

Status Report
New York City Department of Housing Preservation & Development (HPD)
to the Office of the New York State Comptroller (OSC)
Mitchell-Lama Vacancies – 2020-N-2
Date: December 29, 2021

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.*

HPD Response to Recommendation 1: HPD agrees with this recommendation and has been working for several years to develop technological solutions responsive to the administrative needs of Mitchell-Lama portfolio management, including digitizing income affidavits, waitlists and conducting lotteries electronically. The agency had originally planned to include automation of vacancy tracking in its Housing Connect 2.0 (HC 2.0) system, launched in summer 2020. However, due to budget cuts, this functionality was not included in the original HC 2.0 rollout. The agency recently received funding and approval to begin to build a holistic and comprehensive solution that would streamline processes; however, it will take an extended period of time before it is fully operational. While awaiting implementation of this functionality, HPD’s Office of Asset and Property Management is working with HPD Tech to develop a system whereby the Mitchell-Lama managing agents will send vacancy information in a digitized format rather than in PDF; this system will also provide the ability to generate portfolio-wide reports for analysis.

Corrective Action: HPD is adapting its existing e-Rent Roll portal to be used as a “bridge system” for vacancy reporting in an analyzable format until HC 2.0 is fully operational. An e-Rent Roll template has been developed for vacancy reporting, and HPD’s Mitchell-Lama division is pilot-testing the use of e-Rent Roll for this purpose with two managing agents to confirm functionality and identify potential issues. HPD expects to conclude pilot testing in early 2022 and will then conduct a training for managing agents and direct them to commence using e-Rent Roll for quarterly vacancy reporting.

Anticipated Implementation Date: Spring 2022

Recommendation 2: *Improve monitoring of developments, including but not limited to, testing vacancy reports for accuracy and completeness and documenting review of quarterly vacancy reports.*

HPD Response to Recommendation 2: HPD partially agrees with this recommendation. HPD’s Mitchell-Lama division rigorously monitors the Mitchell Lama portfolio, including working with developments with significant delays on unit turnover. HPD will continue to build out its technological capabilities to enhance and support its oversight over this important portfolio. The system described above is being designed to track submissions of the quarterly reports and send reminders if they are not submitted timely. HPD’s Mitchell-Lama division will review the reports generated by the system to identify trends and will follow up with the managing agents with concerns. While HPD cannot commit to conducting vacancy report “testing” (sampling) as a regular practice, the Mitchell-Lama division will use its review process to require developments to continue to implement corrective action to expedite the availability of vacant units.

Corrective Action: See above re: Recommendation 1. (e-Rent Roll system is currently being pilot-tested for vacancy reporting; when pilot is concluded, HPD to conduct training and direct managing agents to commence

using e-Rent Roll for this purpose. Note that, unlike HC 2.0, e-Rent Roll is not designed to track submissions and send reminders; however, it is capable of generating reports for analysis.)

Anticipated Implementation Date: Spring 2022

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.*

HPD Response to Recommendation 3: HPD partially agrees with this recommendation, in that the Mitchell-Lama team already tracks and responds to instances of non-compliance, and OSC’s analysis of ten particular properties with unique challenges does not reflect this effort. In addition, HPD intends to enhance its processes and add new mechanisms for follow-up in conjunction with the enhanced reports that the new system will provide, including trending analysis, highlighting long-term vacancies, training for property managers on digitized waitlists, and individual property manager review as needed.

Corrective Action: See above re: Recommendation 1 (e-Rent Roll system currently being pilot-tested for vacancy reporting; when pilot is concluded, HPD to conduct training and direct managing agents to commence using e-Rent Roll for this purpose).

Anticipated Implementation Date: Spring 2022

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.*

HPD Response to Recommendation 4: HPD does not agree that all unit vacancy scenarios cited by the OSC warrant follow-up or a plan of action. As noted above, units with extended periods of vacancy due to capital construction, significant rehabilitation, and/or upgrades required per Federal subsidy regulations or Section 8 subsidy administration are not considered by the Mitchell-Lama program to be vacancies that are non-compliant. HPD agrees, however, to improve monitoring of non-compliant vacancies via the system described above and looks forward to the implementation of those systems to support that effort.

Corrective Action: See above re: Recommendation 1. (e-Rent Roll system is currently being pilot-tested for vacancy reporting; when pilot is concluded, HPD to conduct training and direct managing agents to commence using e-Rent Roll for this purpose.)

Anticipated Implementation Date: Spring 2022

Recommendation 5: *Provide additional guidance and communication to management of Project-Based Section 8 developments to ensure apartments are filled timely.*

HPD Response to Recommendation 5: HPD disagrees with this recommendation, insofar as it does not agree that a lack of guidance and communication are the reasons that Project-Based Section 8 (PBV) units often take longer than 120 days to fill. As explained to the OSC, HPD recognizes that turnovers involving Section 8 will almost universally take longer than 120 days, as the process of placing a qualified tenant into a PBV unit may necessarily become elongated by virtue of the Federal requirements associated with the process. The OSC indicates that HPD explained that PBV approval is “worth the wait as it helps fortify the development’s finances” (page 13); however, the full sentiment from HPD was that Section 8 has the dual benefit of fortifying property finances while (most importantly) providing the deepest affordability possible for low-income individuals. It is both counter to HPD’s mission and illegal to deny

housing to a low-income individual based on issues related to source of subsidy, and HPD will continue to provide applicants with every opportunity to access PBV (and Section 8 generally).

Corrective Action: N/A

Implementation Date: N/A

Recommendation 6: Monitor Lindsay Park to ensure the uninhabitable apartments are repaired and returned to the rent roll expeditiously.

HPD Response to Recommendation 6: HPD has already implemented this recommendation. Lindsay Park, with the addition of a new management agent steeped in asset management efficiency practices, identified the units that can be rehabilitated; these will be added back to the rent roll. Any that cannot be rehabilitated will be removed from the rent roll permanently.

Corrective Action: Work is progressing to bring units back on-line. The OSC audit noted that 15 first-floor apartments at Lindsay Park were identified as “uninhabitable” on the 2019 fourth-quarter vacancy report due to plumbing issues. Of these 15 units, to date, management reports that nine have either been added back to the rent roll or substantial progress has been made towards that goal (i.e., three units renovated and sold; four units with renovations complete and being marketed; and two units in the process of being renovated). The remaining six units currently are being evaluated to determine whether rehabilitation for residential use is feasible.

Implementation Date: Ongoing, with completion expected by December 2022.