



NEW YORK CITY COMPTROLLER
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Audit of the New York City Department of Buildings' Enforcement of Building Codes

ME24-059A | April 21, 2025





THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

April 21, 2025

To the Residents of the City of New York:

My office has audited the Department of Buildings (DOB) to determine whether it enforces building codes for one- and two-family properties in an equitable manner.

The audit found that DOB enforcement efforts are almost exclusively driven by complaints received, and that certain communities were disproportionately impacted. Of the 10 community districts with the most one- and two-family properties with high accumulated penalties assessed in Calendar Years 2022 and 2023, seven of them had median household incomes below the Citywide median.

A detailed review of sampled properties with the most violations issued and highest dollar penalties imposed revealed that illegal conversions and default judgments accounted for 79% of the penalties assessed against these properties. The audit also found that in a limited number of cases, property owners were issued a "Failure to Comply" violation while still waiting for DOB's approval of a plan needed to correct the violating condition.

Lastly, the audit found that DOB's plan review time has significantly increased in recent years, and that the time taken to review and approve plans varies considerably by borough.

The audit makes nine recommendations in total, of which DOB agreed with three, partially agreed with two, and disagreed with four.

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

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

Sincerely,

Brad Lander
New York City Comptroller

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Audit Impact

Summary of Findings

The audit found that the Department of Buildings (DOB) relies almost exclusively on 311 complaints for its enforcement actions, and that certain communities were disproportionately impacted by penalties that were assessed as a result. Of the 10 districts with the highest dollar amount of assessed penalties in Calendar Years 2022 and 2023, seven had median household incomes (MHI) below the Citywide median. Penalties for illegal conversions and default judgments accounted for a significant portion of these violations. Black households were the most prevalent ethnic demographic in seven of the 10 districts, followed by Hispanic (six of the 10 districts), Asian (four of the 10 districts), and White (three of the 10 districts) households.

The audit also found that in a limited number of cases, property owners were issued a “Failure to Comply” (FTC) violation while still waiting for DOB’s approval of a plan needed to correct the violating condition.¹ During CYs 2022 and 2023, four homeowners who submitted plans to DOB for approval were issued FTC violations even though DOB had not yet approved the plans needed to correct them. Another three homeowners were issued FTC violations within 60 days of obtaining plan approvals, raising concerns that there was insufficient time to complete the approved work.

The audit also found DOB’s plan review time has significantly increased in recent years, and that the time taken to review and approve plans varies considerably by borough.

Intended Benefits

The audit identified the disproportionate impact of purely complaint-driven enforcement—and resulting violations, fines, and penalties—on owners of one- and two-family homes, particularly in low-income neighborhoods.

¹ “Failure to comply with the commissioner’s order to file a certificate of correction,” as per Section 28-204.2 of the New York City Administrative Code.

Introduction

Background

DOB regulates the safe and lawful use of more than 1,000,000 buildings and over 40,000 active construction sites under its jurisdiction by enforcing laws, including the City's Construction Codes, Zoning Resolution and Energy Code, as well as the New York State Multiple Dwelling Law. The Department enforces compliance with these regulations and promotes public safety through its review and approval of building plans, permitting and licensing functions, and inspections. It assigns field personnel to conduct development inspections (i.e., new structures, major alterations) and enforcement inspections (i.e., complaint response, re-inspections, joint inspections).

If a violating condition is identified during an inspection, the inspector issues a NYC Office of Administrative Trials and Hearings (OATH) summons (violation) or a DOB violation to the homeowner.²

OATH summonses are issued when a property or construction site is found to be out of compliance with the City's Construction Codes. DOB violations are issued when a property is found to be out of compliance with other applicable laws, or with an order from the DOB Commissioner to correct a violating condition. The most issued violation is an OATH summons, which is the subject of this audit.

Class 1 violations are considered "immediately hazardous" and are defined as conditions that pose a threat and severely affect life, health, property, the public interest, or a significant number of people. Examples of Class 1 violations include performing construction work without a permit and modifying a property to create additional units without approval (i.e., illegal conversions).³ Class 1 violations must be corrected immediately.

Class 2 violations are considered "major" and are defined as conditions that affect life, health, safety, property, or the public interest but do not require immediate corrective action. Examples of Class 2 violations include work that does not conform to construction documents and failure to maintain building in compliance with codes. Class 2 violations must be corrected within 60 days.⁴

Class 3 violations are considered "minor" and are defined as conditions with a lesser impact on life, health, safety, property, or the public interest. Examples of Class 3 violations include fences exceeding permitted height and violation of parking regulations in a residential district. Class 3 violations must be corrected within 60 days.

All OATH violations carry a fine. Penalty amounts are included in the Penalty Schedule of the Rules of the City of New York.

² OATH is the City's central, independent administrative law court. Its Hearings Division conducts hearings on summonses issued by the City's different enforcement agencies.

³ An illegal conversion is an alteration or modification of an existing building to create additional apartment units without first obtaining the proper permits or approval from DOB and is considered a Class 1 "immediately hazardous" condition. Illegal conversions pose serious safety risks to tenants and to the City's first responders by potentially creating unsafe living conditions and not complying with NYC Buildings and Fire Codes.

⁴ Unless otherwise stated, days refers to calendar days.

When an inspector finds a condition constituting an OATH violation, the homeowner is issued an OATH summons and given several options to resolve the summons:

- For Class 1 violations, the homeowner must correct the condition(s) immediately and file a Certificate of Correction (C of C) with DOB.
- For Class 2 and Class 3 violations, the homeowner can admit the charge by paying the full amount prior to the hearing, correcting the violating condition(s), and certifying the correction with DOB.

In some cases, remediation requires the homeowner to submit a plan and obtain DOB's approval before necessary work can be undertaken. Depending on the scope of work, DOB's plan examiners review the plan according to the building code, zoning laws, and multiple dwelling laws. The plan is returned to the applicant if DOB rejects it, at which point the applicant can make corrections to the plan and resubmit to DOB. After a plan is approved, the applicant can obtain the necessary permit(s) to commence work.

Once an OATH summons is issued, the case is referred to OATH and decided by a hearing judge unless the homeowner admits the charge and pays the associated penalty prior to the hearing. If the respondent is found in violation, s/he is responsible for paying the penalty associated with the violation, and the summons remains open until the homeowner submits a C of C to DOB.⁵

For violations relating to immediately hazardous conditions, if DOB does not receive a C of C from the owner within 60 days of the issuance of the violation, or if a reinspection finds that the violating condition has not been corrected, the owner will be issued an FTC summons. These summonses are reissued every 60 days, irrespective of whether there are any plan review applications in process for correcting the violating condition. If homeowners in receipt of a violation fail to appear at a scheduled OATH hearing, default judgments may be issued and additional penalties for defaulting also imposed.

OATH and the Department of Finance (DOF) have jurisdiction over penalties imposed and paid.⁶ DOF collects the OATH penalties and offers OATH ECB Hardship Payment Plans to allow those unable to pay the full amount at once to make payments over a period of time. According to the New York City Administrative Code, unpaid penalties can be converted into tax liens that may be sold in tax lien sales. DOF sends warning notices to homeowners prior to showing the converted liens on their tax bills.

Concerns About Inequitable Enforcement

This audit was prompted by concerns raised by housing advocates that small property owners are disproportionately impacted by violations from DOB and associated fines. Advocates claimed that homeowners are assessed with a "Failure to Correct" violation even if the homeowner has

⁵ Violations continue to appear in Building Information System (BIS) until acceptable proof is submitted that the violating condition(s) has/have been corrected even if the penalty imposed at OATH has been paid. Summonses dismissed by OATH show as resolved and do not require certification or payment.

⁶ DOB does not require notification of when a penalty was paid; however, the data is captured in BIS and on OATH's website.

submitted plans to DOB and is waiting on DOB to review and approve them, which advocates claim can take up to two years. The focus of this audit was one- and two-family properties.

According to a Citizens Housing Planning Council (CHPC) report issued in July 2020 and updated in February 2021, “New York City’s building codes and their implementation seem agnostic, but may contribute to the inequities experienced by many New Yorkers.”⁷ Further, the Fair Building Code Coalition (FBCC) of New York argued in its Information Sheet that “[t]he inequitable enforcement of DOB codes and the resulting imposition of excessive fines disproportionately impact homeowners, particularly in communities of color, the same communities still reeling from the predatory lending crisis and foreclosures.”⁸

Objective

The purpose of this audit was to determine whether DOB enforces building codes for one- and two-family properties in an equitable manner so that no communities are disproportionately impacted.⁹

The scope period was Calendar Years 2022, 2023, and the first quarter of 2024.

Discussion of Audit Results with DOB

An Exit Conference Summary was sent to DOB and discussed with DOB officials at an exit conference held on January 10, 2025. On January 27, 2025, we submitted a Draft Report to DOB with a request for written comments. After it was issued, DOB stated its disagreement with the audit’s use of one- and two-family properties to represent owner-occupied properties. The audit notes that DOB itself referenced one- and two-family properties in response to the auditors’ query as to how the agency defines small owner-occupied homes. Nonetheless, the auditors undertook a review of Citywide ownership data relating to one- and two-family properties and found that a significant portion of such properties are owner-occupied. This information was included in the revised Draft Report, which was submitted to DOB on March 10, 2025, with a request for written comments. We received a written response from DOB on March 26, 2025. In its response, DOB agreed with three recommendations, partially agreed with two recommendations, and disagreed with the remaining four recommendations.

DOB’s written response has been fully considered and, where relevant, changes and comments have been added to the report.

The full text of DOB’s response is included as an addendum to this report.

⁷ The CHPC report can be found at https://chpcny.org/wp-content/uploads/2020/09/EE-Issue-Brief_05-2.pdf. The FBCC of New York Information Sheet was provided by the Legal Aid Society.

⁸ In its response to the revised Draft Report, DOB stated that “multiple, default judgments can be a consequence of a property owner’s lack of engagement or the nature of the conditions, rather than excessive enforcement.” The audit offers no opinion as to whether DOB’s enforcement is excessive.

⁹ DOB utilizes the property type categorizations established by the Department of Finance (DOF) for tax and valuation purposes.

Detailed Findings

The audit found that DOB's inspection and enforcement actions for one- and two-family properties are primarily complaint driven. An analysis of the demographic composition of communities impacted as a result of this complaint-driven approach to enforcement found that lower income communities were disproportionately impacted—of the 10 districts with the highest dollar amount of assessed penalties in Calendar Years 2022 and 2023, seven had median household incomes (MHI) below the Citywide median. A breakdown of the ethnic demographic makeup of these 10 districts shows that Black households were the most prevalent in seven of the 10 districts, followed by Hispanic (six of the 10 districts), Asian (four of the 10 districts), and White (three of the 10 districts) households.

A detailed review of 10 properties with the most violations issued and the 10 properties with the highest dollar penalties imposed during CYs 2022 and 2023 revealed that illegal conversions and default judgments accounted for a significant portion of the penalties assessed. Overall, \$3.9 million (79%) of the \$5 million in penalties assessed against these properties during this period were related to illegal conversions and default judgments.

In certain situations, an owner in receipt of a violation may need to submit a plan and obtain DOB's approval and/or a permit from DOB before the condition can be corrected. The audit found that during CYs 2022 and 2023, four homeowners were issued eight FTC violations and \$17,500 in penalties, even though DOB had not yet approved the seven plans needed to correct them. Another three homeowners were issued three FTC violations within the 60-day period immediately following DOB's approval of a plan needed to remediate with \$2,500 in penalties, raising the concern that homeowners had insufficient time to complete work before the FTC was issued. Although these cases only represent a small percentage of all FTC violations issued by DOB, these instances point to a fundamental aspect of an unfair process that also has the potential to result in significant financial burdens on homeowners.

The audit found that a comparison of the first quarters of CYs 2022, 2023, and 2024 shows that the number of days taken by DOB for its plan reviews increased 80% Citywide, as the number of applications filed Citywide also increased by 106%. In the first quarter of 2024, the overall average time for plan approvals for major alterations for one- and two-family properties Citywide exceeded 5 ½ months (124 business days). During this period, approximately seven weeks (34 business days) was spent by DOB reviewing applications; the remainder of the time was spent with the applicant correcting errors in the application. The average time taken by DOB for its review varied among the five boroughs, ranging from an average of 36 business days in Queens to an average of 21 business days in the Bronx. The time that it takes for a plan to be approved is important because penalties continue to accrue until the violating condition has been remedied.

Auditors learned that DOB has instituted several initiatives to assist owners of small properties in navigating City code requirements and resolving certain deficiencies without having to incur violations on their properties. However, DOB provided little evidence that it has assessed the extent to which these initiatives are achieving their intended outcomes. A review of the data pertaining to one such program—the Homeowner Relief Program—appears to indicate that the program has had limited success in confirming the correction of violating conditions.

DOB's Enforcement Actions Are Complaint-Driven

According to DOB, enforcement inspections are driven by the complaints they receive, generally made anonymously via 311 calls. Complaints are triaged by DOB and forwarded to appropriate units for inspection and follow-up. Complaints and follow-up actions are populated in DOB's Building Information Systems (BIS), the agency's online customer portal.

Based on the nature of the complaint, DOB assigns inspectors to investigate its validity. If the premises cannot be accessed after a maximum of two attempts, the complaint may be administratively closed. However, it can be reopened if there is another complaint. Depending on the severity of the complaint, DOB can obtain a warrant to gain access to the premises and conduct the inspection.

During CYs 2022 and 2023, there were 74,035 complaints received for one- and two-family properties and 71,954 inspections attempted, according to statistics reported on Open Data. The data shows a direct correlation between the number of complaints received and the number of inspections attempted for a district.

Apart from responding to complaints received, DOB did not identify any other means for determining whether existing (i.e., excluding new construction) properties—including one- and two-family properties—are complying with building code requirements. Although DOB does conduct periodic inspections of new construction, it does not routinely conduct inspections of one- and two-family homes. There are limitations to this approach; DOB cannot determine whether the communities most impacted by violations are in fact the communities with the highest number of code violations. They are simply the communities that receive the highest number of complaints.

In its response to the revised Draft Report, DOB stated that complaint-based inspections are not the sole source of its enforcement inspections. According to DOB, it also receives complaints from registered professionals within the construction industry, City agencies, and from DOB inspectors while they perform inspections. However, DOB did not provide any figures relating to the number of complaints received from these various sources; the data shared with the auditors did not distinguish enforcement actions based on source of the complaint.

Extent to Which Developers Are Targeting Properties in Certain Communities for Enforcement Actions is Unknown

Housing advocates have raised concerns that property developers have targeted homeowners in certain communities by submitting complaints about potential code violations on their properties to DOB with the intention of acquiring the properties of those who do not have the financial resources to correct the violations and pay the related fines and penalties for non-compliance. The auditors were unable to determine the extent to which this is true. Complaints are submitted through the City's 311 system, and in most instances are filed anonymously. DOB has no mechanism for identifying whether a complaint is coming from a neighbor, developer, or some other interested party. Therefore, the possibility that developers are abusing the complaint system as alleged, exists; however, neither DOB nor the auditors can ascertain the degree to which property developers may be using the complaint mechanism to target homeowners or particular communities.

Adverse Correlation between Communities' Economic Status and Penalties Imposed Against Properties in Those Communities

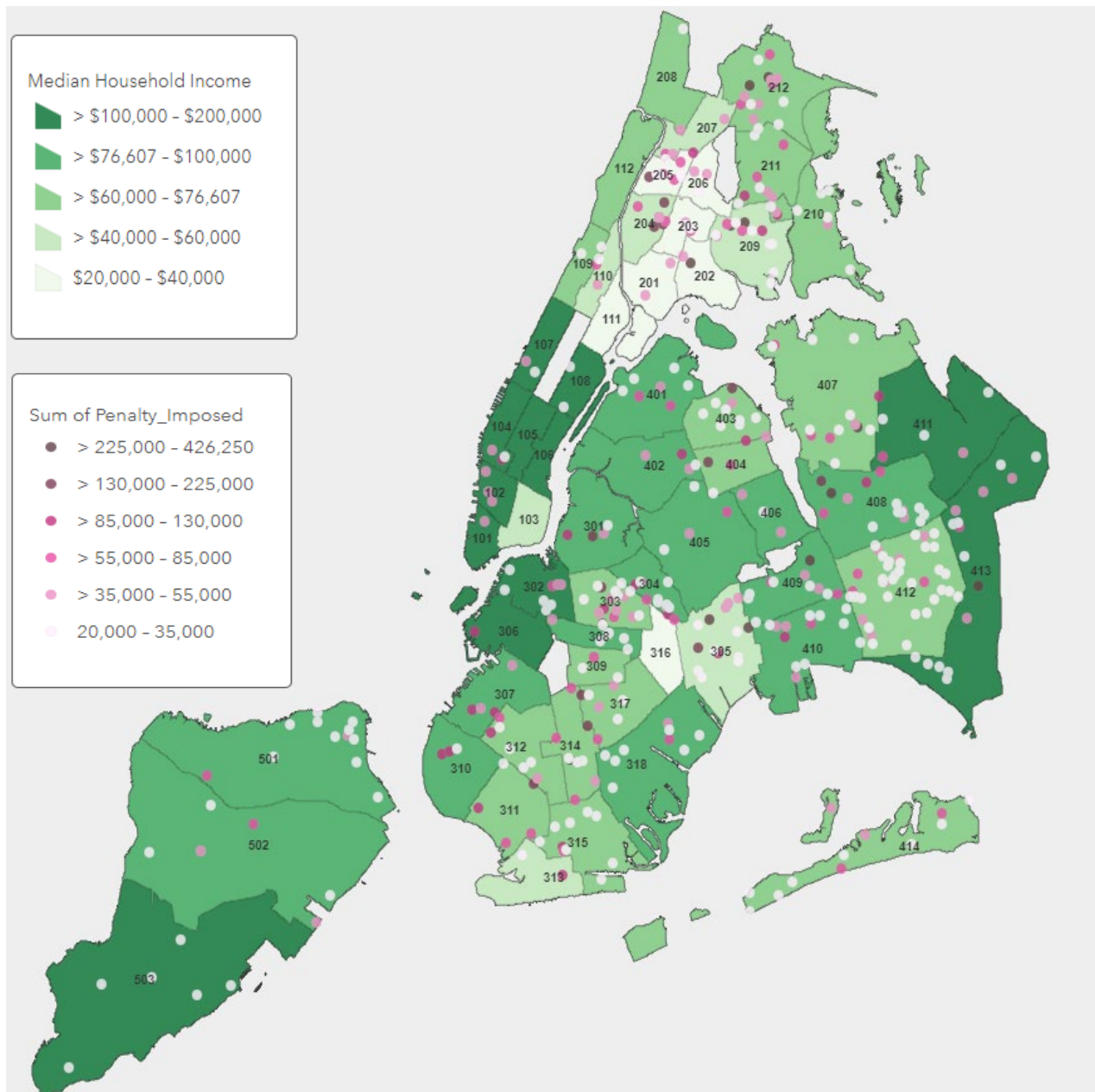
During Calendar Years 2022 and 2023, DOB issued 13,466 OATH violations with associated \$38.3 million in fines against one- and two-family properties. A review of the 10 community districts with the highest number of one- and two-family properties with accumulated penalties of \$20,000 or more identified a correlation between the district's economic status and ethnic makeup and the number of properties with the accumulation of penalties in that district. Of the top 10 districts where one- and two-family properties with accumulated penalties of \$20,000 or more were located, seven had MHIs below the Citywide median.¹⁰ Regarding ethnicity, the audit found that districts with majority Black households were most represented in these districts.

¹⁰ According to American Community Survey data published by the Department of City Planning.

Properties with Highest Accumulated Penalties Concentrated in Lower-Income Community Districts

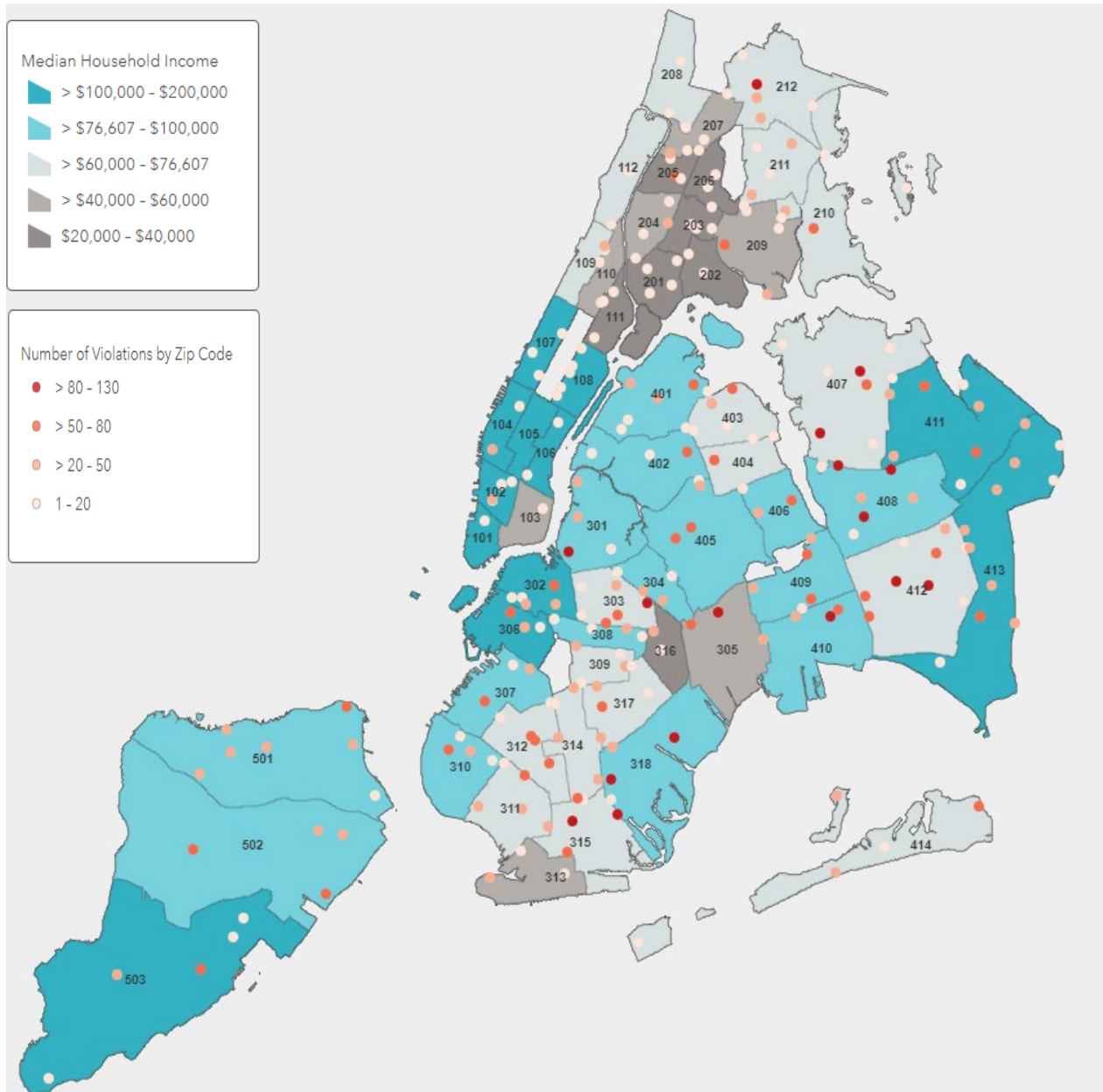
The audit identified an adverse correlation between a community's economic status and the number of one- and two-family properties with high penalties (i.e., accumulated penalties of \$20,000 or more).

The map below shows the distribution throughout the City of one- and two-family properties that were issued OATH violations and received \$20,000 or more in accumulated penalties:



As shown on the map, relatively few one- and two- family properties with high penalty amounts are in communities with high median incomes.

The map below shows the distribution of OATH violations issued to one- and two-family properties during Calendar Years 2022 and 2023 throughout the City:



The audit team determined the number of violations by zip code and assigned them to the respective community districts.

As illustrated in the map above, the higher income districts (represented by the darker shades of blue) have relatively fewer zip codes with one- and two-family properties with 50 or more violations in comparison to lower income districts, which have more zip codes in which there are one- and two-family properties with a similar number of violations issued. As shown in a table in Appendix IV, Brooklyn and Queens have the majority of one- and two-family properties in the City.

During CYs 2022 and 2023, DOB assessed penalties totaling \$38.3 million against one- and two-family properties (21% of the total \$186 million assessed on all properties). Most of these penalties were assessed against properties in Queens, Brooklyn, and the Bronx—\$14.7 million, \$13.5 million, and \$6.9 million, respectively (see tables in Appendix IV).

A significant percentage of one- and two-family properties in these boroughs appear to be owner-occupied. As part of the 2023 NYC Housing and Vacancy Survey (NYCHVS), a canvass of occupied units in one- and two-family properties throughout the City was conducted and found that the percentage of one-family properties that were owner-occupied was approximately 80% and 82% in Brooklyn and Queens, and 70% in the Bronx.¹¹ For two-family properties, the percentage of units that were owner-occupied was estimated to be 54% in Brooklyn, 48% in Queens, and 42% in the Bronx. (The audit notes that some of the canvassed units in two-family properties that were reported to be renter-occupied may be in buildings where the *other* unit was in fact owner-occupied. Consequently, the percentage of owner-occupied two-family *properties* in these boroughs may be higher.)

According to the U.S. Census Bureau's American Community Survey, the Citywide average MHI was \$76,607 in Calendar Year 2022. An analysis of the MHIs of the 10 community districts where one- and two-family properties with the highest accumulated penalties of \$20,000 or more were located revealed a disproportionate impact on lower income communities: the MHIs for seven of the districts (and four of the top five) were below the Citywide MHI and only three were above. The four districts with MHIs below the Citywide MHI were District #12 in Queens, District #12 in the Bronx, District #5 in Brooklyn, and District #9 in the Bronx. The district which had a MHI above the Citywide MHI was District #8 in Queens. (Neighborhoods of the districts are listed in Table II of Appendix II.)

The district with the most properties with accumulated penalties of \$20,000 or more was District #12 in Queens, encompassing the neighborhoods of Hollis, Jamaica, Jamaica Center, North Springfield Gardens, Rochdale, South Jamaica, and St. Albans. This district had a MHI of \$74,870 (slightly below the Citywide MHI of \$76,607) and had 39 such properties, owing a total of \$1,263,367 in penalties. At the Exit Conference, DOB officials stated that a significant factor contributing to the large number of properties with high accumulated penalties is that this district is among those with the highest number of one- and two-family properties overall.¹²

The district that had the properties with the most accumulated penalties was District #9 in Queens, encompassing the neighborhoods of Kew Gardens, Ozone Park, Richmond Hill, and Woodhaven. This district had a MHI of \$84,590 (above the Citywide MHI) and had 10 such properties, of which one owed \$426,250 in accumulated penalties. The total amount owed for the 10 properties was \$712,680.

A listing of the top 10 community districts in terms of the number of one- and two-family properties accumulated penalties of \$20,000 or more and with the highest total penalties imposed is shown in Appendix II. A review of the major ethnicities of the households in these districts found that

¹¹ The NYCHVS is sponsored by the New York City Department of Housing Preservation and Development (HPD) and is conducted in compliance with New York State and New York City rent regulation laws. <https://www.nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-selected-initial-findings.pdf>.

¹² In CY 2023, District #12 in Queens ranked #2 Citywide in terms of the number of one- and two-family properties (53,877) located within a district.

Black households were among the top two demographics most represented. The breakdown is as follows:

- Black households were among the two largest demographics in seven districts;
- Hispanic households were among the two largest demographics in six districts;
- Asian households were among the two largest demographics in four districts; and
- White households were among the two largest demographics in three districts.

A breakdown of the ethnicities of the households in the ten districts is shown in Appendix II.

It is noteworthy that the 10 districts with the most one- and two-family properties with high accumulated penalties are not necessarily the same districts with the highest number of violations issued to one- and two-family properties—an examination of the major ethnicities for those districts revealed that White and Asian households had the highest number of violations, but not penalties (a listing of the 10 districts is shown in Appendix I). A possible explanation for the disparity between the two categories may be the nature of the judgments assessed, as discussed in the following section.

In its response, DOB argued that the asserted impact of its inspections and enforcement activities on lower income community districts is unfounded and that it conducts all inspections and enforcement activities in accordance with the applicable building codes and regulations, without bias toward any particular community or income level.

DOB appears to be conflating intent with impact. The audit recognizes DOB's obligation to conduct inspections of all complaints received and assigns no intent to DOB's actions. Nonetheless, the data clearly shows the *impact* of its activities, namely that seven of the 10 community districts with the most one- and two-family properties with high accumulated penalties had median household incomes below the Citywide median.

Majority of Penalty Dollars Assessed Were for Illegal Conversions and Default (“No-show”) Judgments

An examination of the properties with the highest number of violations issued and penalty dollars assessed revealed that most of the violations were for illegal conversions and default judgments. As stated previously, an illegal conversion is categorized as a Class 1 (immediately hazardous) violation and is defined as an alteration or modification of an existing building to create additional apartment units without first obtaining the proper permits or approval from DOB. Illegal conversions pose serious safety risks to tenants and to the City's first responders by potentially creating unsafe living conditions that do not comply with NYC building and fire codes. The standard penalty for an illegal conversion, as established by the NYC Administrative Code, is \$15,000. If a respondent fails to show up at an OATH hearing, a default penalty of \$25,000 is imposed. Further, an additional daily penalty of \$1,000 may be imposed for up to \$45,000 for the violating condition. Therefore, the penalties for a single violation for illegal conversion can reach \$70,000.

For properties that were illegally converted with more than three additional units added contrary to the Certificate of Occupancy, a separate violation is issued for each additional illegally converted dwelling unit. If a homeowner fails to file a C of C for each violation issued, another violation may be issued for “failure to comply with the Commissioner's order to file a C of C” every

60 days, with additional fines applied, up to a maximum penalty of \$10,000 per illegal unit. A homeowner who illegally converts a property to multiple single room occupancy units and fails to correct the violating condition immediately, will continue to accumulate penalties until the illegal units are eliminated and the building returned to a code-compliant condition.

The auditors reviewed the 10 one- and two-family properties with the most OATH violations issued (a total of 240 violations with \$2.6 million in penalties imposed) as well as the 10 one- and two-family properties with the most penalties imposed (a total of \$4 million in penalties associated with 150 violations) during the audit scope. A total of 17 properties were listed (three properties were on both lists).

Eight of the 17 were located in Brooklyn—two CDs (#3 and #12) each contained two such properties. An examination of those properties with the most penalties imposed revealed that they were located in three boroughs—four in Queens, three in Brooklyn, and three in the Bronx.

Table I below provides a breakdown of the violations assessed against the 17 properties. An examination of these revealed that 116 (37%) of the total 314 violations associated with the 17 properties mentioned above were specifically for illegal conversions and resulted in \$3,922,830 (79%) of the total penalty amounts imposed. Other types of violations issued by DOB may also be associated with an illegal conversion violation, including for example, working without a permit, failing to obey a vacate order, making false statements in filing a C of C, and failing to maintain a building in a code-compliant manner. Consequently, the number of violations issued and penalties assessed that relate directly and indirectly to illegal conversions is higher than the figures reported above.

For example, one of the 10 properties with the highest amount in penalties assessed was a two-family property in Brooklyn. The \$515,000 in penalties imposed on this property during the audit scope are all related to illegal conversions. According to DOB records, this property was illegally converted to 24 single room occupancy units. DOB issued 26 OATH violations, all related (either directly or indirectly) to illegal conversions—24 for illegal occupancy with 3 or more additional dwelling units, 1 for work without a permit, and 1 for failure to maintain building in code-compliant manner, specifically for lack of the required number of egresses (exits).

In another example, a two-family property in Queens was assessed \$805,805 in penalties during the audit scope, all related to illegal conversions. DOB records indicate that this property was issued violations for illegally converting 14 rooms in the garage, cellar, and first and second floors. The owner was issued a total of 24 OATH violations.

Out of the 116 illegal conversion violations mentioned above, 40 resulted in default judgments totaling \$2,040,330 (52%) of the total penalty imposed for illegal conversion. The total amount of penalties imposed to those 104 defaulted violations was \$2.7 million, representing 54% of the total penalties imposed of \$5 million for the 314 violations.

Overall, default judgments accounted for 63% (\$24.3 million out of \$38.3 million) of the total penalties imposed during the audit scope for one- and two-family properties, although it was only imposed for 21% (2,875 out of 13,466) of the OATH violations issued.

As stated earlier, a default judgment is imposed when a respondent fails to appear at a hearing. Under such circumstances, the administrative court will impose the maximum penalty. Consequently, if a respondent does not believe that a violation is warranted or desires to have the initial penalty reduced, it is vital that the respondent appears at the hearing to present their arguments and avoid a default judgment.

Table I: Examination of the Violations Assessed Against Properties with the Highest Number of Violations and/or Penalties Imposed

Type of Violations	Number of Properties	Number of Violations	Violations Dismissed	Violations Pending OATH Hearing or Decision		Found in Violation at Hearing		Default Judgments		Total Penalty Imposed
				No.	\$	No.	\$	No.	\$	
Illegal Conversion	12	116	10	41	\$1,207,500	25	\$675,000	40	\$2,040,330	\$3,922,830
Miscellaneous	12	59	9	19	\$57,500	14	\$13,125	17	\$172,500	\$243,125
Failure to Obey Vacate Order & Remove or Defaced Vacate Order	4	10	0	0	\$0	1	\$4,800	9	\$174,530	\$179,330
File Certificate of Correction/Other Material Containing Materially False Statement	2	12	0	12	\$120,360	0	\$0	0	\$0	\$120,360
Unlawfully Continued Work on a Stop Work Order & Tampered, Removed, or Defaced Posted Stop Work Order	2	6	1	0	\$0	3	\$30,000	2	\$37,500	\$67,500
Work Without A Permit	11	29	10	7	\$17,225	8	\$7,900	4	\$34,375	\$59,500
Failure to Safeguard All Persons & Property Affected by Construction	2	5	2	2	\$25,000	0	\$0	1	\$25,000	\$50,000
Failure to Maintain Building in Code-Compliant Manner	11	17	2	4	\$5,625	4	\$4,375	7	\$37,500	\$47,500
Pedestrian Protection Does Not Meet Code Specifications	3	6	1	2	\$20,000	1	\$2,400	2	\$20,000	\$42,400
Construction Superintendent Failed to Perform Duties per Code	3	3	0	0	\$0	1	\$2,500	2	\$35,000	\$37,500

Failure to Maintain Display on Site Documents Required by Building Code Chapter 33	3	7	1	0	\$0	3	\$4,375	3	\$31,250	\$35,625
Failure to Comply with Commissioner Order to File Cert of Correction with DOB	1	4	0	0	\$0	0	\$0	4	\$32,500	\$32,500
Work Does Not Conform to Approved Construction Document Amendments	4	5	0	2	\$8,750	0	\$0	3	\$22,500	\$31,250
Failed to Protect Adjacent Property	1	1	0	1	\$25,000	0	\$0	0	\$0	\$25,000
Other	11	34	5	9	\$47,750	10	\$5,000	10	\$44,813	\$97,563
Totals	17*	314	41	99	\$1,534,710	70	\$749,475	104	\$2,707,798	\$4,991,983

*This column will not add up because multiple violation types can be associated with one property.

Submission of Requests for Plan Approvals Does Not Halt Accumulation of Penalties

The audit found that DOB issued violations to several homeowners for failing to correct violating conditions while plans to correct those conditions were with DOB for review and approval.

Auditors learned that the submission of a plan will not stop the clock on accumulating penalties. The audit identified several instances in which homeowners were assessed fines for FTC violations while still waiting to receive plan approvals from DOB that were needed to correct the violating conditions. In four cases, homeowners still had seven plans pending with DOB when they were issued eight FTC violations with fines totaling \$17,500. In three cases, three FTC violations with fines totaling \$2,500 were issued less than 60 days after DOB approved the plans needed to commence work.

As stated previously, owners may be required to submit a plan to DOB for review and approval. Activities between the Plan Examiner and the applicant are tracked in DOB NOW.¹³ After a plan is approved, the applicant can obtain the necessary permit(s) to commence work.

As per the NYC Administrative Code, properties that receive certain Class 1 (immediately hazardous) violations should be re-inspected by DOB if the agency had not received a C of C and the homeowner had not been granted a time extension. Class 1 violations subject to FTC

¹³ DOB NOW is a self-service online tool that allows property owners, design professionals, licensees, and filing representatives to conduct business with DOB online.

violations include illegal conversions, failure to maintain building in code compliance (e.g., unsafe façade), and disobeying a vacate order. For such violations, if DOB does not receive a C of C from the owner within 60 days of the issuance of the violation, or if a reinspection finds that the violating condition has not been corrected, the Code authorizes DOB to issue the owner a FTC summons. FTC violations carry fines of between \$1,250 and \$10,000.¹⁴ According to DOB's data, FTC violations issued to one- and two-family properties during CYs 2022 and 2023 carried an average penalty of \$3,789 per violation. During CYs 2022 and 2023, DOB issued 661 FTC violations to 413 one- and two-family properties. During the same period, DOB received 2,894 plans submitted to correct violating conditions for one- and two-family properties. An examination of the two sets of data revealed that there were 55 properties during the period that were both issued FTC violations and had submitted plans to DOB. These 55 properties submitted 90 plans for review and approval and had been issued a total of 103 FTC violations.

The audit found that although there were several violations issued to properties while a plan submitted for those properties was going through the review and approval process, most of the violations were issued either before a plan was submitted for the property or after a plan was approved. Of the 103 violations in the dataset, 88 were issued before a plan was received by DOB, eight were issued during the plan review stage (as noted above), and seven were issued after the plan was approved. A review of the violations issued after the plans were approved found that three were issued within 60 days after the approval, raising concerns that homeowners were not allowed adequate time to implement the plans before being cited for failure to correct the conditions.

Of the 90 plans, 78 were approved by DOB (the remaining 12 were still undergoing the review process as of November 7, 2024). The audit found that 39 plans were approved 22 or more days after they were submitted to DOB, 18 of which took over 100 days from plan submission to approval. Overall, it took an average of 65 days from plan submission to approval, with the number of days needed for approval ranging from 0 (reviewed and approved the same day of plan submission) to 812 days. An analysis of the seven plans that had been submitted and were undergoing reviews at the time that the eight FTC violations were issued found that the review and approval process took an average of 99 days, ranging from 35 to 208 days—four of the plans were approved more than 100 days after they were submitted to DOB.

The length of the review and approval does not fall solely on DOB; the process is also dependent on the homeowner's responsiveness to address issues raised by DOB (e.g., correct errors, provide additional information) during its plan review. As discussed later in this report, data shows that, on average, plans resided with the homeowners for approximately 70% of the review and approval processing time.

Property owners who are attempting to correct violating conditions, but are unable to without DOB's plan approval, remain at risk of being assessed additional penalties while still waiting for such approval. While the audit found this occurred in only a small percentage of cases, the financial impact on homeowners is significant. While DOB officials acknowledged this at the Exit Conference, they did not commit to making changes, and moreover, expressed concern that delays caused by unresponsive applicants also delay correction of the violation.

¹⁴ Penalty schedule related to code violations is listed in the Rules of the City of New York.

DOB Has Not Established Time Targets for Plan Reviews

The audit found that DOB has not established time targets for plan reviews and permit approvals. According to officials, DOB uses the service levels which are factual and better reflect the actual time used for the review/approval process. Auditors believe that DOB can utilize these service levels to set targets for its plan reviewers. At the Exit Conference, DOB officials disagreed with this suggestion on the basis that plans are with applicants for periods outside of DOB's control. DOB should, however, have targets in place for periods of review that are within DOB's control, particularly given the inconsistency of review times by borough and significant increases in review times discussed in the section below.

In its response to the revised Draft Report, DOB argued that this finding is “misleading,” stating that the agency reports plan review and approval time targets in the City's Mayor's Management Report (MMR). However, a review of the data reported in the MMR shows that DOB reports a target for the first plan review only; it does not have a target for plans that are resubmitted or target timeframes for completion of the plan review process. Further, according to written confirmations received from DOB officials, the agency does not track the timeliness of plan reviews and approvals relating to OATH violations. DOB provided no evidence (e.g., timeliness reports)—either during the course of the audit or in its response—that it measures the timeliness of plan reviews against established time targets.

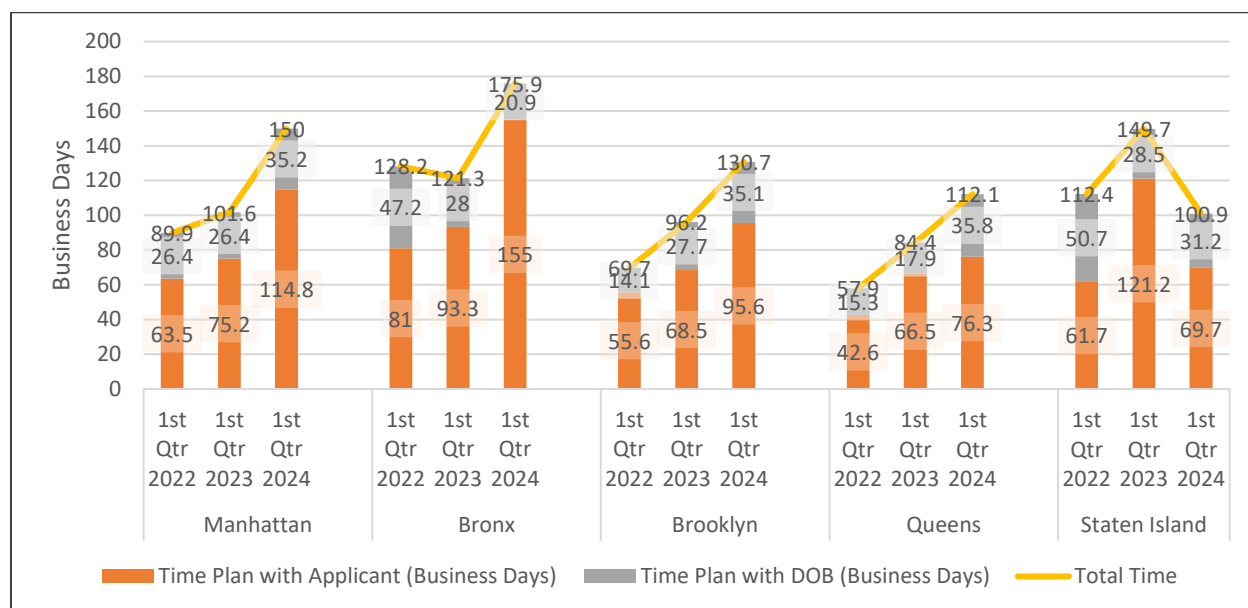
Accordingly, the auditors find no basis to modify this finding.

Time Needed for Plan Approvals Varied Significantly Among the Boroughs

To ascertain the average time that it takes for a plan to be reviewed and approved, the auditors obtained from DOB its Service Levels for the first quarters of CYs 2022 through 2024 for all plan review and approvals related to all property types and specifically, for one- and two-family properties. For the purposes of this audit, auditors focused on the wait times for major alterations in that they are likely to be of more concern for homeowners seeking to resolve violations relating to illegal conversions.

According to DOB's figures, the overall average time for plan approvals for major alterations for one- and two-family properties Citywide during the first quarter (January through March) of 2024 from the time that a plan was initially submitted to the final approval by DOB was 124 business days. However, the average number of days by borough varied significantly, from 100 business days on average in Staten Island to 175 business days on average in the Bronx. A comparison of the first quarters of CYs 2022, 2023, and 2024 shows the time has increased for four of the five boroughs, as shown in Chart I below.

Chart I: Average Number of Days between Plan Submission and DOB Approval for Major Alterations

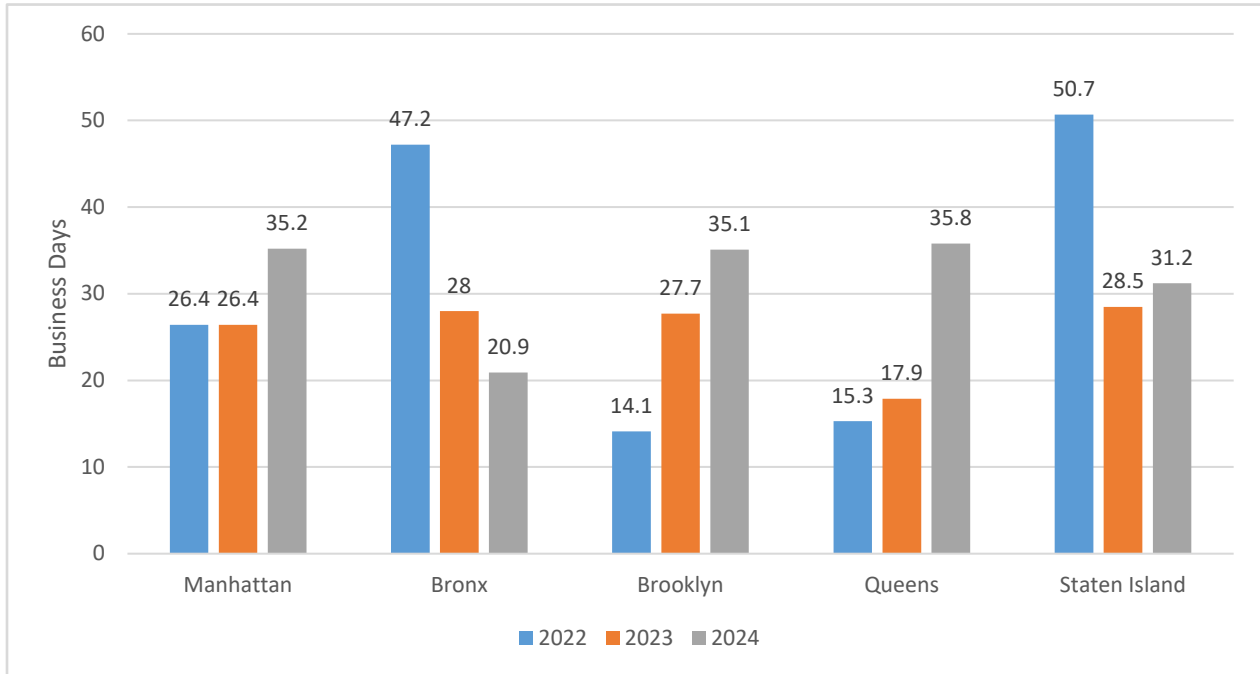


As shown in Chart I, only Staten Island experienced a net decrease during the first quarter over the three years for the time between plan submission and approval. The largest increase occurred in Queens, where the review and approval time more than doubled (57.9 to 112.1 business days) over the same period.

A further review of the data reveals that a significant amount of time during the plan review and approval process involved applicants correcting errors identified by DOB or submitting additional required information—over the three-year period, plans resided with the applicants approximately 70% of the time. For four boroughs—Manhattan, Brooklyn, Queens, and the Bronx—the time increased for the first quarter of every year, ranging from a 72% increase in Brooklyn (55.6 to 95.6 business days) to a 91% increase in the Bronx (81 to 155 business days). Staten Island was the only borough that had a decrease during the period, experiencing a 43% reduction from 2023 to 2024; however, that followed a 96% increase from 2022 to 2023. Overall, the net increase in Staten Island in the average number of days that plans resided with the applicants was 13% over the first quarter of the three years (61.7 to 69.7 business days). The reason for the increase of time that plans resided with the applicants is unknown.

Nonetheless, the increase in time being spent by applicants does not fully account for the overall increase in time from plan submission to approval. For three boroughs—Manhattan, Brooklyn, and Queens—the time that plans resided with DOB for its review increased during the period. A review of the trend of the first quarter over the past three years by borough is shown in Chart II below.

Chart II: Average Number of Days for DOB's Plan Review for Major Alterations



As shown in the chart, Manhattan, Queens, Brooklyn, and Staten Island had average review times of 31 business days or more during the first quarter of 2024. The biggest reductions in review time during the three-year span for the same period occurred in the Bronx and Staten Island, experiencing decreases of 56% and 38% respectively. Conversely, the review times more than doubled in Queens and Brooklyn, with Brooklyn having the largest increase (149%) during the period.

The audit found no evidence that the number of applications received by a borough correlated to the average amount of time it took for a plan to be approved. A breakdown by borough and year of the number of applications received and the days needed for approval is shown in Table II.

Table II: Comparison of Applications for Major Alterations Received and Average Days from Submission to Approval

Borough	Number of plan applications submitted	Average Time from submission to approval (business days)	Number of plan applications submitted	Average Time from submission to approval (business days)	Number of plan applications submitted	Average Time from submission to approval (business days)
	2022 (1st Quarter)		2023 (1st Quarter)		2024 (1st Quarter)	
Manhattan	19	89.9	30	101.6	55	150
Bronx	12	128.2	32	121.3	35	175.9
Brooklyn	164	69.7	322	96.1	415	130.6
Queens	295	57.9	409	84.4	476	112.1
Staten Island	14	112.4	33	149.7	59	100.8
TOTALS	504		826		1,040	

As shown in Table II, the Bronx received the least plan review applications but had the longest review time among the five boroughs in 2022. Queens received the most applications but had the shortest review time for that year. Regarding year-to-year trends, for the Bronx, although the number of plan review applications has consistently increased, the time for review and approval decreased in 2023 but increased significantly in 2024. For Staten Island, the number of plan review applications has consistently increased; the review time increased significantly in 2023 and decreased noticeably in 2024. For the remaining three boroughs, the number of plan review applications has increased, and the review time has also increased, with Queens showing the greatest increase in percentage.

Auditors presented these figures to DOB to find out the reasons for the increase in DOB's review time. According to DOB, the increase in the average number of days in DOB's review and approval is primarily due to (1) an increase in the number of applications received, (2) reductions in staffing, and (3) the complexity of the projects being submitted by applicants. Regarding the time increase in Manhattan, officials attributed it to a significant reduction in Plan Examiner staffing over the last few years and that no overtime was offered to staff to help eliminate backlogs. For Brooklyn, officials attributed the time increase to a significant portion of their staffing resources being allocated to train new staff and update the online filing system. DOB did not offer an explanation for the increases in the Bronx, Queens and Staten Island.¹⁵

Establishing time targets and analyzing trends both Citywide and among the boroughs would assist DOB in assessing its effectiveness in minimizing its review times and assessing whether staff should be re-allocated among boroughs to reduce significant variances in review times.

¹⁵ In its response to the revised Draft Report, DOB argued that the reported approval time percentages do not distinguish between standard plan examinations and professional certifications. However, as stated in the report, the audit's calculations pertained to major alterations only.

DOB Has Ended Its Practice of Publicly Reporting Plan Review and Approval Times

DOB developed an online tool—“Service Levels Tracker”—that allowed property owners and the public to better understand DOB timelines and the impact DOB’s inspections and approvals have on the timelines of their projects. With this online tool, the public was able to see at an aggregate level the average times for DOB services such as plan review for new buildings, major or minor alterations and demolition, review of C of C, customer services and licensing renewals.¹⁶ DOB tracks the review time for the initial submission of plan and the total time spent to complete the plan review and approval. It also tracks the time that the plan is with DOB for review and the time that the plan is with the applicant to make the required corrections. Prior to April 2022, the total time for the plan review and approval process was publicly reported. According to DOB officials, there was a change in DOB leadership and the decision was made to track and report service levels internally only. Additionally, officials stated that the publicly reported information did not separately report the amount of time that the plan was with DOB and the time with the applicant.

DOB Has No Mechanism for Assessing the Effectiveness of Initiatives Intended to Assist Owners of One- and Two-Family Properties

To assist small property owners in navigating City code requirements DOB initiated the Homeowner Relief Program (HRP). However, DOB has not assessed the extent to which these initiatives are achieving their intended outcomes.

DOB stated that it implemented several initiatives that were intended to assist property owners with avoiding or resolving summonses. Three of them are listed below. Of the three, only one appears to be ongoing. The remaining two appear to have been one-time projects. The three initiatives are as follows:

- *A Property Owner’s Guide to Resolving the OATH Summonses*—DOB presented a webinar in which property owners were provided guidance on how to navigate the process of resolving summonses issued for their properties. The webinar was held in June 2021.
- “DOB in Community”—DOB conducted an outreach program throughout the City’s five boroughs where DOB representatives met with small property owners in the community to assist small property owners to certify correction for summonses, obtain information on DOB NOW and BIS filings, and to answer questions related to permits, construction codes, zoning regulations, and Certificates of Occupancy. This program was held on Saturdays during the summer months (June through August) of 2023.
- “Buildings after Hours”—an initiative held in all boroughs in which every Tuesday, DOB offices remain open late (4 p.m. to 7 p.m.) so that small property owners can meet with DOB staff to address open violations on a property, get information related to home

¹⁶ A major alteration is a change of use, egress, or occupancy of a building. A minor alteration is work that can be done without a permit, Licensed Contractor, or Registered Design Professional and consists of ordinary repairs or plumbing.

renovations or construction projects, or how to use online resources, including BIS and DOB NOW. This initiative has been in operation since March 2015.

DOB has not established any metrics or measurable goals for these initiatives, nor has it conducted studies of these initiatives to assess their impact or effectiveness. DOB also has not conducted formal surveys of participants to gauge their level of satisfaction with these efforts. Conducting surveys would assist DOB to assess the effectiveness of these initiatives and to determine whether they are worth continuing or require modification to reach the target audience.

Homeowner Relief Program Appears to Have Had Limited Success

One of the major initiatives instituted by DOB was the Homeowner Relief Program (HRP). This was fully implemented in August 2021 to assist owners of one- and two-family properties. Under the HRP, eligible owners are issued a Request for Corrective Action (RCA) rather than an OATH summons, for certain violating conditions. Owners who receive a RCA are not issued an OATH summons for the violating conditions if it is corrected within 60 days of the RCA receipt. To be eligible for the HRP, a property owner must not have received an OATH summons from DOB in the past 5 years, and the violating condition must not be a Class 1 (Immediately Hazardous) violation that is an illegal conversion or one which led to death or serious injury. As with the other initiatives, DOB has not established any metrics or conducted studies of this program.

Nonetheless, it appears that the HRP's effectiveness in correcting deficiencies may be limited. During the audit scope, DOB issued RCAs as a result of 9,167 substantiated complaints associated with 8,399 properties. As of February 7, 2024, the disposition of the 9,167 complaints was as follows:

- 1,735 (19%) were found by DOB to be corrected by the homeowners,
- 1,324 (14%) resulted in OATH violations being issued after a re-inspection found the condition unresolved,
- 5,504 (60%) remained open with no evidence of an attempted re-inspection by DOB,
- 535 (6%) were not re-inspected because the inspectors were unsuccessful in gaining access to reinspect to see if the condition was corrected, and
- 69 (1%) either had a Stop Work Order issued or an existing RCA issued for a similar condition.

At the Exit Conference, DOB argued that not enough time has passed for a meaningful evaluation of the program; however, it has been in effect for approximately 3 ½ years. One official also suggested that the program should be considered a success because the number of corrected complaints exceeded the number of unresolved complaints (as shown above, 19% were found to be corrected on re-inspection versus 14% that remained unresolved). However, the fact remains that 1,324 (43%) of the 3,059 complaints that DOB was able to re-inspect still had unresolved conditions, and the status of 6,039 (66%) of the 9,167 complaints that were substantiated under the program remains unknown, either because DOB has not attempted to re-inspect them (5,504) or because DOB was unable to re-inspect them (535).

Recommendations

To address the abovementioned findings, the auditors propose that DOB should:

1. Re-evaluate the 100% reliance on complaints as the driver of code enforcement and consider other additional approaches.¹⁷

DOB Response: DOB disagreed with this recommendation, stating that “[c]omplaints must be investigated, as per Code. Additionally, the Department’s complaint system is supported by NYC311, which is a non-emergency service in New York City that allows residents to file complaints and access government information.”

Auditor Comment: The audit recognizes that DOB must investigate all complaints. However, DOB should consider utilizing *additional* approaches to identify violating conditions across the City that are not reported.

2. Consider options to track the source of complaints and other remedies that could be taken to ensure the 311-complaint system is not abused to target certain communities.

DOB Response: DOB disagreed with this recommendation, noting the anonymity of 311 calls and the agency’s belief that this recommendation should be directed to the Office of Technology and Innovation and 311. DOB also stated it has engaged 311 personnel on multiple occasions to explore this capability; however, this technology is not currently available to DOB.

Auditor Comment: In consideration of the opportunity for parties to utilize the 311 system to anonymously target certain communities, the auditors encourage DOB to work with OTI and 311 to explore the capability of the system in tracking the source of complaints.

3. Implement process changes to ensure that “Failure to Comply” summonses are not issued while plans to correct the underlying violation(s) are still pending review by DOB, and not within 60 days of DOB approving a plan needed to correct the underlying violation(s).

DOB Response: DOB disagreed with this recommendation, stating that property owners are responsible for addressing violations, regardless of whether plans are under review, and that “[p]lans alone do not demonstrate that a violation has been corrected or that required work has been completed.”

In addition, DOB stated that “the proposed system creates the potential for exploitation by unscrupulous actors. Bad-faith property owners could intentionally submit inadequate or incomplete plans and then delay their responses to objections. Knowing that plan reviews typically take longer than 60 days, they could use this loophole to avoid receiving a 60-day summons, effectively prolonging non-compliance and jeopardizing public safety. Lastly, DOB cannot be made to violate its own laws by instituting or changing the construction code and not imposing penalties for non-compliance.”

Auditor Comment: As noted in the report, for certain violating conditions, property owners cannot start work without a plan approval and, under the current practice, homeowners can be issued with additional violations, and penalties, for failing to cure what they cannot

¹⁷ The Administrative Code requires DOB to investigate all complaints that it receives.

legally cure without DOB's approval. This is patently unfair. The auditors encourage DOB to reconsider this recommendation.

4. Establish education and engagement strategies in the communities most affected by illegal conversions to emphasize the financial impact of code violations, fines, and penalties.

DOB Response: DOB partially agreed with this recommendation.

Auditor Comment: DOB does not identify the portion of the recommendation that it does not agree with. Nonetheless, for the sake of transparency, the auditors urge DOB to fully implement this recommendation.

5. Work with OATH to educate the public concerning the financial consequences of defaulting on summonses issued to address DOB violations.

DOB Response: DOB agreed with this recommendation.

6. For transparency, restore the practice of reporting and updating the service levels including plan approval times to the tracker on the agency's website.

DOB Response: DOB partially agreed with this recommendation and stated that it will consider it.

Auditor Comment: DOB does not identify the portion of the recommendation that it does not agree with. Nonetheless, for the sake of transparency, the auditors urge DOB to fully implement this recommendation.

7. Identify the reasons for the variances in review time among the boroughs and make reasonable efforts to reduce those variances, minimize plan review times, and establish time targets for the agency's review of plan submissions.

DOB Response: DOB disagreed with this recommendation. DOB stated that time targets are currently part of the MMR/PMR and noted that it lacks control over the entire review period.

Auditor Comment: The auditors reiterate the need for DOB to implement this recommendation.

8. Set Key Performance Indicators for the HRP initiative to assess the effectiveness of the program.

DOB Response: DOB agreed with this recommendation.

9. Formally survey persons who participate in initiatives designed to assist property owners to identify their satisfaction with the initiatives and potentially identify areas for improvement.

DOB Response: DOB agreed with this recommendation.

Recommendations Follow-up

Follow-up will be conducted periodically to determine the implementation status of each recommendation contained in this report. Agency reported status updates are reported in the

Audit Recommendations Tracker available here: <https://comptroller.nyc.gov/services/for-the-public/audit/audit-recommendations-tracker/>

Scope and Methodology

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). GAGAS requires 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 within the context of our audit objective(s). 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 of this audit was Calendar Years 2022, 2023 and the first quarter of 2024.

To obtain an understanding of the laws, policies and procedures that govern the enforcement of building codes, auditors reviewed and, where applicable, used as criteria the following documents:

- Administrative Code of NYC, Title 28 New York City Construction Codes, Chapter 2 Enforcement;
- Rules of the City of New York 1 RCNY §102-01, Chapter 100, Subchapter B Enforcement;
- Rules of the City of New York 1 RCNY §102-04 Civil Penalties for Work Without Permit and for Violation of Stop Work Orders;
- Rules of the City of New York 1 RCNY §102-05 Penalties for Failure to Certify Correction of Certain Immediately Hazardous Violations;
- Rules of the City of New York 1 RCNY §102-06 Homeowner Resolution Program;

To obtain an understanding of DOB's roles and responsibilities related to enforcing building codes, the auditors interviewed the Assistant Commissioner of Technical Affairs and Code Development, Director of Borough Operations, and Executive Director of the Administrative Enforcement Unit (AEU). To understand the inspection process, the auditors conducted walkthrough meetings with the Complaint Triage Command Officer, the Assistant Commissioner of Enforcement and Inspection, and the Assistant Chief Inspector and accompanied DOB inspectors during field visits at locations in Brooklyn and Queens. To understand the plan review and approval process, the auditors interviewed two Plan Examiners. The auditors confirmed with DOB their understanding of code enforcement processes in follow-up emails.

To understand how DOB uses BIS and DOB NOW in enforcing and tracking building code regulations, the auditors attended demonstration sessions for these computer systems and observed a staff member from AEU, a Plan Examiner, and a Supervising Inspector using them.

To better understand and to assess the adequacy of DOB's enforcement of building codes, the auditors reviewed and used the Administrative Code of New York and the DOB Penalty Schedule as criteria. The auditors also reviewed DOB's website, which has ample information regarding inspections, enforcement, and resolving issues (including violations, vacate orders, Stop Work Order, C of C, etc.)

The auditors reviewed and analyzed the following datasets obtained from DOB:

- *Master List of Properties* (as of January 12, 2024) used to identify one- and two-family properties.
- *List of all OATH Violations Issued During Calendar Years 2022 and 2023* to determine the overall breakdown of OATH violations by property type, violation type, severity classification, penalty imposed, and neighborhood, as well as with the focus on violations issued to one- and two-family properties. Using the median household income for each community district identified below, the audit team determined how violations issued to these properties were distributed throughout the City and if certain homeowners were disproportionately affected.

In addition, the auditors downloaded from NYC Open Data the complaints received by DOB during Calendar Years 2022 and 2023 to determine how complaints were distributed throughout the City and if certain homeowners were disproportionately affected. This dataset was analyzed in connection with the median household income.

The auditors downloaded the Department of City Planning's Primary Land Use Tax Lot Output (PLUTO) from NYC Open Data to identify the community district and zip code for each BIN.

Further, the auditors obtained the 2022 American Community Survey (ACS) 5-year database published by the U.S. Census Bureau from the Department of City Planning's website to identify the median household income for each community district throughout the City and created a Citywide map using a color grading scheme to reflect the median income range for each district. Using the same ACS database, the auditors identified the demographics for each community district throughout the City. The auditors obtained the 2023 NYCHVS, and with the assistance of a Senior Data Analyst from the Office of the Comptroller's Bureau of Public Policy and Organizing, analyzed the data to determine the percentage of owner-occupied one-and two-family properties.

To determine whether DOB enforces building codes in an equitable manner, the auditors reviewed and analyzed the complaints received and violations issued during Calendar Years 2022 and 2023 and mapped the data with household income levels. Further, the auditors analyzed these data sets to determine the correlation of the number of complaints received, violations issued and penalties imposed on properties and the median household income and demographics in the community districts where the properties were located.

For a detailed review of violations and to determine the time it took DOB to review and approve plan(s) if applicable, the auditors randomly selected 10 violations with penalties of \$5,000 and above and 10 violations related to illegal conversions that were "resolved" as those might have had to submit a plan to correct existing condition(s). In addition, the auditors selected the top 10 violations with most penalties imposed, for a total of 30 violations. To determine whether FTC violations were issued during the plan review period, auditors reviewed a list of plans submitted to correct violating conditions for one- and two-family properties during CYs 2022 and 2023 and compare it to the list of FTC violations issued to these properties for the same period.

To determine the trend of DOB's service levels regarding the plan review and approval time, the auditors obtained and analyzed the service level data from DOB for the first quarters of CYs 2022, 2023 and 2024. The auditors also obtained and analyzed the permits issued by DOB during the audit scope to determine the timeliness of permit issuance.

To learn about the Homeowner Relief Program, the auditors interviewed the Executive Director of Code and Rule Implementation. In addition, the auditors obtained and reviewed the Requests for Corrective Action issued during the audit scope as a result of inspections conducted in response to complaints to determine the effectiveness of HRP. To assess DOB's assistance of small

homeowners to resolve violations, the auditors obtained and reviewed information related to DOB's outreach efforts.

The auditors also met with representatives from the Legal Aid Society to learn more about the cases that they helped clients in resolving violations issued by DOB and to determine if there is a correlation between the enforcement actions taken and certain communities being targeted for inspections.

Although the results of the audit tests that involved samples were not projectable to their respective populations, these results, together with the results of other audit procedures and tests, provided a reasonable basis to assess the equity of DOB's enforcement of building codes on one- and two-family properties.

Appendix I

Table I: Analysis of 10 Community Districts with the Highest Number of Violations Issued to One- and Two-Family Properties in CYs 2022 and 2023

Community District--CD (Borough)	Neighborhoods*	Number of Violations Issued to 1- and 2-Family Properties	Total Amount in Assessed Penalties	Average Penalty per Violation	CD's MHI for 2022**	Above/ Below the Citywide MHI (\$76,607*)	Largest Ethnic Demographic in CD (%)	2nd Largest Ethnic Demographic in CD (%)	Ranking Among CDs Citywide in Complaints Received	Ranking Among CDs Citywide in Inspections Attempted
12 (Queens)	Hollis, Jamaica, Jamaica Center, North Springfield Gardens, Rochdale, South Jamaica, St. Albans	757	\$2,362,926	\$3,121.43	\$74,870	Below	Black (57.2%)	Hispanic (16.3%)	#1	#1
7 (Queens)	Auburndale, Bay Terrace, Beechhurst, Clearview, College Point, Downtown Flushing, East Flushing, Flushing, Malba, Murray Hill, Queensboro Hill, Waldheim, Whitestone	725	\$1,913,013	\$2,638.64	\$69,719	Below	Asian (53.9%)	White (24.4%)	#3	#3
8 (Queens)	Briarwood, Fresh Meadows, Hillcrest, Holliswood, Jamaica, Jamaica Estates, Jamaica Hills, Kew Gardens Hills, Pomonok, Utopia	651	\$1,800,515	\$2,765.77	\$84,228	Above	Asian (32.6%)	White (29.2%)	#7	#7

Community District--CD (Borough)	Neighborhoods*	Number of Violations Issued to 1- and 2-Family Properties	Total Amount in Assessed Penalties	Average Penalty per Violation	CD's MHI for 2022**	Above/ Below the Citywide MHI (\$76,607*)	Largest Ethnic Demographic in CD (%)	2nd Largest Ethnic Demographic in CD (%)	Ranking Among CDs Citywide in Complaints Received	Ranking Among CDs Citywide in Inspections Attempted
13 (Queens)	Bellaire, Bellerose, Brookville, Cambria Heights, Floral Park, Glen Oaks, Laurelton, New Hyde Park, Queens Village, Rosedale, Springfield Gardens	622	\$1,737,210	\$2,792.94	\$105,810	Above	Black (52.3%)	Asian (18.8%)	#4	#5
11 (Queens)	Auburndale, Bayside, Douglaston, Hollis Hills, Little Neck, Oakland Gardens	581	\$788,926	\$1,357.88	\$102,023	Above	Asian (45%)	White (35.9%)	#8	#9
15 (Brooklyn)	Gerritsen Beach, Gravesend, Homecrest, Kings Highway, Manhattan Beach, Plumb Beach, Sheepshead Bay	538	\$841,390	\$1,563.92	\$74,077	Below	White (61.4%)	Asian (20.1%)	#15	#15
12 (Brooklyn)	Borough Park, Kensington, Ocean Parkway	537	\$1,326,363	\$2,469.95	\$62,458	Below	White (62.8%)	Asian (17.1%)	#17	#17
3 (Brooklyn)	Bedford-Stuyvesant, Stuyvesant Heights, Tompkins Park North	517	\$1,569,174	\$3,035.15	\$73,145	Below	Black (45.7%)	White (27.5%)	#20	#19
10 (Queens)	Howard Beach, Lindenwood, Old Howard Beach, Ozone Park, South Ozone Park	464	\$1,254,726	\$2,704.15	\$94,659	Above	Asian (25.9%)	Hispanic (24.6%)	#2	#2

Community District--CD (Borough)	Neighborhoods*	Number of Violations Issued to 1- and 2-Family Properties	Total Amount in Assessed Penalties	Average Penalty per Violation	CD's MHI for 2022**	Above/ Below the Citywide MHI (\$76,607*)	Largest Ethnic Demographic in CD (%)	2nd Largest Ethnic Demographic in CD (%)	Ranking Among CDs Citywide in Complaints Received	Ranking Among CDs Citywide in Inspections Attempted
18 (Brooklyn)	Bergen Beach, Canarsie, Flatlands, Georgetown, Marine Park, Mill Basin, Mill Island, Paerdegat Basin	427	\$853,009	\$1,997.68	\$85,155	Above	Black (59.1%)	White (21.5%)	#5	#4
Total		5,819	\$14,447,252							

*Some neighborhoods fall under multiple community districts.

**Department of City Planning website, American Community Survey 2018-2022

Appendix II

Table II: Analysis of Top 10 Community Districts with Highest Accumulated Penalties of \$20,000 or More Imposed on One- and Two-Family Properties

Community District (Borough)	Neighborhoods	2022 MHI	Above/ Below the Citywide Median (\$76,607)	Number of Properties with \$20,000 or More in Penalties	Number of Violations Issued for these Properties	Penalties Imposed	Highest Accumulated Penalties Imposed on a Property	Largest Ethnic Demographic (and %)	2nd Largest Ethnic Demographic (and %)
12 (Queens)	Hollis, Jamaica, Jamaica Center, North Springfield Gardens, Rochdale, South Jamaica, St. Albans	\$74,870	Below	39	108	\$1,263,367	\$74,000	Black (57.2%)	Hispanic (16.3%)
12 (Bronx)	Baychester, Eastchester, Edenwald, Olinville, Wakefield, Williamsbridge, Woodlawn	\$62,341	Below	15	59	\$1,138,995	\$323,750	Black (57.8%)	Hispanic (29.1%)
5 (Brooklyn)	Broadway Junction, City Line, Cypress Hills, East New York, Highland Park, New Lots, Spring Creek, Starrett City	\$51,277	Below	14	58	\$1,072,405	\$264,000	Black (52.8%)	Hispanic (34.3%)

Community District (Borough)	Neighborhoods	2022 MHI	Above/ Below the Citywide Median (\$76,607)	Number of Properties with \$20,000 or More in Penalties	Number of Violations Issued for these Properties	Penalties Imposed	Highest Accumulated Penalties Imposed on a Property	Largest Ethnic Demographic (and %)	2nd Largest Ethnic Demographic (and %)
8 (Queens)	Briarwood, Fresh Meadows, Hillcrest, Holliswood, Jamaica, Jamaica Estates, Jamaica Hills, Kew Gardens Hills, Pomonok, Utopia	\$84,228	Above	14	90	\$1,042,375	\$316,500	Asian (32.6%)	White (29.2%)
9 (Bronx)	Bronx River, Castle Hill, Clason Point, Harding Park, Parkchester, Soundview, Soundview-Bruckner, Unionport	\$50,000	Below	13	43	\$1,002,175	\$296,875	Hispanic (57.9%)	Black (26.9%)
3 (Brooklyn)	Bedford-Stuyvesant, Stuyvesant Heights, Tompkins Park North	\$73,145	Below	17	103	\$903,697	\$172,300	Black (45.7%)	White (27.5%)
13 (Queens)	Bellaire, Bellerose, Brookville, Cambria Heights, Floral Park, Glen Oaks, Laurelton, New Hyde Park, Queens Village, Rosedale, Springfield Gardens	\$105,810	Above	16	77	\$883,810	\$364,250	Black (52.3%)	Asian (18.8%)

Community District (Borough)	Neighborhoods	2022 MHI	Above/ Below the Citywide Median (\$76,607)	Number of Properties with \$20,000 or More in Penalties	Number of Violations Issued for these Properties	Penalties Imposed	Highest Accumulated Penalties Imposed on a Property	Largest Ethnic Demographic (and %)	2nd Largest Ethnic Demographic (and %)
4 (Bronx)	Concourse, Concourse Village, East Concourse, Highbridge, Mount Eden	\$40,485	Below	7	42	\$793,367	\$222,875	Hispanic (61.5%)	Black (31.4%)
7 (Queens)	Auburndale, Bay Terrace, Beechhurst, Clearview, College Point, Downtown Flushing, East Flushing, Flushing, Malba, Murray Hill, Queensboro Hill, Waldheim, Whitestone)	\$69,719	Below	13	61	\$789,889	\$360,180	Asian (53.9%)	White (24.4%)
9 (Queens)	Kew Gardens, Ozone Park, Richmond Hill, Woodhaven	\$84,590	Above	10	40	\$712,680	\$426,250	Hispanic (41.6%)	Asian (25.6%)

Appendix III

Table III: Top 10 One- and Two-Family Properties with the Most OATH Violations Issued

Sample No.	Total Number of OATH Violations on Property	Total Penalties Imposed on Property	CD and Borough where Property is Located	Neighborhoods Covered in CD	CD's MHI in 2022	MHI Above/ Below the Citywide Median (\$76,607)
1	30	\$132,588	10 (Manhattan)	Central Harlem	\$58,647	Below
2	27	\$54,100	12 (Brooklyn)	Borough Park, Kensington, Ocean Parkway	\$62,458	Below
3*	26	\$373,750	4 (Brooklyn)	Bushwick	\$78,824	Above
4*	26	\$515,000	12 (Brooklyn)	Borough Park, Kensington, Ocean Parkway	\$62,458	Below
5	24	\$223,485	3 (Brooklyn)	Bedford-Stuyvesant, Stuyvesant Heights, Tompkins Park North	\$73,145	Below
6*	24	\$805,805	7 (Queens)	Auburndale, Bay Terrace, Beechhurst, Clearview, College Point, Downtown Flushing, East Flushing, Flushing, Malba, Murray Hill, Queensboro Hill, Waldheim, Whitestone	\$69,719	Below
7	23	\$186,650	11 (Brooklyn)	Bath Beach, Bensonhurst, Gravesend, Mapleton	\$64,676	Below
8	21	\$172,300	3 (Brooklyn)	Bedford-Stuyvesant, Stuyvesant Heights, Tompkins Park North	\$73,145	Below
9	20	\$170,625	5 (Brooklyn)	Broadway Junction, City Line, Cypress Hills, East New York, Highland Park, New Lots, Spring Creek, Starrett City	\$51,277	Below
10	19	\$28,125	4 (Bronx)	Concourse, Concourse Village, East Concourse, Highbridge, Mount Eden	\$40,485	Below

*Department of City Planning website, American Community Survey 2018-2022

*Property also among the top ten in penalties assessed.

Table IV: Top 10 One- and Two-Family Properties with the Most Penalties Imposed

Sample No.	Total Penalties Imposed	Total Number of OATH Violations	Community District (Borough)	Neighborhoods	2022 MHI	Above/ Below the Citywide Median (\$76,607)
1	\$805,805	24	7 (Queens)	Auburndale, Bay Terrace, Beechhurst, Clearview, College Point, Downtown Flushing, East Flushing, Flushing, Malba, Murray Hill, Queensboro Hill, Waldheim, Whitestone	\$69,719	Below
2*	\$515,000	26	12 (Brooklyn)	Borough Park, Kensington, Ocean Parkway	\$62,458	Below
3	\$426,250	11	9 (Queens)	Kew Gardens, Ozone Park, Richmond Hill, Woodhaven	\$84,590	Above
4*	\$373,750	26	4 (Brooklyn)	Bushwick	\$78,824	Above
5	\$364,250	11	13 (Queens)	Bellaire, Bellerose, Brookville, Cambria Heights, Floral Park, Glen Oaks, Laurelton, New Hyde Park, Queens Village, Rosedale, Springfield Gardens	\$105,810	Above
6*	\$323,750	8	12 (Bronx)	Baychester, Eastchester, Edenwald, Olinville, Wakefield, Williamsbridge, Woodlawn	\$62,341	Below
7	\$316,500	13	8 (Queens)	Briarwood, Fresh Meadows, Hillcrest, Holliswood, Jamaica, Jamaica Estates, Jamaica Hills, Kew Gardens Hills, Pomonok, Utopia	\$84,228	Above
8	\$302,680	14	14 (Brooklyn)	Ditmas Park, Flatbush, Manhattan Terrace, Midwood, Ocean Parkway, Prospect Park South	\$75,021	Below
9	\$299,250	7	12 (Bronx)	Baychester, Eastchester, Edenwald, Olinville, Wakefield, Williamsbridge, Woodlawn	\$62,341	Below
10	\$296,875	10	9 (Bronx)	Bronx River, Castle Hill, Clason Point, Harding Park, Parkchester, Soundview, Soundview-Bruckner, Unionport	\$50,000	Below

*Property also among the top ten in violations received.

Appendix IV

Table V: Violations Issued by Property Type During Calendar Years 2022 and 2023

Property Type	Number of Properties Citywide	%	Number of Violations Issued	%	Total Penalties Imposed	%
1- and 2- Family Dwellings	778,075	66.8%	13,466	14.1%	\$38,285,290	20.6%
Walk-up Apartments	171,962	14.8%	20,766	21.8%	\$46,605,928	25.1%
Theatres, Stores, Shopping Centers, Office Buildings, Others	46,640	4.0%	10,530	11.0%	\$20,058,463	10.8%
Residence - Multi Use	38,501	3.3%	4,879	5.1%	\$11,292,257	6.1%
Blank (new building, vacant lot, or information not provided by the Department of Finance)	30,066	2.6%	118	0.1%	\$246,024	0.1%
Warehouses, Factories, Garages, Gas Stations	26,189	2.2%	2,613	2.7%	\$4,917,936	2.6%
Elevator Apartments	23,533	2.0%	25,258	26.5%	\$41,356,024	22.2%
Condos	22,523	1.9%	4,839	5.1%	\$8,101,552	4.4%
Vacant Land	14,915	1.3%	3,518	3.7%	\$7,986,490	4.3%
Educational Structures	4,906	0.4%	6,213	6.5%	\$1,881,171	1.0%
Miscellaneous	3,116	0.3%	281	0.3%	\$527,811	0.3%
Hospitals & Health Facilities	1,883	0.2%	785	0.8%	\$1,266,349	0.7%
Government Installations	1,277	0.1%	129	0.1%	\$73,680	0.0%
Hotels	1,196	0.1%	1,992	2.1%	\$3,428,106	1.8%
Total	1,164,782	100.0%	95,387	100.0%	\$186,027,078	100.0%

Table VI: Type of Violations Issued During Calendar Years 2022 and 2023

Violation Type	Elevator Apartments	Walk-up Apartments	1- and 2-Family Properties	Theatres, Stores, Shopping Centers, Office Buildings, Others	Educational Structures	Residence - Multi Use	Condos	Other	Grand Total
Construction	15,192	16,306	11,616	7,842	5,765	3,783	3,054	7,534	71,092
Elevator	5,553	173	5	582	120	3	775	425	7,636
Boiler	911	1,686	37	449	181	400	186	174	4,024
Local Law	1,409	84	6	204	33	1	286	194	2,217
Electrical	363	649	227	377	12	137	96	301	2,162
Quality of Life	135	465	432	15	0	82	23	5	1,157
Zoning	54	204	214	353	3	163	76	59	1,126
Site Safety	249	167	232	99	12	43	31	115	948
Plumbing	209	162	37	59	4	43	26	37	577
Signs	17	38	12	103	1	73	24	141	409
Cranes & Derricks	165	79	26	43	12	10	40	33	408
Public Assembly	1	6	0	2	0	0	0	1	10
Total	24,258	20,019	12,844	10,128	6,143	4,738	4,617	9,019	91,766
Blank (Computer generated violations/Types Unknown)	1,000	747	622	402	70	141	222	417	3,621
Grand Total	25,258	20,766	13,466	10,530	6,213	4,879	4,839	9,436	95,387

Table VII: Violations Issued Per Borough by Severity for all Properties During Calendar Years 2022 and 2023

Borough	Number of Violations					Total Penalty Imposed
	CLASS - 1 (Immediately Hazardous)	CLASS - 2 (Major Violations)	CLASS - 3 (Lesser Violations)	Grand Total	%	
Manhattan	9,345	12,859	746	22,950	24%	\$40,178,302
Bronx	6,986	9,039	380	16,405	17%	\$37,697,745.
Brooklyn	13,731	18,876	1,165	33,772	35%	\$62,379,399.
Queens	7,320	11,180	1,008	19,508	20%	\$40,568,905
Staten Island	973	1,634	145	2,752	3%	\$5,202,727
Total	38,355	53,588	3,444	95,387	100%	\$186,027,078

Table VIII: Violations Issued Per Borough and Severity to 1- and 2-Family Properties During

Borough	Number of 1- and 2- Family Properties	%	Number of Complaints Received	Number of Inspections Conducted in Response to Complaints	Number of Violations					Total Penalty Imposed
					CLASS - 1	CLASS - 2	CLASS - 3	Grand Total	%	
					(Immediately Hazardous)	(Major Violations)	(Lesser Violations)			
Manhattan	4,323	1%	1,145	1,143	179	214	6	399	3%	\$990,300
Bronx	64,519	8%	6,226	6,206	712	681	43	1,436	11%	\$6,954,782
Brooklyn	205,745	26%	27,259	26,630	2,270	2,480	232	4,982	37%	\$13,533,445
Queens	372,389	48%	31,878	30,596	2,279	2,900	380	5,559	41%	\$14,743,491
Staten Island	131,099	17%	7,527	7,379	363	634	93	1,090	8%	\$2,063,273
Grand Total	778,075	100%	74,035	71,954	5,803	6,909	754	13,466	100%	\$38,285,290

Table IX: One- and Two-family Properties by Median Household Income Range that Received Accumulated OATH Violations of \$20,000 or More in Penalties Imposed

Above/Below the Citywide Median of \$76,607	Median Household Income Range within the Community Districts Where the Properties are Located	Number of Community Districts	Total Number of OATH Violations	Total Penalties Imposed	% of Grand Total	Number of Properties	The Most Number of Violations a Property Received	The Highest Accumulated Penalties Imposed on a Property
Below	\$40,000 or less	5	76	\$1,256,620	5.9%	20	8	\$286,250
Below	>\$40,000 - \$60,000	6	197	\$3,345,347	15.8%	43	15	\$296,875
Below	>\$60,000 - \$76,607	17	730	8,723,568	41.1%	172	20	\$360,180
Subtotal		28	1,003	\$13,325,535	62.8%	235		
Above	> \$76,607 - \$100,000	15	492	\$5,677,265	26.7%	112	15	\$426,250
Above	>\$100,000 - \$200,000	10	247	\$2,145,840	10.1%	48	12	\$364,250
Subtotal		25*	739	\$7,823,105	36.8%	160		
Unknown	N/A	N/A	8	\$90,000	0.4%	3	4	\$40,000
Grand Total			1,750	\$21,238,640	100.0%	398		

*According to DOB data, six CDs had no one- and two-family properties that amassed penalties totaling \$20,000 or more.



James S. Oddo
Commissioner

March 26, 2025

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Mr. Brad Lander
New York City Comptroller
1 Centre Street
New York, NY 10007

Dear Mr. Lander,

**Re: Audit of the New York City Department of Buildings' (DOB)
Enforcement of Building Codes. ME24-059A**

Thank you for giving us the opportunity to respond to the above referenced draft audit report. The Department values the time and effort that you and your staff dedicated to performing this audit. We appreciate the opportunity to address your audit findings and concerns.

The Department of Buildings (DOB) is committed to enforcing the safe and legal use of approximately one million existing buildings and properties across New York City. Our goal is to strike the right balance between safety and development. DOB aggressively enforces the City's Construction Codes, Zoning Resolution, and the New York State Multiple Dwelling Law to protect workers and the public, as well as the city's quality of life.

Property owners are required to construct and maintain their buildings in a safe and compliant manner under the Code, Zoning Resolution, and other applicable laws and rules. When violations are observed, inspectors may issue summonses or utilize other enforcement tools authorized by Code to request compliance. Non-compliance with Department issued orders or requests to correct an observed violation of code, as well as ignoring any associated court hearing may lead to penalties authorized by Code.

The Comptroller's audit report states that the objective of the audit was, "To determine whether DOB enforces building codes for one- and two-family properties in an equitable manner so that no communities are disproportionately impacted."



Below please find the Department's clarifying comments and responses to the specific recommendations and findings that were made.

DOB's Enforcement Actions are Complaint-Driven

It is important to note that DOB is mandated to investigate all complaints received, as per § **28-103.18 Investigation of complaints**. However, it should also be noted that complaint-based inspections are not the sole source of DOB enforcement inspections.

NYC311 is a non-emergency service in New York City that allows residents to file complaints and access government information. Members of the public can report illegal and unsafe construction work and improper building use to DOB by filing a complaint through 311, by phone or online. DOB also receives complaints from other, registered professional withing the construction industry, City agencies and internally from DOB inspectors while they perform inspections.

Concerns About Inequitable Enforcement

It is important to recognize that multiple, default judgements can be a consequence of a property owner's lack of engagement or the nature of the conditions, rather than excessive enforcement by the Department. This distinction is crucial when interpreting the data regarding illegal conversions, for example. Illegal conversions pose significant safety risks, often creating hazardous living conditions. Administrative Code §28-202.2.1(9) mandates separate summonses for each illegal unit, each carrying daily penalties, when three or more illegal dwelling units are identified. As a result, property owners who fail to address violations may incur default penalties, which can accumulate over time due to continued inaction. This is contrary to your audit report that suggested that there is a correlation between communities' economic status and penalties imposed against properties in those communities. The Department's ability to ensure that property owners address violations, correct unsafe conditions, and maintain properties is fundamentally limited by the cooperation of the owners themselves. Many owners, despite receiving multiple notices of non-compliance, do not choose to act. The Department does not have the authority to forcibly compel compliance.

Properties with Highest Accumulated Penalties Concentrated in Lower-Income Community Districts

The assertion that lower income community districts are disproportionately impacted by inspections and enforcement actions is unfounded. The Department conducts all inspections and enforcement activities in accordance with the applicable building codes and regulations, without bias toward any particular community or income level. Furthermore, DOB is legally obligated to adhere to the laws and regulations established by the State. It does not have the authority to disregard or selectively apply these statues. As a code enforcement agency, the Department will continue to carry out its inspections and enforcement duties consistently and impartially, in full compliance with the law.

DOB Has Not Established Time Targets for Plan Reviews

This statement is misleading. DOB continues to report plan review and approval time targets via the 2025 PMMR, which is live at the time of this writing. Please find excerpts from the Mayor's Management Reports, dated September 2022 and September 2023, respectively.



Performance Indicators	Actual					Target		Trend	
	FY19	FY20	FY21	FY22	FY23	FY23	FY24	5-Year	Desired Direction
First plan reviews completed - All applications (DOB NOW)	24,398	57,619	87,059	136,720	142,061	*	*	Up	*
First plan reviews completed - Initial applications (BIS)	75,577	41,262	25,334	11,262	13,197	*	*	Down	*
Average days to complete first plan review - All applications (DOB NOW)	0.6	1.0	2.4	2.9	2.7	*	*	Up	Down
* Average days to complete first plan review - New Buildings - All applications (DOB NOW)	NA	NA	9	8	7	↓	↓	NA	Down
* Average days to complete first plan review - Major Renovations (Alteration CO) - All applications (DOB NOW)	NA	NA	9	6	5	↓	↓	NA	Down
* Average days to complete first plan review - Minor Renovations (Alteration) - All applications (DOB NOW)	1	1	2	2	2	↓	↓	Up	Down
* Average days to complete first plan review - New Buildings - Initial applications (BIS)	4.4	5.2	5.3	8.5	4.3	12.0	12.0	Up	Down
* Average days to complete first plan review - Major Renovations (Alteration I) - Initial applications (BIS)	5.0	5.4	6.8	18.7	16.1	10.0	10.0	Up	Down
Average days to complete first plan review - Minor Renovations - Initial applications (BIS)	1.3	2.7	2.7	2.1	3.5	4.0	4.0	Up	Down
Average days from filing to approval - All applications (DOB NOW)	45.6	8.3	11.2	14.7	18.1	*	*	Down	Down
* Resubmission plan reviews completed - All applications (DOB NOW)	5,753	18,633	31,013	75,128	88,252	↓	↓	Up	Down
* Resubmission plan reviews completed - All applications (BIS)	48,901	34,447	22,924	12,789	10,387	↓	↓	Down	Down
Jobs professionally certified	118,139	102,979	105,423	117,753	114,779	*	*	Neutral	Up
Jobs professionally certified that were audited (pre-approval)	4,015	2,754	2,705	3,388	4,595	*	*	Up	Up
Jobs professionally certified that were audited (post-approval) (%)	20.5%	25.5%	23.3%	21.9%	23.8%	*	*	Neutral	Up
Of eligible audited jobs (post-approval), the percent of audits that failed (%)	7.1%	5.2%	6.4%	5.1%	3.6%	*	*	Down	Up
* Critical Indicator ● Equity Indicator "NA" Not Available ⬆️⬆️ Directional Target * None									



Performance Indicators	Actual					Target		Trend	
	FY18	FY19	FY20	FY21	FY22	FY22	FY23	5-Year	Desired Direction
First plan reviews completed (BIS)	77,391	75,577	41,262	25,334	10,426	*	*	Down	*
First plan reviews completed (DOB NOW)	13,009	24,398	57,619	87,059	136,720	*	*	Up	*
* Average days to complete first plan review (Borough offices) - New buildings	5.7	4.4	5.2	5.3	8.5	12.0	12.0	Up	Down
* Average days to complete first plan review (Borough offices) - Major renovation (Alteration II)	5.5	5.0	5.4	6.8	18.7	10.0	10.0	Up	Down
Average days to complete first plan review (Borough offices) - Minor renovation (Alterations II and III)	1.7	1.3	2.7	2.7	2.1	4.0	4.0	Up	Down
Average days to complete first plan review (Hub projects) - New buildings	4.2	4.5	4.9	5.5	5.9	*	*	Up	Down
Average days to complete first plan review (Hub projects) - Major renovation (Alteration II)	4.3	4.2	4.8	6.1	10.4	*	*	Up	Down
Average days to complete first plan review (Hub projects) - Minor renovation (Alterations II and III)	0.1	1.4	1.8	0.8	1.1	*	*	Up	Down
Average days to complete first plan review (DOB NOW)	NA	0.6	1.0	2.4	2.9	*	*	NA	Down
* Average days to complete first plan review (DOB NOW) - New buildings	NA	NA	NA	9	8	↓	↓	NA	Down
* Average days to complete first plan review (DOB NOW) - Major renovation	NA	NA	NA	9	5	↓	↓	NA	Down
* Average days to complete first plan review (DOB NOW) - Minor renovation	NA	1	1	2	2	↓	↓	NA	Down
Average days from filing to approval (DOB NOW)	NA	45.6	8.3	11.2	14.7	*	*	NA	Down
Permitted jobs professionally certified (%)	61.2%	58.1%	62.2%	58.0%	56.1%	*	*	Neutral	Up
Permitted jobs professionally certified that were audited (%)	19.1%	13.4%	11.9%	7.8%	1.6%	*	*	Down	Up
Of eligible audited jobs, the percent of audits that resulted in revocation notices (%)	37.9%	41.1%	44.2%	28.8%	45.3%	*	*	Neutral	Up

* Critical Indicator ● Equity Indicator "NA" Not Available ↓ Directional Target * None

The Time Needed for Plan Approvals Varied Significantly Among the Boroughs

Your office has reported that a significant portion of the plan review approval process is delayed due to the applicant's failure to provide necessary documentation or information. During these periods, the plans remain with the applicant for an extended time, contributing to the overall review timeline.

Additionally, the reported approval time percentages do not distinguish between standard plan examinations and professional certifications. This distinction is important, particularly in certain boroughs. For example, New York City and Staten Island have different review dynamics. Moreover, larger, more complex projects are typically submitted under the standard review process, as they often require more time for approval by the Department. Including these larger projects in the overall calculation likely skews the average approval times, making them appear longer than they are for smaller projects, such as one- or two-family properties.



DOB Responses to Recommendations

Recommendation 1: *Re-evaluate the 100% reliance on complaints as the driver of code enforcement and consider the additional approaches.*

DOB Response: The Department disagrees with your recommendation. Complaints must be investigated, as per Code. Additionally, the Department's complaint system is supported by NYC311, which is a non-emergency service in New York City that allows residents to file complaints and access government information.

Recommendation 2: *Consider options to track the source of complaints and other remedies that could be taken to ensure the 311- complaint system is not abused to target certain communities.*

DOB Response: The Department disagrees with this recommendation. Complaints submitted through 311 are anonymous, which limits the Department ability to verify or follow up on the sources of the information. We believe it would be more appropriate for this recommendation to be directed to the Office of Technology and Innovation and 311, as they are responsible for managing and processing these complaints. DOB has engaged 311 personnel on multiple occasions to explore this capability; however, this technology is not currently available to DOB, nor is it within DOB jurisdiction to implement.

Recommendation 3: *Implements process changes to ensure that "Failure to Comply" summonses are not issued while plans to correct the underlying violation(s) are still pending review by DOB, and not within 60 days of DOB approving a plan needed to correct the underlying violation(s).*

DOB Response: The Department **disagrees** with this recommendation. Property owners are responsible for addressing violations and maintaining public safety, regardless of whether plans are under review. Submitting plans for review is not equivalent to performing the necessary work. Plans alone do not demonstrate that a violation has been corrected or that the required work has been completed. Property owners are ultimately responsible for addressing violations and ensuring public safety, regardless of whether plans are under review. The mere submission of a plan does not automatically resolve hazardous conditions. Furthermore, proposed plans may be incomplete, insufficient, or require substantial revisions to comply with building code requirements, which can further delay the resolution process. Additionally, the proposed system creates the potential for exploitation by unscrupulous actors. Bad-faith property owners could intentionally submit inadequate or incomplete plans and then delay their responses to objections. Knowing that plan reviews typically take longer than 60 days, they could use this loophole to avoid receiving a 60-day summons, effectively prolonging non-compliance and jeopardizing public safety.

Lastly, DOB cannot be made to violate its own laws by instituting or changing the construction code and not imposing penalties for non-compliance.

Recommendation 4: *Establish education and engagement strategies in the communities most affected by illegal conversions to emphasize the financial impact of code violations, fines, and penalties.*



DOB Response: The Department partially agrees with this recommendation. The DOB has a robust communications and outreach program that is meant to educate and assist the entire city in addressing all violations and related filings to resolve them. Under Local Law 50, DOB established the Homeowner Relief Program (HRP), which grants a 60-day deferral for violations to allow corrective action. There are public advocates and borough offices that are available to public to get plans reviewed and address outstanding fees.

DOB hosts a homeowner night each month in every borough and conducts a daily customer service hotline for both the industry and the public to help with all DOB issues. Lastly, every violation has a contact number with each violation, to aid in resolving the violation.

Recommendation 5: *Work with OATH to educate the public concerning the financial consequences of defaulting on summons issued to address DOB violations.*

DOB Response: The Department agrees with this recommendation and remains committed to collaborating with all relevant agencies; however, it is important to note that the Office of Administrative Trials and hearings (OATH) functions as an independent tribunal. As such, while the Department is willing to engage cooperatively, it does not have direct authority over OATH's operations or decision-making processes.

Recommendation 6: *For transparency, restore the practice of reporting and updating the service levels including plan approval times to tracker on the agency's website.*

DOB Response: The Department partially agrees with this recommendation and will consider.

Recommendation 7: *Identify the reasons for the variances in review time among the boroughs and make reasonable efforts to reduce those variances, minimize plan review times, and establish time targets for the agency's review of plan submissions.*

DOB Response: The Department disagrees with this recommendation. As mentioned earlier, time targets are currently part of the MMR/PMMR.

DOB does not have control over when applicants fully respond. Additionally, there are procedural factors in time-length or review, for example, plan complexity.

It is also important to note that these times reflect the total time to approval and include both time with DOB plan examiners and back with the applicant to correct objections.

Recommendation 8: *Set Key Performance Indicators for the HRP initiatives to assess the effectiveness of the program.*

DOB Response: The Department agrees with this recommendation. A dedicated unit has been established to address open "Required Corrective Actions" related to HRP. New rules governing the program have recently been enacted; thus, KPIs can be reassessed at the end of CY '25, once the unit is fully operational. Additionally, the Department will develop internal procedures to ensure that established procedures are practiced.



Recommendation 9: *Formally survey persons who participate in initiatives designed to assist property owners to identify their satisfaction with the initiatives and potentially identify areas for improvement.*

DOB Response: The Department agrees with this recommendation and will determine the key aspects of an initiative designed to support property owners, by developing key performance indicators (KPIs) such as engagement levels and perceived value of overall impact.

This will be accomplished by the following:

- Surveys and questionnaires: Collect quantitative and qualitative feedback.
- Interviews: Gain deeper insights into participants experiences.
- Data Analytics: Track usage, participation rates, or other relevant behaviors.
- Benchmarking: Compare results against industry standards or past initiatives.

Thank you, once again, for giving us the opportunity to respond to this draft audit report. We look forward to receiving your final version.

Sincerely,

A handwritten signature in blue ink, appearing to read "James S. Oddo".

James S. Oddo,
Commissioner, Department of Buildings

cc: Doug Giuliano, Mayor's Office of Risk Management
Reynaldo Cabrera, Department of Buildings
Maxim Pierre, Department of Buildings
Kerry Castro, Department of Buildings





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