

THE ALTERNATIVE ENFORCEMENT PROGRAM: 5 YEAR REPORT: 2007 – 2012



NYC
Department of
Housing Preservation
& Development

THE CITY OF NEW YORK
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DEPARTMENT OF HOUSING PRESERVATION
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STATEMENT BY COMMISSIONER MATHEW M. WAMBUA

The core mission of the Department of Housing Preservation and Development is to preserve and create affordable housing throughout New York City. And that means ensuring that our existing housing stock remains strong and healthy.

The quality of this housing is the result of many factors, but the City's investments in code enforcement, emergency repair loans, and other preservation loans have played an important part in strengthening neighborhoods. Through new efforts like the Proactive Preservation Initiative that encompass a number of housing preservation initiatives including the Alternative Enforcement Program (AEP), HPD continues to improve upon the concept and breadth of the Mayor's New Housing Marketplace Plan. AEP was adopted by the City Council and signed into law by Mayor Bloomberg in 2007. As a critical component in the City's ongoing and concerted effort to address substandard conditions where they exist, AEP uses multiple tools to focus pressure on the owners to bring their properties up to code.

While building conditions in many New York City multi-family rental buildings are very good, the reality is that there are still families who live in blighted buildings, facing the prospect of coming home every day to conditions that are detrimental to their health and well-being. HPD's role is to identify those buildings that are at risk and put them on the road to recovery. AEP targets City resources to where they can have the most immediate impact – on buildings that need repair most urgently.

More than 1,000 buildings have been selected for AEP as of July 2012.

All indicators show AEP is working as intended. As described in detail in this report, as of January 31, 2012, 800 buildings with 7,945 units have gone through at least one full year of AEP.

- A total of 424 of those 800 buildings, with 5,278 residential units, have met criteria to merit being discharged from the program.
 - In those buildings, more than 67,000 violations have been dismissed.
- Owners of 216 buildings, with 3,785 units, have responded to AEP designation by correcting violations, paying ERP charges and filing registrations within four months of being in the program.
- An additional 141 buildings were discharged after complying with an AEP Order to Correct underlying building system issues and paying additional fees.
- 111 building systems have been replaced in 49 buildings by the property owners at an investment of approximately \$2 million.
- 250 building systems have been replaced in 139 buildings by HPD, at a cost of approximately \$9 million.
- Overall, HPD has spent \$23.5 million making repairs and providing basic utility services for these 800 properties.
 - Approximately \$20 million has been collected by the City in ERP and AEP charges and fees.

To date, the results of Round 5, which started on January 31, 2012, look promising. Of the 200 buildings in this round, 72 have been discharged as of July 2012 and HPD is in the process of issuing Orders to Correct to those buildings that remain under AEP's umbrella.

This report offers not only some information about how the program has functioned, but recommendations for ways we hope to continue to improve it. Speaker Quinn and the Council have been key partners in supporting HPD's efforts to craft additional legislation that strengthen and compliment the agency's Housing and Maintenance Code enforcement operations, and we appreciate their continued support.

-Mathew M. Wambua

INTRODUCTION

Under the New York City Housing Maintenance Code, all residential property owners are required to maintain their buildings in a safe and habitable condition. Residential property owners must respond to violations issued by the Department of Housing Preservation and Development (HPD) with appropriate repairs and certification of those repairs. If the property owner fails to correct emergency conditions, HPD has the authority to correct the conditions and bill the property owner. In Fiscal Year 2006, HPD spent \$17 million at 8,934 properties conducting repairs for emergency conditions through the Emergency Repair Program (ERP); 573 buildings accounted for 50% of this spending. In Fiscal Year 2007, HPD spent \$17 million at 9,181 properties; 532 buildings accounted for 50% of this spending. Recognizing this concentration of distressed properties, HPD and the City Council together crafted a program to focus resources on distressed buildings. The new program was intended to address the root of housing maintenance problems in buildings with serious physical deterioration and create an incentive for all multiple dwelling owners to properly maintain their property, correct (and certify as corrected) all violations in a timely manner, file annual registration statements and pay emergency repair charges.

Local Law No. 29 of 2007, passed by the New York City Council and signed into law by Mayor Michael R. Bloomberg, created the Alternative Enforcement Program (“AEP”). This law went into effect on November 11, 2007. Property owners of buildings selected for the program have four months after a building is identified to correct violations, pay outstanding ERP charges and register the property as required. If the owner doesn’t meet these requirements at the end of the four month period, AEP conducts building-wide inspections, imposes fees and may issue an Order to Correct (“Order”) for extensive repair and system replacement work to correct violations and related underlying conditions. The fees were designed to cover the estimated costs of the administration of the intense monitoring that is part of the AEP. The AEP statute also provides HPD with the specific authority to take action to repair the underlying conditions if the owner fails to do so.

Local Law No. 7 of 2011, which amended AEP, was signed into law by Mayor Bloomberg on January 13, 2011. The amendments went into effect on January 31, 2011. Changes to the program include adjustments to the selection criteria that consider the building size, additional criteria to discharge a building from the program and the ability to accept a Department of Finance payment agreement rather than immediate full payment of ERP charges. The amended law also calls for the addition of a “Healthy Homes” component to the program, specifically identifying work practices related to the correction of mold and vermin violations.

As required by Local Law 7, HPD must produce a report by July 31, 2012 analyzing the following aspects of the Alternative Enforcement Program:

- The effectiveness of the criteria for inclusion and the criteria for discharge;
- Compliance levels for discharged buildings;
- The cost effectiveness of the program, including the amount of fees collected;
- Whether the monitoring undertaken by the department is appropriate; and
- The implementation of the new requirements to address mold and vermin violations.

AEP SUMMARY AND RECOMMENDATIONS

As of January 31, 2012, 800 buildings¹ with 7,945 units have gone through at least one full year of AEP. As of that date, 424 buildings with 5,278 units have been discharged from the program. Owners of 217 buildings, comprising 3,846 units, have responded to being in the program by correcting violations, paying ERP charges and filing registrations prior to the issuance of an Order. An additional 140 buildings were discharged after complying with the AEP Order and paying additional fees. One hundred eleven system replacements have been completed in 49 buildings by the property owners at an investment of approximately \$2 million, and 250 systems have been replaced in 139 buildings by HPD, at a cost of approximately \$9 million. HPD has spent \$23.5 million conducting repairs in these buildings, over the first four rounds of the program. Approximately \$20 million has been collected in ERP and AEP charges and fees. The most recent round of AEP began on January 31, 2012 – these buildings are not part of the analysis presented throughout this document.

AEP does seem to be having an effect on the spending of ERP in multi-family dwellings, although the exact effect is difficult to quantify. One way to measure the impact is the reduction in the percentage of ERP spending on multi-family properties, especially considering that 2007-2012 was a period of time when it was likely that the stock would have continued to deteriorate given economic conditions. ERP spent \$17 million in FY2011 in 9,190 buildings, which is about the same as the ERP spending from FY2007. However, about 650 buildings now account for 50% of the spending (the spending is distributed over a larger number of buildings; fewer “big” ERP spenders). Almost 33% of those buildings where HPD is spending a significant amount of ERP dollars are 1-family and 2-family dwellings. By contrast, in FY2006, that number was only 10% of the spending from the top 50% of the buildings was in 1-family and 2-family dwellings. One-family and 2-family buildings are not affected by either AEP or the City’s Tax Lien Sale, giving HPD very few tools to address the growing percentage of ERP spending on these tenanted buildings.

HPD’s experience administering to this difficult portfolio of troubled buildings and the data presented here indicate that the program can be effective in improving conditions, especially for larger properties. Owners of large properties generally respond quickly and effectively to the threat of penalties and Orders. However, the program is not as effective for small buildings for a number of reasons, including:

- Small buildings are disproportionately affected by foreclosure, meaning that they are without the resources to respond with either violation correction or payment of open charges and liens.
- Smaller buildings have smaller profit margins and lower reserves.
- Smaller buildings have less professional ownership and management.
- The economic penalties, which are the “big stick” of AEP, only serve to further burden small buildings and make discharge more difficult.

HPD’s recommendations for AEP include:

- Limiting the number of small (under 6 unit) buildings.
- Modifying the criteria for inclusion in the program to reflect existing distressed buildings.
- Continuing to monitor the effect of the mold and vermin criteria on the long term health of the buildings.
- Allowing an exemption from AEP for buildings that qualify but have received HPD or Housing Development Corporation (HDC) loans within the last two years and allowing AEP to administratively discharge any buildings that receive an HPD or HDC loan within the pre-Order period of AEP (first four months).
- Allowing HPD discretion to include AEP buildings in the tax lien sale, even if they meet the criteria for mandatory exclusion.
- Discharging buildings that remain in AEP for more than two years to Division of Neighborhood Preservation (DNP) monitoring.

HPD continues to consider new tools to deal with small buildings, buildings that remain in AEP for extended periods, and distressed buildings that have not yet reached the threshold for AEP before they become AEP buildings.

¹ For Rounds 1-4 there are 4 buildings that have been in two rounds. Since this analysis for most purposes is through 1/31/2012 (RD’s 1-4) the resulting differences with regard to analysis and conclusions are insignificant.

SECTION 1: THE EFFECTIVENESS OF THE CRITERIA FOR INCLUSION AND DISCHARGE

Criteria for Inclusion

AEP was intended to be a program focusing enforcement activity on distressed buildings. The goal of the criteria was to target up to 200 buildings in the city where the increased monitoring and enforcement action of HPD could have the biggest impact to improve conditions.

From the start, AEP was successful in identifying buildings in poor condition that required extensive work. However, the majority of the property owners failed to comply with AEP requirements despite the significant program fees levied upon failure to comply. In Rounds 1, 2 and 3, HPD's experience was that enforcement action was unsuccessful for many small buildings because 1) there was no owner, 2) buildings were in foreclosure, and/or 3) the small buildings were already too deeply in debt to be able to leverage the amount of money needed to pay off the existing liens (a requirement for discharge). This section explores the initial criteria, the relationship between intake and discharge, the changes made to the selection criteria for Rounds 4 and 5 and the impact of those changes.

Rounds 1, 2 and 3

In Round 1 and Round 2, the selection criteria for AEP was:

- 27 or more open class B (hazardous) & C (immediately hazardous) violations issued in the past 2 years, AND
- a ratio of five 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.

For Round 3, the criteria changed slightly such that a building only needed to have 25 or more open class B & C violations issued in the past 2 years to be considered for selection, instead of 27.

For Rounds 1, 2 and 3, the top 200 buildings with the highest ratio of open class B & C violations per DU issued in the past 2 years were selected for participation.² The sorting methodology resulted in the vast majority of buildings selected being small buildings in Brooklyn and the Bronx.



² Properties that were the subject of an in rem foreclosure action by the City were excluded from selection.

CHART 1: BUILDINGS AND UNITS DISTRIBUTION IN AEP ROUNDS 1-3 BY BOROUGH AND BUILDING SIZE

Borough	Unit Range	Round 1		Round 2		Round 3		TOTALS	
		# of Bldgs	# of Units	# of Bldgs	# of Units	# of Bldgs	# of Units	# of Bldgs	# of Units
Manhattan	ALL	9	87	5	77	6	108	20	272
	3 - 5	3	10	0	0	0	0	3	10
	6 - 9	3	21	2	18	1	8	6	47
	10 - 19	2	32	1	14	3	47	6	93
	20+	1	24	2	45	2	53	5	122
Bronx	ALL	52	549	62	859	60	633	174	2,041
	3 - 5	28	88	26	93	35	124	89	305
	6 - 9	9	71	10	77	8	64	27	212
	10 - 19	7	103	11	148	5	70	23	321
	20+	8	287	15	541	12	375	35	1,203
Brooklyn	ALL	132	690	121	782	128	712	381	2,184
	3 - 5	72	253	63	220	67	229	202	702
	6 - 9	54	363	47	312	52	342	153	1,017
	10 - 19	6	74	3	44	8	117	17	235
	20+	0	0	8	206	1	24	9	230
Queens	ALL	6	33	11	46	6	23	23	102
	3 - 5	1	3	9	32	5	17	15	52
	6 - 9	5	30	2	14	1	6	8	50
	10 - 19	0	0	0	0	0	0	0	0
	20+	0	0	0	0	0	0	0	0
Staten Isl	ALL	1	3	1	4	0	0	2	7
	3 - 5	1	3	1	4	0	0	2	7
	6 - 9	0	0	0	0	0	0	0	0
	10 - 19	0	0	0	0	0	0	0	0
	20+	0	0	0	0	0	0	0	0
All Boroughs	ALL	200	1,362	200	1,768	200	1,476	600	4,606
	3 - 5	105	357	99	349	107	370	311	1,076
	6 - 9	71	485	61	421	62	420	194	1,326
	10 - 19	15	209	15	206	16	234	46	649
	20+	9	311	25	792	15	452	49	1,555
AVERAGE BLDG SIZE		6.81		8.84		7.38		7.68	

For buildings discharged between November 11, 2007 and January 30, 2011, compliance in the pre-Order period meant that the following conditions were satisfied:

- All (100%) violations relating directly to heat and hot water (excluding signage and access to boiler room) were corrected.
- 80% of class B and class C violations were corrected.
- Property registration was current and valid.
- All outstanding charges, including liens, for emergency repair work performed by HPD were paid.

After the four month period, in order to be discharged for compliance, the building must additionally comply with the AEP Order, which may list the systems that require replacement.

By the beginning of Round 3, HPD had concerns about the issues surrounding Round 1 and 2 buildings. Despite the intense monitoring, outreach and fees, at the end of the four-month period for Round 3 (March 2010), only 26 Round 1 and 41 Round 2 buildings had been discharged pre-Order and 29 Round 1 and 8 Round 2 had been discharged post-Order. One hundred forty-three buildings from Round 1 and 151 buildings from Round 2 were still active. Since these buildings were still active, AEP continued to monitor the buildings frequently and respond to all complaints from tenants, in effect making AEP responsible for the day to day issues that arose at the buildings. AEP was not designed to be a building maintenance program, yet AEP was becoming a de facto property manager of hundreds of small buildings. Again, the goal of AEP was to get building owners to responsibly take control of their buildings and penalize those who failed to do so quickly. HPD requested a change to the selection criteria to shift AEP's portfolio to larger buildings, hoping to see an improvement in the program's effectiveness.

Rounds 4 and 5

With the amendments made to Local Law No. 29 by Local Law No. 7 of 2011, the criteria for Rounds 4 and 5 changed. Buildings for Rounds 4 and 5 were selected based on the following criteria:

- For buildings ≥ 3 and < 20 DUs, a ratio of 5 or more open class B & C violations per DU issued in the past 2 years, AND \$2,500 in ERP charges paid or unpaid incurred in the past 2 years.
- For buildings ≥ 20 DUs, a ratio of 3 or more open class B & C violations per DU issued in the past two years, AND \$5,000 in ERP charges paid or unpaid incurred in the past two years.

The top 200 buildings with highest paid or unpaid ERP charges incurred in the past two years were selected.³

These changes resulted in more buildings from Manhattan and the Bronx being included and in a significant increase in the size of buildings selected, especially for Round 4.

³ Buildings meeting the following criteria were excluded from selection for Rounds 4 and 5 as per Local Law 7:

- Properties that are currently the subject of an in rem foreclosure action by the City
- Properties that were the subject of an in rem foreclosure judgment in favor of the City and transferred to a third party within the prior five years
- Properties subject to a proceeding brought by HPD seeking the appointment of a 7A Administrator
- Properties subject to a court order appointing a 7A administrator

CHART 2: BUILDINGS AND UNITS DISTRIBUTION IN AEP ROUNDS 4-5 BY BOROUGH AND BUILDING SIZE

Borough	Unit Range	AVG of RDs 1-3		Round 4		Round 5		TOTALS	
		# of Bldgs	# of Units	# of Bldgs	# of Units	# of Bldgs	# of Units	# of Bldgs	# of Units
Manhattan	ALL	6.7	90.7	23	560	21	571	44	1,131
	3 - 5	1.0	3.3	1	3	0	0	1	3
	6 - 9	2.0	15.7	1	8	2	17	3	25
	10 - 19	2.0	31.0	7	90	4	50	11	140
	20+	1.7	40.7	14	459	15	504	29	963
Bronx	ALL	58.0	680.3	70	1,783	56	989	126	2,772
	3 - 5	29.7	101.7	21	71	24	80	45	151
	6 - 9	9.0	70.7	7	51	9	72	16	123
	10 - 19	7.7	107.0	5	65	4	50	9	115
	20+	11.7	401.0	37	1,596	19	787	56	2,383
Brooklyn	ALL	127.0	728.0	99	953	107	735	206	1,688
	3 - 5	67.3	234.0	42	142	52	177	94	319
	6 - 9	51.0	339.0	38	262	44	295	82	557
	10 - 19	5.7	78.3	3	42	5	66	8	108
	20+	3.0	76.7	16	507	6	197	22	704
Queens	ALL	7.7	34.0	7	27	14	51	21	78
	3 - 5	5.0	17.3	6	21	12	39	18	60
	6 - 9	2.7	16.7	1	6	2	12	3	18
	10 - 19	0.0	0.0	0	0	0	0	0	0
	20+	0.0	0.0	0	0	0	0	0	0
Staten Isl	ALL	0.7	2.3	1	16	1	3	2	19
	3 - 5	0.7	2.3	0	0	1	3	1	3
	6 - 9	0.0	0.0	0	0	0	0	0	0
	10 - 19	0.0	0.0	1	16	0	0	1	16
	20+	0.0	0.0	0	0	0	0	0	0
All Boroughs	ALL	200	1,535.3	200	3,339	200	2,373	400	5,712
	3 - 5	103.7	358.7	70	237	89	299	159	536
	6 - 9	64.7	442.0	47	327	57	396	104	723
	10 - 19	15.3	216.3	16	213	13	166	29	379
	20+	16.3	518.3	67	2,562	41	1,512	108	4,074

AVERAGE BLDG SIZE

7.68

16.70

11.87

14.28

Effective January 31, 2011, owners of active AEP buildings have to meet the following additional requirements for discharge within the pre-Order period and post-Order period:

- Correct 100% of 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 all violations related to vermin.
- Pay all outstanding charges, including liens, for ERP work performed by HPD or enter into an agreement with the Department of Finance to pay such charges and liens.

Given the Round 4 distribution of buildings by size, HPD expected that the number of violations addressed and the number of buildings discharged within the first four months would increase, even given the additional criteria for discharge.

In fact, the number of buildings discharged within the first 4 months of the program increased significantly for Round 4. Almost as many buildings – with more than a thousand additional units affected – complied within the pre-Order period of Round 4 (98 buildings with 2,529 units) as in Rounds 1, 2 and 3 combined (119 buildings with 1,317 units). Between January 31, 2011 and January 31, 2012, 58 buildings (21 Round 1, 15 Round 2, 21 Round 3 and 1 Round 4) were discharged for compliance after the AEP Order was issued.

The selection for Round 5 again seemed to be trending towards smaller buildings, which AEP has had less success with overall. In response, HPD is reassessing the criteria for selection, which will be discussed later in this report.

Discharge - Criteria and Analysis

Discharge Before an Order to Correct is issued

As of January 31, 2012, 217 buildings from all Rounds were discharged from AEP for complying with the above requirements before an Order was issued.

Buildings that have been discharged from AEP before an Order was issued have been disproportionately larger buildings. Depending on the round, only 5%-20% of 3-5 unit buildings were discharged in this period. In contrast, 33%-85% of 20+ unit buildings were discharged in this period. Overall, buildings discharged pre-Order reduced the number of open class B and class C violations by approximately 90%.



CHART 3: BUILDINGS THAT COMPLIED BEFORE AN ORDER WAS ISSUED BY ROUND AND BUILDING SIZE

ROUND	UNIT RANGE	# of Buildings	% of buildings of the same size in the round	Avg BC Viol at Selection	Avg BC Viol at Discharge	BC Violations at Selection	BC Violations at Discharge
RD 1	3 - 5	6	6%	20.9	2.6	481	59
	6 - 9	13	18%	24.2	3.0	2,398	301
	10 - 19	4	27%	17.7	2.5	971	139
	20+	3	33%	18.5	2.7	2,615	387
RD 2	3 - 5	8	8%	13.8	1.0	385	29
	6 - 9	14	23%	17.5	2.1	1,677	205
	10 - 19	6	40%	16.3	1.8	1,222	137
	20+	13	52%	14.6	2.1	5,095	720
RD 3	3 - 5	20	19%	19.8	2.2	1,406	158
	6 - 9	21	34%	15.2	1.8	2,141	254
	10 - 19	5	31%	13.0	1.7	869	112
	20+	6	40%	10.1	1.4	1,735	243
RD 4	3 - 5	9	13%	12.2	1.6	379	50
	6 - 9	23	49%	15.2	2.0	2,517	326
	10 - 19	9	56%	13.2	1.2	1,699	151
	20+	57	85%	6.7	0.8	14,658	1,688
		217		10.5	1.3	40,248	4,959



Local Law No. 29 requires that the buildings discharged before an Order to Correct is issued be monitored quarterly for up to one year from discharge. The purpose of this monitoring is to ensure that the building remains stable. The monitoring is conducted by HPD's Division of Neighborhood Preservation (DNP). DNP generally works with owners to assist them in identifying and addressing building issues before enforcement action is required. In the case of AEP, DNP staff conduct physical inspection, data monitoring of the properties, and outreach to owners if they identify that buildings that are sliding back into disrepair or into debt with the City.

AEP has referred 217 discharged buildings with 3,846 units to DNP for monitoring.

CHART 4: REFERRED FOR DNP MONITORING

Round	# of Buildings	# of Units
Round 1	26	318
Round 2	41	548
Round 3	52	451
Round 4	98	2529
TOTAL	217	3846

All buildings referred for monitoring receive an initial survey of physical building conditions conducted by DNP field staff. DNP supervisors routinely review the results of building surveys, variance in the violation counts, and the building's ERP balance at the Department of Finance to monitor the building's stability. If the building survey results in a rating of "poor" or "fair minus" or if the violation counts increase, owner outreach is performed. Owners are encouraged by staff to correct violations and pay their ERP charges. If an owner is not cooperative, a referral may be made to the Housing Litigation Division (HLD) to review the building for comprehensive litigation.

Although DNP is only required to monitor the buildings for a year, DNP continues to perform some level of monitoring of these buildings beyond the one year period. As of June 2012, 86% of the buildings monitored are currently stable. These buildings have an average of 1.35 open class B and class C violations per unit. More than half of the buildings continued to improve under DNP monitoring. 53% of the buildings currently have fewer open violations than at discharge. Seventy three percent (73%) of the stable buildings have maintained or achieved a \$0 ERP balance at the Department of Finance. Of the 51 buildings with an ERP balance, 39% (20 buildings) were discharged with an active payment agreement to pay the charges. Of the remaining buildings, the average ERP balance for buildings with three or more units and fewer than 21 units is under \$1,000. The average ERP balance for buildings with 21 or more units is approximately \$1,700.

Not all buildings have maintained the post-AEP level of violations or emergency repairs throughout the period. 31 of the 217 buildings (14.3%) referred for monitoring are currently at the point where there are five or more open B and C class violations per unit, despite DNP outreach and intervention attempts. Of the 31 which are not currently stable, HLD has initiated or completed comprehensive litigation on 13 buildings. Nine Round 1 and 2 buildings with five or more open B/C violations per unit have been referred to HLD for comprehensive litigation because the owners were unresponsive to DNP's attempts at outreach. Housing Court judges imposed approximately \$130,000 in civil penalties as a result of the litigation. Of the 20 buildings with more than five open class B and class C violations per unit monitored from Rounds 3 and 4, only four have been referred to HLD as of January 2012. Some owners are cooperating with outreach attempts by correcting violation conditions; DNP is performing inspections to verify owner compliance.

Fifteen of the 31 buildings which are currently not stable had some filing on record related to a foreclosure within the past 5 years. In total, 74% of the unstable buildings have been taken to housing court or have shown signs of financial distress. Of the remaining eight buildings, DNP is working with the owners of five buildings by performing mediation between landlord and tenants where there are access issues, verifying and monitoring the correction of violations and performing loan consultations. Roof to cellar inspections have been requested for two buildings and one building is active in AEP Round 5.

Comprehensive litigation had been successful in stabilizing 11 buildings identified as falling back into disrepair by DNP staff. As of June 2012, the number of open class B and class C violations in these buildings has decreased 63% since the referral to HLD. The average open class B and class C violations per unit decreased to 2.4 from 6.5. Nearly half of the buildings have fewer than five open class B and class C violations per unit as of June 2012.

CHART 5: DNP REFERRED TO HLD

Round	# of Bldgs	# Bldgs > 5 B/C DU	% of Total	# Referred to HLD	% Referred to HLD
Round 1	26	6	23%	6	100%
Round 2	41	5	12%	3	60%
Round 3	52	11	21%	2	18%
Round 4	98	9	9%	2	22%
TOTAL	217	31	14%	13	42%

Although the buildings were offered assistance by DNP and additional enforcement action was taken in housing court on some buildings, 10 buildings that were referred to DNP for monitoring were selected for additional rounds of the AEP program; nine buildings are still active in Round 5 and one building is still active in Round 4 as of June 2012.

Building financial issues are the main reason why many of these buildings are falling back into disrepair. In general, DNP's assessment is that the rental income of the properties is not sufficient to maintain the buildings in these cases.



Discharge After an Order to Correct is Issued

An additional 140 buildings have been discharged based on owner compliance with all requirements after an Order was issued.

The AEP program has issued 576 Orders to Correct for buildings in Rounds 1 through 4. 357 (62%) of the AEP Orders directed the correction of at least one system replacement and 219 (38%) of the AEP Orders directed the correction of general conditions in the building only. The following chart provides a breakdown of the type of work owners were ordered to correct for each round.

CHART 6: AEP ORDERS TO CORRECT: SYSTEMS REQUIRING REPLACEMENT

Order Item/System Replacement	Round 1	Round 2	Round 3	Round 4	Total	% of Total
Replace Roof	57	76	52	48	233	17.1%
General Conditions – No System Replacement	90	57	56	16	219	16.1%
Replace Floor Covering in Apts	38	19	12	37	106	7.8%
Pointing	20	16	21	35	92	6.7%
Replace Defective Floor Joists Throughout	0	24	15	38	77	5.6%
Replace Waste Lines	18	25	19	11	73	5.4%
Seal all Dumbwaiter Shafts	22	19	26	0	67	4.9%
Replace Domestic Water Supply	17	25	12	10	64	4.7%
Replace Floor Covering in Public Areas	37	6	11	8	62	4.5%
Paint All Apts & Public Areas	53	1	1	0	55	4.0%
Perform Integrated Pest Management Throughout	N/A	N/A	N/A	49	49	3.6%
Upgrade Electric System & Re-Wire	0	17	11	21	49	3.6%
Replace Apt Entrance Doors	15	16	6	11	48	3.5%
Replace Heating Plant	11	11	2	15	39	2.9%
Waterproof Exterior Walls	6	18	3	5	32	2.3%
Re-Wire Entire Building	1	11	13	4	29	2.1%
Replace Interior Staircase	9	6	2	5	22	1.6%
Replace Windows	6	4	4	5	19	1.4%
Replace Hot Water Heater	8	3	4	1	16	1.2%
Replace Heat Distribution System	0	4	0	1	5	0.4%
Replace Gas Distribution System	0	2	1	0	3	0.2%
Replace Gas Meters & Gas Distribution System	1	1	0	0	2	0.1%
Replace Fire Escape or provide 2nd Egress	1	0	0	0	1	0.1%
Replace Water Main	0	0	1	0	1	0.1%
	410	361	272	320	1363	

By far, the most common system needing replacement is the roof. Pointing and waste lines – other water related systems – were also among the most commonly cited building-wide systems needing replacement.

The distribution of buildings discharged 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).

CHART 7: BUILDINGS THAT COMPLIED AFTER AN ORDER WAS ISSUED BY ROUND AND BUILDING SIZE

ROUND	UNIT RANGE	# of Buildings	% of buildings of the same size in the round	Avg BC Viol at Selection	Avg BC Viol at Discharge	BC Violations at Selection	BC Violations at Discharge
RD 1	3 - 5	34	32%	26.6	2.0	3,087	233
	6 - 9	29	41%	27.4	2.7	5,232	522
	10 - 19	5	33%	17.2	1.3	1,239	96
	20+	3	33%	17.2	1.7	1,390	136
RD 2	3 - 5	17	17%	19.1	2.0	1,088	112
	6 - 9	18	30%	18.4	1.3	2,239	163
	10 - 19	2	13%	15.7	2.0	472	61
	20+	4	16%	12.9	1.6	1,761	315
RD 3	3 - 5	8	7%	18.5	1.0	572	31
	6 - 9	9	15%	18.1	1.2	1,049	70
	10 - 19	7	44%	15.0	1.6	1,697	182
	20+	3	20%	11.4	0.9	889	73
RD 4	3 - 5	1	1%	13.0	1.3	39	4
		140		18.0	1.7	20,754	1,998

On average, the buildings discharged after an Order was issued were not able to comply for more than two years. The smallest buildings remain in the program for the longest time before they are discharged.

CHART 8: AEP ROUND 1-4 BUILDINGS DISCHARGED FOR COMPLIANCE POST-ORDER, AVG TIME TO DISCHARGE⁴

UNIT RANGE	Bldgs Complying After Order	Average Months To Compliance
3 - 5	59	28.0
6 - 9	56	25.4
10 - 19	14	27.5
20+	10	21.6

⁴ * Note: Administrative discharges are not included. Buildings discharged as vacant for at least one year or discharged to 7A are counted as Do Not Comply.

Overall, pre-Order and post-Order, the smallest buildings are the least likely to comply and be discharged and the largest buildings are the most likely to comply and be discharged.

CHART 9: COMPLIANCE BASED ON BUILDING SIZE, ROUND 1-4⁵

UNIT RANGE	Comply Status as of 1/31/2012	# of Buildings	% of Buildings Complying
3 – 5	Comply	103	27.4%
	Do Not Comply	273	
6 – 9	Comply	127	52.7%
	Do Not Comply	114	
10 – 19	Comply	38	61.3%
	Do Not Comply	24	
20+	Comply	89	76.7%
	Do Not Comply	27	

Buildings can also be discharged for reasons other than compliance, as per the amendments to AEP. As of January 31, 2012, 16 buildings were discharged because a 7A Administrator had been appointed, five had been administratively discharged⁶ and 46 buildings were discharged because they were vacant for at least one year after being accepted into AEP and there was no active vacate order on the building (if it had more than five units).

Buildings Discharged with High Compliance

One hundred forty-four of the 357 buildings (40%) that were discharged for compliance had a greater than 90% compliance rate in regards to the requirement for a reduction in class B and class C violations. Of these 144:

- Half of the buildings either had a new owner, were vacant and/or underwent a significant rehabilitation while the buildings were in AEP.
- 49 buildings had 100% compliance rate. More than 75% of these either had a new owner, were vacant and/or underwent a significant rehabilitation while the buildings were in AEP.



⁵ Buildings can be administratively discharged if – after the building receives the initial notice – a data discrepancy is found and the building is not eligible for AEP. For example, charges appeared at DOF which had been paid or the building was a 1 or 2 family building, which is ineligible for the program.

⁶ Data from Property Shark was utilized for this analysis. The look-back period of approximately 7-10 years depending on the data was determined based on the increasing time that foreclosures remain in the New York State Court System, understanding that a foreclosure filing is an indicator of economic distress and building vitality that has both pre- and post-filing consequences.

SECTION 2: ACTIVE BUILDINGS

As of January 31, 2012, more than 30% of Round 1 buildings remain active.

CHART 10: AEP ROUND 1-4 BUILDINGS DISCHARGED AND ACTIVE AS OF JANUARY 31 2012 BY BUILDING SIZE

STATUS as of 1/31/2012	RD 1	RD 2	RD 3	RD 4	TOTAL
Active	68	98	111	99	376
Discharge-Compliance	97	82	79	99	357
Discharge-Other	35	20	10	2	67

One of the major factors that has affected compliance levels achieved by multiple dwellings is foreclosure. The effect of widespread foreclosure, the extent of which was just becoming known when AEP was being designed, was not anticipated. For Rounds 1-4, approximately 60% of all properties in AEP had some filing on record related to a foreclosure within the past 10 years. For small properties, almost 75% of all properties in AEP had a foreclosure filing.

CHART 11: COUNT OF BUILDINGS BY FORECLOSURE FILING STATUS, ROUNDS 1-4

UNIT RANGE	Total properties		Foreclosure Filing		No Foreclosure Filing	
3 - 5	381	48%	282	74%	99	26%
6 - 9	241	30%	120	50%	121	50%
10 - 19	62	8%	32	52%	30	48%
20+	116	15%	45	39%	71	61%
ALL BUILDINGS	800	100%	479	60%	321	40%



Even more telling is the difference between active AEP buildings and buildings that were discharged within the pre-Order period.

CHART 12: FORECLOSURE AND BUILDINGS BY STATUS AS OF JANUARY 31, 2012

	Foreclosure	Non-Foreclosure	% Foreclosure
Active	265	111	70%
Discharge Compliance Pre-Order	84	132	39%
Discharge Compliance Post-Order	75	66	53%
Discharge Other	55	12	82%

AEP's experience with mortgagees has not been a positive one. In cases where AEP staff was able to identify the mortgagee and find contact information for an individual, the mortgagee was generally unwilling or uninterested in being involved in the building maintenance. In the limited number of cases where the mortgagee was responsive, the following conditions existed:

- The buildings were large.
- Generally, more than one building was affected (multiple buildings in the same owner portfolio were in AEP).
- HPD had additional leverage to bring to the conversation, including HUD or Fannie Mae.

Given the recent passing of Local Law 4 of 2012, which requires mortgagees to record information regarding foreclosure activities with HPD beginning June 15, 2012, HPD should be able to at least identify the mortgagee for AEP buildings. Whether or not this will affect the mortgagee's willingness to intervene in AEP buildings remains to be seen.

Another indicator of financial distress is the City's Tax Lien Sale. Of the 376 active AEP buildings on January 31, 2012, 35 had liens sold in the 2011 Tax Lien Sale. This means that the owners could not pay the outstanding tax liens and/or there was no owner to enter into a payment agreement -these payment agreements require 0% down payment - with the Department of Finance. Thirty-one buildings were excluded from the 2011 Tax Lien Sale because they met the criteria for mandatory exclusion, the primary criteria of which is a lien to value ratio of over 15%.



SECTION 3: COST EFFECTIVENESS

AEP costs include personnel and repair costs. AEP imposes fees once a building is issued an Order. AEP also recoups repair costs and fees through the Department of Finance, including administrative fees for all work orders and interest on any charges or fees not paid in a timely manner.

Costs

Personnel

AEP has been staffed by approximately 37 staff since inception, including Housing Inspectors, technical staff, community coordinators and administrative staff, at a cost of approximately \$2.4 million per year. Housing Inspectors issue violations and conduct reinspections of corrected conditions. Technical staff issue Orders for system repair; issue work orders for repairs and system replacements to be done through agency-hired contractors; and monitor the work of both agency contractors and property owners. Community coordinators are the contact points for owners and tenants of AEP buildings, ensuring that outreach to owners is a constant process and that assistance is given whenever owners require guidance about how to comply with AEP requirements. Community coordinators also work to keep all parties informed about upcoming work and process buildings for discharge.

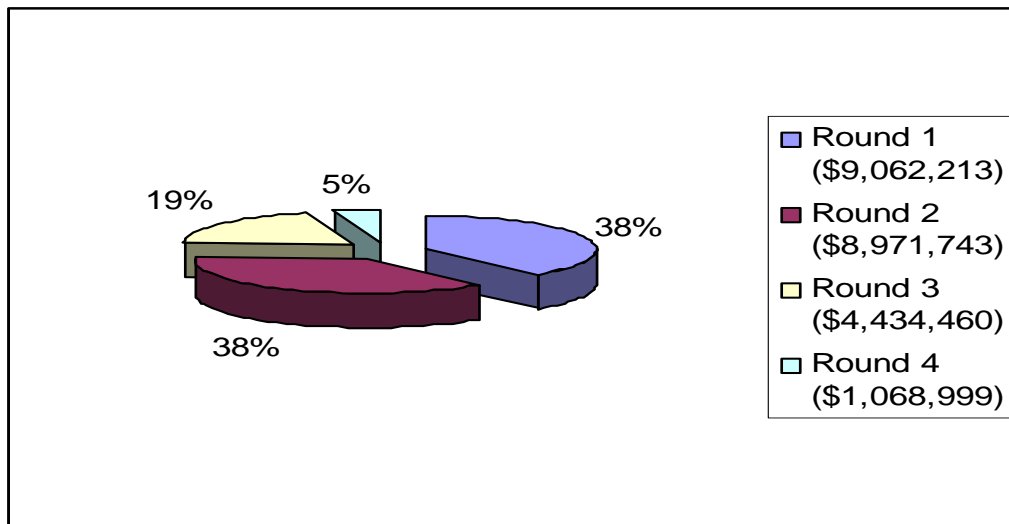
Emergency repairs and system replacements

As of January 31, 2012, \$23.5 million dollars was spent on emergency repairs and system replacements. The majority of the money was spent on Rounds 1 and 2, for a number of reasons:

- The most distressed buildings, by design, were in the earliest rounds.
- Round 1 buildings have spent the longest time in the program and still continue to incur costs, most specifically fuel and utility costs.
- Owners were not as responsive in the early rounds, perhaps as a result of the effect of foreclosure on the small buildings predominant in Rounds 1 and 2.
- HPD adapted and attempted new strategies to gain compliance from owners instead of immediately replacing systems, including:
 - Taking Housing Court comprehensive litigation actions on Orders when owners were present but resistant to complying.
 - Starting 7A actions.
- As mentioned above, significantly more buildings were discharged in the first four months in Round 4; therefore, more of the repairs were done by the owners and fewer buildings remained in AEP into the Order period.



CHART 13: TOTAL REPAIR AND SYSTEM REPLACEMENT EXPENDITURE BY ROUND (AS OF 1/31/2012)



Another factor that has proven significant to overall spending is building size. HPD has spent the most money overall in 3-5 unit and 6-9 unit buildings, almost 85% of the total money spent. Although there has been a high dollar expenditure, these repairs and system replacements in these small buildings affected only 41% of the overall units where HPD has had to do repairs or system replacements through ERP.

CHART 14: TOTAL REPAIR AND SYSTEM REPLACEMENT EXPENDITURE BY BUILDING SIZE (AS OF 1/31/2012)

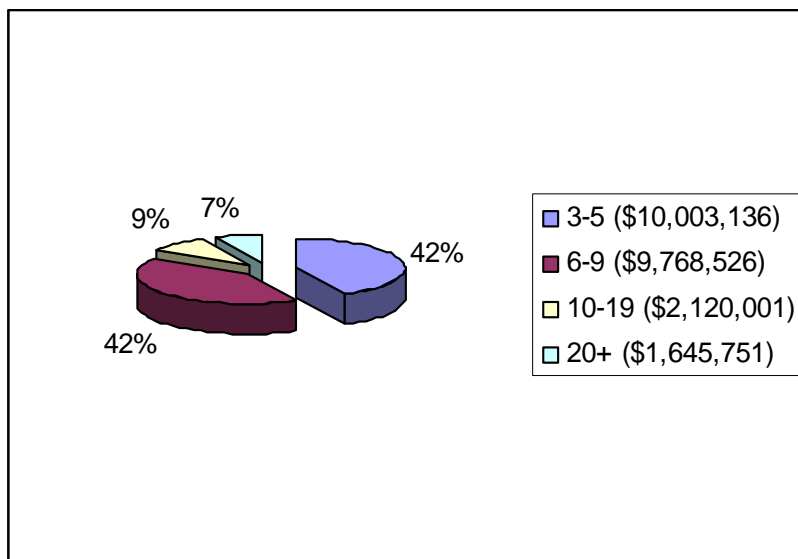
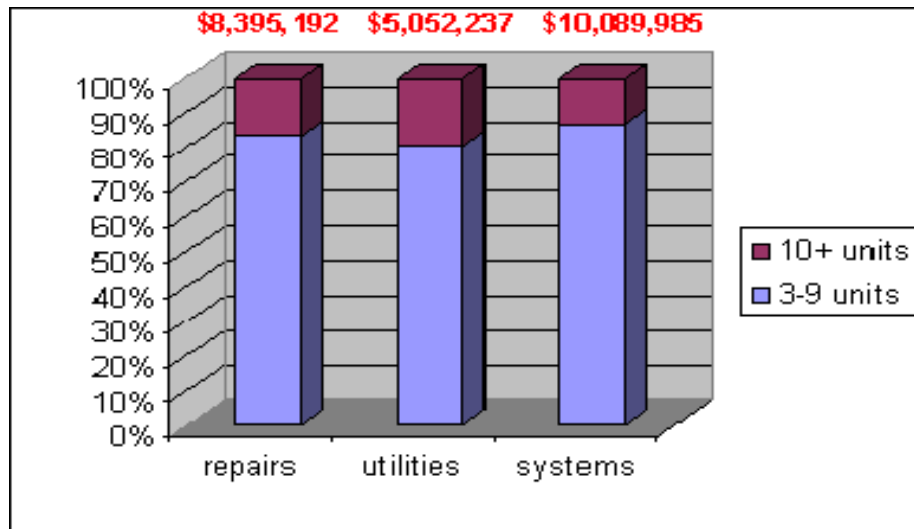


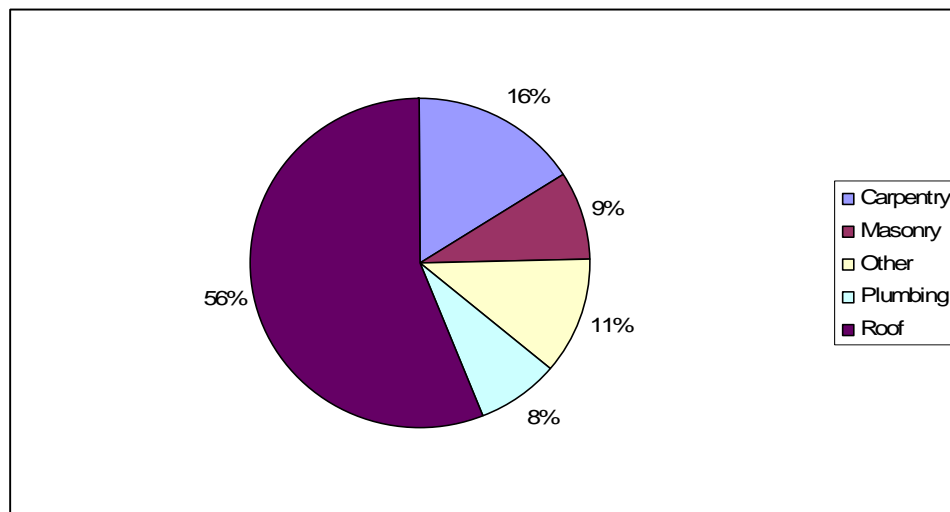
CHART 15: EXPENDITURES BY BUILDING SIZE (AS OF 1/31/2012)



System Replacements

HPD completed 250 system replacements in 139 buildings. Of HPD's system replacements, 56% of the dollars were spent replacing roofs in 119 buildings. 54% of those 119 buildings were 3-5 unit buildings and 33% of the buildings were 6-9 unit buildings.

CHART 16: HPD SYSTEM REPLACEMENTS BY TYPE



Utilities

The utility costs of \$5,052,237 were spent in 349 buildings. This cohort of buildings is particularly interesting to review, since they are most often the buildings with no responsible owner:

- Approximately 80% of all utility costs have been expended in buildings of fewer than 10 units.
- 304 of the buildings have been associated with a foreclosure filing or been sold a tax lien sale or been excluded from a tax lien sale as mandatorily distressed.
 - Of these 304 buildings, 89 (29.3%) are associated with *both* a foreclosure filing AND a tax lien sale.
- 236 buildings (67.6%) have remained active through 1/31/2012. (41 buildings have been discharged for reasons other than compliance.) Of the buildings that still remain active, 210 buildings (89%) have been associated with a foreclosure or a tax lien sale and account for \$3.3 million of the total utility expenditures. 89% (187 buildings) of this 210 property subset is comprised of buildings with less than 10 units. Given buildings size and their association to foreclosure and tax lien sale, one can only assume that the utility costs in at least a significant portion of this portfolio of Active buildings will continue to accumulate. The top 50 utility cost buildings account for 50% of the total utility cost expenditures.
- The top 50 utility cost buildings account for 50% of the total utility cost expenditures.
 - 42 buildings (84%) have fewer than 10 units.
 - 43 buildings (86%) have been associated with a foreclosure action.
 - 46 buildings (92%) have been associated with a foreclosure or a tax lien sale.
 - 20 buildings (40%) are associated with both a foreclosure filing AND a tax lien sale.
 - 9 buildings (18%) have had 7A Administrators appointed.
 - Only 3 buildings (6%) have reached compliance.

Fees

If the owner fails to have his/her building discharged in the pre-Order period, 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
- \$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 the Department of Finance for billing and collection.

As of January 31, 2011, HPD imposed \$4.6 million in fees. The complaint inspection fee, which can be imposed on a property any time after the Order is issued, continues to be imposed for Round 1 and Round 2 properties that remain active.

CHART 17: FEES IMPOSED

Fee Type	Fee Amount \$				
	RND 1	RND 2	RND 3	RND 4	Total
Complaint Inspection Fee	\$ 360,200	\$ 298,000	\$ 144,800	\$ 39,200	\$ 842,200
False Certification Fee	\$ 4,800	\$ 1,100	\$ 300	\$ 1,000	\$ 7,200
Initial Re-inspection Fee	\$ 535,000	\$ 627,000	\$ 496,500	\$ 393,500	\$ 2,052,000
Six Month Program Fee	\$ 505,000	\$ 612,000	\$ 482,500	\$ 165,500	\$ 1,765,000
	\$ 1,405,000	\$ 1,538,100	\$ 1,124,100	\$ 599,200	\$ 4,666,400

Recoupment

Overall, almost \$20 million has been recouped for AEP buildings. The \$2.5 million in fees collected, a little more than half of what has been billed, has not been sufficient to support the continued monitoring of buildings year after year. Initial staffing estimates assumed that – over time – fewer of each cohort's 200 buildings would remain in the program past the initial four month period as relatively less distressed buildings entered the program. Although HPD has been able to maintain the staff at near-initial program levels, the workload for each team has increased substantially as AEP basically maintains those buildings that do not have responsible owners.

CHART 18: DOLLARS RECOUPED

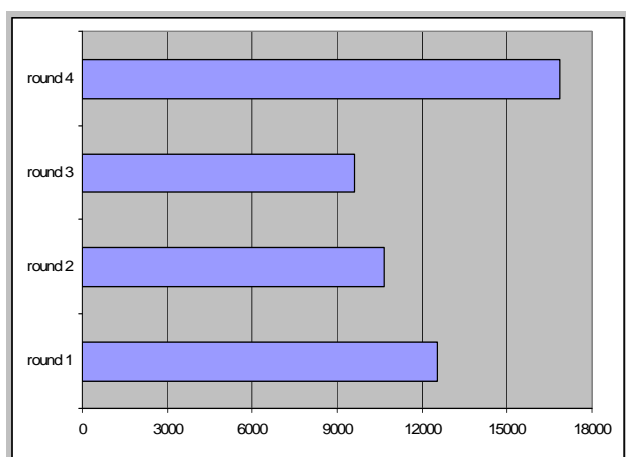
Expenditure Type	Amount Recouped (\$)				
	RND 1	RND 2	RND 3	RND 4	Total
ERP Charges (Pre-AEP)	\$2,713,103	\$1,878,760	\$1,783,785	\$1,461,843	\$7,837,491
AEP Charges	\$4,161,087	\$3,865,930	\$1,408,916	\$94,316	\$9,530,249
System Replacement	\$1,326,925	\$1,642,409	\$323,808	\$0	\$3,293,142
Non-System Replacement	\$2,834,162	\$2,223,521	\$1,085,108	\$94,316	\$6,237,107
AEP Fees	\$945,439	\$968,739	\$527,283	\$64,982	\$2,506,443
	\$7,819,629	\$6,713,429	\$3,719,984	\$1,621,141	\$19,874,183

Effectiveness

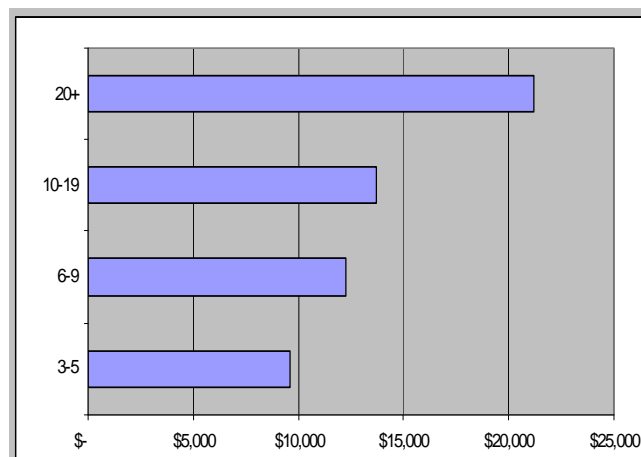
As an alternative to looking specifically at the expenditures made by AEP versus the recoupment of funds, another way to view the impact of AEP on the buildings included in the program is to review the ERP expenditures on those buildings prior to inclusion in AEP and post discharge.

CHART 19: AVERAGE ERP EXPENDITURES 2 YEARS PRIOR TO AEP PARTICIPATION

19a. By Round



19b. By building size



In the two years prior to selection for AEP, buildings that are now discharged for compliance had an average expenditure of almost \$12,000 in ERP. Buildings that are still active had an average expenditure of almost \$13,000. Notably, those buildings discharged as vacant or for other reasons had the highest ERP average expenditure, just over \$13,000. By Round and building size, unsurprisingly, Round 4 and larger buildings had significantly higher average ERP expenditures prior to selection for AEP.

In the time after compliance until January 31, 2012, 147 out of 356 (41%) discharged buildings have no post-AEP ERP. In the 2 years prior to AEP for these same 147 buildings, HPD spent over \$1.3 million in emergency repairs.

In 113 additional buildings (32%), less than \$1,000 has been spent in ERP.

The remaining 97 buildings have post compliance ERP expenditures of \$511,568.79, with most buildings only having a very small dollar amount of ERP expended compared with a pre-AEP cost of \$1.4 million.

CHART 20: POST COMPLIANCE BUILDINGS WITH ERP OF >\$1000

Expenditure Range	Buildings
\$1,000 - \$5,000	68
\$5,000 - \$10,000	15
\$10,000 - \$20,000	11
\$20,000 +	3
	97

The long term benefits of conducting system replacements as compared to just continuing to make repairs in buildings with systemic problems requires analysis over a longer period of time.



SECTION 4: MOLD AND VERMIN

As part of the amendments to AEP in 2011, new requirements pertaining to mold and vermin were added. In this section, we will review what the requirements are and how HPD has implemented them. At this point, given that there is only data from one year's implementation of the requirements, it is too soon to draw any conclusions regarding the effectiveness or impact of these requirements on the overall health of the buildings.

Mold

Mold (mildew), mushrooms, and yeast are all types of fungi. Fungi are found both indoors and outdoors. Hundreds of different kinds of mold are commonly found in the United States and New York City. Mold growth and dampness indoors has been associated with health effects such as wheezing, coughing, congestion, sneezing and worsening asthma. Mold can grow on wet building materials, such as sheetrock or plaster. Fixing leaks, drying damp areas, and removing humidity from the air are the primary ways recommended to prevent mold growth and keep it from coming back.

HPD issues violations for mold as a housing maintenance condition because the presence of mold indicates that the building has moisture problems that promote mold growth. Currently, HPD issues most mold violations as class A (non-Hazardous), class B (hazardous) or class C (immediately hazardous) violations, depending on the severity of the condition. If mold is cited as a class C condition, HPD may address the condition through the ERP. The violation for mold orders the landlord to "trace and repair the source and abate the nuisance consisting of mold" but does not provide any specific instructions or requirements for the treatment or removal of mold conditions since there are no legal requirements from either Center for Disease Control or the Department of Health and Mental Hygiene (DOHMH). Generally, DOHMH advises assessment of moisture conditions, the removal of the water source, removal of the moldy material using safe work practices, proper post-cleaning of the work area and worker protection measures.

Prior to January 31, 2011, all landlords could have the mold violations dismissed by certifying correction or by having a reinspection of the condition post-correction. Round 1-3 properties that have been discharged for compliance as of January 31, 2011 had a total of 867 mold violations (786 class B and 81 class C) entering AEP and an additional 216 (162 class B and 54 class C) mold violations written while in the program. By January 31, 2011, 96% of those violations were corrected.

Beginning January 31, 2011, AEP requires property owners to correct all mold violations by:

- Investigating and correcting identified moisture problems prior to or as part of the mold removal work;
- Removing, or securely covering with plastic sheeting, any difficult-to-clean surfaces or items in the immediate work area before mold removal work begins;
- Ensuring that all mold removal work is done in a manner that minimizes the dispersion of dust and debris from the work area into other parts of the dwelling;
- Removing and throwing away porous materials that contain mold growth and that cannot be cleaned, or materials that are saturated with water and that cannot be dried;
- Discarding any plastic sheeting, materials with mold growth, and used sponges, mop heads and cleaning wipe cloths in sealed heavy-duty plastic bags; and
- Cleaning any remaining visible dust from the mold removal work using wet cleaning methods or by HEPA-vacuuming and cleaning mold growth with soap or detergent and water, not bleach or other biocide solutions.

In addition to the above work practices, the owner must inform building occupants about commencement of mold removal work and provide building occupants with a copy of the DOHMH's brochure about mold and requiring, to the extent practicable, occupants to leave the work area before work begins.

When such mold removal work has been completed, the owner must:

- Document all corrective actions taken for identifying and repairing moisture sources and mold removal work methods that were used;
- Inform occupants of the building that if mold growth or moisture recurs they should inform the building owner; and
- Provide an affidavit to the department that such actions have been taken.

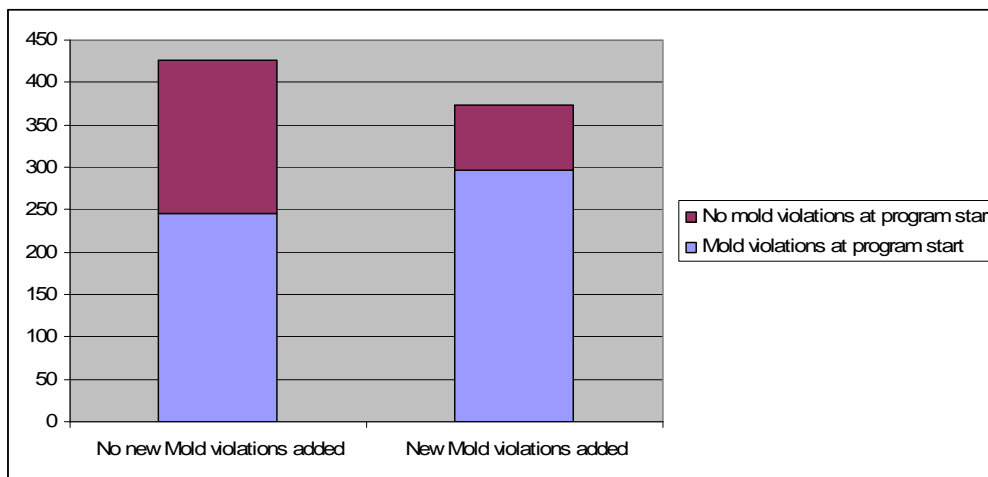
HPD must then inspect to confirm that the condition has been corrected.

The goal of all of these requirements is to ensure that the property owner addresses the mold condition without causing too much disturbance of the mold spores into the air, potentially affecting residents. HPD implemented these requirements by requiring an affidavit from the owner indicating that he/she has complied with the above requirements before any mold violations can be dismissed.

These requirements apply to all buildings discharged since January 31, 2011. As of January 31, 2011, there were 1,624 open mold violations, 1,392 class B and 232 class C, with 48% of those violations in Round 4 properties. Between January 31, 2011 and January 31, 2012, another 346 class B and class C violations were added to active properties. During this time, 131 properties were discharged for compliance. In these discharged properties, all of the class C violations were dismissed as well as 97% of the class B mold violations, exceeding the 80% mark required.

In Rounds 1-4, 621 buildings (77.6%) either had class B or class C mold violations to start or had mold violations issued during the program. New mold violations issued while buildings were in the program were most often issued to buildings which came into the program with pre-existing mold violations on records. Only 78 which did not already have existing mold violations were issued mold violations while in AEP. This would suggest that tenants are calling 311 with mold complaints in general when this condition exists.

CHART 21: ALL AEP BUILDINGS ROUND 1-4 WITH MOLD



Mold can be a local condition (leak or humidity in individual apartments) or it can be a condition which affects multiple apartments within a building. In 177 of the 620 buildings with at least one mold violation, 50% or more of the units were affected by mold; only 16 buildings of the 177 buildings had 10 or more units affected by mold. Most of the buildings with more than 50% of apartments affected by mold were small buildings with 3-6 units.

Analysis of the violations at the beginning of the rounds showed that the vast majority of mold violations pending were in the bathroom. This would suggest that the likely causes of the mold are:

- Poor ventilation; and
- Leaks at the plumbing chases.

CHART 22: MOLD VIOLATIONS FROM PROGRAM START BY LOCATION

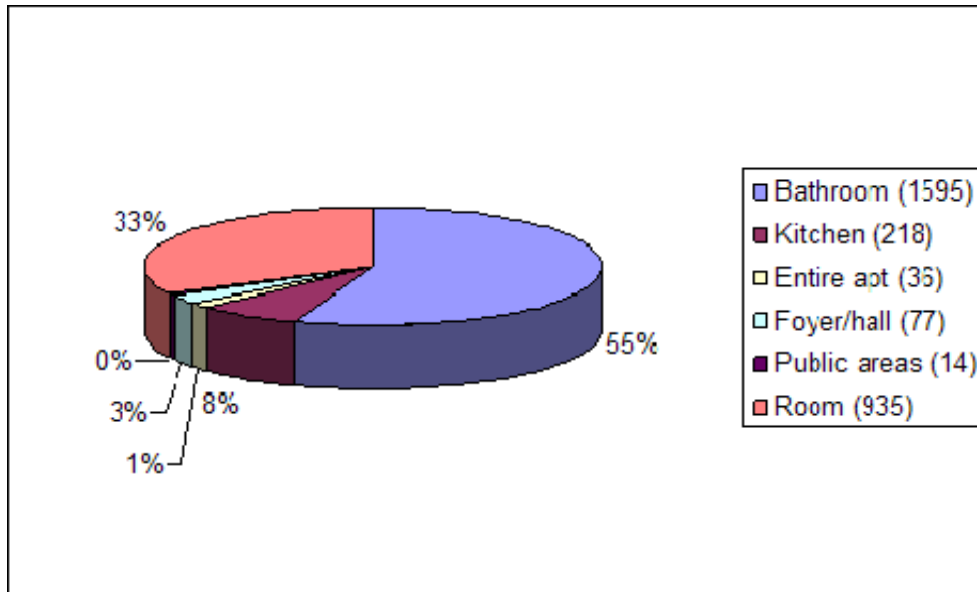
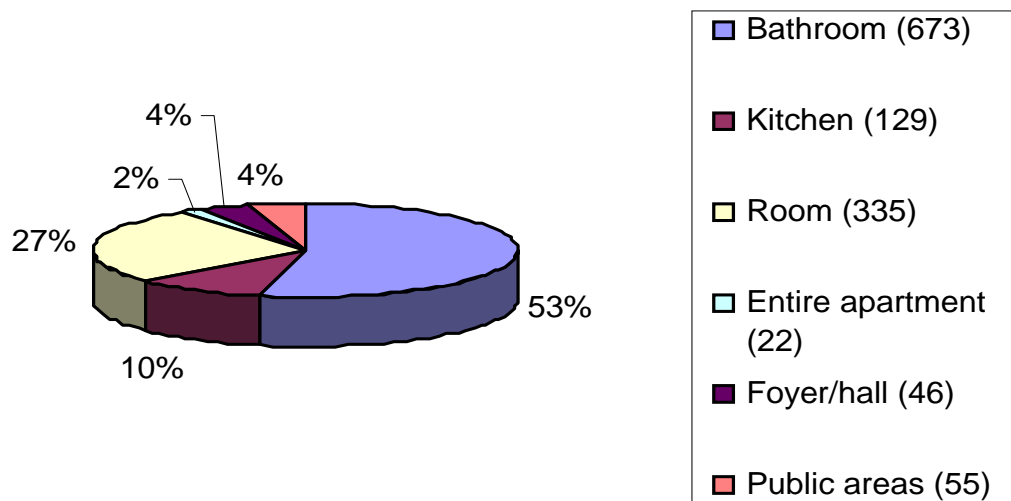


CHART 23: MOLD VIOLATIONS DURING PROGRAM PERIOD BY LOCATION



Two hundred twenty-nine of the 620 buildings (37%) with open mold violations at program start or open mold violations issued during the program period were ordered to perform system replacements to correct conditions that create favorable environments for mold growth. The following chart displays the number of AEP buildings ordered to perform this type of system replacement and the percentage of those buildings with mold conditions.

CHART 24: AEP ORDER ITEMS RELATED TO MOLD

AEP Order Item	# Bldgs	# Bldgs w/ Mold	% with Mold
Pointing	92	77	83.7%
Replace Domestic Water Supply	64	54	84.4%
Replace Roof	233	184	79.0%
Replace Waste Lines	73	59	80.8%
Waterproof Exterior Walls	32	29	90.6%

In 99 of the 229 buildings, HPD performed system replacements related to water, including roofs, masonry (pointing), and plumbing. Another 27 buildings had owners perform system work cited above. There were some differences in the properties where the owner did the work themselves. The buildings where the owner did the work were in better shape than the properties that HPD had contractors do the work - the extent of the mold was not as pervasive in properties where the owners did the system work. The median count for units affected by mold in the buildings where the repair was done by the owner was one in three. The properties where HPD contracted the work doubled that number with half of the units having mold violations.

The other big difference stemmed from properties leaving the program after complying with the program regulations. In buildings where the owner performed the work 85% (23/27) ultimately left the program. This is markedly higher than the 19% (19/99) where HPD was responsible for bidding the jobs to an outside contractor.

Between January 31, 2011 and January 31, 2012, HPD received 134 mold affidavits. 701 class B and 210 class C mold violations were closed between January 31, 2011 and January 31, 2012 in active AEP buildings. On January 31, 2012, Rounds 1-4 properties still active had 677 class B and 116 class C mold violations open, some of which may have already been addressed by AEP but not dismissed from the records.

Vermin

AEP as enacted in 2007 did not include any specific requirements with respect to vermin.

Round 1-3 properties that have been discharged for compliance as of January 31, 2011 had 2,992 vermin violations entering AEP and an additional 418 vermin violations written while in the program. Only 175 violations remained open at dismissal, a cure rate of 94.9%.

However, the amendments to the law in 2011 included requirements about how to correct vermin violations and requirements about the correction of vermin violations for discharge, again with the intent of reducing unhealthy housing conditions. The amendments rely heavily on integrated pest management (IPM) methodologies. The goal of IPM is to prevent conditions that promote pest infestations. Emphasis is given to sealing holes, cracks and crevices and eliminating sources of food and water. When pesticides are needed, safer application methods are encouraged.

Specifically, the owner of a building participating in the AEP is required to correct such violations after January 31, 2011 by:

- Eliminating conditions conducive to vermin infestation including, but not limited to, areas allowing access to vermin, leaking plumbing, and uncontained garbage and debris and eliminating sources of water and food for pests.
- Informing building occupants about the commencement of pest management treatment and providing occupants with a copy of DOHMH's brochure on controlling pests safely.
- Requesting that occupants support the pest management treatment by preparing the kitchen, bathroom and other areas as needed and that occupants be available to listen to advice on how to maintain pest-free conditions, including clean up, food storage, management of garbage, and selection of safer pest control products.
- Addressing such violations by utilizing pesticide applications or devices as permitted by state and federal law.
- Caulking and sealing small holes less than four inches in diameter, cracks and crevices in or in between walls, cabinets, floors, and in other locations where vermin may gain access. A HEPA-vacuum shall be utilized in kitchens and bathrooms, including in cracks, crevices and appliances in such rooms.

When such pest management work has been completed, such owner shall document all corrective actions taken to address vermin violations, including work methods and products used, provide information to occupants of the building about ways to control pests safely, inform building occupants that they should report recurrent or persistent pest problems to the owner, and provide a certification to the department that such actions have been taken.

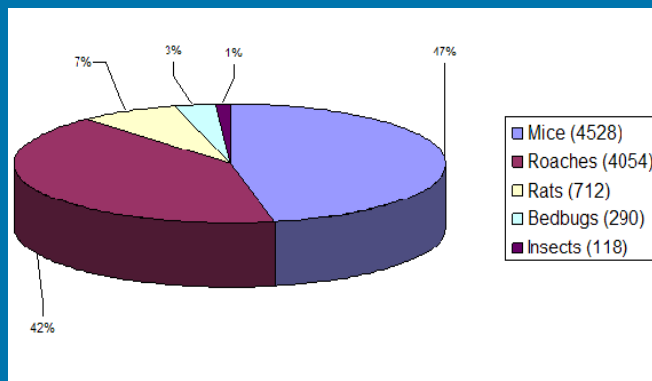
In addition to either an owner certification or an inspector's observation that a vermin condition has been corrected, the owner must submit an affidavit indicating that the criteria above have been met. 80% of the vermin violations must be dismissed before a building can be discharged from AEP. Between January 31, 2011 and January 31, 2012, HPD received 156 vermin affidavits. During that same period, 2,403 class B and 151 class C vermin violations were closed in active AEP buildings.

Almost all buildings entering into AEP had vermin violations. The most common type of vermin were mice, followed by roaches. Rats, while not as common, were a significant hazard in the buildings where they were found. Severe sanitation issues in public areas were common in buildings with serious rat infestations. Only 2% of buildings which did not have a vermin violation prior to AEP had one issued during the program period.

CHART 25: VERMIN VIOLATIONS IN AEP BUILDINGS (ROUNDS 1-4)

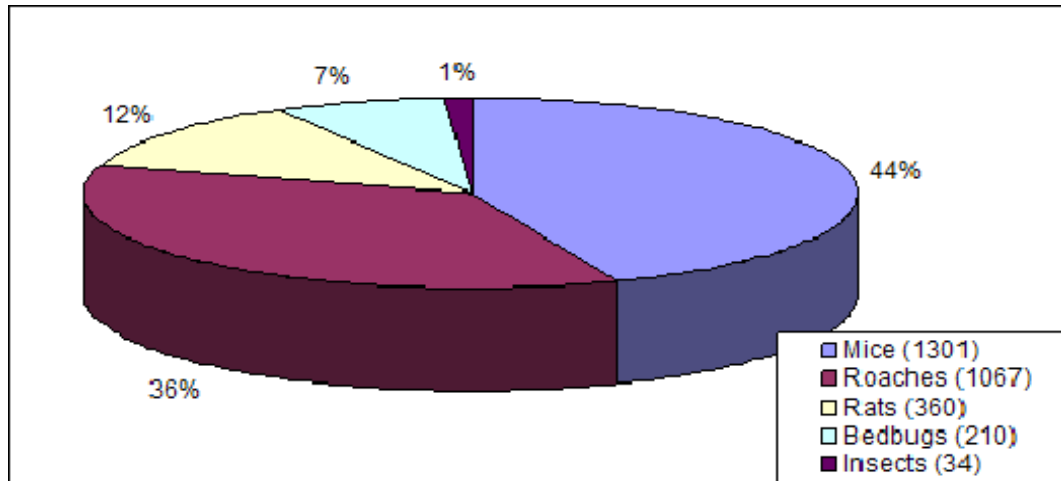


CHART 26: VERMIN VIOLATIONS AT THE START OF ALL ROUNDS BY VERMIN TYPE



Vermin violations issued while buildings were in AEP have a slightly different breakdown among types. It is likely that the fact that building-wide inspections were done (which included cellars and building exteriors) resulted in a greater percentage of rat violations.

CHART 27: VERMIN VIOLATIONS ADDED WHILE BUILDINGS WERE IN AEP BY VERMIN TYPE



Vermin correction requires both the cooperation of the tenants and the owners. Because of this, HPD also conducted surveys at the beginning of Round 4, the first round for which the requirements applied from the start of the round and to all buildings. AEP Community Coordinators conducted a survey during their initial visit to develop a baseline of conditions reflecting tenant comments on the presence of vermin or mold and an assessment of apartment conditions in terms of cleanliness. The surveys collected information based on tenant statements and staff observations. Tenants in 67% of the apartments surveyed stated that vermin were present and 33% stated they did not have a vermin problem. The overwhelming majority of apartments assessed by AEP staff were deemed in good or fair condition in terms of household cleanliness. Good condition accounted for 57.5% of the nearly 1,000 surveys followed by fair with 36% and only 6.5% deemed poor. Poor apartments would be apartments where sanitation was extremely poor, including lack of proper garbage cans, open old food containers and general clutter. While 81% of the apartments in poor condition had vermin reported by the tenants, just over half of the apartments deemed good had vermin, 58.5%. Fair apartments were in the middle with 76.6% reporting vermin. AEP Community Coordinators distribute the DOHMH/HPD pamphlet about vermin in cases where vermin is observed during inspection.

Not surprisingly, buildings for which tenants reported that they have seen a pest management professional (PMP) were more likely to exit the program than those where the tenants do not state they have seen an exterminator. In properties where a PMP was in place according to the surveys, 63% were discharged as opposed to only 14% being discharged for compliance where there was no report of a PMP.

For buildings discharged for compliance between January 31, 2011 and January 31, 2012, there were 1,871 violations existing on January 31, 2011. Another 222 vermin violations were added in this year long period. Nearly 94% were complied. As of January 31, 2012 there were 2,606 vermin violations open in active Round 1-4 buildings.

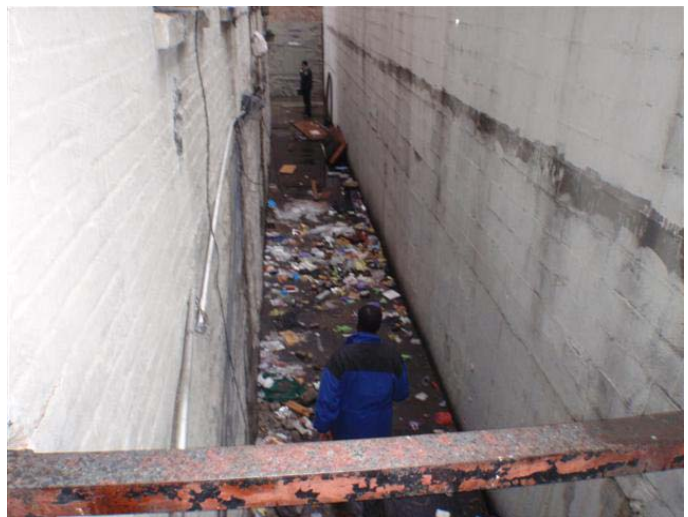
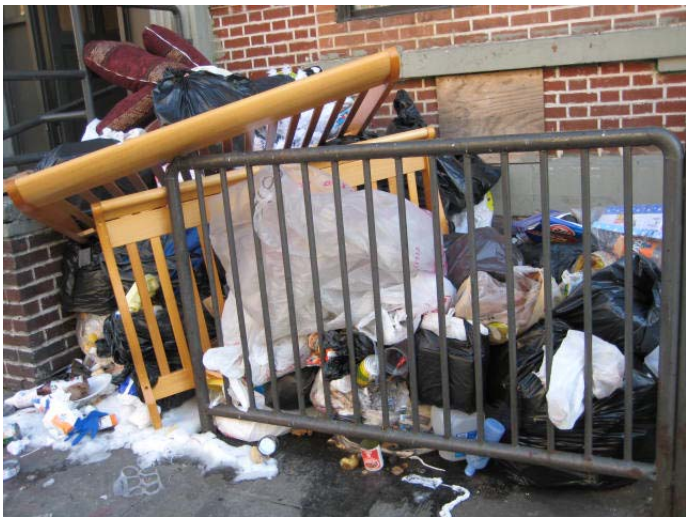
In addition, for a multiple dwelling in which vermin infestation is indicated, the owner of such multiple dwelling is required to submit a pest management plan indicating continuing pest control measures. AEP sends these pest management plans to DOHMH for review and approval. The pest management plan must be approved by DOHMH prior to the discharge of the building from the program.

IPM has been included in the AEP Order for 50 Round 4 properties. (82% of the Year 4 IPM properties were/are in foreclosure or Tax Lien Sale.) Of the initial group, only two properties submitted plans which were approved by the DOHMH by January 31, 2012. Eleven of the properties are now or were vacant. An additional six plans were submitted after that date but not approved, though not because of a lack of effort. (As of June 30, 2012, four have been approved and two remain pending.) Conference calls were arranged between the owner, PMP and HPD to try to have the plan successfully submitted. Major issues were (but not limited to):

- Who is to seal holes – building management or PMP?
- What pesticides will be used?
- Who is to maintain the acceptable treatment logs?

Generally, owners failed to indicate how the repairs for holes and maintenance items would be handled, failed to put in place a plan for tenant reporting of vermin conditions or failed to describe the frequency or responsibility for inspection. HPD staff continues to outreach to the remainder of the properties. Where the owner is completing the other ordered work at the property, HPD expects to get the plans in place from the owner. DOHMH continues to play a crucial role in approving plans, the methodology to be employed and ensuring the pesticides used are appropriate. HPD and DOHMH have created a half-day session for PMPs to explain in detail what IPM is and how to produce an acceptable plan. In part, the issue is that some of the requirements for a successful IPM plan fall more heavily on the owner than on the PMPs, who generally do not patch holes, clean areas or provide tenant counseling on how to keep areas clean. Based on the issues with the submission of the plans, DOHMH has created an IPM plan form to make it easier for both the owner and PMP to understand what must be done and what information must be provided. The new form will begin to be used in July 2012.

For those properties where no responsible party for the building is available, complications arose around sanitation and the nature of the work to be done. Many properties needed to have sanitation and system replacement issues resolved prior to implementing any strategy to address the vermin issues. It is not uncommon that AEP needs to clean-out the basement and any trash outside or that some apartments have severe tenant housekeeping issues. Tenant owned pigeons inside the basement of one building had to be removed prior to extermination. At other properties, it makes little sense to have the pest management company seal holes if the walls will be subsequently opened for plumbing or electrical work. A coordinated approach is essential. Because IPM is heavily dependent on the owner following through with the plan (for constant repair and vigilance for the reoccurrence of pests), and HPD does not provide day-to-day maintenance, it remains to be seen how successful HPD-initiated IPM will be. HPD has contracted with a PMP to provide the initial repair and extermination. In cases where HPD deems that there will be little or no tenant cooperation, HPD will have to assess the cost of performing the service versus the benefit (if any) to be gained.



Assessment of Mold and Vermin Activity

During May 2012, HPD conducted an audit of a sample of both mold and vermin affidavits. The purpose of the audit was to see if mold and/or vermin conditions had reoccurred. Twenty-four buildings (accounting for a 15% sample of all affidavits received) were examined for mold or vermin violations. Not surprisingly, most buildings had both types of violations. The Field Audit Review Unit (FAR), an audit unit within the Office of Enforcement and Neighborhood Services, attempted to inspect the 24 buildings (166 units with 348 vermin and 78 mold violations) to determine whether conditions reoccurred. More than 50% of the violations in the sample were examined (54% mold and 66% vermin) in 20 buildings (most buildings had multiple apartments in violation). The four properties not accessed accounted for only five apartments and one public area, accounting for only 4% of the violations being audited.

Eighty percent of the mold violations which FAR accessed remained corrected (no reoccurrence). In terms of those that did re-occur, the audit found that most of the reoccurrence was in the bathroom, which is unsurprising since the majority of mold violations at the outset (and as part of the sample) were in the bathroom. It is not possible to determine from the audit whether the reoccurrence was a result of a systemic underlying condition or a new plumbing or ventilation issue; additional research and analysis is needed.

As discussed above, two of the most significant factors affecting vermin are the presence of a PMP who treats the building regularly and the housekeeping of the tenant. There were six properties where tenants said there were extermination services at the beginning of Round 4; FAR found that all six still had extermination. In eight properties where the tenants told the community coordinators that there wasn't any extermination services, FAR found five of them with services. Those that did not institute extermination are in Brooklyn and tend to be smaller than those that now have extermination. The FAR inspections found that a majority of the units had Good housekeeping (63%); however, vermin were still identified in 31% of these apartments. Twenty-seven percent of the apartments were rated Fair and 13% Poor. In the 13% of apartments with poor housekeeping, 92% of the violations reoccurred. Not surprisingly units that have regular extermination and where housekeeping is good have less recurrence than those apartments which claim to not have pest management treatment on a regular basis and/or poor housekeeping by the occupants. It is also likely that the small percentage of units with poor housekeeping affect the entire building in terms of the spread of vermin. In 6 of the 20 buildings accessed, all tenants surveyed agreed that they are currently receiving regular extermination services. In most buildings, tenant statements conflicted as to whether services are provided.



SECTION 5: RECOMMENDATIONS FOR CHANGE

As HPD has addressed over 1000 buildings through the program, and has implemented other programs to address buildings sliding into distress – most notably the Proactive Preservation Initiative – we have seen an overall decrease in the number of buildings meeting the criteria of Round 1 AEP. Whereas there were a total of 541 buildings meeting the criteria in Round 1, Round 3 produced only 287 candidates and Round 5 (identified on January 31, 2012) produced only 309 potential candidates for inclusion. The following charts compare the buildings selected for the program versus buildings that met the selection criteria on the start date of each round, but that were not selected for the program.

CHART 28: QUALIFYING BUILDINGS BY ROUND

28a. Building size

	Selected for AEP			Not Selected for AEP			Total Meeting Criteria		
	# Bldgs	# Units	Avg Size	# Bldgs	# Units	Avg Size	# Bldgs	# Units	Avg Size
Round 1	200	1,362	6.81	341	3,731	10.94	541	5,093	9.41
Round 2	200	1,768	8.84	180	2,503	13.91	380	4,271	11.24
Round 3	200	1,476	7.38	87	1,227	14.10	287	2,703	9.42
Round 4	200	3,339	16.70	181	1,456	8.04	381	4,795	12.59

28b. Violations and ERP

	Selected for AEP		Not Selected for AEP	
	Avg B/C Viols, 2 Yrs	Avg Unpaid ERP, 2 Yrs	Avg B/C Viols, 2 Yrs	Avg Unpaid ERP, 2 Yrs
Round 1	114.3	\$ 9,972	79.3	\$ 6,975
Round 2	106.2	\$ 7,168	86.7	\$ 7,172
Round 3	79.2	\$ 7,002	84.4	\$ 8,616

	Selected for AEP		Not Selected for AEP	
	Avg B/C Viols, 2 Yrs	Avg Paid and Unpaid ERP, 2 Yrs	Avg B/C Viols, 2 Yrs	Avg Paid and Updaid ERP Charges, 2 Yrs
Round 4	101.7	\$ 19,366	56.8	\$ 5,005

Due to the implementation of the Tax Lien Sale where ERP liens are a trigger for inclusion in the lien sale, we have seen significant recoupment of ERP, reducing the amount of unpaid ERP and further reducing the pool of buildings with unpaid ERP. Therefore, the criteria need to be refocused to include properties incurring ERP charges (not necessarily on unpaid charges).

HPD Loans and Distressed Buildings

While AEP is a program designed to bring buildings back to habitability through enforcement, HPD has other programs which work to bring troubled buildings and portfolios back to habitability through loans and tax credits. One such portfolio was the Ocelot Capital Group (OCG) portfolio of buildings which HPD worked with Omni to refinance. Unfortunately, while HPD was closing on loans for rehabilitation, the buildings were selected for AEP. This subjected the buildings to orders and fees, even while HPD was working to schedule a construction timetable for a number of the buildings.

In order to support HPD's intervention with buildings, it is necessary to allow HPD to exclude buildings which have closed on a loan or to administratively discharge those buildings if a loan is closed during the pre-Order period. HPD will be seeking amendments to the law to accommodate this situation.

Recommendations

Based on the amendments made by Local Law No. 7 in 2011, HPD can modify the criteria for buildings to be selected for AEP by amending its AEP rules. HPD continues to explore how violation and emergency repair data can be used to identify a list of buildings which are distressed and which can benefit from the program. The above data supports HPD's recommendations for additional changes to the selection criteria for AEP to ensure that AEP identifies up to 200 buildings in the City where the biggest impact and improvement can be affected by the increased monitoring and enforcement action:

- Limiting the number of small (under 6 unit) buildings.
- Modifying the criteria for inclusion in the program to ensure that distressed properties continue to be identified.

At the current time housing advocates across the country – HPD included – are exploring ideas about how to ensure that small buildings remain a viable source of affordable and safe housing for owners and tenants alike.



AEP has successfully brought 357 of the most distressed buildings in the City back into compliance with the Housing Maintenance Code. Using the combination of individualized attention and outreach to property owners, significant fees, and extensive repair and system work in some properties, HPD has focused resources in the buildings and neighborhoods most affected by poor housing conditions. Experience has provided many lessons about the most effective use of the AEP, including that AEP is most effective when addressing:

- Larger buildings
- Buildings with active owners
- Occupied buildings
- System replacements, while not acting as de facto managers for daily maintenance

There were a number of situations which the program did not anticipate:

- The large proportion of small 3-5 unit buildings which would be identified by the program criteria.
- Buildings in foreclosure where there was no responsible party to come forward for years.
- That small buildings would not have the financial means to conduct the type of repairs required by the program and the fees would just further drive the buildings into greater debt.
- That a large number of buildings would remain in the program for multiple years, for the reasons noted above, and drain AEP resources even after system replacement work is done.

HPD's recommendations for continuing to meet the challenges of AEP and to focus the program on the buildings where it is most effective include:

- Modifying the sort order of selection to ensure that larger buildings are selected.
- Modifying the criteria for the amount of ERP spent by building size to more accurately reflect buildings which have a more than average use of ERP dollars.
- Monitoring the effectiveness of the mold and vermin criteria on the long term health of the buildings.
- Allowing an exemption from AEP for buildings that qualify but have received HPD or Housing Development Corporation (HDC) loans within the last two years and allowing AEP to administratively discharge any buildings that receive an HPD or HDC loan within the pre-Order period of AEP (first four months).
- Allowing HPD discretion to include AEP buildings in the tax lien sale, even if they meet the criteria for mandatory exclusion, since this type of action might result in the identification of a responsible party.
- Discharging buildings that remain in AEP for more than two years to Division of Neighborhood Preservation (DNP) monitoring.



CONCLUSION

AEP has successfully brought 357 of the most distressed buildings in the city back into compliance with the Housing Maintenance Code. Using the combination of individualized attention and outreach to property owners, significant fees, and extensive repair and system work in some properties, HPD has focused resources in the buildings and neighborhoods most affected by poor housing conditions. Experience has provided many lessons about the most effective use of the AEP, including that AEP is most effective when addressing:

- Larger buildings;
- Buildings with active owners;
- Occupied buildings; and
- System replacement, not maintenance.

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- Allowing HPD discretion to include AEP buildings in the tax lien sale, even if they meet the criteria for mandatory exclusion, since this type of action might result in the identification of a responsible party.
- Excluding buildings discharged from AEP within the last six months from the selection of a new round.
- Discharging buildings which remain in AEP for more than 2 years to DNP monitoring.

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