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BUREAU OF AUDIT

February 6, 2018

**By Electronic Mail**

Commissioner Maria Torres-Springer  
Department of Housing Preservation and Development  
100 Gold Street  
New York, NY 10038

**Re: Final Letter Report on the Follow-up Review of the Development of City-Owned Vacant Lots by the New York City Department of Housing Preservation and Development (Special Report #SR18-074FL)**

Dear Commissioner Torres-Springer:

This Final Letter Report summarizes the results of our follow-up review of the New York City Department of Housing Preservation and Development's (HPD's) progress toward establishing realistic development schedules for 1,125 City-owned vacant lots under its stewardship.<sup>1</sup> This review follows our *Audit Report on the Development of City-Owned Vacant Lots by the New York City Department of Housing Preservation and Development*, Audit #FM14-112A, issued on February 8, 2016 (Vacant Lots Audit). Our follow-up review was conducted in accordance with Chapter 5, §93 of the New York City Charter.

In the Vacant Lots Audit, we found that HPD failed to adequately plan for the timely disposal of 1,125 City-owned vacant lots—most of which the agency earmarked for residential development—for which HPD was responsible.<sup>2</sup> As a result, we found that vacant lots remained undeveloped in the City's possession for as much as 50 years, or longer. Based on those findings, we recommended, among other things, that HPD develop realistic time schedules for transferring the vacant lots in its inventory for development that accounted for the time that would be needed to complete required pre-transfer steps, and that HPD document those schedules and the reasons for any subsequent changes. HPD disagreed with many of our findings and recommendations.

In its response to the Vacant Lots Audit, HPD stated that “[y]our assertion that HPD allows vacant City-owned properties to languish in the face of the affordable housing crisis is simply wrong.” HPD contended that in its view, the audit “omit[ted] important tasks related to the

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<sup>1</sup> The 2016 audit identified 1,131 vacant City-owned lots that HPD listed as being under its jurisdiction as of September 18, 2015. That list included 1,125 lots that HPD had previously listed as of June 29, 2014. For this follow-up review, we analyzed information about only the 1,125 lots on the 2017 list that HPD had also listed as under its jurisdiction in 2014 and 2015.

<sup>2</sup> HPD's records reviewed in connection with the Vacant Lots Audit indicated that in excess of 1,000 of these vacant lots were identified by HPD as designated for residential development.

development of new affordable housing on vacant City-owned property,” such as HPD’s consultation with neighborhood residents and partners, the need to ensure that services such as schools, transportation, police and hospitals are sufficient to support new residential development, and the need to time investments in changing neighborhoods to use the City’s financial resources responsibly and ensure that affordable housing developments are financially successful for the long term.

In our follow-up review, we sought to determine whether HPD adhered to the schedule for the transfer of the vacant lots that it set for itself, presumably taking into account all of the factors it cited above. In particular, we sought to determine: (1) whether HPD transferred or would transfer the 525 lots to developers by the dates projected in its September 18, 2015 schedule, including specifically the 454 lots that it scheduled for transfer to developers by June 30, 2017; and (2) whether HPD set realistic time schedules for transferring to developers the remaining 600 lots (out of the 1,125 in our audit scope), for which HPD, as of September 18, 2015, had not established any target transfer dates.

Through our follow-up review, we found that HPD failed to follow its own time schedule for transferring vacant lots, and in particular, that it failed to meet its stated schedule for the transfer of 454 vacant lots it had designated for transfer by June 30, 2017. Specifically, we found that in the two-year period between September 18, 2015 and September 18, 2017:

- HPD transferred only 64 of the 1,125 lots for development.
- HPD transferred 54 of the 1,125 lots to other City agencies.
- The other 1,007 lots in our audit sample have remained in HPD’s inventory.
- At the rate established in the past two years, it will take HPD approximately 17 years to transfer those lots either for development or to another agency.
- HPD failed to transfer 360 of the 454 lots (79.3 percent) that it had previously scheduled for transfer to developers by June 30, 2017.
- HPD did not designate a projected transfer date for 588 lots (52 percent).

In sum, in the past two years HPD transferred a small number of vacant City-owned lots to developers (less than 6 percent), but the vast majority—nearly 90 percent—of the vacant lots that were in its inventory two years ago remain there, which means they remain undeveloped and unproductive for purposes of meeting the City’s housing and development goals. Moreover, HPD did not meet its own target dates for nearly 80 percent of the lots that it projected would be transferred to developers through June 2017 and instead pushed most of those target dates further into the future. Finally, HPD has refrained from setting any target-transfer dates whatsoever for more than half of the vacant, City-owned lots in its current inventory. Thus, on the whole, the data shows that HPD is not setting realistic timetables for transferring its undeveloped lots to developers for the construction of new housing or other appropriate development purposes.

## Background

HPD, the largest municipal housing agency in the nation, states that it works with private, public, and community partners to improve and strengthen neighborhoods, enable more New Yorkers to become homeowners, and increase the supply of affordable housing units. HPD identifies its mission as “to make strategic investments that will improve and strengthen neighborhoods while preserving the stability of our existing housing stock.” In furtherance of that mission, the agency “is responsible for carrying out Mayor de Blasio’s Housing New York: A Five-Borough Ten-Year Plan, an initiative to build or preserve 200,000 affordable housing units.”

HPD was established in 1978 to manage the large and, at that time, growing inventory of residential properties that came to be owned by the City. By the early 1990s, HPD had become the City’s largest landlord, with an inventory of hundreds of properties it was responsible for managing, repairing, and selling. Among the properties that the City acquired, many were and/or currently are vacant lots. HPD maintains a list of City-owned vacant lots that it deems suitable for residential development. According to HPD’s records, as of September 18, 2015, over 1,000 City-owned vacant lots suitable for residential development were under its jurisdiction, approximately half of which were slated for development within the next three years.

The New York City Charter, Chapter 61 §1802(6)(c) requires HPD to “manage and superintend all real property acquired by the city for or devoted to, housing or urban renewal purposes.” Chapter 61 §1802(6)(j) further requires HPD to

sell, lease, exchange or otherwise dispose of residential real property of the City, provided that no such sale, lease, exchange or other disposition shall be authorized without the approval of the mayor and until a public hearing has been held with respect to such action after the publishing of notice in the City Record at least thirty days in advance of such hearing.

To accomplish its housing and urban renewal goals, HPD enters into agreements with developers to construct and rehabilitate buildings on City-owned land and private sites. Generally, developers must respond to a Request for Proposal or a Request for Qualifications as part of a competitive process to be selected to develop housing on public, i.e., City-owned land. Next, development on public sites often requires that the developer to undergo a Uniform Land Use Review Procedure (ULURP), which involves review and approval by multiple parties such as Community Boards, the City Planning Commission, and elected officials including the Mayor.

The City provides developers with various financing and tax incentives to encourage them to build affordable housing. As a result of HPD’s efforts, underutilized vacant properties that were a blight in many City neighborhoods have been developed into safe affordable homes.

In regard to HPD’s projected schedules for the transfer of 1,125 vacant, developable City-owned lots identified in both of its inventories, dated respectively June 29, 2014 and September 18, 2015, our February 2016 audit identified the following changes and points in common:

- Between 2014 and 2015, the number of properties HPD listed without a projected date of transfer to a developer (transfer date “to be determined”) increased by 276 lots (73.4 percent), from 324 to 600 (53.3 percent of the total);

- In 2015, HPD postponed the projected transfer dates of 167 lots (14.8 percent) by a year or more from those it projected in 2014;
- In 2015, HPD accelerated the projected transfer dates of 7 lots (0.6 percent) from those it projected in 2014;
- In 2015, HPD projected transfer dates for 34 lots (3 percent) that it had previously listed in 2014 with none (transfer date “to be determined”); and
- In 2015, HPD projected the same transfer dates for 317 lots (28.2 percent) as it had projected in 2014, even though 238 of the 317 were designated to be developed under a new program, which would require various pre-transfer procedures that would delay the transfer.

In its response to our 2016 audit, HPD indicated that it was “proceeding apace within realistic and aggressive timeframes on all vacant City-owned properties that are suitable and feasible for residential development.”

#### **Detailed Results of the Follow-up Review of HPD’s Progress in Transferring and Setting Realistic Time Schedules for Transferring Vacant City-owned Lots to Developers**

We initiated this follow-up review to determine whether HPD: (1) transferred or would transfer 525 lots to developers by the dates projected in its September 18, 2015 schedule, including the 454 lots that it scheduled for transfer to developers within two years; and (2) set realistic time schedules for transferring to developers the remaining 600 lots (out of 1,125 in our audit), for which HPD, as of September 18, 2015, had not projected transfer dates.

To meet our objectives, we requested updated schedules identifying the projected fiscal year that HPD expected to transfer to developers the 1,125 vacant lots that were the subject of the prior Vacant Lots Audit report. We analyzed the current schedules dated September 18, 2017 and compared them with HPD’s inventory lists of developable vacant lots dated June 29, 2014, and September 18, 2015.

Our analysis of HPD’s current inventory list, notwithstanding its claim that it is “proceeding apace within realistic and aggressive timeframes on all vacant City-owned properties that are suitable for residential development,” found the following in our follow-up review:

- While HPD projected in September 2015 that it would transfer 454 lots within the next 21 months, it only transferred 118 (26 percent) of the projected total, and only 64 of those were transferred to private developers. The remaining 54 were transferred to other City agencies.
- HPD retained 1,007 of the 1,125 lots in its inventory (89.5 percent).
- HPD deferred the projected transfer dates of 427 (42 percent) of the 1,007 lots in its custody (336 lots to Fiscal Years 2018 through 2022 and 91 to TBD) from earlier fiscal years.
- The number of lots with no projected transfer date nearly doubled between 2014 and 2015 to 600 and has stayed virtually the same since then.

- Between September 18, 2015 and September 18, 2017, HPD has reduced the number of lots not assigned target transfer dates by only 12.
- At present, 588 lots—more than half of HPD's inventory—have not been given target transfer dates. Of that number, 497 lots with a projected transfer date "TBD" year in 2015 are still so designated, and 91 lots previously listed with a projected transfer date are currently designated "TBD."

Thus, overall, the data shows that while HPD's projections in 2014 and 2015 both indicated that the agency would transfer hundreds of lots within periods of two or three years, its projections far exceeded the numbers of lots transferred during those periods. For example, HPD transferred only approximately 26 percent of its 2015 projections. Moreover, HPD's current list reflects that it has shifted most of the earlier target dates forward by two to three years. In view of HPD's demonstrated pace transferring such properties to date, there is little reason to believe that its current projections are any more realistic than those it made in 2014 and 2015.

### *Agency Response*

In its response, HPD stated it disagrees with our findings and the conclusion of this report. HPD did not address the report's recommendations. HPD stated:

For the past four years, under Mayor de Blasio's *Housing New York* plan, the City has pushed affordable housing production to unprecedented levels . . . .

Moreover, contrary to your audit:

- HPD has conveyed or transferred more than 200 tax lots since the beginning of the audit. Your special report fails to acknowledge this fact.
- More than 450 lots out of the 1,000 vacant lots remaining have been designated for development as affordable housing or have an active RFP or Request for Qualifications (RFQ) underway.
- HPD never represented that all of the approximately 1,000 vacant tax lots in its jurisdiction were, or are intended for, residential development. Some lots are intended for non-residential use, such as a park, and others may be more suitable for a non-residential use but are subject to ongoing evaluation. For example, nearly one-third of the lots are in resiliency or flood/hurricane danger zones such as Edgemere and Arverne and/or have severe infrastructure deficiencies that we are actively working to resolve. Some of the challenges may be so severe that we ultimately determine the lot to be unsuitable for residential use.
- Tax lots are not equivalent to development sites or development projects. For example, the recently-approved Sendero Verde project is one development project, but it includes 26 tax lots. Approximately 170 tax lots are part of the NIHOP & NCP RFQ, which creates development projects made up of clusters of tax lots that are proximate (but rarely adjacent) as a way to increase the feasibility of these small and traditionally difficult-to-develop sites. Your audit and subsequent Special Report conflate tax lots with development sites, which is confusing to the public.

- It is not unusual to adjust and refine development timelines to reflect the realities encountered during the execution of predevelopment work. The predevelopment process may reveal problematic site conditions and other challenges, which impact financial feasibility, thereby requiring further problem-solving. When such delays occur on a project, they can impact the transfer date of multiple tax lots that make up a site or cluster of sites. Additionally, as the stages of ongoing multiphase projects are refined, the projected fiscal years are subject to change. Representing these changes as "failures to transfer" is misleading to the public, particularly when we have managed these changes in ways that still allow us to meet and exceed our development goals.
- As explained to the auditors, a target transfer date for every tax lot is not feasible at this time, particularly for those in resiliency or flood/hurricane danger zones, given the significant uncertainties facing their potential development.

### *Auditors' Comments*

In its response, HPD has attempted to deflect attention from this review's findings that HPD has continued to fail to set realistic development schedules for 1,125 City-owned vacant lots under its stewardship. Rather than responding directly to the follow-up review's specific findings, HPD recites the reported accomplishments of the Mayor's *Housing New York* plan, a matter not at issue in either the original audit or this follow-up review. Notwithstanding HPD's claims about the City's recent housing development and preservation efforts, the central findings of the audit are undisputed: more than 1,000 lots in HPD's inventory have remained undeveloped during a housing crisis, some of them for as long as 50 years, and HPD's projected transfer dates for most of those lots either have been repeatedly deferred or are yet "to be determined."

In response to the original audit, HPD stated:

Approximately 670 of these properties are suitable and feasible for residential development. *Roughly 400 of these have been designated or are earmarked for developer designation within the next two years.* [Emphasis added.]

Contrary to HPD's timetable, our follow-up review found that HPD made very little progress in the two years following the original audit. Rather than transferring 454 lots, or "roughly 400," to developers as it projected, HPD in the last two years transferred only 64 to them. HPD now responds to our findings by describing factors that can delay a project. But that argument only supports our finding—in the original audit and in this review—that HPD's stated schedules are unrealistic. That is exactly why we again recommend that the agency take all factors into account, set *realistic* development schedules, and then document any delays.

In addition, the original audit found that HPD had not established any target dates whatsoever for transferring approximately 600 tax lots in its inventory, including many that had been under HPD's jurisdiction for years. Our follow-up review found that condition remains largely unchanged. HPD's current response—that roughly 300 of its lots may be unsuitable for residential development based on their locations in resiliency or flood/hurricane danger zones and/or their severe infrastructure deficiencies—neglects to explain why it has yet to set target dates to transfer the 300 remaining lots with no such issues.

Moreover, HPD's current assertion that we failed to acknowledge its conveyance or transfer of more than 200 tax lots since the beginning of the original audit disregards the scope and findings of this follow-up review. In fact, we acknowledged that in the past two years HPD had transferred 118 of the lots that were in its inventory at the conclusion of the original audit—64 to developers, and 54 to other City agencies. The remaining 82 lots (200 - 118 = 82) that HPD appears to reference were not mentioned in this follow-up review because they had been transferred during the 16-month period covered by the original audit and therefore were already accounted for in that report.

Finally, HPD claims that this report might confuse the public because we counted each tax lot rather than larger development sites. That argument overlooks the fact that we counted tax lots solely because that is how HPD counted the vacant lots in its inventory records it provided to us. As with all of the data in the audit, we relied on information we received from HPD itself, just as we relied on HPD's own criteria and representations to evaluate its performance.

Accordingly, in our recommendations, which are based on *time frames set by HPD itself* for the development of residential housing, we call for HPD to develop and propose realistic time schedules for transferring the City-owned lots to developers or other City-agencies, and to systematically track its own progress, document the reasons for deferrals of projected transfer dates, and adjust the schedules based on the interim steps that remain, along with time frames in which they should be completed. We continue to urge HPD to increase its accuracy in projecting development times and its transparency in reporting its projections and activity to the public in order to better ensure agency accountability.



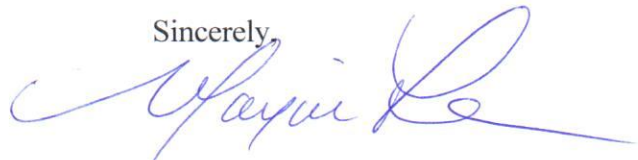
## Recommendations

Based on the findings of this follow-up review, we are reissuing two recommendations and making one additional recommendation.

1. HPD should develop and propose a realistic time schedule for transferring the City-owned lots in its inventory to developers or other City-agencies.
2. HPD should take into consideration the required interim steps and the time frames in which they should be completed when determining the time schedule for the transfers of the lots in its inventory. Those steps should include:
  - Selection of a developer for a specific site;
  - Submission of architectural plans by developer;
  - Approval of architectural plans;
  - Meeting with community representatives;
  - ULURP process;
  - Obtaining financing; and
  - Obtaining all necessary approvals from within HPD to proceed with the project and transfer the lots.
3. As it establishes a realistic schedule for the transfer and development of the vacant City-owned lots in its inventory, HPD should systematically track its progress in completing the required steps, document the reasons for deferrals of projected transfer dates, when applicable, and adjust the schedule based on the interim steps that remain to be completed and the time frames in which they should be completed.

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

Sincerely,



Marjorie Landa

### Attachment

- c: Steven Fodera, Director of Management Review and Internal Compliance, HPD  
Emily Newman, Acting Director, Mayor's Office of Operations  
George Davis, III, Deputy Director, Mayor's Office of Operations



MARIA TORRES-SPRINGER  
Commissioner

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January 5, 2018

Marjorie Landa  
Deputy Comptroller for Audit  
Office of the New York City Comptroller  
One Centre Street, Room 1100N  
New York, New York 10007

**Re: Follow-Up Review of the Development of City-Owned Vacant Lots  
(Special Report #SR18-074FL)**

Dear Deputy Comptroller Landa:

Thank you for the opportunity to present our response to the Special Report on the follow-up review of HPD's development of City-owned vacant lots (the "Special Report").

We disagree with the findings and conclusions of this Special Report. For the past four years, under Mayor de Blasio's *Housing New York* plan, the City has pushed affordable housing production to unprecedented levels. To achieve our goals, the Administration has left no stone unturned – maximizing every available resource and pursuing development of affordable housing on both public and privately-owned sites. This cannot be an either-or proposition: given the severe constraints on our resources and the extraordinary demand for housing, it would be neither practicable nor responsible for HPD to focus solely on developing the City's limited supply of City-owned sites. As we have pointed out, many of those sites face significant development challenges, and many require extensive community engagement and rigorous public review. That is why we continue to pursue a multi-pronged strategy that involves pressing forward on every site, and making sure we leverage every dollar – public and private – while we can. This approach is especially critical now, when so many of the federal tools that we rely on are under threat from tax reform and potential budget cuts.

Under *Housing New York*, HPD is meeting and exceeding the original development pace set to reach its goal of 200,000 units over 10 years. We have already closed on over 25,000 new construction units and 50,000 preservation units, and recently increased our goal to finance nearly 300,000 units by 2026. The agency has been issuing Requests for Proposals (RFP) on public sites at a record pace, working with partner agencies that also have City-owned sites under their jurisdiction to pursue affordable housing development. As a result, this Administration has an RFP pipeline that will generate more than 9,500 affordable homes.

Moreover, contrary to your audit:

- HPD has conveyed or transferred more than 200 tax lots since the beginning of the audit. Your special report fails to acknowledge this fact.
- More than 450 lots out of the 1,000 vacant lots remaining have been designated for development as affordable housing or have an active RFP or Request for Qualifications (RFQ) underway.



- HPD never represented that all of the approximately 1,000 vacant tax lots in its jurisdiction were, or are intended for, residential development. Some lots are intended for non-residential use, such as a park, and others may be more suitable for a non-residential use but are subject to ongoing evaluation. For example, nearly one-third of the lots are in resiliency or flood/hurricane danger zones such as Edgemere and Arverne and/or have severe infrastructure deficiencies that we are actively working to resolve. Some of the challenges may be so severe that we ultimately determine the lot to be unsuitable for residential use.
- Tax lots are not equivalent to development sites or development projects. For example, the recently-approved Sendero Verde project is one development project, but it includes 26 tax lots. Approximately 170 tax lots are part of the NIHOP & NCP RFQ, which creates development projects made up of clusters of tax lots that are proximate (but rarely adjacent) as a way to increase the feasibility of these small and traditionally difficult-to-develop sites. Your audit and subsequent Special Report conflate tax lots with development sites, which is confusing to the public.
- It is not unusual to adjust and refine development timelines to reflect the realities encountered during the execution of predevelopment work. The predevelopment process may reveal problematic site conditions and other challenges, which impact financial feasibility, thereby requiring further problem-solving. When such delays occur on a project, they can impact the transfer date of multiple tax lots that make up a site or cluster of sites. Additionally, as the stages of ongoing multiphase projects are refined, the projected fiscal years are subject to change. Representing these changes as “failures to transfer” is misleading to the public, particularly when we have managed these changes in ways that still allow us to meet and exceed our development goals.
- As explained to the auditors, a target transfer date for every tax lot is not feasible at this time, particularly for those in resiliency or flood/hurricane danger zones, given the significant uncertainties facing their potential development.

HPD considers all necessary steps to manage our pipeline and ensure that City-owned tax lots are contributing to the goals of *Housing New York*. HPD and our partner agencies have an agreed-upon process in place to advance affordable housing development when it is feasible and logical. Projections are subject to review and adjustment, when necessary, to resolve unknown conditions found at the time of actual execution of the development plan. When development timelines extend more than several years into the future and/or require resolution of significant development challenges and investment of scarce resources, no projected timeline is provided because this information would be misleading. The agency will continue to focus its efforts on meaningful projects and timelines that serve the interest of neighborhoods and the city. This is an approach that has enabled us to be effective stewards of City-owned property while simultaneously meeting the ambitious production goals of Housing New York.

I would be happy to discuss our response with you if that would be helpful.

Sincerely,



Maria Torres-Springer

