

Agency Status Report
New York City Department of Housing Preservation & Development (HPD)
Office of the New York State Comptroller (OSC)
Audit of Financial and Physical
Conditions
2023-N-2
Date: March 31, 2025

Recommendation 1: Improve monitoring of the three developments, including but not limited to...

1a) Verifying that managing agents maintain the development in a manner that preserves the property and protects the health and safety of its residents by ensuring annual individual unit inspections are conducted, related reports are completed, and deficiencies are corrected, and routinely checking to verify that all self-closing doors are fully operational.

Original Response—

As a general matter, HPD agrees that annual apartment inspections can be beneficial in identifying common conditions and potential issues. HPD will follow up with developments to press for adherence with the annual inspection requirement, and also to remind them of the importance of regularly inspecting self-closing doors to ensure their proper operation. However, HPD disagrees with the implication that deficiencies present in these properties (which, as discussed earlier, require significant capital investment) would have necessarily been addressed differently via an annual unit inspection practice.

Current Status: HPD is enhancing oversight by obligating Mitchell-Lama owners/managers to certify that an annual inspection of apartments was conducted during the immediately preceding calendar year and that the inspection records are available for review. This representation is included among other items routinely requested by HPD in a “Certification of Compliance” that HPD will require owners/managers to file annually.

1b) Coordinating with HDC, when applicable, to ensure physical inspection reports are provided to HPD and the managing agents in a timely manner.

Original Response –

HPD agrees with this recommendation and has already begun the process of implementing it; as of November 2023, HDC has resumed regularly copying HPD on the physical inspection reports it delivers to managing agents.

Current Status: This recommendation has been fully implemented. As a courtesy, HDC

is providing HPD with the applicable Mitchell Lama physical inspection reports on a SharePoint site.

1c) Ensuring that immediate corrective action is taken when hazardous conditions are identified.

Original Response-

As a general matter, HPD agrees with the importance of immediate corrective action to hazardous conditions; the Agency will continue to apply its available resources to address such issues timely and to follow up with developments for action on hazardous conditions identified in HDC or HPD inspection reports, as it would have done no matter the outcome of the audit. However, HPD disagrees with the implication that, given the resources available, it is not pursuing prompt corrective action as quickly as possible when hazardous conditions are identified.

Current Status: HPD continues to follow up with developments for action on hazardous conditions identified in inspection reports.

Recommendation2: Develop and implement policies and procedures regarding bonus and gratuity payments.

Original Response –

HPD disagrees that a Mitchell-Lama portfolio-wide policy regarding bonus and gratuity payments is necessary and maintains that privately-owned and managed developments should codify and regulate their own policies regarding such payments. As noted in the report, HPD's position is that annual gratuities to housing maintenance staff are customary, and that a rule restricting such payments could encourage staff attrition and result in negative impacts for the properties and their residents.

Current Status: HPD maintains its position that privately-owned and managed Mitchell-Lama developments should codify and regulate their own policies regarding bonuses and gratuities, consistent with industry customs and standards.

Recommendation 3: Monitor managing agents and the developments' Boards (where applicable) to ensure they...

3a) Operate the developments in a fiscally sound manner; with HPD providing training if necessary.

Original Response-

As a general matter, HPD agrees with the importance of developments operating in a fiscally sound manner and will continue to consistently encourage the prudent financial management of Mitchell-Lama developments, as it would have done no matter the outcome of the audit;

HPD will also continue offering financial oversight training to co-op board members. However, HPD disagrees with the implication that it does not engage in this type of monitoring as a regular practice.

Current Status: HPD continues to encourage the prudent financial management of Mitchell-Lama developments by both offering financial oversight training to co-op board members and making itself available to consult with board members, management and a co-op's accountants concerning financial issues and challenges.

3b) Promptly fill vacant units.

Original Response –

As a general matter, HPD agrees with the importance of promptly filling vacancies, and will continue to encourage managing agents to rehabilitate units as rapidly as possible without sacrificing safety or thoroughness, as it would have done no matter the outcome of the audit. However, HPD disagrees with the implication that Mitchell-Lama units are not being filled as promptly as reasonably possible. As discussed in the Response to Findings, HPD does not expect units with significant physical deficiencies requiring capital funding to follow the same prompt timeframe and process for unit turnover as a unit requiring standard rehabilitation.

Current Status: HPD continues to encourage managing agents to rehabilitate and resell apartments as rapidly as reasonably possible (while keeping in mind that units with significant physical deficiencies will take longer to turn over than a unit requiring less rehabilitation).

Recommendation 4: Adequately review transactions for appropriateness of expenses and sufficiency of supporting documentation during annual review.

Original Response –

HPD agrees with this recommendation and has resumed consistent periodic reviews of the books and records of selected developments as of late 2023 (having resolved a staffing shortage that precluded consistent reviews since the pandemic); the review of transactions for appropriateness and the sufficiency of supporting documentation is a part of this review.

Current Status: As previously indicated, HPD is performing reviews of the books and records of selected developments each year, which includes reviewing supporting documentation for sufficiency.

Recommendation 5: Periodically review a sample of contracts and expenses to identify payments to vendors and service providers that, in the aggregate, equal or exceed \$100,000 in any fiscal year to ensure they are approved by HPD and that contracts at \$100,000 or more were competitively bid and approved by HPD.

Original Response –

HPD agrees with this recommendation and has resumed consistent periodic reviews of the books and records of selected developments as of late 2023 (having resolved a staffing shortage that precluded consistent reviews since the pandemic); part of this review involves identifying contracts of \$100,000 or more to ensure competitive bidding and HPD approval. Moreover, as mentioned in the Response to Findings, HPD implemented a requirement in July 2023 requiring that managing agents report to HPD and obtain approval when aggregate payments to a service provider exceed \$100,000 in any fiscal year.

Current Status: As noted above, HPD reviews the books and records of selected developments each year, which includes confirming that contracts of \$100,000 or more were competitively bid and approved by HPD. In addition, HPD is obligating owners/managers to certify to compliance with this rule as part of an annual Certification of Compliance filing. The requirement that HPD be notified when charges to a vendor or service provider reaches \$100,000 in any fiscal year was implemented in July 2023, and this is another item included in the annual Certification of Compliance.

Recommendation 6: Monitor managing agents to ensure rent arrears are collected in a timely manner.

Original Response –

HPD disagrees with the implication that managing agents are not currently collecting arrears as timely as possible; as described in the Response to Findings, developments reviewed as part of this audit already employ appropriate practices of escalating action for the non-payment of rent/maintenance charges, up to and including eviction proceedings.

Current Status: HPD continues to encourage managing agents to pursue the timely collection of arrears and maintains that the developments audited already had appropriate collection policies and procedures in place.

Recommendation 7: Ensure that management plans between the managing agent and housing development include a policy regarding deployment of personnel, including the property manager's working days and on-site hours.

Original Response –

HPD agrees with this recommendation and will follow up with managing agents to implement it.

Current Status: HPD is following up with housing companies and managing agents to direct that the assigned site manager's on-site days and hours be confirmed in their 2025 management agreement renewal.

Recommendation 8: Ensure vacant commercial spaces are promptly repaired and filled to generate income.

Original Response –

As a general matter, HPD agrees with the importance of promptly filling commercial vacancies and will continue to encourage managing agents to do so, as it would have done no matter the outcome of the audit. However, HPD disagrees with the implication that commercial spaces are not being filled as promptly as possible (an assessment based on a single vacant professional office at Arverne that has proven difficult to rent despite the quality of the space and the efforts of the managing agent).

Current Status: HPD continues to encourage managing agents to repair and lease commercial spaces as promptly as reasonably possible.

Recommendation 9: Improve monitoring of the developments to ensure the shareholders use their units as their primary residence and that managing agents obtain and enforce income affidavits.

Original Response –

As a general matter, HPD agrees with the importance of enforcing compliance with primary residency requirements and will continue to do so as it would have done no matter the outcome of the audit. However, HPD disagrees with the implication that the issue of three shareholders possibly subletting at York Hill is necessarily a condition of insufficient monitoring. As noted in the report, HPD officials "are aware of the issue and have been working diligently with management and the legal system to address it."

Current Status: HPD continues to follow up with managing agents for action where it obtains a credible indication of noncompliance with the Mitchell-Lama primary residence requirement.