

**SUMMARY OF LOFT BOARD RULES, THE PROPOSED CHANGES AND / OR  
ADDITIONS TO THE EXISTING RULES AND THE PROPOSED RULES PUBLISHED IN  
THE CITY RECORD ON MAY 11, 2012**

The Loft Board's legal staff prepared this summary of the proposed changes to §§ 2-02, 2-07, 2-09, 2-10 and 2-12 of the Loft Board rules and proposed rules §§ 2-06.2 and 2-11.1 to assist the public in reviewing the proposed changes and/ or additions to the existing Loft Board rules. This summary provides a general overview of the seven proposed rules published in the City Record on May 11, 2012.

The following descriptions and summaries are not intended to supersede the statements of basis and purpose published in the notices of the proposed rules, do not include a full description of all of the proposed changes and/or additions and should not be viewed as a substitute for the advice of lawyers, architects, or engineers or other professional experts regarding the interpretation of the language of the rules.

**1. Section 2-02 Harassment**

Section 2-02 of the Loft Board rules relates to the harassment applications filed by tenants in an Interim Multiple Dwelling (IMD) building. The major changes and/or additions in the proposed rule are:

- i. The tenant no longer must list the harassing conduct in separately numbered paragraphs;
- ii. The term "ongoing course of conduct" is defined;
- iii. After the finding of harassment, a landlord may not deregulate any residential unit in the building after a sale of rights beginning the date the Loft Board issues a harassment order up to the date the Loft Board terminates the harassment finding; and
- iv. The penalty for harassing conduct is set by § 2-11.1 which increases the penalty.

**2. Section 2-06.2 Interim Rent Guidelines and Rent Adjustments pursuant to Multiple Dwelling Law (MDL) § 286(2)(i)**

This is a new rule. The New York State Legislature, in section 286(2)(i) of the MDL, required that the Loft Board establish rules for rent adjustments for units prior to Article 7-B compliance. Section 2-06 refers to buildings covered under MDL § 281(1). Section 2-06.1 relates to buildings covered under MDL § 281(4) and the proposed rule § 2-06.2 relates to buildings covered under MDL § 281(5), which is the provision of the amended Multiple Dwelling Law (Loft Law) that adds new buildings to Loft Law jurisdiction. The Loft Board voted for a 0% increase prior to Article 7-B compliance for the units subject to Loft Board coverage pursuant to MDL § 281(5).

**3. Section 2-07 Sale of Improvements**

Section 2-07 governs the sale of tenant improvements in IMD units. The noteworthy changes and/ or additions in the proposed rule are:

- i. Once the unit is found to be covered under Article 7-C, a tenant in a covered unit may sell improvements;
- ii. The subsections are reorganized; and
- iii. The penalty for failure to file a sales record form is now set by the new rule § 2-11.1.

**4. Section 2-09 Occupant Qualified for Article 7-C Protection, Privity, Subletting and Recovery of Subdivided Unit**

Section 2-09 covers: 1) occupant protection under Article 7-C; 2) the subletting rights of IMD tenants; 3) when privity is established between the residential occupant and the owner; and 4) the right to recover a subdivided unit. The proposed rule:

- i. Applies the same rights and conditions to Article 7-C protection and subletting to occupants in IMD units covered under MDL § 281(5). Section 281(5) is the provision of the amended Multiple Dwelling Law (Loft Law) that adds new buildings to Loft Law jurisdiction;
- ii. Provides prime lessees of units covered under § 281(5) the opportunity to recover a unit up to 90 days after the effective of the rule;
- iii. Imposes a deadline for prime lessees to recover subdivided space for units covered pursuant to MDL § 281(5); and
- iv. States that if a part of the rule is invalidated, the remaining portions of the rule will remain in full force and effect.

## **5. Section 2-10 Sales of Rights**

Section 2-10 covers the sale of a tenant's Article 7-C rights to the owner. The proposed rule:

- i. Extends to occupants in MDL § 281(5) units the right to sell Article 7-C rights and the limitations. Section 281(5) is the provision of the amended Multiple Dwelling Law (Loft Law) that adds new buildings to Loft Law jurisdiction;
- ii. Adds the estate as an affected party in cases that the landlord seeks an abandonment finding; and
- iii. States that the penalty for failure to file a sales record form is now set in § 2-11.1.

## **6. Section 2-11.1 Fine Schedule**

The New York State Legislature raised the amount of a per violation penalty from \$1,000 to up to \$17,500. This new proposed rule contains the classes of violations and the fine amounts. The violations range from a Class C violation, the most serious, to a Class A violation, which is the least serious. Class C violations include failure to comply with the code compliance deadlines, failure to exercise all reasonable action to obtain a certificate of occupancy, fines stemming from harassment applications and failure to renew IMD registration. Class B violations involve violations for failure to exercise all reasonable action to obtain a certificate of occupancy that do not require a hearing. Class A violations include the owner's failure to file sales record form or sale of improvements form.

## **7. Section 2-12 MDL 286(2)(ii) Rent Adjustments**

Section 2-12 covers what is commonly referred to as the "milestone increases." The only noteworthy change is the addition of a definition for "maximum permissible rent." The definition tracks the definition of "total rent" and "permissible rent level" in proposed rule § 2-06.2.