

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

October 15, 2014

Mr. Richard Chandler
Commissioner
New York City Department of Buildings
280 Broadway
New York, NY 10007

Re: Outstanding Violations
Report 2014-F-13

Dear Commissioner Chandler:

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 New York City Department of Buildings (Department) officials to implement the recommendations contained in our audit report, *Outstanding Violations* (2010-N-5).

Background, Scope and Objectives

The New York City Department of Buildings is responsible for ensuring the safe and lawful use of over 1 million buildings and properties located throughout the five boroughs. These buildings are subject to various sections of the New York City Building Code and the Rules of the City of New York. The Department's Enforcement unit conducts inspections and is responsible for ensuring that buildings comply with all applicable laws. When a Department enforcement inspector discovers violations, the responsible party is cited. The Department issued a total of 43,320 violations during fiscal year 2013. There are three classes of violations:

- Class 1 (immediately hazardous), which presents a severe threat to life and must be corrected immediately
- Class 2 (major violation), which must be corrected within 40 days
- Class 3 (lesser violation), which indicates conditions less serious than Class 1 or 2 violations and must be corrected within 40 days

Violations contain an order for the property owner to correct the violating condition and submit a Certificate of Correction to the Department. The Department's Special Operations Unit is responsible for re-inspecting violations to determine whether the hazardous conditions still exist.

Our initial audit report, which was issued December 1, 2011, found that Department managers did not have effective systems in place to ensure hazardous violations were resolved quickly. As a result, some Class 1 violations remained open for as long as six months before the Department followed up to determine if the problems had been corrected. We concluded that these delays placed the public at risk. We further found that when inspections did take place, almost half of the time (47 percent) inspectors found the conditions had not been corrected and continued to pose an immediate threat to life and safety. The objective of our follow-up was to assess the extent of implementation, as of September 9, 2014, of the four recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that the Department has made progress in addressing the issues identified in our initial report. However, additional improvements are still needed. Of the four prior recommendations, two have been implemented and two have been partially implemented.

Follow-up Observations

Recommendation 1

Communicate the plan for re-inspecting Class 1 violations to all Enforcement managers and inspectors and ensure properties are re-inspected within the required 60 days.

Status - Partially Implemented

Agency Action - The Department communicated the plan for re-inspecting Class 1 violations to its Enforcement managers and inspectors. In addition, Department managers and inspectors assigned to the Special Operations Unit were provided with a refresher course on re-inspecting properties that had received violations. However, while the average number of days to re-inspect Class 1 violations, issued in March 2014, was about 63 days, our review of these 854 Class 1 violations showed that 474, or 55 percent, were not re-inspected within the required 60 days.

Recommendation 2

Establish procedures for following-up on cases where inspectors could not access premises for re-inspections. Monitor compliance by staff to ensure the follow-up inspections are done.

Status - Implemented

Agency Action - The Department has established procedures for situations where inspectors cannot gain access to a premises for re-inspection. The procedures require that the inspectors post a "Request for Inspection" notice on the property that includes a request for the responsible parties representing the building to call the Department to arrange for the re-inspection. These no-access re-inspections of cited violations are entered into the

Department's database and re-inspections are once again scheduled. The status of these re-inspections is monitored by the Department's Special Operations Unit.

Recommendation 3

Complete all re-inspections for the Certificates of Correction listed in the monthly samples.

Status - Partially Implemented

Agency Action - We found that the Department has made progress in increasing the percentage of re-inspections that are completed. In 2013, the Department selected 3,988 Certificates of Correction for re-inspection and visited and completed 97 percent of these re-inspections. This was an improvement from the 75 percent re-inspection rate that we found during our previous audit. According to Department officials, all re-inspections could not be completed due to a lack of access to certain locations. They indicated that they have no enforcement powers, and therefore building managers have no legal obligation to allow Department inspectors access for re-inspection. We believe the Department should continue its efforts to complete all re-inspections and to address the reason(s) for not doing so.

Recommendation 4

Enhance the Certificates of Correction audit program by implementing the automated selection system and completing the evaluation of audit results.

Status - Implemented

Agency Action - The Department enhanced the Certificates of Correction audit program by implementing the automated selection system and completing the evaluation of audit results. The Department utilizes a sampling plan to select violations for which they have received Certificates of Correction for re-inspection, and uses the automatic selection system to randomly select these samples of violations. The results of these completed re-inspections are entered into the Department's computer database and evaluated by the Department's Analysis Unit.

Major contributors to this report were Santo Rendón, Jeffrey Marks, Adefemi Akingbade, Lillian Fernandes, and Ryan Wendolowski.

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 the New York City Department of Buildings for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Michael Solomon
Audit Manager

cc: Kerry Castro, Buildings
Joshua Florsheim, Buildings
G. Davis, Mayor's Office