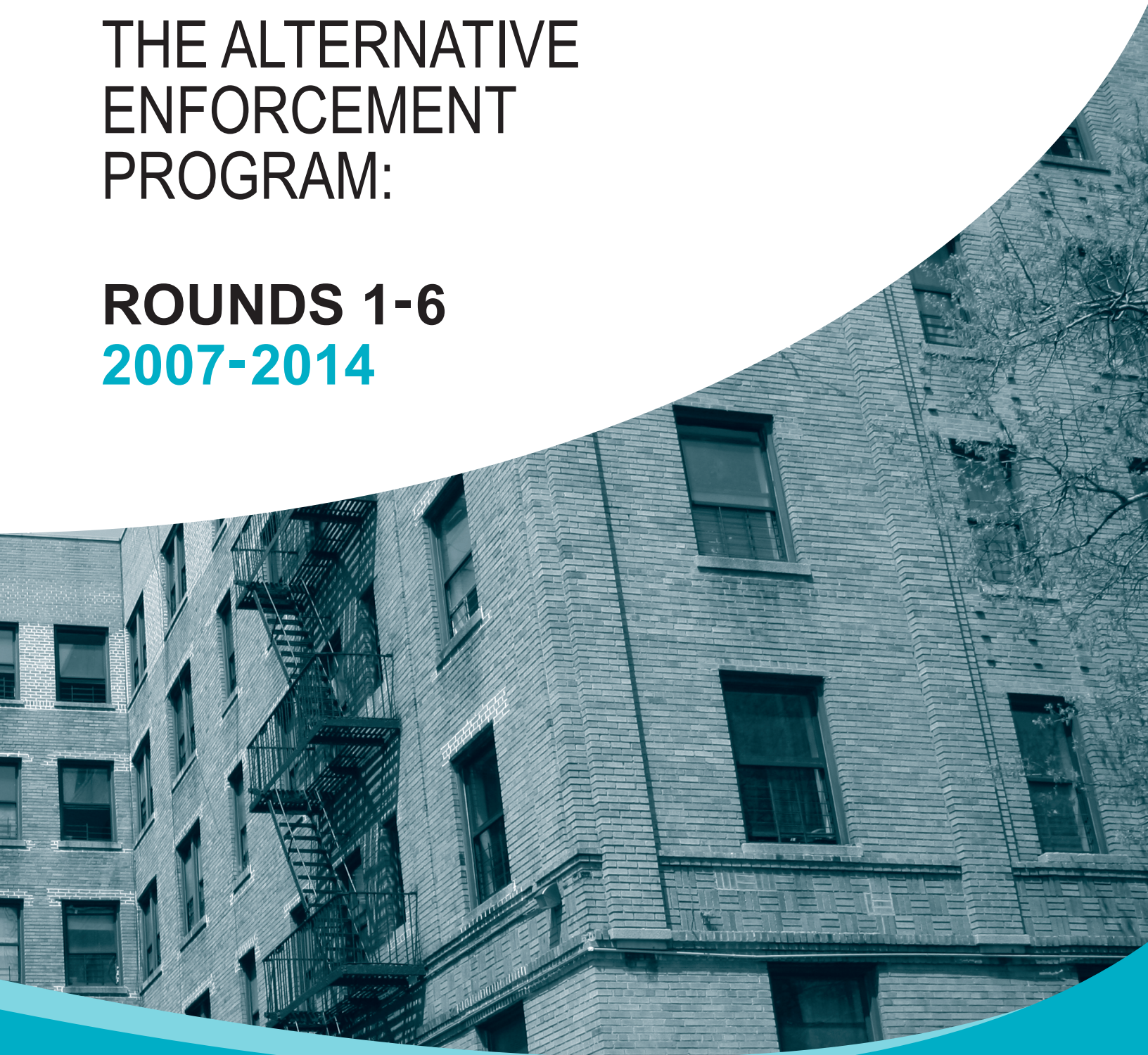


THE ALTERNATIVE ENFORCEMENT PROGRAM:

ROUNDS 1-6 2007-2014



NYC
Department of
Housing Preservation
& Development

THE CITY OF NEW YORK
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Alicia Glen, *Deputy Mayor
for Economic Development*

DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT
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City of New York Department
of Housing Preservation and
Development 2014

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COMMISSIONER'S STATEMENT



Every New Yorker deserves a safe and affordable place to live. The Alternative Enforcement Program (AEP) is one of the City's most important enforcement tools assisting those New Yorkers living in the most distressed properties Citywide. The program has a proven track record as a strong and effective mechanism for improving conditions over the short and long term for a building. With 1200 buildings identified in the first six rounds and 763 of those buildings discharged from the program, AEP continues to prove that focused penalties, targeted expenditures of City and Federal resources and dedication to a mission can improve even the most distressed living conditions and restore habitability for thousands of occupied units. The majority of buildings have been discharged after conditions vastly improved for tenants, with repair and replacement work being completed by both property owners and HPD, or discharge to a responsible property manager through the 7A. Over 9,000 units in occupied buildings have been affected by the improved conditions.

Mayor de Blasio has recognized how important AEP – and other programs like it which aim to improve housing quality – are to his Housing New York Plan. Both the Administration and City Council have already provided additional funding for AEP for Fiscal Year 2015. We trust that you, Housing Committee Chairperson Williams and the Councilmembers will continue to be key partners in supporting HPD's efforts to craft additional legislation that strengthens and complements the agency's Housing and Maintenance Code enforcement operations, and we appreciate the Council's continued support.

This report offers a wealth of information about how the program has functioned, how changes to the program over time have been implemented and the results of those changes on program outcomes. In addition, we continue to seek ways to improve AEP and this report offers five recommendations for consideration and action. Mayor de Blasio has committed the City to preserving the quality of affordable housing, and by improving and investing in programs like AEP, HPD will continue to meet this challenge.

–Vicki Been

BACKGROUND

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

As required by Local Law 7 of 2011, HPD produced a comprehensive report on July 31, 2012 analyzing the first four rounds of the program.¹ Additional reports are required every two years thereafter. Each report must analyze:

- The effectiveness of the criteria for inclusion and 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 requirements to address mold and vermin violations.
- For those multiple dwellings in which a building-wide inspection was conducted, an assessment of whether mold was identified in such multiple dwellings and whether the criteria for the issuance of a violation for mold should be revised or enhanced as a result;
- An evaluation of the use of the work practices to address vermin conditions;
- Information on the compliance levels achieved by multiple dwellings which remain in the program for failure to achieve substantial compliance and recommendations on how to achieve higher compliance levels for those multiple dwellings; and
- For those multiple dwellings that were discharged from the program, information on the number of such buildings that were able to correct all identified violations prior to discharge or that were able to achieve a higher compliance level than required by this program in order to be discharged and an assessment of why such buildings were able to achieve such results.

This Seven Year report will focus on updates to data provided in the Five Year report, make additional recommendations for modifications to the program to enhance its effectiveness and provide results of the mold and vermin requirements included in the 2011 Amendments to the law.



EXECUTIVE SUMMARY

As of January 31, 2014, 1,200 buildings² with 12,870 units have gone through at least 12 months of AEP.³

As of that date:

- 763 buildings with 9,653 units were discharged from the program.
 - 352 buildings (6,362 units) were discharged within the first four months.
 - 269 buildings were discharged after complying with the AEP Order and paying fees.
 - 142 buildings were discharged for other reasons: buildings vacant for at least one year, building discharged to HPD's 7A Program, or buildings discharged because HPD completed the building system work (even though no owner applied for discharge).⁴
- 813 building systems were replaced, with a total investment of approximately \$21 million dollars in Community Development Block Grant (CDBG) and private funds.
 - 443 system replacements were completed in 144 buildings by property owner at an investment of approximately \$10 million.
 - 370 system replacements were completed in 206 buildings by HPD at a cost of approximately \$11 million.
- HPD has spent \$19 million providing utilities and conducting repairs (in addition to system replacements).
- Approximately \$35 million has been collected in ERP and AEP charges and fees.

As of January 31, 2014, there were 437 buildings active in the program and 763 buildings discharged. Charts 1 and 2 provide summary information about these buildings by round and size.

CHART 1: BUILDING STATUS BY ROUND

	RD 1	RD 2	RD 3	RD 4	RD 5	RD 6	Total
<i>Active</i>	38	57	64	58	95	125	437
<i>Discharge-Compliance</i>	117	108	110	125	90	71	621
<i>Discharge-Other</i>	45	35	26	17	15	4	142
<i>*Status as of 1/31/2014</i>	200	200	200	200	200	200	

CHART 2: BUILDING STATUS BY SIZE

UNIT RANGE	Status 1/31/2014	Buildings	% of Buildings Complying
3-5	Discharged for Compliance (Pre- or Post-Order)	170	30.7%
	Discharged Other	107	
	Active	276	
6-9	Discharged for Compliance (Pre- or Post-Order)	218	62.8%
	Discharged Other	27	
	Active	102	
10-19	Discharged for Compliance (Pre- or Post-Order)	66	69.5%
	Discharged Other	7	
	Active	22	
20+	Discharged for Compliance (Pre- or Post-Order)	167	81.5%
	Discharged Other	1	
	Active	37	

SUMMARY OF RECOMMENDATIONS TO ENHANCE EFFECTIVENESS

HPD recommends five changes to enhance the effectiveness of the AEP program.

RECOMMENDATION 1: Limit the number of small (under six units) buildings by:

- Capping the number of small buildings OR;
- Eliminating the buildings with less than six units from selection OR;
- Increasing the threshold for “distress” for small buildings OR;
- Modifying the sort order of selection to ensure that larger buildings are selected.

HPD’s experience with AEP buildings and the data presented here continue to indicate that the program can be effective in improving conditions for properties with more than six units. Larger properties generally respond quickly and effectively to the threat of penalties and Orders, complying with AEP requirements within the first four months. However, the program continues to struggle with effectively addressing conditions in small buildings, many of which have significant building system needs but do not have the resources available to comprehensively address conditions and restore the building to physical and financial viability. Instead of addressing these small buildings through AEP, HPD would continue to explore program models which focus more on landlord assistance (such as loans, education, foreclosure prevention) than on punitive action to address distress in small buildings. One model that should be explored is the Proactive Preservation Initiative. Enhancements to that program model may better serve this population of distressed buildings. Implementation of this recommendation would require a legislative change.

RECOMMENDATION 2: Modify the criteria for inclusion in the program to identify buildings with six or more units that have been in distress for longer periods of time.

In Round 6, fewer buildings met the distressed criteria threshold than in any previous round. The shrinking pool indicates that AEP has addressed those larger buildings with the most acute and recent signs of distress as recorded in HPD violation and emergency repair records. HPD’s current proposal for modifications to the criteria recommends including violations issued in the previous five years (from the date of selection for the program) instead of only violations issued in the previous three years. Implementation of this recommendation requires a Rules change, which HPD is already seeking.

RECOMMENDATION 3: Address the rising debt owed by buildings that remain in the program for multiple years.

- Allow HPD discretion to include AEP buildings in the tax lien sale, even if they meet the criteria for mandatory exclusion from the sale.
- Create a mechanism to allow distressed buildings facing spiraling tax liens to reduce the tax debt over time in exchange for affordability restrictions.

Many of the early round buildings and small buildings that are still active in AEP are in significant financial distress. These buildings have repeatedly qualified for the City’s tax lien sale, have met the criteria for mandatory exclusion from the tax lien sale and/or are in foreclosure. These financial issues raise significant barriers to any private market owner purchasing the property, as the buildings have significant debt and little equity (especially occupied buildings where the rent may be an insignificant income source). Excluding an AEP building from the tax lien sale means that the liens continue to accrue each year as AEP continues to do repairs and levy fees, in addition to the costs of whatever system replacement work may have been done. Interest accrues as well. The tax lien sale statutory exclusion provision was intended to exclude the most distressed properties. A distressed property is defined as a property with a 15% lien to value ratio – which many small AEP buildings easily meet – plus a significant number of violations or ERP arrears. Exclusion from the sale was meant to create a pool of properties that could be targeted for Third Party Transfer (TPT). Through the TPT process, the City forecloses on distressed properties and transfers the properties to a third party. The third party owns and manages the property on behalf of the City while the property undergoes City subsidized rehabilitation. Eventually, the property is sold to a qualified buyer. There has not been a TPT foreclosure action in a number of years. Although HPD expects to be initiating a new round in 2014 or 2015 and plans to review the remaining AEP properties to see if any are appropriate candidates for the TPT program, including such small buildings poses challenges for the TPT Program in terms of management and repair dollars. As the tax lien sale reauthorization is due in 2015, HPD may seek legislative amendments that give HPD discretion about whether the liens on these distressed properties should be sold in the tax lien sale. Selling the liens on these properties and allowing them to proceed to foreclosure on these properties may be an alternate way to ensure that a new landlord purchases the property before significant liens, which erode the value of the property, accrue. Implementation of these changes requires legislative changes.

RECOMMENDATION 4: Allow an exclusion from AEP for buildings that qualify for AEP but have received HPD or Housing Development Corporation (HDC) loans within the last two years and allow AEP to administratively discharge any building that receives an HPD or HDC loan within the pre-Order period (first four months).

Non-profit organizations often purchase a property in poor condition with the intent of rehabilitating the property with the assistance of an HPD or HDC loan. The loan process is a lengthy one and may run into the period for the selection of AEP buildings. Once a loan is approved, the time required for rehabilitation may be significant. These loans often support gut or near gut rehabilitations, affecting one or multiple systems. It is counterproductive for an owner to rush to have a building discharged from AEP in the first four months if a plan is already in place for a significant rehabilitation using an HPD or HDC loan and to impose fees and additional repair timelines on these properties. Implementation of this change requires a legislative change.

RECOMMENDATION 5: Continue to refine the use of Integrated Pest Management by focusing less on developing an IPM plan and more on practical steps required to identify and remediate conditions conducive to pests.

The Amendments to the law in 2011 required that property owners address mold and vermin violations using best practices defined in the law and that such compliance be monitored by AEP. AEP requires property owners to submit affidavits indicating that the required practices were followed when correcting mold or vermin violations. Physical inspections are conducted to verify whether the conditions have been corrected. Some property owners have been specifically ordered to implement Integrated Pest Management strategies. Lessons learned from implementing these requirements may be applied to mold and vermin correction generally; however, there is no conclusive evidence that applying the requirements universally to the correction of mold or vermin violations is warranted nor that there is a significant effect on the building above and beyond the effects of the general AEP requirements for system replacements and violation correction. HPD and DOHMH continue to refine the use of Integrated Pest Management, by focusing less on paperwork (developing an IPM plan) and more on practical steps required to identify and remediate conditions conducive to pests. HPD and DOHMH will also be working together to recommend additional general strategies for mold and vermin remediation to be applied to the general housing stock in cases where mold or vermin are pervasive or reoccur. These changes are programmatic changes.

SECTION 1: EFFECTIVENESS OF THE CRITERIA FOR INCLUSION, DISCHARGE AND MONITORING OUTCOMES

CRITERIA FOR INCLUSION

Selection for AEP is a two-step process. In the first step, HPD selects a pool of buildings meeting the criteria of open violations per dwelling unit and emergency repair activity. Then, within that pool, the buildings are prioritized according to separate criteria so that the top 200 buildings within the pool are selected. 1200 buildings have been selected over the six rounds of AEP. As detailed in the Five Year report, it was clear by the Third Round that the enforcement approach of AEP was more effective in achieving results in buildings with more than six units. Based on the data presented in that report, HPD recommended that the selection criteria and the prioritization criteria be modified to ensure that a higher proportion of larger buildings be included in AEP.

HPD has adjusted these criteria two times since the implementation of the program to identify between 541 buildings and 266 buildings each year that meet the criteria (see Appendix A for the criteria for each round). Starting in Round 4, the criteria for selection changed to take into account building size. Since then, the average size of the selected buildings increased to 8-17 units (Round 4-6), from 6-9 units (Rounds 1-3). HPD has successfully modified the criteria to select larger buildings, thereby targeting repairs in more units. HPD continues to review the criteria annually to ensure that distressed buildings are selected.

CHART 3: NUMBER AND SIZE OF BUILDINGS QUALIFYING FOR AEP BY ROUND

	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	6.8	341	3,731	10.9	541	5,093	9.4
Round 2	200	1,768	8.8	180	2,503	13.9	380	4,271	11.2
Round 3	200	1,476	7.4	87	1,227	14.1	287	2,703	9.4
Round 4*	200	3,339	16.7	181	1,456	8.0	381	4,795	12.6
Round 5	200	2,373	11.9	109	592	5.4	309	2,965	9.6
Round 6*	200	2,552	12.8	66	1,148	17.4	266	3,700	13.9

*Criteria were modified for these rounds.

CHART 4: BUILDINGS QUALIFYING FOR AEP: VIOLATION AND ERP PROFILE

	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 ERP Charges, 2 Yrs	Avg B/C Viols, 2 Yrs	Avg ERP Charges, 2 Yrs
Round 4	101.7	\$ 19,366	56.8	\$ 5,005
Round 5	76.1	\$ 13,015	45.2	\$ 3,510
Round 6*	79.2	\$ 14,831	80.5	\$ 7,396

*Reflects the last three years for Round 6

CHART 5: VIOLATION AND LIEN PROFILE OF BUILDINGS SELECTED FOR AEP

	Round 1	Round 2	Round 3	Round 4	Round 5	Round 6
# B Violations	25,896	24,375	17,658	23,694	16,701	16,728
# C Violations	6,651	5,808	4,700	6,373	4,525	4,497
Total B & C Violations	32,547	30,183	22,358	30,067	21,226	21,225
# B+C Viols, 2 Years**	22,850	21,244	15,844	20,352	15,211	15,843
Average B+C Viols/Unit, 2 Years**	16.8	12	10.7	6.1	6.4	6.2
# of Bldgs with Open HLD Comp Cases	67	63	67	57	47	42
ERP Balance, 2 Years (Past Due)**	\$1,994,344	\$1,433,578	\$1,400,305	\$2,149,672	\$1,113,845	\$1,224,493

**Reflects the last three years for Round 6

As indicated in Charts 3, 4 and 5, the number of buildings meeting the minimum criteria for inclusion in the program has decreased. Although not covered in the analysis in this report, Round 7 resulted in the identification of only 187 properties that met the criteria. HPD has proposed another change to the rules: increasing the look-back period for the issuance of violations from three years to five years in order to identify a higher number of qualified buildings with six or more units. This change should allow AEP to address buildings that may have been declining for a longer period of time.

COMPLIANCE

Enforcement action through AEP has improved the housing quality for the vast majority of the buildings discharged for landlord compliance. Increased inspections and the imposition of AEP fees has encouraged property owners to make repairs and improve building conditions quickly if there is value in the property and the landlord has the means to do so (see Chart 6). In other cases, the pressure has led to a sale to more responsible ownership.

CHART 6: BUILDINGS DISCHARGED FOR COMPLIANCE, PRE AND POST AEP

Open Violations (Class A, B, C)

At Program Start			As of 1/31/2014		
Open Viols	Viol/Bldg.	Viol/Unit	Open Viols	Viol/Bldg.	Viol/Unit
125,278	200.8	13.9	18,813	30.1	2.1

311 Complaints Reported

Year Prior to Program Start			FY 2013		
Complaints	Comp/Bldg.	Comp/Unit	Complaints	Comp/Bldg.	Comp/Unit
65,093	104.3	7.2	20,046	32.1	2.2

DISCHARGE DURING THE INITIAL FOUR-MONTH PERIOD

As of January 31, 2014, 352 buildings from all Rounds were discharged from AEP for complying in the initial four-month period prior to the issuance of an Order. When assessed by building size, it is clear that the larger the building is, the more likely it is to address conditions and meet all other requirements for discharge in the pre-Order period (see Chart 7). Between 33% and 85% of the 20+ unit buildings in each round were discharged pre-Order, as compared to between 6% and 19% of buildings with fewer than six units.

- Rounds 1-3: The total percent of buildings discharge within the first four months ranged from 13% the first year to 26% by round 3.
- Round 4: The number of buildings discharged during the first four months increased significantly. 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) than in Rounds 1, 2 and 3 combined (119 buildings with 1,317 units).
- Rounds 5 and 6: Discharge for small buildings remained below 20%.

CHART 7: BUILDINGS DISCHARGED IN THE FIRST FOUR MONTHS BY SIZE DISTRIBUTION

ROUND	Total buildings discharged in the first four months	% of 3-5 units in the round discharged	% of 6-10 units in the round discharged	% of 11-20 units in the round discharged	% of 20+ in the round discharged
<i>RD 1</i>	26	5.7	18.3	26.7	33.3
<i>RD 2</i>	41	8.1	23	40	52
<i>RD 3</i>	52	18.7	33.9	31.3	40
<i>RD 4</i>	98	12.9	48.9	56.3	85.1
<i>RD 5</i>	71	13.5	49.1	53.8	58.5
<i>RD 6</i>	64	10.8	36.7	35	62.5
	352				

For buildings discharged in the pre-Order period, there was a decrease of between 87% and 89% in the number of open violations between selection for AEP and discharge. As of January 31, 2014, there was an increase in violations for all rounds after discharge from the number of violations at the time of discharge (see Chart 8). However, almost 80% of that increase is attributable to a handful of properties, which became repeat AEP buildings (see Monitoring section for more information on these properties). If these repeat properties are removed from the analysis, most buildings see only a marginal increase in violations from the time of discharge. The violation count has remained low, even five years past discharge, which indicates that the buildings have remained in good condition post-discharge.

CHART 8: PROPERTIES DISCHARGED WITHIN THE FIRST FOUR MONTHS: VIOLATION PROFILE

ROUND	Buildings	TOTAL Violation at Selection	TOTAL Violation at Discharge	Decrease	TOTAL Violation at 1/31/2014	Decrease since selection
<i>RD 1</i>	26	8,054	1,043	87%	2,247	72%
<i>RD 2</i>	41	10,408	1,344	87%	1,850	82%
<i>RD 3</i>	52	7,561	932	88%	1,410	81%
<i>RD 4</i>	98	24,070	2,789	88%	5,880	76%
<i>RD 5</i>	71	10,898	1,232	89%	2,362	78%
<i>RD 6</i>	64	10,371	1,256	88%	1,893	82%
<i>Total</i>	352	71,362	8,596	88%	15,642	78%

MONITORING OF BUILDINGS DISCHARGED FOR COMPLIANCE

The law requires HPD to monitor buildings post-discharge if the discharge occurs during the first four months of AEP. The Division of Neighborhood Preservation (DNP) conducts this monitoring. DNP monitoring includes data reviews of new complaints and violations, building surveys and owner outreach. If a building begins to show signs of decline, DNP attempts to work with the owner to ensure that the property owner is being responsive to new conditions, may refer property owners for HPD loans or may recommend additional enforcement.

Of the 352 buildings discharged and monitored, 21 buildings returned to AEP (6% of all buildings discharged within the first four months).⁵ The 21 buildings that returned to AEP in a second round reduced violations by 87% before the initial discharge. Of the 21 buildings, there were 12 buildings under 10 units and 9 buildings with more than 20 units. DNP referred 11 of the properties to HPD's Housing Litigation Division (HLD) before the properties were selected for a second round of AEP. HLD initiated legal action against all 11 properties. These 11 properties had an increase in violations from 305 at discharge to 1,667 at the initiation of the second AEP round. Several of the remaining 10 buildings were pending a referral for litigation at the time that the building was selected for AEP. Once a building is selected for a second round, AEP issues the Order to Correct immediately if the property owner is the same as when the building was discharged (12 buildings). If the property has a new owner, AEP allows the property owner to try to comply within the first four months.

DISCHARGE AFTER AN ORDER IS ISSUED

The AEP program issued 838 Orders to Correct for buildings in Rounds 1 through 6. 575 (69%) of the AEP Orders directed the correction of at least one system replacement and 263 (31%) only ordered correction of the violation conditions because no systems required replacement or the building was vacant and sealed at the time it was selected for AEP. For the buildings that required a systems replacement, roof replacements are required more frequently than any other system. Pointing and waste lines – other water related systems – were also among the most commonly cited building-wide systems needing replacement (see Chart 9).

CHART 9: AEP ORDERS TO CORRECT: SYSTEMS REQUIRING REPLACEMENT

Order Item/System Replacement	Round 1	Round 2	Round 3	Round 4	Round 5	Round 6	Total	% of Total
Replace Roof	60	76	55	47	54	46	338	17.1%
Perform Integrated Pest Management Throughout	N/A	N/A	N/A	50	68	66	184	9.3%
Replace Floor Covering in Apts	39	20	13	39	24	42	177	9.0%
Pointing	20	16	21	36	37	36	166	8.4%
Replace Defective Floor Joists Throughout	1	25	16	41	31	42	156	7.9%
Replace Waste Lines	19	25	20	12	22	34	132	6.7%
Replace Domestic Water Supply	17	25	12	11	17	24	106	5.4%
Upgrade Electric System & Re-Wire	0	17	12	21	24	29	103	5.2%
Replace Floor Covering in Public Areas	38	6	11	9	11	14	89	4.5%
Replace Apt Entrance Doors	15	16	6	13	8	20	78	3.9%
Replace Heating Plant	12	11	2	17	8	23	73	3.7%
Re-Wire Entire Building	1	11	13	5	12	27	69	3.5%
Seal all Dumbwaiter Shafts	23	19	26	0	0	0	68	3.4%
Paint All Apts & Public Areas	53	1	1	0	1	1	57	2.9%
Waterproof Exterior Walls	6	18	3	5	6	11	49	2.5%
Replace Windows	6	4	4	6	5	14	39	2.0%
Replace Interior Staircase	9	6	2	5	2	9	33	1.7%
Replace Hot Water Heater	8	3	4	1	2	7	25	1.3%
Replace Heat Distribution System	0	4	0	1	1	5	11	0.6%
Replace Gas Distribution System	0	2	2	0	0	4	8	0.4%
Replace Gas Meters & Gas Distribution System	1	1	1	0	0	4	7	0.4%
Replace Water Main	0	0	1	0	2	1	4	0.2%
Replace Fire Escape or provide 2nd Egress	1	0	0	0	2	0	3	0.2%
	329	306	225	319	337	459	1,975	100.0%

Buildings can be discharged post-Order in two general categories: landlord compliance or administrative discharge.

DISCHARGE FOR LANDLORD COMPLIANCE

Overall, 269 buildings for which an order was issued have been discharged through property owner compliance. 167 buildings required system replacement work and 102 did not require the replacement of any systems. (In comparison, 333 active buildings have system replacement requirements and 103 active buildings do not; see Chart 10). Even among the buildings discharged for compliance, HPD often does some of the system work. Information about the types of systems repaired by HPD and the costs for those systems can be found in Section 2.

CHART 10: SYSTEMS COMPLETED IN BUILDINGS DISCHARGED FOR COMPLIANCE

Orders to Correct that had at least one system to be replaced	167	
Total Systems Requiring Replacement	544	
Complied by Landlord	386	71%
Completed by HPD	147	27%
Not Performed	11	2%

The distribution of buildings discharged for compliance by building size after an Order is issued is more even than the distribution of discharges pre-Order, but smaller buildings are still significantly less likely to be discharged (as a percentage of same size buildings) (see Chart 11).

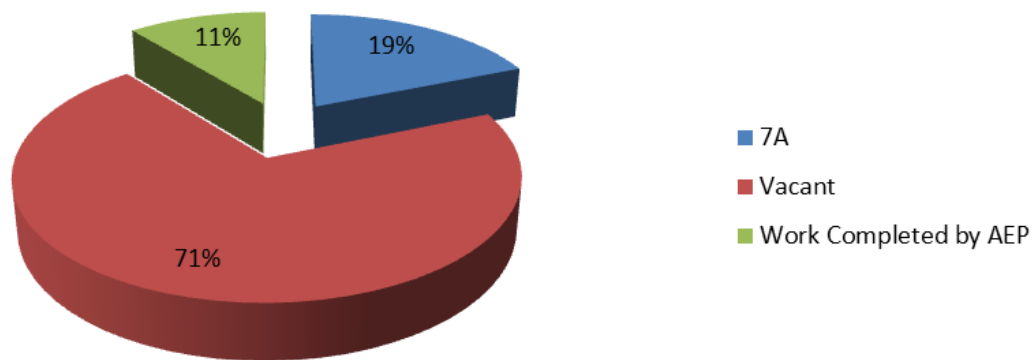
CHART 11: BUILDINGS THAT COMPLIED AFTER AN ORDER WAS ISSUED BY ROUND (AS OF JANUARY 31, 2014)

ROUND	Unit Range	Buildings Issued an Order	Buildings Complying with an Order	Bldgs in Round	% of Buildings Complying with an Order
RD 1	3-5	97	40	105	41.2%
	6-9	57	37	71	64.9%
	10-19	11	9	15	81.8%
	20+	6	5	9	83.3%
RD 2	3-5	91	23	99	25.3%
	6-9	46	27	61	58.7%
	10-19	9	6	15	66.7%
	20+	12	11	25	91.7%
RD 3	3-5	87	19	107	21.8%
	6-9	41	22	62	53.7%
	10-19	11	9	16	81.8%
	20+	9	8	15	88.9%
RD 4	3-5	61	13	70	21.3%
	6-9	24	10	47	41.7%
	10-19	6	1	16	16.7%
	20+	10	3	67	30.0%
RD 5	3-5	76	10	89	13.2%
	6-9	28	3	57	10.7%
	10-19	6	1	13	16.7%
	20+	17	5	41	29.4%
RD 6	3-5	71	1	83	1.4%
	6-9	31	2	49	6.5%
	10-19	13	2	20	15.4%
	20+	18	2	48	11.1%

ADMINISTRATIVE DISCHARGES

HPD also recognized by the time of the Five Year report that buildings were remaining in AEP when the program was no longer necessary. The amendments to the law passed in 2011 granted HPD the ability to discharge buildings from the program once a 7A Administrator is appointed, if a building is vacant for more than a year or if HPD corrects violations and completes the required system work (see Chart 12).⁶ This Section provides a summary of discharges based on the amended discharge criteria and recommends an additional condition under which discharge is warranted.⁷

CHART 12: OTHER DISCHARGES



DISCHARGE FOR VACANCY

Many buildings become vacant during or were vacant just shortly before entering AEP. Of the 91 vacant buildings, 60 are in Brooklyn and 24 are in the Bronx; 87 buildings are 3-5 unit buildings, and 85 out of the 87 buildings have shown current and/or historical levels of financial distress as evidenced by their association to a Tax Lien Sale Filing/Sale or a Mortgage Foreclosure Filing.⁸

DISCHARGE BASED ON THE APPOINTMENT OF A 7A PROGRAM ADMINISTRATOR

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

Not all AEP properties are good candidates for 7A. The small size of many buildings make them poor candidates for 7A as one of the main criteria for 7A is that the building can sustain itself (cover at least maintenance costs) based on the rental income. Many of the small buildings, in several cases not even fully occupied, cannot sustain themselves financially. As of January 31, 2014, 26 buildings were discharged because a 7A Administrator had been appointed. The average size of these building is nine units. Ninety-six percent (23 of 24 discharged to 7A after the order was issued) required system replacement work, some of which was done while the building was still in AEP.

DISCHARGE DUE TO WORK COMPLETED BY HPD

In some buildings, HPD completed all of the system replacement work but there was no landlord to complete all of the required paperwork or to request the necessary dismissals. Fourteen buildings were discharged as Work Completed by HPD. Thirteen of the 14 buildings required system replacement work that was completed by AEP. These are small buildings (average of 4.6 units). These buildings have a history of financial issues. All 14 have been associated with Tax Lien Sale Notices or Sale or Foreclosure. Eight of the properties were in the 2014 90-Day Notice.



RECOMMENDATION FOR NEW DISCHARGE CRITERIA

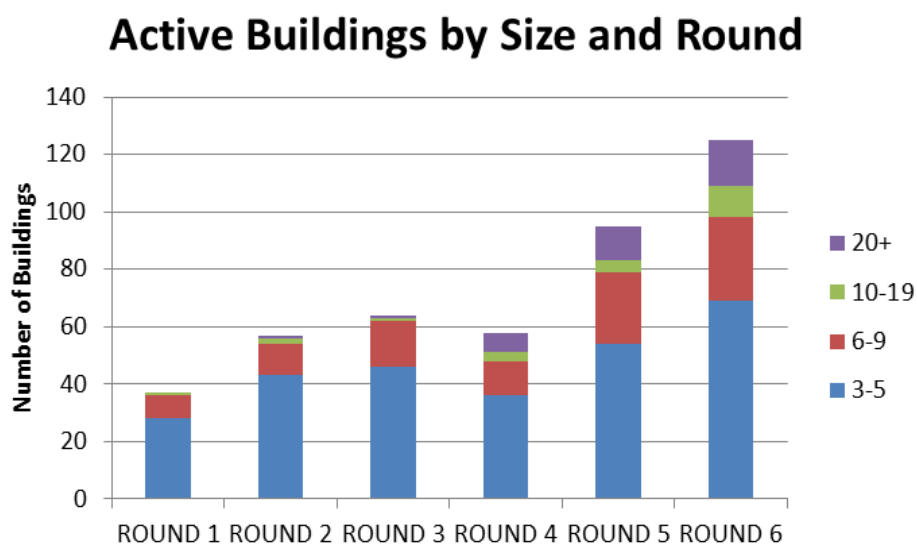
HPD's Enforcement and Development areas have worked together to encourage the purchase of poor properties by new responsible property owners. Once these property owners purchase a property, they may come in to HPD or HDC to obtain a rehabilitation loan. Loan processing is a lengthy process which may exceed one year. While the loan is being processed, the property may be selected for AEP. This was the case at 919 Prospect Avenue in the Bronx, which is an AEP Round 6 property with 31 residential units. The landlord applied for a Participation Loan Program loan to address six system replacements listed in the AEP Order: joists, floor covering, domestic and waste lines, roof replacement and re-wire. AEP has been monitoring the property and the landlord has been making repairs but is waiting for the loan before completing the systems. While the property owner is waiting to complete repairs, fees continue to be assessed for inspections. In some cases, a newly purchased property in poor condition is in the process of obtaining an HPD preservation loan or tax credits before the building is selected for AEP or applies as a result of being in AEP. HPD should be able to discharge properties from AEP once a loan closes.

ACTIVE BUILDINGS

AEP resources were monitoring 437 buildings that were active in the program prior to the selection of Round 7 buildings on January 31st, 2014 (see Chart 13). All 311 complaints for active buildings are inspected by AEP. AEP makes periodic visits to all properties, monitoring for new ownership, new repair issues that may arise, and property owner activity. For buildings in recent rounds (5 and 6), AEP repair work or system replacement work may still be in progress (see the next section for expenditure information).

As originally envisioned, AEP would generally only be monitoring the current year and perhaps a small spillover from the previous round each year, not exceeding 250 buildings at one time. The ability for AEP to discharge buildings for vacancy, to 7A and once work is completed by AEP, provided a means for AEP to manage the high number of buildings which require AEP monitoring for more than one year. However, even with the new discharge protocols, HPD has not reduced the workload enough to ensure that AEP resources are adequate for the ever increasing number of active buildings from previous rounds.

CHART 13: ACTIVE BUILDINGS ONLY BY ROUND AND SIZE



The buildings remaining from the early rounds are almost entirely small buildings. The overall average size of buildings remaining in the program for more than one year is less than 10 units. HPD has spent approximately \$9.5 million on the active buildings from Rounds 1, 2 and 3. As one of the issues that especially affected Round 1-3 small buildings, The Five Year report provided some statistics about the effect of the Foreclosure crisis of the late 2000s. Foreclosure still has not resulted in new ownership for many of the early round buildings. Fortunately, foreclosures have not played as significant a role in the recent rounds, both because of the lower number of small buildings selected due to the criteria changes and the efforts to reduce the effects of foreclosure overall in the city. In general, AEP has found that the ability to contact a mortgagee does not have an effect on whether the mortgagee is willing to intervene at the property.

The City's Tax Lien Sale also provides insight about financial distress among active buildings (see Chart 14). Of the 376 active AEP buildings on January 31, 2012, 35 had liens sold in the 2011 Tax Lien Sale. This means that the property owners could not pay the outstanding tax liens and/or there was no landlord to enter into a payment agreement – which requires a 0%

downpayment – 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 criterion of which is a lien to value ratio of over 15%. The percent of active AEP buildings in distress has increased over time since it is the most financially distressed buildings that remain in the program; 62% of all buildings still active as of January 31, 2014 were identified on the City's 2014 Tax Lien Sale 90-Day list. Eighty buildings qualified for a mandatory exclusion from the Lien Sale, meaning that the lien to value ratio for the building was higher than 15% and there were either a significant number of violations or significant ERP charges.

CHART 14: TAX LIEN SALE 2014 AND AEP ACTIVE BUILDINGS AS OF 1/31/2014

Mandatory Exclusions

ROUND	Total Buildings	Avg. Units	2014 TLS 60-Day Notice - Buildings	% in TLS 60-Day Notice	Buildings	Avg. Units	ERP Charges	Avg. ERP Charges Per Building	Total Charges	Avg. Total Charges Per Building
RD 1	38	4.3	21	55.3%	9	4.4	\$2,427,528.71	\$269,725.41	\$2,725,967.07	\$302,885.23
RD 2	57	5.6	37	64.9%	16	5.0	\$3,179,739.51	\$198,733.72	\$3,844,654.46	\$240,290.90
RD 3	64	4.9	34	53.1%	16	4.3	\$2,147,816.62	\$134,238.54	\$2,556,230.19	\$159,764.39
RD 4	58	7.9	36	62.1%	14	10.0	\$1,329,169.19	\$94,940.66	\$2,873,146.90	\$205,224.78
RD 5	95	8.2	60	63.2%	14	9.6	\$838,672.10	\$59,905.15	\$6,162,051.94	\$440,146.57
RD 6	125	9.5	70	56.0%	11	14.7	\$389,661.68	\$35,423.79	\$1,317,668.48	\$119,788.04
TOTAL	437				80					

Increased enforcement action is obviously not the appropriate solution for buildings that do have active ownership. Lack of a responsible landlord because of foreclosure action or abandonment has meant that buildings have remained in AEP since 2007 and enforcement action has been useless (since there is no one to enforce against). HPD has explored supporting property owners who will agree to preserve the affordable rents of the housing stock or non-profit organizations to purchase and rehabilitate these properties. However, small buildings present unique challenges as they cost more to repair per dwelling unit than larger buildings given the fixed costs involved with administering loan programs, regardless of building size. In terms of supporting current ownership where there is a responsible owner, property owners of small buildings may be less experienced at navigating the City's financial programs. While these buildings are in AEP, HPD is continuing to conduct ERP work and levy inspection fees. HPD continues to seek a means of moving these properties – most of them occupied – to more stable ownership and improve living conditions for the long term. Because of the tremendous liens on some of the properties, the value of the property is greatly diminished in the eyes of the private market. Conducting system replacements and even maintenance is costly because there is no economy of scale. HPD is reviewing several ideas about how best to address this group of properties along with non-AEP distressed properties as part of the Housing Plan, including:

- i. Create a tax exemption for building property owners not currently served by existing programs who are willing to accept affordability restrictions in exchange for a period of reduced property taxes.
- ii. Third Party Transfer (TPT) is a mechanism that allows the City to transfer physically distressed and tax delinquent properties to responsible property owners who will address the physical needs. Initiating TPT *In Rem* actions requires coordination between multiple City agencies. The City will coordinate among the relevant agencies (HPD, DOF, Law Department, OMB, DEP) to initiate a new round of TPT actions and review the frequency and timing of additional rounds going forward to ensure a more efficient and strategic process.
- iii. The City will work with third parties to achieve economies of scale in preserving small buildings more efficiently through bundling properties and administering loan programs, creating alternative financing mechanisms that are more flexible than City dollars, and providing technical assistance to property owners to navigate loan programs. The City will also make the programs simpler and easier to use.
- iv. Education and outreach to small property owners to advise about City programs and City requirements to help prevent the properties from falling into disrepair, such as energy savings, rebate programs available from City/State/Federal sources, non-profit assistance with mortgages and other financial opportunities.

Taking these non-enforcement actions to assist small building property owners may be more likely to reduce outright abandonment and increase the likelihood that existing occupants can continue to reside at these buildings.

SECTION 2: COST EFFECTIVENESS

AEP costs include personnel and repair costs.

PERSONNEL

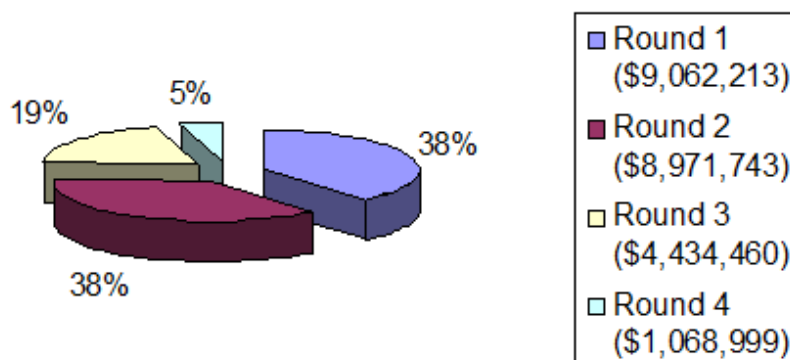
In Fiscal Year 2014, AEP had 34 staff, including Housing Inspectors, technical staff, community coordinators and administrative staff, at a cost of approximately \$2.2 million per year. Housing Inspectors issue violations and conduct reinspections of corrected conditions. Technical staff issue Orders for system repair; issue work orders for repair and system replacements to be done 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. A dedicated staff member was added to AEP to monitor mold and vermin affidavits and Integrated Pest Management (IPM) in 2011.

EMERGENCY REPAIRS AND SYSTEM REPLACEMENTS

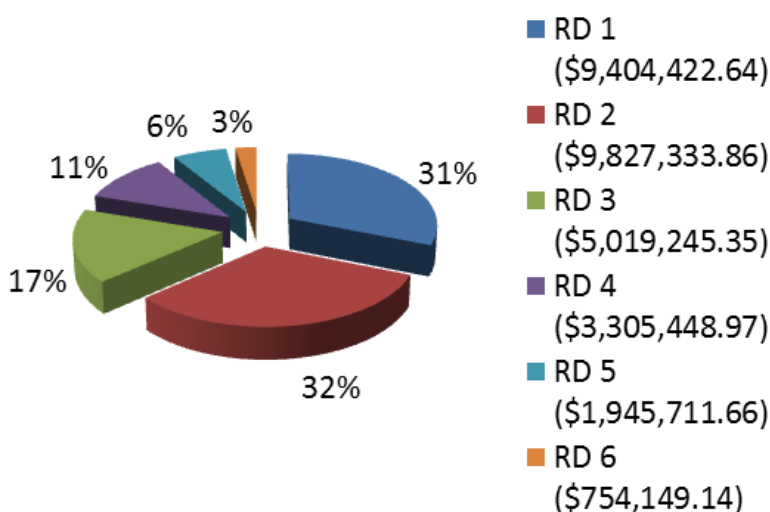
As of January, 2014, \$30 million dollars had been spent on emergency repairs and system replacements (see charts 15 and 16). Money continues to be spent on Round 1, 2, 3 and 4 buildings, well beyond the expected timeline for spending.

CHART 15:

A. TOTAL REPAIR AND SYSTEM REPLACEMENT EXPENDITURE BY ROUND AS OF 1/31/2012

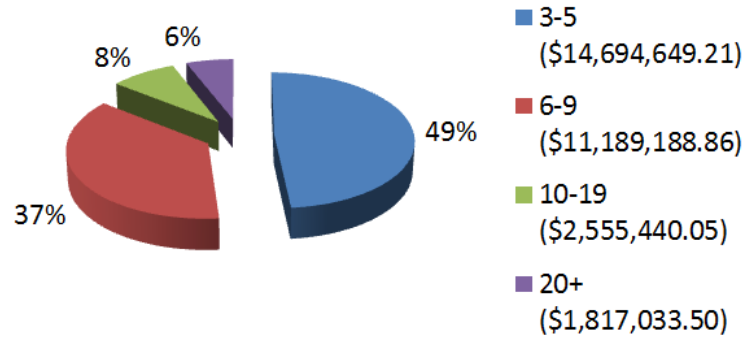


B. TOTAL REPAIR AND SYSTEM REPLACEMENT EXPENDITURE BY ROUND AS OF 1/31/2014



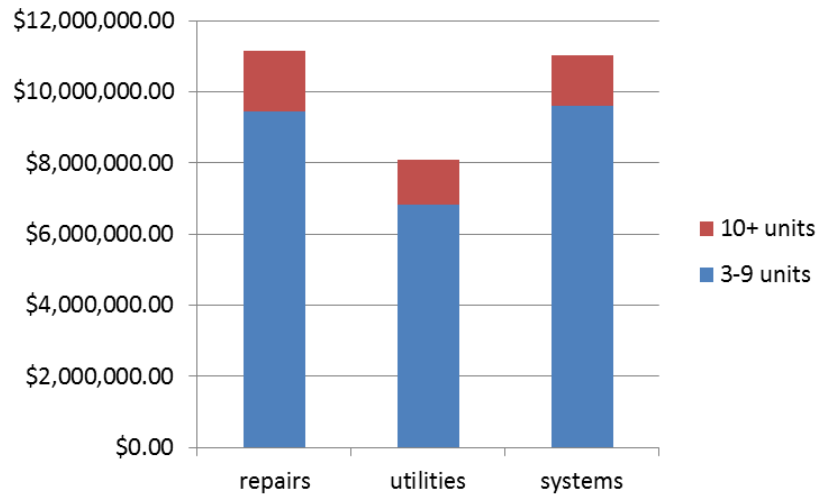
HPD has spent the most money overall in 3-5 unit and 6-9 unit buildings (see Chart 16). By January 31, 2014, 49% of all expenditures has been in 3-5 unit buildings and 37% has been spent on 6-9 unit buildings, accounting for more than \$25 million. Although there are fewer small buildings in round 4-6, the spending has become even more concentrated in the small buildings (86% of all spending).

CHART 16: DOLLARS SPENT BY BUILDING SIZE



HPD has become the de facto property manager for many of the smaller buildings, many of which have been effectively abandoned. Spending on utilities – which includes fuel, electric and gas – continues to be a significant percentage of all spending (see Chart 17).

CHART 17: EXPENDITURES BY BUILDING SIZE AND TYPE OF EXPENDITURE (AS OF 1/31/2014)

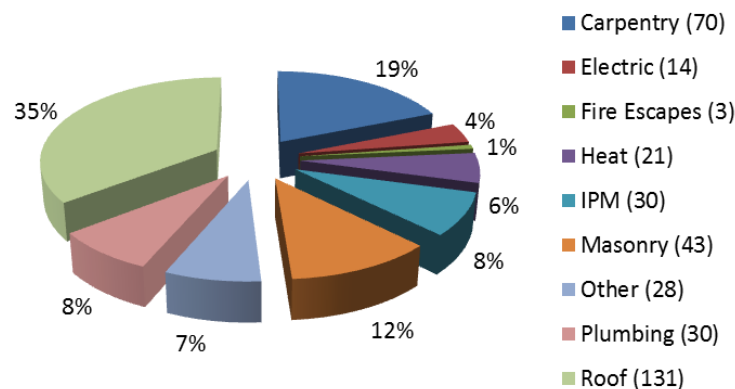


SYSTEM REPLACEMENTS

AEP has completed 370 system replacements in 206 buildings (see Chart 18) at a cost of approximately \$11 million. Replacing the roof is by far the most common type of work. Fifty-percent of the dollars spent on system replacements was spent replacing roofs in 131 buildings. Seventy-eight of those 131 buildings were 3-5 unit buildings and 40 of the buildings were 6-9 unit buildings.

CHART 18: HPD SYSTEM REPLACEMENTS BY TYPE, ROUNDS 1-6 AS OF 1/31/2014

System Replacements



FEES

If the landlord 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 the Department of Finance (DOF) for billing and collection.

As of January 31, 2014, HPD imposed \$7.7 million in fees. Comparing the fees billed as of January 31, 2011, demonstrates that HPD continues to levy fees against the already overburdened buildings from the early rounds (see Chart 19).

CHART 19: FEES IMPOSED

A. AS OF JANUARY 31, 2011

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

B. AS OF JANUARY 31, 2014

	Fee Amount \$						
Fee Type	RND 1	RND 2	RND 3	RND 4	RND 5	RND 6	Total
Complaint Inspection Fee	\$ 410,400	\$ 375,400	\$ 208,600	\$ 134,600	\$ 117,400	\$ 44,600	\$ 1,291,000
False Certification Fee	\$ 4,800	\$ 1,100	\$ 300	\$ 2,600	\$ 4,200	\$ 2,300	\$ 15,300
Initial Re-inspection Fee	\$ 535,000	\$ 627,000	\$ 496,500	\$ 393,500	\$ 547,000	\$ 645,500	\$ 3,244,500
Six Month Program Fee	\$ 505,000	\$ 612,000	\$ 482,500	\$ 390,000	\$ 555,000	\$ 631,500	\$ 3,176,000
	\$ 1,455,200	\$ 1,615,500	\$ 1,187,900	\$ 920,700	\$ 1,223,600	\$ 1,323,900	\$ 7,726,800

RECOUPMENT

All costs, including the system replacements, repairs and utilities costs (and the administrative fee for each) and the inspection/program fees, are billed to the landlord through DOF. Interest accrues on these charges and the charges may be converted to tax liens if not paid promptly. As discussed earlier, many AEP buildings fall into the City's Tax Lien Sale due to these costs.

Overall, \$35 million of pre-existing Emergency Repair Charges, AEP charges and AEP fees have been recouped from AEP buildings (see Chart 20). The almost \$5 million in fees collected has not been sufficient to support the continued monitoring of buildings year after year. Initial staffing estimates assumed that – over time – fewer of each round's 200 buildings would remain in the program past the pre-Order 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 property owners.

CHART 20: COSTS RECOVERED (ERP AND AEP)

	Amount Recouped (\$)						
Expenditure Type	RND 1	RND 2	RND 3	RND 4	RND 5	RND 6	Total
ERP Charges (Pre-AEP)	\$3,087,409	\$2,094,853	\$2,288,755	\$2,628,435	\$1,519,943	\$1,035,568	\$12,654,963
AEP Charges	\$5,715,261	\$6,232,071	\$3,231,395	\$1,617,138	\$913,787	\$5,096	\$17,714,748
System Replacement	\$1,701,185	\$2,566,264	\$805,245	\$383,546	\$113,156	\$0	\$5,569,396
Non-System Replacement	\$4,014,076	\$3,665,807	\$2,426,150	\$1,233,592	\$800,631	\$5,096	\$12,145,352
AEP Fees	\$1,179,736	\$1,215,365	\$942,579	\$641,197	\$651,758	\$231,190	\$4,861,825
	\$9,982,406	\$9,542,289	\$6,462,729	\$4,886,770	\$3,085,488	\$1,271,854	\$35,231,536

SECTION 3: MOLD AND VERMIN

Local Law No. 7 of 2011 added a “Healthy Homes” component to the Alternative Enforcement Program, specifically identifying work practices related to the correction of mold and vermin violations. This section reviews the requirements, explains how HPD has implemented them and makes recommendations regarding mold and vermin enforcement based on the lessons learned.

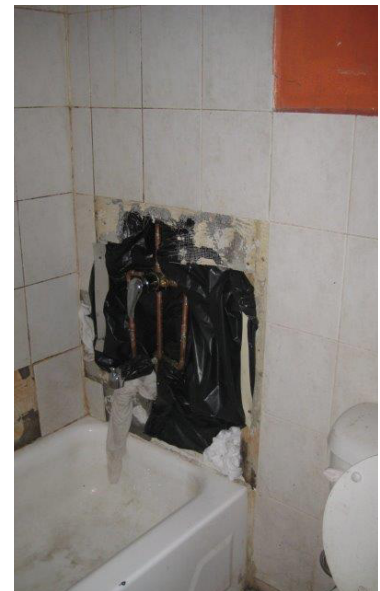
REQUIREMENTS AND IMPLEMENTATION

MOLD

HPD issues violations for mold as a housing maintenance condition because the presence of mold indicates that a building has moisture problems. Mold can grow on wet building materials, such as the paper on wallboard or wood. Generally, the Department of Health and Mental Hygiene (DOHMH) advises building owners to identify mold growth and moisture conditions and to remove the water source. It also advises that mold be removed using safe work practices, including proper clean-up after mold removal work is completed, and worker protection measures. Identifying and fixing leaks, drying wet or damp surfaces, and removing humidity from the air are the primary ways recommended to prevent mold growth from returning.

Prior to January 31, 2011, all mold violations issued by HPD could be dismissed if the property owner certified correction or HPD reinspected the condition post-correction. 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;
- Cleaning mold growth with soap or detergent, and water. The use of disinfectants such as bleach is not recommended;
- Removing and throwing away porous materials that are moldy and that cannot be cleaned, or materials that are saturated with water and that cannot be dried or are unrepairable;
- 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 work area using wet cleaning methods or by HEPA-vacuuming.



In addition to the above work practices, the property owner must inform building occupants about the commencement of mold removal work, and provide building occupants with a copy of the DOHMH's brochure about mold and require, to the extent practicable, occupants to leave the work area before work begins. Work found to be addressing mold conditions without the proper safe work practice methods is stopped by AEP and is only allowed to continue once the proper methods are used.

When such mold removal work has been completed, the property 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 landlord; and
- Provide an affidavit to HPD that such actions have been taken. (The affidavit is provided to the landlord at the time that the landlord is notified that a building is in AEP.) The completed affidavit must be submitted to AEP prior to the dismissal of any mold violations.

HPD inspects to confirm that the condition has been corrected. Eighty percent of Class B and 100% Class C mold violations must be dismissed prior to discharge from AEP. These requirements apply to all mold violations still open as of January 31, 2011.



The goal of all of these requirements is to ensure that the property owner addresses the mold condition while minimizing any release of mold particles and dust into the dwelling space. Exposure to mold is associated with various upper respiratory symptoms such as runny nose, itchy eyes, and the exacerbation of asthma among sensitive people. Removal of mold by following the DOHMH guidance helps to reduce exposures and prevent future mold growth from occurring.

Mold can be a local condition (leak or humidity in individual apartments) or it can be a condition that affects multiple apartments within a building. Analysis of mold violations found that the vast majority of mold violations pending were in the bathroom, suggesting that the likely causes of mold are poor ventilation and leaks at the plumbing chases.

AEP has ordered the replacement of at least one water system on 445 Orders to Correct (see Chart 21). There were mold violations in over 80% of the buildings where AEP ordered the replacement of a water related system. HPD issues mold violations as class A, class B or class C violations depending on the location and severity of the mold condition.

CHART 21: AEP ORDER ITEMS RELATED TO MOLD VIOLATIONS

AEP ORDER ITEM	# BLDGS	# BLDGS W/ MOLD	% W/ MOLD
Pointing	166	141	84.9%
Replace Domestic Water Supply	106	88	83.0%
Replace Roof	338	271	80.2%
Replace Waste Lines	132	107	81.1%
Waterproof Exterior Walls	49	41	83.7%
	445	358	80.4%

VERMIN

The AEP amendments to the law in 2011 included requirements about the methods used to correct vermin violations and documentation about the correction of vermin violations for discharge. The amendments rely heavily on integrated pest management (IPM) methodologies, which include sealing holes, cracks and crevices and eliminating sources of food and water. While IPM uses pesticides, safer products are employed with more targeted application.

Specifically, the landlord of a building participating in AEP is required to correct vermin 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.
- Caulking and sealing small holes less than four inches in diameter, cracks and crevices in or between walls, cabinets, floors, and in other locations where vermin may gain access. A HEPA-vacuum must be utilized in kitchens and bathrooms, including in cracks, crevices and appliances in such rooms.
- Addressing vermin violations by using only pesticides approved by New York State and federal law and applied by a person licensed by the New York State Department of Environmental Conservation.
- 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.

Vermin violations cannot be dismissed without submission of the property owner's affidavit and an inspection by HPD. When the pest management work has been completed, the property owner must document all corrective actions taken to address vermin violations, including work methods and products used. They must provide information to occupants of the building about ways to control pests safely, and inform occupants that they should report recurrent or persistent pest problems to the property owner. Property owners must provide an affidavit and a certification to the department that these actions have been taken. Eighty percent of the vermin violations must be dismissed before a building can be discharged from AEP.

AEP Community Coordinators distribute the DOHMH/HPD pamphlet about vermin to all occupants. Almost all buildings entering into AEP had vermin violations. In Round 6, 184 of the 200 buildings had vermin violations upon selection of the buildings. The most common type of vermin was 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.

The extent of the presence of vermin is best predicted by whether there is a pest management professional (PMP) and the housekeeping of the occupants. Not surprisingly, units that have a PMP and where housekeeping is good have less recurrence than those apartments that claim not to have been visited by a PMP on a regular basis and/or exhibit poor housekeeping by the occupants.⁹ Most PMPs still rely heavily on the use of extermination rather than the use of integrated pest management methodologies. Extermination alone does reduce the presence of vermin, but not in the most effective way to prevent a recurrence in the long term and not in the safest way for the health of the occupants. Vermin correction requires the cooperation of the occupants, the property owners and the PMP.

For properties that fail to be discharged from AEP before an Order is issued and where there is a vermin infestation (more than one-third of the units have vermin violations), the property owner is ordered to submit a pest management plan. As of January 31, 2014, 182 Orders included a requirement for the property owner to supply an Integrated Pest Management Plan (IPM). Thirty-eight buildings (20 from Round 4, 15 from Round 5 and 3 from Round 6) had supplied pest management plans that were approved.

The IPM process has become an ongoing cycle, with owners constantly submitting plans to AEP, AEP submitting these pest management plans to DOHMH for review and approval, and the owner either not correctly completing the plan or failing in its execution. Generally, owners failed to (1) indicate how the repairs for holes and maintenance items would be handled (2) put in place a plan for tenant reporting of vermin conditions, or (3) describe the frequency or responsibility for inspection. For every plan that is submitted unsuccessfully, conference calls or meetings are attempted between the landlord, PMPs and HPD to try to have the plan successfully submitted. There were two sessions on vermin remediation offered to approximately 800 landlords/managing agents (through mail and subsequent phone calls); only 33 owners/managing agents attended. On a positive note, there were successful trainings for both pest management companies (16 of 52 companies attended) and agency staff. 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. PMPs are regulated by New York State.

DOHMH has played and continues to play a crucial role in approving pest management plans, determining the methodology to be employed, and ensuring the pesticides used are appropriate. The pest management plan must be approved by DOHMH prior to the discharge of the building from the program. HPD staff continues outreach to the remainder of the properties to obtain corrected or initial plans. Based on the issues with the submission of the plans, DOHMH modified the 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 began to be used in July 2012. The agencies are exploring ways to provide more emphasis of on-site assessment for pests, identifying areas in need of pest-proofing, and corrective action. Such activities can be coordinated with other HPD programs, such as the Underlying Conditions Program and small building outreach.

Once an IPM plan is approved and the owner indicates that treatment has been done, AEP staff often conducts field inspections to confirm that the proper work has been done and that there is evidence of remediation. The results of the IPM inspections have been disappointing. Only 4 buildings of 15 passed on their first inspection. There are eight properties that failed and have not passed a subsequent reinspection. Six have not requested another IPM inspection beyond the initial inspection. This work has been extremely labor intensive and requires monitoring and follow-up.

HPD has contracted for IPM treatment in 33 buildings. This work has resulted in the removal of 277 vermin violations. Access and occupant cooperation were the key obstacles to treatment. Although there were repeated attempts by the agency vendor and AEP to have occupant meetings to encourage cooperation, AEP's vendor was unable to access all units in many buildings. In half of the buildings without a full treatment due to access issues, vermin conditions recurred. Only 26% of the buildings where all of the occupied units were treated have exhibited recurrences. Because IPM is heavily dependent on following through with the plan (for constant repair and vigilance for the recurrence of pests), and HPD does not provide day-to-day maintenance, it remains to be seen how successful HPD-initiated IPM will be for the long term. 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.

For those properties where no responsible party for the building is available, complications arise around sanitation and the nature of the work to be done. Many properties need 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 remove any trash outside or that some apartments have severe occupant housekeeping issues. A coordinated approach is essential to make sure that IPM work is integrated into overall building repairs, especially in buildings in AEP where system replacement work and major repairs should be completed prior to IPM.

ANALYSIS

The question of whether or not the increased requirements for mold remediation or vermin had a positive effect on a building above and beyond the existing requirements for mold and vermin violation removal were reviewed in two ways. Neither analysis provided conclusive evidence that the increased requirements made a significant difference in ensuring that mold or vermin treatments improved long-term benefits in terms of the recurrence of the condition.

1 – Compare the number of and recurrence of violations issued for each condition in AEP buildings discharged *prior* to the requirements to the number of the same type of violations issued to AEP buildings discharged *after* the requirements.

The difficulty with this approach is the short time between the implementation of the requirements and January 2014. Charts 22 and 23 provide a comparison for both vermin and mold which shows the number of violations dismissed in the last year before an affidavit was required for discharge from AEP versus the number dismissed within the first year that the affidavit was required in buildings discharged for compliance.

CHART 22: VERMIN COMPARISON

	Buildings discharged between Jan 31, 2010- Jan 31, 2011 (no affidavit required)	Buildings discharged between Jan 31, 2011- Jan 31, 2012 (affidavit required)
Total buildings	257	287
Total units	3822	4851
Average size	14.87	16.9
# of units with vermin violations at program start	1300	1486
% of units with vermin violations at program start	34%	31%
# of units with vermin violations at program start but no vermin violations at program end date	1155	1328
% of units with vermin violations at program start but no vermin violations at program end date	89%	89%
# of units with vermin violations at program start but no vermin violations at program end date AND current open vermin violation (1/31/2014)	99	94
% of units with vermin violations at program start but no vermin violations at program end date AND current open vermin violation (1/31/2014)	9%	7%

The difference between the percentage of open violations in pre-requirement versus post-requirement buildings is very small, especially given that there is a year more data for the issuance of new violations in the older set.

CHART 23: MOLD COMPARISON

	Buildings discharged between Jan 31, 2010- Jan 31, 2011 (no affidavit required)	Buildings discharged between Jan 31, 2011- Jan 31, 2012 (affidavit required)
Total buildings	257	287
Total units	3822	4851
Avg size of buildings	14.87	16.9
# of units with mold violations at program start	531	642
% of units with mold violations at program start	14%	13%
# of units with mold violations at program start but no mold violations at program end date AND current open mold violations (1/31/2014)	22	18
% of units with mold violations at program start but no mold violations at program end date AND current open mold violations (1/31/2014)	4%	3%

The difference between the percent with current open violations based on whether the mold requirements were applicable is similarly low.

This data would suggest that the recurrence of vermin and mold violations is not significantly affected by the new requirements in the majority of properties.

2 – Compare the recurrence of mold or vermin violations corrected by the landlord in *AEP buildings* after the new requirements became effective to mold and vermin violations certified as corrected in *non AEP buildings* during the same period.

Starting in the second half of 2013, HPD conducted an audit of a sample of violations corrected as identified on mold and vermin affidavits and a sample of mold and vermin violations certified by the landlord as corrected in non-AEP buildings. The purpose of the audit was to determine if there was a difference in the recurrence over time between AEP and non-AEP buildings and, if so, to identify what factors might contribute to the recurrence. The Field Audit Review Unit (FAR), an audit unit within the Office of Enforcement and Neighborhood Services, attempted to inspect 38 AEP buildings (36 with affidavits submitted and two where work was completed by HPD) with 185 apartments. This represents 20% of the total number of buildings from which AEP received an affidavit for either mold or vermin violations between July 1, 2012 and August 15, 2013. Not surprisingly, most buildings had both types of violations. At the same time, FAR attempted to inspect 126 non-AEP buildings with 259 apartments that had open mold and/or vermin violations. These violations had been certified as corrected by property owners through the Division of Code Enforcement's certification process. Similar size buildings were selected to match the non-AEP buildings to the AEP buildings. Violations were certified during roughly the same period of time as the receipt of the AEP affidavits. Obviously, building condition could not be controlled for, since by definition the AEP buildings were in worse condition than a general sample of residential buildings citywide.

In the AEP buildings, 75% of the apartments had no recurrence of mold at the time of the audit. Of the 13 AEP buildings accessed:

- 5 buildings had a recurrence. (2 had system replacements related to water systems).
- 8 buildings did not have a recurrence. (7 buildings had system replacements related to water systems)

For the non-AEP buildings, 63% of the apartments had no mold at the time of the audit indicating a higher recurrence among these buildings than the AEP buildings.

CHART 24: MOLD AUDIT RESULTS

	AEP	Non-AEP
AEP buildings where an affidavit was submitted and an audit attempted	25	n/a
Apartments with mold violations in buildings where an affidavit was submitted and an audit attempted	67	n/a
Non-AEP buildings where mold violations were certified and an audit attempted	n/a	59
Non-AEP apartments with mold violations in buildings where the violations were certified and an audit attempted	n/a	97
Buildings where access was gained	13	36
Apartments where access was gained	24	57
Apartments where recurrence observed	6	21
Apartments with no recurrence	18	36

In the AEP buildings, about 73% of the apartments had no vermin at the time of the audit. Of the 23 AEP buildings accessed related to vermin violations:

- 10 buildings had recurrence. (Of these 10 buildings, 3 had IPM, 4 had system replacement and 3 had neither IPM nor system replacements.)
- 13 buildings did not have recurrence (3 had IPM, 6 had system replacement and 4 had neither IPM nor system replacements).

For the non-AEP buildings, 62% of the apartments had no vermin at the time of the audit.

CHART 25: VERMIN AUDIT RESULTS

	AEP	Non-AEP
AEP buildings where an affidavit was submitted and an audit attempted	35	n/a
Apartments with mold violations in buildings where an affidavit was submitted and an audit attempted	144	n/a
Non-AEP buildings where vermin violations were certified and an audit attempted	n/a	95
Non-AEP apartments with vermin violations in buildings where the violations were certified and an audit attempted	n/a	135
Buildings where access was gained	23	53
Apartments where access was gained	52	71
Apartments where recurrence observed	14	27
Apartments with no recurrence	38	44

Looking at sanitation ratings and types of methods for vermin treatment provided some additional information that could be used to understand the results. Over 70% of the apartments were in good condition overall when no recurrence was identified. However, when there were violations, 32% of the non-AEP apartments had poor conditions.

CHART 26: APARTMENTS WITH VERMIN VIOLATIONS – BY APARTMENT SANITATION RATING

	Good	Fair	Poor
AEP Apartments	43%	43%	14%
Non-AEP Apartments	32%	36%	32%

In two-thirds of the buildings (both AEP and Non-AEP), the general building conditions were good or fair when there were no violations issued. When there were violations issued, the non-AEP buildings were much more likely to have poor general building conditions.

CHART 27: APARTMENTS WITH VERMIN VIOLATIONS – BY BUILDING (PUBLIC AREA AND EXTERIOR) SANITATION RATING

	Good	Fair	Poor
AEP Apartments	57%	21%	21%
Non-AEP Apartments	35%	9%	57%

Buildings with violations were much more likely to have had no one treating for vermin.

CHART 28: INDIVIDUAL WHO TREATED APARTMENTS WITH NO VERMIN VIOLATIONS (NUMBER IN %)

	Exterminator	Tenant	Owner	No Treatment
AEP Apartments	68	13	3	16
Non-AEP Apartments	80	10	3	8

CHART 29: INDIVIDUAL WHO TREATED APARTMENTS WITH VERMIN VIOLATIONS (NUMBER IN %)

	Exterminator	Tenant	Owner	No Treatment	Super
AEP Apartments	36	14	7	43	0
Non-AEP Apartments	50	15	0	31	4

MOLD AND VERMIN AEP REQUIREMENTS: EFFECTIVE OR NOT EFFECTIVE?

Although it appears that the increased requirements for mold or vermin remediation had a positive short-term effect on the recurrence of those conditions in AEP buildings when compared with non-AEP buildings, there are factors others than just the work practices, notices and other requirements that affect the results. For AEP buildings:

- Conditions are extremely poor to start,
- There is a heightened level of general rehabilitation of the buildings, and
- There is an extremely intensive level of monitoring and work with owners and tenants by HPD.

These factors make it difficult to determine whether the requirements alone actually improved conditions.

Recognizing that some property owners do not adequately address leak conditions in general population buildings, and that leak conditions are a pre-condition for mold violations and contribute to the presence of vermin, HPD has implemented alternative strategies to address buildings which have significant issues. After seeking and obtaining amended legislation surrounding HPD's ability to issue Orders to Correct for non-AEP buildings, a new initiative called the Underlying Conditions Program (UCP) was started in the fall of 2013. Orders to Correct were issued to 25 buildings with substantial indications of building-wide leak and/or mold issues. Of the 25 buildings issued Orders, 8 buildings complied with the requirements to have an architect/engineer assess the building for building-wide water conditions, for any system replacement work to be done, and for all mold and leak violations to be corrected. Eight buildings "graduated" into AEP Round 7 and are still in the process of addressing conditions as of the beginning of May. The remaining buildings either are continuing progress towards discharge or HPD has started comprehensive litigation to enforce the Order. Although HPD does have the authority to assess whether a building system replacement is needed and to complete that work, this program is striving to push property owners to take the proper action. This type of program, which is not fee heavy but requires the landlord to assess the building-wide systems from the program start, and which has a substantial civil penalty associated with the Order if the landlord fails to assess and correct, may be a better model for addressing conditions such as leaks (which contribute to both mold and vermin issues). This strategy could be coordinated more closely with IPM intervention efforts if vermin are determined to be a significant issue in buildings selected for UCP.

Given the limited conclusive evidence that the enhanced mold and vermin requirements have made a significant difference but with the understanding that mold and vermin do affect housing quality, HPD and DOHMH will consider some enhancement of enforcement action when there is evidence of systemic issues. AEP and UCP will continue to be used as a means of addressing those buildings exhibiting the highest level of distress. To address mold and vermin conditions from a housing maintenance perspective in the larger population of properties showing more limited issues, HPD and DOHMH will explore potentially enhancing enforcement in the following ways:

- Repeat violations for the same mold condition – increase the severity of the violation (from a B to a C).
- Repeat violations for the same vermin conditions – DOHMH involvement, which may include requirements for IPM.
- Building-wide proactive enforcement: certain percentage of apartments with violations results in enhanced enforcement by HPD (mold) or DOHMH (vermin).
 - Expanded use of UCP.
- Recommending enhanced enforcement of sanitation issues by the Department of Sanitation (DSNY).
- Recommending that DSNY explore issuing requirements for standard disposal containers.
- To complement the IPM work in AEP, the agencies are also promoting integrated pest management (IPM) best practices among building owners and tenants. For example, the DOHMH Healthy Homes programs works with key partners to promote adoption of IPM in affordable housing.
- In addition, DOHMH is working with:
 - *Affordable housing organizations* to promote green and healthy property management. DOHMH provides technical assistance and training to affordable housing groups to implement IPM into building management practices thereby affecting thousands of low income families living in affordable housing.
 - *Weatherization organizations* to educate them about IPM and promote its integration in the energy conservation and weatherization work in thousands of NYC homes.
 - *Community health care providers* to implement IPM services in homes of children with asthma.



SECTION 4: CONTINUING SUCCESS

HPD's mission is to ensure quality housing for all New Yorkers. With this goal, HPD has addressed approximately 1,200 of the most distressed buildings in New York City through six rounds of AEP. AEP has successfully improved housing quality in distressed properties using the combination of individualized attention and outreach to property owners, significant fees and extensive repair and system work. During that time, complementing the AEP focus on the most distressed properties, HPD has implemented other programs and initiatives to address buildings sliding into distress, most notably the Proactive Preservation Initiative and the Underlying Conditions Program. The goal of these programs is to assist buildings before conditions reach the level of distress identified in AEP buildings, and those programs have been successful as well. In combination with these newer tools, HPD has used AEP wisely, seeking to address buildings where the biggest positive impact can be made and housing quality improved quickly for thousands of occupants.

RECOMMENDATIONS

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 property owners,
- Occupied buildings, and
- Buildings with systemic issues.

HPD's recommendations for continuing to meet the challenges of ensuring quality housing for all New Yorkers and to focus the program on the buildings where AEP is most effective include:

- Limiting the number of small (under six units) buildings included in AEP, instead focusing on developing a new program model and new tools to address the specific needs of these buildings.
- Modifying the criteria for inclusion in the program to reflect existing distressed buildings with six or more units, focusing on buildings with signs of long-term distress.
- Addressing the rising debt owed by buildings that remain in the program for multiple years in an effort to reduce the average time a property remains active in AEP and to improve living conditions more quickly.
- Allowing an exemption/discharge from AEP for buildings that receive HPD or HDC loans.
- Continuing to refine the use of Integrated Pest Management strategies by focusing on practical steps required to identify and remediate conditions conducive to pests.

ENDNOTES:

1. The AEP Year 5 report can be viewed at <http://www.nyc.gov/html/hpd/downloads/pdf/AEP-Year5-Report.pdf>.
2. There are 27 buildings that have been in multiple rounds.
3. Round 7, which started on January 31, 2014, is not included in this count or in the analysis in the report.
4. Eleven of the 142 buildings were discharged for administrative reasons.
5. Six buildings discharged after the first four months.
6. Nine buildings have also been administratively dismissed from AEP because the buildings should not have been selected.
7. The nine administratively dismissed buildings referenced above are excluded from the analysis.
8. Financial distress indicators include Tax Lien Sale notices or foreclosure information.
9. See AEP Year 5 report.

APPENDIX A: CRITERIA FOR SELECTION

Selection Criteria- Rnds 1 & 2

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

Selection Criteria- Rnd 3

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

Selection Criteria- Rnds 4 & 5

Building size ≥ 20 units
A ratio of 3 or more open class "B" & "C" violations per DU issued in the past 2 years; AND
 Paid or Unpaid ERP charges \geq **\$5,000** incurred in the past 2 years.

Building size ≥ 3 and < 20 units
A ratio of 5 or more open class "B" & "C" violations per DU issued in the past 2 years; AND
 Paid or Unpaid ERP charges \geq **\$2,500** incurred in the past 2 years.
 Ranked by Paid or Unpaid ERP, 2 Yrs.

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

Selection Criteria- Rnds 6 & 7

Building size ≥ 20 units
A ratio of 3 or more open class "B" & "C" violations per DU issued in the past 3 years; AND
 Paid or Unpaid ERP charges \geq **\$2,500** incurred in the past 3 years.

Building size ≥ 3 and < 20 units
A ratio of 5 or more open class "B" & "C" violations per DU issued in the past 3 years; AND
 Paid or Unpaid ERP charges \geq **\$5,000** incurred in the past 3 years.
 Ranked by Paid or Unpaid ERP, 2 Yrs
Bldgs Excluded: Active In Rem, Active AEP, 7A (appointed or proceeding) and TPT Transferred (last five years)

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