



**NYC Department of Finance**

**Annual Report on Environmental Control  
Board (ECB) - Adjudicated Judgments**

**November 2018**

## **Introduction:**

On January 22, 2015, Mayor Bill de Blasio signed into law Intro 489-B. The bill, approved by the City Council at its Stated Meeting on January 7, 2015, requires the NYC Department of Finance (DOF) to report annually to the City Council on outstanding Environmental Control Board (ECB)-adjudicated judgments by November 1. The judgment debt results from notices of violation issued by various City agencies and returnable to the Environmental Control Board and subsequently referred for collection during the previous fiscal year.

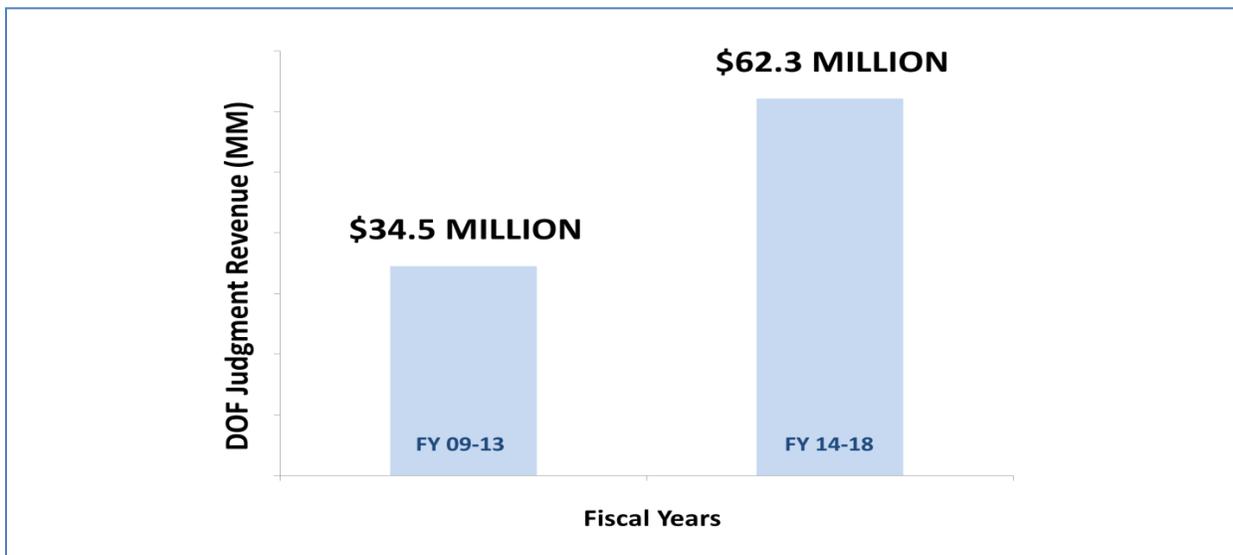
## **Summary**

Highlights of the enclosed report include:

- ECB collections are up. In FY18, the Department of Finance collected \$67.3 million, an increase of \$5.6 million (9.1%) over the previous year.
- Enforcement has increased. The Department of Finance executed 33% more legal referrals and collected 27% more revenue from executions.
- The total value of outstanding ECB debt owed to the city has been reduced, from \$815 million to \$642 million.

## FY18 Overview

DOF FY18 collection efforts were highly successful. In FY18, we collected \$67.3 million. This was \$6.2 million (10.1%) higher than the \$61.1 million collected in FY16 and \$5.6 million (9.1%) higher than the \$61.7 million collected in FY17 after adjusting for our amnesty program. This continues a trend over the last several years. In the five-year period from FY14 through FY18, revenue averaged \$62.3 million per year, an 81% increase over the \$34.5 million in the preceding five-year period from FY09 through FY13. This is shown in the chart below. This growth has continued into the early part of FY19. For the first three months of FY19, DOF has collected nearly \$19.3 million. This is more than \$5 million (34.5%) higher than revenue in the first three months of FY18. Pro-rated to the entire fiscal year, it represents an estimated \$77 million.



Part of this success is attributable to the deterrent effect of increased enforcement efforts. In FY18, DOF issued a total of 2,013 legal execution referrals to City marshals and to the City Sheriff. This is 500 (33 percent) more than the number issued in FY17. In terms of dollars, the amount of executions was nearly \$2.6 million. This is \$687,000 (27 percent) higher than the amount issued during FY17.

Other initiatives contributed to the success of FY18 revenue. Following the success of our online amnesty application and payments, DOF made it possible for eligible respondents to settle and pay ECB judgment debt online by waiving their right to appeal. DOF also promulgated a rule in December 2017 requiring property owners who are requesting a merger or apportionment of their parcels to resolve outstanding ECB judgment debt before DOF will complete the requested action. Approximately \$500,000 in payments was received in this manner from December through the end of FY18.

In FY18, DOF also continued its progress in properly reporting the value of the inventory of ECB debt. At the close of FY18, the total value of outstanding ECB judgment debt was \$642 million. At the close of FY17, the total value of outstanding ECB judgment debt was \$815 million.

The total amount of the Allowance for Bad Debt at the close of FY18 was \$835 million. When subtracted from the total inventory of \$1.48 billion, it gives us the current value of the debt (\$642 million). The Allowance for Bad Debt is comprised of: 1) judgment violations issued against property owners that have been worked by two separate collection agencies in succession and are older than three years, and 2) judgment violations issued against pedestrians (for example, for littering and illegal posting violations) and docketed more than three years ago. In many instances DOF is unable to collect from individuals and businesses because they have passed away, gone out of business, filed for bankruptcy, moved out of the City or experienced financial hardship resulting in insufficient assets.

### Collection Rates

Since DOF’s collection efforts are part of a larger process of issuing and collecting ECB (see page A-5 for a process flow chart), we have calculated the collection rate for the first year after a violation is issued by a City agency; including both pre-judgment and post-judgment collections. In FY18, that collection rate was 69.2%.

<b># of Summonses Issued</b>	598,000
<b># of Summonses Paid</b>	414,000
<b>-Before Judgment</b>	354,000
<b>-After Judgment</b>	60,000
<b>Collection Rate</b>	69.2%

DOF also calculates a post-judgment collection rate. The first year collection rate of an unpaid ECB violation after it is docketed as a judgment and referred to DOF was 11.7% in FY18. This is lower than the 12.8% first year collection rate in FY17 but higher than the 11.1% first year collection rate in FY16. Some of the decline from FY17 to FY18 may be due to amnesty but we were not able to measure the impact of amnesty. Very few first year judgments were eligible for amnesty but some amnesty applicants paid for both amnesty eligible and for newer judgments. The sharp increase (29%) in the amount of judgments referred in FY18 also may have impacted the first year collection rate.

## Other FY18 Highlights

- In FY18, ECB referred 277,110 violations to DOF totaling \$258.6 million, including \$113.7 million (44%) in default penalties and \$12 million (5%) in interest. The number of judgments referred to DOF increased by 39,000 while the amount of judgments increased by \$58 million compared to FY2017.
- The number of violations docketed and paid during FY18 increased by 11% (from 40,986 in FY17 to 45,676 in FY18). The dollar amount of the violations docketed and paid during FY18 increased by 18% (from \$25.6 million in FY17 to \$30.2 million in FY18).
- The number of violations docketed and paid during FY18 increased for DOB (from 5,757 in FY17 to 9,110 in FY18) and the FDNY (from 2,864 in FY17 to 4,924 in FY18), but decreased for DSNY (from 25,607 in FY17 to 24,421 in FY18) and DOT (from 2,086 in FY17 to 1,717 in FY18).
- The number of collection letters sent out by DOF and its collection agencies increased from 295,000 in FY17 to 335,000 in FY18.
- The dollar amount of judgment violations that statutorily expired and were removed during FY18 was \$130.8 million. These judgments are distinct from violations included in the Allowance for Bad Debt category.

## Part I: Department of Finance (DOF) Inventory of OATH/ECB Debt

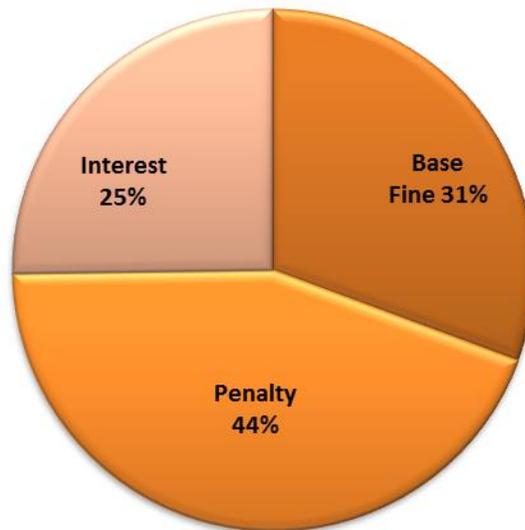
The total outstanding inventory in terms of the number and dollar amount of violations can be seen in the tables below. The total amount currently due takes into account an Allowance for Bad Debt of \$835 million.

**Table 1: Total Outstanding Inventory and its components**

# of Summonses	Base Fine	Default Penalty	Interest	Total Inventory Before Allowance for Bad Debt	Allowance for Bad Debt	Total Amount Due
1,207,180	\$452,199,382	\$652,065,086	\$372,296,849	\$1,476,561,317	\$834,614,217	\$641,947,100

As outlined in the pie chart below, default penalties for failure to attend a hearing which include judgments in the allowance for bad debt are \$652 million, 44% of total and the largest component.

### Outstanding ECB Judgment Debt Component Amounts and Percentage of Total



**Table 2: DOF Inventory by Fiscal Year of Docket<sup>1</sup>**

Fiscal Year of Docket Date	# of Summonses	Base Fine	Default Penalty	Interest	Total Amount Due
FY19 to Date	32,780	\$15,566,218	\$18,028,751	\$726,015	\$34,320,985
FY18	180,183	\$67,862,298	\$89,694,667	\$10,893,842	\$168,450,807
FY17	170,595	\$54,639,891	\$79,033,097	\$20,844,511	\$154,517,499
FY16	127,343	\$47,173,072	\$71,858,608	\$27,750,643	\$146,782,323
FY15	14,333	\$6,074,051	\$8,969,241	\$4,770,153	\$19,813,445
FY14	13,937	\$6,879,163	\$9,550,613	\$6,597,517	\$23,027,292
FY13	24,429	\$9,102,544	\$11,578,911	\$10,015,948	\$30,697,404
FY12	23,921	\$11,030,380	\$14,836,655	\$14,369,230	\$40,236,264
FY11	23,800	\$6,190,986	\$8,673,250	\$9,236,845	\$24,101,081
<b>Gross Total</b>	<b>611,320</b>	<b>\$224,518,602</b>	<b>\$312,223,793</b>	<b>\$105,204,705</b>	<b>\$641,947,100</b>

**Table 3: DOF Inventory by Issuing Agency<sup>1</sup>**

Department of Buildings default penalties and interest account for \$253.6 million (39.5%) of the total value of outstanding judgment debt.

Issuing Agency	# of Summonses	Base Fine	Default Penalty	Interest	Inventory Amount
DOB	57,450	\$108,686,852	\$193,562,047	\$60,083,217	\$362,332,116
DSNY	469,055	\$54,090,159	\$64,219,699	\$23,636,388	\$141,946,247
FDNY	25,870	\$28,184,307	\$20,724,473	\$6,626,426	\$55,535,206
NYPD	16,945	\$10,489,401	\$15,606,033	\$6,186,098	\$32,281,532
DOT	14,497	\$9,146,835	\$5,266,948	\$4,171,020	\$18,584,803
DEP	7,736	\$5,775,668	\$9,339,801	\$2,431,984	\$17,547,453
DOHMH	9,277	\$6,243,511	\$645,252	\$1,321,023	\$8,209,785
Parks	9,688	\$1,644,232	\$2,514,101	\$640,268	\$4,798,601
Others Agency*	802	\$257,637	\$345,439	\$108,280	\$711,355
<b>Gross Total</b>	<b>611,320</b>	<b>\$224,518,602</b>	<b>\$312,223,793</b>	<b>\$105,204,705</b>	<b>\$641,947,100</b>

\* Other Agency comprises Animal Care & Control, BIC, DCA, DCAS, DoITT, HPD, Hunts Point Development, Landmarks, Seagate PD, and others where total due was less than \$50K.

<sup>1</sup> Excludes allowance for bad debt of \$834.6 million (see table 1)

## Part II Fiscal Year 2018<sup>2</sup>

### Item I and II: Total Number of Judgments Referred to the Department of Finance by the Environmental Control Board. Total dollar amount of judgments referred to the department, disaggregated by base penalty, interest, and default penalty.

During FY18 DOF received about 277,000 judgment violations from ECB for a total of \$259 million, including default penalties assessed against respondents for failing to appear at a hearing.<sup>3</sup> There were 39,000 (16.4%) more judgments than the 238,000 judgments referred in FY17. The dollar amount of new referrals increased from \$200.6 million in FY17 to \$258.6 million (29%) in FY18. The surge in the number and dollar amount of newly referred judgment violations was driven by Department of Buildings (DOB) issued summonses, which increased by 16,500 (74%) and \$45.3 million (46%) respectively. There were also significant increases in the number of judgment referrals from the Fire Department (8,000) and from the impact of Criminal Justice Reform Act (CJRA) generating more civil violations (7,000). CJRA summonses are generally issued by the Police (NYPD) and Parks Departments.

**Table 4: FY18 Total Judgments Referred**

# of Summonses Referred	Base Fine	Default Penalty	Interest	Total Amount Due
277,110	\$113,710,509	\$132,718,324	\$12,150,517	\$258,579,350

**Table 5: FY18 Judgments Referred by Issuing Agency**

Issuing Agency	# of Summonses Referred	Base Fine	Default Penalty	Interest	Total Amount Due
DOB	38,943	\$59,059,202	\$78,596,719	\$6,509,517	\$144,165,438
DSNY	188,528	\$20,751,600	\$27,632,218	\$2,567,822	\$50,951,640
FDNY	18,379	\$18,697,674	\$10,386,874	\$1,497,323	\$30,581,871
DOT	6,602	\$5,041,609	\$6,533,318	\$609,344	\$12,184,271
DEP	5,582	\$3,703,109	\$4,698,095	\$406,301	\$8,807,505
NYPD	9,269	\$3,510,785	\$3,757,606	\$347,565	\$7,615,956
DOHMH	4,771	\$1,986,058	\$267,857	\$116,250	\$2,370,165
Parks	4,627	\$813,729	\$738,113	\$82,892	\$1,634,734
Agency Missing	252	\$40,001	\$50,024	\$5,225	\$95,250
Landmarks	29	\$16,350	\$32,200	\$2,017	\$50,567
Other **	128	\$90,392	\$25,300	\$6,262	\$121,954
<b>Grand Total</b>	<b>277,110</b>	<b>\$113,710,509</b>	<b>\$132,718,324</b>	<b>\$12,150,517</b>	<b>\$258,579,350</b>

\*\*Other includes BIC and Seagate PD

<sup>2</sup> All the data displayed in the tables below is as of 08/10/2018

<sup>3</sup> Summonses referred to DOF with docket dates from 6/30/2017 through 5/31/2018 (last docket period for FY2018 is 5/31/2018) are considered as FY2018. We have excluded any recalls. Recalls are cases where a respondent requested a hearing and was granted one by OATH. The number of recalls is small.

### Item III: Average Length of Time for Referral of a Judgment from the Environmental Control Board to the Department of Finance

The average elapsed time from docketing to DOF referral was 1.25 days<sup>4</sup>.

### Item IV: Total Dollar Amount Collected by the Department for Judgments Referred During Preceding Fiscal Year

As of August 10, 2018, DOF collected more than \$30 million against violations that were referred to the agency during FY2018. This is reflected in Table 6. DOF generated \$28.9 million in revenue during FY18 and an additional \$1.3 million during the first few months of FY19. As of August 10, 2018, the first-year collection rate newly referred debt in FY2018 is 11.7%.

**Table 6: Revenue for violations docketed during FY18**

Payment Date by FY	# of Summons Paid	Length of Time Between Docket Date & Payment Date in Month Ranges					\$ Total Collected
		0-3M	4-6M	7-9M	10-12M	13-24M	
FY18	45,676	\$20,045,415	\$6,174,460	\$2,699,646	\$1,239,024	\$82,531	\$30,241,075

Payments on ECB Judgments Referred to DOF in FY2018 - Disaggregated by Issuing Agency are listed in Table 7.

**Table 7: Total Collected by DOF from 7/01/2017 until 08/10/2018**

Issuing Agency	# of Summonses Paid	Total Amount Collected
DOB	9,110	\$14,728,192
FDNY	4,924	\$5,589,354
DSNY	24,421	\$4,315,987
DOT	1,717	\$2,193,450
DEP	1,960	\$1,508,842
NYPD	1,618	\$1,438,491
DOHMH	1,492	\$389,776
Other*	434	76,985
<b>Total</b>	<b>45,676</b>	<b>\$30,241,075</b>

\*Other includes Parks, Landmarks, Seagate PD, BIC.

<sup>4</sup> We took a sample of three months and looked at the average of time that it takes for a violation to be received by DOF.

## Item V: Length of Time for Collection of Judgments on Referred Violations during FY2018

**Table 8**

Issuing Agency	Length of Time Between Docket Date & Payment Date in Month Ranges					\$ Revenue Collected
	0-3M	4-6M	7-9M	10-12M	13-24M	
DOB	\$9,896,241	\$2,956,005	\$1,222,415	\$598,974	\$54,556	\$14,728,192
FDNY	\$3,907,408	\$1,011,034	\$441,944	\$217,385	\$11,584	\$5,589,354
DSNY	\$2,418,536	\$1,066,813	\$597,107	\$226,064	\$7,467	\$4,315,987
DOT	\$1,475,715	\$441,896	\$191,890	\$76,449	\$7,499	\$2,193,450
DEP	\$1,133,326	\$248,337	\$90,362	\$36,817	\$0	\$1,508,842
NYPD	\$943,451	\$330,389	\$105,236	\$59,415	\$0	\$1,438,491
DOHMH	\$215,688	\$106,853	\$47,011	\$18,798	\$1,426	\$389,776
Other Agency*	55,049	13,132	3,681	5,123	-	76,985
<b>Grand Total</b>	<b>\$20,045,415</b>	<b>\$6,174,460</b>	<b>\$2,699,646</b>	<b>\$1,239,024</b>	<b>\$82,531</b>	<b>\$30,241,075</b>

\*Other Agency comprises those missing names, Landmarks, Seagate PD, and any of those displayed where revenue collected is less than \$100K.

## Item VI: Total Number of FY2018 Judgments That Require Corrective Action by Respondent<sup>5</sup>

The number of violations that require corrective action has increased significantly (43%) compared to FY17.

**Table 9**

Agency Name	# of Summonses	Base Fine	Default Penalties	Interest	Total Amount
DOB	37,033	\$55,273,490	\$71,031,905	\$6,171,381	\$132,476,776
FDNY	17,903	\$18,118,076	\$9,923,007	\$1,493,921	\$29,535,004
DEP	1,327	\$1,912,852	\$2,340,941	\$195,806	\$4,449,599
Landmarks	29	\$16,350	\$32,200	\$2,112	\$50,662
<b>Total</b>	<b>56,292</b>	<b>\$75,320,768</b>	<b>\$83,328,053</b>	<b>\$7,863,220</b>	<b>\$166,512,041</b>

<sup>5</sup> Summonses referred to DOF and placed in location 020555 -docketed during FY2018 from static table of FY2018 Docketed Judgments; includes uncollectible states; includes satisfied summonses; excludes anything recalled.

## Item VII: Enforcement Efforts Used by DOF to Collect Judgments in Item 4

The number of letters sent out moderately increased from 295,000 in FY17 to 335,000 in FY18 (a 14% increase).

**Table 10**

Enforcement Letters Sent FY18:		
Type	Count of Letter	Total \$ Addressed
DOF Initial letter	141,849	\$699,311,125
DOF Partial Payment & Payment Plan Letter	13,094	\$146,559,803
DOF NG-Check Letter	6	\$18,170
OCA* Demand Letter	180,510	\$238,219,157
<b>Total</b>	<b>335,459</b>	<b>\$1,084,108,255</b>

\* Outside Collection Agencies

ECB Testimony - Marshal and Sheriff executions issued 07-01-2017 to 06-30-2018

**Table 11**

FY	# of Execution Issued			Amount Collected		
	Sheriff	Marshals	Total	Sheriff	Marshals	Total
2018	119	1,894	2,013	\$86,300	\$2,499,159	\$2,585,459
2017	33	1,480	1,513	\$6,187	\$1,891,426	\$1,897,613
2016	Not Available					
2015	430	52	482	\$313,980	\$84,550	\$398,530

## Item VIII: Total Number of Judgments that Statutorily Expired by Issuing Agency

ECB judgment violations have a lifespan of eight years. Hence, violations that are older than eight years have expired and are excluded from the inventory. In Table 12, “FY10” judgment violations are considered expired, based on the above definition, and were excluded from the inventory.

FY11 through FY18 reflect judgment violations that were withdrawn and were excluded from the inventory as well.

**Table 12: Total Number of Judgments Expired by FY**

Fiscal Year of Docket Date	# of Summonses	\$ Amount Due
FY18	55	\$138,025
FY17	71	\$81,325
FY16	32	\$42,432
FY15	8	\$11,300
FY14	5	\$6,177
FY13	-	\$0
FY12	1	\$1,000
FY11	-	\$0
FY10	188,138	\$130,515,639
<b>Total</b>	<b>188,310</b>	<b>\$130,795,898</b>

**Table 13: Total Number of Judgments Expired by Issuing Agency**

Agency Name	# of Summonses	\$ Amount Due
DOB	16,743	\$66,025,109
DSNY	145,883	\$36,552,078
DOT	3,663	\$6,879,333
NYPD	7,497	\$6,758,673
FDNY	4,976	\$6,746,252
DEP	564	\$3,300,214
DOHMH	4,378	\$2,601,725
Parks	4,140	\$1,481,207
BIC	176	\$236,223
Other	290	\$215,084
<b>Total</b>	<b>188,310</b>	<b>\$130,795,898</b>

## What is ECB?

### **THE ENVIRONMENTAL CONTROL BOARD (ECB)**

is a part of the Office of Administrative Trials and Hearings (OATH).

It is an administrative court - not part of the state court system.

ECB judges hear cases on violations of the City's laws that protect the City's quality of life.

### Types of ECB Violations

These violations come from over a dozen different agencies and include:

- Dirty sidewalks
- Littering
- Failure to remove snow and ice
- Posting of posters or signs where they are not permitted
- Work without a permit from the Department of Buildings (DOB)
- Failure to comply with DOB building code
- Failure to file a Certificate of Correction with DOB
- Failure to comply with a DOB order

## Types of ECB Debt

There are two types of ECB Debt

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### COMPLIANCE- \$426.5 million

- requires a correction to be made to rectify the violation.

### NON-COMPLIANCE- \$215.4 million

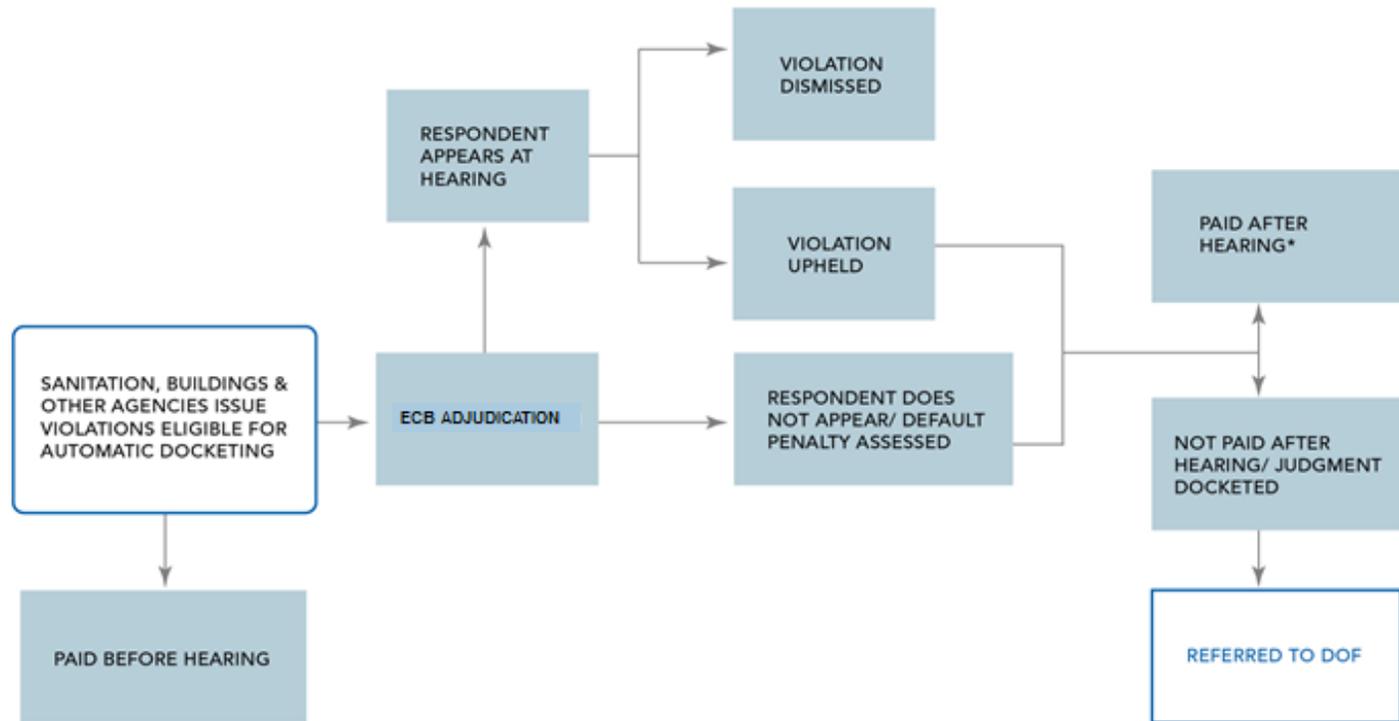
- does not require corrective action.

### Pre-DOF Process Key Points

- Violations are issued against property owners, business lessees, contractors, or pedestrians. Summonses do not indicate the entity type.
- Each violation requires an affidavit of service
- Respondents are entitled to due process, including contestation of proper service, prior to DOF referral
- Most violations are resolved prior to DOF referral; 53% paid and 10% dismissed at hearing<sup>1</sup>. In FY17, pre-judgment revenue was \$117 million.
- About 80% of the violations referred to DOF have large penalties imposed for failure to attend a hearing. In some instances, the penalties can quintuple to the base fine amount. Base fines only constituted 44% of the amount referred in FY18.

<sup>1</sup> FY2017 Data

# Context: Pre-DOF Process Overview



\* For Paid After Hearing, the Criminal Justice Reform Act violations may be addressed via community service

### Hearings for ECB Violations

- For both Compliance or Non- Compliance violations, ECB holds a hearing.
  - If the respondent attends the hearing and is found guilty:
    - The judgement amount is the base fine.
- Default means the respondent did not attend a hearing at ECB.
  - If respondent failed to appear for a hearing:
    - ECB imposes a default penalty.
    - Judgment amount is the base fine plus the default penalty.
- Docketed means the violation is in judgment.
  - Interest begins to accrue on the judgment amount once a violation is docketed.

### DOF Initiatives

- Debt Rotation. Judgments are worked by two successive outside collection agencies after being worked in-house.
- FY17 Forgiving Fines Amnesty Program. Generated \$45 million via abatement of default penalties and interest.
- Increased the number of referrals to enforcement agents by over 300% and the amount of enforcement referrals by over 500% since FY15. Most referrals are done to City Marshals pursuant to local law expanding their authority.
- Starting December 2017, required property owners seeking mergers or sub-divisions of their parcels to resolve their outstanding ECB judgments.

### DOF Challenges

- **Nature of the debt** ECB judgments are not always issued against property owners and those that are can only become property liens under certain circumstances. Property liens attach directly to a property and must be paid during property transfers, making them a more effective collection device.
- **LLCs** Many properties are held in the name of LLCs. Each LLC is only legally responsible for its own obligations (i.e., judgments filed under its name). The LLCs make it difficult to aggregate the debt when the beneficial owners of the LLC are not known and/or when a landlord has a different LLC “owner” for separate properties.
- **Affidavit of Service** Each violation has an affidavit of service to show that the respondent was properly served with the violation. When a respondent claims that they have not been served with the violation, the affidavit of service may be the basis for the respondent challenging the underlying violation. Verification of service prevents DOF from enforcing against multiple respondents at the same time as it does when booting vehicles for parking ticket debt.

### Other Challenges

#### ECB violations are difficult to collect because:

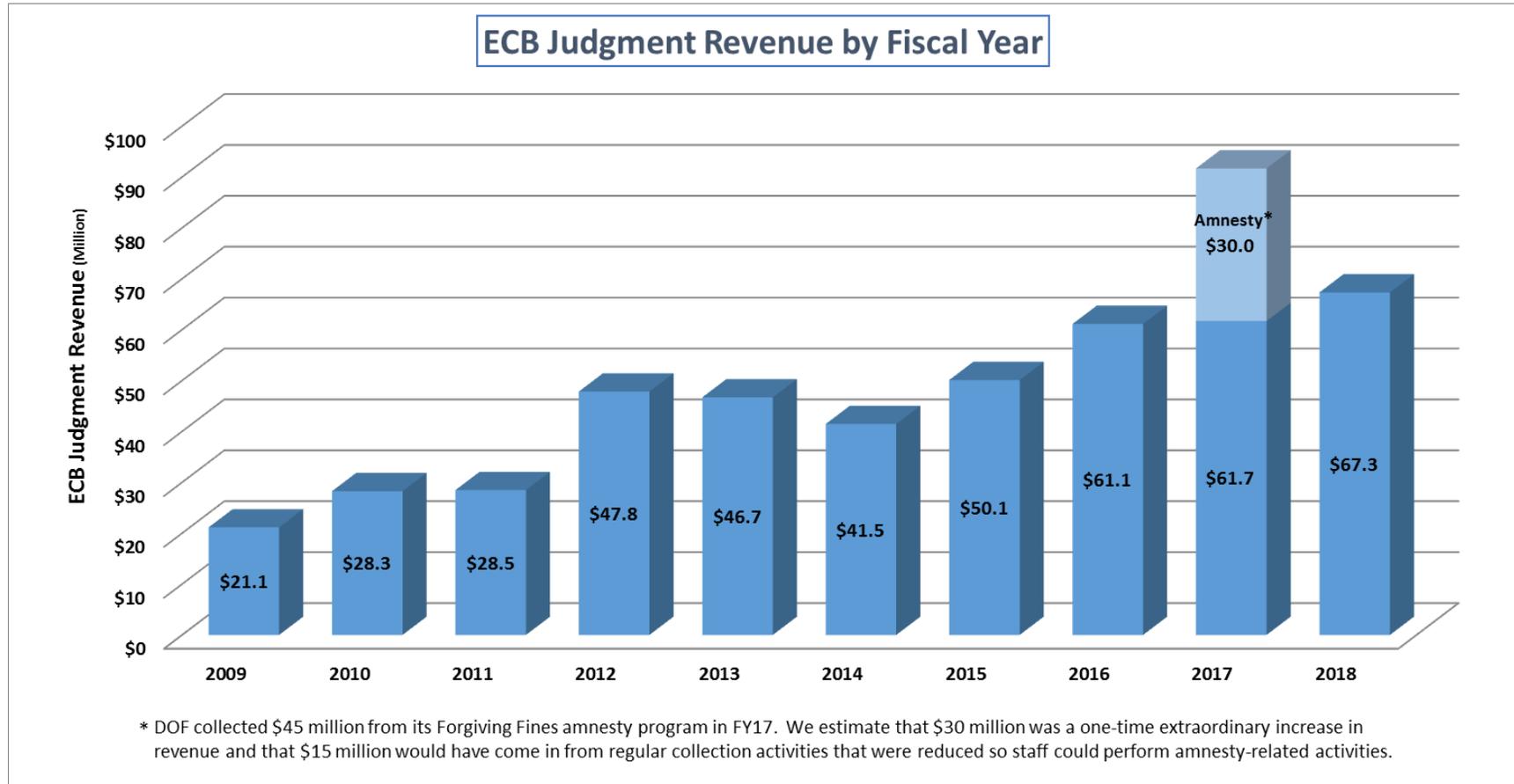
- Businesses often go out of business and some owners reincorporate in a new name to avoid judgments.
- Violations are written to incorrect name or to an entity that has no legal connection to the property.
- Often the violation is handwritten and data entered manually.
- Human error – name misspellings or typos
- There is no unique identifier for the violations such as:
  - EIN or SSN for the respondent
  - Borough, Block, and Lot (BBL) for the property



### New Initiatives

- Local Law 47 of 2016: Authorizes city agencies to withhold licenses/permits to applicants with ECB judgment debt.
  - Status: DOB to send data to DOF on permit applicants in December 2018.
- McKinsey Review: McKinsey & Co. is reviewing DOF's collection process, organization, and computer systems.
  - Status 3-month engagement began on September 10, 2018.
- City/State law authorizes conversion of some DOB judgment violations to property liens if owner and interested parties are notified when violation is first issued.
  - Status: DOF preparing bid to hire title search company to identify all interested parties. DOF also exploring with DOB and MOO getting electronic file of judgment creditors from the State court system.

## Appendix B: ECB Judgment Revenue FY09 – FY18



## Appendix C: ECB Judgment Collection Rate

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ECB Judgment First Year Collection Rate By Fiscal Year	
Fiscal Year	First Year Collection Rate*
15	8.8%
16	11.1%
17 **	12.8%
18	11.7%

\* Derived by dividing FY revenue for new referrals by the FY new referrals. NOTE: First-year collection rates that appeared in previous versions of the Local Law 11 Report were found to have an error. The rates shown here correct the previously reported first-year collection rates.

\*\* We were unable to estimate the impact of amnesty on the FY17 first-year collection rate. Very few first year judgments were eligible for amnesty but some amnesty applicants paid for both amnesty eligible and for newer judgments.