

MINUTES OF PUBLIC MEETING  
New York City Loft Board Public Meeting  
Held at 280 Broadway, Third Floor Conference Room

November 15, 2018

**The meeting began at: 2:00 pm**

**Attendees:** Robert Carver, Esq., Owners' Representative; Elliott Barowitz, Public Member; Richard Roche, Fire Department *ex officio*; Daniel E. Schachter, Esq., Charles DeLaney, Tenants' Representative; Julie Torres-Moskovitz, Public Member; Heather Roslund, Public Member; Renaldo Hylton, Chairperson Designee; and Helaine Balsam, Loft Board, Executive Director.

**INTRODUCTION:**

**Chairperson Hylton** welcomed those present to the November 15, 2018, public meeting of the New York City Loft Board. He then briefly summarized Section 282 of the New York State Multiple Dwelling Law, which establishes the New York City Loft Board; and described the general operation of the Board as consistent with Article 7-C of the New York State Multiple Dwelling Law.

He then introduced new Public Member of the Board, **Heather Roslund**.

**Vote to approve September 27, 2018, Meeting Minutes**

**Mr. Hylton** asked if there were any corrections or comments on the minutes.

**Mr. Carver** noted two corrections to his statements. On page 3, change "most *valuable*" to "most *viable*;" on page 21, "as your legal staff" to "and your legal staff."

**Mr. Hylton** asked if there were any additional corrections to the minutes (none); then for a motion to accept the minutes.

**Mr. Carver** moved to accept the September 27, 2018, meeting minutes; **Ms. Torres-Moskovitz** seconded.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Torres, Chairperson Hylton

**Members dissenting:** 0

**Members abstaining:** Mr. Schachter, Ms. Roslund

**Members absent:** Mr. Hernandez

**Members recused:** 0

**Vote to approve the October 11, 2018, Meeting Minutes**

**Mr. Hylton** asked if there were any corrections or comments on the minutes.

**Mr. Carver** noted a correction to his statement on page 9, "...the *rent* itself" to "the *reg* itself."

**Mr. Hylton** asked if there were any additional corrections to the minutes (none); then for a motion to accept the minutes.

**Mr. Carver** moved to accept the October 11, 2018, meeting minutes; **Mr. Barowitz** seconded.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Torres, Chairperson Hylton

**Members dissenting:** 0

**Members abstaining:** Mr. Schachter, Ms. Roslund

**Members absent:** Mr. Hernandez

**Members recused:** 0

**Executive Director's Report**

**Ms. Balsam:** Thank you. The unofficial amount of revenue the Loft Board collected in October was \$58,874. As of October 31<sup>st</sup>, 325 buildings have renewed their registration. I've given the Board members a breakdown of the milestone statistics, and I would like to thank our auditor, Stan Pollack, for helping to prepare that.

Last month I reported a decision by the Appellate Division, First Department, in a case called *Matter of Lerner versus the New York City Loft Board*. Without reviewing all the details of the case again, I just want to let the Board know that Mr. Lerner and Ms. Nydick have filed a motion to reargue **or** to appeal to the Court of Appeals. We don't know whether or not that will be granted, but we will keep you posted.

We received a new case: *Sharpe, et.al versus 517-525 West 45<sup>th</sup> Street, et. al*. Some of these tenants at the building located at 517 West 45<sup>th</sup> Street brought an action in Housing Court against the owner, the owner's principals, the Loft Board, and HPD. The action alleges that the owner diminished services by changing the locks of the lobby doors to electronic locks. They want locks with mechanical keys. It's a very interesting case. They're saying that the electronic system has GPS tracking, and that it's an invasion of privacy. So it will be interesting to see where it goes.

Another new case that came in is an Order to Show Cause and Petition, captioned *Nazor and Mickle versus New York City Loft Board and Sidney Sol Group Ltd*. This is based on a denial of reconsideration application that was voted on last month. Now the tenants have commenced court proceedings, alleging that the record supports their position that three families resided in the building during the Window Period. They also state that they recently uncovered evidence, not previously available, showing that the owner lied when he testified that he did not reside in the building.

**Mr. Hylton:** Are there any questions for Ms. Balsam?

**Mr. DeLaney:** With regard to *Sharpe*...These are both Article 78?

**Ms. Balsam:** No. *Sharpe* is in Housing Court

**Mr. DeLaney** asked for copies of both cases. **Ms. Balsam** will send.

**Mr. DeLaney:** There are a couple of topics I'd like to take up, relative to what's been covered so far. Number one, in celebration of having a new member, I've discussed with the Chair, the Executive Director, and some others, that it might be a good time to consider organizing an opportunity for Board members to visit some lofts, so that they gain some familiarity with the issues at hand; obviously, with the consideration that we would avoid any buildings where there's a pending case before the Board. So I would like to make a motion making that request.

**Mr. Hylton** asked for a motion and a second.

**Mr. DeLaney** moved to request that the Board arrange to tour some loft buildings; **Mr. Carver** seconded, and continued...

**Mr. Carver:** I think it's a great idea, but I want to be sure the staff agrees.

**Mr. Hylton:** Yes, we agree that it would be a good opportunity (for the Board), including myself, to see what a loft is, so as these terms come up, we all have a better understanding. So yes, we thought it was a good idea.

**Ms. Balsam:** As long as we vet the addresses in advance.

**Mr. Hylton:** And this would also be a meeting of the Board.

**Mr. Barowitz:** With no pending cases?

**Ms. Balsam:** We cannot visit lofts where there are pending cases.

**Mr. DeLaney:** Yes, the New York City Loft Tenants has kindly agreed to compile a list of possible spaces to visit, which would then be vetted by the staff to make sure there are no pending cases.

**Mr. Roche:** Mr. Chairman, this is going to happen on the same day as the meeting, or are we going to have an alternative meeting?

**Mr. Hylton:** An alternative meeting; solely for that purpose.

**Ms. Torres-Moskovitz:** I have a question. I know Richard has brought up a few times the idea of talking to lawyers on both sides about lofts. When we visit the lofts, who are we talking to?

**Mr. Hylton:** We're not talking to anyone. That would be a different issue. This is just for familiarity with buildings.

**Ms. Torres-Moskovitz:** Who would be guiding the tour?

**Ms. Balsam:** We'll work that out.

**Mr. Hylton:** Yes, we'll work it out. This isn't going to happen tomorrow; it'll be in the new year. We'll email everyone the information, and there will be a meeting beforehand, where it will be announced. So, if there are no more comments or questions we'll take a vote.

**Vote to approve the arrangement of a tour of lofts by Board members.**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Torres, Mr. Schachter, Ms. Roslund, Chairperson Hylton

**Members dissenting:** 0

**Members abstaining:** 0

**Members absent:** Mr. Hernandez

**Members recused:** 0

**Mr. DeLaney:** I'd like to discuss one other topic, and make a motion. Again, after discussion with Chairman Hylton and Executive Director Balsam....It's been pointed out by several people that the Board is wrestling with the issue of primary residence as it affects coverage cases and protected occupancy cases, now that those are two separate things. I'm still not quite sure how that happened, but it did. It is my conviction, which is also shared by others, that some kind of input on this topic would be helpful prior to the publication of a proposed rule, because it is such a dense and complicated topic. So I am making a motion that we invite to a meeting of the Loft Board two practitioners representing tenants and two practitioners representing owners to make individual presentations to the Loft Board, with additional time for questions and discussion. If Board members feel that three would be a better number, that's fine, but I suggest at least two different practitioners from each side. If we ask them to prepare remarks that last fifteen to twenty-minutes, with another ten minutes for discussion, that would be a couple of hours at most. That's my motion.

**Mr. DeLaney's motion:** To invite practitioners representing tenants and owners to address the Board on the issue of primary residence as it affects coverage cases and protected occupancy cases. **Ms. Torres-Moskovitz** seconded.

**Mr. Hylton:** I do support this, but it has to be limited. Mr. DeLaney mentioned two or three (for each side), but I think three is too much. I would also propose no more than a fifteen-minute presentation.

**Mr. Carver** (to Mr. DeLaney): I wasn't clear on what the issue was, specifically, that you wanted to hear about.

**Mr. DeLaney:** The question of how protected occupancy is determined and the advisability of applying tests to primary residency as a precondition to protected occupancy.

**Mr. Carver:** In the past few meetings I was thinking about protected occupancy as one big topic and primary residency as a second. Primary residency is clearly one topic. But protected occupancy has all these different elements that we were arguing about. Were you anticipating testimony on those issues also?

**Mr. DeLaney:** I would think it would be appropriate to ask the attorneys to comment on the various topics contained in our current proposal.

**Mr. Carver:** That's a lot.

**Mr. Hylton:** It will be a full meeting. If we have each attorney do fifteen minutes, that's an hour.

**Mr. Roche:** Do you want to try to accomplish it all in one meeting? Maybe it should be two?

**Mr. Hylton:** I don't expect this to resolve all our differences. I think it will educate the Board members; help them make their decisions. What Mr. DeLaney and I have agreed on is that it's an opportunity to educate the members. It's not that we're going to follow that meeting with rule-making. It's just a time to learn and ask questions.

**Mr. Barowitz** (to Mr. DeLaney): Who will pick the speakers?

**Mr. DeLaney:** I would love to pick all four, but I think that would be selfish, so I will make some recommendations to the staff, to the Chair.

**Mr. Hylton:** We would rely on (suggestions from) the Board members. Obviously, Mr. Carver would...

**Mr. Roche:** Robert, I think your point is that fifteen minutes won't be enough for an attorney to address all the issues at hand, is that correct?

**Mr. Carver:** No. I'm not sure where all this commentary is going to go. I can see having both sides talk about protected occupancy, but I don't understand why primary residency is a topic at all. My understanding is that it's stated in the Loft Law, itself. The requirement for residency is in the law, so what are we talking about? Why is that a topic of conversation?

**Ms. Balsam:** I can address that.

**Mr. Carver:** Please.

**Ms. Balsam:** It's because we want to change the rule, to make it more explicit, and there's opposition to that. The rule could stay exactly as it is now, but if we're going to change it, people want to hear about that issue. My position, as I've stated many times, is that I agree with you; but there are others on the Board that don't, and I don't get to decide.

**Mr. Carver:** But if it's not a legally viable argument that's being made, why are we opening the door...?

**Mr. Hylton:** Freedom of speech. Let people discuss it. Even the law is subject to interpretation.

**Mr. Carver:** But if the law is settled on this issue....

**Ms. Balsam:** I think the argument is that it's *not* settled on this issue. Our current rule doesn't say that primary residence is required under (b)(1). It only talks about it in (b)(4), and one of the changes we want to make is to level that playing field. So, I understand your point, but I think if people would like input on it so they can vote intelligently, then I think we should at least entertain the discussion.

**Mr. Barwotiz** (to Mr. DeLaney): Are you thinking two meetings?

**Mr. Hylton:** This is my decision. One meeting.

**Mr. Barwotiz:** Fifteen minutes for lawyers to discuss both topics....

**Mr. Hylton:** If they choose to.

**Ms. Torres-Moskovitz:** It would be nice to have a moderator, to be sure everyone stayed on topic...

**Mr. Hylton:** That's me. We have to do this orderly. This is a great opportunity. Normally, this would be done through the rulemaking process. But the decisions the Board has to make regarding these issues are important enough to warrant this kind of education from both sides. I will be strict with it, I promise you. And the Board will have leeway to ask these experts questions, and then form their own opinions.

**Mr. Hylton** then asked if there were any further comments (none), and the vote was taken.

**Vote to approve the invitation of practitioners representing tenants and owners to address the Board on the issue of primary residence as it affects coverage cases and protected occupancy cases**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Torres, Mr. Schachter, Ms. Roslund, Chairperson Hylton

**Members dissenting:** 0

**Members abstaining:** 0

**Members absent:** Mr. Hernandez

**Members recused:** 0

**Mr. Hylton:** We have consensus on both cases. That's great. I really appreciate it.

**Vote on Cases**—Appeal and Reconsideration Calendar

|   | <b>Applicant(s)</b> | <b>Address</b>             | <b>Docket No.</b> |
|---|---------------------|----------------------------|-------------------|
| 1 | James Gubelmann     | 442 Broadway, Manhattan    | R-0358            |
| 2 | Frank Hughes        | 401 Wythe Street, Brooklyn | R-0362            |

**My Hylton:** Mr. Clarke will present this case.

**Mr. Hylton** thanked Mr. Clarke and asked for a motion to accept the case, and for a second.

**Mr. Carver** moved to accept; **Mr. Schachter** seconded.

**Mr. Hylton** asked if there was any discussion.

**Mr. DeLaney:** I'm going to vote no on this case. I voted no on the underlying case. I believe that the Board, relying on its rule that says the unit cannot qualify, though it was residentially used during the Window Period, it is *ultra vires* and goes against the remedial intention of the Loft Law.

**Mr. Hylton** then asked if there were any further comments (none), and the vote was taken.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Schachter, Ms. Roslund, Chairperson Hylton

**Members dissenting:** Mr. DeLaney, Ms. Torres

**Members abstaining:**

**Members absent:** Mr. Hernandez

**Members recused:** 0

**Next Case:**

|   | <b>Applicant(s)</b> | <b>Address</b>             | <b>Docket No.</b> |
|---|---------------------|----------------------------|-------------------|
| 1 | James Gubelmann     | 442 Broadway, Manhattan    | R-0358            |
| 2 | Frank Hughes        | 401 Wythe Street, Brooklyn | R-0362            |

**Mr. Hylton:** **Mr. Bobick** will present this case.

**Mr. Hylton** thanked **Mr. Bobick** and asked for a motion to accept the case, and for a second.

**Mr. Carver** moved to accept; **Mr. Barowitz** seconded.

**Mr. Hylton** asked if there was any discussion.

**Mr. DeLaney:** Yes. We discussed this case at last month's meeting, and to summarize, the case that was before us, captioned *Saladino*, from which this rises, had multiple issues. I think when you take those away, and you look at the question of Mr. Hughes, in my opinion, the interpretation presented here is incorrect. I find the argument presented by the tenant to be persuasive, and I plan to vote no.

**Mr. Hylton** then asked if there were any further comments (none), and the vote was taken.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. Schachter, Chairperson Hylton

**Members dissenting:** Mr. DeLaney, Ms. Torres

**Members abstaining:** Ms. Roslund

**Members absent:** Mr. Hernandez

**Members recused:** 0

**Summary Calendar:**

|   | <b>Applicant(s)</b>                | <b>Address</b>                             | <b>Docket No.</b>    |
|---|------------------------------------|--------------------------------------------|----------------------|
| 3 | Antoni Ghosh                       | 43-49 Bleecker Street, Manhattan           | PO- 0071 and TR-1361 |
| 4 | 73 Leonard Street Tenants          | 73 Leonard Street, Manhattan               | TH-0213              |
| 5 | Ben Godward and James Pyle         | 238 Melrose Street, Brooklyn               | TR-1194              |
| 6 | Man Kuen Gong and Celia Gong       | 241-249 Centre Street, Manhattan           | TR-1283              |
| 7 | Ali Emami                          | 113 North 6 <sup>th</sup> Street, Brooklyn | TR-1311              |
| 8 | Alan Swiderski and Khadija Mkhitar | 103 Van Cortlandt Avenue West, Bronx       | TR-1315              |

**Mr. Hylton:** There are six cases on the Summary Calendar, and they are usually voted on as a group. But case number 3 is being tabled, and we will be voting separately on cases number 5 and 6. So the cases we'll be voting together are numbers 4, 7, and 8.

**Mr. Hylton** asked for a motion to accept case 4, 7, and 8, and for a second.

**Mr. Carver** moved to accept; **Mr. Schachter** seconded.

**Mr. Hylton** asked if there was any discussion (none), and the vote was taken.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Torres, Mr. Schachter, Ms. Roslund, Chairperson Hylton

**Members dissenting:** 0

**Members abstaining:** 0            **Members recused:** 0

**Members absent:** Mr. Hernandez



Next cases:

|   | <b>Applicant(s)</b>                | <b>Address</b>                             | <b>Docket No.</b>    |
|---|------------------------------------|--------------------------------------------|----------------------|
| 3 | Antoni Ghosh                       | 43-49 Bleecker Street, Manhattan           | PO- 0071 and TR-1361 |
| 4 | 73 Leonard Street Tenants          | 73 Leonard Street, Manhattan               | TH-0213              |
| 5 | Ben Godward and James Pyle         | 238 Melrose Street, Brooklyn               | TR-1194              |
| 6 | Man Kuen Gong and Celia Gong       | 241-249 Centre Street, Manhattan           | TR-1283              |
| 7 | Ali Emami                          | 113 North 6 <sup>th</sup> Street, Brooklyn | TR-1311              |
| 8 | Alan Swiderski and Khadija Mkhitar | 103 Van Cortlandt Avenue West, Bronx       | TR-1315              |

**Mr. Hylton** asked for a motion to accept case 5 and 6, and for a second.

**Mr. Barowitz** moved to accept; **Mr. Carver** seconded.

**Mr. Hylton** asked if there were any comments.

**Ms. Torres-Moskovitz:** Yes. I asked to separate 5 and 6 as a means to track....We were talking about education earlier, and that’s great. The more educated we are, the better decisions we can make – so these two cases, 5 and 6, from what I know, I can see that it results in the tenants and the landlord making a deal that goes against public policy. So that negotiation couldn’t be upheld, because – and tell me if I have this wrong – they were not going to go for Loft Law, but the landlord and tenant agreed that the tenant could keep living there, residentially, even though it’s a building without the proper C of O. I don’t know all the details there, but I just want to tag it as a trend I don’t like seeing – a landlord and a tenant negotiating something that’s against public policy, and that results in tenants needing to leave the premises.

**Mr. Hylton:** Thank you, Ms. Torres. Are there any other comments on these two cases?

**Mr. DeLaney:** Yes. I would just add that I had a little educational experience of my own in private meeting. I think we go down a slippery slope, when we start to allow settlement stipulation discussions that sometimes border on things that we neither accept nor reject, or as in these two cases -- one of which, I think, was the subject of a reconsideration application as well – landlords and tenants agreeing to allow the tenants to stay on for a long period of time, and discontinuing the Loft Law coverage claim. Whether the tenants would have succeeded in their coverage claim or not, I don’t know; but, in this instance, the result is that the Loft Board ended up being completely powerless, and they ended up getting exactly what they wanted. We kept sending things back and saying it’s contrary to public policy, and I think we make the mistake of allowing these kinds of discussions. I think the OATH judges should have much more specific guidelines as to what kind of deals can be struck. In my mind, you apply for Loft Law coverage, and that coverage should be determined up or down.

**Mr. Carver:** In the cases here, which are on the calendar, the agreements that we didn’t accept as violations of policy, was that in the past? That’s not actually pending now, is it? OK, so I don’t really understand what this whole discussion is about. But I’m all set to vote.

**Mr. Barowitz:** The stipulations are a little puzzling to me, because I don’t have all the evidence about why and when these incidents occurred. I will vote yes on this. I don’t know quite how to say this. We’re here

representing the city of New York. The citizens of New York also represent the city of New York. I would dare say that loft residents are not people who are totally unaware of what's going on, particularly if they are living in a loft in the city. So in that instance I am going to vote yes. **Mr. Hylton:** Thank you. I would just like to comment on something Mr. DeLaney said, that they may be making deals that they're forced to take; that somebody gets their way. I'm not sure if this is something we can be completely aware of, in terms of who's getting the upper hand. We're not privy to these agreements.

**Mr. DeLaney:** Well, I guess my response to that would be, I think we know who's getting the short hand – and that's us; because people are basically saying, the heck with you; we're going to cut our own deal. OATH sends something to us; we send it back; and they get to live happily ever after, until their deal expires. Now their deal's expired. The attorneys in both cases have agreed that the tenants vacated the premises. So we're the loser, and we're the chump, in my opinion.

**Mr. Hylton:** When you put it that way, yes. Are there any other questions or comments?

**Mr. Schachter:** In terms of us being the chumps -- which is an occupational hazard of our role, I suppose – it seems to me that, at the end of the day, if the focus is on tenants living in spaces, then focusing on the legalization of those spaces is our primary responsibility. If tenants choose to leave -- I don't think that that, by definition, makes us "chumps." I think our focus and resources should be concentrated on the tenants who want to live in their spaces. So, I don't think that these kinds of cases necessarily represent humiliating defeats for the Loft Board.

**Mr. Hylton** asked if there was any discussion (none), and the vote was taken.

**The vote:**

Members concurring: Mr. Carver, Mr. Barowitz, Mr. Roche, Ms. Torres, Mr. Schachter, Chairperson Hylton

Members dissenting: Mr. DeLaney, Ms. Roslund

Members abstaining: 0

Members absent: Mr. Hernandez

Members recused: 0

**The Master Calendar:**

**Mr. Hylton** noted that following two cases (12 and 18) have been withdrawn from the agenda.

|    | <b>Applicant(s)</b>      | <b>Address</b>              | <b>Docket No.</b> |
|----|--------------------------|-----------------------------|-------------------|
| 12 | 138 Emmut Properties LLC | 134-136 Bowery, Manhattan   | FO-0792           |
| 18 | Northside Lofts, LLC     | 239 Banker Street, Brooklyn | FO-0800           |

**Next cases:**

|    | <b>Applicant(s)</b>                     | <b>Address</b>                  | <b>Docket No.</b> |
|----|-----------------------------------------|---------------------------------|-------------------|
| 9  | Matera, Peter                           | 187 Duane Street, Manhattan     | FO-0786           |
| 10 | Camilla Shah, President of Condo Assoc. | 354 Bowery, Manhattan           | FO-0788           |
| 11 | Haimil Realty Corp.                     | 209 East 2 Street, Manhattan    | FO-0789           |
| 13 | Bridge Associates of Soho, Inc.         | 533 Greenwich Street, Manhattan | FO-0793           |
| 14 | 264 Bowery, LLC                         | 264 Bowery, Manhattan           | FO-0794           |
| 15 | 40 Dover LLC                            | 34-40 Dover Street, Manhattan   | FO-0796           |
| 16 | Chazon, LLC                             | 280 Nevins Street, Brooklyn     | FO-0798           |
| 17 | Thames St. Lofts and Thames Holding LLC | 13-15 Thames Street, Brooklyn   | FO-0799           |
| 19 | 657-665 5 <sup>th</sup> Avenue, LLC     | 657-665 Fifth Avenue, Brooklyn  | FO-0802           |
| 20 | Gold Tillary Realty LLC                 | 170 Tillary Street, Brooklyn    | FO-0804           |

**Mr. Hylton** asked for a motion to accept these cases, and for a second.

**Mr. DeLaney** moved to accept; **Mr. Schachter** seconded.

**Mr. Hylton** asked if there were any comments.

**Ms. Torres-Moskovitz:** I have one quick point. We were given the milestone status for each of these projects. I like the idea of that always being included. So when we hear the address of a case, we also know what the milestone status is.

**Mr. Hylton:** Included in the case, itself? On the calendar? Or on the agenda?

**Ms. Torres-Moskovitz:** Or maybe we read it out loud. I just think the public should know milestone status.

**Ms. Torres-Moskovitz** moved to add a column (to the calendar?), noting the milestone status.

**Ms. Balsam:** I don't know that it belongs on the agenda. We could certainly communicate that information to the Board, and have it available as a handout for the public...

**Ms. Torres-Moskovitz:** OK, that sounds good.

**Mr. Hylton:** Ok, then. We don't need a motion. We'll just do that.

**Mr. Hylton** then asked if there was any further comment on the cases.

**Mr. DeLaney:** With the couple taken off, I can't come up with the exact number of cases here, but of the failure-of-owner-to-register cases, we're levying fines in each case, somewhere between \$5000 on the low end and \$17,500 on the high end, for the more egregious offenders. But I would like to point out case number 9, in particular -- Peter Matera, 187 Duane Street -- who has not registered with the Loft Board since the fiscal year that ended in June, 2014. That's four years of not having registered. Registration is important, because that is the only way we know for sure who the contact person is and who the owner is. I've also learned -- and this is in line with Ms. Moskowitz's request -- that this owner has done nothing in this building since 1982. We're also fining Bridge Associates of Soho, owner of 533 Greenwich Street, \$17,000, as they've not

registered this building since June, 2007. That’s eleven years. And 13-15 Thames Street, also being fined \$17,500, has not registered since June, 2012. We’ve had some reports/ presentations by members of the Board’s staff over the past few months with regard to ideas about how we can improve our enforcement. But I think these three buildings and owners highlight what is completely unacceptable behavior, and I urge us to try to find a way to get these owners to register their buildings, or find a way to impose.....Because clearly, Mr. Matera, for example -- \$17,500 four years in a row – fine. I don’t care. I haven’t done anything. I think it would be nice to have (this information) on the agenda, because in a way, it’s our score card for these buildings in the code-compliance process. Corporate America talks about dashboards. That’s our dashboard, and we’ve got some people who seem to think there’s no reason to deal with us at all.

**Ms. Balsam:** Obviously, we agree, which is why we came up with the enforcement plan. And over the hiatus, in December and January, we are going to start implementing it. And we’ll certainly consider starting with these people. I will say, though, that Bridge Associates is in bankruptcy, so we’re extremely limited as to what we can do.

**Mr. Hylton** asked if there were any further comments (none), and the vote was taken.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Torres, Mr. Schachter, Chairperson Hylton

**Members dissenting: 0**

**Members abstaining:** Ms. Roslund

**Members absent:** Mr. Hernandez

**Members recused: 0**

**Next case:**

|    | <b>Applicant(s)</b>            | <b>Address</b>            | <b>Docket No.</b>   |
|----|--------------------------------|---------------------------|---------------------|
| 21 | Neil Redding and Kylin O’Brien | 39 Pearl Street, Brooklyn | TA-0196 and TR-1092 |

**Ms. Balsam** presented the case.

**Mr. Hylton** thanked Ms. Balsam and asked for a motion to accept the case, and for a second.

**Mr. Barowitz** moved to accept; **Mr.Schachter** seconded.

**Mr. Hylton** asked if there were any comments (none), and the vote was taken.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Torres, Mr. Schachter, Ms. Roslund Chairperson Hylton

**Members dissenting: 0**

**Members abstaining: 0**

**Members absent:** Mr. Hernandez

**Members recused: 0**

**Last case:**

|    | <b>Applicant(s)</b>            | <b>Address</b>                 | <b>Docket No.</b> |
|----|--------------------------------|--------------------------------|-------------------|
| 22 | Laure Sullivan and Paul Wilson | 235-241 Berry Street, Brooklyn | TA-0204           |

**Mr. Bobick** presented the case.

**Mr. Hylton** thanked **Mr. Bobick** and asked for a motion to accept the case, and for a second.

**Mr. Barowitz** moved to accept; **Mr. Schachter** seconded.

**Mr. Hylton** asked if there were any comments.

**Mr. DeLaney:** Yes. I think between this case and the one just before, we have an encyclopedia of the kind of chicanery that can go on in real estate deals, particularly on the part of owners. The tenants in this case, Ms. Sullivan and Mr. Wilson, argue that the rent for their unit should be \$2382, because that's the amount of the last check they wrote directly to the landlord in 2007. After which, the landlord, for whatever reason, decided that he no longer wanted to deal with the tenants, and so said, from now on you pay the rent to this "Evans," who apparently, by that time, was living in Maine and was just some kind of conduit. I think the arguments made by the tenants' attorney in the post-hearing memorandum were more persuasive, so I plan to vote no.

**Mr. Hylton** asked if there were any further comments.

**Mr. Carver:** I can't vote, because I believe one of the parties is a client of mine.

**The vote:**

**Members concurring:** Mr. Barowitz, Mr. Roche, Ms. Torres, Mr. Schachter, Chairperson Hylton

**Members dissenting:** Mr. DeLaney,

**Members abstaining:** Ms. Roslund

**Members absent:** Mr. Hernandez

**Members recused:** Mr. Carver

**Mr. Hylton:** This concludes the cases on our calendar. We're going to go into Loft Board rules, but before we do, I need a motion for the Board to go into Executive Session to discuss pending litigation. If the motion passes, we will have to ask the audience to excuse us for no more than five minutes. Then we'll come back for rule-making.

**Mr. Hylton** asked for a motion to commence an Executive Session to discuss pending litigation, and for a second.

**Mr. DeLaney** moved to commence an Executive Session; **Mr. Roche** seconded.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Torres, Mr. Schachter, Ms. Roslund, Chairperson Hylton

**Members dissenting:** 0

**Members abstaining:** 0

**Members absent:** Mr. Hernandez

**Members recused:** 0

The PUBLIC LEAVES during EXECUTIVE SESSION.

The PUBLIC RETURNS, and the PUBLIC SESSION OF THE BOARD MEETING RESUMES.

**Mr. Hylton:** Based on the facts presented in the Executive Session, is there a motion to support the Department of Buildings application to revoke the certificate of occupancy issued to 255 18 Street, Brooklyn?

**Mr. Roche** moved to support the revocation; **Mr. Schachter** seconded.

**Mr. Hylton** asked if there were any comments (none), and the vote was taken.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Ms. Torres, Mr. Schachter, Ms. Roslund, Chairperson Hylton

**Members dissenting:** 0

**Members abstaining:** 0

**Members absent:** Mr. Hernandez

**Members recused:** 0

**Mr. Hylton:** We will now commence with the discussion of Loft Board rules: Chapter One revisions and proposed changes to Chapter Two. And Ms. Balsam will lead that discussion.

**Ms. Balsam:** I think Ms. Torres-Moskovitz has some visuals she would like to distribute, to talk about the extension rule, which is where we would start.

**Ms. Torres-Moskovitz:** I wanted to have an image in front of us of how many months, according to law, are allocated for the milestones, and to review the definitions of the milestones. This is a draft that might need some corrections, but I thought having a visual of how the law reads now would help us make decisions.

In the rule-making, we're talking about extensions. The shortest bar is the baseline of our milestones, so if you start at the bottom left corner, you see when the milestone process actually starts -- "Early action IMD coverage." So for example, when the tenants submit an application; though, the way the rules read now -- and correct me if I'm wrong -- it's whichever is earlier.

**Ms. Balsam:** Yes, for now. That is the way it reads now.

**Ms. Torres-Moskovitz:** So that bottom 00 line means that -- say the tenants get together and submit for the Loft Law. It has to go to OATH to see that it's a legitimate case. But the timeclock has already started, with the submission of the tenant application. Next -- milestone one is nine months, milestone two is twelve months, milestone three is eighteen months, for a total of thirty-nine months. But there's a place in the rules where it says thirty months, max, is what they're allowed. Correct? (**Ms. Balsam** confirms). So even though there's milestone 1, 2, and 3, the thirty-month maximum trumps that, right?

**Ms. Balsam:** The discrepancy is that the twelve months subsumes the nine months. So it's an additional three months. You file an alteration application, and you have nine months from whatever is the starting date. And then, you have to pull the permit within twelve months of that *same* starting date.

**Mr. Carver:** So that second bar is way too high.

**Ms. Balsam:** Right.

**Ms. Roslund:** They should both start at zero.

**Ms. Balsam:** The second one should be three months higher than the first.

**Ms. Torres-Moskovitz:** Well, you're out of compliance if you're above the red-dashed, thirty months, correct?

**Ms. Balsam:** Yes.

**Ms. Torres-Moskovitz:** OK. I was just trying to map it out, visually. I couldn't think about all these rules without a graph. And in between, in the gray areas, what kind of benchmarks or timeline for milestone achievement is there -- that the Loft Board staff is following or that the landlords and tenants have to follow during that process? Another interesting point, which Ms. Balsam explained to me, people covered by the current, 2010 Loft Law have the three-percent increase?

**Ms. Balsam:** Yes, the milestone increases are three percent, three percent, and four percent. But earlier, milestones, it would be different -- six, eight, six ....

**Ms. Torres-Moskovitz:** But it's interesting to note that for reaching the first three milestones, there's a rent increase. So the landlord is incentivized to finish the process. But then the last milestone, number four, which is getting the certificate of occupancy? The third milestone is the temporary certificate of occupancy...

**Ms. Balsam:** It's actually 7B compliance. And one of the ways you can show 7B compliance is with a T C of O. The other way, is that there's a form that an architect can certify, seal, and file with the Loft Board.

**Ms. Torres-Moskovitz:** Which to me sounds...sketchy.

**Ms. Balsam:** I'm not an architect, so I can't say. But their reputation is on the line...To me, a T C of O would be better, but...

**Ms. Torres-Moskovitz:** So a temporary certificate of occupancy from the Building Department is one way. The other way is an architect's certification for the landlord -- stamping something that says 7B compliance. So that's one thing to point out. The next thing is there's just no renting increase with the final C of O; there are also two extensions, twelve months each, so another two years to sit between a temporary C of O and a final certificate of occupancy. Then after the certificate of occupancy, you move into rent regulation.

**Ms. Balsam:** Right. Removal and rent regulation.

**Ms. Torres-Moskovitz:** So I just wanted them all out there. Obviously, there's incentive for the first three; no incentive for the fourth. We're concerned about people in one, two, and three, but also, why not get everyone over the final hurdle, to the final C of O? Are these two twelve-month periods too much? Why are they not encouraged to get over that hurdle? So, I don't want to dictate the way we talk about this; I just wanted a visual. For me, this helps.

**Mr. Roche** asked if the charts could be emailed.

**Ms. Torres-Moskovitz:** Yes. The reason I printed so large was to really emphasize the amount of time. We were just talking about a project from 1983 that hasn't gone anywhere .... I just wanted to emphasize that every time we make a decision, we're stretching out our goal. Also, this second, longer chart, with the green and yellow on top -- it might also have some issues, but the concept is that the new landlord has ninety days to file. It's a hard reset on a building that, wherever it is in the process...

**Ms. Balsam:** A new owner, or a newly covered building, yes.

**Ms. Torres-Moskovitz:** So the green is doubling the purple. It adds to the time. A new landlord can get on track for these milestones, but it's on top of the time that's already been spent.



**Ms. Roslund** asked for clarification/ explanation of what happens when a new owner acquires a building during the legalization process. Is the clock automatically reset?

**Ms. Balsam:** They have to ask for an extension. They have to file a request for an extension. That's where this all came from. We have a rule that governs that, and we're trying to amend it. So they have to file a request for an extension within ninety days of the building changing hands, or of when it's covered. And then they have to demonstrate compliance with what are called the statutory standards, which are that they've made good faith efforts to comply and that the circumstances that lead to non-compliance are beyond their control. Obviously, if you're a new owner, you have no obligation to comply until you purchased the building, so that's more or less assumed. They have to make good faith efforts within those ninety days before they file to show that they are trying to legalize the building. And that application does not come to the Board; it comes to the Executive Director, and I would make an administrative determination. And if I don't grant it, and the owner is unhappy with that, he/she can appeal to the Board. That's the basic process.

**Mr. Carver:** We should point out that the statute, the law, allows for these extensions, and the law has no limits. These limits, in terms of the number of extensions, were imposed by rule, right?

**Ms. Balsam:** Yes. My understanding is that there were a lot of abuses of the extensions. Owners were allowed to apply for extensions without even notifying the tenants that they were allowed to apply. Then, in 2006, the Board said, no. And they limited the number of extensions, and the amount of time, etcetera. So we have a much stricter rule now. Is it good? Is it bad? I don't know. If someone is working diligently, and they really couldn't get to a certain point due to circumstances beyond their control, maybe they should be eligible to be granted more time. But right now, the rule says you get one (extension) per deadline.

**Ms. Cruz/ Ms. Balsam:** The statute does include the allowance that, after 7B compliance, the owner can be granted two, twelve-month extensions. That's the third milestone, 7B compliance. Once they reach that, the law says they can get two more extensions of twelve month each.

**Mr. Carver (to Ms. Torres-Moskovitz):** I would ask that before circulating this, you clean up the part that's wrong. Where the bar is too high, on that second one.

**Ms. Torres-Moskovitz:** Well, it's just for discussion. And another point is, how much time is allowed for an Alt 1? Is it only three months? Is that realistic?

**Ms. Balsam:** It's nine months for the filing of an Alt 1, from whatever the start date is. Then it's twelve months from the start date to pull the permit.

**Mr. Carver:** So if it takes you the whole nine months for the Alt 1, then you only have three months...

**Ms. Balsam/ Ms. Torres-Moskovitz:** ...to pull the permit.

**Ms. Torres-Moskovitz:** So I'm just putting that out there for discussion. How realistic is that? With the Department of Buildings...

**Ms. Balsam:** There are two issues, I think. It's not only the Department of Buildings, which works very hard and is very over-worked, but it's also the Narrative Statement process. If you have a small building, it's much easier, for the most part, to accomplish everything within those time frames. But now we have these very,

very large buildings. Is it unreasonable to think that you could complete the Narrative Statement process within three months, in a building with 100 units? Yes, that's unrealistic.

**Mr. Carver:** And we know we have wide-spread non-compliance, right?

**Ms. Balsam:** Yes.

**Mr. Carver:** Yes, that's a fact.

**Ms. Torres-Moskovitz:** So I just put that out there to open the discussion, and mark it. And I can correct that part, but I feel like there's more...it's just a working draft. The last one is the idea of granting these extensions....

**Ms. Balsam:** Are you talking about opening the application period to those who are out of compliance? Or....

**Ms. Torres-Moskovitz:** There was something about there being a certain date by which the Loft Board staff would allow a landlord back into the process...

**Ms. Balsam:** What the rule says now is that you have to apply for your extension before your time to comply with the milestone is done; so almost all owners are out of compliance at this point. So the idea was to open up that application period for a very limited amount of time, to give people who missed those deadlines a chance to at least try to prove that they're entitled to an extension. So, we'll let them file within thirty days of whenever the rule goes into effect. But that doesn't mean they're going to get an extension. Someone who hasn't done anything since 1983, I don't think would be granted an extension. They're not going to be able to demonstrate good faith efforts or that it was due to circumstances beyond their control. So the proposal is just to let them apply. Right now, they can't even apply. Then once they apply, we'll consider how much time they should get, assuming that we do grant the extension.

**Ms. Torres-Moskovitz:** That last chart was just a hypothetical case study of that gray area. There's the 1983 person, who's way out of control, but there are also all these people in the middle who are out of compliance. "Good faith" is written into the law, but how do we, exactly, determine what "good faith" efforts are?

**Ms. Balsam:** There have been lots of cases that the Board has decided over the years, as to what is or is not good faith efforts, as well as circumstances beyond your control. Those are the statutory terms, but the Board has filled in some of them.

**Ms. Torres-Moskovitz:** I have some suggestions, too, for that. But this was to show a project that -- sometimes maybe it's due to the OO -- but they were already two years out of compliance because of the OATH process and the Loft Board adopting registration a full year afterwards. In that case, the landlords are operating at minus twenty-four months in a thirty-month process. At the same time, there might be other things that....I'm just interested in what the reality is as tenants and landlords go through this milestone process, because I felt like we had a couple of sessions where we talked about milestones and extensions -- there was one point where we were going to rush and vote on the three extensions rule -- was it three extensions *per* milestone? That would be way too excessive. I just wanted to see -- here are the milestones, here's where we allow a new chance through an application process. Which milestone is it for? What happens if they fall off the wagon right away? Can they reapply for an extension?

**Ms. Balsam:** That was not what we were contemplating.

**Ms. Torres-Moskovitz:** I remember we talked about this a couple of sessions back – how many extensions can they be granted? And is it *per milestone* or not? I just wanted it all out there.

**Mr. Carver (to Ms. Torres-Moskovitz):** The two-pronged statutory standard of good faith and circumstances beyond your control -- you're talking about modifying that? But it can't be modified. That's the statute.

**Ms. Torres-Moskovitz:** Which part?

**Mr. Carver:** The two-pronged test of good faith and circumstances beyond your control. That's the statute; that's the standard. It's purposefully vague. Those are "magic" phrases that legislation uses on purpose so that there's flexibility based on the facts. And that flexibility will be exercised by the staff or by the Board under the proposed rule.

**Ms. Balsam (to Ms. Torres-Moskovitz):** Are you looking for examples of circumstances beyond your control?

**Ms. Torres-Moskovitz:** Right. We've seen them. On page 2.

**Mr. Carver:** I believe those examples are also written into the statute. This is just restating what's in the statute.

**Ms. Torres-Moskovitz:** But the application process for an extension.... aside from Landmarks, or BSA, or history of denial, I was wondering if there could be (things like), submits paperwork consistently to the Loft Board; is up to date with all fines; has a team of engaged professionals for the scope of the work. Are there other checks we could insert? Can you send us a copy of the application?

**Ms. Balsam:** For the minutes, to be clear, what Mr. Bobick said: That's all in case law; it's all written there.

**Ms. Torres-Moskovitz:** In case law? Is it on the form?

**Ms. Balsam:** I can give you a copy of the application form.

**Ms. Torres-Moskovitz:** I just wanted to see that checklist.

**Ms. Cruz:** I don't believe there is a checklist on the application form. It's part of the narrative the owner has to make as part of the application. For example, for someone who was just granted coverage, that person would say, in the last ninety days, I have filed my application with the Department of Buildings; I've retained an architect; I have plans; I've filed a Narrative Statement with the Loft Board; these are all the things I've done in the last ninety days, since the Loft Board granted coverage. These are examples of good faith effort to comply.

**Mr. Carver:** You don't want to make it mandatory, because if someone has satisfied five of these things, and has a good reason why they haven't done the last one, you don't want that to stop the process. If it's that precise – that you have to meet every point -- then no one's going to qualify.

**Ms. Balsam:** We could put them in as examples, though. Now, we have some examples of circumstances beyond your control. (To Ms. Torres-Moskovitz) I think what you're saying – and correct me if I'm wrong – is you want to add examples of what could be considered good faith efforts, is that right?

**Ms. Torres-Moskovitz:** I just want to back up for a minute. I notice that “good faith effort” appears three times just on this one page, and I feel like what’s considered to be good faith effort could be kind of arbitrary. You know there’s that Brennan Center, bipartisan, Preet Bharara, Christine Todd Whitman thing, where they’re working together to codify some of these things that were just “done in good faith.”

**Mr. Carver:** It’s not a partisan issue at all. This concept of good faith is in contract law. It’s very well established. This is not a problem at all.

**Ms. Torres-Moskovitz:** I know you like telling me things like this, but I’m trying to understand the rule and fulfill my role here as best I can. I care about this, and I’m working hard, so if you respect that...

**Mr. Carver:** I do. That’s why I’m telling you this. I’m not being patronizing.

**Ms. Torres-Moskovitz:** Ok, but is “good faith effort” defined anywhere? What is it? It’s abstract to me.

**Ms. Balsam:** It is, and it’s purposefully abstract, because it’s hard to know in any given situation. But where it says, “Examples of such conditions or circumstances include, but are not limited to...,” we could also add a line that says, “Examples of good faith efforts, include but are not limited to...” We could add that, if that’s what you’re proposing.

**Ms. Torres-Moskovitz:** I mentioned this before – and I think you’re doing a fantastic job as Executive Director, and I mean that sincerely – but I’m concerned about what happens if/when, in the future, there’s another executive director, who might have an entirely different agenda influencing how they decide what qualifies as good faith effort. I appreciate the reason why the law has to be somewhat abstract, but the more we can list examples....

**Ms. Balsam:** I’m all for listing examples, as long as they’re not absolute. I think we can satisfy your concern if we say, “include, but are not limited to,” which is what it says already about the condition of circumstances beyond the owner’s control. So we could add a line, if the Board is in favor of doing that.

**Ms. Roslund:** I would add that different buildings might have different concerns and different ways of showing good faith effort. And you want to allow some flexibility for the future, for the unforeseen, as times and technology change. Locking something in makes it too specific to this time period, and it would certainly limit more than include.

**Ms. Torres-Moskovitz:** I don’t want to limit...

**Ms. Roslund:** Which was Robert’s point. If we list specific things, next year, one of those might not even exist anymore. Or there might be a new thing. Things change.

**Ms. Torres-Moskovitz:** But there’s a checklist for DOB. Organizations use checklists. There can be guidelines. Like for proving occupancy. Maybe there’s a list of fifty things. You don’t have to have all of them, but at least there’s an outline. I’d like something built into the rules so that it’s not so loose that a future Executive Director can just say, I like this guy, so I’m going to (accept “whatever” as proof of good faith effort).

**Mr. Barowitz:** There is no way we can get this language perfect.

**Ms. Balsam:** Well, I would propose that the staff take a look at the cases where we've found good faith efforts, and see whether or not we can draft some language to include some examples of good faith effort, just like we have examples of circumstances beyond the owner's control. If the Board is in favor of us doing that, we're more than willing to do so.

**Mr. DeLaney:** I think for all of us it would be helpful to have a summary of where the Board has found good faith efforts, and maybe along with that a listing of the cases involved.

**Ms. Balsam:** We will try to do that. I don't know that we'll get every single case, but we'll try to get the important ones. So, that's on page two.

**Ms. Torres-Moskovitz:** OK, but starting on page one, though, I just want to mention – when you're crossing out "...new owner' is defined." You said you did that because you don't like cross-references?

**Ms. Balsam:** Yes, but I did add a cross-reference: "...as defined in section 1-12 of these rules."

**Ms. Torres-Moskovitz and Ms. Roslund** comment about the fact that, as architects, they're used to relying on cross-referencing in the material they work with, like zoning laws.

**Ms. Balsam:** My understanding is that these rules were drafted by a zoning specialist, and it shows. A very smart zoning specialist. They're very interesting rules, and cover an amazing amount of material. Things we would never have thought of. So yes, we added that cross-reference. But, can we get a consensus on whether or not to allow the owners that are out of compliance to submit applications for extensions within thirty days of the effective date of the rule? Is the Board in favor of that? I'd like to get a definite decision on that today, if possible.

**Mr. Carver:** It would certainly jumpstart the process of the stalled buildings. That was the impetus for this, right?

**Ms. Balsam:** Yes.

**Mr. Carver:** And it's in the public interest, not just the owners' interest. It's in the tenants' interest, too, I feel. So that's a "yes" from me.

**Mr. DeLaney:** Can you restate the question?

**Ms. Balsam:** Yes. So staff had proposed to allow owners who are not eligible to apply (for an extension) because they are out of compliance a thirty-day grace period from the effective date of the rule in which to apply. And then we will make a determination as to whether or not they should be granted the extension. But now, they can't even apply. I'm not saying that they *will* be granted an extension, but we want to give them an opportunity to at least *apply* for one. So I'd like to find out if the Board is in favor of that concept. I think that would go a long way in terms of advancing things.

**Mr. DeLaney:** And the language for that is on page...

**Ms. Balsam:** The language for that is on page one. It says,

“Pursuant to MDL § 284(1) an owner or responsible party of an IMD building may apply to the Loft Board for extensions of time to comply with the code compliance deadlines provided in MDL § 284 in effect on the date of the filing of the extension application. An owner or responsible party must file an extension application before the expiration of the deadline(s), except...”-- and this is the new language -- “... that an owner or responsible party may file an application for an extension on or before {insert date here}, which is thirty (30) days from the effective date of this amended rule, or as provided in (i) [through(iv)] and (ii) below.”

The intent of this language -- and correct me if you think I’m wrong in my interpretation of it – is to allow owners who are foreclosed from applying, because their deadlines have already expired -- to give them thirty days to apply from when this rule goes into effect.

**Ms. Roslund:** City-wide?

**Ms. Balsam:** It’s for owners who are registered with the Loft Board. It’s only owners who are legalizing loft buildings, and those are all over the city, so yes.

**Ms. Torres-Moskovitz:** So, they would get thirty days – and a new landlord would get ninety days?

**Ms. Balsam:** The rule already says, a new landlord or the owner of a newly covered building. They would still get their ninety days. The thirty days is only for owners who are already in the system.

**Ms. Torres-Moskovitz** recapped for Ms. Roslund the staff’s proposed, new enforcement plan; the Board’s goal of moving these buildings through the system; and said that this (new language) would help this process.

**Ms. Roslund:** Is there a specific date this goes into effect? And anyone in the city who wants to take advantage of it, does so...

**Ms. Balsam:** They apply; then we have to make decisions on those applications.

**Ms. Roslund** wondered how many buildings could, theoretically, apply all at once.

**Ms. Balsam:** There are 331 buildings currently on my spreadsheet. I think I’m missing seven buildings, but I believe there are no more than 338 buildings. And they are not all stalled; although, yes, most of them are probably out of compliance. So will we have a lot of work to do if we do this? Yes. But overall, do we think this would be a good idea, to get people who haven’t been moving, moving? Yes.

**Ms. Roslund** wondered if that volume of applications all at once could affect the web site.

**Ms. Balsam:** Well, fortunately or unfortunately, depending on your perspective, we’re still on paper. So, we need a motion to approve the language in (b)(1), on page one.

**Mr. Carver:** Are we in a position to move the whole section forward? Is there anything controversial there? I don’t think so.

**Ms. Balsam:** All of section (b)(1), or all of that rule?

**Mr. Carver:** The whole extension rule. I’m not saying this would be finalized, but it would be moved into the category of language we want to put in the final version. It would still have to be voted on....

**Ms. Balsam:** So that would be from page one to the top of page five. Plus, we're going to come back with examples of good faith effort.

**Ms. Torres-Moskovitz:** Well, not that I always like baby steps, but you said you'd be happy to walk away with what's on page one. I'm willing to go for that, but I think that – good faith effort is mentioned twice on page two... And my charts are showing that there are issues with the milestones for the tenant and the landlord, in sync with the reality of the Department of Buildings...

**Ms. Balsam:** But you have to understand that, in terms of the amount of time we can give, we're stuck with whatever is in the statute. We can't go outside the confines of the statute. So even if I wanted to give someone years to file an Alt 1 -- which I would never do, but let's assume that I did want to do that for some reason – I *couldn't* do that, because according to the statute, all you get is nine months.

**Ms. Torres-Moskovitz:** Other nuances, like e-mail versus certified mail. Those are things I'd like to discuss further.

**Ms. Balsam:** OK, so can we vote on all of page one? That would be (b)(1), including (i) and (ii). (i) and (ii) are actually already in the rule; they've just been rephrased.

**Ms. Torres-Moskovitz:** You and I spoke earlier about (1)(ii), where it says, "whichever is first." It says first *now*, but there might be a new draft later....?

**Ms. Balsam:** I think that if there's a new Loft Law, then that will be changed. But for now, this is what the law says, and we can't go beyond that. So, do we have a motion and a second?

**Mr. Carver** moved to move (b)(1)(i) and (ii) into the category of language that the Board wants to become the final rules we vote upon. **Ms. Roslund** seconded.

**The vote:**

**Members concurring:** Mr. Carver, Mr. Barowitz, Mr. Roche, Mr. DeLaney, Mr. Schachter, Ms. Torres, Ms. Roslund, Chairperson Hylton

**Members dissenting:** 0

**Members abstaining:** 0

**Members absent:** Mr. Hernandez

**Members recused:** 0

**All agreed** that this was a good place to end the meeting.

**Mr. Roche added a public-service announcement:** The FDNY wants to remind everyone that the two times per year when the clock moves forward or back – as it just did – are the times to check your smoke and carbon monoxide detectors. Check the batteries, and that they're working.

**Mr. Hytton:** This will conclude our November 15, 2018, Loft Board meeting. Our next public meeting will be held at 22 Reade St. Main Floor, Spector Hall, on January 17, 2019, at 2:00PM.

The End