

Alternative Enforcement Program – Year 11 Report to the City Council

The Alternative Enforcement Program (AEP), established under Local Law 29 of 2007, is one of the Department of Housing Preservation and Development's (HPD's) most effective enforcement tools for addressing distressed properties throughout New York City. Buildings are selected once a year for AEP based on pre-defined thresholds for open HPD violations per dwelling unit and Emergency Repair Program charges (ERP). Property owners of buildings selected for the program have four months after a building is selected to meet requirements for discharge, which include correcting HPD violations, paying outstanding ERP charges or entering into a payment agreement with the Department of Finance (DOF), registering the property with HPD and submitting affidavits regarding the proper correction of mold and vermin violations to HPD. If the property owner does not meet these requirements within this period, AEP conducts building-wide inspections, imposes fees and issues an Order to Correct (Order). The Order may include requirements for extensive repair and system replacement work to correct violations, in addition to the repair of general conditions. The Order may also include a requirement to conduct integrated pest management according to Department of Health and Mental Hygiene (DOHMH) requirements. HPD has specific authority to replace building systems cited on the Order if the property owner fails to do so. Expenditures for emergency repair work or building system replacement are charged to the building through the DOF property tax bill and, if unpaid, become a tax lien.

As required by Administrative Code 27-2153(v), this report analyzes:

1. The effectiveness of the criteria for inclusion and discharge; compliance levels for buildings; and the monitoring undertaken by the Department;
2. The cost effectiveness of the program, including the amount of fees collected; and
3. The implementation and effectiveness of the requirements to address mold and vermin violations.

SUMMARY DATA

As of January 31, 2018, 2,137ⁱ buildings with 26,695 units have gone through at least 12 months of AEP. As of that date:

- 490 buildings with 4,662 units were still active in AEP
- 1,647 buildings with 22,033 units were discharged from AEP.
 - 1,387 buildings were discharged for compliance with the requirements of the program
 - 808 buildings (14,757 units) were discharged within the first four months.
 - 579 buildings were discharged after complying with the AEP Order and paying fees.
 - 260 buildings were discharged for other reasons: buildings vacant for at least one year, buildings discharged to HPD's 7A Program, or buildings discharged because HPD completed the building system work.
- 2,033 building systems were replaced

- 1,240 system replacements were completed in 391 buildings by property owners.
- 793 system replacements were completed in 400 buildings by HPD
- HPD has spent over \$42.7 million on repairs, utilities and system replacement work, which has been billed to the properties through DOF.
 - \$27.5 million providing utilities and conducting repairs.
 - \$15.2 million completing building system repairs/services.
- Approximately \$88 million has been collected in ERP and AEP charges and fees.

THE EFFECTIVENESS OF CRITERIA FOR BUILDING SELECTION

Selection for AEP is a multi-step process. HPD selects a pool of buildings meeting the criteria of open violations per dwelling unit and emergency repair activity. Within that pool, buildings are sorted based on a second set of criteria and 250 are selected. Selection criteria have been modified three times since the original statutory criteria (see Appendix A and Appendix B). By modifying the criteria, HPD ensures that the program continues to identify an adequate pool of buildings. As shown in Chart 1 below, between rounds 1 and 3, the total pool of buildings meeting the initial criteria decreased from 541 buildings to 287 buildings. When the criteria were changed for round 4, the pool increased to 381 buildings, but by round 7 there were only 187 buildings that qualified for selection. Changing the criteria again for round 8 has increased the total pool to 329 buildings. HPD utilized the flexibility for defining the selection criteria gained in the 2014 amendments and modified the selection criteria for round 9 by a rule amendment. The selection pool for round 9 more than doubled from the previous round. The same selection criteria was used again for round 10 and resulted in an adequate selection pool.

CHART 1: NUMBER AND SIZE OF BUILDINGS QUALIFYING FOR AEP BY ROUND

ROUND	Selected for AEP			Not Selected for AEP			Total Meeting Criteria		
	# Bldgs	# Units	Ave Size	# Bldgs	# Units	Ave Size	# Bldgs	# Units	Ave Size
RD 1	200	1,362	6.8	341	3,731	10.9	541	5,093	9.4
RD 2	200	1,768	8.8	180	2,503	13.9	380	4,271	11.2
RD 3	200	1,476	7.4	87	1,227	14.1	287	2,703	9.4
RD 4*	200	3,339	16.7	181	1,456	8	381	4,795	12.6
RD 5	200	2,373	11.9	109	592	5.4	309	2,965	9.6
RD 6	200	2,552	12.8	66	1,148	17.4	266	3,700	13.9
RD 7	187	2,700	14.4	0	0	0	187	2,700	14.4
RD 8*	250	3,473	13.9	79	654	8.3	329	4,127	12.5
RD 9*	250	3,704	14.8	438	3,149	7.2	688	6,853	10.0
RD 10	250	3,963	15.9	427	3,018	7.1	677	6,981	10.3

*Criteria were modified.

The key changes for round 9 were the introduction of a 25 building cap for properties with fewer than six units and the introduction of a second set of criteria since the first set did not yield 250 buildings. As expected, adding a building cap and making adjustments to the violation, ERP and size criteria resulted in the selection of the larger buildings from the selection pool. The average building size for round 9 was 14.8 units compared to 7.2 units for the buildings in the pool not

selected and 10 units for the entire selection pool for round 9. A similar pattern holds true for round 10. These changes have significantly increased the number of apartments benefitting from the AEP program, more than tripling that number from Round 1 and significantly increasing the number of properties which complete improvements within 4 months (see chart **PROPERTIES DISCHARGED WITHIN THE FIRST FOUR MONTHS BY SIZE**).

CHART 2: VIOLATION AND ERP LIEN PROFILE OF BUILDINGS SELECTED FOR AEP

	Round 1	Round 2	Round 3	Round 4	Round 5	Round 6	Round 7	Round 8	Round 9	Round 10
Total B & C Violations	32,547	30,183	22,358	30,067	21,226	21,225	21,086	25,188	25,686	26,034
Total B & C Violations- Look-back Period	22,850	21,244	15,844	20,352	15,211	15,843	16,566	20,332	21,715	22,308
Average B & C Violations per Unit- Look-back Period	16.8	12	10.7	6.1	6.4	6.2	6.1	5.9	5.9	5.6
Bldgs with Open HPD Comprehensive Litigation	67	63	67	57	47	42	45	60	76	78
Past Due ERP Balance- Look-back Period (Millions)	\$1.99	\$1.43	\$1.40	\$2.15	\$1.11	\$1.22	\$0.84	\$1.51	\$0.74	\$0.89

Look-back Period: Rounds 1-5: 2 Years, Rounds 6-7: 3 Years, Rounds 8-10: 5 Years

To qualify for rounds 9 and 10 based on the second criteria, the building must have six or more dwelling units and a ratio of four or more hazardous (class B) and immediately hazardous (class C) violations per dwelling unit issued in the past five years. Chart 3, below, compares the buildings selected based on each set of criteria.

CHART 3: COMPARISON OF SELECTED BUILDINGS BY CRITERIA TIERS, ROUND 9 AND 10 BUILDINGS

	Criteria 1		Criteria 2	
	Rnd 9	Rnd 10	Rnd 9	Rnd 10
Number Buildings	168	162	82	88
Number Units	2797	2966	907	997
Average Size	16.6	18.3	11.1	11.3
B+C Violations, 5 Years	14,177	14,967	7,538	7,341
B+C Per DU, 5 Years	5.1	5.0	8.3	7.4
ERP \$, 5 Years	\$ 2,620,875	\$2,418,836	\$ 158,898	\$137,844
ERP \$ Per Bldg, 5 Years	\$ 15,600	\$ 14,931	\$ 1,938	\$ 1,566
Discharged, Pre-Order	88	90	38	48
Order, General Condition	17	13	6	9
Order, 1+ Systems	64	61	37	32

The first set of criteria which looks at hazardous (class B) and immediately hazardous (class C) violations per dwelling unit in conjunction with ERP charges accrued by building size, produced larger buildings. The average size of the buildings selected according to Criteria 1 was 16.6 units for round 9 and 18.3 for round 10 compared to an average size of 11.1 for buildings selected using the second criteria for round 9 and 11.3 for round 10. Most likely because the average size of criteria 2 buildings is smaller than criteria 1, Criteria 1 produced buildings with a lower average ratio of hazardous and immediately hazardous violations per dwelling unit. A similar percentage of buildings produced by criteria 1 and 2 are likely to be discharged from the program in the first four months, prior to the issuance of an HPD order (pre-order). Fifty-four percent of round 9 and 10 buildings produced by criteria 1 achieved compliance pre-order compared to 51 percent of the rounds 9 and 10 buildings produced by criteria 2.

The most recent statute amendments and rule changes allowed HPD to exclude buildings that qualify for AEP but have received HPD or Housing Development Corporation (HDC) loans. The goal behind this change was to further refine the selection criteria by excluding buildings that are already working towards repairs with a regulatory agreement in place. Ten buildings with 127 units were excluded from the AEP selection pools for rounds 9 and 10 because they were subject to a preservation loan provided by HPD or through NYC HDC for the purpose of rehabilitation that closed within the past two years. These buildings would not have been excluded from the selection pool for any other reason. The average building size was 12.7 units and the buildings were distributed almost evenly among Manhattan, the Bronx and Brooklyn. Excluding these buildings allowed the AEP program to select other buildings that may not have an owner who is actively working to improve the building.

THE EFFECTIVENESS OF CRITERIA FOR BUILDING DISCHARGE, COMPLIANCE LEVELS FOR DISCHARGED BUILDINGS AND MONITORING

Enforcement action through AEP has improved the housing quality for the vast majority of the buildings discharged for owner compliance. Increased inspections and the imposition of AEP fees have encouraged property owners to make repairs and improve building conditions quickly if there is value in the property and the owner has the means to do so.

CHART 4: BUILDING STATUS BY ROUND

	RD 1	RD 2	RD 3	RD 4	RD 5	RD 6	RD 7	RD 8	RD 9	RD 10	TOTAL
Active	11	18	30	18	42	42	56	86	87	100	490
Discharge-Compliance	134	133	138	149	127	135	118	149	155	149	1387
Discharge-Other	55	49	32	33	31	23	13	15	8	1	260
*Status as of 1/31/2018	200	200	200	200	200	200	187	250	250	250	2137

Discharge during the initial four month period

As of January 31, 2018, 808 buildings from all rounds were discharged from AEP for complying in the initial four-month period prior to the issuance of the order. Larger buildings are more likely to be discharged in the pre-order period. Between 33% and 85% of the 20+ unit buildings in each round were discharged pre-order, as compared to between 7% and 26% of buildings with fewer than six units. These statistics did not change from the previous report. Overall, however, the percentage of buildings discharged in the first four months continues to increase, with that percentage increasing from 14% in Round 1 to 55% in Round 10. Because both the size of the average building has increase since Round 1 and because of the overall discharge increase, a significantly higher percentage of units are improved within 4 months of selection in Round 10 than in Round 1.

CHART 5: PROPERTIES DISCHARGED WITHIN THE FIRST FOUR MONTHS BY SIZE

ROUND	Total Bldgs Discharged First Four Months	% of 3-5 Units of Selected	% of 6-9 Units of Selected	% of 10-19 Units of Selected	% of 20+ Units of Selected	Round % of Selected
RD 1	28	6.7	19.7	26.7	33.3	14.0
RD 2	42	8.1	24.6	40	52	21.0
RD 3	52	18.7	33.9	31.3	40	26.0
RD 4	98	12.9	48.9	56.3	85.1	49.0
RD 5	71	13.5	49.1	53.8	58.5	35.5
RD 6	64	10.8	36.7	35	62.5	32.0
RD 7	82	25	53.5	28.6	66.7	43.9
RD 8	107	26.1	45.5	38.1	67.6	42.8
RD 9	126	24	45.6	57.1	61.4	50.4
RD 10	138	8	54.5	52.2	76.5	55.2

For buildings discharged in the pre-order period, there was an 88% **decrease** in the number of open violations between selection for AEP and discharge. Since discharge (between each individual building's discharge to January 31, 2018), there was an increase in violations from the number of violations at the time of discharge for 63% of the buildings but still a significant decrease from the time of building selection for AEP. 37% of the buildings have seen **no** increase in violations.

CHART 6: PROPERTIES DISCHARGED WITHIN THE FIRST FOUR MONTHS: VIOLATION PROFILE

Round	# Bldgs	Total Viols at Selection	Total Viols at Discharge	% Change	Total Viols on 1/31/2018	% Change Since Selection
RD 1	28	8,503	1,075	-87%	652	-92%
RD 2	42	10,502	1,349	-87%	1,011	-90%
RD 3	52	7,561	932	-88%	1,389	-82%
RD 4	98	24,070	2,789	-88%	3,519	-85%
RD 5	71	10,896	1,232	-89%	1,996	-82%
RD 6	64	10,366	1,256	-88%	1,859	-82%
RD 7	82	13,040	1,582	-88%	2,895	-78%
RD 8	107	14,974	1,801	-88%	4,816	-68%
RD 9	126	16,798	1,896	-89%	3,488	-79%
RD 10	138	18,539	2,071	-89%	3,712	-80%
TOTAL	808	135,249	15,983	-88%	25,337	-81%

Monitoring of buildings discharged for compliance during the first four month period

HPD must monitor buildings for one year post-discharge if the discharge occurs during the first four months of being in the Alternative Enforcement Program (AEP). The Division of Neighborhood Preservation (DNP) conducts this monitoring. Although the program requires DNP to monitor discharged buildings for one year, DNP monitors them for a period of two years. However, some buildings require additional monitoring beyond the two years due to additional signs of distress. DNP's monitoring includes data reviews of new complaints,

violations and Emergency Repair Program charges, building surveys, referrals to Code Enforcement for the issuance of appropriate violations, owner outreach, owner-tenant mediation and violation removal inspections. If a building continues to show signs of decline, DNP attempts to work with the property owner to ensure that the owner is being responsive to new conditions, may refer property owner for HPD loans or may recommend additional enforcement such as referral to HPD's Housing Litigation Division for comprehensive litigation.

Of the 808 buildings discharged in the initial four month period, 143 properties required additional physical monitoring due to continued signs of decline. Of those 143, DNP referred 69 of the properties to HPD's Housing Litigation Division (HLD). 87 of the 808 buildings returned to AEP (10.8% of all buildings discharged within the first four months, 5.3% of all buildings discharged). Of the 87 buildings, there were 40 buildings under 10 units and 47 buildings with more than 10 units. Once a building is selected for a second round, AEP issues the Order to Correct immediately if the property owner is the same as when the building(s) were discharged. If the property has a new owner, AEP allows the property owner to try to comply within the first four months.

The criteria for discharge in the initial four month period appropriately allows for the discharge of buildings that continue to maintain the improvement occurring through AEP. The monitoring undertaken by the Department is appropriate and is effectively working to identify any buildings that begin to show signs of distress.

Discharge after an Order is issued

The AEP program issued 1,312 Orders to Correct for buildings in Rounds 1 through 10, 823 of which have been rescinded. 578 Orders were complied with by the owner and the buildings were discharged. 245 additional buildings were discharged for other reasons.

928 (71%) of the AEP Orders directed the correction of at least one system replacement and 384 (29%) only ordered correction of the violation conditions because no systems required replacement or the building was vacant and sealed at the time it was selected for AEP. Among the buildings that required a systems replacement, roof replacements were required more frequently than any other system. Pointing and waste lines were also among the most commonly cited building-wide systems needing replacement.

CHART 7: AEP ORDERS TO CORRECT: SYSTEMS REQUIRING REPLACEMENT

System Replacement	Total	% of Total
Replace Roof	474	15.0%
Pointing	354	11.2%
Perform Integrated Pest Management Throughout	345	10.9%
Replace Floor Covering in Apts	239	7.6%
Replace Defective Floor Joists Throughout	222	7.0%
Replace Waste Lines	221	7.0%
Upgrade Electric System & Re-Wire	182	5.8%
Replace Domestic Water Supply	178	5.6%
Re-Wire Entire Building	170	5.4%
Replace Apt Entrance Doors	135	4.3%
Replace Heating Plant	110	3.5%
Replace Floor Covering in Public Areas	96	3.0%
Replace Windows	76	2.4%
Seal all Dumbwaiter Shafts	68	2.2%
Waterproof Exterior Walls	67	2.1%
Paint All Apts & Public Areas	57	1.8%
Replace Hot Water Heater	46	1.5%
Replace Interior Staircase	43	1.4%
Replace Gas Meters & Gas Distribution System	26	0.8%
Replace Heat Distribution System	21	0.7%
Replace Gas Distribution System	18	0.6%
Replace Water Main	5	0.2%
Replace Fire Escape or provide 2nd Egress	4	0.1%
	3,157	

Buildings can be discharged post-order in two general categories: owner compliance or administrative discharge. These buildings are not required to be monitored post-discharge.

Discharge for Owner Compliance

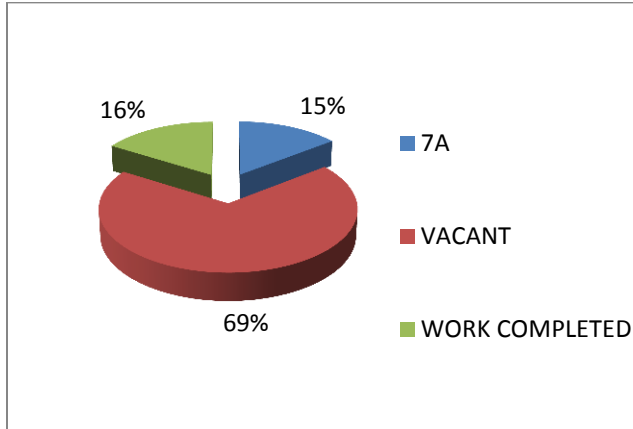
Overall, 578 buildings for which an order was issued have been discharged through property owner compliance. Of those, 384 buildings required system replacement work and 194 did not require the replacement of any systems. (In comparison, 389 active buildings have system replacement requirements and 100 active buildings do not). Even among the buildings discharged for compliance, HPD often performs some of the system work.

The distribution of buildings discharged for compliance by building size after an order is issued is more even than the distribution of discharges pre-order, but smaller buildings are still significantly less likely to be discharged (as a percentage of same size buildings).

Administrative Discharge

The amendments to the law passed in 2011 authorized HPD to discharge buildings from the program if a 7A Administrator is appointed, if a building is vacant for more than a year or if HPD corrects violations and completes the required system work.

CHART 8: DISCHARGED BUILDINGS- OTHER REASONS



Discharge for vacancy

Many buildings became vacant during or were vacant just shortly before entering AEP. Of the 167 vacant building discharges, 103 (62%) are in Brooklyn and 49 (29%) are in the Bronx; 160 (96%) buildings are 3-5 unit buildings.

Discharge based on the appointment of a 7A Program Administrator

AEP determined that some buildings did not have the appropriate responsible ownership to address conditions and therefore the agency initiated or supported actions in Housing Court for the appointment of a 7A Administrator. After an assessment by staff of HPD's 7A Unit, the Housing Litigation Division initiated cases in Housing Court. Once appointed by the Court, the role of the Administrator is to collect rent and maintain the property based on the rental income. The building may be eligible for 7A Financial Assistance funding if the system work was not already completed by AEP.

The average building size of the AEP buildings selected for 7A has been 8 units (the buildings ranged in size from 4 to 32 units). As of January 31, 2018, 35 buildings were discharged because a 7A Administrator had been appointed. This process has seen success in restoring buildings to habitable condition. Of the 35, 19 have been discharged from 7A as well. HPD will continue to explore the use of 7A as one avenue for addressing buildings that remain in AEP for multiple years.

Discharge due to work completed by HPD

In some buildings, HPD completed all of the system replacement work but there was no owner to complete all of the required paperwork or to request the necessary dismissals. Thirty-nine buildings were discharged due to work completed by HPD. Thirty-four of the 39 buildings required system replacement work that was completed by AEP. These are small buildings (average of 4 units).

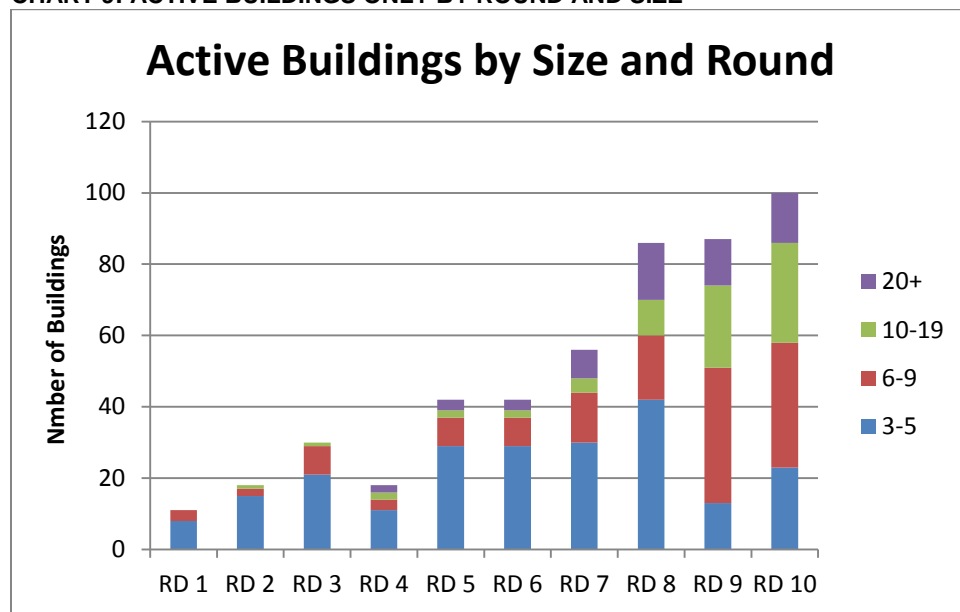
Repeat Buildings

Twenty-two buildings that were discharged after an order was issued were selected for a subsequent round of AEP. As with the buildings discharged during the first four months that return to AEP, this is a small percentage of all buildings discharged after an order was issued (4%).

ACTIVE BUILDINGS

AEP was monitoring 490 buildings that were active in the program prior to the selection of Round 11 buildings on January 31, 2018. All 311 complaints for active buildings are inspected by AEP. AEP makes periodic visits to all properties, monitoring for new ownership, new repair issues that may arise, and property owner activity. AEP repair work or system replacement work may still be in progress (see the next section for expenditure information) for buildings in previous rounds.

CHART 9: ACTIVE BUILDINGS ONLY BY ROUND AND SIZE



The buildings remaining in AEP from the early rounds are almost entirely small buildings. The average size of buildings remaining in the program for more than one year is less than ten units. HPD has spent approximately \$ 12.2 million on the active buildings from all rounds. \$4.9 million (39%) has been spent on active buildings from Rounds 1, 2, 3 and 4.

COST EFFECTIVENESS

Personnel

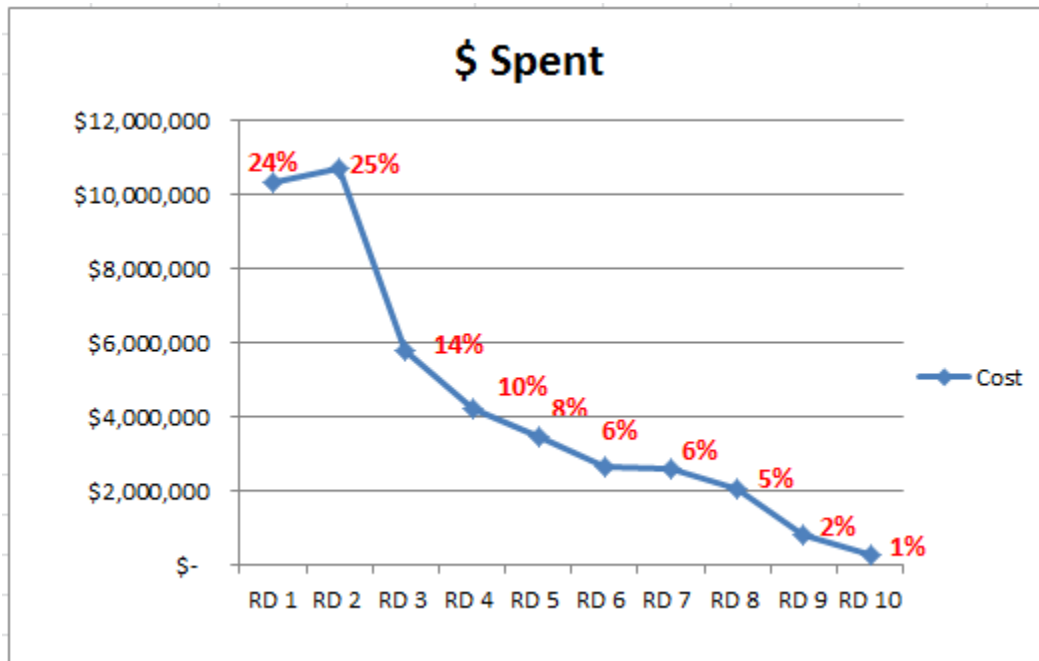
In Fiscal Year 2017, AEP had 41 staff, including Housing Inspectors, technical staff, community coordinators and administrative staff, at a cost of approximately \$2.8 million per year

(approximately \$4 million when counting fringe benefits). Housing Inspectors issue violations and conduct reinspections of corrected conditions. Technical staff issue orders for system repair; issue work orders for repair and system replacements to be completed through agency-hired contractors; and monitor the work of both agency contractors and property owners. Community coordinators are the contact points for property owners and occupants of AEP buildings. Community coordinators ensure that outreach to property owners is a constant process, guiding property owners through compliance requirements. Community coordinators also work to keep all parties informed about upcoming work and process buildings for discharge.

Emergency Repairs and System Replacements

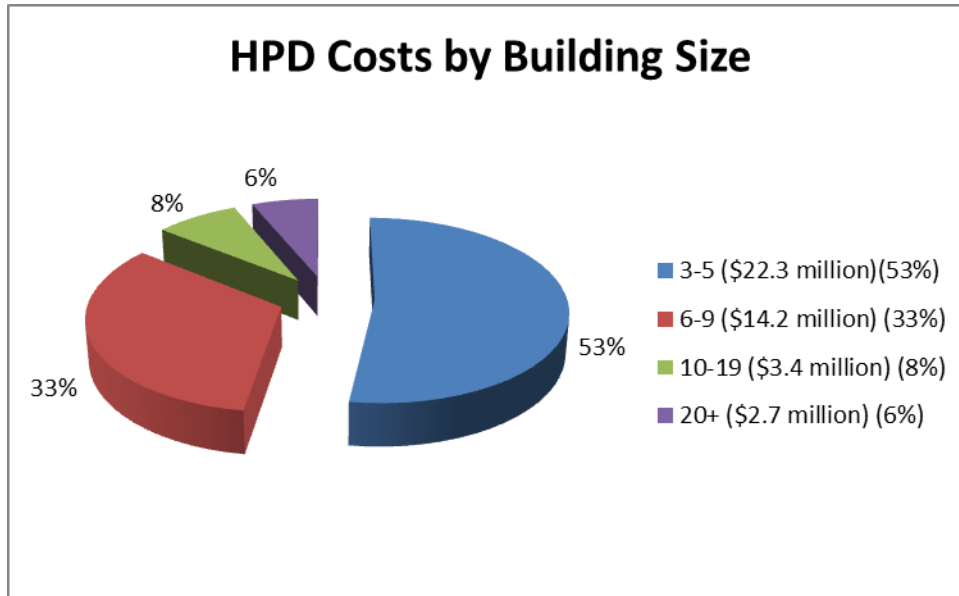
As of January 31, 2018, \$42.7 million dollars had been spent on emergency repairs and system replacements). Money continues to be spent on rounds 1 through 4 buildings, well beyond the expected timeline for spending.

CHART 10: TOTAL REPAIR AND SYSTEM REPLACEMENT EXPENDITURE BY ROUND AS OF 1/31/2018



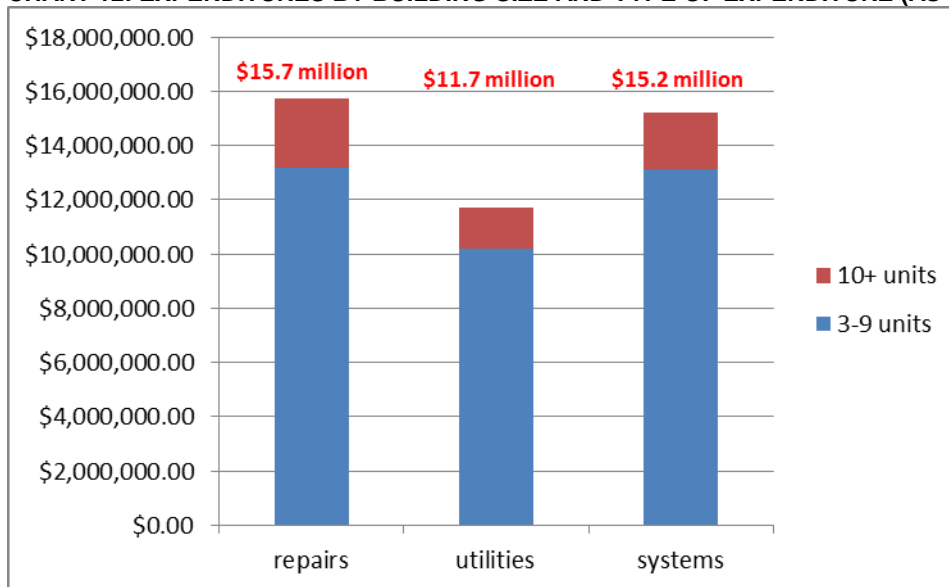
HPD has spent the most money overall in 3-5 unit and 6-9 unit buildings. By January 31, 2018, 53% of all expenditures have been in 3-5 unit buildings and 33% have been spent on 6-9 unit buildings, accounting for more than \$36.5 million and 86% of overall expenditures.

CHART 11: DOLLARS SPENT BY BUILDING SIZE



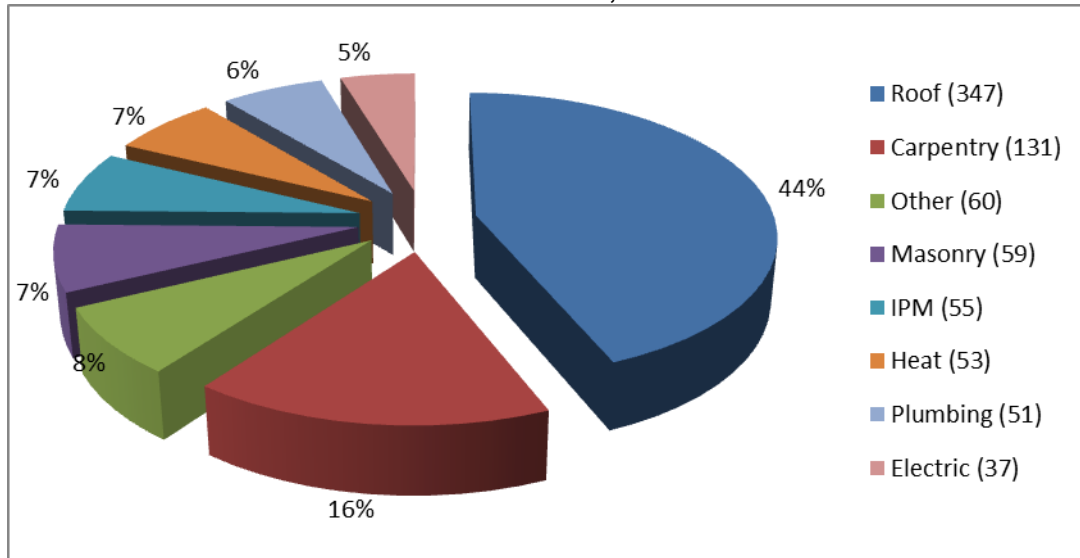
HPD has become the de facto property manager for a large number of the smaller buildings, many of which have been effectively abandoned. Spending on utilities – which includes fuel, electric and gas – continues to be a significant percentage of all spending (see Chart 12).

CHART 12: EXPENDITURES BY BUILDING SIZE AND TYPE OF EXPENDITURE (AS OF 1/31/2018)



AEP has completed system replacements in buildings at a cost of approximately \$15.2 million. Replacing the roof is by far the most common type of work, with \$6.3 million spent replacing roofs in buildings. Of those buildings 90 were 3-5 unit buildings and 46 were 6-9 unit buildings.

CHART 13: HPD SYSTEM REPLACEMENTS BY TYPE, ROUNDS 1-10 AS OF 1/31/2018



Fees

If the owner fails to have his/her building discharged from AEP in the first four months, he/she is subject to the following fees:

- \$500 per dwelling unit on the date of the building wide inspection;
- \$500 per dwelling unit six months from the date of the building wide inspection if the building is still active in AEP;
- \$200 for any complaint inspection performed that results in the issuance of a class B or C violation while the building is in AEP; and
- \$100 for each re-inspection pursuant to a certification of correction of violation(s) submitted to HPD where HPD finds one or more violations have not been corrected.

The fee charges are transferred to DOF for billing and collection.

As of January 31, 2018, HPD has imposed \$14.2 million in fees and collected \$11.8 million in fees.

CHART 14: FEES IMPOSED BETWEEN PROGRAM INCEPTION AND 1/31/2018

Fee Type	Fees	Total
Initial Re-inspection Fee	1,327	\$ 5,956,000
Six Month Program Fee	1,311	\$ 5,809,000
AEP Complaint Inspection Fee	11,970	\$ 2,394,000
False Certification Fee	368	\$ 36,800
	14,976	\$ 14,195,800

Recoupment

All costs, including the system replacements, repairs and utilities costs (and the respective administrative fee) and the inspection fees, are billed to the owner through DOF. If the charges remain unpaid, interest accrues and they become tax liens against the property. Many AEP

buildings become eligible for the City’s tax lien sale (TLS) or Third Party Transfer (TPT) program due to these costs.

CHART 15: COSTS RECOVERED (ERP AND AEP)*

	Expenditure Type					
	ERP Charges (Pre-AEP)	AEP Charges (TOTAL)	AEP System Replacement	AEP Non-System Replacement	AEP Fees	TOTAL
Round 1	\$3,592,254	\$10,979,660	\$4,108,224	\$6,871,436	\$1,509,709	\$16,081,623
Round 2	\$2,987,112	\$12,624,436	\$5,151,255	\$7,473,181	\$1,685,790	\$17,297,338
Round 3	\$2,744,442	\$6,376,341	\$2,107,145	\$4,269,196	\$1,233,253	\$10,354,036
Round 4	\$3,736,375	\$4,988,106	\$1,458,996	\$3,529,110	\$1,249,472	\$9,973,953
Round 5	\$2,179,012	\$3,800,221	\$1,267,127	\$2,533,094	\$1,140,749	\$7,119,982
Round 6	\$4,731,935	\$2,105,992	\$674,451	\$1,431,541	\$1,440,996	\$8,278,923
Round 7	\$4,439,647	\$1,570,830	\$471,455	\$1,099,375	\$1,115,053	\$7,125,530
Round 8	\$3,135,687	\$3,187,155	\$1,605,573	\$1,581,582	\$1,103,984	\$7,426,826
Round 9	\$1,351,018	\$583,277	\$93,604	\$489,673	\$992,525	\$2,926,820
Round 10	\$774,106	\$144,236	\$0	\$144,236	\$283,427	\$1,201,769
TOTAL	\$29,671,588	\$46,360,254	\$16,937,830	\$29,422,424	\$11,754,958	\$87,786,800

*Costs recovered includes accrued interest.

MOLD AND VERMIN

Local Law No. 7 of 2011 added a “Healthy Homes” component to AEP, specifically identifying work practices related to the correction of mold and vermin violations and imposing requirements about correction of these conditions prior to discharge.ⁱⁱ Related to Healthy Homes, in order to be discharged from AEP, buildings must:

- Correct All class C (immediately hazardous) violations related to mold
- Correct a minimum of 80% of class B (hazardous) violations related to mold
- Correct a minimum of 80% of violations related to vermin

Affidavits must be provided by the property owners indicating that mold or vermin remediation has been done following the required work practices.

Buildings in rounds 9, 10 and 11 have had similar profiles regarding mold and vermin violations upon selection.

CHART 16: OPEN MOLD AND VERMIN VIOLATIONS UPON SELECTION FOR AEP

Round 9			Round 10			Round 11		
# Open Vermin Violations		2,178	# Open Vermin Violations		2,295	# Open Vermin Violations		2,188
# Open Mold Violations		663	# Open Mold Violations		787	# Open Mold Violations		739
Mold & Vermin Viols/Bldg		11.36	Mold & Vermin Viols/Bldg		12.33	Mold & Vermin Viols/Bldg		11.71
Mold & Vermin Viols/Unit		0.77	Mold & Vermin Viols/Unit		0.78	Mold & Vermin Viols/Unit		0.74
Type	# Bldgs	# Units Aff	Type	# Bldgs	# Units Aff	Type	# Bldgs	# Units Aff
Mold	180	373	Mold	185	430	Mold	185	440
Vermin	230	896	Vermin	242	872	Vermin	235	886
Mold or Vermin	240	1,079	Mold or Vermin	244	1,095	Mold or Vermin	242	1,118

For properties that fail to be discharged from AEP before an Order is issued and where there is a vermin infestation (more than one-third of the units have vermin violations), the property owner

is ordered to submit an Integrated Pest Management plan, which is reviewed by the Department of Health and Mental Hygiene (DOHMH). As of January 31, 2018, 345 orders included a requirement for the property owner to supply an Integrated Pest Management Plan (IPM). 117 of those buildings have been discharged for compliance, meaning that the owner or AEP completed the IPM.

Once an IPM is submitted to AEP by the owner, it is reviewed for accuracy and then submitted to DOHMH for final review and approval. Generally, owners failed to (1) indicate how the tenants are educated on controlling pest, (2) put in place a plan for tenant reporting of vermin conditions, or, (3) describe the frequency or responsibility for inspection. For every plan that is submitted unsuccessfully, conference calls or meetings are attempted between the owner, pest management professional (PMP) and HPD to try to have the plan successfully submitted. Based on the issues with the submission of the plans, DOHMH has provided a “tool kit” for building owners, PMP’s, managers and staff which helps in the understanding and implementation of IPM.

Once an IPM plan is approved and the owner indicates that treatment has been completed, AEP staff conducts field inspections to confirm that the proper work has been done and that there is evidence of remediation.

AEP has contracted for IPM treatments in 65 buildings (comprising 284 dwelling units, not all of which have been discharged) as of January 31, 2018. The average size of the building was 4.4 units (all but one building was less than 9 units). The total cost was approximately \$50,000. The cost of IPM may increase significantly with the size of the building (as the cost depends on how many units are treated; not all units are actually treated due to no access or refused access). This cost includes at least one additional treatment.

Access and occupant cooperation are the key obstacles to treatment for both owners and HPD. Although there were repeated attempts by the agency vendor and AEP to have occupant meetings to encourage cooperation, AEP’s vendor is unable to access all units in many buildings. In cases where HPD deems that there will be little or no tenant cooperation, HPD assesses the cost of performing the service versus the benefit (if any) to be gained.

Of buildings from the above rounds discharged from AEP, the following has been the result post-discharge for buildings discharged due to owner compliance.

CHART 17: RATE OF MOLD AND VERMIN VIOLATIONS, POST-DISCHARGE

		Open Viols at selection				Open Viols on 1/31/18			
	# Bldgs Discharged Pre-Order	Vermin	Viols/Bldg	Mold	Viols/Bldg	Vermin	Viols/Bldg	Mold	Viols/Bldg
Round 9	126	1,077	8.5	305	2.4	220	1.7	63	0.5
Round 10	138	1,488	10.8	455	3.3	286	2.1	68	0.5
		Open Viols at selection				Open Viols on 1/31/18			
	# Bldgs Discharged with an Order, No IPM, No Water System	Vermin	Viols/Bldg	Mold	Viols/Bldg	Vermin	Viols/Bldg	Mold	Viols/Bldg
Round 9	14	123	8.8	39	2.8	15	1.1	9	0.6
Round 10	8	53	6.6	20	2.5	6	0.8	-	-
		Open Viols at selection				Open Viols on 1/31/18			
	# Bldgs Discharged with an Order, IPM or Water	Vermin	Viols/Bldg	Mold	Viols/Bldg	Vermin	Viols/Bldg	Mold	Viols/Bldg
Round 9	15	177	11.8	54	3.6	49	3.3	13	0.9
Round 10	3	17	5.7	5	1.7	1	0.3	-	-

Current data reflects that all discharged buildings have a low rate of vermin and mold violations since discharge. This indicates that creating an IPM plan may not have a significant impact on the mold and vermin violation rates at a building as compared to requiring mold and vermin violations to be corrected according to certain guidelines. This issue should be re-examined as additional buildings with IPM on the order are discharged.

RECOMMENDATIONS

AEP continues to be effective when addressing larger buildings, buildings with active property owners, and buildings with systemic issues. The amendments in 2011 and the rules around selection criteria have improved HPD’s ability to target buildings which are responsive to the enforcement mechanisms of the program. AEP’s challenge continues to be compliance among smaller properties, and a significant number of small buildings from the early rounds of AEP remain in the program. As of February 2018, 9 AEP buildings from as early as Round 3 and late as Round 8 are pending foreclosure and ownership transfer through the Third Party Transfer program. The average size of these buildings is 10 units. Thirty-seven buildings have also been placed under the control of a 7A administrator (the average size of these building is 8.2 units), and AEP is currently seeking the appointment of an administrator for an additional 12 buildings. Generally, these buildings are under-occupied, with significant financial issues and no active owner. Since the 7A Program and Third Party Transfer programs also are challenged by small properties, HPD will be closely monitoring the outcomes of these transfers and management changes to assess whether these programs are the appropriate mechanisms to move these AEP buildings back into safe and well-maintained affordable housing. HPD will also continue to explore options to properly address the poor condition of some the City’s smaller housing stock.

ⁱ The 2,137 buildings reflect a sum of all of the buildings selected each round, not a count of distinct buildings. 140 buildings have been in AEP multiple times. The unique building count is 1,993 and the unique number of units is 24,779.

ⁱⁱ For detailed information about the implementation of the mold and vermin requirements, see the Alternative Enforcement Program Year 7 Report.

APPENDIX A SUMMARY OF THE AMENDMENTS TO THE AEP STATUTE

The AEP statute has been amended twice, in 2011ⁱⁱ and in 2014. The 2011 amendments:

- New building selection criteria that considers the building size.
- Authority to discharge a building when the property is vacant for more than one year and is not subject to an active vacate order by a city agency.
- Authority to discharge a building when the property is subject to an in rem foreclosure action in favor of the City and transferred to a third party.
- Authority discharge a building after AEP has completed any work and monitoring required under the law.
- “Healthy Homes” component requiring landlords of AEP buildings to correct 80% of hazardous conditions related to mold and vermin and 100% of immediately hazardous conditions related to mold pursuant to the law before the building can be discharged from the program.
- Ability to accept a Department of Finance payment agreement rather than immediate full payment of ERP and/or AEP charges.

The 2014 amendments:

- Increase the size of the program from 200 buildings per year (referred to as a *round*) to 250 buildings per year (*round*).
- Provide flexibility for defining the selection criteria, removing the criteria from the law and allowing HPD to establish those criteria in rules. The law required the rules to specify the number of Housing Maintenance Code violations issued and the amount of paid or unpaid emergency repair charges incurred during a look-back period that result in a property being considered for inclusion in the AEP.
- Add criteria for prioritizing buildings for participation, and for adding buildings when the initial criteria do not yield a total of 250 buildings.
- Define the term “rehabilitation” for the purpose of implementing the authority under the law to exclude buildings from AEP that are the subject of a rehabilitation loan made by HPD or the New York City Housing Development Corporation and allow the discharge of buildings which close on a loan within the first four months of being selected.
- Exclude buildings that were formerly in the AEP and discharged in the past three years as a result of work performed by HPD.

APPENDIX B
SELECTION CRITERIA FOR THE ALTERNATIVE ENFORCEMENT PROGRAM

Selection Criteria- Rounds 1 & 2

27 or more open class “B” & “C” violations issued in the past 2 years, AND
A ratio of **5 or more open class “B” & “C” violations per DU** issued in the past 2 years, AND
Unpaid ERP charges in a ratio of **\$100 per DU** incurred in the past 2 years
Top 200 Qualifying Buildings Sorted by B+C Viols/DU Ratio

Selection Criteria- Round 3

25 or more open class “B” & “C” violations issued in the past 2 years, AND
A ratio of **5 or more open class “B” & “C” violations per DU** issued in the past 2 years, AND
Unpaid ERP charges in a ratio of **\$100 per DU** incurred in the past 2 years
Top 200 Qualifying Buildings Sorted by B+C Viols/DU Ratio

Selection Criteria- Rounds 4 & 5

Building size >=20 units

A ratio of **3 or more open class “B” & “C” violations per DU** issued in the past 2 years, AND
Paid or Unpaid ERP charges >= **\$5,000** incurred in the past 2 years

Building size >=3 and < 20 units

A ratio of **5 or more open class “B” & “C” violations per DU** issued in the past 2 years, AND
Paid or Unpaid ERP charges >= **\$2,500** incurred in the past 2 years

Top 200 Qualifying Buildings Sorted by Paid or Unpaid ERP, 2 Yrs

Bldgs Excluded: Active In Rem, Active AEP, 7A (appointed or proceeding) and TPT Transferred (last five years)

Selection Criteria- Rounds 6 & 7

Building size >=20 units

A ratio of **3 or more open class “B” & “C” violations per DU** issued in the past 3 years, AND
Paid or Unpaid ERP charges >= **\$2,500** incurred in the past 3 years

Building size >=3 and < 20 units

A ratio of **5 or more open class “B” & “C” violations per DU** issued in the past 3 years, AND
Paid or Unpaid ERP charges >= **\$5,000** incurred in the past 3 years

Top 200 Qualifying Buildings Sorted by Paid or Unpaid ERP, 2 Yrs

Bldgs Excluded: Active In Rem, Active AEP, 7A (appointed or proceeding) and TPT Transferred (last five years)

APPENDIX B
SELECTION CRITERIA FOR THE ALTERNATIVE ENFORCEMENT PROGRAM

Selection Criteria- Round 8

Building size >=20 units

A ratio of **3 or more open class “B” & “C” violations per DU** issued in the past 5 years, AND
Paid or Unpaid ERP charges >= **\$2,500** incurred in the past 5 years

Building size >=3 and < 20 units

A ratio of **5 or more open class “B” & “C” violations per DU** issued in the past 5 years, AND
Paid or Unpaid ERP charges >= **\$5,000** incurred in the past 5 years

Top 250 Qualifying Buildings Sorted by Paid or Unpaid ERP, 2 Yrs

Bldgs Excluded: Active In Rem, Active AEP, 7A (appointed or proceeding) and TPT Transferred (last five years)

Selection Criteria- Rounds 9 & 10

Criteria I:

Building size >=15 units

A ratio of **3 or more open class “B” & “C” violations per DU** issued in the past 5 years, AND
Paid or Unpaid ERP charges >= **\$2,500** incurred in the past 5 years

Building size >=3 and < 15 units

A ratio of **5 or more open class “B” & “C” violations per DU** issued in the past 5 years, AND
Paid or Unpaid ERP charges >= **\$5,000** incurred in the past 5 years

Qualifying Buildings Sorted by Paid or Unpaid ERP, 5 Yrs

No more than 25 bldgs with less than 6 units selected

Criteria II:

Building size >=6 units

A ratio of **4 or more open class “B” & “C” violations per DU** issued in the past 5 years,

Qualifying Buildings Sorted by total B/C viols issued in the past 5 years

Bldgs Excluded: Active In Rem, Active AEP or Discharged for Work Completed by AEP in the past three years, 7A (appointed or proceeding) and TPT Transferred (last five years), Preservation Loan Closed in the past two years.