

MINUTES OF PUBLIC MEETING
New York City Loft Board Public Meeting
Held at 22 Reade Street, Main Floor, Spector Hall

February 21, 2019

The meeting began at: 3:15 pm

Attendees: Robert Carver, Esq., Owners' Representative; Elliott Barowitz, Public Member; Daniel E. Schachter, Esq., Public Member; Charles DeLaney, Tenants' Representative; Julie Torres-Moskovitz, Public Member; Renaldo Hylton, Chairperson Designee; and Helaine Balsam, Loft Board, Executive Director.

INTRODUCTION:

Chairperson Hylton welcomed those present to the February 21, 2019, public meeting of the New York City Loft Board. He then briefly summarized Section 282 of the New York State Multiple Dwelling Law, which establishes the New York City Loft Board; and described the general operation of the Board as consistent with Article 7-C of the New York State Multiple Dwelling Law.

Vote to approve January 17, 2019, Meeting Minutes

Mr. Hylton asked if there were any corrections or comments on the minutes.

Mr. DeLaney: In reading the minutes, I'm reminded that I had offered to send some comments on how to make the 2018 Year End Report clearer for public consumption. I have not done that yet, but I will. I was going to ask about the BSA report on Eighteenth Street, but I see we've received that. Through page 9 we discussed the Project Guidelines, and there was some agreement that you were going to try to put together a distillation for the lay person of what's in the Project Guidelines. I'm wondering what the status of that is.

Ms. Balsam: Honestly, I haven't gotten to it. But it is on the list.

Mr. DeLaney: I understand. I just finished saying that I haven't gotten to the 2018 Year End task yet. On page 10, you reported on two cases for which we've yet to receive written versions. Have those come in?

Ms. Balsam: No. Those were decisions from the bench, where there's a transcript, and we haven't gotten those yet. But I'll follow up with the Law Department.

Ms. Balsam further confirmed that they will not be written decisions; and she will circulate them.

Mr. DeLaney: We seem to have taken a new tack, which I think is perfectly valid, as seen on page 11, in the Summary Calendar cases, we have a one- or two-sentence summary of the decision.

Ms. Balsam: Those are my notes, and they shouldn't be included. Do you want them there?

Mr. DeLaney: I thought they were nice to have. But then at the Master Calendar cases, there's no summary whatsoever.

Ms. Balsam: There has never been a summary in the Master cases.

There was some discussion between Mr. DeLaney and Ms. Balsam as to whether or not summary notes should be included. Ms. Balsam said they should not be, and the minutes would be amended.

Mr. DeLaney noted a correction on page 17: changing “3-5-minute” to “three-to-five -minute.”

Mr. Hylton: We will table the vote on the minutes until they’re revised.

Mr. DeLaney: With regard to the Master Calendar cases, if someone is reading the minutes, and they see, “such-and-such a board member presented the case,” and the next comment is the chairman thanking them for presenting the case, what would be the harm in providing a one-sentence summary?

Ms. Balsam: Because the decision speaks for itself, and any comment could be mis-interpreted or misconstrued.

Mr. DeLaney: If I were doing research and trying to use the minutes, if it’s a coverage case, and I don’t know from the minutes whether coverage was accepted or rejected...

Ms. Balsam: Isn’t there a vote?

Mr. DeLaney: There’s a vote, but there’s no recitation of what the Order is.

Ms. Balsam: They’d have to go look at the Orders. They’re all available on the internet; or they could ask us for a copy.

Mr. DeLaney: They’d be easier to find on the internet if we had the Order number.

Ms. Balsam: You can search the docket number, and it will come up.

Mr. Schachter: Well, since it’s on YouTube, and we’re trying to provide a written alternative, why not put the summary?

Ms. Balsam: These are the Board’s minutes, and if the Board wants that, we’ll do it. But I think it’s feeding law suits. It’s more fodder for people who are suing us. That’s my opinion. But if the Board wants it, we’ll do it.

Mr. Barowitz to Mr. DeLaney: Your position is to make this part of the public record? Outside of our review of these minutes?

Mr. DeLaney: Maybe I’ve been spoiled by the high quality of the minutes of late; but you get to the point where someone presents a case, and then they’re thanked, and it begs the question of what was presented. So, I understand your concern about it being fodder for law suits, but it seems to me that if written in a terse manner, so it could at least be known that what was voted on was whether or not to accept or deny something, it would help the researcher; who can they say, OK, I don’t have to go look at that case.

Mr. Barowitz: Before I came on this Board, what were the minutes like?

Mr. DeLaney: They’ve been all over the place.

Mr. Barowitz: I remember when they were one or two pages, and we were concerned about the lack of information. I agree that they're better now. Not that I disagree with you, but we seem to get more and more bogged down with language.

Ms. Balsam: Can I suggest that we put in the conclusions of the Orders?

Mr. DeLaney: Yes.

Mr. Barowitz: Yes, I think that's fair and good.

Ms. Balsam: So we'll try that. We can add the literal wording of the conclusion of the Order. Some are longer than others, but there will be no ambiguity. We won't be saying anything that wasn't in the Order.

Mr. Hylton: Are there any further comments on the meeting minutes? (None). Ms. Balsam will now present her report.

Executive Director Report

I've circulated a copy of the BSA resolution. As you recall, the Board had voted to support DOB's application to revoke the Certificate of Occupancy for 225 18th Street, in Brooklyn. We now have the written decision, which I've given to all of you.

In terms of the amendments to the Loft Law, they're still pending in the Legislature. When they return next week (February 27, 2019), we'll see what happens.

The unofficial revenue for January 2019 was \$35,079.

I've given you all a copy of the latest milestone statistics. I do want to note that there was a transcription in October. So in that last category -- Total Buildings with C of O -- the October one had the opposite of what's there now. It had 25 and 10, but it should be 10 that have a C of O without a pending removal application, and 25 that have a C of O with a pending removal application.

Finally, Project Guidelines are due on Monday, and I think Ms. Torres-Moskovitz had sent an email to all of the Board members about this. So, if you have any comments, if you could get them to her as soon as possible, she can turn that into one document from the Board.

Mr. Torres-Moskovitz: It's due on the 25th.

Mr. Hylton: Your deadline for the comments is the 25th, and your compilation is due to DOB on the 28th correct?

These dates were confirmed. **Mr. Hylton and Ms. Balsam** told Ms. Torres-Moskovitz they would send her the name of the person at the DOB to receive her report; and thanked her for taking on this project.

Mr. DeLaney: At last month's meeting, you reported on an upcoming City Council Oversight hearing, but the date/ time were shifting. Has that been set yet?

Ms. Balsam: March 4, 2PM.

Appeals and Reconsideration Calendar

	Applicant(s)	Address	Docket No.
1	99 Sutton, LLC	99-111 Sutton Street, Brooklyn	AD-0096

Mr. Bobick presented this case.

CONCLUSION

The Loft Board finds the Determination pertaining to the validity of the Sales Agreements was supported by substantial evidence and properly interpreted the law.

As to penalties, the Board reverses the imposition of the \$152,000 in penalties. An owner who files a Sales Agreement that is rejected by Staff should not be penalized for failing to timely file the rejected agreement pursuant to 29 RCNY §§ 2-07(j) and 2-10(c).

The Board further notes that Owner has not complied with the Board’s order to legalize the Building. Owner has yet to file an alternation application or a narrative statement. Therefore, the Board orders Owner to proceed with legalization of the Building immediately. Failure to proceed forthwith may result in further enforcement proceedings and the imposition of penalties.

Mr. Hylton thanked Mr. Bobick, and asked for a motion to accept this case, and for a second.

Mr. Barowitz moved to accept; **Mr. Hernandez** seconded.

Mr. Hylton asked if there were any comments.

Mr. DeLaney: Yes. This is the third time that this case has come before the Board. First, in a legalization case, where we denied legalization, then in a reconsideration case, now reviewing the administrative determination. This is a very serious situation, and the fact that the owner could register thirty-one units with the Loft Board, and get a C of O for forty-eight units, and then present us with sixty-four residential units, all of which had 286(12) reference sales forms, is something that needs to be – and I believe is – being looked at in a number of different venues. And let’s face it, if the owner paid the fines, \$150,000 would be one tenth of the revenue the Loft Board collected in 2018. So that the Board feels it makes sense to say, we can’t fine you for not timely filing invalid documents, because the documents you filed were invalid, it does seem to make some sense. But I hope the Board continues to keep a close eye on this building, and I plan to vote yes.

Mr. Hylton: Thank you, Mr. DeLaney.

The vote:

Members concurring: Mr. Carver, Mr. Barowitz, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Ms. Torres, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Roche, Ms. Roslund

Members recused: 0

Mr. DeLaney: We did make one small language change that did not get included.

Ms. Balsam: Yes, we did. Mr. Bobick read it. On page 10 and 11 under Penalties, in the second sentence in that paragraph. "The Loft Board finds an owner should not be penalized for filing late, if the Board rejects the filings." That's the change.

The next case:

	Applicant(s)	Address	Docket No.
2	Wang & Associates	145 Grand Street, Manhattan	R-0366

Mr. Clarke presented this case.

CONCLUSION

The reconsideration application is denied.

Mr. Hylton thanked Mr. Clarke, and asked for a motion to accept this case, and for a second.

Mr. DeLaney moved to accept; **Mr. Hernandez** seconded.

Mr. Hylton asked if there were any comments.

Mr. Carver: Yes. I believe the analysis, as drafted, is incorrect. I believe the owner is correct; that the registration form requires every occupant to be listed, but the form does not say that the owner is agreeing to confer any particular legal status on the occupant who is listed. On that basis, I'll be voting no.

Mr. Hylton: Thank you, Mr. Carver.

The vote:

Members concurring: Mr. Barowitz, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Ms. Torres, Chairperson Hylton

Members dissenting: Mr. Carver

Members abstaining: 0

Members absent: Mr. Roche, Ms. Roslund

Members recused: 0

The Summary Calendar

Mr. Hylton: There are two cases on the Summary Calendar, and they are voted on as a group.

	Applicant(s)	Address	Docket No.
3	Pamela and Christopher Brown	255 18 th Street, Brooklyn	TA-0230
4	Tenants of 255 18 th Street	255 18 th Street, Brooklyn	TM-0091

Mr. Hylton asked for a motion to accept this case, and for a second.

Mr. Hernandez moved to accept; **Mr. Schachter** seconded.

Mr. Hylton asked if there were any comments.

Mr. DeLaney: Yes. I'm going to vote no on both of these cases. I know they're on the Summary Calendar, but again, the notion that we have a stipulation that "we neither accept nor reject" that includes, in the case of number 3, a tenant withdrawing a diminishment of services claim regarding an elevator, agreeing not to "file a further application for restoration/ provision..... for the lesser of five years from the day of the execution of this Stipulation or the issuance of a Final Rent Order," *unless* "the Tenant suffers a permanent, significantly debilitating injury or condition," just strikes me as something out of a different century. And I don't think we should be accepting these, even though we turn a blind eye to some things.

Mr. Hylton: Thank you, Mr. DeLaney.

The vote:

Members concurring: Mr. Carver, Mr. Hernandez, Mr. Schachter, Chairperson Hylton

Members dissenting: Mr. Barowitz, Mr. DeLaney, Ms. Torres

Members abstaining: 0

Members absent: Mr. Roche, Ms. Roslund

Members recused: 0

Mr. Hylton: The motion is not passed.

There was brief discussion of the number of members required for the vote to pass.

The Master Calendar

	Applicant(s)	Address	Docket No.
5	Tenants of 47 Thames Street	47 Thames Street, Brooklyn	CC-0001

Ms. Balsam presented this case.

CONCLUSION

The Board finds that there is no legal basis for rejecting the Registration, even if Tenants are not actively seeking coverage under the Loft Law and would prefer to be covered under a different rent regulatory scheme.

Mr. Hylton thanked Ms. Balsam, and asked for a motion to accept this case, and for a second.

Mr. Carver moved to accept; **Mr. Barowitz** seconded.

Mr. Hylton asked if there were any comments. (None)

The vote:

Members concurring: Mr. Carver, Mr. Barowitz, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Ms. Torres, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Mr. Roche, Ms. Roslund

Members recused: 0

The next case:

	Applicant(s)	Address	Docket No.
6	Marcus Huffman	255 18 th Street, Brooklyn	TA-0231

Ms. Leveille presented this case.

CONCLUSION

Tenant's application is deemed withdrawn without prejudice.

Mr. Hylton thanked Ms. Leveille, and asked for a motion to accept this case, and for a second.

Mr. DeLaney moved to accept; **Mr. Hernandez** seconded. **Mr. Hylton** asked if there were any comments. (None)

The vote:

Members concurring: Mr. Barowitz, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Ms. Torres, Chairperson Hylton

Members dissenting: Mr. Carver

Members abstaining: 0

Members absent: Mr. Roche, Ms. Roslund

Members recused: 0

	Applicant(s)	Address	Docket No.
7	400 South Second Street Tenants	394-400 South Second Street, Brooklyn	TR-1269

Mr. Hylton tabled this case, so the cases were finished; and he asked if there was interest in continuing for a half an hour on rules.

The Board decided not to begin working on rules at this point.

Mr. DeLaney asked what would be on the agenda for March 6.

Ms. Balsam said that, since they did not do rules today, they would continue with them on March 6, following up on protected occupancy, and the discussion with the attorneys.

Mr. DeLaney: But not with fresh language in front of us?

Ms. Balsam: I'm not sure what you want. I could draft something, if you'd like. I had thought we would talk about it today, and then I would present you with fresh language. So I'm a little concerned about re-drafting, if I don't know what you want. I'm willing to give you a fresh draft to work from, but I'm not one hundred percent sure what it should say.

Mr. DeLaney: Right, given our agreement about the two-week period. But I thought today we were going to go back to rules other than protected occupancy. So I can prepare correctly, we'll meet on March 6, and that will be a general discussion of protected occupancy?

Ms. Balsam: I think it should be. While it's still fresh in everyone's minds, I'd like to discuss what was said (by the attorneys at the February 14 presentation). I think it's important to do that sooner rather than later, and put the rest aside for now.

Mr. DeLaney: It seems that at the last meeting we finished the extension rule. So I thought if we took up rules today, we would have started with the Narrative Statement conference. But March 6, we'll return to protected occupant?

Ms. Balsam: Yes.

Mr. DeLaney: Without new language?

Ms. Balsam: Yes, because we have to decide what to do.

Ms. Torres-Moskovitz: I have a question. I like to always be in attendance, but I teach on Wednesdays, and that meeting is happening on a Wednesday. Can I submit a written piece?

Ms. Balsam: Absolutely, and I apologize for that. The only reason it's on a Wednesday is that we could not find space on a Thursday. DOB is doing a lot of construction, and it's difficult to find an available conference room on short notice. Our wonderful office manager, Irma Rivera, books the rooms for our regular meetings years in advance, but for these additional meetings, right now, it's difficult. So I do apologize, and we'll try very hard not to do that again.

Mr. Hytton: This will conclude our February 21, 2019, Loft Board meeting. Our next public meeting will be held at 22 Reade St. Main Floor, Spector Hall, on Wednesday, March 6, 2019, at 1:00PM.

The End