

**MINUTES OF PUBLIC MEETING  
New York City Loft Board Public Meeting Held at  
Department of Buildings  
280 Broadway, Third Floor**

**November 17, 2016**

The meeting began at 2:02 p.m.

Attendees: Elliott Barowitz, Public Member; Richard Roche, Fire Department ex officio; Charles Delaney, Tenants' Representative; Gina Bolden-Rivera, Public Member; Daniel Schachter, Public Member; LeAnn Shelton, Public Member; and Chairperson Designee Renaldo Hylton.

**INTRODUCTION**

**Chairperson Hylton** welcomed those present to the November 17, 2016 public meeting of the New York City Loft Board and mentioned that this meeting will be the Loft Board's last public meeting in the year 2016.

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**VOTE ON October 20, 2016 MINUTES**

**Motion:** Ms. Shelton moved to accept the October 20, 2016 meeting minutes. Mr. Schachter seconded the motion.

**Members Concurring:** Mr. Barowitz, Mr. Roche, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (7).

**Members Absent:** Mr. Carver (1).

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**REPORT OF THE EXECUTIVE DIRECTOR, Helaine Balsam, Esq.**

**Ms. Balsam** mentioned that there was an issue with the video recording for the October 2016 Board-meeting. Rather than having the video recording available to the public, the audio recording has been made public.

**Ms. Balsam** informed the Board-members that the Loft Board issued violations to an owner of an interim multiple dwelling. **Ms. Balsam** stated that the staff received repeated no-heat complaints from the first floor tenant of 45 Broadway, Brooklyn, New York. The Loft Board's Housing Preservation and Development ("HPD") inspector, Mr. Sumeet Sood, went to the building and issued 4 heat related violations and also issued violations for loose treads on the staircase, lack of window guards in the fourth floor apartment, and for defective smoke and carbon monoxide detectors in the first floor apartment. In addition, Mr. Sood noticed some suspect piping connected to a hot water boiler that was serving the first floor apartment. This was reported to the Department of Buildings' ("DOB") Boiler Inspection Unit and the boiler was subsequently sealed up. The landlord of the building has since fixed the staircase treads, installed the smoke and carbon monoxide detectors and installed an electric hot water heater for the first floor apartment. The landlord claims that he has been unable to gain access into the fourth floor apartment in order to install the window guards. The Loft Board staff is trying to contact the fourth floor tenant to try and arrange access. With respect to the heat plan, **Ms. Balsam** stated that owner did submit a plan to DOB and the first floor tenant's architect has reviewed it. The plan seems like it will get through DOB but we are not sure when.

**Ms. Shelton** asked if there are any instances where an owner can gain access into a unit on an emergency basis without having formal permission for access from the tenant, i.e. to install window guards. **Chairperson Hylton** believes that without emergency services, like the FDNY, present, owner will not be able to gain access without the express permission from the tenant. However, in a real emergency, **Chairperson Hylton** doesn't see why the owner wouldn't be allowed to gain access. **Mr. Roche** stated that if the FDNY was summoned to an emergency, the FDNY would not police the door and prevent an owner from coming in, like to address a water leak or something to that nature. **Mr. Roche**

does not think that legally the tenant has to let the landlord in and believes the term “emergency” is open to speculation and argument as to what constitutes an emergency. **Mr. Roche** relayed a phone call that he received from a tenant complaining that the owner won't install a carbon monoxide detector. **Mr. Roche** reached out to the owner of such building who mentioned that he won't install a new smoke and carbon monoxide detector because the tenant refused access multiple times. To answer Ms. Shelton's question, **Mr. Roche** believes an owner must give a written request to the tenant at least 24 hours in advance.

**Mr. Schachter** asked how did the 45 Broadway no heat situation arise. **Ms. Balsam** stated that the first floor tenant's attorney had repeatedly called the Loft Board about a lack of heat. **Ms. Balsam** further clarified that the Loft Board has an HPD inspector on loan from HPD.

**Ms. Balsam** handed out power point slides to the Board-members regarding application/case statistics for the year 2016. She reported that in 2016, the Loft Board considered 169 cases including the cases on the November 2016 agenda. Out of 169 cases, 8 of those were removal cases. Of the 8 removal cases, 47 units were removed from the Loft Board's jurisdiction. Of the remaining 161 cases, 124 were summary and 37 were master cases.

**Ms. Balsam** then gave a breakdown of how many cases were decided in each public Loft Board Board-meeting during 2016. More cases were considered towards the end of the year in order to make up for the lack of a July Board-meeting and there are no August and December Board-meetings.

**Ms. Balsam** gave a further breakdown of how many removal cases were decided each month.

**Ms. Balsam** also gave a breakdown of the types of cases decided and how many of each type the Board considered in 2016.

**Ms. Cruz** gave a breakdown of the amount of cases currently pending: there are 251 cases, 120 of those are coverage cases and 131 are non-coverage. Of the non-coverage cases, 30 are protected occupant status cases, 27 are tenant-initiated rent dispute cases, 24 are removal cases, 11 are extension cases, 8 are diminution of service cases, 6 are administrative appeal/reconsideration cases, 5 are landlord-initiated contest of coverage cases, 5 are rent adjustment based on code compliance cases, 3 are harassment cases, 2 are abandonment cases, 2 are access cases, 2 are applications seeking a termination of a prior harassment finding, 2 are unreasonable interference cases, 1 is an alternate plan application, 1 is a landlord-initiated rent dispute case, 1 is a challenge to a proposed sale of improvements and 1 is a non-compliance with the legalization deadlines.

**Ms. Cruz** gave a further breakdown of cases by status. There are 44 non-OATH cases: 5 administrative appeal/reconsideration cases, 5 rent adjustment cases based on code compliance, 23 removal cases and 11 extension cases. These numbers might be a bit different then the numbers just given because some of the cases are on the November 2016 agenda. There are 15 pre-OATH cases: 9 are incomplete/defective and 6 are still in their respective answer periods. There are 84 cases at OATH: 44 are non-coverage and 40 are coverage cases. There are 64 cases returned from OATH. Out of the 64, 24 are master cases: 1 diminution of service case, 2 rent dispute cases, 2 protected occupant status cases, 1 challenge to a proposed sale of improvements, 2 landlord-initiated contest of coverage cases, 14 coverage cases and 2 abandonment cases. Out of the 64, 40 are summary cases: 2 diminution of service cases, 3 protected occupant status cases, 1 non-compliance with the legalization deadlines, 1 landlord-initiated rent dispute, 5 tenant-initiated rent dispute cases and 28 coverage cases. **Ms. Cruz** further stated that there are 21 cases in litigation, including Article 78 proceedings. Most of these are the Plymouth street cases.

**Mr. Delaney** asked whether any of the cases from the “64 cases returned from OATH” category are on today's agenda. **Ms. Cruz** stated yes.

**Mr. Schachter** commented that the power point slides were very helpful. **Mr. Schachter** also asked about the cases at OATH. **Mr. Schachter** asked how long it takes for a case to get through OATH. **Ms. Cruz** mentioned that there is a huge range and timing is unpredictable. The range is based on the complexity of the case involved, the amount of participants, and the willingness of the parties to settle.

**Ms. Cruz** did mention that she has created a list of cases that have been pending before OATH for over a year and she will be asking OATH for information on these cases. **Mr. Schachter** asked whether the Board-members would have this information in January, 2017. **Ms. Cruz** replied that she would pass along the information once she received it from OATH.

With respect to building registrations, **Ms. Balsam** stated that the Loft Board staff conducted our yearly call-a-thon. So far, we have 284 buildings registered, 3 of them registered after the call-a-thon commenced. There are still 49 delinquent buildings with 7 having incomplete registrations or missing late fees. **Ms. Balsam** stated that the next step will be to send out notices to the owners and if the owners do not comply, we will be coming to the Board-members with proposed orders for failure to renew registrations.

**Ms. Balsam** mentioned that during the December hiatus, she will be reaching out to the Board-members individually to get their perspective and any ideas that they may have for prospective rule changes.

**Mr. Delaney** appreciated the report on 45 Broadway. **Mr. Delaney** commented that fortunately, to his knowledge, the amount of heat complaints has been relatively minimal. **Mr. Delaney** mentioned that the Loft Board has fallen out of the habit of providing to the Board-members some sort of report about heat complaints and asked **Ms. Balsam** to consider the idea of giving such a report during the winter months. **Ms. Balsam** will look into what kinds of tracking mechanisms are available to track heat complaints. **Ms. Balsam** commented that in terms of number of complaints a month, you could have 1 person complain 5 times or you could have 5 complaints. **Ms. Balsam** asked which number **Mr. Delaney** would be interested in. **Mr. Delaney** replied that he would be interested in the number of buildings with heat complaints.

**Mr. Delaney** further asked about the Modine heater issue that has been ongoing since last winter. **Ms. Balsam** is aware of the issue and mentioned that the Loft Board staff did get one complaint recently and is in the process of trying to rectify the situation with the owner. Right now the staff is trying to figure out ways to better deal with this situation as it is currently outside the scope of the rules.

**Mr. Roche** commented on the discussion of meeting with the Board-members individually. **Mr. Roche** wondered if it was possible to have a place on the agenda for the Board-members' questions/comments/concerns or unfinished business that they may have which could be addressed during the Board-meeting or researched at a later time for future discussions on the record. **Mr. Roche** relayed his time on other boards and mentioned that those boards usually concluded with new business or unfinished business. **Ms. Shelton** replied that something like what **Mr. Roche** described happens already, where a topic needs to be researched, and the Loft Board staff would come back the next month with an answer. **Ms. Bolden-Rivera** further replied that what **Mr. Roche** described usually takes place under the Executive Director's report.

**Mr. Delaney** mentioned that there is a significant amount of expertise among the Board-members that sometimes might prove beneficial in certain situations.

**Chairperson Hylton** mentioned that if a Board-member has an issue or topic that they would like to discuss at a Board-meeting, they can contact **Ms. Balsam** and **Chairperson Hylton** ahead of time so that it could be added to the agenda.

**Mr. Delaney** asked about the "stalled case" orders adopted by the Board-members in the October 2016 Board-meeting in which the Loft Board directed the owners to register their buildings within 30 days. **Ms. Balsam** stated that the 30 day period had not expired. **Mr. Delaney** asked if the Loft Board staff has seen any results. **Ms. Balsam** replied that we have received phone calls from owners who believed the registrations had been taken care of but we have not received actual registrations.

**Chairperson Hylton** mentioned that the Mayor's office has reached out to him about the manufacturer representative, but no decision has been made as of yet. **Chairperson Hylton** expects to have a manufacturer representative appointed by the next Board-meeting.

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## DISCUSSION AND VOTE ON APPEAL/RECONSIDERATION CALENDAR CASES

Ms. Martha Cruz, Esq. presented the below reconsideration calendar case for discussion and vote by the Board.

1.	Barrett Japaning, Inc.	155 Suffolk Street, Manhattan	R-0349
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**Mr. Barowitz** asked what other resources are available to owner after the Board-members vote. **Ms. Cruz** stated that owner can file an Article 78.

**Mr. Delaney** asked about the last paragraph of the proposed order in which we are directing owner to register the building within 30 days but we are not including the rest of the “stalled case” language crafted for the “stalled case” orders in the October 2016 Board-meeting. **Mr. Delaney** asked whether there was a reason why the “stalled case” language is absent from this reconsideration order. **Ms. Balsam** stated that this was not a “stalled case” as the others were. **Ms. Cruz** further stated that owner can still appeal in an Article 78.

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

**Members Concurring:** Mr. Barowitz, Mr. Roche, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (7).

**Members Absent:** Mr. Carver (1).

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## DISCUSSION AND VOTE ON SUMMARY CALENDAR CASES

Chairperson Hylton presented the below summary calendar cases for discussion and vote by the board.

2.	Teghvir Sethi	1099 Flushing Avenue, Brooklyn	PO-0020
3.	Teghvir Sethi	1099 Flushing Avenue, Brooklyn	TA-0212
4.	Dana Rex, Nina Ibarra and Avery Brooks	476-498 Jefferson Street, Brooklyn	PO-0022
5.	Delphine Diallo	476-498 Jefferson Street, Brooklyn	PO-0025
6.	Anders M. Olson	476-498 Jefferson Street, Brooklyn	PO-0030
7.	Anders M. Olson	476-498 Jefferson Street, Brooklyn	TA-0226
8.	Daniel Venture, David Weller, Jude Quintiere and Sharlot Barrin	47-49 Greene Street, Manhattan	TM-0092
9.	Melissa Skluzacek	1535 Decatur Street, Queens	TR-1108
10.	Various Tenants of 170 Tillary Street	170 Tillary Street, Brooklyn	TR-1146
11.	Pierre Albert Winter	42 North Moore Street, Manhattan	PO-0011
12.	Pierre Albert Winter	42 North Moore Street, Manhattan	TA-0206
13.	Merrilee Cohen	34 West 28 Street, Manhattan	PO-0021
14.	David Hocs, Rebecca Michaels, Kevin Wellech and Andrew Lee	57 Jay Street, Brooklyn	TM-0086
15.	Jade Tong Cuong, Kathryn Howard, Jacson Lewis, Meghan Folsom, Garrick Ambrose, Takashi Horisaki, Karl Fey, Benjamin Thys, Brenna Palughi, Samantha Shannon and Kate Owen	250 Moore Street, Brooklyn	PO-0028
16.	Rehana Esmail and Sina Zekavat	1083-1095 Flushing Avenue Brooklyn	TR-1276
17.	Martha Bernabe, Randy Wray, Martin	18-20 Eckford Street, Brooklyn	TR-1278
18.	Anthony Cioe	20 Grand Avenue, Brooklyn	TR-1282
19.	Minerva Ramirez-Mejia	1943 Broadway, Brooklyn	TR-1288
20.	Annette Ahlman and Leonard Styche	35 Claver Place, Brooklyn	TR-1310

**Mr. Delaney** noticed that sometimes when describing a coverage or protected occupant case, the tenant is defined as “Tenant” or “Applicant”. Is there a style guide being used? **Ms. Cruz** stated that for example, in the reconsideration case on today’s agenda, Ms. Bialobroda is an owner and that is why staff used the word “Applicant.” **Mr. Delaney** further clarified that describing an applicant as “Tenant” does not necessarily lead to the conclusion that they are or not a protected occupant. **Ms. Cruz** agreed.

**Mr. Delaney** asked about case 5, PO-0025. **Mr. Delaney** asked about the case/application being deemed “settled”. **Ms. Balsam** stated that it has to do with how the parties executed their papers. There was a previous sale of rights which only involved two of the three protected occupants. **Mr. Delaney** commented that this is the first time he has come across a case like this where the sale of rights was viewed as something that could be split off among different individuals. **Ms. Balsam** stated that if they are all prime lessees then they would all have rights to sell. **Mr. Delaney** relayed that in the early days of the Loft Board, there were owners who tried to buy individual rights of a tenant, i.e. tenants were asked to sell their right to heat. The Loft Board took the stance that you either sold all your rights or no rights at all. **Chairperson Hylton** asked if **Mr. Delaney** had any concerns about this kind of situation and **Mr. Delaney** replied that he would like to think on it. **Mr. Delaney** stated that virtually no one is buying fixtures anymore. Generally, owners want tenants out and will buy out the tenants article 7-C rights. **Mr. Delaney** is puzzled as to why an owner would buy the rights of some tenants but still have a tenant remaining that is covered/protected. **Ms. Balsam** stated that it is possible owner did not realize that there was a third tenant to be bought out.

**Mr. Delaney** had a question about case 16, TR-1276, and the lengthy chart attached to the registration application. The chart is 4 pages long and is broken down by “period of residential occupancy”, “name of tenant in occupancy” and “current residential tenant’s name”. **Mr. Delaney** asked whether the Loft Board accords protected occupant status to the person listed in the “current residential tenant’s name” column. **Ms. Cruz** stated yes, the name in the “current residential tenant’s name” column is the name the staff adds to the system as the protected occupant. For example, case 16, **Mr. Delaney** pointed out that the two applicants who are seeking protected occupant status for unit 405 don’t show up as either the tenant in occupancy during the window period or the current residential tenant. **Ms. Balsam** mentioned that there was a third person already there who had previously sold his Article 7-C rights so at the time that the applicants had filed their application, the unit was already registered.

**Mr. Roche** had a specific question about case 15, PO-0028, regarding service doors vs. entrance doors. Is a service door considered by the Loft Board as an entrance door? **Mr. Roche** referred to a comment in the papers that said “until we pass the Loft Board, the door would remain a service door”. **Ms. Balsam** believes that comment meant that during the legalization process, what is now a service door may actually become an entrance door. However, until it goes through the Loft Board’s legalization process, the door will remain a service door. **Mr. Delaney** asked whether service doors are generally available for egress in cases of emergencies. **Mr. Roche** stated that it would have to be available for egress but is questionable as to it being available as an entrance. In his fire department world, a service door is an entrance door to the building. It may not be an entrance door for tenants but it is to the FDNY. **Mr. Delaney** added that the service door might be used by artists/tenants to move bigger paintings or art pieces. **Ms. Balsam** added that if a tenant has a history of using something which the owner has taken away, and the tenant can prove a history of using such item, the tenant can file an application for a diminution of services.

**Mr. Barowitz** commented on case 13, PO-0021 and mentioned his belief that these cases come up when there is a dispute between a husband and wife. **Ms. Balsam** mentioned that this case did not arise from a dispute and stated that the wife and 16 year old daughter could have succession rights.

**Motion:** Ms. Shelton moved to accept the proposed orders. Ms. Bolden-Rivera seconded the motion.

**Members Concurring:** Mr. Barowitz, Mr. Roche, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (7).

**Members Absent:** Mr. Carver (1).

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## DISCUSSION AND VOTE ON MASTER CALENDAR CASES

Ms. Cruz presented the below master calendar cases for discussion and vote by the board.

21.	Steven Fishman, Lincoln Fishman, Troy Fuller and Elizabeth Fuller	143-155 Roebling Street, Brooklyn	TR-0875
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**Motion:** Mr. Roche moved to accept the proposed order. Mr. Barowitz seconded the motion.

**Members Concurring:** Mr. Barowitz, Mr. Roche, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (7).

**Members Absent:** Mr. Carver (1).

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22.	Melissa Manganaan	473-493 Kent Avenue, Brooklyn	TR-1221
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**Mr. Barowitz** mentioned that generally the Real Estate Board considers the outside walls as part of the space even though the interior floor space is significantly smaller. **Mr. Barowitz** believes that if you are paying taxes, you pay taxes to the outside wall.

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

**Members Concurring:** Mr. Barowitz, Mr. Roche, Mr. Delaney, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (7).

**Members Absent:** Mr. Carver (1).

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#### **DISCUSSION AND VOTE ON REMOVAL CALENDAR CASES**

23.	Warren Murray Property Owner LLC	59 Warren Street, Manhattan	LE-0671
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**Motion:** Ms. Shelton moved to accept the proposed order. Ms. Bolden-Rivera seconded the motion.

**Members Concurring:** Mr. Barowitz, Mr. Roche, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton, Chairperson Hylton (6).

**Members Absent:** Mr. Carver (1).

**Members Recusing:** Mr. Delaney (1).

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**Chairperson Hylton** concluded the November 17, 2016 Loft Board public meeting at 3:05 pm and thanked everyone for attending. The Loft Board's next public meeting will be held at 280 Broadway, third floor, on January 19, 2017 at 2 p.m.