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May 27, 2015

Mayor Joanne D. Yepsen
Saratoga Springs Commissioners
City of Saratoga Springs
474 Broadway
Saratoga Springs, New York 12866

Report Number: S9-14-44

Dear Mayor Yepsen and Commissioners:

The Office of the State Comptroller works to help city officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support city operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of 10 municipalities (seven cities and three villages) throughout New York State. The objective of our audit was to determine if the use of municipal resources resulted in an effective enforcement of the Fire Code¹ (i.e., fire safety of buildings). We included the City of Saratoga Springs (City) in this audit. Within the scope of this audit, we examined the City's process for evaluating fire safety plans and procedures for the period January 1 through December 31, 2013. Following is a report of our audit of the City. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This report of examination letter contains our findings and recommendations specific to the City. We discussed the findings and recommendations with City officials and considered their comments, which appear in Appendix A, in preparing this report. City officials agreed with our recommendations and indicated they are or will be taking corrective action. At the completion of our audit of the 10 municipalities, we prepared a global report that summarizes the significant issues we identified at all the municipalities audited.

¹ 2010 Fire Code of New York State

Summary of Findings

We found that the City could improve its controls for evaluating fire safety plans and evacuation plans and confirming evacuation drills are performed for buildings in its jurisdiction. While City officials maintain records to support the Fire Department's review of fire safety plans and evacuation plans, they did not review all plans and did not approve the plans, as required. Officials said they did not know they are required to approve the plans. The Department also lacked support that it confirms whether buildings conduct the required number of evacuation drills each year.

We sampled 18 buildings to determine if the fire safety plans and evacuation plans on file were complete and in conformance with the 2010 Fire Code of New York State (Fire Code). The Fire Department's records indicated they reviewed 10 of the buildings' fire safety and evacuation plans. One hotel refused access to its plans and drill logs so we could not determine if it complied with the Fire Code. Of the remaining 17 buildings, we found that nine, or 53 percent, of the fire safety plans and three, or 18 percent, of the evacuation plans did not address required elements of the Fire Code. We also found that seven, or 41 percent, of the buildings did not conduct the required number of evacuation drills.

The City also did not submit its 2013 Uniform Code Administration and Enforcement Report to the Department of State (DOS), as required.

Background and Methodology

The City has a population of approximately 26,500 residents and is governed by a mayor and four commissioners. The City's 2013 budget totaled \$39.8 million and included the City Fire Department's (Department) budget of \$4.6 million. The Department is responsible for monitoring fire safety for 2,014 buildings located in the City.

The Fire Chief oversees the general management of the Department and Fire Code² enforcement. In an effort to monitor fire safety within the City, the Department budget includes funding for a Fire Prevention Bureau that is responsible for reviewing and approving fire safety plans (fire plans) and evacuation plans as well as verifying the number of evacuation drills (drills) exercised at the buildings within its jurisdiction.

The Fire Code³ establishes the minimum requirements for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises. It also provides safety to fire fighters and emergency responders during emergency operations.

The Fire Code requires both an approved fire plan and an evacuation plan to be prepared and maintained for most buildings. The plans must be reviewed or updated at least once a year or as necessitated by changes in staff assignments, occupancy or building layout. The plans must be available in the workplace for reference and review by employees, and copies must be provided to the code enforcement official, upon request.

² The 2010 Fire Code of New York State is the most up-to-date version available (see also 19 NYCRR 1225.1 [c] which amends section 610 of the Fire Code.) The Fire Code is part of the New York State Uniform Fire Prevention and Building Code.

³ 2010 Fire Code of New York State Chapter 1 Section 101.3

The Executive Law⁴ and New York State Codes, Rules, and Regulations (NYCRR)⁵ generally provide that cities, counties, towns and villages are responsible for enforcing the New York State Uniform Fire Prevention and Building Code⁶ (Uniform Code). However, the State Education Department is responsible for Uniform Code enforcement with respect to school districts' and boards of cooperative education service's buildings.

Administration and enforcement of the Uniform Code generally are made through local law, ordinance or other appropriate regulation. However, a local government has the option to decline that responsibility; when this occurs, the responsibility passes to the respective county. Counties are afforded a similar option. If a local government and a county each exercise their option not to enforce the Uniform Code, the statute provides that the Secretary of State shall, directly or by contract, administer and enforce the Uniform Code.

The Uniform Code requires every city, county, town and village charged with enforcing the Uniform Code to maintain a system of records that support its code enforcement activities. Buildings that contain an area of public assembly must be inspected each year, while all other buildings requiring a fire safety and evacuation plan must have a fire safety inspection at least every three years. It also requires local governments to annually submit to the Secretary of State a report of their activities relative to administration and enforcement of the Uniform Code.⁷

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). Such standards require that we plan and conduct our audit to adequately assess those operations within our audit scope. Further, those standards require that we understand the management controls and those laws, rules and regulations that are relevant to the operations included in our scope. We believe that our audit provides a reasonable basis for the findings, conclusions and recommendations contained in this report. More information on such standards and the methodology used in performing this audit is included in Appendix C of this report.

Audit Results

Fire Safety Plan – Local governments must evaluate compliance with the Fire Code. Therefore, the City must verify that certain buildings in its jurisdiction have a fire plan that complies with the Fire Code. The Fire Code establishes the seven basic requirements each fire plan must contain. For example, the fire plan must include a procedure for reporting a fire or other emergency. The fire plan also must have a list of major fire hazards associated with the normal use and occupancy of the premise, including maintenance and housekeeping procedures. Appendix B details the seven fire plan requirements.

A properly developed fire plan can help ensure that responsible parties notify building occupants of an emergency and that evacuations will occur when necessary. It can also ensure that responsible parties promptly notify the Department of an emergency and convey relevant information, such as identification of hazardous material. The Department's Fire Prevention Bureau is responsible for ensuring that each building requiring a fire plan has one that complies with the Fire Code. Furthermore, the NYCRR requires the City to keep records relating to the fire safety and property maintenance inspections it conducts.

⁴ Section 381 (2)

⁵ 19 NYCRR Part 1203

⁶ See 19 NYCRR 1225.1

⁷ See 19 NYCRR 1203.4

To determine if the Fire Prevention Bureau reviews and approves fire plans each year, we visited 18 buildings⁸ and obtained the fire plans on file. We looked for evidence the Fire Prevention Bureau reviewed and approved each fire plan within the NYCRR timeframe. We also reviewed the fire plans for completeness with the Fire Code requirements. One hotel would not provide us with its fire plan; therefore, we could not determine if its fire plan complied with the Fire Code. We found that nine of the remaining 17 buildings (53 percent) had fire plans, but they were incomplete and did not comply with the Fire Code. These nine buildings comprised three hotels, three preschools and three private schools. The missing fire plan components for each of these buildings is detailed in Figure 1. The remaining eight had a fire plan that complied with the Fire Code.

| Building | Fire and Emergency Reporting | Life Safety Strategy | Site Plans | Floor Plans | Fire Hazards | Fire Prevention and Control System | Fuel Hazard Sources |
|-----------------|---|-------------------------------------|-----------------------|------------------------|-------------------------|---|------------------------------------|
| Hotel | | | | | | | ✓ |
| Hotel | | | | | ✓ | ✓ | ✓ |
| Hotel | | | | | ✓ | | ✓ |
| Preschool | ✓ | | | | ✓ | ✓ | ✓ |
| Preschool | | | | | ✓ | ✓ | ✓ |
| Preschool | ✓ | | | | ✓ | ✓ | ✓ |
| Private School | | | | | | ✓ | |
| Private School | | | | | ✓ | ✓ | ✓ |
| Private School | | | | | | ✓ | ✓ |

^a See Appendix B

We found written evidence that the Fire Prevention Bureau reviewed 10 of the 17 fire plans we examined. The reviews were performed within the statutory timeframe; however, officials said they do not approve fire plans because they did not know they were required to approve them.

The Fire Code states it was established, among other things, to ensure the protection of human life and property.⁹ Our review found that, while each building we visited had a fire plan, most of the plans were incomplete and did not comply with the Fire Code. Incomplete fire plans may lead to an increased chance of a loss of life or property damage.

Evacuation Plan – Buildings requiring a fire plan must also maintain an evacuation plan. The Fire Code establishes the eight basic requirements each evacuation plan must contain. For example, an evacuation plan must include emergency egress or escape routes and whether evacuation of the building is to be complete or, where approved, by selected floors or areas only. The evacuation plan also must include procedures for accounting for employees and occupants after an evacuation has been completed. Appendix B details the eight evacuation plan requirements. The Fire Prevention Bureau is also responsible for ensuring that each building requiring an evacuation plan

⁸ We judgmentally selected 18 buildings that are occupied by children or elderly individuals or which have a high number of daily occupants or visitors.

⁹ 2010 Fire Code of New York State Chapter 1 Section 101.3

has one that complies with the Fire Code. Furthermore, the NYCRR requires the City to keep records relating to the fire safety and property maintenance inspections it conducts.

To determine if the Fire Prevention Bureau reviews and approves evacuation plans as required by law, we also obtained the evacuation plans on file for the 17 buildings¹⁰ previously discussed. We looked for evidence that the Fire Prevention Bureau reviewed and approved each plan within the statutory timeframe. We also reviewed the evacuation plans for completeness with the Fire Code requirements.

We found that three of the 17 buildings' evacuation plans (18 percent) did not meet the Fire Code requirements. Three preschools had deficient evacuation plans. The missing evacuation plan components for each incomplete evacuation plan are detailed in Figure 2.

Figure 2: Missing Evacuation Plan Components^a

| Building | Escape Routes | Critical Equipment | Occupant Accounting | Rescue/ Emergency Aid | Occupant Notification Method | Emergency Reporting | Contact | Emergency Communication System |
|-----------------|----------------------|---------------------------|----------------------------|------------------------------|-------------------------------------|----------------------------|----------------|---------------------------------------|
| Preschool | | ✓ | | | ✓ | | | |
| Preschool | | ✓ | | ✓ | ✓ | ✓ | ✓ | |
| Preschool | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ |

^a See Appendix B for the specific evacuation plan requirements

Like the fire plans, we found that the Fire Prevention Bureau documented its review of 10 evacuation plans; it did not review the remaining seven plans. Officials said they did not know they are required to approve the evacuation plans; therefore, they did not approve any of the plans. As a result, the City has no assurance that each City building requiring an evacuation plan has one that meets minimum Fire Code requirements. In addition, building occupants may not be prepared to react to an emergency evacuation.

Evacuation Drills – The Fire Code also requires buildings to conduct a specified number of drills each year. Drills help ensure that building occupants are prepared to respond to an emergency evacuation and the drills can identify improvement opportunities. The number of drills required is based on how a building is used. For example, a private school is required to conduct 12 drills each year while an office building must conduct two. Appendix B details the building types and drill requirements. The City must verify that the required number of drills are being conducted each year and the Fire Prevention Bureau is responsible for verifying that the drills have been performed. Furthermore, the NYCRR requires the City to keep records relating to the fire safety and property maintenance inspections it conducts.

We also obtained evidence to determine whether the required number of drills were conducted annually at the 17 buildings¹¹ previously discussed. We found that, in calendar year 2013, seven

¹⁰ The previously discussed hotel also would not provide their evacuation plan; therefore, we tested 17 of the 18 buildings selected for review.

¹¹ The previously discussed hotel also would not provide their evacuation drill log; therefore, we tested 17 of the 18 buildings selected for review.

buildings (41 percent) did not conduct the required number of drills. The seven deficient buildings included one assembly, five hotels and one preschool. Figure 3 compares the drill requirements to the number of drills performed at each building.

| Figure 3: Fire Code Evacuation Drill Requirements Compared to Drills Performed | | | |
|---|--|-------------------------|-----------------|
| Building Type | Annual Evacuation Drill Requirement^a | Drills performed | Variance |
| Assembly | 4 | 0 | (4) |
| Hotel | 12 | 0 | (12) |
| Hotel | 12 | 0 | (12) |
| Hotel | 12 | 3 | (9) |
| Hotel | 12 | 4 | (8) |
| Hotel | 12 | 4 | (8) |
| Preschool | 12 | 4 | (8) |
| ^a See Appendix B | | | |

We did not find evidence that the Fire Prevention Bureau confirmed that the required number of drills were conducted at the buildings. The Fire Prevention Bureau also does not maintain any documentation to support its reviews. As a result, the City has no assurance that drills are being performed at each building as required. When the required number of drills are not performed, building occupants are likely less prepared to conduct an emergency evacuation, which could affect an evacuation outcome.

Uniform Code Administration and Enforcement Report – The NYCRR¹² requires every local government charged with administration and enforcement of the Uniform Code to annually submit to the Secretary of State a report of its activities relative to administration and enforcement of the Uniform Code (report). City officials assigned the responsibility of filing the report with the DOS to the Building Department. However, the Building Department did not complete or submit a report detailing its 2013 enforcement activities to the DOS. Therefore, the City did not comply with the NYCRR.

Recommendations

The Fire Prevention Bureau should:

1. Keep documented evidence detailing when fire plans and evacuation plans were reviewed and approved.
2. Determine whether the required number of drills are conducted in accordance with the Fire Code and maintain documented evidence of these reviews.
3. Ensure that buildings requiring a fire plan and evacuation plan have plans that meet the minimum Fire Code requirements.

¹² 19 NYCRR 1203.4

The City Department of Buildings should:

4. File the Uniform Code Administration and Enforcement Report for each year, as required.

The Council has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Council should make the CAP available for public review in the Clerk's office.

We thank City officials and staff for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

APPENDIX A

RESPONSE FROM CITY OFFICIALS

The City officials' response to this audit can be found on the following pages.

Saratoga Springs
Department of Public Safety

Christian E. Mathiesen, Commissioner
Eileen Finneran, Deputy Commissioner

City Hall Saratoga Springs, New York 12866
518-587-3550



December 18, 2014

Ms. Ann Singer
Office of the State Comptroller
State Office Building, Room 1702
44 Hawley Street
Binghamton, NY 13901

Dear Ms. Singer:

We have reviewed the draft of our first prepared fire safety audit report conducted by auditors from the Office of the State Comptroller regarding Chapter 4 compliance with the 2010 Fire Code of New York State (Fire Code). Of the deficiencies identified in the report, we have conducted an internal assessment as to the cause of the deficiencies. The Department's internal assessment concluded that staffing reductions, transfers, and retirements, as well as the defunding of the Fire Prevention Office in 2010, resulted in a significant loss of personnel and institutional knowledge. The Fire Prevention Office was funded and put back in operation in 2011 and the department instituted a total re-organization, inspection practices with Chapter 4 did not fully comply with the requirements set by the Fire Code. Although Chapter 4 compliance was reviewed, the inspections did not rise to the level required under the Fire Code. As a result of the audit conducted by the Office of the State Comptroller and our internal assessment;

We have developed a corrective action plan that includes the following:

- Occupancies that are subject to Chapter 4 compliance have been identified and their occupancy record will reflect that in their electronic file.
- Occupancies subject to Chapter 4 compliance will be identified and the number of annual evacuation drills required will be placed in the electronic record for easy access from Fire Inspectors.
- Chapter 4 codes will be added to the 2015 Inspection forms including the code language for easy access during inspections.
- Fire Inspectors will review each Emergency and Evacuation plan and ensure compliance with the Fire Code.
- Each Emergency and Evacuation Plan will be signed by the inspector when compliance to the Fire Code is determined.
- Approved Emergency and Evacuation Plans will be electronically attached to occupancies subject to Chapter 4 compliance.
- Occupancies subject to evacuation drills will be monitored to ensure compliance with annual evacuation drills. An action tab for such evacuation drills will be part of the electronic record for occupancies required to conduct evacuation drills.
- A training session will be conducted to review Chapter 4 Fire Code conditions and the department's action plan for compliance and documentation.
- Chapter 4 Fire Code compliance items will be added to our pre-fire inspection check list form sent to occupancies preparing for inspection.
- Inspectors will educate facility owners and staff on Chapter 4 Fire Code compliance issues.

In conclusion, with respect to the Building Department (which is under the direction of the Mayor's office) not submitting a detailed Uniform Code Administration and Enforcement report, they informed us that they were not aware they were required to file such a report. The Building Department has had a great deal of turnover over the past several years. The current Building and Zoning Inspector Steve Shaw is currently working on the report and will be submitting it to DOS.

We look forward to receiving a copy of the Comptroller's final Fire Safety audit.

Sincerely,

Christian E. Mathiesen
Commissioner of Public Safety
City of Saratoga Springs

Cc: Mayor
Commissioners
Fire Chief Robert Williams
Building & Zoning Officer Steve Shaw

APPENDIX B

Fire Safety Plans, Fire Evacuation Plans and Emergency Evacuation Drills¹³

Fire Safety Plans Must Include:

1. The procedure for reporting a fire or other emergency.
2. The life safety strategy and procedures for notifying, relocating or evacuating occupants.
3. Site plans indicating the following:
 - 3.1 The occupancy assembly point.
 - 3.2 The location of fire hydrants.
 - 3.3 The normal routes of fire department vehicle access.
4. Floor plans identifying the locations of the following:
 - 4.1 Exits.
 - 4.2 Primary evacuation routes.
 - 4.3 Secondary evacuation routes.
 - 4.4 Accessible egress routes.
 - 4.5 Areas of refuge.
 - 4.6 Manual fire alarm boxes.
 - 4.7 Portable fire extinguishers.
 - 4.8. Occupant-use hose stations.
 - 4.9 Fire alarm annunciators and controls.
5. A list of major fire hazards associated with the normal use and occupancy of the premises, including maintenance and housekeeping procedures.
6. Identification and assignment of personnel responsible for maintenance of systems and equipment installed to prevent or control fires.
7. Identification and assignment of personnel responsible for maintenance, housekeeping and controlling fuel hazard sources.

¹³ We obtained the requirements for the Fire Safety Plans, Fire Evacuation Plans and Emergency Evacuation Drills from the 2010 Fire Code of New York State.

Fire Evacuation Plans Must Include:

1. Emergency egress or escape routes and whether evacuation of the building is to be complete or, where approved, by selected floors or areas only.
2. Procedures for employees who must remain to operate critical equipment before evacuating.
3. Procedures for accounting for employees and occupants after evacuation has been completed.
4. Identification and assignment of personnel responsible for rescue or emergency medical aid.
5. The preferred and any alternative means of notifying occupants of a fire or emergency.
6. The preferred and any alternative means of reporting fires and other emergencies to the fire department or designated emergency response organization.
7. Identification and assignment of personnel who can be contacted for further information or explanation of duties under the plan.
8. A description of the emergency voice/alarm communication system alert tone and preprogrammed voice messages, where provided.

Fire and Evacuation Drill Frequency and Participation Requirements:

| Figure 4: Fire and Evacuation Drill Frequency and Participation Requirements | | |
|--|-------------------------|------------------------|
| Group or Occupancy | Frequency | Participation |
| Group A | Quarterly | Employees |
| Group A ^a | Three Annually | All Occupants |
| Group B ^b | Two Annually | All Occupants |
| Group B ^a | Three Annually | All Occupants |
| Group E | Monthly ^c | All Occupants |
| Group I | Quarterly on Each Shift | Employees ^d |
| Group R-1 | Quarterly on Each Shift | Employees |
| Group R-2 ^a | Four Annually | All Occupants |
| Group R-4 | Quarterly on Each Shift | Employees ^d |
| High-Rise Buildings | Annually | Employees |
| ^a Applicable to college and university buildings in accordance with Fire Code Section 408.3. ^b Group B buildings having an occupant load of 500 or more persons, or more than 100 persons above or below the lowest level of exit discharge. ^c The frequency shall be allowed to be modified in accordance with Fire Code Section 408.3.2. ^d Fire and evacuation drills in residential care assisted living facilities shall include complete evacuation of the premises in accordance with Fire Code Section 408.10.5. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program. | | |

Definitions of Each Group or Occupancy From the 2010 Fire Code of New York State With Examples:

Group A: Assembly Group A occupancy includes, among others, the use of a building for the gathering of persons for purposes such as civic, social or religious functions; recreation, food or drink consumption; or awaiting transportation. Examples include movie theatres, restaurants and arenas.

Group B: Business Group B occupancy includes, among others, the use of a building for office, professional or service-type transactions, including storage of records and accounts. Examples include banks, civic administration and outpatient clinics.

Group E: Educational Group E occupancy includes, among others, the use of a building by six or more people at any one time for educational purposes through the 12th grade. This group also includes day cares with more than five children who are older than two-and-a-half years of age.

Group I: Institutional Group I occupancy includes, among others, the use of a building in which people are cared for or living in a supervised environment. Such occupants have physical limitations because of health or age; are harbored for medical treatment or other care or treatment; or are detained for penal or correctional purposes or other purposes in which their liberty is restricted. Examples include hospitals, nursing homes and jails.

Group R: Residential Group R includes, among others, the use of a building for sleeping purposes.

R-1: Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including boarding houses (transient), hotels (transient) and motels (transient).

R-2: Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including apartment houses, boarding houses (nontransient), convents, dormitories, fraternities and sororities, hotels (nontransient), monasteries, motels (nontransient) and vacation timeshare properties.

R-4: Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To complete our objective, we interviewed City and Department officials and reviewed procedures used to monitor drill logs, fire safety plans and evacuation plans to determine whether the City is effectively enforcing the Fire Code. We also reviewed the City's policies and procedures for approving/reviewing fire safety and evacuation plans.

We selected a judgmental sample of 18 buildings for the audit period by selecting buildings that are occupied by children or elderly individuals and/or which have a high number of daily occupants or visitors. We obtained and reviewed each building's drill logs, fire safety plan and evacuation plan. We compared each building's fire safety and evacuation plan to the Fire Code to determine if the plans contained all required components. We also examined each plan to determine if the Department reviewed and approved each plan. In addition, we compared the number of drills each building owner conducted to the Fire Code to confirm the building owner conducted the required number of drills. We also interviewed officials to learn if the filed a report of its activities relative to the administration and enforcement of the Uniform Code.

We conducted this performance audit in accordance with GAGAS. 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 provides a reasonable basis for our findings and conclusions based on our audit objectives.