

MINUTES OF PUBLIC MEETING  
New York City Loft Board Public Meeting

February 16, 2022

The meeting began at 2:01 PM

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

**INTRODUCTION:**

**Chairperson Patino** welcomed those present to the February 16, 2023, public meeting of the New York City Loft Board. He 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.

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**VOTE ON MEETING MINUTES:**

**January 19, 2023 Meeting Minutes**

**Chairperson Patino** asked if there were any comments on or corrections to the January 19, 2023, minutes. As there were none, he asked for a motion to accept the January 19, 2023 meeting minutes, and for a second.

**Mr. DeLaney** moved to accept, and **Mr. Roche** seconded.

**The vote**

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

**Members dissenting:** 0

**Members abstaining:** Ms. Oddo

**Members absent:** 0

**Members recused:** 0

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EXECUTIVE DIRECTOR'S REPORT (by Ms. Cruz)

Personnel: Good afternoon, Board members. I am pleased to introduce the Loft Board's new attorney, Florence Oyegue. She was admitted to the New York State Bar in 2015, and comes to us from TLC, where she worked as a senior prosecuting attorney. Welcome to the team, Florence. Next, I'm pleased to introduce Phillip Zimmer, the Loft Board's new auditor. Welcome to the team, Phillip. The team looks forward to working with you both.

Litigation: Last month I reported that the DOB filed a criminal court complaint against the owner of 224 Centre Street for façade problems. On February 14, the owner failed to appear and the court imposed a fine of \$25,000 against the owner. I am working with the Department to get a copy of the decision.

Legalization Chart: The staff is working on updating the list. We have spent a great deal of time discussing the buildings in the Narrative Statement process.

Please consider this as a public service announcement. Owners, if you have not obtained certification from the Loft Board and you have not had a conference recently, we encourage you to contact the Loft Board's staff. I can assure you that if you fail to contact us, we will be contacting you, either by initiation of an enforcement proceeding for failing to exercise all reasonable and necessary action, or we will be scheduling a conference. We encourage tenants to check their mailboxes for notices from the Loft Board regarding Narrative Statement conferences.

If there are no questions for me, I will now turn it over to Ms. Storey for an update on enforcement.

Enforcement:

**Ms. Storey:** Thank you, Ms. Cruz. In total, we have issued forty-seven (47) Notice of Proceedings for the failure to register. Of those forty-seven (47) buildings, thirty (30) owners have paid registration fees. Five owners have requested a payment plan and have been making payments. We imposed fines against ten (10) owners. One building was removed from our jurisdiction, and for the final building, we

will conduct a conference to discuss the outstanding fees and fines, legalization as well as current ownership status.

In total, we have issued sixty-one (61) Notices of Violation under the Reasonable and Necessary Rule. We have withdrawn fifteen (15); we have fined thirty-one (31); and we intend to draft Administrative Determinations for the remaining fifteen (15).

While working on the Administrative Determinations, we will also conduct an investigation to determine compliance under the monthly report rule. For those who are not compliant, we will pursue enforcement action.

Finally, I would also like to make a public service announcement. I have been informed by some architects that there is some confusion concerning how to accurately complete the monthly legalization report. So, to clarify, first, the report has to be accurate; meaning it must reflect the current legalization status. Failure to do so will lead to a violation for false statements to the Loft Board. Second, each monthly report is due on the first of the following month, and in that report, you will be reporting your legalization status and progress for the prior month. Any late submissions will lead to violations.

**Ms. Roslund** asked for clarification of the confusion.

**Ms. Story** explained that, apparently, some architects were confused as to how they could report on a month's progress on the first day of that month. I explained that they were reporting the progress for the preceding month.

**Ms. Roslund** asked if there is a specific form for completing the report.

**Ms. Storey** explained that there is and that it has been posted on the Loft Board website for years. She also said they were asking questions about how to report legalization status. For example, one architect had put TCO as a legalization status, and when she asked for proof of that, he said he just thought that's what he was supposed to put – which is incorrect. Architects must report accurately or face a violation.

**Mr. DeLaney:** I believe in the new rules we're going to allow owners to go back to filing quarterly, and I think part of the reason we did that is that the number of owners who are submitting was pretty dismal. Is that still the case? Or have you been contacting them?

**Ms. Storey:** Yes, I have been contacting them.

**THE CASES:**

The Summary Calendar:

**Chairperson Patino** explained that two of the eight cases on the calendar were combined in one Proposed Order and that these cases are usually voted on as a block.

Case No.	Applicant(s)	Address	Docket No.
1	177 Water Street Realty, LLC	177 Water Street, Brooklyn	LS-0285
<i>The Loft Board deemed the access application withdrawn based on an email dated February 3, 2023.</i>			
2	Amicus Associates LP	83 Canal Street, New York	LS-0291
<i>The Loft Board deemed the access application withdrawn with prejudice based on a stipulation of settlement dated January 6, 2023.</i>			
3	Massi L. Surratt, David Franck, and Bryce A. Taylor	239 Banker Street, Brooklyn	PO-0143
<i>The Loft Board deemed the protected occupancy application withdrawn with prejudice based a stipulation of settlement dated October 11, 2002.</i>			
4	Samuel Fishman	388 Broadway, New York	PO-0167
<i>The Loft Board deemed the protected occupancy withdrawn with prejudice based on a stipulation of settlement.</i>			
5	Steven Shlomo Weprin and Ryan Fisk	90 Ludlow Street, New York	PO-0179 TR-1433
<i>The Loft Board deemed the coverage and protected occupancy applications withdrawn with prejudice based on stipulations of discontinuance dated August 10, 2022.</i>			
6	Steven Marshall	247 West 30 Street, New York	TH-0214
<i>The Loft Board deemed the harassment application withdrawn based on an email dated January 16, 2023.</i>			
7	Kfir (KC) Cohen	329 Broome Street, New York	TR-1439
<i>The Loft Board deemed the coverage application withdrawn based on a settlement agreement dated June 23, 2022.</i>			

**Chairperson Patino** asked for a motion to accept these cases and for a second.

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

Chairperson Patino asked if there were any comments on the cases and there were none.

The vote

Members concurring: Mr. Barowitz, Mr. Roche, Mr. DeLaney, Mr. Hylton, Ms. Roslund, Ms. Oddo, Ms. Rajan, Chairperson Hylton  
Members dissenting: 0  
Members abstaining: 0  
Members absent: 0  
Members recused: 0

The Master Calendar:

Chairperson Patino explained that there are four cases on the Master Calendar. The first two cases are access cases, and the last two cases are removal cases.

Case #	Applicant(s)	Address	Docket No.
8	Amicus Associates, LLC	83 Canal Street, New York	LS-0248
<i>The Loft Board dismissed the application for an access order.</i>			

Mr. Kim presented this case.

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

Mr. Hylton: Yes. The reliance on the CPLR (Civil Practice Law and Rules) in this respect may open a door that we don't want to open. So, I would like us to revisit the definition of personal service for the Board, itself, and set parameters that make sense with respect to how the Loft Board rules are written and what the intent is for service, for initial service, and also in terms of being expeditious in what we're trying to accomplish.

Chairperson Patino thanked Mr. Hylton; asked if there were any additional comments on the case (none); then for a motion to accept this case.

Mr. DeLaney moved to accept the case, and Ms. Roslund seconded.

**The vote**

**Members concurring:** Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Roslund, Ms. Oddo, Ms. Rajan, Chairperson Patino.  
**Members dissenting:** Mr. Hylton  
**Members abstaining:** 0  
**Members absent:** 0  
**Members recused:** 0

Chairperson Patino introduced the next case on the Master calendar.

Case #	Applicant(s)	Address	Docket No.
9	New Commune DTLA, LLC	533 Greenwich Street, New York	LS-0284
The Loft Board granted the access application and dismissed the application in part. The Loft Board denied the request for the imposition of a fine, but granted Owner’s request to include the cost of the access application as a code compliance cost.			

Mr. Clarke presented this case.

Chairperson Patino asked if there were any comments on the case (none); then for a motion to accept the case, and for a second.

Ms. Oddo moved to accept the case, and Mr. Roche seconded.

**The vote**

**Members concurring:** Mr. Barowitz, Mr. Roche, Mr. DeLaney, Mr. Hylton, Ms. Roslund, Ms. Oddo, Ms. Rajan, Chairperson Patino.  
**Members dissenting:** 0  
**Members abstaining:** 0  
**Members absent:** 0  
**Members recused:** 0

Chairperson Patino introduced the last two cases on the Master Calendar. As they are removal cases, there is no presentation.

Case #	Applicant(s)	Address	Docket No.
Case # 10	BDS Management LLC	49 West 19 Street, New York	LE-0727
<i>The Loft Board granted the removal application.</i>			
Case # 11	W19 Developers LLC	257 West 19 Street, New York	LE-0736
<i>The Loft Board granted the removal application.</i>			

**Chairperson Patino** asked if there were any comments on these cases. Hearing none, he called for a motion to accept these cases, and for a second.

**Mr. Hylton** moved to accept these cases, and **Ms. Oddo** seconded.

Rules:

**Mr. Clarke:** On Monday, we received the final version of the rules from the Law Department and the Mayor's office. If the Loft Board votes to adopt these proposed rules today, we can submit them for final publication. If the rules are delivered to the City Record next week, we estimate that the rules can be published on March 1st. The rules will then be effective thirty (30) days after publication.

There are two changes in the final draft I would like to note. The first change relates to an enforcement issue. At our last meeting, we noted the difficulty of proceeding with enforcement action against owners that filed an Alteration type 1 application with the DOB but failed to move the legalization process forward by filing a Narrative Statement with the Loft Board. So, this proposed rule has added an additional circumstance to what may be considered when deciding whether an owner or responsible party has taken all reasonable and necessary actions to obtain a Certificate of Occupancy. The additional circumstance is whether the owner or responsible party has filed a Narrative Statement and legalization plan with the Loft Board. In the final version of the rules distributed, these changes are reflected on pages 76 and 79. Are there any questions about these changes?

The second change is that, in response to public comment filed for the proposed rules, the rule now clarifies the procedures for when an occupant in an IMD building files comments objecting to the owner's legalization plan. These proposed rules clarify the Loft Board's position that all occupant objections – whether in the form of an alternate plan or comments - must be resolved before the Loft Board can certify the owner's compliance with the Narrative Statement process. These changes can be found on pages 5, 50, and 52-55. Are there any question about these changes?

**Mr. DeLaney:** I would just comment that I think these are thoughtful additions based on what we heard at the Public Hearing and submission of written comments. And just reminding everybody, we started

discussing the first iteration of these rule changes when Barack Obama was president, so it's been a long road, and I'm glad we appear to be at the end of that journey. Thanks to the staff.

Are there any comments or questions about these changes? If there are none, we ask the Board members to take a vote for final publication of these rules.

**Chairperson Patino** asked for a motion to accept the proposed rules, and for a second.

**Mr. DeLaney** moved to accept the proposed rules, and **Mr. Roche** seconded.

**The vote**

<b>Members concurring:</b>	Mr. Barowitz, Mr. Roche, Mr. DeLaney, Mr. Hylton, Ms. Roslund, Ms. Oddo, Ms. Rajan, Chairperson Patino.
<b>Members dissenting:</b>	0
<b>Members abstaining:</b>	0
<b>Members absent:</b>	0
<b>Members recused:</b>	0

**Chairperson Patino:** Congratulations to the Board and to the staff, who spent a lot of time working on these rules. It's exciting to finally get them over the finish line.

And this will conclude our February 16, 2023, Loft Board meeting. Our next public meeting will be held on March 16, 2023. Thank you, everyone.