

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

**February 18, 2016**

The meeting began at 2:04 p.m. The attendees were Elliott Barowitz, Public Member; Joseph Gregory on behalf of Chief Spadafora, Fire Department Representative; Chairperson Alexandra Fisher; Chuck Delaney, Tenants' Representative; Gina Bolden-Rivera, Public Member; Daniel Schachter, Public Member; and LeAnn Shelton, Public Member.

**INTRODUCTION**

**Chairperson Fisher** welcomed those present to the February 18, 2016 public meeting of the New York City Loft Board.

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**VOTE ON January 21, 2016 MINUTES**

**Motion:** Ms. Shelton moved to accept the January 21, 2016 meeting minutes. Mr. Delaney seconded the motion.

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

**Members Abstaining:** Mr. Gregory (1).

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**REPORT OF THE EXECUTIVE DIRECTOR**

**Ms. Alexander** reported that the Loft Board – public board meetings will continue to be held at 22 Reade Street, Main Floor, Spector Hall, until further notice.

**Ms. Alexander** provided a worksheet to the board members summarizing the extension applications determined in 2015. Out of 22 extension applications, six were granted. Out of the six that were granted, four were based on the “new owner” exception pursuant to Title 29 of the Rules of the City of New York (“29 RCNY”) § 2-01(b)(1)(i); one was based on the “new IMD” exception pursuant to 29 RCNY § 2-01(b)(1)(ii); and one was based on the owner demonstrating that the necessity for the extension was for reasons beyond its control. Out of the 16 extension applications that were denied, 10 were time-barred; 2 had defective service; and 4 were denied because the owners failed to demonstrate that the necessity for the extensions arose from conditions or circumstances beyond their control, and that they had made good faith efforts to meet the code compliance timetable requirements.

**Mr. Delaney** asked about “the condition beyond owner’s control” in EX-0031 (329 Greenwich Street, Manhattan, New York). **Ms. Alexander** stated that the owner was unable to meet the certificate of occupancy deadline because there was still an open legalization issue as to whether the fourth floor in this particular building consisted of one or two separate units. A final determination regarding the status of the fourth floor did not occur until June 20, 2013 when the Loft Board issued its determination that the fourth floor is two units. While that determination was pending, the Loft Board could not issue a certification of the owner’s legalization plans. Without Loft Board certification of owner’s legalization plans, the New York City Department of Buildings (“DOB”) would not allow the owner of the building to obtain a permit, begin construction, obtain Article 7-B compliance or obtain a residential certificate of occupancy.

**Ms. Alexander** reported that the Mayor has approved a new board member, Robert Carver, who will sit on the Board as the owner representative. Mr. Carver has a substantial background in real estate law, both in the private and public sectors. We look forward to having Mr. Carver and his unique viewpoint join the board next month.

**Mr. Delaney** raised an issue regarding Modine heaters in residential units, which was brought to his attention because a DOB inspector found a Modine heater in a tenant's unit and ordered the gas in the building to be shut off. As a consequence, every tenant in the building was left without heat.

**Ms. Alexander** stated that it is her understanding that Modine heaters are used in manufacturing and commercial buildings. However, DOB does not permit these heaters in residential units. When a DOB inspector becomes aware of a Modine heater in a residential unit, the DOB would have the gas capped and in some instances vacate the building. The Loft Board then works with owner and DOB to get tenants an alternative source of heat.

**Ms. Alexander** stated that in the present case, there had been ongoing litigation between the owner of the building and a specific tenant in the building in Housing Court. During the hearing, a heating issue arose, and the Housing Court Judge presiding over the matter ordered the Loft Board to inspect the heating. The Court's order included pictures of the loft unit including pictures of the Modine heater. As an employee of the DOB, and as the Executive Director of the Loft Board, **Ms. Alexander** stated, she has an obligation to protect the health and safety of tenants and to inform the DOB of any hazardous conditions of which she becomes aware in any Loft Board building. Accordingly, because she had notice that the Modine heater was the source of heat in the unit, she was obligated to notify DOB. A DOB inspector accompanied the Loft Board inspector to the building and determined that the Modine heater posed a serious health and safety risk. DOB had the gas in the building turned off, but did not vacate the building. Immediately after notifying the DOB, the Loft Board was in direct contact with owner going over alternative ways to provide heat to the tenants. The owner purchased and installed electric heaters for all the units. On February 17, 2016, the Loft Board scheduled an emergency narrative statement conference, in which the tenants, the owner, their attorneys and architects were all present to resolve the heat and any other legalization issues.

**Mr. Delaney** expressed his concern that many tenants of IMD buildings have Modine heaters. He asked what will happen to these tenants. **Mr. Delaney** stated that this problem was a result of recalcitrant owners who have not legalized their buildings. It then leaves the tenants in a precarious situation because they are left with illegal heaters. **Ms. Alexander** stated that it was not just the fault of so-called recalcitrant owners as most of the buildings of concern are the § 281(5) buildings.

**Mr. Delaney** wanted to know if the location of the heater is the issue and what else goes through the thought process of determining whether the gas gets capped or if the tenants get vacated. **Ms. Alexander** stated that it was particularly concerning if the heater was in a bedroom, but that it is DOB who makes the determination of whether the gas is capped or tenants are vacated.

**Mr. Delaney** stated he is concerned that tenants will no longer have a forum to complain about heat or lack thereof because they will be afraid that the Loft Board will notify DOB and have the gas capped or the tenants vacated.

**Mr. Delaney** also stated that he appreciates the effort by the Loft Board to get tenants new heating units, but it is not enough. **Mr. Delaney** is also concerned that if the Loft Board just schedules conferences to try and resolve these issues, the tenants will just accrue more fees because they are forced to hire representation. **Mr. Delaney** stated that when the heat is shut off, it is a violation of the housing maintenance code, and the Loft Board should be issuing violations. **Mr. Delaney** wants the Loft Board staff to come up with solutions to the problem.

For more on this discussion please go to <https://www.youtube.com/watch?v=5DrtLO-3vuQ>

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#### DISCUSSION AND VOTE ON APPEAL/RECONSIDERATION CALENDAR CASES

1.	Redbridge Bedford, LLC	156-170 North 4 Street, Brooklyn	AD-0079
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**Motion:** Mr. Barowitz moved to accept the proposed order. Mr. Delaney seconded the motion.

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

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**DISCUSSION AND VOTE ON SUMMARY CALENDAR CASES**

2.	SMCB Associates, LLC	329 Greenwich Street	LS-0228
3.	141 Spencer LLC	141 Spencer Street, Brooklyn	LS-0229
4.	Achi Adamit	247-249 West 30 Street	LS-0230
5.	Ethel Kambourian and Mary Grossman	35 West 19 Street	TN-0223
6.	Mark Parrish	71 North 7 Street, Brooklyn	TR-0836
8.	Greg Chann and Michael Rouillard	57 Jay Street, Brooklyn	TR-1112
9.	Reid Dalland	57 Jay Street, Brooklyn	TR-1122
10.	Adrian Cowen, Jay Harrison, Morgan Lang, Tom Soper and Chiara Diva Pittala	365 West 36 Street	TR-1127
11.	Micah Suozzi	97 Wyckoff Avenue, Brooklyn	TR-1145
12.	Anthony Barker	97 Wyckoff Avenue, Brooklyn	TR-1166
13.	Sarah Campbell, K. Christine Nicholson, Sean Pangia, Julie Moskovitz, Orlando Torres, Lane M. La Colla, Stephanie Sugawara, Matt Lindemulder, Ethan Miller and Cate Conmy	136-140 Jackson Street, Brooklyn	TR-1201
14.	Moffat Street Holdings, LLC	338 Moffat Street, Brooklyn	TR-1217
15.	222 Varet Street Residents	222-230 Varet Street, Brooklyn	TR-1222
16.	John Kessel	207 Starr Street, Brooklyn	TR-1270

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

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

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7.	Nancy Hwang, Carlos Ferraris, Philip Crangi and Paul Marlow	147 West 29 Street	TR-1090
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**Motion:** Ms. Shelton moved to accept the proposed order. Mr. Schachter seconded the motion.

**Members Concurring:** Chairperson Fisher, Ms. Bolden-Rivera, Mr. Schachter, Ms. Shelton (4).

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

**Members Abstaining:** Mr. Barowitz, Mr. Gregory (2).

**MOTION DID NOT PASS. WILL BE RE-VISITED IN THE MARCH 17, 2016 BOARD MEETING.**

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**DISCUSSION AND VOTE ON MASTER CALENDAR CASES**

17.	57 Jay Street LLC	57 Jay Street, Brooklyn	LC-0165
18.	57 Jay Street LLC	57 Jay Street, Brooklyn	LC-0167

**Motion:** Ms. Shelton moved to accept the proposed orders. Mr. Barowitz seconded the motion.

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

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19.	Ben Godward and James Pyle	238 Melrose Street, Brooklyn	TR-1194
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**Motion:** Mr. Schachter moved to accept the proposed order. Ms. Bolden-Rivera seconded the motion.

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

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20.	Richard Fisicina, Luke Weinstock, Zenia de la Cruz, and Maria Theresa Totengco	430 Lafayette Street Rear	TR-1248
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**Motion:** Mr. Barowitz moved to accept the proposed order. Ms. Shelton seconded the motion.

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

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21.	Matthew Lipson	475 Kent Avenue, Brooklyn	TR-1262
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**Motion:** Mr. Delaney moved to accept the proposed order. Mr. Schachter seconded the motion.

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

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**Chairperson Fisher** concluded the February 18, 2016 Loft Board public meeting at 3:25 pm and thanked everyone for attending. The Loft Board will hold its next public meeting at Spector Hall, 22 Reade Street, on March 17, 2016 at 2 p.m.