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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

June 20, 2018

Ms. RuthAnne Visnauskas
Commissioner/CEO
Homes and Community Renewal
25 Beaver Street
New York, NY 10004

Re: Administration of Tenant Complaints
Report 2018-F-3

Dear Ms. Visnauskas:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of Homes and Community Renewal to implement the recommendations contained in our prior audit report, *Administration of Tenant Complaints* (Report 2013-S-72).

Background, Scope, and Objective

Homes and Community Renewal (HCR) consists of all the State's housing and community renewal agencies, including the Division of Housing and Community Renewal (Division), which is responsible for the development, supervision, and maintenance of affordable low- and moderate-income housing in New York State. The Division's Office of Rent Administration (Office), the subject of this follow-up audit, is responsible for administering New York State's rent laws. These laws are designed to provide decent, affordable housing for millions of New Yorkers, as well as afford owners an adequate return on investment while protecting tenants from unlawful rent increases, harassment, and illegal evictions. As the administrator of the laws and custodian of all rent regulation records, the Office is responsible for responding to owner and tenant applications, inquiries, and complaints regarding the nearly 1 million regulated apartments in the State. According to available records, for the two-year period ended December 31, 2017, the Office received 16,412 tenant complaints. We note that the number of complaints received by the Office has increased, as our initial audit found that there were 19,653 complaints for the three-year period ended December 31, 2012.

Our initial report, which was issued on December 11, 2014, examined whether the Office addressed tenant complaints in a timely manner. We found the Office had not established criteria for how long it should take to assign, address, or resolve tenant complaints. Our review of Office records determined that a significant number of tenant complaints may have been unresolved

for anywhere between one to four years, taking an average time of 6.7 months just to assign an incoming complaint to an examiner. We found that Office officials had not performed any examiner staffing or productivity analysis to determine what the examiners' workload should be and whether current staffing met Office needs. Also, we found the Office's computerized database did not readily provide meaningful information for decision makers.

The objective of our follow-up review was to assess the extent of implementation, as of June 4, 2018, of the four recommendations included in our initial audit.

Summary Conclusions and Status of Audit Recommendations

We found that HCR has made some progress in addressing the issues identified in our prior report. Of the four prior report recommendations, three were partially implemented and one was not implemented.

Follow-Up Observations

Recommendation 1

Establish criteria for the amount of time it should take to assign, address, and resolve tenant complaints, and document the reasons why cases are not resolved within prescribed time frames.

Status - Partially Implemented

Agency Action - Office officials have not established criteria for the time it should take to assign, address, or resolve tenant complaints. They explained that the amount of time it takes to resolve a case is governed by the facts and issues pertinent to that case, and that imposing time limits might create the risk that staff would be motivated by concerns about those time limits, as opposed to issuing quality determinations that can survive scrutiny by the courts.

However, Office officials have begun documenting the reasons why long-outstanding cases are not resolved. They are now using a monthly Case Status Report to document the status of each examiner's ten oldest cases. We reviewed a sample of these monthly Case Status Reports. Officials explained that the reports are reviewed by the examiner's supervisor, the Rent Administrator, and the Deputy Director, and that backlogged cases are followed up on to expedite processing.

According to Office records, as of March 19, 2018, 4,563 (28 percent) of the 16,412 tenant complaints received for the two-year period (ended December 31, 2017) remained open, including 2,162 that had not been assigned to an examiner. We noted that 279 of the 2,162 complaints were received on or before March 19, 2017 (one year prior), with 8 dating back more than two years. Additionally, Office records indicate that it took an average of about five months to assign the remaining 2,401 (4,563 – 2,162) open tenant complaints. We also noted that it took an average of six months to resolve the other 11,849 (16,412 – 4,563) tenant complaints.

Recommendation 2

Investigate the circumstances surrounding long-term open cases and take steps to resolve them.

Status - Partially Implemented

Agency Action - Office officials explained that they use the monthly Case Status Reports to monitor long-term open cases. From our scope period, we selected the ten cases that had been open the longest to determine what actions Office officials were taking to resolve them. For five of the ten cases, Office officials provided evidence that they were tracking the cases and taking steps to resolve them. However, the other five cases (which were filed in January and February of 2016) had not been assigned to an examiner. For two of the five cases, there was a notation explaining why the cases had not been assigned. However, there was no notation explaining why the remaining three cases were not assigned, or what steps Office officials were taking to resolve them. Office officials subsequently told us that the 2016 cases had not been assigned due to staff unavailability.

Recommendation 3

Conduct an examiner staffing/productivity analysis and redeploy Office staff as appropriate to align with complaint caseloads and complexity.

Status - Not Implemented

Agency Action - HCR provided no documentation to show they had conducted an examiner staffing/productivity analysis of the Office since the December 2014 issuance of our initial audit report. Subsequently, in June 2018, they informed us that HCR is currently performing an agency-wide workforce analysis of all programs.

Office officials also stated that while they have cross-trained staff, they are limited in redeploying examiners given their primary issue: they have not been able to replace key personnel that have left due to retirement. We reviewed the Office's list of rent examiners as of March 19, 2018, and found they had 87 examiners, including 6 trainees. According to the list, 20 of these examiners were assigned to clerical duties and were not processing tenant complaint cases.

Recommendation 4

Establish a formal timetable to complete the development and implementation of an effective management information system.

Status - Partially Implemented

Agency Action - In HCR's March 2015 response to our initial report, officials shared a targeted timeline, which had been established for the development and implementation of a new

management information system. According to the timeline, this process would take place over a two-year period. However, the timeline did not include a starting or ending date for the outlined implementation. While HCR officials contracted with a vendor to develop and implement a new management information system, as of June 2018, the system had not been implemented. An updated timeline for implementation was not provided to us.

Major contributors to this report were Diane Gustard, Trina Clarke, and Arjeeban Jeeveswaran.

We would appreciate your response to this report within 30 days, indicating any actions planned to address any unresolved issues discussed in this report. We thank the management and staff of HCR for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Cindi Frieder
Audit Manager