

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

January 18, 2018

The meeting began at 2:10 p.m.

Attendees: Robert Carver, Esq., Owners' Representative; Elliott Barowitz, Public Member; Richard Roche, Fire Department ex officio; Robinson Hernandez, Manufacturers' Representative; Charles DeLaney, Tenants' Representative; Daniel Schachter, Public Member; and Chairperson Designee Renaldo Hylton.

INTRODUCTION

Chairperson Hylton wished everyone a happy new year and welcomed those present to the January 18, 2018 public meeting of the New York City Loft Board.

VOTE ON December 28, 2017 MINUTES

Chairperson Hylton mentioned that one correction was made to the December 28, 2017 minutes, per Mr. DeLaney's request. The Board members received updated copies at the Board meeting.

Motion: Mr. Carver moved to accept the December 28, 2017 meeting minutes. Mr. Barowitz seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7).

Report of the Executive Director, Ms. Helaine Balsam, Esq.

Ms. Balsam started with her "End of Year Report" for 2017 statistics regarding what happened at the Loft Board last year.

Current Inventory of Buildings: three-hundred and forty-one (341). Eleven (11) buildings were added and seven (7) buildings were removed.

Cases Considered by the Loft Board in 2017: We decided one-hundred and thirty-seven (137) cases: nine (9) removals; seventy (70) summary; forty-four (44) master; and fourteen (14) reconsideration.

Cases Considered by Month: Overall, one-hundred and sixty-five (165) cases were considered because some of the cases were considered on more than one calendar. Overall, we had fifteen (15) reconsideration and appeal cases; seventy-seven (77) summary cases; and seventy-three (73) master cases.

In terms of the types of cases that appeared on the calendars: we had many more TR - coverage cases (fifty-one (51)) than any other cases. The next highest total was FO - Failure to Register cases (twenty-two (22)). The reason why there were so many FO cases was that we had both last year's and this year's Failure to Register cases in the same year.

In terms of removal cases, seven buildings were removed. Originally there were thirty-six (36) interim multiple dwelling (IMD) units that would have been eligible for rent regulation but only ten (10) of those ended up being rent regulated. Most of them were not rent regulated because of buy outs between owners and tenants.

Application Statistics as of December 13, 2017: Currently we have two-hundred and fifty (250) applications pending. There are one-hundred and forty-two (142) non-coverage cases; and one-hundred and eight (108) coverage cases.

Mr. DeLaney asked with regard to the pending applications, does Staff have data that shows what the number of the pending applications was in prior years. **Ms. Balsam** replied that she will see what she has from last year, but doesn't know about years before that. **Mr. DeLaney** is trying to get a sense of how big the backlog of cases is and how that compares to previous years. **Ms. Balsam** mentioned that she will try to figure that out.

For the one-hundred and forty-two (142) non-coverage cases, the breakdown by type of application is: ten (10) Administrative Appeal; one (1) Extension; three (3) Abandonment; Thirty (30) Removal; one (1) Unreasonable Interference; one (1) Access Application; forty (40) Protected Occupant; seven (7) Reconsideration; five (5) Rent Adjustment; twenty-eight (28) Tenant Rent Dispute; six (6) Harassment; eight (8) Diminished Services; and two (2) Legalization Timetable.

Breakdown of Pending Applications Not Requiring Adjudication by the Office of Administrative Trials and Hearings (OATH): There are fifty-three (53), ten (10) Administrative Appeal; one (1) Extension; Thirty (30) Removal; seven (7) Reconsideration; and five (5) Rent Adjustment. Staff will be working very hard to get buildings that are ready to be removed out of the Loft Board's jurisdiction.

Applications Requiring OATH Adjudication Not Yet Forwarded: There are only twelve (12) that Staff has not forwarded to OATH, two (2) of them are still in the answer period and ten (10) were incomplete/defective.

Applications Pending Adjudication at OATH: fifty-three (53) are non-coverage (Access, Protected Occupant etc.) and forty-five (45) are coverage applications.

Master Cases Returned from OATH: Staff has thirty (30): two (2) Abandonment; one (1) Unreasonable Interference; seven (7) Protected Occupant; nine (9) Rent Dispute; and eleven (11) Coverage.

Summary Cases Returned from OATH: Staff has thirty-seven (37): one (1) Access Application; two (2) Protected Occupant; four (4) Tenant Rent Dispute; one (1) Harassment; one (1) Diminished Services; one (1) Legalization Timetable; and twenty-seven (27) Coverage.

Ms. Balsam reported that we have twenty (20) cases that are in litigation, including Article 78's.

In terms of enforcement proceedings: Staff issued twenty-four (24) violations for Failure to File Monthly Reports; twenty (20) Failure to Renew Annual Registrations; and seven (7) Housing Maintenance violations.

In terms of administrative matters, there were eighty-one Narrative Statement certifications: eight (8) initial; sixty-seven (67) amended; and six (6) partial. The partial certifications are for work that involves heat and public safety issues.

There were two-hundred and twenty-five (225) requests for Letters of No Objection (LONO). A LONO is something a landlord must get for work that is in non-IMD units. Two-hundred and four (204) were granted; thirteen (13) were denied; three (3) were rejected as incomplete; and five (5) were rejected because the subject buildings were not IMD's and not under the Loft Board's jurisdiction.

Conferences: Staff held twenty-six (26) narrative statement conferences; one (1) settlement conference; and other meetings that were very important, such as a meeting with a member of the Oakland Fire Safety Task Force, a meeting with tenants and owners for the Glasserie restaurant in Brooklyn where the restaurant was illegally using the courtyard as an event space, a meeting with tenant advocacy groups and politicians to discuss various Loft Law issues, and meetings with owners and Department of Building staff members to discuss legalization issues for specific buildings.

In terms of revenue, Staff collected an unofficial figure of one million, seven-hundred and eighty-four thousand, five-hundred and seventy-four dollars (\$1,784,574).

Freedom of Information Law (FOIL) Requests: there were three-hundred and sixty-four (364) FOIL requests processed.

Ms. Balsam also reported that Staff has been told by the Mayor's Office of Appointments that they are looking at candidates to fill the Board's vacancies.

Ms. Balsam reiterated a statement that was made by the former Executive Director of the Loft Board in March of 2016, concerning the use of Modine gas heaters or similar gas fired direct venting systems that are used for commercial purposes. These are the large heaters that hang from the ceilings, and we know that some of the IMD units have them. **Ms. Balsam** reminded everyone that these heaters should not be in sleeping areas and should not be in enclosed areas. The March 2016 notice, which Staff is going to re-send to owners, says you should install a hard-wired carbon monoxide detector on the Modine heater, if in fact you cannot get rid of the Modine heater altogether. **Ms. Balsam** urges Tenants to please call Staff if they have these big heaters and do not have a carbon monoxide detector.

In terms of litigation, **Ms. Balsam** reported that a couple of cases have come in. One was a mandamus for the Building 99 Sutton Street, Brooklyn, New York, which is the building that was not removed last year. We have a pending administrative determination as to whether or not they filed valid sales records. The mandamus is asking us to decide that issue. The second case does not name the Loft Board but concerns the Loft Law. Two tenants in a Brooklyn building brought an action in Supreme Court asking the court to find them covered under the Loft Law and to have the Department of Buildings indicate in its computer system that the building is covered, under the theory that the Statute of Limitations in the Loft Law only applies to Loft Board processes.

Mr. Carver asked whether the pipeline of master cases that come back from OATH, right now it is at thirty (30), is that number fairly constant in terms of new things coming back and cases moving forward. **Ms. Martha Cruz, Esq., Deputy General Counsel** replied that it is fairly constant. **Ms. Balsam** stated that Staff should be able to do better, because we now have a full staff. **Mr. Carver** guesses that the lag here at the Loft Board when the case comes back has to do with cases being more complex than others, more research needing to be done on some as opposed to others.

Mr. DeLaney commented that on the Modine heater issue, during the two-week period that we had here in New York City from a few days before Christmas to the end of the first week in January, when the temperature did not go above freezing, did Staff log a lot of heat complaints? **Ms. Balsam** replied that we had a certain number of heat complaints; some of them had actually started prior to that cold spell, but she isn't sure of the exact numbers. **Ms. Balsam** did mention that most of the landlords had taken care of the issue, by at least giving temporary heat if they couldn't give gas heat. **Mr. DeLaney** asked if it would be too much work for the Staff to quantify that number. **Ms. Balsam** replied that we will try.

Mr. DeLaney further commented that for the Modine heater issue, the problem is if a tenant reports a Modine heater, one of the ways that could backfire is that the gas gets shutoff to the unit. What **Mr. DeLaney** understands is that our heating inspector was doing phone work, rather than making visits. Is that still the policy? **Ms. Balsam** responded that he does do a lot of phone work, it depends on the nature of the complaint, but if we had a call from a tenant who says they have a Modine heater and doesn't have a carbon monoxide detector, we would call the owner to say put in a hard-wired carbon monoxide detector. **Ms. Balsam** doesn't know if we would necessarily refer that out. We might, depending on the situation. **Ms. Balsam** thinks our first line of attack and what is contemplated by the letter from 2016 was that the owner should be putting in the carbon monoxide detector. We do not want the gas shut off. **Mr. DeLaney** commented no obviously, and you don't want too much carbon monoxide flowing around either. **Mr. DeLaney** guesses that as last winter wasn't that cold, this issue kind of was not in the forefront of our consciousness. There is also a question as to whether a hard-wired carbon monoxide detection unit actually exists and can be installed. **Ms. Balsam** does not know, but we can certainly inquire. She assumed it had been researched before the March 2016 letter was sent out.

Mr. Roche responded that there are absolutely hard-wired carbon monoxide detectors available. **Mr. Roche** thinks, to say wire them in, he doesn't know if you are actually wiring it into the same electrical wiring that may exist within the heater. The intent is you are hard-wiring it somewhere in that locale so if that heater is producing carbon monoxide at an unacceptable level, the carbon monoxide detector will activate. **Mr. Roche** doesn't know if he necessarily envisions or have the public believe that somebody is actually wiring the detector into the heater itself.

Mr. DeLaney further commented obviously hard-wiring something into a unit is really the responsibility of the landlord, but if the landlord isn't so inclined, would the tenant at least installing a battery operated carbon monoxide detector be better than nothing? **Mr. Roche** responded absolutely. A battery operated device installed in the appropriate location is certainly preferred and would certainly be much preferred to having nothing. **Chairman Hylton** added that it may not be what is legally required. **Mr. Roche** says the idea is to get protection as rapidly as possible, and not to sit back and get involved with possible weeks or months' worth of litigation over whether the owner is going to pay for a hard-wired detector or will the tenant pay for it. It only takes one night for that detector to malfunction and it could cost a life. Get something in there and litigate it out with a twelve dollar and fifty cent (\$12.50) battery operated detector in place with the idea that we are going to try and encourage and legally enforce the fact that the owner should have installed a hard-wired detector. **Chairperson Hylton** stated life is more important. **Mr. Roche** agreed.

Mr. DeLaney noted that some other statistics following the format that he shared with Staff a couple months ago, that he would like to see developed, but he will convey that in a message to Ms. Balsam.

VOTE ON SUMMARY CALENDAR CASES

Chairperson Hylton removed case number four on the agenda, Zachary Sullivan, Rebeca Pontes Teixeira and Badu Lennox, 216 Plymouth Street, Brooklyn, TR-1205, so that it could be voted on separately.

Chairperson Hylton presented the below summary calendar cases for vote by the Board:

1.	Amicus Associates LLP	83 Canal Street, Manhattan	LS-0236
2.	Rene Smith and David Senior	449-465 Troutman Street, Brooklyn	PO-0039
3.	Judith Shea and Ricardo Vasquez	124 Chambers Street, Manhattan	PO-0066
5.	Bryan R. Gregg	226 Franklin Street, Brooklyn	TR-1323
6.	Xiu Qiong Tam Ma	106 Canal Street, Manhattan	TR-1338
7.	Gina M. Berger	149 Canal Street, Manhattan	TR-1347
8.	Constance Du Bois	136-140 Jackson Street, Brooklyn	TR-1349

Motion: Mr. Barowitz moved to accept the proposed orders. Mr. Carver seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7).

VOTE ON MASTER CALENDAR CASES

Ms. Cynthia Leveille, Esq., Assistant General Counsel, presented the below case for vote by the Board:

4.	Zachary Sullivan, Rebeca Pontes Teixeira and Badu Lennox	216 Plymouth Street, Brooklyn	TR-1205
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Motion: Mr. Barowitz moved to accept the proposed order. Mr. Hernandez seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7).

Mr. Michael M. Bobick, Esq., Assistant General Counsel, presented the below master calendar case for vote by the Board:

9.	Ben Godward and James Pyle	238 Melrose Street, Brooklyn	TR-1194
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Mr. DeLaney expressed his concern that this application by the two tenants on two different floors of this building was originally filed in March of 2014. The stipulation which was going to allow them to live there until 2020 was entered into on August 10, 2015. But somehow, on July 21, 2015, a little less than a month before the stipulation, the landlord managed to get a certificate of occupancy for this building which shows the third floor as being residential and the language on the certificate of occupancy says residential loft, no change; fourth floor says residential loft, no change. It is not clear to **Mr. DeLaney**, how the certificate of occupancy was generated. In particular, this building seems to have been able to sail through even though there was a coverage application pending without any oversight by the Loft Board, without any narrative statement conference, and something about this strikes him as questionable as to how the certificate of occupancy was obtained. **Chairperson Hylton** asked if the Building was covered under the Loft Board's jurisdiction at the time the certificate of occupancy was issued. **Mr. DeLaney** responded it was not, there was an application pending. **Chairperson Hylton** commented that he doesn't know the intention of the applicant, but the word "loft" does not necessarily mean IMD. It could be a generic reference to a loft building. **Chairperson Hylton** asked Mr. DeLaney what his particular concern was about why the certificate of occupancy was issued. **Mr. DeLaney** responded that it strikes him as unusual as to how this took place.

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

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7).

Chairperson Hylton presented the below removal calendar case for vote by the Board:

10.	57 Jay Street, LLC	57 Jay Street, Brooklyn	LE-0683
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Motion: Mr. Hernandez moved to accept the proposed order. Mr. Carver seconded the motion.

Members Concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Hernandez, Mr. DeLaney, Mr. Schachter, Chairperson Hylton (7).

Chairperson Hylton concluded the January 18, 2018 Loft Board public meeting at 2:47 pm and thanked everyone for attending. The Loft Board's next public meeting will be held at 22 Reade Street, first floor, on February 15, 2018 at 2:00p.m.
