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August 2018

Don Ryan, Mayor  
Members of the Board of Trustees  
Village of Hempstead  
99 Nichols Court  
Hempstead, New York 11550

Report Number: S9-17-19

Dear Mayor Ryan and Members of the Board:

A top priority of the Office of the State Comptroller is to help village officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support village 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 inspections (FSPM) for multiple dwelling (MD)<sup>1</sup> properties at a minimum of once every three years and confirming known violations are corrected. We included the Village of Hempstead (Village) in this audit. Within the scope of this audit, we examined the Village's inspection records for MD properties for the period January 1, 2015 through January 10, 2017. We extended the scope of our audit back to January 2010 for building permits and April 2014 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.

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<sup>1</sup> 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.

This report of examination letter contains our findings specific to the Village. We discussed the findings with officials and considered their comments, which are included in Appendix B, in preparing this report. Village 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 that the Village could improve its internal controls over FSPM inspections on MD properties. Village officials have not developed written policies and procedures to guide the inspector on documentation requirements, timeframes for inspections and violation follow-up procedures. The Fire Inspector maintained a list of MD properties that we found was missing 34 properties (17 percent). The certified Fire Inspector performs FSPM inspections in a timely manner for the properties included on his list. However, because he documents inspection information using an incomplete checklist and violations on an exception basis, we could not determine the nature and extent of the FSPM inspections performed. The Fire Inspector generally followed-up on violations within two months.

## **Background and Methodology**

The Village is located in Nassau County, covering approximately 3.7 square miles and has approximately 55,500 residents. The Village is governed by an elected five-member Board (Board of Trustees composed of four trustees and the Mayor. The Village's 2016-17 budgeted general fund appropriations totaled approximately \$78.1 million.

Article 18 of Executive Law Section 381<sup>2</sup> generally directs that cities, towns and villages of the State shall be responsible for enforcing the Uniform Code<sup>3</sup> and the New York Codes, Rules and Regulations (NYCRR)<sup>4</sup> provides that enforcement of the Uniform Code shall be made through local law, ordinance or other appropriate regulation. Further the NYCRR<sup>5</sup> requires FSPM inspections for all residential buildings with three or more dwellings at least once every three years. Expedious and effective inspections can help preserve 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 State<sup>6</sup> requires FSPM inspections be performed by certified code enforcement officials or building safety inspectors whose certification has not become inactive or revoked.<sup>7</sup> The Fire Inspector is the Villages FSPM inspector.

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<sup>2</sup> New York State Executive Law Article 18, Section 381.2

<sup>3</sup> 19 NYCRR 1219-1228

<sup>4</sup> 19 NYCRR 1203.2 (a)

<sup>5</sup> 19 NYCRR 1203.3 (h)(2)

<sup>6</sup> 19 NYCRR 1208-3.1

<sup>7</sup> Inspectors must meet the certification requirements set forth by the NYS Department of State in order to be eligible to inspect a property. The requirements include 24 hours of in-service training annually for code enforcement officials and six hours annually for building safety inspectors.

The Village adopted a local law<sup>8</sup> that designated the Building Department Superintendent (Superintendent) as responsible for administering and enforcing the Uniform Code and under his direction, the Fire Inspector responsible for enforcing MD inspections of the Village's 150<sup>9</sup> MD properties.

To complete our audit objective, we interviewed Village officials, reviewed policies and procedures and reviewed inspection reports to determine whether inspections occurred within the past three years. 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.

## **Audit Results**

Policies and Procedures – The Board and officials have a responsibility to oversee and monitor Village 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 Board and officials to fulfill their 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.

Because the Board has not developed a written policy and the Superintendent and Fire Inspector have not developed and implemented written procedures, the MD property list and inspection checklist are incomplete, and the documentation is not sufficient to ascertain whether minimum inspections were performed. For example, the checklist used does not include all required FSPM inspection items, such as review the plumbing facilities, mechanical equipment, electrical facilities and lighting. Based on the limited documentation, officials cannot be assured that all required items were inspected. Even though an uncorrected violation was turned over to the Court System, officials have not established guidelines for the number of reinspections or for the timeframe between the inspections. Finally, there were no monitoring guidelines, such as reconciliations, established for program oversight to ensure the Village is meeting its FSPM inspection timeliness requirements. The Fire Inspector told us that because he is the only inspector at the Village and he

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<sup>8</sup> Village of Hempstead Code Section 78-9

<sup>9</sup> The Fire Inspectors MD list has 150 properties, with an additional 19 properties on an appointment list; 34 were not listed.

has his own procedures for inspecting properties and documenting inspections. As a result, officials cannot be certain that the program is operating effectively.

MD Property Lists – Municipalities must maintain a complete listing of MD properties to effectively manage the inspection process. The Fire Inspector maintains two property lists with 169 properties.<sup>10</sup>

We compared the Fire Inspector's lists of MD properties to the Village's tax rolls and new MD building permits to determine whether the lists were complete. We found 34 MD properties (17 percent) on the tax roll that were not included on the lists.

The Fire Inspector told us the original list was developed several years ago from the assessor's property list based on a property classification code and is reviewed for completeness every inspection cycle. However, this list contained only the property classification code designation for apartments and did not contain other potential MD property codes such as three family homes and mixed use properties.<sup>11</sup> The fire inspector told us he was unaware that mixed-use properties were subject to the FSPM inspections. Without complete lists of MD properties, there is a likelihood that some properties requiring inspection may not be inspected.

Inspections and Violations – The NYCRR requires FSPM inspections for all residential buildings with three or more dwelling units at least once every three years. Inspections should be completed by certified inspectors. Village officials should follow-up on violations, as well as, determine when voluntary compliance is ineffective and formal enforcement action should be initiated.

The Fire Inspector told us he schedules inspections based on his MD property appointment list. He uses a checklist to complete his inspections and documents violations on a notice of violation, which he mails certified return receipt to the property owner. Approximately two weeks after receiving the signed return receipt, he goes back to the property to reinspect. The Fire Inspector also told us that should a property owner not address violations, the issue is turned over to the Court system for resolution.

The Fire Inspector's records showed his lists of 169 MD properties (100 percent) were inspected within the last three years. We reviewed the records for 25 MD properties to determine if a certified inspector performed minimum inspections within three years and follow-up on violations. We found the certified Fire Inspector inspected 24 properties<sup>12</sup> within the last three years, citing six properties with violations, such as: accumulation of debris, overgrown grass and a lack of required items including emergency lighting, exit signs, a missing fire extinguisher, a sprinkler valve chain, fire sprinkler system, and a displayed fire system certification. Five properties were reinspected within 42 days (average 27 days) and passed, while one property was referred to the Court system. By following up on violations with timely reinspections, the Village can ensure that violations are corrected, which potentially prevents a decline in the quality of the rental housing units and decreases safety risks to residents.

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<sup>10</sup> Some of the properties have more than one building or door. The Fire Inspector's lists of addresses are based on the location of the front doors.

<sup>11</sup> A mixed-use property is a commercial use property with three or more dwelling units.

<sup>12</sup> One property received its certificate of occupancy in June 2015 and has not been inspected, a FSPM inspection is required by June 2018.

The checklist used by the Fire Inspector does not include all required FSPM inspection items, For example, the checklist does not include lighting, ventilation, occupancy limits, plumbing and fixtures. We found the Fire Inspector documented additional violations from FSPM requirements, which were not on the checklist, on an exception basis. As a result, we could not verify that the minimum inspection requirements were met or that all buildings were inspected.

Finally, although owners are required to submit heating inspection reports to the Village Coordinator, the Fire Inspector does not verify reports are submitted and that the properties are in compliance with FSPM inspection requirements. Five properties we reviewed did not submit reports, including the property that was referred to the Court system. Therefore, these properties could have heating violations that are not cited or followed-up on. As a result, there is less assurance that minimum inspections are performed which increases the risk to public safety.

### **Recommendations**

1. The Board should develop a written policy and the Superintendent, with assistance from the Fire Inspector, should develop procedures for inspections of MD properties that convey management's expectations to ensure that the minimum FSPM items are inspected, and violations are followed-up on timely and consistently, along with procedures to ensure the program is compliant with NYS Law.
2. The Fire Inspector should ensure the MD property list is complete through periodic verification of tax rolls and building permits.

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 Village 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.

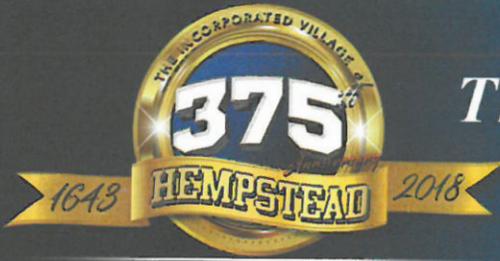
## Multiple Dwelling- Fire Safety and Property Maintenance Inspection Requirements

General Requirements	General Requirements (continued)	Lighting, Ventilation and Occupancy Limitations	Plumbing Facilities and Fixture Requirements	Mechanical and Electrical Requirements	Fire Safety
<p><b>General</b> Scope Responsibility Vacant Structures and Land</p> <p><b>Exterior Property Areas</b> Sanitation Grading/Drainage Sidewalks and driveways Weeds Rodent Harborage Exhaust Vents Accessory Structures Motor Vehicles Defacement of Property</p> <p><b>Swimming Pools, Spas and Hot Tubs</b> Swimming Pools Enclosures</p> <p><b>Exterior Structure</b> 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><b>Interior Structure</b> General Unsafe Conditions Structural Members Interior Surfaces Stairs and Walking Surfaces Handrails and Guards Interior Doors</p> <p><b>Component Serviceability</b> General Unsafe Conditions</p> <p><b>Handrails and Guardrails</b> General</p> <p><b>Rubbish and Garbage</b> Accumulation of Rubbish and Garbage Disposal of Rubbish -Rubbish Storage Facilities -Refrigerators Disposal of Garbage -Garbage Facilities -Containers</p> <p><b>Pest Elimination</b> Infestation Owner Single Occupant Multiple Occupancy Occupant</p>	<p><b>General</b> Scope Responsibility Alternative Devices</p> <p><b>Lighting</b> Habitable Spaces Common Halls and Stairways Other Spaces</p> <p><b>Ventilation</b> Habitable Spaces Bathrooms and Toilet Rooms Cooking Facilities Process Ventilation Clothes Dryer Exhaust</p> <p><b>Occupancy Limitations</b> 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><b>General</b> Scope Responsibility</p> <p><b>Required Facilities</b> Dwelling Units Rooming Houses Hotels Employees' Facilities -Drinking Facilities Public Toilet Facilities</p> <p><b>Toilet Rooms</b> Privacy Location Location of Employee Toilet Facilities Floor Surface</p> <p><b>Plumbing Systems and Fixtures</b> General Fixture Clearances Plumbing System Hazards</p> <p><b>Water System</b> General Contamination Supply Water Heating Facilities</p> <p><b>Sanitary Drainage System</b> General Maintenance Grease Interceptors</p> <p><b>Storm Drainage</b> General</p>	<p><b>General</b> Scope Responsibility</p> <p><b>Heating Facilities</b> Facilities Required Residential Occupancies Heat Supply Occupiable Work Spaces Room Temperature Measurement</p> <p><b>Mechanical Equipment</b> Mechanical Appliances Removal of Combustion Products Clearances Safety Controls Combustion Air Energy Conservation Devices</p> <p><b>Electrical Facilities</b> 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><b>Electrical Equipment</b> Installation Receptacles Luminaries Wiring</p> <p><b>Elevators, Escalators, Dumbwaiters</b> General Elevators</p> <p><b>Duct Systems</b> General</p>	<p><b>General</b> Scope Responsibility</p> <p><b>Means of Egress</b> General Aisles Locked Doors Emergency Escape Openings</p> <p><b>Fire Resistance Ratings</b> Fire-resistance-rated assemblies Opening Protectives</p> <p><b>Fire Protection Systems</b> 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 VILLAGE OFFICIALS**

The Village officials' response to this audit can be found on the following page.



# The Incorporated Village of Hempstead

*Celebrating History, Heritage and Legacy*

**Honorable Don Ryan, Mayor**

PERRY PETTUS  
Deputy Mayor

LaMONT JOHNSON  
Trustee

CHARLES E. RENFROE  
Trustee

GLADYS RODRIGUEZ  
Trustee

PATRICIA PEREZ  
Village Clerk

DEBRA URBANO-DiSALVO, Esq.  
Village Attorney

RAYMOND J. CALAME  
Treasurer

February 15, 2018

Ann C. Singer, Chief Examiner  
Statewide Audit  
State Office Building, Suite 1702  
44 Hawley Street  
Binghamton, New York 13901-4417

RE: Report S9-17-19

Dear Ms. Singer,

The Incorporation Village of Hempstead is in receipt of the noted draft Report of Examination. This audit report reviewed this Village's process for inspection records of MD properties for the period January 1, 2015 through January 10, 2017 with building permits back to January 2010 and inspection testing to April 2014. It is the intention of the Village to fully comply with the draft findings and recommendations the details of which shall be included later in our Corrective Action Plan (CAP) response to the final audit report.

Yours truly,

Don Ryan  
Mayor

DR:as  
Cc: J. Simone, Superintendent

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed Village officials and staff to gain an understanding of the Village's policies and procedures for the inspections of MD properties.
- We compared the Village's list of MD properties to the 2016 tax roll and MD new construction permits from 2010 to 2016 to determine the completeness of the inspection lists.
- Using a random number generator, we selected an audit testing sample of 25 properties that were indicated as MD properties on the Village's MD list of 150 properties. We reviewed records to determine whether:
  - Inspections of MD properties occurred within the timeframe prescribed by law.
  - The documentation indicated the FSPM items inspected and whether minimum inspections were performed.
  - The inspector was 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.