



City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



FINANCIAL AUDIT

Marjorie Landa

Deputy Comptroller for Audit

Audit Report on the New York City
Department of Finance's Administration
of the Disabled Homeowners'
Exemption Program

FM14-110A

April 14, 2015

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
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NEW YORK, NY 10007

SCOTT M. STRINGER
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April 14, 2015

To the Residents of the City of New York:

My office has audited the New York City Department of Finance (DOF) to determine whether DOF ensured that the New York State Disabled Homeowners' Exemption (DHE) recipients met the eligibility requirements of the program. We audit City operations such as this as a means of increasing accountability and ensuring that City resources are used effectively, efficiently and in the best interest of the public.

This audit found that DOF did not verify that homeowners who were initially granted a DHE remain eligible for the DHE program as required by law. We sampled 51 case files in connection with this audit and found that none of those homeowners had submitted annual applications certifying that they were still qualified for the DHE, notwithstanding a statutory requirement that they do so. DOF also did not maintain sufficient documentation to establish that every homeowner currently granted a DHE was ever eligible for the DHE. Additionally, we found at least three of the sampled property owners were deceased and that there was no evidence in the files to indicate that the surviving homeowners were entitled to the DHE.

The lack of homeowners' recertification information, as well as DOF's failure to enforce the statutory annual filing requirement and to take action against those non-filers, may have resulted in improper exemptions being granted by DOF. Based on our analysis of property tax bills issued for Fiscal Year 2014, we calculated that the 51 homeowners received exemptions resulting in actual tax savings to these homeowners of just over \$100,000.

The report recommends that DOF send an annual notice of renewal to all homeowners who have been granted a DHE, maintain complete case files by scanning and retaining new applications, renewal applications and supporting documentation, and revise the exemption applications to inform the applicants that they are required to file for a DHE for each year that they claim it. DOF should not grant a DHE or allow anyone to take a DHE who does not annually file an application for an exemption and meet all of the requirements for the exemption.

The results of the audit have been discussed with DOF officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,


Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on the New York City Department of Finance's Administration of the Disabled Homeowners' Exemption Program

FM14-110A

EXECUTIVE SUMMARY

This audit was conducted to determine whether DOF ensures that New York State Disabled Homeowners' Exemption (DHE) recipients meet the eligibility requirements of the program. The DHE program is governed by the New York State Real Property Tax Law (RPTL) and administered by DOF. The DHE program provides property tax exemptions to qualified disabled homeowners. As of June 30, 2014, there were 5,308 homeowners receiving the DHE.

Audit Findings and Conclusion

DOF does not verify that homeowners who were initially granted a DHE remain eligible for the DHE program as required by law. The 51 DHE case files sampled in connection with this audit showed that none of those homeowners had submitted annual applications certifying that they were still qualified for the DHE, notwithstanding a statutory requirement that they do so. DOF also did not maintain sufficient documentation to establish that every homeowner currently granted a DHE was ever eligible for the DHE. Additionally, we found at least three of the sampled property owners were deceased and that there was no evidence in the files to indicate that the surviving homeowners were entitled to the DHE. The lack of homeowners' recertification information, as well as DOF's failure to enforce the statutory annual filing requirement and to take action against those non-filers, may have resulted in improper exemptions being granted by DOF.

Based on our analysis of the property tax bills issued for Fiscal Year 2014 (July 1, 2013 through June 30, 2014), we calculated that the 51 homeowners sampled received exemptions resulting in actual tax savings to these homeowners of just over \$100,000, or an average homeowner tax savings of \$2,078.

During the course of the audit, we informed DOF officials of our concerns regarding the possibility that three disabled homeowners may have died and the surviving homeowners may be improperly receiving the DHE benefit. Subsequent to the March 12, 2015, exit conference, DOF provided documentation that the DHE benefits were removed from the three properties retroactively to the date of death of the disabled homeowner.

Audit Recommendations

1. DOF should send the annual notice of renewal required by the RPTL to all homeowners who have been granted a DHE with a reminder that they must file annually to be entitled to an exemption.
2. DOF should not grant a DHE or allow anyone to take a DHE who does not annually file an application for an exemption and meet all of the requirements for the exemption.
3. DOF should maintain complete case files by scanning and retaining new applications, renewal applications and supporting documentation.
4. DOF should revise the exemption applications to inform the applicants that they are required to file for a DHE for each year that they claim it.

Agency Response

DOF officials agreed with the audit's recommendation and stated that it "is already in the process of undertaking the steps recommended to ensure renewals are being completed and case files are being maintained." DOF "will continue to diligently review applications and supporting documents to ensure applicant eligibility."

AUDIT REPORT

Background

DOF is responsible for implementing and monitoring tax benefits granted under the New York State DHE program, which provides a property tax exemption to qualified property owners. The exemption appears as a reduction on the property's assessed value, which is used to determine the property tax. Section 459-c of the RPTL governs the exemption and requires homeowners to submit an initial application along with documents to prove eligibility. Homeowners must satisfy several criteria: the property must be a legal residence, including a condominium or cooperative apartment; it must be used exclusively as the claiming owner's residence;¹ and at least one of the homeowners must have a documented physical or mental disability. In addition, the combined income of all owners of a property cannot exceed the maximum income limit. For Fiscal Year 2014 the income limit was \$37,399. All applications must be submitted by March 15th of a given year in order for the exemption to begin on July 1st of the same year.

The RPTL also requires homeowners to submit an application annually to maintain their eligibility to receive the DHE. This annual recertification process requires homeowners to provide proof of income and evidence of disability in those cases where the homeowner has not previously provided DOF with proof of a permanent disability. Further, pursuant to the RPTL, at least 60 days prior to March 15th of each year, DOF must mail a notice to participating homeowners that recertification documentation must be filed in order to continue receiving the DHE. Should DOF fail to mail the application form or if the property owner does not receive the application, the property owner is still required to submit an annual renewal application and required documentation.

Prior to 2005, DOF retained paper copies of the homeowners' applications. In 2005, DOF began to scan the applications and supporting documentation they received from homeowners into FileNet, an electronic data management system. In 2012, FileNet was replaced with Personal Exemptions Online Processing System (PEOPS). As of June 30, 2014, there were 5,308 homeowners who received the DHE.

Objective

The objective of this audit was to determine whether DOF ensures that recipients of the Disabled Homeowners' Exemption meet the eligibility requirements of the program.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance

¹ If a portion of the property is used for other than residential purposes, the exemption will apply only to the portion used exclusively for residential purposes.

with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit consisted of all homeowners who received a DHE as of June 30, 2014. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with DOF officials during and at the conclusion of this audit. A preliminary draft was sent to DOF officials and discussed at an exit conference held on March 12, 2015. On March 20, 2015, we submitted a draft report to DOF officials with a request for comments. We received a written response from DOF officials on April 3, 2015. In their response, DOF officials agreed with the audit's recommendations and stated that it "is already in the process of undertaking the steps recommended to ensure renewals are being completed and case files are being maintained." DOF "will continue to diligently review applications and supporting documents to ensure applicant eligibility."

The full text of DOF's response is included as an addendum to this report.

FINDING AND RECOMMENDATIONS

DOF does not ensure that homeowners who were initially granted a DHE continue to meet the DHE program requirements. Our analysis of 51 sampled case files found that none of those homeowners had submitted annual applications certifying that they were still qualified for the DHE, notwithstanding a statutory requirement that they do so.² Further, for 33 (64.7 percent) of the 51 sampled case files, DOF did not maintain sufficient documentation to establish that every homeowner currently granted a DHE was ever eligible for the DHE. Moreover, our analysis found at least 3 of the 51 sampled disabled homeowners were deceased and no evidence in the files that the surviving homeowners were entitled to the DHE.

The absence of homeowners' recertification information, as well as DOF's failure to enforce the filing requirement and to take action against those non-filers, may have resulted in improper exemptions being granted by DOF. Based on our analysis of the property tax bills issued for Fiscal Year 2014 (July 1, 2013 through June 30, 2014), we calculated that the 51 homeowners sampled received exemptions reducing the assessed value of their property by more than \$590,000 in total, resulting in actual tax savings to these homeowners of just over \$100,000, or an average homeowner tax savings of \$2,078.

DOF Does Not Ensure That Homeowners Meet the Annual Eligibility Requirements

DOF does not ensure that homeowners file an annual exemption application as required by the NYS RPTL. Nor does DOF have a process in place to ensure recipients of the DHE program are notified of their annual renewal requirements. The NYS RPTL requires that an application for a DHE

must be made annually by the owner, or all of the owners of the property, on forms prescribed by the commissioner, and shall be filed in such assessor's office on or before the appropriate taxable status date; provided, however, proof of a permanent disability need be submitted only in the year exemption pursuant to this section is first sought or the disability is first determined to be permanent.

A property is no longer eligible for the DHE under the following circumstances: (1) if the property is no longer the disabled homeowner's primary residence, (2) if the disabled homeowner's annual income exceeds the income limitation, or (3) if the disabled homeowner is divorced or dies.³

Our review found no evidence that DOF mailed annual renewal applications to homeowners. Additionally, DOF does not take actions to remove the exemptions of those who do not file an annual application. For example, none of the 51 homeowners we sampled submitted an annual renewal application certifying that they were still qualified for the DHE, though the law explicitly requires it. However, these homeowners continued to receive the DHE even though they failed to recertify their eligibility for years.⁴ In fact, DOF records reflect that 7 of the 51 sampled

²We randomly selected 50 properties to sample that were receiving a DHE as of June 30, 2014. One of the 50 properties selected was a cooperative apartment building and included two residences receiving a DHE. Thus in total we sampled 51 homeowners.

³ DHE does not pass to a surviving spouse.

⁴ In 4 of the 51 cases, homeowners had submitted renewals in 2004, but not since then.

homeowners have been receiving the exemption without submitting an annual application for over 10 years.

In addition, our analysis found that 3 of the 51 disabled homeowners had died and the surviving homeowners may have received tax exemptions. In two cases, the DHE continued after a qualified recipient was deceased for several years. In one of these cases, the homeowners initially applied for the DHE in 2004 based on the husband's disability. The disabled homeowner died in late 2004. However, we found that the surviving homeowner is still receiving a DHE without any documentation to establish continued entitlement to the exemption. We estimate that the remaining homeowner may have improperly had property taxes reduced by a total of \$16,039.

In a second case, the disabled homeowner applied for a DHE in 2010 and subsequently died in 2011. Once the disabled homeowner died, the property was no longer eligible for the DHE. However, the DHE continued to be applied to this property without proof from the remaining homeowners that it still applied. As a result, since 2011, DOF reduced the property taxes on this property by a total of \$6,368.

In a third case, one of the homeowners died in late 2012. Since DOF did not maintain sufficient documentation to indicate which homeowner qualified the household for DHE, we were unable to determine whether the surviving homeowner was entitled to the DHE and there was no subsequent annual filing with DOF to establish eligibility.

DOF officials stated that once the DHE is granted, a property will continue to receive the exemption until either the homeowner notifies DOF of any changes of status or the property is sold to another party. Although DOF was aware that the law specifies a different process, DOF stated that it did not follow that process to request property owners to recertify due to lack of staff.

The NYS RPTL requires that

[a]t least sixty days prior to the appropriate taxable status date, the assessor shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to continue to be granted.

By failing to mail the notice of renewal and by not requiring homeowners to annually renew the exemption, DOF is violating the law and permitting homeowners to receive a DHE tax exemption for which they might be no longer be eligible.

According to DOF officials, homeowners can use a "Change in Exemption Status Application" form available on its website to report any changes that would have an impact on their exemption eligibility, such as a change of primary residence, change in income or change of ownership status. However, DOF should not rely on voluntary updating by the homeowner. The Department should mail an annual notice of renewal to every homeowner currently receiving the DHE. DOF should follow up with DHE recipients who do not annually file to see if they remain eligible for the tax reduction.

During the course of the audit, we informed DOF officials of our concerns regarding the possibility that three disabled homeowners may have died and the surviving homeowners may be receiving the DHE benefit improperly. Subsequent to the March 12, 2015, exit conference, DOF provided documentation that the DHE benefits were removed from the three properties retroactively to the date of death of the disabled homeowner.

DOF Does Not Properly Maintain Case Files

Our review of 51 sampled case files found that 33 case files contained insufficient documentation to establish that the applicant was ever eligible for the DHE. For 29 of these 33 case files, DOF only maintained the initial application without any supporting documents (i.e. evidence of permanent disability or income). The remaining four case files were empty (two of the four cases applied for exemptions after DOF implemented the electronic data management system).

According to DOF's Records Retention Schedule, DOF is required to maintain the application, along with the necessary supporting documentation, for six years after termination. Since the homeowners are still receiving the DHE, DOF is required to maintain the documentation. Without maintaining the documentation to support the decision to grant the original DHE to these 33 homeowners, and by not requiring an annual renewal, there is no assurance that the homeowners were ever eligible for the DHE.

Recommendations

DOF should:

1. DOF should send the annual notice of renewal required by the RPTL to all homeowners who have been granted a DHE with a reminder that they must file annually to be entitled to an exemption.

DOF Response: "We agree. Our plan for implementation is to begin with a pilot of approximately 400 households to test our application processing workflow, IT processes, and customer service operations. Once in place, we will then proceed with the remaining 4,900 households."

2. DOF should not grant a DHE or allow anyone to take a DHE who does not annually file an application for an exemption and meet all of the requirements for the exemption.

DOF Response: "We agree. Since 2012, we have not granted DHE to households that submit incomplete applications, or do not fulfill all of the eligibility criteria, which include residency, disability and income. We are launching the annual filing requirement this calendar year."

3. DOF should maintain complete case files by scanning and retaining new applications, renewal applications and supporting documentation.

DOF Response: "DOF agrees that we should maintain complete case files by scanning and retaining new and renewal applications and all required documentation."

4. DOF should revise the exemption applications to inform the applicants that they are required to file for a DHE for each year that they claim it.

DOF Response: "We agree. The application has already been revised and is available on our website."

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope period of this audit included those homeowners who received a DHE as of June 30, 2014.

To achieve our audit objective, we reviewed DOF's Standard Operating Procedures for Personal Exemptions—Processing an Application to establish the approval process for Fiscal Year 2014. To gain an understanding of the exemption approval process, we interviewed the DOF Director of Homeowner Tax Benefits Unit, the DOF Deputy Director of Operations, and the DOF Deputy Director of Compliance.

We also conducted walk-through meetings with DOF officials regarding the exemption approval process. The results were documented in memoranda and flowcharts. We used New York City *Administrative Code § 11-245.4 Exemption for persons with disabilities*, the New York State *Real Property Tax Law § 459-c Persons with disabilities and limited incomes*, and the New York State Department of Taxation and Finance's *Assessor's Manual, Volume 4, Exemption Administration § 4.01* as audit criteria for eligibility.

We requested a list of all residential properties (Resident List) receiving property tax exemptions from DOF. To determine the completeness of the Resident List, we reconciled the Borough, Block and Lot (BBL) numbers to the New York City Department of Finance's Fiscal Year 2015 Final Assessment Roll (FY15 AvRoll) that we obtained from DOF's website. The accuracy of the Resident List was tested directly through our audit testing as noted in the next paragraph.

We extracted all residential properties that received a DHE from the Resident List. As of May 2014, 5,308 Disabled Homeowners' Exemptions were distributed to 5,301 properties, which were identified by BBL numbers. We randomly selected 50 properties, which received 51 DHE exemptions, from the Resident List for review.⁵ To determine if the DHE was properly approved and supported by the appropriate documents, we reviewed the applications and supporting documents stored in DOF's two document management systems—FileNet (from 2005 through 2011) and Personal Exemptions Online Processing System (PEOPS) (from 2012 to present). Prior to 2005, applications were maintained in hard copy. Two sampled cases were granted DHE status prior to 2005. We requested the hard copy paper records of those two applications and corresponding documentation, however DOF was unable to provide those documents. To determine which supporting documents were appropriate, we used DOF's *Required Documents Checklist for the Personal Exemption Initial Application for Tax Years 2012/2013, 2013/2014, and 2014/2015*. To determine whether DOF complied with the New York State requirement of annual renewals, we examined DOF case records for the 51 sampled cases.

⁵ One of our sampled BBL is for a multi-unit cooperative property that has two units receiving DHE.



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April 1, 2015

Ms. Marjorie Landa
Deputy Comptroller for Audit
Office of the City Comptroller
1 Centre Street, Room 1100 North
New York, NY 10007

**Re: Audit Report on the New York City Department of Finance's
Administration of the Disabled Homeowner Exemption Program (FM14-110A)**

Dear Deputy Comptroller Landa,

The Department of Finance (DOF) appreciates the Comptroller's audit findings regarding the administration of the New York State Disabled Homeowner Exemption (DHE) and the opportunity to respond to the Draft Report.

Background

The unit that administers the Disabled Homeowner Exemption is the Homeowner Tax Benefits unit. In addition to DHE, the unit also administers the following benefits:

- Basic and Enhanced STAR (School Tax Relief)
- Senior Citizen Homeowner Exemption
- Veteran Exemptions (Basic, Combat and Disabled)
- Coop/Condo Abatement
- Clergy
- Disabled Crime Victim

More than 600,000 New York City households receive one or more of these benefits.

DOF is committed to having cost-effective controls and procedures in place to ensure that recipients meet the eligibility requirements of the benefit programs. To highlight the steps we've taken to improve our unit's operations, we present the following information:

Since 2012, the Homeowners Tax Benefits unit has increased in size from five



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staff who reviewed applications with no supporting documentation to a 35-person unit who now follow a robust application process. There are now specific initial application processing procedures in place and compliance groups who ensure benefits are distributed to eligible households.

Prior to 2012, the DHE application process did not require supporting documentation from applicants; information was largely self-certified. At that time, benefits were not always removed, but at times were removed at the date a property was transferred, rather than the date eligibility changed. No renewal processes were in place for several years.

In 2012, DOF instituted a more vigorous application process for Initial applications. We began requiring supporting documentation for all initial applications. Applicants who fail to provide proper supporting documentation are now denied benefits. DOF also engaged a third-party vendor to build a customized, online processing system. The system has business rules built into its programming that prevent approvals for certain ineligibility triggers, captures processing data that allows us to track inventory, productivity, trends and accuracy, and incorporates a worksheet that helps processors calculate income for DHE applicants. As this comprehensive review of the application and supporting materials required more time to process applications, an additional staff of nine was added to the unit.

In 2013, we created a Compliance Unit to, among other things, conduct audits, remove benefits when transfers occur, identify homeowners with benefits in other jurisdictions ("double dipping") and support the Tax Commission in their appeals processes. The Compliance Unit began to pro-actively review each property transfer where the property had DHE to determine if the benefit should be removed at the sale or prior to that date. In some cases, the benefit is removed retroactively to the benefit recipient's date of death.

DOF also merged the group that administered DHE and other benefits with the group that administered the Co-op/Condo Abatement to facilitate consistency in benefit policies and processes. Our first task was to determine which of the 365,000 abatement recipients were primary residents and remove benefits from those that were not. Approximately 80,000 units lost their abatement as a result.

In 2014, the volume of initial applications more than doubled as a result of the New York State STAR Registration process which subsequently required us to primarily focus on initial applications. However, we were still able to launch a pilot renewal application process, conduct several audits and conduct a renewal process for select households with the condo abatement.

In 2015, with the initial application process well-established and the backlog of applications processed, DOF instated a formal process to review death notifications of property owners receiving tax benefits.



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We now send notices to properties where at least one benefit recipient has been reported deceased by the Social Security Administration. We inform the new owner(s) or surviving owner(s) that the benefits will be removed at the beginning of the upcoming year as a result of the change in household composition and potentially, household income. Our initial analysis shows that, in many cases, a surviving spouse or sibling owns and/or occupies the property and is still eligible for the exemption. For this reason, we encourage the surviving owner(s) to apply for benefits for the upcoming year.

This year we are also reinstating the requirement to renew benefits. We have built, and are now testing, a customized, online application to facilitate the volume of renewals we intend to administer. As an agency, we are also replacing our legacy property tax systems. The efficiencies gained from the new system will allow us to devote additional resources to renewal applications. Additional information regarding the DHE renewals and our responses to the report recommendations are below.

Responses to Recommendations

1. **DOF should send the annual notice of renewal required by the RPTL to all homeowners who have been granted a DHE exemption with a reminder that they must file annually to be entitled to an exemption.**

We agree. Our plan for implementation is to begin with a pilot of approximately 400 households to test our application processing workflow, IT processes, and customer service operations. Once in place, we will then proceed with the remaining 4,900 households.

2. **DOF should not grant a DHE exemption or allow anyone to take a DHE exemption who does not annually file an application for an exemption and meet all of the requirements for the exemption.**

We agree. Since 2012, we have not granted DHE to households that submit incomplete applications, or do not fulfill all of the eligibility criteria, which include residency, disability and income. We are launching the annual filing requirement this calendar year.

3. **DOF should maintain complete case files by scanning and retaining new applications, renewal applications and supporting documentation.**



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DOF agrees that we should maintain complete case files by scanning and retaining new and renewal applications and all required documentation. In 2011, DOF engaged a third-party vendor to build a customized, online processing system, which creates electronic copies of all DHE applications and supporting documents. The online processing system was put into production on 2012 and scans all applications and supporting documents immediately upon receipt. These electronic copies are maintained indefinitely, which is in accordance with the City Department of Records' document retention policy. The system's indexing is sophisticated; there are eight key fields of data entered to facilitate searching for applications.

4. **DOF should revise the exemption applications to inform the applicants that they are required to file for a DHE exemption for each year that they claim it.**

We agree. The application has already been revised and is available on our website.

As illustrated in our responses, DOF is already in the process of undertaking the steps recommended to ensure renewals are being completed and case files are being maintained. We will continue to diligently review applications and supporting documents to ensure applicant eligibility. Finally, we thank your staff and appreciate their efforts in conducting this audit.

Sincerely,

A handwritten signature in blue ink that reads "Timothy Shearcs".

Timothy Shearcs, Deputy Commissioner

- C: Michael Hyman, First Deputy Commissioner
Sam Mayer, Senior Director, Internal Audit
Shelby Kohn, Director