Lower Manhattan Loft Tenants
Chuck DeLaney
917-749-4395
chuckdelaney@yahoo.com
LMLT135@gmail.com

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NYCLT NYC LOFT TENANTS.ORG

NYC Loft Tenants
Heather Troy
917-981-4333
action@nyclofttenants.org
www.nyclofttenants.org

SUPPORT BILL S7686*-A9545** · GIVE TENANTS A CHANCE!

LMLT was founded in 1978 to advocate for the rights of loft tenants and lobbied successfully for the 1982 Loft Law.

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LMLT and NYCLT are working together to advocate for changes to the Loft Law in 2014.

AMEND THE LOFT LAW.

ADD AFFORDABLE HOUSING!

BRING MORE BUILDINGS UP TO FIRE & SAFETY STANDARDS.

To Whom it May Concern,

We are writing to ask for your help in preserving a unique form of affordable housing in New York.

Since it was enacted in 1982, the Loft Law has preserved affordable loft housing for artists and other tenants who often invested sweat equity and fixtures into vacant (and often raw) manufacturing space.

The original Loft Law only covered spaces that had been used residentially in 1980-81, and hundreds of those buildings have been brought up to residential code standards and have subsequently entered rent stabilization, allowing moderate income tenants to remain in their homes in neighborhoods such as SoHo, Tribeca, Chelsea, and Dumbo. In 2010, the state legislature expanded the law to include buildings that had been more recently converted to residential use. The 2010 Loft Law was the result of two separate bills. Because of strident objection from the Bloomberg administration over the initial bill that was passed, David Paterson, the governor at the time, made it known he would not sign it unless a chapter amendment was added that provided limitations to the units/buildings that could be covered by the law as requested by the Bloomberg administration.

We are seeking your assistance in making these changes:

1. **Eliminate the March 11, 2014 coverage application deadline.** As outlined in the attached position paper, this deadline only thwarts the remedial intent of the law. It doesn't protect manufacturing and will only promote gentrification and further illegal conversion.
2. **Limit all or some of the pre-compliance exclusions of 281.5:**
   1. The incompatible use provision is overly broad and should be eliminated.
   2. The window requirement should be addressed in legalization rather than being a bar to Loft Law coverage.
   3. Basement units are allowed under the original Loft Law. They should not be excluded here.
3. **Clarify intent of 281.5 regarding coverage of qualified units.** The 2010 legislation appears to include units that were covered under the original law where the owner bought out the original tenant, installed a new residential tenant at a market rent, and then did not bother to legalize the building even though it had been used residentially since 1982. If the owner bought out original tenants and legalized the building and left the Loft Board's jurisdiction, then it's clear those units aren't affected by the new legislation. However in cases where the owner failed to legalize the building, the current tenants units that remain unlegalized appear to meet all the eligibility criteria for coverage under the law. It would be helpful to have the legislature make this clear.

We've attached a summary of the limitations that were added by the chapter amendment and additional background information on the Loft Law. It is our position that these limitations should be eliminated because they exclude tenants from the protection of the law for no meaningful reason, and undermine the remedial nature of the law and the intent that it be broadly applied. Tenants who are denied Loft Law coverage will not be replaced by manufacturing uses – instead the units will stay residential and the rents will rise. Affordable housing units will be lost. Many owners will continue to rent the spaces residentially without making any effort to legalize their buildings and bring them up to code.

Of particular urgency is the application deadline for tenant coverage applications and building registrations. There was no coverage deadline in the original law, and because the law is complicated and outreach by city agencies has been poor, many owners and tenants who are eligible for coverage may not be aware of either the law or the deadline. The deadline will serve no meaningful public purpose. It may limit the number of affordable units protected by the law. It won't stop owners who want to rent space illegally from doing so.

We would like to meet with you or members of your staff to answer any questions you may have and to ask you to support or sign on to A9545-2013. We'll contact your office shortly to see when we can set up a meeting. In the meantime, if you have any questions, feel free to contact us.

Thank you for your attention to this urgent matter.

* Bill S7686-2013 can be read at http://open.nysenate.gov/legislation/bill/S7686-2013
** Bill A9545-2013 can be read at http://open.nysenate.gov/legislation/bill/A9545-2013

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GIVE TENANTS A CHANCE · AMEND THE 2010 LOFT LAW.

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Several changes are needed to prevent an unfair result from the 2010 expansion of the Loft Law that will cause the loss of affordable housing units. The most pressing is the March 11, 2014 deadline that will block further applications for building coverage and tenant protection under the Loft Law.

Background: In June 2010, the legislature passed not one but actually two contradictory bills to amend the Loft Law. Positively, in addition to making the law permanent, the law was expanded to cover additional converted buildings that had three or more residential units during a 2008 and 2009 "window period." As with the original Loft Law, the remedial intent of the law is to bring converted buildings up to residential fire and safety codes.

Not so positively, the first bill, which extended coverage to a newer group of loft tenants, received vigorous opposition at the last minute from the Bloomberg Administration, which had not had the legislation on its radar. The Mayor's objection was focused on a misguided and misinformed concern regarding its possible effect on Bloomberg's zoning changes and his alleged concern over the preservation of manufacturing. Intensive city lobbying led then-Governor Paterson to announce he would veto the bill unless changes demanded by the Mayor were made. These changes, designed to limit the number of already-occupied residential units/buildings that would be covered, were hastily negotiated and the second bill was passed at the end of the 2010 session.

The provisions that limit Loft Law coverage include, most notably, a deadline for coverage applications (MDL 282-A) "six months after the date" that the Loft Board finished adopting all rules and regulations necessary to implement the provisions of the 2010 law. The six-month clock was set last September, and the deadline was March 11, 2014.

Other exclusionary provisions include a denial of coverage to units based on factors relating to windows and basements. Residential buildings that fail an "inherent incompatibility" test based on certain Use Groups in the NYC Zoning Resolution. Most of these provisions were expressly designed to limit the number of residential units provided protection under the expanded Loft Law, although **none of these exclusions was imposed in the original 1982 Loft Law**.

REMOVE THE MARCH 11, 2014 DEADLINE • REMOVE EXCLUSIONARY PROVISIONS

WINDOWS, BASEMENTS, INCOMPATIBLE USE

SAVE AFFORDABLE HOUSING • BRING MORE BUILDINGS UP TO FIRE & SAFETY STANDARDS!

Loft tenants take the position that most of these exclusions serve no public purpose and will cause current tenants to lose their affordable homes. Spaces vacated by current tenants, who in many cases improved the raw space they rented, will simply be leased at ever higher rates to new tenants. And, without the requirements of the Loft Law, most owners will not bring these buildings up to the required fire and safety standards. It won't stop owners who want to rent space illegally from doing so.

The most pressing issue is to urge the state legislature to repeal the March 11 deadline. The original Loft Law contained no such provision, and the deadline will only reduce the universe of units and buildings eligible for protection under the Loft Law. If units have already been converted to residential use, it makes sense to allow them to enter the Law's remedial program to bring them up to code without imposing an artificial deadline. A deadline simply grants landlords the license to create additional illegally converted buildings, ignore the legalization requirements, and evade the Loft Law.

In terms of public policy, to foster fire safety in these buildings (and adjoining buildings), it makes far more sense to allow eligible buildings to enter the Loft Law program with no time limit. The Loft Law is, after all, remedial legislation that is designed to protect both landlords and tenants by allowing buildings where the owner created an illegal multiple dwelling to come into code compliance while permitting the owner to legally collect rent. Putting a time limit on entering a remedial program makes no sense and is likely to lead to a number of lawsuits challenging the provision.

As noted, the deadline was March 11 because it was six months after the Loft Board finished adopting the necessary implementation rules. Over this six-month period, city government has been distracted by the 2013 election cycle and change in administrations. Outreach and dissemination of information about the Loft Law has been extremely poor, and many city council districts that may contain eligible buildings have turned over in the last election cycle. Disinterested term-limited members had little reason to conduct outreach, and new members have just taken office.

In sum, this deadline is bad policy and will only thwart the remedial intent of the Loft Law.

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THE NEW YORK STATE LOFT LAW – A BRIEF BACKGROUND

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The Loft Law was originally passed by the New York State legislature in 1982. It applies only to loft buildings in New York City and is "remedial" legislation designed to address the proliferation of residential units in former commercial and manufacturing buildings that didn't have a residential certificate of occupancy for those units when they were initially created. The law has benefits and obligations for both owners and residential tenants. In 2010, the Loft Law was made permanent, and was expanded to include buildings that had residential tenants in place in 2008 and 2009.

The owners of buildings covered by the Loft Law are allowed to collect rent although the building is not up to code standards and may be in a zone that does not permit residential use, as long as the building is in compliance with the law. The owners are required to file plans, get a building permit to do the necessary work to get a residential certificate of occupancy according to a timetable set out in the law. A portion of the cost of necessary and reasonable work necessary for compliance can be passed through to the tenants. The owner is also required to provide heat and other services common to residential buildings.

The tenants are permitted to remain in their units. They are required to give the owner access for compliance work and are allowed to comment on the proposed work before a permit is issued. The tenant's rent is regulated with percentage increases as the owner moves through the compliance steps. After the compliance work is completed, the units become rent stabilized after the code compliance costs are factored in if the owner elects to go through that procedure.

The Loft Law, also known as Article 7-C of the NYS Multiple Dwelling Law, comprises Sections 280 – 286 of the MDL[1]. The Law requires the City of New York establish a Loft Board[2] to oversee implementation of the Loft Law. The Board is empowered to resolve disputes that arise between owners and tenants and adopt rules to implement the requirements of the Law. The Board's rules are codified as Title 29 of the Rules of the City of New York[3]. The Loft Board is currently part of the NYC Department of Buildings and the Commissioner of DOB is the ex-officio Chair of the Loft Board, which has nine members. In addition to the Chair, there is one owner representative, one tenant representative, one representative for manufacturing interests, a member of the Fire Department who also sits ex officio, and four public members.

Approximately 900 buildings registered with the Loft Board prior to the 2010 expansion. Of those 900 buildings, a little over 200 are still in the program. Buildings registered with the Loft Board are called interim multiple dwellings, to indicate that the purpose of the Loft Law is to allow owners to bring their buildings up to code and become legal multiple dwellings while allowing the tenants to remain in place during that process. Prior to the Loft Law being made permanent in 2010, it was subject to frequent sunset dates and many owners delayed legalizing in the hope that the Law would be allowed to expire. Since the Law has been made permanent, more owners have become serious about completing the process. The Loft Law has been instrumental in preserving thousands of units of affordable housing of a type that is particularly beneficial to artists and members of New York's creative community.

[1] http://bit.ly/1i2SXBZ
[2] http://www.nyc.gov/html/loft/
[2] http://72.0.151.116/nycnew/RulesTitle29.aspx