

MINUTES OF PUBLIC MEETING
New York City Loft Board Public Meeting

April 28, 2022

The meeting began at 2:11 PM

Attendees: Elliott Barowitz, Public Member; Charles DeLaney, Tenants' Representative; Christian Hylton, Owners' Representative; Heather Roslund, Public Member; Nicole Oddo, Public Member; Samira Rajan, Public Member; Richard Roche, Fire Department's *ex officio*; Renaldo Hylton, Chairperson Designee

INTRODUCTION:

Chairperson Hylton welcomed those present to the April 28, 2022, public meeting of the New York City Loft Board and explained that the meeting was being held via teleconference due to the corona virus emergency, pursuant to legislation S.50001/ A.40001 signed by Governor Hochul. 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 ON MEETING MINUTES:

March 17, 2022 Meeting Minutes

Chairperson Hylton confirmed with Ms. Cruz that a correction pointed out by Mr. DeLaney had been made, then asked if there were any comments on or corrections to the March 17, 2022, minutes. As there were no comments, he asked for a motion to accept those minutes, and for a second.

Mr. Barowitz moved to accept the March 17, 2022, meeting minutes, and **Ms. Oddo** seconded.

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Mr. Roche, Mr. Hylton, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Ms. Hayashi

Members recused: 0

EXECUTIVE DIRECTOR'S REPORT

Enforcement

Ms. Cruz: We have good news on this front. As you may know, section 284 of the MDL requires that an IMD owner exercise all reasonable and necessary action to obtain a residential certificate of occupancy for IMD units. Section 2-01.1 defines reasonable and necessary action. Under this rule, there are two types of enforcement action that the Loft Board can bring against owners who fail to comply. One type requires a hearing, the other one does not. We have issued ten notices of violation that do not require a hearing; four violations were issued to owners that have not filed an alteration application for the legalization work, which means they have not begun the legalization process; two violations were issued to owners who have failed to renew permits to do the legalization work and four violations were issued to building owners who have failed to renew their Temporary Certificate of Occupancy.

This is the first time the Board has initiated enforcement based on this rule. We have not received any responses yet. The owners have thirty-five days to respond to the violation. These notices were mailed on April 14th of 2022. Owners do have an opportunity to cure within thirty days. If there is no cure, the next step is to draft an administrative determination. Staff can either impose a fine or withdraw the notice. The fine is \$1,000 per day up to \$17,500.

In addition to the violations under the reasonable and necessary rule, we are finalizing notices of proceeding against two building owners for housing maintenance violations. We hope to have those cases filed soon.

Statistics

Cases: We have 357 pending cases. We have 95 pending coverage applications; 177 protected occupancy applications and 33 tenant-initiated rent dispute applications. With regard to the status of these cases, I will need more time to provide this information. OATH provided a report of the pending Loft Board cases that they have, and we are cross-referencing the OATH report with the Loft Board database. More time will be needed for those statistics.

For the legalization statistics, it's the same situation. We're working through the building list. There are 324 buildings in the Loft Board's jurisdiction. We have identified 14 buildings that have a Certificate of Occupancy, and there are 75 buildings in the Narrative Statement process; however, this number may change as we continue to work through the building list. I understand that these statistics are important, and we're working hard to get them to you.

Litigation

Since the March meeting, there have been three new Article 78 petitions. I sent the first two with the case materials, and the third petition we received Tuesday or Wednesday of this week. To summarize them briefly:

The first case was brought by the tenants of 72 Warren Street in Manhattan. Among other things, the tenants seek a stay of the certification issued for an amended Narrative Statement. The tenants argued that the Loft Board should not issue a certification because the DOB job application had expired, and the owner could not obtain a permit based on that application. However, based on the owner's requests, the Department of Buildings granted reinstatement, and the Loft Board issued the certification. The tenants filed the Article 78. When I checked the court's website, I could not see a return date for the petition yet. We've been in touch with the Law Department about the case.

The second was filed by the owner of 114 West 14th Street, challenging the Board's Order granting protected occupant status and rent overcharge to the tenant of Unit 4E. Owner alleges that the unit was deregulated by abandonment due to the death of a prior protected occupant or by sale of rights with a prior occupant of the unit. This case challenges Loft Board Orders 5099 and 4944. The legal staff spoke to a Law Department attorney handling the matter yesterday, and she's reviewing the record.

The third was filed by Frank Hughes on the ground floor at 401 Wythe Avenue in Brooklyn. You may remember the case, as it was just decided in March, Loft Board Order 5112. The Loft Board denied the protected occupant claim. We have been in touch with the Law Department about the case.

Personnel

Glen Argov has resigned his position with the Loft Board staff, and we wish him well in his new job.

Other

Unsolicited communications to the Loft Board members: I'm still working on it and will follow up with it.

Chairperson Hylton: Thanked Ms. Cruz and clarified that Mr. Argov had joined another city agency. He thanked him for his service and wished him well. He then recognized Mr. DeLaney, who had indicated earlier that he had some questions.

Mr. DeLaney: Thank you, Mr. Chairman. Ms. Cruz, could you give us the citation for the portion of the rule that permits notice of violation without a hearing?

Ms. Cruz: 2-01.1. It's what we call the reasonable and necessary rule.

Mr. DeLaney: Thank you. And with regard to the minutes, I appreciate your addressing the on-going look at unsolicited communications. I just have a couple of other questions. Late in the meeting, we discussed progress on the rules, and the Chairperson said Ms. Cruz would work on a timeline to present to the Board. I'm just wondering if there's been progress.

Ms. Cruz: Yes. Mr. Clarke is prepared to do that when we talk about the rules.

Mr. DeLaney: Okay, great. And lastly, at the end of the last meeting, we discussed the Soho-Noho rezoning, which Mr. Barowitz brought up, and Ms. Roslund mentioned forwarding a slide to the Board, but I don't think you've done that as yet. Will you do that, please?

Ms. Cruz and Ms. Roslund confirmed that that had been done, and **Mr. DeLaney** said he must have missed it.

Chairperson Hylton asked that it just be resent to everyone.

Mr. DeLaney: Thank you for giving us information on how many cases are pending. Do you happen to know how many, if any, harassment cases are currently pending?

Ms. Cruz: We have eight and we have thirteen diminution of services, in case you were wondering. They usually go hand-in-hand.

Mr. DeLaney: Thank you.

THE CASES

Summary Calendar

Chairperson Hylton noted that the Board had always voted on these as a block and wanted to confirm that that was still acceptable to the Board members. As it was, he proceeded:

	Applicant(s)	Address	Docket No.
1	151 Canal Street, LLC	151 Canal Street, Manhattan	LS-0243
2	475 Kent Owner, LLC	473-493 Kent Avenue, Brooklyn	LS-0249
3	FJH Realty	79 Lorimer Street, Brooklyn	LS-0258
4	517-525 W 45, LLC	517-525 West 45 Street, Manhattan	LS-0263
5	100 Metropolitan Avenue Realty Corp.	100-108 Metropolitan Ave., Brooklyn	LS-0278
6	Diego Martinez-Conde	54 Knickerbocker Avenue, Brooklyn	PO-0173 TA-0291
7	Brian J. Gitkin, Shahar Mintz and Thomas Stevenson	1013-1035 Grand Street, Brooklyn	TR-1245

8	Noemi Manser, Catalin Moldoveanu, Jason Yarmosky, Samuel T. Adams, David Molesky, and Dumitru Gorzo	117 Grattan Street, Brooklyn	TR-1393
9	Eric Ordaz	17 Moultrie Street, Brooklyn	TR-1395 PO-0116

Chairperson Hylton asked if there were any comments on these cases.

Mr. DeLaney: A number of the cases on the Summary Calendar this month are access cases, most of which were withdrawn because access was granted. However, I raised my concern with the staff in the initial meeting -- I don't know what we're calling it now; the private meeting to discuss cases. In the first case, 151 Canal, the owner's attorney withdrew the case, noting that the parties are cooperating with each other to come to a resolution, which is somewhat contrary to the concern expressed by the tenant attorney, who writes, "The Narrative Statement process for this building took place two years ago. That the building is still not legalized is disgraceful." It also appears that the proposed gas heat source that was the subject of the Narrative Statement conference is no longer legal. So, I have expressed my concern and ask the Board to take a look at the circumstances in this case.

Chairperson Hylton thanked Mr. DeLaney and asked Ms. Cruz what the proper term would be for the private meeting Mr. DeLaney referenced. There was some discussion of what the name might be. He also clarified the nature of this meeting for the public as a time and place where Board members can ask the staff legal questions to clarify certain aspects of the cases, and he stressed that that is all that can be discussed at these meetings, which are considered privileged, attorney-client briefings.

Mr. Roche noted that an official term for these meetings had been developed and vetted by the legal staff in the past, though he did not recall what it was.

Chairperson Hylton thanked Mr. Roche for that information; said that the staff would look into it and that the final terminology would be the Executive Director's decision; and that they would have a definitive term by the next meeting.

As there were no further comments, he then asked for a motion to accept these cases and for a second.

Mr. Roche moved to accept these cases, and Mr. Hylton seconded.

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Mr. Roche, Mr. Hylton, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Ms. Hayashi

Members recused: 0

The Master Calendar

	Applicant(s)	Address	Docket No.
10	475 Kent Owner, LLC	473-493 Kent Avenue, Brooklyn	LS-0276
The owner sought an access order to do window replacement work, which was certified by the Loft Board in May 2018. After the Loft Board issued a certification for the narrative statement, Owner amended its Narrative Statement and legalization plan. Nothing in the record shows that Owner amended the window replacement work after the 2018 certification. The Loft Board's rules limit the possible objections to an amended legalization plan to the new items. The proposed order granted the access application and directed the tenant to provide access after issuance of a new notice.			

Ms. Cruz presented this case.

Chairperson Hylton thanked Ms. Cruz and asked for a motion to accept this case and for a second.

Mr. Hylton moved to accept this case, and Mr. Barowitz seconded.

Chairperson Hylton asked if there were any comments on this case (none).

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Mr. Roche, Mr. Hylton, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Ms. Hayashi, Ms. Oddo

Members recused: 0

Chairperson Hylton introduced the second case on the Master Calendar.

	Applicant(s)	Address	Docket No.
11	Opera House Lofts, LLC	11-27 Arion Place, Brooklyn	TR-1403, PO-0132
Tenants sought coverage pursuant to MDL §§ 281(5) and 281(6). The only question before the Board was whether the building had a residential certificate of occupancy that precluded the building from coverage. Pursuant to a court order, the Department of Buildings amended a 2005 certificate of occupancy for the building that corrected typographical errors and maintained an effective date of Feb. 22, 2005. As the 2005 certificate of occupancy was issued pursuant to MDL § 301 and established legal residential use for the listed units prior to the effective dates of MDL §§ 281(5) and 281(6), the proposed order denied the coverage application.			

Mr. Clarke presented this case.

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

Mr. Hylton moved to accept this case, and **Ms. Rajan** seconded.

Chairperson Hylton asked if there were any comments on this case.

Mr. Roche: Mr. Chairman, I'm going to recuse myself from voting on this matter due to both recent and current fire safety inspection activity both by the Fire Department's Operations Bureau as well as the Bureau of Fire Prevention.

Mr. Barowitz: I'm going to recuse myself as well. The fact is that I cannot either vote yes or no on this case. I don't know how many times I've read it, and I just can't come to a definitive conclusion about it.

Mr. DeLaney: Mr. Chairman, I'm going to vote no on this case. This is something I haven't encountered in all my time on the Loft Board. Having read the opposing motions for summary judgment, the tenant stating it's plain that the building in question at that address did not have a residential Certificate of Occupancy during both the 281(5) Window Period and the 281(6) Window Period makes sense. The

owner argues the opposite. There seem to be a number of open questions. I do understand that there was an inspection, but how an inspector inspects a building and doesn't know this and writes down the wrong address. There's an old saying that doctors bury their mistakes and architects draw lines. And I guess in this case, the Department of Buildings is using an eraser. It seems to me that there are open questions about this building that deserve to be aired, whether that is in front of an OATH tribunal or somewhere else. So, I plan to vote no.

Chairperson Hylton asked if there were any other comments on the case (none).

The vote

Members concurring: Mr. Hylton, Ms. Rajan, Chairperson Hylton

Members dissenting: Mr. DeLaney, Ms. Oddo

Members abstaining: Mr. Barowitz, Ms. Roslund

Members absent: Ms. Hayashi

Members recused: Mr. Roche

Chairperson Hylton announced that the motion did not pass and that there would be a two-minute break before beginning the rulemaking session of the meeting.

Mr. Clarke advised the public that a copy of the document under review today is available on the Loft Board website (www.nyc.gov/loftboard) under the meetings tab and advised that as the session proceeds, he will reference the page numbers for the public that correspond with the Board members' copies.

--- Two-minute break ---

Chairperson Hylton announced that Ms. Rajan was no longer present and that Mr. Hylton would also have to leave shortly. He then continued:

Before we start rulemaking, I want to go back a moment to comment on the outcome of the last case. This case has to be decided somehow. At the time of voting, I probably should have asked the Board members who had not stated their reasoning why they were objecting or abstaining; what they felt needed to be satisfied. And not just because we are uncomfortable with it, but because the staff needs to know your concerns, so they can be addressed in a subsequent Order, if at all possible.

The question before you is whether or not the building qualifies to be an IMD under the statute. So, we just need to know for sure what your concerns are. I'm just letting you know that it has to go back on the calendar at another time. I know some were safety concerns, but that's not what was before us. At issue here is determining whether or not this building actually qualifies, legally, to be an IMD. And that's what the staff considered when they drafted this decision. We don't want to not do what we're tasked with doing, which is to decide the case. We don't want a court to decide it for us.

RULEMAKING

Mr. Clarke: Thank you, Chairperson Hylton. The two documents I sent to the Board members are the draft rules we received last Thursday, April 21st from the Law Department and the Mayor's Office of Operations and a chart I prepared to inform the Board members of what comments we received and how the Loft Board staff addressed them.

I hope everybody has had an opportunity to review these comments and what the Loft Board staff recommended. I want to point out that there's a split in the chart. The first part of the chart discusses comments or replies that the Loft Board staff made to the Law Department, and the second part of the chart contains the intended responses from Loft Board staff that we will be sending back to the Law Department and the Mayor's Office of Operations sometime next week. The reason they did not go this week is that the person I am working with at the Law Department is not in the office this week. So, the responses he will receive next week are on this chart.

Before I open up to comments or questions, I will say that the Loft Board staff, the Mayor's Office of Operations, and the Law Department are in agreement that there really are no substantive changes left.

What you see on this chart is what's left. So, our plan is to get these minor changes back to the Law Department and the Mayor's Office of Operations for clean up. Then I don't think there will be anymore changes. The Law Department said once these issues are resolved, all that remains is reading for grammatical errors, bracketing errors, typos, etc. But substantively, this is it. And I will say that, for the most part, the staff accepted the changes. We reviewed them, and we agreed with most of the changes that the Law Department suggested, so we accepted most of them. With that, I open it up for comments or questions from the Board.

If there are no comments, I will say that, at the last meeting, the staff greatly appreciated the Board members' leaving the resolution of these minor matters in the hands of the legal staff, and we will continue to do that. They really are minor changes that do not affect the rules in a substantive way, and we'll move on to the next step after we flesh this out with the Law Department and the Mayor's Office of Operations.

Chairperson Hylton asked Mr. Clarke if there was anything noteworthy to mention.

Mr. Clarke: There are a few items worthy of note. One is on page 22 of the rules for both the Board members and the public. It's under § 1-27 (c), Hearings. This is where the Law Department wanted to add a parenthetical. Section (c) says, "All hearings will be conducted in accordance with the procedures stated in these rules. Formal rules of evidence do not apply to such hearings, except rules of privilege recognized by law. At the hearing, the parties may be represented by counsel or by a duly authorized representative." At the end, following authorized representative, the Law Department wanted to add a parenthetical saying, provided such a duly authorized representative neither provides legal advice or an opinion of law, nor holds himself or herself out as a lawyer without being admitted to the bar in the state of New York. But after discussing it with OATH, the Law Department agreed to remove that parenthetical, and the staff is fine with removing it and with leaving the language as it appears in the rules before you now. Are there any questions about that?

Chairperson Hylton: I just want to say that our staff really worked hard on getting Law and OATH to the table, where common sense prevailed, and we got the best outcome, I think. It took some work because, of course, each agency has its own interests, but this was the better outcome for us.

Mr. Clarke: Yes, we agree. The second noteworthy change is on page 24, under § 1-30, Settlements.

Ms. Roslund asked if there was any significance to the different colors of text in the comments.

Chairperson Hylton said there was not. It only served to identify the commentor.

Mr. Clarke: In § 1-30 under Settlements, we decided not to make the changes we had originally proposed. Because in the Callen case the court issued an Order citing to this rule specifically, saying that the Loft Board has the right to reject stipulations as against public policy, we decided we should keep the rule as-is.

The only change we're going to make from the current language is where it says we may direct that a particular matter be reopened and remanded to OATH for further investigation. We've changed the word remanded to refer for further investigation. Otherwise, we thought it was best to keep the language as-is.

Ms. Roslund: So, the part that's stricken is not happening?

Mr. Clarke: I'm sorry. Yes, that is changing as well. "...the Administrative Law Judge or the Loft Board staff," that is in the current language, and we are going to strike that out and replace that with adjudicator. Because the definition of adjudicator already exists. So those are the only two changes.

The only other noteworthy item, I believe, is on page 23 for both the public and the Board members. It's under § 1-28, Burden of Proof. The Law Department wanted to remove the word inquest from our rules, and I'll explain the wording the Law Department added. We agree with that wording, and at some places in the end the rules, we remove the word inquest.

There are only a few places where that word inquest has been removed from the rules. The Law Department said, inquest is a type of hearing, why do we have inquest in there? When you have hearing there, you don't need to include the word inquest. The staff discussed it and reasoned that an inquest is a specific type of hearing where, even if the opposing party doesn't show up, you still have to prove your case. That was what we were concerned about, and we thought the word inquest would point to that

fact. Those of us in the legal field understand what an inquest is, but those who are not might not understand this important point: that if the other side doesn't show up, you still have to meet the minimum burden of proof for your case. It's not that if the other side doesn't show up, you automatically win.

So, what the Law Department did on this page for the Burden of Proof under § 1-28 was add language that says, "Unless otherwise stated in these rules, an applicant must present enough evidence at a hearing to prove such applicant is entitled to the relief sought in the application, whether or not an affected party is in default or has failed to appear at the hearing." It puts everybody on notice. We thought it was sufficient in terms of advising everyone that even if the other party doesn't show up, you still have to prove a case. So, with that additional language, we felt it was okay to remove the word inquest from the rules.

Mr. DeLaney: Can you indicate where inquest was taken out?

Mr. Clarke: In the document the public has, we can do a control-search, and we can find it in just a second. There are eight hits in the public document. The first one is on page 20, under § 1-23, Defaults. It says, "The adjudicator will also inform the affected party that an inquest will be held unless the party moves to vacate the default, as specified below." That's the first. There are eight other places in the rules where inquest has been removed.

Chairperson Hylton: And replaced with hearing?

Mr. Clarke: No. For example, if you're looking at the public document, on page 23, which is the second place that there's a hit for inquest, for (a) it says, "Unless otherwise stated in these rules, an applicant must present enough evidence at a hearing or inquest to prove the applicant is entitled to the relief sought in the application." That's an instance where it says hearing or inquest, and the Law Department says you don't need both. So, it's not that every place where inquest is removed it's replaced by hearing. What the Law Department thought was better was to just shift the burden of proof so that we don't need to use the word inquest at all.

Chairperson Hylton thanked Mr. Clarke for an excellent job and asked if there were any questions for him. As there were none, he asked Mr. Clarke about the next steps.

Mr. Clarke: I know the Board members asked for a timeline, but we didn't think it was a good idea to do that because there are too many variables beyond our control. We are very careful about the information we put out to the public because we're going to be held to it, and rightfully so. But the steps that we do feel comfortable outlining are as follows.

The next step is getting preliminary approval from both the Law Department and the Mayor's Office of Operations. After we send this back to them, as I mentioned, the Law Department is going to read everything through one more time, but they are pretty sure there won't be any substantive changes. Once that's done, they will be ready to issue their preliminary certification. When we have certification from the Law Department and the Mayor's Office of Operations, the Board will vote to publish the proposed rules in the city record.

Chairperson Hylton asked for clarification of the two different points of publication.

Mr. Clarke: The first publication is in the city record, and there are some administrative requirements that have to be met; but ultimately, that publication is going to occur at least thirty days prior to the date of a public hearing. So, the public hearing has to be set first. We have to have an idea of when we want to have the public hearing; make sure that we have everything in place for publication; and then make sure that there's at least thirty days between the date of publication and the public hearing. After the public hearing, and during the thirty days prior to it, comments can be submitted. And obviously, also at the public hearing.

I don't know if the public hearing will be virtual or in person, but the public will have a forum in which to comment. Then, after consideration of the comments from the public hearing and/or otherwise submitted, if no changes are to be made, the agency may adopt a final rule. However, once the Board has reviewed the comments, if it feels the need to add or change anything, then that comment goes back to the Law Department and the Mayor's Office of Operations for review, and that process happens over again. But this is where we are, and this is what we can expect.

Chairperson Hylton: So, Mr. Clarke, are we finished with our piece? And I know we did vote this out already in May of 2021, correct?

Mr. Clarke: Yes

Chairperson Hylton: But I would feel comfortable asking the Board to vote this back out to the Law Department for preliminary approval, which they have indicated they're pretty much ready to do after one more read-through.

Mr. Clarke: Yes

Chairperson Hylton: And unless there are any substantive things that need to come back to us, they will grant this preliminary approval; at which point it will come back to you, Board members, to vote into publication; and to schedule a public hearing; and to hear the public's comments; and to decide whether or not there are going to be any additional changes. And if there are not going to be additional changes, you will then vote to send it back to the Law Department for final approval. Then, when the Law Department grants its final approval, it comes back to us for final publication. And that's it.

There are a lot of steps here, and as Mr. Clark said, there are many variables that we can't anticipate. But at least your job seems to be done.

Mr. Clarke: Yes

Chairperson Hylton: And it certainly is a great accomplishment; it certainly is good news that we're moving forward, particularly for those Board members who have been here from the start. Mr. Barowitz, Mr. DeLaney, Mr. Roche, we're almost there, and I want to now actually entertain a motion for a vote to send this back to Law Department because we have made some substantive changes since the last vote out for preliminary approval. I just want to put it on the record that we are doing this again, Do I have a motion to send this draft rule to the Law Department for preliminary approval?

Mr. Barowitz moved to send the draft rule to the Law Department for preliminary approval, and **Ms. Roslund** seconded.

Chairperson Hylton asked if there were any comments.

Mr. DeLaney: In looking at the draft that was distributed to the Board, which I understand is confidential, there are some questions, for example, in the first few pages, about language, about changes with regard to heat and § 286(12). Are those going to come before the Board at some point?

Mr. Clarke: Yes, they will come before the Board. I know exactly what comment you're talking about from the Mayor's Office of Operations. We dealt with that issue yesterday. Yes, we have a response for the Mayor's Office of Operations, and yes, once the Mayor's Office of Operations and the Law Department give preliminary approval, it will come back before the Board, and the Board will have a chance to look at everything without any edits or comments. And that's when the Board members would vote for initial publication.

Mr. DeLaney: So, for example, the language that will be crafted to reflect the change to § 281(12) or address the regulatory agenda question, the staff will make an initial pass at that, and it will come back to us before we vote?

Mr. Clarke: That is correct.

Chairperson Hylton: That must be settled before it goes into initial publication.

Mr. DeLaney: Okay. And my other question is just a general one, and I'm happy to ask it after we close out the vote on motion on the floor.

The vote

Members concurring: Mr. Barowitz, Mr. DeLaney, Mr. Roche, Mr. Hylton, Ms. Oddo, Ms. Roslund, Ms. Rajan, Chairperson Hylton

Members dissenting: 0

Members abstaining: 0

Members absent: Ms. Hayashi

Members recused: 0

Chairperson Hylton: The motion is passed. The rule will be advanced to the Law Department, requesting preliminary approval before publication. Mr. DeLaney?

Mr. DeLaney: With regard to the question of the timeline, there was talk earlier about the Board perhaps needing an extra meeting in May. But I gather at this point the Board is more or less sitting in the stands, and the tennis match is between staff, and the Mayor's Office of Operations, and the Law Department. So, am I correct that there's nothing we can do to expedite things?

Mr. Clarke: At this point, I don't believe so. We're just waiting for the cleanup and preliminary approval.

Chairperson Hylton: To further clarify Mr. Clarke's comments, there will be extra meetings, but I think those will be public hearings.

Mr. DeLaney: Okay. And I guess the other question I have is, is it possible to give a best-case/ worst-case scenario as to the time that this is likely to take from now until these new rules go into effect?

Mr. Clarke: I'll go out on a limb and say the best-case would be just a couple of months; but who knows what can happen.

Chairperson Hylton: We were discussing this just yesterday. The Mayor's Office of Operations says they're there, but you heard what Law said. They're going to go back over these rules with a fine-tooth comb. It also depends on peoples' schedules and so forth, so we can't really put any kind of hard-and-fast timeline on this. But if I were going to say worst-case scenario, I would say Fall.

Mr. Clarke: Yes I would agree. That would be the worst-case scenario.

Chairperson Hylton: And I'm talking about effective date, right? I would say Fall. And it's also going to depend on the Board members. If there is a comment that causes you to go back and make a change, that then needs to go back again for approval from Law. So that's why there's reluctance to commit. But absent any substantive changes between now and then, and the process is just pro forma, I would say worst-case is the Fall for the effective date of these rules.

Mr. DeLaney: Thank you. That's helpful.

Chairperson Hylton: No one wants to see these rules come to fruition more than the Chair. And I'm not talking about myself. The Commissioner really wants to see these rules become a reality for the public and for the process. I think it's a great improvement.

Mr. Clarke: I don't have anything else to add, but I would like to thank the Board members for giving us the okay to seek preliminary approval from Law and the Mayor's Office of Operations. We're diligently working on this to clean it up and get it out there.

Chairperson Hylton thanked Mr. Clarke and then informed the public that the Board would now be going into an Executive Session to discuss a matter of litigation, *Dezer Properties II LLC versus the Loft Board*. He explained that when the Board returned, it would just be to close the meeting. Members of the public are welcomed to stay on until then, but there would be no further meeting. The Board will simply return and close the meeting. For the benefit of those who would sign-off now, Chairperson Hylton recited the information normally given at the close:

Our next public meeting is scheduled to be held on May 19, 2022. At this time, we do not know if future meetings will be held in person or virtually. Information will be updated on the Loft Board's website and Listserv.

Chairperson Hylton then asked for a motion to enter Executive Session to discuss a matter of litigation, *Dezer Properties II LLC versus the Loft Board*.

Mr. Roche asked if he could first address the public, and the Chairman gave him the floor:

Thank you, sir. I have noticed, and we as the Loft Board have noticed, that several tenants are displaying signs today regarding fire safety concerns. I just want to reiterate that it is the Chairman's desire and every member of this Board's desire to assure that everyone is safe; and if anyone has specific concerns, I ask that you route them to the Loft Board staff, and they will be in communication with myself, and we will get your specific concerns addressed appropriately. Thank you.

Chairperson Hylton then asked for a motion to enter Executive Session to discuss a matter of litigation, *Dezer Properties II LLC versus the Loft Board*, and for a second.

Mr. Roche so moved, and **Mr. DeLaney** seconded.

Chairperson Hylton: All in favor?

All Board members present: Aye

--- After Executive Session ---

Chairperson Hylton: The Board is back from Executive Session to discuss the matter of *Dezer Properties II LLC versus the Loft Board*. We are now back into regular session, and I want to thank everyone for their patience. I want to ask the Board and staff if there are any matters of concern, apart from what was just discussed, or if there is anything we need to do before closing (nothing).

This will conclude our April 28, 2022, Loft Board meeting. Our next public meeting is scheduled to be held on May 19, 2022. At this time, we do not know if the future Board meetings will be held in person or virtually. Information will be updated on the Loft Board website and Listserv. Board members, please sign and email your time sheets today. Have a good rest of the month everyone, and we will see you again next month. Thank you so much for your patience.