



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Housing Preferences for Veterans

**New York City Department of Housing
Preservation and Development**



Report 2011-N-3

June 2012

Executive Summary

Purpose

To determine whether veterans seeking housing at Mitchell-Lama developments supervised by the New York City Department of Housing Preservation and Development (NYC HPD) have received the preference afforded them by the Private Housing Finance Law (Law). The audit covers the period September 12, 2010 through January 19, 2012.

Background

Since 2007, the Law has given disabled veterans an advantage in securing housing at developments originally funded through the Mitchell-Lama program. In 2010, we audited oversight of this preference at the State level and found veterans' rights were bypassed at many locations visited. That same year, the Law was expanded to extend the same preference to non-disabled veterans of many foreign conflicts, or their surviving spouses. This audit examines NYC HPD's oversight of the 97 Mitchell-Lama housing developments it oversees within New York City and their obligation to ensure veterans, including soldiers returning from Iraq and Afghanistan, are afforded the legal preferences earned through their service.

Key Findings

Although the Legislature has extended the right of preference to many more veterans, few have actually benefited due to causes consistent with our previous findings at the State level: inaction and/or disregard by housing companies, and lax enforcement by the oversight agency. Specifically:

- We reviewed a judgmental sample of 18 housing developments with open waiting lists. These developments reportedly filled 332 vacancies during our review period, of which only 14 were filled by a veteran.
- Many housing companies did not follow NYC HPD's directive and therefore did not know whether eligible veterans were on their waiting lists.
- Two developments in Manhattan (Hamilton House and Clinton Towers) each filled vacant apartments with non-veterans even though veterans had been identified on their waiting lists. NYC HPD approved many of these non-veteran applications despite the existence of veterans' names on those developments' waiting lists.

Key Recommendations

- Take additional steps to educate housing company officials about their responsibility to ensure that appropriate preference is awarded to veterans as specified in the Law.
- Actively monitor whether housing companies are taking necessary steps to ensure that veterans receive appropriate preference.
- Investigate the cases cited in this report where housing companies failed to offer available housing to eligible veterans.

Other Related Audits/Reports of Interest

[Division of Housing and Community Renewal: Housing Preference for Disabled Veterans \(2010-S-42\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

June 6, 2012

Mr. Mathew Wambua
Commissioner
New York City Department of
Housing Preservation and Development
100 Gold Street
New York, NY 10038

Dear Commissioner Wambua:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

The following is a report of our audit of the New York City Department of Housing Preservation and Development: *Housing Preferences for Veterans*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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This report is also available on our website at: www.osc.state.ny.us

Background

The mission of the Department of Housing Preservation and Development (NYC HPD) is, among other things, to improve the availability, affordability and quality of housing in New York City. As the nation's largest municipal housing agency, NYC HPD works with private, public and community partners to strengthen neighborhoods and enable more New Yorkers to become homeowners or to rent well-maintained, affordable housing. NYC HPD has many responsibilities, including, at the time of the audit, supervising 97 Mitchell-Lama rental and cooperative developments with more than 44,600 units in New York City.

The Mitchell-Lama housing program is a critical component of government's efforts to make affordable housing available for New York State residents. When apartments become available, they are sold or rented through waiting lists maintained by each housing development. Since November 2007, the State Private Housing Finance Law has required these developments to give preference to disabled veterans applying for housing. In 2010, we audited compliance by developments supervised by the State's Homes and Community Renewal agency (HCR) and found veterans were not receiving the intended benefit due to a lack of action on the part of developments and HCR, which oversees them.

**New York State Homes & Community Renewal
Housing Preference for Disabled Veterans
(Report 2010-S-42, issued May 26, 2011)**

Scope: OSC visited 18 Mitchell-Lama developments, 14 of which had disabled veterans on their waiting lists.

Key Findings:

- Veterans' rights to preference were bypassed at more than 1/4th of the developments, which first offered housing to a total of 66 non-veterans.
- Almost half the developments hadn't updated their applications to get information on veteran status and 1/3rd hadn't even asked the people already on their waiting lists about their service.
- HCR staff had reviewed tenant selection practices at 14 of these locations and raised no concerns; OSC identified problems at 13 of these developments.

Outcomes:

HCR committed to enhance its automated waiting list and tracking systems with specific focus on monitoring veterans' placements.

Field staff received specific training to emphasize the need to monitor veteran placements.

In September 2010, the Law was broadened to include veterans who are not disabled. Preference is now available for all veterans who served on active duty during certain wars and hostilities, including soldiers currently returning from Iraq and Afghanistan. In addition, the same benefits now also extend to the surviving spouses of those who served. As a result, the Law now has a significantly greater potential to assist many more eligible veterans and their families in their search for affordable housing.

Government census data indicates there are more than 200,000 veterans now living in New York City. As soldiers return home from conflicts around the globe, it is critical that the public housing systems be prepared to afford these veterans and their families the preferences that they have earned through their service. To guide implementation of the new law, NYC HPD issued a directive in October 2010 informing the Mitchell-Lama developments it supervises about the changes and directing that they revise their application forms, notify applicants on their waiting lists about the new preference, and request that veterans submit proof of eligibility. Veterans who submit satisfactory proof of eligibility must be processed before other external applicants. The preference does not apply to internal transfers and does not supersede the priority afforded to current residents. NYC HPD directed developments whose waiting lists are currently closed to implement the new procedures whenever a list is reopened, as required by Law.

Audit Findings and Recommendations

Overall, we found few veterans have benefitted from this Law. Many housing companies did not follow NYC HPD's directive and therefore did not know whether eligible veterans were on their waiting lists. We reviewed 18 judgmentally-selected NYC HPD-supervised developments, which reportedly filled a total of 332 vacancies during the nine months ended September 30, 2011 and found only 14 of the 332 units were filled by a veteran. Our review also indicated the need for greater NYC HPD oversight of these developments to ensure compliance with the Law.

Many Developments Have Still Not Identified Eligible Veterans

NYC HPD shares supervision responsibilities for 15 of the 97 Mitchell-Lama developments with the United States Department of Housing and Urban Development but does not monitor tenant selection at those sites. Fifty-five of the remaining 82 developments have open waiting lists. NYC HPD oversees the process of approving tenants for these 55 developments.

We selected a judgmental sample of 18 of these 55 developments and examined the extent to which they had implemented the veterans' preference. Altogether, the 18 developments reportedly filled 332 vacancies from January 1, 2011 through September 30, 2011. We found only 14 of the 332 units were filled by a veteran. We observed documentation that supported the eligibility of those 14 veterans.

We visited and/or contacted the 18 developments from October 18, 2011 through January 19, 2012, focusing our review on whether they had notified applicants on their waiting lists about the veterans' preference and updated their applications to reflect the new preference. These two steps are important, because they identify applicants who may be veterans. Five of the developments had met the notification requirement by December 31, 2010. Four of these had notified all of the applicants on their waiting lists by that date, while the fifth had no list. All five had also updated their applications to reflect the veterans' preference by the time we contacted them in late 2011 and January 2012.

However, approximately three months after NYCHPD issued its directive, 13 of the 18 developments we reviewed were still not meeting all of its notification and updating requirements. These 13 developments had filled 235 units with non-veterans from January 1, 2011 through September 30, 2011:

- Nine had not notified any applicants on their open waiting lists about the preference by September 30, 2011; five of these had also not updated their applications, and thus did not obtain information as to whether a new applicant was a veteran.
- Four had begun notifying applicants on their waiting lists in 2010, but had not completed these notifications by the end of that year. While three of these had notified all applicants by September 30, 2011, the fourth (Clinton Towers, a 396-unit rental development in Manhattan) was still sending notification letters when we visited in January 2012.

Had the 13 developments updated their applications and notified those on their waiting lists of the preference, some of these vacancies may have been filled with eligible veterans. Three of these developments (Independence House, River Terrace, and Riverbend) informed us that as a result of our audit, they began notifying applicants on their waiting lists about the veterans' preference, each reporting that they had received responses from at least two applicants. This result provides strong support that Mitchell-Lama waiting lists contain the names of unidentified veterans who are not receiving their mandated preference.

Some Veterans Were Passed Over

We found that two developments had filled vacant apartments with non-veterans even though veterans had been identified on their waiting lists:

- Hamilton House, a rental development for senior citizens in Manhattan, filled four vacancies (two studio and two one-bedroom units) between January 1, 2011 and September 30, 2011, with non-veterans without offering the units to veterans whose names were already on the development's waiting lists. The list for studio apartments contained the names of 5 veterans, while the one-bedroom waiting list included the names of 12 veterans who should have been offered those units.

Hamilton House officials explained they did not start providing the preference until July 2011 because they were still notifying applicants on the waiting list. Further, one of the four vacancies was filled by an applicant whose name was not on the waiting list and this applicant had not been approved by NYC HPD. Hamilton House officials asserted that the tenant received certain subsidies and thus NYC HPD approval was not needed. However, NYC HPD officials do not agree and indicated that their approval was required.

We also found that several apartments in Hamilton House had been vacant for an extended period of time, further reducing housing opportunities for the veterans on the Hamilton House waiting lists. Specifically, at the time of our site visit in November 2011, we observed seven studio apartments, three one-bedroom apartments, and two two-bedroom apartments that were vacant. According to development records, several of these had been vacant for more than a year. Hamilton House officials were unable to explain the reason for these extended vacancies.

- Clinton Towers filled one studio apartment with a non-veteran without offering the unit to any of the 16 veterans identified on its waiting list. The Clinton Towers representative explained that the preference would not be implemented until all of the applicants on that list had been notified, a process which had not yet been completed when we visited the site in January 2012.

It is important to note that NYC HPD is required to approve the selection of tenants for its Mitchell-Lama developments and had approved the non-veteran Hamilton House and Clinton Towers applications presented to them, despite the existence of veterans' names on those developments' waiting lists. When we questioned NYC HPD officials, they acknowledged the need

to improve controls of this process. They said they plan to tighten their procedures and have begun an audit of placement procedures at Hamilton House. They are also reviewing the possible automation of the waiting lists and are looking at other methods of highlighting the names of veterans on waiting lists. Finally, NYC HPD officials also said they plan to issue another directive to the developments regarding veterans' preferences and to visit some developments to monitor compliance.

Recommendations

NYC HPD officials need to:

1. Take additional steps to educate housing company officials about their responsibility to ensure that appropriate preference is awarded to veterans as specified in the Law.
2. Actively monitor whether housing companies are taking necessary steps to ensure that veterans receive appropriate preference through actions such as:
 - examining application forms and advertisements to ensure information on veteran status is collected and maintained;
 - reviewing existing waiting lists to ensure that veterans have not been improperly bypassed in the selection process; and
 - periodically examining housing company records to ensure that veterans' information maintained on the waiting lists is accurate and complete, and that appropriate steps are taken to provide veterans with available housing.
3. Investigate the cases cited in this report where housing companies failed to offer available housing to eligible veterans, including cases of potentially excessive vacancy rates, to ensure housing companies are not acting to deprive veterans of their rights.

Audit Scope and Methodology

We performed this audit to determine whether veterans seeking admission to housing developments supervised by NYC HPD had received the preference in admission to Mitchell-Lama housing development as mandated in the Law. To accomplish our objective, we met with NYC HPD and housing development officials to gain an understanding of how they were complying with the Law. We contacted 18 Mitchell-Lama housing developments located within New York City and reviewed documentation regarding their compliance with NYC HPD's directive. We also reviewed the waiting lists maintained at NYC HPD's office.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained during our audit provides a reasonable basis for our findings and conclusions based on our audit objectives.

As is our practice, we notified NYC HPD officials at the outset of the audit that we would be requesting a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. Agency officials normally use the representation letter to assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. They affirm either that the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors. However, officials at the New York City Mayor's Office of Operations have informed us that, as a matter of policy, mayoral agency officials do not provide representation letters in connection with our audits. As a result, we lack assurance from NYC HPD officials that all relevant information was provided to us during the audit.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

We did this audit according to the State Comptroller's authority defined in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

Reporting Requirements

We provided a draft copy of this report to NYC HPD officials for their review and comment. We considered their comments in preparing this report. NYC HPD officials agreed with our recommendations and detailed the actions they have taken or will take to address them. Their response is attached at the end of this report.

Within 90 days of the final release of this report, we request that the Commissioner of the New York City Department of Housing Preservation and Development report to the State Comptroller advising what steps were taken to implement the recommendations contained in this report, and where recommendations were not implemented, the reasons why.

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Vision

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Agency Comments



Department of
Housing Preservation
& Development
nyc.gov/hpd

MATHEW M. WAMBUA
Commissioner

Office of the Commissioner
100 Gold Street
New York, N.Y. 10038

May 17, 2012

John Buyce, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street - 11 Floor
Albany, New York 12236

**Re: Audit of the HPD's Housing Preferences to Veterans in Mitchell Lama Housing
Audit Number: 2011-N-3**

Dear Mr. Buyce:

The following represents the Department of Housing Preservation and Development's response to the recommendations contained in your audit of the Housing Preferences to Veterans in Mitchell Lama Housing.

If you have any additional questions, please call Assistant Commissioner Josh Cucchiaro at 863-6610.

Thank you.

Sincerely,

Mathew M. Wambua



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AUDIT RESPONSE
 NEW YORK STATE OFFICE OF THE COMPTROLLER
 AUDIT OF THE NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT'S
 HOUSING PREFERENCES FOR VETERANS
 2011-N-3

Introduction

HPD is committed to ensuring housing opportunities for eligible veterans within the Mitchell-Lama Program. We will continue to take steps to ensure that implementation of the veteran preference through both training to the managing agents and outreach to veterans groups. While HPD continues to work with the housing companies to help identify potential veterans that might have already applied, our primary outreach effort has shifted to working with the Mayor's Office of Veterans Affairs. HPD feels that working with the Mayor's Office of Veterans Affairs will most effectively serve and educate the veteran community on housing opportunities within the Mitchell-Lama Program.

Finding

Many
 Developments
 Have Still Not
 Identified
 Eligible
 Veterans

Recommendation 1.

HPD officials need to take additional steps to educate housing company officials about their responsibility to ensure that appropriate preference is awarded to veterans as specified in the Law.

Response 1.

HPD will schedule and conduct veteran preference training for managing agents of Mitchell-Lama developments with open waiting lists. Training will include both the requirements and implementation of the veteran preference. To help ensure veterans are informed of Mitchell-Lama housing opportunities, HPD has outreached to the veteran community through the Mayor's Office of Veteran Affairs (MOVA). A link will be developed between agency web sites allowing Veterans visiting the MOVA web site to access information on HPD's web page Mitchell-Lama. In addition, HPD is collaborating with MOVA on scheduling a "Mitchell-Lama Day" for various veterans groups to explain the veteran preference.

AUDIT RESPONSE
 NEW YORK STATE OFFICE OF THE COMPTROLLER
 AUDIT OF THE NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT'S
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 2011-N-3

Recommendation 2.

HPD Officials need to:

Actively monitor whether housing companies are taking necessary steps to ensure that veterans receive appropriate preference through actions such as:

- Examining application forms and advertisements to ensure information on veteran status is collected and maintained;
- Reviewing existing waiting lists to ensure that veterans have not been improperly bypassed in the selection process; and
- Periodically examining housing company records to ensure that veterans' information maintained on the waiting lists is accurate and complete and that appropriate steps are taken to provide veterans with available housing.

Response 2.

HPD will continue to monitor housing company compliance and implementation of the veteran preference. HPD will re-issue the veteran preference directive and ensure that the proper application form is being used. All Mitchell-Lama advertisements have and will continue to include information of the veteran preference.

To ensure that veterans are properly identified and not bypassed, housing companies with open waiting lists will be instructed to identify veterans on separate waiting lists. Before approving an application for a non-veteran, the veteran list will be reviewed to ensure that no veterans have been bypassed.

As part of the application process, HPD will continue to examine housing company records to ensure that veteran information on the waiting lists is being maintained and is both accurate and complete. HPD will examine possible methods to incorporate the implementation of the veteran preference into our current compliance monitoring.

Finding
Some
Veterans Were
Passed Over

Recommendation 3.

HPD officials need to investigate the cases cited in this report where housing companies failed to offer available housing to eligible veterans, including cases of potentially excessive vacancy rates, to ensure housing companies are not acting to deprive veterans of their rights.

Response 3.

HPD has investigated the cases cited in the audit and has taken action to address the findings. As previously mentioned, HPD will re-issue the veteran preference directive and will conduct training to ensure the implementation of the preference.

A compliance audit has been conducted for Hamilton House. The results of the review

AUDIT RESPONSE
NEW YORK STATE OFFICE OF THE COMPTROLLER
AUDIT OF THE NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT'S
HOUSING PREFERENCES FOR VETERANS
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will be sent to the management of Hamilton House and a meeting scheduled to discuss the findings. A number of vacancies identified in the audit have been filled. We will continue to work with management to ensure that all remaining vacancies are filled and eligible veterans are considered. Several of the vacancies are undesirable due to a lack of light. Management has indicated that the oldest vacancy (apartment 4D) is being used as swing space to accommodate the temporary relocation of residents whose apartments are being treated for bedbugs. HPD will continue to work with management to fill the remaining vacancies while considering eligible veterans. Clinton Towers will complete the canvassing of their external studio list. Currently, there are no studio vacancies. HPD will ensure the canvassing of the waiting list at Clinton Towers is completed and eligible veterans identified will be considered for future vacancies.