

## **REPORT TO THE CITY COUNCIL**

This report was prepared by the Department of Housing Preservation and Development (HPD) in accordance with Administrative Code section 26-2503. The report describes the audits of certifications of corrections for the period from July 1, 2021 to June 30, 2022 (Fiscal Year 2022 or “FY22”).

### **Local Law 117 of 2019**

Pursuant to Local Law 117 of 2019, no later than March 31 annually, HPD must describe the findings of the audits of certifications of corrections performed in the previous year. HPD must audit no fewer than 15 percent of all certifications of correction of class C violations filed with the agency. The audit includes, at minimum, an inspection to ensure that the violating conditions cited in the notice of violation have been corrected. This report includes the following:

1. The total number of audits conducted;
2. The percentage of certifications of correction audited;
3. The percentage of audited certifications of correction found to have been false;
4. For audited certifications of correction found to have been false, the total amount of civil penalties collected and, if applicable, the number of additional sanctions imposed, disaggregated by type; and
5. For buildings where an audited certification of correction is found to have been false in the reporting period, whether a certification of correction filed for such building has been audited by the department in the previous five years, and whether such audit or audits resulted in a finding or findings of false certification.

### **Certification of Correction**

HPD is responsible for enforcing State and City laws and codes relating to housing quality and safety, including issuing violations of the New York State Multiple Dwelling Law and New York City Housing Maintenance Code (HMC). The HMC has three classes of code violations: non-hazardous (class A), hazardous (class B) and immediately hazardous (class C). The HMC provides the timeline for correction and the certification of correction of all violations.

Class C immediately hazardous violations include conditions that range from lead-based paint hazards, missing or defective window guards, self-closing doors, mold, mice/cockroaches, rats, and inadequate heat and hot water, to conditions like missing signage required to inform where the key to the boiler room is located.

In all cases, except related to heat and hot water violations, service is considered completed five days from the mailing of the Notice of Violation. For heat and hot water

violations, service is completed at the time of the inspection because the violation is posted at the building. Within the violation classification, some class C violations have a correction period of 21 days (lead-based paint, window guards, mold, mice and roaches). Self-closing doors have a correction period of 14 days. All other class C violations must be corrected within 24 hours of certified mail service. The Notice of Violation is mailed to the owner or the managing agent who is registered with HPD.

Once a violation is corrected, it is the property owner's responsibility to notify HPD through a Certification of Correction. The certification must be made in writing, under oath by the registered owner, or agent and can be submitted through eCertification<sup>1</sup> or by completing the violation documents and returning to the appropriate HPD borough office. In FY22, HPD issued 189,322 class C violations. Of those, 28% were for pest conditions (roaches, mice and rats) and 15% were for self-closing doors. These conditions also are certified more often than other conditions. Property owners filed a Certification of Correction for 37% of all class C violations, and almost 50% of pest violations and self-closing door violations.

Once HPD receives a proper and complete certification, a notice is generated to the tenant indicating that the owner has submitted a certification to the agency that the condition was corrected. The notice provides the tenant with the option to challenge this certification; the tenant may do so by phone or by mailing a response to HPD. HPD records these tenant challenges and attempts to schedule an appointment with the tenant to reinspect that certification. In all other cases where no challenge is received, HPD may audit such submissions. From July 1, 2021 to June 30, 2022, HPD attempted to conduct 16,408 (23% of certifications) Certification of Correction audits of class C violations and successfully completed 12,493 (18% of certifications) audits. While we were able meet the requirements of the law, these numbers are lower than in previous years due to HPD's ongoing staffing shortages. We expect to increase staffing overall in FY23 and attempt reinspection of at least 40% of class C certifications in FY23. HPD was also required to attempt to reinspect all self-closing door violations beginning in January 2023.

As provided for in the HMC for most violations, a violation is deemed corrected and closed in seventy days from the date of receipt by HPD of such certification<sup>2</sup> unless a reinspection made within such period finds that the violation still has not been corrected.

HPD must record the determination that the violation has not been corrected (false certification), notify the person who executed the certification by registered or certified mail to the address stated in the certification that it has been set aside and the reasons therefore, and send a copy of such notice to the tenant. The number of class C

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<sup>1</sup> Lead-based paint violations and mold violations cannot be eCertified.

<sup>2</sup> Lead-based paint violations and B and C mold violations cannot be deemed complied (the law requires a completed reinspection).

Certifications of Correction found to be false for this reporting period is 3,703 (30% of completed reinspections of certifications). Approximately 44% of the false certifications are for mice and roach violations; unfortunately, even though an owner may properly treat such a condition and therefore validly certify that the steps were taken to address this condition, pest conditions may take many treatments to properly remediate and often require a more comprehensive pest management plan from property owners to address because the cause is not localized. Pests may continue to be observed on a reinspection of the violation.

Falsely certified violations remain open and become a potential case for HPD to initiate in Housing Court. A person making a false certification of correction of a violation is subject to a civil penalty of not less than fifty dollars nor more than two hundred fifty dollars for each violation falsely certified. A total of 40 false certification cases were initiated which included FY22 violations. The amount of penalties collected related to these cases was \$21,950.

**STATISTICAL SECTION: This statistical section reflects activity related to immediately hazardous (class C) violations only.**

Activity Period	FY22
1. The total number of class C certifications received	70,335
a. The total number of certified violations where HPD attempted a reinspection	16,408
b. The total number of certified violations where HPD completed a reinspection	12,493
2. The percentage of certifications audited;	
a. The percentage of certified violations where HPD attempted a reinspection	23 %
b. The percentage of certified violations where HPD completed a reinspection	18 %
3. The percentage of audited certifications of correction found to have been false	30 %
4. For audited certifications of correction found to have been false the total amount of civil penalties collected and, if applicable the number of additional sanctions imposed, disaggregated by type.	\$21,950
5. For buildings where an audited certification of correction is found to have been false in the reporting period whether a certification of correction filed for such building has been audited by the department in the previous five years and, whether such audit or audits resulted in a finding or finding of false certification	950