



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 12, 2023

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

Re: Mitchell-Lama Vacancies
Report 2022-F-34

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 audit report, *Mitchell-Lama Vacancies* (Report [2020-N-2](#)).

Background, Scope, and Objective

The Mitchell-Lama Housing Program was created in 1955 to provide affordable rental and cooperative housing to middle-income families. The New York City (NYC) Department of Housing Preservation and Development (HPD), the nation's largest municipal housing preservation and development agency, is charged with promoting the quality and affordability of NYC's housing. In NYC, there are 93 HPD-supervised Mitchell-Lama rental and limited-equity cooperative developments with approximately 47,000 total apartments.

Apartments in Mitchell-Lama developments tend to be desirable because of their affordability; consequently, the waiting lists for many of these apartments can be quite lengthy. To ensure efficient turnover of vacant apartments, HPD's Reporting and Compliance Directive (Directive), issued in June 2017, requires developments to fill vacancies within 120 days. Developments are required to provide a written explanation for the apartments that have been vacant for more than 120 days as well as a plan of action to resolve the prolonged vacancy. Developments are also required to submit Quarterly Turnover and Vacancy Reports (vacancy reports) to HPD, showing apartments that were filled (turnovers) during the quarter and current vacancies that need to be sold or rented. HPD's staff of Property Managers are responsible for monitoring the developments' apartment turnovers and vacancies to ensure compliance with requirements.

We issued our initial audit report on July 13, 2021. The audit's objective was to determine whether HPD was ensuring that vacant apartments at Mitchell-Lama developments were filled timely. The audit covered apartments that were vacant and those that became vacant in calendar year 2019 and actions taken by HPD, through March 12, 2021, to address these vacancies. The audit found HPD did not adequately monitor developments to ensure

compliance with the requirements of its 2017 Directive. Despite the scarcity of affordable housing, vacant apartments were generally not filled in the 120-day time frame, with 1,286 apartments taking, on average, 222 days to fill, including 214 that remained vacant for a year or longer. As of December 31, 2019, 78 developments reported 670 vacancies, 371 (55%) of which had been vacant for over 120 days, including 111 apartments vacant for over a year and eight apartments vacant for more than 3 years. At one development – Lindsay Park in Brooklyn – 15 apartments had been vacant for as long as 30 years. Further, the audit found that HPD did not enforce the requirement for developments to submit plans of action for apartments that are vacant for over 120 days, nor did it have evidence that it followed up with developments for status updates.

The objective of our follow-up was to assess the extent of implementation, as of March 21, 2023, of the six recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

HPD officials have made some progress in addressing the problems we identified in the initial audit report. Of the initial report’s six audit recommendations, one was implemented, four were partially implemented, and one was not implemented.

Follow-Up Observations

Recommendation 1

Create an electronic vacancy form or other means for developments to report quarterly data in an analyzable format, which includes explanations for apartments that are vacant beyond the 120-day requirement.

Status – Implemented

Agency Action – HPD officials created an electronic vacancy form, as a part of their e-rent roll system, for developments to report quarterly data. The form, which is in an analyzable spreadsheet format, includes a field for developments to select an explanation for each apartment that is vacant beyond the 120-day requirement.

Recommendation 2

Improve monitoring of developments, including but not limited to testing vacancy reports for accuracy and completeness and documenting review of the quarterly vacancy reports.

Status – Partially Implemented

Agency Action – HPD officials exchanged emails with developments to identify reasons for vacancies greater than 120 days. In addition, they reached out to developments to obtain certain information that was missing from vacancy reports. Although this demonstrates HPD has improved its monitoring of developments, officials did not provide documentation to support actions they have taken to review and test the accuracy of vacancy reports, such as requesting documentation or visiting sites to confirm reported information. Officials informed us that HPD’s Divisions of Housing Supervision and Strategic Operations and Analytics are collaborating to analyze vacancy reports for accuracy. Further, upon completion of the full analysis, staff will be able to gain more insight about how to prioritize outreach and easily identify inconsistencies in reported vacancy data.

Recommendation 3

Obtain and analyze the vacancy reports to identify developments that consistently have delays in filling vacancies, and work with these developments to identify issues and improve performance.

Status – Partially Implemented

Agency Action – HPD officials stated that, due to staffing shortages in the Mitchell-Lama team, they have not fully implemented this recommendation. Although officials provided us with documentation showing they reached out to developments to identify reasons for vacancies greater than 120 days, they did not provide evidence that they analyze vacancy reports to identify developments that consistently have delays in filling vacancies. Officials informed us that HPD's Divisions of Housing Supervision and Strategic Operations and Analytics are collaborating to analyze vacancy reports to identify where the longest vacancy durations are occurring, the reasons, and vacancy trends. According to officials, upon completion of the full analysis, staff will be able to gain more insight about how to prioritize outreach and efficiently flag the units with longer vacancy durations.

Recommendation 4

Improve monitoring of developments with vacancies greater than 120 days and ensure they provide a plan of action to fill the apartments, and follow up with developments to ensure compliance with the plan.

Status – Partially Implemented

Agency Action – HPD officials have improved their monitoring of developments with vacancies greater than 120 days by exchanging emails with these developments to identify reasons for the extended vacancies. However, officials did not provide evidence to support they verified these developments created action plans to fill the vacant apartments.

Recommendation 5

Provide additional guidance and communication to management of Project-Based Section 8 developments to ensure apartments are filled timely.

Status – Not Implemented

Agency Action – HPD officials disagreed with this recommendation and therefore did not take actions to implement it. According to officials, turnovers involving Section 8 will almost universally take longer than 120 days, and they do not agree that a lack of guidance and communication are the reasons for the long delays. Instead, they attribute these delays to the time it takes to meet the federal requirements associated with the process of placing a qualified tenant into a Project-Based Section 8 development. However, HPD should ensure that Section 8 apartments are filled timely in order to provide needed housing to individuals and revenue to the developments. Moreover, providing additional guidance and communication can assist in filling units in a timelier manner.

Recommendation 6

Monitor Lindsay Park to ensure the uninhabitable apartments are repaired and returned to the rent roll expeditiously.

Status – Partially Implemented

Agency Action – We reviewed Lindsay Park’s December 2022 rent roll and found that nine of the 15 apartments initially noted as being uninhabitable were listed as being sold. The remaining six apartments were listed as vacant. HPD officials stated that two of the six apartments have been converted to residential storage units and one has been converted to a security team’s command center. Documentation provided by HPD officials did not support or even specify the reasons why the remaining three vacant apartments remained uninhabitable and could not have been returned to the rent roll for residential use. Instead, officials advised that the three apartments are currently being used for storage of material used in a capital project and will be returned to the rent roll after completion of the project.

Major contributors to this report were Joseph Gillooly, Natalie Sherman, and Steven Townsend.

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 thank the management and staff of HPD for the courtesies and cooperation extended to our auditors during this follow-up.

Sincerely,

Diane Gustard
Audit Manager

cc: Steve Fodera, NYC Department of Housing Preservation and Development
Doug Giuliano, NYC Mayor’s Office of Risk Management and Compliance
Marjorie Landa, NYC Mayor’s Office of Risk Management and Compliance