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Thomas Roach, Mayor
Members of the Common Council
City of White Plains
255 Main Street
White Plains, New York 10601

Report Number: S9-17-20

Dear Mayor Roach and Members of the Common Council:

A top priority of the Office of the State Comptroller is 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 six municipalities (four cities, one town and one village) throughout New York State (NYS). The objective of our audit was to determine whether the use of local government resources is resulting in effective enforcement of fire safety and property maintenance (FSPM) inspections for multiple dwelling (MD)¹ properties at a minimum of once every three years and confirming known violations are corrected. We included the City of White Plains (City) in this audit. Within the scope of this audit, we examined the City's inspection records for MD properties for the period January 1, 2015 through January 17, 2017. We extended the scope of our audit back to January 2010 for the review of building permits and March 2012 for inspection testing. 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 NYS General Municipal Law.

This report of examination letter contains our findings specific to the City. We discussed the findings with officials and considered their comments, which are included in Appendix B, in

¹ A "multiple dwelling" generally is a unit which is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of three or more families living independently of each other. An MD is not a hospital, convent, monastery, asylum or public institution, or a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families.

preparing this report. City officials agreed with our report. At the completion of our audit of the six municipalities, we prepared a global report that summarizes the opportunities we identified to improve the inspection of MD properties.

Summary of Findings

We found the City needs to significantly improve its internal controls over FSPM inspections on MD properties. City officials have not developed adequate procedures to guide employees on maintaining a complete MD property list, inspection documentation requirements, the number of reinspections, violation follow-up procedures and program monitoring and oversight.

Although the Commissioner of Buildings (Commissioner) is designated by the local code² as responsible for enforcing PM inspections, he did not ensure that PM inspections³ occurred as required. Because he has not assigned this duty to any City employees, these inspections are not occurring. This significantly increases the risk that MD properties could become dilapidated, negatively affecting the health and safety of residents.

According to the Fire Department's Standard Operating Guide (SOG),⁴ the Fire Department is required to conduct FS inspections once per year. The Fire Department does not maintain an accurate MD property list. We compared the Department's list of 536 properties to the tax roll and new building permits and found 13 additional properties that should have been included. We reviewed records for 63 MD properties and found 49 FS inspections (78 percent) were conducted within 36 months as required by NYS Law, however only 25 FS inspections (40 percent) were conducted within one year as required by the Department's SOG. Because the inspectors do not use checklists, only document violations and do not consistently document all buildings inspected, we could not verify that minimum FS inspections were performed.

For the 25 FS inspections within the last year, inspectors failed seven properties with 11 violations. Inspectors reinspected and passed four properties with eight violations within 160 days (average 82 days). However, three MD properties have three violations that are outstanding an average of 268 days. Ultimately, inspectors completed MD property FS inspections within 12 months for 22 of the 63 properties (35 percent) we reviewed. Finally, the Fire Chief did not ensure that all inspectors were certified to perform FS inspections as required by NYS. A certified inspector completed two of the 25 FS inspections (8 percent) within the last year.

Background and Methodology

The City is located in Westchester County, covering approximately 10 square miles and has approximately 57,000 residents. The City is governed by an elected seven-member Common Council (Council) composed of six Council Members and the Mayor. The City's 2016-17 budgeted general fund appropriations totaled approximately \$165.9 million.

² City of White Plains Code Section 238-u

³ See Appendix A.

⁴ 2006 Fire Department Standard Operating Guide

Article 18 of Executive Law Section 381⁵ generally directs that cities, towns and villages of the State shall be responsible for enforcing the Uniform Code⁶ and the New York Codes, Rules and Regulations (NYCRR)⁷ provides that enforcement of the Uniform Code shall be made through local law, ordinance or other appropriate regulation. Further, the NYCRR⁸ requires FSPM inspections for all residential buildings with three or more dwellings at least once every three years. Expeditious and effective inspections are critical for preserving the health, safety and welfare of residents; providing reasonable comfort for the tenants; ensuring the quality of rental housing units and maintaining the character of a neighborhood's population base. Conversely, the lack of inspections could lead to the dilapidation of MD properties and an increased risk of serious injury, death, health and economic issues.

NYS Department of State⁹ requires FSPM inspections be performed by certified code enforcement officials or building safety inspectors whose certification has not become inactive or revoked.¹⁰

The City adopted a local law¹¹ that designated the Commissioner responsible for administering and enforcing the Uniform Code, which includes FSPM inspections. The Commissioner retained responsibility for PM inspections. However, under his direction; the Fire Chief is responsible for enforcing the NYS Fire Code. The City imposed a further restriction for FS inspections. The Fire Department's SOG requires FS inspections of MD properties once per year. The Fire Chief oversees 141 firefighters, including Deputy Chiefs, and Lieutenants, who perform FS inspections for the 549¹² MD properties.

To complete our audit objective, we interviewed City officials, reviewed policies and procedures and reviewed inspection reports to determine whether inspections occurred within the past three years and FS inspections occurred once per year. We also reviewed inspection documentation to determine if minimum inspection requirements were completed and documented and if officials ensured violations were corrected.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). More information on the standards and the methodology used in performing this audit are included in Appendix C of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

⁵ New York State Executive Law Article 18, Section 381.2

⁶ 19 NYCRR 1219-1228

⁷ 19 NYCRR 1203.2 (a)

⁸ 19 NYCRR 1203.3 (h)(2)

⁹ 19 NYCRR 1208-3.1

¹⁰ Inspectors must meet the certification requirements set forth by the NYS Department of State. The requirements include 24 hours of in-service training annually for code enforcement officials and six hours annually for building safety inspectors.

¹¹ City of White Plains Code Section 238-u

¹² The MD list has 536 properties and 13 properties were not listed.

Audit Results

Policies and Procedures – The Council and officials have a responsibility to oversee and monitor City operations and to ensure that government resources are being used effectively. This responsibility includes establishing policies and procedures, that define roles, designate responsibilities, establish the documentation that must be maintained for inspections and provide reasonable assurance that applicable laws, rules and regulations are followed. Maintaining adequate records enables the Council and officials to fulfill its responsibility to monitor inspections of MD properties. In addition, effective policies and procedures would also establish timeframes for inspections and violation follow-ups, as well as establishing how many potential follow-up inspections should occur before involving the Court system. The entire enforcement process also should be formalized and effectively communicated to ensure that violation follow-up procedures are equally and consistently applied.

- Property Maintenance – The City adopted a local law designating the Commissioner responsible for enforcing PM inspections. However, the Commissioner does not conduct PM inspections and has not assigned any other City employees to perform PM inspections. Consequently, this significantly increases the risk that MD properties could dilapidate, negatively affecting the health and safety of residents.
- Fire Safety – Fire Department officials developed an SOG to give general procedural guidance for FS inspections. However, the guidance does not contain procedures to ensure the MD property list is complete, inspectors are certified or that the FS inspection documentation is sufficient to ascertain whether minimum FS inspections are performed. For example, FS inspectors do not use the FS checklist to document the actual items and buildings inspected, instead they document violations. Based on the limited documentation, officials cannot be assured that all required FS items are inspected. In addition there are no guidelines for the numbers of reinspections or the timeframe between the inspections. Finally, there were no monitoring procedures, such as reconciliations of inspections to the MD list, to ensure the program is accomplished. As a result, officials are unaware of the magnitude of the program's ineffectiveness.

MD Property Lists – A complete MD property list should be maintained and used to reconcile the number of inspections completed to readily determine if the inspection program is operating effectively. The Building Department does not maintain a list of MD properties requiring PM inspections. The Fire Department maintains a list of buildings requiring FS inspections that includes 536 MD properties, which it uses to schedule FS inspections.

We compared the Fire Department's list of 536 MD properties to the City's tax rolls and new MD building permits to determine whether the list was complete. We found 13 MD properties on the tax roll that were not included or were misclassified on the list. The Fire Chief was unaware of the existence of four MD properties, which have never been inspected. Nine properties were not correctly classified as MDs, but were included on a citywide¹³ inspection list and had fire safety inspections performed. Without a complete and accurate list of MD properties, there is a risk that some properties requiring inspection may not be inspected.

¹³ This inspection list included property types other than MD's, such as businesses.

Inspections and Violations – The NYCRR requires FSPM inspections for all residential buildings with three or more dwelling units at least once every three years. However, the Fire Department’s SOG requires FS inspections once per year. Inspections should be completed by certified inspectors. City officials should follow-up on violations and determine when voluntary compliance is ineffective and formal enforcement action should be initiated.

- Property Maintenance – Although the Commissioner is responsible for PM inspections; he told us his department does not conduct PM inspections. He also told us that in the course of performing their code duties or responding to complaints, code enforcement personnel will perform building code inspections, but they do not inspect on a regular basis or in accordance with PM requirements. As a result, there is a significant risk to public health and the quality of the City’s rental units.
- Fire Safety – The City has five groups performing FS inspections (one fire prevention group¹⁴ and four firefighter groups). Although officials developed a FS inspection checklist, inspectors do not use it. Inspectors sign an order to remedy (OR) form that indicates an inspection was performed and whether or not there are violations. All OR forms are sent to the fire prevention group, who record the results and if necessary, perform the follow-up inspections. Fire Department officials told us that if a property owner does not address the violations within two to four weeks, the issue is turned over to the Court system for enforcement.

The City’s list of 536 MD properties had 256 properties (48 percent) with an inspection date listed within the last year. We reviewed records for 63 MD properties, including the 13 properties that were not included on the MD list, to determine if certified inspectors performed minimum FS inspections within one year and followed up on violations. We found that 25 of 63 MD properties (40 percent) were inspected within one year (18 passed and seven failed inspection). A certified inspector conducted two of the passing inspections (8 percent). The remaining 23 inspections were conducted by uncertified inspectors. In addition, because inspectors do not use checklists and only document violations, we could not verify that minimum FS inspection requirements were met or that all buildings were inspected.

The City has not established timeframes for property owners to correct cited violations or for the follow-up inspections. We found that inspectors cited seven properties with 11 violations that required a follow-up inspection:

- Three properties with three violations have not been reinspected. These violations have been outstanding for 210 through 321 days (268 day average). Potentially uncorrected violations included missing fire exit signs and improperly stored items that needed to be removed from the property. Officials have not referred these property owners to the Court system.

¹⁴ The fire prevention group is composed of injured and active firefighters.

- Four properties with eight violations were reinspected and passed. Two of the reinspections occurred within 43 days and two reinspections took 123 days and 160 days (82 day average).

For the remaining 38 properties, we found that 24 were inspected within the past three years in compliance with the NYS law 36 month requirement. Eight properties had documentation indicating that previous inspections occurred with dates ranging from 37 months to over thirteen years ago. Finally, six properties had no documentation that an inspection ever occurred.

According to Department officials, the City has 141 firefighters with 10 of them certified to perform FSPM inspections. We reviewed the inspector's certifications and found that the 10 firefighters maintained their certifications during the audit period. Department officials told us that decreased staffing levels resulted in uncertified inspectors performing FS inspections. Without the required training, there is limited assurance that the inspections performed were sufficient and conducted in accordance with the FS requirements.

Recommendations

The Commissioner of Buildings should:

1. Develop written FSPM procedures to convey management's expectations to ensure that minimum FSPM items are inspected and violations are followed-up on consistently along with monitoring and oversight procedures to ensure the program is compliant with NYS Law and local policy.
2. Ensure minimum PM inspections are performed.

The Fire Chief should:

3. Ensure the MD property list is complete through periodic verification to tax rolls and building permits.
4. Ensure that FS inspections are conducted with certified inspectors, within the timeframe established in local policy, inspection records document the minimum requirements and violations are followed-up consistently.

City officials should:

5. Monitor the FSPM inspection program to ensure it is meeting minimum requirements.

The Board 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 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. We encourage the Board to make this plan available for public review in the Clerk's office.

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

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

APPENDIX A

International Property Maintenance Code Multiple Dwelling- Fire Safety and Property Maintenance Inspections

The International Property Maintenance Code, as a part of the Uniform Fire Prevention and Building Code, provides standards for MD properties, with exceptions provided for buildings that were built prior to the existence of certain requirements.

Multiple Dwelling- Fire Safety and Property Maintenance Inspection Requirements

General Requirements	General Requirements (continued)	Lighting, Ventilation and Occupancy Limitations	Plumbing Facilities and Fixture Requirements	Mechanical and Electrical Requirements	Fire Safety
<p>General Scope Responsibility Vacant Structures and Land</p> <p>Exterior Property Areas Sanitation Grading/Drainage Sidewalks and driveways Weeds Rodent Harborage Exhaust Vents Accessory Structures Motor Vehicles Defacement of Property</p> <p>Swimming Pools, Spas and Hot Tubs Swimming Pools Enclosures</p> <p>Exterior Structure General Unsafe Conditions Protective Treatment Premises Identification Structural Members Foundation Walls Exterior Walls Roofs and Drainage Decorative Features Overhang Extensions Stairways, Decks, Porches and Balconies Chimneys and Towers Handrails and Guards Window, Skylight and Door Frames -Glazing -Openable Windows Insect Screens Doors Basement Hatchways Guards for Basement Windows Building Security -Doors -Windows -Basement Hatchways Gates</p>	<p>Interior Structure General Unsafe Conditions Structural Members Interior Surfaces Stairs and Walking Surfaces Handrails and Guards Interior Doors</p> <p>Component Serviceability General Unsafe Conditions</p> <p>Handrails and Guardrails General</p> <p>Rubbish and Garbage Accumulation of Rubbish and Garbage Disposal of Rubbish -Rubbish Storage Facilities -Refrigerators Disposal of Garbage -Garbage Facilities -Containers</p> <p>Pest Elimination Infestation Owner Single Occupant Multiple Occupancy Occupant</p>	<p>General Scope Responsibility Alternative Devices</p> <p>Lighting Habitable Spaces Common Halls and Stairways Other Spaces</p> <p>Ventilation Habitable Spaces Bathrooms and Toilet Rooms Cooking Facilities Process Ventilation Clothes Dryer Exhaust</p> <p>Occupancy Limitations Privacy Minimum Room Widths Minimum Ceiling Heights Bedroom and Living Room Requirements -Room Area -Access from Bedrooms -Water Closet Accessibility -Prohibited Occupancy -Other Requirements Overcrowding -Sleeping Area -Combined Spaces Efficiency Unit Food Preparation</p>	<p>General Scope Responsibility</p> <p>Required Facilities Dwelling Units Rooming Houses Hotels Employees' Facilities -Drinking Facilities Public Toilet Facilities</p> <p>Toilet Rooms Privacy Location Location of Employee Toilet Facilities Floor Surface</p> <p>Plumbing Systems and Fixtures General Fixture Clearances Plumbing System Hazards</p> <p>Water System General Contamination Supply Water Heating Facilities</p> <p>Sanitary Drainage System General Maintenance Grease Interceptors</p> <p>Storm Drainage General</p>	<p>General Scope Responsibility</p> <p>Heating Facilities Facilities Required Residential Occupancies Heat Supply Occupiable Work Spaces Room Temperature Measurement</p> <p>Mechanical Equipment Mechanical Appliances Removal of Combustion Products Clearances Safety Controls Combustion Air Energy Conservation Devices</p> <p>Electrical Facilities Facilities Required Service Electrical System Hazards -Abatement of Electrical Hazards Associated with Water Exposure --Electrical Equipment -Abatement of Electrical Hazards Associated with Fire Exposure --Electrical Equipment</p> <p>Electrical Equipment Installation Receptacles Luminaries Wiring</p> <p>Elevators, Escalators, Dumbwaiters General Elevators</p> <p>Duct Systems General</p>	<p>General Scope Responsibility</p> <p>Means of Egress General Aisles Locked Doors Emergency Escape Openings</p> <p>Fire Resistance Ratings Fire-resistance-rated assemblies Opening Protectives</p> <p>Fire Protection Systems General -Automatic Sprinkler Systems -Fire Department Connection Single- and multiple-station smoke alarms -Where Required --Group R-1 --Groups R-2, R-3, R-4 and I-1 --Installation Near Cooking Appliances --Installation Near Bathrooms -Interconnection -Power Source -Smoke Detection System</p>

APPENDIX B

RESPONSE FROM CITY OFFICIALS

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



"THE BIRTHPLACE OF THE STATE OF NEW YORK"
OFFICE OF THE MAYOR

THOMAS M. ROACH
MAYOR
February 27, 2018

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

Re: Response to Preliminary Draft Findings
Report Number S9-17-20

Dear Ms. Singer:

I would like to thank the State Comptroller's Office for its detailed review of the City of White Plains' program of property maintenance and fire safety inspections. I view these audits as an opportunity to improve our processes and procedures, and appreciate the professional and collegial manner in which they were presented.

The City does not take issue with any of the report's findings and it will implement, or already has implemented in some instances, all five of the recommendations contained therein.

Recommendation 1. The Commissioner of Building should develop written fire safety and property maintenance (FSPM) procedures to convey management's expectations to ensure that minimum FSPM items are inspected and violations are followed up on consistently along with monitoring and oversight procedures to ensure the program is compliant with NYS Law and local policy.

City Response to Recommendation 1. The Commissioner of Building has been directed to develop the recommended written procedures.

Recommendation 2. The Commissioner of Building should ensure minimum property maintenance inspections are performed.

City Response to Recommendation 2. It is the responsibility of the Commissioner of Building to ensure that minimum property maintenance inspections are performed.

Page -2-

Recommendation 3. The Fire Chief should ensure the multiple dwelling property list is complete through periodic verification to tax rolls and building permits.

City Response to Recommendation 3. The recommendation will be followed. All 549 multiple dwellings in the City have been identified and are on the list of buildings to be inspected by the Fire Department.

Recommendation 4. The Fire Chief should ensure that fire safety inspections are conducted with certified inspectors, within the time frame established in local policy, inspection records document the minimum requirements and violations are followed up consistently.

City Response to Recommendation 4. All fire safety inspections are currently being performed by certified code enforcement officers and will continue to be performed by certified code enforcement officers. The Fire Department has amended its Standard Operating Guidelines to provide that fire safety inspections be performed within the time periods provided in the New York State Building and Fire Prevention Code. Of the 549 multiple dwellings in the City, 541 have now been inspected within the required time period. The remaining 8 occupancies have been issued court appearance tickets for failure to allow the Fire Department access to conduct a fire inspection. When violations are found, reinspections will be conducted with 30 days. The Fire Department is now utilizing a new software program which will enable it to improve internal controls over multiple dwelling lists and insure their accuracy. Additionally, the software will record all completed and incomplete inspections, and will automatically generate an inspection date for each occupancy and notify code enforcement officers when an inspection is due.

Recommendation 5. City officials should monitor the FSBM inspection program to ensure it is meeting minimum requirements.

City Response to Recommendation 5. The Commissioner of Building and the Fire Chief are responsible for carrying out and monitoring the FSBM inspection program. In addition, they each will file reports, at least on a biannual basis, with the Mayor's Office detailing the status of the FSBM inspection program.

Very truly yours,

Thomas M. Roach
Mayor

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, our audit procedures included the following:

- We interviewed City officials and staff to gain an understanding of the City's policies and procedures for MD property inspections.
- We compared the City's MD property list to the 2016 tax roll and MD new construction permits from 2010 through 2016 to determine the completeness of the inspection list.
- We selected a sample of 50 properties, using a random number generator, from the City's MD property list. We also tested the 13 MD properties that were not on the Fire Department's list. We reviewed records to determine whether:
 - Inspections of MD properties occurred within the timeframe prescribed by Law and local policy.
 - The documentation indicated that FSPM had been inspected and whether minimum inspections were performed.
 - The inspectors were certified by NYS.
 - Inspectors followed-up on violations, including Court system referrals, if warranted.
- We reviewed the annual reports of the MD property inspections.

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 objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.