

AUDIT REPORT

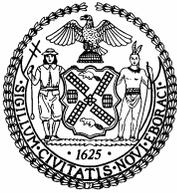


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Monitoring of the Award, Transfer, and Succession of Mitchell-Lama Apartments by the Department of Housing Preservation and Development

MJ06-134A

March 24, 2008



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, § 93, of the New York City Charter, my office has examined the adequacy of the monitoring and supervision of the award, transfer, and succession of apartments at Mitchell-Lama developments by the Department of Housing Preservation and Development (HPD). The audit covered calendar years 2004 through 2006.

HPD is responsible for protecting the existing housing stock, expanding housing options, and improving the availability, affordability, and quality of housing in the City. HPD is also responsible for monitoring and overseeing financial and property management, waiting lists, and admission applications for City-sponsored Mitchell-Lama developments. Audits such as this provide a means of making certain that HPD ensures that Mitchell-Lama housing companies comply with Mitchell-Lama regulations.

The results of our audit, which are presented in this report, have been discussed with HPD officials, and their comments were considered in the preparation of this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in black ink that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

Report: MJ06-134A
Filed: March 24, 2008

Table of Contents

AUDIT IN BRIEF	1
Audit Findings and Conclusions.....	1
Audit Recommendations.....	2
HPD Response	2
INTRODUCTION	3
Background.....	3
Objective.....	5
Scope and Methodology	5
Discussion of Audit Results.....	9
FINDINGS AND RECOMMENDATIONS	10
Weaknesses in the Applications Unit	10
Lack of Documentation to Support Application Approvals	10
Recommendations.....	11
Lack of Review of Waiting Lists, Vacancy Reports, and Rent Rolls.....	12
Recommendation	14
Weaknesses in Housing Supervision Audit Unit.....	14
Insufficient Audit Frequency	14
20 Percent of Cited Audit Deficiencies Not Resolved.....	17
Lack of a Formal Risk-Based Audit Plan	19
Recommendations.....	20
Lack of a System to Log the Receipt, Assignment, and Resolution of Complaints.....	21
Recommendations.....	22
Audit Documentation Not Retained.....	23
Recommendations.....	23
Lack of Written Policies and Procedures.....	23
Recommendation	24
Other Matters	25
Information Technology Could Enhance Oversight Activities	25
Recommendations.....	26

ADDENDUM: HPD Response

*The City of New York
Office of the Comptroller
Bureau of Management Audit*

**Audit Report on the Monitoring of the
Award, Transfer, and Succession of
Mitchell-Lama Apartments by the Department of
Housing Preservation and Development**

MJ06-134A

AUDIT IN BRIEF

This audit assessed the adequacy of the monitoring and supervision of the award, transfer, and succession of apartments at Mitchell-Lama developments by the Department of Housing Preservation and Development (HPD) to ensure compliance with Mitchell-Lama program regulations. HPD is responsible for protecting the existing housing stock, expanding housing options, and improving the availability, affordability, and quality of housing in the City. HPD is also responsible for monitoring and overseeing financial and property management, waiting lists, and admission applications for City-sponsored Mitchell-Lama developments.

Audit Findings and Conclusions

HPD's monitoring and supervision of the award, transfer, succession, and subsequent retention of apartments at Mitchell-Lama developments does not provide sufficient assurance that housing companies consistently comply with Mitchell-Lama Rules (Title 28, Chapter 3, of the Rules of the City of New York). Documentation is not retained to verify that only qualified applicants are approved and awarded apartments. In addition, available vacancy reports, rent rolls, and waiting lists are not compared or reviewed regularly as a means to detect potential irregularities or other questionable matters that may require follow-up.

HPD's audit function is the primary mechanism it uses to assess housing companies' compliance with Mitchell-Lama Rules after apartments are awarded and occupied by tenants. However, HPD lacks a formal, risk-based approach in developing its audit plan and does not perform application audits of housing companies on a cyclical basis or with sufficient frequency to ensure the consistent compliance of housing companies with Mitchell-Lama Rules. Also, the agency lacks a formal system to log and track complaints, which is a concern since most audits are initiated by complaints.

Audit Recommendations

To address these issues, the audit makes 15 recommendations. Among them, we recommend that HPD should:

- Require the retention of the applications review checklist used in the approval or rejection determination and any other income and occupancy eligibility documentation deemed necessary. If the lack of storage space is a matter of concern, HPD should consider electronically imaging and archiving the documentation to alleviate such difficulties.
- Require the periodic review, evaluation, and comparison of vacancy reports, waiting lists, and rent rolls as part of its routine oversight and monitoring activities to identify and address inaccuracies and deficiencies and investigate any reported discrepancies pertaining to the award, transfer, and succession of Mitchell-Lama apartments.
- Implement a formal audit cycle requiring that each housing company be audited at least once every cycle.
- Design and implement a formal risk-identification methodology and indicators to assess and manage the risk of housing companies' noncompliance with Mitchell-Lama Rules governing the award and occupancy of apartments. These measures and indicators should be used to develop the Audit Unit's annual audit plan.
- Implement a system to log, track, and monitor tenant complaints about Mitchell-Lama housing companies and the resolution of those complaints. The system should enable Housing Supervision to categorize complaints (application, safety, repair, heat, etc.) by type and evaluate the complaints to identify frequency of complaint types and the housing companies against which the complaints are made. This information should also be used by both the Audit Unit and the Operations Unit to supplement their monitoring and supervision activities.

HPD Response

Of the 15 recommendations made in this report, HPD generally agreed with ten, partially agreed with one, and generally disagreed with four. The full text of the HPD response is included as an addendum to this report.

INTRODUCTION

Background

The New York City Department of Housing Preservation and Development (HPD) is responsible for protecting the existing housing stock, expanding housing options, and improving the availability, affordability, and quality of housing in the City.

Created in 1955, the Mitchell-Lama program provides affordable rental and limited-equity cooperative apartments to moderate- and middle-income families. Under the program, private developers received tax exemptions and government-financed, low-interest mortgages in exchange for agreeing to build affordable housing with below-market-value rents and purchase prices. As of August 2007, there were 107 City-sponsored, rental and cooperative Mitchell-Lama developments in New York City comprising approximately 47,000 apartment units.¹ HPD is responsible for regulating and overseeing these Mitchell-Lama developments.

Each development is privately owned by housing companies organized under Article 2 of the New York State Private Housing Finance Law (the Mitchell-Lama Law). Managing agents employed by the housing companies are responsible for the day-to-day operation of the Mitchell-Lama developments. These housing companies and their respective managing agents are required to comply with Title 28, Chapter 3, of the Rules of the City of New York (the Mitchell-Lama Rules), promulgated by HPD.

The HPD Division of Housing Supervision (Housing Supervision) is directly responsible for overseeing Mitchell-Lama housing companies. Housing Supervision fully supervises the financial and property management, waiting lists, admission applications, and related matters for 81 of the 107 City-sponsored Mitchell-Lama developments, and shares the supervision of the remaining 26 developments with the U.S. Department of Housing and Urban Development (HUD). (The mortgages of these 26 developments were refinanced and are insured by HUD under §223(f) of the National Housing Act.) For these 26 (HUD-refinanced) developments, HUD supervises financial and property management, and HPD oversees waiting lists and admission issues, along with the billing and collection of surcharges as required by the Private Housing Finance Law and §3-03 of the Mitchell-Lama Rules.

Housing Supervision has two organizational units (Operations and Administrative Services) that are directly responsible for overseeing and supervising Mitchell-Lama developments. The Operations Unit oversees financial and property management of Mitchell-Lama developments. Administrative Services includes (1) an Applications Unit and (2) an Audit Unit, and specifically oversees the award, transfer, and succession of Mitchell-Lama apartments (the focus of this audit).

¹ The New York State Division of Housing and Community Renewal is responsible for regulating and monitoring an additional 189 State-sponsored Mitchell-Lama developments, many of which are in New York City. These state-sponsored developments are outside the scope of this audit.

Mitchell-Lama apartments are rented or sold to eligible persons who previously applied and whose names were placed on waiting lists maintained by each housing company. (There is no master list covering all Mitchell-Lama apartments to which interested persons may apply.) All housing companies, through their managing agents, must maintain numbered or dated waiting lists by apartment size for all applicants, in accordance with the Mitchell-Lama Rules. The waiting lists must be annotated to reflect the status of each application (i.e., who received an apartment, who declined an apartment, who withdrew, or any other circumstances, including dates the actions were taken). There are two types of waiting lists: internal lists that include current tenants who want to move to a larger or smaller apartment, and external lists that include applicants who are not tenants. Those on internal lists are given preference over those on external lists. Each type of list is broken down based on apartment size (studio or one-, two-, or three-bedroom). Periodically, the developments open their waiting lists and accept new applications based on a lottery system. However, waiting lists cannot be opened or closed without prior written approval of HPD. Many Mitchell-Lama waiting lists are currently closed because there are enough applicants to fill vacancies expected in the foreseeable future.

To ensure that eligible applicants are appropriately selected and maintain legal occupancy, the Mitchell-Lama Rules establish the responsibilities of prospective and existing tenants together with housing companies and their respective managing agents. They also describe HPD's role and authority over the award, transfer, and succession of Mitchell-Lama apartments.

In general, any person 18 years of age or older and a bona fide New York State resident may file an application for a Mitchell-Lama apartment in developments with open waiting lists. If approved by the housing company's managing agent and HPD, the person is placed on a list.

When an apartment becomes available, the managing agent will contact (either by mail or telephone) the next group of names appearing on the waiting list for the given apartment size. Applicants must resubmit an application along with documentation to support income eligibility (i.e., certified tax returns and pay stubs) and family composition (i.e., birth certificates or adoption records for dependent children under 21 years of age). If the managing agent approves the application, it submits the application package (application with supporting documentation, including a satisfactory credit history, and, in the case of a cooperative development, a copy of the contract for sale of shares approved by the housing company) to HPD for its approval. The offer (award) of the apartment and either a lease (for rentals) or occupancy agreement (for cooperatives) to the applicant is contingent on HPD's approval. If the applicant is determined ineligible by either the managing agent or HPD, the managing agent must reject the application and advise the applicant in writing. Applicants for HUD-refinanced developments are generally not required to obtain HPD's approval before being awarded an apartment. However, if HPD had previously found a housing company or its managing agent to be in violation of the Mitchell-Lama Rules, HPD may require that such approval be obtained prior to award.

Once awarded an apartment, tenants must occupy the apartment as their primary residence to maintain their eligibility. Each non-subsidized² tenant must also furnish an annual income affidavit attesting to the gross household income, listing all members of the household, and provide proof of income to the managing agent, if required. The income affidavit is used to assess monthly rents or maintenance fees. Unless otherwise prohibited, any family member of a tenant who permanently vacates an apartment can claim succession rights if that family member resided in the apartment for the last two consecutive years and meets other eligibility requirements. Tenants are not allowed to transfer, assign, or sublet their apartments to others unless specifically approved by HPD.

Housing companies or their managing agents must also maintain individual tenant files containing the initial application, credit checks, all income affidavits, tenant leases and occupancy agreements, and other documentation pertaining to tenant eligibility. In addition to providing HPD copies of waiting lists twice each year (or more frequently if requested by HPD), housing companies must also furnish quarterly “Vacancy and Turnover Reports” (vacancy reports) and annual tenant rent roll.

This audit was undertaken based on allegations of irregularities and improprieties in the award and tenancy of Mitchell-Lama apartments.

Objective

The objective of this audit was to assess the adequacy of HPD’s monitoring and supervision of the award, transfer, and succession of apartments at Mitchell-Lama developments to ensure compliance with Mitchell-Lama program regulations.

Scope and Methodology

The audit scope covered calendar years 2004 through 2006. To accomplish our objective, we carried out the following procedures.

To gain an understanding of the Mitchell-Lama program, we reviewed the Mayor’s Management Report, the Executive Budget, and other relevant information obtained from the HPD Web site and other sources. To gain an understanding of the rules and regulations governing the award, transfer, and succession of Mitchell-Lama apartments, as well as HPD’s corresponding role and responsibilities, we reviewed: the New York City Charter, the New York State Consolidated Laws, Article 2, “Private Housing–Limited-Profit Housing Companies,” and the Mitchell-Lama Rules. We also reviewed HPD’s directives to housing companies pertaining to the application of the Mitchell-Lama Rules.

These rules and regulations, along with Comptroller’s Directive #1, “Principles of Internal Controls,” and Directive #5, “Audit of Agency Programs and Operations,” were used as audit criteria to evaluate HPD’s supervision and monitoring of the award, transfer, and

² According to HPD officials, tenants who receive rent subsidies through Sections 8 and 236 of the National Housing Act (1937) and the City’s Senior Citizen Citizens Rent Increase Exemption (SCRIE) programs are not required to submit annual income affidavits.

succession of Mitchell-Lama apartments. In addition, Mayoral Directive 92-3, “Uniform Records Management Practices,” issued April 6, 1992, was used to assess HPD’s records retention practices.

Evaluation of Controls

To gain an overview of HPD’s internal controls, we reviewed HPD’s Directive #1 Financial Integrity Statement filings, which represent agency internal-control self-assessments, that were submitted to the Comptroller’s Office covering calendar years 2005 and 2006. To evaluate the controls involved in HPD’s supervision and monitoring functions, we interviewed officials and personnel of the Applications Unit responsible for reviewing and approving Mitchell-Lama rental and cooperative applications as well as Audit Unit personnel responsible for conducting audits of the Mitchell-Lama housing companies.

We requested HPD’s written policies and procedures for the internal functions followed by Housing Supervision personnel in the Applications Unit and Audit Unit. In the absence of written procedures, we ascertained the procedures followed by these units through interviews of HPD officials and personnel; examination of application-review materials; and walkthroughs of related processes. We also determined whether job functions were adequately segregated and carried out efficiently.

Further, we reviewed previous audits of HPD conducted by the New York State Comptroller’s Office³ and the New York City⁴ Comptroller’s Office and noted findings and conditions in those audits that addressed our audit objectives or other matters relevant to this audit.

As reflected in Table I below, we selected for review 4 of the 107 Mitchell-Lama developments under HPD’s jurisdiction.

Table I
Four Mitchell-Lama Developments Selected for Sampling

Development	Type	Supervising Agency(ies)	No. of Apartment Units	Borough
Chatterton Terrace (a)	Cooperative	HPD	132	Bronx
Clinton Towers(c)	Rental	HPD	396	Manhattan
Keith Plaza (b)	Rental	HPD and HUD	301	Bronx
St. Martin Tower (b)	Cooperative	HPD and HUD	179	Manhattan

(a) HPD supervised City-sponsored development
 (b) HUD-refinanced developments jointly supervised by HUD and HPD
 (c) HDC refinanced development formerly HUD-supervised, now HPD-supervised.

³ Office of the New York State Comptroller, *New York City Department of Housing Preservation and Development Monitoring of New York City Mitchell-Lama Waiting Lists* (Report 2004-N-8), issued August 29, 2005.

⁴ Office of the New York City Comptroller, *The New York City Department of Housing Preservation Development’s Procedures to Track the Performance of the Mitchell-Lama Program* (Audit #ME98-175A), issued May 30, 2000.

Three of the sampled developments—Chatterton Terrace, Clinton Towers, and Keith Plaza were randomly selected, one from each of three separate lists maintained by HPD segregating the 107 developments according to the source of mortgage funding and supervision.⁵ The fourth sampled development, St. Martin’s Tower (HUD-refinanced), was judgmentally selected based on complaints of alleged improprieties regarding tenant eligibility and selection. Since Mitchell-Lama Rules are universally applicable as they pertain to the granting of apartments, we made no distinction between cooperatives and rental developments or their geographic locations in compiling our audit sample.

The results of tests involving the four sampled Mitchell-Lama developments (discussed below) were not projected to their respective populations due to differences in the ownership, management, type (co-op or rental), and size of each development. Nevertheless, the results provided a reasonable basis for us to assess the adequacy of HPD supervision and monitoring of the award, transfer, and succession of apartments at Mitchell-Lama developments.

Evaluation of Applications Unit Activities

To evaluate the adequacy of the Applications Unit’s oversight, we obtained 73 approved tenant applications (12 for Keith Plaza, 19 for Chatterton Terrace, 30 for Clinton Towers, and 12 for St. Martin Tower) along with available waiting lists and vacancy reports maintained by HPD for the four sampled housing companies for calendar years 2004 through 2006.

Beginning with Clinton Towers, the largest development in our sample, we compared the names on the approved applications to the respective waiting lists to determine whether the applicants appeared on the waiting lists, were selected in order, and were awarded the appropriate apartment size (studio, one-, two-, or three-bedroom). We examined the waiting lists, identified names that had been crossed off, skipped, or inserted, and subsequently followed-up with Clinton Towers’ managing agent to determine whether there was sufficient evidence to substantiate these actions. We also examined vacancy reports and compared them to the waiting lists to determine whether apartment vacancies and turnovers (awards) were accurately reported. Inconsistencies were noted on the vacancy reports and followed-up with Clinton’s managing agent to obtain clarification. Further, we obtained and reviewed copies of the rent rolls for the judgmentally-selected month of January for the years 2005 through 2007.

Based on the results of tests conducted at Clinton Towers, we did not perform the exhaustive review and comparison of vacancy reports for Keith Plaza and Chatterton Terrace. Instead, we tested the approved applications kept on file by HPD for 2005 and 2006 by comparing them to the respective waiting lists. We determined whether the applicants appeared on the correct waiting lists and were appropriately selected and awarded the appropriate apartment size. We also determined whether the managing agent had attempted to contact applicants who had been skipped on the waiting lists. Based on the sufficiency of documentation

⁵ HPD maintains three lists categorizing the current 107 Mitchell-Lama developments, including 50 City-sponsored developments supervised by HPD, 26 HUD-refinanced developments jointly supervised by HUD and HPD, and 31 developments formerly HUD-supervised but now HPD-supervised as the result of the refinancing of their mortgages through a City-sponsored program administered by the Housing Development Corporation (HDC).

(i.e., returned unopened mail, certified return receipt cards), we did not attempt to contact any of the skipped applicants. Further, we reviewed the tenant files at the managing agent's office to determine whether the required eligibility documentation was submitted by the applicants.

To ascertain whether the applications and eligibility documentation for the tenants of the awarded apartments were appropriately submitted, reviewed, and approved by HPD, we reviewed files maintained by HPD and the Clinton Towers, Keith Plaza, and Chatterton Terrace developments. For apartments involving succession rights, we reviewed applicant files to determine whether those individuals receiving apartments through succession had been named on the household income affidavits submitted by the primary tenant for at least two years prior to the primary tenants' vacating the apartments as required.

For St. Martin Tower we did not perform the same test of applications as those we carried out for the other sampled developments. The current managing agent took over the day-to-day operation of St. Martin Tower in November 2004 and has worked to reconstruct the waiting lists because its predecessor failed to maintain waiting lists. Therefore, we could not be assured that the waiting lists were complete. Alternatively, as discussed below, we comprehensively examined HPD's audits of the development and reviewed related tenant files maintained by the managing agent.

Evaluation of Audit Unit Functions

To assess the Audit Unit's monitoring of housing companies' compliance with Mitchell-Lama Rules for the rental or sale of Mitchell-Lama apartments, we interviewed the Director and audit staff in the Audit Unit. We evaluated the Audit Unit's: (1) internal framework for selecting and approving the audits of housing companies to be undertaken; (2) methodology, procedures, documentation, and supervision of audits performed; (3) formal communication of audit findings and approval of reports; and (4) procedures for follow up on reported deficiencies. Since most audits are complaint-driven, we also assessed HPD's handling, investigation, and resolution of complaints pertaining to the award and transfer of Mitchell-Lama apartments.

We obtained and reviewed the Audit Unit's "Application Audit Status Report" listing the most recent housing company audits conducted as of June 2006. We calculated the time elapsed since HPD last audited each housing company as of June 2006. In addition, we reviewed the audit reports for the four housing companies in our sample that were completed from 2001 through 2006, and analyzed deficiencies in required documentation cited by apartment number in the audits. To assess the unit's follow-up activities, based on the volume of cited deficiencies, we judgmentally selected the two most recent audits for Clinton Towers and St. Martin Tower, issued in 2005 and 2006, and the most recent audit for Keith Plaza, issued in 2002. The most recent audit for Chatterton Terrace, issued in 2004, reported only a small number of deficiencies—most of which were unrelated to tenant eligibility; that audit was therefore not reviewed. For the selected audits, we met with the managing agents and reviewed tenant files maintained at the developments to determine whether the deficiencies cited in HPD's audits were resolved.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the New York City Comptroller's audit responsibilities as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with HPD officials during and at the conclusion of this audit. A preliminary draft report was sent to HPD officials and discussed at an exit conference held on December 12, 2007. On January 29, 2008, we submitted a draft report to HPD officials with a request for comments. We received a written response from HPD officials on February 13, 2008. Of the 15 recommendations made in this report, HPD agreed with ten, partially agreed with one, and generally disagreed with four others that addressed "Transmittal of Application" forms, implementation of a formal audit cycle, and the routine review and possible automation and analysis of vacancy reports, waiting lists, and rent rolls.

Even though HPD generally agreed with most of the audit recommendations, in its response it seemed to minimize the importance of the audit's overall finding that HPD's monitoring and supervision of the award, transfer, succession, and subsequent retention of apartments at Mitchell-Lama developments does not provide sufficient assurance that housing companies consistently comply with Mitchell-Lama Rules, resulting in a greater than reasonable risk that improprieties and irregularities in the granting and occupancy of apartments at Mitchell-Lama developments could occur and go undetected and uncorrected. HPD stated:

"We would like to thank your team for their professionalism in putting this audit together. We appreciate that you found 'reasonable assurance' that applications are being properly approved and selected from the waiting list and no instances were found that applicants were chosen from the waiting lists inappropriately. We are also pleased to note that your audit findings confirmed that deletions, omissions, and insertions of names on the waiting lists were 'appropriate and in compliance with Mitchell-Lama rules.' Further, your tour of apartments 'confirmed that, indeed, renovation work was occurring' and that the vacancies were justified. Your audit suggested that we improve some of our administrative controls. We address those suggestions in our response and will implement them where feasible. "

While the audit made the statements quoted in its response, HPD erroneously took them out of context to imply that they related to all instances. For example, the results of audit tests only provided reasonable assurance that for three of the four sampled housing companies—Keith Plaza, Chatterton Terrace, and Clinton Towers—the applicants approved by HPD and awarded apartments during the review period were appropriately selected from waiting lists. Further, the audit findings pertaining to deletions, skips or omissions from waiting lists related solely to one of the sampled developments, Clinton Towers. Nevertheless, we are pleased that HPD recognizes the opportunities for and has agreed to make improvements to its oversight and monitoring activities over the award, transfer, and succession of Mitchell-Lama apartments.

The full text of the HPD response appears as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

HPD's monitoring and supervision of the award, transfer, succession, and subsequent retention of apartments at Mitchell-Lama developments does not provide sufficient assurance that housing companies consistently comply with Mitchell-Lama Rules. Therefore, there is a greater than reasonable risk that improprieties and irregularities in the granting and occupancy of apartments at Mitchell-Lama developments could occur and go undetected and uncorrected.

Housing Supervision needs to enhance and strengthen its oversight and monitoring capabilities. Our review determined that the division's internal processes are carried out informally, resulting in inefficiencies. The Applications Unit does not retain documentation to support application approvals to verify that only qualified applicants are approved and awarded apartments; nor does it review available reports or spot check waiting lists on a periodic basis as a means to detect potential irregularities or other questionable matters that may require follow-up.

Housing Supervision's Audit Unit carries out the audit function, which is the primary mechanism HPD uses to assess housing companies' compliance with Mitchell-Lama Rules after apartments are awarded and occupied by tenants. However, Housing Supervision lacks a formal, risk-based approach in developing its audit plan and does not perform application audits of housing companies on a cyclical basis or with sufficient frequency to ensure the consistent compliance of housing companies with Mitchell-Lama Rules. Also, the agency lacks a formal system to log and track complaints, which is a concern since most audits are initiated by complaints.

These weaknesses and deficiencies are discussed in the following sections of this report.

Weaknesses in the Applications Unit

Lack of Documentation to Support Application Approvals

HPD does not maintain applicant eligibility documentation to support the review and final disposition of approved applications for Mitchell-Lama apartments. Therefore, HPD is unable to demonstrate through its records that only qualified applicants were approved and awarded apartments.

Mayoral Directive 92-3, "Uniform Records Management Practices," issued April 6, 1992, states: "Good records management practices: (a) ensure the maintenance of records having continuing administrative, fiscal, legal and historical or research value [and] (b) make possible the efficient processing of information." In addition, Comptroller's Directive #1 states: "control activities should exist at all levels and functions of an agency. They include a wide range of diverse activities such as . . . approvals, authorizations, verifications . . . and the creation and maintenance of related records that provide evidence of the execution of these activities."

When a managing agent submits an application package to the Applications Unit for review, unit personnel examine it to ensure that all required documents have been submitted and that the prospective tenant meets all qualification requirements. All final dispositions (approvals and rejections) are reviewed by the Director of Administrative Services. Subsequently, HPD sends a

“Transmittal of Applications” to the managing agent indicating the action taken by HPD (approval, rejection, or returned for additional information) for each application along with the original application and support documentation. The transmittal constitutes the permanent record of HPD’s decision for each application.

Our review of waiting lists and tenant files at three of the four sampled housing companies—Keith Plaza, Chatterton Terrace, and Clinton Towers—provided reasonable assurance that the 61 applicants approved by HPD and awarded apartments at these developments, during calendar years 2004 through 2006, were appropriately selected from waiting lists and submitted the required income eligibility and family composition documentation. (We did not test the 12 approved applications for St. Martin Tower because neither HPD nor the housing company maintained sufficient documentation to perform such testing.)

Nevertheless, we found that HPD’s internal procedures for documenting the review and disposition of applications are inconsistent and do not provide for the efficient preservation of necessary records. HPD’s standard procedure is to retain complete records for applications that are rejected. We sampled two rejected applications and noted that HPD retained a copy of the review checklist, the application, and eligibility documentation to substantiate and justify the decision to reject the application. However, for the 61 approved applications we reviewed, HPD retained copies of only the applications and the “Transmittal of Applications” notices that were sent to the managing agents. According to Housing Supervision officials, the eligibility documentation for the approved applications was returned to the management company, and the review checklists were discarded; therefore, HPD had no evidence to substantiate the eligibility documentation submitted and reviewed by Applications Unit personnel or to substantiate the decision to approve the application and to verify that only qualified applicants were approved.

Other inconsistencies in the application review and determination process include that the application review checklist does not provide space for recording the names, signatures, dates, and comments of personnel responsible for reviewing and rejecting the application. In addition, neither supervisory personnel nor the staff member responsible for reviewing an application and making a decision either signed or dated the “Transmittal of Applications” sent to the managing agents. Therefore, there was no evidence to support, or any accountability for, Housing Supervision’s decisions to approve tenant applications. Such evidence may be vital in defending HPD and the City in the event that an application is erroneously approved and legal proceedings are filed.

Recommendations

HPD should:

1. Redesign the application review checklist to provide for the printed name, signature, and dates of reviewers, approvers, and supervisory personnel involved in the final determination of tenant applications.

HPD Response: HPD agreed, stating: “HPD will redesign the application review check list to include name, signature and date of HPD staff members who reviewed and approved documentation in support of approved application[s].”

2. Ensure that all “Transmittal of Applications” forms are signed and dated by personnel responsible for reviewing and rendering the final decision on applications.

HPD Response: HPD generally disagreed, stating: “The transmittal sheets are being redesigned to avoid confusion. This document is intended to be an information sheet to HPD staff identifying applicant and if the application is an internal or external application. The final decision of disposition of application is contained on the application only.”

Auditor Comment: The current “Transmittal of Applications” form used by HPD to communicate to the managing agents the action(s) taken by HPD (approval, rejection, or returned for additional information) for each application provides additional documentary evidence of HPD’s actions, especially if signed by the preparer. As we state in the report, without this and other documentation there is no accountability for Housing Supervision’s decisions to approve tenant applications. Further, HPD will relinquish a good control by redesigning the transmittal sheet and not requiring its personnel to sign the form.

3. Require the retention of the applications review checklist used in the approval or rejection determination and any other income and occupancy eligibility documentation deemed necessary. If the lack of storage space is a matter of concern, HPD should consider electronically imaging and archiving the documentation to alleviate such difficulties.

HPD Response: HPD agreed, stating: “HPD will retain the redesigned Application Review Check List, redesigned transmittal sheet, and application. In addition, rejected applications will continue to be retained in their entirety in the event of litigation. The recommendation to retain all supporting documentation for all applications is not feasible as a result of the volume of applications that we receive annually.”

Lack of Review of Waiting Lists, Vacancy Reports, and Rent Rolls

Our review of available vacancy reports, waiting lists, and rent rolls submitted to Housing Supervision by the four sampled housing companies disclosed that neither the Applications Unit nor the Audit Unit periodically evaluate and analyze the submitted documentation as part of their routine oversight and monitoring activities of the granting of Mitchell-Lama apartments and continued eligibility of current tenants. In addition, we found that the Applications Unit does not have an adequate control in place (e.g., spot check waiting lists on a periodic basis) to detect and identify potential irregularities and other questionable matters that may require follow-up.

Comptroller's Directive #1 states: "Effective internal control provides a necessary and continuing surveillance over various processes. . . . Agency management must perform continual monitoring of activities and programs."

The Mitchell-Lama Rules require housing companies or their managing agents to submit to HPD waiting lists semi-annually, vacancy reports quarterly, and rent rolls of current tenants annually, or more frequently if requested by HPD. Vacancy reports and rent rolls are primarily used by the Operations Unit as part of its oversight and monitoring of housing companies financial and property management. Housing Supervision also reviews these documents, but only on an as-needed basis. Waiting lists are generally used by the Applications Unit when reviewing applications to verify that applicants are selected appropriately from the lists. The Audit Unit reviews rent rolls, tenant files, and waiting lists as part of their audit tasks to determine compliance with Mitchell-Lama Rules. However, the auditors will generally request and review current information at the managing agents' offices when undertaking audits. Aside from these uses, Housing Supervision does not go further to routinely evaluate the information submitted by the managing agents as part of a regular monitoring procedure (i.e., comparison of vacancy reports, waiting list, and rent rolls), which would enable it to identify potential discrepancies or irregularities (e.g., multiple vacant apartments, or frequent and unexplained deletions, skips, and insertion of names on waiting lists) requiring further investigation.

Through our examination of vacancy reports, waiting lists, and rent rolls for Clinton Towers provided by HPD, we identified potential irregularities that warranted further investigation. For example, we identified 18 apartments that had remained vacant for several months. Concerned that a block of apartments was not being made available to eligible tenants, we met with the managing agent who informed us that all of the apartments in question had remained vacant because they were undergoing renovation. We toured and observed each of the apartments and confirmed that, indeed, renovation work was occurring. We also identified names on the waiting lists that had been crossed off, skipped, or inserted. Based on a meeting with Clinton Tower's managing agent and a review of additional supporting documentation, we were reasonably assured that the actions taken on the waiting list (deletions, skips, and insertion of names) were appropriate and in compliance with Mitchell-Lama Rules. Nevertheless, since Administrative Services does not review these documents as part of a regular monitoring process, it was not aware of these or any other potential irregularities that may exist.

At the exit conference held on December 12, 2007, HPD officials said that their Application Reviewers examine waiting lists whenever applications are submitted by the management companies for HPD approval to ensure that the applicants are appropriately selected. They also said that the Reviewers will investigate any instances in which a name is crossed-off, skipped, or inserted on a list. Nevertheless, since HPD does not maintain documentation of their application and waiting list reviews, there was no evidence from which to determine the depth or adequacy of the Reviewers' investigations, or whether they were done at all.

Rather than limiting the review of waiting lists to the review of new applications, HPD could enhance and strengthen its oversight and monitoring activities of housing companies' compliance by routinely reviewing and analyzing vacancy reports, waiting lists, and rent rolls

and appropriately following up on potential irregularities. Without performing such a review, HPD forgoes an important tool to ensure that housing companies are granting apartments only to eligible tenants in accordance with Mitchell-Lama Rules and is hindered in preventing improprieties in the granting and occupancy of Mitchell-Lama apartments.

Recommendation

Housing Supervision should:

4. Require the periodic review, evaluation, and comparison of vacancy reports, waiting lists, and rent rolls as part of its routine oversight and monitoring activities to identify and address inaccuracies and deficiencies and investigate any reported discrepancies pertaining to the award, transfer, and succession of Mitchell-Lama apartments.

HPD Response: HPD generally disagreed, stating “HPD performs this recommended review at the time of the Application Audit.”

Auditor Comment: Even though Housing Supervision’s Audit Unit performs such a review with each application audit, it is not done periodically. Therefore, since several years may elapse between audits, the potential for irregularities to go undetected is significant. HPD could better manage this risk and strengthen its oversight activities by routinely reviewing, evaluating, and comparing vacancy reports, waiting lists, and rent roles.

Weaknesses in Housing Supervision Audit Unit

Housing Supervision’s Audit Unit carries out the audit function, which is the primary mechanism used by HPD to assess housing companies’ (and their managing agents’) compliance with Mitchell-Lama Rules after apartments are awarded and occupied by tenants. However, Housing Supervision lacks a formal, risk-based approach to developing its audit plan and does not perform application audits of housing companies on a cyclical basis or with sufficient frequency to determine whether housing companies consistently comply with Mitchell-Lama Rules. The division does not ensure that cited deficiencies are investigated and resolved in a timely manner, especially deficiencies that strongly indicate improprieties or irregularities in the granting and occupancy of Mitchell-Lama apartments. In addition, the Audit Unit does not maintain audit working papers to support audit findings and conclusions. Further, the agency lacks a formal system to log and track complaints, which is a concern since most audits are initiated by complaints. These weaknesses are discussed in greater detail below.

Insufficient Audit Frequency

Housing Supervision does not perform application audits of housing companies with sufficient frequency to provide strong and “continual monitoring of activities and programs,” as required by Comptroller’s Directive #1. The Audit Unit employs four full-time auditors, one supervisor, and two clerical staffers. Housing Supervision undertakes audits primarily on the basis of complaints rather than on a regular or cyclical basis. While being responsive to complaints is

important, reliance on complaints alone does not provide assurance of the routine compliance of housing companies with Mitchell-Lama Rules, particularly those governing the granting and succession of apartments.

Housing Supervision maintains files containing the audit reports and associated correspondence for each housing company; however, it does not maintain a control or master record detailing the audits conducted each year. Therefore, the frequency of audits of each housing company could not readily be determined. Instead, we reviewed the Audit Unit's "Application Audit Status Report," which reflected the most recent audits performed of each housing company, as of June 30, 2006.

Our review of the Status Report, disclosed that as of June 30, 2006, 7 of the 107 (81 HPD-supervised and 26 HUD-HPD supervised) Mitchell-Lama developments either had been omitted from the status report (Albert Einstein, Beekman Staff, FIT, and Park Lane Apartments) or had been listed on the report as never having been audited (DCA Central, Montefiore, and Northside Gardens). Also, a significant amount of time had elapsed since Housing Supervision last audited several other housing companies. The status report contained measurable dates for 95 of the remaining 100 housing companies.⁶ As reflected in Table I below, as of June 30, 2006, 44 (46%) of the 95 developments were audited within three years of June 30, 2006, (i.e., between July 1, 2003, and June 30, 2006). The remaining 51 (54%) developments were last audited from 3 years to 13.3 years prior to June 30, 2006, (between March 30, 1993, and June 30, 2003).

⁶ Five of the 100 housing developments recorded on the HPD "Application Status Report" as undergoing an audit did not have measurable dates to calculate the time elapsed since last being audited by HPD. These developments included the Village View, Tilden Towers II, Dennis Lane, Dayton Beach, and Rosalie Manning developments.

Table I
Aging of the Most Recent Audits of 95 Mitchell-Lama Developments
Recorded on the Housing Supervision “Application Audit Status Report”
(With Measured Dates) as of June 30, 2006

Time Elapsed Since Last Audit ⁽¹⁾	All 95 Developments		HPD-Supervised Developments		HUD-HPD-Supervised Developments ⁽²⁾	
	Quantity	Percent	Quantity	Percent	Quantity	Percent
Less than 1 Year (7/1/05 to 6/30/06)	17	18%	12	17%	5	21%
Over 1 Year up to 3 Years (7/1/2003 to 6/30/2005)	27	28%	19	27%	8	33%
Subtotal- 3 Years or Less	44	46%	31	44%	13	54%
Over 3 Years up to 6 Years (7/1/2000 to 6/30/2003)	33	35%	29	41%	4	17%
Over 6 Years up to 9 Years (7/1/1997 to 6/30/2000)	5	5%	2	3%	3	12%
Over 9 Years up to 13.3 Years (3/30/93 to 6/30/1997) ⁽³⁾	13	14%	9	12%	4	17%
Total	95	100%	71	100%	24	100%

(1) Measured from the later of the report mailing date or the last day of fieldwork—the dates captured in the status report.

(2) Two of the 26 HUD-refinanced housing companies jointly supervised by HPD and HUD were among the developments either not audited or not recorded on the status report by HPD. They include Park Lane Apartments and Beekman Staff.

(3) March 30, 1993, is the earliest date of the later of the report mailing date or last day of fieldwork used to calculate the time elapsed since last audit performed.

Regarding the 26 HUD-refinanced developments jointly supervised by HUD and HPD, our analysis showed that two developments were never audited or recorded on the status report. As reflected in Table I above, of the 24 jointly-supervised developments that were audited, as of June 30, 2006, only 13 (54%) had been audited between July 1, 2003, and June 30, 2006. Housing Supervision last audited the remaining 11 (46%) developments from 3 to 13.3 years prior to June 30, 2006, (between March 30, 1993, and June 30, 2003). This finding is of particular concern, since these housing developments are generally not required to submit tenant applications and claims for succession rights to HPD for approval, unless explicitly directed to do so. Without ensuring the timely conduct of audits, HPD is limited in its ability to ensure that the companies routinely comply with Mitchell-Lama Rules.

At the exit conference, HPD officials provided the auditors with a copy of a June 30, 1997 audit report for the Park Lane Apartments development, a HUD-HPD-supervised development. However, we had no prior knowledge of this earlier audit; and since the audit had not been recorded on the Application Status Report (as of June 30, 2006), it was not included in our analysis. Nevertheless, the results of our tests clearly demonstrate that HPD does not perform audits of Mitchell-Lama housing companies in a timely manner or with sufficient frequency.

According to Housing Supervision officials, in certain instances, the Audit Unit may audit particular housing companies with greater frequency because of continuing problems (lack of compliance or complaints) or failure to address cited deficiencies. For example, we noted that HPD

conducted four separate audits of Clinton Towers and four audits of St. Martin Tower (two of the four sampled developments) between 2001 and 2006. According to Housing Supervision officials, the frequency of audits of these two housing companies was due to continuing problems.

Even though the frequency of audits of each housing company could not readily be assessed, our analysis clearly indicated that audits of housing companies are not performed with sufficient frequency or on a cyclical basis to provide reasonable assurance of widespread and routine compliance with Mitchell-Lama Rules governing the granting of apartments and continued tenant eligibility.

Considering the increasing demand for affordable housing throughout the City, HPD needs to do more to ensure audits are performed with sufficient frequency. The longer the time elapsed since Housing Supervision last audited particular housing companies, the greater the risk of noncompliance with Mitchell-Lama Rules, particularly those governing the award, transfer, and succession of apartments.

20 Percent of Cited Audit Deficiencies Not Resolved

Housing Supervision does not ensure that all reported audit deficiencies are promptly resolved (corrected or investigated), as required by Comptroller's Directive #1. As a result, deficiencies, including those with strong indications of potential improprieties or irregularities in tenant eligibility and occupancy, remained unresolved.

Upon analyzing the deficiencies cited in the two most recent audits for Clinton Towers and St. Martin Tower and the most recent audit for Keith Plaza, we met with the managing agents and reviewed tenant files maintained at each development to determine whether the deficiencies were resolved. Our review (reflected in Table II below) disclosed that 20 percent of the reported deficiencies were not satisfactorily addressed.

Table II
Status of Deficiencies Cited in Housing Supervision Audits

Development	Audit Issue Date	Cited Deficiencies				
		Quantity Reported	Quantity Resolved	Percent Resolved	Quantity Not Resolved	Percent Not Resolved
Clinton Towers	5/23/05	36	32	89%	4	11%
	11/8/06	63	50	79%	13	21%
St. Martin Tower	7/21/05	28	12	43%	16	57%
	11/19/06	31	23	74%	8	26%
Keith Plaza	9/18/02	48	47	98%	1	2%
Total		206	164	80%	42	20%

While our review of tenant files provided reasonable assurance that 164 (80%) of the 206 deficiencies cited in the sampled audits were satisfactorily addressed, it raised concerns about

problems associated with the unresolved deficiencies. As shown in Table III below, those problems indicate potential violations of Mitchell-Lama rules pertaining to eligibility and occupancy.

Table III
Problem Associated with Unresolved Deficiencies Cited in Housing Supervision Audits

Development	Qty Unresolved Deficiencies	Tenant Application and/or Eligibility)*	Succession Rights*	Primary Residence*	Income affidavit	Other
Clinton Towers	17	3	2	1	8	3
St Martin Tower	24	7	1	7	8	1
Keith Plaza	1	0	1	0	0	0
Total (Percent)	42 (100%)	10 (24%)	4 (9.5%)	8 (19%)	16 (38%)	4 (9.5%)

* Note: These problems pertain to tenant eligibility.

As reflected in Table III above, 22 (52.5%) of the 42 cited deficiencies that remained unresolved pertained to tenant eligibility (i.e., missing or incomplete tenant applications or eligibility documentation, inadequate proof of succession rights, and missing documentation or discrepancies concerning the primary residence of the tenant or child). At the exit conference, HPD officials said that the single remaining deficiency for Keith Plaza has remained unresolved because of an ongoing court case. Aside from that deficiency, each of the matters noted above may be indications of the illegal occupancy of a Mitchell-Lama apartment by an ineligible person or the occupancy of an apartment larger than the tenant is qualified for.

Another 16 (38%) of the unresolved deficiencies were related to tenants' failure to submit income affidavits or to submit completed and accurate income affidavits. Tenants are required to submit a notarized income affidavit each year listing all members of the household and all sources of household income. The tenant's rent or maintenance charge is determined based on household income. If a tenant fails to submit the required income affidavit, the Mitchell-Lama Rules allow the housing company to charge a 50-percent surcharge to the monthly rent or maintenance fees. In addition, the income affidavit serves to evidence household members in the event succession rights are claimed. The four remaining deficiencies dealt with other, lesser matters dealing with the notification status of eviction proceedings and a required correction on a rent roll.

As discussed earlier, the St. Martin's Tower development was selected for our sample based on complaints. In addition, Housing Supervision officials stated that the development had a history of problems. In November 2004, a new managing agent was hired to take over the day-to-day operation of the development to replace the predecessor agent that failed to comply with Mitchell-Lama Rules governing waiting lists, vacancy reports, and tenant files.

Although St. Martin has been a HUD-refinanced development, since November 2004 Housing Supervision has required the housing company to submit all new and transfer applications for apartments to be submitted to the Application Unit for approval. Even though

(according to Housing Supervision officials) the Applications Unit's approval has provided greater supervision over the granting of apartments at St. Martin's, it does not ensure that reported audit deficiencies are corrected or investigated, especially those deficiencies that are strong indications of potential improprieties or irregularities in tenant eligibility and occupancy.

For example, regarding two of the seven unresolved cited deficiencies at St. Martin's that related to primary residency, we noted that while the tenants had submitted the annual income affidavit as required, the documents had been certified out of state. Subsequently, we conducted a search of public records for the tenants and residents of the apartments. For one apartment we found that the tenant was registered to vote in New York State using the Mitchell-Lama apartment address. However, the tenant maintained a residence in another state and had a vehicle registered in and a driver's license issued by that state. These findings gave strong evidence that the tenant's primary residence was not the Mitchell-Lama apartment, as required by the Mitchell-Lama Rules, but rather the out-of-state address since as early as 1990. For the second apartment, we found that the tenant also had an out-of-state address.

Following the exit conference, HPD officials informed us that they had received proof of current primary residence documentation for both tenants, sufficient to resolve the audit findings. Further, they stated that if the tenants had, in fact, not used their apartments appropriately in the past, and legal action had been brought against them, "based on the current information, the defect would be found 'cured' and no legal action would be upheld."

While HPD has determined that the matter involving these two tenants is closed, it needs to be more aggressive in identifying and investigating strong indications of potential improprieties involving tenants of Mitchell-Lama apartments that are repeatedly cited in HPD audits and who fail to resolve cited deficiencies.

Lack of a Formal Risk-Based Audit Plan

In addition to lacking a cyclical schedule for performing audits, Housing Supervision lacks a formal risk-based approach to developing its annual audit plan. Therefore, HPD fails to effectively manage the risk associated with potential irregularities and improprieties over the granting and occupancy of Mitchell-Lama apartments in violation of Mitchell-Lama Rules.

Housing Supervision does not perform a formal risk assessment or have formal risk identification methods, such as qualitative and quantitative rankings, measurements or indicators, for assessing the risk of housing companies' noncompliance with Mitchell-Lama rules and target audits accordingly. Instead, the development of Housing Supervision's audit plan is rather informal. Audits are generally based on complaints, which are not formally tracked and are addressed on a case-by-case basis.

By designing and implementing formal indicators and measurements (apartment turnover, number of apartments awarded, number of complaints, number of applications, number of vacancies, years since last audited, number of unresolved audit findings, etc.) for identifying and assessing risk to assist in developing its annual audit plan, Housing Supervision could better

target its audit efforts and manage the risk of improprieties and irregularities occurring in the granting and occupancy of Mitchell-Lama apartments.

Recommendations

Housing Supervision should:

5. Implement a formal audit cycle requiring that each housing company be audited at least once every cycle.

HPD Response: HPD generally disagreed, stating: “HPD will use formal criteria to develop an audit plan based upon risk factor[s] as the primary issue, date of last audit, and staff ability.”

Auditor Comment: While “risk factors,” the “date of last audit” and staff ability are important considerations for developing an audit plan, HPD could better ensure that every housing company is audited periodically by implementing an audit cycle and performing an audit of each housing company at least once each cycle, or more frequently as deemed necessary. Further, by scheduling audits based on a prescribed audit cycle HPD could more efficiently address staffing issues.

6. Establish a central record (i.e., database or spreadsheet) to track all Housing Supervision application audits, along with the housing companies and relevant dates the audits were performed and issued.

HPD Response: HPD agreed, stating: “HPD is in the process of establishing a central database to track Housing Supervision audits. Current information is being entered and will contain information on an ongoing basis.”

7. Ensure that reported audit deficiencies are corrected or investigated, especially those deficiencies that are strong indicators of potential improprieties or irregularities in tenant eligibility and occupancy.

HPD Response: HPD agreed, stating: “HPD does ensure that audit deficiencies are corrected. All 4 developments cited in the Comptroller’s audit have been resolved as of the data of this response.”

8. Design and implement a formal risk-identification methodology and indicators to assess and manage the risk of housing companies’ noncompliance with Mitchell-Lama Rules governing the award and occupancy of apartments. These measures and indicators should be used to develop the Audit Unit’s annual audit plan.

HPD Response: HPD agreed, stating: “HPD will establish a risk-identification methodology as described in recommendation 5.”

Lack of a System to Log the Receipt, Assignment, And Resolution of Complaints

Housing Supervision officials stated that complaints about Mitchell-Lama developments are received via mail, phone, e-mail, and the City's 311 Citizen Service Center. Complaints about property management are generally forwarded to property managers in the Operations Unit. Complaints addressing tenancy issues (improper tenant selection, inappropriate apartment awards, illegal sub-lets, etc.) are forwarded to the Applications Audit Unit and form the primary basis for undertaking audits of housing companies. According to Housing Supervision officials, all documented complaints (those received via mail and otherwise documented) are kept on file. However, Housing Supervision does not have a formal system to log the receipt of complaints and track their assignment and subsequent resolution. Consequently, Housing Supervision has no ability to track the total number of complaints received in any given year and those that result in an audit, or to evaluate the frequency of complaints lodged against particular housing companies.

Comptroller's Directive #1 requires agencies to have a process to obtain periodic customer feedback, such as receiving complaints, and to review and address such complaints, when necessary. The Directive also states: "Agency management must perform continual monitoring of activities and programs. . . . Separate evaluations should be utilized to focus directly on a control's effectiveness in a specific time frame."

Housing Supervision officials stated that all documented complaints pertaining to Mitchell-Lama developments are kept on file. They also stated that "thousands" of complaints are received each year about Mitchell-Lama developments and cover a broad spectrum of issues. Further, they asserted that Housing Supervision is responsive to complaints, but that not all complaints can be addressed or warrant follow-up. Instead, they said, complaints are handled on a case-by-case basis, and, if warranted, may result in an audit. Housing Supervision's Director of Administrative Services collects and reviews complaints as they are received and determines which complaints warrant the Audit Unit to initiate an audit. However, Housing Supervision does not log complaints as they are received and does not maintain a master record summarizing by development the number and types of complaints. Therefore, the actual number of complaints dealing with apartment award and tenancy issues could not readily be identified.

Despite being cited for this very weakness in two prior external audits, first in the City Comptroller's audit report, issued May 30, 2000, and again in the State Comptroller's audit report, issued August 29, 2005 (previously discussed), Housing Supervision has not implemented a system to log and track complaints pertaining to Mitchell-Lama developments. The lack of such a system, therefore, prevented us from testing Housing Supervision's responsiveness in addressing complaints, particularly those about the award, transfer, or succession of Mitchell-Lama apartments.

In addition to the informality in the handling of complaints, the lack of segregation of duties involving the receipt, review, and decision to act on a complaint raised further concerns. We learned that the Director of Administrative Services, who oversees both the Applications Unit and the Audit Unit, is the primary person who receives and reviews complaints, decides

whether a complaint warrants an audit, and ultimately approves audit findings reported to the housing companies. Comptroller's Directive #1, states: "No one individual should control all key aspects of a transaction or event requires. . . . Key duties and responsibilities need to be divided or segregated among different staff members to reduce the risk of error or fraud."

Without a formal system to log complaints and monitor their resolution, Housing Supervision is not able to perform continuous monitoring of housing companies against which complaints are made. Moreover, it is unable to effectively evaluate and focus attention on housing companies that receive a high volume of complaints. Therefore, HPD management is hindered in its ability to use tenant complaints as a tool to gauge housing companies' compliance, significantly increasing the likelihood that potential irregularities and improprieties could occur and could go undetected in the granting and succession of Mitchell-Lama apartments.

Recommendations

Housing Supervision should:

9. Implement a system to log, track, and monitor tenant complaints about Mitchell-Lama housing companies and the resolution of those complaints. The system should enable Housing Supervision to categorize complaints (application, safety, repair, heat, etc.) by type and evaluate the complaints to identify frequency of complaint types and the housing companies against which the complaints are made. This information should also be used by both the Audit Unit and the Operations Unit to supplement their monitoring and supervision activities.

HPD Response: HPD partially agreed, stating: "The Administrative Services Unit will establish a tracking system for written complaints regarding award, transfer and succession rights issues in City Mitchell- Lama developments".

Auditor Comment: As we note in the report, HPD officials consider documented ("written") complaints as those that are received via mail and otherwise documented (i.e., via E-mail). Even though HPD agreed to develop a tracking system for "written complaints," it is unclear about whether the system would track complaints received through the City's 311 Service Center, which (as noted by HPD officials during the audit) is the major source of complaints. Without maintaining a master record of all complaints, HPD cannot be assured that all complaints are addressed and resolved, and would be hindered in identifying housing companies that have a high volume of complaints.

10. Segregate the key responsibilities concerning the receipt, review, and determination to act on complaints.

HPD Response: HPD agreed, stating: "Housing Supervision will change its procedures regarding complaints received that generate an Application Audit and the issuance of audit findings in response to the complaint."

Audit Documentation Not Retained

Housing Supervision does not retain audit documentation (working papers) to support the application audits conducted of Mitchell-Lama housing companies.

According to the Housing Supervision officials, once an audit report has been reviewed and approved for final release to the respective housing company, the audit working papers are discarded. Therefore, there is no evidence to assess whether audit findings were appropriately supported, reviewed, and reported. Moreover, Housing Supervision maintains no evidence to substantiate that all reported deficiencies were resolved.

Audit documentation serves to (1) provide the principal support for the auditors' report, (2) aid auditors in conducting and supervising the audit, and (3) allow for the review of audit quality. Audit documentation can also provide legal support in fraud cases and lawsuits. In the absence of audit documentation to support auditing and follow-up activities, HPD cannot demonstrate that it is using consistent criteria in evaluating the performance of the various Mitchell-Lama housing companies.

Recommendations

Housing Supervision should:

11. Ensure that uniform documentation (working papers) is retained to support audit findings and conclusions.

HPD Response: HPD agreed, stating: "Forms currently exist for auditor's use when performing their review. These forms will be retained in the future."

12. Retain audit documentation in accordance with City records-retention requirements.

HPD Response: HPD agreed, stating: "Housing Supervision will retain supporting documentation to audit findings and once the audit is resolved will forward the documents to HPD's records retention storage system."

Lack of Written Policies and Procedures

HPD lacks formal, written policies and procedures to comprehensively address and establish standards for all aspects of the agency's monitoring and supervision activities of Mitchell-Lama housing companies, particularly those governing the award, transfer, and succession of apartments carried out by the Housing Supervision's Applications and Audit Units.

Comptroller's Directive #1 states: "Internal control activities . . . are, basically, the policies, procedures, techniques, and mechanisms used to enforce management's direction. They must be an integral part of an agency's planning, implementing, review and accountability for stewardship of its resources is vital to its achieving the desired results." The directive also

requires that internal controls be documented in management administrative policies or operating manuals that are communicated to appropriate personnel.

In response to our request to review HPD's written procedures governing the internal functions and processes followed by Housing Supervision's personnel, particularly those of the Applications and Audit Units, HPD officials asserted that the Mitchell-Lama Rules are used in place of formal written procedures, since the Rules address HPD's roles and responsibilities governing the oversight and supervision of Mitchell-Lama developments.

HPD is mistaken in contending that the Rules can take the place of internal written procedures. The Rules establish HPD's authority and provide general guidance for HPD in overseeing compliance. However, the Rules are primarily geared to establishing the responsibilities and requirements for housing companies, managing agents, applicants for new or transfer apartments, and tenants claiming succession rights to Mitchell-Lama apartments. The Rules neither explicitly state nor clearly establish the procedures to be followed by HPD personnel. More specifically, they do not establish nor do they provide for the internal tasks, mechanisms, or processes followed by HPD personnel in performing their jobs, especially those involved in the monitoring and supervision of the award, transfer, and succession of Mitchell-Lama apartments.

Housing Supervision's lack of formal written policies and procedures is a chronic, internal control weakness that management has ignored for a number of years. The same condition was cited in a previous New York City Comptroller's audit report, issued May 30, 2000, and again in a New York State Comptroller's audit report, issued August 29, 2005. Moreover, in the agency's self-assessment of its internal controls for calendar years 2004, 2005, and 2006, performed and submitted to the Comptroller's Office, as required by Comptroller's Directive #1, HPD acknowledged that it was only partially compliant in having developed formal written policies and procedures.

Written policies and procedures, whether required by laws or regulations, are recognized as good operating practices necessary to accomplish the mission of the organization. They provide an organization with assurance that every person involved in a process within the organization understands the mission of the organization, the tasks that are to be accomplished, and the acceptable methods to be used in performing those tasks. They also provide an effective mechanism for training and evaluating the performance of staff in their duties. By not maintaining comprehensive, written policies and procedures, HPD management has no assurance that policies and procedures are properly communicated and consistently followed. Also, there is no assurance that new personnel have adequate guidance in carrying out their assigned duties.

Recommendation

HPD should:

13. Develop a comprehensive policies and procedures manual that addresses all internal processes and functions carried out by the Housing Supervision and distribute the

manual to appropriate personnel. The manual should be updated periodically to address newly implemented or revised procedures.

HPD Response: HPD agreed, stating: “A Policies and Procedures Manual will be created for the Application Unit and the Application Audit Unit.”

Other Matters

Information Technology Could Enhance Oversight Activities

Housing Supervision would be aided if it utilized information technology to enhance its oversight and monitoring activities of the award, transfer, and succession of Mitchell-Lama apartments.

One of the key implications of the Mayor’s information-technology initiatives, as elaborated in a report entitled *New York City Information Strategic Direction 2006-2007*, is to “continue to automate processes that are not automated today. The City continues to have a significant amount of manual processing. The goal of the City is to become as paperless as possible.”

In its “Agency Financial Integrity Statements” for calendar years 2005 and 2006 that HPD submitted to the Comptroller’s Office, HPD elaborated on several technological and strategic development projects. Some of these projects included enhancements of the HPD network infrastructure and the migration of older legacy systems to client-server and Web-based environments as part of HPD’s objective to “establish a single data-centric repository: an environment where data resides in one place only but is used by many.”

Despite HPD’s reported technological projects, Housing Supervision relies primarily on the manual review of documentation and paper reports submitted by the housing companies, a system that has apparently remained unchanged for many years. While Housing Supervision officials believe that the current process for handling documentation is adequate to meet the division’s mandate, we found it lacking and inefficient.

According to Housing Supervision officials, each month it reviews an average of 165 applications with corresponding eligibility documentation. The review process requires both Applications Unit and housing company personnel to spend a significant amount of time reviewing documentation. HPD could facilitate this process and create greater efficiency by automating the administration of waiting lists.

The New York State Division of Housing and Community Renewal (DHCR), which supervises State-sponsored Mitchell-Lama developments, has developed an Automated Waiting List System (AWL) system that uses Internet technology to enable DHCR and the Mitchell-Lama housing companies under its jurisdiction to manage the tenant selection process more efficiently and effectively. The AWL system automates both the manual waiting lists used by housing companies for tenant selection and the review and approval process employed at DHCR. The waiting lists are replaced with an electronic database that is stored at DHCR and accessible

over the Internet to both DHCR and housing companies. The system enables housing companies to generate prioritized waiting lists and allows DHCR to view a complete history of all application transactions before requests are approved.

A DHCR official told us that, overall, the AWL system has streamlined the administration of waiting lists and enhanced DHCR's ability to monitor the tenant selection process. We learned that HPD had approached DHCR to inquire about the AWL system. However, as of the end of audit fieldwork there was no evidence that HPD was considering or had plans to implement such a system. HPD could streamline the administration of waiting lists and enhance its own ability to monitor tenant selection if, with properly designed controls, it implemented a system similar to AWL used by DHCR, and required housing companies to automate the submission of waiting lists.

The Audit Unit spends a great deal of time handling and reviewing paper and files. Housing Supervision could enhance and strengthen its audit capabilities and provide for the periodic review and the evaluation of housing company information if it automated the reporting of vacancies, rent rolls, and tenant eligibility. Further, such use of technology could create greater efficiency in its monitoring activities, foster greater frequency of housing company audits, provide for continuous monitoring, and enhance the Operations Unit's oversight and monitoring of the financial and property management of Mitchell-Lama developments.

Recommendations

Housing Supervision should:

14. Evaluate the feasibility of adopting and implementing an automated waiting list system to streamline the maintenance and updating of waiting lists.

HPD Response: HPD agreed, stating: "Housing Supervision will continue to evaluate the feasibility of implementing an automated waiting list."

15. Meet with HPD's Information Technology department to discuss automating housing company submissions (waiting lists, rent rolls, vacancy reports, etc.) and establishing a database to enable the analysis of reported data.

HPD Response: HPD disagreed, stating: "City Mitchell-Lama developments maintain their records in a variety of formats ranging from propriety computer programs to manual record keeping. The recommendation to automate housing company submissions for the purpose of establishing a database for analysis is not feasible."

Auditor Comments: Considering Housing Supervision's existing constraints and inefficiencies, HPD should seek out opportunities to maximize and improve the division's oversight and monitoring activities of Mitchell-Lama developments, including utilizing information technologies to streamline time-consuming, labor-intensive, manual tasks and analysis. Accordingly, we reaffirm our recommendation.



City of New York
DEPARTMENT OF
HOUSING PRESERVATION AND DEVELOPMENT
100 GOLD STREET, NEW YORK, N.Y. 10038
nyc.gov/hpd

SHAUN DONOVAN
Commissioner

February 12, 2008

John Graham
Deputy Comptroller for Audits, Accountancy & Contracts
Office of the New York City Comptroller
1 Centre Street- Room 530 South
New York, New York 10007-2341

**Re: Audit on the Monitoring of the Award, Transfer, and Succession of Mitchell Lama
Apartments by the Department of Housing Preservation and Development
Audit Number: MJ 06-134A**

Dear Mr. Graham:

The following represents the Department of Housing Preservation and Development's response to the recommendations made in your audit on the Monitoring of the Award, Transfer, and Succession of Mitchell Lama Apartments by the Department of Housing Preservation and Development.

If you have any additional questions, please call Deputy Commissioner Bernard Schwarz at 863-6610.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Shaun Donovan".

Shaun Donovan



AUDIT RESPONSE
 NEW YORK CITY COMPTROLLERS AUDIT
 NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
 MONITORING OF THE AWARD, TRANSFER, AND SUCCESSION OF MITCHELL-LAMA APARTMENTS
 MJ06-134A

We would like to thank your team for their professionalism in putting this audit together. We appreciate that you found “reasonable assurance” that applications are being properly approved and selected from the waiting list and no instances were found that applicants were chosen from the waiting list inappropriately. We are also pleased to note that your audit findings confirmed that deletions, omissions, and insertions of names on the waiting list were “appropriate and in compliance with Mitchell-Lama rules”. Further, your tour of apartments “confirmed that, indeed, renovation work was occurring” and that the vacancies were justified.

HPD has now completed all of the audit issues that were listed as outstanding as a result in your audit timeframe. While HPD pursues all of its audit findings, delays occur as a normal course of business based upon litigation that is involved in resolving these issues. As you are aware, the litigation timeframe is out of our control.

Your audit suggested that we improve some of our administrative controls. We address those suggestions in our response and will implement them where feasible.

Finding

Weaknesses in
the Applications

Unit

Lack of
Documentation
to Support
Application
Approvals

Recommendation 1.

HPD should redesign the application review checklist to provide for the printed name, signature, and dates of reviewers, approvers, and supervisory personnel involved in the final determination of tenant applications.

Recommendation 2.

HPD should ensure that all “Transmittal of Applications” forms are signed and dated by personnel responsible for reviewing and rendering the final decision on applications.

Response 1.

HPD will redesign the application review check list to include name, signature and date of HPD staff members who reviewed and approved documentation in support of approved application.

Response 2.

The transmittal sheets are being redesigned to avoid confusion. This document is intended to be an information sheet to HPD staff identifying applicant and if the application is an internal or external application. The final decision of disposition of application is contained on the application only.



AUDIT RESPONSE
 NEW YORK CITY COMPTROLLERS AUDIT
 NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
 MONITORING OF THE AWARD, TRANSFER, AND SUCCESSION OF MITCHELL-LAMA APARTMENTS
 MJ06-134A

Recommendation 3.

HPD should require the retention of the applications review checklist used in the approval or rejection determination and any other income and occupancy eligibility documentation deemed necessary. If the lack of storage space is a matter of concern, HPD should consider electronically imaging and archiving the documentation to alleviate such difficulties.

Response 3.

HPD will retain the redesigned Application Review Check List, redesigned transmittal sheet, and application. In addition, rejected applications will continue to be retained in their entirety in the event of litigation. The recommendation to retain all supporting documentation for all applications is not feasible as a result of the volume of applications that we receive annually.

Lack of Review of Waiting Lists, Vacancy Reports, and Rent Rolls

Recommendation 4.

Housing Supervision should require the periodic review, evaluation, and comparison of vacancy reports, waiting lists, and rent rolls as part of its routine oversight and monitoring activities to identify and address inaccuracies and deficiencies and investigate any reported discrepancies pertaining to the award, transfer, and succession of Mitchell-Lama apartments.

Response 4.

HPD performs this recommended review at the time of the Application Audit.

Weaknesses in Housing Supervision Audit Unit
 Insufficient Audit Frequency

Recommendation 5.

Housing Supervision should implement a formal audit cycle requiring that each housing company be audited at least once every cycle.

Response 5.

HPD will use formal criteria to develop an audit plan based upon risk factor as the primary issue, date of last audit, and staff availability.



AUDIT RESPONSE
NEW YORK CITY COMPTROLLERS AUDIT
NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
MONITORING OF THE AWARD, TRANSFER, AND SUCCESSION OF MITCHELL-LAMA APARTMENTS
MJ06-134A

Lack of a System to Log the Receipt, Assignment, And Resolution of Complaints

Recommendation 6.
Housing Supervision should establish a Central record (i.e. database or spreadsheet) to track all Housing Supervision application audits, along with the housing companies and relevant dates the audits were performed and issued.

Response 6.
HPD is in the process of establishing a central database to track Housing Supervision audits. Current information is being entered and will contain information on an ongoing basis.

20% of Cited Audit deficiencies not resolved.

Recommendation 7.
Housing Supervision should ensure that reported audit deficiencies are corrected or investigated, especially those deficiencies that are strong indicators of potential improprieties or irregularities in tenant eligibility and occupancy.

Response 7.
HPD does ensure that audit deficiencies are corrected. All 4 developments cited in the Comptroller's audit have been resolved as of the date of this response.

Lack of a Formal Risk-Based Audit Plan

Recommendation 8.
Housing Supervision should design and implement a formal risk-identification methodology and indicators to assess and manage the risk of housing companies' noncompliance with Mitchell-Lama Rules governing the award and occupancy of apartments. These measures and indicators should be used to develop the Audit Unit's annual audit plan.

Response 8.
HPD will establish a risk-identification methodology as described in recommendation 5.

Lack of a System to Log the Receipt, Assignment,

Recommendation 9.
Housing Supervision should implement a system to log, track, and monitor tenant

Response 9.
The Administrative Services Unit will establish a tracking system for written complaints regarding award, transfer and succession rights issues in City Mitchell-



AUDIT RESPONSE
NEW YORK CITY COMPTROLLERS AUDIT
NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
MONITORING OF THE AWARD, TRANSFER, AND SUCCESSION OF MITCHELL-LAMA APARTMENTS
MJ06-134A

And Resolution of Complaints	complaints about Mitchell-Lama housing companies and the resolution of those complaints	Lama developments.
	Recommendation 10. Housing Supervision should segregate the key responsibilities concerning the receipt, review, and determination to act on complaints.	Response 10. Housing Supervision will change its procedures regarding complaints received that generate an Application Audit and the issuance of audit findings in response to the complaint.
Audit Documentation not Retained	Recommendation 11. Housing Supervision should ensure that uniform documentation (working papers) is retained to support audit findings and conclusions.	Response 11. Forms currently exist for auditor's use when performing their review. These forms will be retained in the future.
	Recommendation 12. Housing Supervision should retain audit documentation in accordance with City records-retention requirements.	Response 12. Housing Supervision will retain supporting documentation to audit findings and once the audit is resolved will forward the documents to HPD's records retention storage system.
Lack of Written Policies and Procedures	Recommendation 13. HPD should develop a comprehensive policies and procedures manual that addresses all internal processes and functions carried out by the Housing Supervision and distribute the manual to appropriate personnel. The manual should be updated periodically to address newly implemented or revised procedures.	Response 13. A Policies and Procedures Manual will be created for the Application Unit and the Application Audit Unit.



AUDIT RESPONSE
 NEW YORK CITY COMPTROLLERS AUDIT
 NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
 MONITORING OF THE AWARD, TRANSFER, AND SUCCESSION OF MITCHELL-LAMA APARTMENTS
 MJ06-134A

Other Matters
 Information
 Technology
 Could Enhance
 Oversight
 Activities

Recommendation 14.
 Housing Supervision should evaluate the feasibility of adopting and implementing an automated waiting list system to streamline the maintenance and updating of waiting lists.

Response 14.
 Housing Supervision will continue to evaluate the feasibility of implementing an automated waiting list.

Recommendation 15.
 Housing Supervision meet with HPD's Information Technology department to discuss automating housing company submissions (waiting lists, rent rolls vacancy reports, etc...) and establishing a database to enable the analysis of reported data.

Response 15.
 City Mitchell-Lama developments maintain their records in a variety of formats ranging from propriety computer programs to manual record keeping. The recommendation to automate housing company submissions for the purpose of establishing a database for analysis of data is not feasible.

