



Transcript of the September 23, 2021

Meeting of the

New York City Loft Board

This transcript has been prepared pursuant to legislation S.50001/A.40001 signed by Governor Hochul, 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: 2:05 P.M.

New York City Loft Board: Transcript of Public Meeting: September 23, 2021

1 Good afternoon. My name is Renaldo Hylton, the Chairperson designee of the New York City Loft Board.
2 Welcome to our September 23rd, 2021, public meeting. And this meeting is being held via
3 teleconference in accordance with legislation signed by our Governor on September 2nd, 2021. I guess
4 the legislation is S.50001/A.40001, due 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 in Article 7-B of the New York State Multiple Dwelling Law. To
9 achieve this goal, the Board mediates and adjudicates disputes between owners and tenants, tracks the
10 progress of each building undergoing legalization, and prosecutes parties who violate the Loft Law and
11 the Loft Board rules.

12 I have one short announcement to start. At the conclusion of the July 15th meeting, I erroneously stated
13 that the Loft Board meeting would take place on September 16th at 2pm. Obviously, that didn't occur, as
14 it was actually scheduled for today, September 23rd. Immediately after the last Board meeting, the Loft
15 Board staff reinforced the correct information on its website. Also, a notation was made in the July 15th,
16 2021, meeting minutes, noting the correction of this error.

17 I first turn to a vote of those July 15th, 2021, meeting minutes. Are there any corrections or comments to
18 the minutes of that meeting? Absent any comments, is there a motion, then, to accept the minutes?

19 **Mr. Roche:** I'll make that motion.

20 **Chairperson Hylton:** Mr. Roche. Is there a second?

21 **Mr. Hylton:** Second

22 **Chairperson Hylton:** That's Mr. Hylton. Thank you. Ms. Rivera, could you please poll the Board
23 members?

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

25 **Mr. Barowitz:** Abstain.

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

2 **Mr. Roche:** Yes.

3 **Ms. Rivera:** Ms. Hayashi?

4 **Ms. Hayashi:** Yes.

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

6 **Mr. Hylton:** Yes.

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

8 **Mr. DeLaney:** Yes.

9 **Ms. Rivera:** Ms. Roslund?

10 **Ms. Roslund:** Yes.

11 **Ms. Rivera:** Ms. Oddo?

12 **Ms. Oddo:** Yes.

13 **Ms. Rivera:** Ms. Rajan?

14 **Ms. Rajan:** Yes.

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

16 **Chairperson Hylton:** Yes.

17 **Ms. Rivera.** Eight in favor; one abstain.

18 **Chairperson Hylton:** Thank you Ms. Rivera. The next thing on the Agenda is the Executive Director's
19 Report. I will now turn over to Mr. Schultz for his time to present his report. Thank you.

20 **Mr. Schultz:** Good afternoon, everybody. It's good to see everyone again. Chairperson Hylton already
21 mentioned it, but I'll just mention that, yes, due to the ongoing public health crisis, Governor Hochul

1 signed legislation that in-person Board meetings have been suspended. The requirement is through
2 January of 2022. The Board staff has been working to find spaces so that if and when we can resume in
3 person, we'll be able to do it safely, depending on what that calls for. So, it's nice to see everyone
4 virtually and, hopefully, we'll see each other in person, eventually.

5 Another brief update on something we brought up in prior meetings is bill A7667, which in very short
6 order, basically, gave tenants some avenues to go to Housing Court, where it was perhaps not so clear.
7 And that law, at least as of two days ago, when I checked, was still with the legislature; not presented to
8 the Governor for signature yet.

9 I just want to mention, very briefly that we've made some updates to our website. Perhaps the most
10 notable one is that we got the right Loft Board members up on the website. And there are some other
11 items and forms that we've been reviewing and updating, trying to make information more and more
12 available for folks. One of the things that's going to go up there soon, digitally of course, is this
13 brochure, that has been printed. And it's a Know Your Rights Guide for Loft Tenants brochure. So, you
14 can find that on our website, hopefully very soon. The request has been made to put it up, and if
15 members want a certain number of physical copies, I can probably try to get you some, depending on
16 volume and such.

17 Another item of brief update. I was asked to give an update on the SoHo-NoHo rezoning. As of earlier
18 this week, it remained under the Borough President's review, and the environmental impact statement
19 had been submitted. City Planning Commission, City Council, Mayoral reviews, and votes have not
20 officially started, according to the ULURP pipeline that I saw.

21 The unofficial Loft Board revenue for July -- I'll be covering two months today, because we had a break
22 in August. The unofficial Loft Board revenue for July was \$992,235. The unofficial Loft Board revenue for
23 August was \$222,744.80. And that's for August. And I need to note here now, Ms. Rivera, who is there --
24 she's not on camera, but she's part of this meeting every week. She's the one who processes all that
25 money. This was our annual registration period, and she has the expertise, and the hard work, and she
26 does it in amazingly well. And I know she doesn't want it, but I'm giving her this public recognition
27 anyway. So, thank you, Ms. Rivera, truly, for your hard, hard work on that.

1 **Chairperson Hylton:** And that makes the Loft Board, in itself, a millionaire, right?

2 **Mr. Schultz:** I think we just got over. Yeah, we're millionaires for a little while, at least.

3 Enforcement updates. I want to just mention, generally, fall and winter are approaching, and I want any
4 building owners who are listening to make sure that their IMDs have heat, and gas, and that this stuff is
5 required, and that it's a life safety issue. So, it's something I very much want to... you know, keep people
6 warm when the winter comes. So please, think ahead.

7 In July and August, there were a total of thirty-seven inspections. Two of those were related to housing
8 maintenance; two were related to declarations of intent. And then there were thirty-three others that
9 were some version of a special kind of inspection. Vacancy verifications, maybe joint inspections with
10 DOB, or some other sort of Loft Board building inspection. I wanted to just point out a few anecdotal
11 inspections. I'm not going to give specifics of the addresses; I don't think it matters. But another person
12 who doesn't want credit and who I'm going to give credit to is our Inspector, who is working very, very
13 hard. And I think it was in July, maybe in August, he went out on a reinspection for no gas, and his
14 reinspection confirmed that the gas had been restored. And I give credit to the people who restored
15 the gas, but I want everyone to know that our inspector is out there checking on that and following up
16 on that, and we're glad to hear that it did get restored.

17 Another inspection, just anecdotally to mention, is when our Loft Board inspector went out with DOB on
18 a joint inspection. There were concerns about the structural aspects of the building, and so our Loft
19 Board Inspector was able to help get access and communicate to get DOB down there to make sure
20 everything was safe. Just a couple of examples of, again, the kind of great work that our Inspector does.

21 Litigation updates. Two cases to mention in litigation updates. One is a decision. *475 Owner LLC versus*
22 *the New York City Loft Board and Coventry*, Index Number 151133/2021. Here, petitioner's an owner,
23 filed an Article 78 to challenge Loft Board Order 4943, that was issued in February of 2020. In that
24 Order, the Loft Board found that unit 1109 at 475 Kent should have been covered under Loft Law and its
25 occupant granted protected occupancy status. The Board found that the unit's exterior terrace and
26 balcony space should be considered in determining whether the unit met the requirements of the
27 Multiple Dwelling Law, specifically, the at-least-four-hundred-square-foot-in-area section of that rule.

1 The owner argued that the Loft Board's interpretation was inconsistent with what the legislature
2 intended, and the court denied the petition, finding that the Loft Board's determination was supported
3 by a rational basis; and that the Board abided by the plain language of the statute and was not found to
4 be irrational, arbitrary, or capricious. I believe that is being appealed. Or notice has been filed for appeal.

5 The new case is *Stream versus New York City Loft Board*. Petitioners are owners of a building at 257
6 West 19th Street in Manhattan, New York. They filed an Article 78 challenge to Loft Board Order 5039,
7 that was issued March 18th of 2021. And there, the Loft Board granted coverage and protected
8 occupancy for Ronald Pichler, who was the occupant of the fourth floor. And finding that the fourth-
9 floor unit was eligible for Loft Law coverage, the Board found that, although the unit itself was never
10 used commercially, the unit still met the criteria for an IMD because a portion of the building had been
11 used commercially. The Board further found that Mr. Pichler was the protected occupant of the fourth
12 floor and rejected the owner's argument that he didn't have valid tenancy.

13 The owner's argument there was that he executed a lease with only one of two owners in common. The
14 owners now in this new case argued that the Order should be annulled -- that's the March 2021 Order --
15 because the fourth-floor unit is not eligible for coverage due to its longtime residential use, saying Mr.
16 Pichler doesn't qualify as a protected occupant. The owners are also arguing in the papers the validity of
17 his lease was already the subject of a pending action in Supreme Court, New York County Supreme
18 Court, in March, when the Order was issued. And so the argument is that the Loft Board lacked
19 jurisdiction to make a determination relating to that lease. So that is a new case that's ongoing right
20 now.

21 I think I have just one more item. In one of my first meetings, I was asked, and it was suggested, that we
22 try to give statistics and updates, and there was a quarterly request for that. So, I'm going to share a
23 screen now, and hopefully, it will work. And I'm going to walk everyone through these statistics fairly
24 quickly, because we have a lot of business to get to. The first slide here relates to the Narrative
25 Statement Conferences and certifications so far this year, year-to-date. I confess, when we're doing a
26 virtual meeting, it's a little hard to know what everybody sees. I'm going to do my best to try to make it
27 visible. But this is our Narrative Statement Conferences, and our certifications as the year has gone on,
28 give or take two, three, four, five, six, seven, sometimes eight of each of these. And these are our

1 conferences where we work with the owners and the tenants about their concerns, to communicate
2 about concerns. The certifications being the approval at the end of that process, depending on how it
3 goes.

4 The next slide is Letters of No Objection, which are letters that the Loft Board issues, essentially, that
5 will allow work in a non-IMD space. That will let the process move forward, and there are various things
6 we check as the Loft Board to make sure that the IMD units won't be disturbed and that the various Loft
7 Laws are being followed. So, again looking at the numbers, you see that each month several are
8 approved; although you see every month that there's really not any denied. And that's because the next
9 line [shows the] interaction by which we work to get the information or the action needed to make
10 something that couldn't be approved, approved. That's the graphic of those numbers.

11 **Chairperson Hylton:** Kevin, could you maybe make the graph a little smaller, because I think we're
12 missing....

13 **Mr. Schultz:** Okay.

14 **Chairperson Hylton:** There you go. Thank you.

15 **Mr. Schultz:** That help? Okay. Sorry about that. That's the slide I just went through. This is the total
16 revenue, which just at a glance looks like the one I saw from 2020, because it's got these low...and then
17 it bumps up really high. And that's what I referenced before, which is our Annual Registration. That's
18 where all the money comes in. Those are the numbers I just mentioned, in July and August. Almost a
19 million in July, and then a little over 200,000 in August. The next is a chart of our FOIL requests
20 processed for the year, 270....

21 **Chairperson Hylton:** Kevin, can you just ask, again, the members of the public should just mute your
22 phones.

23 **Mr. Schultz:** Yeah, please mute. And I'm in screen sharing, so, I've been trying to mute people from
24 mine, but with my current screen sharing, I actually am challenged at that. So, if you can please mute
25 yourself, it'll help us move the meeting along. Thank you.

26

1 FOIL requests. Two-hundred seventy-one, year-to-date. And these are requests for information from
2 members of the public, practitioners, of the records we have. The Loft Board has an impressive array of
3 records, going back a long, long time.

4 This is our building status of each. We have 327 buildings registered right now as IMDs. And the
5 numbers that you see are an indication of where their status is. Going from top to bottom, ones with
6 Alt-1's filed, 77 of them, or a little less than a quarter of them. Ones with a permit, that have a permit,
7 117 -- 36%. That's our largest group. Seventy-three of them, or 22%, have reached 7-B or TCO
8 compliance, which is a threshold under the laws. Another threshold is the C of O, the Certificate of
9 Occupancy. Five percent of them are there, and then another 5% have moved from there to submitting
10 a removal application with the Loft Board. And then the last category here -- and I'll probably move that
11 to the top next time -- is actually the number of buildings -- 28 -- that have not filed for any Alt yet in
12 moving forward with the process. So that will be, again, quarterly statistics and indicators, that we'll
13 certainly prepare quarterly. I think that's everything I have to share as far as the Executive Director's
14 report.

15 **Chairperson Hylton:** Kevin, two things. One, that report you just made, that's public, obviously. So is
16 that also filed with the minutes?

17 **Mr. Schultz:** It was last time, and it will be again. Yes.

18 **Chairperson Hylton:** And secondly, the brochure that you mentioned, I believe they were in multiple
19 languages, correct?

20 **Mr. Schultz:** Oh, thank you. Yes. Thirteen languages, I believe.

21 **Chairperson Hylton:** Can you speak any of those languages? Or can you just tell us which languages they
22 were?

23 **Mr. Schultz:** I'd be remiss to leave one out. But the city has a list of languages that are appropriate and
24 required. I don't know them, though.

25 **Chairperson Hylton:** But at least the website will let us know that those languages are available for...

1 **Mr. Schultz:** Yes, I submitted all thirteen of them to be put up on the website. And exactly how they
2 organize it, I don't know. But yes.

3 **Chairperson Hylton:** OK, great.

4 **Mr. DeLaney:** I have a couple of questions.

5 **Mr. Schultz:** Yes, sir.

6 **Mr. DeLaney:** Number one, on the Know Your Rights Guide, is there a PDF of that currently available?

7 **Mr. Schultz:** Yes.

8 **Mr. DeLaney:** Could you send it out to the Board Members, please?

9 **Mr. Schultz:** Certainly, yes.

10 **Mr. DeLaney:** Okay. Number two. I think, just as a matter of clarification, that the Borough President
11 has made her recommendations known on the SoHo-NoHo plan, and it's now before the City Planning
12 Commission. The scorecard so far is it was pretty resoundingly rejected by the Community Board, whose
13 opinion is advisory, and Borough President Brewer was not terribly enthusiastic either.

14 Next question. Am I correct that the revenue that the Loft Board enjoys is based on payment of \$500
15 per unit?

16 **Chairperson Hylton:** Ms. Rivera is coaching me on it.

17 **Mr. Schultz:** That's who I want sitting next to me.

18 **Mr. DeLaney:** All right. Okay.

19 **Mr. Schultz:** I'm not that smart. I get her next meeting, sir. To help me with the tough questions.

20 **Mr. DeLaney:** Okay. And then can we go back and take a look at that Letter of No Objection slide?

21 **Mr. Schultz:** Certainly. Okay. You see it?

1 **Mr. DeLaney:** Yeah. Thank you. And by the way, thanks for providing the statistics. It's really very
2 helpful. My question is that, for example, in January, we show 35 letters of no objection. Is that what
3 was filed in January? Or is that cumulative?

4 **Mr. Schultz:** That number is, I think, an indicator of, for lack of a better term, workload. So those are
5 ones that were in our workflow. Which is to say they could carry over and over. The ones that were
6 approved would be representative of what was concluded. When they were received is not indicated
7 here. So that last total would be, again, a kind of indicator of workload. Meaning it's underway, in one
8 form or another.

9 **Mr. DeLaney:** So, working across the bottom column, if we started out with, it looks like 35. In February,
10 that number dropped to 29, based on the approvals in January? I'm just trying to get a handle on
11 whether the numbers for each month on that bottom column are new... Is the total of Letters of No
12 Objection for the year the sum of the year to date? The sum of those eight months?

13 **Mr. Schultz:** No, it wouldn't be, because the way that we've been reporting them.... This is derived from
14 monthly reports, because I do not know that we have the statistic of received, which I think might be
15 the statistic you're seeking. I shouldn't say we don't have it; we don't have it prepared. But assuming it's
16 feasible, which I imagine it is, that's something we could add to this.

17 **Mr. DeLaney:** And I think having the guts to... Having put together some PowerPoints that I was then
18 not terribly prepared to explain, I understand the charm of PowerPoints. But when I first looked at this, I
19 thought my goodness, does that mean we've had three-hundred Letters of no Objection applications
20 this year? That's not the case.

21 **Mr. Schultz:** Yeah, I don't want to really.... I will say I think what you can take is that, in any given
22 month, you can see the totality of which ones we were dealing with. Right? So you could say we have
23 between 35 and 61 at any given time.

24 **Mr. DeLaney:** Right. So for example, if you look at the last month, which I guess is August, 22 were
25 approved; you add that to the 34 that are hanging around, and that brings us to a total of 56.

26 **Mr. Schultz:** Yes, the universe of the month's efforts.

1 **Mr. DeLaney:** Got it. If you can fine tune that a little more, it would be interesting, but I was just... If the
2 Board got 300 Letters of No Objection this year, I'm going to be very impressed.

3 **Mr. Schultz:** Well, you can be impressed, but no, it wasn't that much.

4 **Chairperson Hylton:** I think, Kevin, what we're missing here is just a row that shows received for the
5 month.

6 **Mr. Schultz:** Right.

7 **Mr. DeLaney:** And that's the end of my questions. Thank you. That was very helpful.

8 **Mr. Schultz:** Thank you very much. Any other questions? Thank you.

9 **Chairperson Hylton:** My turn? Thank you, Kevin. The next thing on our Agenda is the Appeal and
10 Reconsideration Calendar. There is one case on the Appeal and Reconsideration Calendar, and the case
11 is

Case 1:	Thomas Brigham, Clara Kim, Ingo Gunther, David Kelley	72 Warren Street New York, NY	Docket Nos. AD-0114 and AD-0115
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13 Mr. Clarke will present this case.

14 **Mr. Clarke:** The applications docketed as AD-0114 and AD-0115 challenge all actions taken by staff that
15 are premised on the validity of Job 963. In February 2019, the DOB began a special audit for Alt-1 job
16 419. On December 18th, 2019, net lessee filed with DOB Alt-2 Job 963 to address the special audit for
17 Job 419. In February of 2020, net lessee filed with the Loft Board amended plans and an amended
18 Narrative Statement for Job 963 with proof of service of the amended Narrative Statement on the
19 tenants of units 2E and 4E. In August 2020, net lessee requested a Narrative Statement Conference with
20 the Loft Board. On September 8th, 2020, staff directed net lessee to serve the amended Narrative
21 Statement on all occupants of the building. On November 16th, 2020, staff conducted a Narrative
22 Statement Conference between tenants and net lessee to discuss issues related to Job 963. On
23 December 4th, 2020, net lessee requested a Certification Letter from the Loft Board for Job 963. On

1 December 21st, 2020, staff started a forty-day clock, which allowed tenants to submit comments or an
2 alternate plan to net lessee's Narrative Statement and plans for Job 963.

3 On January 20th, 2021, Mr. Brigham filed an application seeking an annulment of all dispositive actions
4 taken by staff that are premised on the validity of Job 963. Staff docketed the application as AD-0114.

5 On January 30th, 2021, the forty-day clock expired. On February 4th, 2021, tenants filed an application
6 seeking an annulment of the staff's actions related to Job 963, including starting the forty-day clock.
7 Staff docketed the application as AD-0115. On February 16th, 2021, net lessee filed an answer to AD-
8 0114. On March 1st, 2021, net lessee filed an answer to AD-0115. On March 15th, 2021, tenants filed an
9 addendum to AD-0115. On May 4th, 2021, net lessee answered tenants' addendum.

10 Pursuant to 29 RCNY Section 1-07.1, a "person aggrieved by a written determination of the Loft Board
11 staff" may appeal the determination to the Loft Board. The standard of review for the Loft Board is...
12 "...whether the facts found are supported by substantial evidence in the record; whether the law was
13 correctly applied; and whether the penalty imposed is appropriate. But it may not consider any evidence
14 not presented to the Loft Board staff or Loft Board hearing officer unless good cause is shown as to why
15 the evidence was not previously available."

16 Tenants' appeals seek to discontinue and annul all actions taken by staff based upon the validity of Job
17 963. With respect to Job 963, staff determined net lessee must serve a copy of the amended Narrative
18 Statement on the occupants of the building. Staff scheduled and held a Conference with net lessee and
19 tenants, and Staff issued a notice of a forty-day clock after the Conference. For the Board to make a
20 determination on the appeals, it must decide if the actions taken by staff were proper pursuant to Loft
21 Board rules.

22 As a preliminary matter, net lessee argues that tenants did not meet the standard of review pursuant to
23 Section 1-07.1(d). Net lessee argues tenants were not aggrieved by staff's Administrative
24 Determinations because the proposed work related to Job 963 did not take place in their units, and
25 tenants had an opportunity to file comments or an alternate plan challenging the proposed work during
26 the forty-day clock. However, pursuant to Section 2-01(d)(2)(x), proposed work need not take place in
27 the IMD unit for the occupants to dispute the work. The work need only unreasonably interfere with the

1 occupant's use of the unit for the occupant to dispute the proposed work during the forty-day clock.
2 Furthermore, one of tenants' arguments in the Appeals is that staff started the forty-day clock based on
3 net lessee's incomplete, amended Narrative Statement, which failed to list requisite details of the
4 proposed work; and therefore, tenants were denied an opportunity to properly comment during the
5 forty-day clock. The Proposed Order finds tenants persuasively demonstrated that they are aggrieved
6 parties.

7 With respect to the first Administrative Determination, the Proposed Order finds staff properly required
8 net lessee to serve all occupants of the Building with the amended Narrative Statement, as Section
9 2-1(d)(2)(x) expressly states that if the owner amends the legalization plan initially submitted to the Loft
10 Board, it must file proof of service of the Narrative Statement on all occupants of the building with the
11 Loft Board.

12 With respect to the second Administrative Determination, the Proposed Order finds staff's decision to
13 schedule and conduct a Narrative Statement (conference) to help the parties resolve outstanding issues
14 related to Job 963 was appropriate and did not prejudice tenants.

15 With respect to the third Administrative Determination -- the issuance of the forty-day clock -- tenants
16 argue that it should be annulled on four grounds. First, tenants argue that net lessee's subsequent
17 changes to the PW1 for Job 963 superseded and invalidated the prior PW1. Tenants argue these
18 changes were so significant, it required net lessee to make changes to the plans and Narrative
19 Statement referenced in the notice of the forty-day clock. Tenants argue that because changes were
20 required and net lessee did not serve tenants with a new amended Narrative Statement, the forty-day
21 clock must be annulled. However, amendments to the PW1 do not invalidate a clock. Amendments to
22 the legalization plans require compliance with the filing requirements set forth in Section 2-01(d)(2)(x),
23 and a new clock can be issued for any changes before staff issues a Certification Letter for those
24 changes.

25 Next, tenants argue that they did not have access to a valid set of plans because net lessee failed to file
26 amended plans with the Department of Buildings. However, Section 2-01(d)(2)(x) does not require
27 owner to file plans with DOB. The rules require net lessee to file the plans with the Loft Board, and there

1 is no dispute that net lessee filed the plans referenced in the forty-day clock with the Loft Board.
2 Tenants could have requested from the Loft Board or the net lessee a copy of both to review.

3 Next, tenants argue net lessee did not meet the requirements for obtaining a Letter of No Objection
4 from the Loft Board, pursuant to Section 2-01(d)(4)(i), and therefore, the clock should be annulled.
5 However, Letters of No Objection are only issued by the Loft Board when owner's proposed work does
6 not affect the IMD spaces. Here, net lessee's proposed work affected IMD spaces, and therefore,
7 pursuant to Section 2-01(d)(4)(ii), net lessee was required to obtain a Certification Letter from the Loft
8 Board, not a Letter of No Objection.

9 Finally, tenants argue the forty-day clock should be annulled because the Narrative Statement was
10 incomplete. Tenants argue that net lessee failed to satisfy Section 2-01(d)(2)(v) because it failed to list
11 noncompliant conditions and code citations in its amended Narrative Statement. The Proposed Order
12 agrees with tenants. Here, on net lessee's amended Narrative Statement, under the column Non-
13 Compliant Condition Addressed, net lessee's Narrative Statement simply says, "To address open items in
14 Special Audit for Job Application #120586419." This description is insufficient. The Special Audit net
15 lessee referenced specifically lists non-compliant conditions and code citations, and net lessee should
16 have included them in the amended Narrative Statement. Net lessee's failure to provide all available
17 information that tenants were entitled to have in the amended Narrative Statement denied tenants a
18 fair opportunity to comment during the forty-day clock.

19 Therefore, the Proposed Order before you today grants tenants' appeals solely on the grounds that net
20 lessee's amended Narrative Statement was incomplete and annuls the forty-day clock.

21 **Chairperson Hylton:** Mr. Clarke, thank you very much for that comprehensive analysis there. Do I have
22 a motion then to accept this case? Mr. DeLaney. Ms. Heather Roslund has seconded. Do I have any
23 comments on this case? Oh, I'm sorry, Ms. Rivera, you must poll the Board members? Comments first.
24 Do I have comments?

25 **Mr. DeLaney:** I would just add that this is a very complicated and interesting case. It's worthy of study as
26 to how the Board's rules and the Department of Buildings procedures interplay with each other. I
27 commend Mr. Clarke for going through all this and writing up what is eight pages of fine print and

1 explaining why some arguments did not prevail, but why one argument did prevail. And if the forty-day
2 clock notice for Job 963 is annulled, am I correct that that means that there will be a subsequent
3 Narrative Statement Conference?

4 **Mr. Clarke:** To answer that question, it doesn't necessarily mean that there will be another Narrative
5 Statement Conference. However, the Loft Board staff will not issue a Certification Letter until a valid,
6 forty-day clock expires or the owner submits waivers of the Narrative Statement process. So, it basically
7 means the process is not complete, and the Loft Board staff will not issue a Certification Letter for that
8 job until the process is complete.

9 **Mr. DeLaney:** Thank you.

10 **Chairperson Hylton:** The door is open to anyone else who may want to comment on the case. Absent
11 any other comments, Ms. Rivera, could you please poll the Board members?

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

13 **Mr. Barowitz:** Yes.

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

15 **Mr. Roche:** Yes.

16 **Ms. Rivera:** Ms. Hayashi?

17 **Ms. Hayashi:** Yes.

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

19 **Mr. Hylton:** Yes.

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

21 **Mr. DeLaney:** Yes.

22 **Ms. Rivera:** Ms. Roslund?

1 **Ms. Roslund:** I recuse myself.

2 **Ms. Rivera:** Ms. Oddo?

3 **Ms. Oddo:** 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; one recuse.

9 **Chairperson Hylton:** Thank you, Ms. Rivera. There are three cases on the Summary Calendar, and these
10 cases are

11 Case 2: Bamboo Hills Corp. 255-265 McKibbin Street, Brooklyn, NY Docket No. LS-0275

12 Case 3: Matthew Virtue 250 Moore Street, Brooklyn, NY Docket No. PO-0099

13 Case 4: Scott Dennis 1087 Flushing Avenue, Unit 302 Docket Nos. PO-0141; TA-0278
14 Brooklyn, NY

15 Is there a motion to accept these cases?

16 **Mr. Barowitz:** I so move.

17 **Chairperson Hylton:** Mr. Barowitz. Mr. Hylton, is that you?

18 **Mr. Hylton:** Yes.

19 **Chairperson Hylton:** Mr. Hylton has seconded. Before we go on, there's a caller who needs to mute
20 their phone, because it disrupts the meeting. Kevin, I identify the caller as number nine. So, could you
21 maybe force that? Thank you. All right. Are there any comments on these cases? Mr. DeLaney?

1 **Mr. DeLaney:** Yes, I just wanted to note that case number 3, 250 More Street, and case number 4, 1087
2 Flushing Avenue, are both cases that are settled by stipulation, and yet again, the Loft Board uses that
3 stipulation as a reason to determine that the case is settled; but takes the delicate position of neither
4 accepting nor rejecting the remaining terms of the stipulation of settlement. One of these was a case
5 that included protected occupancy and a rent adjustment. The other was a protected occupancy case. In
6 both instances, the stipulation speaks to issues of rent and various other things. And I still think that this
7 process is not fully under control by the Loft Board, and that if there are things we don't accept about a
8 stipulation, we should highlight what those are rather than leave the parties guessing exactly what we
9 mean by neither accepting nor rejecting. I think it's a bit too coy.

10 **Chairperson Hylton:** I just want to clarify. Chuck, I think this has come up just about every month. I think
11 we had...I'm trying to remember what we had said that you could possibly do. I know the contents of
12 stipulation are sometimes private and so on. But what was the suggestion that came up before about
13 what the Loft Board could possibly do to make it clear? Put a list out of certain things that are not
14 acceptable in stipulations?

15 **Mr. DeLaney:** I don't recall that thorough a discussion. I know, we discussed deeming things withdrawn
16 in terms of a way to dispose of them on the calendar. I don't know if we've had that discussion.

17 **Chairperson Hylton:** We've never had it. Yeah. Okay, Mr. Barowitz?

18 **Mr. Barowitz:** Well, I was just going to second what, in fact, you said. It is a little frustrating for the
19 stipulation agreements to not be terribly clear, and it's been going on as long as I can remember. And
20 frankly, I don't know what to do about it. Maybe we could get together at some point privately with the
21 lawyers on the Board and see whether we could make this more explicit for us.

22 **Chairperson Hylton:** Thank you. Are there any other comments on these cases? Thank you. Absent any
23 comments, Ms. Rivera, could you please poll the Board members?

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

25 **Mr. Barowitz:** Yes.

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

2 **Mr. Roche:** Yes.

3 **Ms. Rivera:** Ms. Hayashi?

4 **Ms. Hayashi:** Yes.

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

6 **Mr. Hylton:** Yes.

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

8 **Mr. DeLaney:** Yes.

9 **Ms. Rivera:** Ms. Roslund?

10 **Ms. Roslund:** Yes.

11 **Ms. Rivera:** Ms. Oddo?

12 **Ms. Oddo:** Yes.

13 **Ms. Rivera:** Ms. Rajan?

14 **Ms. Rajan:** Yes.

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

16 **Chairperson Hylton:** Yes.

17 **Ms. Rivera:** Nine in favor.

18 **Chairperson Hylton:** Thank you, Ms. Rivera. There are eighteen cases on the Master Calendar, and the
19 first is a removal case.

20 Case 5: 269 Meserole Realty, LLC 269-271 Meserole Street in Brooklyn, NY Docket No. LE-0726

1 There's no staff presentation on this case, so I will entertain a motion to accept this case. Mr. Barowitz
2 has made a motion. Do I have a second?

3 **Mr. Hylton:** Second.

4 **Chairperson Hylton:** Mr. Hylton. Thank you. Do we have any comments on this case? Very good. No
5 comments. Ms. Rivera, could you please poll the Board members?

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

7 **Mr. Barowitz:** Yes.

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

9 **Mr. Roche:** Yes.

10 **Ms. Rivera:** Ms. Hayashi?

11 **Ms. Hayashi:** Yes.

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

13 **Mr. Hylton:** Yes.

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

15 **Mr. DeLaney:** Yes.

16 **Ms. Rivera:** Ms. Roslund?

17 **Ms. Roslund:** Yes.

18 **Ms. Rivera:** Ms. Oddo?

19 **Ms. Oddo:** Yes.

20 **Ms. Rivera:** Ms. Rajan?

21 **Ms. Rajan:** Yes.

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

2 **Chairperson Hylton:** Yes.

3 **Ms. Rivera.** Nine in favor.

4 **Chairperson Hylton:** Thank you Ms. Rivera. The next case is

5 Case 6: Julian Bozeman 475 Kent Avenue in Brooklyn, NY Docket No. PO-0075

6 Ms. Lin will present this case.

7 **Ms. Lin:** Thank you, Chairperson Hylton. Case number 6, in the matter of Julian Bozeman, is a protected
8 occupancy application filed by the tenant of unit 905 at 473-493 Kent Avenue, Brooklyn, New York. The
9 owner opposed the tenant's application on the grounds that the unit had been deregulated by a sale of
10 rights by the prior tenant, Lisa Mordhurst. This case was first decided in June 2020, in Loft Board Order
11 number 4987, which granted tenant protected occupancy status, but in doing so did not review or
12 consider the post-trial memoranda filed by the parties. Loft Board Order no. 4987 was vacated and
13 remanded back to the Loft Board staff to ensure that the briefs are duly reviewed and considered.

14 After review and consideration of the full record, this Proposed Order finds Ms. Mordhurst's sale of
15 rights to be invalid and finds Mr. Bozeman to be the protected occupant of the unit. Ms. Mordhurst's
16 affidavit was properly admitted into the record by the Administrative Law Judge. CPLR requirements for
17 out-of-state affidavits are inapplicable to administrative proceedings. As the affidavit was offered and
18 accepted into evidence by the ALJ, consistent with OATH's rules of evidence, the affidavit was
19 appropriately relied upon by the Loft Board.

20 This Proposed Order finds that Ms. Mordhurst's sale of rights is invalid. Although Ms. Mordhurst was the
21 unit's prime lessee, she did not qualify as a protected occupant, having vacated the unit in the summer
22 of 2009. By the time the building was registered as an IMD in November 2012, although prior owner
23 listed Ms. Mordhurst as the protected occupant of the unit, she had not lived there for over three years.
24 Further, even if Ms. Mordhurst could be considered the unit's protected occupant, her sale of rights
25 would nevertheless be invalid, because she was not the residential occupant of the unit at the time of
26 sale. The Loft Law and rules are clear that a sale of rights must be effectuated by the residential

1 occupant. By the time prior owner purchased Mr. Mordhurst's rights in November 2014, she had not
2 lived in the unit for five years, and the unit was occupied by Mr. Bozeman.

3 The Proposed Order also finds that the purported waiver of rent regulation in Mr. Bozeman's lease is
4 invalid, as the Loft Law does not contain a broad exception, and there is no indication of a sale of rights
5 by Mr. Bozeman. Mr. Bozeman has also produced sufficient documentation to establish the unit as his
6 primary residence. Therefore, the Proposed Order finds that Mr. Bozeman is the protected occupant of
7 the unit.

8 **Chairperson Hylton:** Thank you, Ms. Lin. Do I have a motion to accept this case? Mr. DeLaney. Is there a
9 second? Mr. Barowitz is second. Do I have any comments on this case? No comments. Ms. Rivera, could
10 you please poll the Board 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. Hylton?

18 **Mr. Hylton:** Abstain.

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

20 **Mr. DeLaney:** Yes.

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

22 **Ms. Roslund:** Yes.

1 **Ms. Rivera:** Ms. Oddo?

2 **Ms. Oddo:** Yes.

3 **Ms. Rivera:** Ms. Rajan?

4 **Ms. Rajan:** Yes.

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

6 **Chairperson Hylton:** Yes.

7 **Ms. Rivera.** Eight in favor; one abstain.

8 **Chairperson Hylton:** Thank you. The motion carries. The next case is a removal case.

9 Case 7: 108-114 Wooster Street Corp. 108-114 Wooster Street, NY, NY Docket No. LE-0603

10 There's no staff presentation on this case. So, do I have a motion then to accept this case? Ms. Hayashi,
11 did you raise your hand, or are you just....?

12 **Ms. Hayashi:** I'm sorry. I'm just...

13 **Chairperson Hylton:** Do I have a motion to accept this case?

14 **Ms. Hayashi:** I so move.

15 **Chairperson Hylton:** Thank you. Ms. Hayashi has moved. And Ms. Rajan has seconded?

16 **Ms. Rajan:** Sure.

17 **Chairperson Hylton:** Do I have any comments on this case? Absent any the comments, Ms. Rivera,
18 could you please poll the Board members.

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

20 **Mr. Barowitz:** Yes.

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

2 **Mr. Roche:** Yes.

3 **Ms. Rivera:** Ms. Hayashi?

4 **Ms. Hayashi:** Yes.

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

6 **Mr. Hylton:** Yes.

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

8 **Mr. DeLaney:** Yes.

9 **Ms. Rivera:** Ms. Roslund?

10 **Ms. Roslund:** Yes.

11 **Ms. Rivera:** Ms. Oddo?

12 **Ms. Oddo:** Yes.

13 **Ms. Rivera:** Ms. Rajan?

14 **Ms. Rajan:** Yes.

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

16 **Chairperson Hylton:** Yes.

17 **Ms. Rivera:** Nine in favor.

18 **Chairperson Hylton:** Thank you. The motion carries. The next case is -- and please forgive me if I botch
19 the names.

20 Case 8: Alyosha Smolarski, Nicholas Palun, 239 Banker Street, Unit 4A Docket No. PO-0142
Scott Tumulty Brooklyn, NY

1 Ms. Lee will present this case.

2 **Ms. Lee:** Thank you, Chairperson Hylton. This case involves a protected occupancy application that was
3 filed in September 2020, by Mr. Smolarski, Mr. Palun, and Mr. Tumulty, the then residential occupants
4 of Unit 4A in the building located at 239 Banker Street in Brooklyn, New York. No answers were filed in
5 response to the protected occupancy application, so Loft Board staff transferred the case to OATH for
6 adjudication.

7 In May 2021, Mr. Smolarski and owner executed a stipulation of settlement whereby, among other
8 things, Mr. Smolarski consented to vacate owner's default in answering the protected occupancy
9 application, and owner recognized Mr. Smolarski as the protected occupant of Unit 4A under the Loft
10 Law. In addition, Mr. Smolarski represented that Mr. Palun and Mr. Tumulty had vacated the subject
11 unit. Mr. Palun confirmed that he no longer resided in Unit 4A and withdrew his protected occupancy
12 claims. As to Mr. Tumulty's protected occupancy claims, they remained pending at OATH and were
13 scheduled for trial.

14 In June 2021, Administrative Law Judge Kara J. Miller issued a Final Notice of Trial, which indicated,
15 among other things, that a trial would be conducted on August 27, 2021. Because Mr. Tumulty had
16 failed to appear at previously scheduled conferences and because Mr. Tumulty did not contact OATH to
17 request an adjournment, Judge Miller marked the August 27th trial as final against Mr. Tumulty.
18 On August 27th, 2021, owner's counsel appeared at trial. However, Mr. Tumulty failed to appear.
19 Owner's counsel then moved for dismissal of Mr. Tumulty's protected occupancy claims. Judge Miller
20 ultimately recommended that Mr. Tumulty's protected occupancy claims be dismissed for failure to
21 prosecute.

22 Because Judge Miller marked the August 27th trial as final against Mr. Tumulty; because Mr. Tumulty
23 failed to appear at trial; and because Mr. Tumulty neither contacted OATH nor submitted a written
24 request for reinstatement of his protected occupancy claims within the prescribed thirty-day period as
25 set forth in 29 RCNY Section 1-06(k)(4), this Proposed Order agrees with Judge Miller and dismisses Mr.
26 Tumulty's protected occupancy claims with prejudice for failure to prosecute.

1 Furthermore, this Proposed Order deems the protected occupancy claims of Mr. Smolarski and Mr.
2 Palun to be resolved. Mr. Palun withdrew his protected occupancy claims, and Mr. Smolarski is
3 recognized as the protected occupant of Unit 4A. This Proposed Order neither accepts nor rejects the
4 remaining terms of the stipulation of settlement that was executed in May 2021. This Proposed Order
5 directs the Loft Board staff to update the Loft Board's records to reflect Mr. Smolarski as the protected
6 occupant of Unit 4A.

7 **Chairperson Hylton:** Do I have a motion then to accept this case?

8 **Ms. Rajan:** I can move.

9 **Chairperson Hylton:** That was Ms. Rajan. I do have a second. I think I see Mr. DeLaney's hand. I am
10 open to comments on this case. No comments. Ms. Rivera, could you please poll the Board 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. Hylton?

18 **Mr. Hylton:** Yes.

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

20 **Mr. DeLaney:** Yes.

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

22 **Ms. Roslund:** Abstain.

1 **Ms. Rivera:** Ms. Oddo?

2 **Ms. Oddo:** Yes.

3 **Ms. Rivera:** Ms. Rajan?

4 **Ms. Rajan:** Yes.

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

6 **Chairperson Hylton:** Yes.

7 **Ms. Rivera.** Eight in favor; one abstain.

8 **Chairperson Hylton:** Thank you Ms. Rivera. The final fourteen cases are failure-to-register cases. There
9 is no staff presentation on these cases, but I'll read, painstakingly, the applicants and the information. I
10 do have to read it all.

Case 09:	Vestry Holding Corp.	37 Vestry Street, NY, NY	Docket No. FO-0916
Case 10:	Jay Hudson, LLC	15 Jay Street, NY, NY	Docket No. FO-0917
Case 11:	120 Prince Street, LLC	128 Wooster Street, NY, NY	Docket No. FO-0924
Case 12:	Empsrggreene LLC	47-49 Greene Street, NY, NY	Docket No. FO-0925
Case 13:	47 West 28th Street LLC	47 West 28th Street, NY, NY	Docket No. FO-0937
Case 14:	Camilla Shah, President	354 Bowery, NY, NY	Docket No. FO-0938
Case 15:	17 Leonard Properties, LLC	17 Leonard Street, NY, NY	Docket No. FO-0939
Case 16:	Soho Towers, LLC	475 Broadway, NY, NY	Docket No. FO-0944
Case 17:	Haimil Realty Corp.	209 East 2nd Street, NY, NY	Docket No. FO-0945
Case 18:	Bridge Associates of Soho, Inc.	533 Greenwich Street, NY, NY	Docket No. FO-0952
Case 19:	Redsky JZ Roebing, LLC	143-153 Roebing Street, BK, NY	Docket No. FO-0969
Case 20:	Regency 175, LLC	360 Jefferson Street, BK, NY	Docket No. FO-0972
Case 21:	223 15th Street, LLC	223 15th Street, BK, NY	Docket No. FO-0978
Case 22:	450 Broadway Owners, LLC	450 Broadway, NY, NY	Docket No. FO-0983

11

12 There is no staff presentation on these cases. So, do I have a motion to accept these cases?

1 **Mr. Barowitz:** I so move.

2 **Chairperson Hylton:** Mr. Barowitz. Is there a second?

3 **Mr. Roche:** I'll second.

4 **Chairperson Hylton:** Mr. Roche. Thank you. Are there any comments on these cases? Yes, Mr. DeLaney.

5 **Mr. DeLaney:** First off, I want to commend the staff for being able to bring so many failure-of-owner-to-
6 register cases to the Board at its September meeting. Obviously, the deadline for registration is pegged
7 to the fiscal year beginning July 1st, which is why we see so much income in July and August. And in past
8 years, these cases have not made it to the Board until October, November, or even December, which in
9 essence, gives owners kind of a free pass to not register or renew in a timely fashion.

10 And I'm of the opinion that registration is essential. That if you're expected to perform code compliance,
11 and draw up plans, and pull a permit, and participate in a Narrative Statement Conference, then the
12 place to start is by registering the building. And it's also very important because with the registration,
13 the registrant is required to provide a twenty-four-hour contact number and other information about
14 the ownership that can be crucial in certain circumstances.

15 This year, and I don't think it's the first year, the most egregious offender is a building at 533 Greenwich
16 Street, which last registered in fiscal year 2008. Would have begun in 2007, I think, back when George
17 W. Bush was president. So that's an extraordinarily long period of time to thumb your nose at the Loft
18 Board. There's another from 2018 --- two from 2018. Most of them just missed this year, a few missed
19 two years. The fines run anywhere from \$5,000, up to \$17,500 for three of the buildings that have gone
20 for an extended period of time. So, my first question is, are there more buildings that have failed to
21 register, or is this the entire universe?

22 **Mr. Schultz:** There are, I believe, two or three -- I'm going to say maybe four or five -- that are not on
23 this list, because there was some response that warranted review. And so that response will be
24 reviewed, and then a recommendation will be made to the Board. These represent, frankly, ones where
25 we've received either nothing at all, or if anything, and I think it's nothing, nothing meritorious or
26 mitigating or compelling.

1 **Mr. DeLaney:** Fine. My concern is really just if there were forty more that hadn't registered, I'd have a
2 higher level of concern.

3 **Mr. Schultz:** If there are more, it's a single digit more, depending on the circumstances.

4 **Mr. DeLaney:** And those are kind of chestnut cases, where there's wrinkles and plotlines to reconsider.
5 My second question is, would you consider taking the three -- the gold, silver, and bronze of foot-
6 draggers, namely 533 Greenwich at FY08, and 354 Bowery, and 209 East Second, and consider that
7 those might be buildings where some kind of extraordinary enforcement action, like specific
8 enforcement, might be warranted? Would you be willing to take a look at that?

9 **Mr. Schultz:** Yes. I would be willing to take a look at that.

10 **Mr. DeLaney:** Okay.

11 **Ms. Roslund:** Sorry, Mr. DeLaney, but along those same lines, are there outstanding fees beyond these
12 fees? Is this just the currently imposed fees? Are there ever unpaid fees in the background?

13 **Mr. Schultz:** I see Mr. Argov, and I'm glad he's nodding, because he deserves so much of the credit for
14 doing the work here. Mr. Argov, do you want to answer that question?

15 **Mr. Argov:** Sure. So just very briefly -- Can you hear me? Very briefly, as an example, 533 Greenwich
16 Street, I believe the total fees they owe are somewhere in the ballpark of about a quarter-million
17 dollars. This fine that's being imposed now is a penalty for not registering for three years or more, but
18 they have previous penalties from past FO's we've issued; other summonses they've been issued; and
19 the registration fee. So, this is just what is currently being imposed on them for their violation. It is not
20 an encapsulation of all the amounts they owe to the Loft Board.

21 **Mr. Barowitz:** That's really interesting to hear. Also, I thought that the maximum fee went from 17,500
22 to 25,000. Am I wrong about that?

1 **Mr. Schultz:** No, you're not wrong. The MDL changed it to 25,000, but the rules, for this at least, and
2 maybe for all so far, have not been increased. So, we are we are bound by what the rules say, at this
3 time.

4 **Chairperson Hylton:** So, just to clarify, Mr. Barowitz, the maximum penalties have been authorized to go
5 up to 25,000, but our rules need to be changed to effect that, if the Board wants, so that we can get
6 more stringent penalties. You may or may not want that. But Glen, thank you so much. I appreciate your
7 efforts on that. I have another question, though, Kevin or Glen. When we write these Orders for those
8 recalcitrant folks who do this every year, why can't the latest Order we generate be for the cumulative
9 amount of the debt?

10 **Mr. Schultz:** We'll look into that. I think probably because what we're trying to specifically enforce is a
11 specific action. And so the cumulative enforcement or collection might be a different question, that I'm
12 happy to look into.

13 **Chairperson Hylton:** I see. And to follow up on Mr. DeLaney's question about the enforcement,
14 additional enforcement, what were you thinking?

15 **Mr. Schultz:** Of looking into it. I really don't want to brainstorm enforcement actions on the fly, because
16 I want to make sure they're done right. But I certainly would imagine that, if there's an avenue, and I
17 confess, I don't know. Law Department, I think, has some avenues for collections, that I think would be
18 worth looking into. And I say that without really making any promises or being sure. To the extent that
19 these are buildings our Inspector could make a visit to, that is another action. To review their code
20 compliance status and compare it to the rules and expectations, if there's any failings there. So, I said I
21 wouldn't brainstorm, but I just did it.

22 **Chairperson Hylton:** Yeah, that's great. I'm sure collections would be part of the enforcement. I guess
23 we could probably pursue that. But when folks are not paying their debt or registering their buildings as
24 required, that could probably indicate the broken windows theory. That there are other issues that may
25 be out there, that we may want to step up enforcement, surveillance, that kind of thing, to see if they're
26 lacking other things. So that's great. Thank you for doing that. And I want to thank the staff, actually,
27 from Ms. Rivera up to you, Kev, for taking a swift action in getting these out, I think, the earliest ever.

1 This is great. And I think we did have a talk about this and those that are remaining do have stuff to be
2 looked into, right? Why we couldn't actually put them here on this, right? We still have some research
3 to do. Maybe some issues were raised that you have to still get addressed before we can do that, right?

4 **Mr. Schultz:** Yes.

5 **Chairperson Hylton:** And do you think we'll be able to get this quickly by... Ms. Rivera's nodding her
6 head. You can't see her, but she just answered the question that we probably would be able to get this
7 off by the next Board meeting.

8 **Mr. Schultz:** The goal would be to have those resolved for next meeting. Yeah. And I thank you for the
9 gratitude. I won't be humble. It wasn't easy. It's not easy at all. Mr. Argov and other members of staff
10 worked very, very hard to make this happen.

11 **Chairperson Hylton:** Mr. DeLaney.

12 **Mr. DeLaney:** I have one more point. And by the way, Ms. Roslund, thank you for raising the question
13 you did. That's certainly pertinent. And some of these buildings, as Mr. Argov pointed out in the case of
14 533 Greenwich, they're just letting the meter run and the things rack up. So, my final request is, one
15 thing we don't do with the failure-of-owner cases is, we do not treat the IMD tenants in these buildings
16 as parties to the case. So, the tenants in these buildings -- and there may be a significant number,
17 because we've got what, about thirteen or fourteen buildings here -- the tenants are unaware that their
18 building's not registered; the tenants are unaware that their owner's being fined; the tenants are
19 unaware of those circumstances. And I think that's...I discussed this a couple of years ago with the then
20 Executive Director, but it seems to me IMD tenants that we know of in these buildings should be
21 notified of this action.

22 **Mr. Hylton:** One more point in regard to 533 Greenwich. My understanding is the building's in
23 bankruptcy. And it's actually scheduled to be auctioned soon. And part and parcel of their bankruptcy is
24 they haven't been able to keep up payments going through Loft Board process. So, that is a reason why
25 they're behind.

26 **Chairperson Hylton:** Okay, thank you for that information, actually, because I think...

1 **Mr. Hylton:** I think the Loft Board is a part of, or that there's some awareness of the proceedings.

2 **Chairperson Hylton:** Thank you, Mr. Hylton. Kevin, have you gotten any kind of notice or anything from
3 the Law Department?

4 **Mr. Schultz:** No, I'm going to look again. I know I've gotten one before. I don't recall it being that one.
5 The one I got was six or more months ago.

6 **Chairperson Hylton:** I sure don't want the bankruptcy action to go with our debts not included in there.

7 **Mr. Schultz:** Yes, I'll do that.

8 **Chairperson Hylton:** Thank you for that, Mr. Hylton. If you know of anymore, please let us know.

9 **Mr. DeLaney:** I agree with Mr. Hylton, and I appreciate him bringing that point to the floor. And it's my
10 understanding the building's been kind of marinating in the bankruptcy tub for four or five years. This is
11 not something new, whatever stellar management. I don't think this building is chock full of loft tenants.
12 But whatever their financial problems are, I'm sure owing the Loft Board plus or minus a quarter of a
13 million dollars is one of them. It would be very interesting to know how this building got into such a sad
14 state, given that it's in Tribeca, and one would think there'd be a way to bring it to a healthier state of
15 being. But I'd like to go back to my question regarding notification of the IMD tenants in these buildings.

16 **Chairperson Hylton:** Before you say anything, I'm wondering, Chuck, are you asking that they be parties
17 to the action, or just copied on the notice?

18 **Mr. DeLaney:** When I raised this a couple of years ago, I got the answer that they're not parties to the
19 case, and I agree. That makes sense. They have nothing to do with it. However, it does have an effect on
20 the nature of their tenancy, that I think they have a right to be informed.

21 **Mr. Schultz:** I'm not too ashamed to admit that this was my first registration rodeo. So, by my second
22 one, which is a whole year away, which seems a long way away, but will be here, we'll work to get an
23 answer to that question.

1 **Mr. DeLaney:** Well, I guess I'd be a little more impatient and say, if we get a chance to research the
2 request, and three weeks from now, you find out that, hey, there's no reason we can't notify the tenants
3 and send them a copy of the Order....It's a public document, and if our goal is to try to make these
4 buildings work for both the owners and the residents, having the residents know that the owner hasn't
5 registered seems relevant to me.

6 **Mr. Schultz:** It will be looked into.

7 **Mr. DeLaney:** Thank you.

8 **Mr. Hylton:** In terms of 533 Greenwich, it also would appear that rents had not been paid for over
9 twenty years. Past litigation and that probably precipitated the default.

10 **Chairperson Hylton:** Kevin, when there's any kind of action in an IMD, and it affects another tenant or
11 another party in the building, Loft Board has to give notice to the affected parties, right? Whether or not
12 they're part of the action?

13 **Mr. Schultz:** Affected parties are defined in our rules in a few different places, and I'm going to say in a
14 few different ways, and then I'm going to ask my staff to jump in and correct me, as they are so good at
15 doing. So, part of my answer depends on the circumstance, but the short answer is yes. Building
16 occupants are required to get notice of various actions, plans, filings, clocks, things like that.

17 **Chairperson Hylton:** Right. So, I'm just wondering if this fits into that in terms of notice.

18 **Mr. Schultz:** Yeah, I'll take a sharp look at the rules. It might be there, and I've never looked at it before.
19 It might not be there, which also might be the answer. If any of my truly brilliant staff know the answer,
20 they could throw it out there. We'll give it a look.

21 **Chairperson Hylton:** Yeah, but I just want to go back to Mr. Hylton's comment, because a light bulb just
22 lit up. There are payment plans that are available to the Loft Board, so folks don't have to get that
23 backlog in money owed. So, if an owner is really conscientious about doing right by the city, by the
24 tenants and so on, they can come into a payment agreement with us. Otherwise, it turns out to be what
25 it is now, right? Where you kind of lose everything. But thank you for that. Do I have any other

1 comments on these cases? Absent any other comments, Ms. Rivera, could you please poll the Board
2 members?

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

4 **Mr. Barowitz:** Yes.

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

6 **Mr. Roche:** Yes.

7 **Ms. Rivera:** Ms. Hayashi?

8 **Ms. Hayashi:** Yes.

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

10 **Mr. Hylton:** Yes.

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

12 **Mr. DeLaney:** Yes.

13 **Ms. Rivera:** Ms. Roslund?

14 **Ms. Roslund:** Yes.

15 **Ms. Rivera:** Ms. Oddo?

16 **Ms. Oddo:** Yes.

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

18 **Chairperson Hylton:** Ms. Rajan? Is there someone else?

19 **Ms. Rivera:** Yes, Chairperson Hylton.

20 **Chairperson Hylton:** The Chair votes in the affirmative. Ms. Rajan is not available. Absent.

1 **Ms. Rajan:** I'm right here. Sorry about that.

2 **Chairperson Hylton:** Ms. Rajan is on. Is that a vote in the affirmative, Ms. Rajan?

3 **Ms. Rajan:** Yes.

4 **Ms. Rivera:** Nine in favor.

5 **Chairperson Hylton:** And again, I want to commend the Loft Board staff for getting these out and for
6 raising the awareness. I think the Executive Director did send out, correct me if I'm wrong, did you not
7 send out a notice already to the owners saying, this is coming up, and we're going to enforce quickly?

8 **Mr. Schultz:** Yes, there was a letter included in the registration materials that hasn't traditionally been
9 there, spelling out what our rules say about enforcement of the registration.

10 **Chairperson Hylton:** Right. Well, I thank you and the staff for your efforts here. So, the next thing on
11 our Agenda is rulemaking, and this is where I will give an official, two-minute break before we begin, so
12 that folks can get a snack. That kind of thing. Thank you. So, we will take a two-minute break. Could you
13 please put yourself on mute, and take yourself off camera, if you don't mind.

14

15 Returning from break...

16

17 **Chairperson Hylton:** Board members, when you're ready, could you just put yourself on camera, so I
18 know...Okay, I think we have a quorum. I'm still waiting for some Board members to show up, but we
19 have a quorum. So, we're back on the record. And the next item on the Agenda is rulemaking updates,
20 and Mr. Schultz will lead the discussion with the help of Ms. Lin and Mr. Clarke. Thank you.

21 **Mr. Schultz:** Thank you Chairperson. This is picking up where the Board left off in May. We're looking
22 at the exact same document that we passed in May. It's what's being referenced. No additional changes
23 have been made to it, but certain sections are just noted and highlighted. And then I have some talking
24 points that I'm going to talk through. I didn't want to go making changes to the document we voted on,
25 lest it create confusion over what we already agreed to and didn't agree to.

1 So, the comments that I have to go through are the result of feedback from the Law Department, a little
2 bit of interaction with Law Department. But there's more interaction to be had, which is to say, what
3 we hope to get through today is less than half, I would say, of the additional kinds of comments we need
4 to work through, based on what the Law Department said.

5 **Chairperson Hylton:** I'm sorry to interrupt, but since we last discussed rules, maybe for the public's
6 sake, we should probably inform them of where we left off; what's happened; how we got to where we
7 are right now.

8 **Mr. Schultz:** No, that's okay. My next comment might ask me to have someone else explain how we got
9 here, because I was about to say I got here in April, and I can tell you where I started from, which is
10 really just polishing up a few items. It was small but certainly towards the tail end of May of getting the
11 Board to a place where they had a draft set of rules, where you guys had worked so hard for years
12 getting to that point. So, going backward, I know enough to know that the Board spent many, many
13 years going over the rules to make changes to reflect changes made to the Multiple Dwelling Law. To
14 have our rules reflect those updates. And while doing so, some other things were updated for format,
15 and some other things were looked at by the Board for various substantive type of things to update and
16 change.

17 So, a very long path led to May, where a draft version was passed by the Board, that then went to Law
18 Department for a review. And the Law Department had already been reviewing it as it went along, but
19 this is all the steps of rulemaking. And the draft also went to City Hall for them to have a look at it. And
20 now we are back, after Law Department looked at it, and they have more to say. It's relatively small
21 compared to the huge amount of things that the Board dealt with for years, but I can't say it's
22 insubstantial. Some of the things we look at here today are just formatting things. And I didn't want to
23 take for granted a single change in these rules without making it known to the Board and the public.
24 So, I'll leave it to anyone else to do a better update.

25 **Chairperson Hylton:** That's what I wanted, Kevin. Thank you.

26 **Mr. Schultz:** All right, great. So, as I said, this is a list of roughly fourteen items. And these are amongst
27 the simpler of the items that the Law Department has given feedback on. I'm still working to interact

1 with the Law Department to get as much clarity as I can on some items, so that when we speak in these
2 meetings, this valuable time is as efficient as it could be. And also, I suppose for lack of a better word, to
3 make a confession, or just make it clear to everyone that as the one of the newer people here, I wasn't
4 party to a lot of the conversations. So, if some of this is familiar territory to some of you, please speak up
5 and I'm all ears. I did go through records as best I could. If these are things, to be honest, considered
6 already resolved, at least as far as Law Department (is concerned), there's still more to be said. So, I'm
7 all ears on that.

8 Before I start going through the notes page-by-page, are there any questions or broad comments any of
9 the Board members want to make on rulemaking? Okay, great. And Ms. Lin and Mr. Clarke, you have
10 carte blanche to speak up, to correct me, to step on me, and make sure whatever I'm saying is right,
11 because you certainly have more experience than I do on the history of this.

12 So, starting off on the draft that was passed in May, on page 15, and then throughout, about nine or ten
13 more times, the words "affected party" were not capitalized consistently throughout. So, Law
14 Department noticed this, and basically, the recommendation would be to change it throughout for
15 consistency. It is a term of art that is capitalized in some places and not others. If there are thoughts or
16 comments on that, I certainly want to pause. But as a lawyer, I don't have much to say about it other
17 than our stuff should be consistent.

18 All right, great. The next one's a little meatier. On page 17, this is a section that talks about -- it's section
19 (d) at the bottom of the page -- and the title as stated, the drafting of it, I think, was largely built from
20 what existed already. And the language stated says, "A Waiver of Service Due to Financial Hardship."
21 So, this is about applicants who might have substantial hardship, and the service requirements may be
22 more than they could financially handle, so there's an opportunity for the Loft Board to review that
23 circumstance and relieve them of having to do the service.

24 The reason this was flagged by Law Department is because they believe, and I agree, that saying it's
25 being waived isn't really an appropriate description, because what's really happening is, we're doing it
26 for them. So, the language suggested is, "*Service by Loft Board Staff, Based on Financial Hardship.*" And

1 then, the language below, I edited to reflect that. That's the nutshell. Does anyone have any thoughts or
2 comments on that perspective and that description of what's happening?

3 **Chairperson Hylton:** Is it a waiver of fees, due to financial hardship?

4 **Mr. Schultz:** Well, there's no fees. So, services....

5 **Chairperson Hylton:** So, this Waiver of Service is the proposed...?

6 **Mr. Schultz:** No, no, no. The proposed is in my notes that I shared. What you see in yellow is unchanged
7 from what we had. And I thought about trying to provide a version that...but I wanted to be clear.... I
8 wanted to do it in talking points, and then share with you a written version that can actually be voted
9 on. But the title --- and this is in the materials I shared in my email, the bullet list in my email, if you
10 want to look at it. But the title that I think more accurately describes what's happening here is, "*Service*
11 *by Loft Board Staff Based on Financial Hardship.*" So, the service isn't being waived, it's just being
12 executed by us instead for someone's financial hardship. And to be clear, this isn't really a change in the
13 way things are done. This is, I think, just a better description of what's actually happening, as opposed to
14 service being waived. The service still has to happen and is still happening.

15 **Mr. DeLaney:** I think it's a very logical change. And I think we drafted it poorly back in, probably, 2000 or
16 2001. The concern came up then -- prior to that time, the Loft Board had done the service. So, the
17 responsibility for service was transferred from the Loft Board to the applicant. And the concern came up
18 well, what if the applicant can't afford all that postage and copies, and some of these are big
19 buildings...To my knowledge, I don't know that this has ever been invoked. But certainly, describing it as
20 a service by Loft Board staff, rather than a waiver, makes all the sense in the world.

21 **Mr. Schultz:** Great, thanks. That kind of history is very helpful. So, following into that, the line
22 underneath in (1) similarly changes the language, whereas the current version says, "The Loft Board
23 staff may waive the requirement," now we could say, the recommendation is that it say, "*The Loft Board*
24 *staff may serve all Affected Parties if the applicant proves that the applicant does not have sufficient*
25 *funds to complete service.*" So, it's a consistent change for the title that I mentioned.

1 Thoughts or comments on that? So, what I will do, I think is, based on these talking points, I will be
2 presenting a version that now actually incorporates the changes we're talking about, and you will know
3 where to find them, and you will know what they are from the context of this conversation. And then, if
4 I can figure out, and I think I have now, how PDFs work a little better, I can try to put the suggested
5 language right on top of this version. So that's going to be my advancement in technology for next time.
6 Any other questions about what's on page 17? The service by Loft Board for financial hardship?
7 Okay, so there is another item on page 17, and it's in the next section. From what I saw in a few
8 different places, there's language that discusses --- it's (d)(2):

9 “To request a waiver, the applicant must submit a hard copy of the Application containing an original
10 signature comma, an electronic copy of the Application, and a written request asking the Loft Board
11 staff...”

12 The electronic copy piece, the way this reads, puts the electronic copy as a requirement of the
13 submission; and Law Department has said, unequivocally, that requiring an electronic submission is not
14 compliant with the state law. And so I would guess that, as there's a desire to do things electronically
15 because it's easier for many parties, I do not think there would be an objection to making it an “or” type
16 of statement. And then there's some other parts in this section, but I'll stick with that piece of it for now.

17 Does anyone have thoughts on the difference between requiring an electronic submission and allowing
18 electronic submission? I think allowing it, as opposed to requiring it, is a little more egalitarian. You'd
19 like to think everyone has technology, but if they don't, I don't think you'd want to dismiss their
20 application over it.

21 **Ms. Hayashi:** It's definitely good to encourage less use of paper, from an environmental standpoint. But,
22 yeah, I understand technology issues.

23 **Mr. Schultz:** So, as we were looking at this, we actually started dissecting it, and the other changes you
24 see to the language really aren't a reflection of Law Department's comments, but of our staff looking at
25 it and saying, well, the way it's written is a little muddled anyway. So it's been reworded to say -- and I'll
26 read it aloud, but you might need to look at it a few times:

1 *“To request service by the Loft Board, the applicant must submit a written request, asking the Loft Board*
2 *staff to serve each Affected Party attached to a hard copy of the Application containing an original*
3 *signature or electronic copy of the Application.”*

4 The reason it was switched around -- and I'm going to ask Mr. Clarke or Ms. Lin to help me get this out
5 because it's easier -- it takes more words than it should. But the way the words were organized, it wasn't
6 clear where the signature's supposed to go; on which thing; and so it's an effort, even if it's a little more
7 dense, to make it clear where the signature goes and which document's which. I can try to explain it
8 better, but I'll need to take a few minutes.

9 Our goal is to have it say the same thing in a way that is not ambiguous, and I think we achieved that.
10 This has not been run by Law Department; this is something that the Board's staff identified. Ms. Lin,
11 Mr. Clarke, do you guys have any other helpful comments on that piece? I know you were on the phone
12 when we talked about it. Okay, thanks, everyone.

13 **Mr. DeLaney:** I would just ask, this is in section two, at the bottom of page 17? We would be changing
14 the first sentence?

15 **Mr. Schultz:** And the second sentence.

16 **Mr. DeLaney:** So, this would be the total of section (2)?

17 **Mr. Schultz:** No, the first sentence. The second sentence remains. The second and third sentences
18 remain.

19 **Mr. DeLaney:** Right. Okay.

20 **Mr. Schultz:** Yeah, thank you for that. I wasn't clear. Replacement of the whole of (d)(1) and the first
21 sentence of (d)(2). And again, at this point, I think I might regret my strategy. I hesitated to put edits into
22 the edits, lest it be confusing, which is which. And later, it becomes more important because it gets
23 confusing, which one's old. So, what I will be doing is incorporating what's talked about here into a
24 version that will reflect the changes that we talked about.

1 I guess I'll move on to page 18, which, again, finishes (d)(2), but there are no changes in that highlighted
2 portion, in the rest of that. So, the next one is....

3 **Mr. DeLaney:** Kevin, I'm sorry to interrupt, but before we go on, are there other places beyond this
4 particular -- what we were then calling a waiver -- where we require the filing of both a hard copy and
5 an electronic copy?

6 **Mr. Schultz:** Yes, I think it comes up in two other places.

7 **Mr. DeLaney:** And we'll be getting to those?

8 **Mr. Schultz:** Yes.

9 **Mr. DeLaney:** Okay.

10 **Mr. Schultz:** On page 55 and on page 51, a similar fix. In fact, I think a simpler discussion, because you
11 didn't muck with the language separately to try to make it more clear. So yes, it comes up two more
12 times. On page 18 of our draft, in the same section (d), but now we're in (4)....

13 **Mr. Clarke:** I'm sorry, Kevin. Before we move on, I was looking at it again -- that section -- why we
14 reworded it. You may have already said this, but I think it was an issue of, it confused the reader into
15 making them think that they had to submit an electronic copy. And the reason why we wanted this was
16 so that it's clear that they don't have to submit an electronic copy.

17 **Mr. Schultz:** Yes, thank you.

18 **Mr. Barowitz:** I think "or by fax" should come after email.

19 **Mr. Schultz:** Let's see. What page you on, Mr. Barowitz?

20 **Mr. Barowitz:** Eighteen.

21 **Mr. Schultz:** On 18....

1 **Mr. Barowitz:** “The applicant may file the electronic copy by email to an address provided by the Loft
2 Board or by fax.” “Or by fax” should come after email.

3 **Chairperson Hylton:** It wouldn't fit like that, because a fax goes by number and email goes by an
4 address. I think that's why it's like that, Mr. Barowitz.

5 **Mr. Barowitz:** It just makes the language clearer. It's not a big deal.

6 **Chairperson Hylton:** To address Mr. Barowitz, you could say, the application may be filed by fax or
7 electronically by email to an address provided...Something like that. But I don't see anything wrong with
8 the way it is right now, Mr. Barowitz. The way you want it would create more rewording. What do you
9 think?

10 **Mr. Schultz:** I think Mr. Barowitz said okay. But I'll pause to make sure if there's any other comment or
11 thought.

12 **Chairperson Hylton:** Mr. Barowitz, you could accept that? We could leave it?

13 **Mr. Barowitz:** I withdraw my comments. It doesn't matter.

14 **Mr. Schultz:** Then later on page 18, in the same section, there's a section (4) that discusses, “The Loft
15 Board staff will notify the applicant of its decision....” And then it discusses in the last sentence, “If the
16 Loft Board staff denies the request....” -- this is a request for service by financial hardship -- it says the
17 Loft Board staff “...will return the hard copy of the Application to the applicant so that the applicant can
18 serve each Affected Party.”

19 I think I need to interact with Law Department a little more on this because they suggested that this be
20 stricken. I disagree. I haven't yet spoken with them about it, but I did keep it on this list to note for you
21 all in case anyone had thoughts as to why the rule is better without it. Or if I'm misunderstanding the
22 suggestion, or if there's some history on this language that anyone remembers. I think, and again, Ms.
23 Lin, you can help me decode this a little bit, but it seemed to me that this is there so that once we say
24 we won't do it, you must do it. So, I think striking it eliminates that clarity, but perhaps Law Department
25 wants to avoid unnecessary language. Again, not sure. I am inclined to go back to Law Department and

1 say, I'm not sure why we're deleting this. If anyone has any different thoughts, I invite you to share
2 them, please.

3 Alright, so I will have to get back to you on that one. Let me rephrase that. If it turns out Law
4 Department says, okay, got it, you won't hear another word about it. If they articulate something that I
5 need to share, I will.

6 Continuing to go through, if there are no other comments, on page 29 of our draft version that we
7 passed, another easy one. But again, I want to be clear. I didn't want to take anything for granted. I did
8 not want to walk into this and make changes without...

9 **Ms. Roslund:** There's some highlighted on page 24.

10 **Mr. Schultz:** Let's see. Oh, sorry. So, on page 24 and page 27. I'm sorry – affected party. So, on page
11 24, there's another example of affected party that needs to be capitalized, similar to the first note, and
12 likewise on page 27. Twice. Thank you, Ms. Roslund. I don't want to skip over anything. As I was saying, I
13 wanted to be so meticulous, I ended up not being very meticulous.

14 On page 29, this is a format concern, essentially. The words Code Compliance Deadline are bolded, and
15 it's not consistent with the rest. Taking nothing for granted, if anyone remembers why it was bolded or
16 thought it was important to be bolded, I want to invite that conversation. So, Law Department has
17 recommended it be un-bolded.

18 **Chairperson Hylton:** The reason for the bold, isn't that because something is defined, usually?

19 **Mr. Schultz:** Yeah, and if you look above, there are many items that are bolded and in quotes, that are
20 consistent with a series of definitions. And then this one is consistent with kind of a new section. It's not
21 enumerated in any way, and I think we're in a section now, in section (2), where we're not starting from
22 scratch; we're working with what's already there. So, I think to keep the feedback as minimal as possible,
23 basically trying to say bolding is defined words, which this is not. Italics would be called for with a
24 section heading. Which, if you look below, is what you see.

25 **Chairperson Hylton:** Okay. So be it then.

1 **Mr. DeLaney:** I'm a little confused now. The top of page 27 and the very bottom of page 28, we had an
2 entire section called definitions, and what we were proposing to do, originally, was remove all the
3 definitions and then go to Code Compliance Deadlines, which is not a definition. Right?

4 **Mr. Schultz:** Yes. So, you hit on something that I did not put on today's agenda because it was big, and I
5 needed clarity. But I'm actually glad you brought it up because I'm happy to talk about it briefly.
6 Throughout the rules, there are sections where words are defined throughout. And the Law
7 Department, generally, is of the opinion - I wouldn't even say generally, I'd say explicitly of the opinion -
8 that those definitions don't belong anywhere but in the definition section at the top. And I think my
9 understanding is that this Board preferred definitions be placed in places where they are accessible and
10 useful, whether new or repeated. That is the version that we have passed. And I think Law Department
11 still wants to talk about that. So, since you brought it up, I thought I'd share that notion. But I did not put
12 it here to dissect.

13 **Mr. DeLaney:** My recollection is we've been down this road and discussed this many times in the past
14 few years. And we kind of opted to put everything that's always the same in definitions. But there are
15 still a few places where, in a particular section of the rules, a word means something different than that
16 which it generally means.

17 **Mr. Schultz:** Okay, that's helpful. Very helpful. I'm glad you raised it, because I think that will...and I
18 want to hear the rest of the Board, I should say, unless anyone remembers it or disagrees, I think that
19 sentiment will resolve many of the comments, potentially, that Law Department had. Because they did
20 point out, why are we repeating this definition, for instance. So, if we don't need or want to repeat a
21 definition, which I think is the rulemaking way, I think we benefit. Now, if a definition belongs in a place,
22 or differs for specific reasons, perhaps, yeah, I think there is a, for lack of a better word, repetition. And
23 those need to be dissected case by case.

24 **Ms. Roslund:** Well, it does say, "When used in this section, the following definitions apply, unless
25 context clearly dictates otherwise." So, does that mean, do we have to go back and compare the
26 definitions -- these 1,2,3,4,5,6,7,8 definitions here -- against the definition of the same word in the
27 general definitions section?

1 **Mr. Schultz:** Just to make sure I'm looking where you're looking, what page are you on?

2 **Ms. Roslund:** Twenty-eight.

3 **Mr. Schultz:** That language on page 28 is within brackets...there.

4 **Ms. Roslund:** Well, it's an open bracket that closes after occupant. Yeah.

5 **Mr. Schultz:** I think.... I guess to be clear, what Mr. DeLaney said is accurate here. Those definitions
6 have been removed by the brackets in this space. So, they are not there. They will not be there in the
7 final edit. I suppose that I referenced them, and I regret that. I was referencing them as a point of
8 comparison, even though when it's passed, they won't be there anymore. If that makes sense.

9 So, the way definitions look on page -- I've got to go all the way back to the beginning section -- is what
10 they will look like. And I think that's what they look like there, too. If I'm making sense. They do not have
11 quotations on them. If you go to page.... definitions on page 5, 6....quotations have been taken out, but
12 bolding remains. And so yeah, I apologize for referencing the quotations because that's actually... that
13 will not be the way the definitions appear.

14 Now, I guess, Ms. Roslund, you mentioned that language about, unless otherwise defined, and that does
15 appear on page 5 in the new version. "As used in this title, unless otherwise defined, the terms below
16 have the following meanings." And so that speaks to what Mr. DeLaney mentioned, that it's being
17 moved. It's being moved up, except for places where it might need a special definition.

18 **Ms. Roslund:** Okay, so to be clear, then this whole section "...is amended to read as follows." So, it's all
19 part of (a)?

20 **Mr. Schultz:** What page are you on?

21 **Ms. Roslund:** Back to 28. We're looking at a comment on page 29, but if you take out the definitions,
22 the paragraph that begins with Code Compliance Deadlines would be right after the paragraph that
23 begins with Code Compliance Timetable.

24 **Mr. Schultz:** Yes, it would be below the words "and regulations."

1 **Ms. Roslund:** Which is all part of Subdivision (a) of Section 2-01 of Chapter 2 of Title 29.

2 **Mr. Schultz:** Yes. Whether or not it deserves a (b) or something; if that's the question that's being
3 begged, I can look into that. I honestly don't know.

4 **Ms. Roslund:** That's kind of where I was going with it, yeah.

5 **Mr. Schultz:** Unless anyone has the answer abundantly in front of them, I will return with a
6 recommendation as to whether or not to add a (b) before Code Compliance Deadlines in italics. I mean, I
7 honestly don't know. I don't want to speak out of turn. It seems fine to do so, but I don't know what I
8 don't know. So... Any other thoughts on what we talked about on page 29? Italicizing and potentially
9 putting a (b) there?

10 **Chairperson Hylton:** I'm curious as to why the Law Department wouldn't have picked up on that.

11 **Mr. Schultz:** There's a lot to look at.

12 **Chairperson Hylton:** Not as perfect as we are.

13 **Mr. Schultz:** Thank you for that fruitful discussion. It does beg for maybe a letter there. Moving on,
14 then, if it's okay, to page 43, which is another instance where there are three instances of this. The word
15 "reserved" is supposed to be in capital letters. There's some other stuff about the word reserved, that I
16 think we get to today or not. But to keep it simple for right now, if and when we're going to use the
17 word reserved, it is not to be in all capital letters. If anyone has a concern, please speak up, but to me, it
18 seems fine. That's on page 126 and 144 as well. I'm going to slowly move on to page 50, and if anyone
19 wants to speak up, please do.

20 **Mr. Barowitz:** Once again, I'm nitpicking. I would move the word reserved to the middle of the page.

21 **Mr. Schultz:** Say that again. I'm very sorry.

22 **Mr. Barowitz:** I would put the word reserved, all caps, that's fine, in the middle of the page, rather than
23 on the far left.

1 **Chairperson Hylton:** He would center it.

2 **Mr. Schultz:** Center it. And it would actually not be all caps.

3 **Mr. Barowitz:** Either way. It doesn't bother me so much.

4 **Mr. Schultz:** I'll ask the Law Department. I really would be remiss to predict what they think of that. But
5 I'll bring it up.

6 **Chairperson Hylton:** Tell them Mr. Barowitz said that's what he wants.

7 **Mr. Schultz:** All right. And obviously, if we do it there, we do it elsewhere. Page 51 has a few things on
8 it. Well, page 50, actually, includes another event of the affected party word -- that phrase not being
9 capitalized. So again, with it being a defined term of art, we are inclined to capitalize it throughout. Page
10 51 has three more instances of that at the top, and then in the middle, where you see section (c), this is
11 the second example of where Law Department advises that we cannot require an electronic document.
12 So here, the change was hopefully and arguably simpler, and it was changing the "and" to an "or."
13 "...Party must file one hard copy or one electronic copy..." Which would just be consistent with what we
14 already discussed.

15 **Ms. Roslund:** And is there ever a situation where someone would file both; or would want to file both;
16 or we would want them to file both? Or we wouldn't want them to file both?

17 **Mr. Schultz:** I think probably not. As it occurs right now, people who email it to us send it to us through
18 the mail also because they're required to. And they send it to us over email, I think, because they just
19 know it'll get to us quicker, and hopefully, we'll get to their business quicker, which is true and fine,
20 probably. I suppose I could imagine -- and in this modern time, I don't think we've lost an email
21 application yet. So, if it only comes via email, I think we're good with that. And if it only comes in hard
22 copy, we're already handling things that way. So, I am inclined to say no, I think either/or is fine. And
23 both are superfluous to our process.

24 **Mr. DeLaney:** I have two questions on this. Number one, in response to the very valid point that Ms.
25 Hayashi made earlier, is there a way we can express that we would prefer an electronic copy?

1 **Mr. Schultz:** The short answer is absolutely, but probably not in the rules; probably on the form. You
2 are encouraged to send email rather than mail, if possible, to save the trees. I think our form could say
3 that. Our form is ours to create, and as long as it's not a requirement, I do not think that would be a
4 problem.

5 **Chairperson Hylton:** What's wrong with putting language like... Where is it? ...file an electronic copy. Or
6 if the ability does not exist, then you may file a hard copy.

7 **Mr. Schultz:** Because that language will get misused in some way by lawyers. Trying to save the trees.
8 Someone will weaponize it.

9 **Chairperson Hylton:** Okay

10 **Mr. Barowitz:** Then just put the electric copy first, and the hard copy afterwards?

11 **Chairperson Hylton:** There you go.

12 **Mr. Schultz:** One electronic copy or one hard copy. That seems doable.

13 **Chairperson Hylton:** That's perfect, Mr. Barowitz. I think people remember what they read first, right?

14 **Mr. Schultz:** Yeah, that seems very doable.

15 **Mr. DeLaney:** And I said I had two points. The first one we've covered. Thank you, and I agree. The
16 second one is, in the materials you sent for this meeting, Kevin, you included the draft of the Business
17 Analysis and Risk Assessment, and this kind of touches on that. Are we going to go over that document
18 at some point?

19 **Mr. Schultz:** Yes, if you'd like, and as time allows. I shared it on purpose, even though I'm not sure I had
20 to, but I was happy to. That document -- and I was going to mention it, so thanks for bringing it up -- is a
21 requirement of the Electronic Signature Act, the ESRA, and it's something that Law Department has
22 been saying as they're making these comments every time: Did you finish your BARA? Do you have your
23 BARA? And so what this is -- this Business Analysis and Risk Assessment -- is something that is required
24 of government agencies when they have decided in rulemaking to accept electronic documents;

1 because, and appropriately so, what the state has said is, if you're going to do that, you need to have a
2 process to do it in an effective way. Mostly looking at signatures. And so beyond that, there isn't much
3 of a requirement other than having one. And so the draft that you have is crafted from examples we
4 saw, some guidance that the state gave, and the realities of the way I've come to understand our unit
5 works. It is not part of rulemaking per se, so it does not need to be passed by the Board per se. It does
6 not have to go through CAPA or the Law Department. It's amendable as needed. It's basically a protocol
7 for our unit, for our staff, and so we can change it if we need to, based on reality. But I did decide to
8 share it in this context, because if you're interested, I wanted you to know.

9 **Mr. DeLaney:** I'm glad that you did, and having read it, when we have the time in the next few
10 meetings, I would like to go... Because it raises some interesting questions, to me. Maybe that's a sign of
11 a personality disorder on my part. But it does raise some interesting questions.

12 **Mr. Schultz:** I'm glad you brought it up because that was a document sitting there maybe without much
13 context, but it's an outcrop of the comments made about electronic signatures. Page 51, again, we're
14 going to switch the words electronic and hard copy; change the and the or; and then we could move on
15 to page 55, which is the same issue. And we can, I think, do the same thing. There's also a bunch of
16 affected parties on there. The word affected parties. So, file one electronic copy or one hard copy.

17 Page 56 includes another incident of the word affected parties, which should be capitalized. Now we're
18 on to page 61. So, this is an issue of rulemaking markups. And what Law Department identified was that
19 hyphens were added without indicating their addition. And so, this is to me evidence of the
20 meticulousness of our lawyers, and I appreciate it. You shouldn't add a hyphen without flagging it
21 appropriately in rulemaking. So, the change would be to underline the deleted word; delete the word
22 nonresidential, no hyphen; and replace it with the word non-residential, hyphen. And the hyphen is
23 consistent with other parts of the rules. That shows up three other times.

24 If you are rolling your eyes, it's okay. But again, I want to leave nothing to chance with any changes
25 being made with you folks. This is evidence of the meticulousness of the review by the lawyers as well
26 as...

27 **Ms. Rajan:** I'm sorry for my facial expressions. I didn't turn off my camera.

1 **Mr. Schultz:** I rolled my eyes as well. Believe me, I am rolling my eyes as I'm saying it.

2 **Ms. Rajan:** Any time you need me to turn off the camera, just be like, Samira I don't need to see that. I'll
3 be like, okay.

4 **Mr. Schultz:** It's understandable. No, it's understandable.

5 **Mr. DeLaney:** We had a Loft Board Chair some years ago who used what I guess is a legal term of art
6 and referred to this kind of minute examination as fly-specking.

7 **Mr. Schultz:** Fly-specking?

8 **Mr. DeLaney:** Yes, fly-specking.

9 **Mr. Barowitz:** Well, here's some fly-specking. I don't know what non-residential occupants means. I
10 have no idea what that means. Non-residing occupants maybe?

11 **Mr. DeLaney:** No, I think this goes back to commercial and manufacturing.

12 **Mr. Barowitz:** If you're not a resident, how could you be an occupant?

13 **Mr. DeLaney:** I think it's commercial or manufacturing tenants.

14 **Mr. Barowitz:** Well, if that's what it refers to, then it's okay. It refers to people that are working in the
15 building but don't live there. Is that what it refers to?

16 **Mr. Schultz:** Yeah, it's really just meant to refer to everyone who's not a residential occupant. And
17 residential occupants are the people who live there. So yeah, the people who work there. And I think
18 it's meant to be as broad as it can be, rather than saying manufacturing and commercial, lest there's
19 some other word that's being missed there. I think it's just meant to mean everyone who's not those
20 people who live there. And this is not a new word that we're adding or changing.

21 **Mr. Barowitz:** Okay. All right. I agree. Let it go.

22 **Chairperson Hylton:** I see what you're saying, Mr. Barowitz.

1 **Mr. Barowitz:** I agree.

2 **Mr. DeLaney:** And this was tied into the legalization plan. And the concern was, if something's going to
3 happen to the elevator, or the heat ducts are going to be moved around, notice should be given to
4 everybody who uses the building, not just the residential occupants.

5 **Chairperson Hylton:** If you go into page 62, you'll see the reason why non-residential units. Occupants
6 of non-residential units are non-residential occupants.

7 **Mr. Schultz:** Page 62, now that I'm looking at it, is a little bit different in the way...

8 **Mr. Barowitz:** (unclear)

9 **Mr. Schultz:** Say again? Sorry, what's that?

10 **Mr. Barowitz:** To replace occupants with units would be much better, be clearer.

11 **Mr. Schultz:** That's a conversation we're set to have at the very end, and I put it at the end on purpose,
12 because the word units, in that context, has some concerns by Law Department. So I'll put a pin on that
13 suggestion because it invokes the concern by Law Department in another part. Maybe I'm
14 misapprehending what you're saying, but suffice it to say, not to get ahead of it, but when you're trying
15 to talk about people, and you start talking about units, Law Department didn't care for it. But maybe it's
16 not as big a problem here. Actually, on page 62, it does refer to non-residential units. Can I move on to
17 page 86? On page 86...

18 **Mr. Barowitz:** Eighty-three?

19 **Mr. Schultz:** Oh, did I skip one?

20 **Mr. Barowitz:** Yeah, 83.

21 **Mr. Schultz:** Oh, 83 has some yellow highlighting that actually wasn't done by me. This is just to flag
22 when we finally pass the rule, we'll need to include the effective date of the rule, because that's the
23 operative date for that section. So, there's nothing to discuss there until we pass the rule, and it's in...

1 No, actually, why is that highlighted? That is not what I highlighted, I don't think. Did I confuse myself?
2 Eighty-three. I'm going to get back to that one, folks. I apologize. I do not remember highlighting that.

3 **Mr. Clarke:** I think you were correct, Kevin. Once this is all passed, you're going to insert a specific date
4 there. You didn't highlight that.

5 **Mr. Schultz:** But it's bracketed, which means it's going away, which does confuse me. So, I need to
6 understand that better.

7 **Chairperson Hylton:** It means that you will not say, "effective date of the amended rule." You will be
8 putting in a specific date there.

9 **Mr. Schultz:** But then I don't understand why September 11th, 2013, is there without a comma after it.

10 **Mr. DeLaney:** Because that's the last time we amended the harassment rule. And unlike the various
11 timetables and things that apply to different sections of coverage, like to 281, 281.4, 281.5, for the
12 harassment rule, all cases filed after whatever that date will be, these rules will apply to all future cases.

13 **Mr. Schultz:** I understand now. I'm not sure it needs to be highlighted then, because we're not going to
14 be adding a date in there. This is just going to be stricken. September 11th, 2013 will no longer be the
15 effective date of this rule.

16 **Chairperson Hylton:** That's right. So, what should be highlighted there is September 11th, 2013. So that
17 you know to change that date.

18 **Mr. Schultz:** I don't know if we want to change that date. And when I say, I don't know, I literally don't
19 know.

20 **Chairperson Hylton:** We're just initially saying that you don't need to have the words, the effective date
21 of this amended rule in referencing September 11th, 2013. That's why they're taking that phrase out.

22 **Mr. Schultz:** Okay.

23 **Chairperson Hylton:** That sounds like the Law Department to me. But maybe... it's just not necessary.

1 **Mr. Schultz:** Yes, that's my takeaway. I'll flag it and take a look at it with staff to make sure we're doing
2 that right. And if there's nothing to highlight, we'll un-highlight it. If there's something to talk about,
3 we'll try to make some talking points on it.

4 **Mr. DeLaney:** Just again, to provide a little historical context. It's my impression that there were no
5 substantive.... that in these revisions, there is no substantive change to the harassment rule, as it
6 currently exists. That we've got a lot of capitalization for terms and all that good stuff for form, but many
7 years ago, when the harassment application was first adopted -- in 85, or 86 -- it had a bunch of
8 different requirements that we did make substantive changes on. So, I think the purpose of that
9 September 11th, 2013, date that's currently in the rules was to make clear that the newer rule that came
10 into effect on September 11th, 2013, would be the version by which all cases filed after that were
11 decided, but that there were probably some that were in the pipeline.

12 **Mr. Schultz:** And if I'm following, there's no desire to change that date. As of today, and tomorrow, and
13 next year, it can remain September 11th, 2013.

14 **Mr. DeLaney:** Well, that depends whether we think there are any substantive changes here that would
15 make a case that's filed today different than the case that's filed whenever we've finally passed it.

16 **Mr. Schultz:** Right. And again, I'm working only like a detective here, and from what I see, the markings
17 as indicated would indicate that that's what this Board must have wanted at the time. And it's supported
18 by a glance at the harassment section. It does look to have only fly-specking type of changes. So, I don't
19 want to take it for granted here, especially since it ended up yellow-highlighted. And again, I'm not sure
20 how, but it looks to me like there was not an intent to change the date to become the effective date, in
21 this case. If any members or staff remember anything differently, let me know. Otherwise, I'm probably
22 going to rely on the marking as it shows. But also check it with Law Department to see if there's a reason
23 why that got flagged the way it did.

24 Page 84 has another reference to this word non-residential. Again, the hyphen got added without the
25 proper markings. That's something we can fix.

1 Page 85 – so this one’s weird. So, what you see in front of you in yellow indicates neither what we
2 should do, nor does it indicate what's actually in the rules right now. So oddly, the physical text of the
3 rules includes brackets around the word “residential.” And I don't want to belabor this too much
4 because your time is valuable. But at the end of the day, the Law Department is going to work to let us
5 know how to remove brackets, presumably by using brackets. So, I anticipate indication of a change on
6 that. Because what you see in front of you represents a change made without indicating the change. But
7 it's not clear how to make the change. But it's all about brackets.

8 **Mr. DeLaney:** You said residential. Do you mean “Reserved”?

9 **Mr. Schultz:** Reserved. I'm very sorry. Yes. Reserved. Thank you, Mr. DeLaney. The word “Reserved”
10 going there. The word Reserved is the word that had the brackets around it in the current, active
11 version, which is, essentially, clearly a mistake of prior drafters. That bracket shouldn't be here. So, it
12 does beg the question -- and again, I don't know enough to know why there'll be strong opinions on the
13 on this -- whether or not we want the word Reserved in there or not in this space. If anyone recalls
14 conversation as to why or why not to have the word reserved here, let me know. Otherwise, I think I'm -
15 - I don't yet have a grip on why it matters, for being honest.

16 **Chairperson Hylton:** Was something there before?

17 **Mr. Schultz:** The current rules show the word Reserved with brackets around it.

18 **Chairperson Hylton:** To be taken out.

19 **Mr. Schultz:** Which indicates to me that when the final rule got passed, someone forgot to delete
20 bracket, Reserved, close bracket.

21 **Ms. Roslund:** The way this is written or, with the original brackets around it now, it’s just saying, so little
22 i would be that first paragraph; and then it was two little i’s was Reserved; and three little i’s was, “..the
23 Loft Board finds...”; and now, “...the Loft Board finds...” is just going to be two little i’s.

24 **Mr. Schultz:** So, I think if I'm looking at this correctly, there's no opening bracket.
25

1 **Ms. Roslund:** Right.

2 **Mr. Schultz:** And so I think, I guess maybe I could have asked the question better. Do we want the word
3 Reserved there? Why or why not? That will tell us where to put the first bracket.

4 **Chairperson Hylton:** Kevin, it is kind of clear that that Reserved should be taken out. The reason being
5 that if you look, the brackets from three little i's are taken --- I think that there's just a missing bracket,
6 open bracket. The open bracket is missing. It should have been over two little i's on the side, because
7 the new text should read two little i's, because that's underlined. You got me? Did I just confuse you? I
8 think it's taken out, because there's a closed bracket without an open bracket. You see that?

9 **Mr. Schultz:** Yes.

10 **Chairperson Hylton:** Okay, so the open bracket is missing.

11 **Mr. Schultz:** Yes.

12 **Chairperson Hylton:** And it needs to be before Reserved. And starting off with to two little i's. Ms.
13 Hayashi, are you laughing at me? I'm trying. I got you. I deserve to be laughed at, with all these open
14 brackets, closed brackets.

15 **Mr. DeLaney:** It just so happens -- and I'll entertain offers -- I guess I can post this on eBay. I've got a set
16 of draft rules from about 2019. And in that instance, we were proposing to remove the double i; we had
17 a bracket on both sides; Reserved was crossed out; and that's because the Law Department had
18 provided a comment saying, "Any reason we can't remember these provisions?" And Helaine's
19 response was, and I'm paraphrasing, can we reserve this section so we don't have to cross-check
20 references? The changes are complicated enough as it is without making them more so and creating
21 more chance of error. Law: "You can leave the sub-paragraph unused, though it is my understanding
22 the publisher adds Reserved. The agency would just leave it out or just include little double i. But I will
23 refer to Steve Golden on the forms issue. Given the fact that you only have to change one designation,
24 I'm not sure why you wouldn't want to do this in this instance." So, there's a whole history of...

25

1 **Mr. Schultz:** Thank you for that. That was helpful because I do remember seeing similar notes in other
2 places. The value of keeping the word Reserved there is to keep the integrity of the ordering for
3 referencing, because people have been referencing these things for years. So, yes.

4 **Mr. DeLaney:** And I would just take a moment to add for those who are the newer members, who think
5 that deciding cases is fun and interesting. We've spent hours doing exactly what we're doing now over
6 the past two years. This has gone on so long and it's so, dare I say, tedious....

7 **Mr. Schultz:** Sorry. Hello. I believe we have... Mr. DeLaney? Unfortunately, I heard you up to tedious.

8 **Mr. Barowitz:** ...through, and just start with, "If the Loft Board finds that an applicant has filed a
9 harassment application in bad faith..."? Is that what we're planning to do?

10 **Mr. Schultz:** My computer is glitching. I'm losing words, unfortunately. I went from Mr. DeLaney
11 speaking to Mr. Barowitz speaking. I missed the end of Mr. DeLaney and the beginning of Mr. Barowitz.
12 I heard Mr. DeLaney explaining that it's tedious. And then I picked up in the middle of Mr. Barowitz's
13 sentence. So, I apologize.

14 **Chairperson Hylton:** I think Mr. Barowitz is just asking, what's the decision?

15 **Mr. Schultz:** I think the decision is, for the reasons that Mr. DeLaney mentioned, I think keeping the
16 word Reserved there make sense. I think it's easy enough to mark it that way. And I don't think Law
17 Department will care.

18 **Chairperson Hylton:** So, if we do that, that is not two little i's that's underlined. It should be three little
19 i's.

20 **Mr. Schultz:** Yes.

21 **Chairperson Hylton:** Okay.

22 **Mr. Schultz:** Mr. DeLaney, that tome of yours is very impressive.

23 **Chairperson Hylton:** And do you need to tab over the two little i's? In line with the one?

1 **Mr. Schultz:** Yes, yes.

2 **Chairperson Hylton:** Okay.

3 **Mr. Schultz:** So, it would be -- the two little i's would be the word Reserved. And then the three little i's
4 would be the section that starts with the words, "If the Loft Board finds..."

5 **Chairperson Hylton:** Okay.

6 **Mr. Schultz:** And I'm not sure that full...That answers the question. We want the word Reserved there,
7 and the Law Department will help us make it happen. Because there is a weird bracket in the existing
8 rules, but that can be worked around it. So essentially, we're going to be deleting brackets with
9 brackets, I think, is what's going to happen. We're not done yet, but I'll say thank you now to everyone
10 for hanging in with this.

11 **Chairperson Hylton:** How much do you think you may have, Kevin, that could possibly be done in two
12 minutes?

13 **Mr. Schultz:** How long does our meeting go? That isn't a joke. Are we supposed to be done at 4:30?

14 **Chairperson Hylton:** I would like to respect people's time, yeah.

15 **Mr. Schultz:** Oh, okay. Then let's stop, because we're not going to finish, per se. And there'll be more to
16 talk about next time. And I think what's more important is to express that the Chairperson advised me
17 that we'd like to try to do a special rulemaking meeting in late October and early November. I do not
18 need to schedule that with you now, but stand by for that outreach. Sorry, I wasn't watching the clock,
19 so we can stop here.

20 **Chairperson Hylton:** Thank you. That's excellent. Thank you, Kevin. I didn't mean to rush it, but...

21 **Mr. Schultz:** I was all excited. That's okay.

22 **Mr. Barowitz:** Kevin, before you end the meeting, incidental, I'd like to ask Chuck, I didn't quite follow
23 you on what Gail Brewer's position is on SoHo-NoHo-Chinatown.

1 **Mr. DeLaney:** She basically said it needs a lot of work, and rather than make a formal declaration during
2 her review period, she kind of kept silent and then, herself, testified in front of City Planning, stating that
3 she was fundamentally opposed to it in its current language.

4 **Mr. Barowitz:** All right. I did send a rather long note to her, which she hasn't responded to. But okay. I'm
5 glad that you clarified that. Remember, it's not SoHo-NoHo anymore. It's SoHo-NoHo-Chinatown.

6 **Mr. DeLaney:** Chinatown east, right?

7 **Mr. Barowitz:** The area on Broadway that goes all the way down to Chinatown, for one or two blocks
8 west, is the Chinatown area, so-called, in the SoHo-NoHo-Chinatown rezoning area.

9 **Chairperson Hylton:** Thank you. Thank you, ladies and gentlemen, for a rather productive Board
10 meeting, actually. And I want to thank the staff, led by Kevin, for all this. And I appreciate you guys. I
11 didn't say, initially, when you came back. Welcome back from the summer. It was quite a summer, but I
12 really am happy at least that we could accommodate more people and more participation via this
13 teleconference route. So, I do appreciate while it's an exception to the rule, but this does allow a lot
14 more participation, I think, even from the public's point of view, in these meetings. So, thanks for that.
15 And I appreciate the hard work here by everybody.

16 **Mr. DeLaney:** Mr. Chairman, before we adjourn for the day, I would like to make one request, which is
17 we put on an agenda in the not-too-distant future a discussion of what the Board's policy should be with
18 regard to unsolicited communications regarding cases before the Board.

19 **Chairperson Hylton:** Kevin, you got that?

20 **Mr. Schultz:** Yes.

21 **Chairperson Hylton:** All right. So be it. Thank you, Mr. DeLaney. This will conclude our September 23rd,
22 2021, Loft Board meeting. Our next public meeting will be held on October 21st, 2021, at 2pm. The
23 Governor's suspension of the in-person meetings requirement of the Open Meetings Law is in effect
24 until January 15th, 2022. So, at this time, we anticipate that the next meeting will be held virtually, as it is
25 now. Information will be updated on the Loft Board's website and also an email update will be sent to

1 the Loft Board announcement Listserv. Loft Board members, please sign and email in your attendance
2 sheet. Or if you wish, you may present it in paper by dropping it off or mailing it in. Alright, thank you
3 very much and have a great rest of the month. Take care guys.