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4 Transcript of the April 28, 2022

5 Meeting of the

6 New York City Loft Board

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8 This transcript has been prepared pursuant to legislation S.50001/A.40001
9 signed by Governor Hochul, which suspended Article 7 of the Public Officers
10 Law to the extent necessary to permit any public body to meet and take
11 such actions authorized by the law without permitting in-public, in-person
12 access to meetings and authorizing such meetings to be held remotely by
13 conference call or similar service, provided that the public has the ability to
14 view or listen to such proceeding and that such meetings are recorded and
15 later transcribed.

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17 The meeting began at: 2:11 PM

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1 **Chairperson Hylton:** Good afternoon. My name is Renaldo Hylton, the Chairperson Designee of the New
2 York City Loft Board. Welcome to our April 28th, 2022, public meeting. This meeting is being held via
3 teleconference in accordance with legislation signed by Governor Hochul on September 2nd, 2021, due
4 to the coronavirus emergency.

5 Section 282 of the New York State Multiple Dwelling Law establishes the New York City Loft Board. The
6 Board is charged with overseeing the legalization of Interim Multiple Dwelling buildings
7 from commercial and manufacturing spaces to safe, rent-regulated residences that comply with the
8 minimum standards of safety and fire protection stated in Article 7-B of the New York State Multiple
9 Dwelling Law. To achieve this goal, the Board adjudicates and mediates disputes between owners and
10 tenants, tracks the progress of each building undergoing legalization and prosecutes parties who violate
11 the Loft Law and the Loft Board's rules.

12 We first turn to a vote on the minutes from the March 17th, 2022, public meeting. Are there any
13 corrections or comments to the minutes? Yes, Mr. DeLaney.

14 **Mr. DeLaney:** I have a couple of questions about things in the minutes, but I will ask those of the
15 Executive Director after she gives her report.

16 **Chairperson Hylton:** Okay, great. Ms. Cruz, do we need to mention...I believe the minutes had gone
17 out....Did we correct the minutes on the website that went out? Did we do something that Mr. DeLaney
18 had pointed out? Is that all handled, right? Initial? Okay, great. So, do we have a motion then to accept
19 the minutes?

20 **Mr. Barowitz:** I so move.

21 **Chairperson Hylton:** Mr. Barowitz. Is there a second?

22 **Ms. Rajan:** I can second.

23 **Chairperson Hylton:** I have Ms. Oddo. Thank you. Ms. Rivera, could you please poll the Board
24 members?

25

1 **Ms. Rivera:** Mr. Barowitz?

2 **Mr. Barowitz:** Yes

3 **Ms. Rivera:** Mr. Roche?

4 **Mr. Roche:** Yes

5 **Ms. Rivera:** Ms. Hayashi?

6 **Chairperson Hylton:** Ms. Hayashi's absent.

7 **Ms. Rivera:** Mr. Hylton?

8 **Mr. Hylton:** Yes

9 **Ms. Rivera:** Mr. DeLaney?

10 **Mr. DeLaney:** Yes

11 **Ms. Rivera:** Ms. Roslund?

12 **Ms. Roslund:** Yes

13 **Ms. Rivera:** Ms. Oddo?

14 **Ms. Oddo:** Yes

15 **Ms. Rivera:** Ms. Rajan?

16 **Ms. Rajan:** Yes

17 **Ms. Rivera:** Chairperson Hylton?

18 **Chairperson Hylton:** Yes

19 **Ms. Rivera:** Eight in favor; one absent

20

1 **Chairperson Hylton:** Thank you. Ms. Cruz, you're up for your Executive Directors Report.

2 **Ms. Cruz:** Good afternoon Board members. I have four topics to discuss with you today. First is
3 enforcement. We have good news on this front. As you may know, section 284 of the MDL requires that
4 an IMD owner exercise all reasonable and necessary action to obtain a residential certificate of
5 occupancy for the IMD units. Section 2-01.1 defines reasonable and necessary action. Under this rule,
6 there are two types of enforcement actions that the Loft Board can bring against owners who fail to
7 comply. The easiest way to distinguish them is one type requires a hearing, the other one does not. We
8 have issued ten notices of violation that do not require a hearing; four violations were issued to owners
9 that have not filed an alteration application for the legalization work, which means that they have not
10 begun the legalization process; two violations were issued to owners who have failed to renew permits
11 to do the legalization work; four violations were issued to building owners who have failed to renew
12 their Temporary Certificate of Occupancy.

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

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

21 Second is statistics. I can report that we have 357 pending cases. Some of the major categories of cases
22 are coverage. We have 95 of those cases; protected occupancy, which we have 77 of those cases. The
23 next largest category is 33 applications for tenant-initiated rent disputes. With regard to the status of
24 these cases, I will need more time to provide this information. OATH provided a report of the pending
25 Loft Board cases that they have. We are cross referencing the OATH report with the Loft Board
26 database. More time will be needed for the statistics.

27

1 The building legalization statistics. It's the same situation there. We're working through the building list.
2 There are 324 buildings in the Loft Board's jurisdiction. Up to now, I can tell you that we have identified
3 14 buildings that have a Certificate of Occupancy. The number of buildings in the Narrative Statement
4 process is 75; however, this number may change as we continue to work through the building list. I
5 understand that these statistics are important, and we're working hard to get these numbers to you.

6 Regarding litigation, since the March meeting, there have been three new Article 78 petitions. I sent the
7 first two with the case materials, and the third petition we received just this week. I want to say it was
8 either Tuesday or yesterday. I'm not sure which it was, but it was certainly one of those two days. To
9 summarize them briefly, the first case was brought by the tenants of 72 Warren. Among other things,
10 the tenants seek a stay of the certification issued for an amended Narrative Statement filed by the
11 owner. The tenant argued that the Loft Board should not issue a certification because the DOB job
12 application had expired, and the owner could not obtain a permit based on that application. However,
13 based on the owner's requests to the Department of Buildings for reinstatement, reinstatement was
14 granted, and the Loft Board issued the certification. The tenants filed the Article 78. When I checked the
15 court's website, I did not see a return date for the petition yet. We've been in touch with the Law
16 Department about the case.

17 The second Article 78 was filed by the owner of 114 West 14th Street, challenging the Board's Order
18 granting protected occupant status and rent overcharge to the tenant of Unit 4E. Owner alleges that
19 the unit was deregulated by abandonment due to the death of a prior protected occupant or by sale of
20 rights with a prior occupant of the unit. This case challenges Loft Board Orders 5099 and 4944. The legal
21 staff spoke to a Law Department attorney handling the matter yesterday, and she's reviewing the
22 record.

23 The third Article 78 was filed by Frank Hughes on the ground floor at 401 Wythe Avenue in Brooklyn.
24 You may remember the case, as it was just decided in March, Loft Board Order 5112. The Loft Board
25 denied the protected occupant claim. We have been in touch with the Law Department about the case.
26

1 Lastly, I have an update on personnel. Glen Argov resigned from his position with the Loft Board staff,
2 and we wish him well in his new job.

3 Regarding the protocol for unsolicited communications to the Loft Board members, I'm still working on
4 it, and I will follow up with it. And that's my report.

5 **Chairperson Hylton:** Thank you, Ms. Cruz. I just want to clarify on the personnel. Mr. Argov joined
6 another city agency. He had an opportunity there, so we wish him well. Thank you, Ms. Cruz. Mr.
7 DeLaney, do you want to start with your questions? I think you've indicated already. And then anybody
8 else can question Ms. Cruz on her report.

9 **Mr. DeLaney:** Okay, thank you, Mr. Chairman. Martha, could you give us the citation for the portion of
10 the rule that permits notice of violation without a hearing?

11 **Ms. Cruz:** 201.1

12 **Chairperson Hylton:** I'm sorry, 2 dash 01.1?

13 **Ms. Cruz:** Yes. It's what we call the reasonable and necessary rule.

14 **Mr. DeLaney:** Right. Okay. Thank you. And with regard to the minutes, I appreciate your addressing the
15 on-going look at unsolicited communications. I just have a couple other questions. Late in the meeting,
16 we discussed the question of progress on the rules, and the Chairperson, on page 26, said Ms. Cruz
17 would work on a timeline to present to the Board. I'm just wondering if there's been progress?

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

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

22 **Ms. Cruz:** I believe she did that right after the meeting, and Amy found something online that looked
23 very similar, and we sent that over, too.

24

1 **Ms. Roslund:** There were two follow-up emails. Thank you.

2 **Mr. DeLaney:** Oh, okay. I get a lot of emails these days. I must have missed it.

3 **Chairperson Hylton:** Okay, we could just resend it, or someone could just...

4 **Ms. Cruz:** Yeah, we will.

5 **Mr. DeLaney:** Okay. That's it.

6 **Chairperson Hylton:** Thank you, Mr. DeLaney. Is there...

7 **Mr. DeLaney:** Oh, I'm sorry. I'm sorry. There is one other. I didn't have time to mark it. Thank you for
8 giving us information on how many cases are pending. Do you happen to know how many, if any,
9 harassment cases are currently pending?

10 **Ms. Cruz:** Yes, just give me one second. I could pull that right back up.

11 **Mr. DeLaney:** You're getting really good at pulling stuff up on the computer.

12 **Ms. Cruz:** I had to learn. Eight. We have eight.

13 **Mr. DeLaney:** Eight. OK, thank you.

14 **Ms. Cruz:** We have eight. And thirteen diminution of services, in case you were wondering. They usually
15 go hand-in-hand.

16 **Mr. DeLaney:** Thank you.

17 **Chairperson Hylton:** Okay. Anyone else for Ms. Cruz? Thank you, Ms. Cruz. Appreciate that. Okay. So,
18 we turn now to a vote on cases. There are eleven cases on the Summary Calendar, and they're usually
19 voted on as blocks. I'm going to read these cases. I just want to make sure, Board members, we've
20 never had any exceptions to these cases being voted on as a block, correct? Right.

21

22

New York City Loft Board: Transcript of Public Meeting: April 28, 2022

Case #1	151 Canal Street, LLC	151 Canal Street, Manhattan	LS-0243
Case #2	475 Kent Owner, LLC	473-493 Kent Avenue, Brooklyn	LS-0249
Case #3	FJH Realty	79 Lorimer Street, Brooklyn	LS-0258
Case #4	517-525 West 45, LLC	517-525 West 45 Street, Manhattan	LS-0263
Case #5	100 Metropolitan Avenue Realty Corp.	100-108 Metropolitan Ave., Brooklyn	LS-0278
Case #6	Diego Martinez-Conde	54 Knickerbocker Avenue, Brooklyn	PO-0173 TA-0291
Case #7	Brian J. Gitkin, Shahar Mintz and Thomas Stevenson	1013-1035 Grand Street, Brooklyn	TR-1245
Case #8	Noemi Manser, Catalin Moldoveanu, Jason Yarmosky, Samuel T. Adams, David Molesky, and Dumitru Gorzo	117 Grattan Street, Brooklyn	TR-1393
Case #9	Eric Ordaz	17 Moultrie Street, Brooklyn	TR-1395 PO-0116

1

2 I just want to correct something. I said there are eleven Summary Cases; there are nine Summary Cases.

3 I just merged Summary and Master Cases. So, there are nine cases on the Summary Calendar. Does

4 anyone have any comment on these cases? Mr. DeLaney? Chuck, we're not hearing you.

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

1 longer legal. So, I have expressed my concern and ask the Board to take a look at the circumstances in
2 this case.

3 **Chairperson Hylton:** Thank you, Mr. DeLaney. I just want to clarify what we are calling what Mr.
4 DeLaney mentioned. I think...Ms. Cruz, what are we actually calling this session that we do? The private
5 session? Just to make it clear, what is the actual...

6 **Ms. Cruz:** We can call it the private meeting to discuss cases for the Board meeting. We could call it...
7 it's the quasi-judicial function? Attorney-client meeting?

8 **Mr. Hylton:** The legal briefing?

9 **Ms. Cruz:** Legal briefing...

10 **Chairperson Hylton:** All right

11 **Mr. DeLaney:** Maybe we could have a contest for the best name.

12 **Chairperson Hylton:** Well, we don't need...I just want to make it clear, right, that this is not some sort
13 of a gimmick session. This is kind of where the attorneys get to discuss what is required by way of a
14 private, legal brief to the Board members about the case, where the Board members can freely ask the
15 staff their legal opinion, which is privileged. So, I want to make it clear what that session is, whatever we
16 call it. But I promise you one thing, next month, we'll have an exact name for it. And that's what we'll
17 refer to it as. But for members of the public, we just want to make sure that you understand this is
18 because it's privileged, attorney-client briefings, freely, to Board members only about the cases, where
19 the Board members can ask any clarifying legal questions about the cases. That's the only thing that we
20 can discuss at that meeting. But the case, of course, anyone leaving that session can come out and
21 make public statements, in the public session, about the cases as being adjudicated. All right.

22 **Mr. DeLaney:** And as I recall, also, Board members can discuss the case with each other.

23 **Chairperson Hylton:** Yes, absolutely.

24 **Mr. Roche:** Mr. Chairman?

1 **Chairperson Hylton:** Mr. Roche?

2 **Mr. Roche:** If I may, if this is not out of order, I would just encourage us to keep the name that it was
3 originally created under. That name, I believe, was vetted by all our staff attorneys back at the time. And
4 I think there were some opinions in subsequent counsel administrations that wanted to alter that name.
5 But I think if we're going to go with it, we should stick with the original name that we arrived at. And I
6 hope you don't mind me mentioning that.

7 **Chairperson Hylton:** No, forgive me. I don't even remember what the original name was. But go ahead.

8 **Mr. Roche:** To be honest with you, Mr. Chairman, I kind of lost track of that, too. But I know that at the
9 time we created that concept, it was well vetted through our very competent General Counsel, Deputy
10 General Counsel, and the staff attorneys, and I think we should stick with that name.

11 **Chairperson Hylton:** Okay, all right. We can confer after and get back to staff. That will be the ED's
12 decision, what we call it. But I just want to make sure that there's one name referred to it, and we'll
13 kind of cement that in our heads. All right. I appreciate that. Thank you, Mr. Roche.

14 I think we are at the stage -- no other comments on these cases? Correct. Mr. DeLaney's was the only
15 comment I had? Okay. Then, is there a motion to accept these cases? I see Mr. Roche's hand first. So,
16 Mr. Roche is first, and I'll give Mr. Hylton the second. Thank you. Ms. Rivera, could you please poll the
17 Board members?

18 **Ms. Rivera:** Mr. Barowitz?

19 **Mr. Barowitz:** Yes

20 **Ms. Rivera:** Mr. Roche?

21 **Mr. Roche:** Yes

22 **Ms. Rivera:** Mr. Hylton?

23 **Mr. Hylton:** Yes

1 **Ms. Rivera:** Mr. DeLaney?

2 **Mr. DeLaney:** Yes

3 **Ms. Rivera:** Ms. Roslund?

4 **Ms. Roslund:** Yes

5 **Ms. Rivera:** Ms. Oddo?

6 **Ms. Oddo:** Yes

7 **Chairperson Hylton:** Ms. Oddo is yes.

8 **Ms. Rivera:** Ms. Rajan?

9 **Ms. Rajan:** Yes

10 **Ms. Rivera:** Chairperson Hylton?

11 **Chairperson Hylton:** Yes

12 **Ms. Rivera:** Eight in favor; one absent

13 **Chairperson Hylton:** There are two cases on a Master Calendar. The first case is

Case #10 475 Kent Owner, LLC 473-493 Kent Avenue, Brooklyn LS-0276

14

15 Ms. Cruz will present this case. Ms. Cruz, you're on mute.

16 **Ms. Cruz:** Okay, can you hear me?

17 **Chairperson Hylton:** Yes, I hear you now.

18 **Ms. Cruz:** Okay, great. In this case, the owner seeks an access Order to do window replacement work,
19 which is work included in the plan certified by the Loft Board in May of 2018. The window work was also
20 included in the stipulation dated in 2019, in which the tenant agreed to provide access to do other

1 legalization work, and if possible, the window work. In February of 2021, the owner amended its
2 Narrative Statement and legalization plan. The owner scheduled the window work for April of 2021,
3 after it filed the amended Narrative Statement. In a letter dated April of 2021, tenant informed the
4 owner that the window replacement work was premature due to an ongoing alternate plan dispute. The
5 tenant filed an alternate plan with the Loft Board in October of 2021, challenging the window
6 replacement work, among other things. The central issue was the placement of the venting windows.
7 The owner's legalization plan proposed venting windows be installed on a lower portion of the windows;
8 tenant's alternate plan proposed to change the location of the venting windows to the upper portion.
9 The Loft Board's rules limit the objections to an amended legalization plan to the new items. Nothing in
10 this record shows that the owner amended the window replacement work after the 2018 certification.
11 The tenant's alternate plan filing is not a valid reason to deny access for the window replacement work
12 certified by the Loft Board. The proposal grants the access application and directs the tenant to provide
13 access after issuance of a new notice.

14 **Chairperson Hylton:** Thank you, Ms. Cruz. Is there a motion to accept this case? Mr. Hylton. Is there a
15 second? Mr. Barowitz. Thank you. Do we have any comments on this case? Any comments? Absent
16 any comments, Ms. Rivera, could you please poll the Board members.

17 **Ms. Rivera:** Mr. Barowitz?

18 **Mr. Barowitz:** Yes

19 **Ms. Rivera:** Mr. Roche?

20 **Mr. Roche:** Yes

21 **Ms. Rivera:** Mr. Hylton?

22 **Mr. Hylton:** Yes

23 **Ms. Rivera:** Mr. DeLaney?

24 **Mr. DeLaney:** Yes

1 **Ms. Rivera:** Ms. Roslund?

2 **Ms. Roslund:** Yes

3 **Ms. Rivera:** Ms. Oddo?

4 **Ms. Oddo:** Yes

5 **Chairperson Hylton:** Ms. Odd, where is she? Ms. Oddo?

6 **Ms. Cruz:** She's at the top, but we've lost video.

7 **Chairperson Hylton:** Yes, either lost video or something with Ms. Oddo.

8 **Ms. Rivera:** Ms. Rajan?

9 **Ms. Rajan:** Yes

10 **Ms. Rivera:** Chairperson Hylton?

11 **Chairperson Hylton:** Yes. Let's call Ms. Oddo again.

12 **Ms. Rivera:** Ms. Oddo?

13 **Ms. Cruz:** She's left now.

14 **Chairperson Hylton:** She's not now. So that's just. What do you have?

15 **Ms. Rivera:** Seven in favor; one absent; and one lost.

16 **Chairperson Hylton:** There are two absent, I guess, if she's not present for the vote. So, seven and two,
17 correct?

18 **Ms. Rivera:** Yes

19 **Chairperson Hylton:** Thank you. The second case on the Master Calendar is

Case #11 Opera House Lofts, LLC 11-27 Arion Place, Brooklyn

TR-1403
PO-0132

1 Mr. Clarke will present this case.

2 **Mr. Clarke:** Thank you Chairperson Hylton. On March 6th, 2020, the tenants in the Building located at
3 11-27 Arion Place, Brooklyn, filed a coverage application pursuant to MDL 281(5) and 281(6). Tenants
4 subsequently amended the coverage application to include additional units and also filed for protected
5 occupant status. The only question before the Board is whether the building has a residential Certificate
6 of Occupancy that precludes the building from coverage. The Certificate of Occupancy for the building at
7 issue here was issued in 2005, but it included the address and lot number for the vacant area
8 immediately adjacent to the building.

9 Lack of a residential Certificate of Occupancy on the effective date of the relevant subsection of MDL
10 281 is a prerequisite to coverage under the Loft Law. Tenants argued that the building lacked a
11 residential Certificate of Occupancy prior to June 21st, 2010, and June 25th, 2019, the effective dates of
12 MDL 281(5) and 281(6) respectively, and they argue the building is not exempt from coverage. The
13 2005 Certificate of Occupancy did not list the address or the lot number for the building. Owner and net
14 lessee argue that the building is exempt from coverage because, despite the typographical errors, the
15 2005 Certificate of Occupancy was for the building.

16 Pursuant to a court order, the DOB amended the 2005 Certificate of Occupancy to include the building's
17 address and lot number, while maintaining an effective date of February 22nd, 2005. The 2005
18 Certificate of Occupancy, issued pursuant to MDL section 301, establishes legal residential use for the
19 units seeking coverage prior to the effective dates of MDL 281(5) and 281(6).

20 The Proposed Order before you finds that the building is exempt from coverage and denies the
21 coverage and protected occupancy applications.

22 **Chairperson Hylton:** Thank you Mr. Clarke. Do I have a motion to accept this?

23 **Mr. Hylton:** I'll move.

24 **Chairperson Hylton:** Mr. Hylton. Is there a second?

25 **Ms. Rajan:** I can second

1 **Chairperson Hylton:** Ms. Rajan. Thank you. So, at this time, I'll entertain any comments on this case. Mr.
2 Roche?

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

6 **Chairperson Hylton:** Okay. All right. Thank you, Mr. Roche. Mr. Barowitz?

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

10 **Chairperson Hylton:** Okay. Yes, Mr. DeLaney?

11 **Mr. DeLaney:** Mr. Chairman, I'm going to vote no on this case. This is really something that I haven't
12 encountered in all my time on the Loft Board. Having read the opposing motions for summary
13 judgment, the tenant stating it's plain that the building in question at that address did not have a
14 residential Certificate of Occupancy during both the 281(5) Window Period and the 281(6) Window
15 Period makes sense. The owner argues the opposite. There seem to be a number of open questions. I do
16 understand that there was an inspection, but how an inspector inspects a building and doesn't know this
17 and writes down the wrong address.... There's an old saying that doctors bury their mistakes and
18 architects draw lines. And I guess in this case, the Department of Buildings is using an eraser. And it
19 seems to me that there are open questions about this building that deserve to be aired, whether that is
20 in front of an OATH tribunal or somewhere else. So, I plan to vote no.

21 **Chairperson Hylton:** Okay, thank you, Mr. DeLaney. Do we have any other comments on the case?
22 Absent any comments, Ms. Rivera, could you please call the Board members. I just want to make sure
23 Ms. Oddo's back. Yes.

24 **Ms. Rivera:** Mr. Barowitz?

25 **Mr. Barowitz:** I recuse, abstain.

- 1 **Ms. Rivera:** Abstain or recuse?
- 2 **Chairperson Hylton:** It's the same thing. Abstain
- 3 **Ms. Rivera:** Mr. Roche?
- 4 **Mr. Roche:** Recuse myself. Abstain
- 5 **Ms. Rivera:** Mr. Hylton?
- 6 **Mr. Hylton:** Yes
- 7 **Ms. Rivera:** Mr. DeLaney?
- 8 **Mr. DeLaney:** No
- 9 **Ms. Rivera:** Ms. Roslund?
- 10 **Ms. Roslund:** Abstain
- 11 **Ms. Rivera:** Ms. Oddo?
- 12 **Chairperson Hylton:** Ms. Oddo? Your audio is not coming...
- 13 **Ms. Cruz:** She's saying no.
- 14 **Chairperson Hylton:** Okay. One second. Let me get that on the record. I just want to see if maybe I'm
- 15 the one who has not given her the opportunity to speak. No. You should be able to just take yourself off
- 16 mute. Is that a no or a yes?
- 17 **Ms. Cruz:** It's a no.
- 18 **Chairperson Hylton:** She's a no. Okay
- 19 **Ms. Rivera:** Ms. Rajan?
- 20 **Ms. Rajan:** Yes
- 21 **Ms. Rivera:** Chairperson Hylton?

1 **Chairperson Hylton:** Yes

2 **Ms. Rivera:** Three in favor; two against; one absent; three abstain.

3 **Chairperson Hylton:** So that motion has not passed. That's the end of our cases, right? And we're going
4 to take a one-minute break before we go into rulemaking discussion. It is now 2:46, and we'll take two
5 minutes. At 2:48, we'll rejoin our meeting. I ask everyone please to stay on mute, including Board
6 members. Mute yourselves. The recording continues on this meeting.

7 **Mr. Clarke:** And Chairperson Hylton? Sorry, but before we take a break, we're going into the rulemaking
8 session, and members of the public that are going to be joining us can pull up a copy of the rules on our
9 website at www.nyc.gov/loftboard under the meetings tab. I will, as we're going through the discussion,
10 reference the page numbers for the public to follow along as well.

11 **Chairperson Hylton:** Thank you, Mr. Clarke. Again, I'm going to shift it now to 2:49. So please, just put
12 yourself a mute because the meeting is still in record session. Thank you. We'll be back.

13

14 --- Two-minute break ---

15

16 **Chairperson Hylton:** Board members, if you're back, could you just put yourselves back on camera so I
17 can know for sure? Ms. Cruz, are you back? Mr. Clarke?

18 Okay, I think we have critical mass. I just want to let you know Ms. Rajan is not going to be with us for
19 the second piece of the meeting. She had a conflict. All right, and I believe, Mr. Hylton, are you in the
20 same situation? Right. But you're here as of now, correct? All right.

21 Before we go into the rulemaking piece, I just want to go back, not to open up the case, but just to
22 comment on the outcome of the last case. This case has to be decided somehow. I know, Board
23 members, and I should have probably just asked you at the time that you were voting, or abstaining, or
24 for what other reason; the reason, the rationale, or what is your objection. What is it that that needs to
25 be satisfied? Not just that we are uncomfortable with it. The Loft Board staff needs to know your
26 concerns, so that we can address it in an in a subsequent Order, if at all possible.

1 The case before you is IMD status, right? It's whether or not the building qualifies to be an IMD under
2 the statute. So, we just need to know for sure what your concerns may be. I'm just letting you know that
3 it has to go back on the calendar at another time. I know some concerns were safety concerns, but
4 that's not what was before us, right? This is determining whether or not this building actually qualifies,
5 legally, to be... And that's what the staff considered when they drafted this decision. We don't want to,
6 necessarily, not do what we're tasked to do, which is to decide the case, and not let a court decide it for
7 us, basically. So that's all I have to say. And Mr. Clarke, could you please take over for the rules.

8 **Mr. Clarke:** Thank you, Chairperson Hylton. We're going to pick up on the rulemaking. I sent over two
9 documents to the Board members. One of them is draft rules that we received from the Law
10 Department and the Mayor's Office of Operation. We received that last Thursday, April 21st. And then
11 the other document is a chart that I prepared to basically inform the Board members of what comments
12 we received and how the Loft Board staff addressed them.

13 At this point, I hope everybody had an opportunity to look at some of these comments and what the
14 Loft Board staff recommended. I do want to point out that there's a split in the chart. The first part of
15 the chart discusses comments or replies that the Loft Board staff made to the Law Department, and the
16 second part of the chart are the intended responses from Loft Board staff that we plan on getting back
17 to the Law Department and the Mayor's Office of Operation sometime next week. The reason why we
18 didn't immediately get it back this week is the person that I am working with at the Law Department was
19 not in the office this week. So, making sure that next week at some time when he's back, he has our
20 responses, and the responses that he will receive are on this chart here.

21 I will say, before I open up to any comments or questions, that Loft Board staff, the Mayor's Office of
22 Operation, and the Law Department, we all are in agreement that there really are no substantive
23 changes left. What you see on this chart is really what's left here. So, our plan is to get these minor
24 changes back to the Law Department, and the Mayor's Office of Operation will clean it up. And then I
25 don't think there's going to be any more changes. What the Law Department said to me was, after we
26 get these issues cleared up -- and I must say that, for the most part, we accepted the changes; we
27 looked at it, and we agree with most of the changes that the Law Departments suggested; so we

1 accepted most of them -- the Law Department said once this part is done, the only thing we need to do
2 is just make sure we're reading for grammatical errors, making sure that we bracket things properly,
3 making sure we underline things, indent things properly, just so when people are reading the rules, it
4 doesn't look strange; and make sure that there's no typographical errors to the best of our ability. But
5 substantively, this is it. So, with that being said, I just wanted to open it up to the Board members to find
6 out if they had any comments or questions with the latest comments that we received from the Law
7 Department and the Mayor's Office of Operation.

8 If there are no comments, I know that at the last meeting, we graciously appreciated the Loft Board
9 members leaving it in the hands of the legal staff to just flesh out these minor things. We will continue
10 to do that. They really are some minor changes, not really affecting the rules in a substantive way. We'll
11 continue to do that, and we'll move on to the next step after we flesh this out with the Law Department
12 and the Mayor's Office of Operations.

13 **Chairperson Hylton:** Mr. Clarke, is there anything noteworthy to mention? Some of these are minor,
14 but anything noteworthy?

15 **Mr. Clarke:** Yes. I would say that there are a few noteworthy things. One of them can be found on page
16 24 of the rules, both on the copy that the Board members have and the members of the public. We can
17 scroll to page 24, and it's under section 1-30 (a), for Settlements. I'll allow everyone to get there. Under
18 section (a), 1-30 under Settlements, under section (a). There was a dispute between the Law
19 Department and OATH as to whether or not we should have a parenthetical there. The Law Department
20 wanted a parenthetical after where it says, sorry, give me one second. Oh, I'm looking at the wrong
21 thing. Sorry. It's actually on page 22 for the public and 22 for the Board members. I apologize. The next
22 comment is on page 24. So, page 22. And this is under 1-27 (c) Hearings. This is where the Law
23 Department wanted to put in a parenthetical. I'll read section (c), and I'll explain what happened.

24 So, section (c) says, "All hearings will be conducted in accordance with the procedures stated in these
25 rules. Formal rules of evidence do not apply to such hearings, except rules of privilege recognized by
26 law. At the hearing, the parties may be represented by counsel or by a duly authorized representative."
27 After where it says by a duly authorized representative, the Law Department wanted to put in a

1 parenthetical that said, provided such a duly authorized representative neither provides legal advice or
2 an opinion of law, nor holds himself or herself out as a lawyer without being admitted to the bar in the
3 state of New York. But after the Law Department and OATH kind of hashed it out a little bit, the Law
4 Department agreed to remove that parenthetical, and the Loft Board staff is fine with removing that
5 parenthetical and leaving the language as it appears in the rules before you now. Are there any
6 questions about that?

7 **Chairperson Hylton:** That's good. Okay.

8 **Ms. Roslund:** We talked about this same... This has come up a couple times, right?

9 **Mr. Clarke:** Yes. So, finally, we have...

10 **Chairperson Hylton:** I just want to say, yeah, thank you. I know, that's what you're going to say,
11 Stephan, but let me just tune it. Our staff really worked hard on getting Law and OATH at the table, and
12 common sense prevailed here, and I think we got the best outcome. It takes a little work because, of
13 course, both agencies have particular desire to see certain things happening. But this was the better
14 outcome for us.

15 **Mr. Clarke:** Yes, we agree. The second, I guess, noteworthy, change is on page 24. Under 1-30, under
16 Settlements.

17 **Ms. Roslund:** So, Stephan, is there a logic to the different colors? The blue, the orange, the pink? Does
18 each represent a pass through?

19 **Mr. Clarke:** I'm sorry, where on the rules?

20 **Ms. Roslund:** In the sidebar notes.

21 **Chairperson Hylton:** I'm not seeing in the different colors. Oh, yes, they are different. I think it's who
22 made the comment. Right, Stephan? Whoever makes the edits, it gets color coded differently. But the
23 fact that there's a color there, it tells you that it's been edited, and they will tell you who's doing edits,
24 but the color doesn't mean anything.

1 **Mr. Clarke:** Yeah. So, yes, in section 1-30 under Settlements, we had some original language there, but
2 based on the *Callen* case that the court issued an Order, basically saying that the Loft Board has the right
3 to reject stipulations as against public policy, we decided that since the Court cited to this rule,
4 specifically, we should keep the rule as-is. So, under 1-30, we're not going to make any changes to this.
5 The only change that we're going to make is originally, in the current language, it says that we may
6 direct that a particular matter be reopened and remanded to OATH for further investigation. We've
7 changed that word remanded to refer for further investigation. So that's the only change from the
8 current language, but we thought it was best to keep the language as-is.

9 **Ms. Roslund:** So, the strikeout is not happening? The administrative....the part that's stricken?

10 **Mr. Clarke:** I'm sorry. Yes, that is changing as well. "the Administrative Law Judge or the Loft Board
11 staff," that is in the current language, and we are going to strike that out and replace that with
12 adjudicator. So sorry, there are two changes in this section.

13 **Chairperson Hylton:** Because that's a matter of the adjudicator definition exists, right?

14 **Mr. Clarke:** Yes, that's what...

15 **Chairperson Hylton:** Right. That's the only reason there.

16 **Ms. Roslund:** Didn't we have a whole half of a meeting about the word adjudicator?

17 **Mr. Clarke:** So those are the only two changes. Let me see if there's anything.... I think, really and truly,
18 the only other noteworthy thing on here we can find on page 23 for both the public and the Board
19 members. If we scroll back up -- I'm sorry that it's a little bit out of order -- it's under 1-28 Burden of
20 Proof. What the Law Department wanted to do was remove the word inquest from our rules. And the
21 reason why was because....the word inquest in certain parts of our rules. But page 23, I'm going to
22 explain this wording that the Law Department added, and we agree with that wording, and at some
23 places in the end the rules, we remove the word inquest.

24 Actually, let me... Inquest is removed. There are only a few places, but that word has been removed
25 from the rules. The Law Department said inquest is a type of hearing, why do we have inquest in there?

1 When you have hearing there, you don't need to include the word inquest. But the staff discussed it,
2 and we felt like inquest was a specific type of hearing, where even if the opposing party doesn't show
3 up, you still have to prove your case. That was what we were concerned about, and we thought the
4 word inquest might indicate that a little bit. I know a lot of us in the legal field would understand what
5 an inquest is, but some people that are not, they might not understand that, hey, if the other side
6 doesn't show up, you still have to meet the minimum burden of proof for your case. It's not just if the
7 other person or other side doesn't show up, you automatically win.

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

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

16 **Mr. Clarke:** You're not going to see it on the set of rules that you have.

17 **Mr. DeLaney:** I know that. That's why I'm asking.

18 **Mr. Clarke:** Right. I'm about to tell you. It's on the public. If you're looking at the rules that the public
19 document has, we can do a control-search, and we can find it in just a second.

20 There are eight hits on the public document. The first one is on page 20. It's under 1-23, under Defaults.
21 I can read that sentence. It says, "The adjudicator will also inform the affected party that an inquest will
22 be held unless the party moves to vacate the default, as specified below." That's the first part. There
23 are eight other hits on inquest in the rule that have been removed.

24 **Chairperson Hylton:** And replaced with hearing?

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

8 **Chairperson Hylton:** Okay. Thank you. Any questions from Board members? Okay, without any
9 questions, then Mr. Clarke, could you pleaseGood job, by the way. Excellent.

10 **Mr. Clarke:** Thank you.

11 **Chairperson Hylton:** Especially getting OATH to give us our way. But could you just let us know... Or are
12 there any questions for Mr. Clarke from the Board members? No. So could you give us a little... what's
13 next?

14 **Mr. Clarke:** Sure. So, I know that the Board members originally wanted a timeline of where things are
15 going. We didn't think that was a good idea, to create a timeline, because there are so many variables
16 that can happen. We're very careful about the information that we put out into the public, because we
17 we're going to be held to it, rightfully so, and there are variables that are outside of our control that
18 might vary greatly on any type of timeline.

19 So, where we are is, the next step is getting preliminary approval from both the Law Department and
20 the Mayor's Office of Operation. When they are totally satisfied, when we send this back to them, if they
21 look at everything, and they say we're fine with everything, we don't have any other comments...The
22 Law Department did tell me they're going to read everything one more time, but they're pretty sure that
23 there's going to be nothing substantive. But they wanted to do a full-scale read- through. They're more
24 concerned with the brackets, the punctuation, the grammar, the formatting of it. And they said that
25 once that's done, they will be ready to issue their preliminary certification. So, at that point, once we
26 get that certification from the Law Department and the Mayor's Office of Operation, the Board

1 members can vote to have it published. The Board will vote to publish the proposed rules in the city
2 record....

3 **Chairperson Hylton:** I just want to make sure. There are two publications, so the first publication is the...

4 **Mr. Clarke:** Yes. The first publication is the publication in the city record, and there are some
5 administrative requirements that have to be met; but ultimately, the publication is going to occur at
6 least thirty days prior to the date of a public hearing. So, the public hearing has to be set first. We have
7 to have an idea of when we want to have the public hearing; make sure that we have everything in place
8 for publication; and then make sure that there's at least thirty days between the date of publication and
9 the public hearing. During those thirty days, there can be comments submitted, and then at the public
10 hearing, obviously the public can appear. I don't know if it's going to be virtual or in person, but make
11 their comments be known. And then after consideration of the relevant comments presented, the
12 agency may adopt a final rule. If at the public hearing, or once we have comments, once the Board
13 members review the comments, if there's a comment that strikes the Board members to say we should
14 add this, then that comment goes back to the Law Department and goes back to the Mayor's Office of
15 Operation. They have to review it, and that process happens over again. But in sum, this is where we
16 are, and this is what we can expect.

17 **Chairperson Hylton:** Okay so, Mr. Clarke, I kind of feel like we're finished with our piece, right? And we
18 need to....I know we did vote this out already in May of 2021, correct?

19 **Mr. Clarke:** Yes, yes.

20 **Chairperson Hylton:** But I just feel comfortable asking the Board to vote this back out to the Law
21 Department for preliminary approval, which they have indicated they're pretty much at the brink off
22 doing, as soon as they review it again.

23 **Mr. Clarke:** Yes

24 **Chairperson Hylton:** And unless there are any substantive things that need to come back to us, they will
25 grant this preliminary approval; at which point it will come back to you, Board members, to vote into

1 publication; and to schedule a public hearing; and to hear the public's comments; and decide whether
2 or not there are going to be any additional changes. And if there are not going to be additional changes,
3 you will then vote to publish a final publication. I'm sorry, you will then vote to send it back to the Law
4 Department for final approval. At which point, when the Law Department grants its final approval, it
5 comes back to us for final publication. And that's it.

6 I noticed a lot of stuff there, but as Mr. Clark said, there are so many variables that we can't really
7 necessarily give any kind of timeline, but it's happening, all right? I mean, at least your job seems to have
8 been done.

9 **Mr. Clarke:** Yes

10 **Chairperson Hylton:** And it certainly is a great accomplishment; it certainly is good news that we're
11 moving forward for those Board members who have been here from the start. I see Mr. Barowitz is...and
12 Mr. DeLaney, I'm sure can appreciate this also. Yeah, Mr. Roche, you too. So yeah, we're here, we're
13 almost there, and I really appreciate this. This is really good stuff. And I want to actually entertain a
14 motion from some Board member for a vote to send this back to Law Department, because we've made
15 some substantive changes since the last vote out for preliminary approval. I just want to put it on the
16 record here that we're doing that again, to Law Department for preliminary approval.

17 So, at this time, I will entertain a motion to send this draft rule to the Law Department for preliminary
18 approval. Mr. Barowitz, I see your hand up. Yes, Mr. Barowitz is motioning. Is there a second? Ms.
19 Roslund. Thank you, Ms. Roslund. And Ms. Rivera?

20 **Ms. Rivera:** Mr. Barowitz?

21 **Mr. Barowitz:** Yes

22 **Ms. Rivera:** Mr. Roche?

23 **Mr. DeLaney:** I'm sorry. I thought...

1 **Chairperson Hylton:** Oh, I should entertain comments. I'm sorry. I thought you didn't have any. Okay.
2 Go ahead, Chuck. You wanted to comment?

3 **Mr. DeLaney:** Yeah, in looking at the draft that was distributed to the Board, which I understand is
4 confidential, there are some questions, for example, in the first few pages, about...I don't want to betray
5 any earth-shattering confidences, but there are questions about language, about some changes with
6 regard to heat and 286(12). Are those going to come before the Board at some point?

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

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

16 **Mr. Clarke:** That is correct.

17 **Mr. DeLaney:** Okay

18 **Chairperson Hylton:** That must be settled, Mr. DeLaney, before it goes into initial publication.

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

21 **Mr. Clarke:** I'm sorry. Did you ask a question?

22 **Mr. DeLaney:** No, I said I would like to go back and discuss the timeline a little bit more. But I can do
23 that after we...

24 **Mr. Clarke:** Oh, absolutely. Sure.

1 **Chairperson Hylton:** Okay. So, Ms. Rivera? Any other questions or comments?

2 **Ms. Rivera:** Mr. Barowitz?

3 **Mr. Barowitz:** Yes

4 **Ms. Rivera:** Mr. Roche?

5 **Mr. Roche:** Yes

6 **Ms. Rivera:** Mr. Hylton?

7 **Chairperson Hylton:** Mr. Hylton is not present.

8 **Ms. Rivera:** Mr. DeLaney?

9 **Mr. DeLaney:** Yes

10 **Ms. Rivera:** Ms. Roslund?

11 **Ms. Roslund:** Yes

12 **Ms. Rivera:** Ms. Oddo?

13 **Ms. Oddo:** Yes

14 **Ms. Rivera:** Ms. Rajan?

15 **Chairperson Hylton:** Ms. Rajan is not present.

16 **Ms. Rivera:** Chairperson Hylton?

17 **Chairperson Hylton:** Yes, proudly

18 **Ms. Rivera:** Six in favor and three absent

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

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

5 **Mr. Clarke:** At this point, I don't believe so. Yeah, it's really just waiting for the cleanup part of it, and
6 then getting that preliminary approval.

7 **Chairperson Hylton:** So, at this point, Mr. DeLaney, just to further clarify on Mr. Clarke's comments,
8 there will be extra meetings, but I think those will be public hearings.

9 **Mr. Clarke:** Oh, yeah.

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

13 **Chairperson Hylton:** That's a trick question.

14 **Mr. Clarke:** So, yeah, I'm going to put myself in a hole because best-case would be just a couple of
15 months; but who knows what can happen?

16 **Chairperson Hylton:** I think, yeah. What is it now? It's end of April now, so it's May. And we've got
17 what? Three more meetings before we break for August, correct? Actual meetings? May, June, and
18 July. So, again, Mr. DeLaney, I'm talking for Mr. Clarke, because we were discussing this just yesterday,
19 time that was very possible. And Law says one thing, MOO says they're there, but you hear what they
20 say. They're going to go back over these rules with a fine-tooth comb, make sure everything is fine. And
21 it depends on peoples' schedules and so forth. And we can't really put any kind of hard and fast timeline
22 on this. But if I were going to say worst-case scenario, I wouldn't say best-case scenario, I would say, I
23 will give you a worst-case scenario: Fall.

24 **Mr. Clarke:** Yeah, that would be the worst-case scenario. I would agree.

1 **Chairperson Hylton:** And I'm talking about effective, right? Effective. That's what you're asking, Mr.
2 DeLaney? Effective date?

3 **Mr. DeLaney:** Well, obviously, after the Board votes on the final regulation...

4 **Chairperson Hylton:** ...and thirty days after, yes, effective date. I would say Fall. And again, it's going to
5 depend on the Board members, too. If there is a comment that is worthwhile for you to go back and to
6 make change, then you need to go back, and that's why we're saying that we can't commit because that
7 then needs to go back again and be granted approval from Law. So that's the reluctance to commit. But
8 absent any substantive changes between now and then, and the process is just pro forma, then I would
9 say worst-case in the Fall for effective date of these rules.

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

11 **Chairperson Hylton:** Yeah, I can tell you, there's no one else who more wants to see these rules come to
12 fruition than the Chair. And when I say Chair, I'm not just talking about myself; I'm the Chair designee.
13 This is the Commissioner's goal, to see these rules take shape and become a reality for the public and
14 for the process. I think it's a great improvement. So...

15 **Mr. Clarke:** I was just going to say, I don't have anything else to add Chairperson Hylton. Thank you.
16 Thank you, Board members, for giving us the okay to seek the preliminary approval from Law and
17 Mayor's Office of Operation, and we're diligently working on this to clean it up and get it out there.

18 **Chairperson Hylton:** Thank you. I mentioned to the Board members that there would be an Executive
19 Session prior to ending this meeting. I just want to advise the public right now that we are going to
20 move into Executive Session to discuss a matter of litigation, *Dezer Properties LLC versus the Loft Board*.
21 Before I do and entertain that motion to move into Executive Session, we will be back after Executive
22 Session to close the meeting. For the sake of folks who may not want to --- we have to go into Executive
23 Session, so everyone will be dropped from the call except for Board members. So, we want to make sure
24 people know that you when you're dropped from the call, you can, literally, try to come back in. The
25 meeting will be locked, but if you want to stay on until we unlock the meeting to close the meeting out,
26 that is up to you. However, I'm going to read the conclusion of the meeting, just in case you don't want

1 to come back just to hear that. Because there's not going to be any discussion after the Executive
2 Session. So, I will give the closing report out as to when the next meeting is, in case you have no interest
3 in coming back on just to hear us say have a good night.

4 So, our next public meeting is scheduled to be held on May 19th, 2022. At this time, we do not know if
5 the future meetings will be held in person or virtually. So, information will be updated on the Loft
6 Board's website and also on email updates through the Loft Board's announcement Listserv. All right.
7 So, at this time, I will entertain a motion from the Board members to go into Executive Session to discuss
8 a matter of litigation, *Dezer Properties II LLC versus the Loft Board*. Mr. Roche has made a motion.

9 **Mr. Roche:** Actually, Mr. Chairman, I just want to make a comment in the interest of the public's time,
10 dovetailing with what you said about whether they don't want to stick around. Can I just make a public
11 safety comment?

12 **Chairperson Hylton:** You have the floor.

13 **Mr. Roche:** Thank you, sir. I noticed, we as the Loft Board noticed, that several tenants are displaying
14 signs today of fire safety concerns. I just want to reiterate that it is the Chairman's desire and every
15 member of this Loft Board's desire to assure that all the folks are safe and that if there's anybody there
16 that has specific concerns, I would just ask that you route them to the Loft Board staff, and they will be
17 in communication with myself, and we will get your specific concerns addressed appropriately. Thank
18 you.

19 **Chairperson Hylton:** Thank you. Is everyone hearing me? Oh, I'm frozen on the screen. I don't know if
20 anyone else...okay. I didn't hear you, Chuck. I see your....

21 **Mr. DeLaney:** Yes, we hear you.

22 **Chairperson Hylton:** OK, great.

23 **Mr. DeLaney:** The video seems to be...

24 **Ms. Roslund:** You're moving around too, so...

1 **Chairperson Hylton:** Okay, all right. So, I think I was entertaining a motion to go into Executive Session,
2 and Mr. Roche did not, so is there someone who will entertain that motion, make the motion? Mr.
3 Roche is motioning, and Mr. DeLaney has seconded. All in favor?

4 All Board members present indicate aye.

5 **Chairperson Hylton:** All right, so we will now move into Executive Session. I'm going to ask that
6 everyone who are not members of the Board remove themselves. And you can certainly come back, try
7 to join the meeting. When we unlock the meeting, you will be let back in. Thank you. All right. I am doing
8 it manually for those who did not drop off. Is caller seven a member of the Board? If not, then I'm going
9 to excuse them. Okay, it seems like we have Board members only, correct?

10 **Ms. Roslund:** Yeah, we don't have many of us left, though.

11 **Mr. DeLaney:** I'm seeing a name Joanna Phelps displayed on my screen.

12 **Chairperson Hylton:** We have five Board members. Somebody's coming back on. Okay, he just dropped
13 back off. I'm going to lock this meeting quickly.

14 **Mr. DeLaney:** I think you have one more.

15 **Chairperson Hylton:** You do have somebody else? I don't see that person. Does anyone see any....?
16 I don't see anybody, Mr. DeLaney.

17 **Mr. DeLaney:** Okay, I see Joanna Phelps.

18 **Chairperson Hylton:** I just locked the session. You still see somebody, Mr. DeLaney?

19 **Mr. DeLaney:** My count on the screen shows ten people. I see nine of us, and then nine names. No, I
20 see....If you look at the people column, you'll see there's a name... or I'm seeing the name Joanna
21 Phelps.

22 **Chairperson Hylton:** I'm not seeing that. Is anyone else seeing that?

23 **Ms. Cruz:** No, I'm not seeing that person. I only see nine.

1 **Mr. Clarke:** I see nine as well.

2 **Ms. Oddo:** Yeah

3 **Chairperson Hylton:** The meeting is locked, and I'm going to take this off recording. Am I right, Ms.
4 Cruz?

5 --- After Executive Session ---

6

7 The Board is back from Executive Session to discuss the matter of *Dezer Properties II LLC versus the Loft*
8 *Board*. We are now back into regular session, and I want to thank everyone for their patience. I want to
9 ask the Loft Board members or anyone if there are any matters of concern, apart from what was
10 discussed right now, so we can... Is there anything we would like to do before we close the meeting?
11 No comments, no concerns. Okay, so this will conclude our April 20th, 2022, Loft Board meeting. Our
12 next public meeting is scheduled to be held on May 19th, 2022. At this time, we do not know if the
13 future Board meetings will be held in person or virtually. Information will be updated on the Loft Board
14 website and also in email updates through the Loft Board announcement Listserv. Board members,
15 please sign and email your time sheets today. For us, that would be nice. Have a good rest of the month
16 everyone, and we will see you again next month. Thank you so much for your patience.

17