if this is not something that the Loft Board may consider reasonable to adopt from OATH? Adopt that principle in its own rules? Would it make sense that we have this requirement also in the matter of notice to people?

Ms. Roslund: Is there any reason not to? Can we think of a reason not to?

Chairperson Hylton: I can't think of it. I think this is a reasonable requirement, that you amend your pleadings and give time for other people to consider. You couldn't at court, actually.

Mr. DeLaney: I was told on this, and I emailed Renaldo and Acting Executive Director Lin prior to doing so; but I took the very helpful twelve pages, or however many pages it is, that were created by Mr. Clarke and Mr. Argov; I deleted the different columns that constituted the comments and analysis from our staff; and Acting Executive Director Lin agreed that, with that column taken out, so that all that was left was the OATH rule, the Loft Board rule, numbers, the OATH language, the Loft Board current language, and the Loft Board proposed language, (that what I wanted to do would be okay). I circulated that to the attorneys who represent tenants.

I also sent a copy of that redacted document to Mr. Hylton so that he could see if he could get some feedback from the attorneys that represent owners, because in procedural stuff, I think the most important thing is that it's a level playing field. Everybody knows the rules. And overall, one attorney who got back to me, who (wanted) to remain anonymous, said, and I quote, "It's heaven being at OATH compared to housing court, or even civil court." On this particular point, the feedback that I got is that, as it says, the OATH limitation is twenty-five days prior, unless the parties consent, or approved by the ALJ. And apparently, that leaves a lot of maneuvering-room. So, my sense is we're okay with this.

Heather, you raise a very interesting question, which will come up again, shortly, with regard to, if there are places where we think the OATH procedural rules are good, or maybe better than ours, should we incorporate some of their ideas into our rules, in case there does come a day that we start doing hearings again?

Mr. Clarke: Thank you, Mr. DeLaney, and thank you, Ms. Roslund. Those are good points. And, of course, if Board members, in going through these documents, if there is something that they feel might benefit Loft Board rules, then definitely make note of it, and the staff will take note of it, and we'll try to work as best we can to prepare something that is satisfactory to the Board members.

Chairperson Hylton: If I understand this right, Mr. Clarke, we are looking at replacing... I'm sorry, I don't want to jump to conclusions here....The consensus of the Board here is that this piece of language from

OATH should just be adopted in our rule. Is that where we are at right now? There is consensus? Should everybody agree, you can just take that language verbatim and put it here in (h)? In our 1-06(h)?

Ms. Torres-Moskovitz: Chairman, I think Heather was saying that she wanted to ask the staff, do you see conflict? I'd like to hear back from Tina and the staff on...

Chairperson Hylton: On this piece, though, before us. I'm talking about the piece before us.

Ms. Torres-Moskovitz: Okay

Chairperson Hylton: Just this piece. I got it Julie, I'm just saying this particular piece, if we could...if we want to take this piece and just adopted it into our 1-06(h). That's what's before us right now.

Mr. Clarke: Right. So, do the Board members want to take this language from OATH, and make it part of the proposed rule?

Chairperson Hylton: I'm just saying if the only difference is that OATH requires this twenty-five-day prior knowledge, and we all agree that might just be a good idea....With the language, unless parties agree or agreed upon by the ALJ, it may be something that's a reasonable accommodation for our rules, should we be doing this in the future. I say we, meaning the Loft Board.

Ms. Torres-Moskovitz: I was thinking there might be a little more research or back and forth on that. Speaking from experience with where we, you know, sometimes there's like quick date changes that happen. In my case, I'm not sure what the twenty-five days will do to the Loft Law Board, if we're calling for twenty-five days instead of allowing for changes faster.

Chairperson Hylton: So, there are two ways, Julie, in which....My reading of this, there are two ways in which that could happen. Less than twenty-five days. As Chuck pointed out, either the parties agree, or by leave from the judge, from the ALJ, from the presider. So, do you think...

Ms. Torres-Moskovitz: I'm sorry, I missed the part, if parties agree to something less. That seems fine. I just know in my own experience, that is what...

Chairperson Hylton: Right, or even the ALJ might just...can do that, can override it. So, in the Loft Board, if that becomes part of the Loft Board rules, then whoever is the presider at the Loft Board, if we should have our own tribunal, can make that decision also. Without anyone's consent. So, there's flexibility here, as Chuck was saying.

Mr. Clarke: And because of that flexibility, I don't want to completely speak for Mr. DeLaney, but it didn't seem like Mr. DeLaney had taken issue with OATH's rule. And if the Loft Board wouldn't have a problem with accepting OATH's procedural rule for the amendment....

Mr. DeLaney: That's a correct assessment.

Mr. Clarke: But the issue now is whether or not... I mean, we don't have to... We can decide that now, but I don't know that it's a necessity to incorporate that in our proposed rules, unless the Board members see immediate benefit to doing so at this time.

Chairperson Hylton: Actually, you're actually right, Right? Because where there's a conflict, their rules apply, right?

Mr. Clarke: Yes

Chairperson Hylton: So, there's no immediacy in incorporating it. However, remember, we just had a discussion a moment ago. If we find something that's in OATH's rules, that may benefit our own rule, wouldn't we want to do that? That was a question here. We can leave it alone, because it seems that we're not worried about it as it is right now. But if the language benefits...makes our rule better, why not adopt it? That's the question for the Board members.

Mr. Clarke: Right. That's correct. Are there any other comments from the Board members? Any other discussion on this? If not, then, I know we have a little bit of time. Maybe we can table this. It's hard to get...

Chairperson Hylton: Do we need to table it, Mr. Clarke?

Mr. Clarke: I don't think so. I don't I think any of the Board members are...

Chairperson Hylton: Are we not... It seems to me by silence – if silence is consent -- we could probably incorporate this in our own rules and just make a change. We can change this section 1-06(h) to reflect...

Ms. Roslund: 1-06(h)?

Chairperson Hylton: Right. This is page what? Page three...four of the handout that we have, Heather. What I'm saying here, and correct me if I'm wrong, Mr. Clarke, but we can amend... if we can take OATH's language and make it our language in 1-06(h), would that be acceptable, right now, to the Board members? If not, we can move on. We don't have to do anything, as you say. There's not much of a conflict, that's what I'm trying to say.

Mr. Clarke: Right

Chairperson Hylton: But I need the Board members to speak up or say something, if you concur.

Ms. Rajan: It seems totally fine to me.

Mr. Clarke: I'll make note to incorporate OATH's language into our proposed rule.

Chairperson Hylton: For the Amendment of Pleadings.

Mr. Clarke: Yes, correct.

Chairperson Hylton: Without objection, anyone? I hate to sound like a judge, but so ordered. All right, thank you.

Ms. Torres-Moskovitz: I'm good with it. I think people's reluctance to speak might be maybe they're like me. I'm open. I got the document open with the chart. I see all these little...I see 1-06; I'm not seeing (h). I see (g), I see...

Chairperson Hylton: But if you look at the handout. Are you looking at the handout? I'm not sure...

Ms. Torres-Moskovitz: I'm on the rule comparison, OATH and Loft Board.

Chairperson Hylton: Yeah, right. And on page four of it. It's not numbered, but if you go into the fourth page, you have that comparison of 1-06(h) to 1-25 of the OATH rules.

Ms. Torres-Moskovitz: Oh, I found it. Everyone else got it? Anyway, from all we're saying, I'm fine with where you're headed -- that it makes sense to incorporate it. As long as there's the flexibility that if parties agree for something less than twenty-five days.

Chairperson Hylton: And/or the judge says it. Agrees. If one party makes a reasonable, compelling case to the judge, and the judge agrees, he can do it. But otherwise, in normal proceedings, it's done according to OATH – twenty-five days prior. And I think that's reasonable, even in our rules.

Mr. Clarke: Right. I think so. Procedurally, what we would end up doing is incorporating that language into the proposed rule, which we have as 1-25(a). We would just change that language in 1-25(a) into...

Chairperson Hylton: The opposite way around.

Mr. Clarke: Sorry?

Chairperson Hylton: The opposite way around. You want to change 1-06(h) to incorporate the 1-25 language.

Mr. Clarke: Right, exactly. I'm sorry. Yes.

Chairperson Hylton: Right. Thanks.

Chairperson Hylton: Mr. Clarke, I'm going to stop you from going any further. Unless, you think we could do anything in two minutes.

Mr. Clarke: I think...Okay. I wanted to get through... The next two are very difficult. I think they would need a little extra discussion. But there are two that I think we can finish in eight minutes if we want to use that time. But if not, we can pick it up next month.

Chairperson Hylton: Okay, Board members?

Several Board members agree to proceed.

Chairperson Hylton: Let's go for it. It's late already. Which ones are you talking about?

Mr. Clarke: If the Board members can go through the document and get to the OATH rule, 1-46.

Mr. DeLaney: Evidence and Trial?

Mr. Clarke: Correct

Ms. Roslund: On page 25?

Mr. Clarke: Yes. So, the Evidence at Trial, basically, the OATH rules and the Loft Board rules, they seem to be... they are very similar in that the traditional Rules of Evidence do not apply at OATH. And our rules are basically the same thing...are saying the same thing. So, unless the Board members have any reason to object to the way that OATH has worded this, then I can just note this is a non-issue.

Ms. Rajan: I was just wondering why you wanted to skip all the way to this one and skip all the ones in between, if there was nothing to...

Mr. Clarke: The ones in between are probably going to require much more discussion than we have time for.

Ms. Rajan: Oh, I see. Yeah, great. Let's do the easy ones.

Mr. Clarke: Okay, are there any comments?

Ms. Roslund: So, it's really the difference (between) the word technical and the word formal?

Mr. Clarke: Yeah, that's pretty much it. And they're both basically saying that the formal or technical Rules of Evidence do not apply during the full hearing. Meaning that they're more relaxed with the rules of evidence at the OATH hearings.

Chairperson Hylton: So yeah. In one rule it says formal, and in one rule it says technical, and everything else seems to be the same, correct? Everybody agree that formal and technical are the same things?

Ms. Torres-Moskovitz: I agree. That sounds good.

Chairperson Hylton: Okay. Thank you. Mr. Clarke move on to the next.

Mr. Clarke: The next one is 1-49. Public Access to Proceedings. There's really no conflict here, that we have seen. It basically says the Loft Board rules are silent regarding public access. So, the hearings in OATH has a rule that says, other than a settlement conference, all proceedings are open to the public. So, there's really no conflict. But since the Loft Board rules are silent, we would be accepting what the OATH rule says here. In that other than settlement conferences, anybody can come to... the public can come to the hearings, which we think is fine.

Mr. DeLaney: As it was explained to me, if say, when (a member of) the public shows up, the one thing that the OATH judges tend to do is just make sure that the person is not a potential witness, who should not be in the room, except when they're being called.

Mr. Clarke: Yes. Makes sense.

Ms. Roslund: As would happen with any legal proceeding or trial, yeah?

Mr. DeLaney: One would hope, yeah.

Mr. Clarke: So, do any Board members have any issues with that? If not, then there really is just one more easy one, and then we can pick up the next Board meeting with the two issue that might generate more discussion, lengthy discussion. If there are no comments, I'll just bring your attention to 1-51, which is just for the transcripts. It's basically, the language in OATH's rules and the Loft Board rules allow for transcripts --- for the public to get a copy of the transcripts. The only difference is, the Loft Board rules specify that, in order for the public to get a copy of the transcript, they have to pay a fee. And OATH is silent about any type of fee. But both of them are saying the public can have access to the transcripts.

Mr. DeLaney: And as this was explained to me, OATH does not charge for digital files. They make a transcript anyway, as part of the record. So, if one of the parties wants a copy of the transcript, as long as it's digital, there's no charge. Obviously, the Loft Board's rules were written before that was even an option. But I think we should do the same thing.

Ms. Roslund: So, Chuck, you're saying the fee likely went to covering the cost of paper or whatever it would be to physically make a copy of something? The time and material required to do that?

Mr. DeLaney: Right. Whereas now, if the transcription service does it for OATH and sends it to them in a digital file, it takes somebody a minute to make a copy and send it to someone requesting (a copy).

Ms. Roslund: Do FOIL requests have a fee associated with them? Do other... trying to compare it to other information class...

Chairperson Hylton: Twenty-five cents a page. Five cents? Ms. Rivera, how much is it?

Ms. Rivera: Twenty-five cents a page. But not digital. We don't charge for any digital.

Chairperson Hylton: So, we don't charge for digital. So, nothing here, right?

Mr. Clarke: Right. So, I think that covers it. At the very bottom of that page, you will see OATH rules 1-22 and 1-24. And we just put that there for informational purposes. They concern the filing of petitions and answers. But since we handle that portion of the hearing here at the Loft Board, then it's a non-issue for what OATH does, because we take care of that before we even send it to OATH with the filing of applications. So those rules at the bottom are just for informational purposes.

And I think that's all we have time for. Like I said, there are two more issues that will probably garner more discussion at the next meeting. So, we can take care of that quickly. Not quickly, but we'll take care of that. And then once that's done, we'll be completely finished with OATH's comments to our proposed rules. And then we can focus the rest of our attention on the Law Department's comments to our proposed rules. And we're making progress.

Chairperson Hylton: Mr. Clarke, that was great. Thank you. I wanted to, right now, maybe just comment on the fact that we do need to have two additional Board meetings just focusing on rules, so we can expedite this process a little bit. And I think Ms. Lin will do some polling among Board members for early March and for April. Please, if you can, we do need a quorum to have these meetings. So as much as possible, please respond to her as soon as possible, so she can set this up.

Ms. Torres-Moskovitz: I wanted to add one thing, if I could, just generally, that it's good to see so many people from the public joining. It gives me the idea that, I mean, we haven't really talked about it in a while since the pandemic hit. But this seems, you know, sometimes in the past, the Loft Law Board would do...staff would do a town hall or informational meeting. And I feel like this shows people, the public can find this maybe easier than coming down to a room somewhere near City Hall. So, it seems like this could be viable for a future town hall just for transparency on, you know, when the rules are going to be published, or different kinds of issues that affect tenants and landlords. They found it. Thank you.

Chairperson Hylton: Julie, I thank you for those comments, and I actually do want to, on that, I just want to say to the members of the public, tenants, whoever was joining this meeting, the prior meeting, and got kicked off or got disenfranchised in any way, again, I apologize. I take full responsibility for it. We didn't anticipate it, and GoTo Meeting...This forum, I guess, this mechanism, we have to look at something different so that it doesn't happen again. But again, I'm sorry that it kept people waiting for so long, and I'm sorry that it did create all this anger and so on. But I appreciate everybody sticking with it, and I thank the Board members for sticking with it and coming and having such good debates. I think this is great. Certainly, the pandemic has opened our eyes to so many different means of communication and transparency. So, this is all good now, and I just want to thank everybody for their patience with us. Board members before I do my last comments....

Mr. DeLaney: Renaldo, I'd just like to say that I think that any anger that was expressed was not directed at you or at the Board, but rather reflects lots of tenants who've had a tough time in their buildings and they're concerned about the extension or the like... I don't think it was at you.

Chairperson Hylton: Sure. Well, the debate among the tenants, it turned out fine, right? Back door, it worked. So, I thank you, and I got it. I really got it. Any other Board members want to say something? I do have a closure.

Chairperson Hylton: Okay, so before we close, I have two announcements, actually. Today will be the last Board meeting for Mr. Hernandez. Robinson Hernandez, our Manufacturing Representative. Mr. Hernandez, are you still there?

Mr. Hernandez: Yeah, still on.

Chairperson Hylton: There you go. Okay, good. Mr. Hernandez joined us back in December of 2016, and at that time, the Loft Board was without the benefit of a Manufacturing Rep for many years prior. I want to express my thanks on behalf of all our fellow Board members, as well as on behalf of the city of New York to Mr. Hernandez for his contributions over the years to the operations of the Loft Board. He put his substantial expertise and experience to work as a public servant, and I can tell you, Robinson has been a public servant with the city for a very long time. Certainly, we've known each other for fifteen plus years. And we owe him a debt of gratitude for his time on the Loft Board. So, we wish him the best in his future endeavors, and he will have an opportunity to talk about that, but I hope our paths will cross in the future.

Mr. Hernandez: I sent a note out to everybody. So, thank you so much. Appreciate it. You have a lot of...

Ms. Roslund: Thank you. Thank you. We're going to miss you.

Mr. Hernandez: Thank you. Likewise, likewise. I'll send a note out to everyone soon, so I can get... I know we've run over. Sorry.

Chairperson Hylton: Thank you, Robby. Thank you for bringing the debate on the extensions to an end. I appreciate it, before you left. That was an agreement, right?

Mr. Hernandez: Right. Yeah.

Mr. Clarke: Thank you, Mr. Hernandez.

Chairperson Hylton: Take credit, take credit.

Mr. Hernandez: Sure. You're welcome.

Chairperson Hylton: Ok, the mayor has decided on a replacement for Mr. Hernandez, and that person is Kei -- I'm going to say this, hopefully I say it right -- K-e-i, and last name is H-a-y-a-s-h-i. Hayashi. To succeed Mr. Hernandez, and she will be joining us as a Manufacturing Representative starting at the

March 18th meeting. Maybe even earlier if she...She may join us before, if we have a rules meeting, and she's able to join, she may come. But officially for now, it's the 18th of March.

Mr. DeLaney: Renaldo, can you give us her name again, please?

Chairperson Hylton: Yes. K-e-i. I say Kei. I hope I got it right. I haven't spoken to her. I don't know the pronunciation. But it's K-e-i, and the last name is H-a-y-a-s-h-i. And I pronounce that Hayashi.

Mr. DeLaney: Thank you.

Chairperson Hylton: Thank you. So, I need to go shovel my snow. This will conclude our February 18, 2021, Loft Board meeting. Our next public meeting will be held on Thursday. So, I'm saying this, because I don't know if we're going to have a rules meeting earlier. But we are going to poll you for a rules meeting. But the next official Board meeting at which we'll discuss cases will be March 18, 2021, at 2pm. So, the governor's suspension of the in-person meeting requirement for the Open Meetings Law is in effect until February 26, 2021. So, at this point, we don't know whether the next Board meeting will be in person or via teleconference. But as I said before, if you want to play a lottery, you can probably bet on that one-- that it will be extended. So, Board members, we will update you as soon as we know the format of our next meeting. And we will also send that information out to a Loft Board Listserv and post that information on the Loft Board's website. Thank you again. Loft Board Members, please remember to sign and email your attendance sheet. Thank you and have a safe evening.