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July 13, 2022

Adolfo Carrión, Jr.  
Commissioner  
New York City Department of Housing Preservation and Development  
100 Gold Street  
New York, NY 10038

Re: Heat and Hot Water Complaints  
Report 2022-F-3

Dear Commissioner Carrión:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law, we have followed up on the actions taken by officials of the New York City Department of Housing Preservation and Development to implement the recommendations contained in our prior audit report, *Heat and Hot Water Complaints* (Report [2019-N-3](#)).

**Background, Scope, and Objective**

The New York City Department of Housing Preservation and Development (HPD) is the nation's largest municipal housing preservation and development agency. As a part of its mission to promote quality and affordability of housing, HPD works to protect tenants' rights relating to the safety and condition of their housing. HPD's Code Enforcement Division is responsible for ensuring that residential building owners (owners) comply with the New York City Housing Maintenance Code (Code) and the New York State Multiple Dwelling Law. Owners must ensure that apartments in their buildings are safe and well-maintained, which includes providing adequate heat and hot water (HHW).

In accordance with the Code, owners must supply their tenants with adequate heat from October 1 to May 31, the "heat season," at a minimum of 68°F between the hours of 6:00 a.m. and 10:00 p.m. when the outside temperature is below 55°F, and at least 62°F between the hours of 10:00 p.m. and 6:00 a.m. regardless of the outside temperature. Hot water must be provided 365 days per year at a constant minimum temperature of 120°F.

Tenants not receiving the required services can file a complaint through New York City's 311 system (NYC311). Complaints are automatically forwarded to HPD for response. HPD considers a HHW complaint addressed if, upon being contacted, a tenant states that service has been restored or if HPD conducted or attempted to conduct an inspection. HPD has about 250 inspectors who conduct different types of inspections, including those related to HHW complaints. When an inspection confirms that the building owner is not providing the required HHW, a violation is issued to the owner and HPD can pursue financial penalties through the New York City Housing Court.

According to its records, between January 1 and December 31, 2021, HPD received about 199,815 HHW complaints throughout the five New York City boroughs (see chart below), mostly through NYC311. When more than one HHW complaint for the same building is received, the complaints are linked and the additional complaints are considered duplicates. Based on our analysis, the 199,815 complaints equate to about 121,469 unique HHW complaints for calendar year 2021. HPD inspectors conducted about 99,000 inspections to address the more than 121,000 unique complaints. Other complaints were addressed by tenants indicating the services had been restored.

### **Heat and Hot Water Complaints by Borough**

<b>Borough</b>	<b>Number of Complaints</b>	<b>Percentage</b>
Bronx	69,737	35%
Brooklyn	56,532	28%
Manhattan	44,281	22%
Queens	27,002	14%
Staten Island	2,263	1%
<b>Totals</b>	<b>199,815</b>	<b>100%</b>

Our initial audit report, issued on September 24, 2020, found that HPD needed to take steps to make the inspection process for HHW complaints more effective and efficient. HPD was not conducting HHW complaint inspections timely, taking an average of 2 to 3 days – with many cases taking 4 days or more – for complaints to be inspected during our audit scope. The audit also found that HPD did not establish a formal time frame for when an inspection should be completed relative to when the HHW complaint is received. It also did not provide tenants with a window of time for inspections. As a result, many scheduled inspections could not be performed due to a lack of access to apartments. Furthermore, hundreds of HHW complaints were incorrectly identified as duplicate complaints and thus not addressed by HPD. The audit also determined that where owners were found to be in violation of the law, HPD settled cases for less – in some cases substantially less – than the minimum amount prescribed by law.

The objective of our follow-up review was to assess the extent of implementation, as of May 18, 2022, of the eight recommendations included in our initial report.

### **Summary Conclusions and Status of Audit Recommendations**

HPD officials made some progress in addressing the issues identified in our initial report. Of the initial report’s eight recommendations, three were implemented, two were partially implemented, and three were not implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Take corrective action to ensure HPDInfo processes all complaints appropriately, including, but not limited to:*

- *Accurately identifying all unique complaints so they are routed for inspection.*
- *Accurately identifying and linking duplicate complaints.*

- *Establishing criteria that will define and distinguish initial and duplicate complaints and create rules in HPDInfo accordingly.*

Status – Implemented

Agency Action – HPD officials noted that, as of March 2021, they implemented a new automated 10-Day Duplicate Rule in HPDInfo; consequently, complaints are only marked as duplicates if the original complaint is less than 10 days old. We reviewed the log of HHW complaints received between January 1 and December 31, 2021, and found that complaints were linked if they were within the 10-day range; otherwise, they were listed as unique complaints.

### **Recommendation 2**

*Establish a formal time frame for inspecting HHW complaints.*

Status – Not Implemented

Agency Action – In response to our initial audit, HPD officials disagreed with establishing a formal time frame for inspecting HHW complaints, but stated they remain committed to inspecting HHW complaints and all emergency complaints as quickly as possible. Further, they stated that a host of factors during each heat season (including the number and types of emergency complaints received relative to staffing resources as well as the length of cold periods) preclude HPD’s ability to commit to a standard time frame for HHW complaints.

As of this follow-up review, HPD officials remain in disagreement. Our analysis indicates HHW inspections continue to take an average of 2 days from when complaints are received. However, for about 4,000 (of 56,000) complaints received during the winter months of December, January, and February, the inspection took longer than 5 days. It is important for HPD to establish a formal time frame for conducting HHW inspections and then monitor for compliance.

### **Recommendation 3**

*Periodically review open HHW complaints to ensure they are being addressed timely.*

Status – Partially Implemented

Agency Action – According to HPD officials, they implemented a weekly report that lists all open complaints as of the report’s run date. HPD officials review the reports and make sure that complaints are inspected and closed if they are more than 10 days old. We reviewed a sample of 15 weekly reports, each of which contained between about 600 and 7,500 open complaints. Our review identified 70 complaints that were outstanding for 10 days or more at the time the reports were run. We found that HPD officials reviewed the open complaints that were older than 10 days and made sure appropriate action was taken. However, inspecting HHW complaints 10 days or more after they are received is not timely. Additionally, we did not see support for HPD’s determination of why the complaints, once received, were not routed for inspection in a timely manner.

It is important that HPD determine the reasons why some complaints are not routed for inspection timely so that corrective action can be taken.

#### **Recommendation 4**

*Continue pursuing the use of technology to enforce HHW laws.*

Status – Implemented

Agency Action – HPD implemented the use of Real Time Field Force (RTFF) tablets (in addition to smart phones) initially in the borough of Manhattan, and subsequently expanded their use to the other four boroughs (Bronx, Brooklyn, Queens, and Staten Island). The RTFF tablets are used by inspectors to receive assignments on the go, to initiate and close inspections, and to input detailed information in the system upon completion of inspection.

HPD also implemented the Heat Sensors Program (HSP) in July 2020. Every 2 years the HPD must select 50 class A multiple dwellings to install an indoor Internet temperature measuring and reporting device in each unit. However, only 26 of the 50 buildings selected to date opted to install the heat sensors. In the Bronx, 10 (56%) of the 18 selected buildings did not install the required heat sensors. HPD officials informed us that they are pursuing legal challenges against two of the building owners who did not comply. It is important to ensure more buildings participate in this program, and HPD should pursue all available remedies against non-compliant owners.

#### **Recommendation 5**

*As appropriate, provide tenants with advance notice of inspections.*

Status – Partially Implemented

Agency Action – For non-anonymous complaints where phone numbers are provided, we observed that HPD inspectors would call the tenants when they arrive at the location for inspections, as inspectors do not have complainants' contact information until they arrive at the location and initiate the inspection in the RTFF. We suggest that the system be revised to provide inspectors with information such as phone numbers prior to arrival, thereby allowing inspectors to provide tenants with advance notice of inspections and ensuring someone is at home to facilitate inspections.

#### **Recommendation 6**

*Establish a policy requiring inspectors to note the time of their attempt to conduct inspections on the No Access cards.*

Status – Implemented

Agency Action – While HPD has not updated the No Access cards for HHW inspections, it has redesigned the Certificate of Inspection Visit cards, which inspectors place in the lobby of each building they visit. The Certificate of Inspection Visit cards include the inspection date and time, inspector signature, purpose of inspection, and name of agency and/or department. HPD officials explained that the Certificate of Inspection Visit cards allow for greater transparency since they are posted in a common area for all tenants in a building to see, compared to the No Access card, which is left for a single tenant. While shadowing HPD inspectors, we observed inspectors recording the inspection date, time, and agency on the cards when entering the premises and recording their signature when leaving the premises once the inspection is completed.

### **Recommendation 7**

*Establish guidelines for attorneys to use when negotiating settlement amounts in Housing Court.*

Status – Not Implemented

Agency Action – HPD officials stated they were compliant with this recommendation prior to the start of the audit, and indicated that the civil penalties the agency seeks as well as its enforcement through litigation are appropriate. HPD officials stand by their initial statement.

### **Recommendation 8**

*Increase collection efforts for outstanding default judgment amounts.*

Status – Not Implemented

Agency Action – HPD officials indicated they modified the heat violations summary report, and their attorneys are seeking penalties reflecting the number of days tenants were without HHW (not the number of days between violation issuance and the court date). However, we noted they have not collected any of the approximately \$1.43 million from the 27 default judgments issued in 2021. As of March 30, 2022, these judgments have been outstanding for an average of 246 days – or about 8 months. HPD officials explained that, in order to collect fines and penalties for default judgments, HPD must obtain stamped transcripts from Housing Court. Due to the pandemic, there is a backlog in the court and HPD's transcripts are not being processed, thus impacting HPD's ability to make collections. According to HPD officials, as of May 11, 2022, they received three transcripts from the 27 default judgments and will begin attempts to collect.

Major contributors to this report are Diane Gustard, Jiaying Li, Erik Dorfler, and Sabina Shanaj.

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

Very truly yours,

Aida Solomon  
Audit Manager

cc: Steve Fodera, NYC HPD  
Doug Giuliano, NYC Mayor's Office of Operation