New York City Independent Budget Office Fiscal Brief

December 2010

### Alternative Enforcement:

# Program to Push Landlords to Make Repairs Has Mixed Results

**Summary**

IN 2007 THE CITY COUNCIL ENACTED the Safe Housing Act which led the Department of Housing Preservation and Development to implement the Alternative Enforcement Program to improve the condition of some of the city's most rundown apartment buildings. The relatively little-known program has been accounting for an increasingly large share of the city's spending on housing code enforcement, but buildings have languished in the program longer than anticipated and charges to landlords that remain unpaid are mounting.

Under the program, landlords have four months to correct housing code violations and pay back past debts to the city. If the buildings remain deteriorated after this initial grace period, the city will re-inspect the building, make repairs, and bill the owner for the repair cost and program fees.

During the past three years, 598 buildings have been in the Alternative Enforcement Program and the city has spent more than $23 million on building repairs and program administration. Buildings are targeted for the program based on the number of serious housing code violations they have incurred in the preceding two years and how much money landlords owe for emergency repairs previously made by the city. IBO has reviewed the program and among our findings:

- After three rounds of selection, the Alternative Enforcement Program affects less than half a percent of the city's rental housing units.
- The majority of buildings remain in the program, demonstrating that landlords either lack the financial resources or incentives to remove their buildings from alternative enforcement.
- While the program leads to a gradual decrease in housing code violations in buildings targeted by the program, the city is making a growing share of the repairs.
- Among buildings out of the program for over a year, there are significantly fewer housing violations issued in the year after discharge compared with the year prior to their entrance.
- Building owners have repaid only $4 million out of nearly $23 million in program charges and fees.

The City Council introduced legislation on November 30, 2010 to make changes to the program and strengthen regulation of indoor allergens, such as mold and roaches. The Council has also extended the period for adding a new group of buildings to the program from November 2010 to January 31, 2011 while these changes are finalized.

**Also available:** **Maps Showing Location of Buildings in Alternative Enforcement @ www.ibo.nyc.ny.us**

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## Alternative Enforcement: An Overview

The Department of Housing Preservation and Development (HPD) implemented the Alternative Enforcement (AEP) in November 2007 in an effort to increase pressure on landlords of the city's worst buildings to correct housing code violations and repair their buildings' structural problems. Targeting 200 new buildings each November, the program is designed to focus on a small group of the city's most poorly maintained buildings, those that are responsible for a disproportionate share of the city's most serious current housing code violations. By having building owners correct not only violations, but also make heating, electrical, or other system repairs, the program aims to both improve tenants' living conditions and reduce the need for HPD to repeatedly make emergency repairs in the buildings.

HPD selects buildings for AEP using criteria set forth in Local Law 29 of 2007. During the first two years of the program,[1] multifamily buildings (those with three or more units) were eligible for selection if they had: 27 or more open hazardous (B) or immediately hazardous (C) violations; five or more B and C violations per unit; and more than $100 in outstanding Emergency Repair Program (ERP) charges (including liens) per unit.[2] Only violations and charges incurred within the previous two years are considered in applying AEP criteria and buildings must meet all criteria for selection.[3] The law specified slightly lower thresholds for selection into the third and fourth rounds of the program. In the third round, the number of total B and C violations necessary decreased to 25 or more; and in the fourth round, the qualifying emergency repair charges can be either paid or remain outstanding. The criteria in the fourth round are to be used in each succeeding year of the program. If more than 200 buildings meet the criteria each year, those with the most violations per dwelling are selected.

Once chosen for the program, buildings are given four months to correct all heat and hot water violations, 80 percent of their B and C violations, pay all outstanding charges and liens, and submit a current property registration statement in order to be discharged from the program.

If buildings do not fulfill these requirements within four months, HPD inspects the buildings and issues an "Order to Correct" instructing the owners to fix the heating, electrical, or other systemic problems in the building. If the building owner fails to make these repairs, HPD may do so and the owner is billed accordingly. Fees are assessed every six months for the first year the building is in the program and for violations issued in response to complaints that uncover violations. HPD re-inspects buildings at least quarterly. In addition to the discharge requirements described above, buildings that remain in the program past the four months must complete all system work in the order to correct, pay all AEP charges and fees, and participate in an HPD training course to exit the program.

Throughout this analysis buildings discharged during the four-month grace period (referred to as "early discharge buildings") are often compared to those that are discharged after the four-month grace period. In addition to fewer discharge requirements, early discharge buildings would be expected to see fewer violations and charges during their time in AEP because they do not undergo the HPD inspection, and are not required to develop a scope of work or to repair the additional violations that begin after four months in AEP.

***Potential Changes.*** The City Council, working with HPD, has introduced legislation to make changes to AEP. Proposed changes include revising the criteria used to target buildings for the program and amending the discharge requirements. HPD has proposed creating a lower threshold of entry requirements for buildings with more than 20 units in order to capture larger buildings and expand the reach of the program to include a greater share of the city's rental units. The legislation would amend the program's discharge

**Alternative Enforcement Program Discharge Requirements:**

- Correct 80 percent of B and C violations;
- Correct 100 percent of heat and hot water violations;
- Pay all Emergency Repair Program charges and fees;
- Submit a current property registration statement;

**Additional Requirements for Buildings that Remain in AEP after Four Months**

- Complete all system work on the Order to Correct;
- Pay all AEP charges and fees;
- Participate in an HPD training course.

SOURCE: IBO; Department of Housing Preservation and Development

requirements in order to move buildings out of the program more quickly. These proposed amendments include: being able to discharge buildings whose owners enter into an installment agreement to pay outstanding charges; make participation in the training program at HPD's discretion; and allow for the discharge of buildings that have been vacant for one year, have become subject to an *in rem* action, have been transferred to a new owner in Third Party Transfer, or had a 7A administrator appointed.[4] The City Council has also proposed incorporating provisions related to addressing mold and vermin conditions in buildings as a part of the program. (See IBO's *Cost Analysis of Intro 750*, the City Council's proposed guidelines for violations of the city's housing maintenance code regarding indoor allergens or indoor mold.)

### Targeted Buildings: Size, Condition, Location

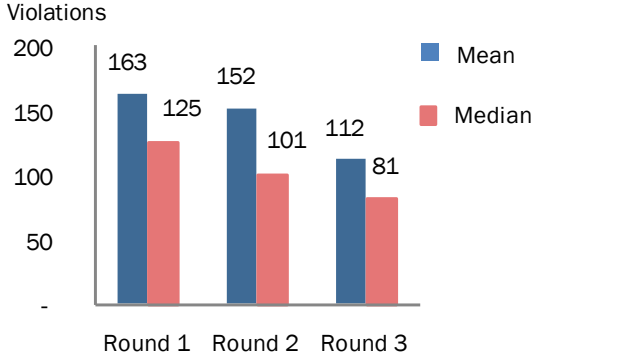
The existing AEP program captures relatively small buildings and as a result, less than half a percent of the city's rental housing stock has spent time in AEP. But AEP buildings do account for a disproportionate share of the city's most serious housing violations. Buildings entering AEP are in serious need of repairs; the median number of open B and C violations for buildings in the first round was 125, more than four times the minimum set in the legislation establishing the program. Buildings in AEP have been located primarily in Brooklyn and the Bronx.

***Building Size.*** IBO has found that overall, AEP buildings are small and thus account for a relatively small share of the city's total rental housing stock. The median number of housing units in the 598 buildings that have taken part in AEP thus far is five (average of eight) for a total of 4,590 housing units in AEP.[5] The largest building that has been selected for the program has 92 units, while 30 percent of the selected buildings have just three units. According to the 2008 New York City Housing Vacancy Survey there are 2.1 million occupied rental units in the city—meaning that AEP has reached only 0.22 percent of the city's rental housing units.

While a great many of the city's apartments may be in good condition, narrowing the focus to just those buildings with the most serious housing code violations does not significantly increase the share affected by the program. According to HPD's housing code violation data, as of August 2010, there were 18,776 buildings containing 489,618 rental units with at least five open C housing code violations. When considering buildings with the most serious open violations, AEP still affects a relatively small share of the city's rental housing stock: 3 percent of buildings and about 1 percent of units.

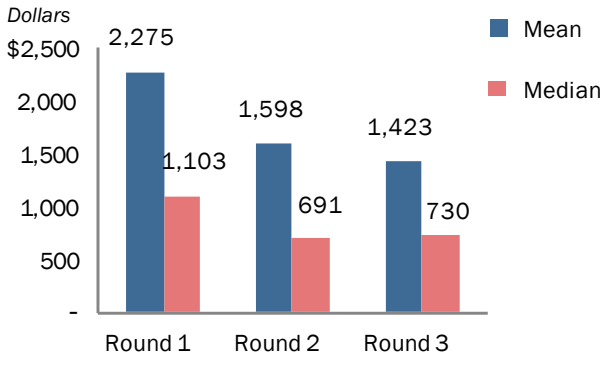
AEP buildings are responsible for a slightly greater—yet still relatively small—share of the city's overall housing code violations. When round one buildings entered the program in 2007, they accounted for a little less than 2 percent of all of the city's open C housing code violations. Round two buildings were responsible for about the same percentage when they entered the program in 2008. When the third round of 200 buildings entered in the fall of 2009, they were responsible for slightly over 1 percent of all open C violations in the city. Excluding violations corrected while in AEP, as of August 2010, the 598 AEP buildings were responsible for 14,822 of the city's total 335,020 open C violations in residential buildings citywide, a little more than 4 percent. This number reflects open C violations received prior, during, and after participation in AEP.

**Total Number of B and C Violations at Program Entry**




SOURCES: IBO; Department of Housing Preservation and Development

**Unpaid Emergency Repair Progam Charges Per Unit at Entry**




SOURCES: IBO; Department of Housing Preservation and Development

***Condition at Entry.*** AEP buildings appear to be in serious disrepair when selected for the program. All buildings far exceeded AEP's entrance requirements. In the first round the median number of open B and C violations in buildings at program entry was 125 (a median of 23 per unit), more than four times greater than the entrance requirement. First round buildings also had a median of $1,103 per unit in unpaid emergency repair charges, 10 times greater than the entrance threshold. While the number of B and C violations and outstanding charges in buildings at program entry decreased in each subsequent round, buildings introduced in all rounds still came in well above the thresholds set forth in the legislation. In each round, about 80 percent of the open violations were B violations and 20 percent C violations.

***Location.*** The majority of AEP buildings are located in Brooklyn (64 percent) and the Bronx (29 percent). Of the remaining buildings, just 4 percent are in Queens, 3 percent in Manhattan, and less than 1 percent in Staten Island. Buildings in Brooklyn are concentrated in the Bushwick, Ocean Hill, and Bedford-Stuyvesant neighborhoods while buildings in the Bronx are mainly in Morris Heights, Mount Hope, and East Tremont (see maps online).

The share of AEP buildings located in Brooklyn and the Bronx exceeds the share of open B and C violations in the two boroughs. For example, while almost two-thirds of AEP buildings are in Brooklyn, just 44 percent of all open B and C violations are in Brooklyn. Conversely, only 7 percent of AEP buildings are located in Manhattan and Queens but buildings in those boroughs are responsible for about one-third of open B and C violations citywide. One explanation for the concentration of AEP buildings in Brooklyn may be that on average, multifamily buildings (those with three or more units) in Brooklyn are smaller than those in Manhattan and the Bronx. However, buildings in Brooklyn and Queens average almost the same size, which suggests other factors—such as levels of income or building age—are also behind the concentration of AEP buildings in some boroughs.

## Most Buildings Remain in the Program

As of August 2010, about 3 out of 4 buildings in AEP were still in the program. Of the 28 percent of buildings that had been discharged, one fifth were early discharges within the four-month grace period, while the remaining four-fifths were discharged an average of 10 months after entering AEP. Discharge rates within the first nine months have increased with subsequent rounds of AEP—14 percent of round one compared with 26 percent of round three. Discharged buildings were larger and had considerably lower outstanding emergency repair charges at entry than buildings still in AEP.

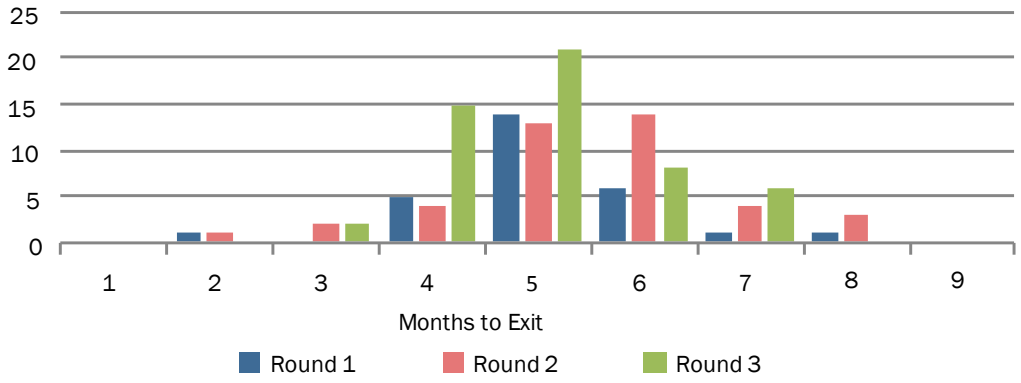
***Program Status and Time to Discharge.*** IBO has found that a relatively small share of buildings enrolled in AEP has met the requirements to exit the program. Of the 598 buildings that have taken part in AEP, 169 or 28 percent have been able to successfully meet the many requirements for discharge.[6] In order to exit AEP, building owners must make new and often extensive repairs, pay all outstanding repair charges and fees, as well as attend a training course. But owners may lack the financial resources to make the repairs and pay their outstanding charges and liens. It is also possible that building owners lack incentives to remove their buildings from the program. The fees assessed the first year a building is in the program are capped at $1,000 per unit, although additional fees can be levied if tenant complaints result in B and C violations. When a building owner fails to make required repairs, HPD can do so and charge the owner accordingly. Although liens are placed on the buildings for unpaid repair charges and fees, this appears to do little to move buildings out of the program—not surprising given that criteria for entry to AEP include having unpaid emergency repair charges.

Because there are fewer requirements to exit within the first four months (the point at which HPD conducts a building-wide inspection and develops the Order to Correct), IBO looked at the share of buildings leaving the program before that milestone. Of all discharged buildings, about 20 percent (or just 5 percent of all AEP buildings) completed discharge requirements within their first four months in the program. This finding suggests that the easier path to discharge within the first four months motivated only a small share of owners to rapidly repair violations and pay outstanding charges. For the remaining 80 percent of buildings discharged after the four-month grace period, the mean time to exit the program was 10 months.

Buildings introduced in the later rounds of AEP tended to exit the program more quickly. The graph below shows the number of buildings that exited within their first nine months of the program. (Nine months was used because the third round had been in AEP for nine months at the time of the analysis). During the first round, 28 buildings exited the program within their first nine months. During the second round, 41 exited during the same time frame and in the third round 52. As previously described, buildings

**Buildings Discharged Within Nine Months of Entry**

Number of Buildings




SOURCES: IBO; Department of Housing Preservation and Development

entering in the second and third rounds averaged fewer violations and unpaid emergency repair charges at entry than those in the first round, which may have contributed to their ability to exit the program more quickly.

***Characteristics of Discharged Buildings.*** In terms of building characteristics, discharged buildings were larger than active buildings: the mean number of units in discharged buildings was 10 versus 7 in active AEP buildings. One possible reason for the difference is that smaller buildings remain in the program longer because it is more difficult for them to raise funds to pay off past charges and make new repairs due to smaller rent rolls.

Discharged buildings had considerably lower outstanding Emergency Repair Program charges per unit at time of entry, along with slightly fewer B and C violations per unit. (Violations and ERP charges are analyzed per unit rather than in total in order to control for building size.) A somewhat greater share of discharged than active AEP buildings was located in the Bronx, with the reverse seen than in Brooklyn. However, this may be more a function of building size than location given that the program's larger buildings are concentrated in the Bronx. In addition, IBO found that a greater share of discharged buildings were rent regulated, probably also a function of building size because rent-regulation law only applies to buildings with six or more units. Rent-regulated buildings may also be discharged more quickly because these landlords have more experience dealing with government.

**Characteristics of Active and Discharged Buildings**

| | Active n=429 | Discharged n=169 |
|---|---|---|
| **Mean Number of Units in Building** | 7 | 10 |
| **Characteristics at Entry to AEP** | | |
| Mean Number of B/C Violations Per Unit | 22 | 20 |
| Mean ERP Charges Per Unit | $1,995 | $1,182 |
| **Rent Regulated** | 32% | 60% |
| **Location** | | |
| Percent in Manhattan | 3% | 5% |
| Percent in the Bronx | 27% | 34% |
| Percent in Brooklyn | 65% | 60% |
| Percent in Queens | 5% | 1% |
| Percent in Staten Island | 0% | 0% |

SOURCES: IBO; Department of Housing Preservation and Development

## Improved Building Conditions

Overall, IBO has found that AEP leads to a gradual decrease in open housing code violations in participating buildings. Not surprisingly, the impact on overall building quality (as measured by open housing code violations) varies by whether the building has exited AEP. While building owners make the majority of repairs to close violations, the share being completed by HPD has increased.

***Discharged Buildings.*** Buildings that have exited AEP have significantly fewer open B and C housing code violations than those that remain in the program. Looking at the first round, discharged buildings had a median of 15 open B and C violations compared with 67 for active buildings. This is as expected, given that buildings must correct at least 80 percent of their violations in order to exit the program.

Moreover, there is some evidence that the improvement persists. Buildings discharged from the program received fewer violations in the year after they exited AEP than the year prior to program entry. As of August 2010, 83 buildings had been discharged from AEP for at least one year (42 from round one and 41 from round two). The mean number of B and C violations issued to these buildings in the year prior to AEP was 109, compared with 29 in the year following AEP discharge.

As before, IBO looked at how early discharge buildings differed from those that exited after the building-wide HPD inspection to identify and correct structural problems.

**Median Number of Open B and C Violations**

| | Active Buildings | Discharged Buildings |
|---|---|---|
| **Round 1** | 67 violations | 15 violations |
| **Round 2** | 82 violations | 24 violations |
| **Round 3** | 82 violations | 11 violations |

SOURCES: IBO; Department of Housing Preservation and Development

NOTE: Housing code violation data and building status (active or discharged) are of August 2010.

Among the 83 buildings discharged for at least one year, 16 exited the program in less than four months. These buildings appear to be in somewhat better condition with fewer violations before and after AEP, with an average of 94 B and C violations before program entry and 20 violations issued after exit. The discharged buildings out of AEP for more than a year that remained in the program beyond the initial four months (a mean of about six months in total) received an average of 112 violations in the year leading up to AEP and an average of 30 in the year after exit.

***Active Buildings.*** The majority of buildings selected for AEP (72 percent) have yet to be discharged from the program; in these buildings IBO has found that there is a gradual decrease in open violations over time. Active AEP buildings had a total of 56,459 open B and C violations when they entered AEP, compared with 49,328 in August 2010. Of housing code violations issued before buildings entered AEP, a median of 71 B and C violations had been corrected or administratively removed in round one buildings, 65 in round two buildings, and nine in round three buildings.

While there has been an overall reduction in the total number of open B and C violations, some buildings have actually seen an increase in the number of serious open housing code violations during their time in the program. This is probably the result of the more intensive monitoring and inspection by HPD as part of the program. Therefore, while the total number open B and C violations in active buildings is down, in some cases buildings have received more new violations than they have closed, resulting in a net increase in violations from when they entered AEP.

**Median Change in Number of Open B and C Violations Since Entry in AEP**

*Active Buildings Only*

| | 9 Months % Change | 21 months % Change | 33 months % Change |
|---|---|---|---|
| **Round 1** | -3% | -30% | -35% |
| **Round 2** | 8% | 2% | N/A |
| **Round 3** | 14% | N/A | N/A |

SOURCES: IBO; Department of Housing Preservation and Development

IBO examined the median change in the number of open housing code violations in buildings still in AEP, comparing the number of violations each building had at entry with the number of violations it had at nine months, 21 months, and 33 months into AEP. The results show divergent trends, with reductions for the median building in round one, but increases for the median building in round two and three.

For buildings in round one, the median change in open B and C violations was a 3 percent decline after nine months in AEP, a 30 percent decline after 21 months, and 35 percent decline after 33 months. This overall decline reflects a combination of repairs completed by the building owner and repairs done by HPD. In round two, the median change was actually an increase of 8 percent after nine months and a 2 percent increase after 21 months. Of the most recent round, the median change after nine months was a 14 percent increase in open violations.

HPD has indicated that the difference in trends for each round may be a function of how the program is being administered. During round one, according to HPD, the agency was better able to focus on monitoring the correction of violations and updating records to reflect corrections as they were completed. During rounds two and three, however, because of the significant increase in the number of buildings in the program, HPD shifted from removing violations during monitoring inspections to removing violations from the records when buildings are discharged from the program.

Another factor that may contribute to the difference from round to round could be the type of violations issued and closed during the first nine months in AEP. For example, first round buildings both received more violations and corrected more violations than buildings in the second and third rounds. However, the majority the violations issued to first round buildings during their initial nine months were B violations, less serious and likely easier to resolve than C violations, while rounds two and three saw more new C violations. (In round one buildings, a total of 3,256 C violations were issued in the first nine months, in round two 4,874 were issued and in round three 4,279 were issued.) In addition, while the number of C violations closed during the first nine months was fairly similar when comparing each round (about 3,100), first round building owners corrected a much higher number of open B violations

(8,900) than those in the later rounds (5,500 in round two and 2,200 in round three).

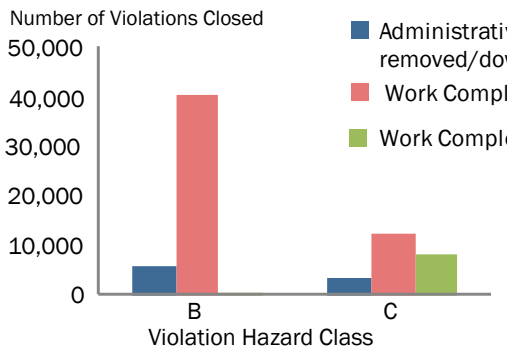
***HPD Completing More Repairs Each Year.*** More than 74,400 B and C housing code violations have been closed or administratively removed during the time all 598 buildings have been in AEP. Overall, building owners have made the majority of repairs, accounting for 76 percent of the closed violations. Another 13 percent were administratively removed and the remaining 11 percent were repaired by HPD.

Six percent, or about 4,700 closed or administratively removed violations, were in the early discharge buildings. Of those violations, 9 percent were administratively removed or downgraded, building owners made repairs to close 91 percent of violations, and HPD made repairs to correct less than 1 percent.

However, HPD was responsible for significantly more repairs in buildings that remained in the program beyond the initial grace period. In these buildings, 13 percent of closed violations were administratively removed or downgraded; building owners made repairs to correct 76 percent of violations and HPD made repairs to about 11 percent. One reason that building owners are closing about three-quarters of violations in AEP buildings is that HPD will not make repairs for B violations and there are roughly twice as many B violations as C. Looking just at class C violations that were not administratively removed or downgraded, IBO found that HPD made 39 percent of the repairs in buildings that remained in the program and owners made 61 percent.

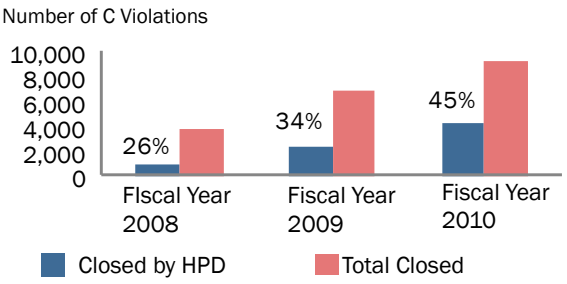
IBO also found that HPD has made a growing share of repairs each year of the program. During fiscal year 2008, HPD completed work to close 26 percent of the C violations (not counting administratively removed/downgraded violations) in AEP buildings; in 2009 this increased to 34 percent, and in fiscal year 2010, HPD made repairs to close 45 percent of the C violations. While it was expected that the *total* number of repairs made by HPD would increase as the program selected new buildings each year, an increase in HPD's *share* of the repairs may indicate that building owners are becoming less willing or able to do renovation work themselves. The main types of repairs made by HPD include water leaks, danger of falling objects, cut hazards, and lack of heat and hot water.

**Owners are Responsible for Most of the Violations Fixed Under AEP**




SOURCES: IBO; Department of Housing Preservation and Development
NOTE: Excludes Early Discharge buildings.

**Rising Share of C Violations Repaired by HPD**




SOURCES: IBO; Department of Housing Preservation and Development
NOTE: Excludes administratively removed/downgraded violations

## Program Costs

Despite serving a relatively small share of the city's rental housing stock, AEP accounts for a disproportionate and rising share of the HPD's code enforcement spending.

In the first three years of the program, HPD has spent more than $23 million on AEP. The cost has risen from $3 million in fiscal year 2008, to $9 million in fiscal year 2009 and $11 million in fiscal year 2010, with another $11 million budgeted for fiscal year 2011. The majority of spending for the program has been for system replacement and building maintenance, growing from $733,000 in fiscal year 2008 (which included about seven months of program implementation) to $6 million in fiscal year 2009 and $8 million in 2010. Funding for the program has largely come from the federal Community Development Block Grant. Overall, 94 percent of the money spent on AEP is federal, with the city providing the remaining 6 percent of funds over the three years.

AEP is administratively housed within HPD's Office of Enforcement and Neighborhood Services. In fiscal year 2010, this office's spending on code enforcement programs

totaled nearly $72 million – meaning AEP accounted for 15 percent of the agency's code enforcement budget.[7] HPD's biggest code enforcement program is the Emergency Repair Program, through which the agency repairs C violations in buildings citywide. In fiscal year 2010, HPD spent $28 million on ERP and provided nearly 20,000 repairs, an average repair cost of about $1,400. By comparison, HPD spent $11 million on AEP in fiscal year 2010 and provided 2,355 repairs. The average AEP repair cost, about $4,700, is more than three times as expensive as ERP repair costs. HPD indicated that costs in AEP buildings are higher because HPD is authorized to perform systems replacement work to address underlying conditions contributing to the violation, work that is often more extensive than the emergency work done through ERP.

## Majority of Charges to Owners Are Unpaid

Buildings in AEP currently owe the city nearly $24 million: $19 million in fees and charges stemming from AEP and another $5 million in unpaid Emergency Repair Program charges for repairs completed outside the AEP program. The city has collected $4 million or just 18 percent of all AEP charges and fees assessed under the program.

***AEP Program Charges and Fees.*** IBO found that the majority of AEP charges for building repairs and fees for program participation remain unpaid—for a total outstanding balance of $19 million. In fact, more than 70 percent of all AEP buildings have unpaid charges.

HPD has billed AEP building owners $23 million in repair charges, interest, and fees since the program began in order to recover funds spent on operations and repairs. Fees for AEP include $500 per unit every six months the building remains in the program, with a maximum of $1,000 per unit for the time the building is in AEP, $200 for any complaint inspection performed that results in a B or C violation, $100 for each re-inspection during which HPD finds one or more violations not corrected, and $300 for an HPD training course the landlord is required to complete before exiting the program. All unpaid AEP charges and fees become a lien against the property.

**Breakdown of AEP Charges**

*Dollars in millions*

| | AEP Charges | AEP Fees | Total |
|---|---|---|---|
| **Liabilities** | $19 | $3 | $22 |
| **Interest** | 0.80 | 0.20 | $1 |
| **Collected** | (3) | (1) | $(4) |
| **Account Balance** | 17 | 2 | $19 |

SOURCES: IBO; Department of Finance Open Balance, October 2010

**Outstanding AEP Charges and Fees by Round**

| Round | Number of Buildings | Total Due *in millions* | Average Due per Building | Median Due per Building |
|---|---|---|---|---|
| **Round 1** | 129 | $8.8 | $68,322 | $22,563 |
| **Round 2** | 141 | $8.5 | $60,608 | $22,929 |
| **Round 3** | 151 | $1.3 | $8,544 | $4,257 |

SOURCES: IBO; Department of Finance Open Balance, October 2010

NOTES: Total due includes unpaid liabilities and interest.

However, with just $4 million collected, 83 percent of these charges are outstanding. The bulk of unpaid charges are for reimbursement for repairs completed by HPD on behalf of building owners. Buildings in the first two rounds, where HPD has had ample time to complete repairs, have $8.8 million and $8.5 million, respectively, in unpaid AEP charges. The median balance is nearly $23,000 per building in rounds one and two. Fewer charges and fees have been levied against the buildings from the third round, which have been in AEP for less than a year (our data cover nine months of the third round) and had less time to incur emergency repair costs. Round three buildings have a total outstanding balance of $1.3 million or $4,257 for the median building.

***Emergency Repair Charges Other than AEP.*** In addition to the AEP charges and fees outstanding, 326 AEP buildings also have outstanding ERP charges that together total close to $5 million. The overwhelming majority of these charges are for buildings still active in the program (median ERP balance $10,500), although 56 discharged buildings also have outstanding ERP charges (median ERP balance $700), which they received after being discharged from AEP. While buildings have a significant amount in outstanding ERP charges, nearly two-thirds of buildings have made some payments on their outstanding ERP balances while in AEP, totaling nearly $5 million ($2 million collected from discharged buildings and $3 million collected from active buildings).

## With Program's Mixed Success, Changes Proposed

AEP has had some success reducing the number of serious housing code violations, especially in buildings that are able to successfully exit the program. However, the

majority of AEP buildings have not met the requirements to be discharged. Despite the fact that liens are placed on their properties, many building owners appear to lack the incentive or funds necessary to make repairs, pay program fees, or repay the city for work done on their buildings. HPD has been making an increasing share of the repairs in AEP buildings each year of the program. While this benefits building tenants, it increases the cost of a program that targets a small share of the city's housing stock.

The City Council recently introduced legislation to make changes to the program. These changes would increase the share of rental units that the program affects, address mold and vermin conditions in buildings, and help move some buildings—specifically abandoned and foreclosed upon properties—out of AEP more quickly. While this will help expand the reach of the program the changes do less to address the lack of incentives and/or financing for building owners to make repairs and pay back debts in order to remove their buildings from the program themselves.

*Prepared by Elizabeth Brown*

## Endnotes

[1]Unless otherwise indicated, year refers to AEP program years (November to November).
[2]HPD's classification of violations is based on the impact of the violation on the health and safety of the building's occupants and on the public. There are three classes of violations which are: "A," nonhazardous; "B," hazardous; or "C," immediately hazardous. Only B and C violations are considered for entry into AEP.
[3]Local Law No. 29 of 2007, "New York City Safe Housing Law." May 22, 2007.
[4]According to Local Law 37 of 1996, the New York City Department of Finance can initiate an *in rem* foreclosure upon a tax lien encumbered building that it determines is in distressed condition. As a result, building owners are required to pay owed taxes or lose their property. Through the Third Party Transfer program, HPD can transfer a building that has been subject to an *in rem* foreclosure to a responsible new owner without the city ever taking ownership. Through the 7A Program, administrators are appointed by the court to operate privately owned buildings that have been abandoned by their owners.
[5]HPD selects 200 buildings each November, however, two building were selected for a second time after exiting the program in a prior round.
[6]As of August 5, 2010.
[7]Includes the budgets for the following programs: Code Enforcement (includes AEP and the Division of Maintenance), the Emergency Repair Program, and Housing Litigation.