

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

November 20, 2014

The meeting began at 2:08 p.m. The attendees were: Tayo Kurzman, Fire Department Representative; Gina Bolden-Rivera, Public Member; Mark Foggin, Manufacturing Representative; Chuck Delaney, Tenants' Representative; Elliott Barowitz, Public Member; Daniel Schachter, Public Member; LeAnn Shelton, Public Member and Chairperson Alexandra Fisher.

INTRODUCTION

Chairperson Fisher welcomed those present to the November 20, 2014 public meeting of the New York City Loft Board.

Prior to the vote on the minutes, Mr. Delaney requested that the conclusion by the Loft Board staff, which was confirmed by the New York City Law Department, was that five affirmative votes are required under the Loft Board's rules for a motion to be adopted be added to the minutes of this meeting.

VOTE ON October 24, 2014 MINUTES

Motion: Ms. Kurzman moved to accept the October 24, 2014 minutes. Mr. Foggin seconded the motion.

Members Concurring: Mr. Barowitz, Ms. Kurzman, Chairperson Fisher, Mr. Delaney, Mr. Foggin (5)

Members Abstained: Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton (3)

REPORT OF EXECUTIVE DIRECTOR

Ms. Alexander reported that she will present the Loft Board statistics and provide an update on Article 78 proceedings at the January 2015 meeting. She stated that there had been no change in the status of pending Article 78 cases, nor have any new Article 78 proceedings been filed. **Mr. Delaney** requested that a copy of the 2015 meeting schedule be sent to the Board members. **Ms. Alexander** agreed to send the members a copy of the meeting schedule and reported that the schedule is currently posted on the Loft Board website.

DISCUSSION OF EXPIRING 2013 PROVISIONS

Ms. Alexander stated that some of the 2013 amendments will expire in June of 2015, and will revert back to the 2010 Loft Law amendments and asked the Board members for input that may then be relayed back to the Commissioner and to the Mayor's legislative liaisons.

Mr. Delaney stated that the square footage requirement, if allowed to revert back to the 2010 law, would have the "perverse" effect of disqualifying existing IMD units. **Ms. Alexander** assured him that a reversion of the square footage requirement would not make existing IMD units ineligible because the square foot eligibility requirement depends on the date of filing of the coverage application.

Mr. Barowitz opined that there should not be any square footage requirement in order for a unit to qualify for coverage.

Ms. Alexander asked **Mr. Delaney** if he recalled any size issues with the MDL § 281(1) and (4) Loft Law Buildings, which were registered at a time when there was no minimum square footage requirement. **Mr. Delaney** referred to the piece-meal nature of the 2010 legislation, and asserted that the majority of the restrictions contained in the second portion of the legislation, the "Chapter Amendment", do not have the

intended beneficial effect on the manufacturing and industrial businesses. As such, **Mr. Delaney** would like the Board to make a series of recommendations preserving only the “common sense” eligibility restrictions, such as the direct egress requirement.

Ms. Alexander posed the question to the Board members as to whether they would like to remove all of the 2013 eligibility restrictions. **Mr. Foggin** stated that he is unsure whether the restrictions have had an impact on manufacturing and industrial use, and that he will speak with industrial advocates and present their position at the January 15, 2015 meeting.

Mr. Schachter referred to Chief Spadafora’s prior emails regarding the fire safety implications of the square footage requirement, and stated that there would be no point in granting coverage to units that cannot be made safe and code-compliant. He referred to a 350 square footage requirement utilized in “micro construction”, but reiterated that not having any minimum size requirement would invite administrative waste since some units would be incapable of being legalized.

Ms. Alexander pointed out that there have been instances where a unit has been registered but, upon review of the legalization plans provided during the narrative statement process, it became clear that the unit did not meet an eligibility requirement either because it was too small, did not have the requisite window, or was in a basement. In those instances the unit would be deregulated, or, in the case of a window or square foot requirement, with the consent of all parties, minor architectural changes were considered in order for the unit to meet the requirements.

Mr. Delaney stated that the tenant community views the 2013 amendments’ restrictions as exclusionary, and that a lack of eligibility should be determined through the legalization process, not the coverage process.

Ms. Kurzman stated that from the Fire Department’s perspective, units with 400 square feet are single room occupancies that require a fire alarm system and a second means of egress. Units smaller than 400 square feet would be cause for concern, and agreed that it may not be worth considering units under a certain size. **Ms. Alexander** noted that all legalization plans must comport with the provisions of MDL Article 7-B, which outlines the fire safety requirements as well as the Building Code.

Mr. Delaney opined that the basement restriction, which did not exist under the original Loft Law, does not make sense to him. If units have been residentially converted, they should be entitled to Loft Law protection.

Mr. Schachter returned to the square footage issue, asserting that there should be a minimum square footage requirement, and that the Board should not encourage the theory that the Loft Law legitimizes “fire trap” illegal subdivisions. **Ms. Alexander** replied that the purpose of the Loft Law is to take those illegal spaces and convert them to fire-safe, residential units by making them comport with the Building Code, Housing Maintenance Code, Fire Code and the Multiple Dwelling Law.

Ms. Bolden-Rivera asserted that if a unit does not meet FDNY and DOB standards, it should not be eligible for Loft Law coverage. **Ms. Alexander** stated that the Board staff would inquire about minimum square footage requirements under the Building Code in addition to looking at the Multiple Dwelling Law.

Mr. Delaney referenced a fatal Bronx fire, in an apartment building, that resulted from illegal subdivisions, stating that non-compliant conditions exist everywhere, and that the Board should not create artificial standards.

Mr. Delaney stated that 5 or 6 industrial business zones (IBZs) were recently created. **Mr. Foggin** referred to the City Council position paper on IBZs and industrial land use. **Ms. Alexander** stated that the Chapter Amendment refers to IBZs and asked Board members whether those zones should be open to Loft Law coverage. **Ms. Alexander** also agreed with **Mr. Delaney** that it is important to be aware of the location of dangerous illegal subdivisions.

Ms. Alexander referred to a debate in the manufacturing community that may be resolved in part with legislation regarding noise complaints. **Mr. Foggin** noted that the community of industrial and manufacturing workers has less political influence than others. He noted that there is a disconnect between the stated goals and the Board's policy of allowing tenants to withdraw their coverage cases. **Ms. Alexander** stated that she has no control over withdrawals. **Mr. Foggin** stated that the Board should work harder to prevent withdrawals of coverage cases.

Ms. Alexander raised the issue of the incompatible use group restriction for discussion. **Mr. Delaney** suggested that the Board relax this restriction, and that under the 1982 Loft Law there was no such restriction. He further stated that the onus should not be on the tenants to disprove an incompatible use.

Ms. Alexander posed the question to the Board members as to whether the use group restriction should be relaxed or removed altogether. **Mr. Delaney** answered in the affirmative. **Ms. Bolden-Rivera** stated that the qualifications should be consistent with legalization requirements. **Mr. Foggin** stated that he will share his position at the January 15, 2015 meeting.

Ms. Alexander posed the question to the Board members as to whether the basement restriction should be removed altogether. **Mr. Delaney** answered affirmatively, adding that the narrative statement process should determine whether a basement unit can be legalized, and the original Loft Law did not refer to basements or cellars.

Mr. Delaney also stated that the window requirement should be removed from the law, because legal windows can be created during the legalization process. **Ms. Alexander** stated that the narrative statement process often reveals the fact that registered units do not meet the eligibility requirements, contrary to representations made to the Loft Board during the coverage process.

Ms. Alexander stated that the Board will discuss the issues of rent increases for legalization milestones, compliance deadlines, and the statute of limitations for coverage and registration applications at the January 15, 2015 meeting.

DISCUSSION AND VOTE ON RECONSIDERATION CALENDAR CASE

1.	47-55 and 57-65 s. 11 TH St. Tenants	55-65 South 11 Street	R-0337
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Motion: Mr. Barowitz moved to accept the proposed order. Ms. Shelton seconded the motion.

Members Concurring: Mr. Barowitz, Ms. Kurzman, Chairperson Fisher, Mr. Delaney, Ms. Bolden-Rivera, Mr. Foggin, Mr. Schachter, Ms. Shelton (8)

DISCUSSION AND VOTE ON SUMMARY CALENDAR CASES

2.	240-242, LLC	242 West 14 Street	LC-0163
3.	47 South Fifth Street Tenants	47-53 South Fifth Street, Brooklyn	TR-0885
4.	Tenants of 40 Dover Street	34-40 Dover Street	TR-1147
5.	Erin Spadola	583 Lorimer Street, Brooklyn	TR-1232
6.	Jennifer Goren	583 Lorimer Street, Brooklyn	TR-1233
7.	Brian Trainor	583 Lorimer Street, Brooklyn	TR-1234

Motion: Mr. Foggin moved to accept the proposed orders. Ms. Bolden-Rivera seconded the motion.

Members Concurring: Mr. Barowitz, Ms. Kurzman, Chairperson Fisher, Mr. Delaney, Ms. Bolden-Rivera, Mr. Foggin, Mr. Schachter, Ms. Shelton (8)

DISCUSSION AND VOTE ON MASTER CALENDAR CASE

8.	Ryan Kuonen, Jennifer Cox and Patrick Stettner	140 Metropolitan Avenue, Brooklyn	TR-0948
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Motion: Ms. Shelton moved to accept the proposed order. Mr. Schachter seconded the motion.

Members Concurring: Ms. Kurzman, Chairperson Fisher, Ms. Bolden-Rivera, Mr. Foggin, Mr. Schachter, Ms. Shelton (6)

Members Dissenting: Mr. Barowitz, Mr. Delaney (2)

DISCUSSION AND VOTE ON MASTER CALENDAR CASE

9.	Gil Seon Pak, Jung Hur and Hyobin Ahn	46-48 Old Fulton Street, Brooklyn	TR-1068
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Motion: Mr. Foggin moved to accept the proposed order. Ms. Kurzman seconded the motion.

Members Concurring: Mr. Barowitz, Ms. Kurzman, Chairperson Fisher, Mr. Delaney, Ms. Bolden-Rivera, Mr. Foggin, Mr. Schachter, Ms. Shelton (8)

DISCUSSION AND VOTE ON MASTER CALENDAR CASE

10.	Donald Henze	126-128 Fifth Avenue	TR-1107
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Motion: Mr. Barowitz moved to accept the proposed order. Mr. Foggin seconded the motion.

Members Concurring: Mr. Barowitz, Ms. Kurzman, Chairperson Fisher, Mr. Delaney, Ms. Bolden-Rivera, Mr. Foggin, Mr. Schachter, Ms. Shelton (8)

DISCUSSION AND VOTE ON REMOVAL CALENDAR CASES

11.	Little West 12 th Street Realty, L.P.	32 Gansevoort Street	LE-0641
12.	22 Warren House Condominium	22 Warren Street	LE-0643

Motion: Ms. Shelton moved to accept the proposed order. Mr. Foggin seconded the motion.

Members Concurring: Mr. Barowitz, Ms. Kurzman, Chairperson Fisher, Mr. Delaney, , Mr. Foggin, Mr. Schachter, Ms. Shelton (7)

Members Absent: Ms. Bolden-Rivera (1)

Chairperson Fisher concluded the November 20, 2014 Loft Board public meeting at 3:45 pm, thanked everyone for attending and wished everyone a Happy Holiday and New Year. The Loft Board will hold its next public meeting at Spector Hall, 22 Reade Street, on January 15, 2015 at 2 p.m.
