



NEW YORK CITY COMPTROLLER
BRAD LANDER

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Audit Report on the New York City Department of Finance's Administration of the Cooperative and Condominium Tax Abatement Program

FP24-056A | October 23, 2024





THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

October 23, 2024

To the Residents of the City of New York:

My office has audited the New York City Department of Finance (DOF) to determine whether it ensures that condominium and cooperative owners receiving the Cooperative/Condominium Abatement (Co-op/Condo Abatement) meet the eligibility requirements of the program. The Office of the New York City Comptroller conducts audits of City agencies such as this to increase accountability and ensure that the City effectively and accurately assesses and receives funds it is due.

The audit found that DOF granted abatements to 720 ineligible units (678 condos and 42 co-ops) in Fiscal Year 2023. Between Fiscal Year 2019 and Fiscal Year 2024, the City lost a total of \$6.5 million in property tax revenue because those ineligible units were granted the Co-op/Condo Abatement.

Issues found during the audit included a coding error in DOF's Property Tax System that allowed certain eligibility checks to be bypassed, which led the agency to grant abatements to ineligible parties. Issues also stemmed from data input or review errors.

The audit makes five recommendations including that DOF should remove the Co-op/Condo Abatement from the ineligible units, recover as much as is feasible of the approximately \$6.5 million in abatements that should not have been granted, and ensure the error from the XY eligibility code has been corrected and is no longer in use. DOF generally agreed to implement the recommendations.

The results of the audit have been discussed with DOF officials and their comments have been considered in preparing this report. DOF's complete written response is attached to this report.

If you have any questions concerning this report, please email my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander".

Brad Lander
New York City Comptroller

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Audit Impact

Summary of Findings

The New York City Department of Finance (DOF) generally ensured that condo and co-op owners who received the Cooperative/Condominium Tax Abatement (Co-op/Condo Abatement) in Fiscal Year 2023 met the eligibility requirements of the program. Since its introduction in 2019, the agency's Property Tax System has helped improve the administration of the abatement program.

Nonetheless, the auditors found that DOF continued to grant the abatement to ineligible units between FY2019 and FY2024. The audit reviewed Co-op/Condo Abatements granted in FY2023 and identified 720 units (678 condos and 42 co-ops) that should not have received the benefit, including:

- 218 condo units that were not Tax Class 2 or had an ineligible building classification code.
- 57 condo units that were already receiving the Urban Development Action Area Program (UDAAP) exemption.
- 290 condo units that were owned by businesses.
- Four condo units that were already receiving the clergy exemption.
- 27 condo units that were owned by individuals that received the abatement at another development—a violation of the primary residence requirements.
- One condo unit owned by a person who does not live in New York City—a violation of the primary residence requirements.
- 81 condo units and 42 co-op units that were deemed ineligible because the developments did not submit a correct prevailing wage affidavit.

The auditors then assessed eligibility status in all years between FY2019 and FY2024 for the identified 720 units. Over this period, the City lost a total of approximately \$6.5 million in property tax revenue because ineligible units were granted the abatement.

Intended Benefits

This audit identified \$6.5 million in ineligible Co-op/Condo Abatements and the root causes of their being granted, thus preventing further ineligible abatements and potentially avoiding future property tax revenue loss to the City.

Introduction

Background

DOF administers the tax and revenue laws of the City, collects the revenues that make all City services possible, and administers several benefits for property owners, including exemptions and abatements such as the Co-op/Condo Abatement.¹

Generally, condos and co-ops are types of apartments within a multi-unit building, with the major difference being ownership structure. A condo is a single real estate unit in a multi-unit development in which an owner has individual ownership of a unit. Co-ops are a distinctive form of housing ownership in which owners are referred to as shareholders because they have purchased shares in a cooperative corporation that owns real property.

The Co-op/Condo Abatement was created in 1996 by New York State Real Property Tax Law (RPTL) Section 467-a. The purpose of this law was to address inequities and reduce disparities in the real property tax system in New York City that burden owners of co-op and condo units with larger tax bills than the owners of comparably valued one-, two-, and three-family homes. It provides a partial tax abatement to eligible co-op and condo owners that reduces the annual property taxes by a range of 17.5% to 28.1%, depending on the average assessed value of the residential units in the development. See the table below.

Average Assessed Value	Benefit Amount Per Year
\$50,000 or less	28.1%
\$50,001–\$55,000	25.2%
\$55,001–\$60,000	22.5%
\$60,001 and above	17.5%

The building’s managing agent or board of directors applies for the abatement on behalf of the entire development on an annual basis. This process includes providing information about each unit in the development, obtaining the primary residence information of unit owners and submitting it through DOF’s Cooperative/Condominium Abatement Portal or by paper application. The

¹ Exemptions reduce a property’s assessed value before property taxes are calculated. Abatements reduce a property’s assessed value after property taxes have been calculated. DOF’s Property Exemptions Administration oversees and executes property tax benefits, and its responsibilities include the examination, processing, and management of applications for exemptions and abatements. The Homeowner Tax Benefits Unit within the Property Exemptions Administration administers the Co-op/Condo Abatement.

building's managing agent or board of directors are also responsible for renewing the abatement each year.

Eligibility Requirements

Both the development itself and the individual unit owner must meet certain eligibility requirements to receive the abatement. Currently, to be eligible for the Co-op/Condo Abatement:

- The development must be classified as a Tax Class 2 property.²
- The property must have one of the following building classification codes: R1, R2, R4, C6, C8, D0, D4 or R9.³ (See Appendix 1 for a list and description of the eligible building classification codes.)
- The development cannot be receiving certain other property tax exemptions. (See Appendix 2 for a list of the ineligible property tax exemptions.)
- The owner cannot own more than three residential units in any one development, and one unit must be the owner's primary residence.
- The unit cannot be owned by a business, such as a limited liability company (LLC).
- The unit owner cannot be receiving the clergy exemption.⁴

Furthermore, prevailing wage affidavits must be filed for certain properties beginning in Fiscal Year (FY) 2023 and all subsequent fiscal years.⁵ Prevailing wage affidavits certify that all building service employees are paid the applicable prevailing wage for the duration of the abatement. Developments that are required to submit a prevailing wage affidavit may submit a *Cooperative/Condominium Tax Abatement Benefit Opt-out* form and forfeit the Co-op/Condo abatement. All initial applications, renewal and change forms, and prevailing wage affidavits must

² Properties in the City are divided into four classes to assess property tax. Class 1 primarily consists of one-, two-, and three-family homes. Class 2 primarily consists of residential properties with more than three units, such as co-ops and condos. Class 3 consists of most utility properties, and Class 4 consists of all commercial and industrial properties, such as office, retail, factory buildings, and all other properties not included in the other tax classes.

³ The building classification code describes the property type. R1, R2 and R4 are the eligible codes for condos; C6, C8, D0, D4 and R9 are the eligible codes for co-ops.

⁴ The clergy exemption is an exemption that provides a \$1,500 reduction in assessed value on a property to eligible retired or active clergy members and their spouses/widow(er)s.

⁵ Chapter 422 of the Laws of New York 2021 amended RPTL 467-a to include prevailing wage requirements. The prevailing wage affidavit must be filed for properties that have 30 or more dwelling units and an average assessed unit value of more than \$60,000, or that have less than 30 dwelling units and an average assessed unit value of more than \$100,000.

be submitted by the building's managing agents or board of directors by February 15 for the abatement to begin on July 1 of the same year.

Prior Audits

A prior audit report of DOF's administration of the program (SR16-055A), issued by our office on January 27, 2016, focused on abatements granted to condos. That report found that DOF allowed owners of at least 1,249 properties to receive Co-op/Condo Abatements for which they were ineligible. 1,085 were owned by businesses, and 164 were not Tax Class 2. Those properties received 3,471 improperly granted Co-op/Condo Abatements from FYs 2013 through 2016 that resulted in a loss of property tax revenue of at least \$10 million.

The follow-up review report issued on June 28, 2016 (SR16-120SL) found that, while 34 of the 1,249 properties were made eligible for the abatement, and that abatements were removed from 920 of the 1,249 properties deemed ineligible, DOF did not remove the abatement from 295 properties that were identified as ineligible, a potential loss of \$651,413 in property tax revenue for FY2017.

After those reports were issued, DOF agreed to remove abatements from non-Tax Class 2 properties but stated it would not pursue recoupment of lost property tax revenue from these properties because they were owned by individuals. Additionally, DOF updated its Standard Operating Procedures and indicated that it was developing a new system called the Property Tax System (PTS) to prevent errors (such as LLCs receiving abatements) and to remove abatements accordingly for the applicable tax year. PTS was launched in January 2019 and is used by DOF in the administration of the Co-op/Condo Abatement. It provides information including unit owner names; exemptions; abatements; property details; and tax information.

In FY2023 (July 1, 2022 through June 30, 2023), DOF granted the Co-op/Condo Abatement to 56,437 condos (totaling \$161.9 million) and to 253,686 co-ops (totaling \$497.1 million). This audit focused on Co-op/Condo Abatements granted to condos and co-ops during FY2023. Additionally, the audit assessed whether the ineligible abatements found in FY2023 were granted in the years before and after FY2023 (from FYs 2019 to 2024).

Objective

The objective of this audit was to determine whether DOF ensures that condo and co-op owners receiving the Cooperative/Condominium Abatement meet the eligibility requirements of the program.

Discussion of Audit Results with DOF

The matters covered in this report were discussed with DOF officials during and at the conclusion of this audit. An Exit Conference Summary was sent to DOF and discussed with DOF officials at an exit conference held on August 13, 2024. On September 30, 2024, we submitted a Draft Report to DOF with a request for written comments. We received a written response from DOF on October 15, 2024. In its response, DOF generally agreed with the audit's recommendations.

DOF's written response has been fully considered and, where relevant, changes and comments have been added to the report.

The full text of DOF's response is included as an addendum to this report.

Detailed Findings

DOF generally ensured that condo and co-op owners who received the Co-op/Condo Abatement in Fiscal Year 2023 met the eligibility requirements of the program. Since its introduction in 2019, the agency's Property Tax System (PTS) has helped improve the administration of the abatement program.

Nonetheless, the auditors found that DOF continued to grant abatements to ineligible units between FY2019 and FY2024. The audit reviewed abatements granted in FY2023 and identified 720 units (678 condos and 42 in co-ops) that should not have received the benefit, and then assessed status in all years between FY2019 and FY2024.⁶ Over this period, the City lost a total of \$6.5 million in property tax revenue because ineligible units were granted the abatement. According to DOF, many of these incorrect determinations resulted from coding errors in the new system that it is now working to rectify.

In the case of prevailing wage affidavits (PWA), incorrect determinations also stemmed from data input or review errors, as three developments were marked as having submitted the requisite affidavit in FY2023. However, on closer examination, the auditors determined that the affidavits submitted did not belong to the developments credited.

Further information follows below.

DOF Improperly Granted \$6.5 million in Co-op/Condo Tax Abatements between FYs 2019–2024

In FY2023, DOF granted 720 unit-owners an abatement they were not entitled to; 678 of these were for condo units which were deemed ineligible by the auditors, on the following grounds:

- 218 were not Tax Class 2 or had ineligible building classification codes.
- 57 were already receiving the Urban Development Action Area Program (UDAAP) exemption.
- 290 were owned by businesses.

⁶ Due to technical ownership differences between co-ops and condos, this audit did not assess ownership level criteria for co-ops, but instead focused on the development level criteria for co-ops. For example, property tax bills and Notices of Property Value are issued to co-op developments, but for condos, these documents are issued to individual unit owners.

- Four were already receiving the clergy exemption.
- 27 were owned by individuals that received the abatement at another development—a violation of the primary residence requirements.
- One was owned by a person who does not live in New York City—a violation of the primary residence requirements.
- 81 units were deemed ineligible because one development did not submit a PWA. DOF incorrectly indicated it had.

In addition to the ineligible condos, the audit also found that 42 co-op units should not have been granted the abatement because two developments failed to submit a PWA. DOF incorrectly indicated that both had submitted PWAs.

The owners of these 720 condo and co-op units received a total of 2,936 improperly granted Co-op/Condo Abatements from FYs 2019 to 2024. Cumulatively, this represents at least \$6,465,892 in lost property tax revenue for the City.

DOF Granted Abatements to 218 Condo Units That Were Not Tax Class 2 or Had an Ineligible Building Classification Code

DOF improperly granted Co-op/Condo Abatements to 218 non-residential condo units in FY2023, including units classified as office space, indoor parking, retail space, and outdoor parking (Tax Class 4). From FYs 2019–2024, 1,045 abatements were granted to such units, in the total amount of \$815,242.

The auditors identified numerous units that received the abatement that were in developments not holding the required Tax Class or Building Classification Code.⁷ Table I below identifies the non-residential condo building classification codes the auditors found, along with the description of the building classification code and the number of units with that code that incorrectly received the abatement for FY2023.

⁷ DOF assigns each property a building classification code that describes the property type.

Table I: Non-Residential Condo Building Classification Codes for FY2023

Tax Class	Building Classification Code	Description	Count
4	R5	MISCELLANEOUS COMMERCIAL	1
2C	R8	CONDO; COMML.UNIT OF 2-10 UNIT BLDG.	13
4	RB	OFFICE SPACE	13
4	RG	INDOOR PARKING	61
4	RK	RETAIL SPACE	4
4	RP	OUTDOOR PARKING	32
2	RR	CONDOMINIUM RENTALS	7
4	RS	NON-BUSINESS STORAGE SPACE	83
4	RT	TERRACES/GARDENS/CABANAS	4
Total			218

Based on the Tax Class or Building Classification Codes DOF recorded in the Final Assessment Roll, none of these 218 condo units should have received the abatement. The auditors examined whether any of these 218 units were also granted abatements in the subsequent year (FY2024) or in prior years (FYs 2019–2022) and found 1,045 ineligible abatements (including the 218 found in 2023). These findings are summarized below in Table II.

Table II: Dollar Amount of Abatements Granted to Units with Ineligible Tax Class or Building Classification Code

Fiscal Year	Number of Abatements Granted to Units with Ineligible Tax Class or Building Classification Code	Dollar Amount of Abatements Granted
2024	206	\$ 153,965
2023	218	\$ 168,635
2022	172	\$ 129,165
2021	166	\$ 131,719

Fiscal Year	Number of Abatements Granted to Units with Ineligible Tax Class or Building Classification Code	Dollar Amount of Abatements Granted
2020	145	\$ 106,237
2019	138	\$ 125,521
Total	1,045	\$ 815,242

In total, the City lost approximately \$815,242 in property tax revenue between FYs 2019 and 2024.

Furthermore, the auditors found that six of these units were identified in the 2016 audit as ineligible for abatements. Despite being identified in 2016, DOF continued to provide the abatement for several subsequent years.

DOF Improperly Granted Abatements to 57 Condos that Received the Urban Development Action Area Program Exemption

The auditors identified 57 condos that were receiving both the exemption as well as the Co-Op/Condo Abatement in FY2023. The UDAAP Tax Incentive is a 20-year real estate tax exemption for developers that rehabilitate or build new housing on land formerly owned by the City. Units in UDAAP buildings or developments are not eligible for the Co-Op/Condo Abatement, and thus, none of the abatements should have been granted.

Table III below summarizes the number of ineligible abatements granted for these units.

Table III: Dollar Amount of Abatements Granted to Ineligible Properties Receiving UDAAP Exemption

Fiscal Year	Number of Abatements Granted to Properties Receiving UDAAP Exemption	Dollar Amount of Abatements Granted
2024	55	\$43,540
2023	57	\$38,398
2022	57	\$32,453
2021	56	\$25,099

Fiscal Year	Number of Abatements Granted to Properties Receiving UDAAP Exemption	Dollar Amount of Abatements Granted
2020	54	\$19,645
2019	54	\$15,416
Total	333	\$174,551

In total, 333 Co-op/Condo Abatements were granted to the owners of these 57 units. Because of this, the auditors determined that the City lost approximately \$174,551 in property tax revenue between FYs 2019 and 2024.

DOF Improperly Granted Abatements to 290 Condos Owned by Businesses

A condo unit is not eligible for the abatement if it is owned by a business. However, the auditors identified 290 abatements that were improperly granted to businesses in FY2023. Between FYs 2019 and 2024, DOF granted 1,286 abatements to businesses, which totaled \$4.9 million.

A business may only apply for the Co-op/Condo Abatement if one of the members or partners is a law enforcement officer and there is an imminent or ongoing security threat. In such instances, the business must submit a *Cooperative/Condominium Abatement Security Waiver Application* to DOF for approval. DOF confirmed to the auditors that it did not receive any security waiver applications during or prior to FYs 2023 and 2024 for these units. Therefore, all abatements granted to units owned by these businesses were improper.

The auditors examined whether any of the 290 units owned by businesses were granted abatements before or after FY2023. Table IV below summarizes the number of abatements granted to units owned by businesses.

Table IV: Dollar Amount of Abatements Granted to Ineligible Business Owners

Fiscal Year	Number of Abatements Granted to Units Owned by Businesses	Dollar Amount of Abatements Granted
2024	239	\$936,435
2023	290	\$1,154,695
2022	251	\$949,626

Fiscal Year	Number of Abatements Granted to Units Owned by Businesses	Dollar Amount of Abatements Granted
2021	201	\$753,237
2020	167	\$611,088
2019	138	\$463,193
Total	1,286	\$4,868,274

In total, 1,286 abatements were granted to units owned by businesses. Because of this, the City lost approximately \$4.9 million in property tax revenue between FYs 2019 and 2024.

Additionally, the auditors found that six of these units were also identified in the 2016 audit as ineligible for abatements.

DOF Improperly Granted Abatements to Condo Owners Receiving a Clergy Exemption

The clergy exemption provides retired or active clergy members (and their spouses/widow[er]s) a \$1,500 reduction in assessed value on a property. Condo owners who are granted this exemption are ineligible for the Co-op/Condo Abatement. However, the auditors identified four condo units receiving the clergy exemption that also received abatements in FY2023.

Table V below summarizes the number of abatements granted to these four units from FYs 2019 to 2024.

Table V: Dollar Amount of Abatements Granted to Condo Units Receiving the Clergy Exemption

Fiscal Year	Number of Abatements Granted to Condo Units Receiving the Clergy Exemption	Dollar Amount of Abatements Granted
2024	3	\$6,457
2023	4	\$12,182
2022	4	\$11,804
2021	3	\$9,563
2020	2	\$8,401

Fiscal Year	Number of Abatements Granted to Condo Units Receiving the Clergy Exemption	Dollar Amount of Abatements Granted
2019	1	\$1,692
Total	17	\$50,099

In total, 17 abatements were granted to the four condo units that had received the clergy exemption. Because of this, the City lost approximately \$50,099 in property tax revenue between FYs 2019 and 2024.

DOF Improperly Granted Abatements to Condo Owners for Units at Multiple Developments

The abatement has a primary residency requirement which requires that the owner reside and maintain a permanent and continuous physical presence in the unit.⁸ The auditors identified 27 units where the condo owner received the abatement at another development in FY2023, in violation of primary residence requirements.

While a person may have one or more residences, there can be only one primary residence. Since more than one person can own a unit, DOF’s Standard Operating Procedures state that it must be the primary residence for at least one owner. All of the abatements identified by the auditors had one listed owner according to the deeds for the units at both developments. Therefore, none of the abatements should have been granted to units at the secondary developments.⁹

The auditors also examined whether any of these 27 owners were granted abatements for units at multiple developments before or after FY2023. Table VI below summarizes the number of abatements granted to these owners.

⁸ An owner is allowed to own up to three units in the same development and receive the abatement. One of the units must be the owner’s primary residence.

⁹ To be conservative with the ineligibility calculation, the auditors used the unit in the development with the lower abatement value. The unit in the development that received the higher abatement amount was treated as eligible.

Table VI: Dollar Amount of Abatements Granted to the Same Condo Owner at Multiple Developments

Fiscal Year	Number of Inappropriate Abatements Granted to the Same Condo Owner at Multiple Developments	Dollar Amount of Abatements Granted
2024	21	\$56,262
2023	27	\$58,124
2022	22	\$45,762
2021	21	\$45,202
2020	19	\$41,900
2019	16	\$32,764
Total	126	\$280,014

In total, 126 abatements were granted to condo owners for units at multiple developments. Because of this, the City lost approximately \$280,014 in property tax revenue between FYs 2019 and 2024.

DOF Improperly Granted Abatements to a Condo Owner Who Does Not Live in New York City

The auditors identified one condo owner who received the abatement in FY2023 who did not appear to have a permanent and continuous physical presence in New York City—a violation of the primary residence requirements.

The auditors found that the sole owner listed on the deed for this unit maintained an out-of-state residence, with the owner’s driver’s license, professional medical license, and mailing address all based in California. Therefore, this abatement should not have been granted.

The auditors also examined whether this owner received abatements before or after FY2023 while maintaining an out-of-state residence, as shown in Table VII below.

Table VII: Dollar Amount of Abatements Granted to a Non-NYC Resident Condo Owner

Fiscal Year	Number of Inappropriate Abatements Granted to a Condo Owner that Does Not Reside in New York City	Dollar Amount of Abatements Granted
2024	1	\$2,299
2023	1	\$2,276
2022	1	\$2,168
2021	1	\$2,262
2020	1	\$2,205
2019	1	\$2,184
Total	6	\$13,394

In total, six abatements were granted to this owner. Because of this, the City lost approximately \$13,394 in property tax revenue for FYs 2019 through 2024.

Incorrect Use of Property Tax System Codes Resulted in Ineligible Abatements Being Granted

According to DOF, most of the above-noted instances of ineligibility identified by the auditors stemmed from a data conversion error made by DOF in 2019 while moving data from the Real Property Assessment Database (RPAD) to the new Property Tax System (PTS). The error allowed certain eligibility checks to be bypassed, which led DOF to grant abatements to ineligible parties.

During the data conversion process, DOF used a temporary “placeholder” eligibility code (XY) to prevent eligible owners from inadvertently losing the abatement. However, the XY eligibility code was not removed after the process.

Specifically, the XY error code was the root cause of:

- Ineligible abatements granted to condo developments that were not Tax Class 2 or had an ineligible building classification code.
- Ineligible abatements granted to condo units receiving the clergy exemption.

- Ineligible abatements granted to condo units with the same owner at multiple developments, violating primary residency requirements.

In addition to the XY eligibility code, the system also allowed a Social Security placeholder consisting solely of nines (999-99-9999) to be used for condo units owned by businesses, erroneously granting these units the abatement. Furthermore, various other issues, such as failing to code incompatibility of UDAAP exemption with the Co-op/Condo Abatement, compounded the problems.

DOF stated that it identified the eligibility code error in March 2024 (after the audit started in July of 2023) and began working to correct the issue. DOF stated that it no longer utilizes the XY eligibility code and has since instituted a rule that permits only foreign owners to use the “all-nines” placeholder Social Security number.¹⁰ With respect to UDAAP, DOF stated that it is having its Legal team recheck whether UDAAP is incompatible with the abatement. DOF stated that it intends to make the appropriate adjustments to the PTS’ coding depending on its Legal team’s response.

Until these issues and others found in the audit are resolved, the City will continue to lose property tax revenue.

Condo and Co-op Developments Generally Submitted the Appropriate Prevailing Wage Affidavit to DOF

To qualify for the Co-op/Condo Abatement, applicable condo and co-op developments are required to submit a prevailing wage affidavit (PWA) to DOF. This became a requirement beginning in FY2023. PWAs certify that all building service employees are paid the applicable prevailing wage for the duration of the abatement. Developments can choose not to comply with the prevailing wage requirement by submitting the Co-op/Condo Tax Abatement Benefit Opt-Out Form, thus forfeiting the abatement. If the development’s managing agent does not file a PWA, or the development decides to opt out, the entire development—meaning all condo or co-op units—are ineligible to receive abatements.

¹⁰ According to DOF’s Co-op/Condo Abatement Standard Operating Procedures, “The managing agent must provide the new owner’s Social Security Number (SSN), employer identification number or Individual Taxpayer Identification Number (ITIN). If foreign born and no SSN, EIN or ITIN is available 999-99-9999 must be used as the SSN. An SSN must be entered in the owner’s screen for the abatement to be granted. “

According to DOF’s records, 353 condo developments and 178 co-op developments either did not submit a PWA or submitted an Opt-Out Form. The auditors found that none of these developments received the abatement in FY2023. DOF’s Property Tax System identifies and flags all developments that are required to submit a PWA to be eligible to receive the abatement. Accordingly, managing agents that did not submit any documentation for their development did not receive abatements.

However, when the auditors reviewed PWAs for a sample of 100 condo developments and 100 co-op developments that were listed in PTS as having submitted a PWA, the auditors identified 123 abatements granted to units within one condo development and two co-op developments that did not submit the *correct* PWA. For FY2023, abatements granted for these units totaled \$264,318.¹¹

The essential information on the PWA includes the development name and condo or co-op identification number. The auditors found that the information on the submitted PWAs did not match the information of the three corresponding developments. This failure to file the correct PWA resulted in the entire development being ineligible for the abatement. In total, 81 units within the ineligible condo development received abatements, and 42 units within the two ineligible co-op developments received abatements.

Table VIII below summarizes the number and total amounts of the abatements granted to condo and co-op developments that DOF incorrectly listed as having submitted a PWA for FY2023.

Table VIII: Dollar Amount of Abatements Granted to Ineligible Developments that DOF Incorrectly Listed as Having Submitted a Prevailing Wage Affidavit

Fiscal Year	Number of Abatements Granted to Developments that did not Submit the Required PWA	Dollar Amount of Abatement Granted
2023 (Condos)	81	\$171,212
2023 (Co-ops)	42	\$93,106
Total	123	\$264,318

¹¹ In FY2023, 1,639 condo developments and 2,360 co-op developments were required to submit a PWA to receive the Co-op/Condo Abatement. According to DOF’s records, 1,286 condo developments and 2,182 co-op developments submitted a PWA.

In total, 123 abatements were granted to units in developments that did not submit the correct PWA form. By erroneously granting abatements to those units, the City lost approximately \$264,318 in property tax revenue for FY2023.

The auditors examined whether these developments received the abatement in FY2024 and found that DOF did not receive a PWA for the condo development in question. DOF appropriately withdrew the abatements from units within the development that year. The first property tax bill issued to those condo owners in FY2024 included the following message: “Your Cooperative and Condominium Property Tax Abatement was removed because your managing agent or board has not filed a prevailing wage affidavit, or they have chosen to opt out of continuing the abatement rather than complying with the law's prevailing wage requirement.”

The two co-op developments which failed to submit PWAs in FY2023 did submit them in FY2024, returning the developments to eligible status in the new fiscal year.

Recommendations

To address the abovementioned findings, the auditors propose that DOF:

1. Remove the Co-op/Condo Abatement from condo units that are:
 - not classified as Tax Class 2 or do not have building classification code R1, R2, or R4.
 - receiving the UDAAP exemption.
 - owned by a business.
 - receiving the clergy exemption.
 - violating primary residency requirements.

DOF Response: DOF agreed with this recommendation and stated that implementation is in progress.

2. Recover as much as is feasible of the approximately \$6.5 million in abatements that should not have been granted:
 - \$989,793 granted to owners within developments that are not Tax Class 2, have an ineligible building classification code, or are receiving the UDAAP exemption from Fiscal Years 2019 to 2024.
 - \$4,918,373 granted to condo units owned by businesses or receiving clergy exemptions from Fiscal Years 2019 to 2024.
 - \$293,408 granted to condo units violating primary residency requirements from Fiscal Years 2019 to 2024.
 - \$264,318 granted to condo and co-op developments that did not submit the correct prevailing wage affidavit in Fiscal Year 2023.

DOF Response: DOF stated that it agreed with this recommendation and that implementation is in progress. However, DOF will only recover the value for abatements granted to condo units that are owned by businesses, further stating, “In accordance with our current policy, we will not seek to recover benefits that were granted due to errors in our processes, such as failure to conduct necessary verifications or incorrectly reflecting property tax information in the system such as the UDAAP incompatibility.”

3. Ensure that submitted prevailing wage affidavits are saved, reviewed for correctness, and associated with the correct development.

DOF Response: DOF agreed with this recommendation and stated that implementation is in progress.

4. Ensure the error from the XY eligibility code has been corrected and is no longer in use to prevent Property Tax System eligibility checks from being bypassed and to ensure that ineligible developments and owners are not granted the Co-op/Condo Abatement. In addition, update the ineligibility coding in the Property Tax System to prevent developments receiving UDAAP from concurrently receiving the abatement.

DOF Response: DOF responded to part of this recommendation and stated that “[t]he XY eligibility code is no longer in use as of tax year 2024. We have removed and updated the system of record as of May 2024.”

Auditor Comment: The auditors appreciate that DOF has updated and removed the XY eligibility code from the Property Tax System. However, DOF did not specify in its response whether the system was or will be updated to prevent developments receiving the UDAAP exemption from also receiving the Co-op/Condo Abatement. If it has not yet been implemented, we urge DOF to update the system so that the UDAAP exemption is coded as ineligible with the Co-op/Condo Abatement.

5. Conduct periodic sample-based testing to check for ineligible units receiving the Co-op/Condo Abatement.

DOF Response: DOF agreed with this recommendation and stated that it will be implemented for the upcoming renewal filing period.

Recommendations Follow-up

Follow-up will be conducted periodically to determine the implementation status of each recommendation contained in this report. Agency reported status updates are included in the Audit Recommendations Tracker available here: <https://comptroller.nyc.gov/services/for-the-public/audit/audit-recommendations-tracker/>

Scope and Methodology

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). GAGAS requires that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions within the context of our audit objective(s). This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit includes Co-op/Condo abatements that were granted in Fiscal Year 2023. Auditors expanded the scope for those owners who may have improperly received abatements to calculate the extent and effects of these improper abatements in Fiscal Years 2019 through 2022, and Fiscal Year 2024.

To achieve the audit objectives, auditors performed the following:

Reviewed relevant criteria including:

- New York State Real Property Tax Law Section 467-a: Partial tax abatement for residential real property held in the cooperative or condominium form of ownership in a city having a population of one million or more.
- Chapter 50 of Title 19 of the Rules of the City of New York: Rules Relating to the Partial Tax Abatement for Residential Real Property Held in the Cooperative or Condominium Form of Ownership.
- DOF's Standard Operating Procedures for its Co-Op/Condo Abatement Unit to establish the approval process.
- DOF's Building Classification Codes which describes the property type and DOF's Fiscal Year 2023 Property Assessment Roll which contains information about a property in New York City, including land, building, assessment, taxable assessed value, and exemptions, if any.

Conducted interviews and walkthroughs with key DOF personnel involved with the Co-op/Condo Tax Abatement Program, including the Director of the Homeowner Tax Benefits Unit, to obtain an understanding of the process.

Reviewed DOF's lists of all Co-op/Condo Tax Abatements granted in Fiscal Year 2023.

Reviewed DOF's lists of all condo and co-op developments receiving a J-51 exemption, or the 420-c, 421-a, 421-b, or 421-g commercial tax benefits in Fiscal Year 2023.

Reviewed DOF's lists of all co-op and condo developments associated with Housing Development Fund Corporations, Limited Dividend Housing Companies, Redevelopment companies, Mitchell-Lama buildings, Division of Alternative Management Programs or Urban Development Action Area Program in Fiscal Year 2023.

Reviewed DOF's list of all co-op or condo developments where a unit owner received clergy exemptions in Fiscal Year 2023.

Reviewed DOF's lists of all developments that were required to submit a Prevailing Wage Affidavit in Fiscal Year 2023, which detailed the filing status for each development.

Reviewed the prior audit report on DOF's Administration of the Co-op/Condo Abatement, and list of the ineligible abatements found during the audit.

To determine whether DOF may have improperly granted the Co-op/Condo Abatement to developments that were not Tax Class 2 or had a building classification code that was not R1, R2 or R4, the auditors used data analytics to identify and extract units with an ineligible Tax Class or building classification code from the file provided by DOF listing all Co-op/Condo Abatements granted in Fiscal Year 2023. The auditors examined DOF's Fiscal Year 2023 Final Assessment Roll or Notice of Property Value for each, which verified building classification code, and tax bills for Fiscal Years 2019 through 2024 for each of the identified units.

To determine whether DOF may have improperly granted the Co-op/Condo Abatement to developments that were receiving any of the following exemptions: (J-51, 420-c, 421-a, 421-b, 421-g, Housing Development Fund Corporations, Limited Dividend Housing Companies, Redevelopment companies, Mitchell-Lama buildings, Division of Alternative Management Programs or Urban Development Action Area Program), the auditors used data analytics to identify and extract developments that may have received both concurrently by comparing DOF's list of all Co-op/Condo Abatements granted in Fiscal Year 2023 with DOF's lists of developments that received those exemptions in Fiscal Year 2023. The auditors examined Notices of Property Value, which verified the development receiving the UDAAP exemption, and property tax bills for Fiscal Years 2019 through 2024 for each of the identified units.

To determine whether DOF may have improperly granted the Co-op/Condo Abatement to condo units owned by a business, the auditors used data analytics to identify and extract condo units with a corporate or LLC name from DOF's list of all Co-op/Condo Abatements granted in Fiscal Year 2023. The auditors examined ownership records in the New York City Automated City Register Information System or the Richmond County Clerk Portal and property tax bills for Fiscal Years 2019 through 2024 for each of the identified units.

To determine whether DOF may have improperly granted the Co-op/Condo Abatement to units receiving the clergy exemption, the auditors used data analytics to identify and extract units that may have received the clergy exemption by comparing DOF's list of all Co-op/Condo Abatements

granted in Fiscal Year 2023 with DOF's lists of units that received the clergy exemption in Fiscal Year 2023. The auditors examined ownership records in the New York City Automated City Register Information System or the Richmond County Clerk Portal, Notices of Property Value, and property tax bills for Fiscal Years 2019 through 2024 for each of the identified units.

To determine whether DOF may have improperly granted the Co-op/Condo Abatement to owners with more than three units at the same condo development or the same owner with units at multiple condo developments—which violates primary residence requirements—the auditors used data analytics to identify and extract all owners that received more than one abatement from DOF's list of all Co-op/Condo Abatements granted in Fiscal Year 2023. The auditors examined ownership records in the New York City Automated City Register Information System or the Richmond County Clerk Portal, Notices of Property Value, and property tax bills for Fiscal Years 2019 through 2024 for each of the identified units. The auditors utilized Thomson Reuters CLEAR software to find critical data for verifying that the identified units were associated with the same individual.¹²

To determine whether DOF may have improperly granted the Co-op/Condo Abatement to condo units with owners that do not appear to have a permanent and continuous physical presence—which violates primary residence requirements—the auditors sampled 100 units from DOF's list of all Co-op/Condo Abatements granted in Fiscal Year 2023. The auditors examined ownership records in the New York City Automated City Register Information System or the Richmond County Clerk Portal, Notices of Property Value, and property tax bills for Fiscal Years 2019 through 2024, to find owners with out-of-state mailing addresses. The auditors utilized Thomson Reuters CLEAR software to find critical data, including out-of-state driver or professional licenses, to verify that the identified individuals did not have a permanent and continuous presence in the condo unit.

To determine whether DOF may have improperly granted the Co-op/Condo Abatement to applicable developments that did not submit a prevailing wage affidavit, the auditors compared DOF's lists of all condo and co-op developments required to submit PWAs for Fiscal Year 2023, which detailed the development's PWA filing status (PWA submitted, Benefit Opt-Out form submitted, or PWA not submitted) with DOF's list of all Co-op/Condo Abatements granted in Fiscal Year 2023. The auditors used data analytics to identify and extract all developments that did not submit a PWA or submitted a Benefit Opt-Out form that received the abatement from those lists. The auditors examined property tax bills for Fiscal Years 2023 and 2024 for each of the identified ineligible developments to verify that the development did not receive Co-op/Condo abatements.

¹² Thomson Reuters CLEAR is an investigation software that utilizes a single search platform to perform research from a vast collection of public and proprietary records.

The auditors examined property tax bills for Fiscal Years 2023 and 2024 for each of the developments listed as having submitted a PWA. To provide reasonable assurance that DOF received the required PWA before granting the Co-op/Condo Abatement, the auditors randomly selected and reviewed a copy of the PWA for 100 condo developments and 100 co-op developments. The auditors compared the information listed on the PWA with the information on DOF's lists of all condo and co-op developments required to submit PWAs for Fiscal Year 2023 to verify that the PWA for the correct development was received.

The results of the above tests, while not projectable to their respective populations, provided a reasonable basis for the auditors to evaluate and support their findings and conclusions regarding whether DOF ensures that condominium and cooperative owners receiving the Cooperative/Condominium Abatement meet the eligibility requirements of the program.

Appendix 1

Eligible Co-op/Condo Abatement Building Classification Codes and Descriptions

Building Classification Code	Description
R1	Condo; Residential Unit in 2-10 Unit Building
R2	Condo; Residential Unit in Walk-Up Building
R4	Condo; Residential Unit in Elevator Building
C6	Walk-Up Cooperative
C8	Walk-Up Co-op; Conversion from Loft/Warehouse
D0	Elevator Co-op; Conversion from Loft/Warehouse
D4	Elevator Cooperative
R9	Co-op Within a Condominium

Appendix 2

List of Property Tax Exemptions That Disqualify Co-op or Condo Developments from Receiving the Co-op/Condo Abatement:

- J-51 exemption
- 420c
- 421a
- 421b
- 421g
- Housing development fund corporations (HDFC)
- Limited dividend housing companies
- Redevelopment companies
- Mitchell-Lama buildings
- Division of Alternative Management Programs (DAMP)
- Urban Development Action Area Program (UDAAP)

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Pierre Dejean
Assistant Commissioner
Property Exemptions
Administration

October 15, 2024

Maura Hayes-Chaffe
Deputy Comptroller for Audit
NYC Office of the Comptroller
One Centre Street, Room 500
New York, NY 10007

RE: Audit Report on the New York City Department of Finance’s Administration of the Cooperative and Condominium Tax Abatement Program – Audit Number: FP24-056A

Dear Ms. Hayes-Chaffee,

The Department of Finance hereby provides status updates to exit conference recommendations for the following audit:

Audit Report on the New York City Department of Finance’s Administration of the Cooperative and Condominium Abatement Program – FP24-056A

DOF UPDATES TO RECOMMENDATIONS:

1. Remove the Co-op / Condo Abatement from the condo units that are:

- a. Not classified as Tax Class 2 or do not have building classification code R1, R2, or R4 (218 in FY23).
- b. Receiving the UDAAP exemption (57 in FY23).
- c. Owned by a business (290 in FY23).
- d. Receiving the clergy exemption (four in FY23).
- e. Violating primary residency requirements (28 in FY23).

DOF agrees with this recommendation and implementation is in progress. - We agree to remove the incorrectly granted benefits for those units not classified as tax class 2 or not having building classification code R1, R2, or R4, owned by a business, receiving a clergy exemption and will notify the unit owner.

For unit owners receiving the UDAAP exemption because both benefits cannot be received concurrently, DOF will remove and notify unit owner.

For the unit violating the primary residence requirement we will notify and request proof of residency before revoking benefit.

2. Recover as much as is feasible of the \$6.5 million in abatements that should not have been granted:

- a. \$989,793 granted to owners within developments that are not tax class 2, have an ineligible building classification code or are receiving the UDAAP exemption from fiscal years 2019 to 2024.
- b. \$4,918,373 granted to condo units owned by businesses or receiving clergy exemptions from fiscal years 2019 to 2024.
- c. \$293,408 granted to condo units violating primary residency requirements from fiscal years 2019 to 2024.
- d. \$264,318 granted to the condo and co-op developments that did not submit the correct prevailing wage affidavit in fiscal year 2023.

DOF agrees with this recommendation and implementation is in progress. - DOF agrees that the abatement benefits will be recovered from the condo units which are owned by businesses. In accordance with our current policy, we will not seek to recover benefits that were granted due to errors in our processes, such as failure to conduct necessary verifications or incorrectly reflecting property tax information in the system such as the UDAAP incompatibility.

3. Ensure that submitted prevailing wage affidavits are saved, reviewed for correctness, and associated with the correct developments.

DOF agrees with this recommendation and implementation is in progress. DOF will revise the process for Prevailing Wage Affidavit (PWA) and implement the following procedures immediately for the tracking and verification:

- **Centralized Storage:** All PWAs received by USPS will be placed in a central file and uploaded to the portal system on a weekly basis. The portal will serve as the primary storage and management platform for all PWA's.
- **Verification Requirements:** Processors and reviewers will verify that each PWA contains the following information:
 - Development number
 - Address of the development
 - Name of the development for the filer
 - Proper notarization
- **Supervisor Oversight:** Supervisors will conduct random checks of processed change forms to ensure compliance with the new procedures.

- Training Updates: Training manuals will be updated to reflect these revised procedures.
4. **Ensure the error from the XY eligibility code has been corrected and is no longer in use to prevent Property Tax System eligibility checks from being bypassed and to ensure that the ineligible developments and owners are not granted the Co-op / Condo Abatement. In addition, update the ineligibility coding in the Property Tax System to prevent developments receiving UDAAP from concurrently receiving the abatement.**

DOF agrees with this recommendation and has implemented it. - The XY eligibility code is no longer in use as of tax year 2024. We have removed and updated the system of record as of May 2024.

5. **Conduct periodic sample-based testing to check for ineligible units receiving the Co-op / Condo Abatement.**

DOF agrees with this recommendation. We will conduct periodic sample base testing along with enhanced checks for the upcoming renewal filing period.

Regards,

Pierre R. Dejean, J.D.

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