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THE CITY RECORD **MICHAEL R. BLOOMBERG, *Mayor***

EDNA WELLS HANDY, Commissioner, Department of Citywide Administrative Services.
ELI BLACHMAN, Editor of The City Record.

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PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

QUEENS BOROUGH PRESIDENT

■ **PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Borough President of Queens, Helen Marshall, on **Thursday, May 17, 2012** at 10:30 A.M., in the Borough Presidents Conference Room located at 120-55 Queens Boulevard, Kew Gardens, New York 11424, on the following items:

NOTE: Individuals requesting Sign Language Interpreters should contact the Borough President's Office, (718) 286-2860, TDD users should call (718) 286-2656, no later than FIVE BUSINESS DAYS PRIOR TO THE PUBLIC HEARING.

CD07 – BSA #93-97 BZ - IN THE MATTER of an application submitted by Eric Palatnik, PC on behalf of Pi Associates LLC, pursuant to Section 72-01 and 72-22 of the Zoning Resolution of the City of New York, for an amendment to permit the change in use of a portion of the existing second floor which is currently occupied by 13 off-street parking spaces to use group 6 office use in a C4-3 zoning district located at 136-21 Roosevelt Avenue, Block 4980, Lot 11, zoning map 10a & 10b, Flushing, Borough of Queens.

CD06 – BSA #54-12 BZ - IN THE MATTER of an application submitted by Gerald J. Caliendo, RA, AIA on behalf of Ilana Bangiyev, pursuant to Section 72-21 of the Zoning Resolution of the City of New York, for variances from bulk regulations to allow the construction of a four-story mixed-use building in an R5 zoning district located at 65-39 102nd Street, Block 2130, Lot 14, zoning map 14a, Rego Park, Borough of Queens.

CD11 – BSA #59-12 BZ - IN THE MATTER of an application submitted by Mitchell S. Ross, Esq. on behalf of Ian Schindler pursuant to Section 72-21 of the NYC Zoning Resolution for a variance allowing the reconstruction of an existing landmarked building with a non-complying front yard in an R1-2 district located at 240-27 Depew Avenue, Block 8103, Lot 25, Zoning Map 11a, Douglaston, Borough of Queens. (Related Item: BSA # 60-12A)

CD09 - BSA #68-12 BZ - IN THE MATTER of an application submitted by Vassalotti Associates Architects, LLP. on behalf of Rockaway Boulevard Associates, LLC., pursuant to Section 11-411 of the Zoning Resolution, waiver of rules and procedures and extension of term for an existing gasoline station in an R5 district located at 89-15 Rockaway Boulevard, Block 9093, Lot 9, Zoning Map 18a, Richmond Hill, Borough of Queens.

CD12 - BSA #71-12 BZ - IN THE MATTER of an application submitted by Akerman Senterfitt, LLP on behalf of Archer Avenue Partners, LLC, pursuant to Section 72-21 of the NYC Zoning Resolution, for bulk variances to allow construction of a residential building and commercial space in an C6-2 District located at 165-10 Archer Avenue aka 92-61 165th Street, Block 10155, Lot 105, Zoning Map 14d, Jamaica, Borough of Queens.

CD11 – BSA #73-12 BZ - IN THE MATTER of an application submitted by Jeffrey Chester, Esq/GSHLLP on behalf of 41-19 Bell Boulevard LLC pursuant to Section 73-36 of the NYC Zoning Resolution for a special permit to legalize an existing physical culture establishment in a C2-2/R6B district located at 41-19 Bell Boulevard, Block 6290, Lot 5, Zoning Map 11a, Bayside, Borough of Queens.

☛ **m11-17**

CITY PLANNING COMMISSION

■ **PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN THAT RESOLUTIONS Have been adopted by the City Planning Commission Scheduling public hearings on the following matters to be held at Spector Hall, 22 Reade Street, New York, NY, on Wednesday, May 23rd, 2012 at 10:00 A.M.

BOROUGH OF BROOKLYN
No. 1
PARK SLOPE HISTORIC DISTRICT EXTENSION
CD 6, 7 **N120297HKK**

IN THE MATTER OF a communication dated April 26, 2012, from the Executive Director of the Landmarks Preservation Commission regarding the landmark designation of the Park Slope Historic District Extension, designated by the Landmarks Preservation Commission on April 17, 2012 (Designation List No. 454, LP No. 2443). Borough of Brooklyn, Community Districts 6 & 7. The district boundaries for section one are: a line beginning at northwest corner of Prospect Park West and 16th Street, then proceeding westerly along the northern curbline to a point extending southerly from the eastern property line of 455 16th Street, then northerly along said property line to the southern property line of 474 15th Street, then westerly along said property line to the northwest corner of 424 15th Street, then northerly along the western property line of 424 15th Street to the southeast corner of 422 15th Street, then westerly along the southern property line of 422 15th Street to the eastern curbline line of Eighth Avenue, northerly along the eastern curbline of Eighth Avenue to the northern curbline of 14th Street, then easterly to the center of Eighth Avenue, northerly along the center of Eighth Avenue to a point on a line extending easterly along the northern curbline of 14th Street, then westerly along said curbline to a point on a line extending northerly along the eastern property line of 388 14th Street, then southerly across 14th Street and along the eastern property lines 388 14th Street to 439 Seventh Avenue to the north curbline of 15th Street, then westerly along said line to a point on a line extending southerly from the western property line of 341 15th Street, then northerly along the western property lines of 440 to 432 Seventh Avenue, then westerly along a portion of the southern property line of 430 Seventh Avenue, then northerly along the western property lines of 430 to 424 Seventh Avenue, then across 14th Street along the western property lines of 422 to 414 Seventh Avenue, westerly along the southern property lines of 412 Seventh Avenue, northerly along the western property line of 412 and 410 Seventh Avenue, then easterly along the northern property line of 410 Seventh Avenue, northerly along the western property line of 408 Seventh Avenue, northerly across 13th Street and then easterly along said curbline to a point on a line formed by extending a line from the western property line of 406 Seventh Avenue, then northerly across 13th Street and along the western property lines of 406 and 404 Seventh Avenue, westerly along the southern property line of 402 Seventh Avenue, and northerly along the western property lines of 402 to 398 Seventh Avenue, easterly along the northern property line of 398 Seventh Avenue and then northerly along the western property line of 392 Seventh Avenue to the northern curbline of 12th Street, then westerly along said curbline to a point on a line extending south from the western property line of 390 to 370 Seventh Avenue, northerly along said line across 11th Street to the northern curbline of 11th Street, westerly along said curbline to a point on a line extending southerly from the western property line of 368 Seventh Avenue, northerly along said line to the southern property line of 362 Seventh Avenue, westerly along said property line, northerly along the western property lines of 362 and 360 Seventh Avenue, easterly along the northern property line of 360 Seventh Avenue, then northerly along the western property lines of 358 to 350 Seventh Avenue and across 10th Street, northerly along the western property lines of 348 to 340 Seventh Avenue, easterly along the northern property line of 340 Seventh Avenue, northerly along the western property line of 332-36 Seventh Avenue, northerly and across 9th Street to the northern curbline of 9th Street, westerly along said curbline to a line extending south along the western property line of 326 Seventh Avenue, then northerly along the western property lines of 326 and 324 Seventh Avenue, westerly along the southern property line of 322 Seventh Avenue, then northerly along 322 to 314 Seventh Avenue to the northern curbline of 8th Street, then westerly along said curbline to a point extending southerly from the western property line of 312 Seventh Avenue, then northerly along the western property lines of 312 to 304 Seventh Avenue, then easterly along the northern property line of 304 Seventh Avenue, then northerly along the western property lines of 302 to 294 Seventh Avenue to the south curbline of 7th Street, then easterly along said curbline to a point on a line extending from the eastern property line of 701 Eighth Avenue, then southerly along said line to the north curbline of 8th Street, then westerly to a point extending northerly from the eastern property line of 801 Eighth Avenue, then southerly along said line to southern curb line of 9th Street, then east to a point from a line extending north from the eastern property line of 524 9th Street, southerly along the eastern property lines of 524 9th Street and 911 Eighth Avenue, westerly along the southern property line of 911 8th avenue to the middle of Eighth Avenue, southerly along a line in the middle of Eighth Avenue to a point on a line extending along the middle of 10th Street, easterly along said line to a point extending northerly from the eastern property line of 640 10th Street, then southerly along said line to the northern property line of 1013 Eighth Avenue, easterly along the northern property line of 1013 Eighth Avenue, then southerly along the eastern property line of 1013 to 1023 Eighth Avenue to a point in the middle of 11th Street, then easterly along a line in the middle of 11th Street to a point extending northerly from the eastern property line of 582 11th Street, then southerly along said line, westerly along the southern property lines of 582 11th Street and 1111 Eighth Avenue to a point in the middle of Eighth Avenue, then southerly along a line in the middle of Eighth Avenue to a point in the middle of 14th Street, easterly along a line in the middle of 14th Street to a point extending northerly from the eastern property line of 442 14th Street, then southerly along said line to southwest corner of 442 14th Street, then easterly along the northern property lines of 448 to 486 14th Street, northerly along the western property line of 496 14th Street to a point in the middle of 14th Street, then easterly along a line in the middle of 14th Street to a point in the middle of Prospect Park West, then southerly along said line to a point extending easterly from the northwest corner of Prospect Park West and Bartell Pritchard Square, then westerly to the western curbline, and then southerly along the curving west curbline of Prospect Park West and Bartell Pritchard Square to the point of beginning. The district boundaries for section two are a line beginning at the southwest corner of 145 Prospect Park West, then extending northerly along the western property lines of 145 Prospect Park West and 574 9th Street to the middle of 9th Street, then easterly along the line in the middle of Prospect Park West, then southerly along the line in the middle of Prospect Park West to a point on a line extending from the middle of 10th Street, then westerly along said line to a point extending southerly from the western property line of 151 Prospect Park West, then northerly along said line to the southern property line of 145 Prospect Park West, then westerly to the point of beginning.

BOROUGH OF THE BRONX
No. 2
BROOK AVENUE
CD 1 **C 120161 HAX**

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

1) pursuant to Article 16 of the General Municipal Law of New York State for:

   a) the designation of property located at 493 Brook Avenue and 457/467 East 147th

Street (Block 2292, Lots 49 and 50) as an Urban Development Action Area; and

b) an Urban Development Action Area Project for such area; and

2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate development of a five-story building and a seven story building with a total of approximately 66 dwelling units and 1,710 square feet of commercial space, to be developed under the Department of Housing Preservation and Development's Low-Income Rental Program.

Resolution for adoption scheduling May 23, 2012 for a public hearing.

YVETTE V. GRUEL, Calendar Officer
City Planning Commission
22 Reade Street, Room 2E
New York, New York 10007
Telephone (212) 720-3370

m9-23

COMMUNITY BOARDS

■ **PUBLIC HEARINGS**

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 18 - Wednesday, May 16, 2012 at 7:00 P.M., Community Board Office, 1097 Bergen Avenue, Brooklyn, NY

BSA# 135-46-BZ
Premises: 3802 Avenue U s/e corner of East 38th St.
An application filed pursuant to Section 11-412 of the Zoning Resolution to waive the Rules of Practice and Procedure to reopen and extend the term of an existing variance for ten years, and to allow the addition of a car wash and retail/office space for use as a convenience store to existing building services.

m10-16

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 02 - Tuesday, May 15, 2012 at 6:00 P.M., St. Francis College, 180 Remsen Street, 1st Fl., Brooklyn, NY

IN THE MATTER OF an application by National Thai Restaurant, for review pursuant to Section 20-226 (b) of the New York City Administrative Code to construct and operate an unenclosed sidewalk cafe with 6 tables and 12 seats at 723 Fulton Street, Lafayette Avenue and Fort Greene Place.

m9-15

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 02 - Wednesday, May 16, 2012 at 6:00 P.M., Polytechnic Institute - Room LC 400, 5 Metrotech Center, Brooklyn, NY

IN THE MATTER OF a variance application to be filed at the Board of Standards and Appeals to allow the reconversion of an existing community facility hotel back to its original transient hotel use in a C1-3/R7-1 and R6 zoning district, and allow a waiver of the inner court dimension requirements of the Multiple Dwelling Law in connection with the reconverted hotel.

m10-16

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

BOROUGH OF QUEENS

COMMUNITY BOARD NO. 13 - Thursday, May 17, 2012 at 7:30 P.M., Herbert G. Birch School, 145-02 Farmers Boulevard, Queens, NY

BSA# 50-12-BZ
177-60 South Conduit Avenue
A public hearing on the above address, this will be voted on by the Board at its general meeting on May 21st, 2012.

☛ **m11-17**

BOARD OF CORRECTION

■ **MEETING**

Please take note that the next meeting of the Board of Correction will be held on May 14, 2012 at 9:00 A.M., in the conference room of the Board of Correction. Located at: 51 Chambers Street, Room 929, New York, NY 10007.

At that time there will be a discussion of various issues concerning New York City's correctional system.

m7-14

LANDMARKS PRESERVATION COMMISSION

■ **PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Title 25, chapter 3 of the Administrative Code of the City of New York (Sections 25-307, 25-308, 25,309, 25-313, 25-318, 25-320) (formerly Chapter 8-A, Sections 207-6.0, 207-7.0, 207-12.0, 207-17.0, and 207-19.0), on Tuesday, **May 22, 2012 at 9:30 A.M.** in the morning of that day, a public hearing will be held in the Conference Room at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should call or write the Landmarks Commission no later than five (5) business days before the hearing or meeting.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF QUEENS 13-0953- Block 10311, lot 46-
114-45 179th Street - Addisleigh Park Historic District
A free-standing Colonial Revival style house designed by Gustave B. Miller and built in 1922. Application it to replace a door. Community District 12.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 13-1248 - Block 20, lot 12-
185 Plymouth Street, aka 60 John Street - DUMBO Historic District
A stable and storage building built c. 1900. Application is to construct additions, modify window and ground floor openings, alter sidewalk, install storefront infill, a canopy, and signage. Zoned M1-4/R7A. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 13-0374 - Block 276, lot 31-
174 State Street - Brooklyn Heights Historic District
A Greek Revival style frame house built in 1839 and later altered with the removal of its stoop. Application is to construct a stoop and entrance portico. Zoned R6/C2-3. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 12-2814 - Block 267, lot 18-
31 Sidney Place - Brooklyn Heights Historic District
A Greek Revival style rowhouse built in 1846. Application is to construct a stoop and barrier-free access ramp. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 13-1269 - Block 267, lot 19-
21-29 Sidney Place - Brooklyn Heights Historic District
A brick rectory for St. Charles Rorromeo R.C. Church, built 1916, and a Parochial school building built 1929 by Louis Giele. Application is to construct a connector building between the school and the rectory. Zoning R-6 . Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 12-6015 - Block 2099, lot 48-
12 South Portland Avenue - Fort Greene Historic District
An Italianate style rowhouse built c. 1868. Application is to alter the roof. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 13-1208 - Block 954, lot 17-
110 Berkeley Place - Park Slope Historic District
A neo-Grec style rowhouse built circa 1883. Application is to install a gas lamp post in the areaway and to install a new stoop railing and areaway fence. Zoned R6B/C3. Community District 6.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 13-1218 - Block 323, lot 12-
471 Henry Street - Cobble Hill Historic District An Italianate style rowhouse built in the early 1850's. Application is to alter the facade and stoop. Community District 6.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-6956 - Block 46, lot 3-
100 Broadway - American Surety Company Building - Individual Landmark
A neo-Renaissance style office building designed by Bruce Price and built in 1894-96, and enlarged in the 1920s with additions designed by Herman Lee Meader. Application is to install signage. Zoned C5-5. Community District 1.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-9242 - Block 219, lot 7504-
169 Hudson Street - Tribeca North Historic District
A Renaissance Revival style warehouse designed by James E. Ware built in 1893-94. Application is to construct a rooftop addition. Zoned M1-5. Community District 1.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-5412 - Block 220, lot 35-
46 Laight Street - Tribeca North Historic District
An Italianate style tenement building designed by William H. Waring and built in 1874. Application is to replace ground floor infill installed in non-compliance with Landmarks Preservation Commission permits, perform alterations at the roof level, and legalize the installation of air-conditioning equipment without Landmarks Preservation Commission permits. Zoned M1-5.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-8461 - Block 619, lot 1-
125 Christopher Street - Greenwich Village Historic District
An apartment building designed by H.I. Feldman and built in 1944. Application is to construct a barrier-free access ramp. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 13-0818 - Block 588, lot 25-
304 Bleecker Street - Greenwich Village Historic District
A dwelling originally built in 1829, converted to commercial use, with a fourth floor added in the early 20th century. Application is to replace storefront infill and install lighting and signage. Zoned C2-6. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-9375 - Block 623, lot 35-
58 Bank Street - Greenwich Village Historic District
A Greek Revival style house built in the mid 1840s and later altered with a fourth floor and an Italianate style cornice. Application is to alter the rear facade. Zoned R6. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 13-0305 - Block 574, lot 34-
20 West 11th Street - Greenwich Village Historic District
A Greek Revival style rowhouse built in 1844-45. Application is to replace windows. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-8093 - Block 487, lot 24-
154 Spring Street - SoHo-Cast Iron Historic District
A store and loft building designed by Louis Sheinart and built in 1911. Application is to replace storefront infill and install rooftop mechanicals. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-8642 - Block 474, lot 26-
38 Greene Street, aka 90-94 Grand Street - SoHo-Cast Iron Historic District
A transitional style store and warehouse building incorporating Italianate and French style details designed by Griffith Thomas and built in 1867. Application is to install storefront infill. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-8642 - Block 474, lot 1-
42-50 Greene Street - SoHo-Cast Iron Historic District
A French Renassiance style store and warehouse building designed by Griffith Thomas and built in 1869; and a neo-Grec style store and warehouse building constructed in 1860. Application is to establish a Master Plan governing the future installation of storefront infill. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-9223 - Block 545, lot 8-
714 Broadway - NoHo Historic District
A neo-Classical style store building designed by Buchman and Deisler and built in 1896-97. Application is to install wall-hung JHVAC units on a secondary facade. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-9288 - Block 643, lot 1-
95 Horatio Street, 521-531 and 533-535 West Street, 84-88, 90-92 and 94-98 Gansevoort Street, and 802-816 Washington Street - Gansevoort Market Historic DIstrict
Two Classical Revival style warehouses designed by Lansing C. Holden and built in 1897-98; a neo-Classical style warehouse/office building designed by John B. Snook Sons and built in 1932; three neo-Classical style warehouses designed by J. Graham Glover and built in 1910-12, 1911-12 and 1923-26; and a neo-Classical style warehouse building designed by John B. Snook Sons and built in 1931-35. Application is to establish a Master Plan governing the installation of signage. Community District 2.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 13-1191 - Block 897, lot 16-
15 Rutherford Place, aka 216 East 16th Street - Individual Landmark - Stuyvesant Square Historic District
A Greek Revival style Meeting House and seminary building designed by Charles Bunting and built in 1861. Application is to alter the areaway, install gates, deck, and a storage shed. Community District 3.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 13-0774 - Block 848, lot 4-
125 Fifth Avenue - Ladies' Mile Historic District
A neo-Gothic style dwelling built c. 1850-51, and altered c.1921-23 by Irving Margon. Application is to install signage. Zoned C6-4M. Community District 4.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 11-9184 - Block 997, lot 19-
123 West 44th Street - Hotel Gerard - Individual Landmark
An apartment hotel designed in a combination of Romanesque, German Gothic, and Renaissance styles by George Keister, built in 1893 and altered in 1917-1920. Application is to install a painted wall sign, and illuminated signage. Community District 5.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-9365 - Block 1300, lot 1-
230 Park Avenue - New York Central Building/Helmsley Building -Individual Landmark - Interior Landmark
A Beaux-Arts style office building designed by Warren & Wetmore, and built in 1927-29. Application is to reconstruct elevator cabs and install integrated video screens. Community District 5.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 13-1001 - Block 999, lot 1-
1552 Broadway, aka 167 West 46th Street - I. Miller Building – Individual Landmark
A commercial building altered by Louis H. Friedland in 1926. Application is to install new storefront infill, signage, awnings, and lighting. Community District 5.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-7548 - Block 1168, lot 56-
250 West 77th Street - Hotel Belleclaire - Individual Landmark
An Art Nouveau/Secessionist style hotel designed by Emery Roth and built in 1901-03. Application is to install a canopy and skylight. Community District 7.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-8912 - Block 1123, lot 111-
47 West 70th Street - Upper West Side/Central Park West Historic District
A Renaissance Revival style rowhouse with Romanesque Revival elements built in 1890-91. Application is to excavate the rear yard and construct rooftop and rear yard additions. Zoned R8B. Community District 7.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-9373 - Block 1202, lot 22-
25 West 88th Street - Upper West Side/Central Park West Historic District
A Renaissance Revival style row house with neo-Grec elements designed by Thom & Wilson and built in 1888-89. Application is to construct rooftop and rear yard additions, alter rear facades, and replace windows. Zoned R7-2. Community District 7.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 13-0643 - Block 1408, lot 28-
171 East 73rd Street - 171 East 73rd Street Building - Individual Landmark

An Italianate style rowhouse built in 1860 and altered in 1924 by Electus D. Litchfield. Application is to demolish a rear extension, construct additions, and alter the ground floor and areaway. Zoned R8B. Community District 8.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-8516 - Block 1392, lot 109-
11 East 77th Street - Upper East Side Historic District
A rowhouse with neo-Grec style elements, designed by Robert Hanby and built in 1879, and altered in 1936 by Morris B. Sanders. Application is to demolish a rear yard extension and construct a rear yard addition. Zoned R8B LH-1A. Community District 8.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 13-1273 - Block 1383, lot 13-
814 Madison Avenue - Upper East Side Historic District A neo-Renaissance style apartment building designed by Herbert Lucas and built in 1912-13. Application is to alter storefront infill and install signage. Community District 8.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 13-0486 - Block 1404, lot 13-
127 East 69th Street - Upper East Side Historic District A townhouse originally built in 1872-1873 and altered in the Adamesque style by S. Edson Gage in 1919. Application is to construct a rear addition. Zoned R9X. Community District 8.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-0639 - Block 1398, lot 65-
120 East 64th Street - Upper East Side Historic District
A rowhouse originally designed by D. & J. Jardine, built in 1870-77, and altered by Simeon B. Eisendrath in 1931. Application is to construct a rear yard addition. Zoned R8B. Community District 8.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-7436 - Block 1396, lot 62-
126 East 62nd Street - Upper East Side Historic District An Italianate style rowhouse built in 1871. Application is to construct a rear yard addition and modify a window opening. Zoned R8B. Community District 8.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 13-0066 - Block 1378, lot 70-
825 Fifth Avenue - Upper East Side Historic District
A neo-Classical style apartment building designed by J.E.R. Carpenter and built in 1926. Application is to reconstruct balconies and railings. Community District 8.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 12-8722 - Block 1504, lot 29-
63 East 92nd Street - Carnegie Hill Historic District
A rowhouse built in 1886 and altered in the neo-Colonial style by Edward Webber in 1928. Application is to construct rooftop and rear yard additions and alter front and rear facades. Zoned R8B. Community District 8.

m9-22

NOTICE IS HEREBY GIVEN THAT PURSUANT to the provisions of 3020 of the New York City Charter and Chapter 3 of Title 24 of the Administrative Code of the City of New York (Sections 25-303 and 25-313) that on **Tuesday, May 15, 2012 at 9:00 A.M.,** at the Landmarks Preservation Commission will conduct a *public hearing* in the Public Meeting Room of the Landmarks Preservation Commission, located at The Municipal Building, 1 Centre Street, 9th Floor North, City of New York with respect to the following proposed Landmarks and Landmark Sites. Any person requiring reasonable accommodation in order to participate in the hearing should call or write the Landmarks Preservation Commission, [Municipal Building, 1 Centre Street, 9th Floor North, New York, NY 10007, (212) 669-7700] no later than five (5) business days before the hearing. There will also be a public meeting on that day.

ITEMS TO BE HEARD

PUBLIC HEARING ITEM NO.1
LP-2087
BRINKERHOFF CEMETERY, 69-65 182nd Street, (aka 69-63 182nd Street), Queens.
Landmark Site: Borough of Queens Tax Map Block 7135, Lots 54 and 60
[COMMUNITY DISTRICT 8]

PUBLIC HEARING ITEM NO. 2
LP-2518
BOWERY BANK OF NEW YORK BUILDING, 124-126 Bowery (aka 230 Grand Street), Manhattan
Landmark Site: Borough of Manhattan Tax Map Block 470, Lot 64
[COMMUNITY DISTRICT 2]

PUBLIC HEARING ITEM NO. 3
LP-2520
FIREHOUSE, ENGINE COMPANY 83, HOOK & LADDER 29, 618 East 138th Street (aka 618-620 East 138th Street), Bronx
Landmark Site: Borough of the Bronx Tax Map Block 2550, Lot 28
[COMMUNITY DISTRICT 1]

PUBLIC HEARING ITEM NO. 4
LP-2521
FIREHOUSE, ENGINE COMPANY 41, 330 East 150th Street, Bronx.
Landmark Site: Borough of the Bronx Tax Map Block 2331, Lot 33
[COMMUNITY DISTRICT 1]

PUBLIC HEARING ITEM NO. 5
LP-2522
FIREHOUSE, ENGINE COMPANY 305, HOOK and LADDER COMPANY 151, 111-02 TO 111-04 Queens Boulevard (aka 111-50 75th Avenue), Queens.
Landmark Site: Borough of Queens Tax map Block 3294, Lot 20
[Community District 6]

m1-14

MAYOR'S OFFICE OF OPERATIONS

REPORT AND ADVISORY BOARD REVIEW COMMISSION

■ **NOTICE**

PUBLIC HEARING NOTICE

The Report and Advisory Board Review Commission will hold its first public hearing to solicit public feedback on whether the Commission should waive the 21 reporting requirements and advisory boards listed below.

- **DATE:** Friday, May 11, 2012
- **TIME:** 2:00 P.M.
- **PLACE:** Department of City Planning, Spector Hall
  22 Reade Street
  MANHATTAN

Members of the public may also provide comments to Commission staff by email (ReportsandBoards@cityhall.nyc.gov), or by mail: The Report and Advisory Board Commission, Mayor's Office of Operations, Attn: Alexis Offen, 253 Broadway, 10th Floor, New York, NY, 10007. As of April 20, 2012, all new comments sent by mail or email to the Commission will be posted on a weekly basis to www.nyc.gov/ReportsandBoards. Publishing of comments is subject to policies posted on the Commission's website.

Individuals requesting sign language interpreters or other reasonable accommodation for a disability at the public hearing should contact Rosa Reinat by emailing rreinat@cityhall.nyc.gov or by calling (212) 788-1400.

Press may contact the Mayor's Press Office at (212) 788-2958.

Background

In November 2010, New York City voters approved a Charter Revision Commission referendum proposal to review and assess the continued usefulness of certain reporting requirements and advisory boards. The Commission is chaired by the Director of the Mayor's Office of Operations and consists of representatives from the City Council, the Office of the Corporation Counsel, the Office of Management & Budget (OMB), and the Department of Information Technology and Telecommunications (DOITT).

More information about the Commission is available at www.nyc.gov/ReportsandBoards or by contacting the Commission staff at ReportsandBoards@cityhall.nyc.gov.

Items for Potential Waiver

Statutory provisions for the following can be found at www.nyc.gov/ReportsandBoards and the Charter and Administrative Code can be reviewed at the City Hall Library, 31 Chambers Street, Room 112, New York, NY, 10007:

Reports

1. Arson Strike Force Report (Administrative Code §15-303)
   A report to be published annually on arson-related statistics.
2. Class Size Report (partial waiver) (Charter §522(c)-(f))
   A report to be published twice a year comparing the number of classes by school, grade, and program to the number of students in the same categories, in order to show the average class size. Note: The Commission is considering a partial waiver of this report in order to change the frequency of the report from biannual to annual.
3. Criminal Justice Account Allocation of Funds Report (Administrative Code §5-605)
   A report to be published annually on the allocation of funds from the criminal justice account and status of the implementation of the safe streets-safe city program.
4. Drug Enforcement/Drug Abuse Task Force Report (Administrative Code §3-111)
   A report to be published quarterly on the task force's ongoing coordination activities, as well as a formal annual report on findings and recommendations of the task force.
5. Horse Drawn Cab Stand Report (Administrative Code §19-174)
   A report to be published annually on existing locations of horse draw cab stands, as well as any proposals to establish or eliminate horse drawn cab stands.
6. Industrial and Commercial Incentive Program Report (Administrative Code §11-267)
   A report to be published annually on the status of the Industrial and Commercial Incentive Program and its effects in the City.
7. Outreach Programs Report (Charter §612(a)(7))
   A report to be published quarterly on Department of Homeless Services or contractor outreach programs, and the number of chronically homeless individuals placed into permanent or temporary housing.
8. Permanent Housing Needs Report (Charter §614)
   A report to be published annually on expected needs for permanent housing and transitional housing and services in the upcoming fiscal year.
9. Preliminary Mayor's Management Report (Charter §12)
   A report to be published annually showing a mid-year snapshot of agency performance across all mayoral agencies.
10. Sustainable Stormwater Management Plan Report (Administrative Code §24-526.1)
    A report to be published biennially on the status of the sustainable stormwater management plan.
11. Temporary and Non-Standard Classroom Report (Charter §522(b))
    A report to be published annually on the use of non-standard classrooms within the public school system.
12. Ultra Low Sulfur Diesel Fuel for Ferries Report (Administrative Code §19-307)
    A report to be published annually on the use of ultra low sulfur diesel fuel and the best available technology for reducing the emission of pollutants for diesel fuel-powered City ferries.
13. Use of Refuse Burning Equipment without Control Apparatus Report (Administrative Code §24-158)
    A report to be published twice a year on the extent of compliance with the law prohibiting unauthorized incinerator use.
14. Zoning and Planning Report (Charter §192(f))
    A report to be published every four years on the planning agenda and zoning reform of the Department of City Planning.

Advisory Boards

1. Arson Strike Force (Administrative Code §15-301)
   A multi-agency strike force to foster cooperation in controlling incidences of arson.
2. Consumers Council (Charter §2204)
   A council representing consumer interests to advise the Department of Consumer Affairs on needed programs, reports, and cooperative efforts.
3. Drug Enforcement and Drug Abuse Task Force (Administrative Code §3-111)
   A multi-agency task force to foster cooperation and coordination in the battle against drug use and in providing abuse services.
4. Inter-Agency Advisory Council on Towing (Administrative Code §20-521)
   A council to make recommendations to the Department of Consumer Affairs concerning the criteria for issuing towing company licenses and participation in the rotation tow and directed accident programs.
5. NYC Commission for the Foster Care of Children (Administrative Code §21-118)
   A commission to study and recommend programs and standards addressing phases, facilities, and services of foster care.
6. Resource Recovery Task Force (Charter §1403)
   A Department of Environmental Protection and Department of Sanitation task force to advise and make recommendations on the planning and implementation of energy and materials recovery for solid and liquid wastes.
7. Tattoo Regulation Advisory Committee (Administrative Code §17-361)
   A Department of Health and Mental Hygiene committee to advise the Commissioner on health issues relating to tattooing.

a20-m11

BOARD OF STANDARDS AND APPEALS

■ **PUBLIC HEARINGS**

MAY 15, 2012, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, **May 15, 2012, 10:00 A.M.**, at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

849-49-BZ
APPLICANT – Greenberg Traurig, LLP, by Jay A. Segal, Esq., for Directors of Guild of America, Inc., owner.
SUBJECT – Application February 29, 2012 – Extension of Term of a previously granted Variance (72-21) for the continued use of a motion picture theater and other uses which expired on January 31, 2012. C5-3(MID) zoning district.
PREMISES AFFECTED – 110 West 57th Street, southside of 57th Street, between 6th and 7th Avenues, Block 1009, Lot 40, Borough of Manhattan.
COMMUNITY BOARD #5M

12-91-BZ
APPLICANT – Rampulla Associates Architects, for Miggy's Too Delicatessen Corp., owner.
SUBJECT – Application March 12, 2012 – Extension of Term of a previously granted Variance (72-21) for the continued operation of a UG6 food store (*Bayer's Market*) which expired on April 21, 2012; Amendment to eliminate the landscaping at the rear of the site, legalize an outdoor refrigeration unit, the elimination of the hours for garbage pickup and request to extinguish the term of the variance. R3-2 zoning district.
PREMISES AFFECTED – 2241 Victory Boulevard, north south corner of Victory Boulevard and O'Connor Avenue, Block 463, Lot 25, Borough of Staten Island.
COMMUNITY BOARD #1SI

136-01-BZ
APPLICANT – Eric Palatnik, P.C., for Cel Net Holdings Corp., owner.
SUBJECT – Application April 20, 2012 – Extension of Time to complete Construction and obtain a Certificate of Occupancy for a previously granted Variance (72-21) which permitted non-compliance in commercial floor area and rear yard requirements which expired on March 21, 2012. M1-4/R-7A zoning district.
PREMISES AFFECTED – 11-11 44th Drive, north side of 44th Drive between 11th Street and 21st Street, Block 447, Lot 13, Borough of Queens.
COMMUNITY BOARD #2Q

APPEALS CALENDAR

196-11-A
APPLICANT – Bryan Cave, LLP, for Jamaica Estates Design Group LLC, owner.
SUBJECT – Application December 27, 2011 – An appeal seeking a common law vested right to continue development commenced under the prior R6 zoning district regulations. R4-1 zoning district.
PREMISES AFFECTED – 178-06 90th Avenue, southeast corner of the intersection of 90th Avenue and 178th Street, Block 9894, Lot 47, 48, 51, Borough of Queens.
COMMUNITY BOARD #12Q

MAY 15, 2012, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, **May 15, 2012, at 1:30 P.M.**, at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

192-11-BZ
APPLICANT – Eric Palatnik, P.C., for Alex Veksler, owner.
SUBJECT – Application December 21, 2011 – Variance (§72-21) to allow for the development of a Use Group 3 child care center contrary to §23-35 (Minimum Lot Width/Area), §25-31 (Required Parking) and §25-62 & §35-68 (Parking Lot Maneuverability). R2/LDGMA district.
PREMISES AFFECTED – 2977 Hylan Boulevard between Isabella Avenue and Guyon Avenue, Block 4301, Lot 36 & 39, Borough of Staten Island.
COMMUNITY BOARD #3S.I.

20-12-BZ
APPLICANT – Herrick, Feinstein LLP, for LNA Realty Holdings, LLC, owner; Brookfit Ventures LLC, lessee.
SUBJECT – Application January 31, 2012 – Special Permit (§73-36) to permit the operation of a physical culture establishment in a portion of an existing one-story commercial building. C2-2\R5B zoning district - occupying 3,690 square feet on the ground floor and 20,640 square feet on the sub-cellar in an under construction mixed residential/commercial building.
PREMISES AFFECTED – 203 Berry Street aka 195-205 Berry Street; 121-127 N. 3rd Street, northeast corner of Berry and N. 3rd Streets, Block 2351, Lot 1087, Borough of Brooklyn.
COMMUNITY BOARD #1BK

31-12-BZ
APPLICANT – Sheldon Lobel, P.C., for Cactus of Harlem, LLC, owner.
SUBJECT – Application February 8, 2012 – Special Permit (ZR 73-50) to seek a waiver of rear yard requirements per ZR Section 33-292 to permit the construction of commercial building. C8-3 zoning district.
PREMISES AFFECTED – 280 West 155th Street, corner of Frederick Douglas Boulevard and West 155th Street, Block

2040, Lot 48, 61 & 62, Borough of Manhattan.
COMMUNITY BOARD #10M

49-12-BZ
APPLICANT – Sheldon Lobel, P.C., for Laterra, Inc., owner; Powerhouse Gym "FLB", Inc., lessee.
SUBJECT – Application March 2, 2012 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Powerhouse Gym)* in a portion of an existing one-story commercial building. C2-2\R5B zoning district
PREMISES AFFECTED – 34-09 Francis Lewis Boulevard, northeast corner of Francis Lewis Boulevard and 34th Avenue, Block 6077, Lot 1, Borough of Queens.
COMMUNITY BOARD #11Q

53-12-BZ
APPLICANT – Law Office of Frederick A. Becker, for Linda Laitz and Robert Laitz, owners.
SUBJECT – Application March 8, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141); less than the minimum required side yard (ZR 23-461 & 23-48) and less than the required rear yard (ZR 23-47). R-2 zoning district.
PREMISES AFFECTED – 1232 East 27th Street, west side of East 27th Street, between Avenue L and Avenue M, Block 7644, Lot 59, Borough of Brooklyn.
COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

m10-11

TRANSPORTATION

PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN, pursuant to law, that the following proposed revocable consents, have been scheduled for a public hearing by the New York City Department of Transportation. The hearing will be held at 55 Water Street, 9th Floor, Room 945 commencing at 2:00 P.M. on Wednesday, May 16, 2012. Interested parties can obtain copies of proposed agreements or request sign-language interpreters (with at least seven days prior notice) at 55 Water Street, 9th Floor SW, New York, NY 10041, or by calling (212) 839-6550.

#1 In the matter of a proposed revocable consent authorizing 46 West 69th Street LLC to continue to maintain and use a fenced-in area on the south sidewalk of West 69th Street, east of Columbus Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - $25/annum.

the maintenance of a security deposit in the sum of $3,500 and the insurance shall be in the amount of One Million Dollars ($1,000,000) per occurrence, and Two Million Dollars ($2,000,000) aggregate.

#2 In the matter of a proposed revocable consent authorizing 208 East 72nd Street LLC to continue to maintain and use a fenced-in area on the south sidewalk of East 72nd Street, east of Third Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among other terms and conditions for compensation payable to the City according to the following schedule:

For the period July 1, 2012 to June 30, 2013 - $286
For the period July 1, 2013 to June 30, 2014 - $294
For the period July 1, 2014 to June 30, 2015 - $302
For the period July 1, 2015 to June 30, 2016 - $310
For the period July 1, 2016 to June 30, 2017 - $318
For the period July 1, 2017 to June 30, 2018 - $326
For the period July 1, 2018 to June 30, 2019 - $334
For the period July 1, 2019 to June 30, 2020 - $342
For the period July 1, 2020 to June 30, 2021 - $350
For the period July 1, 2021 to June 30, 2022 - $358

the maintenance of a security deposit in the sum of $5,000 and the insurance shall be in the amount of One Million Dollars ($1,000,000) per occurrence, and Two Million Dollars ($2,000,000) aggregate.

#3 In the matter of a proposed revocable consent authorizing Bottle Tower, Inc. to continue to maintain and use a stoop and a fenced-in area on the east sidewalk of Bedford Street, between Grove and Barrow Streets, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among other terms and conditions for compensation payable to the city according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - $25/annum.

the maintenance of a security deposit in the sum of $2,500 and the insurance shall be in the amount of One Million Dollars ($1,000,000) per occurrence, and Two Million Dollars ($2,000,000) aggregate.

#4 In the matter of a proposed revocable consent authorizing Doves' Nest NYC, LLC to continue to maintain and use a stoop and a fenced-in area on the south sidewalk of West 10th Street, between Fifth Avenue and Sixth Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2012 to June 30, 2022 and provides among others terms and condition for compensation payable to the city according to the following schedule:

For the period from July 1, 2012 to June 30, 2022 - $25/annum.

the maintenance of a security deposit in the sum of $7,500 and the insurance shall be in the amount of One Million Dollars ($1,000,000) per occurrence, and Two Million Dollars ($2,000,000) aggregate.

#5 In the matter of a proposed revocable consent authorizing Texas Eastern Transmission Partners, LP to construct, maintain and use a 30-inch diameter natural gas pipeline in submerged lands within the New York City owned portion of the Hudson River, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from the date of Approval by the Mayor to June 30, 2022 and provides among other terms and conditions for compensation payable to the City:
The annual fee will be calculated pursuant to the Rules of the City of New York

the maintenance of a security deposit in the sum of $22,000 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence, and Thirty Five Million Dollars ($35,000,000) aggregate.

#6 In the matter of a proposed revocable consent authorizing The Brooklyn Union Gas Company d/b/a National Grid USA to construct, maintain and use 30-inch gas main in the vicinity of Paerdegat Basin, between Bergen Avenue and Seaview Avenue, in the Borough of Brooklyn. The proposed revocable consent is for a term of ten years from the date of Approval by the Mayor to June 30, 2022 and provides among other terms and conditions for compensation payable to the City:

The annual fee will be calculated pursuant to the Rules of the City of New York

the maintenance of a security deposit in the sum of $40,000 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence, and Thirty Five Million Dollars ($35,000,000) aggregate.

a26-m16

PROPERTY DISPOSITION

CITYWIDE ADMINISTRATIVE SERVICES

MUNICIPAL SUPPLY SERVICES

SALE BY SEALED BID

SALE OF: THREE YEAR CITYWIDE CONTRACT TO REMOVE AND/OR RECEIPT, AS REQUIRED, AND THE COMPLETE DESTRUCTION (OR RECYCLING TO PREVENT ILLICIT USE) OF USED BULLET AND/OR STAB-SLASH RESISTANT VESTS FROM JUNE 1, 2012 TO MAY 31, 2015.

S.P.#: 12021 **DUE:** May 17, 2012

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
DCAS, Division of Municipal Supply Services, 18th Floor Bid Room, Municipal Building, New York, NY 10007.
For sales proposal contact Gladys Genoves-McCauley (718) 417-2156 for information.

m4-17

POLICE

OWNERS ARE WANTED BY THE PROPERTY CLERK DIVISION OF THE NEW YORK CITY POLICE DEPARTMENT.

The following listed property is in the custody, of the Property Clerk Division without claimants.

Recovered, lost, abandoned property, property obtained from prisoners, emotionally disturbed, intoxicated and deceased persons; and property obtained from persons incapable of caring for themselves.
Motor vehicles, boats, bicycles, business machines, cameras, calculating machines, electrical and optical property, furniture, furs, handbags, hardware, jewelry, photographic equipment, radios, robes, sound systems, surgical and musical instruments, tools, wearing apparel, communications equipment, computers, and other miscellaneous articles.

INQUIRIES
Inquiries relating to such property should be made in the Borough concerned, at the following office of the Property Clerk.

FOR MOTOR VEHICLES
(All Boroughs):
* **College Auto Pound, 129-01 31 Avenue, College Point, NY 11354, (718) 445-0100**
* **Gowanus Auto Pound, 29th Street and 2nd Avenue, Brooklyn, NY 11212, (718) 832-3852**
* **Erie Basin Auto Pound, 700 Columbia Street, Brooklyn, NY 11231, (718) 246-2029**

FOR ALL OTHER PROPERTY
* **Manhattan - 1 Police Plaza, New York, NY 10038, (212) 374-4925.**
* **Brooklyn - 84th Precinct, 301 Gold Street, Brooklyn, NY 11201, (718) 875-6675.**
* **Bronx Property Clerk - 215 East 161 Street, Bronx, NY 10451, (718) 590-2806.**
* **Queens Property Clerk - 47-07 Pearson Place, Long Island City, NY 11101, (718) 433-2678.**
* **Staten Island Property Clerk - 1 Edgewater Plaza, Staten Island, NY 10301, (718) 876-8484.**

j1-d31

PROCUREMENT

"Compete To Win" More Contracts!
Thanks to a new City initiative - "Compete to Win" - the NYC Department of Small Business Services offers a new set of FREE services to help create more opportunities for minority and women-owned businesses to compete, connect and grow their business with the City. With NYC Construction Loan, Technical Assistance, NYC Construction Mentorship, Bond Readiness, and NYC Teaming services, the City will be able to help even more small businesses than before.

Win More Contracts at nyc.gov/competetowin

"The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination. The contracting opportunities for construction/construction services and construction-related services that appear in the individual agency listings below reflect that commitment to excellence."

ADMINISTRATION FOR CHILDREN'S SERVICES

SOLICITATIONS

Human / Client Services

NON-SECURE DETENTION GROUP HOMES – Negotiated Acquisition – Judgment required in evaluating proposals - PIN# 06811N0004 – DUE 05-31-13 AT 2:00 P.M. – The Administration for Children's Services, Division of Youth and Family Justice is soliciting applications from organizations interested in operating non-secure detention group homes in New York City. This is an open-ended solicitation; applications will be accepted on a rolling basis until 2:00 P.M. on 5/31/13.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
Administration for Children's Services, 150 William Street, 9th Floor, New York, NY 10038.
Patricia Chabla (212) 341-3505; Fax: (212) 341-3625; patricia.chabla@dfa.state.ny.us

j1-n14

CITY UNIVERSITY

SOLICITATIONS

Goods & Services

MAINTENANCE AND REPAIR OF MARINE NAVIGATION BRIDGE/RADAR SIMULATOR – Sole Source – Available only from a single source - PIN# 7432177 – DUE 06-01-12 AT 2:30 P.M. – Kingsborough Community College intends to enter into a negotiated acquisition with Buffalo Computer Graphics to provide resolution of existing defects, software updates, preventative maintenance, operational training, replacement hardware and factory materials warranty for Buffalo Computer Graphics Marine Navigation Bridge/Radar Simulator.

Requirements: Prospective vendors hall:
(1) Have at least one (1) year of trained and certified experience maintaining and servicing Buffalo Computer Graphics Marine Navigation Bridge/Radar Simulator;
(2) Be able to provide comprehensive diagnostic and corrective action phone support;
(3) Provide all necessary and required software upgrades during the term of the contract.

No subcontracting allowed.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
Kingsborough Community College, 2001 Oriental Blvd., Brooklyn, NY 11235. Robin Sutherland (718) 368-4649; Fax: (718) 368-5611; RSutherland@kbcc.cuny.edu

☛ **m11**

CITYWIDE ADMINISTRATIVE SERVICES

MUNICIPAL SUPPLY SERVICES

AWARDS

Goods

UPGRADE TO APPLE IMACS - DOI – Intergovernmental Purchase – PIN# 8571200569 – AMT: $357,853.62 – TO: Apple, Inc., 1 Infinite Loop, Cupertino, CA 95014. NYS Contract #PT65428.

Suppliers wishing to be considered for a contract with the Office of General Services of New York State are advised to contact the Procurement Services Group, Corning Tower, Room 3711, Empire State Plaza, Albany, NY 12242 or by phone at 518-474-6717.

☛ **m11**

VENDOR LISTS

Goods

EQUIPMENT FOR DEPARTMENT OF SANITATION – In accordance with PPB Rules, Section 2.05(c)(3), an acceptable brands list will be established for the following equipment for the Department of Sanitation:

A. Collection Truck Bodies
B. Collection Truck Cab Chassis
C. Major Component Parts (Engine, Transmission, etc.)

Applications for consideration of equipment products for inclusion on the acceptable brands list are available from: Mr. Edward Andersen, Procurement Analyst, Department of Citywide Administrative Services, Office of Citywide Procurement, 1 Centre Street, 18th Floor, New York, NY 10007. (212) 669-8509.

j5-d31

FINANCIAL INFORMATION SERVICES AGENCY

CONTRACTS UNIT

AWARDS

Goods

INFORMATION TECHNOLOGY PRODUCTS AND ANCILLARY SERVICES FOR FISCAL YEAR 2012 REQUEST FOR PROPOSAL (RFP) – Request for

Proposals – PIN# 12711CA00097A – AMT: $2,006,339.24 – TO: Accenture LLP, 1345 Avenue of the Americas, New York, NY 10105.Pursuant to Section 3-03 of the Procurement Policy Board (PPB) Rules for Competitive Sealed Proposals, the NYC Financial Information Services Agency (FISA) has awarded a contract to Accenture LLP for the acquisition of Hardware, Software, and Ancillary Goods and Services.

The contract term shall be from July 1, 2011 to June 30, 2013.

● **INDEPENDENT CONSULTANTS COOPERATIVE, INC. (ICC)** – Renewal – PIN# 127FY1200061 – AMT: $249,750.00 – TO: Independent Consultants Cooperative (ICC), Inc., 750 Squaw Brook Road, North Haledon, NJ 07508. - Pursuant to Section 4-04 of the Procurement Policy Board Rules (PPB) the Financial Information Services Agency (FISA) has renewed its contract with Independent Consultants Cooperative (ICC), Inc. for consultant services. FISA shall continue to utilize ICC's consultant services to resolve new and ongoing issues related but not limited to the critical migration of data between our major systems and large scale projects currently underway. The original contract contains two, one year options to renew. FISA is exercising one of its two renewals.

The term of this renewal shall be from 3/1/12 - 2/28/13.

● **GENTRAN INTEGRATION SUITE (GIS) SOFTWARE** – Sole Source – Available only from a single source - PIN# 127FY1200074 – AMT: $36,960.00 – TO: International Business Machines Corporation (IMB), 590 Madison Avenue, New York, NY 10022. - Pursuant to Section 3-05 of the Procurement Policy Board (PPB) Rules for Sole Source procurements, the Financial Information Services Agency (FISA) has awarded a contract to the International Business Corporation (IBM) for proprietary software maintenance. FISA is seeking to procure support and maintenance services for Sterling B2B Integrator (previously known as Gentran Integration Suite) software. This is a proprietary legacy product previously owned by Sterling Commerce Inc. (now owned by IBM). This software enables the secure integration of complex B2B processes, consolidates file transfer activity, and facilitates the exchange of file-based information in any format, protocol, and file size.

The contract term shall be for one (1) year from 1/1/12 - 12/31/12 and has a three (3) year option to renew.

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HEALTH AND HOSPITALS CORPORATION

The New York City Health and Hospitals Corporation is regularly soliciting bids for supplies and equipment at its Central Purchasing Offices, 346 Broadway, New York City, Room 516, for its Hospitals and Diagnostic and Treatment Centers. All interested parties are welcome to review the bids that are posted in Room 516 weekdays between 9:00 a.m. and 4:30 p.m. For information regarding bids and the bidding process, please call (212) 442-4018.

j1-d31

CONTRACT SERVICES

■ **SOLICITATIONS**

Construction / Construction Services

INDEFINITE QUANTITY CONSTRUCTION CONTRACT - HVAC WORK - NOT TO EXCEED 3M – Competitive Sealed Bids – PIN# HV2-QBKSI – DUE 06-06-12 AT 1:30 P.M. – NYCHHC Indefinite Quantity Construction Contract HVAC Work for Region 2 - Queens, Brooklyn, and Staten Island, N.Y. Bid Document Fee $40.00 per set (check or money order), non-refundable. Contract not to exceed $3,000,000.

Mandatory pre-bid meetings are scheduled for Monday, May 21, 2012 at 10:00 A.M. and Tuesday, May 22, 2012 at 10:00 A.M., 346 Broadway, 12th Fl. North Conference Room, N.Y., N.Y. All Bidders must attend on one of these dates.

Technical questions must be submitted in writing, by email or fax, no later than five (5) calendar days before Bid Opening to Clifton McLaughlin, fax (212) 442-3851.

Requires Trade Licenses (where applicable). Under Article 15A of the State of New York the following M/WBE goals apply to this contract MBE 19 percent and WBE 6 percent. These goals apply to any bid submitted of $100,000 or more. Bidders not complying with these terms may have their bids declared non-responsive.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
Health and Hospitals Corporation, 346 Broadway, 12th Floor West, New York, NY 10013.
Clifton McLaughlin (212) 442-3658; mclaughc@nychhc.org

☛ **m11**

HEALTH AND MENTAL HYGIENE

AGENCY CHIEF CONTRACTING OFFICER

■ **SOLICITATIONS**

Human / Client Services

NEW YORK/NY III SUPPORTED HOUSING CONGREGATE – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 81608PO076300R0X00-R – DUE 09-18-12 AT 4:00 P.M. – The Department is issuing a RFP to establish 3,000 units of citywide supportive housing in newly constructed or rehabilitated single-site buildings for various homeless populations pursuant to the New York III Supported Housing agreement. The subject RFP will be open-ended and proposals will be accepted on an on-going basis. The RFP is available on-line at http://www.nyc.gov/html/doh/html/acco/acco-rfp-nynycongregate-20070117-form.shtml. A pre-proposal conference was held on March 6, 2007 at 2:00 P.M. at 125 Worth Street, 2nd Floor Auditorium, New York, N.Y. Any questions regarding this RFP must be sent in writing in advance to Contracting Officer at the above address or e-mailed to the above address. All proposals must be hand delivered at the Agency Chief Contracting Officer, Gotham Center, CN#30A, 42-09 28th Street, 17th Floor, Queens, NY 11101-4132, no later than September 18, 2012.

As a minimum qualification requirement for (1) the serious and persistent mentally ill populations, the proposer must be incorporated as a not-for-profit organization, and (2) for the young adult populations, the proposer must document site control and identify the source of the capital funding and being used to construct or renovate the building.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
Health and Mental Hygiene, ACCO, Gotham Center, CN#30A, 42-09 28th Street, 17th Floor, Queens, NY 11101-4132.
Huguette Beauport (347) 396-6633; hbeaupor@health.nyc.gov

a6-s17

HOUSING AUTHORITY

■ **SOLICITATIONS**

Goods & Services

GSD_LEAD BASED PAINT INSPECTION SERVICES - VARIOUS DEVELOPMENTS LOCATED IN ALL FIVE (5) BOROUGHS OF NYC – Competitive Sealed Bids – DUE 06-01-12 –
PIN# 29533 - Contract A Due at 10:00 A.M.
PIN# 29537 - Contract B Due at 10:05 A.M.
PIN# 29538 - Contract C Due at 10:10 A.M.
PIN# 29539 - Contract D Due at 10:15 A.M.
PIN# 29540 - Contract E Due at 10:20 A.M.
For Single Family Testing, with a minimal amount of requests for Multi-Family Testing. This service will be provided at various New York City Housing Authority Developments, borough specific. The Bidder's LBP inspection methodology must be in accordance with 24 CFR Part 35 "Requirements for Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance;" 40 CFR Part 745 "Lead: Requirements for Lead-Based paint in Target Housing and Child Occupied Facilities;" and the U.S. Department of Housing and Urban Developments "Guidelines for the Evaluation and Control of Lead-Based Paint," as required and as supplemented by NYCHA.

No Bid Security is required.

Contract Award Provision: At the discretion and in the best interest of the Authority, NYCHA may invoke the contract award provision "limiting award" not to exceed more than two (2) contracts to any individual bidder per solicitation of Qty (5)/RFQ's - 29533, 29537, 29538, 29539, and 29540.

License/Certification Requirements - The Contractor shall provide qualified employees with a minimum of 1 year experience to perform work in accordance with this Contract. Contractor's on-site employees shall be trained in a program formally accredited either by EPA or by an EPA-approved state Program for lead based paint Inspector. The training shall be in accordance with 40 CFR 745.225. On-site employees must possess current EPA Inspector license for the State of New York. The Contractor must also maintain a current EPA firm license for the State of New York. The Contractor must also maintain certification/licenses required by Federal, State, and Local Law or those deemed necessary by NYCHA.

Please ensure that bid response includes documentation as required and attached/included in electronic bid proposal submittal. Failure to comply will result in your bid being deemed non-responsive.

Interested firms may obtain a copy and submit it on NYCHA's website: Doing Business with NYCHA. Http://www.nyc.gov/nycha. Vendors are instructed to access the "Doing Business with NYCHA" link; then "Selling Goods and Services to NYCHA" link; and "Getting Started, Register/Log-in Here" link for/with log-in credentials. Upon access, reference applicable RFQ number per solicitation.

Vendors electing to submit a non-electronic bid (paper document) will be subject to a $25.00 non-refundable fee; payable to NYCHA by USPS-Money order/Certified check only for each set of RFQ documents requested. Remit payment to NYCHA Finance Department at 90 Church Street, 6th Floor; obtain receipt and present it to 12th Floor, General Services Procurement Group. A bid package will be generated at time of request.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
Housing Authority, 90 Church Street, 12th Fl., New York, NY 10007. Sabrina Steverson (212) 306-6771; sabrina.steverson@nycha.nyc.gov

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GSD_INSTALLATION OF V/C FLOOR TILE IN APTS. –
Competitive Sealed Bids – DUE 06-01-12 –
PIN# 29535 - Various Brooklyn Developments Due at 10:00 A.M.
PIN# 29536 - Melrose Houses-Bronx Due at 10:05 A.M.

Term One (1) Year. Please ensure that bid response includes documentation as required and attached/included in electronic bid proposal submittal. Failure to comply will result in your bid being deemed non-responsive.

Interested firms may obtain a copy and submit it on NYCHA's website:
http://www.nyc.gov/html/nycha/html/business/business.shtml
Vendors are instructed to access "Doing Business with NYCHA;" then click- "Selling Goods and Services to NYCHA" link; then click on "Getting Started" to create a log-in utilizing log-in credentials; "New User, Request Log-in ID or Returning iSupplier User. Upon access, reference applicable RFQ/PIN number per solicitation.

Vendors electing to submit a non-electronic bid (paper document) will be subject to a $25.00 non-refundable fee; payable to NYCHA by USPS-Money order/Certified check or cash only for each set of RFQ documents requested. Remit payment to NYCHA Finance Department at 90 Church Street, 6th Floor; obtain receipt and present it to 12th Floor, General Services Procurement Group. A bid package will be generated at time of request.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
Housing Authority, 90 Church Street, 12th Floor, New York, NY 10007. Sabrina Steverson (212) 306-6771; sabrina.steverson@nycha.nyc.gov

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PARKS AND RECREATION

REVENUE AND CONCESSIONS

■ **SOLICITATIONS**

Services (Other Than Human Services)

TENNIS PROFESSIONAL CONCESSIONS AT VARIOUS LOCATIONS, CITYWIDE – Competitive Sealed Bids – PIN# CWTP2012 – DUE 05-25-12 AT 3:00 P.M. – The New York City Department of Parks and Recreation ("Parks") is issuing, as of the date of this notice, a Request for Bids ("RFB") for the operation of tennis professional concessions at various locations, Citywide. All bids for this RFB must be submitted no later than Friday, May 25, 2015 at 3:00 P.M.

TELECOMMUNICATION DEVICE FOR THE DEAF (TDD) 212-504-4115.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
Parks and Recreation, The Arsenal-Central Park, 830 Fifth Avenue, Room 407, New York, NY 10021. Evan George (212) 360-3495; Fax: (917) 849-6623; evan.george@parks.nyc.gov

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SPECIALTY MOBILE FOOD UNIT AT CEDAR GROVE BEACH, STATEN ISLAND – Request for Proposals – PIN# R16-2-CG – DUE 05-18-12 AT 3:00 P.M. – The New York City Department of Parks and Recreation ("Parks") is issuing, as of the date of this notice, a request for proposals for the sale of specialty food from a Mobile Food Unit at Cedar Grove Beach, Staten Island, N.Y.

TELECOMMUNICATION DEVICE FOR THE DEAF (TDD) 212-504-4115

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
Parks and Recreation, The Arsenal-Central Park, 830 Fifth Avenue, Room 407, New York, NY 10021. Evan George (212) 360-3495; Fax: (917) 849-6623; evan.george@parks.nyc.gov

m2-15

SANITATION

AGENCY CHIEF CONTRACTING OFFICER

■ **AWARDS**

Goods & Services

ABSORBENT WASTE REMOVAL – Competitive Sealed Bids – PIN# 82712ME00019 – AMT: $157,477.50 – TO: PRS 95 Inc., 4 Ditomas Court Copiague, NY 117206.

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Services (Other Than Human Services)

BROOKLYN NAVY YARD SOIL REMEDIATION – Competitive Sealed Bids – PIN# 82712WD00033 – AMT: $967,250.00 – TO: DCA Construction Ltd., 64 Giegerich Avenue, Staten Island, NY 10307.

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SCHOOL CONSTRUCTION AUTHORITY

CONTRACT ADMINISTRATION

■ **SOLICITATIONS**

Construction / Construction Services

EXTERIOR MASONRY, PARAPETS, FLOOD ELIMINATION – Competitive Sealed Bids – PIN# SCA12-14153D-1 – DUE 05-30-12 AT 11:30 A.M. – PS 153 (Brooklyn). Project Range: $3,560,000.00 to $3,750,000.00. Price of Documents: $100.00, non-refundable certified check or money order made payable to the NYC School Construction Authority.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
School Construction Authority, 30-30 Thomson Avenue, Long Island City, NY 11101. Kevantae Idlett (718) 472-8360; kidlett@nycsca.org

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WEIGHT ROOM UPGRADE – Competitive Sealed Bids – PIN# SCA12-14047D-1 – DUE 05-31-12 AT 11:30 A.M. – Lincoln High School (Brooklyn). Project Range: $1,000,000.00 to $1,050,000.00. Non-refundable bid documents charge: $100.00, certified check or money order only. Make checks payable to the New York City School Construction Authority. Bidders must be pre-qualified by the SCA.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
School Construction Authority, 30-30 Thomson Avenue, Long Island City, NY 11101. Rookmin Singh (718) 752-5843; rsingh@nycsca.org

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CONTRACT SERVICES

■ SOLICITATIONS

Construction / Construction Services

FLOOD ELIMINATION/ROOF/PARAPETS – Competitive Sealed Bids – PIN# SCA12-14163D-1 – DUE 05-30-12 AT 2:00 P.M. – Flatbush Conversion (Brooklyn). Project Range: $1,700,000.00 - $1,792,000.00. Non-refundable bid document charge: $100.00, certified check or money order only. Make payable to the New York City School Construction Authority. Bidders must be pre-qualified by the SCA.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
School Construction Authority, 30-30 Thomson Avenue, Long Island City, NY 11101. Lily Persaud (718) 752-5852; Fax: (718) 472-0477; lpersaud@nycsca.org

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SMALL BUSINESS SERVICES

PROCUREMENT

■ AWARDS

Goods & Services

EMPLOYMENT WORKS INITIATIVE RFP (BROOKLYN) – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 80111P0010001 – AMT: $4,500,000.00 – TO: DB Grant Associates, Inc., 60 Madison Avenue, Suite 704.

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TRIBOROUGH BRIDGE & TUNNEL AUTHORITY

■ SOLICITATIONS

Construction / Construction Services

REQUEST FOR EXPRESSIONS OF INTEREST FOR SEISMIC AND WIND INVESTIGATION AT THE ROBERT F. KENNEDY BRIDGE – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# PSC122910000 – DUE 05-30-12 AT 3:30 P.M. – Please visit our website for further information at www.mta.info.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/ blueprints; other information; and for opening and reading of bids at date and time specified above.
Triborough Bridge and Tunnel Authority, 2 Broadway, 24th Floor, New York, NY 10004.
Victoria Warren (646) 252-7092; Fax: (646) 252-7077; vprocure@mtabt.org

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AGENCY RULES

ENVIRONMENTAL CONTROL BOARD

■ NOTICE

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on the proposed rule regarding penalties for offenses adjudicated by the Environmental Control Board (ECB) related to concrete washout water and exterior wall safety.

Date / Time: June 12, 2012 / 3:30 P.M.

Location: ECB
66 John Street
10th Floor, Conference Room
New York, N.Y. 10038

Contact: James Macron
Counsel to the Board
ECB
66 John Street, 10th Floor
New York, N.Y. 10038
(212) 361-1515

Proposed Rule Amendment

Pursuant to Section 1049-a of the New York City Charter, and in accordance with Section 1043(b) of the New York City Charter and Chapter 2 of Title 28 of the New York City Administrative Code, the Environmental Control Board proposes to amend Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, creating penalties for offenses adjudicated by the Environmental Control Board related to concrete washout water and exterior wall safety.

This rule was not included in the Environmental Control Board's regulatory agenda because it was not anticipated at the time the agenda was created.

Instructions

- Prior to the hearing, you may submit written comments about the proposed rule to Mr. Macron by mail at the address above or electronically through NYC RULES at www.nyc.gov/nycrules by June 12, 2012. Individuals seeking to testify at the hearing should also notify Mr. Macron by June 12, 2012.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Mr. Macron by June 5, 2012.
- After the hearing, individuals interested in receiving written comments and a transcript of oral comments on the proposed rule may request them by writing to Mr. Macron.

Statement of Basis and Purpose

The Environmental Control Board proposes to amend its Department of Buildings (DOB) Penalty Schedule. This schedule is found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY). The proposed amendments will create penalties for certain sections of the New York City Building Code, Administrative Code, and RCNY in order to better enforce these provisions.

Section 1. Concrete Washout Water
Concrete washout water damages New York City's environment, sewer and drainage systems. The proposed amendment creates penalties for violations of Section 3303.15 of the New York City Building Code as added by Local Law 70 of 2011. Local Law 70 of 2011 regulates concrete washout water, defined as wastewater from the rinsing of equipment used to mix, transport, convey and/or place concrete. Local Law 70 of 2011 will take effect July 1, 2012.

Sections 2 through 4. Public Safety Measures for the Maintenance of Exterior Walls

When the exterior walls and appurtenances (façades) of a building become unsafe, they pose a serious threat to public safety. The proposed amendments create penalties for violations of the following provisions, which require certain procedures for the safe maintenance of building façades:

- Section 28-302.3 of the Administrative Code;
- Section 28-302.5 of the Administrative Code; and
- Section 103-04(b)(5)(iii) of Title 1 of the RCNY.

Article 302 of Title 28 of the Administrative Code sets forth maintenance requirements for the façades of buildings greater than 6 stories. Section 28-302.3 requires a registered design professional who learns of an unsafe condition upon examining a façade to immediately notify the DOB. When an unsafe condition is reported, Section 28-302.5 requires the building owner, the owner's agent, or the person in charge of the building to take immediate steps to remedy those conditions.

Section 103-04(b)(5)(iii) of Title 1 of the RCNY requires the building owner, the owner's agent, or the person in charge of the building to get approval from the DOB before removing a shed or protective measure from a building's exterior.

New matter is underlined.

Section 1. The Environmental Control Board is amending its DOB Penalty Schedule found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York to add the following violation after the violation "BC 3303.8.1, Failure to properly conduct planned removal from service of standpipe system and/or standpipe pressurized alarm":

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty ($)	Mitigated Penalty ($)	Default Penalty ($)	Aggravated I Penalty ($)	Aggravated I Default Penalty ($)	Aggravated II Penalty ($)	Aggravated II Default – Maximum Penalty ($)
BC 3303.15	2	Failure to perform proper concrete washout water procedures at construction site	No	No	1,200	No	6,000	3,000	10,000	6,000	10,000

Section 2. The Environmental Control Board is amending its DOB Penalty Schedule found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York to add the following violation after the violation "28-302.1, Failure to maintain building wall(s) or appurtenances":

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty ($)	Mitigated Penalty ($)	Default Penalty ($)	Aggravated I Penalty ($)	Aggravated I Default Penalty ($)	Aggravated II Penalty ($)	Aggravated II Default – Maximum Penalty ($)
28-302.3	1	Failure of registered design professional to immediately notify Department of unsafe condition	No	No	1,200	No	6,000	3,000	12,000	6,000	25,000

Section 3. The Environmental Control Board is amending its DOB Penalty Schedule found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York to add the following violation after the violation "28-302.5, Failure to file an amended report acceptable to this Department indicating correction of unsafe conditions":

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty ($)	Mitigated Penalty ($)	Default Penalty ($)	Aggravated I Penalty ($)	Aggravated I Default Penalty ($)	Aggravated II Penalty ($)	Aggravated II Default – Maximum Penalty ($)
28-302.5	1	Failure to timely correct unsafe condition	No	No	2,400	No	12,000	6,000	24,000	12,000	25,000

Section 4. The Environmental Control Board is amending its DOB Penalty Schedule found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York to add the following violation after the violation "1 RCNY 101-07, Failure of Approved agency to comply with requirements of 1 RCNY 101-07":

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty ($)	Mitigated Penalty ($)	Default Penalty ($)	Aggravated I Penalty ($)	Aggravated I Default Penalty ($)	Aggravated II Penalty ($)	Aggravated II Default – Maximum Penalty ($)
1 RCNY §103-04(b)(5)(iii)	2	Removal of shed or protective measure without Department approval	No	No	800	Yes	4,000	2,000	8,000	4,000	10,000

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Buildings Penalty Schedule (Concrete Washout and Unsafe Facades)

REFERENCE NUMBER: OATH/ECB-23

RULEMAKING AGENCY: Environmental Control Board

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Does not provide a cure period because the violations pose a risk to the environment, public health and safety.

/s/ Ruby B. Choi — *4/19/2012*
Mayor's Office of Operations — Date

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NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on Proposed Rule regarding penalties for offenses adjudicated by the Environmental Control Board (ECB).

Date / Time: June 12, 2012 / 3:30 P.M.

Location: ECB
66 John Street
10th Floor, Conference Room
New York, N.Y. 10038

Contact: James Macron
Counsel to the Board
ECB
66 John Street, 10th Floor
New York, N.Y. 10038
(212) 361-1515

Proposed Rule Amendment

Pursuant to Section 1049-a of the New York City Charter, and in accordance with Section 1043(b) of the Charter, the Environmental Control Board proposes to amend subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, creating penalties for offenses adjudicated by the Environmental Control Board. New matter in the following rule is underlined, and deleted material is in brackets. This rule was not included in the Environmental Control Board's regulatory agenda because it was not anticipated at the time the agenda was created.

Instructions

- Prior to the hearing, you may submit written comments about the proposed rule to Mr. Macron by mail or electronically through NYC RULES at www.nyc.gov/nycrules. Individuals seeking to testify at the hearing should also notify Mr. Macron.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Mr. Macron by June 5, 2012
- After the hearing, individuals interested in receiving written comments and a transcript of oral comments on the proposed rule may request them by writing to Mr. Macron.

Statement of Basis and Purpose of Proposed Rule

The Environmental Control Board proposes to amend its Department of Buildings (DOB) Penalty Schedule. This schedule is found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY).

This amendment adjusts penalties for fourteen charges in the penalty schedule.

Most penalties in this schedule follow a formula – both the Standard Default and Aggravated II penalties are the lesser of 5 times the Standard penalty or the statutory maximum. The Aggravated I penalty is the lesser of 2.5 times the Standard penalty or the statutory maximum. The Aggravated I default penalty is the lesser of 10 times the Standard penalty or the statutory maximum. The Aggravated II Default penalty is the statutory maximum.

However, the current penalties for the charges below do not follow this formula. ECB therefore seeks to conform these charges to the others contained in the penalty schedule.

Section 1. The Environmental Control Board is amending its DOB Penalty Schedule found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY) to make the following changes:

Deleted material is in [brackets].
New matter is underlined.

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty	Mitigated Penalty	Default Penalty	Aggravated I Penalty	Aggravated I Default Penalty	Aggravated II Penalty	Aggravated II Default – Maximum Penalty
1 RCNY 5-02	Class 2	Failure to meet the requirements of licensing/ identification/ qualification as required by 1 RCNY 5-02	No	No	$800	Yes	[$10,000] $4,000	$2,000	[$10,000] $8,000	$4,000	$10,000
1 RCNY 101-07	Class 2	Failure of Approved agency to comply with requirements of 1 RCNY 101-07	Yes	No	$800	Yes	[$10,000] $4,000	$2,000	[$10,000] $8,000	$4,000	$10,000
28-406.1	Class 1	Unlicensed concrete testing activity, Immediately Hazardous	No	No	$1,000	Yes	[$25,000] $5,000	$2,500	[$25,000] $10,000	$5,000	$25,000
BC 1704.4	Class 2	Failure to perform special inspections and verifications for concrete construction as required by section and Table 1704.4	No	No	$1,600	No	[$10,000] $8,000	$4,000	$10,000	$8,000	$10,000
BC 1905.6.3.2	Class 2	Failure to comply with ASTM C31 standards for concrete cylinder test samples	No	No	$1,600	No	[$10,000] $8,000	$4,000	$10,000	$8,000	$10,000
BC 903.6	Class 2	Failure to paint dedicated sprinkler piping/valves in accordance with section	No	No	$1,600	Yes	[$10,000] $8,000	$4,000	$10,000	$8,000	$10,000
BC 903.6	Class 2	Failure to provide/maintain painting certification of sprinkler and combination sprinkler/standpip e systems in accordance with section	Yes	No	$500	Yes	[$10,000] $2,500	$1,250	[$10,000] $5,000	$2,500	$10,000
BC 905.11	Class 2	Failure to paint dedicated standpipe/ valves in accordance with section	No	No	$1,600	Yes	[$10,000] $8,000	$4,000	$10,000	$8,000	$10,000
BC 905.11	Class 2	Failure to provide/maintain painting certification of standpipe and combination sprinkler/standpip e systems in accordance with section	Yes	No	$500	Yes	[$10,000] $2,500	$1,250	[$10,000] $5,000	$2,500	$10,000
28-408.1	Class 1	Performing unlicensed plumbing work without a master plumber license	No	No	$2,500	No	$12,500	$6,250	$25,000	[$6,250] $12,500	$25,000
Misc. Chapter 4 of title 28	Class 1	Illegally engaging in any business or occupation without a required license or other authorization	No	No	$2,500	No	$12,500	$6,250	$25,000	[$6,250] $12,500	$25,000
28-105.12.1	Class 2	Outdoor sign permit application contrary to Code and ZR requirements	No	No	$2,400	No	$10,000	[$10,000] $6,000	$10,000	$10,000	$10,000
Misc. Title 28/Misc ZR	Class 2	Misc outdoor sign violation of ZR and/or Building Code	No	No	$2,400	No	$10,000	[$10,000] $6,000	$10,000	$10,000	$10,000
28-116.1	Class 2	Failure of permit holder to provide inspection access and/or exposure to ongoing construction or work on an active and permitted worksite.	No	No	$2,000	Yes	[$5,000] $10,000	$5,000	$10,000	$10,000	$10,000

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Buildings Penalty Schedule

REFERENCE NUMBER: OATH/ECB-22

RULEMAKING AGENCY: Office of Administrative Trials and Hearings

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Does not provide a cure period for certain violations because violations pose a risk to public health or safety, or if providing a cure period would pose an economic disincentive to commit the infraction. Does provide a cure period for all other violations.

Rachel Squire — *04/17/12*
Mayor's Office of Operations — Date

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ENVIRONMENTAL PROTECTION

■ NOTICE

FY 13 Regulatory Agenda

In compliance with section 1042 of the New York City Charter, the following is the regulatory agenda for rules that the Department of Environmental Protection (DEP) anticipates it may promulgate during the fiscal year beginning July 1, 2012 and ending June 30, 2013.

An approximate schedule for adopting the proposed rules and the name and telephone number of a DEP official knowledgeable about each subject area involved are listed below each section.

1. **Construction Noise Mitigation Rules**

When the New York City Noise Control Code was revised in 2004, it regulated construction noise through enforcement of "construction noise mitigation plans" that contractors are required to complete prior to beginning work. The specific requirements of the plans are set forth by rules that DEP promulgated in 2005. DEP seeks to update the rules regarding noise mitigation practices and requirements for street plates, jackhammers, and noise barriers. The amendments could include additional insulating material

regarding noise mitigation practices and requirements for street plates, jackhammers, and noise barriers. The amendments could include additional insulating material between street plates and the ground to further reduce noise, additional noise barriers for structures over 20 feet, and include additional technologies for mitigation of jackhammer noise during nighttime construction activities. Builders and contractors are the persons most likely to be affected by these amendments.

Reference: 15 RCNY §28-100 et seq.; NYC Administrative Code §24-219, Noise Mitigation Rules of the Noise Control Code and 34 RCNY §2-11(10) (e), Street Openings and Excavations.

Anticipated Schedule: to be promulgated in calendar 2012
Contact: Russ Pecunies (718) 595-6531 or Christy Bitet (718) 595-6614, DEP Legal Affairs

2. **Governing and restricting the use of perchloroethylene at dry cleaning facilities**

The amendments under consideration would require facility owners to post a notice in a conspicuous location in the dry cleaning facility to inform building tenants and/or customers of the chemical substances used in the pretreatment and dry cleaning process and the potential health effects associated with exposure to the chemical substance. The owners, managers and staff of dry cleaning facilities are the persons most likely to be affected by these amendments.

The amendments to Sections 12-02, 12-04, 12-08, and 12-18 reflect detailed requirements as to the operation and maintenance requirements for perchloroethylene.

Reference: 15 RCNY §12-01 et seq.; authorized by Section 1043 and Subsection 1403(c) of the Charter of the City of New York and Sections 24-102 and 24-105 of the Administrative Code of the City of New York 6 NYCRR §232.18; 40 CFR Parts 61 and 63 (NESHAPS)

Anticipated Schedule: to be promulgated in calendar 2012
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

3. **Fuel Oil Burning Equipment - Field Verification**

The amendments under consideration would amend section 2-06 of Chapter 2 of Title 15 of the Rules of the City of New York Concerning the inspection process for boilers that require a certificate of operation. The amendment would increase the present regulatory limits from 2.8 million BTU to a gross input or output of 4.2 million BTU while still allowing the Department to retain the ability to inspect boilers that are below the increased threshold value. The persons most likely to be affected are large building owners and industrial facilities.

Reference: 15 RCNY §2-06 et seq.

Anticipated Schedule: to be promulgated in calendar 2012
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

4. **Fuel Burning Equipment - Acceptance Program**

The amendments under consideration would amend section 2-03, Application for Certificate of Operation in order to simplify, clarify and update the types of technical information required for various types of combustion equipment. This modification to the present regulation will better enable the Department to decide which new boilers and burners should be accepted as meeting pollution control and other specifications before such equipment can be considered for a Work Permit and eventual Certificate of Operation. The persons most likely to be affected are boiler inspectors, real estate developers and property owners.

Reference: 15 RCNY §2-03 et seq.

Anticipated Schedule: to be promulgated in calendar 2012
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

5. **Air Code revisions**

The upcoming revision of the Air Pollution Control Code may require DEP to promulgate rules that would give DEP flexibility in accommodating new and evolving technologies for reducing the emission of air contaminants. The potential rules could affect property owners, business owners, contractors, and equipment manufacturers and suppliers.

Reference: NYC Administrative Code Title 24, Chapter 1; 15 RCNY §2-06 et seq.

Anticipated Schedule: to be promulgated in calendar 2013
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

6. **Clean Heating Oil**

Local Law 43 of 2010 authorizes the Commissioner to promulgate rules that authorize technologies for the burning of different types of renewable fuels in heating systems so long as they meet the ASTM standards for fuel oil #2. The rule will set forth testing procedures to establish equivalency of such renewable fuels to #2 oil. Building owners, equipment manufacturers, and fuel suppliers may be affected by this rule.

Reference: 15 RCNY §2-06 et seq.

Anticipated Schedule: to be promulgated in calendar 2012
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

7. **Combustion Efficiency Test**

This rule is being proposed in accordance with recommendations by the Green Codes Task Force and is part of PlaNYC. It will require combustion efficiency testing to ensure that fuel burning equipment is working in an optimal manner. The rule will establish the equipment and procedure to be used in combustion efficiency testing of certain Department-regulated gas-fired and oil-fired combustion equipment for heating or hot water, as well as passing scores for different categories of fuel burning equipment. Affected parties include building owners, PEs/RAs, and boiler service contractors.

Reference: 15 RCNY §2-06 et seq.

Anticipated Schedule: to be promulgated in calendar 2012
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

8. **Water Meters and Service**

The amendments under consideration would amend rules pertaining to permitting, installation, replacement, maintenance, testing and repair of water meters and water services and service connections. The changes are being proposed to reflect recent technological changes in water meter technology, the city's Automated Meter Reading System, and the Administrative (Building) Code; to address specification changes requested by the community of licensed plumbers and professional engineers; and to update requirements for permits for companies in the private sector performing meter tests. Affected parties include licensed plumbers and professional engineers.

Reference: 15 RCNY Chapter 20

Anticipated Schedule: to be promulgated in calendar 2013
Contact: Tevin Grant, DEP Legal Affairs (718) 595-6530

9. **Drilling and Excavation**

In order to guarantee and protect the integrity of New York City's water supply and facilities, the New York City Department of Environmental Protection must set forth uniform standards for the application for and permitting of all drilling and/or excavation in close proximity to a Facility or shaft. Existing provisions of the Administrative Code mandate that the Commissioner of the Department of Environmental Protection protect New York City's water supply in general terms; this Rule would provide explicit protections. It will likely prescribe the specific standards for the application for and permitting of drilling and/or excavation in close proximity to a Facility or shaft. The persons most likely to be affected are those who conduct drilling and/or excavation to a depth greater than 50' from ground surface within each of the lots located within the blocks listed in an attachment to the rule.

Reference: 15 RCNY [New chapter]; authorized by Section 1043 and subsection (b) of section 1403 of the New York City Charter and pursuant to Section 24-302 of the Administrative Code of the City of New York.

Anticipated Schedule: to be promulgated in calendar 2013
Contact: Christine Holmes, DEP Legal Affairs (718) 595-6607

10. **Drought Conditions**

Because of the age of the New York City water supply infrastructure and the need to have an adequate water supply during periods of weather-related drought and/or infrastructure repair and/or infrastructure failure, the Department of Environmental Protection has recognized the need to amend the Drought Emergency Rules, including the title of the rules. The rules will be amended to include a Stage IV Emergency and to grant the Department of Environmental Protection greater flexibility and consistency for operating the water supply system during a water supply shortage. The persons most likely to be affected are all consumers of New York City water.

Reference: 15 RCNY Chapter 21

Anticipated Schedule: to be promulgated in calendar 2013
Contact: Christine Holmes, DEP Legal Affairs (718) 595-6607

11. **Asbestos Rules**

In light of its recent experience in enforcing these rules and in light of feedback from the regulated community regarding how certain provisions are affecting their operations, the Department of Environmental Protection proposes to amend these rules to refine current provisions and to clarify that the rules have as their primary purpose protection of air quality. Affected parties include asbestos abatement contractors, air monitoring companies, and property owners.

Reference: 15 RCNY, Chapter 1

Anticipated Schedule: to be promulgated in calendar 2012
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

12. **Design and Construction of Private Water Mains**

These rules are being amended to correspond to rules for private sewers, and will require builders or developers who construct private water mains in mapped streets at their own expense (and connect such water mains to City water mains or other private water mains) to transfer ownership of such mains to the City within a prescribed period of time. Affected parties include builders and developers.

Reference: 15 RCNY, Chapter 24

Anticipated Schedule: to be promulgated in FY 2013
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

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LOFT BOARD

■ **NOTICE**

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed rule changes to Section 2-02 of the Loft Board Rules, which relate to harassment applications.

Date / Time: July 19, 2012 at 2:00 P.M.

Location: 280 Broadway
3rd Floor
New York, NY 10007

Contact: New York City Loft Board
280 Broadway
3rd Floor
New York, NY 10007
(212) 566-5663

Proposed Rule Amendment

Pursuant to the authority vested in the New York City Loft Board by Article 7-C of the Multiple Dwelling Law and Mayor's Executive Order No. 129, dated May 22, 2009, and pursuant to and in accordance with the requirements of Section 1043 of the New York City Charter, the New York City Loft Board intends to amend section 2-02 of Title 29 of the Rules of the City of New York. The proposed amendment will conform the Loft Board's rules regarding harassment applications to the amendments made to Article 7-C of the Multiple Dwelling Law, effective as of June 21, 2010 and streamline the processing of harassment applications.

Instructions

- You may submit written comments about the proposed amendment by mail to the New York City Loft Board at the address shown above or electronically through NYCRULES at www.nyc.gov/nycrules by July 19, 2012.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact the New York City Loft Board at the phone number shown above by July 16, 2012.
- Summarized copies of the written and oral comments received at the hearing will be available July 26, 2012 between the hours of 10:00 A.M. and 4:00 P.M. at the offices of the New York City Loft Board.

Statement of Basis and Purpose

Pursuant to § 282 of Article 7-C of the Multiple Dwelling Law (MDL), the Loft Board may promulgate rules to ensure compliance with the Loft Law. Effective as of June 21, 2010, the New York State Legislature amended the Loft Law. In order to be consistent with the changes to the Loft Law and to streamline the processing of harassment applications, the Loft Board intends to amend section 2-02 of Title 29 of the Rules of the City of New York.

The 2010 amendment to Section 282 increased the maximum civil penalties punishable for violations of the Loft Law from $1,000 to $17,500 per violation**.** The proposed rule increases the maximum civil penalties that the Loft Board may impose against owners and prime lessees who engage in an act or acts of harassment against occupants.

Under the existing rule, tenants are required to file harassment applications within 180 days from the allegedly harassing behavior. However, acts committed outside of this filing period may be considered if they represent an "ongoing course of conduct." The proposed rule provides a standard for determining what acts constitute an "ongoing course of conduct" and therefore may be considered even if they occurred outside of the 180-day filing period for the harassment application.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this Board, unless otherwise specified or unless the context clearly indicates otherwise.

New matter in the following rule is underlined, and deleted material is in brackets.

Section 2-02 of Title 29 of the Rules of the City of New York is amended to read as follows:

§2-02 **Harassment.**

(a) *Applicability.*

These harassment [regulations shall] rules apply to all [future complaints of] harassment applications filed with the Loft Board, after October 14, 2012, the effective date of this amended rule. [after the effective date of these regulations (April 20, 1987). Pending cases in which the Loft Board has not yet rendered a final determination as of the effective date of these regulations (April 20, 1987) shall be subject to all sections of these regulations except §§2-02(c)(i) through 2-02(c)(6)(i); the processing of these pending cases shall be in accordance with the Board's Regulations for Internal Board Procedures—§§ l-06(a) to (j).] Harassment applications are subject to the harassment rule in effect on the date of the initial filing of the application.

All orders of harassment [issued prior to the effective date of these regulations (April 20, 1987) shall be] must be [noted] kept in the Loft Board's records and in the office of the City Register in accordance with the provisions of § 2-02(d)([l]1)(iii) of these [regulations] rules. [Landlords affected by previous orders may apply to the Loft Board in accordance with § 2-02(d)(2) for an order terminating the finding of harassment no sooner than one year and 180 days from the effective date of these regulations.]

(b) *Definitions.*

Harassment [**.** The term "harassment"* shall] means any course of conduct or single act engaged in by the landlord or any other person acting on its behalf that interferes with or disturbs the comfort, repose, peace or quiet of an occupant in the occupant's use or occupancy of its unit if such conduct is intended to cause the occupant to vacate the building or unit, or to surrender or waive any rights of such occupant under the occupant's written lease or other rental agreement or pursuant to Article 7-C. Harassment may also include any act or course of conduct by a prime lessee or any person acting on his or her behalf that would constitute "harassment" if engaged in by the landlord, against any of

the prime lessee's current or former subtenants who are residential occupants qualified for the protection under Article 7-C.

Harassment [shall] includes, but is not limited to, the intentional interruption or discontinuance of or willful failure to provide or to restore services customarily provided in the building or required by written lease or other rental agreement or, for residential occupants qualified for the protections of Article 7-C, by the Loft Board [regulations] rules regarding minimum housing maintenance standards. Harassment [shall] does not include either the lawful termination of a tenancy or lawful refusal to renew or extend a written lease or other rental agreement, or acts performed in good faith and in a reasonable manner for the purposes of operating, maintaining or repairing any building or part thereof.

There is no requirement that the landlord's actions or inactions be illegal to constitute harassment. The Loft Board may find that a particular act constitutes harassment whether is it was directed toward one tenant or multiple tenants.

Landlord [**.** The term "landlord" shall] means the owner of an IMD, the lessee of a whole building all or part of which contains IMD units [is an IMD], or the agent, executor, assignee of rents, receiver, trustee, or other person having direct or indirect control of such [a] building(s).

Occupant,[**.** The term "occupant"] unless otherwise provided, [shall] means a residential occupant qualified for the protections of Article 7-C, or any other residential tenant or [a] nonresidential tenant of an IMD building.

Ongoing Course of Conduct, for purposes of this rule, means actions or inactions by or on behalf of the landlord that when considered together, show a continuous pattern of behavior.

Continuous Pattern of Behavior, includes, but is not limited to, acts, at least one of which happened within 180 calendar days preceding the filing of the harassment application that show a sequence of events that are similar in nature or a sequence of events that are reasonably related.

(c) *Procedures for considering harassment applications.*

(1) It is unlawful for a landlord or any other person acting on its behalf to engage in conduct constituting harassment against any occupant of an IMD building. A [complaint of] harassment application may be filed with the Loft Board by [an] occupant(s) [or occupants] of an [interim multiple dwelling] IMD building. The [complaint shall] application must be filed on a form [prescribed] approved by the Loft Board and [shall be] will be processed in accordance with [the Board's Regulations for Internal Board Procedures—§]§ 1-06[(a) to (j)] of these Rules, [except as] and the specific requirements provided below [herein].

(2) (i) [The complaint shall allege in separately numbered paragraphs each type of conduct claimed to constitute harassment of occupants of the IMD by the landlord. Each paragraph shall contain a complete] The description of the conduct complained of must contain [, including] the actual or approximate date(s) on which such conduct occurred, the manner and location of each occurrence, and if the complaint is filed on behalf of more than one occupant, the occupant[(]s[)] against whom the occurrence was directed. [Except for a complaint alleging conduct that has occurred prior to the effective date of these regulations (April 20, 1987), the complaint shall] The application must be filed within 180 calendar days of the conduct complained of[;], or where an ongoing course of conduct is alleged, as defined in subdivision (b), the [complaint] application must [shall] be filed within 180 calendar days of the last occurrence. [A complaint alleging conduct that has occurred prior to the effective date of these regulations (April 20, 1987) shall be filed within 180 days of the effective date of these regulations.]

(ii) [If a complaint fails to set forth a claim of harassment as defined in §2-02(b) "Harassment", the Loft Board shall notify the complainant(s) in writing of the deficiency and of the opportunity to file an amended complaint with the Loft Board within 15 days after the date of notification. Following such period if the complaint does not allege conduct constituting harassment, it shall not be processed further. If appropriate, it shall be deemed a complaint of failure to provide service and shall be processed pursuant to the Loft Board's rules and regulations relating to enforcement of minimum housing maintenance standards. Staff's decision not to process a harassment complaint may be reviewed by the Loft Board, upon application by a complainant.]

(iii) [Once the Loft Board staff has decided to accept a harassment complaint for further processing as described in §2-02(c)(2)(ii), a] If the Loft Board finds that an [complainant] applicant [found by the Loft Board to have] has filed [such a complaint] a harassment application in bad faith or in wanton disregard of the truth, the applicant may be subject to a civil penalty as determined by the Loft Board in § 2-11.1 of the Loft Board rules [not to exceed $1,000 each such violation].

(3) The [staff of the Loft Board] applicant must [shall] serve all affected parties, [including the owner] as defined in § 1-06(a)(2), with a copy of the [complaint] application [by regular mail, retaining records attesting to such service] in accordance with the terms and procedures requiring service and proof of service of the application as described in § 1-06(b) of the Loft Board rules.

[However, where a complaint of] Where a harassment application solely alleges that the owner's challenge of a sale of improvements is frivolous, the [Loft Board staff shall] applicant must serve only the owner as an affected party.

Instructions for filing an answer ("Instruction Form") and an answer form must be enclosed with the copy of the application sent to the affected parties. [a notice scheduling a conference on the complaint shall be enclosed in each mailing. Where the landlord against whom a complaint of harassment has been filed is not the owner of the IMD, the mailing to the owner shall] Instructions for filing an answer must advise the owner that a finding of harassment may affect the owner's ability to decontrol or to obtain market rentals for covered IMD units pursuant to MDL §§ 286(6) and 286(12) [of Article 7-C] and the Loft Board's [regulations] rules. Inclusion of the Loft Board's approved Instruction Form with the application at the time of service constitutes compliance with this paragraph.

(4) Parties [shall] have 15 calendar days after the date on which service of the [complaint] application was completed, calculated from the mailing date shown on the certificate of mailing filed with the Loft Board, to file an answer with the Loft Board. [Twelve] Five copies of the answer with proof of service of the answer on the [complainant(s)] applicant(s), as described in § 1-06(e) of these rules, must be filed at the offices of the Loft Board.

(5) (i) Following the expiration of the deadline for filing an answer, the Loft Board or the Office of Administrative Trials and Hearings ("OATH") will send, by regular mail, a notice of conference to the affected parties. The notice of conference will schedule a date and time for an informal conference as soon as possible, but no sooner than 15 calendar days from the date of mailing the notice of conference [following the time period for filing an answer]. The notice of conference sent to the owner will advise the owner that a finding of harassment may affect the owner's ability to decontrol or to obtain market rentals for covered IMD units pursuant to MDL §§ 286(6) and 286(12) and the Loft Board's rules.

(ii) [Such] The informal conference[s] may [shall] be conducted by the Loft Board staff or OATH with the affected parties in an effort to resolve and alleviate the conditions and events alleged. Where resolution to the mutual satisfaction of the parties is achieved, a stipulation containing the terms of the resolution and the penalties, if any, for its breach [shall] must be executed by the parties and [shall be] filed with the Loft Board for its approval on [a] the Loft Board's summary calendar.

(6) Where charges of harassment remain unresolved following the informal conference, a hearing on the allegations in the harassment application [the complaint] will be held in accordance with the procedures of [§]§ 1-06[(e)and (f)] of these rules [regulations for internal Board Procedures] and the following:

(i) [t]The hearing will be limited to the charges contained on the original [complaint] application, as modified at the conference, and any additional charges of harassment arising as a result of conduct occurring after the conference.

(ii) [t]The acts performed by an occupant in good faith and in a reasonable manner for the purposes of operating a nonresidential conforming use [shall] will be presumed not to constitute harassment. The presumption may be rebutted by a showing that [such] the acts were performed on the landlord's behalf and intended [by the landlord] to cause another occupant to vacate the building, or its unit or to surrender or waive any rights of such occupant under the occupant's written lease or other rental agreement or pursuant to Article 7-C.

(iii) [a]A finding by the Loft Board that the owner has willfully violated the code compliance timetable or has violated the code compliance timetable more than once may be considered as evidence of harassment. (See [regulations] rules on Code Compliance—§ 2-01(c)[(3)](5)).

(iv) [t]The issuance of a municipal vacate order for hazardous conditions as a consequence of the owner's unlawful failure to comply with the code compliance timetable [shall] will result in a rebuttable presumption of harassment. (See [regulations] rules on Code Compliance—§ 2-01(c)[(4)](6)).

(v) [a]A finding by the Loft Board of unreasonable and willful interference with an occupant's use of its unit by the landlord [owner] or its agents may be considered as evidence of harassment. (See [Regulations] rules on Code Compliance—§ 2-01(h)).

(vi) [a]A finding by the Loft Board of a willful violation of Minimum Housing Maintenance Standards may be considered as evidence of harassment of residential tenants. (See [regulations] rules on Enforcement of Minimum Housing Maintenance Standards—§ 2-04(e)(6)).

(vii) [a]A finding by the Loft Board that the filing of an application by the owner objecting to the sale of improvements was frivolous may be considered as evidence of harassment of residential tenants. An objection to the sale may be found to be frivolous on grounds including, but not limited to, the following:

(A) [t]That it was filed without a good faith intention to purchase the improvements at fair market value or

(B) [t]That the owner's valuation of the improvements has no reasonable relationship to the fair market value, as determined by the Loft Board. (See [regulations] rules on Sales of Improvements—§ 2-07(g)(1)(i)). At the occupant's request the Loft Board [shall] will issue its findings on [an outstanding complaint of] a pending harassment application based upon the allegation that the owner's objection to the sale of improvements is frivolous, or any other pending [complaint of] harassment application in the building, concurrently with its determination of the owner's challenge.

(viii) [a]A determination by a civil or criminal court of landlord harassment of an occupant(s) [or occupants] may be considered as evidence of harassment.

(d) *Findings of harassment.*

(1) (i) *Effect of harassment finding*. A landlord that is found by the Loft Board to have harassed an occupant will [An owner found guilty of harassment shall] not be entitled to the decontrol of or market rental for any IMD unit [for which] after a sale of improvements pursuant to MDL § 286(6) or sale of rights pursuant to MDL § 286(12) of Article 7-C and these rules [regulations promulgated pursuant thereto takes place in the IMD where the harassment occurred]. This restriction [shall apply] applies to any sale of improvements or sale of rights that takes place in the IMD building where the harassment occurred on or after the date of the order containing the finding of harassment until [such time as] the date the order [may be] is terminated in accordance with § 2-02(d)(2).

(ii) *Civil penalty for a finding of harassment*. [A] If the Loft Board finds that a landlord harassed an occupant, the landlord [found guilty of harassment by the Loft Board] may be liable for a civil penalty as determined by the Loft Board in § 2-11.1 of the Loft Board rules [not to exceed $1,000] for each occurrence that is found to constitute harassment. Registration as an IMD [shall] will not be issued or renewed for any building for which fines have been imposed for landlord harassment until [such] all fines have been paid.

(iii) *Notice of a harassment finding*. [The order containing the finding of harassment shall be attached to and noted upon the current and all subsequent IMD registration applications on file for the IMD affected by such finding until such time as the order may be terminated in accordance with § 2-02(d)(2).] The order containing the finding of harassment [shall be] is binding [upon all persons] on all individuals or parties who succeed to the landlord's interest in the premises until the harassment order is terminated in accordance with § 2-02(d)(2) below. A copy of the Loft Board's order containing the finding of harassment [shall] will be mailed to the [complainant] applicant, the owner [, all occupants of the building,] and [any other] the affected parties to the proceeding. Notice of such order [shall] will be filed by the Loft Board in the office of the City Register.

(iv) *Effect on other relevant laws*. The procedure provided in this rule [for herein shall be] operates in addition to any procedures provided under other provisions of law and [shall] must not be construed to alter, affect or amend any right, remedy or procedure that may exist under any other provisions of law, [such as] including, but not limited to the following:

(A) [a]An occupant may apply to the Supreme Court of the State of New York for an order enjoining [the]a landlord[s]

from harassment pursuant to § 235-d(4) of the Real Property Law and may pursue all other remedies in relation to harassment including the award of damages before a court of competent jurisdiction.

(B) [u]Upon the request of a residential occupant who either vacates, has been removed from or is otherwise prevented from occupying its unit as a result of harassment, a landlord [shall] must take all reasonable and necessary action to restore the occupant to its unit, provided that such request is made within [seven] 7 calendar days after removal, pursuant to § 26-521(b) of the New York City Administrative Code.

(C) [r]Residential occupants of IMDs are afforded the protections available to residential [tenants] occupants pursuant to the Real Property Law and the Real Property Actions and Proceedings Law, including § 223-b of the Real Property Law regarding retaliatory evictions, [notwithstanding that] even though such occupants may reside in an owner-occupied IMD having fewer than 4 residential units.

(D) [s]Special proceedings pursuant to [RPAPL] the Real Property Actions and Proceedings Law Article 7-A are available to all occupants of IMDs, [notwithstanding that] even though such IMDs may contain less than [three] 3 residential units.

(v) *Violation of § 2-04.* If the OATH Administrative Law Judge assigned to the case finds that the acts alleged by the occupant do not constitute harassment, the Administrative Law Judge may, in the alternative and without the need for the applicant to amend his or her application or pleadings, consider whether the facts alleged in the application describe an owner's failure to provide a service or an owner's unlawful diminution of services. If so, upon notice to the owner, the application may be processed pursuant to the Loft Board's rules regarding diminution of services as described in § 2-04.

Upon notice that the facts alleged will be processed as a diminution of services claim, the owner may seek permission from the Administrative Law Judge to file a response to the claim of diminution of services. The Administrative Law Judge may recommend a fine, in accordance with § 2-11.1 for any finding of diminution of services.

(2) (i) *Terminations of Harassment Findings*. Where the Loft Board has issued a finding of harassment [a landlord, has been found guilty of harassment by the Loft Board,] the [current] landlord may apply to the Loft Board pursuant to [the regulations] § 1-06 of these rules [for Internal Board Procedures], for an order terminating the harassment finding following the expiration of the period of time specified in the harassment order [containing the finding of harassment, for an order terminating such finding]. The order containing the finding of harassment [shall] must specify the period of time, within a range of [one] 1 to [three] 3 years from the date of the order of harassment, during which the landlord [shall be] is barred from applying for an order of termination. However, where a landlord has been convicted of a crime for conduct found by the Loft Board to constitute harassment, the [current] landlord may apply for an order of termination only after at least [five] 5 years have passed since the date of the order of harassment.

After the period during which the landlord is barred from applying for termination of the harassment finding has expired, [The] the Loft Board may [grant such relief] terminate the harassment finding if it finds that:

(A) [s]Since notification of the order, the landlord has not engaged in the [proscribed] prohibited conduct [and has not engaged in] or any other conduct which constitutes harassment; [and]

(B) [t]The landlord has achieved compliance with the fire and safety standards of Article 7-B, alternative building codes or provisions of the [M.D.L.] MDL, as provided in § 2-01(a)(3) of the rules governing Code Compliance Work [Regulations] and as may be exhibited by the issuance of a temporary certificate of occupancy, or Article 7-B Certification on the approved Loft Board form, or if Article 7-B compliance was achieved prior to the date of the order of harassment, has obtained a final residential certificate of occupancy for the IMD units [as a class A multiple dwelling]; [and]

(C) [t]The landlord has paid all civil penalties assessed in the order of harassment, and there are no other orders of harassment outstanding for the IMD building, and

(D) [t]The landlord is in compliance with § 2-05 of these rules [regulations] relating to registration of the [IMDs] IMD building.

(ii) *Orders Terminating Harassment Findings.* An order terminating a prior Loft Board finding of harassment [shall apply] applies prospectively only, and the owner [shall not be] is not entitled to the decontrol of or market rental for any residential unit for which a sale of improvements pursuant to § 286(6) [of Article 7-C] or a sale of rights pursuant to § 286(12) of Article 7-C and these rules [regulations promulgated pursuant thereto] has taken place in the period from the date of the order finding harassment to the date of the order terminating such finding.

(iii) *Suspension or Revocation of Termination of Harassment Orders*. If the Loft Board at a regularly scheduled meeting or at a special session called in accordance with § l-03(a) of the [regulations for Internal Board Procedures] Loft Board rules has reasonable cause to believe that harassment is occurring or has occurred at the IMD after the date of an order terminating a prior finding of harassment, the Loft Board shall suspend such order of termination immediately. Notice of such suspension shall be mailed to the landlord and to all occupants. Upon the landlord's written request, the Loft Board shall schedule a hearing as soon as reasonably possible but not later than thirty days after the date of receipt of such request to determine whether the order of termination should be reinstated or revoked.

(iv) *Filing at the City Register.* The order of termination or [of] suspension, reinstatement or revocation of termination [shall] must be included among the IMD registration material on file[, and] with the Loft Board. The Loft Board will file the notice of termination or notice of suspension, reinstatement or revocation of termination [shall be filed by the Loft Board] in the office of the City Register.

(e) *Harassment by prime lessees.*

(1) *"Prime lessee."* For the purposes of [these]this harassment rule, [regulations] the term "prime lessee" [shall] means the party with whom the landlord entered into a lease or rental agreement for use and occupancy of a portion of an IMD building, which is being used residentially, where [s/he] the prime lessee is not the residential occupant qualified for protection of the unit, regardless of whether [such] the lessee is currently in occupancy of any portion of the space she/he has leased from the landlord or whether [such] the lease remains in effect.

(2) It is unlawful for a prime lessee or any other person acting on his or her behalf to engage in conduct that would constitute "harassment" if engaged in by the landlord, as defined in § 2-02(b) ["Harassment"], against any of [its] the prime lessee's current or former subtenants who are residential occupants qualified for the protections of Article 7-C. A harassment application [complaint of harassment] may be filed with the Loft Board by a residential occupant qualified for the protections of Article 7-C against its prime lessee. The application [complaint shall] will be processed in accordance with the procedures described in § 2-02(c). The deed owner of the building must be listed as an affected party in all applications brought under this subdivision (e).

(3) (i) If the Loft Board finds that a prime lessee harassed an occupant, the [A] prime lessee [found guilty of harassment by the Loft Board] may be liable for a civil penalty [not to exceed $1,000] as determined by the Loft Board in § 2-11.1 of the Loft Board rules for each occurrence that is found to constitute harassment.

(ii) A prime lessee found [guilty of harassment] by the Loft Board to have harassed an occupant [shall not be] is not entitled to recover subdivided space pursuant to § 2-09(c)(5)(i) and § 2-09(c)(5)[(iii)](v) of these rules [and regulations R] relating to subletting [in § 2-09 Subletting and Similar Matters] and [shall not be] is not entitled to the rent adjustment provided for in § 2-09(c)(6)(ii)(D)(b) of these rules [those regulations].

(4) (i) After the period of time barring the owner from terminating a harassment finding provided in the Loft Board order, [A] the prime lessee [found guilty of harassment by the Loft Board] may apply to the Loft Board pursuant to § 1-06 of these rules [the Regulations for Internal Board Procedures, following the period of time specified in the order containing the finding of harassment,] for an order terminating such finding. The order containing the finding of harassment [shall] will specify the period of time, within a range of [one to three] 1 to 3 years from the date of the order of harassment, during which the prime lessee [shall] will be barred from applying for an order of termination. However, where a prime lessee has been convicted of a crime for conduct found by the Loft Board to constitute harassment, the prime lessee may apply for an order of termination only after at least [five] 5 years have passed since the date of the order of harassment. The Loft Board may grant such relief if it finds that:

(A) [s]Since notification of the order the prime lessee has not engaged in the [proscribed] prohibited conduct and has not engaged in any other conduct which constitutes harassment, and

(B) [t]The prime lessee has paid all civil penalties assessed in the order of harassment, and there are no other orders of harassment outstanding for the prime lessee.

(ii) An order terminating a prior Loft Board finding of harassment by a prime lessee [shall apply] applies prospectively only.

[* Real Property Law cf. §235-d.]

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Harassment Applications (section 2-02)

REFERENCE NUMBER: DOB-16

RULEMAKING AGENCY: Department of Buildings (Loft Board)

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because an act of harassment cannot be cured once it has already occurred.

/s/ Ruby B. Choi *5/4/2012*
Mayor's Office of Operations Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087

CERTIFICATION PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Harassment Applications (§ 2-02)

REFERENCE NUMBER: 2011 RG 066

RULEMAKING AGENCY: Loft Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 3, 2012
Acting Corporation Counsel

☛ **m11**

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed rule §2-06.2 which relate to the interim rent guidelines and rentadjustments in MDL § 286(2)(i) for units subject to Article 7-C pursuant to MDL § 281(5).

Date / Time: July 27, 2012 at 2:00 P.M.

Location: 280 Broadway
3rd Floor
New York, NY 10007

Contact: New York City Loft Board
280 Broadway
3rd Floor
New York, NY 10007
(212) 566-5663

Proposed Rule Amendment

Pursuant to the authority vested in the New York City Loft Board by Article 7-C of the Multiple Dwelling Law and Mayor's Executive Order No. 129, dated May 22, 2009, and pursuant to and in accordance with the requirements of Section 1043 of the New York City Charter, the New York City Loft Board intends to add section 2-06.2 to Title 29 of the Rules of the City of New York regarding the interim rent guidelines and rent adjustments for units subject to Article 7-C pursuant to MDL § 281(5).

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to the New York City Loft Board at the address shown above or electronically through NYCRULES at www.nyc.gov/nycrules by July 27, 2012.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact the New York City Loft Board at the phone number shown above by July 23, 2012.
- Summarized copies of the written and oral comments received at the hearing will be available August 2, 2012 between the hours of 10:00 A.M. and 4:00 P.M. at the offices of the New York City Loft Board.

Statement of Basis and Purpose

On June 21, 2010, the New York State Legislature enacted Section 281(5) of Article 7-C which expanded the criteria for coverage under the Loft Law. Multiple Dwelling Law (MDL) section 286(2)(i) directs the Loft Board to establish rent adjustments prior to Article 7-B compliance, also known as interim rent adjustments for interim multiple dwelling (IMD) units covered under MDL § 281(5).

On November 17, 2011, the Loft Board heard testimony from owner and tenant representatives, the Met Council on Housing and the Rent Stabilization Association, among others, about factors the Loft Board should consider in determining the rent adjustments pursuant to MDL section 286(2)(i). In addition, the Loft Board considered over 30 letters received from tenants and advocates for tenants and owners. The information provided was insightful and helpful in understanding the potential impact of these increases on the artist community, current trends in loft housing, and the effect of rent regulation on the housing market.

The following list represents a summary of the reoccurring points presented to the Loft Board in the oral and written comments:

- Tenants report that they are already paying market rent;
- Tenants report that most of them have had a recent increase in rent;
- A further increase in addition to the legalization milestone increases will result in the unit being over market rent and price-out the artist community;
- An increase prior to Article 7-B compliance after a lease expires may encourage an owner not to finish the Article 7-B work until after the lease expires to collect the increase;
- Tenants report that the buildings are in a state of disrepair and the owners fail to do proper maintenance; and
- Tenants have invested considerable sums of money by making improvements to make the loft spaces livable and owners should not reap the benefits of their financial investment prior to Article 7-B compliance.

After consideration of the comments received to date, the Loft Board determines that there should be no rent adjustment prior to Article 7-B compliance pursuant to MDL § 286(2)(i). The proposed rule sets forth this determination in the interim rent adjustments required in MDL § 286(2)(i) for interim multiple dwelling (IMD) units covered under MDL § 281(5).

Section 2-06.2 of Title 29 of the Rules of the City of New York is added to read as follows:

§ 2-06.2 Interim Rent Guidelines and Rent Adjustments pursuant to MDL § 286(2)(i).

(a) *Coverage.*

(1) These rent guidelines apply to interim multiple dwelling ("IMD") units, as defined in § 281 of Article 7-C of the Multiple Dwelling Law ("MDL"), which (i) are subject to Article 7-C solely pursuant to MDL § 281(5); (ii) are registered with the Loft Board; and (iii) do not meet the safety and fire protection standards of Article 7-B of the MDL.

(b) *Definitions.* For the purposes of this section, the following definitions apply:

(1) "**Lease or rental agreement**" means a written lease or rental agreement; or an oral agreement for a rental period of one year or less, provided that:

(i) There was a change in the rent for the IMD unit, confirmed by rent checks tendered by the residential occupant and accepted by the landlord within the year prior to June 21, 2010; or

(ii) There had been a substantial change in the level of services agreed to be provided within the year prior to June 21, 2010.

(2) **"Escalators"** are lease or rental agreement provisions that require a residential occupant to pay as rent or to pay additional rent charges based on, but not limited to: real estate taxes; heating fuel; labor; water and sewer; insurance; vault tax; and any cost-of-living increase formulas.

(3) **"Use-Based Escalators"** are escalators that: 1) are based on a fair calculation of the occupant's usage; and 2) were part of the last lease or rental agreement in effect on or before June 21, 2010. Examples of use-based escalators may include, but are not limited to, gas, electricity and steam charges.

(4) "**Total rent**"

(i) *Lease in effect on June 21, 2010.* **Total rent** is the rent, including escalators that are not use-based escalators, specified in the lease in effect on June 21, 2010 which is paid by the tenant pursuant to said lease or rental agreement.

(ii) *No lease in effect on June 21, 2010.* Where no lease or rental agreement was in effect on June 21, 2010, the **total rent** is the rent, including escalators that are not use-based escalators, paid by the tenant to the landlord on or before June 21, 2010 pursuant to the last lease or rental agreement prior to June 21, 2010.

(c) *Rent Adjustments Pursuant to § 286(2)(i).* For purposes of determining rent adjustments pursuant § 286(2)(i), there will be no increase permitted above the total rent as defined above for any unit subject to Article 7-C pursuant to MDL § 281(5).

(d) *Permissible Rent Levels.* An owner of a unit subject to Article 7-C pursuant to MDL § 281(5) may not charge a residential occupant more than:

(1) Total rent, as defined above; plus
(2) Any other rent adjustments authorized pursuant to Article 7-C and these Rules, including allowable rent adjustments authorized pursuant to § 2-12 of these Rules; plus
(3) Use-based escalators, if any.

(e) *Overcharges and Penalties.* Rent payments made prior to **October 14, 2012**, the effective date of this rule in excess of the permissible rent levels, as described above in subdivision (d), constitute an overcharge which may be paid at the owner's option either in a lump sum paid to the tenant or as a 20 percent reduction of the legal rent permitted under this rule as of **October 14, 2012**, the effective date of the rule until payment of the full overcharge is completed. No treble damages may be imposed for a violation of this section.

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253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Interim Rent Adjustments, Loft Board Rule § 2-06.2

REFERENCE NUMBER: DOB-30

RULEMAKING AGENCY: Department of Buildings (Loft Board)

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Ruby B. Choi *5/4/2012*
Mayor's Office of Operations Date

NEW YORK CITY LAW DEPARTMENT
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212-788-1087

CERTIFICATION PURSUANT TO CHARTER §1043(d)

RULE TITLE: Interim Rent Adjustments, Loft Board Rule § 2-06.2

REFERENCE NUMBER: 2012 RG 008

RULEMAKING AGENCY: Loft Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 3, 2012
Acting Corporation Counsel

☛ **m11**

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed rule changes to Section 2-07 of the Loft Board Rules which governs sales of improvements pursuant to MDL § 286(6).

Date / Time: July 19, 2012 at 2:00 P.M.

Location: 280 Broadway
3rd Floor
New York, NY 10007

Contact: New York City Loft Board
280 Broadway
3rd Floor
New York, NY 10007
(212) 566-5663

Proposed Rule Amendment

Pursuant to the authority vested in the New York City Loft Board by Article 7-C of the Multiple Dwelling Law and Mayor's Executive Order No. 129, dated May 22, 2009, and pursuant to and in accordance with the requirements of Section 1043 of the New York City Charter, the New York City Loft Board intends to amend section 2-07 of Title 29 of the Rules of the City of New York, regarding sales of improvements pursuant to Multiple Dwelling Law § 286(6). The proposed rule seeks to conform section 2-07 to the amendments made to Article 7-C of the Multiple Dwelling Law, effective as of June 21, 2010.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to the New York City Loft Board at the address shown above or electronically through NYCRULES at www.nyc.gov/nycrules by July 19, 2012.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact the New York City Loft Board at the phone number shown above by July 16, 2012.
- Copies of the written comments and a summary of the oral comments received at the hearing will be available July 26, 1012 between the hours of 10:00 A.M. and 4:00 P.M. at the offices of the New York City Loft Board.

STATEMENT OF BASIS AND PURPOSE

Pursuant to § 282 of Article 7-C of the MDL ("Loft Law"), the Loft Board may promulgate rules to ensure compliance with the Loft Law. Effective as of June 21, 2010, the Legislature enacted Chapters 135 and 147 of the Laws of 2010, which amended the Loft Law.

To ensure the Loft Board rules are aligned with the recent amendments to the Loft Law, the proposed rule:

- Adds provisions addressing when units covered by the Loft Law pursuant to MDL § 281(5) may be exempted from rent regulation after a sale of improvements.
- Amends the service and proof of service requirements for an application challenging a proposed sale of improvements.
- Increases the penalties that may be imposed for an owner's failure to file a sales record form with the Loft Board.
- Removes provisions governing sales of improvements that occurred prior to March 23, 1985.
- Adds headings and re-orders the subdivisions of the rule into a more coherent section.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this Board, unless otherwise specified or unless the context clearly indicates otherwise.

New matter in the following rule is underlined, and deleted material is in brackets.

NEW YORK CITY LOFT BOARD
PROPOSED REORGANIZATION OF SECTION 2-07,
SALE OF IMPROVEMENTS

OLD RULE	DESCRIPTION	PROPOSED RULE
§ 2-07(a)	Definitions	No Change
§ 2-07(b)	Notice: Form and Time Requirements	§ 2-07(f)
§ 2-07(c)	Modifications on Consent, Change of Address	§ 2-07(h) (renamed Deadline Extensions on Consent and Change of Address)
§ 2-07(d)	Parties	§ 2-07(g)(3)
§ 2-07(e)	Sales not Subject or Partially Subject to These Regulations	§ 2-07(b)(2)
§ 2-07(f)(1)	Right to Sell § 2-07(b)(1)	
§ 2-07(f)(2)	Offers to Sell to Prospective Tenant	§ 2-07(c)
§ 2-07(f)(3)	Owner's Response to Offer & Proposed Tenant	§ 2-07(d)
§ 2-07(f)(4)	Acceptance of Prospective Tenant through Owner's Consent to Tenant's Purchase or Owner's Failure to Respond	§ 2-07(d)(3)

§ 2-07(f)(5)	Owner's Purchase of Improvements	§ 2-07(d)(4)
§ 2-07(g)(1)	Challenges to Proposed Sales of Improvements – Procedures	No Change
§ 2-07(g)(2)	Grounds for Challenge	No Change
§ 2-07(h)	Sales which Occurred Prior to Effective Date of these Regulations	DELETED
§ 2-07(i)	Fair Market Value of Improvements; Hard Exemptions, Vacate Orders, Owner Occupancy	No Change
§ 2-07(j)	Filing the Record	No Change in location but renamed to "Filing the Sales Record with the Loft Board"

Section 2-07 of Title 29 of the Rules of the City of New York is amended, and subdivisions (b) through (h) are re-ordered to read as follows:

§2-07 **Sales of Improvements.**

(a) ***Definitions.*** The following terms shall have the following definitions unless context clearly indicates otherwise.

(1) **Fair market value.** "Fair [M]market [V]value" is [the value established] defined as follows:

(i) [by a] A bona fide offer by a prospective incoming tenant to purchase improvements made or purchased by an outgoing tenant qualified for protection under Article 7-C is presumed to represent the fair market value of the improvements. [from a prospective tenant, unless the Loft Board finds, upon application of an owner challenging such offer as not representing fair market value, that the offer does not represent the value of the improvements as determined after the Board's consideration, as further set forth in § 2-07(g) herein,]

(ii) The presumption in (i) above may be rebutted if the owner challenges the value in accordance with § 2-07(g), in which case the fair market value will be determined by the Loft Board in accordance with § 2-07(g).

[(i) for such improvements as were purchased by the outgoing tenant, of the amount paid by the outgoing tenant, less depreciation for wear and tear and age, to the prior tenant or to the owner, or to both, for purchase of improvements, and

(ii) for such improvements, as were made by the outgoing tenant, of the replacement cost of such improvements less depreciation for wear and tear and age.]

(iii) If no such offer is made or available, the value shall be established by agreement of the parties or pursuant to an application to the Loft Board, which shall determine the value in accordance with the criteria and procedures set forth in this Rule [herein].

(2) **Improvements.** "Improvements" are the fixtures, alterations and development of [a unit in] an interim multiple dwelling ("IMD") unit which were made or purchased by a residential tenant who is qualified for protection under Article 7-C.

(i) "Fixtures" are defined as that which is fixed or attached to real property permanently as an appendage, [and shall] including[e], but not [be] limited to, the following: kitchen installations, [including] such as stoves, sinks, counters, and built-in cabinets; bathroom installations, [including] such as sinks, toilets, bathtubs, and showers; other installations, [including] such as partitions, ceilings, windows, and floors, including tiling; built-in shelves; plumbing and utility risers; electrical work; heating units; and hot water heaters.

(ii) "Alterations and development" [shall] include, but [not be] are not limited to the following: demolition work, [including] such as debris removal; repair, [(]other than normal recurring maintenance[)]; [and] renovation of ceiling, walls, windows, and floors; design, including professional fees paid to architects and designers in connection with the improvements; labor; equipment rental; [design including professional fees paid to architects and designers in connection with the improvements;] and such removable personal property as [was] is reasonable to establish residential use, such as a refrigerator and dishwasher.

Improvements [shall] do not include other removable household furnishings, such as rugs, tables, and chairs. [, nor] A sale of improvements does not constitute a sale of rights [statutory rights] pursuant to § 286(12) of the Multiple Dwelling Law ("MDL") [Article 7-C, neither of which may be the subject of a sale pursuant to § 286(6) of the Multiple Dwelling Law ("MDL")].

(3) **[Multiple dwelling u]Unit,[.** A multiple dwelling unit, (also] as referred to in this Rule means:

(i) ["IMD unit" or "unit,") is a] A residential unit in an [interim multiple dwelling] IMD building, as defined by MDL § 281 and these Rules [Loft Board Coverage regulations], which [unit] is registered with the Loft Board or granted coverage by the Loft Board or a court of competent jurisdiction [as required by regulations relating to registration of interim multiple dwellings at the time of service on the owner of the Improvement Sales Disclosure Form as required herein. Included] or

(ii) For the purposes of sales of improvements governed by this section only, [are] a unit[s in multiple dwellings which were] formerly registered as an IMD['s] unit, but [and have] which has subsequently been legalized and removed from the Loft Board's jurisdiction.

(b) [*Notice: form and time requirements*. All notices, requests, responses and stipulations served by owners and tenants pursuant to these regulations shall be in writing, with a copy delivered or mailed to the Loft Board, accompanied by proof of service. Service by the parties shall be effected either (1) by personal delivery or (2) by certified or registered mail, return receipt requested, with an additional copy sent by regular mail. Unless otherwise agreed in writing by the parties, with notice to the Loft Board, these communications shall be delivered or sent to the outgoing tenant and to the prospective tenant at the respective addresses specified on the Improvements Sale Disclosure Form, described herein; and to the owner via the registrant of the IMD unit at the address indicated on the IMD registration form unless the owner informs the Loft Board, in writing, of an alternate party or address, or both, to be contacted regarding a sale of improvements. Proof of service shall be in the form of a verified statement of the person who effected service, setting forth the time, place and other details of service, if service was made personally, or by copies of the return receipt and verified statement of mailing, if service was performed by mail. Communications by the Loft Board pursuant to these regulations will be sent by regular mail to the addresses indicated above.

Service shall be deemed effective upon personal delivery or five days following service by mail. Deadlines provided herein are established pursuant to the effective date of service.]

Applicability.

This section applies to sales which occur on or after March 23, 1985, except that the definition of the term "fair market value," provided in subdivision (a) of this section, applies only to sales of improvements where a Disclosure Form has been filed with the Loft Board on or after February 16, 1996.

(1) *Right to sell.*

The residential occupant of an IMD unit which is qualified for protection under Article 7-C may sell the improvements of the unit to the owner or to a prospective tenant, either before or after such unit has been legalized and registered with DHCR, subject to the procedures established in these Rules. This right to sell may be exercised only once for each IMD unit. The improvements must be offered to the owner for an amount equal to their fair market value, as defined in § 2-07(a) above, prior to their sale to a prospective incoming tenant.

(2) *Sales not subject, or partially subject, to these rules.*

(i) *Registration or a finding of coverage*. This section does not apply to units which have never been registered with the Loft Board, unless the unit was granted coverage pursuant to a Loft Board order or court of competent jurisdiction. Any sale of improvements which occurred prior to registration of the unit with the Loft Board or prior to a finding of coverage by the Loft Board or a court of competent jurisdiction does not constitute a sale pursuant to MDL § 286(6), and is not covered by this section. This section does not apply to units which the Loft Board or the Executive Director have found are not covered by Article 7-C pursuant to §§ 2-05 and 2-08 of these rules, or which a court of competent jurisdiction has found do not qualify for Article 7-C coverage.

(ii) *Sales between co-tenants*. This section does not apply to sales of improvements between co-tenants of an IMD unit, where at least 1 of the co-tenants will remain in occupancy after the sale and is an occupant qualified for the protection of Article 7-C.

(iii) *Compensation to prime lessee or sublessor*. Compensation to a prime lessee or sublessor by a residential occupant does not constitute a sale of improvements pursuant to MDL § 286(6), and is governed by § 2-09(c) of these rules in matters regarding the prime lessee's or sublessor's right to compensation for costs incurred in developing a residential unit. After compensation has been made by the residential occupant to the prime lessee or sublessor, the residential occupant has the right to sell the improvements in the unit pursuant to MDL § 286(6) and this section.

(c) [*Modifications on consent, change of address.* Deadlines, herein may be modified, applications may be withdrawn, and disputes may be resolved, by written agreement of the parties, subject to Loft Board approval. Parties may change their address upon service of written notice to the other parties and the Loft Board and such notice shall be effective upon personal delivery or five days following service by mail.]

Procedure for sales of improvements to prospective incoming tenant.

(1) An outgoing tenant in an IMD unit proposing to sell improvements to a prospective incoming tenant must send the Loft Board approved Disclosure Form to the owner and prospective incoming tenant in accordance with the following procedures at least 30 calendar days in advance of the date of closing of the proposed sale:

(i) The outgoing tenant must notify the owner of his or her intent to move and to sell the improvements, and the identity of the prospective incoming tenant, providing the following information to the owner:

(a) A list and description of the improvements included in the proposed sale which were made or purchased by the outgoing tenant with accompanying proof of payment;

(b) A written copy of the offer, verified by the prospective incoming tenant, to purchase the improvements, which includes all terms and conditions of the offer;

(c) Identification of the prospective incoming tenant by name, current business and home addresses and any other address and telephone numbers elected for purposes of delivery of notices and communications;

(d) An affidavit by the outgoing tenant that he or she made or purchased the improvements offered for sale; or an affidavit that he or she is authorized to sell the improvements on behalf of any other parties having ownership interest in such improvements, accompanied by appropriate evidence of such authorization;

(e) An affidavit by the prospective incoming tenant that he or she has received and reviewed the Disclosure Form; and

(f) 3 reasonable dates and times within 10 calendar days after service of the Disclosure Form upon the owner, when the owner and/or its designee could inspect the improvements.

(ii) The Disclosure Form must also include the following advisories to the prospective incoming tenant:

(a) The improvements included in the sale are limited to those items listed and described by the outgoing tenant;

(b) The prospective incoming tenant is purchasing absolute title to the use and enjoyment for the duration of the prospective tenancy of all other property deemed improvements pursuant to these rules. The owner is responsible for maintenance of improvements deemed fixtures pursuant to these rules; however, the owner has the right to alter or remove the improvements pursuant to code compliance requirements, subject to the terms of this section;

(c) The right to sell improvements may be exercised only once for the unit and an incoming tenant cannot re-sell such improvements to the owner or a prospective incoming tenant pursuant to MDL § 286(6);

(d) Upon completion of the sale of improvements by the prospective incoming tenant pursuant to MDL§ 286(6), the prospective incoming tenant assumes the rights and obligations of the outgoing tenant as an occupant qualified for protection under Article 7-C;

(e) The amount of the rent and a statement as to the types of further increases which may be applicable to the IMD unit pursuant to the terms of the Loft Board's rules or Rent Guidelines Board's orders;

(f) If the building has not been issued a final residential certificate of occupancy for the IMD unit at the time of the offer to purchase, the unit remains subject to the requirements of Article 7-C and the Loft Board's rules requiring that such units be brought into compliance;

(g) MDL § 286(5) provides that the costs of legalization as determined by the Loft Board are passed through to the tenants and may result in rent adjustments owed by the tenant above the base rent, amortized over a 10 or 15 year period;

(h) The offer is subject to the owner's right:

1. To purchase the improvements for an amount equal to their fair market value,

2. To challenge the offer as provided in § 2-07(g) below, and,

3. To withhold consent to the prospective tenant, provided that consent may not be unreasonably withheld;

(i) If an owner purchases the improvements, the owner will not be entitled to the opportunity for decontrol of rent regulation or market rentals, as provided in § 2-07(d)(3)(ii) below, if the owner is found to have harassed tenants, pursuant to § 2-02 of these rules, unless the harassment finding has been terminated pursuant to § 2-02 of these rules.

(2) The completed Disclosure Form with original signatures must be filed with the Loft Board, together with proof of service. Following receipt, the Loft Board staff will determine whether a sale for the unit in question has been previously filed with the Loft Board's office. If a sale was previously filed, the parties will be notified of the prior sale and the proposed sale will not be given any effect under MDL § 286(6).

(d) [*Parties*. Unless otherwise indicated herein, in cases involving an offer to purchase improvements, parties shall be limited to the owner and the outgoing tenant, except that a prospective tenant tendering an offer to purchase improvements shall be a party to cases involving issues of the *bona fides* of an offer.]

Owner's response to offer and prospective incoming tenant.

(1) ***Procedures for owner's response.***

(i) Within 10 calendar days of service of the Disclosure Form, the owner may request any reasonable additional information from the outgoing and prospective incoming tenants that will enable the owner to decide whether to purchase the improvements, and to determine the suitability of the prospective incoming tenant.

(A) No request by the owner for additional information from the outgoing tenant may be unduly burdensome, and requests for additional information must be relevant to the criteria set forth in § 2-07(g) below.

(B) If the Loft Board finds that the owner's request for additional information is unduly burdensome, it may reject the owner's request on application by the outgoing tenant.

(ii) In the owner's response to the Disclosure Form, the owner must affirm that the subject unit is currently registered with the Loft Board or DHCR, or any successor agency and was registered at the time of service of the Disclosure Form and that he or she either owns the premises or is authorized to act on behalf of the owner in this matter.

(iii) Within 20 calendar days after service of the Disclosure Form, or delivery of the additional information reasonably requested by the owner, whichever is later, the owner must notify the outgoing and prospective incoming tenants, of the owner's:

(A) Rejection of the offer based on one or more of the grounds for challenge listed in § 2-07(g)(2), by following the procedures provided in § 2-07(g);

(B) Consent to the prospective incoming tenant and consent to the sale of improvements to the prospective incoming tenant; or

(C) Acceptance and commitment to purchase the improvements at the offered price.

(iv) If one of the grounds for challenge is the unsuitability of the prospective tenant, the owner must initiate an action based on that ground in a court of competent jurisdiction. If an action is brought pursuant to this subparagraph, the owner must inform the Loft Board in writing within 20 calendar days after service of the Disclosure Form or delivery of the additional information requested, if any.

(2) *Owner's rejection of the offer.*

(i) If the owner rejects the outgoing tenant's offer to purchase the improvements, the owner must elaborate on the grounds for the rejection by filing a challenge application in accordance with the procedures provided in subdivision (g), except as provided in § 2-07(d)(1)(iv). If the rejection is based on the claim that the offer exceeds the fair market value of the improvements, the rejection must include the owner's fair market valuation of the improvements and the owner's commitment to purchase if the fair market value is determined to be no greater than such valuation. If the rejection is based on the owner's claim that he or she made or purchased the improvements, the rejection must indicate which improvements the owner alleges it made or purchased and include proof.

(ii) Failure of the owner to file a complete application, including payment of a fee of $800.00 to cover the full cost of an appraiser selected by the Board, with the Loft Board, with copies to the outgoing and prospective tenants, within the time in § 2-07(d)(1)(iii) above, shall be deemed an acceptance of the proposed sale except if the owner's challenge is on the ground of the unsuitability of the prospective tenant, the owner must initiate any action based on that ground in a court of competent jurisdiction and must inform the Loft Board in writing within the time period in § 2-07(d)(1)(iv).

(3) *Owner's acceptance of sale and prospective tenant.*

(i) The owner may send a notice of approval of the proposed sale to the prospective incoming tenant, and acceptance of the prospective incoming tenant.

(ii) An owner's failure to: 1) send a complete notice of approval, as described in (i) above or 2) file a challenge application with the Loft Board within the time period provided above, or by another deadline agreed upon in writing by the owner and outgoing tenant, is deemed an acceptance of the proposed sale from the outgoing tenant to the incoming tenant and acceptance of the prospective incoming tenant, except as provided in § 2-07(d)(1)(iv).

(iii) In the case of (i) or (ii) above, the tenant assumes the rights and obligations of the outgoing tenant as an occupant qualified for protection under Article 7-C, upon the execution of the sale provisions and compliance with the other provisions of these rules. The prospective incoming tenant is permitted to commence residency, despite the lack of a residential certificate of occupancy covering the unit. He or she must pay the rent previously charged to the outgoing tenant, including any applicable pass-throughs or increases permissible under Article 7-C or the Loft Board's rules and orders, including but not limited to:

(A) Any increases permissible pursuant to §§ 2-06, 2-06.1, or 2-06.2, if such increases have not already been imposed; or

(B) Any increases pursuant to the Rent Guidelines Board's orders, if applicable.

(4) *Owner's purchase of improvements.*

(i) If the owner elects to purchase the improvements in an IMD unit in accordance with the terms of the prospective incoming tenant's offer, the owner must notify the outgoing tenant and the prospective incoming tenant of the owner's acceptance in accordance with § 2-07(d)(1)(iii), and must meet the terms of the offer within 30 calendar days of service of owner's acceptance upon the outgoing tenant. If the owner fails to meet the terms of the offer within the 30 calendar day period, the owner is deemed to have waived the right to purchase the improvements at an amount equal to their fair market value.

(ii) Upon completion of the purchase of improvements by the owner, an IMD unit subject to rent regulation solely by reason of Article 7-C of the MDL, and not receiving any benefits of real estate tax exemption or tax abatement, will be exempted from the provisions of Article 7-C requiring rent regulation,

(A) if such building had fewer than 6 residential units: (a) on June 21, 1982 for a unit covered under MDL § 281(1); (b) on July 27, 1987 for a unit solely covered under MDL § 281(4); or (c) on June 21, 2010 for a unit solely covered under MDL § 281(5); or

(B) if the unit was purchased by the owner pursuant to these rules before July 27, 1987 and the building had fewer than 6 residential units on June 21, 1982, but 6 or more residential units on July 27, 1987.

(iii) Upon completion of the purchase by the owner, any unit subject to rent regulation solely by reason of Article 7-C of the MDL, and not receiving any benefits of real estate tax exemption or tax abatement, will be subject to subsequent rent regulation after being rented at market value, if such building had 6 or more residential units on: (a) June 21, 1982 for a unit covered under MDL § 281(1); (b) July 27, 1987 for a unit solely covered under MDL § 281(4); or (c) June 21, 2010 for a unit solely covered under MDL § 281(5).

(iv) The exemption from rent regulation is not available in a building when any sale of improvements takes place on or after the date of a finding of harassment, and before the harassment order is terminated by the Loft Board in accordance with § 2-02(d)(2) of these Rules.

(e) [*Sales not subject, or partially subject, to these regulations*. These regulations do not apply to IMD units which have never been registered with the Loft Board. Any sales of improvements which take place in such units prior to registration do not constitute sales pursuant to §285(6) of the MDL.

These regulations do not apply to units which the Board has determined not to be covered by Article 7-C of the MDL.

These regulations also do not apply to sales of improvements between co-tenants of an IMD unit, where at least one of the co-tenants is remaining in occupancy and is an occupant qualified for the protection of Article 7-C. Also, compensation to prime lessees by subtenants or assignees who are residential occupants, pursuant to the section of the regulations on Subletting and Similar Matters regarding the prime lessee's right to compensation for costs incurred in developing residential unit(s), shall not constitute sales pursuant to §286(6). After such compensation has been made, where required under such section, the residential occupant shall have the right to sell the improvements in the unit pursuant to §286(6) and these Regulations. (See the section of Subletting and Similar Matters regulations regarding residential occupant's rights to sale of improvements pursuant to §286(6) of the MDL).

In a unit which has been determined by the Loft Board to be covered by Article 7-C, or has previously been registered with the Loft Board, but which is not registered in accordance with §2-07(a) "Interim Multiple Dwelling Unit" above, or with the New York State Division of Housing and Community Renewal (DHCR), a sale of improvements shall constitute the one-time-only sale as provided by §286(6) but it shall not be subject to the owner's right to challenge except on grounds of suitability of the prospective tenant which challenge must take place in a court of competent jurisdiction.]

(f) [*Applicability*. These rules shall apply to sales which occur on or after March 23, 1985, except as provided in §2-07(e), and except that the definition of the term "fair market value" set forth in subdivision (a) of this section, as amended effective on February 16, 1996, shall apply only to sales of improvements with respect to which a Disclosure of Sale Form was filed with the Loft Board on or after February 16, 1996. For the rules applicable to sales which occurred prior to March 23, 1985, see §2-07(h).

(1) *Right to sell*. The residential occupant of an IMD unit which is qualified for protection under Article 7-C, including such unit which has been legalized and is registered with DHCR, may sell the improvements of the unit to the owner or to a prospective tenant, subject to the procedures established herein. This right to sell may be exercised only once for each IMD unit. Such improvements must be offered to the owner for an amount equal to their fair market value as defined in §2-07(a) "Fair Market Value" above, prior to their sale to a prospective tenant, as provided herein.

(2) *Offers to sell to prospective tenant*. An outgoing tenant in an IMD unit, proposing to sell improvements to a prospective tenant, shall comply with the following procedures at least 30 days in advance of the date of closing or consummation of the proposed sale: (i) (A) The outgoing tenant shall notify the owner of his or her intent to move and to sell improvements, and the identity of the prospective tenant on an Improvements Sale Disclosure Form ("Disclosure Form"), as prescribed by the Loft Board, providing the following information to the owner:

(a) a list and description of the improvements

(1) installed and

(2) purchased by the outgoing tenant, with accompanying proof of payment;

(b) a written copy of the offer, verified by the prospective tenant, to purchase such improvements, which includes all terms and conditions of the offer;

(c) identification of such prospective tenant by name, current business and home addresses and such other address, if any, as such prospective tenant elects for purposes of delivery of notices and communications, and telephone numbers;

(d) an affirmation by the outgoing tenant that he or she installed or purchased the improvements offered for sale, or if not, that he or she is authorized to sell the improvements on behalf of any other parties having ownership interest in such improvements, accompanied by appropriate evidence of such authorization;

(e) an affirmation by the prospective tenant that he or she has received and reviewed the Disclosure Form;

(f) provision of three reasonable dates and times at which inspection of the improvements by the owner or the owner's designee, or both, would be available, within 10 days of service of the Disclosure Form

(B) The Disclosure Form shall also include the following advisories to the prospective tenant:

(a) the improvements for sale are limited to those items listed and described by the outgoing tenant;

(b) the prospective tenant is purchasing absolute title to all removable personal property and the use and enjoyment for the duration of the prospective tenancy of all other property deemed improvements pursuant to these regulations; the owner shall be responsible for maintenance of improvements deemed fixtures pursuant to these regulations except that some improvements may be altered or removed pursuant to code compliance and requirements;

(c) the right to sell improvements may be exercised only once for the unit and an incoming tenant cannot re-sell them except for removable personal property;

(d) the prospective tenant, upon consummation of the sale of improvements, assumes the right and obligations of the outgoing tenant as an occupant qualified for protection under Article 7-C;

(e) the amount of the rent and a statement as to the types of further increases which may be applicable to IMD units pursuant to terms of the Loft Board's interim rent guidelines, pass-throughs of costs determined pursuant to Code Compliance regulations, or rent increases pursuant to the Rent Guidelines Board's orders;

(f) if the building has not been issued a residential certificate of occupancy for its IMD units at the time of the offer to purchase, it remains subject to the requirement of Article 7-C and Loft Board Compliance regulations that such units be brought into compliance; (g) Article 7-C provides that the costs of legalization as determined by the Loft Board are passed through to the tenants and may result in increased rent above the base rent over a 10 or 15 year period;

(h) the offer is subject to the owner's right to purchase the improvements for an amount equal to their fair market value, to challenge the offer as provided in §2-07(g) of these regulations, and to consent to the prospective tenant, provided that consent may not be unreasonably withheld;

(i) rent regulation as provided for in Article 7-C is scheduled to expire on May 31, 2006, pursuant to section 3 of part T of chapter 61 of the Laws of 2005, and may or may not be renewed or amended by the legislature of the State of New York;

(j) the opportunity for decontrol or market rentals, if an owner purchases improvements, may not be available in a building when an owner has been found guilty by the Loft Board of harassment of tenants subject to regulations to be adopted by the Loft Board.

(ii) The original of the Disclosure Form, completed and executed, shall be filed with the Loft Board, together with proof of service. Within 10 days of receipt of such form, the Loft Board staff shall determine whether a sale for the unit in question has been previously recorded at the Board's offices. If such a sale has been recorded, the parties will be so notified and the proposed sale will not be permitted to proceed.

(3) *Owner's response to offer and proposed tenant*. Within 10 days of service of the Disclosure Form, the owner may request of the outgoing and prospective tenants such additional information as will enable the owner to decide whether or not to purchase the improvements, and to determine the suitability of the prospective tenant. In such response the owner must affirm that the subject unit is currently registered with the Loft Board or DHCR and was registered at the time of service of the Disclosure Form and that he or she either owns the premises or is authorized to act on behalf of the owner in this matter. Any request by the owner for additional information from the outgoing tenant shall not be unduly burdensome. Requests for additional information regarding a decision whether to purchase the improvements must be relevant to the criteria set forth for making such determination in §2-07(g) below. If the owner submits further requests for information regarding the purchase of improvements, determined by the Loft Board to be unduly burdensome, such owner may forfeit his/her right to purchase the improvements in question.

Within 20 days of service of the Disclosure Form, or of the additional information reasonably requested by the owner, whichever is later, the owner shall notify the outgoing and prospective tenant, of the owner's

(i) acceptance and commitment to purchase at the offered price,

(ii) consent to the proposed tenant and sale or

(iii) rejection of the offer based on one or more of the

grounds for challenge enumerated in §2-07(g)(2) herein by service upon the outgoing and prospective tenants of a challenge application and by filing with the Loft Board a copy of said challenge. If one of the grounds for challenge is the unsuitability of the prospective tenant, the owner must initiate any action based on that ground in a court of competent jurisdiction, and shall so inform the Loft Board in writing.

If the owner rejects the offer, the notice shall elaborate the grounds therefor. If the rejection is based on the claim that the offer exceeds the fair market value of these improvements, the rejection shall include the owner's fair market valuation of the improvements and the owner's commitment to purchase if the fair market value is determined to be no greater than such valuation. If the rejection is based on the owner's claim that (s)he made or purchased the improvements, the rejection shall indicate which improvements are so claimed and include proof thereof.

Failure of the owner to file a complete application, including payment of a fee of $800.00 to cover the full cost of an appraiser selected by the Board, with the Loft Board, with copies to the outgoing and prospective tenants, within the time for response prescribed in §2-07(f)(3) above, shall be deemed an acceptance of the proposed sale except if the owner's challenge is on the ground of the unsuitability of the prospective tenant, the owner must initiate any action based on that ground in a court of competent jurisdiction and shall so inform the Loft Board in writing within the time period for response prescribed in §2-07(f)(3).

(4) *Acceptance of prospective tenant through owner's consent to tenant's purchase or through owner's failure to respond*. An owner's failure to send a complete notice of acceptance or rejection within the time provided above, or such other time as mutually agreed upon, shall be deemed an acceptance of the proposed sale and tenant. In such a case, or when the owner consents to the proposed tenant, said tenant shall assume the rights and obligations of the outgoing tenant as an occupant qualified for protection under Article 7-C, upon the consummation of the sale and compliance with the other provisions of these regulations. Such tenant shall be permitted to commence residency, notwithstanding the lack of a residential certificate of occupancy covering the unit. He or she shall pay the rent previously charged to the outgoing tenant, including any applicable pass-throughs determined pursuant to Code Compliance regulations plus:

(i) any increases permissible pursuant to the Loft Board's interim rent guidelines if such increases have not already been imposed; or

(ii) any increases pursuant to the Rent Guidelines Board's orders, if applicable.

(5) *Owner's purchase of improvements*. If the owner elects to purchase the improvements in an IMD unit in accordance with the terms of the offer, the owner shall notify the outgoing tenant and the prospective tenant of such commitment as required in §2-07(f)(3) above, and shall meet the terms of the offer within 30 days of service of such commitment upon the outgoing tenant. Failure by the owner to consummate such a commitment within such 30-day period shall be deemed a waiver of the owner's right to purchase the improvements at an amount equal to their fair market value.

Upon consummation of the purchase by the owner and compliance with the filing provisions of these regulations, any unit subject to rent regulation solely by reason of Article 7-C of the MDL, and not receiving any benefits of real estate tax exemption or tax abatement, shall be exempted from the provisions of Article 7-C requiring rent regu- lation,

(i) if such building had fewer than six residential units on June 21, 1982, and on July 27, 1987; or

(ii) if the unit was purchased by the owner pursuant to these rules before July 27, 1987 and the building had fewer than six residential units on June 21, 1982, but six or more residential units on July 27, 1987.

Otherwise, upon consummation of the purchase by the owner any unit subject to rent regulation solely by reason of Article 7-C of the MDL, and not receiving any benefits of real estate tax exemption or tax abatement, shall be subject to subsequent rent regulation after being rented at market value, if such building had six or more residential units on June 21, 1982 or on July 27, 1987.

These exemptions from rent regulation shall not be available in a building when an owner has been found guilty by the Loft Board of harassment of tenants pursuant to §2-02. This restriction shall apply to any sale of improvements that takes place on or after the date of the order containing the finding of harassment until such time as the order may be terminated by the Loft Board in accordance with §2-02(d)(2).]

Notice between parties: form and time requirements.

(1) All notices, requests, responses and stipulations served by owners and tenants pursuant to this section must be in writing, with a copy delivered or mailed to the Loft Board, accompanied by proof of service. Service by the parties will be effected either (1) by personal delivery or (2) by certified or registered mail, return receipt requested, with an additional copy sent by regular mail.

(2) Unless otherwise agreed in writing by the parties, with notice to the Loft Board, these communications must be sent to the outgoing tenant and to the prospective incoming tenant at the respective addresses specified on the Disclosure Form; and to the owner at the address indicated on the latest IMD registration form filed with the Loft Board immediately prior to the filing of the Disclosure Form.

(3) If service was made personally, a verified statement of the person who effected service, setting forth the time, place and other details of service will constitute proof of service. If service was performed by mail, copies of the United States Post Office stamped return receipt and verified statement of mailing will constitute proof of service.

(4) The deadlines provided in this section are triggered by the effective date of service. Service is deemed effective upon personal delivery or 5 calendar days following service by mail.

(5) Communications by the Loft Board pursuant to this section will be sent by regular mail to the addresses indicated in paragraph (2) above.

(g) [*Challenges to*] *Applications challenging proposed sale[s]of improvements.*

(1) *Procedures.*

(i) An owner of an IMD unit [who is] seeking to contest[ing] the proposed sale of improvements [shall] must apply to the Loft Board for a determination within 20 calendar days of service upon the owner of the Disclosure Form, or within such additional period as provided pursuant to § 2-07([f)(3]d) above, and [at such time shall] must pay the mandated filing fee of $800. Before the owner files a challenge application under this subdivision, the owner's registration with the Loft Board, including payment of applicable registration fees, must be current. Before filing a challenge application with respect to improvements in a unit that was formerly subject to Article 7-C, the owner's registration with DHCR or any successor agency must be current. The owner must also state that he or she is the owner of the premises or is authorized to act on behalf of the owner in this matter.

(ii) Filing of an application challenging the sale of improvements to a prospective incoming tenant which is found by the Loft Board to be frivolous may constitute harassment, in accordance with § 2-02 of these Rules, with the consequences provided in § 2-07[(f)(5)](d)(4) [herein]. An objection to the sale may be found to be frivolous on grounds including, but not limited to, the following: that it was filed without a good faith intention to purchase the improvements at fair market value or that the owner's valuation of the improvements has no reasonable relationship to the fair market value, as determined by the Loft Board.

(iii) [Recognizing the necessity that sales of improvements occur without undue delays, the Loft Board will process challenges to such sales pursuant to the following expedited procedures:

(A)] The owner [shall] must serve the outgoing and prospective incoming tenants [and prospective tenant] with a copy of the owner's challenge application, [upon such forms as are established by the Loft Board, and shall] and file within 5 calendar days of service [two] 2 copies of the application at the Loft Board and proof of service as described in § 1-06(b).

[(B) Three] (iv) The outgoing and prospective incoming tenants will have 7 calendar days from when service of the application is deemed complete to file with the Loft Board an answer to the challenge application. [copies of any written answers from the outgoing and prospective tenants in response to the challenge application must be served on the Loft Board] Two copies of the answer must be filed with the Loft Board. One copy of the answer must be served on [at its offices] the owner and the other affected parties, if any [within five business days of receipt of such challenge application], prior to filing the answer with the Loft Board. [p]Proof of service must be filed with the Loft Board in accordance with § 1-06(d) of these Rules.

(v) The outgoing tenant's answer [shall] must include [three] 3 available dates and times during regular business hours within 10 calendar days of the date of filing of the answer with the Loft Board during which the improvements will be available to be inspected by a Loft Board-appointed appraiser in accordance with subparagraph (vi).

(vi) The [A]appraiser[s] shall be appointed by the Loft Board, [and shall] must be suitably qualified in valuing improvements and [shall] must be a Registered Architect, a Professional Engineer or a New York State Certified General Real Estate Appraiser. [Appraisers shall sign a written statement agreeing to adhere to the appraisal standards and procedures adopted by the Board.]

(vii) [The Loft Board shall serve a copy of the answer on the owner and on the prospective tenant.] The Board shall also notify the owner, outgoing tenant and prospective incoming tenant of an inspection date at one of the times designated by the outgoing tenant, or at another time fixed by the Board if none of the proposed dates is mutually convenient. Following [such an] the inspection, a copy of the appraiser's findings [shall] will be mailed to the three parties. A conference or hearing date must be scheduled no fewer than [eight] 8 calendar days nor more than [fifteen] 15 calendar days from the mailing [by the Loft Board of the answer] of the notice of conference or hearing or, if applicable, the filing of the appraiser's report[, whichever is later]. There [shall] may be no more than one adjournment per party, limited to [seven] 7 calendar days, for good cause shown. Except as provided in these rules[herein], the requirements of the Loft Board's rules regarding applications [and regulations for Internal Board Procedures shall] apply.

(viii) If a challenge application results in an order by the Loft Board determining that the offer constitutes fair market value, the owner may exercise the right to purchase improvements at that price. [or, if] If the [determination is] Loft Board determines that the offer does not constitute fair market value in accordance with § 2-07(g)(2), the owner may exercise the right to purchase the improvements at the price determined to constitute fair market value. The owner [shall] must notify the outgoing tenant within 10 calendar days of service of the Loft Board's order determining fair market value of the owner's intent to purchase at such price less half the cost of the appraisal and [shall] must consummate the purchase within 10 calendar days of [such] the owner's notice to the outgoing tenant, except that where the fair market value determination is less than the price offered [received] by the outgoing tenant, the outgoing tenant may decline to sell the improvements. The Loft Board's order determining fair market value [shall] constitutes the price at which the outgoing tenant must first offer to sell the previously offered improvements to the owner for a period of [two] 2 years from the [issuance] date of the Loft Board order.

[(iii)] (ix) If the owner elects not to purchase the improvements at the Loft Board-determined fair market value, the outgoing tenant may sell to [a] the prospective incoming tenant, without challenge by the owner to the fair market value of the offer. The owner's failure to consummate a purchase, following notice of intent to purchase, within the period prescribed above, [shall be] is deemed an election not to purchase.

(2) *Grounds for challenge.*

[A challenge fully setting forth the owner's claims may be filed] An owner may challenge a proposed sale of improvements on the following grounds:

(i) The offer is not a *bona fide,* arms-length offer which discloses to the owner all its terms and conditions.

(ii) Some or all of the improvements offered for sale were made or purchased by the owner, not the outgoing tenant. [, with the specificity required in § 2-07(f)(3) above.] Proof of ownership or payment is required.

(iii) The offer exceeds fair market value as determined in accordance with the following standards:

(A) A *bona fide* offer to purchase improvements made or purchased by the outgoing tenant [shall be] is presumed to represent fair market value.

(B) The presumption may be rebutted if the owner establishes that:

(a) [f]For such improvements as were purchased by the outgoing tenant, the offer exceeds the amount paid [to the owner or to the former tenant, or both,] for [such] the improvements minus depreciation for wear and tear and age; or

(b) [f]For such improvements as were made by the outgoing tenant, the offer exceeds the replacement cost of the improvements [less] minus depreciation for wear and tear and age.

(C) [Noncompliance of the improvements with the building code or other applicable laws or regulations shall not be considered in diminution of the amount paid or the replacement costs for improvements made or purchased prior to] If any of the improvements offered for sale are out of compliance with the New York City Building Code or other applicable laws or regulations, the noncompliance may not be considered when calculating the amount paid for or the replacement costs of the improvements, for improvements made or purchased prior to (a) March 23, 1985, or (b) October 14, 2012, the effective date of this amended rule, for a unit covered under Article 7-C pursuant to MDL § 281(5).

(iv) On any other basis authorized under Article 7-C.

(iv) If a basis of a challenge is the unsuitability of the prospective incoming tenant, the owner must initiate any action based on that ground in a court of competent jurisdiction; such challenge will not be entertained by the Loft Board.

(3) Affected Parties.

The term "affected parties," when used in an application challenging an offer to purchase improvements, is limited to the owner and the outgoing tenant, except that a prospective incoming tenant is an affected party in cases involving an owner's challenge to the prospective incoming tenant's offer to purchase improvements.

(h) [*Sales which occurred prior to the effective date of these regulations.* (1) For sales which occurred prior to March 23, 1985, the provisions of this section shall apply as follows:

(i) Where application for registration as an IMD was received on or before January 31, 1983, sales of improvements consummated on or after June 21, 1982 shall be subject to the rights and obligations set forth in paragraphs (2) and (3) of this subdivision (h).

(ii) Where application for registration as an IMD was received after January 31, 1983, sales of improvements consummated after receipt of such application, but prior to March 23, 1985, shall be subject to the rights and obligations set forth in paragraphs (2) and (3) of this subdivision (h).

(iii) Where sales of improvements were consummated for IMD units, prior to application for registration and prior to March 23, 1985, these regulations do not apply and such sales do not constitute the one-time only sales permitted pursuant to §286(6) of the MDL.

(2) *Prior sales without offer to owner or without acceptance.* If the sale of improvements in an IMD unit to an incoming tenant has occurred prior to March 23, 1985, and is subject to the provisions of this subsection (see subparagraphs (1)(i) and (1)(ii) of this subdivision (h)), either without their first having been offered for purchase to the owner, or with the owner having contested the sale in writing, the owner must be afforded the opportunity to purchase the improvements at an amount equal to their fair market value, except that if the owner has accepted rent from the incoming tenant who purchased the improvements, such owner may purchase the improvements at the price paid by such

incoming tenant, which shall be deemed to constitute fair market value, and may not challenge that price as in excess of fair market value.

(i) Where the owner has retained his/her right to purchase pursuant to this paragraph (2), and may wish to purchase the improvements, and the unit is registered with the Loft Board or with DHCR the owner must serve the purchasing tenant with a notice of his/her interest in purchasing the improvements no later than 90 days from the effective date of this regulation. The tenant must serve the owner with a notice describing the improvements purchased together with proof of payment of the amount paid to the outgoing tenant, within 15 days of service of notice by the owner. Within 30 days of receipt of this information, the owner shall send a notice to the tenant of the owner's

(A) commitment to purchase at such price,

(B) challenge to the fair market value of the improvements, unless such challenge is barred by the owner's acceptance of rent from the incoming tenant, or

(C) acceptance of the sale and tenancy, and such notice or failure to respond shall be of the same form, effect and consequences as if provided pursuant to §§2-07(f)(3)-(5) above.

(ii) Where the owner consummates a purchase of improvements pursuant to this section,

(A) the tenant shall have the right to remain in occupancy at the rent previously paid and accepted by the owner for 120 days, commencing on the first rent payment date following owner purchase, after which such tenant must either vacate the premises or agree to pay the rent set by the owner, with subsequent rent regulation, if applicable; or

(B) if the owner has not been accepting rent from such tenants, the tenant shall have the right to remain for 60 days commencing on the first rent payment date following owner purchase, provided that use and occupancy is tendered by the tenant in the amount of rent paid by the last tenant, after which such tenant must vacate the premises or agree to pay the rent set by the owner, with subsequent rent regulation, if applicable.

(3) *Prior sales of improvements with offer to owner.* (i) If the sale of improvements in an IMD unit has occurred prior to March 23, 1985, and is subject to the provisions of this section (see §§2-07(h)(1)(i) and (ii) above), either

(A) to the owner, or

(B) to a prospective tenant where the owner has declined to purchase but did not claim in writing that the purchase price was in excess of the fair market value, a Loft-Board-approved Sales Record shall be filed with the Loft Board within 30 days of the effective date of this regulation. Any transaction which is the subject of a Record filed in compliance with this section shall be deemed valid and shall constitute the one-time-only sale authorized by §286(6) of the Multiple Dwelling Law, regardless of whether it was conducted in accordance with the procedures for sales of improvements described herein.

(ii) If a tenant claims that a sale of improvements prior to March 23, 1985 did not yield fair market value and that tenant was denied rights under the statute, such a challenge must be brought in a court of competent jurisdiction and will not be entertained by the Loft Board except that if such tenant claims harassment the Loft Board may entertain such claim pursuant to Loft Board regulations on harassment.]

Deadline Extensions on consent and change of address.

Deadlines set in this rule may be modified, applications may be withdrawn, and disputes may be resolved, by written agreement of the parties, subject to Loft Board written approval. Parties may change their address upon service of written notice to the Loft Board and the other affected parties, as defined in § 2-07(g)(3) above. Notice is effective upon personal delivery or 5 calendar days following service by mail.

(i) ***Tenant's Right to Fair [market value of improvements;] Market Value of Improvements in Cases of [hardship exemptions] Hardship Exemptions, [vacate orders] Vacate Orders, [owner occupancy] Owner Occupancy.***

(1) In the event that:

(i) [t]The failure of an owner to comply with the legalization deadlines mandated by MDL § 284(1)[(i) or MDL §284(1)(ii)] results in a municipal vacate order pursuant to MDL §284(1)([iv]x)[, or in the event of];

(ii) [t]The [granting by the] Loft Board [of] grants a hardship exemption pursuant to MDL §285(2)[, or in the event that]; or

(iii) [t]The owner successfully obtains the right to occupy former IMD units under the provisions of the Rent Stabilization Law and the Rent Stabilization Code §§ 2524.4(a) and 2525.6,

an occupant qualified for Article 7-C protections may apply to the Loft Board for a determination of fair market value of improvements and reasonable moving expenses.

(2) As further provided in MDL § 284(1)(x)[(iv)], any [such] vacate order pursuant to § 2-07(i)(1)(i) above, is to be deemed an order to correct the non-compliant conditions, subject to the provisions of Article 7-C, and the occupant [shall have] has the right to reoccupy the unit when the condition has been corrected and [shall be] is entitled to all applicable protections of Article 7-C.

(3) The Loft Board shall determine the fair market value in accordance with this section except that the tenant shall be the applicant, affected parties shall be limited to the owner and tenant, and the tenant shall offer proof of reasonable moving expenses as well as both parties offering proof as to the value of the improvements.

(4) Upon a finding by the Loft Board of the fair market value of the improvements and of reasonable moving expenses, [it shall] the owner will be [order the owner] required to pay such amounts to the tenant plus an amount equal to the application filing fee.

(j) ***Effect of Sale: Filing [of] the [s]Sale[r]Record with the Loft Board.***

(1) Except as provided in paragraph (2) below, within 30 calendar days of the sale of improvements [in a unit] to the owner, pursuant to [Multiple Dwelling Law] MDL § 286(6) [or of March 23, 1985, whichever is later, the owner, if such owner purchased the improvements] the owner must [shall] file a Loft Board-approved Sale Record, which provides the following information: address of IMD and location of unit; name and telephone number of incoming tenant; description of improvements conveyed; purchase price; [and purchaser]; and rent. Failure by the owner to file the required Sale Record within 30 calendar days of the sale of improvements [will] may subject the owner to a civil penalty, [up to $1,000] as determined by the Loft Board in § 2-11.1 of these Rules.

(2) If a prospective incoming tenant purchases the improvements in the IMD unit [subsequent to March 23, 1985], no further filing is required. Unless the Loft Board is otherwise informed, receipt by the Loft Board of a Disclosure Form [shall be] is presumed to be notice that a sale to the prospective incoming tenant identified [therein] has taken place[,] within 60 calendar days following receipt of such Disclosure Form, or 60 calendar days following the last deadline modification approved by the Loft Board.

If no sale has occurred, the outgoing tenant [shall so] must inform the Loft Board within 60 calendar days [of such time] following the filing of the Disclosure Form, or 60 calendar days from the last deadline. If the outgoing tenant fails to advise the Loft Board within the prescribed 60 calendar days that no sale has taken place, such tenant may refute [nevertheless rebut] the presumption by: 1) filing a letter withdrawing the previously filed Disclosure Form, or [: an application for improvement sales consisting of] 2) filing another Disclosure Form with a new proposed sale [the filing fee for a sale of improvements application of $800.00, and] along with an [affirmation] affidavit by the outgoing tenant stating that the prior proposed sale did not occur, that the tenant has remained in occupancy of the unit and that no sale of improvements in the unit has occurred.

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Sales of Improvements (§ 2-07)

REFERENCE NUMBER: DOB-19

RULEMAKING AGENCY: Department of Buildings (Loft Board)

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because a cure period would run counter to the proposed rule's goal of encouraging timely filing of sale documentation.

/s/ Ruby B. Choi *5/4/2012*
Mayor's Office of Operations Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087

CERTIFICATION PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Sales of Improvements (§ 2-07)

REFERENCE NUMBER: 2011 RG 073

RULEMAKING AGENCY: Loft Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 3, 2012
Acting Corporation Counsel

☛ **m11**

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on the proposed rule changes to Section 2-09 of the Loft Board rules, which covers occupant protection under Article 7-C, subletting rights, privity with the owner, and the right to recover subdivided covered space.

Date / Time: July 12, 2012 at 2:00 P.M.

Location: 22 Reade St., 1st Floor
New York, NY 10007

Contact: New York City Loft Board
280 Broadway
3rd Floor
New York, NY 10007
(212) 566-5663

Proposed Rule Amendment

Pursuant to the authority vested in the New York City Loft Board by Article 7-C of the Multiple Dwelling Law and Mayor's Executive Order No. 129, dated May 22, 2009, and pursuant to and in accordance with the requirements of Section 1043 of the New York City Charter, the New York City Loft Board intends to amend section 2-09 of Title 29 of the Rules of the City of New York to conform the Loft Board's rules to the amendments made to Article 7-C of the Multiple Dwelling Law, effective as of June 21, 2010. Section 2-09 addresses occupant protection under Article 7-C, subletting rights, privity with the owner, and the right to recover subdivided space.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to the New York City Loft Board at the address shown above or electronically through NYCRULES at www.nyc.gov/nycrules by July 12, 2012.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact the New York City Loft Board at the phone number shown above by July 9, 2012.
- Written comments and a summary of oral comments received at the hearing will be available July 18, 2012 between the hours of 10:00 A.M. and 4:00 P.M. at the offices of the New York City Loft Board.

STATEMENT OF BASIS AND PURPOSE

Pursuant to § 282 of Article 7-C of the Multiple Dwellings Law (MDL), also known as the "Loft Law," the Loft Board may promulgate rules to ensure compliance with the Loft Law.

Effective as of June 21, 2010, the New York State Legislature amended the Loft Law and enacted Chapters 135 and 147 of the Laws of 2010, which among other things, added MDL § 281(5). When it added § 281(5), the New York State Legislature expanded the criteria for coverage under the Loft Law.

The proposed changes conform § 2-09 of the Loft Board's rules to the amended Loft Law, by extending the rule's requirements to buildings covered pursuant to the newly added MDL § 281(5), and clarifying the existing provisions regarding subletting rights, privity with the owner, the right to recover subdivided space, and sale of improvements.

To summarize, the proposed rule:

(a) Updates the definition of an occupant qualified for possession of a residential unit and protection of Article 7-C;

(b) Clarifies the conditions necessary for privity between the subtenant and owner or prime lessee;

(c) Describes when a prime lessee may recapture the IMD unit or subdivided space if the prime lessee still occupies a portion of the IMD unit; and

(d) Clarifies the procedure for a prime lessee to be compensated for the improvements made by the prime lessee.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this Board, unless otherwise specified or unless the context clearly indicates otherwise.

New matter in the following rule is underlined, and deleted material is in brackets.

Section 2-09 of Title 29 of the Rules of the City of New York is amended to read as follows:

§2-09 **Occupant Qualified for Article 7-C Protection, Privity, Subletting and Recovery of Subdivided Unit. [Similar Matters.]**

(a) Definitions.

Prime lessee [**.** As used in these regulations, the term "prime lessee" shall] means the party with whom the landlord entered into a lease or rental agreement for use and occupancy of a portion of an IMD, which is being used residentially, regardless of whether [such] the lessee is currently in occupancy or whether [such] the lease remains in effect.

Privity [**.** As used in these regulations, the term "privity" shall] means a direct contractual relationship between two parties, which may be established explicitly, implicitly or by operation of law.

Tenant [**.** Where the term "tenant" is used in Article 7-C of the Multiple Dwelling Law to] refers directly or implicitly to a residential tenant [, it] and is deemed interchangeable with [the use of] the word "occupant" in Article 7-C and these rules.

(b) *Occupant qualified for possession of residential unit and protection* [*of*] *under Article 7-C.*

(1) Except as otherwise provided herein, the occupant qualified for protection under Article 7-C [shall be] is the residential occupant in possession of a residential unit, covered as part of an IMD.

(2) If the residential occupant in possession of a covered residential unit is not the prime lessee, the lack of consent of the landlord to a sublet, assignment or subdivision

establishing such occupancy [shall] does not affect the rights of such occupant to [the] protection[s of] under Article 7-C, provided that such occupant was in possession of such unit prior to: (i) June 21, 1982, for an IMD unit subject to Article 7-C by reason of MDL § 281(1)[,]; (ii) [or prior to] July 27, 1987, for an IMD unit subject to Article 7-C solely by reason of MDL § 281(4); or (iii) June 21, 2010, for an IMD unit subject to Article 7-C by reason of MDL § 281(5), and these [the] rules [issued pursuant thereto].

(3) When a residential occupant took possession of a residential unit covered as part of an IMD, on or after: (i) June 21, 1982, for an IMD unit subject to Article 7-C by reason of MDL § 281(1); (ii) [on or after] July 27, 1987, for an IMD unit subject to Article 7-C solely by reason of MDL § 281(4); or (iii) June 21, 2010, for an IMD unit subject to Article 7-C by reason of MDL § 281(5), and [the] these rules [issued pursuant thereto], such occupant [shall be] is qualified for the protection of Article 7-C if:

(i) [he/she] The occupant is a prime lessee with a lease currently in effect or, if [he/she] the occupant took possession[,] of the IMD unit with the consent of the landlord, as a statutory tenant pursuant to Article 7-C, without the issuance of a new lease; or

(ii) [he/she] The occupant is the assignee of a prime lessee and such assignment was consented to by the landlord; or

(iii) [p] Prior to establishment of such occupancy, the landlord was offered the opportunity to purchase improvements in the unit pursuant to § 286(6) of the MDL and these rules [regulations promulgated pursuant thereto].

(4) The prime lessee, or sublessor who is not the prime lessee, [shall be] is deemed to be the residential occupant qualified for [the] protection [of] under Article 7-C, if [he/she] the prime lessee or sublessor can prove that the residential unit covered as part of an IMD is his[/] or her primary residence, even if another person is in possession. If the prime lessee or sublessor fails to prove that such unit is his or her primary residence, [the] any rights of such person to recover the [such a] unit are extinguished.

(i) The prime lessee or sublessor must exercise, in a court of competent jurisdiction, his[/] or her right to recover [such] the unit upon the expiration or termination of the sublease under the terms of which [he/she] the prime lessee or sublessor is the immediate overtenant, if the sublease was in effect on: September 25, 1983 for a unit covered under MDL § 281(1); November 22, 1992 for a unit covered under MDL § 281(4); or **October 14, 2012**, the effective date of the amended rule, for a unit covered under MDL § 281(5). [or]

(ii) [w]Where [such] the sublease [is] was no longer in effect on the relevant date above, the prime lessee or sublessor must exercise, in a court of competent jurisdiction, his or her right to recover the unit on or before:

(A) December 24, 1983, [except that] for IMD units that are subject to Article 7-C by reason of MDL § 281(1); or

(B) February 21, 1993, for IMD units that are subject to Article 7-C solely by reason of MDL § 281(4).

(C) If the IMD unit is covered by Article 7-C by reason of MDL § 281(5), and the sublease is no longer in effect, the prime lessee or sublessor must exercise the right to recover the unit on or before **January 12, 2013**, 90 days after the effective date of this amended rule, or if the unit is not subject to Article 7-C on **October 14, 2012**, the effective date of this amended rule, 90 days following the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction, or the issuance of an IMD registration number after filing of a registration application, whichever is earlier. [and the rules issued pursuant thereto, the primary lessee or sublessor must exercise his/her right upon expiration or termination of the sublease or where such sublease is no longer in effect, on or before February 21, 1993, whichever is later.]

(5) [In an IMD w]Where a prime lessee is in possession of a portion of the space which he or she leased from the landlord, such prime lessee [shall be] is entitled to remain in possession, and [be] is qualified for [the] protection[s of] under Article 7-C, only with respect to the portion of such space which he or she occupied as a residential unit, [(]including any portion thereof used for home occupations or as the working portion of a joint-living-working quarters for artists[), and]. The prime lessee is not [shall not be] entitled to claim any of the remaining portion of the leased space as primary residence in an action against the occupant of any other residential unit within such space, except to the extent provided for in § 2-09(c)(5) [of these regulations,] below, [of these regulations] and subject to [not withstanding] the provisions of §§ 2-09(b)(3) and (b)(4) above. The current residential occupants of the remaining unit(s) created through subdivision [shall be] are qualified for protection under Article 7-C with regard to their respective residential units covered by Article 7-C, except as provided in §§ 2-09(b)(3) and (b)(4)[,] [above,] of these rules [regulations].

(c) *Rights, obligations and legal relationships among the parties.*

(1) *Legalization and cost of legalization.* The landlord of an IMD building is responsible for legalization of each residential IMD unit pursuant to MDL § 284 [of the MDL, for all covered residential units], regardless of whether the occupant is the prime lessee or a person or persons with whom the prime lessee entered into an agreement permitting such persons to occupy units in space covered by the prime lease. The costs of legalization, as reflected in rent adjustments made pursuant to MDL § 286(5) [of the MDL], and apportioned among the covered residential units, shall be borne directly by the residential occupants qualified for protection of such units.

(2) *Privity.*

(i) *Privity Between Residential Occupant and Prime Lessee.* The residential occupant qualified for protection under Article 7-C, if other than the prime lessee, [shall be] is deemed to be in privity with the prime lessee, if either:

(A) [t]There is a lease or rental agreement in effect [regarding] for the residential unit between the prime lessee and the residential occupant; or

(B) [t]There is a lease or rental agreement in effect [regarding] for the residential unit or the space in which it is located, between the landlord and the prime lessee. No lease or rental agreement between the prime lessee and the residential occupant[, shall have] has any force or effect beyond the term of the lease or rental agreement between the prime lessee and the landlord, except as provided in §§ 2-09(c)(6) or (c)(7) [herein] of these [regulations] rules.

(ii) *Privity Between Landlord and Prime Lessee.* The prime lessee and the landlord [shall be] are deemed to be in privity when there is a lease or rental agreement in effect between them.

(iii) *Privity Between Residential Occupant and Landlord.* The residential occupant and the landlord [shall be] are deemed to be in privity when the residential occupant is the prime lessee; or when the lease or rental agreement between the prime lessee and the landlord, covering the residential occupant's unit or the space in which it is located, is no longer in effect. All leases or rental agreements [(]except subleases entered into pursuant to § 226-b of the Real Property Law ("RPL") and § 2-09(c)(4)[, below,] of these [regulations] rules, below [promulgated pursuant thereto)], which have not expired [shall] will be deemed to be no longer in effect upon certification by the Department of Buildings of the landlord's compliance with the fire and safety protection standards of Article 7-B.[, and at that time] Upon such certification, a residential lease subject to the [e]Emergency [t]Tenant [p]Protection [a]Act of nineteen seventy-four must be offered to the residential occupant, pursuant to § 286(3) of the MDL.

(3) *Services.*

(i) When the landlord and residential occupant are in privity, the landlord [shall be] is responsible for meeting the minimum housing maintenance standards established by the Loft Board in § 2-04 of these rules.

(ii) When the prime lessee and the residential occupant are in privity, there [shall be no] must not be any diminution of services [from] provided by the prime lessee to the residential occupant. The prime lessee [shall be] is responsible for meeting the minimum housing maintenance standards established by the Loft Board, to the extent such standards are required pursuant to the lease or rental agreement between the prime lessee and the residential occupant, and to the extent [such] those services are within the control of the prime lessee. Otherwise, [such] all services [shall] must be provided by the landlord.

(4) *Subletting rights of occupants qualified for protection under Article 7-C.*

(i) *Right to Sublet.* All occupants qualified for protection under Article 7-C [shall] have the right to sublet their units pursuant to and in accordance with the procedures specified in § 226-b of the [Real Property Law] RPL, notwithstanding that such occupants may reside in an [interim multiple dwelling (] IMD[)] building having fewer than 4 residential units, and [that such occupants] may not have a current lease or rental agreement in effect. The residential occupant of a unit located in a subdivided space, who is not in privity with the landlord, must obtain the consent of both the prime lessee of such space and the landlord to a proposed sublet of such unit, which may not be unreasonably withheld in accordance with § 226-b of the [Real Property Law] RPL.

(ii) *Subletting Provisions.* [In addition, t]The right to sublet [shall be] is subject to the following provisions:

(A) The rent[al] charged to the subtenant may not exceed the legal rent, as established pursuant to Article 7-C and these [regulations] rules, plus a ten percent surcharge payable to the residential occupant if the unit sublet is furnished with the residential occupant's furniture;

(B) The residential occupant must be able to establish that the residential unit is his [/]or her primary residence;

(C) The residential occupant may not sublet the unit for more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease;

(D) The term of the proposed sublease may extend beyond the term of the residential occupant's lease, if [such] a lease is in effect, or beyond the date of the Department of Buildings certification of the landlord's compliance with Article 7-B of the MDL [Multiple Dwelling Law]. In such event, [such] the sublease [shall be] is subject to the residential occupant's right to continued occupancy pursuant to Article 7-C of the MDL, [Multiple Dwelling Law or] including the right of [such] the residential occupant to issuance of a lease in accordance with the terms and provisions of MDL § 286(3) and these rules, upon Article 7-B compliance. It [shall be] is considered unreasonable for a landlord to refuse to consent to a sublease solely because the residential occupant has no lease or rental agreement in effect or because [such] the sublease extends beyond the residential occupant's lease or beyond the anticipated date of achieving Article 7-B compliance.

(E) Where a residential occupant violates the provisions of subparagraph (ii) of this paragraph (4), the subtenant [shall be] is entitled to damages of three times the overcharge and may also be awarded attorney's fees and interest from the date of the overcharge at the rate of interest payable on a judgment pursuant to § 5004 of the Civil Practice Law and Rules.

(F) The provisions in [subparagraphs (ii)] clauses (A) through (E) of [this paragraph] § 2-09(c)(4)(ii) [shall] apply to all subleases for IMD units which are subject to Article 7-C by reason of MDL § 281(1), commencing on or after September 25, 1983, the original effective date of these rules [regulations]. Subleases entered into on or after June 21, 1982, but prior to September 25, 1983 are [the effective date of these regulations, shall] not [be] subject to [subparagraphs (ii)] clauses (A), (C) and (E) of [this paragraph (4)] § 2-09(c)(4)(ii), but are [shall be] subject to [subparagraphs (ii)] clauses (B) and (D) of [this paragraph (4)] § 2-09(c)(4)(ii) and the provisions of § [Section] 226-b of the [Real Property Law] RPL, in effect at the time of the commencement of the sublease.

(G) Notwithstanding the provisions of [subparagraph (ii)] clause (F) of [this paragraph (4)] § 2-09(c)(4)(ii), the provisions in [subparagraphs (ii)] clauses (A) through (E) of [this paragraph (4) shall] § 2-09(c)(4)(ii) apply to all subleases for IMD units which are subject to Article 7-C solely by reason of MDL § 281(4) commencing on or after November 23, 1992. Subleases for such units entered into on or after July 27, 1987, but before November 23, 1992, [shall] are not [be] subject to [subparagraphs (ii)] clauses (A), (C) and (E) [of this paragraph (4)], but are [shall be] subject to [subparagraphs (ii)] clauses (B) and (D) of [this paragraph (4)] § 2-09(c)(4)(ii) and the provisions of §226-b of the [Real Property Law] RPL, in effect at the commencement of the sublease.

(H) Notwithstanding the provisions of clauses (F) and (G) of § 2-09(c)(4)(ii), the provisions in clauses (A) through (E) of § 2-09(c)(4)(ii) apply to all subleases for IMD units which are subject to Article 7-C by reason of MDL § 281(5) commencing on or after:

(1) The finding of Article 7-C coverage by a Loft Board order, or by a court of competent jurisdiction, or

(2) The issuance of an IMD registration number after the filing of registration application by the owner, whichever is earlier.

Subleases for such units entered into on or after June 21, 2010, but before the finding of coverage by a Loft Board order or a court of competent jurisdiction, or the issuance of an IMD registration number after the filing of a registration application by the owner for IMD units subject to Article 7-C by reason of MDL § 281(5), are not subject to clauses (A), (C) and (E), but are subject to clauses (B) and (D) of § 2-09(c)(4)(ii) and the provisions of § 226-b of the RPL, in effect at the commencement of the sublease.

(iii) If any clause, sentence, paragraph, subdivision or part of this § 2-09(c)(4) of these [regulations] rules is [shall be] adjudged by any court of competent jurisdiction to be invalid, [such] the judgment shall not render invalid this entire section on subletting rights of residential occupants.

(5) *Prime [lessee's right to recover subdivided space.] Lessee's Right to Recover Subdivided Space*

(i) *Lease Between Prime Lessee and Landlord is In Effect and Residential Occupant Voluntarily Vacates the Subdivided Portion.* Where the prime lessee is the residential occupant of a portion of the space [he/she has] leased from the landlord and the lease or rental agreement between the prime lessee and the landlord is in effect, the prime lessee may

recover for his [/] or her own personal use, a residential unit located within [such] the leased space voluntarily vacated by the residential occupant prior to the establishment of privity between such residential occupant and the landlord. The right to recover space pursuant to this [regulation] rule is [shall] not [be] available to a prime lessee found by the Loft Board to [be guilty of harassment of] have harassed any residential occupant(s). The recovered space [shall] will be deemed part of the prime lessee's residential unit, and in no event [shall] may the prime lessee relet such space for any purposes whatsoever, except that [he/she shall have] the prime lessee retains the same rights to sublet [his/her] the entire residential unit as provided in § 2-09(c)(4) of these [regulations] rules.

(ii) *Prime Lessee's Right to Compensation For Improvements When the Residential Occupant Voluntarily Vacates the Subdivided Portion.* Where a prime lessee waives [his/her] the right to recover a residential unit in space leased by a prime lessee and vacated by the residential occupant, the prime lessee may sell improvements to the unit made or purchased by [him/her] the prime lessee to an incoming tenant, provided that the prime lessee [shall] first offers the improvements to the landlord for an amount equal to their fair market value pursuant to § 286(6) of the MDL and the Loft Board rules [regulations promulgated pursuant thereto]. If the incoming tenant purchases the improvements, [T]the incoming tenant [shall be] is deemed in privity with the landlord, and the initial maximum rent [shall be] is to be determined in accordance with §2-09(c)(6)(ii)(A) of these [regulations]rules.[, if the incoming tenant purchases the improvements; or] If the landlord purchases the improvements, the rent due shall be the initial market rental, [(]subject to subsequent rent regulation if the IMD has six or more residential units [) if the landlord purchases the improvements] and if the sole basis for rent regulation is Article 7-C.

[(ii)](iii) *Lease Between Prime Lessee and Landlord is In Effect and Prime Lessee Wants to Recover the Subdivided Portion.* Where the prime lessee is the residential occupant of a portion of the space [he/she] the prime lessee has leased from the landlord and the lease or rental agreement between the prime lessee and the landlord is in effect, the prime lessee may recover for his[/] or her own personal use, a residential unit located within [such] the leased space, if the residential occupant of [such] the unit agrees to the purchase by the prime lessee of [such] the occupant's rights in the unit. The recovered space [shall] will be deemed part of the prime lessee's residential IMD unit, and in no event [shall] may the prime lessee relet such space for any purpose whatsoever, except that [he/she shall have] the prime lessee retains the same rights to sublet [his/her] the entire residential IMD unit as provided in § 2-09(c)(4) of these [regulations] rules.

(iv) *Lease Between Prime Lessee and Landlord No Longer In Effect and Prime Lessee Wants to Recover Subleased Portion.* Where the lease or rental agreement between the prime lessee and the landlord is no longer in effect, the prime lessee's right to recover space pursuant to this subsection [shall] expires on:

(A) July 5, 1988, for an IMD unit subject to Article 7-C by reason of MDL § 281(1) [or,];

(B) January 22, 1993, for an IMD unit subject to Article 7-C solely by reason of MDL § 281(4), [on January 22, 1993]; or

(C) **December 13, 2012**, 60 days after the effective date of the amended rule, or if the unit is not subject to Article 7-C on the effective date of this amended rule, 60 days following the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction, or issuance of an IMD registration number after the filing of registration application by the owner, whichever is earlier, for IMD units subject to Article 7-C by reason of MDL § 281(5).

[(iii)] (v) *Factors to Consider When Prime Lessee Seeks to Recover Subdivided Space.* Where the prime lessee is the residential occupant of a portion of subdivided space that the prime lessee uses as his [/] or her primary residence, and which [he/she] the prime lessee has rented directly from the landlord, the prime lessee [shall be] is entitled to recover as part of his[/] or her primary residence, a residential unit, located within the leased space, even if the space is occupied by another person or persons, if [such] the prime lessee can establish that:

(A) [t]There was an express written agreement between the prime lessee and the occupant of such space, other than the mere expiration of the lease, entitling the prime lessee to recover such space, and that the prime lessee has not taken actions inconsistent with exercising the option entitling [him/her] the prime lessee to recover such space;

(B) [t]The prime lessee has occupied the entire demised premises as his[/] or her own primary residence for at least one year prior to the subdivision and subletting of the unit;

(C) [t]The prime lessee has a compelling need to recover such space; and

(D) [t]The prime lessee has not been [guilty of harassment of] found to have harassed any residential occupants.

Space recovered pursuant to this provision [shall be] is deemed part of the prime lessee's residential IMD unit, and in no event [shall] may the prime lessee relet [such] any recovered space for any purpose whatsoever, except that [he/she shall have] the prime lessee has the same rights to sublet [his/her] the entire residential IMD unit as provided in § 2-09(c)(4) above, [of these regulations,] provided, however, that no such sublet [shall be] is permitted for the first [two] 2 years after recovery. The prime lessee [shall have] retains the right to make a claim to recover space pursuant to this provision, before the Loft Board, where there is a lease or rental agreement in effect between [him/her] the prime lessee and the landlord, or, where [such an] a lease or rental agreement is no longer in effect, on or before:

(a) July 5, 1988 for an IMD unit subject to Article 7-C by reason of MDL § 281(1), [July 5, 1988];

(b)[or,] January 22, 1993 for an IMD unit subject to Article 7-C solely by reason of MDL §281(4), [on or before January 22, 1993]; or

(c) **December 13, 2012**, 60 days from the effective date of the amended rule, or if the unit is not subject to Article 7-C on the effective date of this amended rule, 60 days after the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction or the issuance of an IMD registration number after the filing of registration application by the owner, whichever is earlier, for IMD units subject to Article 7-C by reason of MDL § 281(5).

(6) *Rent.*

(i) *Maximum Permissible Rent When Residential Occupant Is In Privity With Prime Lessee.* When the residential occupant is in privity with the prime lessee, the maximum permissible rent payable by [such] the residential occupant to the prime lessee [shall be] is:

(A) [t]The rent established in [such] the residential occupant's lease or rental agreement, subject to the limitations in the applicable Loft Board Interim Rent Guidelines; or

(B) [i]If such lease or rental agreement is no longer in effect, in accordance with § 2-06 for an IMD unit subject to Article 7-C by reason of MDL § 281(1); or[,] in accordance with § 2-06.1 for an IMD unit subject to Article 7-C solely by reason of MDL § 281(4);[, in accordance with §2-06.1] or in accordance with § 2-06.2 for an IMD unit subject to Article 7-C by reason of MDL § 281(5), and any other relevant orders or rules of the Loft Board.

(ii) *Maximum Permissible Rent When Residential Occupant Is In Privity with Landlord.* When the residential occupant is in privity with the landlord, [such] the residential occupant [shall] must pay rent as follows:

(A) [i]If the residential occupant is [other than] not the prime lessee, the maximum permissible rent [shall be] is the amount last regularly paid under the terms of the lease or rental agreement with the prime lessee, or the sublessor, if other than the prime lessee, plus any increases permissible and subject to any limitations under § 2-06 for an IMD unit subject to Article 7-C by reason of MDL § 281(1); or[,] under § 2-06.1 for an IMD unit subject to Article 7-C solely by reason of MDL § 281(4); [under § 2-06.1 and any other relevant orders of the Loft Board] or under § 2-06.2 for an IMD unit subject to Article 7-C by reason of § 281(5), and any other relevant orders or rules of the Loft Board.

(B) *Maximum Permissible Rent When Prime Lessee is Residential Occupant of Entire Leased Space.* [i]If the prime lessee is the residential occupant of the entire space leased from the landlord, the maximum permissible rent [shall be] is:

(a) [t]The amount specified in the lease or rental agreement, subject to any limitations in the applicable Loft Board Interim Rent Guidelines; or

(b) [i]If the lease or rental agreement is no longer in effect, the amount permissible pursuant to § 2-06 for an IMD unit subject to Article 7-C by reason of § 281(1); or[,] §2-06.1 for an IMD unit subject to Article 7-C solely by reason of MDL § 281(4); [the amount permissible pursuant to §2-06.1, any other relevant orders of the Loft Board] or § 2-06.2 for an IMD unit subject to Article 7-C by reason of § 281(5), and any other relevant orders or rules of the Loft Board.

(C) *(a) Maximum Permissible Rent When Prime Lessee is Residential Occupant of a Portion of Leased Space and Lease is in Effect.* [i]If the prime lessee is the residential occupant of a portion of the space leased from the landlord and the lease or rental agreement between the prime lessee and the landlord is in effect for the entire space, the maximum permissible rent [shall be] is the amount specified in the lease or rental agreement for the entire space, and any permissible increases pursuant to any relevant orders or rules of the Loft Board.

(b) Maximum Permissible Rent When the Prime Lessee is Residential Occupant of a Portion of Leased Space and the Lease Between the Prime Lessee and the Landlord is Not in Effect. [i]If the prime lessee is the residential occupant of a portion of the space leased from the landlord and the lease or rental agreement between the prime lessee and the landlord is no longer in effect for a residential unit or unit located in a portion of such leased space, because privity has been established between the residential occupant(s) of [such] the subdivided unit or unit(s) and the landlord pursuant to § 2-09(c)([5]2)(iii)[,] above, of these [regulations,] rules, the maximum permissible rent is [due shall be] based on the rent paid by the prime lessee to the landlord under the most recent rental agreement for the entire space, plus any increases permissible under §2-06 for an IMD unit subject to Article 7-C by reason of MDL § 281(1); or, under §2-06.1 for any IMD unit(s) subject to Article 7-C solely by reason of MDL §281(4)[, under §2-06.1,]; or under § 2-06.2 for an IMD unit subject to Article 7-C by reason of MDL § 281(5), and any other relevant orders or rules of the Loft Board. The maximum permissible rent payable by [from] the prime lessee to the landlord [shall be an amount] is equal to the percentage of the rent so calculated, equivalent to a fraction;[, the numerator of which is the square footage of]

(1) [t]The numerator of which is the square footage of the leased space occupied by the prime lessee's unit, plus [(2)] the square footage of any other unit regarding which [he/she] the prime lessee remains in privity with the residential occupant, and

(2) [t]The denominator of which is the entire square footage of the space leased from the landlord under the lease or rental agreement most recently in effect.

(D) *(a) Maximum Permissible Rent When Prime Lessee is a Residential Occupant of a Portion of Leased Space and the Lease Between the Prime Lessee and Residential Occupant is not in Effect.* [i]If the prime lessee is the residential occupant of a portion of the space leased from the landlord, but the lease or rental agreement for all other units within the space is no longer in effect because the occupants of [such] those units have entered into privity with the landlord, the maximum permissible rent [shall be] is based on the rent paid by the prime lessee to the landlord under the most recent lease or rental agreement for the entire space, plus any increases permissible under §2-06 for an IMD unit subject to Article 7-C by reason of MDL § 281(1); or, under § 2-06.1 for any IMD unit(s) subject to Article 7-C solely by reason of MDL § 281(4); or under § 2-06.2 for an IMD unit subject to Article 7-C by reason of MDL § 281(5), [under §2-06.1], and any other relevant orders or rules of the Loft Board. The maximum permissible [legal] rent payable by [from] the prime lessee to the landlord [shall be an amount] is equal to the percentage of the rent so calculated, equivalent to a fraction:[,]

(1) [t]The numerator of which is the square footage of the leased space which [his or her] the prime lessee's unit occupies, and

(2) [t]The denominator of which is the entire square footage of the space leased from the landlord.

(b) Maximum Permissible Rent When the Rent Paid by the Residential Occupant and Prime Lessee is Greater than the Total Rent for the Unit. [w]Where the rent paid by the residential occupant(s) of such space who were in privity with the prime lessee to the prime lessee and the prime lessee's proportionate share of the rent as calculated under § 2-09(c)(6)(ii)(D)(*a*) above, [(]without inclusion of any increases permissible under the applicable Loft Board Interim Rent Guidelines, or any other increase permitted in the Loft Board rules or Article 7-C [or other relevant orders of the Loft Board)], is [are] greater than the [amount of] rent specified in the most recent lease or rental agreement for the entire space leased between the prime lessee and the landlord or, if applicable, the [amount of] rent as calculated under § 2-09(c)(6)(ii)(C)(*b*), the landlord has the option to treat the excess amount as follows: [It shall be the landlord's option to either:]

(1) [r]Reduce the monthly legal rent payable by [due from] the prime lessee by one-half of [such] the excess amount as calculated on a monthly basis, provided [but in no event shall] the monthly legal rent may not be less than $100; or

(2) [m]Make a single lump sum payment to the prime lessee equal to one-half of the monthly excess amount multiplied by 36.

The landlord may exercise [his/her] the option to make a single[,] lump sum payment at any [point] time. If the landlord chooses the option of a single lump sum payment, [at a point] after the prime lessee has commenced paying a rent calculated under [subparagraph] item (*1*) above, the single lump sum payment due to the prime lessee from the landlord [shall] may not be diminished by the amount of the prior reductions in rent. Upon payment of the single lump sum payment, the landlord may increase the prime lessee's monthly rent to the maximum permissible rent [amount] allowable under § 2-09(c)(6)(ii) (D)(*a*)[,] above. Any prime lessee found to have harassed [guilty of harassment of] any residential occupant [shall not be] is not entitled to the rent reduction or single lump sum payment provided for in [subparagraphs] items (*1*) and (*2*) above, respectively.

[3]*(c) Effective Date of Rent Adjustments* The rent adjustments [of this] provided in items (A) and (D) of this subparagraph [(D)] (ii) of [and sub]paragraph [(A)] (6) [shall] apply to the next regular rent payment due on or after: (i) July 5, 1988, for IMD units subject to Article 7-C pursuant to MDL § 281(1); (ii) [or the next regular rent payment due on or after] January 22, 1993, for IMD units subject to Article 7-C solely pursuant to MDL § 281(4); or (iii) **December 13, 2012**, 60 days from the effective date of the amended rule, for IMD units subject to Article 7-C by reason of MDL § 281(5).

Otherwise, the rent adjustments [shall] apply to the next regular rent payment due after such lease or rental agreement, or portion thereof, is no longer in effect, but in no event earlier than: (i) July 5, 1988, for IMD units subject to Article 7-C pursuant to MDL § 281(1); (ii) January 22, 1993, [or,] for IMD units subject to Article 7-C solely by reason of MDL §281(4); or (iii) **December 13, 2012**, 60 days from the effective date of the amended rule for IMD units subject to Article 7-C pursuant to MDL § 281(5)[, no earlier than January 22, 1993].

(7) *Prime lessee's or sublessor's right to compensation for costs incurred in developing residential unit(s).*

(i) *Right to Compensation.* Where a prime lessee, or a sublessor who is not the prime lessee, has incurred costs for improvements made or purchased in developing residential unit(s) in any space for which [he/she] the prime lessee or sublessor had or has a lease or rental agreement and for which [he/or she] the prime lessee or sublessor is not the residential occupant qualified for protection under Article 7-C, such prime lessee or sublessor [shall be] is entitled to compensation [recover] from the residential occupant(s), [compensation] for the prime lessee's or sublessor's actual costs incurred in developing the residential unit in question.

(ii) *Agreements for Compensation for Improvements.* The prime lessee or sublessor and the residential occupant may agree to payment of [such] the compensation upon any terms that are mutually acceptable, at any time prior to the deadline for the filing of an application as described in subparagraph[division] (iii) below. All such agreements [shall] must be submitted to the Loft Board within 90 calendar days [of] following their execution.

(iii) *Limitation on Right to Compensation.* If the parties are unable to agree upon the amount and terms of compensation prior to the establishment of privity between the residential occupant and the landlord, as defined in § 2-09(c)(2) of these rules [regulations], the prime lessee, [or] sublessor, or [the] residential occupant, may apply to the Loft Board for resolution of the [any] dispute over compensation of the prime lessee or sublessor. Such application may be brought [any time] after the residential unit has been registered with the Loft Board without timely contest of coverage or determined to be covered under Article 7-C by [the] Loft Board order or a court of competent jurisdiction, but no later than 180 calendar days after the later of:

(A) [the establishment of privity between the residential occupant and the landlord, or

(B)]May 6, 1988, for IMD unit(s) subject to Article 7-C by reason of § 281(1), or

(B) November 23, 1992, for any IMD unit(s) subject to Article 7-C solely by reason of MDL § 281(4), or

(C) **October 14, 2012**, for any IMD unit(s) subject to Article 7-C by reason of MDL § 281(5), or

(D) [t]The establishment of privity between the residential occupant and the landlord, or

[(C)](E) The date of the landlord's registration of the residential unit without timely contest of coverage or the determination of coverage of the residential unit by the Loft Board or a court of competent jurisdiction, whichever is earlier[, or

(D) for any IMD unit(s) subject to Article 7-C solely by reason of MDL § 281(4), November 23, 1992, or].

The application [shall] must comply with the [regulations] rules of the Loft Board governing applications, including [except that, for purposes of] § 1-06[(a)] of these rules [such regulations]. [t]The affected parties [shall be] are limited to the prime lessee or sublessor, the residential occupant, and the owner. The application [shall] fee is due and payable at the time of filing the application [also comply with the regulations of the Board governing fees].

(iv) *Factors to Determine Whether Compensation is Due.* The Loft Board [shall] must first determine whether any compensation is due and payable to the prime lessee or sublessor, as applicable, based on consideration of the following factors:

(A) [w]Whether the prime lessee or sublessor incurred any costs, as defined [below] in [subdivision (v)] clause (A) of subparagraph (v) below, allocable to the particular unit in question; and

(B) [w]Whether the prime lessee or sublessor has already been compensated in accordance with the terms of a prior agreement. The amount of rent paid to the prime lessee or sublessor, in excess of [the amount which would represent] a proportionate share of the rent paid by the prime lessee to the landlord, based on the percentage of the total square footage of [floor] space occupied, [shall] will not be credited towards [such] compensation of the prime lessee or sublessor, in the absence of a specific agreement.

(v) *Factors to Determine the Amount Due for Improvements.* If it is determined that the prime lessee or sublessor, as applicable, did incur costs for improvements for which he or she has not yet been compensated, the Loft Board [shall] will determine the amount due and payable in accordance with the following criteria:

(A) [a]All improvements as defined in § 2-07 of these rules, [the Board's regulations on Sales of Improvements shall be] are compensable;

(B) [t]The Loft Board [shall] will establish the value of [such] the improvements by determining the actual costs incurred for the improvements based on evidence presented;

(C) [c]Compensation determined to be due and payable may [shall] be made in accordance with a payment schedule agreed to by the prime lessee or sublessor, as applicable, and the residential occupant, or, if no agreement is reached, a payment schedule not to exceed 6 months, set by the Loft Board, contained in the Loft Board's order.

(vi) Compensation made pursuant to this paragraph (7) [shall] provides residential occupants [the] with an opportunity to purchase improvements but [shall] does not constitute a sale of improvements pursuant to § 286(6) of the MDL.

(vii) (A) *Compensation by the Owner.* A residential occupant may offer the landlord [the] an opportunity to compensate the prime lessee or sublessor for costs incurred for improvements made or purchased in developing a residential IMD unit. The compensation to be paid by the landlord is the amount determined by agreement of the prime lessee or sublessor, as applicable, and the residential occupant, pursuant to subparagraph (7)(ii) above, or as determined by the Loft Board pursuant to subparagraph (7)(v) above. If the landlord chooses to pay this compensation to the prime lessee or sublessor, the residential occupant remains the occupant qualified for Article 7-C protection, except that [he/she] the residential occupant [forfeits] will have no [the] right to sell such improvements purchased by the landlord pursuant to § 286(6) of the MDL. Compensation of the prime lessee or sublessor by the landlord [shall] does not affect the rent due from the residential occupant;

(B) if the landlord compensates the prime lessee or sublessor pursuant to [this subdivision] (A) above, the prime lessee or sublessor [shall have no] will have no right to recover the unit for his [/] or her own personal use pursuant to §§ 2-09(b)(4) and (c)(5) of these rules [regulations]. When the residential occupant vacates the unit, the landlord [shall be] is entitled to lease the unit at market rent, absent a finding by the Loft Board of harassment by the landlord of occupants;

(C) if the landlord declines the opportunity to compensate the prime lessee or sublessor, the residential occupant remains responsible for the compensation payment established [by agreement of the prime lessee or sublessor and the residential occupant] pursuant to subparagraphs (7)(ii) or [above or as determined by the Loft Board pursuant to subparagraph] (7)(v) above.

(8) *Residential occupant's right to sale of improvements pursuant to MDL § 286(6) [of the MDL].*

In accordance with MDL § 286(6) and the Loft Board rules, a [The] residential occupant [shall be] is entitled to sell [pursuant to §286(6) of the MDL and Loft Board regulations on Sales of Improvements] all improvements to [his/her] the unit made or purchased by [him/her] the residential occupant:

(i) [u]Upon [the] filing [of] an agreement with the Loft Board pursuant to § 2-09(c)(7)(ii), or

(ii) [f]Following a Loft Board determination of an application filed pursuant to § 2-09(c)(7)(iii), or

(iii) [u]Upon the expiration of the deadline for filing [such] an application, if none has been filed.

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Identification of Occupants Protected by Loft Law (§ 2-09)

REFERENCE NUMBER: DOB-14

RULEMAKING AGENCY: Department of Buildings

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Ruby B. Choi *5/4/2012*
Mayor's Office of Operations Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087

CERTIFICATION PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Identification of Occupants Protected by Loft Law (§ 2-09)

REFERENCE NUMBER: 2011 RG 061

RULEMAKING AGENCY: Loft Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 3, 2012
Acting Corporation Counsel

☛ **m11**

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed rule changes to Section 2-10 of the Loft Board Rules which relate to the sale of Article 7-C rights.

Date / Time: July 19, 2012 at 2:00 P.M.

Location: 280 Broadway
3rd Floor
New York, NY 10007

Contact: New York City Loft Board
280 Broadway
3rd Floor
New York, NY 10007
(212) 566-5663

Proposed Rule Amendment

Pursuant to the authority vested in the New York City Loft Board by Article 7-C of the Multiple Dwelling Law and Mayor's Executive Order No. 129, dated May 22, 2009, and pursuant to and in accordance with the requirements of Section 1043 of the New York City Charter, the New York City Loft Board intends to amend section 2-10 of Title 29 of the Rules of the City of New York to conform the Loft Board's rules, regarding sales of rights by residential occupants pursuant to MDL § 286(12), to the amendments made to Article 7-C of the Multiple Dwelling Law, effective as of June 21, 2010.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to the New York City Loft Board at the address shown above or electronically through NYCRULES at www.nyc.gov/nycrules by July 19, 2012.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact the New York City Loft Board at the phone number shown above by July 16, 2012.
- Summarized copies of the written and oral comments received at the hearing will be available July 26, 2012 between the hours of 10:00 A.M. and 4:00 P.M. at the offices of the New York City Loft Board.

STATEMENT OF BASIS AND PURPOSE

Pursuant to § 282 of Article 7-C of the MDL ("Loft Law"), the Loft Board may promulgate rules to ensure compliance with the Loft Law. On June 21, 2010, the Legislature amended the Loft Law. Chapters 135 and 147 of the Laws of 2010, among other things, added MDL § 281(5), and increased the civil penalties that may be imposed for violations of Loft Board rules.

MDL § 286(12) allows a residential occupant to sell his or her Loft Law rights to the owner. The proposed amendment addresses the procedures for a sale of rights, as applied to residential occupants of units covered under the Loft Law including occupants covered pursuant to MDL § 281(5).

The proposed changes:

- Increase the civil penalties that may be imposed for failure to timely file a Sales Record form.
- Clarify that a purported sale of rights pursuant to MDL § 286(12) made prior to June 21, 2010 for units subject to coverage pursuant to MDL § 281(5) will not be given any effect by the Loft Board.
- Requires that the estate of a residential occupant entitled to protection be an affected party in an abandonment application.
- Include minor edits to promote clarity and organization of the rule.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this Board, unless otherwise specified or unless the context clearly indicates otherwise.

New matter in the following rule is underlined, and deleted material is in brackets.

Section 1. Subdivisions (a) through (f) of Section 2-10 of Title 29 of the Rules of the City of New York are amended and re-ordered to read as follows:

§2-10 **Sales of Rights.**

(a) *Right to sell and the limitations on an occupant's right to sell*.

(1) *The Right to Sell*. The residential occupant of an IMD unit may sell the rights afforded such occupant pursuant to Article 7-C, to the owner of the IMD or the owner's authorized representative, [which shall include] including a net lessee, in accordance with the terms of MDL § 286(12) and these rules. A sale pursuant to MDL § 286(12), after the effective date of the relevant section of § 281, as provided in § 2-10(a)(2) below, constitutes a sale to the owner of all of the tenant's rights in the unit. [provided that, with respect to sales which occur on or after March 16, 1990, or with respect to sales in units subject to Article 7-C solely pursuant to MDL §281(4), which occur on or after November 23, 1992, the authorized representative files with the Loft Board written proof of authorization from the owner for such sale on a form issued by the Loft Board. Except as provided in § 2-10(c) and (d) herein, a sale pursuant to §286(12) of Article 7-C of the Multiple Dwelling Law shall constitute a sale of all rights in the unit].

(2) *Limitations*.

(i) No sale or agreement made prior to:

(A) June 21, 1982 for units subject to Article 7-C pursuant to MDL § 281(1),

(B) July 27, 1987 for units subject to Article 7-C solely pursuant to MDL § 281(4), or

(C) June 21, 2010 for units subject to Article 7-C pursuant to MDL § 281(5),

in which an occupant purported to waive rights under the Article 7-C will be given any force or effect.

(ii) For any sale made pursuant to MDL § 286(12), the unit subject to a sale of rights may not be the subject of another sale pursuant to MDL § 286(12); nor may such unit be the subject of a subsequent sale of improvements pursuant to MDL § 286(6).

(b) *Filing requirement for sales which occur on or after the effective date of these rules [regulations].*

[For sales which occur on or after the effective date of these regulations, the owner or its authorized representative must file with the Loft Board a record of such sale, on a form issued by the Loft Board, and executed by the owner or its authorized representative and the occupant or the occupant's attorney.]

For a sale of rights in a unit subject to Article 7-C pursuant to (i) MDL § 281(1), which occur on or after March 16, 1990, (ii) MDL §281(4), which occur on or after November 23, 1992, or (iii) MDL § 281(5), which occur on or after October 14, 2012, the effective date of this amended rule, the owner or authorized representative must file with the Loft Board a record of sale within 30 days of the sale, on a form issued by the Loft Board, together with the sales agreement, if any, or any other documentation substantiating the sale.

The Loft Board's approved form must be signed by the owner or its authorized representative and the occupant and his or her authorized representative, if any, who sold rights to the unit. If the occupant refuses to sign the form, the owner or its authorized representative must file with the form a sworn statement identifying the occupant, the reasons given by such occupant for refusing to execute the form and proof of the sale of rights, including supporting documentation. If the prior occupant could not be found, the owner or its representative must provide a description of the reasonable efforts used to locate the occupant and must file proof of the sale of rights including support documentation.

Except as provided in paragraph (c) below, f[F]ailure by the owner or the owner's authorized representative to file a record of sale within 30 calendar days of the date of the sale may subject the owner to a civil penalty [up to $1,000] as determined by the Loft Board in § 2-11.1 of the Loft Board rules.

(c) [*Effect of sales. (1) Non-Residential use.*

(i) If the unit to be used for non-residential purposes, the owner is relieved of its obligations to comply with the requirements of Article 7-C of the Multiple Dwelling Law regarding such unit. The non-residential use must conform with applicable provisions of the Zoning Resolution and the Administrative Code, and with any existing Certificate of Occupancy for the unit, or other source of legal authorization for such use. The unit may not be converted to non-residential use if there is a harassment finding by the Loft Board as to any occupant(s) of the unit which the Board has not terminated pursuant to §2-02(d)(2) of the Board's Harassment Regulations.

(ii) Prior to such change of use, the owner or its authorized representative must file with the Loft Board a declaration of intent on a form issued by the Loft Board stating that the unit will only be occupied for a conforming non-residential use. Within 30 days of the Board's receipt of such filing, the Loft Board shall conduct or cause to be conducted an inspection of the premises to verify that all fixtures, as defined in §2-06(a) "Improvements" of the Board's Sales of Improvements Regulations, which were constructed or installed without necessary approvals by appropriate government agencies and for which such approvals have not been secured, or which are intended primarily for residential occupancy, have been removed or approved. The results of this inspection shall be reported to the owner or its authorized representative within 30 days of the inspection, and approval of the non-residential conversion shall be granted promptly when the removal of these fixtures has been verified. Disputes shall be resolved by application to the Loft Board.

(iii) Prior to approval by the Loft Board, as set forth in §2-10(c)(1)(i), the owner remains subject to all the requirements of Article 7-C, and regulations and orders of the Board, including the legalization requirements of Multiple Dwelling Law §284, as set forth in §2-10(c)(2) herein.

(iv) When the conversion of such unit to a non-residential conforming use reduces the number of IMD units below three, the IMD status for such building and for the remaining IMD units in such building, and the protections afforded protected occupants thereof, shall not be eliminated.

(v) Notwithstanding the provisions of §2-01(l) of the Board's Code Compliance Regulations, if conversion of such a unit to a non-residential conforming use increases the costs of legalization under Multiple Dwelling Law §284 for the remaining IMD units, such increased costs shall be borne by the owner and may not be passed through remaining residential occupants pursuant to Article 7-C and the Board's Code Compliance Regulations.

(2) Residential use. If the unit is to remain residential, the owner remains subject to all the requirements of Article 7-C, and regulations and orders of the Board, including the legalization requirements of Multiple Dwelling Law §284, except that the unit is no longer subject to rent regulation where coverage under Article 7-C was the sole basis for such rent regulation, provided that there is no finding by the Loft Board of harassment as to any occupant(s) of the unit which has not been terminated pursuant to §2-02(d)(2) of the Board's Harassment Regulations. During the period of its IMD status, the IMD unit may be converted to non-residential use, as set forth in §2-10(c)(1) of these regulations, except that a harassment finding made after a sale shall not bar conversion of the unit to non-residential use.

(3) Terminations of harassment. As provided in §2-02(d)(2)(ii) of the Board's Harassment Regulations for sales of improvements, an order terminating a Loft Board finding of harassment shall apply prospectively only. The owner shall not be relieved of the requirements of Article 7-C, including rent regulation, nor may the owner convert the unit to non-residential use, when a sale of rights pursuant to §286(12) for the unit has taken place during the period from the date of the order finding harassment as to any occupant(s) of the unit to the date of the order terminating such finding.]

Filing requirement for sales which occurred prior to the effective date of these rules.

(1) Filing Deadlines. A sale of rights for a unit subject to Article 7-C solely pursuant to:

(i) MDL § 281(1), which occurred after June 21, 1982, but before March 16, 1990, the owner or its authorized representative must file the approved record of the sale form and the sales agreement with the Loft Board on or before June 14, 1990;

(ii) MDL § 281(4), which occurred after July 27, 1987, but before November 23, 1992, the current owner or its authorized representative must file the approved record of the sale form and the sales agreement with the Loft Board on or before February 21, 1993; or

(iii) MDL § 281(5), which occurred after June 21, 2010, but before October 14, 2012, the effective date of this section, the current owner or its authorized representative must file the approved record of the sale form and the sales agreement with the Loft Board on or before January 12, 2013, which is 90 calendar days following the effective date of this section.

(2) The record of sale must contain a sworn statement by the owner or its authorized representative, on a form issued by the Loft Board, as to the current use and occupancy of the unit. If the owner intends to use the unit for non-residential purposes, the owner must: a) disclose its intention on the sales record form; and b) include a declaration of intent by the owner or its authorized representative that the use is consistent with applicable provisions of the New York City Zoning Resolution and the New York City Administrative Code, and in conformity with any existing certificate of occupancy, and any other source of legal authorization for such use.

(3) Any unit identified in such record as being used non-residentially is subject to inspection to determine its compliance with the requirements set forth in § 2-10(d)(1)(ii) of these rules.

(4) Failure by the owner or the owner's authorized representative to timely file a record of sale may subject the owner to a civil penalty as determined by the Loft Board in § 2-11.1 of the Loft Board rules. The Loft Board may inspect any unit for which a sale of rights has occurred prior to the effective date of these rules. The Loft Board may also inspect any unit for which a record of sale on the approved Loft Board form was not timely filed to determine the current use of space.

(d) [*Sales which occurred prior to the effective date of these regulations.*

(1) No sale or agreement made prior to June 21, 1982, or prior to July 27, 1987 for units subject to Article 7-C solely pursuant to MDL §281(4), in which an occupant purported to waive rights under the statute shall be accorded any force or effect.

(2) By June 14, 1990, the current owner or its authorized representative shall file with the Loft Board a record of any sale pursuant to §286(12) which occurred prior to March 16, 1990 and after June 21, 1982, on a form issued by the Loft Board. Except that for sales pursuant to MDL §286(12) of units subject to Article 7-C solely pursuant to MDL §281(4) which occurred after July 27, 1987, but before November 23, 1992, the current owner or its authorized representative shall file a record of such sale with the Loft Board on the prescribed form on or before February 21, 1993. Such form shall be executed by the current owner or its authorized representative and the occupant who sold such rights. If the occupant fails or refuses to execute such form, the owner or its authorized representative shall file such form and submit a sworn statement identifying the occupant, describing the efforts to locate the occupant or the reasons given by such occupant for refusal to execute the form. Such record of sale shall also contain a sworn statement by the owner or its authorized representative, on a form issued by the Loft Board, as to the current use and occupancy of the unit, and if such record discloses that a unit is being used non-residentially, it shall also contain a sworn declaration by the owner or its authorized representative that the current use is consistent with applicable provisions of the Zoning Resolution and the Administrative Code, and in conformity with any existing Certificate of Occupancy, or other source of legal authorization for such use. Any unit identified in such record as being used non-residentially is subject to inspection to determine its compliance with the requirements set forth in §2-10(c)(1)(ii) of these regulations, except that such inspection shall take place within 90 days of the Loft Board's receipt of such filing.

(3) Failure by the owner or the owner's authorized representative to file a record of sale by June 14, 1990, or by February 21, 1993 for sales of units subject to Article 7-C solely pursuant to MDL §281(4), may subject the owner to a civil penalty up to $1,000, as determined by the Board. The Loft Board shall also cause units to be inspected for which a sale of rights has occurred prior to the effective date of these regulations and a Board-issued record of sale has not been timely filed to determine the current space.

(4) During the period of IMD status units used residentially may be converted to non-residential use, as set forth in §2-10(c)(1) of these regulations, except that a harassment finding made after a sale shall not bar conversion of the unit to non-residential use. Prior to such conversion, the owner remains subject to all the requirements of Article 7-C, and regulations and orders of the Board, including the legalization requirements of Multiple Dwelling Law §284, except that the unit is no longer subject to rent regulation where coverage under Article 7-C was the sole basis for such rent regulation. Units used non-residentially must conform with applicable provisions of the Zoning Resolution and the Administrative Code, and with any existing Certificate of Occupancy for the unit, or other source of legal authorization for such use.]

Effect of sales.

(1) *Non-Residential use.*

(i) If the unit is to be used for non-residential purposes after a sale of rights pursuant to MDL § 286(12), and upon approval by the Loft Board, the owner is relieved of its obligations to comply with the requirements of Article 7-C of the MDL regarding such unit. The non-residential use must comply with applicable provisions of the New York City Zoning Resolution and the New York City Administrative Code, and with any existing certificate of occupancy for the unit, and any other source of legal authorization for such use. The unit may not be converted to non-residential use if there is a harassment finding by the Loft Board for any unit in the IMD building which the Loft Board has not terminated pursuant to § 2-02(d)(2) of these rules. If the Loft Board issues a harassment finding after the sale of rights, the owner is permitted to convert the IMD unit to non-residential use, provided that all other applicable requirements in this section are met.

(ii) Prior to such change of use, the owner or its authorized representative must file with the Loft Board a declaration of intent on a form issued by the Loft Board stating that the unit will only be occupied for a conforming non-residential use. Following the Loft Board's receipt of the filing, the Loft Board must conduct or require an inspection of the premises to verify that the following fixtures, as defined in § 2-07(a) of these rules, have been removed or approved: (1) fixtures which were constructed or installed without necessary approvals by the appropriate government agencies and for which approvals have not been secured, and (2) fixtures which are intended primarily for residential occupancy.

The results of this inspection will be reported to the owner or its authorized representative. A determination on the request for non-residential conversion will be issued after the removal or approval of these fixtures has been verified. Any disputes will be resolved by application to the Loft Board.

(iii) Prior to approval by the Loft Board, in accordance with § 2-10(d)(1)(ii), the owner remains subject to all the requirements of Article 7-C, these rules, and orders of the Loft Board, including the legalization requirements of MDL § 284.

(iv) When the conversion of a unit to a non-residential conforming use reduces the number of IMD units below three or two, as permitted pursuant to MDL § 281(5), the IMD status for the building and for the remaining IMD units in the building, and the protections provided in Article 7-C to the protected occupants will not be eliminated.

(v) Notwithstanding the provisions of § 2-01.2(d) of these rules, if conversion of a unit to a non-residential conforming use increases the costs of legalization under MDL § 284 for the remaining IMD units, the additional increased costs must be paid by the owner and may not be passed through to the remaining residential occupants pursuant to Article 7-C and these rules.

(2) *Residential use.*

If the unit is to remain residential after a sale of rights pursuant to MDL § 286(12), the owner remains subject to all the requirements of Article 7-C, these rules and orders of the Loft Board, including the legalization requirements of MDL § 284 except that the unit is no longer subject to rent regulation where coverage under Article 7-C was the sole basis for such rent regulation. The exemption from rent regulation is permitted only if there is no finding by the Loft Board of harassment as to any occupant(s) in the IMD building which has not been terminated pursuant to § 2-02(d)(2) of these rules.

(3) *Terminations of harassment.*

If a sale of rights pursuant to MDL § 286(12) occurs during the period between the date of the order finding harassment and the date of the order terminating the harassment finding, the sale of rights does not relieve the owner of the requirements of Article 7-C, including rent regulation, and the owner may not convert the unit to non-residential use. The effect of a termination of harassment finding applies prospectively only.

(e) [*No right to sale of improvements or rights after a sale pursuant to §286(12) has occurred.* For any sale pursuant to §286(12), the unit subject to such sale may not be the subject of another sale pursuant to § 286(12); nor may such unit be the subject of a subsequent sale of improvements pursuant to §286(6) of the MDL.]

(f) *Abandonment of IMD unit.*

(1) An owner or its authorized representative may apply to the Loft Board for a determination that the occupant of an IMD unit has abandoned the unit and no sale of rights pursuant to [Multiple Dwelling Law] MDL § 286(12) or sale of fixtures pursuant to [Multiple Dwelling Law] MDL § 286(6) has been executed, provided there has been no finding of harassment as to any occupant(s) of the [unit] IMD building which has not been terminated pursuant to § 2-02(d)(2) of these rules [Board's Harassment Regulations].

(2) Abandonment [shall be defined as] means the relinquishment of possession of a unit and all rights relating to a unit either: (i) voluntarily, with the intention of never resuming possession or reclaiming the rights surrendered, or (ii) by the death of the IMD tenant, provided no family member, as defined in 29 RCNY § 2-08.1(c)(3), is denied the benefits of succession rights in accordance with 29 RCNY § 2-08.1.

(3) To be considered timely, an owner's application alleging abandonment must be filed with the Loft Board within [one] 1 year of the date the owner knew or should have known that the IMD tenant vacated the unit.

(4) In deciding whether a unit has been abandoned voluntarily pursuant to subparagraph (i) of paragraph (2) above, the factors the Loft Board may consider include, [inter alia] but are not limited to, the following [factors]:

(i) [t]The length of time since the occupant allegedly abandoned the unit;

(ii) [w] Whether the occupant owed rent as of the time the occupant allegedly abandoned the unit and whether court proceedings to attempt to collect this rent have been initiated [installed];

(iii) [w]Whether the occupant's lease for the unit has expired;

(iv) [w]Whether the occupant provided notice of an intent to vacate or requested permission to sublet the unit for a specific period of time;

(v) [w]Whether the unit contained improvements which were made or purchased by the occupant and whether the occupant was reimbursed for those improvements;

(vi) [w]Whether any prior harassment findings have been made by the Loft Board concerning the occupant(s) of the unit or whether any harassment application remains pending;

(vii) [w]Whether any notices of violation[s] or notices to appear pursuant to the Loft Board's Minimum Housing Maintenance Standards have been issued;

(viii) [w]Whether the owner has made affirmative efforts to locate the occupant to attempt to purchase rights pursuant to [Multiple Dwelling Law] MDL § 286(12) or improvements pursuant to [Multiple Dwelling Law] MDL § 286(6); and

(ix) [w]Whether an inspection of the unit by the Loft Board staff indicates that the unit is presently vacant.

(5) In determining whether abandonment has occurred as a result of the death of an IMD [tenant] occupant as set forth in subparagraph (ii) of paragraph (2) above, proof of the occupant's death [of such tenant of an IMD unit shall] must be made by the presentation of a death certificate, [the testimony of a relative of the occupant alleged to be dead,] or any other trustworthy evidence. The heir, beneficiary, administrator, or executor of the occupant's estate, as applicable, is an affected party in a case where an owner seeks an abandonment finding based on the death of an IMD occupant.

(6) If the owner's application alleging abandonment is granted by the Loft Board and if the unit is to be used for non-residential purposes, the owner or its authorized representative must comply with § 2-10([c]d)(1) of these rules [regulations].

(7) (i) Upon compliance with these specified provisions of § 2-10([c]d)(1) with regard to units determined to be abandoned and [to be] used for non-residential purposes, the legal effect of the Loft Board's determination of abandonment [shall be] is the same as that of a sale of rights [as] provided in § 2-10([c]d) of these rules [regulations].

(ii) Upon the Loft Board's granting of the owner's application alleging abandonment with regard to units to remain residential, the legal effect of the Loft Board's determination of abandonment [shall be] is the same as that of a sale of rights [as] provided in § 2-10([c]d) of these [regulations] rules, but only if [and when]:

(A) [o]On or prior to the date of the Loft Board's granting of the owner's application alleging abandonment, the owner has obtained a certificate of occupancy for the affected building and filed an application seeking a final rent order and/or removal from the Loft Board's jurisdiction; or

(B) [w]Within one year after the date of the Loft Board's granting of the owner's application alleging abandonment, or prior to the expiration of the code compliance deadline for obtaining a certificate of occupancy in effect on the date of the Loft Board's granting of such application, [(]as such code compliance deadline may be extended pursuant to 29 RCNY §2-01(b)[)], whichever is earlier, the owner has obtained a certificate of occupancy for the affected building and has filed an application seeking a final rent order and/or removal from the Loft Board's jurisdiction.

(8) If [, whenever] an IMD unit becomes vacant without a prior sale of rights or improvements and subparagraph (i) of paragraph (7) does not apply, [an] and the owner fails to meet either the criteria set forth in § 2-10(f)(7)(ii)(A) or the criteria set forth in § 2-10(f)(7)(ii)(B), the unit [shall] must remain residential and the owner [shall] is not [be] permitted to re-rent the unit at a market rate to the incoming tenant. Additionally, the owner [shall] must provide any incoming tenant(s) with written notice that the rent for the IMD unit may increase to a market rate if and when the owner complies with the criteria set forth in § 2-10(f)(7)(ii)(A) or § 2-10(f)(7)(ii)(B).

[Such] The written notice to an incoming tenant or tenants [shall] must include a copy of this subdivision (f) and a copy of the Loft Board order granting the abandonment application, [(]if any[)]. If an owner re-rents the unit at a market rate in violation of this provision, the in[-]coming tenant(s) may challenge such rent by filing an application alleging a rent overcharge with the Loft Board.

(9) [New] [p]Paragraphs (3) and (8), and the amendments to paragraph (7) of this subdivision (f), made effective on October 8, 2006 [by the rulemaking that added this paragraph, shall] apply only to those IMD units for which applications alleging abandonment are filed after April 8, 2007 [more than six (6) months after the effective date of this paragraph].

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Sale of Rights by Residential Occupants (§ 2-10)

REFERENCE NUMBER: DOB-16

RULEMAKING AGENCY: Department of Buildings (Loft Board)

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because a cure period would run counter to the proposed rule's goal of encouraging timely filing of sale documentation.

/s/ Ruby B. Choi 5/4/2012
Mayor's Office of Operations Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087

CERTIFICATION PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Sale of Rights by Residential Occupants (§ 2-10)

REFERENCE NUMBER: 2011 RG 068

RULEMAKING AGENCY: Loft Board

I certify that this office has reviewed the above-referenced

proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 3, 2012
Acting Corporation Counsel

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NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed rule Section 2-11.1, which relates to Loft Board fines.

Date / Time: July 12, 2012 at 2:00 P.M.

Location: 22 Reade Street
1st Floor Spector Hall
New York, NY 10007

Contact: New York City Loft Board
280 Broadway
3rd Floor
New York, NY 10007
(212) 566-5663

Proposed Rule Amendment

Pursuant to the authority vested in the New York City Loft Board by Article 7-C of the Multiple Dwelling Law and Mayor's Executive Order No. 129, dated May 22, 2009, and pursuant to and in accordance with the requirements of Section 1043 of the New York City Charter, the New York City Loft Board intends to add section 2-11.1 to Title 29 of the Rules of the City of New York to create a fine schedule to Loft Board's rules. The amendments made to Article 7-C of the Multiple Dwelling Law, effective as of June 21, 2010, increased the maximum fine amount from $1,000 to $17,500 per violation.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to the New York City Loft Board at the address shown above or electronically through NYCRULES at www.nyc.gov/nycrules by July 12, 2012.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact the New York City Loft Board at the phone number shown above by July 9, 2012.
- Written comments and summarized copies of the oral comments received at the hearing will be available on July 18, 2012 between the hours of 10:00 A.M. and 4:00 P.M. at the offices of the New York City Loft Board.

Statement of Basis and Purpose

On June 21, 2010, the New York State Legislature amended Section 282 of the Multiple Dwelling Law to increase the maximum fine amount that the Loft Board may impose for violations of its rules from $1,000 to $17,500 per violation. The Loft Board is now proposing to amend its penalties for violations of its rules in accordance with § 282 by adding a new section 2-11.1 to title 29 of the Rules of the City of New York. The proposed rule outlines a fine schedule to provide both IMD owners and occupants in IMD buildings guidance about the potential fine for violation of the Loft Board rules. The proposed rule also shows the potential fine if a party defaults or if the party is found to have violated the same Loft Board rule previously.

Specifically, section 2-11.1 creates a fine schedule for violations of Loft Board rules § 2-01 (Code Compliance), § 2-01.1 (Reasonable and Necessary Action), § 2-02 (Harassment), § 2-05 (Registration), § 2-07 (Sale of Improvements), and § 2-10 (Sale of Rights) of title 29 of the Rules of the City of New York. Sections 2-01.1 and 2-05 are also being amended to conform to the fine amounts in the proposed rule § 2-11.1.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this Board, unless otherwise specified or unless the context clearly indicates otherwise. "Civil penalty" and "fine" are also used interchangeably in these rules, unless otherwise specified or unless the context clearly indicates otherwise.

New material is underlined. Deleted matter is in [brackets].

Section 1. Title 29 of the Rules of the City of New York is amended by adding a new section 2-11.1 to read as follows:

§ 2-11.1 Fine Schedule.

(a) *Collection of fines.* The Loft Board may charge and collect fines for violation of its rules. The Loft Board may, by amending these rules, modify the types of violations for which fines are assessed and/or revise the amount of the fine imposed.

(b) *Range of fines*

(1) *Code Compliance Fines Pursuant to § 2-01 and § 2-01.1:*

Where the owner is found to have violated code compliances deadlines or failed to take all reasonable and necessary action to obtain a final certificate of occupancy, the owner may be subject to a Class C civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY	DEFAULT PENALTY	AGGRAVATED PENALTY
Failure to Meet Code Compliance Deadlines: §§281(1) and (4) buildings	MDL §284 (1); 29 RCNY §§2-01(a)(1); 2-01(a)(7); 2-01(c)(2)	No	Up to $1,000 per missed deadline	Up to $1,000 per missed deadline	N/A
Failure to Meet Code Compliance Deadlines:§§281(1) and (4) Buildings	MDL § 284(1); 29 RCNY § 2-01(a)(8); § 2-01(c)(2)	No	Up to $5,000 per missed deadline	Up to $5,000 per missed deadline	N/A
Failure to Meet Code Compliance Deadlines:§281(5) Buildings	MDL §284(1); 29 RCNY §2-01(a)(8); 2-01(c)(2)	No	Up to $5,000 per missed deadline	Up to $5,000 per missed deadline	N/A
Failure to Take Reasonable and Necessary Steps Obtain a Final Certificate of Occupancy	29 RCNY §2-01.1(b)(2) and (3)	No	$1,000 to $5,000 per day up to $17,500 per violation	Up to $5,000 per day up to $17,500	N/A

(2) *Fines in Connection with Harassment Applications Pursuant to § 2-02:*

A finding by the Loft Board that:

(i) A tenant filed a harassment application in bad faith or in wanton disregard of the truth pursuant to § 2-02(c)(2)(iii) of these Rules;

(ii) An owner or prime lessee harassed an occupant pursuant to *§ 2-02(d)(1)(ii) and § 2-02(e)(3)(i)* of these Rules, in a manner that impacts on the tenant's safety including, but not limited to, refusing to make repairs, repeated housing maintenance violations intended o render the unit uninhabitable, assault, battery, or threats of violence; or

(iii) An owner or prime lessee harassed an occupant pursuant to *§ 2-02(d)(1)(ii) and § 2-02(e)(3)(i)* of these Rules in a manner that impacts on the tenant's quality of life, including but not limited to creating excessive noise or odors, threatening eviction, filing false registration statement, refusal to consent to sublet, and tampering with mail, the landlord or prime lessee;

May subject the tenant, owner or prime lessee to a Class C civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY	DEFAULT PENALTY	AGGRAVATED PENALTY
Harassment Application Filed in Bad Faith	29 RCNY §2-02(c)(2)(iii)	No	Up to $4,000	Up to $4,000	A tenant found to have previously filed a harassment application in bad faith may be subject to an aggravated penalty of up to $10,000.
Finding of Harassment: Safety Violations i.e., Hazardous Conditions; Housing Maintenance Violations; Refusal to Make Repairs	29 RCNY §§2-02 (d)(1)(ii) and 2-02(e)(3)(i)	No	$3,000 to $6,000 for each occurrence found to constitute harassment	$3,000 to $6,000 for each occurrence found to constitute harassment	An owner or prime lessee previously found to have harassed a tenant may be subject to an aggravated penalty of up to $10,000.
Finding of Harassment: Quality of Life Violations i.e., Noise; Odors: Threat of Eviction; False Registration Statement; Refusal to Consent to Sublet	29 RCNY §§2-02 (d)(1)(ii) and 2-02(e)(3)(i)	No	$2,000 to $5,000 for each occurrence found to constitute harassment	$2,000 to $5,000 for each occurrence found to constitute harassment	An owner or prime lessee previously found to have harassed a tenant may be subject to an aggravated penalty of up to $10,000.

(3) *Failure to Renew IMD Registration Pursuant to § 2-05.*

Where an owner fails to renew the registration of a building as required in § 2-05(f)(2), the owner may be subject to a Class C violation civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY	DEFAULT PENALTY	AGGRAVATED PENALTY
Failure to Timely Renew Registration	29 RCNY § 2-05(f)(2)	Yes	$5,000 for one year; $10,000 for two years; $17,500 for three years or more	$8,000 for one year; $13,000 for two years; $17,500 for three years or more	N/A

(4) *Failure to Take Reasonable and Necessary Action to Legalize Building Pursuant to § 2-01.1(a)(1)(ii) and (b)(6).*

An owner who is found:

(i) By the Loft Board's Executive Director to have violated the provisions of § 2-01.1(b)(6) of these Rules may be subject to a Class B civil penalty pursuant to § 2-01.1(b)(7) as follows or

(ii) To have failed to file monthly reports or have made false statements in the monthly reports filed pursuant to § 2-01.1(a)(1)(ii) may be subject to a Class B civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE within 30 days	PENALTY PER VIOLATION	DEFAULT PENALTY	AGGRAVATED PENALTY: FAILURE TO CORRECT WITHIN 60 DAYS OF ISSUANCE OF VIOLATION
Failure to Take Reasonable and Necessary Action to File an Application with DOB	29 RCNY §§2-01.1(b)(6)(i); 2-01.1(b)(7)	Yes	$1,000 per day up to $17,500	$2,000 per day up to $17,500	$3,000 per day up to $17,500
Failure to Take Reasonable and Necessary Actions: Failure to Obtain a Building Permit	29 RCNY §§2-01.1(b)(6)(ii); 2-01.1(b)(7)	Yes	$1,000 per day up to $17,500	$2,000 per day up to $17,500	$3,000 per day up to $17,500
Failure to Take Reasonable and Necessary Actions: Failure to Maintain a Current Work Permit	29 RCNY §§2-01.1(b)(6)(iii); 2-01.1(b)(7)	Yes	$1,000 per day up to $17,500	$2,000 per day up to $17,500	$3,000 per day up to $17,500
Failure to Take Reasonable and Necessary Action: Failure to Maintain a Temporary certificate of occupancy for the residential portion of the building	29 RCNY §§2-01.1(b)(6) (iv); 2-01.1(b)(7)	Yes	$1,000 per day up to $17,500	$2,000 per day up to $17,500	$3,000 per day up to $17,500
Failure to Take Reasonable and Necessary Actions: Failure to File Monthly Reports	29 RCNY §2-01.1(a)(1)(ii)(D)	Yes	$1,000 per missing report up to $17,500	$2,000 per missing report up to $17,500	$3,000 per missing report up to $17,500
Failure to Take Reasonable and Necessary Actions: Filing False Statements in Monthly Report	29 RCNY§2-01.1(a)(1)(ii)(E)	No	$4,000 per false statement up to $17,500	$6,000 per false statement up to $17,500	N/A

(5) Fines in Connection with:

(i) Failure of owner to comply with access notice provision of section § 2-01(g)(4)(iv);

(ii) Failure of a tenant to reasonably provide access pursuant to § 2-01(g)(4)(iv);

(iii) Failure of owner to file a Sales Record form after a Sale of Improvements pursuant to § 2-07(j) or a Sale of Rights pursuant to Rule §§ 2-10 (b) or 2-10(c)(4) within 30 days of sale;

May subject the party to a Class A civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE within 30 days	PENALTY	DEFAULT PENALTY	AGGRAVATED PENALTY: FAILURE TO COMPLY WITHIN 60 DAYS OF ISSUANCE OF VIOLATION
Failure of Owner to Comply with Access Notice Provisions	29 RCNY §2-01(g)(4)(iv)	Yes	$500	$1,000	$2,000
Failure of Tenant to Provide Access	29 RCNY §2-01(g)(iv)	Yes	$500	$1,000	$2,000
Failure to Timely File Sale of Improvements Form	29 RCNY §2-07(j)	No	$500	$1,000	$2,000
Failure to Timely File Sale of Rights Form	29 RCNY §§2-10(b) or 2-10(c)(4)	No	$500	$1,000	$2,000

§ 2. Subparagraph (ii) of paragraph (1) of subdivision (a) of section 2-01.1 of Title 29 of the Rules of the City of New York is amended to read as follows:

(ii) Monthly Reports about Legalization Projects.

(A) Any IMD owner who has not been issued a final residential certificate of occupancy issued pursuant to MDL § 301 for the IMD units must file with the Loft Board a monthly report relating to the legalization projects in the building on the approved Loft Board form, as available on the Loft Board's website or at the offices of the Loft Board. In the case of IMD buildings owned by a cooperative or a condominium, the board is responsible for the filing of the monthly report. The report is due on the first business day of every month.

(B) The report must be signed by the owner of the IMD building and a registered architect or professional engineer.

(C) The information provided in the report may be used as evidence in connection with a Loft Board determination as to whether the owner has exercised all reasonable and necessary action to obtain a final residential certificate of occupancy.

(D) The Executive Director may issue a fine [of up to $17,500] in accordance with § 2-11.1 of these Rules for failure to file the legalization report for each report not filed on the first business day of each month.

(E) The filing of a false statement in the monthly report may result in fines [of up to $17,500] in accordance with § 2-11.1 of these Rules for each false statement in the monthly report.

§ 3. Paragraph (3) of subdivision (b) of section 2-01.1 of Title 29 of the Rules of the City of New York is amended to read as follows:

(3) *Hearings.* Hearings will be conducted by OATH Administrative Law Judges or ECB hearing officers, who will determine whether the owner has made a diligent, consistent and good faith effort to obtain a residential certificate of occupancy for the IMD [building] as required by Article 7-C of the MDL. Hearings conducted by OATH must be conducted in accordance with the rules and procedures governing OATH so long as they do not conflict with the Loft Board rules. Hearings conducted by an ECB hearing officer must be conducted following the procedures of ECB hearings.

When the OATH Administrative Law Judge or ECB hearing officer issues a [decision] finding that the owner has not exercised all reasonable and necessary action to obtain a final residential certificate of occupancy, he or she shall also recommend a fine [of up to $17,500] in accordance with § 2-11.1 of these Rules, for every day up to $17,500 that the owner did not exercise all reasonable and necessary action to obtain a certificate of occupancy. Such fine accrues 30 calendar days from the date of delivery by hand or 35 calendar days from posting by mail of the notice of an enforcement proceeding, and may continue to accrue until the owner demonstrates compliance with this section.

§ 4. Paragraph (7) of subdivision (b) of section 2-01.1 of Title 29 of the Rules of the City of New York is amended to read as follows:

(7) Upon finding a violation pursuant to paragraph (6) of this subdivision, the Loft Board's Executive Director may issue a notice to the owner stating an intent to find the owner in violation of its obligation to exercise all reasonable and necessary action. The Loft Board's Executive Director may issue a fine [of up to $17,500] in accordance with § 2-11.1 of these Rules, for every day up to $17,500 that the owner does not exercise all reasonable and necessary action to obtain a certificate of occupancy.

The owner has the right to present to the Loft Board's Executive Director or his or her representative within 30 calendar days of delivery of the notice by hand, or 35 calendar days of the posting of the notice by mail, a response that includes information as to why the notice should be withdrawn and/or information regarding mitigating factors pursuant to paragraph (5) of this subdivision the owner wishes to be considered in connection with Executive Director's determination of the amount of the fine to be imposed.

Following the receipt of a timely response from the owner, the Executive Director may either withdraw the notice, or may impose [a fine of up to $17,500] in accordance with § 2-11.1 of these Rules, for every day up to $17,500 that the owner has not exercised all reasonable and necessary action to obtain a certificate of occupancy. Unless the owner first demonstrates compliance with this section, such fine begins to accrue 30 calendar days after delivery by hand or 35 calendar days after the posting of the notice by mail and continues to accrue until the owner demonstrates compliance with this section. If necessary, the owner may file an application for an extension of the code compliance deadlines, pursuant to § 2-01(b).

§ 5. Paragraph (2) of subdivision (f) of section 2-05 of Title 29 of the Rules of the City of New York is amended to read as follows:

(2) *Registration Renewals.* Renewal of registration pursuant to §2-11(b)(1)(i)(A) of these rules shall be required annually on or before July 1st. Prior to the processing of the registration renewal application, the landlord or the agent is required to pay all unpaid fines, late fees and registration and code compliance monitoring fees for prior registration periods at the rate set forth in §2-11(b)(9)(i) of these rules, as may be amended from time to time. Failure to timely pay such registration and code compliance monitoring fees may result in the imposition of late fees, and other civil penalties, in accordance with the terms and provisions of these rules, including, without limitation, §2-11(b)(1)(i)(D) and § 2-11.1.

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Loft Board Fines (§ 2-11.1)

REFERENCE NUMBER: DOB-32

RULEMAKING AGENCY: Department of Buildings (Loft Board)

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Provides a cure period for some violations, but does not provide a cure period for other violations because a) code compliance violations pose a risk to public health and safety, b) certain violations arise from completed events, the consequences of which are immediate, which makes a cure period impracticable under the circumstances, or c) cure period would run counter to the proposed rule's goal of encouraging timely filing of documentation.

/s/ Ruby B. Choi *5/4/2012*
Mayor's Office of Operations Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087

CERTIFICATION PURSUANT TO CHARTER §1043(d)

RULE TITLE: Sale of Rights by Residential Occupants (§ 2-10)

REFERENCE NUMBER: 2011 RG 068

RULEMAKING AGENCY: Loft Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 3, 2012
Acting Corporation Counsel

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NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed rule changes to Section 2-12 of the Loft Board Rules which relate to rent adjustments under Multiple Dwelling Law ("MDL") § 286(2)(ii).

Date / Time: July 27, 2012 at 2:00 P.M.

Location: 280 Broadway
3rd Floor
New York, NY 10007

Contact: New York City Loft Board
280 Broadway, 3rd Floor
New York, NY 10007
(212) 566-5663

Proposed Rule Amendment

Pursuant to the authority vested in the New York City Loft Board by Article 7-C of the Multiple Dwelling Law and Mayor's Executive Order No. 129, dated May 22, 2009, and pursuant to and in accordance with the requirements of Section 1043 of the New York City Charter, the New York City Loft Board intends to amend section 2-12 of Title 29 of the Rules of the City of New York to conform the Loft Board's rules regarding rent adjustments under MDL § 286(2)(ii) to the amendments made to Article 7-C, effective as of June 21, 2010.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to the New York City Loft Board at the address shown above or electronically through NYCRULES at www.nyc.gov/nycrules by July 27, 2012.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact the New York City Loft Board at the phone number shown above by July 23, 2012.
- Copies of the written comments and summaries of the oral comments received at the hearing will be available August 2, 2012 between the hours of 10:00 A.M. and 4:00 P.M. at the offices of the New York City Loft Board.

STATEMENT OF BASIS AND PURPOSE

On June 21, 2010, the New York State Legislature amended Article 7-C of the Multiple Dwelling Law ("Loft Law") to add, among other things, MDL § 281(5) which expanded the criteria for Article 7-C coverage.

Pursuant to MDL § 286(2)(ii), owners of interim multiple dwellings ("IMD") buildings, including those owners of the buildings covered pursuant to MDL § 281(5), may seek rent adjustments upon achieving three legalization milestones. The legalization milestones are: 1) the filing of an alteration application with the Department of Buildings for conversion of the building from commercial to residential use; 2) the issuance of a permit for the alteration application; and 3) achieving Article 7-B compliance. An IMD owner may collect the rent adjustment for achieving one or more milestones the month immediately following compliance.

The proposed rule describes the procedure for obtaining the rent adjustments in MDL § 286(2)(ii) for units subject to the Loft Law pursuant to MDL § 281(5). The proposed rule also includes new section headings and minor clarifying revisions.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this Board, unless otherwise specified or unless the context clearly indicates otherwise.

New matter in the following rule is underlined, and deleted material is in [brackets.]

Section 2-12 of Title 29 of the Rules of the City of New York is amended to read as follows:

§ 2-12 **MDL § 286(2)(ii) Rent Adjustments.**

(a) *Definitions.*

[**Alteration application.**] "**Alteration application**" [shall] means, [an application accepted for filing by the Department of Buildings of the City of New York ("DOB") specifying the work to be undertaken to obtain a] for the purposes of these Rules, the work application form submitted for filing to the Department of Buildings of the City of New York ("DOB"), which describes the work to be undertaken that will result in obtaining a final certificate of occupancy for an interim multiple dwelling ("IMD") unit, as defined in MDL § 281 and these rules [of the Multiple Dwelling Law, ("covered unit")] for residential use or joint living-work quarters for artists [usage ("residential certificate of occupancy")].

[**Alteration permit.**] "**Alteration permit**" [shall] means a building permit issued by the DOB authorizing the owner to make the alterations set forth in the approved alteration application which are necessary to obtain a residential certificate of occupancy for an [covered] IMD unit.

[**Article 7-B compliance.**] "**Article 7-B compliance**" [shall] means compliance with the fire protection and safety standards of Article 7-B of the MDL [Multiple Dwelling Law], or alternative building codes as authorized by MDL § 287. Article 7-B compliance [shall] must be evidenced by:

(i) DOB's issuance of a [final] temporary residential certificate of occupancy;

(ii) DOB's issuance of a final residential certificate of occupancy after June 21, 1992;

(iii) DOB records demonstrating that the alterations necessary for issuance of a residential certificate of occupancy have been completed; or

(iv) [t]The filing with the Loft Board of a sworn statement by a registered architect or professional engineer licensed in the State of New York stating that the IMD has achieved Article 7-B compliance and the date of such compliance on the Loft Board approved form.

"Maximum permissible rent," for purposes of this rule, means "total rent" plus any permissible rent adjustments, as provided in § 2-06 for units subject to Article 7-C pursuant to § 281(1), or § 2-06.1 for units subject to Article 7-C pursuant to § 281(4). For units subject to Article 7-C pursuant to § 281(5), "maximum permissible rent" is defined in § 2-06.2 of these Rules. If one or more rent adjustments pursuant to this section have already been applied, "maximum permissible rent" includes such adjustments.

(b) *Eligibility requirements.*

The owner of an IMD is eligible for [one] 1 or more rent adjustments pursuant to MDL § 286(2)(ii) if all the following conditions are met:

(1) The residential unit for which the rent adjustment is sought is covered under Article 7-C of the MDL [Multiple Dwelling Law];

(2) The IMD building in which the covered residential unit is located is registered with the Loft Board;

(3) A final certificate of occupancy permitting residential occupancy of the covered unit was not issued on or before June 21, 1992;

(4) The residential unit was not rented at market value between June 21, 1982 and June 21, 1992 [as a result of a sale of improvements pursuant to MDL § 286(6) or sale of rights pursuant to MDL § 286(12) and Loft Board rules issued pursuant thereto], unless the IMD unit is covered under Article 7-C pursuant to MDL § 281(5); and

(5) The owner meets or has already met [one] 1 or more of the code compliance obligations [set forth] in MDL § 284(1) which requires that the owner file an alteration application[;], obtain an approved alteration permit[;], and achieve Article 7-B compliance.

An eligible owner is entitled to [one] 1 or more of the applicable rent adjustments [as set forth] in subdivisions (c) through (e) of § 2-12 of these rules.

(c) *Alteration application rent adjustment.*

(1) *Filing prior to June 21, 1992.* An owner who otherwise meets the eligibility requirements of § 2-12(b) of these rules and who filed an alteration application with the DOB prior to June 21, 1992 is entitled to a six percent (6%) increase over the maximum rent permissible under Loft Board rules for the covered residential unit on June 21, 1992.

(2) *Filing on or after June 21, 1992.* An owner who otherwise meets the eligibility requirements of § 2-12(b) of these rules and who files an alteration application with the DOB on or after June 21, 1992 is entitled to a six percent (6%) increase over the maximum rent permissible under Loft Board rules for the covered residential unit on the date the alteration application is filed.

(d) *Alteration permit rent adjustment.*

(1) *Issuance prior to June 21, 1992.* An owner who otherwise meets the eligibility requirements of § 2-12(b) of these rules and who obtained an alteration permit prior to June 21, 1992 is entitled to a fourteen percent (14%) increase over the maximum rent permissible under Loft Board rules for the covered residential unit on June 21, 1992.

(2) *Issuance on or after June 21, 1992.* An owner who otherwise meets the eligibility requirements of § 2-12(b) of these rules and who obtains an alteration permit from the DOB on or after June 21, 1992 is entitled to an eight percent (8%) increase over the maximum rent permissible under Loft Board rules for the covered residential unit on the date the alteration permit is issued by the DOB.

(e) *Article 7-B compliance rent adjustment.*

(1) *Compliance prior to June 21, 1992.* An owner who otherwise meets the eligibility requirements of § 2-12(b) of these rules and who achieved Article 7-B compliance prior to June 21, 1992 is entitled to a twenty percent (20%) increase over the maximum rent permissible under Loft Board rules for a covered residential unit on June 21, 1992.

(2) *Compliance on or after June 21, 1992.* An owner who otherwise meets the eligibility requirements of § 2-12(b) of these rules and who achieves [a]Article 7-B compliance on or after June 21, 1992 is entitled to a six percent (6%) increase over the maximum rent permissible under Loft Board rules for the covered residential unit on the date Article 7-B compliance is achieved.

(f) *Payment of rent adjustments.*

Payment of rent adjustments based on filing an alteration application, obtaining an alteration permit or achieving Article 7-B[b] compliance [shall] commences: (i) the month immediately after the month the alteration application is filed, the alteration permit is obtained or Article 7-B compliance is achieved, or (ii) on July 1, 1992, whichever is later.

(g) *Effect on other rent increases* [*and base rent*].

(1) Rent adjustments pursuant to this section [shall be] will be applied in addition to any rent increases which an owner is entitled to pursuant to §§ 2-06, [or §] 2-06.1, 2-06.2, or the Loft Board rules related to setting the initial legal regulated rent. [(Interim Rent Guidelines), or § 2-01(m) (Code Compliance Work-Initial legal regulated rents) of these rules].

(2) [The base rent for covered units shall be the amount of rent after rent adjustments pursuant to this section are implemented.] Any allowable rent adjustments pursuant to this section will be included in the calculation of the initial legal regulated rent.

(3) Rent adjustments pursuant to this section [shall be] are effective upon filing an alteration application, obtaining an alteration permit or Article 7-B compliance regardless of the subsequent expiration of said alteration application, alteration permit or temporary certificate of occupancy, or the filing of a further qualifying alteration application for the building. If the Loft Board or a court of competent jurisdiction determines the sworn statement of Article 7-B compliance was erroneous, all rent increases based on such statement [shall be] are nullified.

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Fair Market Value Exception to Rent Adjustments, Loft Board Rule § 2-12

REFERENCE NUMBER: DOB-23

RULEMAKING AGENCY: Department of Buildings

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Ruby B. Choi *5/4/2012*
Mayor's Office of Operations Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087

CERTIFICATION PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Amendment of Fair Market Value Exception to Rent Adjustments, Loft Board Rule § 2-12

REFERENCE NUMBER: 2011 RG 094

RULEMAKING AGENCY: Loft Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 3, 2012
Acting Corporation Counsel

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OFFICE OF THE MAYOR

■ NOTICE

OFFICE OF THE MAYOR
COMMUNITY ASSISTANCE UNIT
STREET ACTIVITY PERMIT OFFICE
NOTICE OF OPPORTUNITY TO COMMENT

Subject: Opportunity to comment on proposed amendment that will update and clarify procedures related to the application, processing, and issuance of street activity permits.

Contact: Emil Lissauer

Written comments regarding the proposed amendment must be received by close of business day on June 11, 2012. Written comments should be sent to:

Mr. Emil Lissauer
Director
Street Activity Permit Office
100 Gold Street, 2nd Floor, New York, NY 10038.

Comments may also be submitted electronically via NYC Rules at www.nyc.gov/nycrules.

A public hearing on the proposed amendment will not be held because it has been determined that such a public hearing would serve no public purpose.

Written comments will be available for public inspection within a reasonable time after receipt between 9:00 A.M. and 4:30 P.M. at the Office of Citywide Event Coordination and Management.

The proposed amendment was not included in this agency's most recent regulatory agenda because the need for it was not anticipated at the time the regulatory agenda was prepared.

STATEMENT OF BASIS AND PURPOSE

The Street Activity Permit Office (SAPO) is charged with the administration of the permit system for street festivals, block parties, religious events, clean-ups, greenmarkets,

promotional events and other events that take place on the City's streets and sidewalks.

On December 27, 2011, SAPO adopted comprehensive changes to its rules. Those rule changes inadvertently neglected to repeal a section that had been amended and placed in what is now section 1-08 of Title 50 of the Rules of the City of New York.

This rulemaking is intended to correct the December 27, 2011 rulemaking by repealing section 1-12.

Section 1. Section 1-12 of Chapter 1 of Title 50 of the Rules of the City of New York, relating to street activity fees, is REPEALED.

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RENT GUIDELINES BOARD

■ **NOTICE**

PLEASE TAKE NOTICE THAT SCHEDULES AND PROCEDURES RELATING to meetings and hearings of the New York City Rent Guidelines Board (RGB) or consideration of the guidelines for rent adjustments for apartment, loft and hotel dwelling units subject to the Rent Stabilization Law of 1969, as amended, have been formulated. In accordance with Chapter 45 of the New York City Charter (the "City Administrative Procedure Act"), the Board has proposed rent guidelines, which are now being followed by a notice and comment period, public hearings and the promulgation of final rent orders. The proposed rent guidelines will be published in accordance with the City Administrative Procedure Act and the public will have a minimum of 30 days to review and consider the proposals prior to the public hearings described below. Following the hearings and the receipt of public comments on the proposed rent guidelines, the Board will meet on **Thursday, June 21, 2012 at 5:30 P.M.** at The Great Hall at Cooper Union, 7 East 7th Street at corner of 3rd Avenue (basement), New York, NY 10003 to adopt **final** rent guidelines. Apartment renewal leases and loft increase periods during the period of **October 1, 2012** through **September 30, 2013** and rent stabilized hotel units will be affected.

SCHEDULE OF MEETINGS AND HEARINGS

The schedule of Rent Guidelines Board meetings and hearings to consider such adjustments is as follows:

DATE	LOCATION	TIME
Thursday May 31, 2012 Public Meeting	Landmarks Preservation Commission Conference Room Municipal Building 1 Centre St, 9th Fl. New York, NY 10007	9:30 A.M.
Wednesday June 13, 2012 Public Hearing **(Public Testimony)**	Repertory Theatre of Hostos Community College/CUNY 450 Grand Concourse Bronx, NY 10451	4:30 P.M. **(Public Hearing)**
Monday June 18, 2012 Public Hearing **(Public Testimony)**	The Great Hall at Cooper Union 7 East 7th Street at corner of 3rd Ave. (basement) New York, NY 10003	10:00 A.M. **(Public Hearing)**
Thursday June 21, 2012 Public Meeting **(Final Vote)**	The Great Hall at Cooper Union 7 East 7th Street at corner of 3rd Ave. (basement) New York, NY 10003	5:30 P.M. **(VOTE on Final Rent Guidelines)**

In order to ensure that the members of the Rent Guidelines Board are able to deliberate and to hear members of the public with regard to renewal lease adjustments, and that members of the public are able to participate meaningfully in the public meeting and hearing process, items that are reasonably likely to disrupt the proceedings, such as noisemakers and drums, are prohibited and may not be brought into meeting and hearing venues. We encourage you to arrive early to avoid delays and help speed the entry of all members of the public. Your cooperation, patience and understanding are greatly appreciated.

NOTE: The Rent Guidelines Board reserves the right to cancel or reschedule public meetings.

In relation to the public hearings, registration of speakers is required. Pre-registration of speakers is now being accepted and is advised. Those who wish to pre-register for the June 13 hearing in the Bronx may call (212) 385-2934 until 1:00 P.M. on **Tuesday, June 12, 2012**. Those who wish to pre-register for the June 18 hearing in Manhattan may call (212) 385-2934 until 1:00 P.M. on **Friday, June 15, 2012**. **An exact time for speaking** cannot be provided, but those pre-registering will be informed of their number on the list of pre-registered speakers when they call the above listed phone number. Written requests for pre-registration must be received at the office of the Board at 51 Chambers Street, Room 202, New York, NY, 10007, before 1:00 P.M. on Tuesday, June 12 for the June 13 hearing and before 1:00 P.M. on Friday, June 15 for the June 18 hearing. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at a hearing are requested to notify Ms. Charmaine Superville at the Rent Guidelines Board (212) 385-2934, 51 Chambers Street, Room 202, New York, NY 10007 by **Thursday, June 7, 2012** at 4:30 P.M.

Pre-registered speakers who have confirmed their presence on the day of the hearing will be heard in the order of pre-registration and before those who have not pre-registered. If a speaker's pre-registered position has been passed before he or she has confirmed his or her pre-registration, his or her position is forfeited and he or she must re-register. There will be no substitution of one speaker's position for another. Those who have not pre-registered or need to re-register can register **at the hearing location from 4:15 P.M. until 7:00 P.M. at the June 13 hearing and from 9:45 A.M. until 6:00 P.M. at the June 18 hearing,** and will be heard in the order of their registration. Public officials and a limited number of speakers chosen by owner and tenant groups may be given priority over other speakers. The public is invited to observe all Public Meetings and Public Hearings but is invited to speak at only the Public Hearings. Please note that testimony regarding the preliminary guidelines from tenants and owners of rent stabilized apartments, lofts, and hotels, as well as public officials, will be heard throughout the day starting at 4:30 P.M. on June 13 and 10:00 A.M. on June 18. There is no scheduled break for lunch or dinner.

SCHEDULE FOR WRITTEN SUBMISSION OF INFORMATION AND COMMENTS BY THE PUBLIC

Written comments on the proposed rent guidelines must be received by **Monday, June 18, 2012**. Such materials must be submitted to the office of the RGB at 51 Chambers Street, Suite 202, New York, N.Y. 10007, or in the alternative may be submitted directly to the RGB Staff at the Hearings on **June 13 and June 18, 2012**. Written submissions can also be sent via fax at 212-385-2554, by email to board@nycrgb.org or through NYC RULES at www.nyc.gov/nycrules.

INSPECTION AND ACCESS TO THE MATERIAL

Written material submitted to the RGB may be inspected by members of the public by appointment between the hours of 10:00 AM and 4:00 PM on weekdays at the RGB office. Copies of written materials submitted to the RGB may be ordered, in writing, at a cost of $.25 per page, plus postage, which shall be paid in cash. In addition, copies of the existing guidelines and the RGB's Explanatory Statements from prior years are also available for inspection and copies may be obtained in the manner provided above and on the RGB's website, nycrgb.org.

Dated: May 2, 2012

Jonathan L. Kimmel, Chair
New York City Rent Guidelines Board

NEW YORK CITY RENT GUIDELINES BOARD
NOTICE OF OPPORTUNITY TO COMMENT PROPOSED 2012 APARTMENT AND LOFT ORDER (#44)

Notice of Opportunity to Comment on Proposed Rent Guidelines Governing Rent Levels in the following accommodations subject to the Rent Stabilization Law of 1969, as amended: Apartments and Lofts.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY RENT GUIDELINES BOARD BY THE RENT STABILIZATION LAW OF 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended, implemented by Resolution No 276 of 1974 of the New York City Council and extended by Chapter 97 of the Laws of 2011, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Rent Guidelines Board (RGB) hereby **proposes** the following levels of fair rent increases over lawful rents charged and paid on **September 30, 2012**. These rent adjustments will apply to rent stabilized apartments with leases commencing on or after **October 1, 2012** and through **September 30, 2013**. Rent guidelines for loft units subject to Section 286 subdivision 7 of the Multiple Dwelling Law are also included in this order.

PUBLIC HEARINGS

Pursuant to Section 1043 of the City Charter and the hearing requirements of the Rent Stabilization Law of 1969, as amended, (Section 26-510(h) N.Y.C. Administrative Code) hearings on the proposed guidelines set forth below shall be held on **Wednesday, June 13, 2012**, **starting at 4:30 P.M.** at the Repertory Theatre of Hostos Community College/ CUNY, 450 Grand Concourse, Bronx, NY 10451 and **Monday, June 18, 2012**, **starting at 10:00 A.M.** at The Great Hall at Cooper Union, 7 East 7th Street, at the corner of 3rd Avenue (basement), New York, NY 10003.

In relation to the public hearings, registration of speakers is required. Pre-registration of speakers is now being accepted and is advised. Those who wish to pre-register for the June 13 hearing in the Bronx may call (212) 385-2934 until 1:00 P.M. on **Tuesday, June 12, 2012**. Those who wish to pre-register for the June 18 hearing in Manhattan may call (212) 385-2934 until 1:00 P.M. on **Friday, June 15, 2012**. **An exact time for speaking** cannot be provided, but those pre-registering will be informed of their number on the list of pre-registered speakers when they call the above listed phone number. Written requests for pre-registration must be received at the office of the Board at 51 Chambers Street, Room 202, New York, NY, 10007, before 1:00 P.M. on Wednesday, June 12 for the June 13 hearing and before 1:00 P.M. on Friday, June 15 for the June 18 hearing. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at a hearing are requested to notify Ms. Charmaine Superville at the Rent Guidelines Board (212) 385-2934, 51 Chambers Street, Room 202, New York, NY 10007 by **Thursday, June 7, 2012** at 4:30 P.M.

Pre-registered speakers who have confirmed their presence on the day of the hearing will be heard in the order of pre-registration and before those who have not pre-registered. If a speaker's pre-registered position has been passed before he or she has confirmed his or her pre-registration, his or her position is forfeited and he or she must re-register. There will be no substitution of one speaker's position for another. Those who have not pre-registered or need to re-register can register **at the hearing location from 4:15 P.M. until 7:00 P.M. at the June 13 hearing and from 9:45 A.M. until 6:00 P.M. at the June 18 hearing,** and will be heard in the order of their registration. Public officials and a limited number of speakers chosen by owner and tenant groups may be given priority over other speakers. The public is invited to observe all Public Meetings and Public Hearings but is invited to speak at only the Public Hearings. Please note that testimony regarding the preliminary guidelines from tenants and owners of rent stabilized apartments, lofts, and hotels, as well as public officials, will be heard throughout the day starting at 4:30 PM on June 13 and 10:00 AM on June 18. There is no scheduled break for lunch or dinner.

SCHEDULE FOR WRITTEN SUBMISSION OF INFORMATION AND COMMENTS BY THE PUBLIC

Written comments on the proposed rent guidelines must be received by **Monday, June 18, 2012**. Such materials must be submitted to the office of the RGB at 51 Chambers Street, Suite 202, New York, N.Y. 10007, or in the alternative may be submitted directly to the RGB Staff at the Hearings on **June 13 and June 18, 2012**. Written submissions can also be sent via fax at 212-385-2554, by email to board@nycrgb.org or through NYC RULES at www.nyc.gov/nycrules.

INSPECTION AND ACCESS TO THE MATERIAL

Written material submitted to the RGB may be inspected by members of the public by appointment between the hours of 10:00 A.M. and 4:00 P.M. on weekdays at the RGB office. Copies of written materials submitted to the RGB may be ordered, in writing, at a cost of $.25 per page, plus postage, which shall be paid in cash. In addition, copies of the existing guidelines and the RGB's Explanatory Statements from prior years are also available for inspection and copies may be obtained in the manner provided above and on the RGB's website, nycrgb.org.

PROPOSED RENEWAL ADJUSTMENTS FOR APARTMENTS

Together with such further adjustments as may be authorized by law, the annual adjustment for renewal leases for apartments shall be:

For a **one**-year renewal lease commencing on or after **October 1, 2012** and on or before **September 30, 2013**: **1.75% - 4.0%**

For a **two**-year renewal lease commencing on or after **October 1, 2012** and on or before **September 30, 2013**: **3.5% - 6.75%**

These adjustments for renewal leases shall also apply to dwelling units in a structure subject to the partial tax exemption program under Section 421a of the Real Property Tax Law, or in a structure subject to Section 423 of the Real Property Tax Law as a Redevelopment Project.

PROPOSED VACANCY ALLOWANCE FOR APARTMENTS

No vacancy allowance is permitted except as provided by sections 19 and 20 of the Rent Regulation Reform Act of 1997.

PROPOSED ADDITIONAL ADJUSTMENT FOR RENT STABILIZED APARTMENTS SUBLET UNDER SECTION 2525.6 OF THE RENT STABILIZATION CODE

In the event of a sublease governed by subdivision (e) of section 2525.6 of the Rent Stabilization Code, the allowance authorized by such subdivision shall be **10%**.

PROPOSED ADJUSTMENTS FOR LOFTS (UNITS IN THE CATEGORY OF BUILDINGS COVERED BY ARTICLE 7-C OF THE MULTIPLE DWELLING LAW)

The Rent Guidelines Board **proposes** the following levels of rent increase above the "base rent," as defined in Section 286, subdivision 4, of the Multiple Dwelling Law, for units to which these guidelines are applicable in accordance with Article 7-C of the Multiple Dwelling Law:

For **one**-year increase periods commencing on or after **October 1, 2012** and on or before **September 30, 2013**: **1.75% - 4.0%**

For **two**-year increase periods commencing on or after **October 1, 2012** and on or before **September 30, 2013**: **3.5% - 6.75%**

VACANT LOFT UNITS - PROPOSAL

No Vacancy Allowance is permitted under this Order. Therefore, except as otherwise provided in Section 286, subdivision 6, of the Multiple Dwelling Law, the rent charged to any tenant for a vacancy tenancy commencing on or after **October 1, 2012** and on or before **September 30, 2013** may not exceed the "base rent" referenced above plus the level of adjustment permitted above for increase periods.

FRACTIONAL TERMS - PROPOSAL

For the purposes of these guidelines any lease or tenancy for a period up to and including one year shall be deemed a one year lease or tenancy, and any lease or tenancy for a period of over one year and up to and including two years shall be deemed a two-year lease or tenancy.

ESCALATOR CLAUSES - PROPOSAL

Where a lease for a dwelling unit in effect on May 31, 1968 or where a lease in effect on June 30, 1974 for a dwelling unit which became subject to the Rent Stabilization Law of 1969, by virtue of the Emergency Tenant Protection Act of 1974 and Resolution Number 276 of the New York City Council, contained an escalator clause for the increased costs of operation and such clause is still in effect, the lawful rent on **September 30, 2012** over which the fair rent under this

Order is computed shall include the increased rental, if any, due under such clause except those charges which accrued within one year of the commencement of the renewal lease. Moreover, where a lease contained an escalator clause that the owner may validly renew under the Code, unless the owner elects or has elected in writing to delete such clause, effective no later than **October 1, 2012** from the existing lease and all subsequent leases for such dwelling unit, the increased rental, if any, due under such escalator clause shall be offset against the amount of increase authorized under this Order.

SPECIAL ADJUSTMENTS UNDER PRIOR ORDERS - PROPOSAL

All rent adjustments lawfully implemented and maintained under previous apartment orders and included in the base rent in effect on **September 30, 2012** shall continue to be included in the base rent for the purpose of computing subsequent rents adjusted pursuant to this Order.

PROPOSED SPECIAL GUIDELINE

Under Section 26-513(b)(1) of the New York City Administrative Code, and Section 9(e) of the Emergency Tenant Protection Act of 1974, the Rent Guidelines Board is obligated to promulgate special guidelines to aid the State Division of Housing and Community Renewal in its determination of initial legal regulated rents for housing accommodations previously subject to the City Rent and Rehabilitation Law which are the subject of a tenant application for adjustment. The Rent Guidelines Board hereby **proposes** the following Special Guidelines:

For dwelling units subject to the Rent and Rehabilitation Law on **September 30, 2012**, which become vacant after **September 30, 2012**, the special guideline shall be the greater of**:**

(1) **30%** above the maximum base rent, or

(2) The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

Such HUD-determined Fair Market Rents will be published in the Federal Register, to take effect on **October 1, 2012**.

DECONTROLLED UNITS - PROPOSAL

The permissible increase for decontrolled units as referenced in Order 3a which become decontrolled after **September 30, 2012**, shall be the greater of:

(1) **30%** above the maximum base rent, or

(2) The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

Such HUD-determined Fair Market Rents will be published in the Federal Register, to take effect on **October 1, 2012**.

CREDITS - PROPOSAL

Rentals charged and paid in excess of the levels of rent increase established by this Order shall be fully credited against the next month's rent.

STATEMENT OF BASIS AND PURPOSE

The Rent Guidelines Board is authorized to promulgate rent guidelines governing apartment units subject to the Rent Stabilization Law of 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended. The purpose of these guidelines is to implement the public policy set forth in Findings and Declaration of Emergency of the Rent Stabilization Law of 1969 (§26-501 of the N.Y.C. Administrative Code) and in the Legislative Finding contained in the Emergency Tenant Protection Act of 1974 (L.1974 c. 576, §4 [§2]).

The Rent Guidelines Board is also authorized to promulgate rent guidelines for loft units subject to Section 286 subdivision 7 of the Multiple Dwelling Law. The purpose of the loft guidelines is to implement the public policy set forth in the Legislative Findings of Article 7-C of the Multiple Dwelling Law (Section 280).

Dated: May 1, 2012

Jonathan L. Kimmel
Chair
New York City Rent Guidelines Board

NEW YORK CITY RENT GUIDELINES BOARD NOTICE OF OPPORTUNITY TO COMMENT PROPOSED 2012 HOTEL ORDER (#42)

Notice of Opportunity to Comment on Proposed Rent Guidelines Governing Rent Levels in the following accommodations subject to the Rent Stabilization Law of 1969: Hotels, Rooming Houses, Single Room Occupancy Buildings and Lodging Houses.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY RENT GUIDELINES BOARD BY THE RENT STABILIZATION LAW OF 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended, implemented by Resolution No. 276 of 1974 of the New York City Council and extended by Chapter 97 of the Laws of 2011, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Rent Guidelines Board hereby **proposes** the following levels of fair rent increases over lawful rents charged and paid on **September 30, 2012**.

APPLICABILITY

This order shall apply to units in buildings subject to the Hotel Section of the Rent Stabilization Law (Sections 26-504(c) and 26-506 of the N.Y.C. Administrative Code), as amended, or the Emergency Tenant Protection Act of 1974 (L.1974, c. 576 §4[§5(a)(7)]). With respect to any tenant who has no lease or rental agreement, the level of rent increase established herein shall be effective as of one year from the date of the tenant's commencing occupancy, or as of one year from the date of the last rent adjustment charged to the tenant, or as of **October 1, 2012**, whichever is later. This anniversary date will also serve as the effective date for all subsequent Rent Guidelines Board Hotel Orders, unless the Board shall specifically provide otherwise in the Order. Where a lease or rental agreement is in effect, this Order shall govern the rent increase applicable on or after **October 1, 2012** upon expiration of such lease or rental agreement, but in no event prior to one year from the commencement date of the expiring lease, unless the parties have contracted to be bound by the effective date of this Order.

PUBLIC HEARINGS

Pursuant to Section 1043 of the City Charter and the hearing requirements of the Rent Stabilization Law of 1969, as amended, (Section 26-510(h) N.Y.C. Administrative Code) hearings on the proposed guidelines set forth below shall be held on **Wednesday, June 13, 2012**, **starting at 4:30 P.M.** at the Repertory Theatre of Hostos Community College/ CUNY, 450 Grand Concourse, Bronx, NY 10451 and **Monday, June 18, 2012**, **starting at 10:00 A.M.** at The Great Hall at Cooper Union, 7 East 7th Street, at the corner of 3rd Avenue (basement), New York, NY 10003.

In relation to the public hearings, registration of speakers is required. Pre-registration of speakers is now being accepted and is advised. Those who wish to pre-register for the June 13 hearing in the Bronx may call (212) 385-2934 until 1:00 P.M. on **Tuesday, June 12, 2012**. Those who wish to pre-register for the June 18 hearing in Manhattan may call (212) 385-2934 until 1:00 P.M. on **Friday, June 15, 2012**. **An exact time for speaking** cannot be provided, but those pre-registering will be informed of their number on the list of pre-registered speakers when they call the above listed phone number. Written requests for pre-registration must be received at the office of the Board at 51 Chambers Street, Room 202, New York, NY, 10007, before 1:00 P.M. on Wednesday, June 12 for the June 13 hearing and before 1:00 P.M. on Friday, June 15 for the June 18 hearing. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at a hearing are requested to notify Ms. Charmaine Superville at the Rent Guidelines Board (212) 385-2934, 51 Chambers Street, Room 202, New York, NY 10007 by **Thursday, June 7, 2012** at 4:30 P.M.

Pre-registered speakers who have confirmed their presence on the day of the hearing will be heard in the order of pre-registration and before those who have not pre-registered. If a speaker's pre-registered position has been passed before he or she has confirmed his or her pre-registration, his or her position is forfeited and he or she must re-register. There will be no substitution of one speaker's position for another. Those who have not pre-registered or need to re-register can register **at the hearing location from 4:15 P.M. until 7:00 P.M. at the June 13 hearing and from 9:45 A.M. until 6:00 P.M. at the June 18 hearing,** and will be heard in the order of their registration. Public officials and a limited number of speakers chosen by owner and tenant groups may be given priority over other speakers. The public is invited to observe all Public Meetings and Public Hearings but is invited to speak at only the Public Hearings. Please note that testimony regarding the preliminary guidelines from tenants and owners of rent stabilized apartments, lofts, and hotels, as well as public officials, will be heard throughout the day starting at 4:30 PM on June 13 and 10:00 AM on June 18. There is no scheduled break for lunch or dinner.

SCHEDULE FOR WRITTEN SUBMISSION OF INFORMATION AND COMMENTS BY THE PUBLIC

Written comments on the proposed rent guidelines must be received by **Monday, June 18, 2012**. Such materials must be submitted to the office of the RGB at 51 Chambers Street, Suite 202, New York, N.Y. 10007, or in the alternative may be submitted directly to the RGB Staff at the Hearings on **June 13 and June 18, 2012**. Written submissions can also be sent via fax at 212-385-2554, by email to board@nycrgb.org or through NYC RULES at www.nyc.gov/nycrules.

INSPECTION AND ACCESS TO THE MATERIAL

Written material submitted to the RGB may be inspected by members of the public by appointment between the hours of 10:00 AM and 4:00 PM on weekdays at the RGB office. Copies of written materials submitted to the RGB may be ordered, in writing, at a cost of $.25 per page, plus postage, which shall be paid in cash. In addition, copies of the existing guidelines and the RGB's Explanatory Statements from prior years are also available for inspection and copies may be obtained in the manner provided above and on the RGB's website, nycrgb.org.

PROPOSED RENT GUIDELINES FOR HOTELS, ROOMING HOUSES, SINGLE ROOM OCCUPANCY BUILDINGS AND LODGING HOUSES

Pursuant to its mandate to promulgate rent adjustments for hotel units subject to the Rent Stabilization Law of 1969, as amended, (§26-510(e) of the N.Y.C Administrative Code) the Rent Guidelines Board hereby **proposes** the following rent adjustments:

The allowable level of rent adjustment over the lawful rent actually charged and paid on **September 30, 2012** shall be:

1) Residential Class A (apartment) hotels -	**1.0% - 3.5%**
2) Lodging houses -	**1.0% - 3.5%**
3) Rooming houses (Class B buildings containing less than 30 units) -	**1.0% - 3.5%**
4) Class B hotels -	**1.0% - 3.5%**
5) Single Room Occupancy buildings (MDL section 248 SRO's) -	**1.0% - 3.5%**

Except that the allowable level of rent adjustment over the lawful rent actually charged and paid on **September 30, 2012** shall be **0%** if permanent rent stabilized or rent controlled tenants paying no more than the legal regulated rent, at the time that any rent increase in this Order would otherwise be authorized, constitute fewer than **90%** of all units in a building that are used or occupied, or intended, arranged or designed to be used or occupied in whole or in part as the home, residence or sleeping place of one or more human beings.

NEW TENANCIES - PROPOSAL

No "vacancy allowance" is permitted under this order. Therefore, the rents charged for tenancies commencing on or after **October 1, 2012** and on or before **September 30, 2013** may not exceed the levels over rentals charged on **September 30, 2012** permitted under the applicable rent adjustment provided above.

ADDITIONAL CHARGES - PROPOSAL

It is expressly understood that the rents collectible under the terms of this Order are intended to compensate in full for all services provided without extra charge on the statutory date for the particular hotel dwelling unit or at the commencement of the tenancy if subsequent thereto. No additional charges may be made to a tenant for such services, however such charges may be called or identified.

STATEMENT OF BASIS AND PURPOSE

The Rent Guidelines Board is authorized to promulgate rent guidelines governing hotel units subject to the Rent Stabilization Law of 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended. The purpose of these guidelines is to implement the public policy set forth in Findings and Declaration of Emergency of the Rent Stabilization Law of 1969 (§26-501 of the N.Y.C. Administrative Code) and in the Legislative Finding contained in the Emergency Tenant Protection Act of 1974 (L.1974 c. 576, §4 [§2]).

Dated: May 1, 2012

Jonathan L. Kimmel
Chair
New York City Rent Guidelines Board

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087

CERTIFICATION PURSUANT TO CHARTER §1043(d)

RULE TITLE: 2012 Rent Guidelines
REFERENCE NUMBER: 2012 RG 39

RULEMAKING AGENCY: Rent Guidelines Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 7, 2012
Acting Corporation Counsel

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: 2012 Rent Guidelines

REFERENCE NUMBER: RGB-2

RULEMAKING AGENCY: New York City Rent Guidelines Board (RGB)

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Ruby B. Choi *5/7/2012*
Mayor's Office of Operations Date

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SPECIAL MATERIALS

CITYWIDE ADMINISTRATIVE SERVICES

MUNICIPAL SUPPLY SERVICES

■ NOTICE

OFFICIAL FUEL PRICE SCHEDULE NO. 6873
FUEL OIL AND KEROSENE

CONTRACT NO.	ITEM NO.	FUEL/OIL TYPE			VENDOR	CHANGE	PRICE EFF. 5/7/2012
3187250	5.0	#1DULS		CITY WIDE BY DELIVERY	GLOBAL MONTELLO GROUP	-.0289 GAL.	3.6195 GAL.
3187250	6.0	#1DULS		P/U	GLOBAL MONTELLO GROUP	-.0289 GAL.	3.4945 GAL.
3187251	11.0	#1DULS	>=80%	CITY WIDE BY DELIVERY	SPRAGUE ENERGY Corp.	-.0289 GAL.	3.7652 GAL.
3187251	12.0	#1DULS	B100 <=20%	CITY WIDE BY DELIVERY	SPRAGUE ENERGY Corp.	-.0289 GAL.	5.0310 GAL.
3187251	13.0	#1DULS		P/U	SPRAGUE ENERGY Corp.	-.0289 GAL.	3.6809 GAL.
3187251	14.0	#1DULS	B100 <=20%	P/U	SPRAGUE ENERGY Corp.	-.0289 GAL.	4.9466 GAL.
3087064	1.0	#1DULSB50		CITY WIDE BY TW	METRO FUEL OIL Corp.	-.0863 GAL.	4.2629 GAL.
3187221	1.0	#2		CITY WIDE BY DELIVERY	METRO FUEL OIL Corp.	-.0433 GAL.	3.2144 GAL.
3187221	4.0	#2	>=80%	CITY WIDE BY DELIVERY	METRO FUEL OIL Corp.	-.0433 GAL.	3.2796 GAL.
3187221	5.0	#2	B100 <=20%	CITY WIDE BY DELIVERY	METRO FUEL OIL Corp.	-.0433 GAL.	3.4041 GAL.
3187249	1.0	#2DULS		CITY WIDE BY DELIVERY	CASTLE OIL CORPORATION	-.0369 GAL.	3.3597 GAL.
3187249	2.0	#2DULS		P/U	CASTLE OIL CORPORATION	-.0369 GAL.	3.3182 GAL.
3187249	3.0	#2DULS		CITY WIDE BY DELIVERY	CASTLE OIL CORPORATION	-.0369 GAL.	3.3752 GAL.
3187249	4.0	#2DULS		P/U	CASTLE OIL CORPORATION	-.0369 GAL.	3.3382 GAL.
3187249	7.0	#2DULS	>=80%	CITY WIDE BY DELIVERY	CASTLE OIL CORPORATION	-.0369 GAL.	3.3675 GAL.
3187249	8.0	#2DULS	B100 <=20%	CITY WIDE BY DELIVERY	CASTLE OIL CORPORATION	-.0369 GAL.	3.5047 GAL.
3187249	9.0	#2DULS	>=80%	P/U	CASTLE OIL CORPORATION	-.0369 GAL.	3.3282 GAL.
3187249	10.0	#2DULS	B100 <=20%	P/U	CASTLE OIL CORPORATION	-.0369 GAL.	3.4617 GAL.
3187252	15.0	#2DULS		BARGE M.T.F. 111 & ST. GEORGE & WI	METRO FUEL OIL Corp.	-.0369 GAL.	3.3716 GAL.
3087065	2.0	#2DULSB50		CITY WIDE BY TW	SPRAGUE ENERGY Corp.	-.0903 GAL.	4.1018 GAL.
2887274	7.0	#2DULSDISP		DISPENSED	SPRAGUE ENERGY Corp.	-.0369 GAL.	3.6961 GAL.
3187222	2.0	#4		CITY WIDE BY TW	CASTLE OIL CORPORATION	-.0259 GAL.	3.0321 GAL.
3187222	3.0	#6		CITY WIDE BY TW	CASTLE OIL CORPORATION	-.0143 GAL.	2.9397 GAL.
3187263	1.0	JETA		FLOYD BENNETT	METRO FUEL OIL Corp.	-.0150 GAL.	3.8614 GAL.

OFFICIAL FUEL PRICE SCHEDULE NO. 6874
FUEL OIL, PRIME AND START

CONTRACT NO.	ITEM NO.	FUEL/OIL TYPE		VENDOR	CHANGE	PRICE EFF. 5/7/2012
3087154	1.0	#2	MANH	F & S PETROLEUM Corp.	-.0433 GAL.	3.2982 GAL.
3087154	79.0	#2	BRONX	F & S PETROLEUM Corp.	-.0433 GAL.	3.2982 GAL.
3087154	157.0	#2	BKLYN, QUEENS, SI	F & S PETROLEUM Corp.	-.0433 GAL.	3.3782 GAL.
3087225	1.0	#4	CITY WIDE BY TW	METRO FUEL OIL Corp.	-.0259 GAL.	3.4757 GAL.
3087225	2.0	#6	CITY WIDE BY TW	METRO FUEL OIL Corp.	-.0143 GAL.	3.3388 GAL.

OFFICIAL FUEL PRICE SCHEDULE NO. 6875
FUEL OIL AND REPAIRS

CONTRACT NO.	ITEM NO.	FUEL/OIL TYPE		VENDOR	CHANGE	PRICE EFF. 5/7/2012
3087115	1.0	#2	MANH & BRONX	PACIFIC ENERGY	-.0433 GAL.	3.1236 GAL.
3087115	80.0	#2	BKLYN, QUEENS, SI	PACIFIC ENERGY	-.0433 GAL.	3.1288 GAL.
3087218	1.0	#4	CITY WIDE BY TW	PACIFIC ENERGY	-.0259 GAL.	3.4170 GAL.
3087218	2.0	#6	CITY WIDE BY TW	PACIFIC ENERGY	-.0143 GAL.	3.3917 GAL.

OFFICIAL FUEL PRICE SCHEDULE NO. 6876
GASOLINE

CONTRACT NO.	ITEM NO.	FUEL/OIL TYPE		VENDOR	CHANGE	PRICE EFF. 5/7/2012
3187093	6.0	E85	CITY WIDE BY TW	SPRAGUE ENERGY Corp.	+.0013 GAL.	2.4417 GAL.
2887274	6.0	PREM	CITY WIDE BY VEHICLE	SPRAGUE ENERGY Corp.	-.1005 GAL.	3.6480 GAL.
3187093	2.0	PREM	CITY WIDE BY TW	SPRAGUE ENERGY Corp.	-.1005 GAL.	3.3085 GAL.
3187093	4.0	PREM	P/U	SPRAGUE ENERGY Corp.	-.1005 GAL.	3.2294 GAL.
2887274	1.0	U.L.	MANH P/U BY VEHICLE	SPRAGUE ENERGY Corp.	-.0610 GAL.	3.5218 GAL.
2887274	2.0	U.L.	BX P/U BY VEHICLE	SPRAGUE ENERGY Corp.	-.0610 GAL.	3.4218 GAL.
2887274	3.0	U.L.	BR P/U BY VEHICLE	SPRAGUE ENERGY Corp.	-.0610 GAL.	3.4218 GAL.
2887274	4.0	U.L.	QNS P/U BY VEHICLE	SPRAGUE ENERGY Corp.	-.0610 GAL.	3.4218 GAL.
2887274	5.0	U.L.	S.I. P/U BY VEHICLE	SPRAGUE ENERGY Corp.	-.0610 GAL.	3.4218 GAL.
3187093	1.0	U.L.	CITY WIDE BY TW	SPRAGUE ENERGY Corp.	-.0610 GAL.	3.1106 GAL.
3187093	3.0	U.L.	P/U	SPRAGUE ENERGY Corp.	-.0610 GAL.	3.0345 GAL.

Please Send Inspection Copy Of Receiving Report for all Gasoline (E85, UL & PREM) Delivered By Tank Wagon to DMSS/ Bureau Of Quality Assurance (BQA), 1 Centre St., 18 Floor, NY, NY 10007.

Please be informed that the $1.00 per gallon federal tax credit for blenders of biodiesel expired December 31, 2011. Beginning January 1, 2012, the price for biodiesel blended to create any biodiesel blend will be increased by $1.00 per gallon and itemized as a separate line item on your invoice.

Please be informed that the federal tax credit of $.45 per gallon on ethanol blended into gasoline expired on December 31, 2011. Beginning January 1, 2012, the price for ethanol will be increased by the amount of the lost tax credit and itemized as a separate line item on your invoice.

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CITY PLANNING COMMISSION

■ NOTICE

NEGATIVE DECLARATION

Project Identification
CEQR No. 12DCP156Y
ULURP Nos. 120294ZMK, N120295ZRK, & N120296ZRY
SEQRA Classification: Type I

Lead Agency
City Planning Commission
22 Reade Street
New York, NY 10007
Contact: Robert Dobruskin
(212) 720-3423

Name, Description and Location of Proposal:

Bedford Stuyvesant North Rezoning
The New York City Department of City Planning (DCP) is proposing zoning map and text amendments affecting all or portions of approximately 140 blocks and 5,911 lots, generally bounded by Lafayette Avenue and Quincy Street to the south, Classon and Franklin Avenues to the west, Broadway to the east, and Flushing Avenue to the north in the Bedford Stuyvesant neighborhood, of Brooklyn Community District 3.

The proposed action includes:

- A Zoning Map amendment to change all or portions of approximately 140 blocks currently zoned R5, R6, C4-3, and C8-2 districts to R6B, R6A, R7A, R7D, and C4-4L and to replace existing C1-2 and C1-3 overlay districts with C2-4 overlay districts, reduce overlay depth, and establish new C2-4 commercial overlay districts in order to reinforce established development patterns. This action would result in a modest increase in residential and commercial density along the area's main commercial corridors.
- A Zoning Text amendment to establish a new C4-4L regional commercial zoning district for medium-density residential and commercial development along major retail or transit corridors where elevated train tracks are present.
- A Zoning Text amendment to establish the Inclusionary Housing program in the proposed R7A, R7D and C4-4L districts within the rezoning area in Brooklyn Community District 3.
- A Zoning Text amendment to establish an Enhanced Commercial District in the rezoning area along Broadway between Flushing Avenue and Monroe Street.

Additionally, the project includes a Zoning Text amendment to require transparency on the ground floor in R7D districts mapped with a C2 commercial overlay, which would also apply to R9D districts mapped in conjunction with a C2 district, and in C4-5D districts. The text amendment would, additionally, modify regulations for R7D, R9D, C4-5D to allow elevators and stairs that provide access to residential portions of buildings in areas otherwise not allowed to contain residential uses. This proposal would affect currently mapped R7D zoning districts in Brooklyn Community Districts 3 and 13, and C4-5D zoning districts currently mapped in Bronx Community District 7.

It is the objective of the proposed actions to:

- Preserve the character of the moderate density residential core of the neighborhood while allowing for modest enlargements of existing homes through establishing contextual zoning districts with regulations reflective of established building patterns.
- Direct new residential and mixed-use development to major commercial corridors well-served by mass transit. The new R7A, R7D, and C4-4L districts, especially on Myrtle Avenue and Broadway, will support new mixed use, moderate density development along the rezoning area's major commercial corridors.
- Reinforce the commercial character of existing retail corridors and prevent commercial intrusions into side streets by tailoring commercial overlays to reflect existing development patterns and establishing regulations (new C4-4L district, enhanced commercial corridor, and transparency requirements) along major commercial corridors that seek to promote a vibrant pedestrian experience and continuous active use at street level.
- Create incentives and opportunities for creation of affordable housing on major corridors through the application of the Inclusionary Housing program in the rezoning areas R7A, R7D, and C4-4L districts.

The proposed actions seek to reinforce the character of the Bedford Stuyvesant neighborhood and ensure future development is consistent with the neighborhood's building patterns while creating growth opportunities and affordable housing development along the area's main commercial corridors and around nodes of mass transit.

In order to assess the impacts associated with the proposed action, a Reasonable Worst Case Development Scenario was established. 31 projected development sites were identified as most likely to be developed in the future with the proposed action. As a result of the proposed action, it is anticipated that new development on those sites would consist of a net increase of 790 dwelling units and 135,964 square feet of retail space, 28,182 square feet of office space and net decrease of 291,775 square feet of community facility space. Absent the proposed action, new development would occur as-of-right and consist of an increase in 1,198 dwelling units, 170,399 square feet of commercial retail space, 28,666 square feet office space and 380,826 square feet of community facility space. Additionally, 33 potential development sites were identified as less likely to be developed in the future with the proposed action. The affected area is currently zoned R5, R6, C4-3, and C8-2. The build year is 2022.
The proposed rezoning includes (E) designations on selected development sites in order to preclude future air quality, noise and hazardous materials impacts, which could occur as a result of the proposed action. The (E) designation number is E-285.

The proposed action includes two types of Air Quality (E) designations required. The first (E) designation requirements related to air quality would apply to the following development sites:

Projected Development Sites
Block 1912, Lot 3
Block 1900, Lots 67, 68, 69, 70
Block 1928, Lot 34
Block 1788, Lots 2,4, 5
Block 1954, Lot 22
Block 1754, Lots 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35
Block 1747, Lot 1
Block 1740, Lot 1
Block 1756, Lots 33, 37, 42
Block 1585, Lots 31, 32, 33
Block 1785, Lot 1, 3, 5
Block 1609, Lot 5
Block 1971, Lot 28
Block 1578, Lot 5
Block 1578, Lot 14
Block 1579, Lots 50, 51, 53
Block 1582, Lot 15
Block 1584, Lots 1 4
Block 1584, Lot 11
Block 1586, Lots 12, 14, 24, 27, 51, 52, 53, 56.
Block 1586, Lots 8, 10, 11
Block 1593, Lot 23
Block 1600, Lot 1 28
Block 1613, Lot 9
Block 1618, Lot 35
Block 1623, Lot 70 73
Block 1628, Lots 21, 22, 23
Block 1628, Lot 30
Block 1605, Lots 23, 24, 25, 26
Block 1791, Lots 17, 18, 19

Potential Development Sites
Block 1910, Lots 23, 24, 25
Block 1914, Lot 22
Block 1926, Lots 1, 77, 78, 79, 80
Block 1926, Lots 74, 75, 76
Block 1778, Lot 9

Block 1783, Lots 8 9
Block 1950, Lots 30, 31, 33
Block 1747, Lot 34
Block 1756, Lots 23, 24, 25
Block 1757, Lots 27, 33, 34, 35, 134
Block 1580, Lot 1
Block 1759, Lot 7
Block 1771, Lot 5, 7, 8
Block 1578, Lot 17
Block 1579, Lot 22, 25
Block 1586, Lot 31
Block 1586, Lot 6

Block 1586, Lot 3
Block 1618, Lot 40
Block 1600, Lot 13, 14, 15
Block 1608, Lot 27, 34
Block 1613, Lot 16, 17, 23
Block 1618, Lot 22
Block 1623, Lot 25
Block 1623, Lot 41, 42, 53
Block 1623, Lot 57
Block 1628, Lot 34, 38, 42
Block 1479, Lot 8, 11
Block 1480, Lot 16, 17
Block 1480, Lots 34, 36, 38, 40, 41, 42
Block 1791, Lots 42, 43, 44, 45, 47, 48, 51, 52, 53, 54

The text for the Air Quality E-designation for the above sites is as follows:

"Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts."

The following properties require both natural gas and setbacks in order to avoid the potential for significant adverse impacts related to Air Quality. The following block and lots encompass two (2) projected and two (2) potential development sites:

Projected Development Sites
Block 1747, Lots 7, 10, 19, 20, 21, 22, 23, 24, 51, 53a
Block 1747, Lots 53b, 62, 64, 67

Potential Development Sites
Block 1584, Lots 39, 50, 51
Block 1480, Lots 23, 55, 56

The text for the Air Quality E-designation for the above sites is as follows:

- Block 1747, Lots 7, 10, 19, 20, 21, 22, 23, 24, 51, and 53a (Projected Development Site G): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 13 feet from the lot line facing Myrtle Avenue and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

- Block 1747, Lots 53b, 62, 64, and 67 (Projected Development Site G): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 15 feet from the lot line facing Stockton Street and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

- Block 1584, Lot 39, 50, and 51 (Potential Development Site 16): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 12 feet from the lot line facing Myrtle Avenue and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

- Block 1480, Lot 23, 55, and 56 (Potential Development Site 31): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 12 feet from the lot line facing Gates Avenue and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

With the placement of the (E) designations on the above blocks and lots, no significant air quality impacts related to HVAC emissions would be expected as the result of the proposed action.

There are four levels of required noise attenuation. Depending on the ambient noise levels they would require 28, 31, 37/34, and 41/38 dBA of window/wall attenuation.

The following properties require 28 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise. The proposed action includes (E) designations on the following block and lots which encompass eleven (11) projected and ten (10) potential development sites:

Projected Development Sites
Block 1912, Lot 3
Block 1900, Lots 67, 68, 69, 70
Block 1928, Lot 34
Block 1788, Lots 2, 4, 5
Block 1954, Lot 22
Block 1754, Lots 24, 25, 26, 27, 28, 29, 30 ,31, 32, 33, 34, 35
Block 1747, Lots 7, 10, 19, 20, 21, 22, 23, 24, 51, 53A
Block 1747, Lots 53B, 62, 64, 67
Block 1747, Lot 1
Block 1740, Lot 1
Block 1756, Lots 33, 37
Block 1756, Lot 42
Block 1609, Lot 5
Block 1971, Lot 28

Potential Development Sites
Block 1910, Lots 23, 24, 25
Block 1914, Lot 22
Block 1926, Lots 1, 77, 78, 79, 80
Block 1926, Lots 74, 75, 76
Block 1778, Lot 9
Block 1783, Lots 8, 9
Block 1950, Lots 30, 31, 33
Block 1747, Lot 34
Block 1756, Lots 23, 24, 25
Block 1791, Lots 42, 43, 44, 45, 47, 48, 51, 52, 53, 54

The text for the E-designation for sites requiring 28 dBA is as follows:

"To ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to central air conditioning."

The following properties require 31 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise. The proposed action includes (E) designations on the following block and lots which encompass nine (9) projected and nine (9) potential development sites:

Projected Development Sites
Block 1585, Lots 31, 32, 33
Block 1579, Lots 50, 51, 53
Block 1584, Lots 1, 4
Block 1586, Lots 8, 10, 11
Block 1600, Lots 1, 28
Block 1618, Lot 35
Block 1623, Lots 70, 73
Block 1628, Lots 21, 22, 23
Block 1628, Lot 30

Potential Development Sites
Block 1757, Lots 27, 33, 34, 35, 134
Block 1580, Lot 1
Block 1584, Lots 39, 50, 51
Block 1586, Lot 6
Block 1586, Lot 3
Block 1618, Lot 40
Block 1623, Lot 25
Block 1623, Lot 57
Block 1480, Lots 16, 17

For sites requiring 31 dBA noise attenuation, the following E-designation noise text would apply:

"To ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning."

The following property requires 37/34 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise. The proposed action includes (E) designations on the following block and lot which encompass one (1) projected site and eight (8) potential development sites:

Projected Development Site
Block 1613, Lot 9

Potential Development Sites
Block 1608, Lots 27, 34
Block 1613, Lots 16, 17, 23
Block 1618, Lot 22
Block 1623, Lots 41, 42, 53
Block 1628, Lots 34, 38, 42
Block 1479, Lots 8, 11
Block 1480, Lots 23, 55, 56
Block 1480, Lots 34, 36, 38, 40, 41, 42

For sites requiring 37/34 dBA noise attenuation, the following E-designation noise text would apply:

"To ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 37 dBA window/wall attenuation on all façades below the elevated train and 34 dBA above the elevated train to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning."

The following property requires 41/38 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise. The proposed action includes (E) designations on the following block and lot which encompass six (6) projected sites and four (4) potential development sites:

Projected Development Sites
Block 1578, Lot 5
Block 1578, Lot 14
Block 1582, Lot 15
Block 1584, Lot 11
Block 1586, Lot 12
Block 1586, Lot 14
Block 1586, Lots 24, 27
Block 1586, Lots 51, 52, 53, 56
Block 1593, Lot 23

Potential Development Sites
Block 1578, Lot 17
Block 1579, Lots 22, 25
Block 1586, Lot 31
Block 1600, Lots 13, 14, 15

For sites requiring 41/38 dBA noise attenuation, the following E-designation noise text would apply:

"To ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 41 dBA window/wall attenuation on all façades below the elevated train and 38 dBA above the elevated train to maintain an interior noise level of 45 dBA. To achieve 41 dBA of building attenuation, special design features that go beyond the normal double-glazed windows are necessary and may include using specially designed windows (i.e., windows with small sizes, windows with air gaps, windows with thicker glazing, etc.), and additional building attenuation. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning."

With the attenuation measure specified above, the proposed action would not result in any significant adverse noise impacts, and would meet CEQR guidelines.

By placing (E) designations on sites where there is a known or suspected environmental concern the potential for an adverse impact to human health and the environment resulting from the proposed action may be avoided.

The (E) designation requirements related to hazardous materials would apply to 30 of the 31 projected development sites and each of the 33 potential development sites:

Projected Development Sites
Block 1912, Lot 3
Block 1900, Lots 67, 68, 69, 70
Block 1928, Lot 34
Block 1788, Lots 2, 4, 5
Block 1954, Lot 22
Block 1754, Lots 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35
Block 1747, Lots 7, 10, 19, 20, 21, 22, 23, 24, 51, 53A, 53B, 62, 64, 67, 1
Block 1740, Lot 1
Block 1756, Lots 33, 37, 42
Block 1585, Lots 31, 32, 33
Block 1759, Lots 2, 3, 4
Block 1785, Lots 1, 3, 5
Block 1971, Lot 28
Block 1578, Lot 5
Block 1578, Lot 14
Block 1579, Lots 50, 51, 53
Block 1582, Lot 15
Block 1584, Lots 1, 4
Block 1584, Lot 11
Block 1586, Lots 12, 14, 24, 27, 51, 52, 53, 56
Block 1586, Lots 8, 10, 11
Block 1593, Lot 23
Block 1600, Lots 1, 28
Block 1613, Lot 9
Block 1618, Lot 35
Block 1623, Lots 73, 70
Block 1628, Lots 21, 22, 23
Block 1628, Lot 30
Block 1605, Lots 23, 24, 25, 26
Block 1791, Lots 17, 18, 19
Potential Development Sites
Block 1910, Lots 23, 24, 25
Block 1914, Lot 22
Block 1926, Lots 1, 7, 77, 78, 79, 80
Block 1926, Lots 74, 75, 76
Block 1778, Lot 9
Block 1783, Lots 8, 9
Block 1950, Lots 30, 31, 33
Block 1747, Lot 34
Block 1756, Lots 23, 24, 25
Block 1757, Lots 27, 33, 34, 134, 35
Block 1580, Lot 1
Block 1759, Lot 7
Block 1771, Lots 5, 7, 8
Block 1578, Lot 17
Block 1579, Lots 22, 25
Block 1584, Lots 39, 50, 51
Block 1586, Lot 31
Block 1586, Lot 6
Block 1586, Lot 3
Block 1618, Lot 40
Block 1600, Lots 13, 14, 15
Block 1608, Lots 27, 34
Block 1613, Lots 16, 17, 23
Block 1618, Lot 22
Block 1623, Lot 25
Block 1623, Lots 41, 42, 53
Block 1623, Lot 57
Block 1628, Lots 34, 38, 42
Block 1479, Lots 8, 11
Block 1480, Lots 16, 17
Block 1480, Lots 23, 55, 56
Block 1480, Lots 34, 36, 38, 40, 41, 42

Block 1791, Lots 42, 43, 44, 45, 47, 48, 51, 52, 53, 54

The text for the (E) designations related to hazardous materials is as follows:

Task 1-Sampling Protocol

The applicant submits to OER, for review and approval, a Phase 1A of the site along with a soil and groundwater testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented.

If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

Task 2-Remediation Determination and Protocol

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

If remediation is indicated from the test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.

A OER-approved construction-related health and safety plan would be implemented during evacuation and construction and activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation.

All demolition or rehabilitation would be conducted in accordance with applicable requirements for disturbance, handling and disposal of suspect lead-paint and asbestos-containing materials. For all projected and potential development sites where no E-designation is recommended, in addition to the requirements for lead-based paint and asbestos, requirements (including those of NYSDEC) should petroleum tanks and/or spills be identified and for off-site disposal of soil/fill would need to be followed.

Statement of No Significant Effect:

The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission, has completed its technical review of the Environmental Assessment Statement, dated May 4, 2012, prepared in connection with the ULURP Application (Nos. 120294ZMK, N120295ZRK, & N120296ZRY). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

Supporting Statement:

The above determination is based on an environmental assessment which finds that:

1. The (E) designation for air quality, noise and hazardous materials would ensure that the proposed actions would not result in significant adverse impacts.

2. No other significant effects on the environment which would require an Environmental Impact Statement are foreseeable.

This Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

Should you have any questions pertaining to this Negative Declaration, you may contact Jonathan Keller at (212) 720-3419.

☛ **m11**

HOUSING PRESERVATION & DEVELOPMENT

■ **NOTICE**

REQUEST FOR COMMENT REGARDING AN APPLICATION FOR A CERTIFICATION OF NO HARASSMENT

Notice Date: May 7, 2012

To: Occupants, Former Occupants, and Other Interested Parties

Property: Address	Application #	Inquiry Period
166 Herkimer Street, Brooklyn	44/12	April 12, 2009 to Present
47 Douglass Street, Brooklyn	47/12	April 12, 2009 to Present
39 Herkimer Street, Brooklyn	48/12	April 17, 2009 to Present
785 Monroe Street, Brooklyn	50/12	April 20, 2009 to Present
104 West 129th street, Manhattan	45/12	April 9, 2009 to Present
132 West 81st Street, Manhattan	46/12	April 12, 2009 to Present
66 Edgecombe Avenue, Manhattan	49/12	April 19, 2009 to Present
150 West 127th Street, Manhattan	51/12	April 23, 2009 to Present
554 West 162nd Street, Manhattan	52/12	April 24, 2009 to Present
312 West 138th Street, Manhattan	54/12	April 25, 2009 to Present
85 Irving Place, Manhattan a/k/a 18 Gramercy Park South	55/12	April 26, 2009 to Present
169 Beach 120th Street, Queens	53/12	April 25, 2009 to Present

Authority: SRO, Administrative Code §27-2093

Before the Department of Buildings can issue a permit for the alteration or demolition of a single room occupancy multiple dwelling, the owner must obtain a "Certification of No Harassment" from the Department of Housing Preservation and Development ("HPD") stating that there has not been harassment of the building's lawful occupants during a specified time period. Harassment is conduct by an owner that is intended to cause, or does cause, residents to leave or otherwise surrender any of their legal occupancy rights. It can include, but is not limited to, failure to provide essential services (such as heat, water, gas, or electricity), illegally locking out building residents, starting frivolous lawsuits, and using threats or physical force.

The owner of the building identified above has applied for a Certification of No Harassment. If you have any comments or evidence of harassment at this building, please notify HPD at **CONH Unit, 100 Gold Street, 3rd Floor, New York, NY 10038** by letter postmarked not later than 30 days from the date of this notice or by an in-person statement made within the same period. To schedule an appointment for an in-person statement, please call **(212) 863-5277, (212) 863-8211 or (212) 863-8298.**

m7-14

Notice of Concept Paper

In advance of the release of a Request for Proposals for HPD's Neighborhood Preservation Consultant Program, the Department of Housing Preservation and Development (HPD) is issuing a Concept Paper representing the agency's approach to this field. The Neighborhood Preservation Consultant Program Concept Paper will be posted as of May 14, 2012 on HPD's website at www.nyc.gov/hpd—-**(Click on "Vendors"; and scroll down to "HPD's Neighborhood Preservation Consultant Program Concept Paper").** Public comments is encouraged and should be e-mailed to HPD at jb1@hpd.nyc.gov. The Concept Paper will be posted until June 29, 2012. Please go to the HPD website for additional information beginning May 14, 2012.

m7-11

OFFICE OF THE MAYOR

CRIMINAL JUSTICE COORDINATOR'S OFFICE

■ **NOTICE**

The U.S. Department of Justice, Bureau of Justice Assistance (BJA), recently announced that $4,130,203 is available for New York City under the Justice Assistance Grant (JAG) program. Funds may be used for several purpose areas, including: law enforcement programs, prosecution and court programs, prevention and education programs, corrections, drug treatment, planning, evaluation, and technology improvement programs.

The Mayor's Office of the Criminal Justice Coordinator, in consultation with the New York City Office of Management and Budget, is in the process of preparing a distribution plan for JAG funds. The City is required to submit an application for funding to BJA by May 14, 2012. Individuals or organizations who wish to provide comment about the distribution of JAG funds in New York City should send comments to:

Grant Coordinator
New York City Mayor's Office of the Criminal Justice Coordinator
One Centre Street, Room 1012 North, New York, NY 10007

All comments must be received by May 11, 2012.

m4-11

LATE NOTICES

AGENCY PUBLIC HEARINGS ON CONTRACT AWARDS

NOTE: Individuals requesting Sign Language Interpreters should contact the Mayor's Office of Contract Services, Public Hearings Unit, 253 Broadway, 9th Floor, New York, N.Y. 10007, (212) 788-7490, no later than SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING. TDD users should call Verizon relay services.

CITYWIDE ADMINISTRATIVE SERVICES

■ **PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN that a Contract Public Hearing will be held on Thursday, May 17, 2012, in Spector Hall, 22 Reade Street, Main Floor, Borough of Manhattan, commencing at 10:00 A.M. on the following:

IN THE MATTER of a proposed contract between the City of New York Department of Citywide Administrative Services and the following Contractor, for the provision of **Transcription of Digital Audio/Video Files.** The term of the contract shall be five (5) years from the date of written notice to commence work, with three (1) one-year renewal options.

CONTRACTOR & ADDRESS

Geneva Worldwide Inc., d/b/a Geneva Staffing Services
261 West 35th Street, Suite 800, New York, NY 10001

Contract Amount $507,500.00 **E-PIN** 85712P0001007

The proposed contractor has been selected by means of the Competitive Sealed Proposal Method, pursuant to Section 3-03 of the Procurement Policy Board Rules.

A draft copy of the proposed contract is available for public inspection at the Department of Citywide Administrative Services, Office of Contracts, 1 Centre Street, 18th Floor North, New York, NY, 10007, from May 11, 2012 to May 17, 2012, Monday to Friday, excluding Holidays, from 10:00 A.M. to 3:00 P.M. Contact Liana Patsuria at (212) 669-7937 or email: lpatsuria@dcas.nyc.gov.

IN THE MATTER of two (2) proposed contracts between the City of New York Department of Citywide Administrative Services and the following Contractors, for the provision of **Sign Language Services**. The term of the contracts shall be five (5) years from the date of written notice to commence work, with three (1) one-year renewal options.

CONTRACTOR & ADDRESS

Interpreters Unlimited Inc.,
111999 Sorrento Valley Road, Suite 203, San Diego, CA 92121

Contract Amount $2,450,000.00 **E-PIN** 85712P0001009

Accurate Communication Inc.,
951 Sansburys Way, Suite 206, West Palm Beach, FL 33411

Contract Amount $2,278,200.00 **E-PIN** 85712P0001010

The proposed contractors have been selected by means of the Competitive Sealed Proposal Method, pursuant to Section 3-03 of the Procurement Policy Board Rules.

Draft copies of the proposed contracts are available for public inspection at the Department of Citywide Administrative Services, Office of Contracts, 1 Centre Street, 18th Floor North, New York, NY, 10007, from May 11, 2012 to May 17, 2012, Monday to Friday, excluding Holidays, from 10:00 A.M. to 3:00 P.M. Contact Liana Patsuria at (212) 669-7937 or email: lpatsuria@dcas.nyc.gov.

IN THE MATTER of a proposed contract between the City of New York Department of Citywide Administrative Services and the following Contractor, for the provision of **CART Services (Computer Assisted Real-Time Translation).** The term of the contract shall be five (5) years from the date of written of notice to commence work, with three (1) one-year renewal options.

CONTRACTOR & ADDRESS

Accurate Communication Inc.,
951 Sansburys Way, Suite 206, West Palm Beach, FL 33411

Contract Amount $1,996,800.00 **E-PIN** 85712P0001008

The proposed contractor has been selected by means of the Competitive Sealed Proposal Method, pursuant to Section 3-03 of the Procurement Policy Board Rules.

A draft copy of the proposed contract is available for public inspection at the Department of Citywide Administrative Services, Office of Contracts, 1 Centre Street, 18th Floor North, New York, NY, 10007, from May 11, 2012 to May 17, 2012, Monday to Friday, excluding Holidays, from 10:00 A.M. to 3:00 P.M. Contact Liana Patsuria at (212) 669-7937 or email: lpatsuria@dcas.nyc.gov.

IN THE MATTER of two proposed contracts between the City of New York Department of Citywide Administrative Services and the following Contractors, for the provision of **Translation Services.** The term of the contracts shall be five (5) years from the date of written notice to commence work, with three (1) one-year renewal options.

CONTRACTOR & ADDRESS

Language Line Services, Inc.
1 Lower Ragsdale Drive, B2, Monterey, CA 93940

Contract Amount $10,475,000.00 **E-PIN** 85712P0001003

Geneva Worldwide Inc., d/b/a Geneva Staffing Services
261 West 35th Street, Suite 800, New York, NY 10001

Contract Amount $8,775,000.00 **E-PIN** 85712P0001004

The proposed contractors have been selected by means of the Competitive Sealed Proposal Method, pursuant to Section 3-03 of the Procurement Policy Board Rules.

Draft copies of the proposed contracts are available for public inspection at the Department of Citywide Administrative Services, Office of Contracts, 1 Centre Street, 18th Floor North, New York, NY, 10007, from May 11, 2012 to May 17, 2012, Monday to Friday, excluding Holidays, from 10:00 A.M. to 3:00 P.M. Contact Liana Patsuria at (212) 669-7937 or email: lpatsuria@dcas.nyc.gov.

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