

Inequitable Enforcement

The Crisis of
Housing Code
Enforcement
in New York City



ASSOCIATION FOR
NEIGHBORHOOD
AND HOUSING
DEVELOPMENT, INC.



The Public Advocate
for the City of New York
Betsy Gotbaum

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Executive Summary

New York City's code enforcement procedures, which are meant to preserve housing quality standards in multi-family housing, are falling short in the city's most at-risk neighborhoods. *Inequitable Enforcement: The Crisis of Housing Code Enforcement in New York City* provides an in-depth analysis of existing data sources, and reveals that the neighborhoods with the most severe housing problems are receiving the worst housing code enforcement.

The findings in the paper include:

- In 1999, the five most in-need neighborhoods, located in the South Bronx, Central Brooklyn, and Upper Manhattan doubled and at times tripled the City's average of units with severe housing quality problems, defined as units with five or more maintenance deficiencies. The percent of units in these neighborhoods ranged from 8.8% to 12.8%, while New York City averaged 3.1%.
- Three of these five neighborhoods with the highest concentration of housing code violations saw an average increase of nearly 2% of units with severe quality problems from 1996-1999.
- These neighborhoods include University Heights/Fordham in the Bronx, which saw a 2.7% increase in the number of units with severe quality problems; Soundview/Parkchester in the Bronx, which saw a 0.6% increase; and Bedford Stuyvesant in Brooklyn, which saw a 1.7 % increase.
- From 1999 to 2002 the Bronx again had the highest percent of housing units with severe quality problems (5.8%), more than doubling the City's average (2.8%).
- Inequitable enforcement and worsening conditions were especially severe in the Bronx, which overall saw a **13.4% increase** in the average number of maintenance deficiencies per building between 1999 and 2002, while all the other boroughs showed substantial percent decreases, ranging from 3.3% to 8.5%.
- The City's neighborhoods that are most at-risk for increasing maintenance deficiencies are easily identifiable.
- While some neighborhoods in the Bronx and Brooklyn showed an increase in maintenance deficiencies, concerted efforts by city agencies, including the Department of Housing Preservation and Development (HPD), have reduced the overall number of housing code violations per dwelling unit. Housing units in the worst condition, with 5 or more maintenance deficiencies, declined nearly 2% from 1996 – 1999, and 0.3% from 1999 – 2002.

While the City and HPD have taken many positive steps to improve code enforcement, the problems that lead to the dramatic inequity of code enforcement still exist, including:

P R O B L E M S

1. At present, HPD does not have a cohesive, comprehensive code enforcement procedure in place for communities that currently have sub-standard housing and are most at risk for worsening housing conditions.
2. By relying primarily on tenant complaints, the current inspection process is inefficient, resulting in a process that is primarily used to address emergencies rather than overall housing conditions.
3. Tenants are often not provided with sufficient notice for housing inspections.
4. HPD does not provide accurate documentation or monitoring of the code enforcement process, including the removal of code violations, and the necessary follow-up.
5. HPD does not adequately follow up on initial inspections.
6. Penalties for false certification are too modest and do not provide an incentive to halt the practice.
7. HPD does not have an efficient fine collection policy.

The report strongly urges the City and HPD to take the following steps, which would substantially strengthen housing code enforcement in the City's low and moderate-income neighborhoods:

R E C O M M E N D A T I O N S

1. The City should increase the number of code inspectors and conduct cyclical inspections in at-risk neighborhoods.
2. HPD should develop a flagging system in their database that would notify the agency when a building reaches a determined number of C violations.
3. The administrative code should be altered to mandate a change in how housing inspections are made. Legislation should be passed that mandates the right to a tenant-initiated inspection.
4. HPD should provide tenants with sufficient notice of an upcoming code enforcement inspection, if necessary working with community-based organizations to assist with notification. In addition, inspectors should be provided adequate technology to conduct inspections.
5. To accurately assess HPD's code enforcement process, HPD should put in place better performance indicators in the Mayor's Management Report.
6. HPD's online code violation procedures should also be categorized by building owner's address, rather than solely by street address of the building.
7. HPD should act on the Major Problem Landlord List it now generates by targeting the identified landlords with systematic inspections.
8. To provide more efficient follow up, HPD should increase the number of housing inspectors and HLD attorneys.
9. The landlord self-certification process should be better monitored, and the penalties for false landlord self-certifications should be increased.
10. HPD should report the amount of fines and judgments outstanding and collected in the Mayor's Management Report.
11. Within HPD, further attempts need to be made to collect more fines.
12. The number of attorneys within HLD must be expanded to increase the enforcement of the fines.
13. The establishment of an administrative tribunal should be explored to enable HPD to better enforce fine collections.

Introduction

This report finds that New York City's code enforcement standards, which are meant to preserve housing standards in multi-family housing developments, often fall short in the city's most at-risk neighborhoods. This undermines the housing preservation necessary to maintain viable affordable housing options for all New Yorkers.

With the high cost of construction in New York City, which often results in the production of high-cost luxury rental units, cooperatives and condominiums, preservation of existing affordable units is the key to maintaining viable rental options, especially for those who are most unable to afford homeownership options.¹ In an effort to maintain the City's rental stock, New York City has utilized various preservation tools through the New York City Department of Housing Preservation and Development (HPD). HPD provides: low-interest loans to owners whose buildings are at risk of abandonment; educational programs designed to teach owners how to maintain buildings, build and keep good relationships with tenants, and manage building finances; and housing maintenance code enforcement services and litigation. When used successfully these tools help maintain the existing affordable housing stock, especially for those that are most in need.

While there are many preservation methods that are utilized in New York City, at the behest of the Association for Neighborhood and Housing Development, Inc. (ANHD) member groups, other affordable housing providers and Public Advocate Betsy Gotbaum, this paper attempts to analyze one significant part of the City's preservation efforts – *the use of housing maintenance code enforcement as a tool to preserve the housing quality in all neighborhoods.*

Why Code Enforcement? Code enforcement is an integral part to any comprehensive housing preservation strategy. The direct effects of a lack of code enforcement can prove devastating. At its worst, the infestation of rodents, cracked ceilings, and inadequate heat and hot water can make a living situation uninhabitable, possibly resulting in unhealthy conditions for tenants, and deterioration of the structure of the building. Unfortunately, due to the current housing shortage, rising rents and a worsening economy, thousands of tenants who are unable to pay inflated rental prices are often faced with these or similarly perilous housing conditions.

While code compliance often occurs in affluent or recently gentrified communities, low-income communities often have decreased code compliance.² Similar to nationwide trends, these tenants are often given short shrift in the enforcement of the housing code. These often low-income tenants are housed in aging properties in financially and socially distressed neighborhoods. In addition to the direct negative effects on tenants, without proper code enforcement, all other preservation efforts are greatly undermined.

A surefire way to increase code compliance is to mandate systematic housing inspections targeting the neighborhoods and communities that are most at risk for maintenance deficiencies. The benefits of enhancing code enforcement efforts have been chronicled in many urban communities. For instance, in Los Angeles in the 1990s many apartments were considered substandard due to a high volume of slum housing. In 1998, the Systematic Code Enforcement Program (SCEP), a program that permits systematic and periodic habitability code compliance checks on each rental unit in Los Angeles once every three years, was implemented.³ The results indicated that a more proactive procedure resulted in both an increase in

compliance and an increase in cited violations. Many cities, such as San Jose, CA, Columbus, OH, and Phoenix, AZ, have put in place systematic enforcement procedures.⁴ Heightened proactive enforcement efforts should also be attempted in New York City.

GOALS OF STUDY

As a member organization of over 100 New York City non-profit neighborhood housing groups with a mission to ensure flourishing neighborhoods and decent, affordable housing for all New Yorkers, ANHD and its membership consider comprehensive housing preservation efforts critical to ensuring decent living conditions for the two million families living in rental housing around the five boroughs.

With the charter-mandated responsibility to provide independent oversight of city agencies, the Office of the Public Advocate recommends improvements in agency programs and complaint-handling procedures. Since the Public Advocate's office receives more complaints regarding housing conditions than any other single problem, ensuring the affordability of *quality* housing is a top priority for Public Advocate Betsy Gotbaum. These complaints and visits in the community to buildings with significant housing code violations prompted Public Advocate Gotbaum to reach out to ANHD to explore the deficiencies of the current system.

To accurately determine the need for a proactive code enforcement procedure and the best method of implementation, both ANHD and the New York City Office of the Public Advocate wanted to define the problems with the current system and provide recommendations for improvements. The findings in this paper indicate that there is indeed an underenforcement of the housing maintenance code in certain communities, but it is a problem that can be ameliorated by targeting these identifiable communities.

This paper examines the efficacy of the current enforcement practices of the housing maintenance code by examining the housing quality of rental stocks in different neighborhoods and framing the situation within the current lack of affordable housing in New York City. The paper concludes with thirteen recommendations for a more effective code enforcement process in New York City.

Housing Conditions in New York City

HOUSING QUALITY

Currently, New York City has a serious housing quality problem. In 2002, almost 90,000⁵ housing units had severe maintenance deficiencies, defined under the Housing Vacancy Survey (HVS) as five or more measured deficiencies,⁶ with the highest average number of maintenance deficiencies concentrated in several low-income communities.⁷ There are several factors that make the City's housing stock more vulnerable to possible decline in housing standards.⁸ The age of New York City's housing stock is one reason. Nationwide only 13.6% of units were constructed before 1930; in New York City over 40% of the housing stock was constructed before 1930.⁹ New York City has also experienced a substantial increase in severely crowded housing from 1990 to present.¹⁰ Lastly, the decrease in enforcement of the housing code from the 1980s to present permits the housing stock to deteriorate in certain communities.

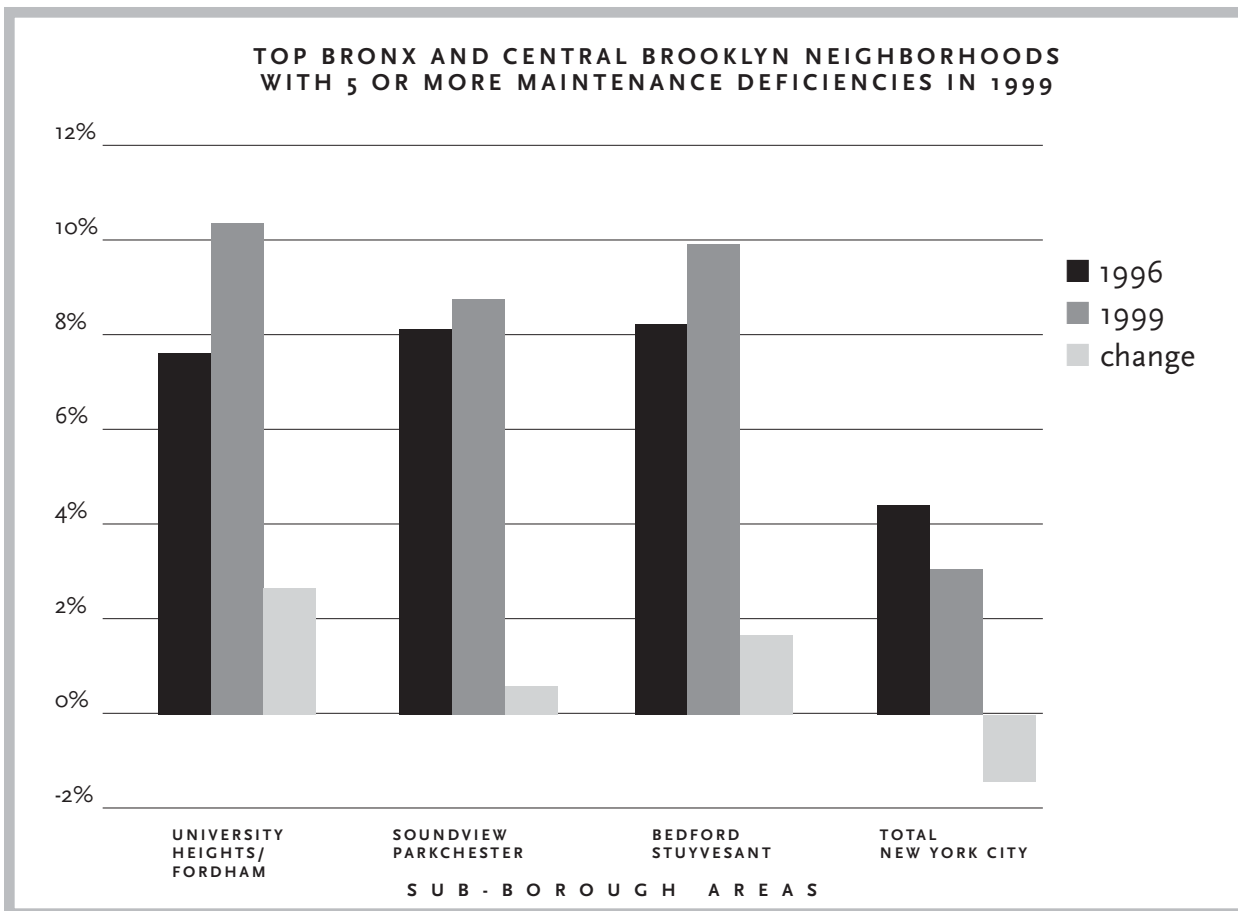
Researchers, academics and City officials have noted that the overall housing quality in New York City has improved in the past few years. While the housing stock has improved, especially in the City's in rem housing stock, in large part due to concerted efforts by City agencies, such as HPD, these statistics do not provide an accurate depiction of the state of the current housing stock. First, it should be noted that while housing quality has improved since the wide-scale abandonment of the 1970s, the housing quality in New York City is still worse than the majority of cities nationwide. Under the American Housing Survey, when compared to cities nationwide, New York City has the highest incidence of severe physical housing problems.¹¹

Second, as discovered through a series of interviews conducted with ANHD member groups, in the past three years community groups throughout the City's five boroughs have seen a worsening or stagnation in terms of housing conditions in the low- and moderate-income neighborhoods they serve.¹² Several recent studies, which document the number of housing maintenance deficiencies, housing complaints, and correlation of affordability and quality, reinforce this finding. In addition, these studies indicate that there is a concentration of severe quality-deficient buildings in certain neighborhoods.

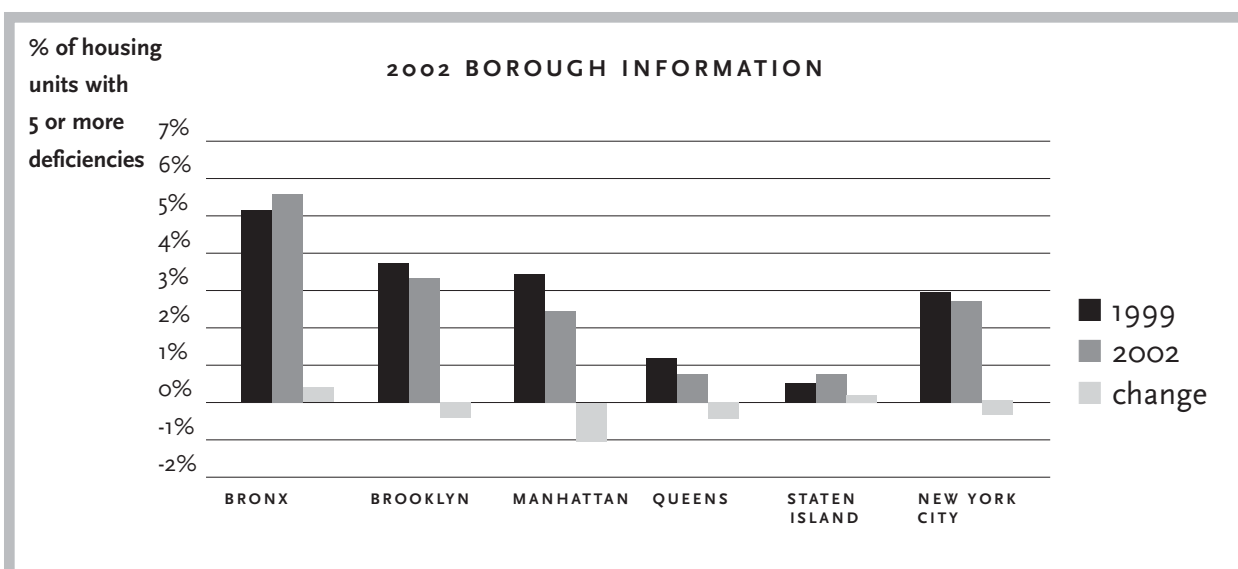
Reported Housing Maintenance Deficiencies

New York City's Housing Maintenance Code was enacted to provide minimum standards for health and safety in multiple dwellings, including standards for the interior of buildings for plaster, vermin, light, heat, water, plumbing, etc. As noted in the New York City Housing Code, the enforcement of minimum housing standards is essential in preserving decent housing, and preventing adequate or salvageable housing from deteriorating to the point where it can no longer be reclaimed.¹³

Any lack of maintenance in the areas outlined in the Housing Code results in maintenance deficiencies. As noted in the 2002 Center for Real Estate and Urban Policy Study entitled *State of New York City's Housing and Neighborhoods 2002 (2002 NYU Study)*, which analyzed trends in housing in New York City based on the 1999 *New City Housing and Vacancy Survey (1999 HVS)*, 3.1% of household units in New York City have five or more measured deficiencies, considered by the HVS to have a "severe quality problem."¹⁴ The top five neighborhoods from the 1999 HVS with a concentration of buildings with severe quality problems were low-income neighborhoods, predominantly Latino and African American, located in the South Bronx, Central Brooklyn, and Upper Manhattan. As indicated in the graph on the following page, the South Bronx and Central Brooklyn neighborhoods in the top five neighborhoods showed worsening conditions than the City's marked improvements.¹⁵



As indicated in the Draft Report of the 2003 State of *New York City's Housing and Neighborhoods 2002 (2003 NYU Study)* the preliminary results of the 2002 *Housing and Vacancy Survey (2002 HVS)* show that 89,852 housing units, 2.8% of the rental housing stock, still have a severe quality problem.¹⁶ Similar to 1999, the areas with the highest percent of housing units with five or more maintenance deficiencies were still located in the West and South Bronx, Central Brooklyn and Upper Manhattan. In 2002, the Bronx continued to show a pattern of a high number of deficiencies, when it showed an increase in buildings with severe quality problems. As indicated below, the Bronx again had the highest percent of housing units with severe quality problems (5.8%), more than doubling the City's average (2.8%).¹⁷



New York City averaged .9 housing unit maintenance deficiencies per unit in 2002, showing a decrease from 1.0 in 1999.¹⁸ The average housing maintenance deficiencies varied by boroughs, with the Bronx (1.4), Brooklyn (1.0), and Manhattan (1.0) having the highest number, and Queens (0.6) and Staten Island (0.5) having the lowest number. The Bronx, overall saw a **13.4% increase** in the average number of violations between 1999 and 2002, while all the other boroughs showed substantial percent decreases, ranging from 3.3% to 8.5%.¹⁹

The comparison by neighborhoods provides a clearer view of the varied conditions indicating worsening conditions in several low-income minority communities. Similar to the trends discovered in the 1999 HVS, the 2003 NYU Study shows that the top five neighborhoods in average number of housing unit maintenance deficiencies were located in several neighborhoods in the West and South Bronx and Central Brooklyn – University Heights/Fordham (2.3), Highbridge/South Concourse (1.9), Kingsbridge Heights/Mosholu (1.8), Morrisana/Belmont (1.7), North Crown Heights/Prospect Heights (1.7).²⁰ All five neighborhoods are low-income majority-minority neighborhoods, with a majority of Latino households in the Bronx neighborhoods and African American households in the Central Brooklyn neighborhood.²¹ All of the five neighborhoods showed an increase in the average number of maintenance deficiencies from 1999 to 2002, contrary to the citywide trend, which showed a decrease.²²

Housing Complaints

Corresponding to the number of housing code violations, housing complaints to HPD regarding housing conditions were highest in the Bronx and Brooklyn and Upper Manhattan.²³ While the overall number of complaints made to HPD for every 1,000 rental units decreased slightly from 282.7 to 275.5, the numbers of complaints in certain communities were still shockingly high. Of the 59 divided community districts, seven communities had more than 500 complaints made to HPD for every 1,000 rental units. Five of the seven are located in several low-income predominantly African American neighborhoods in Central Brooklyn. Thus in these communities there is at least one complaint made to HPD for every two rental units. These numbers are even more startling considering that the number of housing complaints probably underreports housing condition deficiencies, especially in neighborhoods with tenants who are unfamiliar with the HPD complaint process due to language differences, such as the afore-mentioned communities located in the South Bronx.

Structural Deficiencies of Buildings

While housing maintenance deficiencies indicate the conditions of the interior of the buildings, structural deficiencies of buildings indicate the conditions of the exterior of buildings. As noted in HPD's *Housing New York City 1999*, for a unit to be considered in good shape it must be in compliance with both general maintenance and structural standards, as outlined in the HVS.²⁴

Under the HVS, the structural condition of the buildings is determined in part by examining the number of building defects.²⁵ Census Bureau interviewers assessed the structural features of buildings through observations of external walls, windows, stairways, and floors. To calculate the number of building deficiencies, the interviewer looked for certain impairments, including missing bricks or major cracks in walls; broken windows; loose, broken or missing stair railings; and slanted floors or doorframes.²⁶ The percentage of building defects was highest in the Bronx (15.8%), Brooklyn (13.6%) and Manhattan (9.2%), with the Bronx and Brooklyn, showing an increase in building deficiencies from 1996 to 1999.²⁷ As noted earlier, the Bronx, Brooklyn and Upper Manhattan also had the highest level of maintenance deficiencies.

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Neighborhood Trends

Poor housing quality in New York City seems concentrated in very specific, clearly defined neighborhoods in the South Bronx, Central Brooklyn and Upper Manhattan. Careful study of recent trends indicate the communities that most suffer from worsening housing conditions have an aggregate of common conditions in their neighborhoods, such as large household financial burden-to-income ratios, lower median incomes, high instances of overcrowding, and older housing stock. The legacy of housing abandonment and disinvestment, and the impact of escalating rents and gentrification in these neighborhoods also result in units with lower rents being less readily available.

Lack of Affordability Correlates with Housing Quality

Analysis of the 1999 HVS shows a correlation between low-income minority neighborhoods and the combination of quality and affordability. In 1999, nearly 20% of all households in New York City had a severe housing affordability or quality problem.²⁸ Affordability often directly links with housing quality. Due to finan-

Analysis of the 1999 HVS shows a correlation between low-income minority neighborhoods and the combination of quality and affordability.

cial constraints many tenants are unable to move into better quality housing, and owners have less incentive to make repairs. This under-maintenance limits a poor tenant's housing choices. The HVS defines severe housing affordability problems differently for renters and owners – 23.7% of all renter households have an affordability problem which is defined as spending 50% or more of household income for rent; 11.3% of owners have an affordability problem, defined as spending 60% or more of household income on housing costs.²⁹ Unsurprisingly, the top five neighborhoods discussed earlier with a severe quality housing problem in 1999 (Bedford Stuyvesant; University Heights/Fordham; Soundview/ Parkchester; Central Harlem; and East Harlem) were also in the top tier of neighborhoods with a severe affordability problem.³⁰

Four of the top five neighborhoods with the highest percent of households were located in the Bronx (Soundview/Parkchester; Highbridge/South Concourse; University Heights/Fordham; and Morisania/Belmont),³¹ indicating that residents in these neighborhoods have an approximately one in three likelihood of living in a unit with either affordability or quality issues. Conversely, neighborhoods that have experienced a large influx of more affluent renters have smaller percentages of severe housing affordability or quality problems.³²

The 2000 *Census* statistics show that housing conditions in specific neighborhoods in the Bronx, Brooklyn, and Upper Manhattan are indeed in worse condition when compared to neighborhoods throughout New York City and are linked with lack of affordability. The 2000 *Census* looked at the following housing problems to gauge affordability and quality: (1) lacking complete plumbing facilities, (2) lacking complete kitchen facilities, (3) with 1.01 or more occupants per room, (4) selected monthly owner costs as a percentage of household income in 1999 greater than 30 percent, and (5) gross rent as a percentage of household income in 1999 greater than 30 percent. The census data shows that apartments with combined severe housing quality and affordability problems were especially concentrated in several clearly defined neighborhoods in the South Bronx and Central Brooklyn. According to the census data, Bedford Stuyvesant, Morris Heights/University Heights, University Heights/Fordham, and Soundview/Parkchester had worse conditions than overall conditions in New York City.³³

Age of Housing Stock

The 1999 HVS found that the proportions of units with five or more maintenance deficiencies in buildings built before 1930 were considerably higher than the proportion overall, indicating that the older the housing

unit, the poorer the maintenance condition.³⁴ In addition, HPD's *Housing New York City* found that the older the units the more structural building defects.³⁵ In New York City, 40.9% of housing units were built before 1930.³⁶ As indicated in the 2002 *NYU Study*, the Bronx, Brooklyn, and Manhattan have the largest number of housing units built before 1930.³⁷ Most of the sub-boroughs that show a concentration of units with severe quality problems also have a high percentage of housing units built before 1930: University Heights/Fordham 55.1%; Soundview/ Parkchester 42.2%; Bedford/Stuyvesant 54.2%; and Central Harlem 62.2%.³⁸

HOUSING AFFORDABILITY

New York City has a unique housing composition when compared to the rest of the nation. Unlike national trends, nearly two thirds of New Yorkers rent apartments.³⁹ The rental burdens for New Yorkers are very high. The preliminary results of the 2002 *HVS* indicate that about a quarter of the population (25.5%) spent more than half of their gross income on rent.⁴⁰ According to the *United States Census 2000* (2000 *Census*), the median monthly contract rent, which excludes tenant payments for utilities and fuel, was \$706 in New York City; almost 20% more than the national average. (New Yorkers' median incomes, on the other hand were approximately 9% less than the national average.)⁴¹

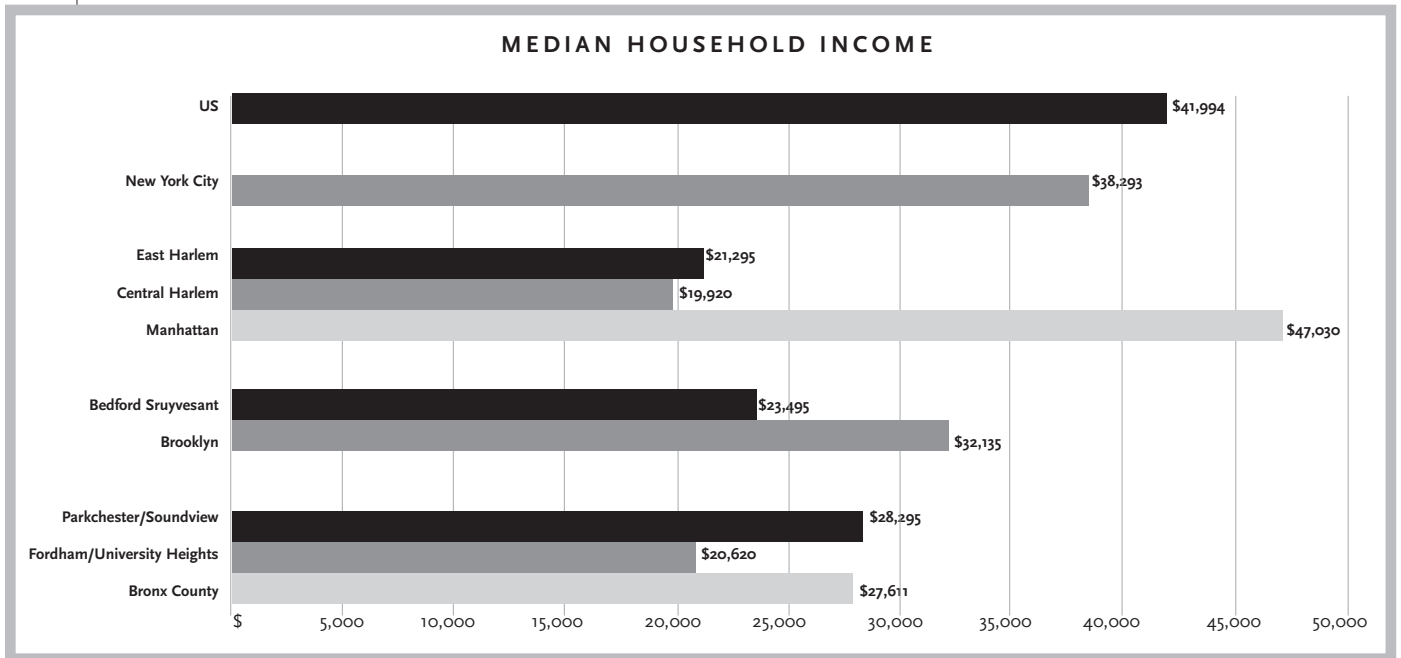
As noted in the Rent Guidelines Board's 2003 *Income and Affordability Study*, the City's economic health continues to decline. New York City lost 117,500 jobs in 2002.⁴² New York City has experienced a continued increase in unemployment from 6.1% in 2001 to 7.9% in 2002, to 8.8% in February 2003.⁴³ The national unemployment rate has remained at 5.8% for the past two years, indicating that the City's economic health is still declining while the nation's health may be stabilizing.⁴⁴ In New York City median household incomes have decreased in every borough with the exception of Manhattan.⁴⁵ In addition, homelessness has increased in significantly large numbers. During this year the number of homeless New Yorkers residing in shelters each night has reached the highest point in New York City's history. In August 2003 nearly 37,600 homeless men, women, and children were sleeping each night in the New York City shelter system.⁴⁶ These numbers indicate a remarkable 82% increase over the past five years.⁴⁷

Yet, even with a worsening economy and with median incomes decreasing or stagnating, rents in New York City are still expensive, and in many instances rents are still rising. As indicated in the 2003 National Low Income Housing Coalition's *Rental Housing for American's Poor Families: Farther Out of Reach than Ever* (2003 *Out of Reach*), an individual would have to make \$20.63 an hour (\$42,920 year) which equals almost four full-time jobs at minimum wage to afford a two-bedroom rental unit at the fair market rents, more than a 4% increase from 2002. As a result of the growing inaffordability, there has been an increase in housing court actions against tenants who are unable to meet their rent payments.⁴⁸ This trend is likely to continue in the current economic climate and the effects in lower income communities will be more acute.

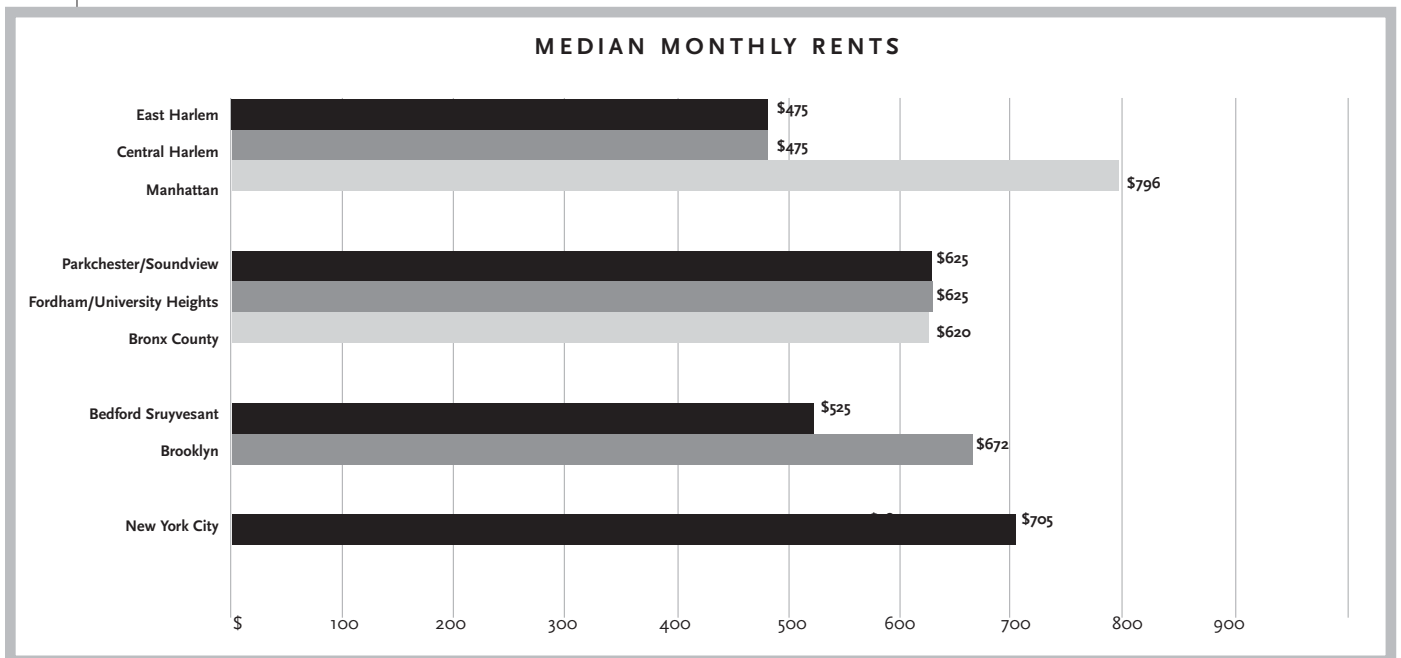
As indicated in *Housing New York City 2002*, a disproportionately large number of households in the Bronx are low-income households. In the 1999 *HVS* close to half of all households in the Bronx had incomes below \$20,000, compared to a third of all households in the City. In Brooklyn there were more households with incomes less than \$20,000 and fewer households with incomes of more than \$50,000 than any other borough.⁴⁹ In addition, renters in the Bronx paid 33.9 % of their household income for rent, the highest proportion of any of the boroughs in 1999. The rent-income ratio in Brooklyn was 30.6 %, higher than the city-wide ratio.⁵⁰

Analyses of the top five neighborhoods in 1999 with severe quality housing problems further illustrate the common factors among high-risk neighborhoods. All the neighborhoods are predominantly minority

neighborhoods,⁵¹ and as indicated in the graph below, the median household incomes are considerably lower than the City's median household income.



As indicated in the graph below, the median rents in these neighborhoods in 1999, are considerably lower than the New York City median monthly rent.



As indicated in the 1999 HVS, areas with lower rental prices and lower median incomes correlated with building units that were in physically poor condition.⁵²

HOUSING AVAILABILITY

Housing units are regularly lost from the market and the City must have an ongoing housing production program simply to maintain the status quo. Unfortunately, housing production has been consistently declining in the past ten years, and has not kept pace with the loss of the housing stock.⁵³ As noted in HPD's report on the 1999 HVS, *Housing New York City 1999*, from 1996 to 1999, while the City gained in home-ownership options, the City lost 10,000 rental units, continuing the trend of rental losses, from the three preceding years 1993-1996.⁵⁴

While overall housing production has decreased, production of non-luxury housing has decreased to an even greater degree. Fewer subsidies are available for affordable housing because of reductions in the City, state and federal capital funding. Thus, it is not surprising that most of the new housing that has been constructed in New York City has been luxury rental units, cooperatives, and condominiums.⁵⁵

The decrease in production occurred with a marked increase in the City's population. From the 1990 to the 2000 Census, the City's population increased from 7,322,564 to 8,008,278.⁵⁶ This increased population, coupled with a loss of units and limited new production, has created a decrease of available rental units. And as one would expect, the lowest income New Yorkers are hardest hit by this shortage. From 1990 to 2000 there has been a 51% decrease in the number of available rental units with monthly rents under \$500!⁵⁷ As a result, a city that had more affordable rental units than extremely low-income families in the 1970s had an estimated 400,000-unit shortfall for extremely low-income households in the 1990s.⁵⁸ As noted in the 1999 HVS the vacancy rate for apartments affordable to individuals in the lowest 20% of income categories, dropped from 3.06% in 1996 to 1.47% in 1999.⁵⁹ In particular, the rental vacancy rate for units with rents of less than \$400 dropped from 3.21% to 1.26% from 1996 to 1999. The rental vacancy rate for units in the rent levels from \$400 to \$699 decreased from 4.00% to 3.00%.⁶⁰ The 2002 HVS indicates that units with low rents are still scarce. As indicated in the 2002 HVS while median monthly gross rents equaled \$788, the vacancy rate for units with asking rents of less than \$700 was less than 2.00%.⁶¹

In correlation with the decreasing number of available units is the rise in overcrowded units in New York City. The 2002 HVS indicates that the percentage of rental units with crowded conditions, more than one person per room, was 11.1%, with rent-stabilized units averaging between 13% and 14%.⁶² The 2000 Census tracked an increase in severely crowded households (1.5 persons per room or more), from 5.6% in 1990 to 7.5% in 2000.

New York City's Plan To Address The Housing Shortage

In December 2002, Mayor Michael Bloomberg presented his three billion dollar, five-year housing plan for New York City entitled, *The New Marketplace: Creating Housing for the Next Generation (Mayor's Housing Plan)*. The plan focuses on market-driven strategies to produce 27,000 new units, and preserve an additional 38,000 units for a total of 65,000 new housing units. The *Mayor's Housing Plan* may address in part the availability of housing units, but it falls short of addressing the key issues of affordability and quality.

While identifying preservation as a priority, the plan does not outline ways to strengthen the current housing preservation programs, including code enforcement practices. In addition, the housing built under the new initiatives outlined in the *Mayor's Housing Plan* is geared mainly towards middle-income residents.⁶³ Lastly, due to the current budget crises in the City and the State, the laudable goals of the housing produc-

tion plan may not be achieved within the planned five-year time frame.⁶⁴ Even though the Mayor's Housing Plan does represent a major commitment to producing new housing, due to the shortcomings of the production plan and without a focused preservation plan the overall plan's impact on affordable housing may be very limited.⁶⁵

CONCLUSION

Since it is often difficult to produce affordable housing, preservation and when possible rehabilitation of housing, has to be a priority to ensure adequate housing options for the lowest income Americans.⁶⁶ As noted above, a major component of preserving the housing stock is to ensure that certain minimum housing standards are maintained. Community housing group experiences and various studies show unequivocally that several New York City low-income minority neighborhoods have a high concentration of very poor quality housing. These communities share several commonalities that are easily identifiable making them easy to locate. In several of these communities the conditions are worsening and the current code enforcement process is not adequate to address this crisis.

The City's code enforcement system operates as if all neighborhoods in New York City are similar and should be treated in similar ways. The improvement in housing conditions in certain gentrifying and affluent neighborhoods, and the decline or stagnation in housing conditions in certain low-income minority neighborhoods indicates that this approach is simply not working.

Current Code Enforcement Process, Problems and Recommendations

CODE ENFORCEMENT PROCESS

The New York State Multiple Dwelling Law and the New York City Housing Maintenance Code provide the minimum standards of habitability for residences in New York City.⁶⁷ The Housing Maintenance Code classifies housing violations in three classes, A, B or C. Class C violations are considered “immediately hazardous” and consist of violations, such as lack of heat/hot water, lead paint, broken windows, and buckling ceilings. These violations must be corrected within 24 hours. Class B violations are deemed “hazardous” consisting of more basic repairs, such as leaks, holes, the infestation of vermin and rodents, and must be corrected with 30 days. Class A violations are considered “nonhazardous,” and must be repaired within 90 days. As mandated by the New York City Charter, HPD has the responsibility to enforce the Housing Maintenance Code. HPD’s Division of Code Enforcement takes primary responsibility for the investigation of noncompliance with the Housing Maintenance Code.

HPD’s code enforcement is mainly in response to tenant complaints. Code violations can be called into the City’s Citizen Service Initiative – 311 – which is open 24 hours a day. Once a citizen calls the 311 line with complaints concerning possible housing violations in their apartment, including lack of essential services (heat, hot/cold water, electricity) they are then routed to an HPD specialist who will provide the complainant with a complaint number. Concurrently, the complaint is routed to the relevant Borough Code Enforcement Office (BCEO).⁶⁸

With the implementation of the 311 initiative there has been a slight reconfiguration within HPD’s Code Enforcement Division. HPD now only has two main groups within their Code Enforcement Division that focus on the enforcement of compliance with the Housing Maintenance Code in multi-family units:

- Code Enforcement Housing Inspectors are sent out to inspect emergency conditions and issue violations to the landlord if violations are found, directing the landlord to perform the repair within a time-frame specified by law. Code Inspectors are available to perform emergency inspections 24 hours a day, 7 days a week. HPD currently staffs 297 Code Inspectors.
- The Emergency Services Bureau (ESB) provides emergency relocation services to tenants displaced as a result of fires or vacate orders issued by the Department of Buildings, Fire Department, or HPD. The Division of Maintenance performs emergency repairs in privately-owned buildings in response to emergency violations (including lead paint) issued by Code Inspectors if the landlord fails to perform the repair. The Division also coordinates major repairs and contracts for improvements in City-owned buildings.⁶⁹

In theory, once a complaint is made to 311, the HPD Code Inspectors are expected to go out to the field and document any violations in a Notice of Violations (NOV). The majority of code inspections take place between 12:00 p.m. and 10:00 p.m. During each inspection visit, apart from the condition(s) stated in the complaint, HPD reports that Code Enforcement inspectors are required to check the apartment for five conditions affecting tenant health and safety: illegal locking window gates or obstruction of fire escape window; child-proof window guards on non-egress windows; double cylinder locks requiring a key to unlock the door from the inside; lead-based paint hazards; and smoke detectors.⁷⁰ Once a violation is placed, the NOV is then sent to building owners.

If the complaint is not an emergency, the landlord must respond to the NOV by informing HPD of the corrected remedy. HPD may choose to reinspect the building within 70 days of being notified that the violation was corrected. If it does reinspect and finds that the landlord falsely certified the correction, a penalty is issued. If HPD does not reinspect within 70 days, the violation is deemed corrected.

If the landlord does not correct this condition, a tenant may initiate an action against the landlord in Housing Court. The court has the authority to order the landlord to correct the condition and can assess serious penalties for failure to comply. There is a \$35 fee to file the action, but the court may waive the fee if the tenant is unable to pay. In addition, HPD, through its Housing Litigation Division (HLD), may sue to enforce compliance of the Housing Maintenance Code by obtaining Orders to Correct, fines and Contempt Sanctions. If the building owner does not correct violation conditions, tenants may also initiate legal action against the landlord in Housing Court. The Court has the authority to order the landlord to correct violations and can assess serious penalties for failure to comply. HLD attorneys institute a variety of housing code compliance cases from heat and hot water cases, false certification of landlord compliance with the housing code, and lead inspection cases. The HLD currently has 26 attorneys on staff.⁷

If there are violations that require emergency repairs (Class C Violations), in addition to issuing an NOV the staff of the ESB contacts the last validly registered owner and managing agent of the property of said emergency condition by letter and/or by phone and instructs the owner to make the changes. Once a violation is placed, the owner must correct the condition within the required timeframe and must notify HPD that the violation has been corrected. If the owner fails to make the necessary repairs in a timely manner, HPD’s Emergency Repair Program (ERP) may repair the condition. If HPD’s ERP repairs the emergency condition, HPD, through the Department of Finance, will bill the owner for the cost of repairs. If the owner fails to pay the bill within 60 days, a lien is placed on the property.

The funding for the above code enforcement functions is provided through both federal community development (CD) funds (CD eligible areas are deteriorated and deteriorating neighborhoods where 51% of the population are at or below 80% of the median income) and some City tax levy funds. CD funds provide for housing inspectors, clerical positions, and personnel who perform code-related activities in CD eligible areas.

PROBLEMS AND RECOMMENDATIONS

In practice, the current code enforcement procedures have several gaps in implementation. These seven problems in implementation are briefly described below.

P R O B L E M S

1. At present, HPD does not have a cohesive, comprehensive code enforcement procedure in place for communities that currently have sub-standard housing and are most at risk for worsening housing conditions.
2. By relying primarily on tenant complaints, the current inspection process is inefficient, resulting in a process that is primarily used to address emergencies rather than overall housing conditions.
3. Tenants are often not provided with sufficient notice for housing inspections.
4. HPD does not provide accurate documentation or monitoring of the code enforcement process, including the removal of code violations, and the necessary follow-up.
5. HPD does not adequately follow up on initial inspections.
6. Penalties for false certification are too modest and do not provide an incentive to halt the practice.
7. HPD does not have an efficient fine collection policy.

Set out below are thirteen recommendations that, taken together, or even used separately, would substantially strengthen the City's housing code enforcement system in our City's low- and moderate-income neighborhoods.

R E C O M M E N D A T I O N S

1. The City should increase the number of code inspectors and conduct cyclical inspections in at-risk neighborhoods.
2. HPD should develop a flagging system in their database that would notify the agency when a building reaches a determined number of C violations.
3. The administrative code should be altered to mandate a change in how housing inspections are made. Legislation should be passed that mandates the right to a tenant-initiated inspection.
4. HPD should provide tenants with sufficient notice of an upcoming code enforcement inspection, if necessary working with community-based organizations to assist with notification. In addition, inspectors should be provided adequate technology to conduct inspections.
5. To accurately assess HPD's code enforcement process, HPD should put in place better performance indicators in the Mayor's Management Report.
6. HPD's online code violation procedures should also be categorized by building owner's address, rather than solely by street address of the building.
7. HPD should act on the Major Problem Landlord List it now generates by targeting the identified landlords with systematic inspections.
8. To provide more efficient follow up, HPD should increase the number of housing inspectors and HLD attorneys.
9. The landlord self-certification process should be better monitored, and the penalties for false landlord self-certifications should be increased.
10. HPD should report the amount of fines and judgments outstanding and collected in the Mayor's Management Report.
11. Within HPD, further attempts need to be made to collect more fines.
12. The number of attorneys within HLD must be expanded to increase the enforcement of the fines.
13. The establishment of an administrative tribunal should be explored to enable HPD to better enforce fine collections.

PROBLEM 1: At present, HPD does not have a cohesive, comprehensive code enforcement procedure in place for communities that currently have sub-standard housing and are most at risk for worsening housing conditions. Contrary to HPD's assertion of overall improved housing conditions, conditions in several low-income minority communities are in fact worsening. As documented throughout this paper, communities most at-risk are easily identifiable. These conditions have been noted in various studies and in conversations with housing advocates, yet HPD does not address these worsening housing conditions in at-risk communities. In addition, problem landlords with a history of negligent upkeep are easily identified. In fact, in February 2003, at the request of ANHD member groups, HPD generated its first Major Problem Landlord List. Yet, even with the ability to zero in on problem areas and problem owners, code enforcement procedures still only commence when individual tenants call in apartment complaints.⁷²

Relying primarily on tenant-driven complaints is not an effective way of accurately documenting housing conditions, especially in at-risk communities. The following reasons indicate why some tenants do not initiate the inspection process by calling in complaints.

- a. The current code enforcement procedures can prove highly burdensome for tenants. The tenant often has to be available at inconvenient times for the inspections.
- b. Tenants are often unaware of the result of an inspection and what steps are available to them once an inspection is conducted.⁷³ HPD states that once an inspection occurs, pamphlets outlining the necessary follow-up procedures are routinely made available to tenants. HPD also tracks housing violations online. However, in a series of interviews conducted with community housing groups located in the Northwest Bronx and in Bedford Stuyvesant, Brooklyn, we found that most clients were unaware of HPD’s role and/or resources, and accessibility problems prevented clients from taking advantage of the online system.⁷⁴
- c. Language barriers often preclude tenants from adequate access to code enforcement resources. Many low-income tenants are from various immigrant groups, and are unable to find all necessary resources in their native language. Thus, even if a tenant is notified, many tenants are unaware of their rights or of the programs available to help them assert those rights.

All of these factors contribute to the underreporting of housing code violations.

RECOMMENDATION: The City should increase the number of code inspectors and conduct cyclical inspections in at-risk neighborhoods. During the late 1980s, HPD had approximately 500 code inspectors.⁷⁵ At this time, cyclical inspections – HPD-initiated inspections where inspectors regularly survey building conditions that

As part of his mayoral campaign, then-candidate Michael Bloomberg stressed the importance of cyclical inspections as part of an effective housing platform.

are more at risk for building deficiencies – were routinely performed, and consequently the number of housing code violations issued increased. At present, with only 297 housing code inspectors, this practice does not occur.⁷⁶ Thus, problem buildings, which would in the past have been identified, are no longer on HPD’s radar.

The practice of cyclical inspection teams should be returned to HPD. As part of his mayoral campaign, then-candidate Michael Bloomberg stressed the importance of cyclical inspections as part of an effective housing platform.⁷⁷ The most at-risk neighborhoods are detectable. In addition, HPD and community-based organizations are aware of the most egregious landlords, again providing the basis for a system to track intolerable conditions. HPD must increase the number of inspectors on staff and it must again conduct these cyclical inspections in the neighborhoods that are most identifiably at-risk.

RECOMMENDATION: HPD should develop a flagging system in their database that would notify the agency when a building reaches a determined number of C violations. With the most egregious class of violations, “C” violations, it is critical to identify these buildings with multiple violations and pursue aggressive enforcement against the owners. Horror stories in the past have highlighted HPD’s inefficiency in targeting these buildings and correcting these problems.⁷⁸

In 1995, then Councilmember C. Virginia Fields introduced legislation in the City Council to create an “early warning system” for buildings with serious code violations. In the same vein, HPD should have a computer system that flags a building or owner when the building or owner gets to a certain number of violations. Concurrently, HPD should open an investigation on the party in question. In this way, HPD can create an effective prevention strategy. In addition, buildings with multiple C violations should receive heightened scrutiny and should be subject to additional penalties.

PROBLEM 2: By relying primarily on tenant complaints, the current inspection process is inefficient, result-

ing in a process that is primarily used to address emergencies rather than overall housing conditions.

There are several possible reasons for the inefficiencies. First, due to onerous burdens on tenants, tenants often do not report maintenance deficiencies. Second, in practice the housing code enforcement is almost exclusively an emergency response system designed to act upon individual complaints of hazardous conditions that ignores other housing quality problems.⁷⁹ If, when a complaint is issued, it is deemed an emergency, code inspectors usually respond within a day. In other, non-emergency conditions, it often takes longer, sometimes months.

While HPD reports that inspectors do note other violations during the course of their inspections, community housing groups' experiences indicate that this practice occurs very rarely. In addition, the code inspection checklist that frames the NOV only lists the conditions that were the subject of the tenant's original complaint, and inspectors are leery of adding any additional conditions. If a complaint is issued during heat and hot water season (October 1 to May 31) this problem is exacerbated. During this season, even when there are increased inspections due to heat and hot water complaints, inspections for non-hazardous complaints are often not inspected until months after the violation was reported.

Third, HPD has limited proactive code enforcement practices. As noted above, HPD does not have cyclical inspections. In addition, HPD does not respond to collective tenant requests for more comprehensive inspections. Thus, if a group of tenants requests an inspection of their premises, HPD does not, at present, have to honor the request. So in practice, if an inspector visits a building with several apartments with pending complaints at HPD, only the apartment that is the subject of the inspector's visit is inspected in the visit. According to Gabriel Thompson of Pratt Area Community Council, Inc., "housing inspectors have tunnel vision when it comes to complaints. There have been times when the same housing inspector has been called to the same building four times to check out four different complaints."⁸⁰

Even though HPD effectively works with Community Based Organizations (CBOs) in its production programs, it often does not effectively utilize the vast network of CBOs that have substantive knowledge of the neighborhoods they serve in its preservation programs. Currently, HPD utilizes its four borough offices in the Division of Anti-Abandonment (DAA) to carry out a modest level of proactive interventions. DAA has the responsibility of identifying residential buildings at risk of abandonment at an early stage and developing a range of interventions designed to improve building conditions, prevent building abandonment, and avoid the need for the City to foreclose on property.⁸¹ After a potentially at-risk building is first identified by HPD through the review of tax-delinquent properties, DAA staff conducts a building assessment, evaluating key factors including its financial stability, physical condition, and owners' commitment. The DAA staff only makes an assessment and is not certified to issue violations. After their analysis, HPD staff attempts to determine the most effective and least costly HPD treatment program, including a referral to HPD program units, such as the Code Enforcement Bureau for possible follow-up inspections and emergency repair program. ANHD member groups have found that this process can take up to 18 months. Thus, a building that has been identified by HPD and CBOs alike as a problem building may not be referred to code enforcement for more than a year. This process is even more limited because only tax-delinquent buildings are targeted, ignoring many buildings that are in shoddy condition but not tax-delinquent.

RECOMMENDATION: The administrative code should be altered to mandate a change in how housing inspections are made. Legislation should be passed that mandates the right to a tenant initiated inspection. Tenant-initiated inspections are requests by a group of tenants for inspection of the entire building.

“ [tenant-initiated inspections] were a great way to target distressed buildings. It’s an efficient use of the inspector’s and tenants’ time and beyond that, it can get a report to the housing courts so repairs can be made in a timely manner.”

*Louisa Pacheco,
North West Bronx Community
and Clergy Coalition*

These inspections should occur on a pre-arranged date, and inspectors should inspect both apartments and common spaces of the building. For many years HPD had a policy of responding to tenant-initiated petitions for a “roof to cellar inspection.” A group of inspectors would come to the usually highly distressed building and record violations in all public areas and in all apartments of the petitioners. Anecdotal reports from community groups indicate that this practice was very effective.

As noted by Louisa Pacheco of North West Bronx Community and Clergy Coalition, the tenant-initiated inspections “were a great way to target distressed buildings. It’s an efficient use of the inspector’s and tenants’ time and beyond that, it can get a report to the housing courts so repairs can be made in a timely manner.”⁸² Sally Dunford of West Bronx Housing and Neighborhood Resource Center stressed the importance of these inspections as an early identification system for highly deteriorating buildings. She noted that when distressed buildings now become subject to housing court action, they are in far worse shape than they were in previous years, when tenant-initiated inspections did occur.⁸³

Legislation should be passed mandating that in addition to recording all Housing Maintenance Code violations that are observed during the course of an inspection, all conditions hazardous to the health and safety of building occupants should also be referred to the appropriate city agency (e.g. Buildings or Health), and the tenant or tenant group should receive a copy of that referral.

Lastly, it should be the right of the tenant or tenant association to promptly receive a copy of any violation report. While the violations are posted on HPD’s website, which has proven helpful for advocacy by CBOs and other tenant groups, many tenants in low-income communities currently lack access to the Internet. (See Appendix A – New York City Council Intro 400-A (2003)).

PROBLEM 3: Tenants are often not provided with sufficient notice for housing inspections. ANHD member groups have noted that often tenants are not notified that inspectors are coming to conduct inspections. In practice, once the tenant calls the new 311 Citizen Service Center Line, the HPD complaint specialist then notifies the appropriate BCEO, and the Code inspector is sent out to the premises often without contacting the complaining tenant.⁸⁴ Thus code enforcement inspectors sometimes make numerous trips to the complainant’s building and are often unable to access the tenant’s apartment.

RECOMMENDATION: HPD should provide tenants with sufficient notice of an upcoming code enforcement inspection, if necessary working with community-based organizations to assist with notification. In addition, inspectors should be provided adequate technology to conduct inspections. HPD Borough Office Routing Clerks should notify tenants of the scheduled inspections at least two to three days in advance for non-emergency complaints, and one day in advance for emergency complaints. If necessary, HPD should contact the CBOs to assist them in this process of contacting tenants. The inspections should be scheduled for specific blocks of time, e.g. 12:00 p.m. – 4:00 p.m.; 4:00 p.m. – 8:00 p.m.; 6:00 p.m. to 10:00 p.m. Follow-up phone calls should be made on the day of the appointment. All inspectors should be provided with mobile phones to enable them sufficient means to follow up with the tenant or the Borough Office on the day of the inspection if the inspectors are unable to access the building.

PROBLEM 4: HPD does not provide accurate documentation or monitoring of the code enforcement process, including the removal of code violations, and the necessary follow-up. In 1995, then-New York City Comptroller Alan Hevesi published the *Audit Report on the New York City Department of Housing Preservation and Development's Enforcement of the Housing Maintenance Code (Hevesi Audit)*, which found that “HPD does not know whether it is effectively enforcing the housing code.” The measurement process utilized by HPD was found to assess the number of complaints, and number of inspections, but not the outcome of the activities, i.e. the effectiveness of the process. The *Hevesi Audit* found that 43 % of the violations in their sample study were not corrected an average of one year after the violations were first identified by HPD. In addition, the audit found that in calculating the violations removed, HPD does not differentiate between the number of violations issued in the current fiscal years from violations issued in previous years, resulting in an inaccurate indicator of removed violations.

According to the 2001 New York City Comptroller's *Follow-up Audit on the New York City Department of Housing Preservation and Development's Enforcement of the Housing Maintenance Code (Thompson Audit)*, HPD's reporting mechanism still results in an incomplete and even misleading measure of effectiveness.⁸⁵

RECOMMENDATION: To accurately assess HPD's code enforcement process, HPD should put in place better performance indicators in the Mayor's Management Report. To better understand if HPD's code enforcement process is working, it is important that HPD provide accurate indicators of success or failure in all stages of the code enforcement process.

HPD should report the average time it takes for HPD to respond to all complaints, rather than simply the response time to an emergency complaint. In addition to noting what violations were “deemed corrected,” the categories should delineate which year a violation removed was issued and the specific violation class type. Even though HPD seeks to ensure that 95 % of emergency conditions in private dwellings are verified by the tenant, there is nothing currently in place to ensure that all Class C violations are corrected. In addition, all Class C violations (not just emergency conditions) should be reported in order to assess the effectiveness.

RECOMMENDATION: HPD's online code violation procedures should also be categorized by building owner's address, rather than solely by street address of the building. Currently, HPD's online Building Information website (HPDOnline) categorizes violations by buildings rather than by building owner's address. To better identify problem landlords, there must be a system to root out notorious landlords who own numerous buildings with multiple violations on each building. The building owner's address would provide the necessary cross-referencing tool needed to properly categorize the necessary buildings. HPD has taken the first step in addressing this problem. At the urging of ANHD member groups and other not-for profits, HPD has generated a Major Problem Landlord List that identifies landlords who have a high number of housing maintenance deficiencies. However, this list is not yet available on HPDOnline. To help HPD accurately monitor and document the code enforcement process, HPD needs to modify its online database to allow searches by building owner's address.

RECOMMENDATION: HPD should act on the Major Problem Landlord List it now generates by targeting the identified landlords with systematic inspections. The Major Problem Landlord List provides community groups with information on the most egregious scofflaw landlords. HPD should use this list within their Code Enforcement Unit to target properties for cyclical inspections. In addition, the list can be used by the Housing Litigation Division to prepare comprehensive litigation against these scofflaw landlords. In this way, HPD can

monitor egregious landlords and commence investigations before the building becomes completely uninhabitable. At present, HPD has already begun to look at program litigation using the problem landlord list. HPD needs to build on these efforts to offer a fully comprehensive enforcement procedure.

PROBLEM 5: HPD does not adequately follow-up on initial inspections. As noted above, the Hevesi Audit found that 43 % of Immediately Hazardous Violations still existed an average of one year after HPD inspectors identified them. One cause for this lack of corrections can be the lack of follow-up by HPD officials.

HPD has effectively increased the number of reinspections since 1994, but from 1998 to 2001, the number of reinspections of owner-certified inspections has decreased from 67.1 % to 43.7 %.⁹¹

A reinspection of the premises by HPD to determine if a violation has or has not been removed is not mandatory. HPD conducts reinspections for the following reasons: to verify the accuracy of a limited sample of owner certifications; to respond to litigation-related requests from HPD attorneys; to respond to requests by owners for an expedited reinspection to clear outstanding violations quickly; to respond to requests made by other agencies or by the courts because of a tenant-initiated action; and to verify corrections made by HPD emergency repairs for cases in which HPD cannot reach the affected tenant by telephone to verify the correction.⁸⁶

In a joint investigation in 1995 by Comptroller Hevesi and New York State Senator Frank Leichter, the estimated reinspection rate was only 10 %. In addition, studies found that the reinspections were not conducted in predominantly minority neighborhoods. As noted in the *Hevesi Audit*, HPD management stated that it did not have enough housing inspectors to re-inspect all violations to determine whether conditions are corrected.⁸⁷ As noted in the *Thompson Audit*, in Fiscal Year 2001, the number of reinspections of owner-certified inspections increased from 10 % in 1995 to 43.7 %.⁸⁸ Through its reinspections, HPD inspectors found that more than 28 % of owners' correction certifications were false each year. Yet HPD, through HLD, still prosecuted a very small number of cases. In 2001, of the 13,062 false certifications HPD only filed 139 cases.⁸⁹

RECOMMENDATION: To provide more efficient follow up, HPD must increase the number of housing inspectors and HLD attorneys. Follow-up is crucial in having an effective code enforcement process. As noted in the Hevesi Audit and as affirmed by administrators of housing code enforcement inspectors in other cities, "performing inspections without following up on violations issued undermines the effectiveness of housing code enforcement efforts."⁹⁰ HPD has effectively increased the number of reinspections since 1994, but from 1998 to 2001, the number of reinspections of owner-certified inspections has decreased from 67.1 % to 43.7 %.⁹¹ To ensure efficient follow-up, reinspections need to be prioritized by HPD. An increase in housing inspectors would provide HPD with the means to perform the necessary reinspections.

In addition, the *Thompson Audit* found that even though the number of prosecutions for false certification has increased, there is still a relatively high percentage of owners who falsely certify. The Housing Litigation officials stated, "Because there are too many violations and false certifications, the Housing Litigation staff does not have the resources to prosecute false certification violations."⁹² At present, HPD notes that enforcing a higher percentage of false judgment cases would overwhelm HLD.⁹³ An increase in the number of staff would enable HLD to prosecute false certification violations.

PROBLEM 6: Penalties for false certification are too modest and do not provide an additional incentive to halt the practice. In response to an NOV, a landlord or building agent can self-certify that a violation has been remedied. Unless HPD reinspects within 70 days, the self-certification is sufficient to deem a violation removed

and corrected. An unfortunate outcome of the self-certification process is that landlords often falsely self-certify. There is not a strong penalty in place to deter landlords from falsely certifying. First, as noted above, due to resource constraints, litigation is rarely brought against these landlords. Second, the penalties that are available for these acts are often negligible (at \$250), and possibly much cheaper than undertaking the actual repairs.

RECOMMENDATION: The landlord self-certification process should be better monitored, and the penalties for false landlord self-certifications should be increased. Current fines for false certifications should be increased to \$1,000. In addition, inspectors should have an extended period to provide reinspections of the premises to enable HPD to properly evaluate the owner’s certification. Finally, the tenants should be kept apprised of any self-certifications made by the landlord. The changes in penalties should be codified in an amendment to the New York City Administrative Code. (See Appendix B –New York City Council Intro 40 (2002)).

PROBLEM 7: HPD does not have an efficient fine collection policy. The Housing Maintenance Code has several penalties available for failure to correct housing code violations. As indicated above, there are penalties for false self-certifications. In addition, there are general penalties for various violations. A penalty for a Class A violation is a flat fine of \$10-\$50. A Class B or hazardous violation is \$25-\$110 per day. Immediately hazardous violations or Class C violations are fined at a rate of \$50 per day, and buildings with more than five apartments are fined \$50-\$150, plus \$125 per day. The fine for heat and hot water violations is \$250 per day.⁹⁴

HPD cannot collect any fines without litigation. Once a violation is deemed not to have been corrected—either because of false self-certifications or the lack of attempt to correct violations—HPD must ask the Housing Part of the Civil Court Housing Court to levy a penalty once a case has been adjudicated. HPD is the only city agency that has to go through the court system to issue violations.

Due to staff constraints, HPD often chooses to target the most egregious cases, thus neglecting many other buildings in poor condition. Even when the fines are levied, they are not always collected. At present, in the instances in which HPD does commence litigation, HPD only collects at most 50 percent of the default judgments issued, and often not at the total value of the levied fine.⁹⁵ Half of the total number of judgments are collected relatively quickly. The owners responsible for the other half often contact HPD to pay some of their penalties when they are trying to refinance or sell their building. As indicated in the table below, the decline in fine collection is substantial when compared to 1989 levels. While HPD indicates that the amount of fines collected in the mid-1980s was due in part to the large backlog of uncollected revenue from the 1970s, the high outstanding number of fines indicates that more should and could be done to increase the amount of revenue collected.

FISCAL YEAR	AMOUNT COLLECTED BY HPD
FY 1989	\$5.1 million
FY 2000	\$1.7 million
FY 2001	\$1.9 million
FY 2002	\$2.0 million
FY 2003	\$3.2 million

Source: Independent Budget Office; Mayor’s Management Report 2003.⁹⁶

The goal of collecting fines at HPD is usually twofold: to entice landlords to remedy any violations; and to collect revenue. HPD’s fine collection policy falls short on both counts. Too little money is being collected, and landlords are able to find yet another way to circumvent the code enforcement process.

RECOMMENDATION: HPD should report the amount of fines and judgments outstanding and collected in the Mayor's Management Report. At present, the Mayor's Management Report outlines the amount of "Judgments and Settlements Collected," yet there are no indicators describing how much is still outstanding. A reporting system would enable HPD to determine more accurately the effectiveness of its fine collections policies.

RECOMMENDATION: Within HPD further attempts need to be made to collect more fines. The low percentage of fine collections is another reason why landlords have little incentive to correct code violations. In the past, HPD has used with limited success a private outsourcing service for the collection of fines.⁹⁷ HPD must reconfigure the Judgment Enforcement Unit and place the collection of fines as a priority in the upcoming Fiscal Years. While the most recent Mayor's Management Report indicates an increase in fine collection due to staffing reorganization, revised collection procedures, and a *temporary* increase in the number of large one-time payments,⁹⁸ emphasis on fine collections should be continued to ensure that there are permanent procedures put in place for increased fine collections.

RECOMMENDATION: The number of attorneys within HLD must be expanded to increase the enforcement of the fines. The attorneys in HLD are crucial in providing the teeth to a weak enforcement process. Without the threat of penalties, landlords will have very little reason to comply with the housing maintenance code. Even though tenants do have the option to go to court to request remedy from the landlord, HPD actions are more likely to yield fines against the landlord.⁹⁹ To ensure that landlords are dealt with effectively, more resources need to be placed within HLD to allow attorneys to pursue more aggressively more housing code cases.

RECOMMENDATION: The establishment of an administrative tribunal should be explored to enable HPD to better enforce fines collections. As an alternative to obtaining judgments from Housing Court, an administrative tribunal should be considered, in which HPD would have the right to impose, docket and enforce civil penalties for violation. State legislation should be passed that would allow HPD to impose, docket and enforce civil penalties for violations without requiring it to go to Housing Court to obtain a judgment. These procedures should be examined without weakening the current enforcement remedies available to tenants.

Conclusion

New York City's housing crisis needs to be addressed in a multi-faceted manner. While production initiatives, such as the *Mayor's Housing Plan*, are important in addressing the lack of affordable housing units, preservation is just as important in addressing the housing crisis—especially in at-risk communities. It is imperative that the City's code enforcement methods are re-examined so certain neighborhoods will not continue to deteriorate while others improve. Maintaining existing units and providing mechanisms for future units is crucial for any long-term affordable housing plan. To this end we must reassess our City's preservation efforts, and, where possible, they should be improved. Strengthening our code enforcement procedures provides a cost-effective way to improve the preservation.

While recognizing that the City has limited resources available, it is still possible to obtain the limited extra resources necessary to implement the recommendations outlined above. Since many of our proposals encourage increased activity in low-income communities, many of the areas are eligible for CD funds. The City can reallocate these federal funds to these preservation initiatives. Some of our recommendations, such as cyclical inspections and restructuring of housing inspections, streamline the current code enforcement practice, enabling us to do more within certain budget constraints. Lastly, our recommendations also include potential revenue-raising initiatives through the collection of fines. Using one of these methods or a combination of the different methods will provide the necessary resources needed to implement a more effective code enforcement process. ■

APPENDIX A

New York City Council Intro 400-A (2003)

Proposed Int. No. 400-A

By Council Members Brewer, Avella, Baez, Barron, Comrie, Foster, Gerson, Jackson, Koppell, Martinez, Monserrate, Quinn, Recchia, Jr., Reed, Reyna, Sanders, Jr., Seabrook, Sears, Serrano, Stewart, Weprin, Rivera, Lopez, Perkins, Espada, Jr., Yassky, Nelson, Liu and The Public Advocate (Ms. Gotbaum)

A Local Law

To amend the administrative code of the city of New York, in relation to improving the mechanism for filing complaints and conducting inspections for housing violations.

Be it enacted by the Council as follows: Section 1.

Chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2094.1 to read as follows:

§27-2094.1 *Tenant petitions.* (a) *In addition to any other procedures authorized by law, a group of tenants in a multiple dwelling shall be permitted to submit a petition to the department requesting that the department conduct a building-wide inspection to determine if there exist in such multiple dwelling violations of the housing maintenance code or the multiple dwelling law. Notwithstanding any other provision of law, for the purpose of this section a “group of tenants” is defined as the lesser of five tenants and/or lawful occupants residing in five separate dwelling units or the tenants and/or lawful occupants residing in fifteen percent of the total number of occupied dwelling units.*

(b) *Any tenant petition shall include the following information:*

(1) *An identification of the premises by street number or by such other description as will enable the department to locate the multiple dwelling;*

(2) *The name, dwelling unit identification or designation, such as an apartment or suite number or letter, and signature of each petitioner;*

(3) *A statement that each petitioner is either a tenant or a lawful occupant of the premises, currently resides on such premises and is requesting a building-wide inspection; and*

(4) *The identification of two petitioners designated for the purpose of receiving and responding to all official correspondence from the department with regard to this petition, and for the purpose of arranging to provide access to the department.*

(c) *The department shall respond in writing within ten days of the receipt of the petition. If the group of tenants has complied with this section, the department shall conduct the building-wide inspection and the department’s response to the petition shall indicate the scheduled date upon which*

such inspection will take place. If the department determines that the group of tenants has not complied with this section and that the requested inspection will not be conducted, the department’s response shall state the reason for such determination. Where the department fails to respond to such petition, then the group of tenants who signed the petition has the right to file a formal complaint with the department as to its procedures. The department must respond within thirty days of the receipt of such formal complaint. Where the department does not respond within such thirty day period, the complaint shall be deemed to have been denied. Should the tenants’ petition for inspection and the complaint be denied then the group of tenants who signed on to the petition may individually or jointly apply to the housing part for an order directing the department to appear before the court. Such order shall be issued at the discretion of the court for good cause shown, and shall be served as the court may direct. If the court finds that the group of tenants complied with this section, it shall direct the department to conduct the building-wide inspection.

§2. Chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2094.2 to read as follows:

§27-2094.2 *Inspections.* (a) *Notwithstanding the provisions of any other law, all inspections by the department, including those conducted during heat and hot water season and those inspections conducted pursuant to section 27-2056.7 of this chapter, shall include an inspection of the public parts of a multiple dwelling and all portions of each dwelling unit identified by the complainant, petition or department for inspection. Any inspection by the department shall record all violations of the housing maintenance code or the multiple dwelling law identified during the course of the inspection. If in the course of the inspection, any conditions are identified that may warrant review by another agency such as, but not limited to, the department of buildings, the fire department or the department of health and mental hygiene, such conditions shall also be recorded and the department shall refer such conditions to the appropriate agency or agencies.*

(b) *Any notice of violation that is issued pursuant to such inspection shall include an attachment listing all violations identified during the course of the inspection as well as any conditions identified for referral to another agency.*

(c) *A copy of any notice of violation issued with any attachment as required by subdivision b of this section, shall be sent by first class mail to the tenant or lawful occupant who initiated the complaint, or in the case of a tenant petition, the two tenants so identified in the petition to receive such correspondence. Such copy shall be mailed on the same date that service of such notice of violation is made pursuant to section 27-2095 of this chapter.*

§3. This local law shall take effect ninety days after its enactment.

APPENDIX B

New York City Council Intro 40 (2002)

Int. No. 40

By Council Members Liu, Provenzano, Comrie, DeBlasio, Gennaro, Jackson, Katz, Lopez, Nelson, Quinn, Reyna, Sanders Jr., Seabrook, Vallone Jr., Brewer and The Public Advocate (Ms. Gotbaum)

A Local Law to amend the administrative code of the city of New York in relation to increasing the fines for false self-certifications of housing code violations, to requiring that occupants are notified when a violation has been self-certified, and to extending the length of time in which the Department of Housing Preservation and Development may reinspect self-certified violations before such violations are “deemed corrected.”

Be it enacted by the Council as follows:

Section 1. Subsection a of section 27-2115 of the administrative code of the city of New York as last amended by local law 65 of 1987, is amended to read as follows:

(a) A person who violates any law relating to housing standards shall be subject to a civil penalty of not less than ten dollars nor more than fifty dollars for each non[-]hazardous violation, not less than twenty-five dollars nor more than one hundred dollars and ten dollars per day for each hazardous violation, fifty dollars per day for each immediately hazardous violation, occurring in a multiple dwelling containing five or fewer dwelling units, from the date set for correction in the notice of violation until the violation is corrected, and not less than fifty dollars nor more than one hundred fifty dollars and, in addition, one hundred twenty-five dollars per day for each immediately hazardous violation, occurring in a multiple dwelling containing more than five dwelling units, from the date set for correction in the notice of violation until the violation is corrected. A person [willfully] making a false certification of correction of a violation shall be subject to a civil penalty of not less than [fifty] *two hundred fifty* dollars nor more than [two hundred fifty] *five hundred* dollars for each violation *falsely certified* [in addition, to the other penalties provided]. *In addition, a person willfully making a false certification of correction of a violation shall be subject to a civil penalty of one-hundred dollars per day from the date the department received the certification until the violation is corrected, for each and every violation falsely certified, but not less than one thousand dollars per violation. This section shall not be construed to limit other penalties herein provided.*

§2. Paragraphs two and three of subdivision f of section 27-2115 of such code are amended to read as follows:

(2) A copy of such certification shall then be mailed [not more than twelve calendar days from the date

of receipt of notification to any complainant by the department] *by the registered owner, a registered officer or director of a corporate owner, or by the registered managing agent, to all occupants of the apartment or multiple dwelling affected by the violation. This copy shall be mailed not more than twelve calendar days from the date the original self-certification was delivered to the department; proof of mailing must be filed with the department within seven additional calendar days. Anyone who violates this paragraph shall be subject to a civil penalty of not less than two hundred-fifty dollars nor more than five hundred dollars.*

(3) [Such violation shall be deemed corrected seventy days from the date of receipt of such certification by the department unless the department has determined by a reinspection made within such period that the violation still has not been corrected and has recorded such determination upon its records and has notified the person who executed the certification by registered or certified mail of the address stated in the certification that it has been set aside and the reasons therefor; a copy of such notice shall be sent to the complainant.]

(i) *Violations that have been certified in accordance with paragraph two of this subdivision shall be deemed corrected unless within 150 days of receipt of the certification by the department, an inspection by the department shows that the violation certified is not corrected. Such findings upon an inspection shall be prima facie evidence that the violation has been falsely certified. The department shall maintain a record of all violations issued by the department, including violations that are deemed corrected in accordance with this paragraph.*

(ii) *The department shall send to the person certifying the violation or the owner, managing agent, or any other person listed on the department's records as being in control of the subject premises, a notification of invalidated certification within ninety days of the inspection showing an uncorrected violation for which the department has received a certification. This notice shall be sent by registered or certified mail to the address listed on the certification or any other department record as well as to the occupants and/or complainant. If the department fails to mail the notification in accordance with this provision, the department shall be prohibited from proceeding for penalties based on a falsely certified violation.*

(iii) *This section shall not be construed to limit the rights herein to institute proceedings for civil penalties for contempt, or any other provision based on a violation that has been falsely certified for which the department has failed to mail a notice of invalidated certification in accordance with this paragraph.*

§3. This local law shall take effect immediately and shall apply to all violations that have not been certified as corrected on such effective date.

ENDNOTES

¹ "Housing preservation" consists of both federal and state assisted programs, such as the federal project based Section 8 program, and New York State's Mitchell-Lama program, as well as initiatives to preserve privately owned housing. This paper focuses on the preservation of privately owned housing.

² Income ranges in this paper are based on the HUD limit qualifications. Low-income families are defined as families whose incomes do not exceed 80% of the area-median income. Very low-income families are defined as families whose incomes do not exceed 50% of the area median income. Throughout this paper low-income, unless otherwise indicated, includes very low-income households. Low-income households for the purposes of this paper are considered households who earn less than \$31,000.

³ In 1997, a Blue Ribbon Panel on Slum Housing on Los Angeles was formed which included corporate executives, developers and activists. The Panel recommended the formation of the Systematic Code Enforcement Program (SCEP). The SCEP provides: systematic and periodic habitability code compliance checks on each rental unit in Los Angeles once every three years; and a \$12 fee on each housing unit. The landlord can pass the fee to the tenant. The SCEP also has an outreach and educational component to encourage dispute mediation between tenant and landlord. A 2001 audit revealed that inspectors have cited violations on the majority of rental units inspected and 80% of the cited landlords complied by making repairs in a 60-day period. Gary Bess Associates, *Audit of Los Angeles' Housing Department Systematic Code Enforcement Program*, November 13, 2001.

⁴ *Ibid.*, pp. 18-20.

⁵ Used from data from: Denise Wallin and Michael H. Schill, *The State of New York City's Housing and Neighborhoods*, 2003, New York: NYU Furman Center for Real Estate and Urban Policy, (Draft 2003), Neighborhood Table 8-3; and Moon Wha Lee, February 7, 2003, *Selected Findings of the 2002 New York City Housing and Vacancy Survey*, Assistant Commissioner for Housing Policy Analysis and Statistical Research New York City Department of Housing Preservation and Development, retrieved September 25, 2003, from <<http://www.nyc.gov/html/hpd/pdf/hvs-initial-findings-2002.pdf>>, p.1.

⁶ The measured deficiencies used by the HVS are: heating equipment breakdowns; additional gear required, rodent infestation, cracks/holes in walls, ceilings or floors; broken plaster or peeling paint larger than 8.5 by 11 inches, toilet breakdowns, or water leaking from outside the unit. U.S. Department of Commerce, Bureau of the Census, *1999 Housing Vacancy Survey* (Washington DC: Government Printing Office, 2000).

⁷ Denise Wallin, Michael H. Schill, and Glynis Daniels, *The State of New York City's Housing and Neighborhoods*, 2002, New York: NYU Furman Center for Real Estate and Urban Policy, 2002, p. 194.

⁸ Michael H. Schill and Glynis Daniels, (2002, February). *State of New York City's Housing and Neighborhoods: An Overview of Recent Trends*. Paper presented at Policies to Promote Affordable Housing Conference, New York, NY, pp. 6-7.

⁹ Wallin et al., p. 194.

¹⁰ Wallin et al., p. 199.

¹¹ Schill & Daniels, p. 6.

¹² Mayumi Fukushima, *ANHD Case Studies*, Unpublished (2003)

¹³ New York City Housing Maintenance Code, §27-2002.

¹⁴ Wallin et al., p.196.

¹⁵ Wallin et al., p. 204.

¹⁶ Wallin & Schill, (2003), Neighborhood Table 8-3.

¹⁷ *Ibid.*, Borough Table 8-2.

¹⁸ *Ibid.*, Neighborhood Table 8-2.

¹⁹ *Ibid.*, Borough Table 8-2.

²⁰ *Ibid.*

²¹ Demographic Profile - New York City Community Districts 2000 Census SF1, retrieved September 25, 2003, from <<http://www.nyc.gov/html/dcp/pdf/census/59cdprof.pdf>>.

²² Wallin & Schill, (2003), Neighborhood Table 8-2.

²³ Wallin et al., p. 206.

²⁴ Lee, Moon Wha *Housing New York City 1999*, New York City: New York City Department of Housing Preservation and Development, 2002, p. 377.

²⁵ *Ibid.*, p. 389.

²⁶ *Ibid.*, pp. 382-383.

²⁷ *Ibid.*, p. 387.

²⁸ Wallin et al, p. 76.

²⁹ *Ibid.*, pp. 84, 86.

³⁰ *Ibid.*, p. 88.

³¹ *Ibid.*, p. 78.

³² *Ibid.*, p. 88.

³³ As noted in the 2002 *NYU Report* the Sub-boroughs were written to approximate the Community Districts. For instance, the Community Districts Mount Hope/University Heights and University Heights/ Fordham correspond roughly with the NYU Study Sub-borough classification of University Heights/ Fordham. Wallin et al., (2002), pp. xvii – xxvii, 384. Analyses of the comparable Community Districts using conforming census tracts yielded the above results. US Department of Commerce, Bureau of the Census, *2000 US Census* (Washington DC: Government Printing Office, 2000), retrieved May 2003, from <www.census.gov>.

³⁴ Wallin et al, p. 200.

³⁵ Lee (2002), p. 396.

³⁶ Wallin et al., p.194.

³⁷ *Ibid.*

³⁸ *Ibid.* p. 200

³⁹ Lee, (2003), p. 2.

⁴⁰ *Ibid.*, p. 6.

⁴¹ US Department of Commerce, Bureau of the Census, *2000 US Census* (Washington DC: Government Printing Office, 2000).

⁴² New York City Rent Guidelines Board, *2003 Income and Affordability Study*, 3 June 2003, p. 3.

⁴³ *Ibid.*, p. 2.

⁴⁴ *Ibid.*

- ⁴⁵ Wallin et al., p. 283.
- ⁴⁶ Coalition for the Homeless, *Basic Facts*, retrieved September 25, 2003, from <www.coalitionforthehomeless.org/advocacy/basic_facts.html>
- ⁴⁷ Coalition for the Homeless, *State of the Homeless 2003*, February 2003, retrieved September 25, 2003, from <<http://www.coalitionforthehomeless.org:8080/top/CFTH/downloads/stateofthehomeless2003.pdf>>, p. 2.
- ⁴⁸ New York City Rent Guidelines Board, p. 8.
- ⁴⁹ Lee (2002), p. 10.
- ⁵⁰ Ibid., p. 39.
- ⁵¹ Community District Demographics: Racial Profile - New York City Community Districts 2000 Census SF1, retrieved September 25, 2003, from <<http://www.nyc.gov/html/dcp/pdf/census/59cdprof.pdf>>; Income Profile – retrieved Sept. 25, 2003, <<http://www.nyc.gov/html/dcp/pdf/census/sf3incp301.pdf>>; and Rental Information, Wallin et. al, p. 58-59.
- ⁵² Lee (2002), p., 409.
- ⁵³ Housing First!, *Building For the Future: New York's Affordable Housing Challenge*, November, 2001 etrieved September 25, 2003, from < <http://www.housingfirst.net/pdfs/policypaper.pdf>> , p.6.
- ⁵⁴ Lee (2002), pp. 220 - 221.
- ⁵⁵ Housing First!, p. 6.
- ⁵⁶ US Department of Commerce, Bureau of the Census, *2000 US Census* (Washington DC: Government Printing Office, 2000).
- ⁵⁷ Coalition for the Homeless, Chart 1, *Housing in New York City*, September 2002, retrieved September 25, 2003, from < <http://www.coalitionforthehomeless.org/downloads/nychousingchartso1.pdf>> .
- ⁵⁸ Coalition for the Homeless, Chart 2, *Housing in New York City*, September 2002, retrieved September 25, 2003, from < <http://www.coalitionforthehomeless.org/downloads/nychousingchartso1.pdf>> .
- ⁵⁹ Lee (2002), p. 26.
- ⁶⁰ Ibid.
- ⁶¹ Lee (2003), pp. 4-5.
- ⁶² Lee (2003), p. 7.
- ⁶³ New York City Independent Budget Office, *Mayor Bloomberg's Housing Plan: Down Payment on the Future*, February 2003.
- ⁶⁴ “Fiscal pressures at all levels of government threaten to reduce the already insufficient resources devoted to housing assistance. Even stable funding for federal housing assistance—which accounts for just 8% of non-defense discretionary spending—is in jeopardy. And with state officials forced to trim spending by \$25.7 billion in fiscal (sic) year 2003 alone, states are unlikely to expand and some may shrink, their housing programs.” Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing 2003*, John F. Kennedy School of Government, p. 29.
- ⁶⁵ The Office of the Public Advocate is studying the availability of affordable housing in New York City and will be issuing a report with recommendations in the Spring of 2004.
- ⁶⁶ Joint Center for Housing Studies of Harvard University, p. 29.
- ⁶⁷ New York City Administrative Code §§ 27-2001— 27-2152.
- ⁶⁸ In March 2003, the 311 Citizen Service phone was activated.
- The 311 system will be open 24 hours and will provide one central phone number for New York residents to report all non-emergency City services. Housing Maintenance complaints will also be registered through the 311 system. At present it is unclear the effect of this new system on the HPD central Complaint Process.
- ⁶⁹ The HPD Division of Code Enforcement also consists of the Demolition Unit, and the SRO Compliance Unit.
- ⁷⁰ Department of City Planning, *Consolidated Plan 2003*, City of New York, September 2003, p. 1-93.
- ⁷¹ Independent Budget Office, August 2003.
- ⁷² HPD also responds to complaints by community boards and elected officials. But again, these are probably at the behest of tenant initiated complaints.
- ⁷³ Alan G. Hevesi, Office of the Comptroller, Bureau of Audit, *Audit Report on the New York City Department of Housing Preservation and Development's Enforcement of the Housing Maintenance Code*, 30 June 1995, (New York City: Office of the Comptroller), series MJ95-098A, p. 24.
- ⁷⁴ ANHD Case Studies.
- ⁷⁵ The number of authorized inspectors peaked in 1988 at 523 positions. State funding ended in state fiscal year 1992, dropping the number of inspectors drastically to a low of 181. New York City Independent Budget Office, July 10, 2000, *HPD Code Enforcement: Resources and Level of Effort*; New York City Independent Budget Office, February 19, 2003, *Saving Homes: City Spending on Housing Preservation Grows*, p. 4.
- ⁷⁶ Since 1993, HPD has discontinued or severely cut back the cyclical inspections that regularly surveyed building conditions in neighborhoods throughout New York. Kenny Schaeffer, “City Council Hearings Blasts HPD on Housing Code Failures” retrieved September 25, 2003, < <http://www.tenant.net/Tengroup/Metcounc/Octoo/octoo.pdf>> , p. 8.
- ⁷⁷ On his campaign website, www.mikeformayor.com, then-mayoral candidate Michael Bloomberg stated, he would “beef up inspection and litigation staff levels to move it from a complaint-driven operation to one that performs cyclical inspections and enforces code violations. People shouldn't have to live with rats, mold, leaky pipes or without heat – and landlords who provide such sub-human accommodations should be stopped proactively before those with little recourse have to endure another day of misery.”
- ⁷⁸ William Sherman, “Where Poor Suffer & Slumlords Profit: City Laws Full of Loopholes” *New York Daily News*, November 17, 2003, retrieved September 25, 2003, from <<http://www.nydailynews.com/11-17-2002/news/local/story/36119p-34118c.html>>
- ⁷⁹ Community Training Resource Center, *Code Enforcement and Emergency Repairs*, p. 4.
- ⁸⁰ Gabriel Thompson, interview by Mayumi Fukushima, 22 April, 2003.
- ⁸¹ Department of City Planning, *Consolidated Plan 2003*, pp. 1-62 – 1-63.
- ⁸² Luisa Pacheco, interview by Mayumi Fukushima, 25 April 2003.
- ⁸³ Sally Dunford, interview by Mayumi Fukushima, 25 April 2003.
- ⁸⁴ In our research through conversations with Borough Code Enforcement Officers and ANHD member groups we found that the only borough that made attempts to contact the tenant prior to the inspector's visit was the Staten Island BCEO.

⁸⁵ William C. Thompson, Jr., Office of Comptroller, Bureau of Audit, *Follow-up Audit Report on the Enforcement of the Housing Maintenance Code by the Department of Housing Preservation and Development*, 27, January 2002, (New York City: Office of Comptroller), series MHO1-176F. p. 12.

⁸⁶ Thompson, pp. 9-10.

⁸⁷ Hevesi, p. 10.

⁸⁸ Thompson, pp. 18-19.

⁸⁹ Ibid. p. 19. As indicated in the Report, each case usually includes multiple false certifications.

⁹⁰ Hevesi, p. 25.

⁹¹ Thompson, p. 19.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Independent Budget Office, *Is Everything Going to be Fine(d)?: An Overview of New York City Fine Revenue and Collection May 2003*, p. 14.

⁹⁵ Ibid., p. 15.

⁹⁶ Ibid., p. 14; Office of the Mayor, *Mayor's Management Report Fiscal 2003*, retrieved September 25, 2003, from <http://www.nyc.gov/html/ops/pdf/2003_mmr/0903_mmr.pdf> p. 106.

⁹⁷ Testimony by Jerilyn Perine, Commissioner, Department of Housing Preservation and Development, to the City Council Housing and Buildings and Finance Committee, Fiscal Year 2003 Executive Expense and Capital Budget, May 15, 2002.

⁹⁸ Office of the Mayor, p. 106.

⁹⁹ Citywide Task Force on Housing, *No Rainbow, No Gold: Tenant Initiated HP Actions in the New York City Housing Court*, May 2003, New York, NY. p. 26.

Inequitable Enforcement

The Crisis of
Housing Code
Enforcement
in New York City



ASSOCIATION FOR
NEIGHBORHOOD
AND HOUSING
DEVELOPMENT, INC.



The Public Advocate
for the City of New York
Betsy Gotbaum