

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

February 15, 2018

The meeting began at 2:05 p.m.

Attendees: Robert Carver, Esq., Owners' Representative; Elliott Barowitz, Public Member; Richard Roche, Fire Department ex officio; Robinson Hernandez, Manufacturers' Representative; Charles DeLaney, Tenants' Representative; Daniel Schachter, Public Member; and Chairperson Designee Renaldo Hylton.

INTRODUCTION

Chairperson Hylton welcomed those present to the January 18, 2018 public meeting of the New York City Loft Board and briefly discussed Section 282 of the New York State Multiple Dwelling Law which establishes the New York City Loft Board. He described the general operation of the Board as consistent with Article 7-C of the New York State Multiple Dwelling Law

VOTE ON January 18, 2018 MINUTES

Chairperson Hylton asked the Board members if they had any corrections or comments to the minutes of the January 18, 2018 meeting. The Board members made no comments or corrections. Chairperson Hylton invited a motion to accept the minutes of the January 18, 2018 meeting.

Motion: Mr. Hernandez moved that the minutes be accepted. Mr. Schachter seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7)

Report of the Executive Director, Helaine Balsam, Esq.

Ms. Balsam stated that with regard to Board vacancies, the Mayor's Offices of Appointments had identified a few candidates and that those candidates were currently undergoing processing.

Board staff and the DOB Office of Technical Affairs are discussing the drafting of a set of guidelines which will become the Loft Law Building Project Guidelines and developing a training plan for a designated group of plan examiners. The guidelines will standardize the publication of technical policy and procedure notices. Design professionals for both owners and tenants in the Loft community will be given the opportunity to review and comment on the guidelines.

Mr. DeLaney asked for some elaboration as to the kinds of issues being discussed in this process.

Ms. Balsam stated that there was a range of the issues raised by both owner's and tenant's architects such as mezzanines, alcoves and depths of units.

Mr. DeLaney then asked if the plan was intended to develop a group plans examiners acting in the role of "first responders" for Loft issues.

Ms. Balsam answered "Yes".

Mr. DeLaney then asked if there was any kind of timeline for the completion of the guidelines development process.

Chairperson Hylton answered that there was not a fixed timeline, but the current plan was to complete the work in three months.

Mr. DeLaney thanked them for their responses.

Continuing with her report:

Ms. Balsam continued with her report stating that the Loft Board's unofficial revenue for January was \$68,672.00.

Ms. Balsam stated that in Enforcement the following statistics were recorded:

76 NOVs were sent to owners who failed to file monthly reports for December 2017, 31 of whom were repeat offenders. Steps to deal with the recidivists are under discussion. 20 were cured as of 02/14/18, with a deadline of 02/26/28 as the cure deadline; 2 were administratively dismissed because the buildings are not yet required to report.

3 Violations were issued for failing to file Sales of Rights in a timely fashion.

Additionally, our HPD inspector has been going through neighborhoods looking for lobby signs. He has found quite a number of signs posted. He has issued 3 violations and will continue issuing violations to the owners of buildings who have not posted the sign by the end of this month.

Chairperson Hylton asked if there were any specifics as to display format or maintainability for the signs.

Ms. Balsam stated that the current rule only specifies the lobby as the display location and the required data with an example shown on the Loft Board website. She stated that additional display requirements could be added in future rule making.

Mr. DeLaney asked for a pdf copy of the notice as it was distributed.

Ms. Balsam agreed to send a copy to Mr. DeLaney.

Chairperson Hylton added that there similar posting requirements mandated by other agencies specifying more detailed requirements such as dimensions, display encasement, etc.

Ms. Balsam stated that 19 buildings had failed to register and that orders imposing fines were sent to them. She also stated that 2 litigation cases were initiated and each was briefly outlined to the board.

Ms. Balsam concluded her report and invited any questions.

Mr. DeLaney then asked if any information had been gathered with regard to his request for a comparison of current case backlog compared to prior years.

Ms. Balsam stated that she had compared the totals for last year and the year before last and that they were about the same. She also stated that she had not gone back any further.

Mr. DeLaney then asked for clarification about last month's report of the 81 narrative statement certifications which included 6 partial certifications which involved heat and public safety issues.

Ms. Balsam stated that these narrative certifications are required because of the Loft Board hold. A certification is needed for buildings to perform emergency or necessary work to restore heat or for scaffolding for repair of unsafe buildings.

Mr. DeLaney then asked about his prior request for statistics for cases of heat complaints where landlords had provided temporary heat facilities.

Ms. Balsam stated that she had not yet been unable to gather the information and that she would follow-up on that request.

Mr. Schachter asked for clarification of how the Loft Board processes are coordinated with the overall DOB processes for permits, TCOs and COs. He also asked if enforcement activities related to Loft Board recidivists could be coordinated with the overall DOB processes for permits or other work governed by the overall DOB processes.

Ms. Balsam stated that for the landlords who avoid registration, for the most part they are generally trying to avoid any DOB oversight. She also stated that since 2009, the Loft Board has placed permanent holds on overall DOB permits, TCOs, COs, etc. for all building under Loft Board jurisdiction. These permanent holds have forced the landlords to seek letters of certification or LONOs to allow them to proceed.

Mr. Schachter asked if it was possible for a landlord to get a TCO without having fulfilled all his obligations to the Loft Board.

Ms. Balsam said that it was not possible. She also stated that when the IMD number is assigned to a building the permanent hold is put in place by the Loft Board staff. Before the IMD number is assigned the Loft Board has no jurisdiction to apply a permanent hold, and that there was an infrequently occurring and narrow circumstance involving an "Application Pending" status where it would be problematic for the Loft Board if a building owner were to apply to perform work on the building.

Mr. Schachter asked if it was possible for a landlord who is delinquent on a building under Loft Board jurisdiction to interact freely with the overall DOB processes on a non-Loft Board building.

Chairperson Hylton said that court imposed fines and levies are not factored into the overall DOB permitting. Therefore, the Loft Board doesn't have the leverage to withhold overall DOB services.

Mr. Schachter reiterated his concern about situations of delinquent fines or levies.

Ms. Balsam said that resolution of this issue would require discussion with the Law Department to address the possible remedy for the issue raised by Mr. Schachter.

Mr. Carver asked if it was the case that these outstanding fines were levied against an individual or the realty.

Chairperson Hylton said that most of the fines are issued "in personam" to the person receiving the violation order.

Ms. Balsam said that whether the fines are "in personam" or "in rem" varies with the department issuing the violation order and/or the circumstances where the violation is issued.

Mr. Schachter asked what the case was for the Loft Board issuing violation orders.

Ms. Balsam said that the Loft Board violation orders were against realty so that any transfer of ownership would transfer the obligation to pay to the new owner.

Mr. Schachter asked if those liens were perfected.

Ms. Balsam said “No”.

Mr. Barowitz then asked how long the recidivism can go on without the fine(s) being satisfied.

Ms. Balsam stated that there were two types of recidivists; there are a few people that did not register who have gone multiple years without paying and there are those who have violated monthly reporting requirements and as reported earlier there are 31 of them. There are several options open to the Loft Board in an attempt to improve collections.

Mr. Schachter asked if there was a way to perfect these liens.

Ms. Balsam said that the Loft Board could request referral to outside collection attorneys which would involve a discount to the Loft Board.

Mr. Schachter asked if the Loft Board could request the Law Department to perfect the lien.

Ms. Balsam said that the Loft Board could make such request of the Law Department, but for amounts less than six (6) figures, the Law Department might refer the collection to an outside collection attorney.

Mr. Barowitz then asked if there was only one (1) collection attorney that does this collection service.

Ms. Balsam said that the Law Department has section that handles collections and that the section has contracts with outside collection attorneys, which would most likely attempt to settle the debt for a lesser amount for expedience.

Chairperson Hylton thanked Ms. Balsam for her report. He then said that most of the fines are issued “in personam” to the person receiving the violation order.

VOTE ON RECONSIDERATION CALENDAR CASES

Ms. Martha Cruz, Esq., Deputy General Counsel, presented the following case to the Board for consideration:

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|----|-----------------------------------|---------------------------------|---------|
| 1. | Malinda Behrens and Stephen Grant | 329 Greenwich Street, Manhattan | AD-0093 |
|----|-----------------------------------|---------------------------------|---------|

Chairperson Hylton invited comments or questions on this case.

There were no comments or questions.

Chairperson Hylton invited a motion to accept this case.

Motion: Mr. Carver moved to accept the proposed order. Mr. Schachter seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7)

Ms. Cynthia Leveille, Esq, Assistant General Counsel, presented the following case to the Board for consideration:

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|----|---------------------------|---------------------------|--------|
| 2. | 138 Emmul Properties, LLC | 134-146 Bowery, Manhattan | R-0354 |
|----|---------------------------|---------------------------|--------|

Chairperson Hylton invited comments or questions on this case.

There were no comments or questions.

Chairperson Hylton invited a motion to accept this case.

Motion: Mr. Schachter moved to accept the proposed order. Mr. Hernandez seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7)

VOTE ON SUMMARY CALENDAR CASES

Chairperson Hylton presented the below summary cases for vote by the Board:

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|----|------------------------------|------------------------|---------|
| 3. | Julia Newman and Elkin Pautt | 105 Broadway, Brooklyn | TR-1324 |
| 4. | Carl Friedrich and Won Bae | 105 Broadway, Brooklyn | TR-1336 |

Chairperson Hylton invited comments or questions on this case.

Mr. Carver stated that he had some minor language changes concerning the Julia Newman case..

Ms. Balsam read the propose change; the last line would read “upon such registration the coverage and protected occupancy claims are deemed withdrawn”.

Chairperson Hylton invited a motion to accept these cases.

Motion: Mr. Carver moved to accept the proposed orders. Mr. Hernandez seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7)

VOTE ON MASTER CALENDAR CASES

Mr. Stephan Clarke, Esq., Assistant General Counsel presented the following case to the Board for consideration:

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| 5. | Brianne Catherine Blessing | 870 Broadway, Manhattan | PO-0014 and |
|----|----------------------------|-------------------------|----------------|

Chairperson Hylton invited comments or questions on this case.

Mr. DeLaney stated that he intended to vote against this case and urged his colleagues to do the same. He further stated the case was extremely unusual because the landlord registered the building with the express intent of contesting coverage. At the same time, the tenant agreed to withdraw his coverage request. In this case it was not clear to Mr. DeLaney that the tenant was in a position to sell his rights

Chairperson Hylton invited a motion to accept this case.

Motion: Mr. Carver moved to accept the proposed orders. Mr. Schachter seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. Schachter, Chairperson Hylton (6)

Members Dissenting: Mr. DeLaney (1)

Mr. Stephan Clarke, Esq., Assistant General Counsel presented the following case to the Board for consideration:

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|----|----------------|-------------------------|----------------|
| 6. | Thomas McKenna | 870 Broadway, Manhattan | PO-0016 and |
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Chairperson Hylton invited comments or questions on this case.

There were no comments or questions.

Chairperson Hylton invited a motion to accept this case.

Motion: Mr. DeLaney moved to accept the proposed order. Mr. Roche seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7)

Mr. Michael Bobick, Esq., Assistant General Counsel presented the following case to the Board for consideration:

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|----|---------------|---|---------|
| 7. | Grigori Levit | 103 North 10 th Street, Brooklyn | TR-1073 |
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Chairperson Hylton invited comments or questions on this case.

There were no comments or questions.

Chairperson Hylton invited a motion to accept this case.

Motion: Mr. Carver moved to accept the proposed order. Mr. Barowitz seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. Schachter, Chairperson Hylton (6)

Members Dissenting: Mr. DeLaney (1)

Chairperson Hylton presented the below removal cases for vote by the Board:

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| 8. | 228 West Houston Street, LLC | 228 West Houston Street, Manhattan | LE-0679 |
| 9. | 2413 Third Property Owner, LLC | 2413 Third Avenue, Bronx | LE-0688 |

Chairperson Hylton invited comments or questions on these cases.

There were no comments or questions.

Chairperson Hylton invited a motion to accept these cases.

Motion: Mr. Carver moved to accept the proposed orders. Mr. Barowitz seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7)

Chairperson Hylton concluded the February 18, 2018 Loft Board public meeting at 2:55 pm and thanked everyone for attending. The Loft Board's next public meeting will be held at 22 Reade Street, first floor, on March 15, 2018 at 2:00pm.