



Transcript of the April 20, 2023

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: 2:03 PM

1

2 **Chairperson Patino:** Good afternoon everyone. My name is Guillermo Patino, the Chairperson Designee  
3 of the New York City Loft Board. Welcome to our April 20, 2023, public meeting.

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

11 We will first turn to a vote on the minutes of the March 20<sup>th</sup>, 2023, public meeting. Are there any  
12 corrections or comments to the minutes? Seeing none, is there a motion to accept the minutes?

13 **Mr. Hylton:** So move.

14 **Chairperson Patino:** Thank you, Mr. Hylton. Is there a second? Thank you (Mr. Barowitz). Ms. Rivera,  
15 can you please poll the Board members.

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

17 **Mr. Barowitz:** Yes

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

19 **Mr. Roche:** Yes

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

21 **Mr. Hylton:** Yes

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

23 **Mr. DeLaney:** Yes

1 **Ms. Rivera:** Ms. Roslund?

2 **Ms. Roslund:** Yes

3 **Ms. Rivera:** Ms. Oddo

4 **Ms. Oddo:** Abstain

5 **Ms. Rivera:** Ms. Rajan?

6 **Ms. Rajan:** Yes

7 **Ms. Rivera:** Chairperson Patino?

8 **Chairperson Patino:** Yes

9 **Ms. Rivera:** Seven in favor; one abstain

10

11 **Chairperson Patino:** Next on the agenda is the report of our Executive Director.

12

13 **Ms. Cruz:** We received two decisions since the March meeting. The first decision involved 476 Jefferson  
14 Street in Brooklyn and the owner's challenge to Order Number 4995, which granted protected  
15 occupancy status, and Order Number 5053, which denied the reconsideration. The Appellate Division  
16 upheld the Loft Board's rejection of the owner's claim that the unit was deregulated by a sale of rights.  
17 The court found that the owner failed to demonstrate that the former tenant knew about their  
18 protected occupancy status and that the transaction was a knowing sale of rights.

19 The second decision involved 13 East 17<sup>th</sup> Steet and the owner's challenge to Order Number 4938, a  
20 removal Order that set the initial, legal, regulated rents for several units. In this case, the owner sought  
21 a temporary restraining order against the Loft Board. In a decision dated April 6<sup>th</sup>, the court denied the  
22 petition without prejudice based on the owner's withdrawal of the motion and the petition. In this case,  
23 the owner has refiled the petition.

1 The website. Staff has been discussing ways to improve the website. If any Board member has any ideas  
2 or comments that they want to contribute, they would be welcome to do that now. Please send your  
3 email; send me an email, and we will talk about it. Right now, because there have been so many  
4 questions about our rules and the law, we plan to add a link on the home page to the rules...You're  
5 saying it's there? The amended rules or the entire.....? Oh, it's already, there? Okay.

6 The next thing I'd like to report about is that the staff will be meeting with Loft Law architects next  
7 week. We started this last year. We find them to be good information about the process, about their  
8 dealings with DOB. And we've come to some degree of back-and-forth about the process and about how  
9 we can help, if we can.

10 Lastly, the buildings list. I'm working on it. I'm going through it. I'm checking legalization status in the  
11 four milestones; applications filed, now filed; whether they pulled the permit or completed the  
12 Narrative; or whether they're 7-B compliant; or whether they have obtained the C of O.

13 If there are no questions for me, I'll send it over to Mr. Clarke. He's going to talk about the fact sheets  
14 that you received in your materials.

15 **Mr. DeLaney:** I have some questions, but I think I'll wait. If you'll permit me, I'd like to wait until after all  
16 the reports, because I'm sure some of them will be answered in the course of that.

17 **Mr. Clarke:** Thank you, Executive Director. Good afternoon Board members. In addition to working on  
18 the website, we are also working on creating fact sheets that provide overviews and information about  
19 specific areas and functions of the Loft Board. Our intern, Lucy, has done an amazing job with the design  
20 of the fact sheets. We created the first two fact sheets and sent them with the Board meeting materials  
21 last week. We will also be placing them up on our website.

22 The first fact sheet is named Loft Law and Loft Law Coverage. This fact sheet provides information about  
23 the history of the Loft Law, the criteria for Article 7-C coverage of the building and units, and how  
24 tenants and owners can seek coverage. The second fact sheet is named Loft Board: Composition,  
25 Duties, Regulatory Authority, and Staff. This fact sheet provides information about the makeup of the  
26 Board and the Board's duties and responsibilities. It also includes information about Title 29 of the Rules

1 of the City of New York, also known as the Loft Board's rules. Finally, this fact sheet includes  
2 information about the Loft Board's amazing, amazing staff. Hopefully, everybody had an opportunity to  
3 look at the first two fact sheets. And I'm not sure if we should reserve any comments for it till later, or if  
4 anybody has any comments on the first two facts, we can take them now.

5 **Mr. DeLaney:** I have a couple. First off, I think these are great. And I take it these are not tentative  
6 drafts; these are kind of ready-to-go?

7 **Mr. Clarke:** Yes

8 **Mr. DeLaney:** Have they gone?

9 **Mr. Clarke:** No

10 **Mr. DeLaney:** Going back to, you mentioned the fact that you're also working on the website. Based on  
11 Ms. Roslund's suggestion, last month, I took a look at the Department of City Planning's website, and it  
12 is so much better than the standard DOITT template, that I mean...And Fire has a nice website. But do  
13 you have to be bigger agency to get that kind of thing that City Planning has got going?

14 **Ms. Cruz:** We'll discuss it internally.

15 **Chairperson Patino:** We can check but I believe that most agencies have to comply with the standard  
16 template.

17 **Mr. DeLaney:** The ugly DOITT template?

18 **Chairperson Patino:** You said that.

19 **Mr. DeLaney:** It is. It's just like moving backwards. Onto the fact sheets. I just have a couple of  
20 suggestions. One is in fact sheet number one, How to Obtain Coverage. First off, getting all this on one  
21 page is a remarkable accomplishment. The point size is a little small, but I know how that works. It's  
22 readable. The one thing that struck me as missing on the first one is, it talks about for tenants seeking  
23 coverage and the fee for the tenant-initiated coverage application -- it kind of leaves out that you  
24 probably need to complete a protected application. So, I would just look to see if you can weave that in.

1

2 On the second one, Regulatory Authority, section three (III), Regulatory Authority. I think at the end of  
3 Chapter 2, it includes the words subject to the rules. It might make sense to just note that in 2023, the  
4 Board made extensive amendments to its rules, so that people who may be reading this, who last  
5 looked at this five years ago, should know that this is a change. And two paragraphs down, parties are  
6 not required to hire a lawyer, but may choose to do so. It seems to me maybe you'd want to say  
7 something along the lines of, parties are not required to hire a lawyer to file an application or to do  
8 something? Rather than just, I gotta have a lawyer. And lastly, down at the bottom on that column,  
9 where we talk about the Board's staff processes FOIL requests -- If you can wedge in how to file, it  
10 would be...

11 **Mr. Clarke:** I have actually added that in there and the email address to submit to.

12 **Mr. DeLaney:** Okay. What else is planned for this series?

13 **Mr. Clarke:** I'm going to get into that. Are there any other questions? So, we are working on our third  
14 fact sheet right now. We tried to get it in before this meeting, but it's probably the most extensive fact  
15 sheet. It's for the Narrative Statement process. This fact sheet will have an overview of the process. It  
16 breaks down each step of the Narrative Statement process and provides information on what tenants  
17 and owners can expect during each step. These steps include filing the Narrative Statement; scheduling,  
18 preparing for and attending the Narrative Statement conference; providing tenants with an opportunity  
19 to file comments or an alternate plan, also known as starting the clock; dispute resolution proceedings;  
20 Loft Board certification; and amendments to the Narrative Statement. We are deciding if we want to  
21 split this fact sheet into two separate parts -- one for owners and architects and the second for the  
22 tenants.

23 Other fact sheets we are considering include rent milestone increases, code compliance, sales of rights,  
24 access, LONOs, certifications, and finally maintenance and minimum standards. We are open to  
25 suggestions for additional factsheets, as we believe they will be a powerful source of information readily  
26 available to the public. Are there any comments or questions? Did that answer your question?

27 **Mr. Barowitz:** Would you say it again -- one for owners and tenants and the other for the public?

1 **Mr. Clarke:** For the Narrative Statement, we're thinking about splitting it up into two parts -- one  
2 version for owners and architects and the other version for the tenants.

3 **Ms. Roslund:** How long did it take you to put this one together? These two, each one?  
4

5 **Mr. Clarke:** It took a while.  
6

7 **Ms. Roslund:** Counting off how many subjects you just covered, I think if there's, like, two a month. And  
8 then that's six months down the road, and we're done are, or...?  
9

10 **Mr. Clarke:** Probably a little bit more. It does take a lot of work. We'll try to complete this sooner rather  
11 than later.  
12

13 **Ms. Roslund:** Sure. Yeah, that's great. I can imagine a lot of work because it's a multi-step thing, right?  
14 First, what is the content? How do you describe the content in a way that it will fit in a third of a column  
15 of a page, right? And how do you distill it down to the essence, and then all of that?  
16

17 **Ms. Oddo:** Sorry, I missed how are the fact sheets being sent out? How do people see them again?  
18

19 **Mr. Clarke:** We're going to put them up on our websites. So, if any of you have ideas on where we  
20 should put them up on our website....One of the things that I was speaking with the Executive Director  
21 about is, we already have some information on our website, and I don't want to be redundant. So, that  
22 is something that's in the air. And if all of you take a look at our website and weigh in and give us  
23 suggestions on where we should place some of this information....

24 **Ms. Roslund:** Will they be PDFs that people can download?

25 **Ms. Cruz:** Yes

26 **Ms. Roslund:** Not a page?

27 **Ms. Cruz:** No, they will be PDFs. People can download. With links.

28 **Mr. Barowitz:** I just wonder how we can get the most broad circulation. The way to do it is for the city of  
29 New York to take out a full-page example of it in the *New York Times*, which appears periodically.

1 **Mr. DeLaney:** Excellent idea

2 **Ms. Cruz:** I don't have an in at the *New York Times*.

3 **Mr. Clarke:** Anyone have some good connections?

4  
5 **Mr. Roche:** What about an electric billboard down in Times Square?

6  
7 **Mr. DeLaney:** Actually, when we were talking a little bit last month about the general public's ignorance  
8 about the Loft Law -- maybe if you're looking for a news item that might interest at least some  
9 downtown newspapers, in the Brooklyn paper and some of those. Forgive me for being crude, but after  
10 forty years of not having thought of a pretty elemental step, the Loft Board has finally seen the light and  
11 issued a series of eight or ten fact sheets that demystify the workings of the Loft Board for the general  
12 public, that would probably get a few inches of space, and Patch, and various other local, downtown,  
13 Tribeca...etc.

14  
15 **Mr. Roche:** One suggestion I might make is, the Fire Department deals rather heavily with all the  
16 libraries in the city. And all the libraries in the city typically have some sort of fact area, pick up literature  
17 for other city agencies, etc. I would encourage us to maybe develop relationships there and make these  
18 fact sheets available at the various libraries throughout the city. Probably also the community boards --  
19 if we can solicit them, at no cost, obviously, to the community boards. Community boards would  
20 probably be another location to develop relationships with the community. Have the fact sheets  
21 available.

22 **Mr. DeLaney:** But just to go back to the City Planning homepage, it's got why are you here? What are  
23 you looking for? With a drop-down. It's very easy to navigate, so much better than.... self-censor, self-  
24 sensor. Just so you know, I haven't lost that ability.

25 **Ms. Oddo:** I like the discussion about how to make people aware that we even exist, because these  
26 sheets are great. But if nobody even knows to go to the website, it will languish there. And I think if  
27 more people knew that, potentially, this might be something that's applicable to them, then it might  
28 even just prompt them to go to the website, not even about the fact sheets. Just to try to get them to...

1 **Ms. Roslund:** The community board outreach is a good idea, because a lot of people go to their  
2 community board when there's an issue.

3 **Mr. Roche:** There's also – and forgive me -- ever since we've gone to a virtual forum, I've forgotten  
4 names and everything else. But there's a really active group within the Loft Board community that used  
5 to attend. They used to attend very regularly, and I'm sure they're attending, actually, right now. They  
6 had events periodically, throughout their calendar year, and we could possibly partner with them to just  
7 make the literature available.

8 **Ms. Rajan:** Some people may call 311 with this. I don't know if they're able to see the resources that  
9 311 operators have, because if somebody just called about rent, maybe they're able to direct that  
10 person to the website, without having to give a response. But sometimes the operators have specific  
11 resources that they could look to. It may be worth checking to see if they know that we exist.

12 **Mr. DeLaney:** You know, this is a bit off-topic, but maybe fifteen years ago, twenty years ago, there was  
13 somebody in, I think, the Giuliani administration, of some prominence, who had padded their expense  
14 account with some expenses attributed to the Loft Board. And the press was all of a sudden, like, what's  
15 this? What's the Loft Board? No interest in the substance of the Loft Board, but the whiff of scandal was  
16 the last time I think the general press was wondering about the Loft Law or the Loft Board.

17 **Mr. Roche:** My indication would be if we're staying out of the press, we're probably doing a good job.

18 **Mr. Barowitz:** It was my son that made that notice apparent. That Giuliani was using Loft Board funds.

19 **Mr. Roche:** I think we came up with a couple of good ones. That loft association group. Community  
20 boards are fantastic, and I think the libraries would run third or fourth into that top group.

21 **Ms. Roslund:** 311

22 **Mr. Roche:** And 311

1 **Ms. Roslund:** So, before we leave this topic, coming back to Mr. DeLaney's comments about the last line  
2 under Regulatory Authority. This seems so minor after what we just did here. Does that sentence belong  
3 there at all? It isn't about...It's just about us. The rest of the section.

4 **Ms. Cruz:**.....I guess we can fit in the other page. We'll talk about applications for coverage. Okay.

5 **Mr. Clarke:**...or other fact sheets.

6 **Ms. Roslund:** Because there is nothing actually in that section, that someone would hire a lawyer.

7 **Mr. Clarke:** Okay. If there are no further comments or questions, I will turn it over to Ms. Renee Storey,  
8 our enforcement attorney.

9 **Ms. Storey:** Thank you, Mr. Clarke. We are focusing on three areas of enforcement: Reasonable and  
10 Necessary, Building Registration, and Legalization Reports. Under the Reasonable and Necessary  
11 enforcement, we have issued a total of (79) violations. Of those (79) violations, (35) Administrative  
12 Determinations have been issued. Five (5) owners have paid their penalty. Thirty (30) owners have not  
13 paid. We have issued (23) Notices of Withdrawals. These Withdrawals have been due to compliance.  
14 The owners are actually listening and trying to comply. And some due to service issues. There are (21)  
15 remaining Administrative Determinations to be issued. We are giving the owners time to cure the  
16 violation.

17 Next, under Building Registration enforcement, there are (13) owners that are still delinquent with  
18 annual registration from last fiscal year. Our new fiscal year begins July 1<sup>st</sup>, 2023. We will be sending out  
19 registration packets within the last two weeks of June. So, if anyone does not receive their packet by July  
20 4th, please reach out to the Loft Board. Our address is 280 Broadway, first floor, New York, New York  
21 10007. And you can also call us at 212-393-2616.

22 Under Legalization Report enforcement, all IMD buildings without a Certificate of Occupancy must file  
23 legalization reports. We have 323 buildings in our jurisdiction. We have received approximately (88)  
24 reports for the month of April. Initially, there was some confusion with the form; with where to send the  
25 form; and what was needed on the form. So let me address all of those.

1 First, the updated form is on our website, so there's no more technical difficulties. Second, the  
2 legalization report is due four times a year: April 1<sup>st</sup>, July 1<sup>st</sup>, October 1<sup>st</sup>, and January 1<sup>st</sup>. Each report  
3 must contain legalization progress for the preceding three months. For example, April should contain  
4 legalization progress for January, February, and March. The form must be signed by the owner and the  
5 architect, and you must use the correct form. Please do not send us any emails, or letters, or anything  
6 other than the form that we have on the website. We have also addressed the issue with regards to  
7 where to send the form. We have created a special inbox for these reports. Please send the form to  
8 Loftboardquarterly@buildings.nyc.gov. We are looking to start enforcement for all legalization reports  
9 starting in July.

10 Lastly, we have met with three owners concerning legalization and other enforcement matters. We are  
11 open to meeting with other owners regarding legalization, so please feel free to reach out to the staff.  
12 Thank you. Is there any question?

13 **Ms. Cruz:** No questions?

14 **Mr. DeLaney:** Happy birthday, James.

15 **Mr. Kim:** Thank you, Mr. DeLaney. Good afternoon Board members. Since last month's report on the  
16 status of buildings that are in what we refer to as the open Narrative Statement milestone of buildings  
17 under our jurisdiction, I'd like to present some updated statistics on those buildings. In the last month,  
18 as always, several buildings have moved along in the legalization process. They have submitted new  
19 Narrative Statement filings; we have scheduled Narrative Statement conferences for them; we've issued  
20 several certifications, some of which were initial certifications, and some of which were subsequent  
21 certifications; several Notices of Opportunity to Comment had ended; and we have followed up on  
22 several buildings that were inactive for some time.

23 The number of buildings in this stage has decreased from March due to certifications that were issued,  
24 where the onus is now on ownership to pull a permit and commence legalization work. To more  
25 accurately capture the state of play, we created a new category for inactive buildings that has some  
26 from other categories moved into it. Several of these buildings stalled in the process for a multitude of

1 reasons (and) frequently (were) not being held accountable for continuing to move forward. As  
2 mentioned, we are moving forward and holding many of these buildings accountable on a case-by-case  
3 basis, and continue to do so.

4 Some of these statistics, a copy of which is in front of each of you, are that there are (53) buildings now  
5 in this category; (5) of which have submitted incomplete Narrative Statements; (3) of which have  
6 upcoming Narrative Statement conferences; (13) where the owner is currently working on revising  
7 plans and are working with the Department of Buildings. There are (4) buildings for which a Notice of  
8 Opportunity to Comment are currently ongoing. There are (6) buildings where certifications must be  
9 evaluated by the Loft Board before they can be issued; and there are (19) buildings that have been  
10 inactive, where the Loft board will be following up after past inactivity.

11 Although I've mentioned this before, although legalization of all these buildings under Loft Board  
12 jurisdiction is important, we will be concentrating Loft Board resources on reaching out to these inactive  
13 buildings to hold them accountable for legalizing. Some have owners and tenants working together for  
14 several years until the Loft Board stopped receiving updates. Others did not receive certifications for  
15 various reasons. And we will have to come up with case-by-case solutions to get these buildings to the  
16 finish line utilizing our entire toolbox, including enforcement if necessary. Are there any questions?

17 **Mr. DeLaney:** Just a couple. Thank you. This is very helpful. I think it would be more helpful -- I have a  
18 feeling we're going to see a report like this every month or fairly regularly -- it would be helpful to have  
19 a date on it usually the date of that meeting or the date that you compiled.

20 **Mr. Kim:** For sure. Thank you. I actually had that under previous versions. But thank you for pointing  
21 that out.

22 **Mr. DeLaney:** And the (19) -- the significantly large number of more than a third of the ones you're  
23 tracking for past inactivity by the parties -- principally, that's the owner and his professionals and their  
24 professionals?

25 **Mr. Kim:** Yeah, so that's a fantastic question. And that's one that I've been trying to sort of figure out.  
26 An important caveat is that... we say this a lot, but every building is its own story, and it's hard for me, as

1 someone who's in the weeds, to necessarily sort of zoom out and see what is happening with this  
2 category. So, in some situations, yes, that is the case. It is ownership that hasn't pushed it along. But  
3 there are, of course, different parties in the process, which is why I mentioned that there are certain  
4 situations where owners and tenants have been negotiating or discussing. And frequently, sometimes  
5 it's either side that, perhaps, it was as simple as (one side) had to get back to the other side on hey, this  
6 is how we'd like to implement this. Here's a copy of our plans, or markup, or something that perhaps  
7 was never done. And to be frank, there are certain situations where it's the Loft Board that, perhaps,  
8 could have done more to ensure that that was done. But that's why, as I said, it's a big story as to who is  
9 exactly liable in these situations. Blame isn't necessarily what we like to assign, because we're trying to  
10 keep this as collaborative as possible, and we're trying to push these buildings to the finish line. But  
11 going forward, as we have already, owners as well as tenants' representatives will be hearing from us on  
12 buildings they may not have worked on for several years but should expect to do so soon.

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

14 **Ms. Roslund:** A follow up. What is the criteria you're using to categorize something as an inactive  
15 building? It came up in a couple of the cases. There are some buildings that have been sort of slowly  
16 slogging through the process for twenty-five years or something, and others where, literally, nothing has  
17 happened in five years. So, is it a month, five months, a year that nothing's happened? Or is it that they  
18 consistently miss their milestone deadlines? Or is it....

19 **Mr. Kim:** I would say, without painting with too broad a brush, that I think that it's buildings that we  
20 haven't heard anything from regarding legalization work for at least a year, frequently for several years.  
21 So, I'm not sure if that answers your question.

22 **Ms. Cruz:** I think we have to remember that right now, we're dealing with a group of buildings that are  
23 in the process. So, either they haven't had a conference in quite some time; they haven't....the last  
24 conference, perhaps the owner was supposed to revise the plan, and we hadn't received it; perhaps...  
25 Do you have any that we were supposed to issue a clock, and we didn't?

26 **Mr. Kim:** Sure

1 **Ms. Roslund:** So there seems to be some stumbling block. The process started, and then for some  
2 reason, it stopped.

3 **Ms. Cruz:** Right. For a multitude of reasons. So, just the passage of time is how you got into this  
4 category.

5 **Mr. Kim:** It is frequently easier for all the other buildings in the other categories to reach legalization  
6 once they've already started, and there's some momentum going, so to speak, after a Narrative  
7 Statement has been filed. And for most of these buildings, there's no momentum currently going.

8 **Ms. Cruz:** One of the things we try to do, what we're doing, is that after every conference, we sit down  
9 and talk about dates. What are we doing next? Who's responsible for what? Everyone is responsible for  
10 doing -- who's doing that job? Exactly, the actual plan. And then James writes a follow-up email. And  
11 then writes another email. To be sure everybody stays honest.

12 **Ms. Roslund:** Gmail gives us a little... always, if you send something out, and it pops up, it's been five  
13 days since you sent that. Do you want to follow up?

14 **Ms. Cruz:** Any other questions?

15 **Mr. DeLaney:** Now that we've gotten through the reports -- with regard to Ms. Storey's report, it  
16 reminds me that we had a case last month where there had been a change of ownership. And we  
17 accepted a filing from the prior owner, even though, theoretically, the prior owner was no longer the  
18 owner. At the time, I remember commenting, and people were agreeing, that this is an issue. And I'm  
19 just wondering if there's any way that enforcement can be more active in making sure that ownership is  
20 kept up to date?

21 **Ms. Roslund:** New ownership information.

22 **Ms. Storey:** That is a very good suggestion, and we also came to that conclusion a little while ago. What  
23 we're planning on anticipating to do is, when we send out the registration packets, we're going to also  
24 send out forms that allow them to update it if they need to -- the ownership information. We're also

1 going to make it very clear that they're updating ownership information. We need that company deed to  
2 make sure everything is accurate.

3 **Mr. DeLaney:** Would it make sense -- because I know, we're just dying to get back to rulemaking --  
4 would it make sense to have some sort of provision in our rules that a change in ownership has to be  
5 filed within X number of days?

6 **Ms. Cruz:** I think we do.

7 **Mr. DeLaney:** What is it?

8 **Ms. Cruz:** Five days

9 **Mr. DeLaney:** Five days. And what's the consequence?

10 **Ms. Cruz:** A fine

11 **Ms. Storey:** A four-thousand-dollar fine. A very big fine. And there's no cure period, so a straight fine.

12 **Mr. DeLaney:** But how do you know?

13 **Ms. Cruz:** That's the problem. We know when they file it. So, if they don't file it within the thirty days or  
14 within the five days -- I don't remember if it's five or thirty-five, but it doesn't matter. The person who  
15 actually tells us is the person we're fining. So, if they tell us, let's say, and it's within the five days, great.  
16 But if it's not within the five days, then we're fining someone who's told us that the ownership has  
17 changed, versus the person who hasn't filed it with us, (who) is still out there. So unless we're going in  
18 ACRIS No. Yeah. For three hundred and something buildings....

19 **Ms. Storey:** Three-twenty-three to be exact

20 **Ms. Cruz:** As I'm going through the buildings list right now to look for legalization, it's pretty painful. I  
21 would only have to check ACRIS, but as I'm going through this buildings list, I have to check two systems,  
22 at least. Yeah, DOB Now and BIS. It's three-hundred-and-something buildings.

23 **Mr. DeLaney:** It seems like AI should be able to help.

1 **Ms. Oddo:** There's no CSV file....?

2 **Ms. Roslund:** Summer's coming up. You can hire....

3 **Ms. Cruz:** What we've found is that once we mail out the registrations, for those that come back to us,  
4 certainly they're going in and checking. But if the notice does not come back to us, then we have no way  
5 of knowing that there's been a change, unless we go in and do the investigation. Did you want to say  
6 something?

7 **Mr. DeLaney:** No. I don't recall us ever having levied that fine.

8 **Ms. Cruz:** I don't think we ever have. And it wouldn't be something that the Board would do. We'd do it  
9 as there was a violation.

10 **Mr. DeLaney:** Okay. All right. I have a few other questions that are generated by the minutes. And  
11 principally, let's talk about the --- it's now April 20<sup>th</sup>. In addition to being Mr. Kim's birthday, the new  
12 rules have now been in affect for almost three weeks. I gather that American Legal Publishing or  
13 whatever it is -- Is that their name?

14 **Ms. Cruz:** Yes

15 **Mr. DeLaney:** ...has to deal with that they've met all the rules, and I'm confident that you'll be delivering  
16 Elliott and me the hard copies we requested sometime in the not-too-distant future?

17 **Ms. Cruz:** Yes

18 **Mr. DeLaney:** One of the things we're going to do now is start posting Proposed Orders on the website.  
19 Will that happen for May?

20 **Mr. Clarke:** It happened for April.

21 **Mr. DeLaney:** They happened for April? So, if I had gone to that ugly website and looked, I might have  
22 been able to find them?

23 **Mr. Clarke:** You would see them. They're there.

1 **Mr. DeLaney:** Okay. And we had a case today where the owner submitted evidence of the 286(12) sale,  
2 and all the sales figures were obscured. And I know one of the things that was in our revisions is that  
3 we're not going to accept those going forward. Have we put that into motion?

4 **Ms. Cruz:** Yes. I have already received a few. And I have them in my office, because we're going to reject  
5 them.

6 **Mr. DeLaney:** And you haven't checked whether or not they contain information that's now required?

7 **Ms. Cruz:** No, I know that they don't. The information is redacted. So those will be returned.

8 **Mr. DeLaney:** So, I don't think we thought this through -- or at least I certainly didn't. I executed the  
9 form with my tenant a year ago, but now I want to submit it. Does it require that information? Or is it  
10 only for sales that take place -- or purported to have taken place -- after April 1<sup>st</sup>?

11 **Ms. Cruz:** My position is that if you file it today, the rule's in effect as of today. If you did the sale three  
12 months ago,

13 **Mr. DeLaney:** ... or three years ago...

14 **Ms. Cruz:** ...or three years ago, you're supposed to file within thirty days.

15 **Mr. Clarke:** So, you'll get a fine for that. But we can still reject your filing.

16 **Mr. DeLaney:** I surmise an Administrative Determination....

17 **Ms. Cruz:** You will get the appeal.

18 **Mr. DeLaney:** Okay. I think that covers my questions. Thank you, everybody.

19 **Chairperson Patino:** Thank you, everyone. We'll now turn to a vote on the cases on the calendar.  
20 There's one case on the Appeal Calendar.

Case #1	Certain Tenants	394-400 South 2 <sup>nd</sup> Street, Brooklyn	AD-0109
---------	-----------------	--	---------

21 Mr. Kim will present this case.

22

1 **Mr. Kim:** Thank you, Chairperson. On August 21<sup>st</sup>, 2020, tenants filed an Appeal application challenging  
2 an Administrative Determination issued by the Acting Executive Director, finding that the building was  
3 exempt from the Narrative Statement process, pursuant to 29 Rules of the City of New York section  
4 2-01(d)(2)(iii)(A). Subsection (d) -01 (d)(2)(iii)(A) provides an exemption from the Narrative Statement  
5 process if two conditions are satisfied. First, if a building permit for Article 7-B compliance was issued on  
6 or before June 1<sup>st</sup>, 2012. Second, the building permit remains in effect or is renewed without  
7 reinstatement or amendment of the underlying Alteration application and the legalization plan until the  
8 owner obtains the residential Certificate of Occupancy for the IMD units.

9 Although owner obtained a permit on February 11<sup>th</sup>, 2011, prior to June 1<sup>st</sup>, 2012, tenants argued that  
10 the permit lapsed for more than a year in 2014 to 2015. And pursuant to a Department of Buildings  
11 Service Notice dated March 2015, the permit should have been reinstated, not renewed. However, the  
12 Department of Buildings utilized it's discretion in granting renewal of the permit without reinstatement.  
13 Second, the Loft Board's rule requires amendment to both the underlying Alteration application and  
14 legalization plan. The Administrative Determination did not err in finding that the Alteration application  
15 was amended by post-approval amendment filed on September 23<sup>rd</sup>, 2019, but the legalization plan  
16 was not amended. Therefore, the Proposed Order before you finds that the Administrative  
17 Determination properly found that the building was exempt from the Narrative Statement process,  
18 pursuant to 29 Rules of City of New York, section 2-01(d)(2)(iii)(A), and a denies the appeal.

19 **Chairperson Patino:** Thank you, Mr. Kim. Does anyone have any comments on this case?

20 **Ms. Roslund:** Just the technical comments. So, we were talking earlier about the difference between  
21 the renewal and the reinstatement. And in one, on page three under The Permit Was Renewed Without  
22 Reinstatement, in the second paragraph, it says, "DOB's decision to renew the permit without  
23 reinstatement of the alteration application..." But in other places, it's stated as reinstatement of the  
24 permit, which are two different things. The permit's not being reinstated or required reinstatement. It's  
25 the application. So, there's just two.... Sorry, I just lost it. "In this case, DOB did not require  
26 reinstatement of the permit."

27 **Ms. Cruz:** What page are you on?

1 **Ms. Roslund:** Page 3. Just in that section under Analysis, 1. The permit was renamed without  
2 reinstatement. In one sentence, it says that you're reinstating the permit. And then the next sentence  
3 says you're reinstating the application.

4 **Ms. Cruz:** Yes. So, we will change that permit to application. That will cure it, right?

5 **Mr. DeLaney:** Where are we?

6 **Ms. Cruz:** Page 3 under 1. Second paragraph, where it says, however.

7 **Ms. Roslund:** Just above the middle of the page

8 **Ms. Cruz:** "Tenants misunderstand the language in the Service Notice. The language is that  
9 reinstatement may be required. It is not absolute. In this case, DOB did not require this reinstatement of  
10 the application."

11 **Chairperson Patino:** Any additional comments, Mr. DeLaney?

12 **Mr. DeLaney:** Yeah. I'm troubled by this case. And I find that, given that the Loft Law is intended to be a  
13 remedial statute, I think the Narrative Statement conference is an important and very helpful step in the  
14 process. And this paragraph that Ms. Roslund has been looking at really goes to the heart of... "Tenants  
15 misunderstand the language in the Service Notice. The language is that reinstatement may be required.  
16 It is not an absolute." Seems to me we spent all that time with the language police stressing that may  
17 means shall. So I looked at the language that's relied on in the city Administrative Code 28-104.2.3, and  
18 I find it confusing. And I find it confusing and it seems to me, the Department of Buildings has leeway  
19 that they should be exercising in the opposite direction to encourage a step that's helpful to both the  
20 owners and the tenants. Hopefully, the owner and the tenants will find a way to work through this, but I  
21 think the Department of Buildings has discretion and should exercise that discretion in a different way  
22 than it seems to have in this case. Therefore, I'm going to vote no.

23 **Ms. Roslund:** And/or when we were reading through the language, it was DOB's discretion to extend or  
24 to provide an extension, which didn't happen. So procedurally, they didn't give the applicant an  
25 extension. They just extended it.

1 **Ms. Cruz:** We don't know if they did.

2

3 **Ms. Roslund:** We don't know.

4

5 **Ms. Cruz:** We don't know if they did. The decision is at the Department's discretion. I can't look behind  
6 the decision.

7 **Mr. DeLaney:** Right. And I know that a couple of years ago, the Loft Board spent some time meeting  
8 with plans examiners, as I recall. And certain things were hashed out; maybe greater understandings of  
9 situations were achieved. And I think this is an area where, to be honest, on the part of the Department  
10 of Buildings, I see mostly smoke and mirrors here rather than oh, that makes sense. I see why this has  
11 definitely got to be this way. And I think the Narrative Statement conference, when in doubt, it should  
12 be helped rather than evaded on something that seems kind of hard to follow. So, I'm hoping the Pooh  
13 Bahs in the Department of Building will rethink their mindset.

14 **Ms. Cruz:** Or we could change the rule.

15 **Mr. DeLaney:** Or we could change the rule. That's not going to help the Certain Tenants of 400 South  
16 Second Street. Hopefully, and again, as I said in the private session, if the tenants want to be difficult  
17 and deny access, it'll just be a bigger headache for everybody. And here we have a forum to resolve  
18 disputes. The purpose of the Loft Law and the purpose of the Loft Board is to resolve disputes. But on  
19 this case, the forum is not available. It just seems the wrong conclusion. I like the idea of changing the  
20 rule.

21 **Ms. Cruz:** That we have control over.

22 **Chairperson Patino:** Thank you. Are there any other comments? Is there a motion to accept this case?

23 **Mr. Hylton:** So move.

24 **Chairperson Patino:** Thank you, Mr. Hylton. Is there a second?

25 **Ms. Rajan:** I can second.

- 1 **Chairperson Patino:** Thank you, Ms. Rajan. Ms. Rivera, can you please poll the Board members?
- 2 **Ms. Rivera:** Mr. Barowitz?
- 3 **Mr. Barowitz:** Abstain
- 4 **Ms. Rivera:** Mr. Roche?
- 5 **Mr. Roche:** Yes
- 6 **Ms. Rivera:** Mr. Hylton?
- 7 **Mr. Hylton:** Yes
- 8 **Ms. Rivera:** Mr. DeLaney?
- 9 **Mr. DeLaney:** No
- 10 **Ms. Rivera:** Ms. Roslund?
- 11 **Ms. Roslund:** Yes
- 12 **Ms. Rivera:** Ms. Oddo
- 13 **Ms. Oddo:** Abstain
- 14 **Ms. Rivera:** Ms. Rajan?
- 15 **Ms. Rajan:** Yes
- 16 **Ms. Rivera:** Chairperson Patino?
- 17 **Chairperson Patino:** Yes
- 18 **Ms. Rivera:** Five in favor; one...
- 19 **Mr. Barowitz:** No....

1 (There was some confusion about the vote tally, the vote was taken again)

2

3 **Ms. Cruz:** Let's vote again.

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

5 **Mr. Barowitz:** Abstain

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

7 **Mr. Roche:** Yes

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

9 **Mr. Hylton:** Yes

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

11 **Mr. DeLaney:** No

12 **Ms. Rivera:** Ms. Roslund?

13 **Ms. Roslund:** Yes

14 **Ms. Rivera:** Ms. Oddo

15 **Ms. Oddo:** Abstain

16 **Ms. Rivera:** Ms. Rajan?

17 **Ms. Rajan:** Yes

18 **Ms. Rivera:** Chairperson Patino?

19 **Chairperson Patino:** Yes

20 **Ms. Rivera:** Five in favor; one against, two abstain

21

1 **Chairperson Patino:** Thank you. The next cases are on the Summary Calendar. There are four Proposed  
2 Orders on the Summary Calendar that involve nine cases. We usually vote on these cases as a block. The  
3 cases are

4

Case #2	517-525 West 45 Street LLC	517-525 West 45 Street, New York	LS-0287, TM-0011
Case #3	Adam Falcheck	87-95 Dobbin Street, Brooklyn	PO-0109, TA-0262
Case #4	John Leland Pacific	1083-1095 Flushing Avenue, Brooklyn	PO-0195, TA-0299
Case #5	Graham Holly	435 Broadway, Brooklyn	TR-1465, TR-1466 PO-0215

5 Are there any comments on these cases?

6 **Mr. DeLaney:** I have one comment. Only because Mr. Roche last month pointed out that I did not notice  
7 the year was wrong. And since the Chairperson goes through the trouble of reading all the bloody  
8 docket numbers, case number 2, 517-525 West 45 Street -- it's actually TM 0111, but not 0011.

9 **Ms. Cruz:** One eleven

10 **Mr. DeLaney:** Yes, one eleven. Because I thought, wow, there's only eleven of those?

11

12 **Chairperson Patino:** We were testing you, Mr. DeLaney. So you passed. Is there a motion to accept  
13 these cases?

14

15 **Ms. Rajan:** I move.

16

17 **Chairperson Patino:** Thank you, Ms. Rajan.

18

19 **Mr. Roche:** Second

20

21 **Chairperson Patino:** Thank you, Mr. Roche. Ms. Rivera, can you please poll the Board members.

22

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

24 **Mr. Barowitz:** Yes

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

1 **Mr. Roche:** Yes

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

3 **Mr. Hylton:** Yes

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

5 **Mr. DeLaney:** Yes

6 **Ms. Rivera:** Ms. Roslund?

7 **Ms. Roslund:** Yes

8 **Ms. Rivera:** Ms. Oddo

9 **Ms. Oddo:** Yes

10 **Ms. Rivera:** Ms. Rajan?

11 **Ms. Rajan:** Yes

12 **Ms. Rivera:** Chairperson Patino?

13 **Chairperson Patino:** Yes

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

15 **Chairperson Patino:** Thank you. Next is the Master Calendar. There are two cases on the Master

16 Calendar, and they are removal cases. There's no presentation for removal cases.

Case #6	57-59 Grand St. LLC	59 Grand Street, Brooklyn	LE-0739, RG-0218
---------	---------------------	---------------------------	------------------

Case #7	North Seven Capital LLC	224 North 7 <sup>th</sup> Street, Brooklyn	LE-0740
---------	-------------------------	--	---------

17 Does anyone have any comments on these cases?

18

1 **Ms. Cruz:** I don't have a comment, but just wanted to note in the public session that in case number 6,  
2 the names of the tenants of the fourth and fifth floors are corrected in a revised Proposed Order that is  
3 before you today.

4 **Chairperson Patino:** Is there a motion to accept these cases as revised? Thank you, **Mr. DeLaney.** Is  
5 there a second?

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

7 **Chairperson Patino:** Thank you Ms. Roslund. Ms. Rivera, can you please poll the Board members?

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

9 **Mr. Barowitz:** Yes

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

11 **Mr. Roche:** 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?

1 **Ms. Rajan:** Yes

2 **Ms. Rivera:** Chairperson Patino?

3 **Chairperson Patino:** Yes

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

5 **Chairperson Patino:** Thank you. Are there any comments?

6 **Mr. DeLaney:** I have just one request. Before we adjourn, I wonder if we could get an update from Mr.  
7 Barowitz on Soho-Noho.

8 **Chairperson Patino:** Mr. Barowitz?

9 **Mr. Barowitz:** There was a second meeting at the Supreme Court with the judge for those representing  
10 the Soho-Noho Alliance and the city of New York. And there was a meeting a month ago, and the  
11 lawyers went into the judge's chambers for about twenty minutes. This Tuesday, the lawyers went into  
12 the judge's chambers for about an hour and a half. And when they came out, we were told by the Soho-  
13 Noho Alliance lawyers that the city and the Alliance have come to some kind of agreement, and that  
14 most likely there would not be a trial. The Alliance is suing the city, and there won't be a trial. But once  
15 again, the judges put off the two other meetings. One some time in May, the other early June. So, I  
16 would suppose by early June the whole thing would be resolved, unless some of the lawyers change  
17 their mind from now until then.

18 But it was good to know that some kind of agreement has taken place. One of the critical aspects is that  
19 there is a proposal that if a household loft where the primary person or persons are the artist's children,  
20 if they sell it to non-artists, \$100 a square foot has to go into some kind of fund, which is undetermined.  
21 And one of the absurdities, as far as I'm concerned, of that is that is if the loft is worth \$800,000, it's  
22 \$100 a square foot. And if it's worth a \$8,000,000 as some are, it's still \$100 a square foot. So, I think  
23 that has to get resolved. And I think once that gets resolved, the whole thing will tend to disappear.

1 This has been going on, by the way, for well over five years. And in the beginning, very good members of  
2 the city of New York wanted to produce low-cost housing in Soho and Noho, while at the same time, the  
3 city realized that there are practically no vacant spaces. Just two small vacant lots in Soho. Noho is a  
4 little different consideration. There's also an AIR ruling so you can only building the building so high  
5 anyway. So any additional housing would have to go on top of the loft buildings. But some of the loft  
6 buildings you can't build on top of. The buildings aren't strong enough.

7 So, I think this whole thing started, essentially, because the former council woman for Lower Manhattan  
8 somehow decided that there should be a change in Soho and Noho. And of course, the general  
9 understanding is that there are a bunch of galleries there, and it's sort of a really great place to go  
10 shopping, and walk around, and go look at art; and that people living there must be very, very wealthy.  
11 And the fact of the matter is that there are many artists there. As we know from the past, when those  
12 buildings were legalized in Soho and Noho, the rents were incredibly inexpensive. And because that's  
13 how they started out, in the first meeting that I attended some five, five and a half years ago in a public  
14 school of Chinatown, I don't think that anybody that showed up that was under the age of fifty. And the  
15 city just hasn't quite acknowledged that a great deal of the tenants in Soho and Noho are somewhat  
16 older people. And when I went to this Supreme Court meeting on Tuesday, once again, everyone sitting  
17 there had gray hair. I spoke to one of the lawyers, and they said the city is just beginning to realize who  
18 makes up the people of Soho and Noho. And, of course, one of these days, we're all going to die out,  
19 and then maybe the situation will change.

20 **Mr. DeLaney:** What and upbeat report!

21 **Chairperson Patino:** Thank you. So, we'll conclude our April 20<sup>th</sup>, 2023, Loft Board meeting. Our next  
22 public meeting is scheduled to be held on May 18<sup>th</sup>, 2023.

23 **Chairperson Patino:** Good afternoon, we are reopening the April 20<sup>th</sup>, 2023 meeting to discuss litigation  
24 in the executive session.

25 **Mr. DeLaney:** I move we go into Executive Session.

26 **Chairperson Patino:** Thank you Mr. DeLaney.

- 1 **Mr. Hylton:** Second.
- 2 **Ms. Rivera:** Mr. Barowitz?
- 3 **Mr. Barowitz:** Yes
- 4 **Ms. Rivera:** Mr. Roche?
- 5 **Mr. Roche:** Yes
- 6 **Ms. Rivera:** Mr. Hylton?
- 7 **Mr. Hylton:** Yes
- 8 **Ms. Rivera:** Mr. DeLaney?
- 9 **Mr. DeLaney:** Yes
- 10 **Ms. Rivera:** Ms. Roslund?
- 11 **Ms. Roslund:** Yes
- 12 **Ms. Rivera:** Ms. Oddo
- 13 **Ms. Oddo:** Yes
- 14 **Ms. Rivera:** Ms. Rajan?
- 15 **Ms. Rajan:** Yes
- 16 **Ms. Rivera:** Chairperson Patino?
- 17 **Chairperson Patino:** Yes
- 18 **Ms. Rivera:** Eight in favor

- 1 **Chairperson Patino:** So this will conclude our April 20<sup>th</sup>, 2023, Loft Board meeting. Our next public
- 2 meeting is scheduled to be held on May 18<sup>th</sup>, 2023. Thank you everyone.