

## **Alternative Enforcement Program – Year 13 Report to the City Council**

The Department of Housing Preservation and Development's (HPD) Alternative Enforcement Program (AEP), established under Local Law 29 of 2007 and amended in 2011 and 2014, continues to be an effective enforcement tool for addressing distressed residential properties throughout New York City.

Below is a summary of the AEP steps and stages.

- 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 and 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:

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

## **SUMMARY DATA**

As of January 31, 2020, 2,637 buildings with 35,280 units have each gone through at least 12 months of AEP<sup>i</sup>. As of that date:

### **Buildings Discharged**

- 2,228 buildings with 30,377 units had been discharged from AEP.
  - 1,910 buildings were discharged for compliance with the requirements of the program. Of those 1,910 buildings:
    - 1,102 buildings (20,261 units) were discharged after meeting the requirements of AEP within the initial first four months.
    - 808 buildings were discharged after complying with the AEP Order and paying fees.
  - 327 buildings were discharged for other reasons:
    - 215 buildings were discharged after they were vacant for at least one year.
    - 42 buildings were discharged to HPD's 7A Program, which provides interim management for distressed buildings.
    - 42 buildings were discharged because HPD completed the building system work.

### **Building Systems Repaired**

- 2,560 building systems in 840 buildings were replaced. Of those 2,560 building systems:
  - 1,736 system replacements were completed in 571 buildings by property owners.
  - 820 system replacements were completed in 426 buildings by HPD.

### **Funds Spent and Collected**

- HPD has spent over \$49.9 million on repairs, utilities and system replacement work, which has been billed to the properties through DOF. Of that \$49.9 million:
  - \$32.9 million was spent providing utilities and conducting repairs.
  - \$17 million was spent completing building system repairs/services.
- Approximately \$100 million has been collected in ERP and AEP charges and fees.

## **I. THE EFFECTIVENESS OF CRITERIA FOR BUILDING SELECTION**

The selection for AEP is a multi-step process that focuses on buildings meeting a set of criteria related to open violations per dwelling unit and emergency repair activity. The selection criteria have been modified multiple times since the original statutory criteria were set; however, the selection criteria for rounds 9, 10, 11 and 12 have been consistent and are as follows:

### ***Criteria I:***

For buildings that have 15 units or more:

- A ratio of 3 or more open class "B" & "C" violations per dwelling unit issued in the past 5 years, AND
- A total of \$2,500 or more in paid or unpaid ERP charges incurred in the past 5 years

For buildings that have between three and 15 units:

- A ratio of 5 or more open class “B” & “C” violations per dwelling unit in the past 5 years, AND
- A total of \$5,000 or more in paid or unpaid ERP charges incurred in the past 5 years

Buildings that meet the above qualifications are then sorted by the amount of ERP charges billed within the past 5 years.

Notwithstanding the above criteria, no more than 25 buildings that have fewer than 6 units can be selected for AEP.

If fewer than 250 buildings meet Criteria I, HPD must select the remaining number using a second set of criteria.

**Criteria II:**

For buildings with 6 units or more:

- A ratio of 4 or more open class “B” & “C” violations per dwelling unit issued in the past 5 years.

**CHART 1: BUILDINGS SELECTED**

	Round 1	Round 2	Round 3	Round 4	Round 5	Round 6	Round 7	Round 8	Round 9	Round 10	Round 11	Round 12	Totals
Total buildings	200	200	200	200	200	200	187	250	250	250	250	250	2637
Total units	1,362	1,768	1,476	3,339	2,373	2,552	2,700	3,473	3,704	3,963	3,970	4,600	35,280
Avg number of units per building	6.8	8.8	7.4	16.7	11.9	12.8	14.4	13.9	14.8	15.9	15.9	18.4	13.4
Total B & C Violations	32,547	30,183	22,358	30,067	21,226	21,225	21,086	25,188	25,686	26,034	26,301	29,120	311,021
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	22,446	25,458	240,169
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	5.7	5.5	6.8
Bldgs with Open HPD Comprehensive Litigation	67	63	67	57	47	42	45	60	76	78	81	57	740
Past Due ERP Balance- Look-back Period (Millions)	1.99	1.43	1.4	215	1.11	1.22	0.84	1.51	0.74	0.89	1.52	0.92	228.57

As indicated in Chart 1, AEP continues to be effective in selecting buildings with a high number of B and C class violations and high past-due ERP balances during the look-back period. Previous changes to the program selection criteria have significantly increased the number of apartments benefitting from the AEP program: the total number of units added to AEP each year has increased by more than 300% because of both the increase in the number of buildings in the program and the changes to limit the number of smaller properties selected. The average number of units per building increased from 7 to 18 units.

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

The criteria for discharge of occupied buildings should ensure that, per the goal of AEP, conditions for tenants are significantly improved or that the building is placed in a more appropriate

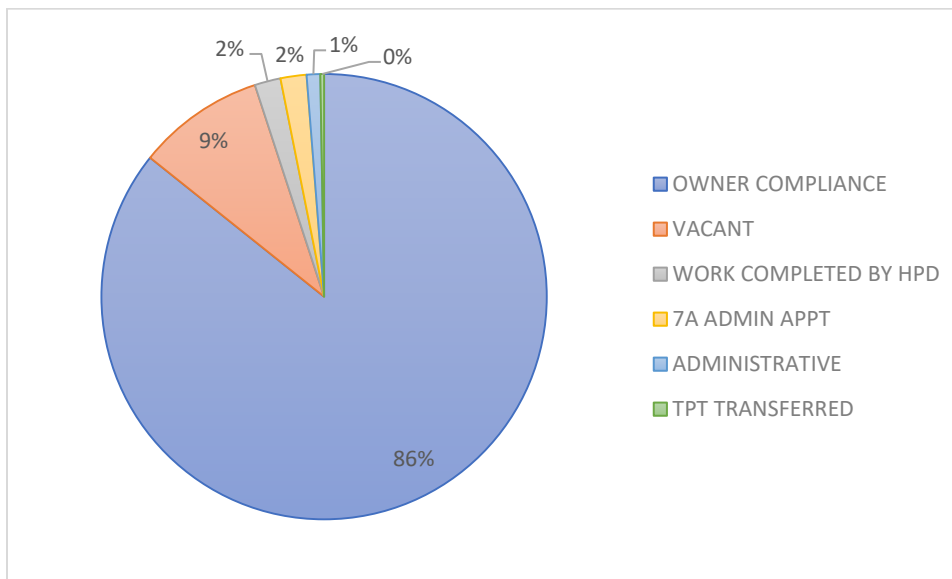
enforcement program to ensure that conditions will improve. An important secondary goal of AEP is to ensure that the property owner can be reached by HPD regarding future complaints and violations, so that the owner no longer utilizes HPD’s ERP.

As noted earlier, there are two distinct discharge periods. In the first period, property owners have four months to address conditions and get a building discharged before penalties are imposed. During this four-month period (“initial period”), buildings can be discharged based on owner compliance with violation correction, emergency repair charge payments, and property registration. After this initial period, buildings become subject to an AEP Order to Correct (“AEP Order”), periodic inspections, and inspection fees.

Since AEP began, 2,228 buildings (84%) with 30,377 units (86%) were discharged from AEP. Within this pool there is a high percentage of owner compliance (1,910 out of 2,228, or 86%).

Overall, the criteria for discharge appropriately allows for the discharge of buildings that have taken steps to improve conditions at the buildings. The overwhelming majority of buildings discharged within the initial four-month period remain in good condition during the first year post-discharge, based on the results of the required post-discharge monitoring.

## CHART 2: DISCHARGED BUILDINGS



### Discharge during the initial four-month period

As of January 31, 2020, 1,102 buildings from all rounds were discharged from AEP for complying in the initial four-month period prior to the issuance of the order.

The current criteria for discharge within this period are as follows:

- Correct, using safe work practices:
  - All heat and hot water violations.

- All class "C" mold violations and at least 80% of class "B" mold violations.
- At least 80% of pest violations.
- At least 80% of all other class "B" and "C" violations.
- Pay all outstanding fees and charges, including liens, complaint inspections, and work performed by HPD, or enter into an agreement with DOF to pay such charges.
- Submit a current, valid property registration statement.

Larger buildings are more likely to be discharged during the initial four-month period. Between 33% and 85% of the 20+ unit buildings in each round were discharged during this period, as compared to between 7% and 28% of buildings with fewer than six units. This data would indicate that the discharge timeline for smaller buildings may need to be extended. The lack of professional management resources, greater financial challenges, and other factors may point to a greater need for assistance for landlords of small properties (non-corporate ownership structures).

**CHART 3: 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
RD 11	138	13	59.0	59.0	63.0	55.2
RD 12	156	28	56.0	67.0	75.0	62.4

The percentage of buildings discharged in the first four months as compared to the total number of buildings in the round continues to increase, with that percentage increasing from 14% in Round 1 to 62% in Round 12. Because both the size of the average building has increased since Round 1 and because of the overall increase in the number of discharged properties, a significantly higher number of units are improved within four months of selection in Round 12 than in Round 1. Almost 160,000 violations (87% of violations open at building selection) have been closed in these buildings in the four months between selection for AEP and discharge before the issuance of an order.

All buildings must be registered prior to discharge. This step has ensured that HPD can effectively reach property owners when complaints are received and can send Notices of Violation to the owner.

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 initial four-month period. HPD’s Division of Neighborhood Preservation (DNP) conducts this monitoring. DNP’s monitoring includes data reviews of new complaints, violations and ERP charges, as well as physical building surveys if the data points to deteriorating conditions. If DNP identifies concerns, they conduct owner outreach and/or owner-tenant mediation and can make referrals to HPD’s Division of Code Enforcement (DCE) for the issuance of appropriate violations. If a building owner is non-responsive to these methods and the building continues to show signs of decline, DNP may recommend additional enforcement such as referral to HPD’s Housing Litigation Division (HLD) for comprehensive litigation. Generally, buildings remain in good condition within the one-year period, though DNP may monitor buildings beyond the one-year period. In some cases, DNP monitoring and referrals for inspections have led not only to litigation, but to buildings returning to AEP for additional enforcement because of the number of new violations issued by the DCE.

**CHART 4: BUILDINGS DISCHARGED WITHIN ONE YEAR AND WITHIN TWO YEARS OF INITIAL PERIOD DISCHARGE**

<b>Total buildings discharged within the 4-month initial period</b>	1,102
Total buildings with fewer violations one year post-discharge than at building selection	1,000
Total buildings with fewer violations two years post-discharge than at building selection	1,022
Total buildings without new comprehensive litigation initiated within one year of discharge	1,071
Total buildings without new comprehensive litigation initiated within two years of discharge	1,012
Total building with fewer than two new ERP charges for work performed, within one year of discharge	935
Total building with fewer than two new ERP charges for work performed, within two years of discharge	832

**Discharge after an Order is issued**

Once the initial period passes, buildings become subject to roof-to-cellar inspections which result in the issuance of an AEP Order and inspection fees. If HPD determines that there are systemic issues in a building, the AEP Order will reflect which system needs to be replaced. The AEP program issued 1,565 AEP Orders for buildings in Rounds 1 through 12, 1,184 (76%) of which have been rescinded (AEP Orders are rescinded when a building is being discharged from the program). 1,069 (68%) of the AEP Orders directed the correction of at least one system replacement and 479 (32%) only ordered correction of the violation conditions because either no systems required replacement or the building was vacant and sealed at the time it was selected for AEP. Information on system replacements completed by HPD and fees imposed/collected can be found in the section on Cost Effectiveness of the program.

The current criteria for discharge after the initial four-month period are as follows:

- The owner has complied with the Orders to Correct (“Compliance”).
- The building has been discharged to a 7A Administrator.
- The building has been vacant for one year or more, provided, however that if the building has six or more units, it cannot be discharged if it is vacant as the result of issuance of a City vacate order.
- HPD has completed the work required in the Order to Correct.
- The building became subject to an in-rem foreclosure in favor of the City and was transferred to a third party (Third Party Transfer).
- Data used to select the building was incorrect (“administrative discharge”).

#### Discharge for owner compliance after the initial four-month period

Of the buildings issued an Order, 942 buildings have been discharged because the property met the criteria for compliance. Of those, 631 buildings had AEP Orders which required system replacement work (2,181 systems) and 311 did not require the replacement of any systems. Among the buildings discharged for compliance, HPD may perform some of the system work and may perform emergency repairs when property owners fail to do so.

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 as a percentage of same size buildings, smaller buildings are still less likely to be discharged for owner compliance.

#### Discharge for vacancy

Buildings that are vacant before entering AEP or that become vacant during AEP can be discharged if the buildings remain vacant for more than a year. Of the 215 vacant building discharges, 191 (91%) buildings are 3-5 unit buildings. HPD has explored the possibility of engaging preservation purchasers for these properties, but there are significant challenges to financing these projects.

#### Discharge based on the appointment of a 7A Program Administrator

AEP may determine that a building does not have the appropriate responsible ownership to address conditions. In such cases, HPD may initiate or support actions in Housing Court for the appointment of a 7A Administrator. Through the 7A Program, administrators are appointed by the Court (pursuant to New York State Law) to operate privately owned buildings that have conditions that are dangerous to the tenants' life, health, and safety. The Administrators act under court order to collect rents and use the money to provide essential services to the tenants and make necessary repairs. 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 discharged to a 7A Administrator has been 9 units (the buildings ranged in size from 4 to 36 units). As of January 31, 2020, 42 buildings were discharged because a 7A Administrator had been appointed. This process has seen success in restoring buildings to habitable condition. Of the 42 buildings, 29 have been discharged from 7A

as well. HPD will continue to explore the use of 7A as one means for addressing buildings that remain in AEP for multiple years. However, buildings without systemic issues and buildings with few tenants are not good candidates for 7A, since the building must sustain itself with the income of the rent roll and many AEP buildings have a very small rent roll.

Discharge due to work completed by HPD

If HPD completes all the system replacement work but there is no owner to complete the required paperwork, pay the required emergency repairs, and/or request the necessary dismissals, HPD may discharge the building once work is completed by HPD. 42 buildings were discharged due to work completed by HPD. 35 of the 42 buildings required system replacement work that was completed by AEP. These 35 buildings are small buildings (average of 4 units).

**Buildings that have not been discharged – Active Buildings**

As of January 31, 2020, AEP was monitoring 394 buildings that were active in the program prior to the selection of Round 13 buildings. Of those, 305 active buildings have system replacement requirements and 89 buildings do not. AEP repair work or system replacement work may still be in progress.

**CHART 5: ACTIVE BUILDINGS ONLY BY ROUND AND SIZE**

Units	Round 1	Round 2	Round 3	Round 4	Round 5	Round 6	Round 7	Round 8	Round 9	Round 10	Round 11	Round 12	Total
3-5	4	10	6	4	17	20	14	24	6	9	11	15	140
6-9	1	1	2	2	7	3	11	14	14	15	22	31	123
10-19	0	1	1	0	0	2	1	5	13	18	10	13	64
20+	0	0	0	2	2	1	6	9	5	8	14	20	67
<b>Total</b>	<b>5</b>	<b>12</b>	<b>9</b>	<b>8</b>	<b>26</b>	<b>26</b>	<b>32</b>	<b>52</b>	<b>38</b>	<b>50</b>	<b>57</b>	<b>79</b>	<b>394</b>

The buildings remaining in AEP from the early rounds are almost all buildings with fewer than 20 dwelling units. The average size of buildings remaining in the program for more than one year is approximately 12 units.

**III. 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 work practices, and affidavits about requirements related to the percentage of violations that require correction prior to discharge. Almost all buildings that are selected for AEP have open mold or pest violations.



## CHART 6: OPEN MOLD AND VERMIN VIOLATIONS UPON SELECTION FOR AEP

	Round 9	Round 10	Round 11	Round 12
# Open Vermin Violations	2,178	2,295	2,188	2,370
# Open Mold Violations	663	787	739	1,100
# of Buildings with either Mold or Vermin Violations	240	244	242	240
Mold & Vermin Viols/Bldg	11.36	12.33	11.71	13.88
Mold & Vermin Viols/Unit	0.77	0.78	0.74	0.75

With the passage of Local Law 55 in 2018, the work practices that first applied only to AEP buildings and the affidavits required from property owners to certify the correction of those conditions now apply to all buildings citywide.

Properties that fail to be discharged from AEP during the initial four-month period are assessed for whether there is a vermin infestation. The criteria for a building being considered vermin infested is that more than one-third of the units have vermin violations. In buildings with an infestation, the property owner is ordered to submit an Integrated Pest Management (IPM) plan and conduct the activities outlined on the plan. The IPM plan captures information about how repairs and continued maintenance will address the vermin in a holistic way which minimizes the use of pesticides. The need for IPM is added as a system replacement to the AEP Order.

Once an IPM plan is submitted to AEP by the owner, it is reviewed for accuracy and then submitted to DOHMH for final review and approval. 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.

As of January 31, 2020, 401 Orders included a requirement for the property owner to supply an IPM plan and conduct appropriate remediation. Of those, 227 were for buildings that have since been discharged for compliance, meaning that the owner or AEP completed the IPM. AEP has contracted for IPM treatments in 90 buildings (comprising 464 dwelling units, not all of which have been discharged) as of January 31, 2020. The average size of the buildings was 5.1 units (all but four buildings had fewer than 9 units). The total cost was approximately \$87,000. IPM costs depend on how many units are treated; generally, not all units are treated due to no access or refused access. This cost includes at least one additional treatment.

Current data reflects that all discharged buildings have a low rate of vermin and mold violations since discharge, making it difficult to determine whether the IPM is a significant factor on the mold and vermin violation rates at a building as compared to just requiring mold and vermin violations to be corrected according to certain guidelines.

**CHART 7: RATE OF MOLD AND VERMIN VIOLATIONS, POST-DISCHARGE**

	# Bldgs Discharged Pre-Order	Open Viols at Selection				Open on 1/31/2020			
		Vermin Total	Vermin/Bldg	Mold Total	Mold Violations per Bldg	Vermin Total	Vermin/Bldg	Mold Total	Mold Violations per Bldg
<b>Round 9</b>	126	1077	8.5	305	2.4	480	3.8	193	1.5
<b>Round 10</b>	138	1488	10.8	455	3.3	778	5.6	222	1.6
<b>Round 11</b>	138	1232	8.9	442	3.2	642	4.7	222	1.6
<b>Round 12</b>	156	1759	11.3	813	5.2	736	4.7	222	1.4
	# Bldgs Discharged with Order - No IPM	Vermin Total	Vermin/Bldg	Mold Total	Mold Violations per Bldg	Vermin Total	Vermin/Bldg	Mold Total	Mold Violations per Bldg
<b>Round 9</b>	64	590	9.2	172	2.7	155	2.4	48	0.8
<b>Round 10</b>	48	302	6.3	124	2.6	112	2.3	31	0.6
<b>Round 11</b>	37	323	8.7	100	2.7	85	2.3	44	1.2
<b>Round 12</b>	12	93	7.8	49	4.1	9	0.8	3	0.3
	# Bldgs Discharged with Order - with IPM	Vermin Total	Vermin/Bldg	Mold Total	Mold Violations per Bldg	Vermin Total	Vermin/Bldg	Mold Total	Mold Violations per Bldg
<b>Round 9</b>	22	203	9.2	70	3.2	47	2.1	10	0.5
<b>Round 10</b>	12	80	6.7	26	2.2	35	2.9	8	0.7
<b>Round 11</b>	8	98	12.3	22	2.8	19	2.4	14	1.8
<b>Round 12</b>	3	51	17	26	8.7	7	2.3	0	0

**IV. COST EFFECTIVENESS**

This section presents information on the cost of the AEP program (personnel costs and Repair/Utility/System Replacement costs), fees and recoupments. Over \$100 million has been recouped over the life of the program, which has spent approximately \$50 million on repair/utility/system replacements and \$40 million on personnel. However, the cost effectiveness of the program is not just a straight dollars and cents comparison. AEP was expected to deter future building deterioration and encourage ongoing building owner compliance and projected savings associated with these preventative strategies are difficult to calculate. It is also not possible to calculate the deterrent effect on other properties who addressed conditions to avoid participation in AEP. Most importantly, it is impossible to calculate the benefits to tenants whose physical and mental health improved along with the conditions in their homes.

**Personnel**

In Fiscal Year 2020, AEP had 43 staff, including Housing Inspectors, technical staff, community coordinators and administrative staff, at a cost of approximately \$2.9 million per year (approximately \$4.4 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.

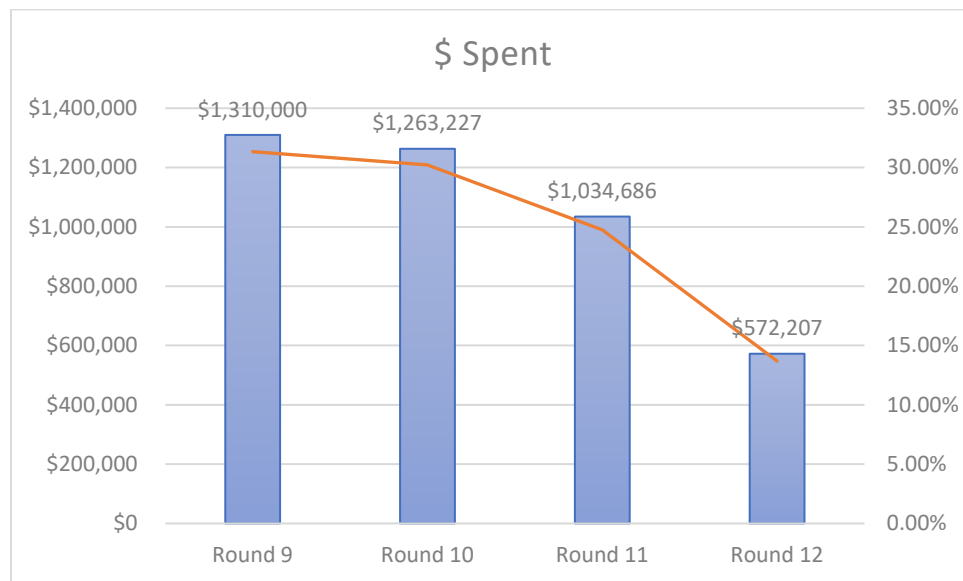
Community coordinators ensure that outreach to property owners is a constant process, guiding property owners through compliance requirements. Community coordinators also work to keep all parties informed about upcoming work and process buildings for discharge.

**Emergency Repairs, Provision of Utilities and System Replacements**

As of January 31, 2020, HPD has spent over \$49.9 million on repairs, utilities and system replacement work on buildings in AEP. Money continues to be spent on buildings active in the program regardless of the round, well beyond the expected timeline for spending. However, overall spending on system replacements and repairs has decreased for buildings each round, which reflects the increasing number of buildings discharged during the initial four months (prior to the issuance of an order), the decrease in the number of small buildings (which more often requires HPD to complete the system replacement and to pay for utilities even in the early rounds) and the generally better condition of the average building entering the program.

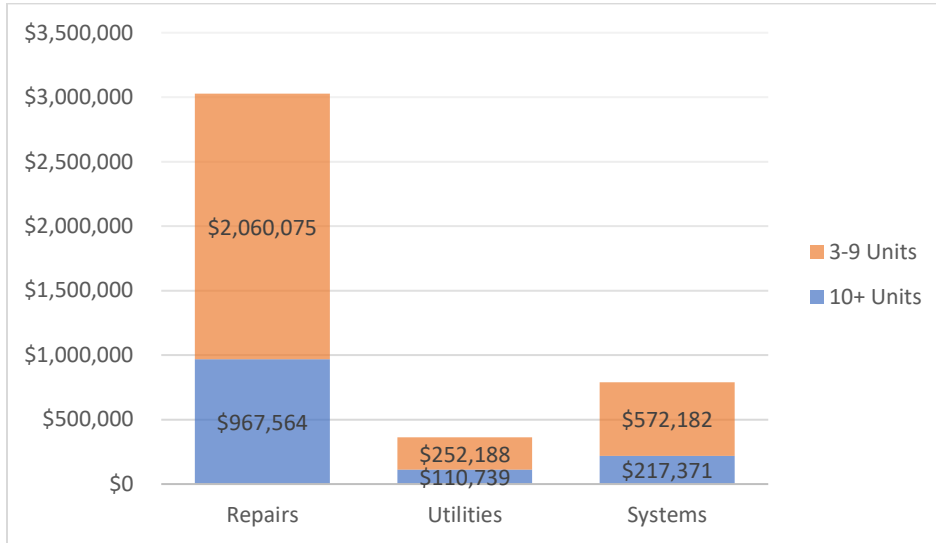
Over \$4.1 million dollars was spent on emergency repairs, utilities and system replacements for buildings in rounds 9 through 12. System work for Rounds 11 and Round 12 buildings is still in progress and the final expenditures are expected to level off at Round 10 levels.

**CHART 8: TOTAL REPAIR, UTILITY AND SYSTEM REPLACEMENT EXPENDITURE, ROUNDS 9-12**



HPD has spent the most money since the start of AEP in 3-5 unit and 6-9 unit buildings. For Rounds 9-12, 22% of all expenditures have been in 3-5 unit buildings and 47% have been spent on 6-9 unit buildings, accounting for more than \$2.8 million and 70% of overall expenditures as of January 31, 2020.

**CHART 9: EXPENDITURES BY BUILDING SIZE AND TYPE OF EXPENDITURE, ROUNDS 9-12**



**System Replacements**

Since the start of AEP, 3,458 systems were identified as needing replacement. Including both active and discharged buildings, 1,736 systems have been addressed by property owners and 820 by the AEP program.

For rounds 9 through 12, 695 systems have required work. Of those, 340 systems were repaired by owners and 59 systems by HPD thus far.

**CHART 10: AEP ORDERS TO CORRECT: SYSTEMS REQUIRING REPLACEMENT, ROUNDS 9-12**

<b>System Replacement</b>						
	Round 9	Round 10	Round 11	Round 12	Total	% of Total
Perform Integrated Pest Management Throughout	40	49	31	23	143	20.58%
Pointing	39	33	30	21	123	17.70%
Replace Apt Entrance Doors	28	26	22	17	93	13.38%
Replace Defective Floor Joists Throughout	25	28	3	2	58	8.35%
Replace Domestic Water Supply	12	18	9	6	45	6.47%
Replace Fire Escape or provide 2nd Egress	8	15	8	7	38	5.47%
Replace Floor Covering in Apts	19	10	3	2	34	4.89%
Replace Floor Covering in Public Areas	6	13	3	4	26	3.74%
Replace Gas Distribution System	9	7	5	4	25	3.60%
Replace Gas Meters & Gas Distribution System	7	13	3	1	24	3.45%
Replace Heat Distribution System	4	8	2	3	17	2.45%
Replace Heating Plant	6	3		2	11	1.58%
Replace Hot Water Heater	4	3	3	1	11	1.58%
Replace Interior Staircase	7	1		2	10	1.44%
Replace Roof	8		1		9	1.29%
Replace Waste Lines	8				8	1.15%
Replace Water Main	4	1	2	1	8	1.15%
Replace Windows	3	2	1		6	0.86%
Re-Wire Entire Building	3	1			4	0.58%
Upgrade Electric System & Re-Wire	1				1	0.14%
Waterproof Exterior Walls				1	1	0.14%
<b>Total</b>	<b>241</b>	<b>231</b>	<b>126</b>	<b>97</b>	<b>695</b>	

**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, 2020, HPD has imposed \$17.5 million in fees and collected \$14.2 million in fees.

**CHART 11: FEES IMPOSED BETWEEN PROGRAM INCEPTION AND 1/31/2020**

<b>FEE TYPE</b>	<b>TOTAL</b>
Initial Re-inspection Fee	\$7,450,000
Six Month Program Fee	\$7,132,500
AEP Complaint Inspection Fee	\$2,903,800
False Certification Fee	\$46,500
<b>Total</b>	<b>\$17,532,800</b>

**Recoupment**

All costs, including the system replacements, repairs and utilities (and the respective administrative fee) are billed to the owner through DOF. If the charges remain unpaid, interest accrues, and they become tax liens against the property. AEP buildings may become eligible for the City’s tax lien sale (TLS) or Third-Party Transfer (TPT) program due to these costs.

**CHART 12: COSTS RECOVERED (ERP AND AEP)\***

	<b>Expenditure Type</b>					<b>TOTAL</b>
	<b>ERP Charges (Pre-AEP)</b>	<b>AEP Charges (TOTAL)</b>	<b>AEP System Replacement</b>	<b>AEP Non-System Replacement</b>	<b>AEP Fees</b>	
<b>Round 1</b>	\$3,631,657	\$11,612,244	\$4,120,573	\$7,491,671	\$1,545,600	\$16,789,501
<b>Round 2</b>	\$3,245,130	\$13,415,543	\$5,208,226	\$8,207,317	\$1,748,158	\$18,408,831
<b>Round 3</b>	\$3,037,963	\$7,595,307	\$2,658,872	\$4,936,435	\$1,278,017	\$11,911,287
<b>Round 4</b>	\$3,854,259	\$5,352,025	\$1,523,679	\$3,828,346	\$1,332,252	\$10,538,536
<b>Round 5</b>	\$2,418,811	\$4,431,785	\$1,286,312	\$3,145,473	\$1,222,391	\$8,072,987
<b>Round 6</b>	\$5,048,644	\$2,434,484	\$674,624	\$1,759,860	\$1,511,791	\$8,994,919
<b>Round 7</b>	\$5,113,929	\$1,966,733	\$481,004	\$1,485,729	\$1,357,167	\$8,437,829
<b>Round 8</b>	\$3,548,423	\$3,485,785	\$1,683,576	\$1,802,209	\$1,538,064	\$8,572,272
<b>Round 9</b>	\$1,684,587	\$1,006,036	\$121,291	\$884,745	\$1,434,573	\$4,125,196
<b>Round 10</b>	\$1,171,249	\$440,552	\$83,067	\$357,485	\$698,789	\$2,310,590
<b>Round 11</b>	\$1,628,960	\$53,979	\$0	\$53,979	\$553,651	\$2,236,590
<b>Round 12</b>	\$54,703	\$212,926	\$0	\$212,926	\$141,012	\$408,641
<b>TOTAL</b>	<b>\$34,438,315</b>	<b>\$52,007,399</b>	<b>\$17,841,224</b>	<b>\$34,166,175</b>	<b>\$14,361,465</b>	<b>\$100,807,179</b>

\*Costs recovered includes accrued interest in addition to actual AEP expenditures.

## **V. RECOMMENDATIONS**

AEP continues to be effective in improving living conditions for thousands of New Yorkers every year. When addressing larger buildings, buildings with active property owners, and buildings with systemic issues, AEP pushes property owners to be responsive and make repairs or systemic improvements using its combination of fees, inspections and Orders. AEP's challenge continues to be compliance among smaller properties.

Recommendations to improve the program include:

- **Building Selection**
  - Exclude buildings for consecutive rounds if the building was vacant upon discharge (since these building will often continue to meet the criteria for selection and have no occupied units). This will require a change to AEP's Rules.
- **Extend Initial Compliance Period for Small Buildings**
  - The lack of professional management resources, greater financial challenges and other factors may point to a greater need for assistance for landlords of small properties. One consideration to address this problem may be to allow an extension of time for compliance without the additional penalties associated with the issuance of the AEP Order if the owner participates in HPD's Landlord Ambassadors Program (see HPD's website for additional information about this program). This will require a legislative change and a commitment to fund Landlord Ambassadors to work with these owners.
- **Mold and Vermin**
  - Work practices and affidavits for mold and vermin defined in AEP have now been eclipsed by those in Local Law 55 of 2018. It would be beneficial to require the work practices in Local Law 55 requirements instead of having a separate requirement for AEP. This will simplify the process for owners regarding mold and vermin. This will require a legislative change.
- **Reduce the length of time in the program for larger buildings**
  - Allow an additional \$1000 per dwelling unit fee for each year after the issuance of the initial inspection fee that a building with more than 9 units remains in the program. A change to HPD's Rules would be required to implement this change.

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<sup>i</sup> These numbers reflect the sum of all the buildings selected each round. Since a building can be in multiple rounds, this is not a count of distinct buildings.