

ND

To: The Loft Board  
Fr: Prime tenants with prior agreements  
Re: Recovery of space

The proposed regulations and Mr. DeMario's memo recognize that there are situations in which the prime tenant may need to recover space for their own use. We are asking the Board to recognize a situation in which the prime tenant has not only the need but also the right to recover space for their personal use.

On the surface, it may seem inconsistent with 7-C to recognize the right of the prime tenant to recover space. This objection disappears however, when one remembers that 7-C is attempting to protect tenants from undue pressure. In the case we are asking the Board to consider the undue pressure will fall on the prime tenant and it is the prime tenant who needs protection under 7-C.

There are prime tenants who have pre-existing agreements regarding the recovery of space other than the mere expiration of the lease. In these cases the subtenant has taken a space with the clear expectation of leaving after a designated period of time. This distinguishes them from other loft tenants whose reasonable expectations were that they would be able to remain in occupancy. At the same time the prime tenants in this situation have made their life plans based on the expectation of being able to recover a space for their personal use. A clear agreement plus expectations of recovery for personal use set these prime tenants apart and distinguish them from other prime tenants and landlords. If the proposed regulations go into effect these prime tenants will be placed under undue pressure and, in some cases, will be forced to move because of the expanded needs of their families.

Under the proposed regulations, subtenants who moved into lofts with specific agreements regarding the recovery of space are not in reality being protected from undue pressure;

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rather, they are being given the opportunity to exploit another tenant. Consistency with 7-C requires that it is the prime tenants with pre-existing agreements regarding the recovery of space who must be protected from undue pressure.

We propose that section C-5 which provides for the recovery of space by prime tenants be amended to include the following.

The prime lessee has the right to recover for his/her own personal use a residential unit located within such space. if there was a prior agreement to that effect other than the mere expiration of the lease.

Compensation to the subtenant for costs he/she incurred in developing a residential unit shall follow procedures outlined in Article 7 of these regulations.

Affected subtenants shall be allowed to remain in place one year from the effective date of these regulations and for this duration he/she shall be considered in privity to the prime tenant.