

## **Alternative Enforcement Program – Year 9 Report to the City Council**

The Alternative Enforcement Program (AEP), established under Local Law 29 of 2007, is one of the Department of Housing Preservation and Development's (HPD's) most effective enforcement tools for addressing distressed properties throughout New York City. Buildings are selected once a year for AEP based on pre-defined thresholds for open HPD violations per dwelling unit and emergency repair 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 to HPD. 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 cited on the Order if the landlord fails to do so. Any expenditures for emergency repair work or building system replacement are charged to the building through the Department of Finance (DOF) property tax bill and, if unpaid, become a tax lien.

The AEP statute has been amended twice, in 2011<sup>1</sup> and in 2014. The 2014 amendments:

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

As required by law, this report must analyze:

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

## **SUMMARY DATA**

As of January 31, 2016, 1,637<sup>ii</sup> buildings with 19,044 units have gone through at least 12 months of AEP. As of that date:

- 509 buildings with 4329 units were still active in AEP
- 1,128 buildings with 14,715 units were discharged from AEP.
  - 931 buildings were discharged for compliance with the requirements of the program
    - 544 buildings (9,982 units) were discharged within the first four months.
    - 387 buildings were discharged after complying with the AEP Order and paying fees.
  - 197 buildings were discharged for other reasons: buildings vacant for at least one year, buildings discharged to HPD's 7A Program, or buildings discharged because HPD completed the building system work.
- 1,319 building systems were replaced
  - 816 system replacements were completed in 254 buildings by property owners.
  - 503 system replacements were completed in 259 buildings by HPD
- HPD has spent over \$37 million, which has been billed to the properties through DOF.
  - \$24 million providing utilities and conducting repairs.
  - \$13 million completing building system repairs/services
- Approximately \$60 million has been collected in ERP and AEP charges and fees.

**CHART 1: BUILDING STATUS BY ROUND**

	RD 1	RD 2	RD 3	RD 4	RD 5	RD 6	RD 7	RD 8	TOTAL
<i>Active</i>	23	42	41	39	63	85	82	134	509
<i>Discharge-Compliance</i>	127	118	128	135	108	103	101	111	931
<i>Discharge-Other</i>	50	40	31	26	29	12	4	5	197
<i>*Status as of 1/31/2016</i>	200	200	200	200	200	200	187	250	1637

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

Selection for AEP is a multi-step process. HPD selects a pool of buildings meeting the criteria of open violations per dwelling unit and emergency repair activity. Within that pool, buildings are sorted based on a second set of criteria and 250 are selected. Selection criteria have been modified twice since the original statutory criteria (see Appendix A), as has the total number of buildings selected. By modifying the criteria, HPD ensured that the program continues to identify an adequate pool of buildings. Between rounds 1 and 3, the total pool of buildings meeting the initial criteria decreased from 541 buildings to 287 buildings. When the criteria were changed for round 4, the pool increased to 381 but by round 7 there were only 187 buildings that qualified for selection (which is fewer buildings than required). Changing the criteria again for round 8 has increased the total pool to 329 buildings.

**CHART 2: NUMBER AND SIZE OF BUILDINGS QUALIFYING FOR AEP BY ROUND**

<b>ROUND</b>	<b>Total Meeting Criteria</b>			<b>Selected for AEP</b>		
	<b># Bldgs</b>	<b># Units</b>	<b>Avg Size</b>	<b># Bldgs</b>	<b># Units</b>	<b>Avg Size</b>
<i>RD 1</i>	541	5,093	9.4	200	1,362	6.8
<i>RD 2</i>	380	4,271	11.2	200	1,768	8.8
<i>RD 3</i>	287	2,703	9.4	200	1,476	7.4
<i>RD 4*</i>	381	4,795	12.6	200	3,339	16.7
<i>RD 5</i>	309	2,965	9.6	200	2,373	11.9
<i>RD 6</i>	266	3,700	13.9	200	2,552	12.8
<i>RD 7</i>	187	2,700	14.4	187	2,700	14.4
<i>RD 8*</i>	329	4,127	12.5	250	3,473	13.9

\* Criteria changed, see Appendix A.

**CHART 3: VIOLATION AND ERP LIEN PROFILE OF BUILDINGS SELECTED FOR AEP**

	Round 1	Round 2	Round 3	Round 4	Round 5	Round 6	Round 7	Round 8
<i>Total B &amp; C Violations</i>	32,547	30,183	22,358	30,067	21,226	21,225	21,086	25,188
<i># B+C Violations - (2 Years)</i>	22,850	21,244	15,844	20,352	15,211	15,843	16,566	20,332
<i>Average# B+C Violations (- 2 Years)</i>	16.8	12	10.7	6.1	6.4	6.2	6.1	5.9
<i>Bldgs with Open HPD Litigation (comprehensive litigation)</i>	67	63	67	57	47	42	45	60
<i>ERP Balance - 2 Years (Past Due - millions)</i>	\$1.99	\$1.43	\$1.40	\$2.15	\$1.11	\$1.22	\$.84	\$1.51

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

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

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

As of January 31, 2016, 544 buildings from all rounds were discharged from AEP for complying in the initial four-month period prior to the issuance of the Order. Larger buildings are more likely to be discharged in the pre-Order period. Between 33% and 85% of the 20+ unit buildings in each round were discharged pre-Order, as compared to between 7% and 26% of buildings with fewer than six units. (see Appendix B).

For buildings discharged in the pre-Order period, there was an 88% **decrease** in the number of open violations between selection for AEP and discharge. Since discharge (between each individual building's discharge to January 31, 2016), there was an increase in violations from the number of violations at the time of discharge for 60% of the buildings but still a significant decrease from the time of building selection for AEP. However, 35% of that post-discharge increase is attributable to about 10% of the properties. Most buildings see only a marginal increase in violations from the time of discharge. 40% of the buildings have seen **no** increase in violations.

**CHART 4: PROPERTIES DISCHARGED WITHIN THE FIRST FOUR MONTHS: VIOLATION PROFILE**

<b>ROUND</b>	<b>Buildings</b>	<b>TOTAL Violations at Selection</b>	<b>TOTAL Violations at Discharge</b>	<b>% change: discharge</b>	<b>TOTAL Violations open 1/31/2016</b>	<b>Decrease since Selection as of 1/31/16</b>
<i><b>RD 1</b></i>	28	8,503	1,075	-87%	1,881	-78%
<i><b>RD 2</b></i>	42	10,502	1,349	-87%	1,439	-86%
<i><b>RD 3</b></i>	52	7,561	932	-88%	1,560	-79%
<i><b>RD 4</b></i>	98	24,070	2,789	-88%	5,296	-78%
<i><b>RD 5</b></i>	71	10,896	1,232	-89%	2,335	-79%
<i><b>RD 6</b></i>	64	10,366	1,256	-88%	2,334	-77%
<i><b>RD 7</b></i>	82	13,040	1,582	-88%	3,380	-74%
<i><b>RD 8</b></i>	107	14,974	1,801	-88%	3,305	-78%
<i><b>Total</b></i>	544	99,912	12,016	-88%	21,530	-78%

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

The law requires HPD to monitor buildings for one year 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, owner outreach, landlord-tenant mediation and violation removal inspections. 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 544 buildings discharged in the initial four month period, 89 properties required physical monitoring due to continued signs of decline. Of those 89, DNP referred 52 of the properties to HPD's Housing Litigation Division (HLD)

Of the 544 buildings discharged and monitored, only 35 buildings returned to AEP (6.5% of all buildings discharged within the first four months, 3% of all buildings discharged), 25 of which had been referred to HLD by DNP prior to returning to AEP, and several of which were pending a referral for litigation at the time the buildings were returned to AEP. Of the 35 buildings, there were 19 buildings under 10 units and 16 buildings with more than 20 units (there were no buildings with 10-19 units). Once a building is selected for a second round, AEP issues the Order to Correct immediately if the property owner is the same as when the building(s) were discharged. If the property has a new owner, AEP allows the property owner to try to comply within the first four months.

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

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

The AEP program issued 1,081 Orders to Correct for buildings in Rounds 1 through 8, 584 of which have been rescinded. 387 were complied with by the owner and discharged. 197 additional buildings were administratively discharged.

767 (71%) of the AEP Orders directed the correction of at least one system replacement and 314 (29%) only ordered correction of the violation conditions because no systems required replacement or the building was vacant and sealed at the time it was selected for AEP. Among the buildings that required a systems replacement, roof replacements were required more frequently than any other system. Pointing and waste lines were also among the most commonly cited building-wide systems needing replacement.

**CHART 5: AEP ORDERS TO CORRECT: SYSTEMS REQUIRING REPLACEMENT**

<b>System Replacement</b>	<b>Total</b>	<b>% of Total</b>
<i>Replace Roof</i>	420	15.5%
<i>Perform Integrated Pest Management Throughout</i>	275	10.2%
<i>Pointing</i>	268	9.9%
<i>Replace Floor Covering</i>	233	8.6%
<i>Replace Defective Floor Joists Throughout</i>	215	8.0%
<i>Replace Waste Lines</i>	191	7.1%
<i>Replace Domestic Water Supply</i>	159	5.9%
<i>Upgrade Electric System &amp; Re-Wire</i>	155	5.7%
<i>Re-Wire Entire Building</i>	119	4.4%
<i>Replace Apt Entrance Doors</i>	112	4.1%
<i>Replace Heating Plant</i>	96	3.6%
<i>Replace Floor Covering in Public Areas</i>	93	3.4%
<i>Seal all Dumbwaiter Shafts</i>	68	2.5%
<i>Waterproof Exterior Walls</i>	59	2.2%
<i>Paint All Apts &amp; Public Areas</i>	58	2.1%
<i>Replace Windows</i>	57	2.1%
<i>Replace Hot Water Heater</i>	39	1.4%
<i>Replace Interior Staircase</i>	39	1.4%
<i>Replace Heat Distribution System</i>	16	0.6%
<i>Replace Gas Meters &amp; Gas Distribution System</i>	14	0.5%
<i>Replace Gas Distribution System</i>	9	0.3%
<i>Replace Water Main</i>	5	0.2%
<i>Replace Fire Escape or provide 2nd Egress</i>	3	0.1%

**Total Systems for Replacement** **2,703**

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

### **Discharge for Landlord Compliance**

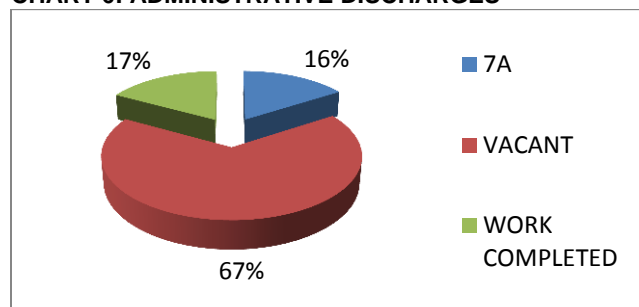
Overall, 387 buildings for which an order was issued have been discharged through property owner compliance. 255 buildings required system replacement work and 132 did not require the replacement of any systems. (In comparison, 408 active buildings have system replacement requirements and 101 active buildings do not). Even among the buildings discharged for compliance, HPD often does some of the system work.

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

## Administrative Discharge

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

**CHART 6: ADMINISTRATIVE DISCHARGES**



### *Discharge for vacancy*

Many buildings become vacant during or were vacant just shortly before entering AEP. Of the 122 vacant buildings, 78 are in Brooklyn and 36 are in the Bronx; 115 buildings are 3-5 unit buildings.

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

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

The average building size of the AEP buildings selected for 7A has been 9 units (the buildings ranged in size from 4 to 32 units). As of January 31, 2016, 29 buildings were discharged because a 7A Administrator had been appointed. This process has seen success in restoring buildings to habitable condition. Of the 29, 16 have been discharged from 7A as well. HPD will continue to explore the use of 7A as one avenue for addressing buildings which remain in AEP for multiple years.

### *Discharge due to work completed by HPD*

In some buildings, HPD completed all of the system replacement work but there was no landlord to complete all of the required paperwork or to request the necessary dismissals. Thirty-one buildings were discharged due to work completed by HPD. Twenty-nine of the 31 buildings required system replacement work that was completed by AEP. These are small buildings (average of 4 units).

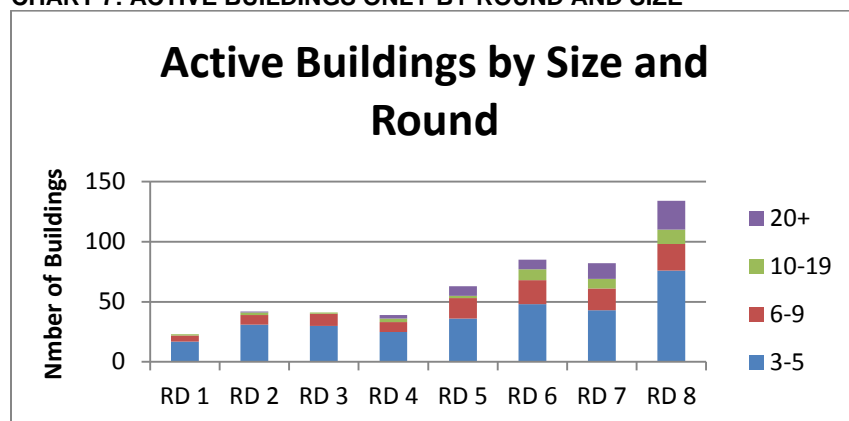
## **Repeat Buildings**

35 buildings that were discharged after an Order was issued were selected a second time for AEP. As with the buildings discharged during the first four months that return to AEP, this is a small percentage of all buildings discharged after an order was issued (6%).

## **ACTIVE BUILDINGS**

AEP was monitoring 509 buildings that were active in the program prior to the selection of Round 9 buildings on February 1st, 2016 (see Appendix B). All 311 complaints for active buildings are inspected by AEP. AEP makes periodic visits to all properties, monitoring for new ownership, new repair issues that may arise, and property owner activity. AEP repair work or system replacement work may still be in progress (see the next section for expenditure information) for buildings in any round.

**CHART 7: ACTIVE BUILDINGS ONLY BY ROUND AND SIZE**



The buildings remaining in AEP from the early rounds are almost entirely small buildings. The average size of buildings remaining in the program for more than one year is less than nine units. HPD has spent approximately \$ 7.5 million on the active buildings from Rounds 1, 2 and 3.

Increased enforcement action is obviously not the appropriate solution for buildings that do have active ownership.

## **COST EFFECTIVENESS**

### ***Personnel***

In Fiscal Year 2015, AEP had 43 staff, including Housing Inspectors, technical staff, community coordinators and administrative staff, at a cost of approximately \$ 2.8 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 completed through agency-hired contractors; and monitor the work of both agency contractors and property owners. Community coordinators are the contact points for property owners and occupants of AEP buildings. Community coordinators ensure that outreach to property owners is a constant process, guiding property owners through compliance requirements. Community

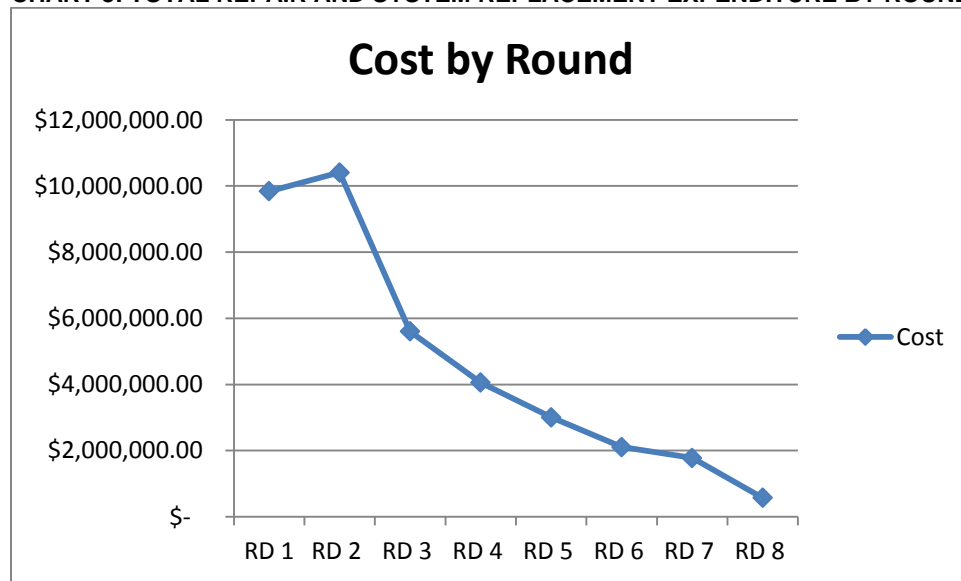


coordinators also work to keep all parties informed about upcoming work and process buildings for discharge.

### ***Emergency Repairs and System Replacements***

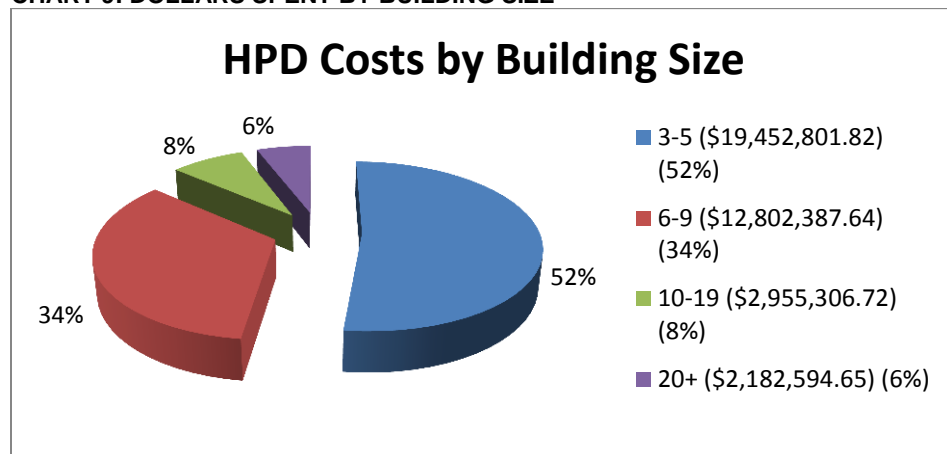
As of January 31, 2016, \$37 million dollars had been spent on emergency repairs and system replacements). Money continues to be spent on Rounds 1 through 4 buildings, beyond the expected timeline for spending.

**CHART 8: TOTAL REPAIR AND SYSTEM REPLACEMENT EXPENDITURE BY ROUND AS OF 1/31/2016**



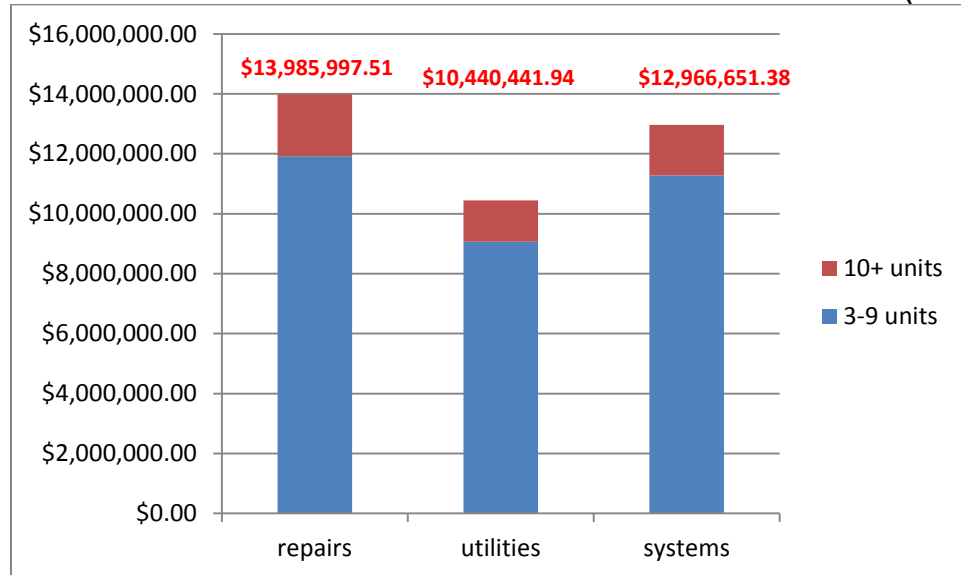
HPD has spent the most money overall in 3-5 unit and 6-9 unit buildings. By January 31, 2016, 52% of all expenditures have been in 3-5 unit buildings and 34% has been spent on 6-9 unit buildings, accounting for more than \$32 million and 86% of overall expenditures.

**CHART 9: DOLLARS SPENT BY BUILDING SIZE**



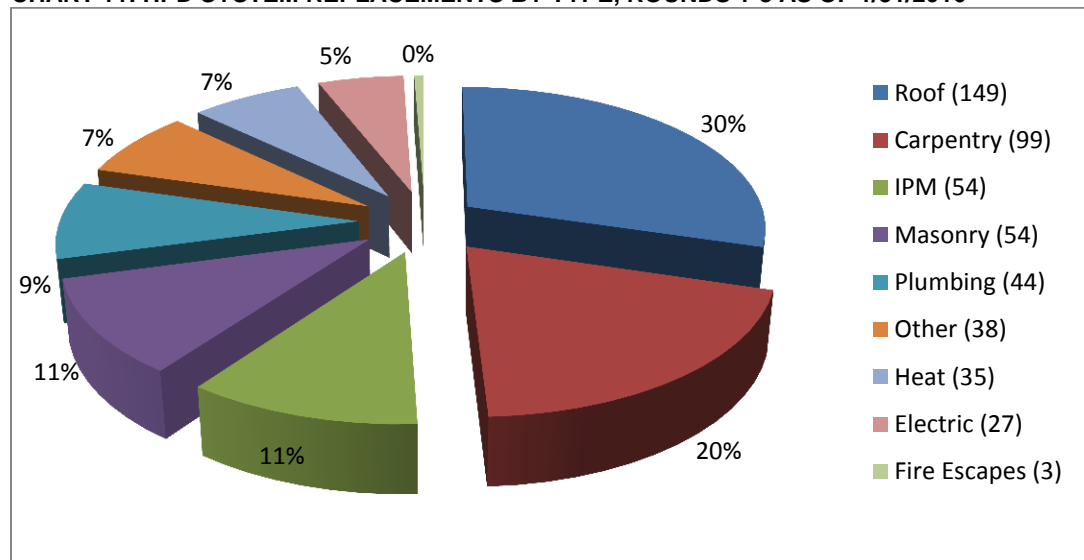
HPD has become the de facto property manager for a large number of the smaller buildings, many of which have been effectively abandoned. Spending on utilities – which includes fuel, electric and gas – continues to be a significant percentage of all spending (see Chart 10).

**CHART 10: EXPENDITURES BY BUILDING SIZE AND TYPE OF EXPENDITURE (AS OF 1/31/2016)**



AEP has completed system replacements in buildings at a cost of approximately \$13 million. Replacing the roof is by far the most common type of work, with \$6.3 million spent replacing roofs in buildings. Of those buildings 90 were 3-5 unit buildings and 46 were 6-9 unit buildings.

**CHART 11: HPD SYSTEM REPLACEMENTS BY TYPE, ROUNDS 1-8 AS OF 1/31/2016**



### ***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 DOF for billing and collection.

As of January 31, 2016, HPD has imposed \$10.8 million in fees and collected \$8.3 million in fees.

**CHART 12: FEES IMPOSED**

Fee Type	Total Imposed
Initial Re-inspection Fee	\$ 4,516,000
Six Month Program Fee	\$ 4,470,000
Complaint Inspection Fee	\$ 1,793,400
False Certification Fee	\$ 23,300

### ***Recoupment***

All costs, including the system replacements, repairs and utilities costs (and the respective administrative fee) and the inspection fees, are billed to the landlord through DOF. If the charges remain unpaid, interest accrues and they become tax liens against the property. Many AEP buildings fall into the City's tax lien sale (TLS) or Third Party Transfer (TPT) program due to these costs.

**CHART 13: COSTS RECOVERED (ERP AND AEP)**

	Expenditure Type					TOTAL
	ERP Charges (Pre-AEP)	AEP Charges (TOTAL)	AEP System Replacement	AEP Non-System Replacement	AEP Fees	
Round 1	\$3,349,300	\$8,010,514	\$2,962,263	\$5,048,251	\$1,380,884	\$12,740,698
Round 2	\$2,659,701	\$10,911,649	\$4,442,853	\$6,468,796	\$1,556,219	\$15,127,569
Round 3	\$2,578,081	\$5,211,361	\$1,692,824	\$3,518,537	\$1,123,480	\$8,912,922
Round 4	\$3,320,643	\$3,480,693	\$832,831	\$2,647,862	\$1,034,083	\$7,835,419
Round 5	\$1,991,418	\$2,461,425	\$671,275	\$1,790,150	\$1,021,482	\$5,474,325
Round 6	\$3,773,305	\$1,782,482	\$670,708	\$1,111,774	\$1,195,139	\$6,750,926
Round 7	\$2,427,158	\$815,792	\$259,098	\$556,694	\$777,637	\$4,020,586
Round 8	\$1,549,449	\$229,669	\$2,025	\$227,644	\$208,488	\$1,987,605
TOTAL	\$21,649,054	\$32,903,585	\$11,533,877	\$21,369,708	\$8,297,412	\$62,850,051

## **MOLD AND VERMIN**

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

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

In both cases, affidavits must be provided by the property owners indicating that the work has been done following the required work practices.

AEP buildings:

- Had a significant number of both mold and vermin violations at the time of selection for AEP
- Were issued both types of violations as a result of the initial inspection (conducted in those buildings that failed to be discharged in the initial four month period)
- Significantly reduced the number of mold and vermin violations by discharge

**CHART 14: MOLD AND VERMIN VIOLATIONS AT BUILDING SELECTION, AFTER THE INITIAL INSPECTION AND AT DISCHARGE FOR ROUNDS 4, 5, 6, 7 AND 8 AS OF JANUARY 31, 2016<sup>iv</sup>**

### **BUILDING SELECTION**

Total buildings	1,037	
buildings with vermin violations at start	929	90%
buildings with mold violations at start	704	68%
vermin violations open at building selection	9,405	
mold violations open at building selection	3,514	

### **AFTER INITIAL INSPECTION (Not Discharged During the First Four Month Period)**

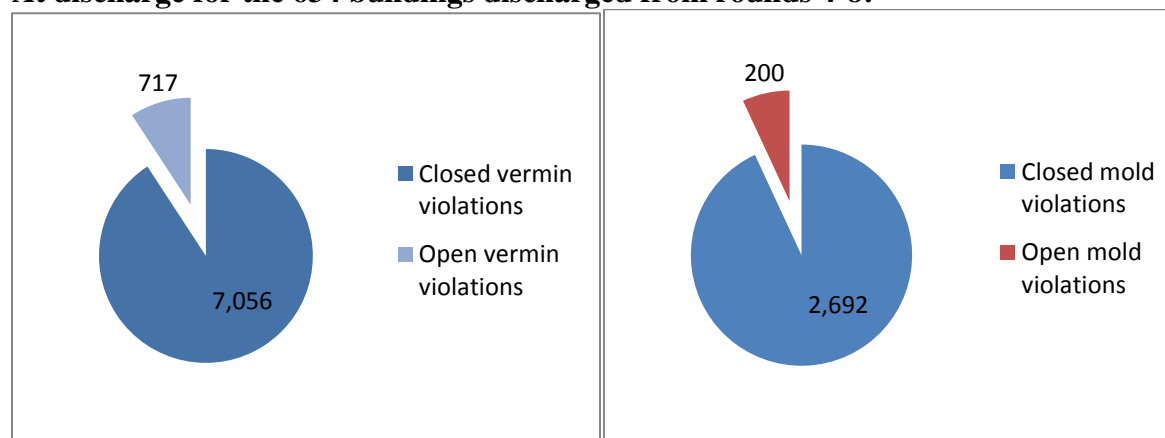
<b>Total buildings remaining in AEP after the 4 month period</b>	<b>604</b>	
vermin violations issued while active in AEP	2,056	
mold violations issued while active in AEP	1,092	

### **AT DISCHARGE (Discharged During the First Four Month Period or After an Initial Inspection)**

# of buildings discharged (of buildings selected)	634	61%
<b>Total vermin violations open prior to discharge at discharged buildings</b>	<b>7,773</b>	
<i># of vermin violations open at building selection</i>	6,674	
<i>vermin violations issued while active in AEP (after the initial inspection)</i>	1,099	
<b>Discharged building only - # of vermin violation open at discharge</b>	<b>717</b>	9%
<b>Total mold violations open prior to discharge at discharged buildings</b>	<b>2,892</b>	
<i># of mold violations open at building selection</i>	2,354	

<i>mold violations issued while active in AEP (after the initial inspection)</i>	538	
<b>Discharged building only - # of mold violations open at discharge</b>	<b>200</b>	<b>7%</b>

**At discharge for the 634 buildings discharged from rounds 4-8:**



As reflected in data presented earlier in the report related to the number of systems identified for replacement in AEP Orders and the number of water systems replaced by AEP, systems that are affected by water infiltration and leaks such as roofs, pointing and plumbing are a significant issue in many AEP buildings. 61% of all Orders issued in this period included at least one water system for replacement. Defects in these systems are significant contributors to mold and vermin issues.

For properties that fail to be discharged from AEP before an Order is issued and where there is a vermin infestation (more than one-third of the units have vermin violations), the property owner is ordered to submit an Integrated Pest Management plan, which is reviewed by the Department of Health and Mental Hygiene (DOHMH). As of January 31, 2016, 275 Orders included a requirement for the property owner to supply an Integrated Pest Management Plan (IPM). 95 of those buildings have been discharged, meaning that the owner or AEP completed the IPM.

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

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

AEP has contracted for IPM treatments in 50 buildings (comprising 217 dwelling units, not all of which have been discharged) as of January 31, 2016. The average size of the building was 4 units (all but one building is less than 9 units). The total cost was \$36,926. The cost of IPM may increase significantly with the size of the building (as the cost depends on how many units are treated; not all 217 units were actually treated due to no access or refused access). This cost includes at least one additional treatment.

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

## **RECOMMENDATIONS**

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 (PPI) and the Underlying Conditions Program. PPI identifies buildings using HPD's own data, but, more importantly, referrals from elected officials and community groups to identify buildings in need of action by HPD. The Division of Neighborhood Preservation conducts a survey of the building and outreach to the building owner, seeking to help the owner bring the building into compliance before enforcement action is needed. In cases where HPD's records may not reflect the current condition of the building, the Proactive Enforcement Bureau may conduct an inspection and issue appropriate violations. Many of the buildings in recent rounds of AEP were first identified through the PPI. The Underlying Conditions program identifies buildings with systemic mold and leak violations. Again, full building inspections ensure that the current condition of the building is documented in HPD's records. Orders may be issued to property owners, requiring a professional assessment of the cause of the mold and leaks and then remediation of those conditions. The goal of these two programs is to assist buildings before conditions reach the level of distress identified in AEP buildings, and they have been successful in both identifying buildings that belong in AEP and identifying buildings where outreach to owners in advance of AEP means that the buildings avoid AEP. 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.

In the Year 7 report, HPD recommended five changes to enhance the effectiveness of the AEP program. Three of the five recommendations were addressed by legislation passed in 2014. HPD and the Department of Health and Mental Hygiene have continued to work together to address a fourth recommendation regarding integrated pest management. Those changes were implemented for Round 9, which began on February 1, 2016. The effects of those changes will be assessed in the next reporting period, and additional recommendations may be made depending on the results of that analysis.

## IMPLEMENTED RECOMMENDATIONS

- ***Limit the number of small (under six units) buildings.***

As discussed at length in the Seven Year report, AEP is much more effective in improving conditions for larger properties. Many of the smaller properties 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. The legislative change allowed the agency to promulgate rules related to selection by building size (see Appendix A). For Round 9, 25 buildings with less than 6 units were selected for the program (10% of the 250 buildings selected), compared to 111 buildings in the Round 8 (44% of the 250 buildings selected). If the change does allow AEP to focus successfully on larger buildings, HPD may make recommendations to add the rules criteria to the law.

- ***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.***

The legislation allowed HPD to modify the criteria to include 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. This change to the criteria was implemented in eighth round of the program.

- ***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).***

The goal behind this change is to encourage owners of buildings that are in distress to consider an HDC or HPD loan, if there is one available to meet the buildings' needs; and to assist owners of buildings which are in poor condition who are actively working towards repairs.

- ***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. HPD and DOHMH continue to refine the use of Integrated Pest Management, by focusing less on paperwork such as developing an IPM plan and more on practical steps required to identify and remediate conditions conducive to pests. Ensuring that the proper strategies are used requires intensive case management of these properties, however, and is not necessarily the appropriate response for all properties with less severe vermin problems.

AEP is most effective when addressing larger buildings, buildings with active property owners, and buildings with systemic issues. At this time, HPD's challenge is to address the issues that keep buildings in the program over a long period of time: these are usually small buildings, under-occupied, with significant financial issues and no active owner. Almost all of the early round buildings fit this profile. Both HPD's 7A Program and Third Party Transfer programs are challenged by this particular set of properties, and not suited to managing or financing small properties. Creating a mechanism to allow small distressed buildings facing spiraling tax liens to reduce the tax debt over time in exchange for affordability restrictions is a concept being explored, but there are challenges with also ensuring the financial viability of the properties over the long term while ensuring that existing tenants remain in place. HPD will continue to explore all viable options for addressing these buildings in order to restore them to both physical and financial health.

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<sup>i</sup> The 2011 Amendments are fully documented in the AEP Year 7 report and some of the changes are described on page 7 of this report in the Administrative Discharges section.

<sup>ii</sup> The 1637 buildings reflect a sum of all of the buildings selected each round, not a count of distinct buildings. As referenced in the report, 70 buildings have been in AEP multiple times. The unique building count is 1,567 and the unique number of units is 18,173.

<sup>iii</sup> For detailed information about the implementation of the mold and vermin requirements, see the Alternative Enforcement Program Year 7 Report.

<sup>iv</sup> Note that discharged buildings may or may not have been issued an order; the sections on violations after initial inspection and at discharge, reference different subsets of the total cohort of buildings.



**APPENDIX A**  
**SELECTION CRITERIA FOR THE ALTERNATIVE ENFORCEMENT PROGRAM**

**Selection Criteria- Rounds 1 & 2**

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

**Selection Criteria- Round 3**

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

**Selection Criteria- Rounds 4 & 5**

**Building size >=20 units**

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

**Building size >=3 and < 20 units**

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

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

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

**Selection Criteria- Rounds 6 & 7**

**Building size >=20 units**

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

**Building size >=3 and < 20 units**

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

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

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

**Selection Criteria- Round 8**

**Building size >=20 units**

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

**Building size >=3 and < 20 units**

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

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

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

## APPENDIX B

### AEP BUILDING STATUS BY UNIT SIZE AND ROUND

As of January 31, 2016

Round	Unit Range	Bldgs in Round	Buildings discharged in the first four months	% of buildings discharged in the first four months		Buildings Issued an Order	Buildings Complying with an Order	% Buildings Complying with an Order of all building Selected	% of Buildings Complying with an Order which were issued an order	Buildings Discharged for other reasons	% of Buildings Discharged for other reasons		Active Buildings	% Active
RD 1	3-5	105	7	6.7%		97	45	42.9%	46.4%	36	34.3%		17	16.2%
	6-9	71	14	19.7%		57	40	56.3%	70.2%	12	16.9%		5	7.0%
	10-19	15	4	26.7%		11	9	60.0%	81.8%	1	6.7%		1	6.7%
	20+	9	3	33.3%		6	5	55.6%	83.3%	1	11.1%		0	0.0%
	<b>TOTAL</b>	<b>200</b>	<b>28</b>	<b>14.0%</b>		<b>171</b>	<b>99</b>	<b>49.5%</b>	<b>57.9%</b>	<b>50</b>	<b>25.0%</b>		<b>23</b>	<b>11.5%</b>
RD 2	3-5	99	8	8.1%		91	30	30.3%	33.0%	30	30.3%		31	31.3%
	6-9	61	15	24.6%		46	29	47.5%	63.0%	9	14.8%		8	13.1%
	10-19	15	6	40.0%		9	6	40.0%	66.7%	1	6.7%		2	13.3%
	20+	25	13	52.0%		12	11	44.0%	91.7%	0	0.0%		1	4.0%
	<b>TOTAL</b>	<b>200</b>	<b>42</b>	<b>21.0%</b>		<b>158</b>	<b>76</b>	<b>38.0%</b>	<b>48.1%</b>	<b>40</b>	<b>20.0%</b>		<b>42</b>	<b>21.0%</b>
RD 3	3-5	107	20	18.7%		87	31	29.0%	35.6%	26	24.3%		30	28.0%
	6-9	62	21	33.9%		41	27	43.5%	65.9%	4	6.5%		10	16.1%
	10-19	16	5	31.3%		11	9	56.3%	81.8%	1	6.3%		1	6.3%
	20+	15	6	40.0%		9	9	60.0%	100.0%	0	0.0%		0	0.0%
	<b>TOTAL</b>	<b>200</b>	<b>52</b>	<b>26.0%</b>		<b>148</b>	<b>76</b>	<b>38.0%</b>	<b>51.4%</b>	<b>31</b>	<b>15.5%</b>		<b>41</b>	<b>20.5%</b>
RD 4	3-5	70	9	12.9%		61	17	24.3%	27.9%	19	27.1%		25	35.7%
	6-9	47	23	48.9%		24	12	25.5%	50.0%	4	8.5%		8	17.0%
	10-19	16	9	56.3%		6	1	6.3%	16.7%	3	18.8%		3	18.8%
	20+	67	57	85.1%		10	7	10.4%	70.0%	0	0.0%		3	4.5%
	<b>TOTAL</b>	<b>200</b>	<b>98</b>	<b>49.0%</b>		<b>101</b>	<b>37</b>	<b>18.5%</b>	<b>36.6%</b>	<b>26</b>	<b>13.0%</b>		<b>39</b>	<b>19.5%</b>
RD 5	3-5	89	12	13.5%		76	16	18.0%	21.1%	25	28.1%		36	40.4%
	6-9	57	28	49.1%		28	9	15.8%	32.1%	3	5.3%		17	29.8%
	10-19	13	7	53.8%		6	3	23.1%	50.0%	1	7.7%		2	15.4%
	20+	41	24	58.5%		17	9	22.0%	52.9%	0	0.0%		8	19.5%
	<b>TOTAL</b>	<b>200</b>	<b>71</b>	<b>35.5%</b>		<b>127</b>	<b>37</b>	<b>18.5%</b>	<b>29.1%</b>	<b>29</b>	<b>14.5%</b>		<b>63</b>	<b>31.5%</b>

## APPENDIX B

### AEP BUILDING STATUS BY UNIT SIZE AND ROUND

As of January 31, 2016

Round	Unit Range	Bldgs in Round	Buildings discharged in the first four months	% of buildings discharged in the first four months		Buildings Issued an Order	Buildings Complying with an Order	% Buildings Complying with an Order of all building Selected	% of Buildings Complying with an Order which were issued an order	Buildings Discharged for other reasons	% of Buildings Discharged for other reasons		Active Buildings	% Active
RD 6	3-5	83	9	10.8%		71	14	16.9%	19.7%	12	14.5%		48	57.8%
	6-9	49	18	36.7%		31	11	22.4%	35.5%	0	0.0%		20	40.8%
	10-19	20	7	35.0%		13	4	20.0%	30.8%	0	0.0%		9	45.0%
	20+	48	30	62.5%		18	10	20.8%	55.6%	0	0.0%		8	16.7%
	<b>TOTAL</b>	<b>200</b>	<b>64</b>	<b>32.0%</b>		<b>133</b>	<b>39</b>	<b>19.5%</b>	<b>29.3%</b>	<b>12</b>	<b>6.0%</b>		<b>85</b>	<b>42.5%</b>
RD 7	3-5	76	19	25.0%		57	10	13.2%	17.5%	4	5.3%		43	56.6%
	6-9	43	23	53.5%		20	2	4.7%	10.0%	0	0.0%		18	41.9%
	10-19	14	4	28.6%		10	2	14.3%	20.0%	0	0.0%		8	57.1%
	20+	54	36	66.7%		18	5	9.3%	27.8%	0	0.0%		13	24.1%
	<b>TOTAL</b>	<b>187</b>	<b>82</b>	<b>43.9%</b>		<b>105</b>	<b>19</b>	<b>10.2%</b>	<b>18.1%</b>	<b>4</b>	<b>2.1%</b>		<b>82</b>	<b>43.9%</b>
RD 8	3-5	111	29	26.1%		79	3	2.7%	3.8%	3	2.7%		76	68.5%
	6-9	44	20	45.5%		22	0	0.0%	0.0%	2	4.5%		22	50.0%
	10-19	21	8	38.1%		13	1	4.8%	7.7%	0	0.0%		12	57.1%
	20+	74	50	67.6%		24	0	0.0%	0.0%	0	0.0%		24	32.4%
	<b>TOTAL</b>	<b>250</b>	<b>107</b>	<b>42.8%</b>		<b>138</b>	<b>4</b>	<b>1.6%</b>	<b>2.9%</b>	<b>5</b>	<b>2.0%</b>		<b>134</b>	<b>53.6%</b>
ALL ROUNDS	3-5	740	113	15.3%		619	166	22.4%	26.8%	155	20.9%		306	41.4%
	6-9	434	162	37.3%		269	130	30.0%	48.3%	34	7.8%		108	24.9%
	10-19	130	50	38.5%		79	35	26.9%	44.3%	7	5.4%		38	29.2%
	20+	333	219	65.8%		114	56	16.8%	49.1%	1	0.3%		57	17.1%
	<b>TOTAL</b>	<b>1637</b>	<b>544</b>	<b>33.2%</b>		<b>1081</b>	<b>387</b>	<b>23.6%</b>	<b>35.8%</b>	<b>197</b>	<b>12.0%</b>		<b>509</b>	<b>31.1%</b>