



Transcript of the April 15, 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: 2:02 PM

1 **Chairperson Hylton:** Good afternoon ladies and gentlemen. My name is Renaldo Hylton, the
2 Chairperson Designee of the New York City Loft Board. Welcome to our April 15th, 2021, public meeting.
3 This meeting is being held via teleconference pursuant to Governor Cuomo's Executive Order 202.1 due
4 to the coronavirus emergency.

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

12 We have a new member joining us today, Kei Hayashi, as well as the new Executive Director, Kevin
13 Schultz. Kei Hayashi is joining the Board as the representative of manufacturing interests. Kei is happy
14 to join the Board. She spent twenty years in federal and New York City government, focusing on
15 economic and industrial manufacturing policies. In 2010, Kei formed a real estate and economic
16 development firm. She is on the Brooklyn Navy Yard Board; still a part of the New York City industrial
17 community; and lives right here in Brooklyn.

18 Kevin Schultz is joining the Loft Board as the new Executive Director and General Counsel. Kevin Schultz
19 is admitted to practice law in New York since 2006. He's a native of central Illinois and migrated to New
20 York City, his interest in law sprouting from his fascination with New York City itself. He chose a legal
21 career specifically to become a New York City government attorney, and Kevin interned with the New
22 York Law School Center for New York City Law during all three years of his law school career, writing for
23 City Law, City Land, and City Admin. Upon graduating, Kevin received the Center's postgraduate
24 fellowship, where he worked full-time for over a year researching and reporting on significant land use
25 and municipal law developments in the city. Kevin's work with the Center for New York City Law
26 cemented his interest and enthusiasm for city government, and in 2007, Kevin began as an agency
27 attorney with the New York City Department of Buildings Office of Internal Affairs and Discipline. He
28 worked with IAD for fourteen years, ultimately serving as the unit's Deputy Director and also serving as

1 Acting Director on some occasions. Kevin is tremendously enthusiastic to now be working with the New
2 York City Loft Board and its staff on the Board's important, unique, and challenging work, as you all
3 know. So, I just want to say a special welcome to both our new Board members. Ms. Hayashi, can I call
4 you, Kei?

5 **Ms. Hayashi:** Please do. Thank you.

6 **Chairperson Hylton:** Thank you. Welcome, Kei and welcome, Kevin. Kevin, we know each other and
7 have been working together now for the past seven years or so. So, Kei, would you want to say anything
8 at all?

9 **Ms. Hayashi:** No, just thank you very much for welcoming me, and I hope you'll all have some patience
10 as I learn the procedures and the rules. And I look forward to working on these important issues. Thank
11 you.

12 **Chairperson Hylton:** Thank you. In that regard, please have some patience with me, too. You will hear
13 from Kevin soon. So, the first order of business is a vote on the January 21st, 2021, minutes of the
14 meeting. Are there any corrections or comments on those minutes? Mr. DeLaney, Go ahead, sir.

15 **Mr. DeLaney:** Thank you, Mr. Chair. There are not too many. On page 8, in the middle of the page,
16 we're talking about one case, 475 Kent, but the text reads, Mr. DeLaney moved to accept these cases.
17 And in the following sentence, Chairperson Hylton asked, is there any comment on the cases? In both
18 cases, that should be singular rather than plural.

19 **Chairperson Hylton:** You're saying, this should be, accept this case?

20 **Mr. DeLaney:** Correct. In two places.

21 **Chairperson Hylton:** I seem to remember that correction. Thank you.

22 **Mr. DeLaney:** On page 11, middle of the page, first paragraph on self-certification. The last sentence
23 begins, the summary is go due to Ms. Roslund and Ms. Torres-Moskovitz. And it should be, the
24 summary is good due to Ms. Torres (sic) and Ms. Torres-Moskovitz.

1 **Chairperson Hylton:** Acknowledged. Thank you.

2 **Mr. DeLaney:** And one more, and a question, page 13, two-thirds of the way down the page. Again, we
3 were talking still about self-certification: I agree. And obviously, irregular construction of residential
4 units. That should be in regular construction of residential units. The point being that in the loft world,
5 we're dealing with construction in occupied units rather than in the real world, where generally new
6 units are built and are vacant until the Certificate of Occupancy is issued. And in the next paragraph, Ms.
7 Roslund, line three, there's so much minutia -- I think minutia needs an e at the end. And that's it. Other
8 than that, there is reference in the minutes on page 4 to my asking if there was any update on the
9 executive session we held in November on a pending legal issue. So, I'm just asking again if there's
10 anything to move forward on.

11 **Mr. Schultz:** Yeah, we reached out to the Law Department on that case this week and were told we'd
12 hear back from them this week. And Tina, if there's an update I missed, let me know. But as of today,
13 we haven't heard back, is that correct? Okay, so we...What's that?

14 **Mr. DeLaney:** The week's not over.

15 **Mr. Schultz:** Exactly. Exactly. So, they still have time. Absolutely.

16 **Chairperson Hylton:** So, an update is imminent, you're saying, Kevin? From them?

17 **Mr. Schultz:** Yes, yes. And to the extent that doesn't come, we will be politely asking them if and when
18 it's coming.

19 **Chairperson Hylton:** Okay, and any plan for circulating anything from the Law Department? Any
20 information for Board members?

21 **Mr. Schultz:** When we see it, it's possible we would circulate the email for individual comment and talk
22 about whether another session is necessary; and presumably vote on that at the next meeting. If we
23 need to vote on it.

1 **Chairperson Hylton:** Okay. Great. Thank you. Are there any other comments on the minutes? Thank
2 you, Mr. DeLaney.

3 **Mr. DeLaney:** You're entirely welcome.

4 **Chairperson Hylton:** Okay, absent any comments, Ms. Rivera, could you please poll the Board members.
5 Oh, I'm sorry. I need a motion. Mr. DeLaney, and Mr. Barowitz is a second. Please poll the Board
6 members.

7 **Ms. Rivera:** Mr. Barowitz?

8 **Mr. Barowitz:** Yes

9 **Ms. Rivera:** Mr. Roche?

10 **Mr. Roche:** Yes

11 **Ms. Rivera:** Ms. Hayashi?

12 **Ms. Hayashi:** Yes

13 **Ms. Rivera:** Mr. DeLaney?

14 **Mr. DeLaney:** Yes

15 **Ms. Rivera:** Ms. Roslund?

16 **Ms. Roslund:** Yes

17 **Ms. Rivera:** Ms. Rajan?

18 **Chairperson Hylton:** Ms. Rajan? I think we're...Something is with your sound, Ms. Rajan. Could you...For
19 the record, she's indicated yes, but I'm still not hearing you. Is anyone hearing Ms. Rajan?

20 **Various Board members:** No

1 **Chairperson Hylton:** So, just check your sound. Try again, Ms. Rajan. No. You may want to just double
2 check your sound. But we've indicated that you're saying yes.

3 **Ms. Rivera:** Chairperson Hylton?

4 **Chairperson Hylton:** Yes

5 **Ms. Rivera:** Seven in favor

6 **Chairperson Hylton:** Oh, I just want to also...

7 **Mr. Barowitz:** Mr. Chair, is there any reason why we didn't get the March minutes?

8 **Chairperson Hylton:** It's not complete yet. Terry? Is Terry on?

9 **Mr. Barowitz:** It's just difficult to go back and try to remember what was going on two months ago.
10 That's my only point.

11 **Chairperson Hylton:** Yeah. So just bear with us. It's rough, I understand. But remember, we will send it
12 to you a week in advance. You just have to trust me. Thank you. Okay, I did forget to mention one thing.
13 Ms. Nicole Oddo, who is our public member, was supposed to join us today. Did I mention that she was
14 not going to be able to do that today because of a conflict? So, I know I'd announced that last time, that
15 she'll be joining the Board this month. But that is not going to be the case. But she will be with us next
16 month.

17 **Mr. DeLaney:** Renaldo, can you give us any kind of thumbnail biography?

18 **Chairperson Hylton:** Sure. Kevin?

19 **Mr. Schultz:** Oh, Ms. Oddo? I think we'll get a proper biography when she's here. But she is an
20 accountant. She's worked with nonprofits a good part of her professional career. The firm she works
21 with does accounting, I believe, exclusively for nonprofits. That's their niche. And they do it in a way that
22 makes it doable for nonprofits. Beyond that...That's what came to mind right away. There's much more.

23

1 **Chairperson Hylton:** Okay, no problem. Actually, Kevin, I wasn't suggesting you should remember...
2 We'll ask Ms. Oddo for her bio, and we'll forward it to the Board members in an email. Is that okay?

3 **Mr. DeLaney:** That'd be perfect. Thank you.

4 **Chairperson Hylton:** She's a member of the Board already. So, she'd also be that on that email.

5 **Mr. Barowitz:** Okay, I just want to make something for the record, even though it's certainly out of our
6 jurisdiction. But there are two members of this Board that have any history of loft living. And I think two
7 out of nine is really not the right number. But of course, I have no jurisdiction over this. But I just want
8 to make this clear, that I feel thusly. Thank you.

9 **Chairperson Hylton:** Thank you Mr. Barowitz. Okay. So, the next item on the agenda is Mr. Schultz's
10 report. Mr. Schultz, could you go ahead and make the introduction and do your thing? Thank you.

11 **Mr. Schultz:** Thank you, Chairperson. I want the first thing I say to be expressing my appreciation for
12 the Loft Board staff. They deserve the compliment publicly, because for the last year, they have been
13 working on the Loft Board's important work without an Executive Director. And the Loft Board's work is
14 challenging in the best of circumstances, with the most available resources, and they have successfully
15 moved along the Board's business. And some of the folks you see on these meetings, but a lot of them
16 you don't, so both the ones who are on this meeting and the ones that aren't for the last year have just
17 been doing an amazing job. And then I showed up, and they have so kindly, and patiently, and diligently,
18 and skillfully worked to onboard me. So, I would be remiss if I didn't start with that appreciation and that
19 recognition that they all deserve. They are a team in the truest sense, and I'm honored to join that team.
20 I really am. We all owe them a lot for their dedication in the last year. And in the coming year, as I know
21 we'll all see.

22 I also want to thank everyone here, the Board members, in advance, for helping me make this transition
23 onto the Loft Board, and I'll be relying on your expertise as we go forward. I've spoken with most of you
24 already, one-on-one, which was wonderful and enlightening, and I look forward to more one-on- one
25 conversations, as much as you'll have me. And from that, and from speaking with the Board staff, and
26 joining other public meetings, and listening to these meetings for some time, even with all that, it's

1 probably too early to have a clear vision of exactly what the goals and priorities would be while I'm here,
2 but I certainly can identify a few things I do want to bring up. And one of them, that we'll be talking
3 about a good amount today, is rulemaking. I won't be able to claim much credit for the victory for that,
4 but we're very close to finishing the rulemaking. And so that will be a big milestone that I'm just glad to
5 have been here for. But the credit will go to all of you here before me.

6 Another item that I want to make sure I mention, because I've heard it so many times, is enforcement.
7 Enforcement is one of the tools that moves us toward our final goals of legalization. It also helps keep
8 people safe and healthy. And so that is something that was identified to me several times as something
9 to work towards. Being ever more effective in.

10 Two more notes to that point. Another one that I've heard about a few times is just our public face and
11 our accessibility to our constituents, tenants, landlords. And amongst those things, a lot of that's already
12 in place. The website is very good. I think our processes and forms are excellent. The rulemaking, itself,
13 is in that direction. We're trying to make it simpler for people and more accessible. But certainly, letting
14 people who need us know we're there will always be a priority.

15 And the last priority is so evident, but I'd be a fool not to mention it. It's the legalization itself. It's getting
16 these buildings across the finish line. It's easier said than done, but with the things I mentioned, and I've
17 heard about so many others, we're going to get there with these buildings. And maybe we put ourselves
18 out of business by successfully transitioning all the buildings, and then maybe we'll get more customers.

19 That's all by way of introduction. Other than that, to say I'm very honored; I'm very excited; I'm very
20 enthusiastic. And I look forward to this meeting and many, many others. From there, I'll go into the
21 normal stuff you hear about from the Executive Director.

22 Due to the ongoing public health crisis and in accordance with the Governor's Executive Order 202.1,
23 the suspension of required, in-person Board meetings has been extended through May 6th, 2021. That
24 doesn't tell us much about our next meeting yet, so stay tuned for what happens with our in-person-
25 versus-virtual meetings.

26 Revenue. The unofficial Loft Board revenue from March 2021 was \$13,150.

1 In the month of March, we issued two violations. On March 19th, 2021, one violation was issued at 517-
2 525 West 45th Street, unit 3C, here in New York, for no heat -- New York, New York, Manhattan -- for no
3 heat. March 29th, one violation was issued at 83 Meserole Street, that's also known as 132 Leonard, in
4 Brooklyn, for no gas and partial electricity.

5 And there's one litigation update, and that is a case...it's a decision in a case, *Amicus Associates LP*
6 *versus the New York City Loft Board*. And in this case, the owner had filed an Article 78 challenging the
7 Board's determination from September of 2019 in a Loft Board Order. The Order supported the then-
8 Executive Director's denial of an owner's second request for an extension related to code compliance
9 deadlines. And the court here dismissed the owner's petition and found that the Loft Board's denial was
10 rational. The owner had failed to demonstrate the circumstances required under the statutes that it was
11 beyond his or her control and in good faith. And the court also denied the owners request regarding...
12 There was an argument by the owner that the Loft Board Executive Director could issue multiple
13 extensions, and that argument was rejected by the court as well. And also, the court rejected the claim
14 that this Board had improperly discussed the matter in an executive session. There was no evidence of
15 the executive session that was alleged. And the court finally determined that the rules, as we have them
16 written, are not... I'm sorry, let me rephrase that...The Board's decision was not beyond its authority in
17 in the Loft Board Order that it issued. And that is a decision under the litigation. I think that is the last
18 point of the Executive Director's report. Thank you very much.

19 **Chairperson Hylton:** Thank you, Mr. Schultz. That was well put together. I appreciate that. Does anyone
20 have any questions of Mr. Schultz? I guess, Kevin, you did that well.

21 **Mr. Schultz:** They're being kind to the new guy. I'll take it.

22 **Chairperson Hylton:** Alright. Very good. Thank you. Welcome aboard, Kevin. I appreciate it. And thank
23 you for your preparedness. Kevin, by the way, has kept abreast. His approval has been in the works for
24 months, almost a year, and he's been keeping abreast on his own, just to familiarize himself, in working
25 with staff, even though he was not officially on board. So, that's really great and commendable. I
26 appreciate you coming on board so well prepared.

1 I wanted to say thank you, especially, to Ms. Lin for her taking the reins of the Loft Board for these
2 months, coming in on such short notice with the Loft Board and maintaining the level of professionalism
3 and hard work that has kept the Loft Board functioning right through even the pandemic. A difficult
4 time. I don't know if you remember, but Ms. Lin had just been with us in, what was it, February? A
5 month before the pandemic. And so pretty much baptized by fire in the work of the Loft Board and
6 doing it in such a great time during a very challenging period. So, thank you for holding it together and
7 keeping the staff operating right throughout. And to all the staff of course, they all did great. So, thanks
8 again, Ms. Lin, for your leadership there.

9 Okay, the next order of business is Mr. DeLaney's. At the March 18th meeting, Mr. DeLaney requested a
10 ten-minute -- I hope I didn't catch you off guard Mr. DeLaney -- but you had requested ten minutes to
11 talk about this issue. So, I'll now turn it over to you, if you're prepared. If you're not, then we can always
12 move on.

13 **Mr. DeLaney:** I'm prepared to kick the can down the road, in the sense that, since Nicole Oddo is not
14 able to join us, it would seem to me that having a discussion of a significant length on the topic would
15 probably, under the circumstances, better be left until next month. So, I guess we slide back a month.
16 For our new Board member and our new Executive Director, I would just point out that the issues
17 involved are summarized very well in the November, 2020, meeting minutes and the January, 2021,
18 minutes that we just approved earlier today. And this initiative, which stems from a letter that was
19 written by former Board member, Julie Torres-Moskovitz, several years ago, is really focused around the
20 fact that there have been some egregious examples of very dubious behavior on the part of some
21 practitioners involving a significant, half-dozen that I know of and can rattle off the top of my head loft
22 buildings, where Certificates of Occupancy were issued when there were clear conditions that should
23 have prevented that. And therefore, the general idea is that it would be good to request that the
24 Department of Buildings make it a regular practice to look into self-certification... positions, filings... I
25 don't know quite how to characterize them... in IMD units as a matter of course.

26 We learned from Mr. Rebholz from DOB that they audit about twenty percent of all self-certifications
27 and professional certifications. They always audit when there's a complaint, but of course, a lot of times,
28 a tenant in a loft building is not going to know that something has gone amiss. And I think relying on

1 complaints as a way to treat this issue is not sufficient. And if we did ask the Department of Buildings,
2 and they agreed to look at all cases of professional self-certification in IMD buildings, it wouldn't eat up
3 a significant portion of that twenty percent. So, it's not like we'd be elbowing everybody else out of the
4 way. So that's the general thought behind my intention to draft a resolution for the Board to vote on.
5 And if it was approved by the Board, it would ask the Department of Buildings to make that a practice.
6 Period.

7 **Chairperson Hylton:** Thank you, Mr. DeLaney. So, Kevin, we're going to have a formal presentation in
8 our May meeting. Mr. DeLaney, are you planning on the resolution at that point, also?

9 **Mr. DeLaney:** I think it would probably be useful to have it available for review at a minimum, if not a
10 vote. So, I will commit -- which I've done a number of times, but circumstances keep changing -- but I'll
11 have something that I will send to the Executive Director at least two weeks prior to our May meeting.

12 **Chairperson Hylton:** Great, thank you.

13 **Mr. DeLaney:** If anybody has any questions or comments at this point, I'd be happy to entertain them.

14 **Chairperson Hylton:** Thank you, Mr. DeLaney. I appreciate that. Okay, so we now turn to vote on the
15 cases. There were eleven cases on the Summary Calendar, and they're voted on as a group. All eleven
16 cases are the same applicant: 475 Kent Owner, LLC. So, I'm not going to read the applicant's name and
17 address all eleven times, but I'll read the docket numbers. So, on all eleven cases, they're 475 Kent
18 Owner, LLC, and all eleven cases are 473 through 493 Kent Avenue, in Brooklyn.

19 Case #1: Docket number: LS-0257

20 Case #2: Docket number: LS-0265

21 Case #3: Docket number: LS-0266

22 Case #4: Docket number: LS-0267

23 Case #5: Docket number: LS-0268

24 Case #6: Docket number: LS-0269

25 Case #7: Docket number: LS-0270

26 Case #8: Docket number: LS-0271

1 Case #9: Docket number: LS-0272

2 Case #10: Docket number: LS-0273

3 Case #11: Docket number: LS-0274

4 Is there a motion to accept these cases?

5 **Mr. Hylton:** So move.

6 **Chairperson Hylton:** Mr. Hylton has moved. Is there a second?

7 **Ms. Roslund:** I'll second.

8 **Chairperson Hylton:** Ms. Roslund. Thank you, Ms. Roslund. Okay. Does anyone want to comment on
9 these cases? Absent any comments on these cases, Ms. Rivera, could you please poll the Board
10 members.

11 **Ms. Rivera:** Mr. Barowitz?

12 **Mr. Barowitz:** Yes

13 **Ms. Rivera:** Mr. Roche?

14 **Mr. Roche:** Yes

15 **Ms. Rivera:** Ms. Hayashi?

16 **Ms. Hayashi:** Yes

17 **Ms. Rivera:** Mr. DeLaney?

18 **Mr. DeLaney:** Yes

19 **Ms. Rivera:** Mr. Hylton?

20 **Mr. Hylton:** Yes

21 **Ms. Rivera:** Ms. Roslund?

1 **Ms. Roslund:** Yes

2 **Ms. Rivera:** Ms. Rajan?

3 **Chairperson Hylton:** Ms. Rajan still has no sound, but I can see that she's given me a thumbs-up,
4 correct? And she's voting yes.

5 **Ms. Rivera:** Chairperson Hylton?

6 **Chairperson Hylton:** Yes

7 **Ms. Rivera:** Eight in favor

8 **Chairperson Hylton:** I'm sorry. Can I just go back? Because before it was seven in favor. So, is that
9 eight?

10 **Ms. Rivera:** Yes

11 **Chairperson Hylton:** On the vote on the minutes, that was eight in favor, not seven?

12 **Ms. Rivera:** Well, no. I didn't call Mr. Hylton.

13 **Chairperson Hylton:** Oh, Mr. Hylton's name was not called, I think, on the minutes. So, Mr. Hylton, do
14 you concur on the minutes?

15 **Mr. Hylton:** Yes

16 **Chairperson Hylton:** So, a point of correction. Thank you very much. Okay, there is one case on the
17 Master Calendar, and it is a removal case, so there is no staff presentation. Sorry. The case is

18 Case #12 Quay Plaza LLC 79 Quay Street, Brooklyn, New York Docket numbers LE-0721, RG-0210

19 Do I have a motion to accept this case?

20 **Ms. Hayashi:** I'll move.

21 **Chairperson Hylton:** Mr. Hayashi has moved. Is there a second?

1 **Mr. Hylton:** Second

2 **Chairperson Hylton:** Mr. Hylton, I heard. I'm sorry.

3 **Mr. DeLaney:** Can I just interrupt? There's a note in the chat from Mr. Rajan that she'd like to exit the
4 meeting and return.

5 **Chairperson Hylton:** Yes, go ahead, Ms. Rajan. Just give me a second please. Ms. Rajan, can you hear
6 me?

7 **Ms. Rajan:** I can hear you. Can you hear me now?

8 **Chairperson Hylton:** You're perfect. Thank you.

9 **Ms. Rajan:** Okay, great. Thank you.

10 **Chairperson Hylton:** All right. We're back on the record. So, I think I was asking if there are any
11 comments on Quay Plaza, LLC. Absent any comments, then Ms. Rivera, could you please poll the Board
12 members.

13 **Ms. Rivera:** Mr. Barowitz?

14 **Mr. Barowitz:** Yes

15 **Ms. Rivera:** Mr. Roche?

16 **Mr. Roche:** Yes

17 **Ms. Rivera:** Ms. Hayashi?

18 **Ms. Hayashi:** Yes

19 **Ms. Rivera:** Mr. DeLaney?

20 **Mr. DeLaney:** Yes

21 **Ms. Rivera:** Mr. Hylton?

1 **Mr. Hylton:** Yes

2 **Ms. Rivera:** Ms. Roslund?

3 **Ms. Roslund:** Yes

4 **Ms. Rivera:** Ms. Rajan?

5 **Ms. Rajan:** Yes

6 **Ms. Rivera:** Chairperson Hylton?

7 **Chairperson Hylton:** Yes

8 **Ms. Rivera:** Eight in favor

9 **Chairperson Hylton:** Thank you. So that was...Kevin, congratulations. I don't know what I would have
10 done without you. We're just speeding right through these cases. Appreciate that. All right, Kevin,
11 thanks for bringing your magic. So, the next item on our agenda is rulemaking updates, right? And Mr.
12 Clarke, who's been doing a fantastic job, is going to lead this discussion. So, does anyone need a break
13 before -- a two-minute break -- before we go into these discussions? No? So, Mr. Clarke, you have the
14 floor, so to speak.

15 **Mr. Clarke:** Thank you, Chairperson Hylton. I just want to make sure everybody can hear me, okay.
16 Okay, thanks. So, the first thing that we want to do is, we have some updates for the Board. The first
17 update was actually from the outline that we were working on last month, that we're also going to
18 continue to work on this month. But there was a question, specifically, about item number 3 on the
19 outline. That question was about the table of contents, and there was a question as to why the table of
20 contents was deleted. We received an email from the Law Department and, basically, the Law
21 Department stated that the table of contents wasn't needed. It said, specifically, there's no need to
22 create a table of contents, especially since the official rules are online. So, that's the reason why the
23 table of contents was deleted, and we wanted to just let the Board know that was the reasoning from
24 the Law Department.

25

1 **Chairperson Hylton:** So, in other words...Go ahead, Mr. DeLaney.

2 **Mr. DeLaney:** I think I was questioning that. And if I understand correctly, the position of the Law
3 Department is that it's not needed; not that it could not be included.

4 **Mr. Clarke:** Yeah, that's what the position is from the Law Department.

5 **Chairperson Hylton:** So, Mr. DeLaney, what I'm going to say is, I think the Law Department is opining on
6 standard rulemaking practices that are probably happening today. So, if they're saying, that's what it is,
7 that probably means that nowadays, in rulemaking, there's no table of contents on these rules. So, I
8 don't know if you have any clarification, Kevin, on that.

9 **Mr. Schultz:** I haven't spoken with Law Department. It was an email that I saw. I'll just go from my...at
10 least one upside to not having a table of contents is it's less content people might use to try to change
11 the meaning of our rules. Having a table of contents, even if it's perfect, but maybe if it's not, is just
12 another place where people might try to utilize an argument, to be honest. So, I think, often, less is
13 more. And so, again, I didn't speak with Law Department on this point, personally, but I could guess that
14 part of the thinking is a table of contents is another area in which parties who are looking to use the
15 rules in their favor might find something there that they can use. So not having one is one less place.

16 **Mr. DeLaney:** I can see the argument on both sides. And as someone who spends a not-inconsiderable
17 amount of time referring lay people to sections of the rules, I can definitely see reason why having a
18 table of contents is helpful for lay people. But I also -- if I understand the inferences -- that the problem
19 is the sharks try to use it to mess with things. And we've certainly seen some pretty remarkably
20 conflated arguments recently about small points. So, I guess there's good reason to not include it. And I
21 guess what I would do in that case is just create my own outside-the-document table of contents to help
22 guide tenants through. Because if you want to know the rules of access or what should I expect at a
23 narrative statement conference, and the answer is, here pal; here's two hundred pages; lawyers are
24 \$500 an hour; you figure it out -- is neither user-friendly nor transparent. But I gathered that maybe
25 that's best left...Maybe that's just something I need to create as a concordance, so to speak.

1 **Chairperson Hylton:** Yeah. So, if you want us to... Mr. Clarke, I would just ask you to revisit it with Law
2 and find out if this is something that they are strongly opposed to. Meaning, would they not give us
3 final approval of these rules without it, or what? Is this something that they have decided citywide that
4 is never going to happen in modern rules? Or is this just something that he feels strongly about? So, you
5 guys can just get back to us by next month on that. But apart from that, the table of contents that exists
6 right now, that was deleted, maybe Mr. DeLaney will have a head start on that summary that you need.

7 **Mr. DeLaney:** Yes, I agree with that.

8 **Chairperson Hylton:** Okay. I appreciate that. So, Mr. Clarke, go ahead.

9 **Mr. Clarke:** And so, the second update is from our last discussion, when we were talking about the
10 notices from OATH with respect to the Loft Board -- if we accept OATH's procedural rules. And
11 obviously, we made the carve-out so that the Loft Board would be mailing the notices. There was some
12 interest in how the transition will take place, if and when that day comes when the Loft Board will be
13 responsible for mailing out the notices. So, Executive Director Schultz was kind enough to reach out to
14 OATH and have a discussion with them on what it might look like if the Loft Board had to bear the
15 burden of mailing out notices. And I will allow Executive Director Schultz to speak on that.

16 **Mr. Schultz:** Thank you, Mr. Clarke. So, just to get everyone up to speed, according to our rules, the Loft
17 Board is responsible for certain notice requirements. The Loft Board staff more specifically, of course.
18 And OATH, their staff, has been benevolently handling that for us. So, if any of them are listening, thank
19 you, and much appreciated. But in rulemaking, changing it to their responsibility wasn't realistic to
20 them, and very understandably. So, as we confronted this as a group -- or you did, I wasn't here yet,
21 actually -- I think appropriately the question was, if this happens, what's it going to look like? And the
22 answers are hopefully fairly simple. OATH will give us a heads-up. They will talk about a time in the
23 future upon which a transition will happen. They will provide us with examples and templates that they
24 use for various scenarios. I'll add to all of this that we, as different units in different agencies, have a
25 fantastic rapport; a very good relationship; excellent communication; with a history and related
26 connections. So, of course, a certain amount of this is going to have to come down to, are they going to
27 do this fair and right? And I have every reason to know that they will, if it happens. We appreciate them

1 doing it, and they're doing it so well. But because of the Board, I know, not wanting anything to hit us
2 unexpectedly, it was a very positive conversation, where it was clear that if they had to do this, they
3 would do it with a kind approach; with an understanding that it would take some time to transition with
4 a future date.

5 Once it happens, we'd have the examples and templates they use. And this is about notice of hearing
6 dates at OATH. OATH calendaring staff would still communicate with the parties to get the dates. We
7 would not be interacting trying to coordinate schedules. OATH has a calendaring unit that will do that.
8 And then, essentially, they'll share with us the dates that are determined in the same way they share it
9 with their unit that currently sends out all the mailings. We would prepare the documents and put them
10 in the mail, according to our rules, if that responsibility was transferred over to us. The parties that
11 would receive it, we would have that information because we receive the list of affected parties on the
12 application, and we give it to OATH. So, we would have the parties; we would have the form templates;
13 and we would get the dates from OATH. So, again, OATH assured that if this were ever to transfer, it
14 would be smooth, communicative, patient, kind, respectful; not a like your problem kind of thing. And I
15 do trust the people there. And I think they'll be there, as will we. I hope that answers the question. If it
16 doesn't, I'm happy to hear other thoughts and try to answer or get the answer.

17 **Chairperson Hylton:** I've said this before, I know Mr. DeLaney is about to say something, but I've said
18 before to the Board members, and I'm going to repeat it. The Loft Board is a city agency and so is OATH.
19 It's a court, but it's a city agency. There is no way that another city agency is going to just be able to
20 come out of a responsibility or dump something like that, that affects another agency, without some
21 coordination through the Mayor's Office. So, I completely trust, as Kevin says, in any transition (that it)
22 will be a smooth one, and there'll be time to make it happen. So, trust me. This will not... We may not all
23 be here when this happens, but when it does, it will never be a dump, jeopardizing any of these cases.
24 Go ahead, Mr. DeLaney. I think you had something.

25 **Mr. DeLaney:** I was just going to thank the Executive Director. That's a significant piece of information,
26 because from my vantage point, one of the key questions was the calendaring piece of this, which would
27 seem to require knowing the OATH judge's schedule as well as the parties; and how many times would

1 we be calling back and forth. But if they're going to continue to do the calendaring, and in essence,
2 we're going to become the mailroom, that strikes me as a more workable... I'll leave it there. Thank you.

3 **Mr. Schultz:** And it's consistent with the rules that way. It's totally...The rules don't say we have to
4 calendar. And the Chairperson is right, with the kind of mayoral assurance that they're not going to try
5 to push more off than we're required to do. So yes, thank you. That is a key distinction.

6 **Chairperson Hylton:** Mr. Clarke?

7 **Mr. Clarke:** Thank you, Executive Director Schultz. So, the next portion of the rulemaking is going to
8 be... There was a document that was sent out to everyone. At the top of it, it says section 3, Subdivision
9 (b) of Section 2-01. That is the extension rule. So, I'll give the Board members a few moments to get that
10 document. And this document is, again, about the extension rule. The Board members recently had a
11 vote with respect to the extension rule. There was a modification to the current rule in the proposed
12 rules, but the Board members voted to go back to the current rule. So, we're modifying the work that
13 we had in the proposed rules and just going back to the current rule.

14 But we also had to make some changes in the current rule. Specifically, for the global definitions, you'll
15 see that they're capitalized. That symbolizes that it's been defined in our global definitions. Also, we
16 added a couple of sections in there, which, basically, just correlate to the change of the law 281(6). We
17 had to include that in the rule. And also highlighted in pink, there are two deletions. The first one is the
18 removal of the definition of new owner. We removed that because it's already defined in the global
19 definitions. And the second deletion is pertaining to where an owner can get an extension, simply
20 because of the change in the law that shortened their time for an extension by six months. We decided
21 to delete that because the owners that could have taken advantage of that particular section, that time
22 has had long expired, and it's not realistic that any owner could actually get an extension under that
23 particular rule. So, the Board members...

24 **Chairperson Hylton:** Is that realistic? Or is it not possible?

25 **Mr. Clarke:** It's not... I'm going to say not possible, but the Deputy General Counsel is an expert at
26 catching minor details ... a scenario where that might be possible, but I can't think of one.

1 **Chairperson Hylton:** I'm sorry. I recognize Mr. Hylton. He had a question.

2 **Mr. Hylton:** Yeah, I was saying, so why is that not possible? Run through that with me.

3 **Mr. Clarke:** I'm going to allow Deputy General Counsel, Tina Lin, to respond first, because I don't want
4 to confuse everyone with my....

5 **Ms. Lin:** So, I don't know if it's not legally impossible; I wouldn't say it's not possible. It's just that the
6 rationale for this rule existing in the first place is no longer applicable. At the time, this applied to a
7 shortening of the extension back when they changed the law in 2012, 2013. That's a very long time ago.
8 I'm not sure if the Board would have a rationale to offer this to owners who were prejudiced by the six-
9 months' shortening another opportunity. Of course, if the Board members disagree, we can certainly
10 discuss it, but it seems like the time for that --the reason for granting that extension -- has already
11 passed.

12 **Chairperson Hylton:** Stephan, just one second. Mr. Hylton was saying something.

13 **Mr. Hylton:** I said, I'm not going to stick on this right now. I may revisit this in terms of conversation.
14 But, go ahead.

15 **Chairperson Hylton:** Okay. Go ahead, Stephan.

16 **Mr. Clarke:** So, that is the extension rule. Are there any questions with respect to ... I see, Mr. DeLaney?

17 **Chairperson Hylton:** Mr. DeLaney?

18 **Mr. DeLaney:** Yes. First off, if I understand correctly, what you did is revisit the existing 2-01(b) and
19 bring it into conformity with the changes we've made in the rules, such as capitalizing lots of words
20 because we've now formally defined them. But basically, this is designed, number one, to bring the
21 existing extension rule into the same stylistic pattern that we're using for the new rules, is that correct?

22 **Mr. Clarke:** That's correct. And bringing it into alignment with the new law.

1 **Mr. DeLaney:** Right. And you then removed the two sections that you've discussed. But you haven't
2 added anything? Any content, correct?

3 **Mr. Clarke:** That's correct.

4 **Mr. DeLaney:** Okay, so my last question is, are you reserving (iii), and, therefore, the text in (b)(1), the
5 last sentences which says, except as provided in (i) through (iv) below, remains (i) through (iv), rather
6 than renumbering?

7 **Mr. Clarke:** Yes...

8 **Ms. Lin:** That's correct. That was the format that the previous rules...This is the style that the Board has
9 adopted throughout these proposed rules, so we kept the format going. Wherever it says deletion
10 throughout these proposed rules, the Board had put down reserved instead of renumbering.

11 **Mr. DeLaney:** Okay, so we're just adhering to that.

12 **Ms. Lin:** Yes

13 **Mr. DeLaney:** Fine. Thank you.

14 **Chairperson Hylton:** And the advantage of that, Ms. Lin, is just to show that you won't have to
15 renumber? Find places where they're referenced, those areas, all over the place?

16 **Ms. Lin:** I think so. I wasn't here for the beginning of this, but my understanding was that section
17 two...There's meant to be an overhaul of section two sometime down the road. This is just a placeholder
18 to try and bring up section two in conformity with the 2019 laws. So, then going back and overhauling
19 section two just to fix cross-references would require a huge amount of effort. So, for now, we're
20 putting reserved in to keep the cross-reference as it is, with the goal down the line that section two is
21 going to be, hopefully, overhauled at some point.

22 **Mr. DeLaney:** Okay, so with that clarification, I would suggest that the bracket that starts and appears
23 before (iii) be moved to... the bracket to begin in front of the word where. Because what you're telling
24 me is that you're not removing (iii). So (iii) will now read, (iii) reserved.

1 **Ms. Lin:** Yes, that's a very good point, Mr. DeLaney. Thank you for catching that. I think you're
2 absolutely right.

3 **Mr. Clarke:** Are there any other comments or corrections that the Board members might have seen
4 when reviewing this document? Okay, so you can move on to the next document. The next document,
5 at the top of the document, it says section 1-25. It's a two-page document. This document was
6 prepared because, the Board members, in our discussions with the differences between the procedural
7 rules of the Loft Board and OATH, the Loft Board decided to adopt some of OATH's rules. The language
8 in OATH's rules, wanted the Loft Board's rules to mirror that language. So, we have two sections that we
9 worked on some language that we wanted to bring to the Board. And the first section is 1-25, for
10 Amended Pleadings. And on that page, at the top in all black, that's the current rule, the old version. And
11 the one below that, with some red in there, is the new language that Loft Board staff -- Tina worked
12 mostly on this -- and we all reviewed it, and we all agreed that this language is, in essence, what the
13 Board members wanted to get out of this particular rule. So, this is it. Are there any comments, or
14 concerns, or questions with this new language for 1-25, related to the Amended Pleadings?

15 **Mr. DeLaney:** I need to ask your forbearance for a minute while I get to this document.

16 **Chairperson Hylton:** Are you talking about momentarily, or you need this put over?

17 **Mr. DeLaney:** No, no, no, I'm talking about momentarily.

18 **Chairperson Hylton:** Okay. Sure.

19 **Mr. DeLaney:** Okay. Are you going to walk us through it?

20 **Mr. Clarke:** Sure, I can walk everyone through it. So, if the Board members remember, the current rule,
21 which is in black, is what we already had. When we were going over OATH's procedural rules relating to
22 the amended pleadings, the Board members wanted us to kind of mirror OATH's version of the rule. And
23 I didn't put that here, but I can read OATH's Amended Pleadings. It's 1-25, ironically, the same section
24 with OATH. But with respect to amended pleadings, OATH says:

1 “Amendments of pleadings must be made as promptly as possible. If a pleading is to be amended less
2 than twenty-five days before the commencement of the trial, amendment may be made only on
3 consent of the parties or by leave of the administrative law judge on motion.”

4

5 So, what we tried to do, if you look at the bottom section with the revisions, is we tried to incorporate
6 that language of allowing the parties to be able to amend up until the first conference date. If the
7 parties are going to amend twenty-five days before that first conference date, then the parties would
8 need consent or upon motion of the adjudicator. So, we're trying to mirror that language. There are
9 some differences between the language in OATH's procedural rules and our rules. OATH talks about the
10 administrative law judge, and we're saying the adjudicator. Also, OATH, their language states twenty-five
11 days before the day of the trial, and our language says twenty-five days -- up to and including... twenty-
12 five days before the first conference, because the Loft Board may not necessarily be holding the trial.
13 And also, in that rule, we have to also consider section (d) of our current rule, which allows -- this is part
14 (b) of the corrections that we made. We wanted to make sure that the parties had an opportunity to
15 answer any amended pleading, and we fashioned some language, which, basically, says the adjudicator
16 assigned to the case will afford the applicant or affected party an opportunity to respond to the
17 amended pleadings.

18 So, basically, the heart of it is, the parties can still amend at any time up to and including twenty-five
19 days before the first trial. If it's in that window -- sorry, not trial, first conference -- If it's in that
20 window of twenty-five days before the first conference, then the parties are going to need consent, or
21 they're going to need the permission of the adjudicator. And then, after that happens, if the
22 adjudicator... any pleadings that the adjudicator permits, the adjudicator will allow the parties to enter.
23 And after the first conference, the parties must submit amended pleadings only if permitted by the
24 adjudicator.

25 So, it's kind of like three sections: before twenty-five days before the first conference; then you have a
26 window period twenty-five days before the first conference; and then after the first conference. So
27 before, parties can amend at any time, if it's in that window period. Twenty-five days before the first

1 conference, they need consent. And if it's after the first conference, then it can only be permitted by
2 the adjudicator.

3 **Chairperson Hylton:** Mr. DeLaney, is that clarified?

4 **Mr. DeLaney:** Yes, thank you. That's very helpful.

5 **Chairperson Hylton:** Any other Board members want any clarity on this section?

6 **Mr. Clarke:** Okay, thank you. So, we're finished with that document. And that actually brings us now to
7 the outline.

8 **Ms. Lin:** Mr. Clarke, I think you skipped over 1-27(c), on the second page.

9 **Mr. Clarke:** I'm too anxious. Sorry. Yes, 1-27 is on the second page. And this one is kind of a little bit
10 more straightforward. The new language was recommended by the Board members; and also, the
11 deleted language was something that the Board members suggested. So, it should look familiar to
12 everyone. We simply added, the parties may be represented by counsel or by a duly authorized
13 representative; and we took out the language that the parties may issue a subpoena; and we left the
14 parties can request that a subpoena be issued. Are there any questions or comments? I'll allow
15 everybody to read it, and if you have any questions or comments, please....

16 **Chairperson Hylton:** Just a reminder, Mr. Clarke, that was on OATH's request?

17 **Mr. Clarke:** No, that was the Board members. When we were reviewing OATH's language, they thought
18 that our language should mirror some of what OATH had. And there were some questions about who
19 can be... who can appear in front of OATH, and the Board members said that they wanted a duly
20 authorized representative to also be able to appear. And then also, there was some confusion about
21 whether or not a party can issue subpoenas on their own. And we just simply took out that language.
22 Mr. DeLaney suggested that fix of just taking out issuing subpoenas, so there's no confusion, and we left
23 the language that the parties can request that a subpoena be issued. Are there any questions about
24 1-1-27(c)? Okay, and then we can move to the outline.

1 **Chairperson Hylton:** Is that the one that says Loft Board Draft Rules on top?

2 **Mr. Clarke:** Yes. The outline says Loft Board Draft Rules at the top. What we did, what was done with
3 this outline is, it's a continuation from the outline that we had last month. So, you'll see that the first
4 issue all the way up until issue number 19.... We've already discussed 1 through 18. That was discussed
5 last month. But we wanted to have a complete outline for the Board members, so, hopefully, it doesn't
6 cause any confusion. But 1 through 18, we already discussed, last month. So, we're actually starting with
7 19 today. Issue number 19, which is section 2-06(a). And that first issue, issue number 19. It can be
8 found on page 115 of the rules.

9 **Chairperson Hylton:** That's 115 of the big, marked-up document?

10 **Mr. Clarke:** Yes. Okay. If we're all on page 115, and we're on issue number 19 in the outline, you can see
11 that the change that we made was the addition of paragraph three on that page in all red. And the
12 added text, it basically allows...it guides anybody reading these rules, if they had a question about time
13 limitations on filing applications for rent overcharge, we added that reference to section 1-21(a)(4). So,
14 that's just added language. Anybody that wanted to know about the time limitations on filing rent
15 overcharge applications, we just added that language there so they know what section to go to.

16 **Chairperson Hylton:** Mr. Clarke, just for the edification of the public, who probably don't have this,
17 could you just read the addition? The language?

18 **Mr. Clarke:** Sure. It says, for time limitations on filing Applications for rent overcharges, see 29 RCNY
19 section 1-21(a)(4). Are there any comments or questions about item 19?

20 **Mr. DeLaney:** I have one question, and I'll need a little help here. It's my recollection that the Rent
21 Stabilization Law changes in 2019 affected the time period for overcharge claims?

22 **Mr. Clarke and Ms. Lin:** Yes, it did.

23 **Mr. DeLaney:** And I recall, we discussed bringing our rules into conformity with that. Has that been
24 looked at?

1 **Mr. Clarke:** I'm not sure...

2 **Ms. Lin:** We have not. I don't believe it...I don't know if that discussion was had when current staff was
3 working on these rules. Is that something that was supposed to be in the draft?

4 **Mr. DeLaney:** It's my recollection that it came up tangentially. But it would seem that it would be
5 appropriate for us to try to mirror those changes, or at least look at the difference between what we
6 have and what those changes spelled out, so that if we don't want to bring it into conformity, we have a
7 reason for doing it. We have a rationale for doing it. I'm inspired by the shark argument of earlier in the
8 day.

9 **Ms. Lin:** Okay, yeah. We can take a look at that. Yeah. We'll take a look at that.

10 **Mr. Clarke:** Thank you, Mr. DeLaney. Are there any other comments or questions?

11 **Chairperson Hylton:** So, is this an open item, 19? Or is this pretty much okay? Tina, you're looking into
12 other things related to it?

13 **Ms. Lin:** Well, so that will be a different section. That would be 1-21(a)(4). I'm looking at it now, and
14 right now, we limit to six years. So, we have to revisit and do some research into 1-21(a)(4).

15 **Chairperson Hylton:** Okay, so as far as this section goes, this is not an open thing. Does anyone have any
16 other comments on this piece? Thank you. Go ahead, Mr. Clarke.

17 **Mr. Clarke:** The next item is item number 20, also on page 115. And it's some language that... there
18 were some questions from the Law Department as to why we were defining escalators again. So, we just
19 modified the language; basically, removing the definition from escalators again, because it's already
20 defined in the global definitions. I do see that there are some mark-outs on 115 under this particular
21 section, but there should be a little bit more. But the language in the outline is actually correct. Instead
22 of... In 115, in the larger packet of rules, after where it says, both base rent and Escalators, we're going
23 to be deleting everything up until where it says, Such Escalator. So that's something that we will delete,
24 but the language in the outline is exactly what it's going to be changed to.

1 **Chairperson Hylton:** So again, can you just read that for the record? Just what's changed.

2 **Mr. Clarke:** We'll change it to:

3 Amount of Increases. For purpose of these rent guidelines, the following percentages shall be
4 calculated upon the total rent for the residential Occupant, including both base rent and Escalators.
5 Such Escalator provisions that relate to gas, and electricity, and steam charges are excluded from this
6 definition of total rent, and these utility Escalators, when based on a fair calculation of the residential
7 Occupant's usage, shall be the only Escalators permitted following the effective date of the rent
8 increase, provided they were part of the lease or rental agreement in effect on December 21st, 1982.

9 If there are no additional comments or concerns, we'll move on to item number 21, which is on page
10 116.

11 **Chairperson Hylton:** Okay, it's just that sentence seems a little run-on to me. This is a very, very long
12 sentence. I'm just wondering. So, such escalator provisions that relate to gas, electricity, and steam
13 charges are excluded from this definition of total rent. Should that be a comma there then? No, not
14 really. When these utility escalators...when based on fair allocation of the utilities, your residential
15 occupancy usage shall be the only escalator permitted through the effective date of the rent increase
16 provided. Is there any way to break that long sentence up, guys? Does anyone else have a problem with
17 it? Okay, may I make a suggestion? I don't think it changes anything, actually, just a comma or a period.
18 But what if we said, such escalator provisions that relate to gas, electricity, and steam charges are
19 excluded from this definition of total rent, period. Right? Can we put a period there? And then we can
20 say, these utility escalators, when based on fair calculation...Does that change anything?

21 **Mr. Clarke:** Just reading it right now, I can't see how that would change the substance of what the rule
22 is trying to say. So, I don't see why we couldn't do that.

23 **Chairperson Hylton:** Yeah. Thank you. I just want to make sure... So can I just put a period there now
24 and then read it for everybody again, and see that...It would be a better read, because this is, like, four
25 sentences in one. So, such escalator provisions that relate to gas, electricity, and steam charges are
26 excluded from this definition of total rent, period. Then you take out the word and. These utility

1 escalators, when based on a fair calculation of the residential occupant usage, shall be the only
2 escalators permitted following the effective date of the rent increase, provided they are part of the
3 lease or total agreement in effect on December 21st, 1982.

4 **Mr. Clarke:** Yes, I think that works. Instead of that run-on sentence.

5 **Chairperson Hylton:** Okay. Thank you. So, we'll...unless anybody has any...

6 **Mr. Schultz:** I concur with Mr. Clarke. I don't think it changes the meaning. If after more reads, on
7 another day, we realize it does, we'll bring it back up with the Board.

8 **Chairperson Hylton:** Okay. Thank you, Kevin.

9 **Mr. DeLaney:** I have one other question. And I guess, in part, it probably stems from working off this
10 excerpted document, because sometimes the play over the two hundred pages of rules can get a little
11 confusing. This is all talking about escalators that were in effect on December 21st of 1982. So that's
12 only relevant to the original Loft Law, as spelled out in 281(1) and 281(4) of the Multiple Dwelling Law.
13 Without sitting down and reading through the whole section, is there an equivalent issue that comes up
14 for 281(5) and 281(6)?

15 **Mr. Clarke:** Yes, so I believe those issues are covered in 2-06.1. Am I...?

16 **Chairperson Hylton:** I don't have that, right?

17 **Mr. Clarke:** No

18 **Ms. Lin:** I don't think the Board ever revised those two sections. 2-06.1 and 2-06.2 I don't think were
19 ever revised. My understanding is that the Board was only revising portions of section two they needed
20 to change; so that's sections that required updating of the law or a change to the cross-references. So,
21 there's certain sections of section two that are not part of the revisions.

22 **Mr. DeLaney:** Okay

1 **Mr. Clarke:** So, are there any other comments or concerns? Okay, we can move on to item number 21,
2 which is section 2-06.3 on page 116. This is at the bottom of page 116, for coverage. What we're doing
3 here is we've already defined IMD, so we're using IMD in place of Interim Multiple Dwelling, and also
4 eliminating the reference to MDL 281, which we spoke about, which actually is not necessary, because
5 MDL 281 doesn't define IMD. Are there any questions or concerns?

6 **Mr. DeLaney:** Is there a reason that you've changed it to this (1), (2), (3) format? Number (3), do not
7 meet the safety and fire protection standards of Article 7-B. You also took out, of the MDL. Was that
8 perceived as unnecessary?

9 **Mr. Clarke:** Yes

10 **Ms. Lin:** It's actually a change by Operations. So, I think it's just maybe a stylistic choice by them. We
11 did not make this change. I believe it conforms with the rest of the section. Now that I'm looking at it, it
12 mirrors how the rest of the section is laid out.

13 **Chairperson Hylton:** Mr. DeLaney, language police do have a real purpose.

14 **Mr. DeLaney:** They certainly seem to have some purpose. Though whether it's to make it clearer or
15 more confusing, I'm not always sure. Again, for the lay person, if it said 7-B of the MDL, it would be more
16 explicit.

17 **Chairperson Hylton:** Well, why can't we put that in? I don't see a problem with that. Just for
18 clarification. I mean, I don't think there's any other 7-B. I don't think there's a problem with that, right
19 Stephan?

20 **Ms. Lin:** The Law Department has gone through and removed references where we refer back to the
21 MDL. I think this might be a move of the Law Department because they felt like it was redundant.

22 **Chairperson Hylton:** Okay. There you go.

23 **Mr. DeLaney:** I'm not so sure I buy that. It's not the world's biggest issue, but again, as somebody who
24 spends a lot of time going over these rules with lay people, I know what Article 7-B is, and one would say

1 the informed individual should probably say, oh, well, gee, the Loft Law is Article 7-C, so probably 7-B
2 refers to something that's also in the MDL. But if it causes the plain language police joy to
3 remove....what?

4 **Chairperson Hylton:** Let's do this. Let's put it back and see if they take it out. Okay, guys?

5

6 **Mr. Clarke:** Are you saying, specifically, for this section? Or wherever else they might have taken it out?

7 **Chairperson Hylton:** This section for now. I mean, look, right above that, in (1), it says, are subject to
8 Article 7-C pursuant to MDL.

9 **Mr. DeLaney:** That's the way it was.

10 **Chairperson Hylton:** Oh, that's...no, change to... Yes, but... Right. So, they didn't change (1). Right. Okay,
11 let's just... I don't want to go back throughout the document here, especially since... Let's see if we can
12 sneak this one in. And if the Law Department says... If they take it out, all right. It does make it clear.

13 **Mr. Clarke:** Okay. Are there any other questions or concerns with 21? Actually, 21 has another section.
14 It's on page 117, further down, number (4), for Garbage Escalators. And we actually discussed this last
15 month. But we just changed some of the language there. A little bit more for clarity, we worked on some
16 of the language there. Are there any questions? Okay. So, with that, we'll move on to item number 22,
17 which is section 2-07, Sales of Improvements, on page 119.

18 At the bottom of page 119, where we're defining unit, we were running into some issues, because in
19 this particular section, we wanted to define unit in a way that included sales of improvements that could
20 happen after the building is removed from the Loft Board's jurisdiction. So specifically, this section was
21 talking about the sale of improvements, and we wanted to include in the definition of a unit sales that
22 can take place after the building was removed from the Loft Board's jurisdiction. Originally, when we
23 brought this to the Board members' attention, we tried to modify unit and give it a new definition by
24 saying residential, I think we were using. I don't remember the definition we were trying to use to
25 replace unit, but what the problem was, was wherever we saw unit, it got a little bit confusing (in terms
26 of) when we should use just regular unit or the new term for unit, which included units that were

1 removed from the Loft Board's jurisdiction. So instead of going back and trying to determine and change
2 unit in all these different sections here, we're just saying unit.

3 We believe that the Law Department's main issue and concern with this was that we already have kind
4 of a definition for unit in our rules. And here it says, unit as referred to in this rule. So, they were
5 confused as to why there's a different definition in this rule. So, we changed it from rule to section, to be
6 specific that it is just for this section and not the entire rule. So, that is the change that we made there.
7 Are there any questions or concerns about that change? Okay, so again, we just tried to be specific that
8 it's for this section and not for the entire rule.

9 So, the next item is 23. It's on page 133, section 2-08, Coverage, Occupants Qualifying for Protection,
10 and Issues of Status, page 133. And this was a minor change. Instead of using the very fun word, inter
11 alia, we're replacing it with among other things, which is the same thing. Just for somebody that doesn't
12 know the Latin word, we can just simplify it and just say, among other things. Are there any questions or
13 comments about that? Okay. Great. So, again, under section 2-08, section (a)(2), which is found on page
14 134. This one, we're just, for the term grandfathering, we just modified the wording so that it conforms
15 with the global definition of grandfathering that we already have. We're just making it consistent with
16 the global definition of grandfathering.

17 **Chairperson Hylton:** Was there anything that makes....Was anything inconsistent in the original
18 language, really? Or was it just.... seems like a little simplification?

19 **Mr. Clarke:** I would agree that it's more of a simplification. And just making the words match,
20 identically. Are there any questions with those? That change? Okay, there is another change on this
21 page on our outline. Also, section (a)(4)(iii), on page 137. We just made some minor changes, mostly
22 conforming to capitalizing words that we already have globally defined. But in the beginning of that
23 sentence, it says, notwithstanding the foregoing. We deleted that and changed it to, in addition to the
24 criteria set forth in subparagraph (i) of this paragraph. That adds clarity. Less confusion when people
25 are reading this. So, that was the main change there.

26 **Chairperson Hylton:** That was the Law Department, Mr. Clarke?

1 **Ms. Lin:** I think it was Operations. We're not sure who made what changes to these sections.

2 **Mr. DeLaney:** I see in our new language we have, family living independently, all capitalized. Is that
3 now-- Family Living Independently -- Is that a definition unto itself?

4 **Mr. Clarke:** It should be.

5 **Ms. Lin:** I don't think it's in the global definitions at the top. But I think we can find it in section two, in
6 the beginning of section two.

7 **Mr. DeLaney:** Okay

8 **Mr. Clarke:** Are there any other questions or concerns? Okay, then we can move on to the next change,
9 which is d, of the same issue. It can be found on page 139. It's section (a)(4)(iv)(A). So, this change,
10 some language was actually included. It's the language from MDL section 4(37), which defines a cellar.
11 Instead of just saying the cellar should not be located in a cellar, as such term is defined in MDL section
12 4(37), the new language actually includes MDL section 4(37)'s definition of cellar. So, I'll give everyone,
13 some time to look at that. Any questions or comments? I see everyone is still reading. If there are no
14 questions or comments with that additional language, basically, writing out the definition of cellar as
15 defined in MDL section 4(37), we can move on to the next section. And that can be found on page 140.

16 Section (a)(5). And this pertains to Study Area. And the language we just modified for clarity. I'll give
17 everybody a chance to read that, but are there any questions or comments with the way that it reads
18 now? Okay.

19 And the next one is section (c)(7), page 145. And again, this is just some language for clarity. If you look
20 at the original text and then what it's changed to, the hope is that it's cleaner and reads.... A little bit less
21 confusing for people that read this. So, I'll give everyone a quick second to look over, and if there are
22 any issues or any comments, please let us know.

23 **Chairperson Hylton:** I just wanted to make it clear. These dates remain the same, right? These dates
24 weren't affected by... We're not changing any of these deadline dates or anything like that. This should
25 be strictly for transparency and clarity.

1 **Mr. Clarke:** Correct. Okay, if there are no comments or concerns, then we're finished with everything
2 we have with respect to rulemaking to bring to the Board. So, we do have a couple of things that were
3 mentioned today that we need to get some clarification on. What I remember off the top of my head is
4 going back to the Law Department and finding out if we can include the table of contents. What is the
5 reason why (they removed it). Also, we'll leave the MDL in one section; and then there was a question
6 about bringing the time to file an application for rent overcharge into conformity with the new rent
7 laws. So, we'll double check that as well. And I'll review my notes, and we'll review our notes, and get
8 back to the Board. But with respect to everything that we needed to bring to the Board members, we
9 have officially brought them to the Board. And congratulations. It's been a very long haul.

10 **Chairperson Hylton:** Thank you.

11 **Mr. Clarke:** We've been waiting for this moment.

12 **Chairperson Hylton:** All right. Stephan, that was remarkable. I really appreciate this. I mean, this is like....
13 I don't know if anybody's on the high that I'm on, but I really do appreciate your efforts here. So
14 obviously, we'll get back next month on those two or three minor issues with the Law Department. And
15 when is the party? Kevin, you're...

16 **Mr. Schultz:** Yeah. Party planning was in the job description, right? I got here just in time. Yeah. You
17 know, this is great to be so close. We'll definitely check those last things out, and then we'll party.

18 **Chairperson Hylton:** Go ahead, Mr. Barowitz.

19 **Mr. Barowitz:** I have a couple of nitpicking things on the full document, New York City Loft Board, Notice
20 of Public Hearing and Opportunity to Comment on Proposed Rules. On page 27 -- and I think I had
21 mentioned this before -- the word adjudicator is diminished, and hearing officer is used. And on page 8,
22 hearing officer is used, in which case, you're really talking about the OATH judge. So, I don't understand
23 why that language was put in there. I think I had mentioned to you previously that I didn't like that
24 term, adjudicator. But okay, it's there. It's all over the place. But now when we're talking about the
25 OATH judge, we're calling him a hearing officer.

1 **Chairperson Hylton:** Yeah, I vaguely remember the fact that the word adjudicator is what was in... refers
2 to the old Loft Board term, when the Loft Board was doing these hearings, right? Doing their own
3 hearings. OATH, in order to differentiate between when it's done at OATH or when these rules refer to a
4 Loft Board person doing it, the word hearing officer is what OATH uses. So, whenever you see
5 adjudicator -- correct me if I'm wrong, Stephan -- whenever you see the word adjudicator, it is referring
6 to any instance where the Loft Board would be doing such adjudication. Stephan, you're muted.

7 **Mr. Clarke:** I'm sorry. Yes. The way adjudicator is defined, it encompasses an administrative law judge or
8 hearing officer. So, adjudicator can mean either of those, and the reason why we leave it as adjudicator
9 is just in case the Loft Board ever goes back to conducting our own trials and hearings, we don't have to
10 change the language. But as Chairperson Hylton said, if it does say hearing officer, it is something that is
11 in front of a tribunal, such as OATH, where there's a hearing officer conducting the hearing or the trial.
12 So that's the difference. One is leaving it open....

13 **Mr. Barowitz:** (So, in the case) of the OATH judge, we're now calling him the hearing officer?

14 **Mr. Clarke:** Yes, they're administrative.... They're called hearing officers. They are called administrative
15 law judges, and also they can be an adjudicator.

16 **Mr. Barowitz:** All right, I give up. I will send you a little message about some of the other things. On page
17 48, device is spelled wrong. There's a y in there, and there shouldn't be.

18 **Chairperson Hylton:** 48?

19 **Mr. Barowitz:** There's an r in device.

20 **Chairperson Hylton:** Mr. Barowitz, could you just go back to what you said? 48, page 48?

21 **Mr. Barowitz:** Page 48

22 **Chairperson Hylton:** And you said the word device is spelled wrong?

23 **Mr. Barowitz:** It's spelled wrong.

1 **Chairperson Hylton:** So, am I looking... On my page 48, it seems like everything is crossed out here.

2 **Mr. Clarke:** That's what my page 48 looks like as well. It might be a different version Mr. Barowitz is
3 looking at. But on my page 48, everything is deleted.

4 **Mr. DeLaney:** I think it would be great if we could get a new version that everybody could use, that's
5 maybe a PDF, so it stays the same. I know I want to read over everything from beginning to end.
6 Because doing these pull-outs has been expeditious and I don't object to it, but before we vote to
7 publish this, I'd like to have the opportunity to go from page 1 through the end and be able to flip back
8 and forth, and we could all have everything on the same page. So, Elliott's 48 is my 48 as well.

9 **Mr. Clarke:** We agree and we're drafting...

10 **Mr. Barowitz:** My problem is that when I produce the document on my laptop, and then when I
11 produce it on my big screen, they didn't come out as the same pages. I just have one more thing, which I
12 had mentioned once before...

13 **Chairperson Hylton:** I'm sorry, Mr. Barowitz, before you go on, I need to know, the word device,
14 somewhere, is spelled wrong?

15 **Mr. Barowitz:** It's spelled with an r somewhere.

16 **Chairperson Hylton:** Ok, we'll do a word search, at some point, make sure that device is all right.

17 **Mr. Barowitz:** I have a couple of other small points. But the other point -- and I think I tried to say this
18 previously -- I'm not an expert grammarian, but precertified as one word is not really a word. And you
19 can't precertify something that is certified. The word certified means that it's past and it's done; so, you
20 can't pre it. So, probably the word would be precertification.

21 **Chairperson Hylton:** Where are we talking now?

22 **Mr. Barowitz:** Now that I find on page 71. And it's used on page 72 four times.

1 **Chairperson Hylton:** Okay. So, you couldn't just interchange precertified and precertification because
2 one is a verb, and one is a noun. So, we have to find out how we change that language. Let me just see
3 what you're talking about. Are you guys identifying it anywhere?

4 **Mr. Barowitz:** Alright, I have a couple other things, but I'll...

5 **Chairperson Hylton:** Wait, wait, Mr. Barowitz. We have to kind of debate it. Let's identify what you just
6 talked about, so we can address it on the record.

7 **Ms. Roslund:** Yeah, I see them all. It's in section (B) and section (C)...

8 **Chairperson Hylton:** Somebody point it to me, please.

9 **Ms. Roslund:** Alright, for instance, on page 72, in the very last paragraph.

10 **Chairperson Hylton:** Does it exist on page 71?

11 **Ms. Roslund:** Yes. (iii) (A): If the Application is not precertified. Third paragraph from the bottom.

12 **Chairperson Hylton:** Stephan, do you... I'm not, I don't know where I'm looking. I'm not finding it.

13 **Mr. Schultz:** Is anyone...Tina, are you working with a digital version by chance right now? Where you
14 could search for the word?

15 **Ms. Lin:** Yeah, I see it on page 71. I'm seeing exactly what the others are seeing.

16 **Mr. Schultz:** Can you give a citation that the rest of us can go to? Because I feel like those on paper
17 aren't seeing it the same way.

18 **Ms. Lin:** So, it's 2-01. Section (7), paragraph two of subdivision (i), of section 2-01. And it's a few pages
19 in until you get to (iii).

20 **Mr. Barowitz:** The clearest language would be, has not been certified.

21 **Ms. Lin:** Right. So, Mr. Barowitz, this is all language that's from our existing rules right now. If we want
22 to go back and change stuff in section two, we can certainly do that. As I mentioned, we're trying to do

1 as little changes to section two as possible in the anticipation it's going to be overhauled down the line.
2 So just so you're aware, that's where this language is coming from. It's part of our current, existing rules.

3 **Chairperson Hylton:** Ms. Lin, meaning this language exists right now, it has been existing forever. Mr.
4 Barowitz, maybe before language police ever was invented. And so, we don't want to mess (with it)
5 because we're going to be looking at those rules later. So, if we can tolerate just leaving that for now,
6 until we tackle chapter two in its entirety. Is that okay, Mr. Barowitz? Okay, did you have any other...
7 You said you had something else?

8 **Mr. Barowitz:** I'll send an email to Stephan.

9 **Chairperson Hylton:** Okay. Thank you. We're coasting, so we could take some other questions if you
10 have. But I appreciate that. Obviously, if there's any substantive stuff, we'll bring it back to the Board. If
11 there's a spelling error, as long as the dictionary agrees with us, we'll make those changes.

12 **Mr. Clarke:** Yes. And as I was saying before, we will make a final version with all of the edits and all of
13 the changes in one document. And we will try to get that to the Board members as quickly as possible,
14 so they can review it one more time.

15 **Chairperson Hylton:** Okay. Thank you. And could you PDF that version?

16 **Mr. Clarke:** Sure

17 **Chairperson Hylton:** Okay, is everyone satisfied? And pretty much all hearts are clear on the rules right
18 now, where we stand? We've gone through all the revisions and comments back from Law, and OATH,
19 and also Operations. And we believe that we've covered just about everything with the few exceptions
20 that we just mentioned that we'll clarify for next meeting. Apart from that, maybe Kevin or Tina, could
21 you enlighten us on where we will go for next month, as it pertains to rules?

22 **Mr. Schultz:** Tina, Yes, please.

23 **Ms. Lin:** I spoke too soon. Yeah, so the plan right now is, as Stephan mentioned, is for us to deliver a
24 cleaned-up version of the rules so that Board members have the opportunity to review everything in

1 full. We're hoping to be able to do that in the next couple of weeks. Fingers crossed. So, the Board will
2 have two weeks to review the rules before the May meeting. We'll also get some answers on those two
3 outstanding items that the Board had raised during this meeting. And hopefully, if nothing else is amiss,
4 we can send it out in May -- the Board can decide to send it back to Law Department. But that's, of
5 course, assuming that everything looks okay to the Board.

6 **Chairperson Hylton:** So, in other words, Ms. Lin, if we are able, next month, to vote on a final draft of
7 this rule, if we're able to agree, we can vote on the final draft of this rule next month; at which point, we
8 will send it over to Law Department for review and....What do we call that? Initial certification?

9 **Ms. Lin:** Yes

10 **Chairperson Hylton:** Absent any significant comments that the Law Department may have that may
11 need to come back to you. Or there may be substantive stuff; or there maybe just be other stuff that
12 doesn't really need to come back to the Board, like a numbering issue. And so, I'm just really proud of
13 the staff and the effort that has gone into these rules for the past four years. And we're confident that
14 that we can move forward. I just want to let you know, it is the Chair's desire to move forward. And
15 when I say Chair, I'm not talking about myself, but the Chair. We do need to move these things forward
16 and put a conclusion to this effort. You may have also noticed that you had a light calendar of cases. And
17 that was by design. This way we can focus on these rules and completing these rules.

18 So, are there any other comments from any Board member that we need to consider here today before
19 we close the meeting? Any issues or any concerns?

20 **Mr. Barowitz:** We have no idea whether the meeting will be in person or Zoom next month?

21 **Chairperson Hylton:** That's correct. That's correct. Because the Governor hasn't yet given us... Our next
22 meeting, I'm going to read that in the closing, but the Governor hasn't yet....You can only do this thirty
23 days at a time, and the next extension doesn't cover our next Board meeting. But as I said, if you play
24 the lottery, you should probably play it on not being in person next time. Okay. I don't see any hands up
25 or anything like that, so I'm going to read.

1 This will conclude our April 15th, 2021, Loft Board meeting. Our next public meeting will be held on
2 Thursday, May 20th, 2021, at 2pm. The Governor's suspension of the in-person meeting requirement of
3 the Open Meetings Law is in effect until May 6th of 2021. So, at this time, we do not yet know whether
4 we will be permitted to hold a May 20th Board meeting virtually. When we do know the format of the
5 next meeting, we will update the public through the website and on the Loft Board Listserv. And Board
6 members, you will be made aware. Board members, please sign and email in your attendance sheets.
7 And I want to say to everyone, have a good afternoon. Thank you.

8