

## **Alternative Enforcement Program – Year 17**

### **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.

The AEP selects buildings on/about January 31 each year based on criteria for open HPD violations per dwelling unit and outstanding Emergency Repair Program charges (ERP), as detailed in the Department Rules.

- 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 and filing for a Dismissal Request inspection of those violations,
  - paying outstanding ERP charges or entering into a payment agreement with the Department of Finance (DOF),
  - filing a current and valid property registration 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 and/or a requirement to conduct integrated pest management according to Department of Health and Mental Hygiene (DOHMH) requirements, in addition to the repair of violation conditions.
- 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, 2024, the following data reflects the program results since program inception.

### **Buildings Selected**

- 3,637 buildings with 55,350 units have each gone through at least 12 months of AEP<sup>i</sup>.

### **Buildings Discharged**

- 3,015 buildings with 45,896 units have been discharged from AEP.
  - 2,630 buildings were discharged for compliance with the requirements of the program. Of those 2,630 buildings:
    - 1,616 buildings were discharged after meeting the requirements of AEP prior to the issuance of an AEP Order.
    - 1,014 buildings were discharged after complying with the AEP Order and paying fees.
  - 385 buildings were discharged for other reasons:
    - 254 buildings were discharged after they were vacant for at least one year.
    - 49 buildings were discharged to HPD's 7A Program, which provides interim management for distressed buildings.
    - 43 buildings were discharged because HPD completed the building system work.
    - 39 buildings were discharged for other reasons

### **Cost Effectiveness**

- 2,696 building systems in 941 buildings were replaced. Of those 2,696 building systems:
  - 1,880 system replacements were completed in 678 buildings by property owners.
  - 816 system replacements were completed in 329 buildings by HPD.
- HPD has spent over \$62.2 million on repairs, utilities, and system replacement work through DOF. Of that \$62.2 million:
  - \$45.3 million was spent providing utilities and conducting repairs.
  - \$16.9 million was spent completing building system repairs/services.
- Over \$27 million has been imposed in AEP fees.
- Approximately \$73 million has been collected in AEP charges and fees.<sup>1</sup>

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<sup>1</sup> Collection amounts include administrative fees and sales tax billed to property owners related to the emergency repair processes (repairs, utilities and system replacements), but do not include any interest collected.

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

The AEP program is designed to address buildings which exhibit recent poor physical condition and which are consumers of HPD's emergency repair program to ensure that critical repairs for immediately hazardous conditions are being addressed. Historically, AEP has been found to be most effective as an enforcement tool for relatively large buildings which have the resources to address the underlying conditions and where the property owners are not making resources available or providing regular maintenance. AEP is not as effective when addressing small properties or properties without the resources to obtain financing for major system replacements.

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. Since Round 9, the following criteria have been used:

### ***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 issued 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.

Buildings which are the subject of a rehabilitation loan from HPD or the Housing Development Corporation are excluded from selection.

Based on the above criteria, buildings with poor physical conditions and high emergency repair usage continue to be selected for AEP.

**CHART 1: BUILDINGS SELECTED (Rounds 12-16)<sup>2</sup>**

	Round 12	Round 13	Round 14	Round 15	Round 16
Total buildings	250	250	250	250	250
Total units	4,600	5,401	4,684	5,104	4,881
Avg number of units per building	18.4	21.6	18.7	20.4	19.5
Total B & C Violations	29,120	32,109	32,858	31,263	31,509
Total B & C Violations- Look-back Period	25,458	29,450	29,349	27,897	28,137
Average B & C Violations per Unit- Look-back Period	5.5	5.5	6.3	5.5	5.8
Bldgs with Open HPD Comprehensive Litigation	57	48	38	41	46
Past Due ERP Balance- Look- back Period (Millions)	0.92	1.16	2.11	2.06	3.28

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

### **Discharged Buildings**

The criteria for discharge of occupied buildings should ensure that conditions for tenants improve 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. Data supports the determination that the criteria for discharge appropriately allows for the discharge of buildings that have taken steps to improve conditions at the buildings. More than 80% of buildings discharged from each round are not selected again for a subsequent round of AEP.

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.<sup>3</sup> After this initial period, buildings become subject to an AEP Order to Correct ("AEP Order"), periodic inspections, and inspection fees. In addition to owner compliance, there are other reasons for discharge allowed during the AEP Order period.<sup>4</sup>

<sup>2</sup> Data for buildings selected in Rounds 1 through 11 can be found in Appendix A.

<sup>3</sup> If a property is selected for AEP again after a previous discharge, AEP may consider taking Immediate Action on the property to inspect for an issue an Order to Correct.

<sup>4</sup> Buildings may be discharged during either period if data used to select the building was incorrect ("administrative discharge").

### **Discharge during the initial four-month period**

Discharge within the initial period requires that the owner:

- Correct, under permit or using required work practices, as provided by law:
  - 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.

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. As detailed in the last report, buildings generally 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 beyond the one-year period 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.

1,616 buildings have been discharged from AEP because the property met the criteria for compliance based on the initial four-month period criteria.

### **Discharge after an AEP Order is issued**

Once the initial period passes, buildings that remain in AEP become subject to roof-to-cellar inspections, an AEP Order, and inspection fees. If HPD determines that there are systemic issues causing violations in a building, the AEP Order will reflect which system(s) need to be replaced.

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

- The owner has complied with the Orders to Correct ("Compliance") and all other requirements applicable during the initial period.
- 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).

#### Discharge for owner compliance

Of the buildings issued an Order, 1,014 buildings have been discharged because the property met the criteria for compliance. Almost 70% of buildings discharged after the issuance of an order required system replacement work/integrated pest management (accounting for approximately 2,000 building systems/integrated pest management plans) and about 30% did not require the replacement of any systems.<sup>5</sup> Among the buildings discharged for compliance, HPD may have performed some of the system work and may have performed emergency repairs when property owners failed to do so.

#### 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, 2024, 49 buildings were discharged because a 7A Administrator had been appointed. This process has seen success in restoring buildings to habitable condition. Of the 49 buildings, 33 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. When considering whether an AEP building will result in a beneficial 7A appointment, the building must be able to sustain itself with the income of the rent roll.

#### 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 254 vacant buildings discharged, 217 (85%) buildings had less than 6 dwelling units.

#### Discharge due to work completed by HPD

If HPD completes all the system replacement work and meets substantial compliance, HPD may discharge the building once work is completed by HPD. 43 buildings were discharged due to work completed by HPD. 38 of the 43 buildings required system replacement work that was completed by AEP. These 38 buildings are small buildings (average of 4 units).

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<sup>5</sup> Prior reports considered the timing of the compliance discharge to group buildings into discharged in the initial four month period or post the issuance of an order. For this report, we considered whether or not an order was issued to group the buildings.

## Active Buildings

As of January 31, 2024, AEP was monitoring 622 buildings that were active in the program prior to the selection of Round 17 buildings. AEP repair work or system replacement work is still planned or in progress at these buildings, and more than 90 buildings have active litigation initiated by the Housing Litigation Division based on an AEP referral seeking compliance with the AEP order. Historically, HLD has initiated over 300 cases based on an AEP referral, obtaining civil penalties and orders to correct in 65% of the cases.

Some of the active buildings face significant financial problems or ownership/management challenges and continued enforcement measures are not likely to provide an appropriate long term solution. While AEP may be able to address the point in time physical conditions, doing so will only deepen the debt on the building and make it more difficult to ensure long term financial stability. This scenario too often reflects the predicament of Housing Development Fund Corporations that are selected for the program.

Chart 2 below reflects the outcomes of all buildings by Round. As expected, older rounds have fewer active buildings. Notably, of the 37 buildings active from rounds 1-5, only 2 buildings have more than 20 units. The number of buildings discharged in the initial four-month period also decreased significantly in Round 16, from a high of 164 buildings being discharged in the initial period in Round 13 to 99 in Round 16. HPD will continue to monitor this trend as reflecting that even larger buildings are struggling to complete enough repairs during the initial period to meet the discharge criteria.

**CHART 2: BUILDINGS DISCHARGED AND ACTIVE**

Round	Discharged - Owner Compliance			Discharged Other Reasons					Active as of 1/31/2024
	No Order Issued	AEP Order to Correct Issued	TOTAL	Vacant	7A Administrator	HPD Work completed	Other	TOTAL	
RD 1	28	111	139	37	9	11	3	60	1
RD 2	42	99	141	30	8	8	4	50	9
RD 3	52	102	154	31	4	3	3	41	5
RD 4	98	60	158	21	5	8	2	36	6
RD 5	71	76	147	23	2	10	2	37	16
RD 6	64	87	151	22	4	2	3	31	18
RD 7	82	64	146	16	0	1	1	18	23
RD 8	107	85	192	22	4	0	3	29	29
RD 9	126	77	203	10	5	0	4	19	28
RD 10	138	64	202	12	1	0	0	13	35
RD 11	138	59	197	11	3	0	3	17	36
RD 12	156	39	195	6	0	0	0	6	49
RD 13	164	26	190	3	3	0	1	7	53
RD 14	111	41	152	4	1	0	7	12	86
RD 15	140	21	161	6	0	0	0	6	83
RD 16	99	3	102	0	0	0	3	3	145

### **III. COST EFFECTIVENESS**

This section presents information on the cost of the AEP program (personnel costs and Repair/Utility/System Replacement costs), fees and recoupments. 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**

As of January 2024, AEP had 41 staff, including Housing Inspectors, technical staff, community coordinators and administrative staff, at a cost of approximately \$3.1 million per year (approximately \$4.9 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**

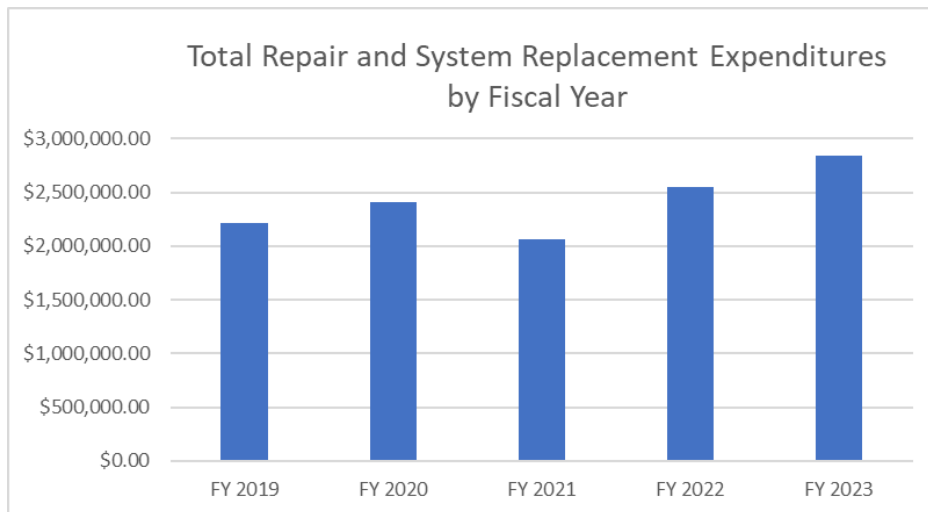
##### *Overall Expenditures*

As of January 31, 2024, HPD has spent over \$62.2 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. Approximately \$2 million in system replacements affecting Round 15 and Round 16 buildings is still in progress. Some of that work may be completed by property owners, but HPD expects to complete the majority of that work.

In Fiscal Years 2019 through 2023, AEP spent more than \$12 million making repairs and replacing building systems. During roughly that same period, about \$7 million dollars of that total amount was spent on emergency repairs and system replacements for buildings in rounds 12 through 16.

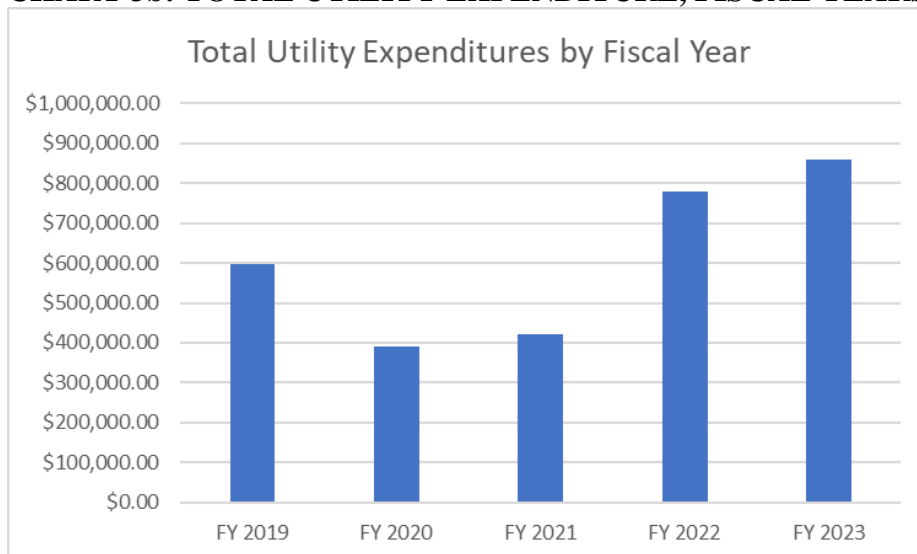


**CHART 3a: TOTAL REPAIR AND SYSTEM REPLACEMENT EXPENDITURE, FISCAL YEARS 2019-2023**



In Fiscal Years 2019 through 2023, AEP spent an additional \$3 million providing utilities.

**CHART 3b: TOTAL UTILITY EXPENDITURE, FISCAL YEARS 2019-2023**

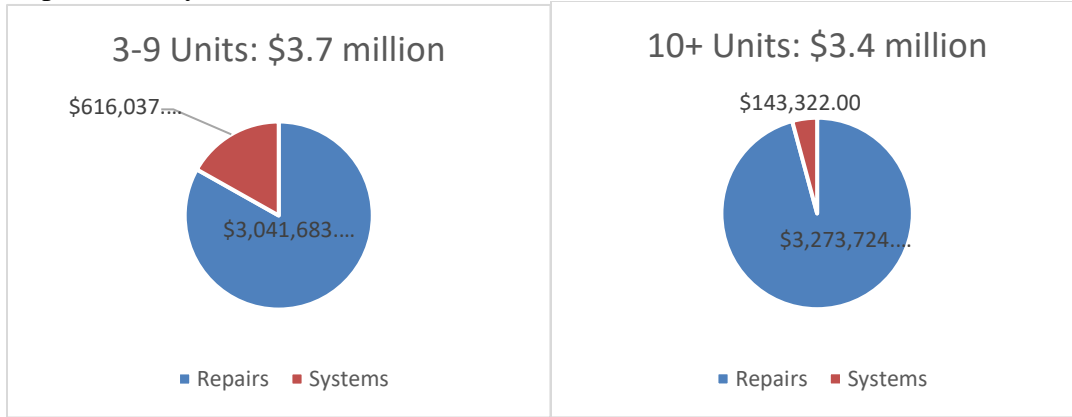


#### *Expenditure by Building Size*

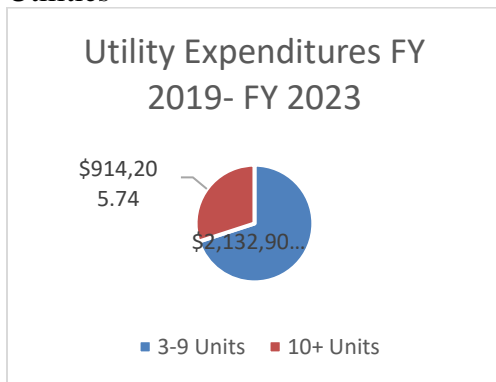
When examining expenditures by building size, it is important to note that HPD has spent the most money since the start of AEP in 3–9-unit buildings, indicating that the systemic issues in these buildings most often cannot be addressed by the property owners. For all Rounds, 78% of all expenditures are for 3-9 unit buildings. For the most recent rounds (rounds 12-16), 48% of emergency repair expenditures and 81% of system replacement expenditures have been in 3–9-unit buildings. In fiscal years 2019-2023, 70% of utility expenditures have been for 3-9 unit buildings.

**CHART 4: EXPENDITURES BY BUILDING SIZE AND TYPE OF EXPENDITURE, ROUNDS 12-16.**

Repairs and Systems



Utilities



***System replacement expenditures***

For these rounds, 334 buildings required at least one system replacement. 236 buildings did not have any systems for replacement on the Order to Correct; these buildings were still required to meet substantial compliance with violation correction and were required to address the other requirements for discharge. In general, the trend indicates that both more buildings and a higher percentage of buildings in more recent rounds require system replacement work.

## CHART 5: AEP ORDERS TO CORRECT: SYSTEMS REQUIRING REPLACEMENT, ROUNDS 12-16

System Replacement	Total						% of Total
	Round 12	Round 13	Round 14	Round 15	Round 16	Total	% of Total
Perform Integrated Pest Management Throughout	21	25	49	36	65	196	32.61%
Pointing	23	13	22	23	59	140	23.29%
Replace Roof	17	15	16	21	40	109	18.14%
Replace Waste Lines	6	1	2	4	17	30	4.99%
Replace Heating Plant	4	1	5	4	7	21	3.49%
Upgrade Electric System & Re-Wire	2	0	5	2	7	16	2.66%
Replace Gas Meters & Gas Distribution System	3	1	5	2	3	14	2.33%
Replace Apt Entrance Doors	7	0	1	3	2	13	2.16%
Replace Gas Distribution System	2	1	6	2	1	12	2.00%
Replace Windows	1	0	4	4	3	12	2.00%
Replace Domestic Water Supply	4	0	0	1	3	8	1.33%
Replace Hot Water Heater	1	1	1	1	3	7	1.16%
Re-Wire Entire Building	2	0	2	1	2	7	1.16%
Waterproof Exterior Walls	2	1	1	1	2	7	1.16%
Replace Heat Distribution System	0	0	1	1	3	5	0.83%
Replace Interior Staircase	1	0	0	0	1	2	0.33%
Replace Sprinkler System or provide 2nd Egress	0	0	0	0	1	1	0.17%
Replace Water Main	1	0	0	0	0	1	0.17%
Replace Defective Floor Joists Throughout	0	0	0	0	0	0	0.00%
Replace Fire Escape or provide 2nd Egress	0	0	0	0	0	0	0.00%
Replace Floor Covering in Apts	0	0	0	0	0	0	0.00%
Replace Floor Covering in Public Areas	0	0	0	0	0	0	0.00%
	97	59	120	106	219	601	

### 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, 2024, HPD has imposed **\$27.3** million in fees.

## CHART 6: FEES IMPOSED BETWEEN PROGRAM INCEPTION AND 1/31/2024

FEE TYPE	# of Fees	Total amount of fees imposed
Initial Re-inspection Fee	1,993	\$11,645,500
Six Month Program Fee	1,907	\$11,024,500
AEP Complaint Inspection Fee	22,748	\$4,549,600
False Certification Fee	952	\$95,200
<b>Total Fees</b>	<b>27,600</b>	<b>\$27,314,800</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, and may be enforced by the City. A total of almost \$109 million in AEP costs and fees have been billed. Over \$73 million (not including interest) has been recouped of AEP charges and fees that were billed. This includes collections of \$54.3 million of the \$81 million that was billed related to system replacements, repairs, and utilities and \$18.8 million of the \$27 million billed for AEP fees.

## CHART 7: CHARGES AND FEES BILLED AND COLLECTED BY TAX YEAR<sup>6</sup>

System Replacements, Repairs, and Utilities by Tax Year			AEP Fees by Tax Year		
Tax Year	Billed	Collected	Tax Year	Billed	Collected
2008	\$170,068	\$149,385	2008	\$0	\$0
2009	\$1,789,973	\$1,522,545	2009	\$1,114,300	\$967,510
2010	\$10,566,110	\$8,655,880	2010	\$1,391,854	\$1,226,811
2011	\$7,430,160	\$6,606,377	2011	\$1,033,136	\$887,178
2012	\$6,300,385	\$5,212,336	2012	\$673,900	\$597,753
2013	\$5,705,849	\$4,591,866	2013	\$1,219,100	\$1,028,069
2014	\$5,166,989	\$4,173,383	2014	\$1,493,400	\$1,308,869
2015	\$3,482,998	\$2,739,792	2015	\$1,335,253	\$1,199,275
2016	\$2,936,528	\$2,439,343	2016	\$1,510,225	\$1,328,760
2017	\$2,938,900	\$2,169,324	2017	\$1,771,432	\$1,612,833
2018	\$4,086,226	\$3,218,295	2018	\$1,573,655	\$1,421,111
2019	\$3,720,553	\$2,956,348	2019	\$1,534,750	\$1,341,852
2020	\$5,114,859	\$3,257,249	2020	\$1,760,007	\$1,360,371
2021	\$3,783,888	\$1,804,350	2021	\$1,003,500	\$676,954
2022	\$4,153,236	\$1,515,501	2022	\$2,637,700	\$1,618,323
2023	\$5,582,467	\$2,081,895	2023	\$2,396,600	\$1,260,810
2024	\$5,053,356	\$1,118,183	2024	\$3,062,300	\$940,214
2025	\$3,676,678	\$69,923	2025	\$1,702,100	\$37,258
	<b>\$81,659,221</b>	<b>\$54,281,976</b>		<b>\$27,213,212</b>	<b>\$18,813,950</b>

<sup>6</sup> The amount collected is what was collected during the indicated tax year, and includes collections for amounts billed during previous tax years.

#### **IV. 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. 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.

In addition, 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 the Department of Health and Mental Hygiene (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.

## **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 and buildings with significant underlying financial issues.

Notwithstanding the general effectiveness of the program, there are several recommendations to improve the program including:

- Modifications to Building Selection criteria
  - Exclude violations which require only paperwork compliance (such as violations which have been observed to have been corrected but require documentation; these violations do not reflect current poor conditions) or which still are within the certification period from the calculation to determine whether the building qualifies for AEP.
  - Exclude buildings owned by Housing Development Fund Corporations. These properties, which in general have deep financial distress in addition to the physical distress, require a different type of intervention to put them back on the road to physical and financial health. A new program should be designed to address the particular needs of these properties.
- Modifications to Discharge Criteria
  - Allow HPD to discharge HDFCs already in the program if there are no required system replacements or once required system replacement work is completed by HPD. Again, continuing to keep these properties in AEP is not valuable because enforcement is not the appropriate solution for these properties. A program which allows the properties to go through a loan or foreclosure process is more appropriate.
  - Allow HPD to discharge a building (regardless of time in AEP) if a preservation loan closes. Currently, HPD can only exclude a building from selection if there has been a recent preservation loan closing or the loan closes within the first months of inclusion in the program.
- Allow HPD to prescribe by rule a process for alternative criteria relating to substantial compliance, including, but not limited to, where an owner provides documentation demonstrating an inability to gain access to the dwelling unit where the violation occurs, or such other portion of the buildings as might be necessary to make the repair, and provides documentation as required by the department to demonstrate such inability to gain access. HPD would be required to verify that access is being denied through attempts to coordinate such access with the tenant.
- Allow inspection fees related to ongoing monitoring to continue to be billed after the initial inspection/monitoring fee. Allow HPD to determine by rule additional inspection fees for each year after the issuance of the initial inspection fee that a building with more than 9 units remains in the program. This fee would cover an annual full building reinspection, which may lead to an AEP Order being amended with additional system replacements.
- Extend the Initial Compliance Period for Small Buildings and provide funding to support the Landlord Ambassadors Program (a pilot of which has already ended) or similar program to support these property owners. 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 the HPD's Landlord Ambassadors Program. This will require a legislative change and a commitment to fund Landlord Ambassadors to work with these owners.

## **V. LOOKING AHEAD**

Round 17 for the Alternative Enforcement Program was selected on January 31, 2024 and, preliminarily, the round includes a significant number of larger properties than AEP has selected previously. By the numbers, there is a significant increase in both the number of residential units included in the round and the number of violations at those buildings. All 250 buildings met the initial criteria for selection; this is the first time since the establishment of the two-tiered criteria that this has occurred. HPD may need to increase the resources dedicated to this program in order to continue to maintain the program adequately and may be submitting a new needs request based on the outcome of the initial four-month period and whether a high proportion of buildings with significant needs remain in the program.

HPD appreciates that new resources are being made available to property owners, such as the resumption of the J-51 tax abatement program pending Council's approval, resources related to Local Law 97 on climate related improvements and through initiatives like the Homeowner Help Desk for smaller properties. However, additional interventions targeted to improve/assist with general building health and reducing costs for properties – including efforts aimed at reducing insurance costs and controlling the costs of new legislation – are recommended in order to assist buildings to return to stable financial health. The AEP is an enforcement program that will only succeed in protecting tenants from poor living conditions under the assumption that owners have the financial ability to make the necessary repairs and maintain their properties adequately.

## APPENDIX A

CHART 1: BUILDINGS SELECTED (Rounds 1-11)

	Round 1	Round 2	Round 3	Round 4	Round 5	Round 6	Round 7	Round 8	Round 9	Round 10	Round 11
Total buildings	200	200	200	200	200	200	187	250	250	250	250
Total units	1,362	1,768	1,476	3,339	2,373	2,552	2,700	3,473	3,704	3,963	3,970
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
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
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
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
Bldgs with Open HPD Comprehensive Litigation	67	63	67	57	47	42	45	60	76	78	81
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

<sup>i</sup> This summary reflects 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.