

October 29, 2013

LOFT LAW OCCASIONAL NOTE

March 11, 2014 Sunset Date

The 2010 Amendment of the Loft Law provided that the last date on which units that qualify for IMD coverage could be brought into coverage would be six months after the Loft Board promulgated its regulations for 2010 amendment buildings and units. Having finished its regulations, the Loft Board has announced the date which is March 11, 2014.

For those of you whose buildings are located in “M” Zones, that may well be the last date on which you can have your residentially occupied units legalizable, since only registered IMD units can be converted as of right. For those of you who have buildings located in “R” Zones or “C” Zones, the passing of that date may have a different meaning:

- If your building is in Manhattan or the Bronx and has fewer than six residential units, you may be able to legalize as a non-regulated building.
- If your building is in Queens or Brooklyn, you will be able to legalize the building with fewer than six units as non-regulated units.
- Given the absence of case law in the Second Judicial Department covering Queens and Brooklyn, it is also possible that if you have more than six units and have not been subjected to the Loft Law, you may be able to legalize those units as non-regulated units. However, someone will have the opportunity to litigate that issue eventually.

However, there is a concern about the possibility of future regulation. Recent discussions indicate that Albany legislators may be asked to modify that portion of the law that provides for the March 11, 2014 sunset date, to extend the sunset date.

While the approach of the sunset date is producing a bumper crop of tenant coverage filings, there are always laggards, and if those laggards have a sufficient audience in Albany, an extension is reasonably likely.

Fines For Failure To Renew Registration

The Loft Board's registration year runs from July 1 of a given year to June 30 of the following year. For those of you who have registered buildings, you already know that the cost of registration is \$500.00 per unit per year. A part of the rationale for that amount is to encourage owners to legalize and leave Loft Board jurisdiction as soon as they can.

Every year there are a number of owners who fail to renew (including a few buildings that just absolutely refuse to pay altogether). At a certain point in time, if your registration fees are late, you will be assessed a late fee.

The Loft Board is also about to begin chasing owners who have failed to pay the 2013/2014 registration fees altogether. The Loft Board will commence proceedings for which the penalty for failure to pay is \$5,000.00 for a first offense and \$10,000.00 for a second offense.

For more information, please contact David Brody, dbrody@borahgoldstein.com, (212) 965-2662.

This is the first in what will be a number of occasional writings/musings for owners of loft buildings and those who are involved with their management and conversion. If you would like to receive these messages electronically, please send an email to Christine Eschenauer, Marketing Specialist, ceschenauer@borahgoldstein.com

This message has been provided for informational purposes only and is not intended and should not be construed to constitute legal advice.