

New York City Loft Board

NOTICE OF ADOPTION OF EMERGENCY RULE ALLOWING FOR ELECTRONIC SERVICE AND FILING OF DOCUMENTS AND TEMPORARILY SUSPENDING THE REQUIREMENT TO SCHEDULE NARRATIVE STATEMENT CONFERENCES WITHIN THIRTY DAYS OF RECEIPT OF THE NARRATIVE STATEMENT

The New York City Loft Board hereby gives notice, pursuant to the authority granted by Multiple Dwelling Law section 282 and section 1043(i) of the New York City Charter of the adoption of the following emergency rule, effective immediately, to allow for electronic service and filing of documents and temporarily suspending the requirement to schedule a narrative statement conference within thirty days of receipt of the narrative statement.

Statement of Basis and Purpose of Emergency Rule

In 1982, the New York State legislature passed Article 7-C of the Multiple Dwelling Law (MDL), also known as the Loft Law. The law created a new class of buildings in New York City. These buildings are known as interim multiple dwellings (IMD). The Loft Law also established the Loft Board to coordinate the legal conversion of these spaces to safe, rent-stabilized residential units. The Board is charged with overseeing the conversion of IMD buildings from commercial and manufacturing spaces to safe, rent-stabilized residences that comply with the minimum standards of safety and fire protection stated in Article 7-B of the New York State Multiple Dwelling Law. The Board adjudicates and mediates disputes between owners and tenants, tracks the progress of each building undergoing legalization and prosecutes parties who violate the Loft Law and the Loft Board's rules.

Some of the Loft Board's current rules, found in Title 29 of the Rules of the City of New York, require the filing of documents in person or by regular mail. Proof of service by regular mail consists of a certificate of mailing from the United States postal service. However, based on the current state of emergency due to the spread of the Covid-19 virus, which constitutes an imminent threat to health and safety, the Loft Board finds it is necessary to enact this emergency rule to allow for electronic service and filing of documents, including waiving requirements for original signatures. In addition, the Loft Board is temporarily suspending its requirement to schedule narrative statement conferences within thirty days of receipt of the narrative statement in order to minimize contact between people. This emergency rule will remain in effect for sixty days.

The Loft Board's authority for this emergency rule is found in Section 282 of the Multiple Dwelling Law and section 1043(i) of the City Charter.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Subdivision (b) of section 1-06 of Title 29 of the Rules of the City of New York is amended to read as follows:

(b) (1) *Service of the Application on the Affected Parties.* Before filing the application with the Loft Board, the applicant shall serve each affected party with a copy of the application and the instruction sheet for filing an answer by first-class mail. Except as set forth in subparagraph (b)(4) below, a United States Post Office-stamped copy of the certificate of mailing constitutes proof of service of the application to the affected parties. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the applicant may serve each affected party with a copy of the application and instruction sheet for filing an answer by email, if the affected party consents to such service and has provided the applicant with a current and valid email address. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address.

(2) *Filing Applications with the Loft Board.* The application and accompanying documents may be submitted to the Loft Board by (i) hand delivery, or (ii) regular mail. Applications will be considered filed on the day they are received by the Loft Board during business hours, as defined in subparagraph (e) below. The applicant's filing with the Loft Board must include:

- (i) 5 copies of the application, at least one of which must have an original signature;
- (ii) one copy of the instruction sheet sent to each affected party; and
- (iii) proof of service of the application to the affected parties (the United States Post Office-stamped copy of the certificate of mailing). Except as set forth in subparagraph (b)(4) below, if any of the documentation required by this section is not filed at the time the application is filed with the Loft Board, the application will be considered incomplete. The Loft Board may return the application and the application fee, if applicable, to the applicant without further notice.

However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the need for an original signature is waived and an applicant may file the application by emailing a copy to nycloftboard@buildings.nyc.gov.

(3) Service shall be deemed to be completed 5 calendar days after the date of mailing. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, service by email shall be deemed complete upon delivery of the email to the consenting affected party's email address.

§ 2. Subdivisions (d) and (e) of section 1-06 of Title 29 of the Rules of the City of New York are amended to read as follows:

(d) *Service of Answer on the Applicant.* Service of the answer must be delivered upon the applicant by (1) first-class mail, at the address of the applicant specified in the application, or (2) by facsimile transmission to the applicant at a fax number designated by the applicant or the applicant's attorney. If service of the answer upon the applicant is accomplished by facsimile transmission, service of the answer will be considered complete on the day of the facsimile transmission, provided that the affected party mails, by regular mail, a second copy of the answer to the applicant, or his or her attorney, within 3 calendar days of date of the facsimile transmission. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be served on the applicant by email, if the applicant has consented to such service and has provided a current and valid email address. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the applicant's email address

(e) *Filing the Answer with the Loft Board.* Five copies, including the original answer and any accompanying documents, and proof of service of the answer on the applicant, may be submitted to the Loft Board at any time up to and including the date that the answer is due either by (1) hand delivery, (2) mail, or (3) facsimile transmission at the fax number designated for the Loft Board. Proof of service of the answer on the applicant constitutes an affidavit of service on the Loft Board's approved form, if served by hand delivery or first-class mail, and a facsimile receipt, if served by fax. Hand delivered answers and the accompanying documents will be considered filed on the day they are delivered to the Loft Board only if they are delivered during business hours. For purposes of this rule, "business hours" shall be defined as 9:00am to 4:00pm on Monday through Friday, except for federal, state or city holidays. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be filed by emailing one copy of the answer to nycloftboard@buildings.nyc.gov.

§ 3. Subdivisions (b) and (c) of section 1-07 of Title 29 of the Rules of the City of New York are amended to read as follows:

(b) *Service and Filing of the Reconsideration Application.*

(1) Service and filing requirements set forth in 29 RCNY § [1-06](#)(b) apply to reconsideration applications filed pursuant to this section. These requirements include but are not limited to the following:

(i) An aggrieved party must file with the Loft Board: (A) 5 copies of his or her reconsideration application, at least one of which must have an original signature, (B) one copy of the instruction sheet sent to each affected party to the prior proceeding, and (C) proof of service of the reconsideration application to the affected parties in the prior proceeding. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the need for an original signature is waived and an applicant may file the application, instruction sheet and proof of service by emailing a copy to nycloftboard@buildings.nyc.gov.

(ii) Payment of the application fee required by 29 RCNY § [2-11](#)(b)(15) must be made upon submission of the reconsideration application to the Loft Board; and

(iii) Service of the application must be made in accordance with the provisions of 29 RCNY § [1-06](#)(b)(1).

(2) To be considered timely, a complete reconsideration application must be received by the Loft Board within 30 calendar days after the mailing date of the determination sought to be reconsidered. The application must specify the questions presented for reconsideration and the facts and points of law relied upon as a basis for seeking reconsideration, and must include a copy of the determination sought to be reconsidered.

(c) (1) *Service and Filing Requirement for Answers.*

(i) Unless otherwise stated here, the service and filing requirements set forth in 29 RCNY § [1-06](#)(c) - (f) apply to answers to reconsideration applications filed pursuant to this section. In accordance with 29 RCNY § [1-06](#)(e), any affected party submitting an answer to the reconsideration application must file 5 copies of the original answer and any accompanying documents, and proof of service of the answer on the applicant for reconsideration, with the Loft Board. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be filed by emailing one copy of the answer to nycloftboard@buildings.nyc.gov.

(ii) The answer period is 20 calendar days after service of the reconsideration application on the affected party is deemed complete pursuant to 29 RCNY § [1-06\(b\)\(3\)](#). The answer must contain the facts and arguments relevant to the issues raised in the reconsideration application.

§ 4. Subdivisions (b) and (c) of section 1-07.1 of Title 29 of the Rules of the City of New York are amended to read as follows:

(b) Filing Requirement.

(1) A person aggrieved by a determination as set forth in paragraph (a) of this subdivision must file with the Loft Board 5 copies of an appeal application, along with proof of service of the appeal application upon the affected parties to the prior proceeding and, except where the Loft Board staff is the appellant, the application fee required by 29 RCNY § [2-11\(b\)\(14\)](#). Service of the application must be made in accordance with the provisions of 29 RCNY § [1-06\(b\)](#). However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, an applicant may file the application, instruction sheet and proof of service by emailing a copy to nycloftboard@buildings.nyc.gov.

To be considered timely, an appeal application must be received by the Loft Board within 45 calendar days of the date of mailing of the determination sought to be appealed. The application must specify the questions presented for appeal and the facts and points of law relied upon as a basis for seeking appeal.

(2) *Who is an Affected Party in an Appeal?* For the purposes of this section, an "affected party" in an appeal from a staff determination means the owner or any residential tenant of the building in question whose rights may be affected by the determination. For the purposes of this section, an "affected party" in an appeal from a determination of a hearing officer with respect to housing maintenance standard violations under 29 RCNY § [2-04](#) means the owner of the building in question or the Loft Board staff, in his or her capacity as prosecutor of housing maintenance standard violations.

(c) Answer Period in an Appeal and Notice of the Final Order. Within 20 calendar days of service of the appeal application, any party supporting or opposing the application must file 5 copies of an answer with the Loft Board, with proof of service, in accordance with the provisions of 29 RCNY § [1-06\(e\)](#), upon the applicant. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be filed by emailing one copy of the answer to nycloftboard@buildings.nyc.gov. The answer must contain the facts and argument on which such party is relying. Pursuant to § 1046(f) of the New York City Charter (City Administrative Procedure Act), upon determination of the appeal application, the final orders of the Loft Board will be mailed to all parties who filed an application or answer in the appeal proceeding. The proposed order will be mailed prior to the issuance of the final order.

§ 5. Paragraph (4) of subdivision (b) of section 2-01 of Title 29 of the Rules of the City of New York is amended to read as follows:

(4) Form of application, filing requirements and occupant responses.

(i) An extension application filed pursuant to this subdivision (b) of 29 RCNY § [2-01](#) must be filed on the approved form and must meet the requirements of this subdivision, and 29 RCNY §§ [1-06](#) and [2-11](#) except as provided in this paragraph. However, during the period of the Covid-19 state of emergency

in the City of New York as declared by a Federal, State or City official, an applicant may file the application, instruction sheet and proof of service by emailing one copy to nycloftboard@buildings.nyc.gov. An application for an extension must include a list of all residential IMD units in the building and must specify a date to which the applicant seeks to have the deadline extended. Failure to so specify in the application shall be grounds for dismissal of the application without prejudice.

(ii) The original extension application and 2 copies must be filed with the Loft Board. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be filed by emailing one copy of the answer to nycloftboard@buildings.nyc.gov. Prior to filing an extension application with the Loft Board, an owner shall serve a copy of the extension application upon the occupant of each IMD unit in the building in the manner described in 29 RCNY § 1-06(b). Any occupant of an IMD unit may file an answer to such application with the Loft Board within 20 calendar days from the date service of the application is deemed complete, as determined below in subparagraph (iv).

(iii) The occupant(s) of an IMD unit must serve a copy of the answer upon the owner prior to filing the answer with the Loft Board. Each answer filed with the Loft Board must include, at the time of filing, proof of service in the manner described in 29 RCNY § 1-06(d) and (e).

(iv) Service of the application by mail is deemed completed five calendar days following mailing. Service of the application by email is deemed completed upon delivery of the email to the consenting affected party's email address. While an application filed under this subdivision is pending, an owner may amend the application one time to request a longer extension period than was originally sought in the application.

§ 6. Paragraphs (1) and (2) of subdivision (d) of section 2-01 of Title 29 of the Rules of the City of New York are amended to read as follows:

(d) Procedure for occupant review of narrative statement and legalization plan, resolution of occupant objections, and certification of estimated future rent adjustments.

(1) Notice: form and time requirements.

(i) All notices, requests, responses and stipulations served by owners and occupants directly upon each other shall be in writing, with a copy delivered or mailed to the Loft Board, accompanied by proof of service, within five calendar days of delivery, if service was made personally, or within five calendar days of mailing if service was performed by mail. Service of a notice, request, response or stipulation by the parties shall be effected either:

(A) By personal delivery or

(B) By certified or registered mail, return receipt requested, with an additional copy sent by regular mail.

However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, service may be completed by emailing documents to the owner or occupant, if the owner or occupant has consented to such service and has provided a current and valid email address.

Proof of service must be in the form of: a) a verified statement by the person who effected service, setting forth the time, place and other details of service, if service was made personally, or b) by copies of the return receipt or the certified or registered mail receipt stamped by the United States Post Office, and verified statement of mailing, if service was performed by mail. Proof of service by email

consists of a copy of a delivery receipt from an email server indicating the email was delivered to the consenting affected party's email address. Communications by the Loft Board pursuant to these rules will be sent by regular mail. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the Loft Board may communicate with owners and occupants by email if the owners or occupants have provided current and valid email addresses.

Service is deemed effective on the date of personal delivery or five calendar days following service by mail. Service by email is deemed effective upon delivery of the email to the owner or occupant's email address. Deadlines provided herein are to be calculated from the effective date of service.

(ii) Modifications on consent, change of address. Applications, notices, requests, responses and stipulations may be withdrawn and disputes may be resolved, by written agreement of the parties, subject to Loft Board approval. Parties may change their addresses upon service of written notice to the other parties and the Loft Board, and such notice is effective upon personal delivery or five calendar days following service by mail. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, notice may be served by email if the owner or occupant has provided a current and valid email address. Service by email is deemed effective upon delivery of the email to the owner or occupant's email address.

(2) *Procedure for occupant review of the narrative statement and legalization plan and resolutions of occupant objections.*

(i) Buildings not covered under MDL § 281(5). This paragraph (2) shall apply to IMD's for which a building permit for achieving compliance with the fire and safety standards of Article 7-B, alternative building codes or provisions of the M.D.L. has not been issued as of October 23, 1985, the date of adoption of these regulations. In the case of a building permit that has been issued as of October 23, 1985 and that remains in effect or is renewed, an owner who thereafter requests reinstatement of the underlying alteration application shall be required to comply with all provisions of this paragraph (2) with respect to all work yet to be performed as of the date that reinstatement is requested.

This paragraph (2) shall apply where an owner is required to amend an alteration application to reflect grandfathering approval of additional units pursuant to 29 RCNY §§ [2-01\(a\)\(1\)\(ii\)\(B\)](#), [\(iii\)\(B\)](#), [\(v\)\(B\)](#), or [\(vi\)\(B\)](#), or where an owner is required to amend an alteration application to reflect the coverage of additional units under M.D.L. § 281(4); however, if the proposed work is to be performed solely within the additional unit(s), this paragraph (2) shall only apply to the occupant(s) of such unit(s).

This paragraph (2) shall not apply to IMD's for which a building permit for achieving compliance with Article 7-B, alternative building codes or provisions of the M.D.L. has already been issued and is in effect as of the date of adoption of these regulations, and which remains in effect or is renewed without reinstatement of the underlying alteration application until such compliance is achieved. However, an occupant of such an IMD may file an application with the Loft Board based on the grounds that the scope of the work approved under the alteration application for which the permit was issued constitutes an unreasonable interference with the occupant's use of its unit in accordance with the provisions of 29 RCNY § [2-01\(h\)](#).

This paragraph (2) also shall not apply to those units in IMD's for which a temporary or final certificate of occupancy as a class A multiple dwelling has been issued and is in effect as of the date of adoption of these regulations.

(ii) For buildings covered under MDL § 281(5) as a result of the 2010 amendments to the Loft Law. The requirements of 29 RCNY § [2-01\(d\)\(2\)](#) ("paragraph (2)") apply to an IMD covered by MDL § 281(5) that became subject to Article 7-C pursuant Chapter 135 or 147 of the Laws of 2010 as follows:

(A) Paragraph (2) does not apply to those units for which a building permit for achieving compliance with the fire and safety standards of Article 7-B, alternative building codes, or provisions of the MDL that provide alternative means of meeting the fire and safety standards of Article 7-B has been issued on or before June 21, 2010, and which remains in effect or is renewed without reinstatement or

amendment of the underlying alteration application and legalization plan until the final certificate of occupancy is obtained.

(B) If a building permit has been issued prior to June 21, 2010 and the owner thereafter files for reinstatement of the underlying alteration application and legalization plan related to any part of the building or files for an amendment to the underlying alteration application and legalization plan, the owner will be required to comply with all provisions of paragraph (2) with respect to all work in the alteration application and legalization plan yet to be performed as of the date of the reinstatement or with respect to the proposed work in the amendment.

(C) If, prior to June 21, 2010, the building was already registered as an IMD because other units in the building are covered by Article 7-C pursuant to MDL §§ 281(1) or (4); the building had an alteration permit in effect on June 21, 2010; and the proposed work is solely within the additional unit(s) covered under MDL § 281(5) ("additional unit(s)"), paragraph (2) only applies to the occupant(s) of the additional unit(s).

(D) Paragraph (2) does not apply to those units for which a temporary certificate of occupancy is in effect as of June 21, 2010 and which remains in effect or is renewed without reinstatement or amendment of the underlying alteration application and legalization plan until the final certificate of occupancy is obtained.

(iii) *For buildings covered under MDL § 281(5) as a result of the 2013 amendments to the Loft Law.* The requirements of 29 RCNY § [2-01\(d\)\(2\)](#) ("paragraph (2)") apply to an IMD covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapter 4 of the Laws of 2013 as follows:

(A) Paragraph (2) does not apply to those units for which a building permit for achieving compliance with the fire and safety standards of Article 7-B, alternative building codes, or provisions of the MDL that provide alternative means of meeting the fire and safety standards of Article 7-B, has been issued on or before June 1, 2012, and which remains in effect or is renewed without reinstatement or amendment of the underlying alteration application and legalization plan until the final certificate of occupancy is obtained.

(B) If a building permit has been issued prior to June 1, 2012 and the owner thereafter files for reinstatement of the underlying alteration application and legalization plan related to any part of the building or files for an amendment to the underlying alteration application and legalization plan, the owner will be required to comply with all provisions of this paragraph (2) with respect to all work in the alteration application and legalization plan yet to be performed as of the date of the reinstatement or with respect to the proposed work in the amendment.

(C) If, prior to June 1, 2012, the building was already registered as an IMD because other units in the building are covered by Article 7-C pursuant to MDL §§ 281(1), 281(4) or 281(5); the building had an alteration permit in effect on June 1, 2012; and the proposed work is solely within the additional unit(s) covered under MDL § 281(5) as a result of Chapter 4 of the Laws of 2013 ("additional unit(s)"), this paragraph (2) only applies to the occupant(s) of the additional unit(s).

(D) Paragraph (2) does not apply to those units for which a temporary certificate of occupancy is in effect as of June 1, 2012 and which remains in effect or is renewed without reinstatement or amendment of the underlying alteration application and legalization plan until the final certificate of occupancy is obtained.

(iv) An occupant of an IMD covered by Article 7-C pursuant to MDL § 281(5), who did not participate in the narrative statement process because 29 RCNY § [2-01\(d\)\(2\)](#) did not apply to the unit as described in 29 RCNY § [2-01\(d\)\(2\)\(ii\)\(A\)](#) or [\(d\)\(2\)\(iii\)\(A\)](#), may file an application with the Loft Board based on the grounds that the scope of the work approved in the underlying alteration application for which the permit was issued constitutes an unreasonable interference with the occupant's use of its unit in accordance with the provisions of 29 RCNY § [2-01\(h\)](#).

(v) *Narrative Statement*. Except as otherwise provided in this paragraph (2), within 15 calendar days of the filing of its alteration application with DOB, the owner of an IMD must provide all occupants with a narrative statement, upon the approved Loft Board form, describing separately for each unit, both residential and nonresidential, all the work to be performed in such unit and all of the work to be performed in common areas. The owner of an IMD covered by Article 7-C pursuant to MDL § 281(5) must provide occupants with the narrative statement within 15 calendar days of filing the alteration application with DOB or within 30 calendar days after the effective date of this amended rule, whichever is later.

The description of work to be performed must include a listing of all noncompliant conditions, citation to the specific provisions of law or regulation that require their correction, and the work to be performed to correct them; an estimated time schedule for performance of the work; and a certification that the narrative statement is a complete and accurate statement reflecting all of the work proposed in the filed alteration application and the corresponding legalization plan, as defined in subdivision (a) of this section.

In accordance with the procedures set forth in 29 RCNY § [2-01\(d\)\(1\)](#), following service of the narrative statement, the owner must file with the Loft Board the original narrative statement with proof of service, as required by 29 RCNY § [2-01\(d\)\(1\)\(i\)](#), two copies of its filed alteration application along with the DOB's acknowledgment of filing, and two copies of the legalization plan submitted to DOB. The plan filed with the Loft Board must be no larger than 14 inches by 17 inches. However, during an emergency in the City of New York as declared by a Federal, State or City official, the owner may file a copy of the narrative statement and proof of service, the alteration application and one copy of the legalization plan submitted to DOB by emailing the documents to nycloftboard@buildings.nyc.gov.

Occupants may examine the alteration application and legalization plan by appointment at the Loft Board. An occupant may request from the owner a reproducible copy of the alteration application and legalization plan, construction specifications, if any, and the tenant protection plan described in subparagraph (vi) below, and the owner must supply such copy within 7 calendar days of service of the request. The cost of the copies of the alteration application and legalization plan are payable by the occupants up to the amount listed in 1 RCNY § [101-03](#).

(vi) The owner must certify to the DOB on the approved Loft Board form that it has complied with the provisions of subparagraph (v); that it will comply with all other requirements of this paragraph (2) and with the requirement for a tenant protection plan pursuant to New York City Administrative Code § 28-104.8.4; and that prior to obtaining the building permit, the owner will submit to the DOB a letter from the Loft Board, certifying compliance with all requirements of 29 RCNY § [2-01\(d\)\(2\)](#). The owner's certification must be filed with the DOB within 5 calendar days after the owner's filing with the Loft Board pursuant to the procedures described in the preceding subparagraph (v).

(vii) *Narrative Statement Conference*. Within 30 calendar days after the owner has filed a complete narrative statement, as required by 29 RCNY § [2-01\(d\)\(2\)\(v\)](#), the Loft Board will notify the owner and all occupants that a conference has been scheduled. The notice from the Loft Board will be sent by regular mail. However, during an emergency in the City of New York as declared by a Federal, State or City official, the Loft Board may wait until the end of the emergency to schedule the conference and the Loft Board may email conference notices to the owners and occupants if the owners and occupants have provided current and valid email addresses. This conference is for informational and conciliatory purposes. The Loft Board representative assigned to conduct the conference may review the provisions of these code compliance rules, including 29 RCNY § [2-01\(f\)](#), dealing with occupant participation and may address the participants' questions.

The owner or its representative will present its alteration application, narrative statement, legalization plan and the estimated time schedule for performance of the work. The occupants may raise any questions, comments or suggestions regarding the alteration application, narrative statement and

legalization plan and the estimated schedule. The Loft Board representative will encourage the owner and occupants to discuss fully the alteration application, narrative statement, legalization plan, and the schedule, and to reach an agreement as to the performance of code compliance work.

The Loft Board representative may authorize an additional period of time, not to exceed 21 calendar days, for the parties to negotiate an agreement. If the parties are unable to come to an agreement within the authorized time period, the remaining provisions of this paragraph (2) shall apply. Any agreement reached by the parties, including any agreement reached after the above-mentioned 21 calendar day period, must be in writing, signed by the parties, and filed with the Loft Board as provided in 29 RCNY § [2-01\(f\)](#).

With the exception of material contained in any written agreement(s) among the parties, the conference will not be electronically recorded, and the specifics or nature of communications made at the conference or in the course of negotiations during the authorized time period are not admissible as evidence in any Loft Board proceedings.

Information or responses to questions provided by the Loft Board representative will be advisory only and should not be relied upon as a substitute for professional advice of lawyers, architects or engineers retained by the participants.

The conference may be scheduled in the evening. Upon the request of the owner and the occupant(s), the Loft Board may schedule a conference for any IMD unit for which 29 RCNY § [2-01\(d\)\(2\)](#) does not apply.

(viii) (A) Within 45 calendar days after due notice issued by the Loft Board or, if authorized, the additional period of time described in 29 RCNY § [2-01\(d\)\(2\)\(vii\)](#), any occupant:

(a) May file with the DOB an alternate plan application, including a legalization plan, for work affecting the occupant's use of its unit if the proposed work in the owner's alteration application and legalization plan unreasonably interferes with the occupant's use of the unit and the occupant's alternate plan requires a review by DOB;

(b) May file with the DOB an alternate plan application in support of a claim that the owner's alteration application and legalization plan will diminish services to which the occupant is legally entitled; and

(c) If authorized by the Loft Board staff, may file comments with the Loft Board opposing the owner's alteration application and legalization plan on the ground that such plans unreasonably interfere with the occupant's use of the unit or diminish services to which an occupant is legally entitled, provided that the occupant's claim does not require DOB review in order for the Loft Board to resolve the dispute.

(B) If the occupant's alternate plan proposed pursuant to this subparagraph (viii) is required to be filed with the DOB because it requires DOB review, it shall be filed by a registered architect or professional engineer retained by the occupant, who will be responsible for any required fees. If the alternate plan application includes an alteration application describing plumbing work, the alteration application must be filed with the DOB by a licensed plumber retained by the occupant, who is responsible for any required fees. Two or more occupants may file a joint alternate plan application describing their alternate plan.

The failure of an occupant to file an alternate plan application with the DOB and the Loft Board or comments with the Loft Board within the prescribed time period will constitute a waiver of an occupant's right to challenge the owner's submitted legalization plan on the ground that it would unreasonably interfere with the occupant's use of the unit or constitute a diminution of services; however, late filing of an alternate plan application is permitted if, upon application, the Loft Board or its staff by order or administrative determination finds that good cause existed for the occupant's failure to file in a timely manner and if a building permit has not yet been issued.

Within 5 calendar days after filing an alternate plan application with the DOB, the occupant shall provide the owner and all other occupants with a dated narrative statement describing the occupant's objections to, comments on, or criticisms of the owner's plan and any projected increase in code compliance costs resulting from the occupant's alternate plan. In accordance with the procedures provided in 29 RCNY § [2-01\(d\)\(1\)](#), the occupant must file with the Loft Board: the original copy of the occupant's narrative statement with proof of service on the owner and all other occupants, two copies of the filed alternate plan application, including the DOB's acknowledgment of filing, and two copies of the occupant's alternate plan application and legalization plan. However, during an emergency in the City of New York as declared by a Federal, State or City official, the occupant may file a copy of the narrative statement and proof of service, the alteration application and one copy of the legalization plan submitted to DOB by emailing the documents to nycloftboard@buildings.nyc.gov.

The owner and other occupants may review the alternate plan application, including the legalization plan, by appointment at the Loft Board's office. An owner or another occupant may request from the filing occupant a reproducible copy of the alternate plan application and legalization plan and shall be supplied with such copy within 7 calendar days after service of the request. The cost to the requesting party is the fee listed in 1 RCNY § [101-03](#).

(ix) If the DOB issues objections to an alternate plan application submitted by any occupant of the building, the occupant, through his or her architect or engineer, must take all necessary and reasonable actions to cure such objections within 45 calendar days of notice of objections from the DOB.

The owner, through its architect or engineer, must take all necessary and reasonable actions to cure the DOB objections within 60 calendar days of notice of objections from the DOB for its alteration application and legalization plan. The failure to take all necessary and reasonable actions to cure the objections within the prescribed time period may subject the owner to fines in accordance with 29 RCNY §§ [2-01.1](#) and [2-11.1](#) to be imposed by the Loft Board or the Environmental Control Board, if designated by the Loft Board, for failure to comply with these rules.

If the occupant's opposition to the owner's plan does not require DOB review, the occupant must serve the owner and the other occupants with the comments describing how the owner's plan will unreasonably interfere with the occupant's use of the unit or how it will result in a diminution of services to which the occupant is entitled. The occupant's comments must be filed with the Loft Board within 45 days of the Loft Board's notice, unless extended pursuant to 29 RCNY § [2-01\(d\)\(2\)\(vii\)](#). Proof of service to the owner and the other occupants must be attached to the filing of the comments with the Loft Board.

(x) *Amendments to Legalization Plan Prior to Loft Board's Certification.* If the owner amends the legalization plan initially submitted to the Loft Board, the owner must file two copies of any amended plans with the Loft Board, along with a detailed amendment to the narrative statement listing the changes. Proof of service of the narrative statement on all of the occupants of the building and copies of the plans must be filed with the Loft Board in accordance with the procedures described in subparagraph (v) above. However, during an emergency in the City of New York as declared by a Federal, State or City official, the owner may file a copy of the amended narrative statement and proof of service, the amended alteration application and one copy of the amended legalization plan submitted to DOB by emailing the documents to nycloftboard@buildings.nyc.gov.

Within 40 calendar days of the Loft Board's notice of the revised plan, any occupant who has not previously done so, may file with the DOB an alternate plan application for work affecting the occupant's use of the unit, if DOB review is required or may file comments opposing the owner's revised plan with the Loft Board. The occupant must comply with all the requirements of subparagraph (viii) above. The

occupant may object to only those items that represent a change from the owner's submissions previously received. The procedures for DOB review provided in subparagraph (ix) above shall apply.

(xi) *Loft Board's Certification of the Legalization Plan.*

(A) (a) When the DOB has no further objections to the owner's alteration application and legalization plan, and if no alternate plan application has been filed by any occupant of the building within the time period provided for filing in this rule, the Loft Board shall issue a letter certifying compliance with all requirements of 29 RCNY § [2-01](#)(d)(2). To receive Loft Board certification, the owner must verify to the Loft Board that no revisions have been made to the legalization plan since the narrative statement conference or if the legalization plan has been revised, the owner must summarize any revisions which may have been made and include the date of the revised legalization plan.

(b) If an occupant's alternate plan application has been filed and the 45 calendar day period provided in subparagraph (ix) above for addressing objections to the occupant's alternate plan application has expired without all necessary and reasonable actions having been taken by the occupant to cure the objections, the Loft Board shall issue a letter certifying the owner's compliance with all requirements of 29 RCNY § [2-01](#)(d)(2).

(B) (a) Where the occupant has submitted an alternate plan application and is unable to agree with the owner upon the work to be performed, and the DOB has no objections to such alternate plan, or if the occupant has cured such objections, the occupant must advise the Loft Board and refer the alternate plan application to the Loft Board for review and resolution of the dispute.

Such referral to the Loft Board will occur no sooner than 30 calendar days after notification of the removal of the last objection or of the lack of objection.

In addition, the Loft Board staff may authorize such referral before all objections have been removed if the remaining objections do not need to be resolved in order for the Loft Board to resolve the dispute. If the owner and the occupant come to an agreement, they must immediately inform the DOB and the Loft Board of the agreement in writing and must provide the Loft Board with a copy of the agreement. In such case, the owner must amend the legalization plan for the IMD building to include the changes agreed upon by the parties, if any.

(b) *Loft Board-Initiated Alternate Plan Dispute.* If an occupant's alternate plan application is referred to the Loft Board, pursuant to 29 RCNY § [2-01](#)(d)(2)(xi)(B)(a) above, the Loft Board shall review the plans and on its own initiative may commence a proceeding to determine whether the owner's alteration application and legalization plan would result in an unreasonable interference of the occupant's use of the unit or a diminution of service. The proceeding will be governed by the Loft Board's rules.

The owner and the occupants of the building will have an opportunity to submit an answer. In the case of an occupant challenging the owner's legalization plan, the answer must include an explanation of how the owner's proposed legalization plan would result in an unreasonable interference with the occupant's use of the unit or a diminution of service.

If the Loft Board, after a fact-finding hearing, or the Executive Director, if a fact-finding hearing is not required, finds that the owner's legalization plan would result in an unreasonable interference, it shall order the owner to amend its alteration application, legalization plan and corresponding narrative statement within 60 calendar days or may certify the alternate plan submitted by the occupant for the space involved.

A failure or refusal to comply with such an order may constitute a violation of the owner's obligation to take all reasonable and necessary action to obtain an alteration permit under § 284 of Article 7-C and these rules, and the owner may be subject to civil penalties in accordance with 29 RCNY § [2-11.1](#). The Loft Board may also initiate an action to compel specific performance, and seek all applicable penalties authorized by the Loft Board rules or Article 7-C.

If the owner has cleared all DOB objections and if the Loft Board or its Executive Director finds that the owner's alteration application and legalization plan would not unreasonably interfere with the occupant's use of the unit, the Loft Board or its Executive Director shall issue an order or an administrative determination certifying compliance with all requirements of 29 RCNY § [2-01\(d\)\(2\)](#).

(xii) Within 10 calendar days after the issuance of a building permit by the DOB, the owner shall file a copy of the building permit with the Loft Board. In the case of an IMD subject to Article 7-C pursuant to MDL § 281(5) which has an alteration permit on September 11, 2013, the effective date of this rule, the owner must file a copy of the building permit with the Loft Board by October 11, 2013, 30 calendar days after the effective date of this rule.

(xiii) *Amendments to Legalization Plan After the Loft Board's Certification of Compliance with 29 RCNY § [2-01\(d\)\(2\)](#).*

(A) If the owner intends to amend the legalization plan certified by the Loft Board, the owner must file with the Loft Board two copies of the amended narrative statement listing the changes and the amended legalization plan within 10 days after the filing of the amendment with the DOB in accordance with (B) below.

(B) The owner must follow the procedures for notice to the residential and nonresidential occupants set forth in 29 RCNY § [2-01\(d\)\(1\)](#) above. If an owner amends the legalization plan and the proposed work is located within IMD space, or within the common areas of the building, the owner must serve an amended narrative statement on the occupants in accordance with the notice provisions provided in 29 RCNY § [2-01\(d\)\(1\)](#) above. The owner must file proof of service and the amended narrative statement and legalization plan with the Loft Board. In accordance with the requirements of 29 RCNY § [2-01\(d\)\(2\)\(viii\)](#) and within 40 calendar days from the Loft Board's notice of the owner's revised legalization plan, any occupant: 1) may file with the DOB an alternate plan application or 2) may file with the Loft Board comments opposing the work proposed in the amendment. The occupant may only object to those items that represent a change from the legalization plan certified by the Loft Board. The owner must obtain a Loft Board certification described in 29 RCNY § [2-01\(d\)\(2\)\(xi\)](#) for any amended legalization plan.

If the occupant and the owner are unable to agree to the proposed work in the amended narrative statement and legalization plan, the Loft Board must follow the procedures in 29 RCNY § [2-01\(d\)\(2\)\(xi\)\(B\)](#) regarding the Loft Board-initiated alternate plan dispute.

(xiv) Approval of an owner's legalization plan by the DOB pursuant to this subsection shall not be construed as approval of the construction costs for the work proposed in the plan as necessary and reasonable costs of code compliance work for purposes of rent adjustment proceedings under these rules.

§ 7. Subdivision (g) of section 2-01 of Title 29 of the Rules of the City of New York are amended to read as follows:

(g) Notice to occupants of proposed work, repairs and inspections and occupant's obligation to provide access.

(1) Unless otherwise agreed by the parties, the owner must provide all occupants with written notice of the approximate commencement date, duration and scope of all work to be performed within their units and of all common area work that may interfere with access to their units or the provision of services to their units.

The notice need not provide an exact date for the work, but must provide a range of three consecutive working days during which work to be completed in one working day will take place and a

range of five consecutive working days during which work expected to require more than one consecutive working day will begin.

The access notice must be served by personal service, first class mail, registered mail return receipt requested, or certified mail return receipt requested, such that service is deemed completed at least 5 calendar days prior to the first date in the range of days for work that may reasonably be expected to be completed within one working day and at least 10 calendar days prior to the first date in the range of days for all other work expected to require two or more consecutive working days. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the notice may be served on the occupant by email, if the occupant consents to such service and has provided a current and valid email address. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address.

(2) No later than the day preceding the first day in the range of work days listed on the access notice referenced in paragraph (g)(1) above, the owner must provide written notice, either confirming a specific starting date from among those specified or cancelling the scheduled work for the day or days specified. In instances where scheduled work is cancelled, it must be rescheduled in accordance with the provisions of 29 RCNY § 2-01(g)(1) above.

The owner must deliver the second access notice personally to the occupant or, in the occupant's absence, to a person of suitable age and discretion within the unit. If the owner or agent cannot achieve delivery to a person as described, the owner or agent must deposit the notice under the main entrance of the unit or, if that is not possible, must affix such notice to the main entrance of the unit. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the notice may be served on the occupant by email, if the occupant consents to such service and has provided a current and valid email address. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address.

An occupant may designate in writing another occupant within the building to receive an access notice pursuant to this 29 RCNY § 2-01(g) provided that the designee is authorized to provide reasonable access to the occupant's unit as required in such notice. Such designation must be served on the owner by (i) personal service or (ii) first class mail, and registered mail return receipt requested or certified mail return receipt requested.

(3) Upon appropriate notice, the building occupants must provide the owner with reasonable access to their units so that all requisite code compliance or repair work, inspections and surveys as may be required for the purpose of code compliance, may be performed.

(4) Upon the failure of an occupant to provide such access, the owner may apply to the Loft Board for an order affording the owner reasonable access to the unit. Recognizing the necessity of construction work proceeding without unnecessary delays caused by administrative processing, the Loft Board will process applications for access under the following expedited procedures:

(i) The owner must serve the occupant with a copy of the owner's verified or affirmed application for access on the Loft Board's form. Service on the occupant must be effected either by:

(A) personal service or

(B) certified or registered mail, return receipt requested, with an additional copy sent by regular mail.

However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the applicant may serve each affected party with a copy of the

application and instruction sheet for filing an answer by email, if the affected party has provided the applicant with a current and valid email address. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address.

Within 5 calendar days after delivery or service by mail on the occupant, the owner must file 5 copies of the application at the offices of the Loft Board, along with proof of service of the application upon the occupant. Proof of service is required at the time of filing the access application with the Loft Board. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the need for an original signature is waived and an applicant may file the application by emailing a copy to nycloftboard@buildings.nyc.gov.

(ii) The occupant must file with the Loft Board 5 copies, including the original, of a written answer in response to the application within 15 calendar days after service of the application is deemed complete. Service is deemed complete on the date of personal service or 5 calendar days after the owner mailed the application. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be filed by emailing one copy of the answer to nycloftboard@buildings.nyc.gov.

(iii) (A) Before the occupant files an answer with the Loft Board, the occupant must serve a copy of the answer on the owner by regular mail at the address designated on the application. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be served on the applicant by email, if the owner has provided a current and valid email address. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address.

Both owner and occupant will be notified of a hearing date, which will not be fewer than 8 calendar days or more than 15 calendar days from the mailing of the notice. There will be no more than one adjournment per party, limited to 7 calendar days, for good cause shown. Except as provided herein, the provisions of 29 RCNY § [1-06](#) apply to an application for access under this subdivision.

(B) Even if the occupant fails to file an answer, the Loft Board may issue an order granting access.

(iv) A finding by the Loft Board of failure by the owner to comply with any of the notice provisions of 29 RCNY § [2-01\(g\)](#) or a finding by the Loft Board that an occupant has unreasonably withheld access may be the basis for a civil penalty in accordance with 29 RCNY § [2-11.1](#) for each violation of the notice provisions, or the unreasonable denial of access to the unit.

The necessary and reasonable cost of bringing and pursuing a Loft Board access proceeding that results in a finding that a residential occupant has unreasonably withheld access, including the labor or other costs incurred by the owner because access was unreasonably denied, may be included in the owner's application for code compliance rent adjustment as an allowable cost to be allocated to such occupant's residential unit, as provided for in 29 RCNY § [2-01\(l\)\(1\)](#).

(v) The failure of an occupant to comply with a Loft Board order regarding access may be grounds for eviction of that occupant in a proceeding brought before a court of competent jurisdiction.

§ 8. Paragraph (1) of subdivision (i) of section 2-01 of Title 29 of the Rules of the City of New York is amended to read as follows:

(i) *Applications for Rent Guidelines Board ("RGB") increases and for rent adjustments based on costs of compliance.*

(1) *RGB increases.*

(i) Upon issuance of a final certificate of occupancy, an owner shall be eligible for a rent adjustment based upon the percentage rent increases established by the RGB (hereinafter "RGB Increases"). The first RGB Increase shall commence on the first day of the first month following the day an owner submits to the Loft Board a Notice of RGB Increase Filing form on the Loft Board approved form. Each subsequent rent increase shall be effective on each one or two-year anniversary of such commencement date, as applicable. This one or two-year period during which a particular RGB Increase is effective is referred to herein as the "RGB Increase Period." The last RGB Increase prior to issuance of a final rent order by the Loft Board setting the initial legal regulated rent, pursuant to 29 RCNY § [2-01\(m\)](#), shall remain effective until expiration of the applicable RGB Increase Period.

The amount of each RGB increase shall be equal to the percentage increase applicable to one or two-year leases as established by the RGB on the date the Notice of RGB Increase Filing form is submitted to the Loft Board and on each one or two-year anniversary thereafter, as applicable, and shall be applied to the maximum rent permissible under Loft Board rules as of the date the Notice of RGB Increase filing is submitted to the Loft Board.

The RGB Increase shall apply to all covered residential units, except for those units that are exempt from rent regulation under Article-7-C.

(ii) To obtain the RGB Increase, the owner shall submit to the Loft Board:

(A) Two copies of the Notice of RGB Rent Increase Filing form and the required attachments. The Notice of RGB Increase Filing form shall contain the rent in effect, including escalations and increases permitted in accordance with MDL § 286(2) or the Loft Board's rules, for each covered residential unit subject to rent regulation;

(B) A copy of the final residential certificate of occupancy;

(C) A copy of the individual notices as described in subparagraph (iii) of this paragraph;

(D) The "Tenant Response Form" sent by the owner to the affected occupants; and

(E) An affidavit that such notices were sent by first class mail and certified or registered mail to each affected occupant.

(iii) The owner shall mail to each affected occupant an individual notice of RGB Increase form setting forth the maximum permissible rent under Loft Board rules for the unit. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the owner may serve the occupants by email, if the occupants consent to such service and have provided current and valid email addresses. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the occupant's email address.

The mailing of the individual notice of RGB Increase shall also include the "Tenant Response Form" with instructions for the tenant to elect RGB increases applicable to one-year or two-year leases. Such election shall be binding upon the occupant for the entire period prior to expiration of the last RGB Increase before issuance by the Loft Board of the final rent order setting the initial legal regulated rent. The failure of an occupant to make an election between RGB increases applicable to one-year or two-year leases within 45 calendar days of the mailing of the Notice of RGB Increase Filing shall be deemed to be an election to be governed by increases applicable to one year leases.

(iv) The occupant may dispute the maximum permissible rent set forth in the owner's Notice of RGB Increase Filing, by detailing the amount in dispute on the Tenant Response Form. The occupant must file the dispute with the Loft Board within 45 calendar days of the mailing date of the individual notice of RGB Increase, as indicated on the affidavit of service. However, during the period of the Covid-19 state

of emergency in the City of New York as declared by a Federal, State or City official, the occupant may file the application by emailing a copy to nycloftboard@buildings.nyc.gov.

Failure of such occupant to notify the Loft Board of a dispute within such 45-day period shall be deemed to be an acceptance by the occupant of the amount of rent claimed by the owner. The Notice of RGB Rent Increase Filing form, the individual notices and the Tenant Response Form may not be altered or re-typed. During the period prior to the resolution of the dispute, the occupant shall pay rent in a sum equal to the amount of the monthly base rent that is not in dispute plus the amount of RGB Increase based on the undisputed amount. For example, if the owner claims the rent in effect is \$450 and the occupant claims it is \$400, the rent paid to the owner prior to resolution of the dispute shall be equal to \$400 plus the applicable RGB Increase based on the undisputed amount of \$400. The occupant shall pay any deficiency in one lump sum together with the first rent payment due following resolution of the dispute.

(v) RGB increases may also take effect in accordance with 29 RCNY § [2-01\(i\)\(2\)\(i\)\(B\)](#) where the Loft Board sets the initial legal regulated rent.

§ 9. 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 cooperative or condominium 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. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the need for an original signature is waived and an owner may file the report by emailing a copy to nycloftboard@buildings.nyc.gov.

(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 in accordance with 29 RCNY § [2-11.1](#) 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 in accordance with 29 RCNY § [2-11.1](#) for each false statement in the monthly report.

§ 10. Paragraphs (4) and (5) of subdivision (c) of sections 2-02 of Title 29 of the Rules of the City of New York are amended to read as follows:

(4) Parties have 15 calendar days after the date on which service of the 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. Five copies of the answer with proof of service of the answer on the applicant(s), as described in 29 RCNY § [1-06](#)(e), must be filed at the offices of the Loft Board. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be served on the applicant by email, if the applicant consents to such service and has provided a current and valid email address and the answer may be filed by emailing one copy of the answer to nycloftboard@buildings.nyc.gov. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address.

(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. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the notice of conference may be sent to the affected parties by email, if the affected parties have provided current and valid email addresses. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address.

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. 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.

§ 11. Subdivision (b) of section 2-05 of Title 29 of the Rules of the City of New York is amended to read as follows:

(b) *Procedure for Filing Registration Application.* The following instructions constitute the procedures for registration of buildings, structures or portions thereof, pursuant to MDL § 284(2). Applications for registration shall be certified by the landlord in a form prescribed [promulgated] by the Loft Board. Instructions – Interim Multiple Dwelling Registration Application Form.

(1) Print all information in completing the registration application form and return it and the required documents listed in 29 RCNY § [2-05](#)(b)(8) to: "IMD REGISTRATION" at the Loft Board's office, together with a check covering the registration and code-compliance monitoring fees, in accordance with subparagraph (3) below. The landlord must serve a copy of the initial registration application form on all occupants of the building including residential, commercial and manufacturing occupants and prime lessees, if different. Service shall be made by regular mail delivered to each occupant at the occupant's unit, or at a different address in accordance with the terms for delivery of the notice in the occupant's lease. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the applicant may serve each occupant with a copy of the registration application by email, if the occupant has provided the applicant with a current and valid email address.

The registration application form must specify which residential units are being registered as IMD units and include the unit designations and location in the building. Certification of such service to the occupants and prime lessees shall be attached to the registration application form filed with the Loft

Board. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address.

(2) The information requested on the registration application form is required pursuant to MDL §§ 284(2) and 325, and these rules. Additional information may be required pursuant to rules promulgated by the Loft Board.

(3) Pursuant to MDL § 282, the Loft Board may charge and collect reasonable fees. Registration and code compliance monitoring fees shall be payable to the Loft Board in accordance with 29 RCNY § [2-11](#).

(4) Completion and submission of a registration application form does not constitute a waiver of the applicant's right to contest before the Loft Board the coverage of the premises described therein as an IMD building under Article 7-C of the MDL, nor shall the act of filing the registration application form constitute evidence before the Loft Board that the building described therein is an IMD building. Notwithstanding the foregoing, the failure of an owner, a building occupant or prime lessee to contest the registration application within 45 calendar days after service of the registration application or 45 calendar days after the filing date with the Loft Board, whichever is later, shall constitute a "waiver" to contest coverage of the units registered, and shall preclude the landlord from contesting such coverage status. In the event the Loft Board or its staff subsequently discovers that a building, structure or portion thereof registered as an IMD does not qualify as an IMD subject to coverage under Article 7-C, in whole or in part, then the Executive Director may revoke such IMD status for the individual unit, or the building in its entirety, as applicable, effective upon notice to the owner, the building occupants and the prime lessees, listed on the registration application form. Any and all applications by a landlord, building occupant or the prime lessee to challenge the denial of a registration application form or the revocation of IMD status of a building or a unit by the Executive Director shall be governed by the terms and provisions of 29 RCNY § [1-07.1](#).

(5) *Procedure to Contest a Registration Application.* Any and all applications filed by a landlord, building occupant(s) or prime lessee, if applicable, to contest coverage of a building or individual unit under Article 7-C must be received by the Loft Board within 45 calendar days after service of the registration application form on the building occupants and prime lessee(s) or within 45 calendar days after filing of the registration application form with the Loft Board, whichever is later. Such applications must set forth the extent of coverage being contested, including the facts and rationale upon which coverage is being contested. A copy of the application must be served on ALL residential, commercial and manufacturing occupants of the building and the prime lessee(s) in the manner described in 29 RCNY § [1-06\(b\)](#) for service of Loft Board applications, and the application filed with the Loft Board must include a certification that such service has been made.

(6) Any occupant in the building may apply for coverage under Article 7-C. Such applications shall be filed in accordance with the procedures set forth in 29 RCNY § [1-06](#), and shall be subject to the terms and provisions of the MDL and these rules, including, without limitation, the deadline for filing coverage applications set forth in MDL § 282-a, 29 RCNY § [1-06.1](#), and the Loft Board's website.

(7) An interim multiple dwelling registration number issued by the Loft Board will be effective until such time as determined by the Loft Board or its staff.

(8) *Required Documents For A Registration Application.* A registration must be completed in its entirety. Legible copies of the following must be attached: (i) the current lease for each residential unit claimed to be covered under Article 7-C, or, where there is no current lease, the most recent lease

agreement, including all executed riders, amendments, modifications and extensions, (ii) the lease in effect during the qualifying window period set forth in MDL § 281 for each residential unit claimed to be covered under Article 7-C, and if no lease existed during the window period, an owner must file proof of residential occupancy during the window period with the registration form; (iii) the lease in effect on June 21, 2010, if different, and if no lease existed on June 21, 2010, the owner must attach a signed statement outlining the rental agreement in effect on June 21, 2010 - including party names, monthly rent, a description of the premises, use of the premises, and the services provided by the landlord; and (iv) any lease for a unit engaged in commercial, manufacturing, or industrial activity in the building on June 21, 2010. If no lease existed for the commercial, manufacturing, or industrial unit on June 21, 2010, the owner must attach a signed statement outlining the rental agreement in effect on June 21, 2010. For cooperatives, legible copies of the proprietary leases for all units, including the units engaged in commercial, manufacturing, or industrial activity, must be attached. If any units were rented on June 21, 1982 for units seeking coverage pursuant to MDL § 281(1), or July 27, 1987 for units seeking coverage pursuant to MDL § 281(4), or June 21, 2010, for units seeking coverage pursuant to MDL § 281(5), copies of those leases and subleases or rental agreements must be attached. For condominiums, legible copies of all leases for units that were rented on June 21, 1982 for units seeking coverage pursuant to MDL § 281(1), or July 27, 1987 for units seeking coverage pursuant to MDL § 281(4) or June 21, 2010, for units seeking coverage pursuant to MDL § 281(5), must be attached. A registration application form will not be accepted, and an IMD Registration Number will not be issued, unless all questions set forth on the registration application form are answered in full, and all required leases or signed statements are attached. If a particular question or piece of information is inapplicable, the applicant shall enter "Not Applicable," or if the information is unavailable, enter "Not Available", and attach a signed statement explaining the reasons such information is inapplicable or unavailable. The content of a registration application form will be reviewed prior to issuance of an IMD Registration Number. In the space provided on the registration application form, an applicant must specify which units it seeks to register with the Loft Board for coverage under Article 7-C. The applicant shall enter the number of residential units occupied for residential purposes by families living independently from one another, the periods of such residential occupancy, and indicate the units' location in the building. "Family" shall have the meaning provided in MDL § 4(5), and may consist of a person or persons, regardless of whether they are related by marriage or ancestry.

(9) The acceptance of the registration application form in no way legalizes the residential occupancy. If the registration application form is accepted by the Loft Board staff, a copy of the form with the assigned IMD Registration Number will be returned to the applicant. That number must be included on all future correspondence with the Loft Board regarding the building. The Loft Board reserves the right to reject, revoke or amend an IMD Registration Number for a building. The Loft Board also reserves the right to revoke, at any time, the Article 7-C coverage for a unit in a building issued an IMD Registration Number.

(10) For each building potentially subject to Article 7-C, the owner, the lessee of the whole building, if applicable, and the agent must each sign the registration application form thereby certifying to the truth, accuracy and completeness of the information contained therein. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the need for an original signature is waived and a facsimile signature will be accepted.

If the owner, lessee of the whole building or agent is a corporation, other than a corporation listed as exempt from the provisions of MDL § 325, the names, business, and residence addresses and phone numbers of each of its officers must be listed on the form.

Other officers, including treasurer or chief fiscal officer, and stockholders who own or control at least 10 percent of the corporation's stock, must be listed on a separate attachment.

If the owner, lessee of the whole building or agent is other than an individual or a corporation, the names, business and residential addresses and phone numbers for each member, general partner or participant in a partnership, joint venture or limited liability company must be listed on a separate attachment

At least one of the phone numbers filed with the registration application form must be a confidential telephone number where a responsible party can reasonably be expected to be reached 24 hours a day, 7 days a week for emergencies. Such number(s) must be within 50 miles radius of New York City limits, and must be indicated on a separate signed sheet of paper filed with the registration application form. Such responsible party shall be twenty-one years or older, and shall reside within New York City or customarily and regularly attend a business office located in New York City. The emergency number shall be confidential. Any change in the emergency number, managing agent information, owner's address or ownership shall be sent to the Loft Board within 5 days of the change. The failure to report such change is a violation of the Loft Board rules and the owner may be subject to civil penalties in accordance with 29 RCNY § [2-11.1](#).

(11) All landlords who file a registration application form agree to provide the minimum housing maintenance standards established by 29 RCNY § [2-04](#), as it may be amended from time to time, to all residentially occupied units covered under Article 7-C of the MDL.

(12) [Reserved.]

(13) A notice, in the form prescribed by the Loft Board, as designated on the Loft Board's website, shall be posted in the lobby of every IMD building within five (5) business days after the issuance of the IMD Registration Number. Failure to post such notice or update the notice within 5 calendar days of a change in the information contained in such notice may subject the landlord to civil penalties in accordance with 29 RCNY § [2-11.1](#). Such notice must contain:

- (A) The building's address;
- (B) The IMD Registration Number assigned by the Loft Board for the purpose of identifying the building;
- (C) The contact information for the owner and managing agent; and
- (D) The Loft Board's phone number.

(14) If additional space is required to respond to any of the questions set forth on the registration application form, the applicant shall attach a signed separate sheet of paper to complete the response.

§ 12. Paragraph (2) of subdivision (c) and subdivisions (d) through (g) of section 2-07 of Title 29 of the Rules of the City of New York are amended to read as follows:

(c) Procedure for sales of improvements to prospective incoming tenant.

(2) The completed Disclosure Form with original signatures must be filed with the Loft Board, together with proof of service. However, during the period of the Covid-19 state of emergency in the

City of New York as declared by a Federal, State or City official, the need for an original signature is waived and an applicant may file the application by emailing a copy to nycloftboard@buildings.nyc.gov.

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) *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 29 RCNY § [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 29 RCNY § [2-07\(g\)\(2\)](#), by following the procedures provided in 29 RCNY § [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.

During the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the owner may send notice by email, if the outgoing and prospective incoming tenants have consented and provided current and valid email addresses. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the outgoing or prospective incoming tenants' email addresses.

(iv) If the owner's challenge is based on the unsuitability of the prospective tenant, the owner may only 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. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the notification may be filed by emailing the Loft Board at nycloftboard@buildings.nyc.gov.

(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 29 RCNY § [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 claim that the owner made or purchased the improvements, the rejection must indicate which improvements the owner alleges to have made or purchased and include proof.

(ii) Failure of the owner to file with the Loft Board a complete application, including payment of a fee of \$800.00 to cover the full cost of an appraiser selected by the Board, with copies to the outgoing and prospective tenants, within the time provided in 29 RCNY § [2-07\(d\)\(1\)\(iii\)](#) above, shall be deemed an acceptance of the proposed sale. However, if the owner's challenge is on the ground of the unsuitability of the prospective tenant, the owner may only initiate an action based on that ground in a court of competent jurisdiction and must inform the Loft Board in writing within the time period in 29 RCNY § [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. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the owner may send notice of approval by email, if the prospective incoming tenant has provided a current and valid email address. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the prospective incoming tenant's email address.

(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 in 29 RCNY § [2-07\(d\)\(1\)\(iii\)](#) 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 29 RCNY § [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 29 RCNY §§ [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 29 RCNY § [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 covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapters 135 or 147 of the Laws of 2010; 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 covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapters 135 or 147 of the Laws of 2010.

(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 29 RCNY § [2-02\(d\)\(2\)](#).

(e) [Reserved.]

(f) *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. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, service may be completed by emailing documents to the owners or tenants, if the owners or tenants have provided current and valid email addresses. Furthermore, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, documents may be filed with the Loft Board by emailing one copy of the documents to nycloftboard@buildings.nyc.gov.

(2) [Unless otherwise agreed in writing by the parties, with notice to the Loft Board, these] 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. If service was performed by email, proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address.

(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. However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the Loft Board may communicate with owners and tenants by email if the owners or occupants have provided current and valid email addresses.

(g) Applications challenging proposed sale of improvements.

(1) Procedures.

(i) An owner of an IMD unit seeking to contest the proposed sale of improvements 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 29 RCNY § [2-07](#)(d) above, and 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, or 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, pursuant to 29 RCNY § [2-02](#), with the consequences provided in 29 RCNY § [2-07](#)(d)(4). 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) The owner must serve the outgoing and prospective incoming tenants with a copy of the owner's challenge application, and file within 5 calendar days of service 2 copies of the application at the Loft Board and proof of service as described in 29 RCNY § [1-06](#)(b). However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the owner may serve the outgoing and prospective incoming tenants with a copy of the application and instruction sheet for filing an answer by email, if the outgoing and prospective incoming tenants have consented to such service and provided the owner with current and valid email addresses. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the outgoing or prospective incoming tenant's email address. Furthermore, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City

official, documents may be filed with the Loft Board by emailing one copy of the documents to nycloftboard@buildings.nyc.gov.

(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. Two copies of the answer must be filed with the Loft Board. One copy of the answer must be served on the owner and the other affected parties, if any, prior to filing the answer with the Loft Board. Proof of service must be filed with the Loft Board in accordance with 29 RCNY § [1-06\(e\)](#). However, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be served on the owner or other affected parties by email, if the owner or other affected party have consented to such service and provided current and valid email addresses. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the owner or affected party's email address. Furthermore, during the period of the Covid-19 state of emergency in the City of New York as declared by a Federal, State or City official, the answer may be filed by emailing one copy of the answer to nycloftboard@buildings.nyc.gov.

(v) The outgoing tenant's answer must include 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 appraiser shall be appointed by the Loft Board, must be suitably qualified in valuing improvements and must be a Registered Architect, a Professional Engineer or a New York State Certified General Real Estate Appraiser.

(vii) 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 the inspection, a copy of the appraiser's findings will be mailed to the three parties. A conference or hearing date must be scheduled no fewer than 8 calendar days nor more than 15 calendar days from the mailing of the notice of conference or hearing or, if applicable, the filing of the appraiser's report. There may be no more than one adjournment per party, limited to 7 calendar days, for good cause shown. Except as provided in these rules, the requirements of the Loft Board's rules regarding applications 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. If the Loft Board determines that the offer does not constitute fair market value, in accordance with 29 RCNY § [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 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 must consummate the purchase within 10 calendar days of the owner's notice to the outgoing tenant, except that where the fair market value determination is less than the price offered by the outgoing tenant, the outgoing tenant may decline to sell the improvements. The Loft Board's order determining fair market value constitutes the price at which the outgoing tenant must first offer to sell the previously offered improvements to the owner for a period of 2 years from the date of the Loft Board order.

(ix) If the owner elects not to purchase the improvements at the Loft Board-determined fair market value, the outgoing tenant may sell to 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, is deemed an election not to purchase.

(2) *Grounds for challenge.* 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. 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 is presumed to represent fair market value.

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

(a) For such improvements as were purchased by the outgoing tenant, the offer exceeds the amount paid for the improvements minus depreciation for wear and tear and age; or

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

(C) 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) September 11, 2013, 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.

(v) If a basis of a challenge is the unsuitability of the prospective incoming tenant, the owner may only initiate an 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.

Required Finding Pursuant to New York City Charter Section 1043(i)(1)

IT IS HEREBY CERTIFIED that the immediate effectiveness of this emergency rule, which allows for electronic service and filing of documents and temporarily suspends the requirement to schedule a narrative statement conference within thirty days of receipt of the narrative statement., is necessary to address a public health emergency and to aid the City of New York in responding to COVID-19.

On January 30, 2020, the World Health Organization designated the outbreak of the novel coronavirus, COVID-19, as a Public Health Emergency of International Concern. On January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19. On March 7, 2020, Governor Andrew Cuomo declared by Executive Order a disaster emergency for the entire State of New York. On March 12, 2020, Mayor Bill de Blasio declared a State of Emergency within the City of New York. New York State and New York City continue to take measures to address the threat that COVID-19 poses to the health and welfare of its residents and visitors. On April 7, 2020, Governor Andrew Cuomo continued by Executive Order the disaster emergency for the entire State of New York, including the closure or restriction of public or private businesses or places of public accommodation, and the postponement or cancellation of all non-essential gatherings of individuals of any size for any reason in order to limit travel-related cases and community contact transmission of COVID-19.

Delaying implementation of this rule pending non-emergency rulemaking would result in the residents of New York City having to travel to the Loft Board offices or the post office, with the likely consequence of increased and avoidable exposure to this communicable disease.

Pursuant to section 1043(i)(2) of the Charter, the emergency rule will remain in effect for not more than 60 days.

IT IS HEREBY CERTIFIED that the immediate effectiveness of a rule authorizing the Loft Board to allow for electronic service and filing of documents and temporary suspension of the requirement to schedule a narrative statement conference within thirty days of receipt of the narrative statement, in response to COVID-19 is necessary to address an imminent threat to the health of residents of New York City.

Dated: APRIL __, 2020

MELANIE E. LA ROCCA
CHAIR, LOFT BOARD

APPROVED:

BILL DE BLASIO, MAYOR