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For Spot in Artists' Loft, Impress a Critic: The City

The Appraisal

By SHARON OTTERMAN JAN. 20, 2014

About every other month, an obscure mini-committee of two artists meets behind closed doors at New York's Department of Cultural Affairs on Chambers Street. In their hands are stacks of applications from self-described artists seeking formal certification from the city, giving the panel influence over millions of dollars in lucrative real estate deals.

Most lofts in SoHo and NoHo, two fashionable neighborhoods in Lower Manhattan, are legally reserved for artists. And not just any kind of artist — only fine artists who create independent, original work, as judged by the committee. Actors, dancers and musicians who interpret other people's work do not qualify, nor do commercial artists, such as most graphic designers or architects.

Of course, most modern-day buyers in SoHo, where the average apartment sells for \$2.85 million, and penthouse lofts can top \$30 million, are not artists, but people like bankers, foreign elites and celebrities. In reality, the law is broadly flouted, even though a few co-op boards still insist that residents be certified artists.

Seeking more information about the closed-door process, The New York Times submitted a Freedom of Information request for all of the rejection letters the

committee issued in the last several years. Back came 18 letters, providing a glimpse into how the city answers the age-old question of what is art.

“Your role as an advocate and advisor to filmmaking professionals is not in the spirit of the guidelines,” read one rejection letter. “As a general rule, Cultural Affairs does not certify actors,” read another.

Another: “The applicant’s work does not demonstrate sufficient depth and development over the 20 years since the awarding of his degree.”

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ARTICLES REMAINING

In the early 1970s, the state, seeking to legalize the large number of artists who had moved into abandoned manufacturing buildings in SoHo and elsewhere, and to maintain those buildings as artists’ havens, defined an artist primarily as “a person who is regularly engaged in the fine arts, such as painting and sculpture, or in the performing or creative arts.” In those days, according to artists certified in that era, it was easy to sail through.

In 1986, the city gave amnesty to all residents, artist or not, of an increasingly fashionable SoHo, but also tightened the rules on who could qualify as an artist, now requiring proof of “a serious consistent commitment” to fine art as a primary vocation, evidence of “substantial element of independent esthetic judgment and self-directed work,” and documents proving they are professional artists. They must also demonstrate the need for a large loft.

So when Jill Platner, a jewelry designer and sculptor who has a store and gallery on Crosby Street in SoHo, for example, tried in 2010 to receive artist certification, which she needed to remain in her loft, she could not.

“The committee’s conclusion is that your application materials reflect that your primary vocation to be your jewelry business and not that of a professional artist,” her rejection letter said.

In an interview last week at her gallery, Ms. Platner said: “I was very upset, obviously, to get that. I thought, what do I need to do to show you I am an artist?”

As required, she had sent images of her work, recommendations, a fine art résumé, and an essay describing her art form and need for a loft-size space. But

though she also creates large-scale sculptural works, like a chain of steel chevrons cascading from the ceiling, the committee objected that she had not yet had a significant show of her sculpture. Once she had one, she reapplied and was certified.

“You must twist like a pretzel to comply with these arbitrary and capricious regulations, and what is the point of this?” said Margaret Baisley, a real estate lawyer based in SoHo who guided Ms. Platner and has been leading an effort to change the law. “The point of this in the 1970s was to protect people who lived here illegally, but now the majority of people who live here illegally are not artists. Aren’t they entitled to the same protection?”

The Department of Cultural Affairs has certified roughly 3,450 artists since 1971, with the number of applicants shrinking each year as lofts filled or grew too expensive for most artists. In 2013, 14 applied and nine were accepted, the department said.

Sara Reisman, the department official who signs the rejection letters, said it was the committee’s job to apply the regulations, nothing more or less. “There are so many ways a person can be an artist, and we are aware of that,” Ms. Reisman said, “but if somebody doesn’t need the space and doesn’t have a consistent output of artwork, it’s hard for us to certify them.”

She said the certification committee consisted of two visual artists, who receive a stipend of \$25 per session. They are anonymous to protect them from pushback by those they deny.

Defenders of the zoning argue that it protects the hundreds of artists who are believed to remain in the neighborhood, some of whom pay below-market rents and could be evicted if they did not have the law’s protection. But even Sean Sweeney, the director of the SoHo Alliance, and one of the requirement’s staunchest defenders, agrees that the city’s definition of artist is too strict.

“I would open it up to everyone in a creative field, though that of course, has its own problems,” he said. “Look what Bernie Madoff did; that’s pretty creative.”

A host of legal workarounds exist. Some buyers sign what co-op and condo boards call a SoHo letter, accepting responsibility in case of any problem. Some owners have asked certified artists to “occupy” their lofts for at least one day a year, because the zoning regulation, which requires an artist to occupy each loft, does not define the word “occupy,” Ms. Baisley said.

Jon Bon Jovi, who put his penthouse loft at 158 Mercer Street on the market last year for \$42 million, is a certified artist, qualifying as a music composer (he recently took his apartment off the market after dropping the price). But many more boldface names who live or have lived in the neighborhood presumably do not have certification. A single triplex loft at 141 Prince Street, for example, has been owned in the past decade by the media magnate Rupert Murdoch; the design mogul Elie Tahari; and Ted Waitt, a co-founder of Gateway computers.

The Department of Buildings does not evict people for failure to comply, but it does enforce the rule in the event of a specific complaint, or if a building needs a new or updated certificate of occupancy, a spokeswoman said.

Even artists who clearly fall under the city’s definition can find the rule irritating. Sandi Slone, a well-known abstract painter, has had 40 solo shows; her work is in the collection of the Museum of Modern Art. Last year, she had to reapply for artist certification, because she and her husband wanted to renovate their TriBeCa loft, where she paints.

“It was annoying; it took time,” she said. “But if you are an artist, it’s easy.” Her acceptance came in a couple of weeks.

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