



City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



MANAGEMENT AUDIT

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Deputy Comptroller for Audit

Audit Report on the Department of
Housing Preservation and
Development's Handling of Housing
Maintenance Complaints

ME13-106A

June 30, 2015

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
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NEW YORK, NY 10007

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June 30, 2015

To the Residents of the City of New York:

My office has audited the New York City Department of Housing Preservation and Development (HPD) to determine whether it effectively handles the housing maintenance complaints it receives. We conduct audits such as this in order to ensure that City agencies carry out their responsibilities effectively and that City laws and rules are properly enforced.

The audit found weaknesses in HPD's handling of housing maintenance complaints and that considerable improvements are needed. Specifically, the audit found that housing maintenance complaints were not consistently addressed in a timely manner based on HPD's informal goals; that certified lead paint violations were not consistently re-inspected within 14 days as required; that there were inadequate controls for the follow-up of tenant challenges to owners' claims of having corrected the violations; that mailings of Notices of Violation (NOVs) and tenant challenge forms were often returned to the borough offices as undeliverable and insufficient follow-up measures were taken; and that there were inadequate procedures for supervising inspectors.

The audit makes 21 recommendations to HPD, including that it monitor complaints more closely to ensure that they are addressed in a timely manner; that it monitor the timeliness of its re-inspections of certified lead paint violations more closely to better ensure that they are addressed within established timeframes; that it ensure that all certified violations challenged by tenants are re-inspected; that it monitor the recording of undelivered NOVs and tenant challenge forms and investigate the cause of mailings that are frequently returned as undeliverable; and that it revise its procedures instructing supervisors how to conduct field checks of inspectors.

The results of this audit have been discussed with HPD officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott M. Stringer".

Scott M. Stringer

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ADDENDUM

THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

Audit Report on the Department of Housing Preservation and Development's Handling of Housing Maintenance Complaints

ME13-106A

EXECUTIVE SUMMARY

The objective of this audit was to determine whether the New York City Department of Housing Preservation and Development (HPD) effectively handles the housing maintenance complaints it receives.

HPD is responsible for ensuring that building owners comply with the New York City Housing Maintenance Code and the New York State Multiple Dwelling Law. Owners must ensure that their residential buildings are safe, clean, and well-maintained, both in the common areas and in the apartments. Tenants with maintenance problems are advised to first notify their building owners or property managers. If problems persist, tenants may file complaints with HPD through the City's 311 system. Complaints are transmitted by 311 to HPDInfo, the agency's electronic system for recording, processing, and tracking housing maintenance complaints. Once all of the information pertaining to a complaint has been transmitted by 311 and received by HPDInfo, the system informs the respective borough office within HPD's Division of Code Enforcement (Code Enforcement). Each complaint is assigned a priority level that is used to determine how soon the complaint should be addressed by HPD. A complaint can be prioritized as being dire, an emergency, or a non-emergency.

HPD attempts to inform the last validly registered building owner of the complaint via telephone or email. In addition, HPD attempts to call the tenant to determine whether the conditions have been corrected. If the tenant states that the conditions have been corrected, the complaint will be closed in HPDInfo. If the tenant cannot be reached or if he or she states that the condition still exists, Code Enforcement sends an inspector to conduct an inspection. HPD has more than 400 uniformed inspectors who respond to the various housing maintenance complaints it receives. Once a complaint inspection is recorded in HPDInfo, the complaint is automatically closed. However, any cited violations will remain open until resolved.

If an inspector cannot gain access to an apartment, the inspector must leave a "no access" card. For an emergency or non-emergency complaint, one attempt to gain access is generally made. For a dire complaint, two attempts are generally made. A complaint is closed in HPDInfo if an inspector is unable to inspect the premises.

If an inspector finds violations, an owner will be issued a Notice of Violation (NOV). Violations are classified according to hazard classes A (non-hazardous), B (hazardous), or C (immediately hazardous). According to the Mayor's Management Report, HPD received more than 540,000 housing maintenance complaints, conducted more than 660,000 inspections, issued more than 385,000 violations, and closed more than 540,000 complaints each year during Fiscal Years 2012, 2013, and 2014.

Audit Findings and Conclusions

The audit found weaknesses in HPD's handling of housing maintenance complaints and that considerable improvements are needed. While HPD has established informal timeliness benchmarks for addressing housing maintenance complaints and procedures for contacting tenants to determine whether the conditions about which they complained have been corrected, it needs to improve the oversight of its borough offices' performance to address the following weaknesses:

- Housing maintenance complaints were not consistently addressed in a timely manner based on HPD's informal goals;
- Certified lead paint violations were not consistently re-inspected within 14 days;
- "No access" and "not reached" inspection results were not monitored effectively;
- There were inadequate controls for the follow up of tenant challenges to owners' claims of having corrected the violations;
- Mailings of NOVs and tenant challenges were often returned to the borough offices as undeliverable and insufficient follow-up measures were taken;
- Controls over owner certifications need to be strengthened;
- There was no goal for the re-inspection of certified non-lead-paint violations; and
- There were inadequate procedures for supervising inspectors.

In addition, based on the difficulties we observed in enforcing NOVs, we recommend that HPD consider the option of seeking authority to use an administrative tribunal to supplement its enforcement of housing regulations. We also recommend that HPD consider improving inspection efficiency by reallocating resources to update the portable devices used by inspectors in the field to record inspection results.

Audit Recommendations

To address these issues, this report makes a total of 21 recommendations, including the following:

- HPD should monitor complaints more closely to ensure that they are addressed in a timely manner.
- HPD should monitor the timeliness of its re-inspections of certified lead paint violations more closely to better ensure that they are addressed within established timeframes.

- HPD should ensure that borough offices follow the agency's procedures when inspectors are unable to gain access to premises to conduct inspections.
- HPD should ensure that all boroughs record the receipt of tenant calls informing HPD that conditions have not been corrected and the receipt of Notice of Receipt of Violation Certifications (Tenant Challenge forms) in HPDInfo.
- HPD should monitor the recording of undelivered NOVs and tenant challenge forms and investigate the cause of mailings that are frequently returned as undeliverable.
- HPD should revise its procedures instructing supervisors how to conduct field checks in order to provide detailed guidance to the borough offices. These procedures should include, among other things, how often field checks should take place and how they should be documented.

Agency Response

In its response, HPD officials agreed with 11 of the audit's recommendations and partially agreed with another 6 recommendations. HPD disagreed with the 4 recommendations related to conducting re-inspections of lead-paint violations for which owners' certifications were late, recording undeliverable NOVs and Tenant Challenge forms in HPDInfo, and seeking authority to use a City administrative tribunal to supplement its enforcement of the Housing Maintenance Code in Housing Court.

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

AUDIT REPORT

Background

The mission of HPD is to protect the existing housing stock and to expand housing options for New Yorkers. As part of its efforts to preserve housing in habitable condition, HPD is responsible for ensuring that building owners comply with the New York City Housing Maintenance Code and the New York State Multiple Dwelling Law.

Owners must ensure that their residential buildings are safe, clean, and well-maintained, both in the common areas and in the apartments. Among other responsibilities, owners must provide and maintain building security measures, heat, hot and cold water, and good lighting; make any necessary repairs to keep the building in proper working order; and provide smoke detectors, carbon monoxide detectors, and window guards, where required. Tenants with maintenance problems are advised to first notify their building owners or property managers. If problems persist, tenants may file complaints with HPD by calling the City's Citizen Service Center at 311, which is open 24-hours a day, seven days a week. All complaints can be filed using 311online, while complaints regarding heat and hot water can also be filed through 311mobile. Complaints are transmitted by 311 to HPDInfo, the agency's electronic system for recording, processing, and tracking housing maintenance complaints.¹

Each complaint is assigned a priority level that is used to determine how soon the complaint should be addressed by HPD.² A complaint can be prioritized as being dire (such as a collapsing ceiling or an electrical outage in a common area); an emergency (such as mold, a broken or defective fire escape, a broken or defective smoke or carbon monoxide detector, or no heat); or a non-emergency (such as a defective floor or chipping paint when there is no child under the age of 6 residing in the apartment). Once all of the information pertaining to a complaint has been transmitted by 311 and received by HPDInfo, the system informs the respective borough office within Code Enforcement.

HPD attempts to contact the last validly registered building owner via telephone or email (based on contact information supplied by the owner on the required annual Property Registration form) to notify the owner that a complaint has been reported. In addition, HPD attempts to call the tenant to determine whether the conditions have been corrected. If the tenant states that the conditions have been corrected, the complaint will be closed in HPDInfo. If the tenant cannot be reached or if he or she states that the condition still exists, Code Enforcement sends an inspector to conduct an inspection. HPD has more than 400 uniformed inspectors who respond to the various housing maintenance complaints it receives.

When an inspector responds to a complaint, he or she is expected, in addition to checking the condition that is the subject of the complaint, to also examine the outside of the building for hazardous conditions and the inside of the apartment for: (1) peeling paint (if a child under the age of 6

¹ HPDInfo provides HPD with a central repository of information regarding residential properties and vacant land. HPDInfo maintains information relating to City-owned and private residential properties and their registered owners, and tracks tenant complaints, violations, repair work, demolitions, correspondence, and vendor payment status.

² A complaint is considered to have been addressed if HPD conducts an inspection or if an inspector is unable to gain access to the premises. In addition, a complaint is considered to have been addressed when HPD is able to contact the complaining tenant to determine whether the condition has been corrected, without regard to whether or not that complaint has been corrected. If a tenant states that the condition has not been corrected, the complaint is not closed until an attempt is made to conduct an inspection. If the inspector issues an NOV, while the complaint is closed, the violations noted on the NOV remain open until resolved.

resides in the apartment);³ (2) illegal double-cylinder locks that require a key for exit through the apartment's entrance door; (3) illegal bars or gates on any egress window leading to a fire escape; (4) defective or missing window guards (if a child under the age of 11 resides in the apartment); (5) defective or missing smoke alarms; and (6) defective or missing carbon monoxide alarms. In addition, an inspector is required to look for any immediately hazardous conditions that might be present. Once a complaint inspection is recorded in HPDInfo, the complaint is automatically closed; however, any cited violations will remain open until resolved.

If an inspector cannot gain access to the apartment, the inspector must leave a "no access" card.⁴ For an emergency or non-emergency complaint, one attempt to gain access is generally made. For a dire complaint, two attempts are generally made. A complaint is closed in HPDInfo if an inspector is unable to inspect the premises.

If an inspector finds violations, an owner will be issued an NOV. Violations are classified according to hazard classes A, B, or C. Class A violations are considered non-hazardous and owners have 90 days from the date the violation was mailed to correct the condition. Class B violations are considered hazardous and owners have 30 days from the date of mailing to correct the conditions. Class C violations are considered immediately hazardous and owners generally have 24 hours from the date that the NOV was served to correct the hazardous condition cited in the NOV (exceptions include lead-based paint and window guard violations, which owners have 21 days to correct, and heat and hot water violations, which owners must correct immediately.) Owners then must certify that they have corrected the conditions. HPD rejects an untimely or invalid certification and, in such a case, all of the violations associated with that NOV remain open. HPD states that it re-inspects all lead paint certifications and a percentage of Class B and C non-lead-paint certifications to check whether the conditions were, in fact, corrected.

According to the Mayor's Management Report, HPD received more than 540,000 housing maintenance complaints, conducted more than 660,000 inspections, issued more than 385,000 violations, and closed more than 540,000 complaints each year during Fiscal Years 2012, 2013, and 2014.⁵

Objective

To determine whether HPD effectively handles the housing maintenance complaints that it receives.

³ If this condition exists, then inspectors from the Lead-Based Paint Inspection Unit in Code Enforcement inspect the premises using x-ray fluorescence machines to detect whether there is any presence of lead (i.e., any highly toxic metal) in the paint.

⁴ An F-22 "no access" card is left for dire complaints. In it, the inspector is supposed to indicate when another inspection attempt will take place. An F-22C "no access" card is to be left for emergency and non-emergency complaints. For such complaints, a letter is also automatically to be sent to the tenant. The card and letter state that the tenant should contact HPD within 10 days if the conditions have still not been corrected. Otherwise, HPD will assume that the conditions have been corrected. An HC-3 no access card is left for heat and hot water complaints. That card states that an attempt will be made to gain access to another apartment to determine the heat or hot water conditions. The card also states that the tenant should contact HPD if the conditions have still not been corrected.

⁵ A complaint can have multiple housing maintenance problems associated with it. Each problem is reported by HPD as a complaint for inclusion in the Mayor's Management Report. 311 is the primary source for HPD's complaints. Other sources of housing maintenance complaints include Housing Court referrals, elected officials' requests, and HPD walk-ins (i.e., tenants who visit the borough offices to report complaints).

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the City Charter.

The scope of this audit covers the period from Fiscal Year 2012 through October 2014. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures followed and the tests conducted during this audit.

Discussion of Audit Results with HPD

The matters covered in this report were discussed with HPD during and at the conclusion of this audit. A preliminary draft report was sent to HPD on May 6, 2015, and was discussed at an exit conference held on May 27, 2015. We submitted a draft report to HPD on June 10, 2015, with a request for comments. We received a written response from HPD on June 25, 2015.

In its response, HPD officials agreed with 11 of the audit's 21 recommendations and partially agreed with another 6 recommendations. HPD disagreed with the 4 recommendations related to conducting re-inspections of lead-paint violations for which owners' certifications were late, recording undeliverable NOVs and Tenant Challenge forms in HPDInfo, and seeking authority to use a City administrative tribunal to supplement its enforcement of the Housing Maintenance Code in Housing Court.

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

FINDINGS AND RECOMMENDATIONS

The audit found weaknesses in HPD's handling of housing maintenance complaints and that considerable improvements are needed. HPD has established informal timeliness benchmarks for addressing housing maintenance complaints and procedures for contacting tenants to determine whether the conditions about which they complained have been corrected, including those that owners have certified as having been fixed. However, HPD needs to improve its oversight of its borough offices' performance to address the following weaknesses:

- Housing maintenance complaints were not consistently addressed in a timely manner based on HPD's informal goals;
- Certified lead paint violations were not consistently re-inspected within 14 days;
- "No access" and "not reached" inspection results were not monitored effectively;
- There were inadequate controls for the follow up of tenant challenges to owners' claims of having corrected the violations;
- Mailings of NOVs and tenant challenges were often returned to the borough offices as undeliverable and insufficient follow-up measures were taken;
- Controls over owner certifications need to be strengthened;
- There was no goal for the re-inspection of certified non-lead-paint violations; and
- There were inadequate procedures for supervising inspectors.

In addition, based on difficulties we observed in enforcing NOVs, we recommend that HPD consider the option of seeking authority to use an administrative tribunal to supplement its enforcement of housing regulations. We also recommend that HPD consider improving inspection efficiency by reallocating resources to update the portable devices used by inspectors in the field to record inspection results.

These weaknesses and options are discussed in more detail in the sections that follow.

Housing Maintenance Complaints Were Not Consistently Addressed in a Timely Manner

Many of the housing maintenance complaints HPD received were not addressed in a timely manner. By delaying the time before those conditions were corrected, tenants were subjected to increased health and safety risks.

HPD's Criteria for Deeming a Complaint Addressed Is Inadequate

HPD has not established formal procedures to govern the amount of time that may elapse between HPD's receipt of a complaint and its being addressed. HPD considers a complaint addressed if: (1) HPD is able to contact the tenant to determine whether the condition has been corrected, (2) an inspection has been conducted, or (3) an inspector is unable to gain access to

the premises. According to the Associate Commissioner for HPD's Office of Enforcement and Neighborhood Services, the timeframes HPD informally mandates for these complaints to be addressed depend on the seriousness of the conditions reported. Addressing complaints in a timely manner is an important part of HPD's mission to ensure that the existing housing stock is maintained in a habitable condition.

However, HPD's criteria for deeming a complaint "addressed" contain an inherent weakness: HPD considers a complaint to have been addressed if it merely contacts the complaining tenant to determine whether the condition complained of has been corrected, without regard to whether or not the condition has been corrected. While it is reasonable to consider a complaint to have been addressed if the tenant states that the condition has been corrected, if the tenant informs HPD that the condition has not been corrected, the agency nonetheless considers the complaint to have been "addressed." HPD argues that even after a complaint has been addressed, if the tenant has informed the agency that the condition has not been corrected, the complaint still remains open. However, HPD has no time standard, formal or informal, for conducting an inspection after a tenant informs the agency that the condition has not been fixed.

HPD should consider revising the standards to require either: (1) a tenant contact in which the tenant states that the complained-of condition has been corrected, or (2) an attempted inspection. The current policy of considering a tenant contact in which the tenant states that the condition has not been corrected as a reasonable point in time for concluding that the complaint has been "addressed" undermines HPD's effectiveness in addressing complaints of housing conditions and could thereby contribute to a delay in unsafe conditions being addressed.

HPD's Failure to Meet Its Informal Standards in Effect During the Audit Scope Period

HPD officials stated that although there are no formal procedures governing timeliness, timeframes have been verbally communicated to management officials in HPD central and borough offices. In a September 4, 2014, email, we were informed by HPD that those informal timeframes were as follows:

- Complaints prioritized as "dire" are to be addressed within 12 hours;
- Complaints prioritized as "non-heat emergency" are to be addressed within 3 days, with the exception of heat complaints;
- Complaints prioritized as "heat emergency" are to be addressed within 26 hours; and
- Complaints prioritized as "non-emergency" complaints are to be addressed within 7 days.⁶

We selected 335,747 complaints corresponding to 10 selected problem categories⁷ covering Fiscal Years 2012 and 2013. Of that complaint population, we eliminated 95,130 that we found

⁶ In response to our having provided HPD with the detailed findings in this area, the agency informed us in a April 23, 2015, email that timeframes in the informal standards it gave us in September 2014 were incorrect and provided us with revised timeframes. This change in HPD's stated informal standards and its potential, limited effect on our findings is discussed later in this section of the report.

⁷ We judgmentally selected the following 10 problems: 3 dire problems (collapsing or falling ceiling; no electric supply or lights in a public area; and no water supply to the entire building); 4 emergency problems (lack of heat; gas shut-off valve leaking; mold; and defective or missing carbon monoxide detector); and 3 non-emergency problems (broken or defective floor; plaster peeling and falling from ceiling; and paint chipping, falling, peeling, or flaking from walls).

were linked to other complaints and were addressed at the same time as these other complaints. Of the remaining 240,617 distinct complaints, we found that 105,753 (44 percent) were not addressed in a timely manner based on HPD's September 2014 informal standards. Specifically, we found that:

- Of the 17,852 dire complaints, HPD failed to address 16,642 (93 percent) within its informal standard of 12 hours. For 849 (4.7 percent), between 6 and 428 days (more than one year) elapsed before the complaints were addressed;
- Of the 127,350 heat complaints, HPD failed to address 74,054 (58 percent) within its informal standard of 26 hours. For 3,935 (3.1 percent), between 6 and 600 days (almost two years) elapsed before the complaints were addressed;
- Of the 47,039 non-heat emergency complaints, HPD failed to address 12,246 (26 percent) within its informal standard of 3 days. For 1,194 (2.6 percent), between 11 and 392 days (more than one year) elapsed before the complaints were addressed;
- Of the 47,792 non-emergency complaints, HPD failed to address 2,811 (6 percent) within its informal standard of 7 days. For 760 (1.6 percent), between 16 and 418 days (more than one year) elapsed before the complaints were addressed.

Table I below summarizes, by priority level, the numbers and percentages of complaints that were addressed by HPD within the informal standards and the numbers and percentages of those that were not, along with the ranges of days during which these complaints were addressed after they were received.

Table I

Numbers and Percentages of
Complaints Addressed within the
Indicated Range of Days

| Range of Days to Address Complaints* | Number of Complaints | Percentage of Complaints |
|--|----------------------|--------------------------|
| Dire Complaints (Informal Standard: 12 Hours) | | |
| Within 12 hours | 1,210 | 6.8% |
| 1 day to 5 days | 15,793 | 88.5% |
| 6 to 10 days | 757 | 4.2% |
| 11 to 15 days | 57 | 0.3% |
| 16 to 428 days | 35 | 0.2% |
| Total | 17,852 | 100.0% |
| Emergency Complaints—Except Heat (Informal Standard: 3 days) | | |
| Within 3 days | 34,793 | 74.0% |
| 4 to 10 days | 11,052 | 23.5% |
| 11 to 20 days | 778 | 1.7% |
| 21 to 30 days | 224 | 0.5% |
| 31 to 392 days | 192 | 0.4% |
| Total | 47,039 | 100.0%** |
| Emergency Complaints—Heat (Informal Standard: 26 hours) | | |
| Within 26 hours | 53,296 | 41.9% |
| 2 days to 5 days | 70,119 | 55.1% |
| 6 to 10 days | 3,602 | 2.8% |
| 11 to 15 days | 198 | 0.2% |
| 16 to 600 days | 135 | 0.1% |
| Total | 127,350 | 100.0%** |
| Non-Emergency Complaints (Informal Standard: 7 Days) | | |
| Within 7 days | 44,981 | 94.1% |
| 8 to 15 days | 2,051 | 4.3% |
| 16 to 30 days | 452 | 0.9% |
| 31 to 45 days | 136 | 0.3% |
| 46 to 418 days | 172 | 0.4% |
| Total | 47,792 | 100.0% |

* Each indicated time period includes those complaints that were addressed up to the start of the next indicated range of days.

**Percentages do not add up to 100 percent due to rounding.

As shown in Table I, only 6.8 percent of the dire complaints, 74.0 percent of the non-heat emergency complaints, and 41.9 percent of the heat emergency complaints were addressed within the applicable time frames set by the informal standards. At the same time, we note that over 95 percent of the dire and emergency complaints were addressed within 5 to 10 days of the complaint. However, the dire and emergency nature of these complaints indicate that a more prompt response by HPD is essential, which is why the 12-hour to 3-day response times for dire and emergency complaints, respectively, were established by HPD. Also of concern, we found that 584 complaints of all four priority levels either remained open (116) or were closed (468)

without any indication that the tenant had been contacted or that an inspection had been attempted. For a sample of 12 of the 584 complaints (eight selected by us and four selected by HPD), five had no notes in HPDinfo explaining why the complaints had not been addressed. By not addressing housing maintenance complaints in a timely manner or, in some cases, by not addressing the complaints at all, tenant safety and health are put at risk.

HPD's Restated Informal Standards

As noted in footnote 6 above, in response to the detailed findings in this area that we shared with HPD, the agency stated in an April 23, 2015, email that the standards it provided to us in September 2014 had been incorrect. In that April 23, 2015, email, HPD stated that its September 4, 2014, email had not supplied accurate timeliness standards because it failed to include the time period that would be necessary for HPD to first contact the owner/managing agent for the property to encourage him or her to inspect the condition and fix it, if necessary.

HPD's admission that it incorrectly provided us with the wrong timeliness standards for inspections illustrates the inadequacy of its practice of maintaining "informal" guidelines.⁸ If its officials could not correctly state its informal policy to the Comptroller's Office in the midst of an audit, we have no assurance that this policy is being adequately communicated to its staff, let alone that HPD is properly attempting to enforce it.

According to HPD's April 23, 2015, email, the informal timeliness standards provided in September 2014 should have included additional time to account for the step of HPD first contacting the owner/managing agent before it attempts to contact the tenant. HPD stated in its April 23, 2015, email that "owner callback generally takes place immediately upon receipt of the complaint." HPD clarified in a June 4, 2015, email that "most owner callback is done by an automated system and that is a centralized function." It further stated that when a complaint is received at night, the owner is contacted the following morning, and when a complaint is received on a weekend, the owner is contacted on Monday. Accordingly, since the owner is contacted immediately or the next morning for most complaints, HPD's revised "informal" guideline should not significantly affect the timeliness analysis presented in this section.

Further, with regard to the 26 hour standard for addressing heat emergency complaints, HPD stated in its April 23rd email that this policy only went into effect on September 12, 2012, and that prior to that date, HPD inspectors were expected to respond to heat complaints in 3 days, the same amount of time as applied and according to HPD still applies to non-heat emergency complaints. Applying this revised standard to our analysis and thereby only looking at Fiscal Year 2013 heat complaints, we obtained very similar results. Specifically, we found for Fiscal Year 2013 alone that of the 68,647 heat emergency complaints, 51.1 percent were addressed within 2 to 5 days and 2.7 percent were addressed in 6 or more days. Based on the information we were originally provided by HPD, for Fiscal Years 2012 and 2013, we found that 55.1 percent were addressed within 2 to 5 days and 3.1 percent were addressed in 6 or more days.

HPD should develop formal written timeliness standards for addressing housing maintenance complaints, communicate them clearly to staff, and develop procedures to monitor staff compliance with the procedures. Moreover, HPD should consider revising the standards

⁸ For the purpose of this discussion, we are treating the revised information provide in the April 23rd email as accurate. However, we question how it is that only upon learning of the failure rates we found in our audit did HPD realize that it had previously provided us with incorrect information.

themselves to conclude either with a tenant contact in which the tenant states that the condition has been corrected or with an attempted inspection. The current policy of considering a tenant contact in which the tenant states that the condition has not been corrected as a reasonable point in time for concluding that the complaint has been “addressed” undermines HPD’s effectiveness addressing complaints of housing conditions and could thereby contribute to unsafe conditions not being addressed.

Recommendations

1. HPD should develop and implement formal written procedures governing the timeframes for addressing complaints.
2. HPD should consider revising its timeliness standards for addressing complaints to continue until there is either a tenant contact in which the tenant states that the problem has been resolved or an attempted inspection.
3. HPD should monitor complaints more closely to ensure that they are addressed in a timely manner.

HPD Response to Recommendations 1, 2 and 3: “Partially agree. HPD agrees that:

- The development and implementation of formal guidelines governing the timeframes for addressing complaints will improve the process for measuring HPD’s responsiveness.
- Timeliness standards should reflect expectations for time to tenant callback if a complaint is closed through that process, and the time to initial inspection if the complaint is not closed on callback.
- Monitoring of complaint response can be improved.

“Accordingly, HPD will develop a revised set of guidelines that govern the timeframe for inspection completion that set forth clear expectations for both the time to tenant callback, if a complaint is closed through that process, and the time to initial inspection, if the complaint is not closed on callback. These formal guidelines will take into account HPD resources, technology, procedures and historical data. New monitoring tools will be established to ensure that these timelines are properly monitored. HPD expects new and updated guidelines, as well as the new monitoring tools, to be in place by the end of FY2016.

“While HPD agrees with the recommendations, we believe that the audit did not support the finding that maintenance complaints were not consistently addressed in a timely manner. Page 10 of the audit indicates that HPD addressed 93% of dire complaints within 5 days, 99% of emergency complaints within 10 days and 98% of non-emergency complaints within 15 days. Additionally, although the development and implementation of formal guidelines for addressing complaints will improve the process for measuring and monitoring HPD’s responsiveness, there are many factors - including weather, disasters and new initiatives - that may affect the actual timeliness of our code enforcement response.”

Auditor Comment: As we show on page 9 of the report, 93 percent of dire complaints, 58 percent of heat complaints, 26 percent of non-heat emergency complaints, and 6 percent of non-emergency complaints were not addressed in a timely manner based on HPD's informal goals. HPD has provided no evidence to refute our conclusions. Accordingly, we have no basis for altering this finding.

Re-Inspection Attempts for Certified Lead Paint Violations Were Not Consistently Made Within 14 Days

According to the New York City Childhood Lead Poisoning Prevention Act of 2003, once a building owner submits a valid and timely certification indicating that he or she has corrected a lead paint violation, a re-inspection must be attempted within 14 days of the receipt of the certification. The inspectors must attempt to access all locations identified in the violation. Lead paint violations must be re-inspected to be closed. Such violations cannot be closed as the result of a "no access" re-inspection.

Of 1,981 certified lead paint violations cited by HPD inspectors during the first six months of Fiscal Year 2013, 138 were either corrected by HPD or one of its contractors and the owners subsequently billed for the costs, or the violations were dismissed. Of the remaining 1,843 violations, HPD received owner certifications representing that the violations had been corrected and HPD thereafter made inspection attempts for 1,644 of them.⁹ Of the 1,644 lead paint certification re-inspection attempts, 861 (52.4 percent) were attempted after the 14 day deadline, and 706 were attempted at least five days late, as shown below:

- 286 (17.4 percent) of the 1,644 re-inspection attempts were 5 to 10 days late;
- 372 (22.6 percent) of the 1,644 re-inspection attempts were 11 to 40 days late; and
- 48 (2.9 percent) of the 1,644 re-inspection attempts were 41 to 403 days (more than one year) late.

Of the remaining 199 violations, HPD did not make inspection attempts for 196 because the owner certifications of correction were received after their due date. For three of the 199 violations, HPD did not re-inspect them at all even though timely certifications had been submitted. HPD officials stated that the agency's first priority is to inspect new complaints; re-inspections are the second priority. However, they stated that the number of re-inspection attempts taking place after the 14-day deadline was "a cause for concern and we will review."

Also of concern are the three certified violations that were not re-inspected at all. HPD needs to improve its monitoring of the re-inspection process to ensure that re-inspections are attempted within 14 days of the certifications' receipt. Considering the risk of children suffering adverse health effects from exposure to lead-based paint, it is essential that HPD re-inspect owners' lead-paint certifications within the required timeframes.

HPD should also require that re-inspections be attempted even where the owners' certifications are late, as we observed had not been done in 196 instances during our test period. Given the public health risk posed by lead, especially to children, it is very important to ensure that the

⁹ All of the 1,644 re-inspections were eventually conducted. The re-inspections identified 20 false certifications.

violations have been corrected by the owners, even when (or perhaps especially when) the owners have been late in their responses to HPD.

Recommendations

4. HPD should monitor the timeliness of its re-inspections of certified lead paint violations more closely to better ensure that they are addressed within established timeframes.

HPD Response: “Agree. Improving HPD’s monitoring of response times to reinspect certified lead violations is important and will help the agency identify when additional resources might be needed. To that end, a new report will be developed to track the timeliness of reinspections of certified lead violations; this report will alert management of possible backlogs so that HPD can align its resources to respond as quickly as possible. We expect this report to be in place by the end of Calendar Year 2015.

“It is important to note that lead-based violations cannot be closed without an inspection, as required by law; therefore, the violation will not be closed (as other certified violations are) based solely on the certification.”

5. HPD should conduct re-inspections of lead-paint violations for which owners’ certifications were late.

HPD Response: “Disagree. If a violation is certified late, it is processed as if no certification has been received and is sent to ENS’ Emergency Repair Program, as required by law. HPD will reinspect with technical staff (rather than Inspectors) and repair the condition if the physical condition has not been addressed properly or if lead dust remains.”

Auditor Comment: HPD’s “disagreement” appears to be based on the fact that technical staff rather than inspectors will be responsible for conducting re-inspections. However, we do not specify who should conduct the re-inspections. Furthermore, HPD provided no evidence that repairs were made for the 196 lead-paint violations noted in the report for which the owner certifications of correction were late and re-inspections were not conducted. In fact, based on the dataset provided to us by HPD, all 196 of these Fiscal Year 2013 violations remained open as of March 11, 2014. Accordingly, we urge HPD to effectively follow up on these lead-paint violations to ensure that they are promptly corrected.

HPD Does Not Effectively Monitor “No Access” and “Not Reached” Inspection Results

For 85 percent of the complaints in our sample, when inspectors were unable to gain access to conduct their inspections, we found no evidence that they took all appropriate steps to gain access.

According to HPD’s procedures, if an inspector cannot gain access to a building or apartment to conduct an inspection, he or she is required to radio a borough office so that staff can attempt to call the tenant while the inspector is still on site. The results of these calls are to be recorded by the

borough office in HPDInfo or on the radio call log. If access is still not granted, the inspector is instructed to leave a “no access” card for the tenant.

Our review of 100 sampled complaints in which inspectors reported that they were unable to gain access found no evidence in 85 instances that the inspectors contacted the borough offices when they were unable to gain access to the premises to conduct inspections. Furthermore, we found that the borough offices were inconsistent in the way that they handle and maintain their radio call logs. Some of the relevant logs that we requested could not be located. This would be less of a concern if the information were being consistently recorded in HPDInfo. However, only six of the “no access” situations in our sample were recorded in HPDInfo. Another nine were recorded on the call logs.

Even when there is a record of the “no access” call from an inspector, the radio number, the inspector’s name, and the results of any attempt to contact the tenant were not consistently recorded by the staff. In the absence of evidence that HPD inspectors and borough offices took the required steps when inspectors were unable to gain access to apartments, HPD has no assurance that every reasonable effort was made to inspect the premises while the inspector was on site.

Upon review of the Fiscal Years 2012 and 2013 complaint data, we found 458,319 individual housing problems identified in 335,747 complaints that corresponded to 10 selected problem categories; 104,714 (23 percent) of the problems had “no access” results. Another 65,298 (14 percent) had “not reached” results, which occurred when an inspector did not reach a building or apartment on the scheduled inspection day.

Of the 208 inspectors¹⁰ who conducted at least 1,000 inspections during this time period, 22 had more than 32 percent of their scheduled inspections end with a “no access” result, ranging from 33 percent to 46 percent, and 22 had more than 25 percent of their scheduled inspections end with a “not reached” result, ranging from 26 percent to 40 percent.

HPD officials stated that supervisors in the borough offices monitor “no access” and “not reached” results and look for patterns. If an inspector has many such results, this might lead to a supervisory field check. An inspector having a high number of “no access” or “not reached” results is not necessarily performing inadequately. However, repeated incidences of non-access are a possible indicator of a problem and should lead to a supervisory review. However, HPD did not provide evidence of any such monitoring. HPD needs to identify those inspectors who have a very high percentage of “no access” or “not reached” inspection results and conduct supervisory reviews of their performance.

Recommendations

6. HPD should ensure that borough offices follow the agency’s procedures when inspectors are unable to gain access to premises to conduct inspections. Those procedures include recording in HPDInfo or on the radio call logs the “no access” calls from inspectors and attempts by borough personnel to contact tenants to gain access.

¹⁰ There were a total of 335 inspectors during this two year period. In addition, about 3,110 inspections were done during this time period for which inspector badge numbers were not indicated in the dataset that HPD provided to us. Therefore, we excluded these inspections from our analysis.

7. HPD should consider using either HPDInfo or the radio call logs as the primary record to document the results of “no access” radio calls. If the radio call logs are still to be used, they should be filed systematically to facilitate management review.

HPD Response to Recommendation 6 and 7: “Agree. HPD recognizes that internal record-keeping regarding the inability to gain access should be strengthened. Accordingly, ENS will re-issue clarified guidance to both field and office staff regarding procedures to document activities related to the calls required when there is no access.

“When there is no access to a unit that generated a complaint, HPD leaves a card and also uses a mail notification process that is initiated based on data that the Housing Inspector enters into HPDInfo. Both the card and a letter in multiple languages are generated to tenants when there is no access. The letter requests that the tenant contact HPD to schedule an inspection if one is still required. HPD schedules thousands of inspections in response to these letters. Building- wide conditions such as lack of heat and hot water rarely are closed with no access because HPD’s procedure requires inspecting units other than the complainant’s apartment if there is no access to that primary location.

“HPD is considering the use of cell phones to replace radio communication. If that change is made, new procedures will be put in place to track access calls.”

8. HPD should identify those inspectors who have a very high percentage of “no access” and “not reached” inspection results and conduct supervisory reviews of their performance.

HPD Response: “Agree. HPD will design reports for both front line supervisors and upper management that will improve the tracking of inspectors and documentation of findings. These reports will identify inspectors with an excessive number of stops with a no access result or an excessive number of stops not reached. Monitoring these reports will be a key responsibility of the Borough Office Chiefs and of the Field Audit Review Unit, and additional training for supervisors will be provided regarding this responsibility.

“Supervisory monitoring currently includes reviewing daily routes and approving work as well as identifying issues about access and stops not reached. HPD conducted a preliminary review of the inspectors identified by the Comptroller’s Office and found no significant concerns about any individual inspectors.”

Inadequate Controls Over the Handling of Tenant Challenges

HPD has inadequate controls over its handling of tenant challenges of owner certifications that violations have been corrected. This deficiency increases the likelihood that false certifications submitted by property owners will not be identified and that the deficient conditions will remain.

According to HPD’s procedures, if an owner submits a valid and timely certification, a Tenant Challenge form is automatically sent to the tenant notifying him or her that the property owner claims to have corrected the violations. If the violations have not been corrected, the tenant is asked to either call the respective borough office or return the notice and circle the violations that have not been corrected. Once the tenant calls or returns the Tenant Challenge form, the challenge is required to be recorded in HPDInfo. In addition HPD staff is supposed to call the

tenant to arrange an appointment for a re-inspection and the date agreed upon should be recorded in HPDInfo. If the tenant does not call the borough office or respond to the Tenant Challenge form, then it is assumed that the violations have been corrected by the owner. If no re-inspection is conducted, HPDInfo is programmed to close the violation, so long as it is a certified non-lead violation, as “Deemed Complied” 71 calendar days after the receipt of the owner certification.

However, we found that HPD does not ensure that the borough offices record the tenant challenges they receive in HPDInfo as required. The process for recording Tenant Challenge forms in HPDInfo is stated in HPD’s *NOV Certification* manual; however, HPD central does not sufficiently monitor the borough offices’ compliance. While the Queens and Bronx borough offices informed us that they record Tenant Challenge forms in HPDInfo, the Brooklyn, Manhattan, and Staten Island borough offices told us that they generally do not. According to a tenant challenge list provided by HPD, Brooklyn recorded only seven tenant challenges in HPDInfo for Fiscal Year 2013, and Manhattan and Staten Island recorded none. For that year, the Bronx and Queens reported 2,779 and 124 challenges, respectively. Although the administrative staff in the Brooklyn, Manhattan, and Staten Island borough offices told us that they provide the tenant challenge information received via phone calls or the mail to the routing unit in their office to schedule the re-inspections, HPD’s ability to track these challenges is limited if the receipt of tenant challenges is not recorded.

We also found that HPD does not require that borough offices retain the Tenant Challenge forms they receive. This documentation is not maintained at all by the Manhattan office. Thus, in Manhattan, Tenant Challenge forms are neither recorded nor maintained. As a result, the management of that borough office cannot determine the number of Tenant Challenge forms received or track whether or how they were addressed.

Our review of a limited sample of tenant challenges found that the borough offices did not follow up on all the challenges they received. Of 57 Tenant Challenge forms (covering the period January 2012 through October 2014) that we found in randomly selected building files located in the borough offices, HPD failed to re-inspect the premises associated with 5 (9 percent) of them to determine whether the owners had in fact corrected the violations. Of the 52 tenant challenges that were re-inspected, 12 had “no access” results and 18 (45 percent) of the remaining 40 re-inspections determined that the owners’ certifications were false.

Tenant challenges are intended to be a critical control to protect against owners falsely certifying that violations have been corrected. As such, it is imperative that HPD institute adequate controls to provide reasonable assurance that it follows up on them.

Recommendations

9. HPD should ensure that all boroughs record the receipt of tenant calls informing HPD that conditions have not been corrected and the receipt of Tenant Challenge forms in HPDInfo, as well as the appointment dates for the re-inspections, to facilitate the scheduling and tracking of these re-inspections.

HPD Response: “Agree. Although HPD had an applicable procedure in place at the time of the audit, the Comptroller’s office identified instances in which it was not properly implemented. In addition, the audit identified areas of the procedure which require amendment or clarification. An updated, improved procedure will be in place by the end of Fiscal Year 2016. A summary report identifying tenant challenges is

also being designed and should be implemented by the end of Calendar Year 2015; this report will be distributed to the appropriate management team on a monthly basis. While the updated procedure is being created, all Borough Chiefs have been instructed to review the existing procedure with the staff and monitor compliance.”

10. HPD should ensure that all certified violations challenged by tenants are re-inspected by HPD.

HPD Response: “Agree. It has always been HPD’s policy to attempt a reinspection of any certified violation challenged by a tenant. HPD will monitor all challenged violations to ensure compliance with this policy, as described in the response to Recommendation 9.”

Mailings of NOVs and Tenant Challenges Were Often Returned to the Borough Offices as Undeliverable

HPD needs to strengthen its controls to reduce the frequency with which mailings of NOVs and tenant challenges are returned to the borough offices as undeliverable.

HPD central stated that as per the Housing Maintenance Code, NOVs are mailed to the last registered owner or to his or her designee, often identified as the managing agent. HPD maintains a list of registered owners through its requirement that all owners of buildings with three or more units and owners of one and two family homes rented entirely to non-family members file an annual registration form with the agency by September 1st of each year. New owners are required to register within 10 days of becoming a property’s owner. However, as is discussed in more detail below, HPD does not adequately ensure that its annual and new owner filing requirements are met.

Officials from each of the five borough offices informed us that mailed NOVs were often returned as undeliverable, meaning that the owners were not actually served with the violations. This service failure hindered HPD’s ability to take further action to ensure that deficient conditions were corrected.

We found 436 undeliverable NOVs covering January 2012 through October 2014 at the Queens, Staten Island, and Bronx borough offices.¹¹ Of these, we reviewed the 171 that had been opened by the borough offices and so were no longer sealed. For these 171 NOVs returned as undeliverable, we checked owner property and registration information available on the HPD website, in HPDInfo, and in the Department of Finance’s Automated City Register Information System (ACRIS) and found that:

- 17 (10 percent) of the returned NOVs were mailed to the wrong addresses. The addresses on the NOVs did not match the addresses indicated in HPDInfo, the HPD website, or in ACRIS. Four NOVs returned as undeliverable included as part of the mailing addresses “New York, NY 10017,” when according to the HPD website, HPDInfo, and ACRIS, they should have been mailed to “Corona, New York, 11368.”

¹¹ The borough offices are not required to maintain the NOVs returned to them as undeliverable. Thus, we did not undertake a systematic search for these. Rather, the undeliverable NOVs we reviewed were gathered at the offices sometimes in building files (in the Bronx) and sometimes in boxes (in Queens and Staten Island). Queens and Staten Island told us that they maintain the undeliverables for about 30 days. Since the 436 undeliverables were not obtained in a consistent or systematic way, we cannot compare them to the total number of NOVs sent.

- 42 (25 percent) of the returned NOV's were mailed to owners or managing agents for which current registrations were not available. Some registrations dated back as far as 1993 and 2001. HPD officials stated that they are required to send an NOV to the last validly registered owner of a property. They also stated that the agency is taking certain steps to improve owner compliance with the annual registration requirement.
- 74 (43 percent) of the returned NOV's were mailed to the current owners or managing agents' correct addresses. In these cases, we found no evidence that HPD attempted to determine why the mail was returned as undeliverable.

The remaining 38 (22 percent) of the NOV's were mailed to owners of private one and two family homes who either did not have to register or who failed to register and so did not provide their mailing addresses.

HPD needs to strengthen its controls for ensuring that the correct owner name and address information is available and used for its NOV mailings. HPDInfo has a feature whereby the borough offices can record the return of a mailed NOV as undeliverable. However, the borough offices did not consistently use this feature and record undeliverable NOV's in HPDInfo. While administrative staff in two borough offices (Queens and Manhattan) did record the undeliverable NOV's in HPDInfo, the staff at the other three borough offices (Brooklyn, the Bronx, and Staten Island) did not. None of the borough offices record the undeliverable Tenant Challenge forms because currently there is no feature in HPDInfo to do so.

The Associate Commissioner of HPD's Office of Enforcement and Neighborhood Services stated that one reason that a Tenant Challenge form might be returned as undeliverable is that the tenant no longer resides at the property. We reviewed 83 undeliverable Tenant Challenge forms found at the borough offices of Staten Island and the Bronx covering the period August 2011 through October 2014. Of the 83 tenant challenges, 8 (10 percent) mailings did not use the correct names or apartment numbers of the tenants. It is important for the Tenant Challenge forms to be addressed correctly so that tenants are provided an opportunity to assist HPD in identifying false certifications.

Recommendations

11. HPD should ensure that undeliverable NOV's are recorded in HPDInfo.

HPD Response: "Disagree. HPD does not believe there is enough value in recording undeliverable Notices of Violation to warrant using limited resources for this purpose. The agency's responsibility is to ensure that mail is sent to the appropriate party based on the proper submission of the required property registration."

Auditor Comment: By recording in HPDInfo the mailed NOV's it receives back as undeliverable, HPD would be in a better position to know the extent of the problem and to develop solutions. Accordingly, we continue to urge HPD to adopt this recommendation.

12. HPD should consider adding a feature to HPDInfo that would allow administrative staff to enter information concerning undeliverable Tenant Challenge forms to allow management to better monitor the results of its Tenant Challenge form mailings.

HPD Response: “Disagree. HPD does not believe there is enough value in recording undeliverable [Tenant Challenge forms] to warrant using limited resources for this purpose. The agency’s responsibility is to ensure that mail is sent to the tenant. In the examples identified by the Comptroller’s Office, the mail was always sent to the correct address and apartment number.”

Auditor Comment: By recording the mailed Tenant Challenge forms it receives back as undeliverable, HPD would be in a better position to know the extent of the problem and to develop solutions. HPD erroneously states that “in the examples identified by the Comptroller’s Office, the mail was always sent to the correct address and apartment number.” In fact, as stated in the report, the audit determined that of the 83 undeliverable Tenant Challenge forms found at the Bronx and Staten Island borough offices, eight mailings did not use the correct names or apartment numbers of the tenants. As stated earlier, 45 percent of the re-inspections performed in response to the tenant challenges in our sample found that the owners falsely certified that the repairs were made. Inasmuch as the Tenant Challenge form is a key control to protect against owners falsely certifying that violations have been corrected, we urge HPD to reconsider its response to this recommendation.

13. HPD should monitor the recording of undelivered NOV’s and tenant challenges. For mailings that are frequently returned as undeliverable, it should investigate the cause by researching information available on the HPD website, in HPDInfo, on owner registration forms, and in ACRIS and then correct information in HPD’s records where necessary. For those properties that do not have current owner registration forms, HPD should request that owners update their registrations.

HPD Response: “Partially agree. The Housing Maintenance Code requires NOV’s to be served on the last validly registered owner. Every year, when the registration process begins, HPD mails notices to approximately 150,000 buildings currently on file as being required to register. HPD has undertaken a number of initiatives designed to improve the percentage of properties that are validly registered. Over the past two years, these enhancements have included improving customer service; improving outreach to property owners through property owner events; creating an online system to assist with completing and accessing the form; issuing Orders to owners who fail to register; and adding failure to register as a cause of action in heat and hot water litigation cases. HPD is further investigating how to automate notices to new owners based upon the filing of a deed for new ownership, using data from the Department of Finance. The 2014-2015 registration period ended with a registration percentage of 73 percent, with most of the properties that failed to register properly being small multiple dwellings with less than 10 units.”

Auditor Comment: It is not clear from HPD’s response what part of the recommendation the agency disagrees with. Improving the property owner registration process so that a higher percentage of properties are validly registered is an important effort. However, our recommendation is that HPD, in addition to continuing this effort, also use other available sources of ownership information when NOV’s are repeatedly returned as undeliverable.

Controls Over Owner Certifications Need To Be Strengthened

HPD has inadequate controls over the owner certification of corrections process. HPD did not ensure there is a consistent process to determine timeliness of these owner certifications among the borough offices. Our review of a limited certification sample also found that HPD did not maintain evidence of all certifications it received, nor did it ensure that all were entered in HPDInfo. We also identified instances in which HPD either accepted certifications that were altered or improperly determined that all of the violations on an NOV had been corrected when the owners had certified that only some had been corrected.

According to HPD's *NOV Certification* manual, once an owner submits a certification to the appropriate borough office, it should be time-and-date stamped, reviewed for timeliness and validity, and recorded in HPDInfo. Either the postmark date for a mailed certification or the date stamped by HPD on a hand-delivered certification should be the one entered into HPDInfo. As discussed above, HPD rejects an untimely or invalid certification, and the violations associated with that NOV remain open.

In determining the timeliness of owner certifications, we found that HPD did not ensure that all of its borough offices used the same standard. Administrative staff in the Brooklyn, Staten Island, and Manhattan borough offices informed us that they give owners a grace period (of 10 calendar days) beyond the owner certification due dates. The remaining two boroughs do not. HPD should have a consistent policy for determining owner certification timeliness.

We also found that HPD does not ensure that borough offices consistently document and maintain all certifications they receive. We randomly selected 62 owner certifications recorded in HPDInfo from an HPD violation dataset covering the first six months of Fiscal Year 2013 to determine whether HPD retained the hard-copy owner certifications submitted. The agency could not provide supporting documentation for four (6 percent). We also found that HPD does not ensure that all certifications that borough offices receive are recorded. We randomly selected 58 hard-copy certifications from HPD's files to determine whether they were recorded in HPDInfo. We found that five (9 percent) of them were not.

Finally, we found that HPD accepted some questionable certifications that should have been rejected as invalid. Of 103 certifications recorded in HPDInfo and available in HPD files,¹² we determined that five should have been rejected. In each case, we found that the front side of the NOVs submitted with the certifications appeared to have been altered by the owner. The owners used a 1999 version of the NOV rather than the 2013 version that was mailed to them. For one of these certifications, the NOV number was changed; the new number related to a different property with a different owner and managing agent. According to HPD officials, any alteration of the NOV should lead to the invalidation of the certification. During our audit, we also noted 10 other related certifications in which the NOV number was altered.

Additionally, for three of the 103 certifications, the owners certified that only some of the violations listed on the NOV had been corrected, but the borough offices noted in HPDInfo that all of the violations had been corrected. At the same time, on one other certification, the owner certified

¹² The 103 certifications include the 50 certifications from the aforementioned 62 certifications recorded in HPDInfo and 53 certifications from the aforementioned 58 certifications stored in the agency's hard-copy files.

that three violations had been corrected; however, the borough office recorded in HPDInfo that only one of the violations was certified.

Recommendations

14. HPD should communicate uniform procedures to the borough offices directing how owner certifications should be handled.

HPD Response: “Agree. Although HPD had extensive certification processing procedures in place during the audit period, the procedures did not specifically address some of the items identified by the auditors. HPD has amended the certification procedures and conducted re-training on several important aspects of the certification process. Further training will be implemented by the end of Fiscal Year 2016.”

15. HPD should ensure that it does not accept invalid certifications and that only those violations that the owner specifically states were corrected are entered into HPDInfo as addressed.

HPD Response: “Agree. Although the error rate for this type of activity was small, HPD recognizes that more can be done to minimize human error. Additional clerical staff will be hired and further training will be implemented by the end of Fiscal Year 2016 to address this recommendation.”

16. HPD should investigate the altered NOV identified during this audit along with any other altered NOV observed by borough staff.

HPD Response: “Partially agree. Although the error rate for this type of activity was small, HPD recognizes that more can be done to minimize human error. Additional clerical staff will be hired and further training will be conducted by the end of Fiscal Year 2016 to address this recommendation.

“HPD staff may recognize altered NOVs, but they do not investigate them. When such NOVs are identified by our staff, appropriate referrals are made to the Department of Investigation.”

Auditor Comment: We believe that HPD should conduct a preliminary investigation of any altered NOVs to identify owners that it needs to monitor more closely, in addition to identifying situations that should be referred to the Department of Investigation for a full investigation.

No Goal for Re-Inspections of Certified Non-Lead-Paint Violations

HPD has not established a specific goal for the percentage of re-inspections it will make of non-lead violations for which it receives owner certifications. HPD informed us that it attempts to re-inspect a “significant percentage” of all other owner certifications involving Class B and C non-lead-paint violations. However, HPD has not established an actual goal, and has not identified what this “significant percentage” should be. Considering the potential public health risk that false certifications represent, HPD needs to establish a re-inspection goal for certified Class B and C

non-lead-paint violations to assess the accuracy, completeness, and legitimacy of owner certifications.

Recommendation

17. HPD should establish a goal for the percentage of certified Class B and C non-lead-paint violations that should be re-inspected.

HPD Response: “Partially agree. Reinspections of certified violations are crucial to ensuring that owner certifications are valid; HPD has always recognized the importance of this activity. Indeed, for each of the past four fiscal years, HPD attempted reinspection of more than 50 percent of all certified violations and 75 percent of certified class C violations, focusing on those that are challenged by tenants. We will continue to strengthen controls over both certifications and tenant challenge processes.”

Auditor Comment: We continue to believe that establishing a goal for re-inspecting certified Class B and C non-lead paint violations would help ensure a consistently strong effort in this area.

Inadequate Procedures for Inspector Supervision

HPD has inadequate written procedures for supervising its inspectors. HPD’s supervisory procedures are contained in Code Enforcement’s *Supervisor’s Duties & Responsibilities*. In particular, the written procedures only provide limited guidance regarding oversight in the field. The procedures state that it is the supervisors’ responsibility to perform designated or random field visits to check inspectors’ work. However, the supervisors lack direction as to how often field checks should be conducted and how they should be documented.

During our visits to the boroughs, it was apparent that supervisors knew inspectors should receive field visits, but were unclear on how often to conduct them. One supervisor stated that “management wants you to go out once a week.” During a given month, “they want you to have conducted field checks for each of the inspectors at least once, and for at least three stops per inspector.” Another supervisor stated that he only conducts field checks if specifically requested to do so by borough management. One of the borough heads stated that there is “no hard and fast rule as to how many times a supervisor should go out and check on staff,” and that the goal is to focus on conducting field checks on weaker inspectors.

The Associate Commissioner of HPD’s Office of Enforcement and Neighborhood Services confirmed that there are no written procedures detailing management’s expectations concerning supervisory checks. She further stated that conducting these checks depends on a supervisor’s workload. However, supervisor field checks are essential to provide training and feedback to the inspectors so they can adequately address tenants’ complaints. Providing detailed instructions to the borough office on how field checks should be conducted would strengthen supervisory oversight and help improve inspector performance.

In addition, a review of the documentation for 272 supervisory checks in the five boroughs from April 2012 through January 2014 revealed some concerns. Supervisors did not complete the inspector evaluation form for 73 of the 272 field checks conducted. The inspector evaluation form varies from borough to borough and contains, among other things, a checklist to be completed by

the supervisor regarding the inspector's performance and knowledge. Some of the borough forms also include space where the supervisors can comment on an inspector's performance. Supervisors did not cover all items on the checklist for 114 (57 percent) of the 199 inspector evaluation forms that were completed.

Recommendations

18. HPD should revise its supervisory procedures on how field checks should be conducted to provide detailed guidance to the borough offices. These procedures should include, among other things, how often field checks should take place and how they should be documented.
19. HPD should ensure that supervisors consistently complete the inspector evaluation forms required for supervisory checks.

HPD Response to Recommendations 18 and 19: "Agree. HPD will revise its supervisory procedures to more precisely reflect how field checks should be conducted and documented. The procedures will include guidelines on the frequency of field checks and specific instructions on how the field checks should be documented. HPD's Field Audit Review Unit (FARU) also currently conducts field checks independently from the borough offices, using standard documents to collect the information. The FARU is being expanded and re-constituted with compliance officers and a trainer. The Unit will play a more central role in both auditing field inspectors and supervisory checks, as well as in supervisory training."

Other Issues

HPD Should Explore the Use of an Administrative Tribunal to Increase the Effectiveness of Its Enforcement Efforts

When apartment building owners fail to correct housing maintenance problems cited in NOV's mailed to them by HPD, the agency is able to pursue enforcement actions against them in New York City Housing Court. However, HPD states that it does not have the resources to pursue Housing Court actions against every owner who does not correct cited violations. Rather, according to HPD, the agency generally pursues enforcement actions only against owners that have a large number of uncorrected violations. Since, according to HPD, it does not have the legal authority to seek to enforce its NOV's in a City administrative tribunal such as the Environmental Control Board (ECB), HPD has no option other than Housing Court to pursue enforcement actions.

Many City agencies, such as the Department of Buildings and the Department of Sanitation, forward their NOV's to ECB for enforcement. ECB attempts to collect the financial penalties noted on the NOV's it receives from these other City agencies and offers an opportunity for respondents to dispute the violations before administrative law judges. Typically, the inspectors that cited the violations represent the City agencies at these informal hearings.

HPD officials told us that its enforcement authority is derived from the Civil Court Act and in Article 7A of the Real Property Actions and Proceedings Law. The officials stated that Housing Court is a preferable forum to an administrative tribunal because the powers of Housing Court are greater

than those of an administrative tribunal, such as ECB. They noted that an administrative tribunal cannot issue injunctions ordering compliance with the Housing Maintenance Code and cannot impose contempt or other judicial sanctions. They also noted that residents of the buildings would not be proper parties to enforcement proceedings at ECB, whereas residents can commence Housing Court actions or seek to intervene in HPD proceedings in the court.

While we note that the NOV enforcement options before an administrative tribunal are more limited than those available in Housing Court, we also note that under the present scheme, no attempt is made to enforce many of the violations issued by HPD at all. HPD provided datasets of all the violations it cited and all the Housing Court cases it filed during the first half of Fiscal Year 2013. Of the 193,406 violations issued by HPD during the first half of Fiscal Year 2013, 76,472 were still open as of March 11, 2014. However, HPD only filed 1,110 cases relating to 9,261 violations in Housing Court during the first half of Fiscal Year 2013. We do not have datasets on violations cited and cases filed during other time periods. However, the number of open violations and case filings for the first half of Fiscal Year 2013 nonetheless suggest that many violations are not being enforced by HPD.

HPD could potentially increase its effectiveness by seeking authority to use an administrative tribunal, such as ECB, to assist it in getting violations corrected. The need for HPD to devote additional resources to this effort would potentially be limited since hearings would only be held when owners dispute violations. Furthermore, HPD inspectors rather than agency lawyers would generally attend the hearings due to the informal nature of an administrative tribunal's proceedings. One inspector we spoke with expressed considerable frustration from his view that there were no enforcement actions for many uncorrected violations. Rather than simply ignoring the thousands of NOVs for which there is no evidence that corrections have been made and for which resources do not exist in HPD to pursue enforcement actions in Housing Court, we believe that the use of a supplemental venue to enforce code compliance should be considered.

Antiquated and Inefficient Laptops

Each of the borough offices has a certain number of laptops that the inspectors are able to use in the field to record the results of their inspections. Except for those who conduct lead-paint inspections, it appears that inspectors generally did not use the laptops. In addition, the laptops appeared to be antiquated and inefficient. In particular, since the laptops cannot connect to HPDInfo in the field, the inspectors must go back to the office to upload the inspection results at the end of the day or the beginning of the next day. We were informed by Code Enforcement officials and inspectors that limitations in the laptops significantly reduced their utility. One borough official stated that "they need to get rid of the laptops as there are a lot of issues." The official further stated that the inspectors generally do not use the laptops because they freeze up and are "so big and clunky."

When inspectors do not use the laptops, they must return to the office and enter each inspection result manually into HPDInfo. As a result, field inspectors have to spend a considerable amount of time in the office entering inspection data rather than conducting inspections. Of the 85 Route Sheets¹³ we reviewed, inspectors associated with 55 (65 percent) of them remained in the office

¹³ We obtained 192 Route Sheets from the five borough offices. These sheets list the inspections on an inspector's route for a particular day, including the arrival and departure time in the office. We selected a sample of 85 to determine the length of time field inspectors remain in the office at the beginning and at the end of the workday.

between one and four hours at the start of the work day and inspectors associated with 36 (42 percent) of them remained in the office between one and three hours at the end of the work day. Therefore, it is important for HPD to consider updating the portable devices that inspectors use in the field to smaller ones, such as tablets or notebooks that would connect directly to HPDInfo, and increasing the number of inspectors who are provided with these tools. HPD officials stated that they are considering updating the portable devices provided to the inspectors.

Recommendations

20. HPD should consider seeking authority to use a City administrative tribunal to supplement its enforcement of the Housing Maintenance Code and other regulatory requirements.

HPD Response: “Disagree. HPD has previously considered the use of an administrative tribunal to address its enforcement of the Housing Maintenance Code and determined that Housing Court remains a more effective tool for the correction of violations against recalcitrant landlords. The audit report identifies some of the concerns that HPD has regarding the use of a tribunal, such as the effect of such a process on tenant- initiated housing court actions and the effect on HPD’s ability to seek higher civil penalties. HPD has in recent years gained the authority to issue fees for inspections in cases where owners fail to adequately address conditions, in addition to the ability to collect civil penalties through Housing Court. This authority includes heat and hot water fees, fees associated with buildings in the Alternative Enforcement Program and general inspection fees when owners repeatedly fail to correct and certify class B and C violations within the same apartment over the course of a year. These fees reimburse HPD for the repeat inspections.”

Auditor Comment: We continue to believe that HPD should consider seeking authority to use an administrative tribunal such as ECB to supplement its enforcement efforts in Housing Court. As we show in the report, thousands of open violations for which HPD does not file cases in Housing Court remain unenforced because HPD refuses to consider using an administrative tribunal to supplement its Housing Court efforts. Accordingly, we continue to urge HPD to consider this recommendation.

21. HPD should consider updating the portable devices that inspectors use in the field to smaller ones that work wirelessly, such as tablets or notebooks that would connect directly to HPDInfo.

HPD Response: “Agree. HPD is actively investigating the use of smaller, wireless devices to improve and upgrade its current technologies. Our goals for this project include increasing the accuracy of reporting, increasing efficiency by allowing inspectors to conduct more inspections each day, and increasing effectiveness of inspections as HPD personnel can access more comprehensive information relating to the building they are inspecting.”

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the City Charter.

The scope of this audit covers the period from Fiscal Year 2012 through October 2014.

To obtain an understanding of HPD's regulations governing the handling of housing quality complaints, we reviewed the following:

- Subchapters 1 through 5 of the New York City Housing Maintenance Code, which establish the minimum standards for health, safety, repair, and maintenance in residential dwellings in the City and outline HPD's enforcement powers;
- Chapter 713, Articles 1 through 11 of the New York State Multiple Dwelling Law;¹⁴
- Section 110 of the New York City Civil Court Act, and Article 7-A of the Real Property Actions and Proceedings Law, which describe HPD's authority to commence certain proceedings in Housing Court; and
- Local Law 1 of 2004, New York City Childhood Lead Poisoning Prevention Act of 2003, which describes the prevention of childhood lead poisoning through the remediation of lead paint hazards in housing.

To obtain an understanding of HPD's Code Enforcement responsibilities, we reviewed the following:

- HPD's flowchart of the complaint process, entitled *Housing Code Complaint Workflow & Decision Diagram*;
- Code Enforcement's *Manual for Housing Inspectors*, which includes procedures on how inspectors are to conduct inspections and issue violations, what inspectors are to do when they cannot gain access to apartments, and how to handle the heat season;
- Code Enforcement's *Supervisor's Duties & Responsibilities*, dated June 23, 1998;
- Various HPD pamphlets for owners and tenants outlining housing rules and regulations and the agency's role, including the pamphlets entitled *Enforcement Services* and *The ABC's of Housing*;
- HPD's *Code Enforcement—Inspections and Violation Certification*;
- HPD's *NOV Certification* manual, effective September 2014; and
- HPD's *Division of Code Enforcement Forms of Orders*, revised July 1, 2012, and February 7, 2014, which lists all of the violation orders (and associated descriptions) that can be used by an inspector when issuing NOVs.

¹⁴ Pertains to buildings with three or more residential units.

To familiarize ourselves with HPDInfo and its various features and functions as they relate to the handling of housing quality complaints, we reviewed the *HPDInfo Functionality Guide—EZView*, dated November 12, 2004, and HPDInfo's *NOV Certification Process* user manual dated July 28, 2004. We also observed a demonstration of this system by the Senior Trainer of HPD's Division of Technology and Strategic Development.

To gain an understanding of the process of how NOVs and Tenant Challenge forms are mailed to owners and tenants, we reviewed the HPD's mailing services contract with the New York State Industries for the Disabled, Inc., which totaled \$3,017,762 for the period July 1, 2012, through June 30, 2015. In addition, we conducted observations on October 1 and 8, 2014, of the contractor's mailing facility to ensure that there were adequate controls over the mailing process and to determine whether there were any issues that would contribute to there being undeliverables.

To obtain an understanding of the responsibilities of HPD central office officials and the controls in place in relation to the handling of complaints and the filing of cases with the Housing Court, we interviewed the Associate Commissioner of the Office of Enforcement and Neighborhood Services, who is responsible for the Division of Code Enforcement and the Housing Litigation Division (HLD). We also interviewed the Assistant Commissioner and the Citywide Chief Inspector of the Division of Code Enforcement and HLD's Assistant Commissioner, Director of Operations, and Supervisor of Data and Records. In addition, to gain an understanding of the responsibilities of the inspectors at the borough level, we visited each of the borough offices and interviewed chief inspectors, deputy chief inspectors, and supervising inspectors. We also accompanied several inspectors on field inspections and observed their activities for an entire day.

We reviewed two studies—*NYC Housing Code Enforcement: Proposals for Reform* (March 23, 2011 edition), an article from *The Wagner Review* prepared by students of the Robert F. Wagner Graduate School of Public Service at New York University and *The Roof Over Our Heads: The Case For Stronger Enforcement Of New York City's Housing Maintenance Code* (October 2013), a report prepared by Make the Road New York, an immigrant community organization.

On December 23, 2013, HPD provided us with reports for each of the five boroughs containing detailed complaint data corresponding to 10 judgmentally selected categories covering Fiscal Years 2012 and 2013.¹⁵ The fields in these reports included the complaint intake date, complaint and problem number, origin of the complaint, address of the complaint, inspector badge number, result of the inspection, and inspection date. In total, our population consisted of a total of 335,747 complaints reported for all boroughs—113,927 in Brooklyn; 100,108 in the Bronx; 70,678 in Manhattan; 46,492 in Queens; and 4,542 in Staten Island.¹⁶

As part of our review of this data, we checked for any anomalies, such as complaints that were canceled, complaints reported after inspection dates, problems closed without being addressed

¹⁵ HPD provided us with a summary report of the total number of complaints reported by problem and priority level for the period July 1, 2011, through May 31, 2013. We used this report to judgmentally select the following 10 problems: 3 dire problems (collapsing or falling ceiling; no electric supply or lights in a public area; and no water supply to the entire building); 4 emergency problems (lack of heat; gas shut-off valve leaking; mold; and defective or missing carbon monoxide detector); and 3 non-emergency problems (broken or defective floor; plaster peeling and falling from ceiling; and paint chipping, falling, peeling, or flaking from walls).

¹⁶The original complaint data reports from HPD consisted of a total of 579,662 records or rows. This is because one complaint could have had one or more problems associated with it (each problem would be recorded as a separate record) and each problem could have had one or more inspection results (each result would be recorded as a separate record). Thus, for purposes of our analysis, we eliminated all of the duplicate records to arrive at a population of 335,747 unique complaints.

either by a tenant call back or an inspection, or problems closed but the complaints remained open.

In addition, absent formally defined criteria, we determined whether complaints were addressed in a timely manner using the informal criteria HPD outlined to us in an email. To do so, we calculated the number of days between the complaint intake dates to either the tenant call-back dates or the inspection dates and compared our results to HPD's criteria.¹⁷ We also analyzed problems that were closed due to "no access" situations or were canceled by inspectors to determine whether some inspectors had abnormally high numbers of "no access" results or cancellations. In addition, we determined whether some inspectors had abnormally high numbers of "not reached" results.

As part of our data reliability testing, we visited each of the borough offices and randomly selected complaint files and looked for evidence that the complaints had been addressed. We obtained documentation pertaining to 294 inspection orders¹⁸ covering the period of November 2011 through January 2014. We randomly selected 150 of the 294 inspection orders and determined whether the inspection information indicated on the orders, such as the inspection dates and arrival and departure times of the inspections, were accurately reported in HPDInfo. For 25 of the 150 inspection orders, we also determined whether the inspection results (e.g., "no access," "not reached," or violation reported) indicated on the orders were accurately reported in HPDInfo.

On March 11, 2014, HPD provided us with reports for each of the five boroughs containing detailed violation data covering the first six months of Fiscal Year 2013. The fields in these reports included the violation number, violation order number, violation report date, certification date, NOV re-inspection date, violation status (i.e., whether the violation was open or closed), and the reason for closing the violation. In total, our population consisted of a total of 193,406 violations reported for all boroughs—69,972 in Brooklyn; 62,294 in the Bronx; 38,977 in Manhattan; 18,539 in Queens; and 3,624 in Staten Island.

As part of our review of the data, we determined whether inspectors conducted re-inspections of non-lead-paint violations within 71 days of the certification submission dates. (If no re-inspections take place within 71 days, HPD is required to automatically close such violations as "Deemed Complied.") We also determined whether inspectors conducted re-inspections of lead paint violations within 14 days of the certification submission dates, as required by Local Law 1 of 2004.

We also randomly selected 25 of the 193,406 violations and determined whether the violation orders issued by the inspectors were correct according to the *Division of Code Enforcement Forms of Orders* and were consistent with the actual conditions found by the inspectors. We also determined whether the information recorded for these 25 violations on the March 11, 2014, reports matched the information in HPDInfo.

We determined whether there was any evidence to indicate that inspectors contacted the borough offices when they were unable to gain access to an apartment or a building, as required by HPD's procedures. To do so, we randomly selected 100 complaints in which the inspectors reported that they were unable to gain access to conduct their inspections—we selected 50 complaints from

¹⁷ For those complaints that had first tenant call back dates available, we calculated the number of days between the complaint intake date and the first tenant call back date (irrespective of whether the tenants stated that the conditions were fixed). For those complaints that had no tenant call back dates available, we calculated the number of days between the complaint intake date and the first inspection date (irrespective of whether the inspectors were able to gain access).

¹⁸ Each inspection order details the relevant information pertaining to a particular complaint, including the identified problems and the address of the tenant.

192 Route Sheets obtained at the borough offices¹⁹ and 50 complaints from the detailed complaint data provided to us by HPD. We also visited each of the borough offices and obtained whatever radio call logs they had available during the period Fiscal Year 2012 through April 30, 2014. In addition, we obtained inspection-related information pertaining to the sampled complaints from HPDInfo. Finally, we determined whether the no-access results from our sample were either recorded by the borough offices in HPDInfo or on the radio call logs.

We determined whether there were adequate controls over the owner certification process. To do so, we randomly selected 120 certified NOV—62 from the detailed violation data we received from HPD and 58 from HLD’s files (certified NOV are sent to the borough offices for input into HPDInfo and then the originals are sent to HLD for filing)—covering the period from July 2012 through September 2014. As part of our testing, we compared the information recorded on the hard-copy Owner Certification of Correction of Violations (owner certifications) with information recorded in HPDInfo. We also determined whether the owner certifications were facially valid (e.g., whether the certification was notarized, whether the date the owner corrected the problem was on or before the due date, whether the name and address of the contractor that performed the work was indicated, and whether the date of the certification was on or before the certification due date).

We determined whether Tenant Challenge forms are recorded in HPDInfo at each of the borough offices as required and whether HPD re-inspects all of the tenant challenges it receives from the tenants. To do so, we visited each of the borough offices, randomly selected apartment building files, and looked for any evidence of Tenant Challenge forms that had been returned to HPD by the tenants. In all, we obtained 57 forms that tenants had returned to HPD during the period from January 2012 through October 2014. Next, we analyzed inspection data in HPDInfo and determined whether HPD re-inspected the premises to determine whether the owners had in fact corrected the violations.

Based on inspection-result information recorded on 192 sampled Route Sheets, we conducted field observations during the months of April and May 2014 in three boroughs—in Queens, Manhattan and the Bronx. We entered a total of 38 multiple dwellings in these boroughs and photographed all of the Certificate of Inspection Visits cards from each of the buildings, which serve as proof that inspectors were at the buildings as required by the Multiple Dwelling Law and HPD’s procedures. We determined whether the cards were clearly displayed in a frame in the building entry area, whether they could be readily removed by the inspectors for signing, and whether the inspectors signed, dated, and indicated the purpose of their visits on the cards.

As part of our test, we compared the inspection information on the cards with the data recorded on the Route Sheets. In addition, we reviewed the Certificate of Inspection Visit cards and determined whether there were any gaps between inspection dates of one year or more. For these gaps, we researched the corresponding routes and inspection data in HPDInfo and documented the number of inspection dates that were not indicated on the cards. In addition, we reviewed all the inspection dates entered on the cards and ensured that they were all recorded in HPDInfo.

¹⁹ To select our sample of complaints, we first identified a total of 325 complaints on 192 sampled Route Sheets covering the period of November 2011 through December 2013 for which the inspectors were unable to gain access to the apartments or buildings. Then, we randomly selected 50 of the 325 complaints.

To determine whether mailed NOVs and Tenant Challenge forms were sometimes returned as undeliverable, we visited some of the borough offices to inventory the undeliverable mail. In total, we inventoried 436 NOVs that were returned as “undeliverable” to the borough offices of Queens, Staten Island, and the Bronx. For 171 of the 436 undeliverable NOVs covering the period from January 2012 through October 2014, we determined whether HPD had the correct owner and address information by researching owner property information available on the HPD website, in HPDInfo, and in ACRIS.

We also reviewed 83 Tenant Challenge forms that were returned as “undeliverable” to the borough offices of the Bronx and Staten Island covering the period from August 2011 through October 2014. We determined whether HPD had used the correct tenant address by researching the tenant address information available in HPDInfo.

We reviewed each of the 192 Route Sheets we obtained to identify any irregularities, such as inspectors taking an excessive amount of time between stops (using the Google Maps website for any periods between stops that appeared questionable); inspectors remaining in the office for an excessive amount of time (according to HPD, inspectors should generally be in the office for no more than one hour at the beginning and/or the end of the day); and inspectors recording many of their results as the building or apartment not having been reached on the scheduled inspection day, as access to the building or apartment not having been obtained, or as no violations having been found. In addition, we reviewed the Route Sheets to determine whether there were any stops that were manually added to the inspection schedules printed on the sheets. If so, we checked HPDInfo to determine whether these manual add-on stops and the results were entered into HPDInfo.

We determined whether supervisors are in fact conducting supervisory checks to monitor the work of the inspectors in the field. To do so, we visited each of the borough offices and obtained either the supervisory field audit documentation that they had available for the two months that we randomly selected or, if no documentation was available for these two months, whatever supervisory field audit documentation was available. In total, we received 272 supervisory field audit reports covering the period from April 2012 through January 2014. We analyzed how often the supervisors conducted the visits and whether the results of their visits were adequately documented.

The results of our samples cannot be projected to the populations from which they were drawn, but together with our other audit procedures provided a reasonable basis for our findings and conclusions regarding the identified control weaknesses.

June 25, 2015

Marjorie Landa
Deputy Commissioner for Audit
Office of the New York City Comptroller
One Centre Street
New York, New York 10007

Re: Audit Report on the Department of Housing Preservation and Development's Handling of
Housing Maintenance Complaints ME13-106A

Dear Deputy Comptroller Landa,

I write to thank you for the thorough and thoughtful "Audit Report on the Department of Housing Preservation and Development's Handling of Housing Maintenance Complaints," and for the opportunity to provide HPD's response to the report. The Comptroller's Office spent almost two years speaking with staff from our Office of Enforcement and Neighborhood Services (ENS), reviewing our data and absorbing our complex processes; the audit and report reflect that investment of time and I appreciate that your staff sought genuinely to understand the agency's operations.

My HPD team has carefully considered each of the recommendations presented in the report and we agree with the majority of the recommendations. As detailed in the attached response, we look forward to implementing new technologies, policies, procedures, and systems to further improve our effectiveness in the crucial work of responding to tenant complaints.

Our goal is to provide excellent service to the public by helping to ensure that tenants live in safe, secure housing. To that end, earlier this year ENS developed new strategies for structuring and staffing its operations. Highlights of these enhancements, all of which have been fully funded in Mayor de Blasio's FY16 budget, include:

- 49 new housing inspectors and supervisors, including:
 - 15 new inspectors each year in anticipation of normal attrition. New inspectors will be hired each spring and fully trained before the subsequent heat season begins in October. This proactive plan has been coordinated with OMB.
 - Six inspectors and one supervisor specifically dedicated to increasing our ability to do proactive inspections
- Adding 18 new administrative staff and redeploying 16 inspectors – who had been handling administrative functions – back to the field.



- Bolstering ENS' Field Audit Review Unit by increasing the number and qualifications of personnel, who will play a key role in monitoring compliance with improved supervisory procedures and controls.

In addition to these needed enhancements in staffing and structure, we are actively exploring how to implement handheld devices for our entire inspectional force. Our vision is to create a system in which inspectors can – without going to a central office each day – obtain their inspection route for the day, get all necessary information about their inspection locations from a central database, input all inspection results directly into a device and transmit that data in real time back to that central database. Implementing this vision includes providing our inspectors with customized handheld devices, which will replace our outmoded laptops.

I am confident that increasing staffing, optimizing how we structure our resources, bolstering field monitoring and implementing new technology will further enhance ENS' effectiveness and timeliness in responding to housing maintenance complaints. Our response to the audit report also should be viewed against the background of ENS' broader operational responsibilities; in addition to conducting inspections following housing maintenance complaints, ENS conducts proactive preservation work through its Alternative Enforcement and other programs, and responds to crises that require shifting significant resources from complaint response to crisis response.

For example, during the audit period ENS personnel played a critical role in responding to Hurricane Sandy: in the months following Sandy, over 9,100 inspections were attempted at approximately 6,000 multifamily buildings by the Division of Code Enforcement. The frigid temperatures of January 2014 and the East Harlem explosion in February 2014 are additional challenges to which ENS responded, with great effectiveness and without increases in staffing or other resources, during the period covered by the audit.

Once again, we value the audit report and its many useful recommendations, as well as this opportunity to comment upon it. I would be happy to discuss our response with you if that would be helpful.

Sincerely,



Vicki Been

Attachment



AUDIT RESPONSE
 NEW YORK CITY OFFICE OF THE COMPTROLLER
 AUDIT OF THE NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT'S
 HANDLING OF HOUSING MAINTENANCE COMPLAINTS
 ME13-106A

Finding

Housing Maintenance Complaints Were Not Consistently Addressed in a Timely Manner

HPD's Criteria for Deeming a Complaint Addressed is Inadequate

HPD's Failure to Meet its Informal Standards in Effect During the Audit Scope Period

HPD's Restated Informal Standards

Recommendation 1

HPD should develop and implement formal written procedures governing the timeframes for addressing complaints.

Recommendation 2

HPD should consider revising its timeliness standards for addressing complaints to continue until there is either a tenant contact in which the tenant states the problem has been resolved or an attempted inspection.

Recommendation 3

HPD should monitor complaints more closely to ensure they are addressed in a timely manner.

Response to Recommendations 1, 2 and 3

Partially agree.

HPD agrees that:

- The development and implementation of formal guidelines governing the timeframes for addressing complaints will improve the process for measuring HPD's responsiveness.
- Timeliness standards should reflect expectations for time to tenant callback if a complaint is closed through that process, and the time to initial inspection if the complaint is not closed on callback.
- Monitoring of complaint response can be improved.

Accordingly, HPD will develop a revised set of guidelines that govern the timeframe for inspection completion that set forth clear expectations for both the time to tenant callback, if a complaint is closed through that process, and the time to initial inspection, if the complaint is not closed on callback. These formal guidelines will take into account HPD resources, technology, procedures and historical data. New monitoring tools will be established to ensure that these timelines are properly monitored. HPD expects new and updated guidelines, as well as the new monitoring tools, to be in place by the end of FY2016.

While HPD agrees with the recommendations, we believe that the audit did not support the finding that maintenance complaints were not consistently addressed in a timely manner. Page 10 of the audit indicates that HPD addressed 93% of dire complaints within 5 days, 99% of emergency complaints within 10 days and 98% of non-emergency complaints within 15 days. Additionally, although the development and implementation of formal guidelines for addressing complaints will improve the process for measuring and monitoring HPD's responsiveness, there are many factors – including weather, disasters and new initiatives – that may affect the actual timeliness of our code enforcement response.

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ME13-106A

Finding

Re-Inspection Attempts for Certified Lead Paint Violations Were Not Consistently Made within 14 Days

Recommendation 4

HPD should monitor the timeliness of its re-inspections of certified lead paint violations more closely to better ensure that they are addressed within established time frames.

Response to Recommendation 4

Agree.

Improving HPD's monitoring of response times to reinspect certified lead violations is important and will help the agency identify when additional resources might be needed. To that end, a new report will be developed to track the timeliness of reinspections of certified lead violations; this report will alert management of possible backlogs so that HPD can align its resources to respond as quickly as possible. We expect this report to be in place by the end of Calendar Year 2015.

It is important to note that lead-based violations cannot be closed without an inspection, as required by law; therefore, the violation will not be closed (as other certified violations are) based solely on the certification.

Recommendation 5

HPD should conduct re-inspections of lead paint violations for which owners' certifications were late.

Response to Recommendation 5

Disagree.

If a violation is certified late, it is processed as if no certification has been received and is sent to ENS' Emergency Repair Program, as required by law. HPD will reinspect with technical staff (rather than Inspectors) and repair the condition if the physical condition has not been addressed properly or if lead dust remains.

AUDIT RESPONSE
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ME13-106A

Finding

HPD Does Not Effectively Monitor “No Access” and “Not Reached” Inspection Results

Recommendation 6

HPD should ensure that borough offices follow the agency’s procedures when inspectors are unable to gain access to premises to conduct inspections. Those procedures include recording in HPDInfo or on the radio call logs the “no access” calls from inspectors and attempts by borough personnel to contact tenants to gain access.

Recommendation 7

HPD should consider using either HPDInfo or the radio call logs as the primary record to document the results of the “no access” radio calls. If the radio call logs are still to be used, they should be filed systematically to facilitate management review.

Response to Recommendations 6 and 7

Agree.

HPD recognizes that internal record-keeping regarding the inability to gain access should be strengthened. Accordingly, ENS will re-issue clarified guidance to both field and office staff regarding procedures to document activities related to the calls required when there is no access.

When there is no access to a unit that generated a complaint, HPD leaves a card and also uses a mail notification process that is initiated based on data that the Housing Inspector enters into HPDInfo. Both the card and a letter in multiple languages are generated to tenants when there is no access. The letter requests that the tenant contact HPD to schedule an inspection if one is still required. HPD schedules thousands of inspections in response to these letters. Building-wide conditions such as lack of heat and hot water rarely are closed with no access because HPD’s procedure requires inspecting units other than the complainant’s apartment if there is no access to that primary location.

HPD is considering the use of cell phones to replace radio communication. If that change is made, new procedures will be put in place to track access calls.

AUDIT RESPONSE
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Recommendation 8

HPD should identify those inspectors who have a very high percentage of “no access” and “not reached” inspection results and conduct supervisory reviews of their performance.

Response to Recommendation 8

Agree.

HPD will design reports for both front line supervisors and upper management that will improve the tracking of inspectors and documentation of findings. These reports will identify inspectors with an excessive number of stops with a no access result or an excessive number of stops not reached. Monitoring these reports will be a key responsibility of the Borough Office Chiefs and of the Field Audit Review Unit, and additional training for supervisors will be provided regarding this responsibility.

Supervisory monitoring currently includes reviewing daily routes and approving work as well as identifying issues about access and stops not reached. HPD conducted a preliminary review of the inspectors identified by the Comptroller's Office and found no significant concerns about any individual inspectors.

Finding

Inadequate Controls Over the Handling of Tenant Challenges

Recommendation 9

HPD should ensure that all boroughs record the receipt of tenant calls informing HPD that conditions have not been corrected and the receipt of Tenant Challenge forms in HPD Info, as well as the appointment dates for the reinspections to facilitate the scheduling and tracking of these reinspections.

Response to Recommendation 9

Agree.

Although HPD had an applicable procedure in place at the time of the audit, the Comptroller's office identified instances in which it was not properly implemented. In addition, the audit identified areas of the procedure which require amendment or clarification. An updated, improved procedure will be in place by the end of Fiscal Year 2016. A summary report identifying tenant challenges is also being designed and should be implemented by the end of Calendar Year 2015; this report will be distributed to the appropriate management team on a monthly basis. While the updated procedure is being created, all Borough Chiefs have been instructed to review the existing procedure with the staff and monitor compliance.

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HANDLING OF HOUSING MAINTENANCE COMPLAINTS
ME13-106A

Finding

Mailings of
NOV's and
Tenant
Challenges
Were Often
Returned to the
Borough
Offices as
Undeliverable

Recommendation 10

HPD should ensure that all
certified violations
challenged by tenants are
reinspected by HPD.

Recommendation 11

HPD should ensure that
undeliverable NOV's are
recorded in HPDInfo.

Recommendation 12

HPD should consider
adding a feature to HPDInfo
that would allow
administrative staff to enter
info on undeliverable
Tenant Challenge forms and
allow management to better
monitor the results of its
Tenant Challenge form
mailings.

Response to Recommendation 10

Agree.

It has always been HPD's policy to attempt a reinspection of any certified violation challenged by a tenant. HPD will monitor all challenged violations to ensure compliance with this policy, as described in the response to Recommendation 9.

Response to Recommendation 11

Disagree.

HPD does not believe there is enough value in recording undeliverable Notices of Violation to warrant using limited resources for this purpose. The agency's responsibility is to ensure that mail is sent to the appropriate party based on the proper submission of the required property registration.

Response to Recommendation 12

Disagree.

HPD does not believe there is enough value in recording undeliverable Notices of Violation to warrant using limited resources for this purpose. The agency's responsibility is to ensure that mail is sent to the tenant. In the examples identified by the Comptroller's Office, the mail was always sent to the correct address and apartment number.

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Recommendation 13

HPD should monitor the recording of undelivered NOV's and tenant challenges. For mailings that are frequently returned as undeliverable, it should investigate the cause by researching information available on the HPD website, in HPDInfo, on owner registration forms, and in ACRIS and then correct information in HPD's records where necessary. For those properties that do not have current owner registration forms, HPD should request that owners update their registrations.

Response to Recommendation 13

Partially agree.

The Housing Maintenance Code requires NOV's to be served on the last validly registered owner. Every year, when the registration process begins, HPD mails notices to approximately 150,000 buildings currently on file as being required to register. HPD has undertaken a number of initiatives designed to improve the percentage of properties that are validly registered. Over the past two years, these enhancements have included improving customer service; improving outreach to property owners through property owner events; creating an online system to assist with completing and accessing the form; issuing Orders to owners who fail to register; and adding failure to register as a cause of action in heat and hot water litigation cases. HPD is further investigating how to automate notices to new owners based upon the filing of a deed for new ownership, using data from the Department of Finance. The 2014-2015 registration period ended with a registration percentage of 73 percent, with most of the properties that failed to register properly being small multiple dwellings with less than 10 units.

Finding

Controls Over
Owner
Certifications
Need to be
Strengthened

Recommendation 14

HPD should communicate uniform procedures to the borough offices directing how owner certifications should be handled.

Response to Recommendation 14

Agree.

Although HPD had extensive certification processing procedures in place during the audit period, the procedures did not specifically address some of the items identified by the auditors. HPD has amended the certification procedures and conducted re-training on several important aspects of the certification process. Further training will be implemented by the end of Fiscal Year 2016.

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Recommendation 15

HPD should ensure that it does not accept invalid certifications and that only those violations that the owner specifically states were corrected are entered into HPDInfo as addressed.

Response to Recommendation 15

Agree.

Although the error rate for this type of activity was small, HPD recognizes that more can be done to minimize human error. Additional clerical staff will be hired and further training will be implemented by the end of Fiscal Year 2016 to address this recommendation.

Recommendation 16

HPD should investigate the altered NOV's identified during this audit along with any other altered NOV's observed by borough staff.

Response to Recommendation 16

Partially agree.

Although the error rate for this type of activity was small, HPD recognizes that more can be done to minimize human error. Additional clerical staff will be hired and further training will be conducted by the end of Fiscal Year 2016 to address this recommendation.

HPD staff may recognize altered NOV's, but they do not investigate them. When such NOV's are identified by our staff, appropriate referrals are made to the Department of Investigation.

Finding

No goal for Re-Inspections of Certified Non-Lead Paint Violations

Recommendation 17

HPD should establish a goal for the percentage of certified Class B and C non-lead-paint violations that should be re-inspected.

Response to Recommendation 17

Partially agree.

Reinspections of certified violations are crucial to ensuring that owner certifications are valid; HPD has always recognized the importance of this activity. Indeed, for each of the past four fiscal years, HPD attempted reinspection of more than 50 percent of all certified violations and 75 percent of certified class C violations, focusing on those that are challenged by tenants. We will continue to strengthen controls over both certifications and tenant challenge processes.

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Finding

Inadequate
Procedures for
Inspector
Supervision

Recommendation 18

HPD should revise its supervisory procedures on how field checks should be conducted to provide detailed guidance to the borough offices. These procedures should include, among other things, how often field checks should take place and how they should be documented.

Response to Recommendations 18 and 19

Agree.

HPD will revise its supervisory procedures to more precisely reflect how field checks should be conducted and documented. The procedures will include guidelines on the frequency of field checks and specific instructions on how the field checks should be documented. HPD's Field Audit Review Unit (FARU) also currently conducts field checks independently from the borough offices, using standard documents to collect the information. The FARU is being expanded and re-constituted with compliance officers and a trainer. The Unit will play a more central role in both auditing field inspectors and supervisory checks, as well as in supervisory training.

Recommendation 19

HPD should ensure that supervisors consistently complete the inspector evaluation forms required for supervisory checks.

Finding

HPD Should
Explore the Use
of an
Administrative
Tribunal to
Increase the
Effectiveness of
its Enforcement
Efforts

Recommendation 20

HPD should consider seeking authority to use a city administrative tribunal to supplement its enforcement of the Housing Maintenance Code and other regulatory requirements.

Response to Recommendation 20

Disagree.

HPD has previously considered the use of an administrative tribunal to address its enforcement of the Housing Maintenance Code and determined that Housing Court remains a more effective tool for the correction of violations against recalcitrant landlords. The audit report identifies some of the concerns that HPD has regarding the use of a tribunal, such as the effect of such a process on tenant-initiated housing court actions and the effect on HPD's ability to seek higher civil penalties. HPD has in recent years gained the authority to issue fees for inspections in cases where owners fail to adequately address conditions, in

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addition to the ability to collect civil penalties through Housing Court. This authority includes heat and hot water fees, fees associated with buildings in the Alternative Enforcement Program and general inspection fees when owners repeatedly fail to correct and certify class B and C violations within the same apartment over the course of a year. These fees reimburse HPD for the repeat inspections.

Finding

Antiquated and
Inefficient
Laptops

Recommendation 21

HPD should consider updating the portable devices that inspectors use in the field to smaller ones that work wirelessly, such as tablets or notebooks that would connect directly to HPDInfo.

Response to Recommendation 21

Agree.

HPD is actively investigating the use of smaller, wireless devices to improve and upgrade its current technologies. Our goals for this project include increasing the accuracy of reporting, increasing efficiency by allowing inspectors to conduct more inspections each day, and increasing effectiveness of inspections as HPD personnel can access more comprehensive information relating to the building they are inspecting.