



MONITOR'S SECOND QUARTERLY REPORT

**FOR THE NEW YORK CITY  
HOUSING AUTHORITY**

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**Pursuant to the Agreement dated January 31, 2019**

Submitted by:      Bart M. Schwartz  
                             Federal Monitor

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## I. LETTER FROM THE MONITOR

Dear New Yorkers,

The NYCHA monitorship is unlike any other monitorship that I have seen or experienced. One type of monitorship I am familiar with is the construction monitorship, in which the idea is to prevent wrongdoing, waste, fraud, and abuse in an ongoing project performed by experienced construction companies. An example of this would be our monitoring of the building of Tower One after the attack on the World Trade Center. A second type of monitorship is where there has been a breakdown in a company or entity which has significant experience in doing its work, but where there has been a failure in a segment of its performance. An example of that would be our monitorship of General Motors after its ignition switch recall. In these monitorships the company is expert at what it does and wants to get value out of the monitorship so that it remains a strong and respected competitor in its field. These monitorships are conducted confidentially, primarily to ensure that there is open communication between company personnel and the Monitor and to protect intellectual property.

And then there is NYCHA – a monitorship in which we cannot assume expertise, organization, or even a desire to get value from the monitorship. The most important change came when Gregory Russ became the new NYCHA Chair and CEO. He is committed to making NYCHA succeed, not simply to run out the clock and do as little as possible. This approach has enabled us to contribute some of the most important elements of this monitorship including helping NYCHA to do its job, not simply watching it try to go it alone. This is not solely an “oversight monitorship” such as in construction. It is not solely a “corrective monitorship” to address a known problem within an otherwise successful environment. It is what I would call a “consultancy monitorship” in which we are working day in and day out on every aspect of NYCHA’s performance providing expert advice, knowledge, reviews, through a healthy give and take. And under the current leadership at NYCHA, NYCHA has learned to ask for that help, be open to criticism and recommendations, and work collaboratively with the Monitor team to achieve the goals of the January 31st Agreement.

I doubt there has ever been a monitorship aimed at such fundamental activities, or of this size, scope - and complexity, whether of a private or a public entity. A perfect

example would be the creation of Action Plans. Among other things, the development of these Plans provides the opportunity to fully assess a problem, identify resources, break down silos, efficiently use resources, and stress test proposed solutions. All this goes on while NYCHA continues to work on the problem. But significantly, with a Monitor, NYCHA now has expertise and objective advice at each stage of the ongoing work and during all the stages of the development of the Action Plan. So, while the Action Plan is being developed, work is already underway to solve whatever problem or issue the final Action Plan will address. NYCHA did not deteriorate to its current state overnight. But that should not be used as an excuse. Indeed, just the opposite. It should serve as a reminder of how hard we need to work to achieve results for the residents as quickly as we can.

We all are learning from this experience – NYCHA, the Monitor, New York City, the residents, HUD and the SDNY. Our goals are aligned. There is much work ahead. No doubt there will be future challenges. And the only measure of success that we will accept is the improvement of the lives of the residents and the conditions under which they live.

Respectfully Submitted,

Bart M. Schwartz

## II. INTRODUCTION

In this second quarterly report, we discuss how NYCHA is fulfilling its obligations under its agreement with the United States Department of Housing and Urban Development (“HUD”), and the United States Attorney’s Office for the Southern District of New York (“SDNY”) (the “Agreement”). The provisions of that Agreement were discussed extensively in the Monitor’s first quarterly report, which is available at <https://nychamonitor.com/wp-content/uploads/2019/07/NYCHA-First-Report-7.22.19.pdf>.

The Agreement in primary part requires NYCHA to make changes to its organizational structure, establish Compliance and related departments to oversee adherence to regulations, communicate more effectively with residents and other stakeholders, and significantly improve its handling of lead-based paint, mold, heating and hot water failures, elevator outages, pests, and waste. The Agreement includes deadlines in each of these areas by which time NYCHA must take certain specified actions. We discuss this quarter’s deadlines and NYCHA’s response in each relevant section of this report. In those situations where NYCHA has not met a required deadline, we discuss the ways we are working with NYCHA to get its progress on the right track.

## III. EXECUTIVE SUMMARY

In this quarter, we have seen the beginning of change at NYCHA. Under the guidance of the new Chair and CEO Gregory Russ, NYCHA has put a leadership team in place that has expressed its commitment to meeting NYCHA’s Agreement obligations. The new Chair, with his Executive Vice President for Strategy and Innovation and her new staff, have significantly increased the pace of progress in the effort to create effective Action Plans which become the blueprint for how NYCHA will meet performance-specific deadlines in the Agreement. Once the Monitor has approved the Action Plans, they will be provided to residents and the public by posting them on NYCHA’s and the Monitor’s websites.

NYCHA has made progress with respect to the allocation of the \$450 million in funding promised by the State, which was earmarked for capital expenses on elevators and boilers. As part of the negotiations, the Monitor assured the State that the Monitor team would oversee every aspect of NYCHA’s replacement process. The resulting agreement with the State requires that NYCHA first submit a Grant Disbursement Agreement (“GDA”) Action Plan, approved by the Monitor, detailing its intended use of the money. Both NYCHA and the Monitor team worked diligently to develop and refine the proposed Plan. The Monitor’s technical experts reviewed the selected boilers and elevators and confirmed that NYCHA successfully identified the assets that most urgently required replacement. The Action Plan was recently completed and submitted to the Monitor, and upon approval from the New York State Division of the Budget, the GDA Action Plan will be considered

final. Going forward, the Monitor will require NYCHA to submit detailed budget and installation plans for each boiler and elevator replacement project to ensure each is being done in accordance with the overall Action Plan. After the Monitor confirms that NYCHA has completed the work in accordance with the Plan, the New York State Division of the Budget will then review NYCHA's submission requests for reimbursement for each project, and pay out the funds accordingly up to \$450 million.

NYCHA and the Monitor have also made strides with the required review of NYCHA's organizational structure. The management consulting team engaged by the City has made significant progress collecting data to complete its assessment of NYCHA. The consulting team expects to issue draft reports in November that will document what NYCHA's current organization looks like, how it can be measured for success, whether it has the capability in its current state to achieve the measured success, and how its current property-related operations compare to good industry practice. NYCHA, with guidance from the Monitor, then will work to develop a new organizational plan in light of the findings and recommendations in those reports. These reports, as well as the new Chair and CEO's vision to improve NYCHA, should help transform NYCHA into a more effective and responsive organization that is better able to manage its portfolio and meet the needs of its many residents.

The Monitor team has also worked with NYCHA to redesign its Compliance Department, as well as the Environmental Health & Safety Department and the Quality Assurance Unit, each mandated by the Agreement. These are now operational, and we are continuing to work with NYCHA to refine their operations. NYCHA also has made progress in drafting an Action Plan, as required by the Agreement, regarding its handling of HUD Public Housing Assessment System ("PHAS") inspections. The Action Plan must set out NYCHA's procedures for ensuring the integrity of those inspections, including the implementation of internal controls to prevent deceptive practices like those that occurred in the past. The Monitor rejected NYCHA's first proposed Action Plan as it was not sufficiently robust. NYCHA submitted a revised Plan in September which incorporated most of the Monitor's comments. The Plan was recently finalized and approved by the Monitor.

There are areas, however, where progress has not been achieved as swiftly. As we discussed extensively in our first quarterly report, the Agreement mandates that NYCHA address the widespread problems of lead-based paint, heating and hot water failures, mold, elevator outages, and pest and waste management. The Agreement contains various deadlines by which NYCHA must take specific actions to ameliorate these problems and/or develop Action Plans setting out NYCHA's strategy going forward.

In some of these areas, such as lead-based paint, NYCHA has been unable to meet its Agreement obligations. In a certification submitted on July 31, 2019, NYCHA frankly acknowledged that it was not in compliance with lead-based paint regulations and many required lead-safe work practices. The Monitor team, along with HUD and SDNY, has engaged with NYCHA to develop remedial plans. NYCHA must use its best efforts to improve compliance by January 31, 2020, when the next certification is due.

We will work closely with and support NYCHA in this regard. As we do regarding every aspect of the Agreement, we will continually assess NYCHA's progress or lack of progress in determining the quickest and most efficient way to get the work completed under the authority granted in the Agreement.

NYCHA's mold efforts also need to be strengthened. We have called for NYCHA to devise a plan to effectively remediate and properly close all past due work orders in six months. NYCHA has agreed to a schedule in which to formulate Action Plans for lead and mold in order to lay out a step-by-step process for achieving progress in these areas. The Plans will consider whether, if NYCHA does not have sufficient skilled workers on staff to handle the workload and any backlog, it must turn to outside sources, at least in the short term.

With respect to heat and elevators, NYCHA provided the Monitor with draft Action Plans by the Agreement deadlines. Since then, we have focused NYCHA on making sure that its Plans contain concrete details for both near and long-term results. For example, NYCHA's heat unit and the Monitor team have been working together since early summer to ensure that the heat Action Plan includes contingency protocols to address any heating outages that occur during the upcoming winter season. The Plan calls for NYCHA to have sufficient mobile boilers available in the event of a lengthy outage, as well as trained personnel in place to handle their swift and efficient installation. The establishment of these types of protocols well in advance will promote a quicker and more efficient response when heating outages do occur. The heat Action Plan not only contains all the requirements in the Agreement, but also additional sections required by the Monitor team so that NYCHA has a more comprehensive strategy going forward, not only to reduce heating system breakdowns, but to make related repairs more quickly. It is anticipated that NYCHA will also complete the elevator Action Plan in the next few weeks.

NYCHA has also made progress with respect to pest and waste management. The Monitor team's pest expert has been training NYCHA staff in industry-standard pest management techniques. In addition, because NYCHA was behind in conducting the inspections and remediations required by the Agreement, the Monitor team stepped in and directed NYCHA to focus immediately on providing targeted relief for approximately 2,645 units that have open work orders. As part of the resulting effort, NYCHA is close to clearing its backlog for the most severe pest category – interior rats – although much work remains for other pest types.

NYCHA recently has committed to making significant changes to meet its waste management obligations under the Agreement. Among other things, NYCHA intends to hire additional caretakers to fill gaps in the waste collection schedule, review opportunities for additional compactors at up to sixty (60) sites, invest in better storage units, and create a waste management department to ensure that waste removal is both getting done and done properly.

We continue to receive important information and feedback from residents and community stakeholders. One particularly productive channel of communication has been

the Monitor's Community Advisory Committee ("CAC") meetings. We held a meeting on July 30, 2019, in Manhattan at the Johnson Houses. The meeting was attended by well over 200 residents and other NYCHA stakeholders. Each member of the CAC described a particular concern that has been raised by residents that he or she will personally examine in conjunction with NYCHA, the Mayor's office, and other CAC members, and then provide input to the Monitor. Some of those areas include safety and security, funding from elected officials, and senior centers and other community spaces. In addition to the information provided by residents and the community, the Monitor team also has field examiners on the ground gathering additional information in the developments to ensure that NYCHA is satisfactorily meeting its obligations. The investigators already have identified some areas for improvement, such as better oversight over the work of outside vendors. We will work with NYCHA to address those concerns going forward.

As we mentioned in our last report, working groups have been established comprising Monitor team members and NYCHA leadership to facilitate NYCHA's progress in meeting its Agreement obligations. We have found this model to be useful at breaking down silos within NYCHA and bringing all the relevant personnel to the table. In the past, we have heard statements such as "that's not my area of responsibility" or "I don't have the authority to agree to that." Now, with all the stakeholders meeting together, we have seen better cooperation and coordination among NYCHA departments. To date, the main focus of these groups has been the drafting of the various Action Plans. Now that NYCHA is completing those Plans, the groups will continue their work, principally to ensure that the strategies outlined in the Plans are being executed across NYCHA. The new Chair has personally participated in many of these meetings, helping to set the tone from the top that there is a real commitment to fix these ailing infrastructure systems within NYCHA. At these meetings he has told his staff that they cannot continue to just do business as usual. Instead he has encouraged them to come up with innovative ways to solve these challenges and provide NYCHA residents with proper living conditions. The working groups have become more productive environments where NYCHA staff and the Monitor team collaborate to generate solutions.

The Monitor team has made many recommendations for potential improvements at NYCHA during these working group meetings. After discussion, NYCHA staff often will incorporate these recommendations into the Action Plans or otherwise implement them. In addition to this informal exchange of ideas at the working group level, we also have made broader recommendations to NYCHA management identifying current challenges and suggesting improvements. As we refine these ideas in collaboration with NYCHA, we anticipate including a list of selected recommendations in subsequent quarterly reports.



## IV. PROGRESS UPDATES

In this section, we provide detailed information on NYCHA's progress in the following areas: funding allocation; the development of a new organizational plan; the establishment and functioning of the Compliance Department and related units; and efforts relating to lead-based paint, mold, heat, elevators, pests, and waste management. We also discuss our engagement with residents and other community stakeholders, as well as information provided by our field examiners on the ground in the developments. Although this report focuses on the period from July through September 2019, we have included some recent developments from the past few weeks particularly as they reflect the culmination of work performed in the past quarter.

At the outset of each section, where relevant, we include a chart summarizing NYCHA's obligations under the Agreement and the status of NYCHA's efforts in meeting those provisions. A comprehensive copy of the chart is attached at Appendix 1. In some areas, the Agreement requires NYCHA to develop Action Plans detailing NYCHA's strategy for resolving various problems, such as heat and elevator outages. A chart summarizing the status of these Action Plans is attached at Appendix 2. While the development of these Plans is important for setting out comprehensive and effective procedures going forward, it does not mean that other work has stopped; to the contrary, NYCHA has a continuing duty to respond to issues as they occur and to take steps to achieve compliance with the Agreement. In areas where NYCHA is having difficulty, the Monitor team is working with HUD and SDNY officials to assess the problem and get NYCHA on the right track.

As we explained in our last report, data and metrics will be a key component of tracking NYCHA's success with the mandates set forth in the Agreement. Using our in-house expertise, the Monitor team has been working with NYCHA to define baselines and develop lagging and leading indicators that track performance. The Monitor team is also working to download data directly from NYCHA's Maximo system to perform independent searches and to measure Agreement compliance. We plan to use this data to validate information reported by NYCHA, and to use analytics to help identify areas requiring improvement.

### FUNDING

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As has been widely reported in the press, the Governor committed \$450 million in funding to NYCHA to be used for capital expenses on boilers and elevators. The funds will not be immediately disbursed, but will remain with the State until NYCHA develops an approved Action Plan regarding its use of the funds and actually installs the elevators and boilers in accordance with that Plan. At that time, provided the work is completed as set forth in the Plan, the State will reimburse NYCHA up to \$450 million.

The Monitor is responsible for approving NYCHA’s proposed Action Plan and ultimately confirming that the funds have been spent appropriately according to the Plan. NYCHA submitted an Action Plan to the Monitor designating which elevators and boilers require work immediately or very soon. To make that determination, NYCHA considered: (1) work orders, (2) the age of existing equipment, and (3) physical needs assessments. As stated above, after weeks of meetings between the Monitor team and NYCHA’s Capital Division to ensure that the Plan provides a comprehensive strategy for selecting, procuring, and installing these new boilers and elevators, it has now been submitted to the State. A copy of the final Action Plan will be made publicly available once approved.

## ORGANIZATIONAL PLAN

| Section    | Obligation  | Agreement Deadline | Status   | Monitor Comment  |
|------------|---|--------------------|----------|--|
| VI.A.44(b) | By the end of the 30-day period after the list of candidates is finalized, the City shall select a permanent Chair and CEO for NYCHA from the jointly-developed list of candidates.   | 04/01/19           | Complete | New NYCHA Chair was selected by the City and started his tenure in August 2019.  |
| VI.B.45    | No later than 60 days after the appointment of the Monitor, the City shall engage a third-party management consultant selected jointly by the City and the Monitor. The consultant shall examine NYCHA’s systems, policies, procedures and management and personnel structures, and make recommendations to the City, NYCHA, and the Monitor to improve the areas examined. | 04/01/19           | Complete | Management consultant has been engaged by the City and started working in May 2019. See first report for additional details. |

As explained in our first quarterly report, the Agreement required the City to engage a third-party management consultant to examine and document NYCHA’s systems, policies, and procedures, and recommend improvements. After receiving the consultant’s reports and recommendations, NYCHA and the Monitor must prepare an Organizational Plan setting forth changes to NYCHA’s management, organizational, and workforce structure.

Since work commenced in May 2019, the selected management consultant – KPMG in conjunction with Bronner Group LLC – has made significant progress collecting data and conducting interviews of NYCHA staff to advance its reporting deliverables. As described in the Negotiated Acquisition scoping document, the management consultant “shall review and assess NYCHA’s current Business Model for the management of its assets and the running of the business generally.” KPMG, along with NYCHA, City Hall, the New York City Law Department, and the Monitor team, has kept to a rigorous timetable for this review. Weekly meetings are held to monitor the management consultant’s schedule, progress, and budget. KPMG expects to issue its draft reports in the next few weeks.

Those reports will document NYCHA’s current organization, how it can be measured for success, whether it has the capability in its current state to achieve the measured success, and how its current property-related operations compare to good industry practice. After the reports have been reviewed, the Monitor team will work collaboratively with NYCHA to develop a new NYCHA Organizational Plan in light of KPMG’s findings and recommendations, likely in May 2020.

Close collaboration between NYCHA and the Monitor team will be essential to the development of a comprehensive, effective, and timely Plan. Since new Chair and CEO Russ took office, a team of NYCHA staff has been identified to assist with this effort, led by the newly-developed Office of Strategy and Innovation. The Monitor team has begun weekly meetings to start framing the organizational plan. We will continue to report on the progress in this area in our next report.

## COMPLIANCE AND RELATED DEPARTMENTS

| Section | Obligation   | Agreement Deadline | Status   | Monitor Comment  |
|---------|--|--------------------|----------|--|
| VI.C.53 | No later than 45 days after the appointment of the Monitor, NYCHA, in consultation with the Monitor, shall establish and maintain a Compliance Department ...          | 04/15/19           | Complete | The Compliance Department has been established and the Monitor is working with NYCHA to ensure it has sufficient staffing and a clear mission. This is true for the Environmental Health and Safety Department and the Quality Assurance Unit as well. See the first Monitor’s Report for details. |
| VI.D.55 | No later than 45 days after the appointment of the Monitor, NYCHA, in consultation with the Monitor, shall create an Environmental Health and Safety Department...     | 04/15/19           | Complete | See above.   |
| VI.E.57 | No later than 45 days after appointment of the Monitor, in consultation with the Monitor, NYCHA shall create a Quality Assurance Unit...                               | 04/15/19           | Complete | See above.   |
| VI.E.59 | No later than 60 days after the appointment of the Monitor, NYCHA shall provide HUD, SDNY, and the Monitor with a certification of compliance with paragraphs 53 – 59. | 05/01/19           | Complete | Monitor has continued discussions with NYCHA to refine and enhance NYCHA’s approach. See first report for details.   |

Throughout this past quarter, each of the departments required to be established under the Agreement – the Compliance Department (“Compliance”), the Environmental Health & Safety Department (“EHS”) and the Quality Assurance Unit (“QAU”) (collectively, the “three departments”) – has continued to evolve and, to a greater or lesser extent, each began to perform the functions prescribed under the Agreement.

During this quarter the Monitor team met individually with the interim heads of each of the departments and their deputy directors to discuss organizational structures, strategies, deliverables, and staffing needs. We reviewed draft procedural documents, offered commentary, and met with staff to discuss individual roles and responsibilities. We monitored ongoing and new activities undertaken by the departments to fulfill their obligations under the Agreement. While the evolution of these departments has been uneven, overall we believe that NYCHA’s effort to create departments whose mission is to ensure, through multiple methods, that NYCHA provides residents with housing that is decent, safe, sanitary and properly maintained year round is genuine; that its approach, is largely transparent; and, that its attitude - is generally cooperative.

### *Compliance Department*

Of the three departments, Compliance is the most evolved in terms of organizational structure, staffing, and operationalization. In our first report, we expressed concern over the apparent singular focus of the department on regulatory compliance, without sufficient attention to ethical behavior and standards of conduct in its mission. We also questioned the adequacy of its proposed staffing. In this quarter, in consultation with the Monitor’s Team, NYCHA has taken steps to address these issues.

Compliance now has four (4) fully functioning sub-units: Compliance Inquiry Review and Assessment (“CIRA”), Compliance Integration Reporting and Evaluation (“CIRE”), the Monitoring Unit (“MU”), and Procedures. Compliance added six (6) new staff members to these units and anticipates adding three (3) more in the next quarter. As of mid-September, the headcount for Compliance was twenty-one (21) Full-Time Equivalents (“FTEs”) (plus three (3) graduate interns). While a significant increase over the sixteen (16) FTEs was reported in the first quarter, we believe further staff additions are warranted, particularly in the Monitoring and CIRA units discussed below. In addition, the Acting Chief Compliance Officer, who has a very broad span of control, is now recruiting for a Vice President and a Senior Advisor for Compliance.

In June 2019, Compliance shared its six-month roadmap with the Monitor’s Team. That document outlines the activities to be undertaken by each of the four units to support and fulfill the department’s responsibilities under the Agreement and provides timelines for those deliverables. During the past quarter, Compliance made considerable progress across a range of activities discussed below.

## *Compliance Inquiry Review and Assessment (CIRA)*

Under the Agreement each of the Three Departments was to provide a “forum” for the receipt of complaints from stakeholders (residents, employees, contractors and the general public) concerning compliance, environmental health and safety issues, as well as concerns about the quality and timeliness of maintenance and repair work performed at the developments. To satisfy this requirement, in our first report we recommended that NYCHA consider implementing a single reporting mechanism, possibly administered by a third-party. In fact, rather than creating three separate response units independently managed by each department, CIRA was given the responsibility to manage the process for all Three Departments and the Complaint Forum was formed. Complaints may be submitted anonymously to each of the Three Departments through various internal and external channels, including via referrals from other NYCHA “hotlines” such as the Customer Care Center (“CCC”) and Customer Operations, but the triage (determining which of the Three Departments at NYCHA should handle the complaint), investigation and resolution of complaints received resides with CIRA. CIRA, independently and/or in collaboration with EHS or QAU, will perform complaint trend analyses and prepare reports for the business units and senior management.

The Monitor team has followed the development and launch of the Complaint Forum closely. In bi-weekly meetings with CIRA we have discussed topics such as: the need to coordinate with other NYCHA departments that also receive stakeholder complaints, e.g., the Inspector General and the Office of Public Safety, to avoid duplication of effort; the need for correct complaint assessment and triage; and, how best to ensure complaints are properly resolved and that complainants receive timely service.

To address the issue of complaint triage, particularly for complaints concerning any of the environmental hazards, CIRA worked with EHS to develop an evaluation process designed to facilitate the referral of appropriate complaints to EHS for investigation. Initially, all complaints relating to any of the hazardous conditions were referred to EHS which found that a vast majority of these complaints were actually requests for repairs. These are appropriately handled by Customer Operations. Now CIRA’s case agents reviewing complaints involving lead, mold, pests, etc., use an assessment tool to fine tune their understanding of the true nature of the complaint. Those complaints now directed to EHS entail substantive issues requiring investigation by the environmental safety experts in EHS.

Throughout this quarter, CIRA continued to work with NYCHA’s IT and Communications departments to perfect the Siebel Compliance Complaint Forum Module which went live in July 2019 and to develop a compliance IVR menu option on the CCC call center line. This went live on September 16, 2019. CIRA is now receiving complaints via multiple channels – the homepage of NYCHAConnect, the public NYCHA website, the Complaint Forum, the IVR option in CCC, and from direct emails and calls. Each week the volume continues to grow. In the period from July through mid-September, the Complaint Forum alone received over 775 submissions, the vast majority of which came from residents

complaining about apartment conditions or the status of various resident filings or requests made to NYCHA and which were subsequently referred to Customer Operations. In the first week of the IVR compliance option availability via the CCC, over 800 submissions were received.

CIRA has developed a number of reports that it can generate to analyze complaints received and their disposition. Analysis may be performed on a number of elements – topic, stakeholder type, location, current status of complaint, number of days to close, etc. As the volume of complaints in the system increases, CIRA will be able to perform exercises like root cause analysis and risk assessment.

On the Compliance Department organizational chart (updated August 2019) CIRA has a staff of five (5): a Deputy Director, two (2) Senior Analysts (one for data and risk analysis and the other for investigations), and two (2) case agents who were onboarded in this quarter. Obviously, the increase in complaints received necessitates an increase in staff. CIRA has submitted a requisition for three (3) Compliance Specialists to assist in handling calls. In the coming months, Compliance and CIRA will need to assess the submission process as it may be unsustainable without further refinement. We will continue to track and report on this process.

In addition to its complaint response duties, CIRA is also tasked with conducting investigations of suspected noncompliance, including deceptive or other improper practices related to PHAS inspections. As information regarding potentially noncompliant behavior is received by Compliance, CIRA, in consultation with the Chief Compliance Officer, develops an investigation plan, which it executes. If appropriate, CIRA may collaborate with subject matter experts from EHS or draw upon the expertise of the QAU.

CIRA has developed an investigative protocol which was shared with the Monitor team. The protocol includes investigative timeframes, the reporting of findings, and where appropriate, the issuance of a corrective action plan. We have raised some questions with CIRA about the protocol, primarily as relates to the role of Compliance in the disciplinary process and the scope of responsibility of the Chief Compliance Officer in the investigative process, which we will pursue in the coming quarter. In the meantime, CIRA has undertaken and/or completed several investigations; is in the final steps of completing an investigation regarding an ongoing capital project at one of the developments; has conducted investigations regarding trash conditions at two developments; with EHS is investigating a complaint regarding improper protocols on NYCHA clearance examinations; and has investigated a matter concerning potential mismanagement of annual and interim certifications at two developments, among other things.

Currently, CIRA's investigative work has been performed by its Senior Analyst with the assistance of the Deputy Director. It is evident that additional investigative staff is necessary. In conversations with the Monitor's Team, CIRA indicated that it could absorb two additional investigators under the Senior Analyst's direction. We concur.

## *Compliance Integration, Reporting and Evaluation (CIRE)*

CIRE is the Compliance unit tasked with the responsibility of ensuring that NYCHA management and staff receive appropriate compliance training. See Agreement ¶ 53(c). In this quarter, CIRE shared the contents of the “Compliance 101” module that it was proposing to roll-out to all employees beginning in the end of Q3 or the beginning of Q4. We found the module to be lacking in sufficient content addressing ethical behavior, the need for integrity and honesty in performance of all activities and reporting done by staff at and for NYCHA, the prohibition of deceptive practices in all contexts, and the role of the federal monitor. Throughout this quarter we discussed our reservations about the module’s focus and made several suggestions for revision. CIRE incorporated all our recommendations into its final version of the module, which is scheduled to be rolled online to all staff in mid-October.

In addition to repeated statements that “the purpose of Compliance is to make sure that NYCHA has a culture of ethics and integrity and follows all applicable laws and regulations,” the training includes detailed information on requirements set out in the Agreement concerning lead, mold, pests, etc. A considerable portion of the training is devoted to ethics and NYCHA’s standards of conduct. Contact information for the federal monitor is highlighted, as is non-retaliation policy and the Complaint Forum. In the absence of a standalone Code of Ethics, noted in our first report, we suggested that copies of Chapter 30 from the Human Resources Manual, General Regulations of Behavior, be provided to staff in conjunction with the training. The training now includes a link to the chapter and states that NYCHA is committed to the development of a Code of Conduct for NYCHA, separate from the Human Resources Manual. The expansion of focus beyond just regulatory compliance and the acknowledgement of the need for a separate Code of Conduct are encouraging developments that we shall continue to follow.

In addition to this basic Compliance 101 Training, CIRE was also closely involved in approving the design and negotiating the RFP for the PHAS training which is required under the Agreement. See Agreement ¶ 62(a). We assessed the training schedule and proposed audience outlined in the *Action Plan – PHAS Inspections* submitted on May 29, 2019, and expressed reservations about both the audience and the pace of training. In response to our concerns, and as part of the overall revision process for the PHAS Inspections Action Plan, CIRE renegotiated its contract with the third-party vendor engaged to provide the PHAS training. The training, which will be delivered in person, consists of a three (3)-day course, culminating in an exam. The training is now to be provided to 1,700 employees over a seven to eight-month period. All staff in the following NYCHA titles will attend the mandatory comprehensive training:

- Property Management Department Director
- Regional Asset Manager
- Property Management Department Deputy Director

- Skilled Trades Administrator
- Property Manager
- Property Maintenance Supervisor
- Assistant Property Maintenance Supervisor
- Maintenance Worker
- Other titles within the Compliance Department, EHS, Human Resources Department, the Performance Tracking and Analytics Department, and the QA Unit.

If necessary, CIRE intends to negotiate a separate training for 3,000 Caretakers. That training will be a slightly abbreviated version of the three-day module and will not require an exam. CIRE has also planned for an annual refresher course, a three-hour online course for those who have taken the three-day module, and the ability to train new hires.

In addition to compliance and PHAS training, CIRE is responsible for several other Compliance requirements under the Agreement. It is working with the Learning & Development Department to conduct a deep dive of training offerings at NYCHA to identify gaps between training and regulatory requirements and job requirements, and determine if employees are receiving the correct training to comply with those requirements. CIRE expects to issue a report during October which will include results from its training survey and interviews conducted with EVPs to identify training needs and establish budgets.

Likewise, CIRE is tasked with identifying all external reporting at NYCHA in order to provide recommendations on the management and submission of that reporting to ensure it is timely, compliant, and accurate. To date, CIRE has identified over 100 external reports, with analysis and recommendations to follow. Both of these activities are scheduled to conclude by the end of the calendar year, at which time we shall review the findings.

CIRE is currently staffed with a Deputy Director, two (2) Compliance Integration Specialists who focus on creating workflows for the various hazardous conditions covered by the Agreement, process redesign and change management, and a Senior Analytics Manager Reporting & Evaluation for data analysis and reporting. CIRE is seeking to hire another analyst and would like an additional Compliance Integration Specialist. The unit currently is well managed and responsive to inquiries and suggestions.



## *Monitoring Unit*

The Monitoring Unit (“MU”) created a six-month monitoring plan that identified eight projects that the unit was to initiate and/or complete by the close of Q1 2020. The projects are aligned with requirements under the Agreement and include: DEC pesticide regulations and 2019 HUD Agreement pest milestones, Exhibit A Paragraph 30 Certifications, compliance with lead safe housing and RRP recordkeeping requirements, compliance with EBLL regulations, RRP in building common areas, compliance with 2019 HUD Agreement mold requirements, compliance with terms and conditions of CDBG subrecipient agreements and PHAS onsite and desktop monitoring. For each project the MU must determine its methodology. Some projects require substantial field work while others rely more on desktop analysis. Sample sizes must be determined and reporting formats selected. Much of the unit’s work involves areas covered elsewhere in this report, the exception being MU’s PHAS related activity.

The Agreement requires NYCHA to take measures to prevent deceptive practices before or during PHAS inspections. The Chief Compliance Officer is tasked with ensuring the integrity of PHAS inspections. The PHAS inspections Action Plan was in draft and under review by the Monitor when PHAS inspections resumed in July 2019. Although still in draft form, then, NYCHA opted to follow the Plan and the MU was enlisted to perform onsite monitoring to ensure that developments were complying with the terms of the Agreement and the draft Action Plan.

As of mid-September, the MU had visited twenty-eight (28) developments scheduled for PHAS inspections and had interviewed over 130 caretakers, maintenance workers, and supervisors to evaluate their understanding of PHAS procedures, including the prohibition on deceptive practices and to verify that the deceptive practices poster that was to be distributed as part of the Action Plan was displayed in multiple locations in the development undergoing PHAS REAC inspection.<sup>1</sup> Survey results showed that over the course of the summer both familiarity with the deceptive practices prohibition as well as awareness of the Compliance Department and the Complaint Forum as avenues to report unethical behavior were increasing. The MU will continue site visits for a sample of 20% of the developments scheduled for PHAS inspections. The MU also conducts post-PHAS monitoring with QAU to evaluate the resolution of certain exigent health and safety issues identified by REAC inspectors during the PHAS inspections. To date, the MU conducted three post-PHAS inspections and identified deficiencies which resulted in employee discipline at one of the developments.

The MU is currently staffed with a Deputy Director and four (4) Monitoring and Reporting Specialists. The Deputy Director has acknowledged that, given the number of projects

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<sup>1</sup> The Monitor’s field team also attended a number of PHAS REAC Inspection sites and participated in the monitoring and surveying of the sites and individuals.

MU has in its pipeline and the heavy field work component, even with assistance from EHS and QAU, the unit will need additional specialists, perhaps as many as three. We concur.

### *Procedures Unit*

The Procedures Unit works with a procedure owner, i.e., the business unit responsible for the administration and implementation of a Standard Procedure ("SP"), to create new or update existing SPs and is responsible for maintaining copies of all NYCHA's published SPs. In the six-month Compliance roadmap, Procedures had 15 SPs or manuals to create or update by the close of the year concerning a wide range of topics -- from lead safe housing to elevator service, maintenance, and repair, to repair standards and PHAS inspections -- requiring cooperation from various business units including, operations, administration, healthy homes, public safety, finance, and QAU. While "owned" by the business unit where the subject matter expertise resides, most of the burden of drafting the procedure, as opposed to editing and packaging, falls to the Procedures Unit which documents the process in the Procedure Request Tracker maintained in the NYCHA Data Warehouse. A quick review of the tracker and all the back and forth required to move an SP from draft to final suggests that the process is inefficient and fails to place sufficient responsibility for SP creation and revision on its owner. Accountability for the timely and consistent maintenance of SPs elevates process and promotes compliance. In the coming months, the Monitor's Team will consider possible process changes.

The unit is headed by a Deputy Director who has one (1) Senior Writer, two Writers, one (1) graduate intern, and an opening for another Senior Writer. During this quarter Procedures drafted the Compliance Department Manual, a draft of which is under review by the Monitor team.

### *Environmental Health & Safety*

During this quarter EHS, which was inaugurated in April 2019, began to coalesce as a department focused on overseeing and improving environmental health and safety at NYCHA. An organizational structure has been created under the direction of the Acting EHS Officer consisting of four oversight units: Environmental Hazards Oversight which has oversight teams for lead, pests, and indoor air quality; Buildings Systems Safety Oversight which has teams for heating, elevators, and fire safety; the Employee Safety Oversight Unit with employee safety specialists and safety training personnel; and the Analysis and Engagement Unit which will have two (2) business analysts. Through a combination of field work and data analysis EHS specialists will use their subject matter expertise to collaborate with Compliance and QAU to investigate complaints, independently observe and report to senior management on EHS issues encountered in the field, and actively advocate for EHS best practices at NYCHA.

The Acting EHS Officer has filled the Deputy Director positions for the four (4) oversight units and is actively recruiting for staff to complete the oversight teams which consist of an administrator and five oversight specialists who will perform most of the field work. Total headcount planned for the department as of September was forty-eight (48); a little less than half of the open positions have been filled. The resumes of current staff indicate considerable experience and subject matter expertise.

EHS has begun to develop processes and rudimentary process outlines. EHS and Compliance meet at least weekly to refine processes and procedures related to the Complaint Forum. In this quarter the two departments agreed on interim initial screening processes to assist in evaluating complaints involving environmental hazards and created a mold assessment tool to assist in complaint triage for the high volume of complaints that mention mold.

The Environmental Hazards and the Buildings Systems Safety Oversight Units are developing Compliance Assurance Programs ("CAPs") for each of their oversight areas. Each CAP will include a section on the business process being "oversighted," e.g., lead abatement, that includes procedures, workflows, and documentation associated with the process, as well as a summary of compliance requirements such as certification and external filings. There will also be a section on the EHS oversight process including work instructions, compliance assurance checklists, workflows, documentation/IT tools, the corrective action process, metrics, reporting and the QA process. Each CAP concludes with a section on reporting and analysis. The first CAP, the interim Lead Compliance Assurance Program, in effect as of October 1, is a collaboration between Compliance and EHS, with EHS designated to provide field oversight and submit weekly reports to Operations and Lead Hazard Control on deficiencies identified during the prior week's field observations.

During this quarter, EHS also developed a template called the Issues/Complaint Investigative Form for reporting the findings of its investigations. We reviewed two recent investigative reports completed by the Indoor Air Quality Oversight Team regarding mold. The reports were very thorough, allegations were substantiated, and the matters were referred back to Compliance pursuant to the protocol. Reservations raised in the first report regarding coordination and overlap among the departments, particularly relating to the inspections function, are diminishing as EHS evolves as a department and begins collaborating with Compliance and QAU.

### *Quality Assurance Unit*

QAU is responsible for assessing the quality of repair work performed at NYCHA throughout the year, including the period in advance of a PHAS REAC inspection. Prior to the Agreement, the team of inspectors that now constitute the QAU were performing post repair work inspections under the auspices of the Leased Housing Department. To

determine which developments/units to inspect, a list of closed/completed work orders for all crafts (maintenance, skilled trades and vendors) within the last two weeks at developments that had the lowest PHAS scores in the last REAC inspection are randomly selected by assessment date by Maximo and loaded into the Quality Assurance Inspection System ("QIS") used by QA inspectors. Inspectors then follow an inspection protocol, entering data into QIS as inspections are completed.

The Agreement requires the QAU to expand its inspections to include reviewing work performed by NYCHA in advance of PHAS inspections to determine whether that work was industry-standard quality and to verify and contribute to compliance with the Agreement insofar as the Agreement bears on maintenance work at NYCHA. QAU has already collaborated with Compliance (MU) to conduct post-PHAS inspections of exigent health and safety repairs.

During the past quarter, the interim Quality Assurance Officer resigned and another individual, the current EVP, Leased Housing Department, temporarily assumed the role of the Quality Assurance Officer. In September a permanent Quality Assurance Officer was appointed. QAU is looking to complete its organizational structure with the addition of two project managers and two analysts who will enable the unit to perform more data analysis. The Deputy Director estimates that the current number of QA inspectors twelve (12) represents a minimum and would like to double that number. With QAU responsibilities added under the Agreement and the sheer volume of work orders generated, we agree that QA inspection staff should be increased.

Despite the absence of permanent management, the newly formed team of QA inspectors continued to perform QA inspections with the unit's twelve inspectors completing approximately 6,000 inspections per month. QAU produces a bi-weekly summary report that is routed to property management staff. The unit also distributes a Monthly QA Inspection Report to the General Manager, various EVPs, the heads of Compliance and EHS and the Monitoring Unit's Deputy Director. These reports identify locations inspected, report on the number of inspections attempted and completed and indicates the causes for an unsatisfactory rating. For the two months for which we viewed a summary of the monthly report, the overall completed work order satisfactory rates were 95% and 97%. Given the volume of complaints about repairs at NYCHA, going forward, we will want to better understand the validity of the QA process. We note that a revised version of the Quality Assurance Inspections standard procedure is being drafted. We have not yet reviewed this document. A new QAU workflow draft is also in the works.

QAU committed to working with IT to migrate its inspections database from QIS into Maximo which will expand the ability to conduct analysis on QA activities. The Monitor team attended a presentation by IT on the QIS project and can report that it is progressing and is anticipated to be operational in Q1 2020.

## PHAS and Other Inspections

### PHAS Inspections

| Section     | Obligation  | Agreement Deadline | Status   | Monitor Comment  |
|-------------|---|--------------------|----------|--|
| V.I.F 62(h) | By 90 days after the appointment of the Monitor, NYCHA will submit an Action Plan to the Monitor for meeting the requirements in the Agreement regarding PHAS Inspections | 05/29/2019         | Complete | NYCHA timely submitted a draft PHAS Action Plan to the Monitor. After first rejecting the plan, the Monitor, SDNY, and HUD have worked with NYCHA to revise the Plan which has now been finalized and accepted by the Monitor. |

### Other Annual Inspections

| Section        | Obligation   | Agreement Deadline | Status      | Monitor Comment   |
|----------------|--|--------------------|-------------|---|
| Exhibit B.E.48 | By and after ninety (90) days after the Effective Date of this agreement, annual inspections shall include having the person conducting the inspection perform any minor repairs during the inspection.  | 05/01/19           | Complete    | NYCHA has implemented this as policy. Monitor has not received information to verify compliance.                  |
| Exhibit B.E.49 | By one hundred twenty days (120) after the appointment of the Monitor, NYCHA will submit an Action Plan to the Monitor for complying with the requirement to conduct annual inspections and perform minor repairs during such inspections. The Action Plan shall include procedures for (i) on-site completion of minor repairs during inspections, and (ii) the scheduling of other inspection-identified maintenance deficiencies for subsequent repair. | 07/01/19           | In progress | NYCHA submitted a draft Plan. Monitor is working with NYCHA, HUD, and SDNY to finalize the Plan by Dec. 15, 2019. |

The Agreement specifically prohibits the use of deceptive practices with respect to PHAS inspections and requires NYCHA to ensure that all maintenance repairs are performed to established industry standards and that its properties meet HUD's decent, safe, sanitary, and in good repair standards at all times. Furthermore, it instructs NYCHA to design internal controls to prevent deceptive practices and tasks NYCHA's Chief Compliance Officer with preventing those practices and ensuring the integrity of NYCHA's PHAS inspections. *See* Agreement ¶¶60-62. NYCHA was to submit an Action Plan for meeting these requirements to the Monitor 90 days after the appointment of the Monitor. NYCHA timely submitted its Plan to the Monitor on May 29, 2019.

The Monitor team had some reservations about the Plan including language used in communications about deceptive practices, the need for more specifics regarding timelines, frequency, methodology, follow-up and assumptions regarding the content, audience and timetable for the proposed PHAS training, among others. REAC inspections recommenced on July 1, 2019, NYCHA decided to utilize the proposed Action Plan, although it was still under review. Throughout the summer, the Monitor team met on several occasions with the Procedures Unit to discuss potential revisions to the Plan and, although on the whole these meetings were productive, on August 5, 2019, the Monitor formally rejected the May 29th Plan. Thereafter the Action Plan was finalized and after reviews by SDNY and HUD, accepted by the Monitor on October 29, 2019. The Plan will now be made public, both on NYCHA's and the Monitor's websites.

The Agreement also requires that NYCHA draft and submit an Action Plan to the Monitor regarding how it will conduct annual apartment inspections and perform minor repairs during such inspections. On June 28, 2019, NYCHA submitted its Plan which the Monitor is in the process of reviewing. Comment regarding the proposed Plan has also been solicited from HUD and SDNY. We anticipate further discussion with all parties in the coming quarter and will report on our progress.

## LEAD-BASED PAINT

| Section          | Obligation  | Agreement Deadline | Status              | Monitor Comment   |
|------------------|---|--------------------|---------------------|---|
| Exhibit A.B.4(a) | No later than 30 days after execution of this Agreement, NYCHA shall provide the SDNY and HUD a report identifying all developments that meet the following requirements: (i) they were built prior to January 1, 1978, and (ii) are not exempt pursuant to 24 C.F.R. § 35.115, as a result of an inspection, an abatement, or otherwise (the "Lead Paint Developments"). Such report will identify each unit (including each "child-occupied facility") within such Lead Paint Developments that is not exempt pursuant to 24 C.F.R. § 35.115 ("Lead Paint Unit"). | 03/01/19           | Partially Completed | NYCHA submitted the report as to residential units to SDNY, HUD and Monitor.        |
| Exhibit A.B.4(b) | No later than 30 days after execution of this Agreement, NYCHA shall provide the SDNY and HUD...a report (the "Immediate Action List" (IAL)) identifying the subset of LPU that NYCHA has reason to believe are occupied or routinely visited by a child under the age of 6. Routine visiting shall be determined in conformance with the first sentence of the definition of child-occupied facility at 40 C.F.R. § 745.83.  | 03/01/19           | Partially Completed | NYCHA submitted the report of IAL as to residential units to SDNY, HUD and Monitor. |

| Section          | Obligation  | Agreement Deadline | Status                       | Monitor Comment  |
|------------------|---|--------------------|------------------------------|--|
| Exhibit A.B.5(a) | Within 30 days of execution of this Agreement, NYCHA shall ...perform at least one visual assessment in accordance with 24 C.F.R. § 35.1355 of each Lead Paint Unit on the IAL unless the LPU received a compliant visual assessment within the preceding 12 months.  | 03/01/19           | Partially Completed          | NYCHA self-reported 99% completion rate for residential units. The Monitor will perform a status check in the next quarter to determine NYCHA's remaining obligations.     |
| Exhibit A.B.5(b) | Within 30 days of execution of this Agreement, NYCHA shall ... eliminate any lead-based paint hazards in LPUs identified on the IAL through the performance of interim controls in accordance with 24 C.F.R. § 35.1330, or through abatement in accordance with 24 C.F.R. § 35.1325.  | 03/01/19           | Not Completed<br>In progress | NYCHA self-reported compliance with respect to residential units (except where access issues prevented work). Lead paint hazards have not been eliminated in certain LPUs. |
| Exhibit A.B.6    | No later than 90 days after execution of this Agreement, NYCHA shall submit to the SDNY and HUD documents sufficient to show NYCHA's basis for claiming that particular pre-1978 developments are exempt pursuant to 24 C.F.R. § 35.115. To the extent that HUD and SDNY thereafter notify NYCHA that they reject that determination, such developments, units and common areas will no longer be considered by NYCHA to be exempt pursuant to 24 C.F.R. § 35.115. If HUD and SDNY (a) object to the exemption for a particular development, unit, or common area, and (b) the lack of exemption would have led to the inclusion of additional units or common areas on the Immediate Action List, NYCHA shall within 30 days thereafter comply with paragraph 5 as to such additional apartments.  | 05/01/19           | Completed                    | NYCHA provided documentation to HUD and SDNY.  |
| Exhibit A.G.19   | Within 30 days of appointment of the Monitor, NYCHA shall provide the Monitor a list (the "EIBLL/EBLL-Triggered Risk Assessment List") of all units, common areas servicing such units, and developments in which neither an environmental investigation nor a risk assessment was performed since the date of: (a) the reporting to NYCHA (if on or after July 13, 2017) of a case of a child under age 6 with an elevated blood lead level (EBLL) (as those terms are defined in 24 C.F.R. § 35.110, as amended by 82 Fed. Reg. 4151 (Jan. 13, 2017) living in such unit and development, or (b) the reporting to NYCHA (if before July 13, 2017) of a case of a child with an elevated blood lead level (EIBLL) (as those terms were defined in 24 C.F.R. § 35.110, prior to amendment by 82 Fed. Reg. 4151 (Jan. 13, 2017) living in such unit and development. | 03/01/19           | Completed                    | NYCHA provided the Monitor with the list. Monitor has pending inquiries related to NYCHA EIBLL follow up.  |
| Exhibit A.G.20   | After providing the Monitor the EIBLL/EBLL-Triggered Risk Assessment List, within a   |                    | Completed                    | After inquiries by the Monitor, NYCHA has been   |

| Section        | Obligation   | Agreement Deadline | Status      | Monitor Comment  |
|----------------|--|--------------------|-------------|--|
|                | timeframe acceptable to the Monitor, NYCHA shall confirm that the New York City Department of Health and Mental Hygiene ("NYC DOHMH") has performed an environmental investigation in accordance with 24 C.F.R. § 35.110, 1130, in any unit and common areas servicing that unit identified in the EIBLL/EBLL-Triggered Risk Assessment List. To the extent the NYC DOHMH has not performed an environmental investigation in accordance with 24 C.F.R. § 35.110, 1130, in any unit and common areas servicing that unit identified in the EIBLL/EBLL-Triggered Risk Assessment List, NYCHA shall perform such environmental investigation within a timeframe acceptable to the Monitor. |                    |             | providing weekly updates on the status of each reported EIBLL. See report for more details.                              |
| Exhibit A.G.21 | After issuing or receiving the report of the environmental investigation, within a timeframe acceptable to the Monitor, NYCHA shall complete the abatement of identified lead-based paint hazards in accordance with 24 C.F.R. § 35.1130(c) and 35.1325.   |                    | In progress | NYCHA is reporting that it is complying with applicable regulations. The Monitor has initiated its verification process. |
| Exhibit A.G.22 | NYCHA shall perform risk assessments for all other units in the building in which a child under age 6 resides or is expected to reside on the date lead-based paint hazard reduction under Paragraph 21 is complete, and common areas servicing those units in the developments identified in the EIBLL/EBLL-Triggered Risk Assessment List, within a timeframe acceptable to the Monitor.   |                    | In progress | NYCHA is in the process of procuring a contract for risk assessments which is expected by January 2020.                  |
| Exhibit A.H.23 | NYCHA shall report to HUD each confirmed case of a child with an elevated blood lead level within 5 business days of being so notified in accordance with 24 C.F.R § 35.1130.  |                    | Ongoing     | NYCHA is in compliance with the obligation.  |
| Exhibit A.H.24 | No later than 60 days after the execution of this Agreement, NYCHA shall enter into a written agreement (MOU) with the NYC DOHMH resolving any barriers to the sharing of information relating to resident children's blood lead levels necessary for NYCHA to make disclosures to HUD in accordance with paragraph 23 and 24 C.F.R § 35.1130, and shall provide a copy of such agreement to SDNY and HUD.   | 04/01/19           | Complete    | MOU has been signed.   |
| Exhibit A.H.25 | NYCHA shall report to the Monitor and to SDNY and HUD any NYC DOHMH Commissioner order to abate lead-based paint within five days of receiving any order.  |                    | Ongoing     | NYCHA is reporting to HUD and the Monitor.   |
| Exhibit A.H.26 | On and after the Effective Date, to the extent NYC DOHMH has not performed an environmental investigation of any unit in which a child with an elevated blood level has been reported within 15 days of  |                    | Ongoing     | NYCHA provides weekly updates regarding all EIBLL occurrences and related responsibilities.                              |



| Section           | Obligation   | Agreement Deadline | Status      | Monitor Comment  |
|-------------------|--|--------------------|-------------|--|
|                   | identifying such unit, NYCHA shall perform an environmental investigation of that unit and common areas servicing that unit and perform abatement of any lead-based paint hazards within thirty days in accordance with 24 C.F.R § 35.1325.  |                    |             |  |
| Exhibit A.H.27    | From and after the Effective Date, NYCHA shall provide residents signing new leases (or, where required by regulation, renewal leases) with information about the presence of lead-based paint and lead-based paint hazards in their apartments and developments in accordance with the Lead Disclosure Rule, 24 C.F.R part 35, subpart A; 40 C.F.R. part 745, subpart F.  |                    | Ongoing     | NYCHA admits that there may be gaps in this area. A detailed report is required, to be subject to verification.  |
| Exhibit A.H.28    | NYCHA shall ensure that physical copies of all materials required to be disclosed by the Lead Disclosure Rule are present, available for inspection, and permanently maintained at the management office for each development.   |                    | Ongoing     | NYCHA's Compliance Department monitors its compliance with this obligation on an ongoing basis. NYCHA reports compliance. Verification by Monitor ongoing.   |
| Exhibit A.H.29    | NYCHA shall ensure that electronic copies of all materials required to be disclosed by the Lead Disclosure Rule are available to residents through an internet-based portal.   |                    | In progress | NYCHA reports that this will be completed by January 2020.   |
| Exhibit A.H.30(a) | No later than 120 days after execution of this Agreement, NYCHA shall submit to SDNY and HUD a statement describing its compliance with paragraphs 4-6. In its submission to SDNY and HUD, NYCHA shall specify the method(s) used to correct any lead-based paint hazards identified on the Immediate Action List and certify that such corrections were performed in compliance with the Lead Safe Housing Rule, Renovation, Repair and Painting Rule and Abatement Rule, as applicable, and that residents were notified of the corrections in compliance with the Lead Safe Housing Rule. | 05/01/19           | Complete    | See first quarter Monitor's report (pages 36 and 37) for more detail.  |
| Exhibit A.H.30(b) | Six months after the Effective Date, and every six months thereafter, NYCHA shall provide SDNY, HUD and the Monitor a certification describing its compliance with paragraphs 8 to 15.   | 08/01/19           | Ongoing     | Obligation repeats every six months. On July 31, 2019, NYCHA submitted certification on time but was unable to certify to many items in paragraphs 8 – 15 of the Agreement. See lead paint section of this report. |
| Exhibit A.H.33(a) | By January 31, 2019, NYCHA will display a sample kit of the supplies needed to complete an RRP work order in all 139 storerooms by January 31, 2019  | 01/31/19           | Complete    | Site inspections and inquiry by the Monitor have verified that the Kits have been delivered by NYCHA and displayed as required under the Agreement.  |
| Exhibit A.H.33(b) | NYCHA will issue a minimum of one kit of RRP supplies to RRP-certified staff daily   | 02/28/19           | Complete    | Site inspections and inquiry by the Monitor have   |

| Section           | Obligation   | Agreement Deadline | Status   | Monitor Comment  |
|-------------------|--|--------------------|----------|--|
|                   |  |                    |          | verified that the Kits have been delivered by NYCHA as required under the Agreement.   |
| Exhibit A.H.33(c) | NYCHA will enhance its work order system to automatically create a “dust wipe” work order if an RRP work order is generated by February 28, 2019.  | 02/28/19           | Complete | The required enhancement was performed and was ineffective. NYCHA thereafter initiated a call-in dispatch system to improve the scheduling of timely dust wipes. The Monitor is working with NYCHA to improve this system. |
| Exhibit A.H.33(d) | NYCHA will select a vendor to supplement the EPA's RRP training with practical training on dust control measures to simulate a range of working conditions by March 31, 2019 and train substantially all RRP-certified staff by December 31, 2019. | 03/31/19           | Complete | NYCHA's Procurement Department must renew the vendor's contract to ensure continued training e.g., new hires.  |
| Exhibit A.H.33(e) | NYCHA will provide all Resident Building Superintendents, Assistant Resident Building Superintendents, and Property Managers with training in RRP practices on an ongoing basis.   |                    | Complete | New NYCHA employees are receiving training, which has been verified by the Monitor.  |
| Exhibit A.H.33(f) | NYCHA will train all maintenance workers to perform lead-based paint visual assessments by September 30, 2019.   | 09/30/19           | Complete | NYCHA has complied. In addition, all new NYCHA maintenance employees receive training, which has been verified by the Monitor.   |

In this quarter, the Monitor team has worked with NYCHA's Compliance Office and Lead Hazard Control Unit, among others, to quickly develop and implement procedures to bring NYCHA into compliance with federal regulations and lead safe work practices, remediate hazards through interim controls, and ultimately to safely and effectively abate lead-based paint. We regularly conduct field interviews to learn about challenges faced by NYCHA employees in dealing with lead-based paint issues. We have publicly reported and continue to believe that inadequate resources are being applied to XRF testing and that NYCHA must use better methods to identify locations where children under six reside or regularly visit. Improvements are forthcoming in both areas, through the addition of vendor resources for XRF testing and NYCHA's anticipated push to locate at-risk children within the Local Law 1 process. We are working with NYCHA to improve its standard procedures regarding lead-based paint and to develop two Action Plans that will detail how NYCHA will comply with lead safe work rules and safely abate all lead-based paint in NYCHA facilities as required by the HUD Agreement.

Additionally, NYCHA must continue and improve efforts to (i) educate residents about the dangers of lead-based paint to children under six and pregnant women, and foster prompt

and accurate reporting of perceived lead-based paint hazards; (ii) ascertain the locations of children under six who live in or regularly visit locations in lead-based paint developments; and, (iii) make every effort to have a responsible adult present for scheduled XRF testing and to admit personnel doing repairs that disturb lead-based paint and interim control work (and to call the Customer Care Center promptly if no one can be present).

We are working with NYCHA to remedy its systemic compliance issues relating to lead-based paint regulations. The Agreement requires NYCHA to provide a certification every six months describing the status of its compliance with Federal lead-based paint regulations and the various lead-based paint remediation obligations listed in Exhibit A to the Agreement. Specifically, Exhibit A lays out the regulations required to be followed regarding the abatement of lead-based paint and also covers lead safe work practices (required by the EPA's "Lead Safe Housing Rule" and HUD's "Renovation, Repair and Painting Rule").

On July 31, 2019, NYCHA provided the Monitor with the required Certification, signed by its General Manager, and attached hereto at Appendix 3. The Certification, while produced in a timely manner, frankly acknowledges that NYCHA is not in compliance with many of the Agreement's provisions.<sup>2</sup>

With regard to Paragraphs 9-12 of Exhibit A, which require phased abatement of other lead-based paint apartments, interior and exterior common areas over twenty years, the Certification reported that NYCHA "will develop abatement schedules for other apartment units ... on the basis of the information obtained from the ongoing X-ray fluorescence testing initiative." Though NYCHA has not yet developed and finalized an Action Plan to address the obligations contained in Paragraph 12 (requiring abatement of lead-based paint in exterior common areas),<sup>3</sup> we have begun discussing the many details that must be included in any such Plan regarding lead-based paint. An effective Plan must state with particularity how and when an undertaking is to be accomplished. This requires a

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<sup>2</sup> This admission of these compliance shortfalls comes on the heels of NYCHA's admission on May 31, 2019, that it could not certify compliance with the Lead Safe Housing Rule, RRP Rule, and Abatement Rule in correcting applicable lead-based paint deficiencies in apartments covered by the "Immediate Action List." See Exhibit A ¶¶ 4-6 and the first quarterly report.

<sup>3</sup> We observed in our first report that such testing was significantly behind NYCHA's publicized schedule for completion (by the end of 2020). That remains so, with an average of only some 3,000 units completed per month. Of approximately 9,700 test results received by the end of the quarter, approximately 63% were positive for lead-based paint. See <https://my.nycha.info/PublicSite/Transparency/XrfReport>.

statement of the resources that will be available and brought to bear to accomplish mandatory objectives.<sup>4</sup>

Perhaps most importantly, the Certification reported that NYCHA could not certify its compliance with two key provisions of Exhibit A, Paragraphs 14 and 15, which respectively lay out the procedures to be followed in performing any lead paint abatements and required lead-safe work practices. Regarding Paragraph 14, the Certification reported that:

NYCHA cannot certify to compliance with all the legal requirements applicable to abatement of lead-based paint in connection with work conducted during the certification period. Based on analysis by the Compliance Department, NYCHA has determined that, among other things, it lacks adequate procedures, IT controls, recordkeeping and/or quality assurance monitoring as to a number of abatement requirements. Particular deficiencies include deficiencies relating to the requirements to prepare abatement reports, required notifications, and recordkeeping.

With regard to Paragraph 15, the Certification reported that:

NYCHA cannot certify to compliance with all the legal requirements set forth in the Lead Safe Housing Rule [and] the Renovation, Repair and Painting (RRP) Rule [citations omitted] in connection with repair and maintenance work conducted during the certification period. Based on analysis by the Compliance Department, NYCHA has determined that, among other things, it lacks, in certain areas, adequate procedures, IT controls, recordkeeping and/or quality assurance monitoring as to a number of lead safe work practice and RRP requirements. Particular deficiencies include deficiencies relating to the requirements to conduct clearance examinations, issue resident notifications, and complete required checklists.

The Certification was accompanied by a detailed, 26-page "Report on Compliance with Exhibit A, Paragraph 14 and 15," prepared by NYCHA's Compliance Department. The report particularized the various failings of NYCHA's compliance with respect to lead-

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<sup>4</sup> We had informed NYCHA that an Action Plan for lead-based paint, excluding for the short term the requirements of Paragraphs 8-13 of Exhibit A, was to be submitted by October 31, 2019. After subsequent meetings with NYCHA concerning the specific requirements in the Plan. We now anticipate receiving it by mid-November. An Action Plan for Paragraphs 8-13 must be finalized soon thereafter. As with all Action Plans under the Agreement, they must be approved by the Monitor.

based paint abatement; lead safe work practices, and the RRP Rule.<sup>5</sup> The Report is attached hereto at Appendix 4.<sup>6</sup>

### *Response of the Monitor Team*

Since the submission of NYCHA's Certification and accompanying Report, we (often in conjunction with federal officials) have engaged with NYCHA in a regular and detailed process of crafting, reviewing, and discussing remedial plans. We requested that NYCHA provide the Monitor with a timeline for implementation of a lead-based paint compliance plan that specifically details each action item, the resources that will be applied to it, and the schedule for completion. The plan must also identify each NYCHA business group that has responsibility for implementing each component of the plan. Our expectation is that NYCHA will immediately inform us of any shortfall in necessary resources, as well as difficulties in implementation (including group or individual failures). We also expect that NYCHA should and will use every means to address these needs.

The elements of the new compliance plan can involve many different components, including:

- Greatly improving and measuring clearance examination weekly metrics;
- Using new dust wipe dispatcher and cleaning verification methods;
- Using new and effective resident protection measures before clearance is gained;
- Providing training on a new and detailed Comprehensive Lead Procedural Manual (currently being drafted);
- Establishing and implementing an interim integrated lead quality assurance and oversight plan for all lead work streams;
- Attaining a 95% same day dust wipe rate for all lead work streams;

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<sup>5</sup> NYCHA also revealed a large backlog of post-work clearances accrued since last summer: 12,046. In most of these cases, weeks and even months have elapsed since work was finished. Thus, the normal process of taking dust wipes and obtaining lab clearance reports is moot. A similar dust wipe/clearance problem is faced regarding the units on the Immediate Action List, which will have to be tested with XRF devices.

<sup>6</sup> It should be noted that the Certification also included the announcement that abatement of lead-based paint in apartments and interior common areas at two developments (due under Exhibit A by January 31, 2024) will be accomplished "through the Rental Assistance Demonstration ("RAD") Program," whereby the developers will be required to handle and NYCHA ensure that compliant abatement has been performed (and so inform the Monitor when completed).

- With any required approvals, limiting the number of jobs thought to require lead safe work practices and the RRP Rule through IT Projects to use XRF testing results and integrating unit component level analysis into Maximo;
- Creating a portal for vendors to submit worker RRP Certifications, Pre-- Renovation Forms, and RRP Checklists;
- Developing controls, and bolstering the automation of processes in Maximo, such as building pre- and post-RRP Checklists into Maximo;
- Creating Maximo monitoring tools for abatement and other lead work streams;
- Automating Hazard Reduction Letters in the Siebel System and creating Maximo automation enhancements for abatement;
- Establishing an effective field oversight and inspection program.

One of the great challenges that NYCHA will have to surmount is the need to obtain timely clearance of apartments after compliant, safely done work disturbing lead paint is performed. This will involve the Lead Hazard Control Unit: (i) dispatching “dust wipe technicians” to apartments to obtain dust wipe samples on the same day that work and cleanup is completed (ideally within one to two hours of cleanup); (ii) getting the samples to a lab (via overnight shipping coordinated by the Lead Hazard Control Unit in Long Island City); (iii) obtaining lab results within 24 to 48 hours; and (iv) protecting the occupants of the apartment from potential lead particulate (as hazards may still exist) before clearance is obtained (for example, by temporarily installing heavy rosin paper taped over the floors in the work areas). All the while, appropriate and timely notices will have to be given to residents to keep them informed about what is happening. For example, residents should be warned not to disturb the protection setups until clearance is gained. Effectively rolling out such a program to all NYCHA lead-paint developments will be a vast undertaking that must be rigorously managed and appropriately funded.

NYCHA’s effort to craft and implement a lead-based paint compliance plan is being led by its Acting Chief Compliance Officer. It is vital that all NYCHA officials whose portfolios include responsibilities regarding any aspect of lead-based paint exhibit a serious commitment to compliance. This initiative will not succeed as a one-man effort. We have been closely reviewing staffing, compliance, and performance issues within NYCHA’s Lead Hazard Control (“LHC”) Unit for some months now. The LHC Unit must play a vital role in ensuring that the compliance plan is effectively implemented. It will have to be run with integrity and discipline in order for the compliance plan to succeed. It must have sufficient assets and a clear organizational and management structure. It must make individuals (and vendors) responsible for meeting performance and compliance goals and hold each accountable. We have met multiple times with its new Director and found him to be deeply engaged in the process of revitalizing the office (which had been without a director for months). He has experience in facing IT upgrade and management

challenges at another City agency that should benefit the LHC Unit. The Operations Department and Borough offices also have to increase their commitments to strictly adhere to lead-based paint regulations and ensure adequate staffing and clear accountability in this regard.

The IT Department is playing and will continue to play an important role, in realizing an effective compliance plan. For example, it has built a program to incorporate data from current XRF testing and the testing done in the early 2000s into Maximo to enable personnel to determine whether potential work on individual components in an apartment will disturb lead-based paint that will require RRP Rule compliance. Implementation will be subject to required approvals. Record-keeping additions to Maximo and other improvements to automation (such as RRP checklists) have been developed.

As part of our initial feedback to NYCHA after the July 31<sup>st</sup> Certification was submitted, we noted the crucial goal of using technology to help achieve compliance. We observed that broad IT improvements must be made by NYCHA to bolster necessary record keeping for work that must comply with lead-based paint regulations. For example, contractors could upload employee LBP certifications, RRP checklists, abatement reports, and other information through a secure vendor portal. Such information could be fed into Maximo. NYCHA could require that vendor worker certifications be uploaded before work begins. NYCHA vendor photo ID cards could be created (even temporary ones printed) and presented by workers at developments to ensure that the identity and credentials of workers is confirmed before beginning RRP or abatement work. We note that the current method of "signing in" contractors and their teams via day books (with little to no information about the actual composition and credentials of their teams recorded at many developments) is clearly insufficient to meet NYCHA's critical need for reliable and efficient record keeping.

We also note that the lead-based paint compliance field oversight performed by inspectors on loan from the Department of Sanitation ("DSNY") has ended. NYCHA must ensure that sufficient assets are allotted to assume this vital function. We were initially informed that the field oversight assets that would be employed would be equivalent to those deployed by DSNY (approximately twenty people) and that they would be supplied in equal measure from the LHC Unit and the new EH&S Department. We have lately been informed that the LHC Unit is pulling back from this plan, citing a lack of resources. We consider this to be highly problematic and view a twenty-person field oversight team as the minimum number of people necessary.

The next certification regarding compliance with lead-based paint regulations is due January 31, 2020. Though progress is being made, many challenges will be difficult to surmount. For example, in the month of September, NYCHA was only able to document timely performance of dust wipes after the completion of RRP work approximately 71% of the time. NYCHA is reviewing whether this deficiency is IT or performance based.

## *Locating Children Under Six*

In our first report, we raised the issue of NYCHA's efforts to identify where children live or regularly visit in its developments. We noted that NYCHA was relying solely on annual resident certification forms, and what might be viewed by some as an intimidating form used to report a change in household composition. *See*, First Quarterly Report at 35.

We discussed the matter (among other topics related to lead paint) in a meeting with Chair Russ on August 27th. The exchange of views was robust and helpful and we agreed to continue discussion of ways to identify the whereabouts of off-record children under six who may be residing in or regularly visit NYCHA apartments. To that end, on August 28<sup>th</sup> we asked NYCHA to provide the Monitor with lists of the methods (1) currently used by NYCHA to identify the whereabouts of children under six years of age ("CU6") on its properties and (2) the methods that NYCHA is considering implementing or can consider implementing after studying feasibility (and if necessary consulting with counsel) to identify the whereabouts of CU6. The latter category might include a concerted resident awareness campaign; developing protocols for NYCHA's response to constructive and actual knowledge of unreported CU6; an amnesty program allowing for risk free reporting of CU6; and improving NYCHA's resident disclosure forms as they relate to CU6.

On September 9th, NYCHA outlined some additional proposed methods, including a public awareness campaign for residents regarding the importance of responding to the Local Law 1 notice, which uses a more expansive definition of the term "resides" (now covering CU6 who visit the unit 10 or more hours per week). The campaign would run through March 2020, when the annual notices are due. NYCHA would then perform visits to units where residents did not respond to the Local Law 1 notice and where NYCHA does not have a record of a CU6 through the household composition data. NYCHA would also conduct outreach to tenants on how to file NYCHA Form 040.297D to update their household composition if they have a new child (permanently or temporarily) join the family. In addition, NYCHA is considering a six-month amnesty program for residents to report CU6 with no ramifications to the tenant. Such a program would require HUD approval. NYCHA would need to work with HUD on policy or legal issues that may arise if children are disclosed in senior housing.

We find NYCHA's ideas very constructive and hope that they can be implemented in a timely manner. NYCHA still needs to consider and establish policies regarding circumstances when its personnel have constructive and actual knowledge of unreported CU 6 six living in or regularly visiting NYCHA apartments.

## *Monitor Inquiry Regarding EBLL Procedures and Status*

On July 23<sup>rd</sup>, we asked NYCHA to answer a number of questions regarding EBLL-triggered risk assessments. In primary part, we asked NYCHA to confirm that the New York City Department of Health and Mental Hygiene ("NYC DOHMH") had performed



environmental investigations in those units identified on an EBLL risk-assessment list and, if not, whether NYCHA then had stepped in to perform the investigations as required by the Agreement. *See* Agreement ¶20.

On August 29<sup>th</sup>, we received the following response from NYCHA:

On April 1, 2019, NYCHA was able to confirm 12 units reported to NYCHA with a COTA [DOHMH Commissioner's Order to Abate] on or after July 2017 that had not received a risk assessment by either DOHMH or NYCHA. As of August 20, 2019, NYCHA has completed risk assessments and hazard reduction as outlined in a spreadsheet provided to the Monitor team.

On April 1, 2019, NYCHA was able to confirm 26 units reported to NYCHA with a COTA pre-July 2017 that had not received a risk assessment by either DOHMH or NYCHA.

As of August 15, 2019, there were 20 remaining units on this list with work to be done. 6 of these units require risk assessments of other child under 6 apartments in the same building. The remaining 14 units require a risk assessment of only the Index Unit's common areas at this time. If any lead hazards are identified, then risk assessments of other child under 6 apartments in the same building will be performed. Risk assessments of the 14 units' common areas are anticipated to begin this weekend. The risk assessments of the 6 units [that] require other child under 6 apartments (approximately 55 apartments), is beginning to be scheduled for access. NYCHA anticipates these risk assessments will be completed by the middle of October 2019.

It appears from NYCHA's response that our inquiry prompted actions and planning for actions that should have been taken at an earlier time.

### *EBLL Notifications Received in this Quarter*

During this quarter, we received notice of twenty- eight (28) notifications sent by NYCHA to HUD of children who live in NYCHA developments detected with elevated blood lead levels (including twelve (12) on September 10, 2019). According to the twelve email notices we received on September 10<sup>th</sup>, nine informed recipients that the EBLL in question "occurred prior to the MoU (Memorandum of Understanding) of Monday, April 1, 2019 and NYCHA received notification from DOHMH on September 4, 2019." Three (3) contained the same notice but referred to a memorandum of understanding dated

“August 20, 2019.” In any event, it appears that the Department of Health and Mental Hygiene did not provide timely notice to NYCHA of these EBLLs.

## MOLD

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| Section         | Obligation  | Agreement Deadline | Status   | Monitor Comment  |
|-----------------|---|--------------------|----------|--|
| Exhibit B.B. 19 | NYCHA will not close any mold, flood, or “leak from above” work orders as “Resident Not Home,” including any such work orders that NYCHA has not yet verified | 01/31/19           | Complete | NYCHA implemented required changes. The Monitor has verified compliance. |

In this quarter, the Monitor team continued to engage in a multi-faceted effort to track and help solve NYCHA’s issues with mold. We routinely meet with development superintendents and their staffs to learn about the various causes of mold and the resource issues faced by staff in effectively responding to mold and leak conditions. We examine the fulsome mold work order data developed through the *Baez* case. We regularly communicate with NYCHA's anti-mold office (the division of Healthy Homes referred to as “OMAR,” or the Office of Mold Assessment and Remediation). This multi-part process enables us to work with and in some respects drive NYCHA to create thorough Action Plans required by the HUD Agreement.<sup>7</sup>

Our efforts to date have revealed that NYCHA must, among other short-term steps, hire more personnel to work as maintenance people and skilled trades people -- most importantly plumbers -- and improve the process of scheduling repair work. We have also identified the need for NYCHA to communicate more effectively with residents to mitigate mildew attributable to resident behavior. In addition to the upgrading of roof fans and the cleaning of ventilation ductwork projected to roll out in early 2020, NYCHA must do better to ensure that sufficient numbers of proficient personnel are dispatched on a timely basis to effectively address all leaks and mold. Further, we are expecting NYCHA to do mold-focused needs assessments to develop an effective Action Plan that must include capital improvements to prevent recurrence of mold caused by leaks, porous roofs and eroding exterior surfaces.

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<sup>7</sup> An effective Action Plan covering Paragraph 17 of Exhibit B is expected by early November. A plan covering Paragraph 15 will be expected shortly thereafter.

According to the Revised Standard Operating Procedure (“RSOP”) developed through the *Baez* litigation, and as required by the HUD Agreement, NYCHA must remediate a minor mold occurrence and its underlying root cause (that can be addressed by a maintenance person) within seven days of confirmation by inspection, and must remediate a major occurrence (requiring skilled trades personnel) within fifteen.<sup>8</sup> As we noted in our first report, according to interviews with NYCHA personnel, NYCHA has lacked the resources to meet these obligations. Our continuing interviews of development staff and discussions with management during the past quarter indicate that the resource problem has not been addressed and has been impacted by NYCHA’s alternate work schedule program, known as AWS.<sup>9</sup>

At the time of our first report, we could not reliably quantify NYCHA’s ability to address mold because of incomplete data generated by NYCHA. However, it was clear that a very large number of mold work orders were simply not being addressed. Since that time, we have met with the *Baez* Independent Data Analyst (the “IDA”) to discuss the data. We received the IDA’s excellent first report, now well publicized, in early September. The IDA has conclusively quantified NYCHA’s lack of progress in addressing mold. In a letter sent to the Special Master in *Baez*, attached hereto as Appendix 5, the IDA reported the following key information:

Quarter 21 Compliance Metrics: There were a total of 100,760 work orders included in Quarter 21, of which 40,859 (40%) closed during the quarter; 29,987 (30%) were excluded from the analysis for being recorded as Unfounded, closed with No Work Done, Cancelled, or work orders considered in the 5% outlier metrics detailed in the Revised Consent Decree; and 29,914 (30%) remained opened as of July 31, 2019.<sup>10</sup> Based on the preliminary calculations using the revised methodology, 90% of all work orders that were closed in Quarter 21 (May 1, 2019 through July 31, 2019) that were classified as requiring completion in 7 days were completed within 7 days (10% of

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<sup>8</sup> Alternatively, NYCHA may remove visible mold within five days of reporting by a resident or discovery by NYCHA. Agreement, Exhibit B ¶ 17.

<sup>9</sup> Development personnel uniformly criticize AWS, which permits development staff (excluding maintenance personnel) up to the level of superintendents to work alternate schedules of four longer workdays. Development personnel have repeatedly told us that there are days when the necessary team of personnel required to accomplish all daily duties cannot be fully assembled, causing tasks to be neglected.

<sup>10</sup> According to the IDA, work orders excluded from this analysis include closed work orders that were recorded as being Unfounded or having No Work Done, work orders that were cancelled, and the application of the 5% Outlier exclusion methodology detailed in the Revised Consent Decree.

closed 7-day work orders were not completed within 7 days). 57% of all work orders closed in Quarter 21 that were classified as requiring completion in 15 days were completed within 15 days (43% of 15-day work orders were not completed in 15 days). Of the closed work orders, 91% were leak work orders that typically have prompt work order completion, which increased the overall percentage of work orders completed in 7 days. While Mold Busters is still in the process of rolling out across the NYCHA portfolio (and only accounted for 2% or 796 closed work orders after considering the work orders excluded from the analysis, as described above), it continues to demonstrate improvement in the number of days required to complete repairs using this repair protocol. For Mold Busters work orders (nearly all of which were classified as requiring 15 days to complete), the average days to complete the work order, for those work orders closed during Quarter 21, decreased by 66% from 35 days for work orders closed in May 2019 to 12 days for work orders closed in July 2019. However, a significant number of Mold Busters work orders remained open at the end of the reporting quarter and had been open for longer than 15 days.

Though leadership at NYCHA has, for years, known the scope of the mold problem (*Baez* was filed in 2013), the data confirm the extent of the situation. Thousands of NYCHA residents have long suffered and continue to suffer from the effects of mold and the lack of urgent, rigorous action by NYCHA.

Throughout the quarter, we have stayed in close communication with the Director of NYCHA's Office of Mold Assessment and Remediation ("OMAR," one of the three functions comprising NYCHA's Healthy Homes Unit).<sup>11</sup> Through this line of communication and multiple interviews conducted with property managers, superintendents, and assistant superintendents, we have learned much about the difficulties faced by personnel involved in mold remediation efforts. Recognizing that solving the issue of unaddressed mold work orders (and timely resolution of all others going forward) requires an integrated and well-coordinated effort involving multiple NYCHA units, on August 27<sup>th</sup> we met with representatives of various NYCHA departments -- including staff from the General Manager's Office, and senior representatives of OMAR, Operations, Health and Safety,

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<sup>11</sup> We find the Director of OMAR to be thoughtful, energetic, and deeply committed to problem solving. The office is setting a worthy example for others to emulate.

IT, Skilled Trades and Compliance -- to discuss "any and all circumstances preventing the prompt remediation and closure of aging mold work orders."

Though there are many factors contributing to the problem of aging mold work orders,<sup>12</sup> the meeting most tellingly revealed an insufficient sense of urgency and shared responsibility among all stakeholders – particularly regarding the need for teamwork, creativity, regular inter-function communication, and zealous commitment to solving the problem of aging mold work orders. Mold remediation is emphatically not just a Healthy Homes/OMAR issue.

Regarding sufficiency of field personnel, OMAR conducted an analysis to estimate the number of Skilled Trades personnel (by trade) required to meet workload demands associated with projected mold or leak work orders. The analysis was based on existing data indicating that mold and leak work orders accounted for 13% of all work orders from January 1, 2018 through July 31, 2019. The analysis proposed that NYCHA would need to increase the trades by 162 from 705 total to 867 (a 23% increase) to handle an estimated 63,681 work orders or 423,768 work hours in total for 2019. The projected increase in the annual budget for the additional workers is \$25,210,815.

NYCHA should be able to rely on these kinds of calculations to as quickly as possible add to the ranks required numbers of maintenance persons, assistant superintendents, and skilled trades personnel to timely and effectively address mold complaints and leaks. The data record being developed by the IDA demonstrates that when diligently applied the Mold Busters protocols are effective and will provide vital relief until such time (which must be very soon) when capital improvements are made to address the chronic leaks (from old pipes and porous exteriors) that plague the great majority of NYCHA's developments.<sup>13</sup>

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<sup>12</sup> There is a shortage of skilled trades personnel; a lack of worker accountability and discipline; and difficulties scheduling work. At one development whose superintendent was Mold Busters certified, that superintendent was employed by a new superintendent not Mold Busters certified; Worker comprehension of Mold Busters requirements is not tested.

<sup>13</sup> We also observe that not all mold occurrences are caused by leaks, failing roof fans, and dirty ductwork. We continue to be told by development personnel that an appreciable amount of mold they encounter is caused by resident conduct, such as failure to open windows in bathrooms after hot showers or the use of clothes dryers in apartments (a violation of lease terms). Residents must contribute to the effort to decrease mold outbreaks and NYCHA must assist them by increasing mold awareness efforts.

## *Remedies for the Mold Emergency*

Though the accomplishments and creative thought driven by OMAR in addressing mold and leaks are laudable, NYCHA is currently not using its best efforts and technically is in violation of the Revised Consent Decree in *Baez* and thus the HUD Agreement as it pertains to mold. We know that Chair Russ and the Mayor's office appreciate the gravity of the situation. The Chair has informed us that achieving the requirements in the HUD Agreement must be treated as an emergency situation and that business processes must be tailored to further implement critical repairs and remediation. Thus, in the context of mold, NYCHA should immediately conceive and implement by January 1, 2020, a plan to effectively remediate and properly close all past due work orders over the course of six months (or sooner), while ensuring that only a *de minimis* number of mold work orders are not remediated on a timely basis going forward. Until additional necessary personnel can be hired and trained, suitably skilled contractors could be engaged to form a mold task force. Although the root causes of the mold plague such as building infrastructure issues must also be addressed, the need for effective interim measures now is beyond debate.

## HEAT AND HOT WATER

| Section            | Obligation  | Agreement Deadline | Status      | Monitor Comment  |
|--------------------|---|--------------------|-------------|--|
| Exhibit B.A.3      | Within 90 days of the Effective Date of this Agreement, for those developments which are already furnished with electronic temperature reading devices, NYCHA will institute and maintain a system that identifies all apartments in which such devices indicate a violation of the City Code heating requirements and identifies the inside and outside temperatures associated with such violation.   | 05/01/19           | In progress | NYCHA has represented that they have completed the implementation and the Monitor has started the verification process.  |
| Exhibit B.A.4      | This information will be available to all NYCHA personnel responsible for heating and to all development managers   |                    | In Progress | Monitor is verifying that information sharing protocols are complete and are being complied with by NYCHA.   |
| Exhibit B.A.5      | This information will be fully available to the Monitor, HUD, and SDNY.   |                    | In progress | Monitor is verifying that information sharing protocols are complete and are being complied with by NYCHA.   |
| Exhibit B.A. 6     | An appropriate mechanism for disclosing this information to the public shall be provided in an Action Plan.   | 10/01/19           | In Progress | This is a part of the heat Action Plan which will likely be completed by early November. The Monitor is currently working with NYCHA to finalize the Plan, a draft of which was first provided to the Monitor on 9/27/19.                                    |
| Exhibit B.A. 7     | By October 1, 2019 NYCHA shall establish an Action Plan that identifies, for each development, how NYCHA will respond to heating outages, taking into account resident populations, historical data about prior outages, the availability of on-site and remote maintenance personnel, and response times. The plan shall include provisions for alternative heated community spaces for heating outages that are expected to last for a substantial duration. The plan shall also address NYCHA's policies for closing out work orders when the resident is not available at home or otherwise does not provide access to his or her apartment to resolve a heating outage. The plan shall be made available to the residents and posted online. | 10/01/19           | In Progress | As stated above, the Monitor is currently working with NYCHA to finalize the heat Action Plan. The Plan will include 20 development specific Plans for representative locations. NYCHA will complete the remaining development specific Plans going forward. |
| Exhibit B.A. 14(a) | By March 31, 2019, NYCHA will create a 24/7 Heat Desk which monitor heating metrics and   | 03/31/19           | Complete    | 24/7 Heat Desk has been timely   |

| Section | Obligation   | Agreement Deadline | Status | Monitor Comment   |
|---------|--|--------------------|--------|---|
|         | dispatch staff to correct deficiencies during Heat Season. |                    |        | instituted by NYCHA, which has been verified by the Monitor. The Monitor will be working with NYCHA to ensure the accuracy and completeness of the information going forward. |

As we explained in our first quarterly report, the Agreement requires that NYCHA meet various performance-specific deadlines regarding the provision of heating services to residents. NYCHA is also required to submit an Action Plan to the Monitor by October 1, 2019, that identifies, for each development, how NYCHA will respond to heating outages, accounting for (i) resident populations, (ii) historical data about prior outages, (iii) availability of on-site and remote maintenance personnel, and (iv) response times. The Action Plan must include provisions for alternative “heated community spaces” for any heat outages that are anticipated to be of substantial duration, and must address NYCHA’s policies for closing out work orders when the resident is not home or otherwise does not provide access to the apartment to resolve the heating outage. Once the Action Plan is accepted by the Monitor, it will be made available to residents and the public and posted online.

In compliance with the Agreement, NYCHA provided the Monitor with a draft Action Plan on September 27, 2019. As with all the Action Plans, the Monitor requires that they spell out, in step by step detail, *how* NYCHA will execute the work necessary to meet the Agreement’s requirements. The Monitor required that the heat Action Plan be a concrete blueprint for achieving the goals of the Agreement, as well as including additional strategies to both reduce heat outages and repair them more quickly when they occur. For example, in situations where a lengthy boiler outage is anticipated, NYCHA must develop a protocol for the swift and efficient installation of temporary boilers. Among other things, NYCHA must consider: (i) how to determine if a temporary boiler is needed, (ii) the configuration of an emergency response team to install the temporary boiler, (iii) how such boilers will be stored, maintained, and retrieved, (iv) coordination with building staff and residents, etc. The establishment of these types of protocols well in advance will allow for a quicker and more efficient response when heating outages do occur.

The Agreement requires NYCHA to draft a heating outage response plan for each individual development. As part of its Action Plan, NYCHA included development-specific Action Plans for twenty developments that have the worst performing heating systems. NYCHA will continue this effort and provide Action Plans to the Monitor for the remainder



of the developments over the next few months. The Monitor advised that the Action Plan must include the following to be acceptable:

- 1) Information about resident population (especially elderly, disabled, and mobility challenged)
- 2) Historical data about prior outages (previous 18 months)
- 3) The availability and identification of on-site and remote maintenance personnel
- 4) Defined maintenance and critical response times
- 5) Provisions for alternative heated community spaces for prolonged heating outages (where located, the point of contact for direction at each development)
- 6) A clear statement and communication of NYCHA's policy for closing out work orders when resident is not available at home or otherwise does not provide access to apartment to resolve the heating outage
- 7) Plan for publishing the final development heat Action Plan to residents and the public.

In addition, the Monitor has advised NYCHA that the development-specific heat Action Plans must include the following at a minimum, to be acceptable:

- 1) A site map of the development indicating the location of the property manager's office and the location of any temporary boiler connection locations at the development
- 2) A list of heating equipment extant at the development, including the types of boilers and related heating equipment on hand
- 3) The specific location of spare heating equipment parts (onsite/offsite)
- 4) A communication plan that identifies (i) who at NYCHA must be notified once an outage has been identified, and (ii) all resolution team members
- 5) A map identifying the locations of alternative heated community spaces
- 6) The NYCHA telephone number for residents to call if they are physically unable to leave the building without assistance in case of an extended heat outage

These development-specific plans will be easily accessible to both development staff and residents, and should be updated as needed. Each development should also have a meeting with staff and residents to discuss their development heat plan and answer any questions about its implementation.

## *Replacement of Boilers*

The GDA Action Plan, described earlier in this report, details how NYCHA intends to allocate state reimbursement funding to replace 108 boilers in 25 developments.<sup>14</sup> The HUD Agreement calls for a total of 297 boilers to be replaced by December 31, 2026. According to NYCHA, its capital pipeline contemplates the replacement of 310 boilers by the end of 2026, thirteen (13) more than required in the HUD Agreement. The Monitor team will measure NYCHA's progress in meeting or exceeding the HUD Agreement requirements throughout the course of the monitorship.

In addition, the Monitor team reviewed the Physical Needs Assessments ("PNAs") of NYCHA's boilers which were documented in 2017 to have a lifespan of less than five years. As we approach the end of 2019, the remaining lifespan of those boilers is now even less. For example, if a boiler in 2017 had a lifespan of 5 years, now NYCHA has approximately only two years left to fund and replace it. We have recommended that those 51 boilers from the PNAs be addressed as a priority in any of NYCHA's replacement plans moving forward.

## *Distribution Systems*

In addition to aging boilers, NYHCA is also facing issues with aging piping systems. The 2017 PNA and on-going maintenance and repair activities confirm that pipes are in poor condition throughout the entire enterprise. Basic maintenance is not being completed to maintain the piping systems (i.e., the cleaning of traps, frequent pipe inspections, flushing and advanced replacements). This is causing a circumstance in which even if NYCHA puts a new boiler in place, the distribution system may not improve the heating condition in the building. We have asked NYCHA to present a proposal regarding how it is going to repair, remove and/or replace two (2) pipe systems and the existing distribution infrastructure.

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<sup>14</sup> The funding agreement and the GDA Action Plan will be available for review on the Monitor's website once approved.

## ELEVATORS

| Section        | Obligation   | Agreement Deadline | Status      | Monitor Comment  |
|----------------|--|--------------------|-------------|--|
| Exhibit B.C.21 | Within 120 days of the Effective Date, NYCHA shall establish an Action Plan that identifies, for each building that contains an elevator designed for resident use, how NYCHA will respond when all elevators are out of service at that building (a “no-service” condition). Such plan shall take into account the resident population of each building, any individuals with self-reported mobility impairments, historical data about prior outages or service disruptions, the availability of personnel to assist residents, the terms of any elevator support contract, and historical response and repair times. Such plans shall be made available to the residents and posted online. | 05/31/19           | In Progress | NYCHA timely submitted a draft elevator Action Plan to the Monitor on 5/31/19. The initial draft lacked significant critical information, especially regarding metrics. NYCHA and the Monitor have been working on the Plan, which will likely be finalized in November. Going forward, the Monitor will work with NYCHA to establish more robust metrics that the Monitor will then regularly verify. |
| Exhibit B.C.22 | Within 120 days of the Effective Date, NYCHA shall provide HUD and the Monitor with sufficient data to identify elevator service interruptions in the prior three years. This data shall be updated at least quarterly.  | 05/31/19           | In Progress | Some data has been supplied by NYCHA, but a full dataset is outstanding. Quarterly update has not yet occurred. This will be an ongoing obligation.  |
| Exhibit B.C.30 | Within six months of the Effective Date, NYCHA will institute and maintain a system that identifies every elevator outage and the start and end times of such outages identified by remote monitoring systems, work-order records, or any additional sources of outage information, and make that system accessible and available to all NYCHA personnel responsible for elevators and to other relevant personnel, including all development managers and the General Manager.  | 08/01/19           | In Progress | Elevator outages are tracked through Maximo. Outage notifications are made via email. A formal reporting of outage data is being implemented. These protocols are part of the Action Plan being completed. The Monitor will verify that protocols are being followed going forward.  |
| Exhibit B.C.32 | Within six months of the Effective Date, NYCHA will establish a system to provide residents of buildings affected by a planned outage 24-hours advanced notice, and to provide residents of buildings affected by an unplanned outage notice within two hours of NYCHA learning of the outage. Such notice shall include instructions regarding what assistance NYCHA has  | 08/01/19           | In Progress | NYCHA has instituted Robocalls, posts via NYCHA website and provides notification in common areas, which was part of their draft Action Plan submitted in May. Additional protocols will be part of the Action Plan being completed. The Monitor has verified  |

| Section        | Obligation  | Agreement Deadline | Status  | Monitor Comment   |
|----------------|---|--------------------|---------|---|
|                | available for individuals with mobility impairments during the outage. Notice shall occur by robocall and via postings within the affected building and on NYCHA's website.   |                    |         | NYCHA's compliance with the posting protocols and is in the process of verifying their effectiveness with residents.  |
| Exhibit B.C.33 | NYCHA will provide the Monitor 24 hours advanced notice of any planned outage, and shall notify the Monitor of any unplanned outage within two hours of NYCHA learning of the outage. Notice shall occur in the method prescribed by the Monitor. |                    | Ongoing | The Monitor has been receiving elevator outage notifications every few hours from NYCHA on a daily basis for the last several months. We will be working with NYCHA to ensure that these notifications contain all necessary information. |

The Agreement requires that NYCHA produce an Action Plan identifying, for each building that has resident-use elevators, how NYCHA will respond when all elevators are out of service (a "no-service" condition). The Action Plan must take into account the resident population of each building, any individuals with self-reported mobility impairments, historical data about prior outages or service disruptions, the availability of personnel to assist residents, the terms of any elevator support contract, and historical response and repair times. In addition to the Action Plan, NYCHA is required to provide HUD and the Monitor with sufficient data to identify elevator service interruptions that occurred in the prior three years, with that information to be updated at least quarterly.

NYCHA issued its first draft Action Plan to the Monitor on May 31, 2019, well in advance of the Agreement deadline. However, as was explained in the Monitor's first quarterly report, the Action Plan lacked the detail necessary for an effective response to elevator outages. NYCHA and the Monitor team convened a working group to develop a more robust Plan. Subsequently, the Monitor received NYCHA's second draft elevator Action Plan on September 27, 2019, which is a marked improvement over the first draft. As with the heat Action Plan, the elevator Plan must provide explicit details regarding how NYCHA will execute effective maintenance and repair protocols to both reduce elevator outages and return broken elevators to service quickly, as well as how effected residents will be assisted during those conditions. The Monitor team provided additional comments to NYCHA and expects that a final elevator Action Plan will be completed in the next few weeks.

Escalating, expediting, and resolving elevator outages must be a focal point for NYCHA moving forward. We have recommended that NYCHA implement a "War Room" in order to achieve more efficient results. Once an elevator outage has been reported and/or is confirmed, we are recommending that NYCHA attempt to restore service within five calendar days. If service within the fifth calendar day has not been achieved, and/or if a

"no service" condition has been established prior to the 5-day deadline expiration, the War Room will step in to fix the issue. We have suggested that this War Room consist of designated representatives from both Operations and Capital Projects as supplemented by Supply Management & Procurement and Community Engagement & Partnerships to be chaired by the Director of Elevators and/or their designated representative.

We have recommended that the War Room prioritize elevator outages at developments that have only one elevator. In addition, for those developments with high frequency outages, it is recommended that the team stockpile parts to service elevator interruptions. The stockpile list should include key components that have recently failed and/or continually need maintenance. The goal is to have on hand the parts needed for the maintenance crew to restore service at any given time and to prevent delays attributable to part delivery.

We also recommend that NYCHA establish an Outage Coordinator(s) for each development, who will be on site and will act as the central response hub for all resident inquiries regarding the outage itself and available resident assistance. The residents will be informed of the Outage Coordinator(s) contact information. Currently, NYCHA has a process in place that implements a Robocall system once an outage has been reported. We are recommending that NYCHA implement an additional measure for elderly and/or disabled residents, residents with other mobility issues, and also for residents in buildings where there is only one functional elevator. A list of elderly and/or disabled tenants should be furnished to the Outage Coordinator(s), who will manually follow up with them every eight (8) hours post outage. The Outage Coordinator(s) should assist, upon request from the residents, in sourcing and procuring basic and essential needs and goods, such as water, food, and medicine pick up.

In the event of an unplanned outage, a contingency plan must be developed and implemented for elderly and disabled residents. Among the issues to be addressed are: backup power to operate the lifts temporarily, onsite personnel and manual support to help escort residents in/out of the building, and any additional services that NYCHA would deem necessary, to properly ensure that all elderly, disabled and otherwise mobility challenged residents, can have their basic needs met during a major disruption.

### *Replacement of Elevators*

NYCHA plans to use a portion of the \$450 million reimbursement allocation from the State to fund the replacement of 148 elevators in 10 developments. The HUD Agreement requires NYCHA to replace 297 elevators by 2025. Despite the usual challenges of funding, there are broader challenges that make it questionable whether NYCHA can install 297 new elevators in the next five years. From a procurement perspective, NYCHA may be unable to acquire the necessary items or the labor for the installation within that timeframe due to market limitations. NYCHA must also consider whether new elevator

technology, such as water-resistant cabs and controllers, may be employed to mitigate the effects from flooding and water events. We will continue to work with NYCHA to develop strategies around these issues in the next reporting period.

## PEST AND WASTE MANAGEMENT

| Section        | Obligation   | Agreement Deadline | Status      | Monitor Comment  |
|----------------|--|--------------------|-------------|--|
| Exhibit B.D.35 | Within six months of the Effective Date, the Monitor in consultation with NYCHA shall establish reasonable protocols by which Integrated Pest Management (“IPM”) professionals shall develop and provide reliable estimates, at least quarterly, of the pest populations in each NYCHA development. NYCHA shall promptly publish these figures, by development and pest type, on its website.  | 08/01/19           | Complete    | The Monitor and NYCHA timely drafted and submitted the protocols to SDNY and HUD, which were ultimately approved. The quarterly reporting by NYCHA has not commenced.  |
| Exhibit B.D.41 | Within six months of the Effective Date, NYCHA shall, for any unit that has more than one pest infestation complaint verified by NYCHA staff within twelve months (a) cause a professional using IPM techniques to evaluate the unit and its immediately adjacent units and common areas within 30 days to identify any circumstances specific to that unit that may have contributed to such recurrence (including, but not limited to, unaddressed leaks, proximately located trash, or holes in walls), and (b) address, consistent with IPM principles, any such circumstances within the following 30 days. | 08/01/19           | In Progress | NYCHA did not meet this requirement. To date, NYCHA has reported providing targeted pest relief for almost 500 resident apartments. The Monitor is working with NYCHA to develop an Action Plan.   |
| Exhibit B.D.45 | Within six months of the Effective Date, NYCHA shall, no less than once every 24 hours, inspect the grounds and common areas of each building for cleaning and maintenance needs, including pests and trash, and correct such conditions. In particular, NYCHA shall ensure that trash on the grounds or common areas of each NYCHA building is collected and either removed from the premises or stored in a manner that prevents access by pests at least once every 24 hours.   | 08/01/19           | In Progress | NYCHA did not meet this requirement. NYCHA and the Monitor are developing an Action Plan setting out how NYCHA will establish a Waste Management Department, hire additional caretaker and maintenance staff, work with DSNY to increase weekly trash pickups, and procure additional capital needs such as compactors and bulk augers. Draft will be provided in the final quarter of 2019. |

The Agreement requires NYCHA to reduce its pest population (rats, bedbugs, mice, and cockroaches) by adopting industry-standard Integrated Pest Management (“IPM”) practices.<sup>15</sup> As part of the mandated IPM inspections and treatments, NYCHA staff must also address the root cause issues that contribute to pest infestations, such as trash, leaks, and holes in resident unit walls. The Agreement states that within three years of its effective date, NYCHA shall achieve a significant reduction in its pest population across its portfolio.

As reported in the Monitor’s first quarterly report, the Monitor team has collaborated with NYCHA to form Pest and Waste Management working groups. As a part of that effort, the Monitor team visited over a dozen NYCHA developments, met with NYCHA tenant association presidents, development property managers, superintendents, supervisors of grounds, maintenance staff, and caretakers. Additionally, we created best practice and IPM checklists for pests, started the process for each development to create its own waste management plan, directed the launch of “Operation Rat Attack” to clear off NYCHA’s backlog of interior rat verified complaints, and helped residents get an urgent response to severe problems including rat infestations and internal compactor breakdowns. As part of the pest and waste management working group, the Monitor team is also currently collaborating with NYCHA to develop acceptable Actions Plans.

### *NYCHA Pest Population Infestation Index*

As a preliminary matter, the Agreement mandated that by August 1, 2019, the Monitor, in consultation with NYCHA, establish reasonable protocols by which IPM professionals shall develop and provide reliable estimates, at least quarterly, of the pest populations in each NYCHA development. See Agreement Exhibit B ¶ 35.

Consistent with our obligation under the Agreement, the Monitor developed a NYCHA Pest Population Infestation Index (“NPII”) protocol to survey the pest populations across NYCHA’s residential real property portfolio. The NPII is designed to collect data to set a statistically representative baseline and then measure and track pest populations. The NPII will help assess the effectiveness of NYCHA’s current (pre-IPM) and future (post-IPM) pest management efforts. In brief, the NPII profiles the magnitude of pest populations across NYCHA’s portfolio through (i) a statistically representative sample of

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<sup>15</sup> Integrated pest management or IPM is a broad-based approach that integrates various pest control methods to control pests. The UN’s Food and Agriculture Organization defines IPM as “the careful consideration of all available pest control techniques and subsequent integration of appropriate measures that discourage the development of pest populations and keep pesticides and other interventions to levels that are economically justified and reduce or minimize risks to human health and the environment.” Entomologists and ecologists have been advocating for the adoption of IPM pest control since the 1970s, because it allows for safer pest control.

IPM physical pest inspections and (ii) statistical analysis, comparison, and review of NYCHA's Maximo work order database.

Because there are approximately 173,000 units in NYCHA's developments, spread across five boroughs, it is not practical to survey every apartment unit for pest presence. What is practical and necessary, however, is to conduct expert IPM pest inspections ("physical inspections") on a statistically representative sample that can be confidently assumed to represent the current status of NYCHA's pest population across NYCHA's whole portfolio. The NPII requires NYCHA to have IPM-trained specialists physically inspect a random selection of at least 8,000 apartment units across 75 developments and 225 buildings as a statistically representative sample to establish a baseline for NYCHA to publicly report pest populations for the four most severe public health pests (rats, mice, bedbugs, and roaches). The baseline established by the NPII for pest populations will be used to measure NYCHA's pest management and control progress as is required by the Agreement.

To attempt to simplify this reporting requirement, after NYCHA has conducted at least 3000 apartment unit physical inspections, the Monitor, in collaboration with NYCHA, will determine whether the Maximo work order database is a reliable tool for NYCHA to use to collect, track, and measure pest data quarterly. If the results are positive, NYCHA will use Maximo to make its public quarterly pest reports. If Maximo is found to be unreliable, NYCHA will be required to conduct the comprehensive NPII physical inspections of at least 3,900 apartment units annually for at least five years to track and measure its compliance with the Agreement. Ultimately, NYCHA will use the NPII to establish long-term pest population monitoring and an IPM pest management and control program.

### *Targeted Relief*

The Agreement directs NYCHA to perform IPM pest inspections for any apartment unit (as well as its adjacent units and related common areas) that has more than one verified pest infestation complaint. NYCHA then must address any circumstances that contributed to a recurrence, all using IPM principles and techniques. *See* Agreement Exhibit B ¶ 41. NYCHA was unable to meet the Agreement's August 1, 2019, deadline for complying with this directive. As discussed in the Monitor's first report, the number of primary impacted units that fit within the Agreement's definition requiring targeted relief is extraordinarily high. As of September 9, 2019, NYCHA had approximately 23,531 primary impacted units and 74,527 adjacent impacted units requiring targeted relief under the Agreement.<sup>16</sup> Of those primary impacted units, about 2,645 currently have open work orders.

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<sup>16</sup> Approximately 90% of this population of primary impact units and their adjacent units consist only of closed work orders without a corresponding open work order. It is therefore currently undetermined



In light of NYCHA's failure to comply with the deadline, the Monitor mandated that NYCHA draft an Action Plan detailing how NYCHA will immediately provide targeted relief for the 2,645 primary impacted units that fall within the targeted relief obligation. The Plan must additionally lay out how NYCHA will perform physical inspections in the 10,580 units that are adjacent to those primary impacted apartments, in addition to their common areas. The Monitor team and NYCHA are discussing how to address this workload as quickly as possible.

In addition to providing near-term targeted pest relief for the primary impacted units discussed above, NYCHA has proposed performing comprehensive sweeps of all the approximately 2400 buildings in its residential real property portfolio, under a schedule estimated to take approximately two years. Those development buildings with the most severe infestation levels will be prioritized. As a first step, NYCHA plans to initiate a pilot program, during which NYCHA will perform pest inspections, IPM treatments, and related maintenance work (when necessary) in every apartment and common area. Larger hopper doors will be installed on the first floor of every building. NYCHA will review compactor needs and assess any necessary repairs. Once that process is completed, NYCHA will perform a cleaning of the entire building, including the cleaning of building wide trash chutes, stripping and waxing all hallways in the buildings, and other sanitation measures. NYCHA's plan will also include outreach and engagement with residents to train them on how properly to dispose of food waste and other items to discourage attracting pests to their apartments.

In the meantime, to better ensure that NYCHA provides its residents with quality IPM services, the Monitor, in collaboration with its pest expert, created for NYCHA best practice documents and checklists for all four pest types for interior apartments, interior common areas, basements and other non-living spaces and exterior grounds and playgrounds. We also created severity scales for each pest type and a best practices targeted pest relief procedure for NYCHA staff and vendors working on this pest relief campaign. In the short-term, the Monitor intends these prescriptive documents to serve as controls to enhance NYCHA's IPM training of its staff, particularly its property management, skilled trade, and maintenance staff. For the long-term, the Monitor plans to develop an IPM training program for all NYCHA staff and an IPM training program for NYCHA residents which ideally will ultimately be taught by residents for residents.

In the past, NYCHA has experimented with various pilots as a means of determining what kinds of strategies to use in its pest treatment efforts. In late July, NYCHA started a "pest mitigation blitz," which was intended to last through the summer. Although NYCHA's intentions were commendable, the Monitor team expressed concerns at the time that the

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whether any of these units have current signs of pest activity or an active pest infestation at any level of severity. The Monitor team recognizes, however, that NYCHA does appear to have a high rate of pest re-infestations.

blitz was planned without adequate notice to staff and residents. Ultimately the blitz was terminated after a few weeks, largely because NYCHA’s pest inspection personnel were unable to access many apartments and did not have the necessary materials or equipment. An important learned lesson is that sufficient outreach and notification to affected residents is critical. Additionally, inspection, extermination, and maintenance staff must have detailed instructions regarding the overall treatment plan and be properly outfitted to respond to pest complaints.

After the pest mitigation blitz, the Monitor recommended to NYCHA that it prioritize its targeted pest relief efforts by severity without compromising the day-to-day work of its extermination, maintenance, and other staff. Because the pest with the highest severity level is interior rats, the Monitor counseled NYCHA to focus its attention there first. NYCHA identified 190 primary impacted units that had more than one verified rat complaint from January 31, 2018, through the end of August 2019. Beginning on August 24, 2019, NYCHA kicked off Operation Rat Attack targeting those units as well as adjacent units and common areas. NYCHA has made considerable progress; to date, NYCHA staff has attempted to access all 190 primary impacted units, and was able to start the treatment process in 85% of them. Therefore, with respect to interior rats, NYCHA is very close to eliminating its backlog of verified complaints.

It should be noted that the City and NYCHA also reportedly have made significant inroads in decreasing NYCHA’s rat population through the Neighborhood Rat Reduction (“NRR”) program, which focuses on exterior rat burrows and common space rat populations. The NRR started in the summer of 2017 with 54 developments located on the Lower East Side and in Chinatown. The goal at inception was to reach a 70% reduction in exterior rat burrows and as of July 2019, NYCHA claims that the original group saw a 78% reduction in that area. On July 29, 2019, City Hall recognized NYCHA and Prevention and Intervention Strategies (‘PAIS’) staff for the work that has been done so far in achieving this progress.

The chart below provided to the Monitor from NYCHA lists what NYCHA represents as its most notable rat burrow reductions:

| <b>Development</b> | <b>Most recent burrow</b> | <b>Baseline<br/>Burrow</b> | <b>% Reduction</b> |
|--------------------|---------------------------|----------------------------|--------------------|
| BUSHWICK           | 16                        | 129                        | 87%                |
| RIIS               | 96                        | 225                        | 57%                |
| RUTGERS            | 10                        | 42                         | 76%                |
| SMITH              | 41                        | 148                        | 72%                |
| MARCY              | 77                        | 901                        | 91%                |

|           |    |            |     |
|-----------|----|------------|-----|
| WEBSTER   | 7  | <b>201</b> | 96% |
| GRANT     | 79 | <b>584</b> | 86% |
| LINCOLN   | 11 | <b>407</b> | 97% |
| JOHNSON   | 30 | <b>131</b> | 77% |
| JEFFERSON | 48 | <b>152</b> | 68% |
| FULTON    | 11 | <b>104</b> | 89% |

In July 2019, the city added 60 developments to the program, 39 in Harlem and 21 others spread throughout New York City, with the goal of a 70% reduction in rat burrows. NYCHA plans to achieve this by cutting off food sources and making it more difficult for rats to reproduce and burrow. NYCHA has created a nine-person burrow collapsing team and will be hiring 12 additional personnel to focus on grounds and basements. PAIS exterminators have shifted their efforts to the new sites with the largest burrow counts. For NYCHA to be able to comply with the Agreement’s requirements to significantly reduce its pest populations of rats, bedbugs, mice and roaches, the City through the NRR is going to need to help reduce its pest pressure from external sources (such as the sewers); to do so, the City will need to expand the rat reduction zone to geographically cover all of NYCHA’s developments.

Additionally, NYCHA staff created rat burrow reduction action plans for each original 57 development locations. As of September 12, 2019, 25 rat burrow reduction action plans have been created for the 60 new rat reduction zone sites. Each rat burrow reduction action plan is different and aligned to the needs of the specific development location. The rat burrow reduction action plans also include interior inspections to look for clutter around walls, such as tools or boxes, to make sure machinery is cleaned to reduce the food sources and to ensure that all holes are sealed to eliminate entry points.

### *IPM Training*

NYCHA is required to be positioned to send staff appropriately trained on IPM to respond to any pest complaint by February 1, 2020. *See* Agreement Exhibit B ¶ 44. Beginning on September 16 and continuing through September 24, NYCHA was sending all of its exterminators to a one-day IPM training course taught by a well-respected IPM professional. Additionally, NYCHA had thirty of its exterminators attend the Monitor pest expert’s IPM training course known as the “rat academy.” The rat academy includes both classroom and live field training.

The Monitor has recommended to NYCHA that it provide similar IPM training for the other three main pest types. As briefly discussed above, the Monitor has also recommended

to NYCHA that it establish a comprehensive IPM training program for all of its property management, maintenance, and skilled trade staff that includes general IPM training, focused courses for each of the four pest types, and a trial period of supervised field work which would lead to NYCHA providing an IPM certificate to those staff members who complete the IPM training program. The Monitor believes this IPM certificate will provide value because it will allow property management, maintenance staff, skilled trades, and all other relevant NYCHA staff -- all of whom are a necessary part of a good IPM program -- to receive acknowledgement for their new expertise.

### *Pest Operations*

The Agreement requires NYCHA to incorporate industry standard IPM practice into building operations in all NYCHA properties by February 1, 2020. *See* Agreement Exhibit B ¶ 43. This means that all NYCHA developments must have an IPM plan which will affect most if not all property management staff -- all of whom at a minimum require IPM training in addition to logistical and materials support -- as well as extermination and other skilled trade staff.

Even if NYCHA's proposal to perform pest relief on a building-by-building basis is implemented, NYCHA must also respond to current and future pest infestation work orders and conduct inspections and treatment in addition to establishing a local IPM management and control program. In addition to acquiring substantially more and well-trained pest inspectors and extermination staff, NYCHA also needs to establish an overall pest management structure to guide NYCHA's pest relief strategy across its whole portfolio. Additionally, the Monitor recommended that NYCHA require all developments to create a pest management plan for each NYCHA development. Finally, the Monitor has recommended to NYCHA that it hire or repurpose staff to serve in a pest inspector role with the responsibility of holding NYCHA staff and outside vendors accountable for their pest management efforts.

While much work remains, NYCHA has made progress in certain areas. On July 31, 2019, in response to the Monitor's recommendations, NYCHA updated its work order priority codes to better prioritize pest management based on severity of pest type and infestation level. Prior to this change, NYCHA's priority codes were the same across all pest types and no priority was recognized based on infestation severity. In other words, essentially a rat was the equivalent of a roach in terms of severity and complaint response prioritization.<sup>17</sup> In the two months since NYCHA implemented the updated codes, the Monitor has seen improvement in NYCHA's pest work order response times, as is required

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<sup>17</sup> Operationally, NYCHA claims that its staff prioritized rats and bed bugs. However, a review of NYCHA's response time for closed work orders shows that NYCHA had an average response time of 10 days across all four pest types.

by the Agreement. Going forward, when work order tickets are generated by the Customer Care Center, MY NYCHA App, or in any other form in Maximo, NYCHA proposes the following priority for each pest type:

- Rats - priority 7 (initial service attempt deadline is 24 hours)
- Bed bug and mice - priority 5 (initial service attempt deadline is 48 hours)
- Roaches and fleas - priority 4 (initial service attempt deadline is 10 days)
- All other pests - priority 4 (initial service attempt as scheduled)

When pest inspectors or exterminators enter an apartment unit and create follow-up work order tickets, NYCHA is proposing to include additional priority levels based on the severity of the infestation. We are continuing to discuss the proposed priority response times with NYCHA, and we will report on a finalized schedule in our next report.

As we noted, NYCHA currently has no inspectors to at a minimum confirm that the IPM work was done as represented and well, i.e., that signs of pest activity are no longer present and that an infestation was eradicated. NYCHA is in the process of identifying a role such as public health sanitarian or environmental health technician to handle this task. The Monitor has recommended that NYCHA establish positions for both roles with the difference being that the former requires a biology background. Having public health sanitarians on staff would provide NYCHA with the technical expertise it currently lacks. The same is true for having at least two urban entomologists on staff -- one for rodents (rats and mice) and another for insects (bedbugs and roaches). NYCHA would also benefit from having a biostatistician and data scientists to continually track and measure its pest management efforts.

As reported in the Monitor's first report, one development had a severe rat infestation that went largely unaddressed by NYCHA. Since the Monitor brought this situation to NYCHA's attention, there has been real progress in correcting the problem. That development was added to the Mayor's rat reduction zone, four out of five compactor rooms which were closed are being reopened (one more remains closed because the amount of damage caused by the rat infestation required complex repairs), and there has been a visible reduction in burrows on the exterior.

This does not mean that the rat infestation problem is fixed. It is not. But NYCHA has stepped up its efforts and progress is being made to help the residents of that development. Ongoing efforts to address this rat infestation include burrow collapsing, power-washing concrete to reduce the scent (pheromones) of rodents, and trimming vegetation. Extermination and burrow-collapsing staff visit every week to treat the exterior grounds, with a bi-weekly treatment for the basement in the building with the remaining closed compactor room until the infestation is eradicated. NYCHA also installed door sweeps on all the doors leading to compactor rooms and sealed holes

around pipes in buildings with evidence of rodent activity. As a preventative measure the window wells around the building's Community Center were sealed.

To better ensure that the development's rat problem is sustainably addressed, the Monitor, in collaboration with NYCHA, its property management staff, and residents, kicked off the creation of development-specific waste and pest management plans. Another development in Manhattan is also going through the same exercise because of its significant waste management challenges. NYCHA in collaboration with the Monitor is considering expanding this to include two additional developments for each borough as this pilot program is rolled out over the next few months. Ultimately it is anticipated that the lessons learned from this program will be incorporated into roll out at all developments across NYCHA's portfolio. The Monitor has also recommended that NYCHA pilot a training program at these developments for pest and waste management where a resident will be trained to instruct all the other residents using IPM preventive practices and techniques.

NYCHA also took steps to address problems at a development's Community Center, which was the home to a children's summer camp. In late July 2019, WNBC television reported that the camp was closed because dead rats and maggots were falling from the ceiling.<sup>18</sup> The Monitor immediately questioned NYCHA on the conditions and its response plan.

NYCHA immediately sent a team of PAIS staff members, property management, regional asset managers, and skilled trades personnel, accompanied by DOHMH staff members to inspect the community center and meet with its director. NYCHA took the following actions to address the issues there:

- Compactors were shut down for chute cleaning and sanitizing
- A screen was installed around the exhaust fan
- Extermination treatments were applied
- Bricklayers sealed all holes and all access points inside compactor room
- Interior & exterior grounds (ramps, walkways, etc.) were treated and sealed
- House trap door was replaced and a clean out plug was installed
- Power-washed floor and compactor unit
- Replaced door sweeps with upgraded excluder pest control sweeps
- Installed window screens inside the community center
- Replaced door sweeps with upgraded excluder pest control sweeps
- Sealed all pipes and gaps in the ceiling
- Bricklayers sealed and repaired all holes throughout the center closets, offices, bathrooms, etc.

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<sup>18</sup> <https://www.nbcnewyork.com/193ab60d-89e4-4628-bca8-fba561ed4122>

- A vendor sanitized and cleaned the ceiling vents and secured the ceiling tiles throughout the center
- Bricklayers replaced the floor tiles in the two community bathrooms and sealed all holes/gaps around the toilet flex hoses
- Stripped and waxed the floors
- Plaster and repaired cracked wall
- Director agreed to declutter various rooms throughout the center and removed all items from the floor
- Repaired flushometer in bathroom
- Carpenter installed kitchen sink and based cabinet
- Electrician upgraded circuit breaker for air conditioner
- Sealed around radiator covers
- Removed and cleaned appliances and kitchen area

Unfortunately, despite this work, the community center was not approved to reopen by DOHMH inspectors. During the inspection NYCHA and DOHMH team found that the primary root cause of the problem was a resident living near the community center. Once NYCHA was able to access the resident's apartment, it became clear that the infestation of multiple pest types including rats, maggots, roaches, and flies had become pervasive. The location of the interior compactor room and slop sink, which are both immediately adjacent to the community center, were conditions that also contributed to the infestation.

The circumstances regarding the community center also raised another issue that NYCHA and the Monitor team are addressing. By law NYCHA, as the owner of the real estate, is responsible for providing sanitary conditions for the community center. The Monitor inquired with NYCHA what standards it had in place to ensure that community centers are well maintained with sanitary conditions. The Monitor learned that as a legacy of NYCHA previously providing community center operating services for its residents, there are no operating agreements or leases between NYCHA and most, if not all, of its community center service operators or service providers. This essentially means that NYCHA, which is legally responsible for the community centers, has no operating or maintenance standards in place concerning how a community center must be managed by a third-party which currently controls and operates these community centers across its portfolio.

In April 2019, NYCHA agreed to terms with the City's Office of Management and Budget to enter into a lease or memorandum of understanding with the City's Department of Citywide Administrative Services ("DCAS") to clarify the maintenance obligations and provide a dedicated funding stream for the community centers. The City and NYCHA recognize that the issues related to pests and general cleanliness must be addressed through the creation of a systematic approach to community center operations with clearly defined roles and responsibilities.

NYCHA is also formalizing how complaints are made about construction sites. All contractors performing construction on NYCHA property must follow an extermination protocol that is noted in their contracts. If issues arise about contractor's work with respect to pest issues, NYCHA has created a process that can trigger an inspection. Depending on the findings and the contractor's response, it could impact whether the contractor obtains additional jobs on NYCHA property.

### *Waste Management*

The Agreement required that, by August 1, 2019, NYCHA begin inspecting the grounds and common areas of each building at least once every 24 hours for cleaning and maintenance needs, including pests and trash, and correct any deficiencies. *See* Agreement Exhibit B ¶ 45. In particular, NYCHA must ensure that any trash on the grounds or common areas of each building is collected and either removed from the premises or stored in a manner that prevents access by pests. NYCHA did not meet this deadline.

As indicated in the Monitor's first quarterly report, the Monitor team has held regular meetings with NYCHA regarding both pest and waste management since the Spring. The focus of these meetings is how NYCHA will comply with the Agreement as well as how NYCHA can create an organizational structure to support effective strategies for both of these important areas. For waste management, as with pests, we are working with NYCHA to develop an Action Plan for each development that sets out a step-by-step process for meeting the Agreement's objectives, including specifics about obtaining the appropriate staff and other resources to make the Plan operational. NYCHA has committed to creating this Plan by the end of November.

In the course of creating this Plan, NYCHA has committed to making significant changes. First, NYCHA recognizes that it must establish a waste management department to guide and oversee waste management strategies across all the developments. A critical first step in this effort was the hiring of a new VP of Operations who started at NYCHA in July 2019. The new VP is a former New York City Department of Sanitation executive who has specific expertise in waste management.

NYCHA also has committed to hiring additional caretakers so that it can meet its 24-hour trash collection and storage requirements in the Agreement.<sup>19</sup> The Operations

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<sup>19</sup> The trash storage requirement of the Agreement effectively requires NYCHA to procure a number of new exterior compactors in addition to bulk compactors or augers which fit onto the end of an exterior compactor. NYCHA has identified up to 60 sites where exterior compactors can be added, and already has developed detailed architectural plans for their installation. An example of one of the installation plans is attached to this report at Appendix 6.



Department is currently working to bring NYCHA into compliance with the Agreement by, among other things, instituting an alternative work schedule (“AWS”) as is required by its collective bargaining agreement for certain front-line staff (caretakers, caretaker supervisors, assistant resident building superintendents, and resident building superintendents) in order to provide staffing from 6 a.m. to 7 p.m., seven days a week, through five staggered schedules. In April 2019, AWS was launched at 13 consolidations (groups of buildings). This summer, AWS launched at an additional 39 consolidations. The AWS rollout across the entire NYCHA development portfolio is tentatively scheduled to be completed in the first quarter of 2020.<sup>20</sup> NYCHA plans to include a staffing needs plan for additional caretakers as part of its 2020 budget proposal.

As noted in our first report, while the AWS staffing aims to provide more comprehensive daily coverage at the developments, the New York City Department of Sanitation (“DSNY”) generally does not collect refuse seven days a week. For example, DSNY typically only provides a maximum of three days of service to residential buildings that do not have exterior compactors. Accordingly, NYCHA will have to work with DSNY in order to comply with the 24-hour trash removal/storage requirement of the Agreement. The same situation is true for bulk waste. The Monitor is working with NYCHA to determine a strategy for bulk waste removal that may include greater coverage by DSNY. The Monitor has recommended that NYCHA collaborate with DSNY to establish up to seven days per week pickup for specific NYCHA developments for trash and bulk waste. In the interim, it is imperative that NYCHA improve enforcement of the contractual terms for its private carter service.

During this reporting period, the Monitor team identified some initial waste-related challenges resulting from the implementation of AWS staffing. For instance, it appears AWS early hours (6 a.m. to 8 a.m.) and late hours (4:30 p.m. to 7 p.m.) are thus far limited to specific designated tasks such as cleaning the lobby and public areas of the building and do not include tasks inside the building due to safety concerns. Further, NYCHA staff reportedly has been unable to start work during some AWS early hours because they do not have access to equipment rooms. This happens when supervisors, who hold the keys to equipment rooms, are not also working early hours. As such, these early and late hours are failing to address the root of development waste issues in compactor rooms and building floors.

Relatedly, it appears that initial AWS staffing levels are inadequate, further impacting effective and efficient waste collection and storage. Because of AWS one development has 36 staff members working on a Monday but only 9 staff members working on a Friday without a single caretaker on Friday who can lift and carry compactor bags out of the compactor rooms for 18 buildings. Additionally, a single caretaker may be assigned to

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<sup>20</sup> The Monitor team understands pending litigation and other formal labor grievances may affect AWS permanent implementation.

remove waste from four high-rise compactors during a single shift. This is a tremendous work load for one individual: each high-rise compactor requires the manual removal of approximately 15 to 20 50-pound trash bags from the basement. The strain of this work load, among other things, has reportedly increased absenteeism, which further compounds the issue because the same amount of waste removal work is then divided among fewer staff. And if the work is not able to be completed during a shift, supervisors are not authorized to approve overtime, which is only obtained through a complicated and time-consuming process. The lack of adequate staffing may lead to conditions where waste is piled up and not removed as we recently saw in front of a playground at a development, as shown in the photograph below:



Initial AWS staffing levels also place garbage removal at odds with building move-outs since the same staff members, Caretaker Xs (“CXs,” the caretakers who do move-outs and drive trucks on NYCHA property), are responsible for both activities. Initial AWS staffing levels assigned only one CX per shift, which means the CX is either engaged in garbage removal or move outs, but not both. At least three times per week, there is no CX present at all, which either shuts down truck operations completely or may lead to less experienced staff on the truck.

We have identified some NYCHA developments where the waste management practices are working because of the creative solutions of NYCHA staff. At one development, the superintendent decided to designate, informally, a location where residents could dispose of their garbage using a container retrofitted to sit on top of stilts so that trash does not

touch the ground, thus making it harder for rats to climb and eat. The same development's garbage containers were also retrofitted with a platform so a bobcat machine can lift the container and dump the garbage into the back of a truck. The below photographs illustrate these modifications. While these actions have improved conditions, the superintendent believes that bulk garbage continues to create a pest issue. It is the Monitor's assessment that the bulk problem primarily is attributable to two things: inadequate infrastructure, and non-enforcement of NYCHA's contractual terms with its private carter. The Monitor is working with NYCHA to address its bulk garbage challenges and hopes to see more bulk garbage compactors and bulk augers for exterior compactors added to developments across NYCHA's resident real property portfolio in the very near future.





*Container on Stilts (Zoomed Out)*

In our first report, we discussed NYCHA's installation of larger hopper doors at two buildings to aid with waste management. NYCHA also fixed one of the building's compactor rooms, which constantly flooded because the room's drain was reportedly clogged for approximately two decades. NYCHA also placed new garbage bins around that building to better facilitate trash disposal practices. These improvements, in our observation, have reduced the trash and litter conditions and, reportedly, the rat problem.<sup>21</sup>

One unaddressed issue, however, is residents who continue to throw trash out of their apartment windows. Other residents have complained to us that NYCHA should enforce its policies against these individuals. The Monitor is aware of this issue and is working with NYCHA to develop a safe response protocol to this resident behavior challenge.

Another issue we are working to address with NYCHA involves compactor outages. In early September, we learned of an outage at a high-rise building, reported to us directly

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<sup>21</sup> At the other building, a larger hopper door was successfully installed but the compactor required repairs. In response, NYCHA locked all the hopper doors on all floors of the building. A week after the compactor was reportedly fixed, the Monitor team visited this building only to find that all the hopper doors were still locked. The Monitor is recommending that NYCHA standardize its procedures for the locking and unlocking of hopper doors to trash chutes.

by a resident. When our field examiners arrived at the building, they found garbage piled up in the chute to the seventh floor, and surrounding the unsecured hopper doors. The superintendent and assistant superintendent both confirmed that the compactor had not been working since August 16, 2019 and was still awaiting repair. It appears that a work order related to the outage was closed before any repairs were completed. Compounding matters, September 4, 2019, a fire broke out near the fourth-floor hopper door and in the chute. Photographs taken during our ensuing investigation are provided below. It is obvious that NYCHA needs to develop a procedure for a timely response to compactor outages, as well as interim measures to protect residents from the hazards of accumulating trash.



*Compactor room*



*Garbage in the compactor room backed up*



*Rat droppings and dead flies on the floor of the compactor room*



*Unsecured fourth floor hopper door where the September 4 fire began*

Timely compactor repair is critical for preventing pest infestations as well. We investigated an August 30, 2019, News 12 report that a broken compactor had resulted in a pest infestation at a NYCHA development. Our investigation identified that a backed-up sewer line had flooded the compactor room to at least the seven-foot mark. At some point, one of the hopper doors became unsecured and the garbage chute became filled while the compactor was out of service. There was some confusion among NYCHA staff members as to whether the chute could be manually cleared out due to potential health and safety concerns. Ultimately, the garbage was removed from the chute, but it was then stored in the basement for several days, exacerbating the pest problem. Additional confusion about what funds could be used to pay for a garbage collection truck added to the delay in removing the trash. We are working with NYCHA to revise standard procedures that will lay out clear guidance in compactor outage situations so that delays like these, with cascading negative impact, can be avoided in the future.

## **RESIDENT AND COMMUNITY ENGAGEMENT**

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Since our last report, the Monitor team has continued to meet with stakeholders to gather information and formulate recommendations aimed at improving NYCHA's resident and community engagement efforts. As of September 30, 2019, the Monitor's Resident Engagement team has spoken directly to over 200 Resident Association Presidents and visited approximately 191 developments. A list of those developments is attached at Appendix 7. The Monitor's Community Engagement team has met with and spoken to

approximately 41 community stakeholders including individuals, nonprofit entities, and community organizations. A list of those organizations is attached at Appendix 8.

In our meetings with residents, we collected important information about the diverse set of issues affecting developments, such as intermittent heat and hot water, leaks due to aging piping and roofs, inefficient waste management and pest control, elevator outages, and health concerns associated with lead-based paint and mold in their units. We are referencing this information in our evaluation of NYCHA's proposed Action Plans on heat, elevators, mold, lead, pests, and waste management. In addition, we routinely ask residents about development safety and resident experiences dealing with NYCHA staff at all levels.

We also received a wealth of information and data from community stakeholders who have committed a significant amount of their resources to studying the issues we are working to address at NYCHA. Since our last report, the Monitor team has also met with the Community Engagement & Partnerships department ("CEP") several times to better understand its processes. We have discussed concerns regarding NYCHA's lack of effective communication with, and the provision of support for, resident leaders in these meetings. At the request of the CEP department and the Chair and CEO, we have temporarily suspended these meetings to allow NYCHA to negotiate a Memorandum of Understanding with the residents, as per their request. We will continue to work with CEP to identify how it can be more effective in communicating with residents.

As noted above, on July 30, 2019, we held a successful second Community Advisory Committee meeting at the Johnson Houses Community Center in Manhattan, which was attended by over 200 residents and other NYCHA stakeholders. This meeting is discussed in detail further below in this section.

### *Resident Concerns*

During our visits to individual developments and meetings with residents, we continued to hear concerns about NYCHA's lack of coordination and communication with residents. In addition to tracking systemic concerns, we have also submitted over 100 individual complaints to NYCHA.

For example, we inquired about plans to install a new boiler at a particular development. NYCHA responded that the development was already a part of their most recent energy performance contract and provided detailed information about the construction work and timeline of the project. The resident was satisfied that there was then a meeting to inform the residents that a new central boiler plant will be installed. Similarly, in response to another resident's complaint about a development-wide rodent infestation, NYCHA provided a precise response about how its treatment plan had resulted in rodent reductions. When we called the resident back, she confirmed that the situation had



greatly improved. These are two instances where NYCHA was able to provide concrete information and act upon a resident concern.

We have also received individual complaints that we categorize as “egregious.” Egregious complaints are grievances that have the potential to cause immediate harm to the residents of a particular unit or present an immediate danger. Oftentimes, complaints classified as egregious deal with a lead hazard, especially if the unit houses or is frequently visited by children under the age of six. Although the Monitor team’s focus is on systemic problems, egregious issues that come to the Monitor’s attention are almost immediately brought to the attention of senior management at NYCHA. Over the past few months when we have forwarded these complaints, NYCHA has responded quickly and effectively to begin the process of remediating the causes. The Monitor team is currently in the process of working with Chair and CEO Russ’s executive staff to establish a protocol for the Monitor’s communication of these complaints to NYCHA, NYCHA’s handling of the complaints and NYCHA’s notification to the Monitor of resolution of the issue.

### *Resident Associations*

Robust resident associations can provide major benefits to residents. For example, every summer most NYCHA resident associations host a “Family Day” event using their Tenant Participation Activity (“TPA”) funds, which are provided by HUD to recognize the importance of resident involvement in creating a positive living environment. For many developments, Family Day is the most important day of the year.<sup>22</sup> At one Family Day we visited, the residents hosted a back to school backpack giveaway where every child who lived at the development received a backpack with school supplies. At another development, local police officers were in attendance and were recognized by resident leaders with an award for tirelessly working to make their neighborhoods a safer place to live. Although Family Days are a success for most developments, if a development does not have an active Resident Association Board, the development will not be able to access TPA funds to host these events. With HUD’s guidance, we intend to ensure that NYCHA can engage most of the residents and properly support the formation and functioning of Resident Associations.

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<sup>22</sup> The Monitor team attended a total of 19 Family Days from June to September 2019 at the following developments: Harlem River, Johnson, Clinton, Bethune Gardens, Frederick Douglass, Washington, Cooper Park, Van Dyke I, Rangel, Castle Hill, Latimer Gardens, South Beach, Williams Plaza, Williamsburg, Gowanus, Wyckoff Gardens, Brownsville, Tilden, and South Jamaica I and II. We received valuable feedback about residents’ concerns at those events.

## *Communication Efforts*

We are also working with NYCHA to ensure that its staff communicates more effectively with external community stakeholders. Since July, the Monitor team has met with NYCHA's CEP leadership to learn more about that department's work, and to discuss resident leaders' complaints and concerns. In our last report, we noted wide-spread confusion among residents regarding who is responsible for communicating with them on certain matters. As a result, many residents have attributed much of the dysfunction in communication to the Resident Engagement Department within CEP. CEP staff informed us that their staff decreased by 50% in 2016. Although we will look into staff allocation as we formulate recommendations regarding organizational structure, NYCHA must implement immediate improvement in its communication channels. The improvements we suggest do not require significant resources but can have a big impact on helping to turn around the residents' experience and relationship with NYCHA for the better.

For example, NYCHA has made efforts to temporarily implement longer management office hours, as we urged in our first report, to better serve those residents who work during the day. We have received positive feedback about this effort and encourage NYCHA to continue making similar accommodations for residents who need it. Another step in the right direction is CEP's intention to streamline the elections for resident associations to increase participation, seek clarification on HUD 964 regulations, and identify partnerships for starting a class about resident leadership and capacity building. This reassures us that CEP is open to looking within to identify its shortcomings.

We are also looking into the effectiveness of NYCHA's Customer Care Center ("CCC"). We have heard complaints from residents that the CCC was unresponsive to their calls. For example, one resident called the CCC about her refrigerator and need for pest control. For its part, the CCC handled her complaints well; the CCC provided the resident with a Korean interpreter and the call-taker was caring and competent, taking all the information provided by the resident and scheduling a service appointment. The problem, however, was that all of the resident's prior appointments were essentially no-shows. The CCC has authority to resolve resident complaints. The CCC cannot dispatch personnel to address complaints or coordinate an appropriate response. As an intake organization CCC does not escalate matters within the NYCHA system.

The capabilities of the CCC should be examined to determine whether it can be improved. We will work with NYCHA to determine whether better protocols and capabilities can be created for the CCC.

## *Community Advisory Committee*

The Community Advisory Committee ("CAC") is a channel for the Monitor to communicate directly with NYCHA residents and other community stakeholders. The Agreement requires the Monitor to convene the CAC on at least a quarterly basis to solicit input about

the achievement of the Agreement's purpose. We reported about the first meeting in our first quarterly report. On July 30, 2019, we held our second meeting in Manhattan at Johnson Houses. The meeting was attended by well over 200 residents and other NYCHA stakeholders. Sensitive to the concerns that the first meeting did not provide sufficient time for public comment, we added public comment to both the beginning and end of the meeting. The meeting also included an update from the Monitor on the first quarterly report. Then, each member of the CAC described a particular concern that has been raised by residents that he or she will personally examine in conjunction with NYCHA, the Mayor's office, and other CAC members, and provide input to the Monitor.

The issues that will be addressed by the CAC committee members are the following:

1. **Funding by elected officials:** The Council Member for the 41<sup>st</sup> District of the New York City Council and the Todt Hill and West Brighton Tenant Association Presidents will work to identify solutions for more efficient allocation, processing and application of funding allocated by elected officials to specific NYCHA developments.
2. **Senior centers and youth and community services:** The Department of Youth and Community Development Assistant Commissioner and the Department for the Aging Public Affairs Director will look for ways to improve communication with NYCHA and city agencies regarding filing complaints and work orders and addressing the needs for repairs at centers, as well as violations issued by city agencies to service providers using NYCHA spaces, etc. They will also make recommendations on how to improve resident engagement, communication, and outreach about programming at individual centers and how it can better reflect the needs of residents in different communities.
3. **HUD 964:** The HUD Office of Field Operations is looking into how NYCHA can be more effective in increasing resident engagement and participation with HUD's guidance, especially as it relates to 964.<sup>23</sup>
4. **Siebel, annual recertification and leases:** The Vladeck Houses and Williams Plaza Tenant Association Presidents are working on recommendations to the annual recertification process and the use of Siebel, as well as ensuring that residents' rights regarding and rules and practices governing any lease changes are communicated and enforced properly.
5. **Consolidation of developments:** The Gun Hill Resident Association President will work on examining the decision making around consolidations and what is effective and what is not effective.

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<sup>23</sup> 24 CFR Part 964- tenant participation and tenant opportunities in public housing.

6. **Neighborhood safety:** The NYPD will focus on addressing safety as it relates to cameras, scaffolds, and lighting at developments.
7. **Fire prevention and safety:** The FDNY Assistant Chief for Fire Prevention and the FDNY Community Affairs Director are looking at fire response prevention recommendations that involve joint efforts between FDNY, NYCHA and the residents.
8. **NYCHA Communication:** NYCHA representatives will examine how to improve communication from NYCHA headquarters, to the boroughs, to the developments, and to the residents.

On October 7, 2019, CAC members convened a working meeting to update one another on progress surrounding the above issues, and to collaborate regarding potential recommendations. The video and transcript of this meeting are available on the Monitor's website. Our next meeting will be held on November 12, 2019, in Staten Island. Sensitive to the request that more time be devoted to public comment, questions and concerns, this meeting will be primarily devoted to public comment and the Monitor's second quarterly report update.

### *Other Community Outreach*

The Monitor's community engagement team has continued our first phase of stakeholder identification through dialogues with individuals, organizations, and service providers as listed in Appendix 8. We have learned that a major concern for community groups who lease property on NYCHA premises is the lack of repairs. This is an issue that CAC members from DFTA and DYCD are also examining. It is critical that NYCHA ensure the health and safety of the users of the community spaces. We are suggesting to NYCHA that it perform a review of the community spaces on NYCHA property to determine the existence of dangerous conditions, with particular attention to those spaces used by children, e.g., presence of lead in childcare centers or dangerous playground equipment. Those repairs should be undertaken immediately by NYCHA.

Another concern is that community organizations sometimes receive citations and pay fines for property violations that are the responsibility of NYCHA. There had been a grace period for payment to allow NYCHA time to sort out which were its fines and which belonged to the community organization. The CAC members will be looking at the possibility of a return to such a process to prevent unnecessary drain on the limited funds of community organizations situated on NYCHA grounds. In addition, we recommend the "flagging" of such situations to provide for tracking and analysis. We will continue to explore these issues with NYCHA in the next reporting period.

## INVESTIGATIONS

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In addition to the information about NYCHA's performance provided by resident and other community stakeholders, the Monitor team also sends field examiners into developments to ensure that NYCHA is satisfactorily meeting its obligations. Their areas of focus have included NYCHA's compliance with existing procedures for i) lead paint XRF testing, ii) PHAS and NYCHA's newly initiated inspection procedures, iii) development waste and pest treatment management, iv) elevator service, v) heat/hot water system, vi) resident engagement, vii) development staff training, deployment and supervision, viii) vendor procurement, post-work inspections and oversight, and ix) overall development assessments, including conditions, operations, supervision and conditions. To date, the work of Monitor team field examiners has included over 250 development visits.

A common complaint that the Monitor team has heard from both residents and Skilled Trade staff is that often vendors who perform maintenance, repairs, and installations at the developments do substandard work. Contributing to this problem is the lack of supervision of this work by development staff while it is being performed. Nor does NYCHA conduct a final assessment of the work on standardized criteria after it is concluded. As one consequence, vendors who do shoddy work are repeatedly hired, continuing this trend of poor workmanship that, among other things, further instills in residents the sentiment that NYCHA does not care about their living conditions. While it is premature to know how pervasive across NYCHA these unacceptable work practices are, they certainly need to be addressed. NYCHA and the Monitor team will work together to make the needed changes.

For one example, Monitor team field examiners were contacted about a vendor's improper installation of bathtub enclosures in development units.<sup>24</sup> NYCHA work orders and other documents obtained by the Monitor team reveal that this vendor was frequently used by NYCHA for other types of construction work for contract amounts under \$5,000.<sup>25</sup> Under existing NYCHA procurement rules, contracts for these amounts require little oversight as to how and to whom the contracts are let. One of our sources, who regularly performs tub enclosure installations, also informed the Monitor team that this type of tub work is routinely performed by NYCHA's own skilled trades personnel who have acquired an

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<sup>24</sup> NYCHA regularly installs tub enclosures (sometimes called "inserts" or "surrounds") as a remedy for leaks in bathtub walls and seams between walls and the tub and/or bathroom fixtures. This is particularly so in bathrooms where the presence of mold has been detected. The enclosure is comprised of three pieces of a durable plastic that when installed, covers all the original tiles from approximately five feet above the top of the tub to the tub itself. The main objective is that once installed, there are no gaps or holes in the enclosure itself, and no gaps in the intersection of the enclosure and the tub.

<sup>25</sup> We note that there was recently a press article about a similar problem regarding bathtub enclosure installations by a vendor. The vendor referenced in that article is different than the one here.

abundance of experience and familiarity working on NYCHA apartments, and need not be performed by an outside vendor.

During the investigation, the Monitor field examiner accompanied the source to one of the apartments where the vendor had improperly installed the tub enclosure. As shown in the photographs below, rather than properly attaching the enclosure to the bathroom wall tiles to form a consistent smooth surface, the adhesive was unevenly applied between the enclosure and the wall, so that bubbles and gaps formed. There was also a gap left between the bottom edge of the enclosure and the top of the tub where water would leak through, likely promoting mold growth. Most alarming was that the grab bars were installed several inches below their proper placement so that they were not anchored into metal plates designed to bear the weight of an adult pulling on them for support. Instead, the grab bars were only screwed into the plaster wall above the tub with plastic anchors, which would instead easily pull from the wall if used for fall prevention by the resident. Another consequence of improperly attaching the grab bar, is that the holes placed in the enclosure by the vendor enabled water to seep behind it to the wall underneath, which effectively defeats the purpose of installing it. Additionally, while the enclosure design calls for the installation of three grab bars, only two had been installed. Photographs documenting the improper work are attached below. After this was discovered, almost a week after the initial installation had been done, the original enclosure had to be removed and discarded, and a NYCHA carpenter properly installed a new one. The inserts cost NYCHA \$ 250.00.

A Monitor field examiner also went with the source to two other apartments where NYCHA records indicate that the same vendor had recently installed other enclosures. They observed that they also had major installation defects. The Monitor field examiner then contacted the development superintendent and together visited the two apartments where the field examiner pointed out the defects. Once shown the flaws, the superintendent agreed that they had to be corrected, which meant that the initial enclosures had to be removed and discarded so that new ones could be properly installed. At one of these apartments, the condition of the plaster under the enclosure was in such poor condition that, without immediate repair, it was apparent that the enclosure would soon separate from the wall and fall into the tub. The Monitor team also discovered that the same vendor had also installed enclosures in two additional apartments back in May 2019. The source and the field examiner were able to gain access to one of those apartments and observed that the grab bar in the bathroom had also been improperly anchored and needed to be corrected. NYCHA was notified about all these installations so that they could be corrected.

These revelations raise a number of issues that the Monitor team will work with NYCHA to address. This includes NYCHA's policies, procedures and controls for the selection and oversight of vendors to ensure their competence and diligence in performing specific work, and the training of development management staff to effectively inspect and verify the quality of the work performed by third party vendors.



*Unevenly applied adhesive*



*Grab Bar installed too low & not into metal anchor plate*



*Gap between Tub and Enclosure*



*Screw holes in plaster not the metal plate*



*One screw in Grab Bar*

## V. CONCLUSION

In this past quarter, with the installation of a new NYCHA Chair and CEO, we have seen the beginnings of a productive relationship between NYCHA and the Monitor team. The working group model has been helpful in bringing leadership and staff from different departments together, so that there are no organizational barriers to NYCHA's compliance with the Agreement. In those areas where progress has lagged, we are working with NYCHA to develop concrete near-term measures to put the organization back on track and provide relief for residents.



# **APPENDICES**

# **APPENDIX 1**

# AGREEMENT TRACKING

## Lead

| Section          | Obligation  | Agreement Deadline | Status                           | Monitor Comment   |
|------------------|---|--------------------|----------------------------------|---|
| Exhibit A.B.4(a) | No later than 30 days after execution of this Agreement, NYCHA shall provide the SDNY and HUD a report identifying all developments that meet the following requirements: (i) they were built prior to January 1, 1978, and (ii) are not exempt pursuant to 24 C.F.R. § 35.115, as a result of an inspection, an abatement, or otherwise (the "Lead Paint Developments"). Such report will identify each unit (including each "child-occupied facility") within such Lead Paint Developments that is not exempt pursuant to 24 C.F.R. § 35.115 ("Lead Paint Unit"). | 03/01/19           | Partially Completed              | NYCHA submitted the report as to residential units to SDNY, HUD and Monitor.  |
| Exhibit A.B.4(b) | No later than 30 days after execution of this Agreement, NYCHA shall provide the SDNY and HUD...a report (the "Immediate Action List" (IAL)) identifying the subset of LPU that NYCHA has reason to believe are occupied or routinely visited by a child under the age of 6. Routine visiting shall be determined in conformance with the first sentence of the definition of child-occupied facility at 40 C.F.R. § 745.83.  | 03/01/19           | Partially Completed              | NYCHA submitted the report of IAL as to residential units to SDNY, HUD and Monitor.   |
| Exhibit A.B.5(a) | Within 30 days of execution of this Agreement, NYCHA shall ...perform at least one visual assessment in accordance with 24 C.F.R. § 35.1355 of each Lead Paint Unit on the IAL unless the LPU received a compliant visual assessment within the preceding 12 months.  | 03/01/19           | Partially Completed              | NYCHA self-reported 99% completion rate for residential units. The Monitor will perform a status check in the next quarter to determine NYCHA's remaining obligations.            |
| Exhibit A.B.5(b) | Within 30 days of execution of this Agreement, NYCHA shall ... eliminate any lead-based paint hazards in LPUs identified on the IAL through the performance of interim controls in accordance with 24 C.F.R. § 35.1330, or through abatement in accordance with 24 C.F.R. § 35.1325.  | 03/01/19           | Not Completed<br><br>In progress | NYCHA self-reported compliance with respect to residential units (except where access issues prevented work).<br><br>Lead paint hazards have not been eliminated in certain LPUs. |
| Exhibit A.B.6    | No later than 90 days after execution of this Agreement, NYCHA shall submit to the SDNY and HUD documents sufficient to show NYCHA's basis for claiming that particular pre-1978 developments are exempt pursuant to 24 C.F.R. § 35.115. To the extent that HUD and SDNY  | 05/01/19           | Completed                        | NYCHA provided documentation to HUD and SDNY.   |

# AGREEMENT TRACKING

| Section               | Obligation   | Agreement Deadline | Status           | Monitor Comment   |
|-----------------------|--|--------------------|------------------|---|
|                       | <p>thereafter notify NYCHA that they reject that determination, such developments, units and common areas will no longer be considered by NYCHA to be exempt pursuant to 24 C.F.R. § 35.115. If HUD and SDNY (a) object to the exemption for a particular development, unit, or common area, and (b) the lack of exemption would have led to the inclusion of additional units or common areas on the Immediate Action List, NYCHA shall within 30 days thereafter comply with paragraph 5 as to such additional apartments.</p>   |                    |                  |   |
| <p>Exhibit A.G.19</p> | <p>Within 30 days of appointment of the Monitor, NYCHA shall provide the Monitor a list (the "EIBLL/EBLL-Triggered Risk Assessment List") of all units, common areas servicing such units, and developments in which neither an environmental investigation nor a risk assessment was performed since the date of: (a) the reporting to NYCHA (if on or after July 13, 2017) of a case of a child under age 6 with an elevated blood lead level (EBLL) (as those terms are defined in 24 C.F.R. § 35.110, as amended by 82 Fed. Reg. 4151 (Jan. 13, 2017)) living in such unit and development, or (b) the reporting to NYCHA (if before July 13, 2017) of a case of a child with an elevated blood lead level (EIBLL) (as those terms were defined in 24 C.F.R. § 35.110, prior to amendment by 82 Fed. Reg. 4151 (Jan. 13, 2017)) living in such unit and development.</p> | <p>03/01/19</p>    | <p>Completed</p> | <p>NYCHA provided the Monitor with the list. Monitor has pending inquiries related to NYCHA EIBLL follow up.</p>                                  |
| <p>Exhibit A.G.20</p> | <p>After providing the Monitor the EIBLL/EBLL-Triggered Risk Assessment List, within a timeframe acceptable to the Monitor, NYCHA shall confirm that the New York City Department of Health and Mental Hygiene ("NYC DOHMH") has performed an environmental investigation in accordance with 24 C.F.R. § 35.110, 1130, in any unit and common areas servicing that unit identified in the EIBLL/EBLL-Triggered Risk Assessment List. To the extent the NYC DOHMH has not performed an environmental investigation in accordance with 24 C.F.R. § 35.110, 1130, in any unit and common areas servicing that unit identified in the EIBLL/EBLL-Triggered</p>   |                    | <p>Completed</p> | <p>After inquiries by the Monitor, NYCHA has been providing weekly updates on the status of each reported EIBLL. See report for more details.</p> |

# AGREEMENT TRACKING

| Section        | Obligation   | Agreement Deadline | Status      | Monitor Comment  |
|----------------|--|--------------------|-------------|--|
|                | Risk Assessment List, NYCHA shall perform such environmental investigation within a timeframe acceptable to the Monitor.   |                    |             |  |
| Exhibit A.G.21 | After issuing or receiving the report of the environmental investigation, within a timeframe acceptable to the Monitor, NYCHA shall complete the abatement of identified lead-based paint hazards in accordance with 24 C.F.R. § 35.1130(c) and 35.1325.   |                    | In progress | NYCHA is reporting that it is complying with applicable regulations. The Monitor has initiated its verification process. |
| Exhibit A.G.22 | NYCHA shall perform risk assessments for all other units in the building in which a child under age 6 resides or is expected to reside on the date lead-based paint hazard reduction under Paragraph 21 is complete, and common areas servicing those units in the developments identified in the EIBLL/EBLL-Triggered Risk Assessment List, within a timeframe acceptable to the Monitor.                 |                    | In progress | NYCHA is in the process of procuring a contract for risk assessments which is expected by January 2020.                  |
| Exhibit A.H.23 | NYCHA shall report to HUD each confirmed case of a child with an elevated blood lead level within 5 business days of being so notified in accordance with 24 C.F.R § 35.1130.  |                    | Ongoing     | NYCHA is in compliance with the obligation.  |
| Exhibit A.H.24 | No later than 60 days after the execution of this Agreement, NYCHA shall enter into a written agreement (MOU) with the NYC DOHMH resolving any barriers to the sharing of information relating to resident children's blood lead levels necessary for NYCHA to make disclosures to HUD in accordance with paragraph 23 and 24 C.F.R § 35.1130, and shall provide a copy of such agreement to SDNY and HUD. | 04/01/19           | Complete    | MOU has been signed.   |
| Exhibit A.H.25 | NYCHA shall report to the Monitor and to SDNY and HUD any NYC DOHMH Commissioner order to abate lead-based paint within five days of receiving any order.  |                    | Ongoing     | NYCHA is reporting to HUD and the Monitor.   |
| Exhibit A.H.26 | On and after the Effective Date, to the extent NYC DOHMH has not performed an environmental investigation of any unit in which a child with an elevated blood level has been reported within 15 days of identifying  |                    | Ongoing     | NYCHA provides weekly updates regarding all EIBLL occurrences and related responsibilities.                              |

# AGREEMENT TRACKING

| Section           | Obligation   | Agreement Deadline | Status      | Monitor Comment   |
|-------------------|--|--------------------|-------------|---|
|                   | such unit, NYCHA shall perform an environmental investigation of that unit and common areas servicing that unit and perform abatement of any lead-based paint hazards within thirty days in accordance with 24 C.F.R §§ 35.1325.   |                    |             |   |
| Exhibit A.H.27    | From and after the Effective Date, NYCHA shall provide residents signing new leases (or, where required by regulation, renewal leases) with information about the presence of lead-based paint and lead-based paint hazards in their apartments and developments in accordance with the Lead Disclosure Rule, 24 C.F.R part 35, subpart A; 40 C.F.R. part 745, subpart F.  |                    | Ongoing     | NYCHA admits that there may be gaps in this area. A detailed report is required, to be subject to verification.   |
| Exhibit A.H.28    | NYCHA shall ensure that physical copies of all materials required to be disclosed by the Lead Disclosure Rule are present, available for inspection, and permanently maintained at the management office for each development.   |                    | Ongoing     | NYCHA's Compliance Department monitors its compliance with this obligation on an ongoing basis. NYCHA reports compliance. Verification by Monitor is ongoing. |
| Exhibit A.H.29    | NYCHA shall ensure that electronic copies of all materials required to be disclosed by the Lead Disclosure Rule are available to residents through an internet-based portal.   |                    | In progress | NYCHA reports that this will be completed by January 2020.  |
| Exhibit A.H.30(a) | No later than 120 days after execution of this Agreement, NYCHA shall submit to SDNY and HUD a statement describing its compliance with paragraphs 4-6. In its submission to SDNY and HUD, NYCHA shall specify the method(s) used to correct any lead-based paint hazards identified on the Immediate Action List and certify that such corrections were performed in compliance with the Lead Safe Housing Rule, Renovation, Repair and Painting Rule and Abatement Rule, as applicable, and that residents were notified of the corrections in compliance with the Lead Safe Housing Rule. | 05/01/19           | Complete    | See first quarter Monitor's report (pages 36 and 37) for more detail.   |

# AGREEMENT TRACKING

| Section           | Obligation   | Agreement Deadline | Status   | Monitor Comment  |
|-------------------|--|--------------------|----------|--|
| Exhibit A.H.30(b) | Six months after the Effective Date, and every six months thereafter, NYCHA shall provide SDNY, HUD and the Monitor a certification describing its compliance with paragraphs 8 to 15.   | 08/01/19           | Ongoing  | Obligation repeats every six months. On July 31, 2019, NYCHA submitted certification on time but was unable to certify to many items in paragraphs 8 – 15 of the Agreement. See lead paint section of this report.         |
| Exhibit A.H.33(a) | By January 31, 2019, NYCHA will display a sample kit of the supplies needed to complete an RRP work order in all 139 storerooms by January 31, 2019  | 01/31/19           | Complete | Site inspections and inquiry by the Monitor have verified that the Kits have been delivered by NYCHA and displayed as required under the Agreement.  |
| Exhibit A.H.33(b) | NYCHA will issue a minimum of one kit of RRP supplies to RRP-certified staff daily   | 02/28/19           | Complete | Site inspections and inquiry by the Monitor have verified that the Kits have been delivered by NYCHA and displayed as required under the Agreement.  |
| Exhibit A.H.33(c) | NYCHA will enhance its work order system to automatically create a “dust wipe” work order if an RRP work order is generated by February 28, 2019.  | 02/28/19           | Complete | The required enhancement was performed and was ineffective. NYCHA thereafter initiated a call-in dispatch system to improve the scheduling of timely dust wipes. The Monitor is working with NYCHA to improve this system. |
| Exhibit A.H.33(d) | NYCHA will select a vendor to supplement the EPA’s RRP training with practical training on dust control measures to simulate a range of working conditions by March 31, 2019 and train substantially all RRP-certified staff by December 31, 2019. | 03/31/19           | Complete | NYCHA’s Procurement Department must renew the vendor’s contract to ensure continued training e.g., new hires.  |
| Exhibit A.H.33(e) | NYCHA will provide all Resident Building Superintendents, Assistant Resident Building Superintendents, and Property Managers with training in RRP practices on an ongoing basis.   |                    | Complete | New NYCHA employees are receive training, which has been verified by the Monitor.  |

# AGREEMENT TRACKING

| Section           | Obligation   | Agreement Deadline | Status   | Monitor Comment  |
|-------------------|--|--------------------|----------|--|
| Exhibit A.H.33(f) | NYCHA will train all maintenance workers to perform lead-based paint visual assessments by September 30, 2019. | 09/30/19           | Complete | NYCHA has complied. In addition, all new NYCHA maintenance employees receive training, which has been verified by the Monitor. |



# AGREEMENT TRACKING

## Heat

| Section        | Obligation  | Agreement Deadline | Status      | Monitor Comment  |
|----------------|---|--------------------|-------------|--|
| Exhibit B.A.3  | Within 90 days of the Effective Date of this Agreement, for those developments which are already furnished with electronic temperature reading devices, NYCHA will institute and maintain a system that identifies all apartments in which such devices indicate a violation of the City Code heating requirements and identifies the inside and outside temperatures associated with such violation.   | 05/01/19           | In progress | NYCHA has represented that they have completed the implementation and the Monitor has started the verification process.  |
| Exhibit B.A.4  | This information will be available to all NYCHA personnel responsible for heating and to all development managers   |                    | In Progress | Monitor is verifying that information sharing protocols are complete and are being complied with by NYCHA.   |
| Exhibit B.A.5  | This information will be fully available to the Monitor, HUD, and SDNY.   |                    | In progress | Monitor is verifying that information sharing protocols are complete and are being complied with by NYCHA.   |
| Exhibit B.A. 6 | An appropriate mechanism for disclosing this information to the public shall be provided in an Action Plan.   | 10/01/19           | In Progress | This is a part of the heat Action Plan which will likely be completed by early November. The Monitor is currently working with NYCHA to finalize the Plan, a draft of which was first provided to the Monitor on 9/27/19.                                    |
| Exhibit B.A. 7 | By October 1, 2019 NYCHA shall establish an Action Plan that identifies, for each development, how NYCHA will respond to heating outages, taking into account resident populations, historical data about prior outages, the availability of on-site and remote maintenance personnel, and response times. The plan shall include provisions for alternative heated community spaces for heating outages that are expected to last for a substantial duration. The plan shall also address NYCHA's policies for closing out work orders when the resident is not available at home or otherwise does not provide access to his or her apartment | 10/01/19           | In Progress | As stated above, the Monitor is currently working with NYCHA to finalize the heat Action Plan. The Plan will include 20 development specific Plans for representative locations. NYCHA will complete the remaining development specific Plans going forward. |

# AGREEMENT TRACKING

| Section            | Obligation   | Agreement Deadline | Status   | Monitor Comment  |
|--------------------|--|--------------------|----------|--|
|                    | to resolve a heating outage. The plan shall be made available to the residents and posted online.  |                    |          |  |
| Exhibit B.A. 14(a) | By March 31, 2019, NYCHA will create a 24/7 Heat Desk which monitor heating metrics and dispatch staff to correct deficiencies during Heat Season. | 03/31/19           | Complete | 24/7 Heat Desk has been timely instituted by NYCHA, which has been verified by the Monitor. The Monitor will be working with NYCHA to ensure the accuracy and completeness of the information going forward. |

## Mold

| Section         | Obligation   | Agreement Deadline | Status   | Monitor Comment  |
|-----------------|--|--------------------|----------|--|
| Exhibit B.B. 19 | NYCHA will not close any mold, flood, or "leak from above" work orders as "Resident Not Home," including any such work orders that NYCHA has not yet verified. | 01/31/19           | Complete | NYCHA implemented required changes. The Monitor has verified compliance. |

# AGREEMENT TRACKING

## Elevators

| Section        | Obligation   | Agreement Deadline | Status      | Monitor Comment  |
|----------------|--|--------------------|-------------|--|
| Exhibit B.C.21 | Within 120 days of the Effective Date, NYCHA shall establish an Action Plan that identifies, for each building that contains an elevator designed for resident use, how NYCHA will respond when all elevators are out of service at that building (a “no-service” condition). Such plan shall take into account the resident population of each building, any individuals with self-reported mobility impairments, historical data about prior outages or service disruptions, the availability of personnel to assist residents, the terms of any elevator support contract, and historical response and repair times. Such plans shall be made available to the residents and posted online. | 05/31/19           | In Progress | NYCHA timely submitted a draft elevator Action Plan to the Monitor on 5/31/19. The initial draft lacked significant critical information, especially regarding metrics. NYCHA and the Monitor have been working on the Plan, which will likely be finalized in November. Going forward, the Monitor will work with NYCHA to establish more robust metrics that the Monitor will then regularly verify. |
| Exhibit B.C.22 | Within 120 days of the Effective Date, NYCHA shall provide HUD and the Monitor with sufficient data to identify elevator service interruptions in the prior three years. This data shall be updated at least quarterly.  | 05/31/19           | In Progress | Some data has been supplied by NYCHA, but a full dataset is outstanding. Quarterly update has not yet occurred. This will be an ongoing obligation.  |
| Exhibit B.C.30 | Within six months of the Effective Date, NYCHA will institute and maintain a system that identifies every elevator outage and the start and end times of such outages identified by remote monitoring systems, work-order records, or any additional sources of outage information, and make that system accessible and available to all NYCHA personnel responsible for elevators and to other relevant personnel, including all development managers and the General Manager.  | 08/01/19           | In Progress | Elevator outages are tracked through Maximo. Outage notifications are made via email. A formal reporting of outage data is being implemented. These protocols are part of the Action Plan being completed. The Monitor will verify that protocols are being followed going forward.  |
| Exhibit B.C.32 | Within six months of the Effective Date, NYCHA will establish a system to provide residents of buildings affected by a planned outage 24-hours advanced notice, and to provide residents of buildings affected by an unplanned outage notice within two hours of NYCHA learning of the outage. Such notice shall include instructions regarding what assistance NYCHA has available for individuals with mobility  | 08/01/19           | In Progress | NYCHA has instituted Robocalls, posts via NYCHA website and provides notification in common areas, which was part of their draft Action Plan submitted in May. Additional protocols will be part of the Action Plan being completed. The   |

# AGREEMENT TRACKING

| Section        | Obligation  | Agreement Deadline | Status  | Monitor Comment   |
|----------------|---|--------------------|---------|---|
|                | impairments during the outage. Notice shall occur by robocall and via postings within the affected building and on NYCHA's website.   |                    |         | Monitor has verified NYCHA's compliance with the posting protocols and is in the process of verifying their effectiveness with residents.   |
| Exhibit B.C.33 | NYCHA will provide the Monitor 24 hours advanced notice of any planned outage, and shall notify the Monitor of any unplanned outage within two hours of NYCHA learning of the outage. Notice shall occur in the method prescribed by the Monitor. |                    | Ongoing | The Monitor has been receiving elevator outage notifications every few hours from NYCHA on a daily basis for the last several months. We will be working with NYCHA to ensure that these notifications contain all necessary information. |

## Pests/Waste Management

| Section        | Obligation  | Agreement Deadline | Status                     | Monitor Comment   |
|----------------|---|--------------------|----------------------------|---|
| Exhibit B.D.35 | Within six months of the Effective Date, the Monitor in consultation with NYCHA shall establish reasonable protocols by which Integrated Pest Management ("IPM") professionals shall develop and provide reliable estimates, at least quarterly, of the pest populations in each NYCHA development. NYCHA shall promptly publish these figures, by development and pest type, on its website. | 08/01/19           | Complete                   | The Monitor and NYCHA timely drafted and submitted the protocols to SDNY and HUD, which were ultimately approved. The quarterly reporting by NYCHA has not commenced. |
| Exhibit B.D.41 | Within six months of the Effective Date, NYCHA shall, for any unit that has more than one pest infestation complaint verified by NYCHA staff within twelve months (a) cause a professional using IPM techniques to evaluate the unit and its  | 08/01/19           | In Progress<br>In progress | NYCHA did not meet this requirement.<br><br>To date, NYCHA has reported providing targeted pest relief for almost 500   |

# AGREEMENT TRACKING

| Section        | Obligation   | Agreement Deadline | Status                           | Monitor Comment   |
|----------------|--|--------------------|----------------------------------|---|
|                | immediately adjacent units and common areas within 30 days to identify any circumstances specific to that unit that may have contributed to such recurrence (including, but not limited to, unaddressed leaks, proximately located trash, or holes in walls), and (b) address, consistent with IPM principles, any such circumstances within the following 30 days.  |                    |                                  | resident apartments. The Monitor is working with NYCHA to develop an Action Plan.   |
| Exhibit B.D.45 | Within six months of the Effective Date, NYCHA shall, no less than once every 24 hours, inspect the grounds and common areas of each building for cleaning and maintenance needs, including pests and trash, and correct such conditions. In particular, NYCHA shall ensure that trash on the grounds or common areas of each NYCHA building is collected and either removed from the premises or stored in a manner that prevents access by pests at least once every 24 hours. | 08/01/19           | Not Completed<br><br>In progress | NYCHA did not meet this requirement.<br><br>NYCHA and the Monitor are developing an Action Plan setting out how NYCHA will establish a Waste Management Department, hire additional caretaker and maintenance staff, work with DSNY to increase weekly trash pickups, and procure additional capital needs such as compactors and bulk augers. Draft will be provided in the final quarter of 2019. |

## Annual Inspections

| Section        | Obligation  | Agreement Deadline | Status   | Monitor Comment  |
|----------------|---|--------------------|----------|--|
| Exhibit B.E.48 | By and after ninety (90) days after the Effective Date of this agreement, annual inspections shall include having the person conducting the inspection perform any minor repairs during the inspection. | 05/01/19           | Complete | NYCHA has implemented this as policy. Monitor has not received information to verify compliance. |

# AGREEMENT TRACKING

| Section        | Obligation   | Agreement Deadline | Status      | Monitor Comment   |
|----------------|--|--------------------|-------------|---|
| Exhibit B.E.49 | By one hundred twenty days (120) after the appointment of the Monitor, NYCHA will submit an Action Plan to the Monitor for complying with the requirement to conduct annual inspections and perform minor repairs during such inspections. The Action Plan shall include procedures for (i) on-site completion of minor repairs during inspections, and (ii) the scheduling of other inspection-identified maintenance deficiencies for subsequent repair. | 07/01/19           | In progress | NYCHA submitted a draft Plan. Monitor is working with NYCHA, HUD, and SDNY to finalize the Plan by Dec. 15, 2019. |

## New Departments

| Section | Obligation   | Agreement Deadline | Status   | Monitor Comment  |
|---------|--|--------------------|----------|--|
| VI.C.53 | No later than 45 days after the appointment of the Monitor, NYCHA, in consultation with the Monitor, shall establish and maintain a Compliance Department ...      | 04/15/19           | Complete | The Compliance Department has been established and the Monitor is working with NYCHA to ensure it has sufficient staffing and a clear mission. This is true for the Environmental Health and Safety Department and the Quality Assurance Unit as well. See the first Monitor's Report for details. |
| VI.D.55 | No later than 45 days after the appointment of the Monitor, NYCHA, in consultation with the Monitor, shall create an Environmental Health and Safety Department... | 04/15/19           | Complete | See above.   |
| VI.E.57 | No later than 45 days after appointment of the Monitor, in consultation with the Monitor, NYCHA shall create a Quality Assurance Unit...                           | 04/15/19           | Complete | See above.   |

# AGREEMENT TRACKING

| Section    | Obligation  | Agreement Deadline | Status   | Monitor Comment  |
|------------|---|--------------------|----------|--|
| VI.E.59    | No later than 60 days after the appointment of the Monitor, NYCHA shall provide HUD, SDNY, and the Monitor with a certification of compliance with paragraphs 53 – 59.    | 05/01/19           | Complete | Monitor has continued discussions with NYCHA to refine and enhance NYCHA's approach. See first report for details.   |
| VI.F 62(h) | By 90 days after the appointment of the Monitor, NYCHA will submit an Action Plan to the Monitor for meeting the requirements in the Agreement regarding PHAS Inspections | 05/29/2019         | Complete | NYCHA timely submitted a draft PHAS Action Plan to the Monitor. After first rejecting the plan, the Monitor, SDNY, and HUD have worked with NYCHA to revise the Plan which has now been finalized and accepted by the Monitor. |

## City Obligations

| Section    | Obligation  | Agreement Deadline | Status   | Monitor Comment  |
|------------|---|--------------------|----------|--|
| VI.A.44(b) | By the end of the 30-day period after the list of candidates is finalized, the City shall select a permanent Chair and CEO for NYCHA from the jointly-developed list of candidates.   | 04/01/19           | Complete | New NYCHA Chair was selected by the City and started his tenure in August 2019.  |
| VI.B.45    | No later than 60 days after the appointment of the Monitor, the City shall engage a third-party management consultant selected jointly by the City and the Monitor. The consultant shall examine NYCHA's systems, policies, procedures and management and personnel structures, and make recommendations to the City, NYCHA, and the Monitor to improve the areas examined. | 04/01/19           | Complete | Management consultant has been engaged by the City and started working in May 2019. See first report for additional details. |

# **APPENDIX 2**



## ACTION PLAN STATUS CHART

| Agreement Area   | Description  | Due Date | Date Submitted | Date Returned/Rejected          | Reason  | Date Resubmitted | Current Status  | Date Accepted |
|------------------|--|----------|----------------|---------------------------------|---|------------------|---|---------------|
| <b>Elevators</b> | Plan for both reducing the number of elevator breakdowns and making repairs more efficiently. Plan also to assist residents during no-service conditions.                              | 5/31/19  | 5/31/19        | 6/10/19-returned for redrafting | Insufficient details to meet Plan goals, especially with regard to providing sufficient repair staff for anticipated breakdowns and assisting residents during no-service conditions. | 9/27/19          | The Monitor team has been working with NYCHA since 10/1/19 to make the Plan more comprehensive. NYCHA has a deadline of November 15, 2019, to submit a completed draft Action Plan. |               |
| <b>Heat</b>      | Plan to both reduce the number of heat/hot water outages and to repair heating system breakdowns more effectively. Plan also must address how to assist residents during heat outages. | 10/1/19  | 8/8/19         | 8/8/19-returned for redrafting  | Insufficient details to meet Plan goals, especially with regard to how residents will be assisted during outages and how repair staff will be mobilized to respond to outages.        | 9/27/19          | The Plan is much improved and is expected to be completed by November 8, 2019.  |               |

| Agreement Area | Description  | Due Date | Date Submitted                               | Date Returned/Rejected | Reason   | Date Resubmitted | Current Status  | Date Accepted |
|----------------|--|----------|--|------------------------|--|------------------|---|---------------|
| <b>Pests</b>   | Two Action Plans. Near-term plan (Agreement para. 41) and long-term plan (Agreement para. 43) to resolve pest complaints and infestations and implement IPM techniques to NYCHA's pest control measures. | 10/31/19 | We have set a new deadline of Nov. 15, 2019. |                        | The Monitor team has been working with NYCHA to create a pest control strategy to meet the Agreement deadlines. Once that is done, it will be described in the pest Action Plan. |                  | While the Monitor is taking a more direct role in drafting the Plan, NYCHA has yet to fully create the strategy for Agreement para. 41. |               |
| <b>GDA</b>     | Action plan required under the GDA agreement between NYS and NYCHA for \$450 million in reimbursement funds for elevator and boiler replacements.  |          |  |                        | We have been working with NYCHA's Capital Division on the Plan since mid-September.  | 10/29/19         | The Plan is now complete and will likely be accepted by the Monitor after a review. We will then submit it to the NYS Div. of Budget.   |               |

| Agreement Area | Description   | Due Date | Date Submitted | Date Returned/Rejected   | Reason  | Date Resubmitted | Current Status  | Date Accepted |
|----------------|---|----------|----------------|--|---|------------------|---|---------------|
| <b>PHAS</b>    | Plan for compliance with HUD regulations and guidelines, and the prevention of deceptive practices with respect to PHAS inspections.                        | 5/29/19  | 5/29/19        | 8/5/19-rejected and returned for redrafting                        | Did not incorporate Monitor comments despite extensive discussions in June-July 2019. | 10/29/19         | The plan was completed and accepted by the Monitor on 10/29/19. | 10/29/19      |
| <b>Mold</b>    | Plan to remediate and close approximately 30,000 aging work orders over the course of six months (or sooner) and ensuring timely remediation going forward. | 10/31/19 | 10/30/19       |  | The Monitor is now reviewing the draft Action Plan.                                   |                  |   |               |
| <b>Lead</b>    | Plan to comply with Agreement Exhibit A requirements regarding lead-based paint testing and remediation.  | 10/31/19 |                | We are requiring NYCHA to submit their draft by November 15, 2019. |   |                  |   |               |
| <b>Waste</b>   | Comprehensive Plan for waste management,  | 10/31/19 |                | We expect that NYCHA will  |   |                  | Monitor team working more directly with                         |               |

| Agreement Area            | Description   | Due Date | Date Submitted | Date Returned/Rejected                  | Reason  | Date Resubmitted | Current Status   | Date Accepted |
|---------------------------|---|----------|----------------|---|---|------------------|--|---------------|
|                           | which will include Plans for each development. The Plan will also address the Agreement requirement in paragraph 45 to provide daily pickups and proper containment of garbage at developments. |          |                | complete its Plan by mid-November 2019. |   |                  | NYCHA to draft the Plan. NYCHA and the Monitor team have been making progress in devising the 'development by development' Plans, that will also implement IPM techniques to assist with pest control. |               |
| <b>Annual Inspections</b> | The Agreement requires NYCHA to draft an Action Plan for conducting annual inspections of units and performing minor repairs.   | 7/1/19   | August 2019    |   | NYCHA submitted a draft Plan after the deadline. It lacks sufficient detail, especially with regard to needed staffing. |                  | The Monitor is continuing to review the draft Plan and will work with NYCHA to create an effective Plan.   |               |

# **APPENDIX 3**

**NEW YORK CITY HOUSING AUTHORITY**

250 BROADWAY • NEW YORK, NY 10007

TEL: (212) 306-3000 • <http://nyc.gov/nycha>**Exhibit A Paragraph 30(b) Certification**

This certification addresses activities conducted during the period from January 31, 2019 through July 31, 2019 (the “Certification Period”).

**Paragraph 8:**

NYCHA plans to meet the requirement under paragraph 8 to abate all lead-based paint at the Harlem River Houses and the Williamsburg Houses through the Rental Assistance Demonstration (RAD) Program. The RAD contracts for these developments are currently scheduled to close in late 2020, and they will require the development partner to abate all lead-based paint in these developments.

**Paragraph 9 – 12:**

NYCHA will develop abatement schedules for other apartment units that contain lead-based paint on the basis of the information obtained from the ongoing X-ray fluorescence testing initiative. NYCHA has not yet developed an Action Plan to address the obligations contained in Paragraph 12.

**Paragraph 13:**

NYCHA uses the meaning of “common areas” and “abatement” as defined in 40 C.F.R., part 745, subpart L.

**Paragraph 14:**

NYCHA cannot certify to compliance with all the legal requirements applicable to abatement of lead-based paint in connection with work conducted during the Certification Period. Based on analysis by the Compliance Department, NYCHA has determined that, among other things, it lacks adequate procedures, IT controls, recordkeeping, and/or quality assurance monitoring as to a number of abatement requirements. Particular deficiencies include deficiencies relating to the requirements to prepare abatement reports, required notifications, and recordkeeping.

**Paragraph 15:**

NYCHA cannot certify to compliance with all the legal requirements set forth in the Lead Safe Housing Rule, 24 C.F.R. part 35, subparts B-R, and the Renovation, Repair, and Painting (RRP) Rule, 40 C.F.R. part 745, subpart E in connection with repair and maintenance work conducted during the Certification Period. Based on analysis by the Compliance Department, NYCHA has determined that, among other things, it lacks, in certain areas, adequate procedures, IT controls, recordkeeping, and/or quality assurance monitoring as to a number of lead safe work practice and RRP requirements. Particular deficiencies include deficiencies relating to the requirements to conduct clearance examinations, issue resident notifications, and complete required checklists.

I, a duly authorized representative of the New York City Housing Authority (NYCHA),  
certify to the foregoing.



VITO MUSTACIUOLO  
GENERAL MANAGER

July 31, 2019

# **APPENDIX 4**



**Report on Compliance with Exhibit A, Paragraph 14 and 15 – July 31, 2019****Prepared by: Compliance Department, NYCHA**

NYCHA has not fully complied with the Lead Safe Housing Rule (“LSH Rule”), the Renovation, Repair and Painting Rule (“RRP Rule”), and the Abatement Rule for the time-period from January 31, 2019 to July 31, 2019. (These rules shall be collectively referred to as the “Lead Rules” and the period between January 31, 2019 and July 31, 2019 shall be referred to as the “Covered Period.”)

On May 31, 2019, NYCHA disclosed key compliance shortfalls with respect to interim controls performed in units identified on the Immediate Action List, including regarding record-keeping, clearance examinations, and resident notifications. In June and July 2019, NYCHA attended meetings and participated in calls with the Federal Monitor, SDNY, HUD, and EPA to discuss these shortfalls and to develop a corrective action plan due to these shortfalls. Currently, these conversations are ongoing and, in NYCHA’s view, are leading towards improved processes for at least some of the key shortfalls.

This document describes NYCHA’s current compliance with paragraphs 14 and 15 of Exhibit A of the HUD agreement.<sup>1</sup> NYCHA shall describe its current compliance with each requirement based on the following criteria:

- **Existence of Written Policies, Procedures, and/or Contract Specifications:** This criterion evaluates whether NYCHA has established specific written policies, procedures, and/or contract specifications that required staff and/or vendors to perform the requirements set forth in the regulations during the Covered Period.
- **Existence of IT Controls:** This criterion evaluates whether NYCHA’s Maximo Work Order system (or other system) has established IT controls that addressed compliance with the applicable regulatory requirement during the Covered Period.
- **Quality Assurance or Field Monitoring Protocols:** This criterion evaluates whether NYCHA has performed any quality assurance or any field monitoring protocols during the Covered Period of abatement, interim control, or RRP projects to assess compliance with each specific regulatory requirement.
- **Recordkeeping/File Review:** This criterion evaluates whether project files for work orders closed from January 31, 2019 to June 25, 2019<sup>2</sup> contain documentation required by and/or evidencing compliance with each specific regulatory requirement.
- **Overall Assessment of Compliance:** This criterion includes an overall assessment of NYCHA’s compliance during the Covered Period with each specific requirement based upon the above-described criteria and any additional information provided by NYCHA staff. This criterion shall also disclose any identified deficiencies with each specific regulatory requirement.

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<sup>1</sup> This assessment should not be considered exhaustive of all compliance areas related to lead, including potential deficiencies. For instance, the Compliance Department was unable to assess compliance with Lead Rules in common areas, which it intends to assess in the next six-month reporting cycle. Additionally, if relevant business units provide missing documentation or additional relevant information, it may merit modifications to this assessment.

<sup>2</sup> To ensure adequate time to complete the file review, the Compliance Department limited its review to work orders closed before June 25, 2019.

**General Scope of Review for Paragraph 14:**

The Compliance Department requested NYCHA IT provide all closed lead abatement work orders from Maximo for the period of January 31, 2019 through June 25, 2019. IT identified 490 closed lead abatement work orders during this period. The Compliance Department provided the list of work orders to Lead Hazard Control, which in turn limited the list to lead abatement work orders that were performed by Lead Abatement Workers (LAWs) or Lead Abatement contractors in units and with the Maximo failure class "LEADAPTABATE" and "NEEDSABATEMENT." This step was performed because the original 490 work orders also contained non-abatement projects, such as mold remediation, RRP work over 100 square feet, and duplicates. Additionally, common space work orders were also removed from the sample size.<sup>3</sup> Following this process, the Compliance Department identified 247 project files of abatements performed in units from the period from January 31, 2019 to June 25, 2019.

The Monitoring Unit of the Compliance Department (MU) then requested the 246 project files from Long Island City's centrally located filing system. Lead Hazard Control was able to locate all 246 project files: 162 files were "complete" and 84 files were marked as "in progress." Files characterized as "complete" are files that Lead Hazard Control has sent to storage area for recordkeeping. Files characterized as "in progress" are files with closed Maximo work orders, but include files where Lead Hazard Control has not received final documentation from the contractors, as well as a small number of files where it is unclear if any work remains. The Compliance Department conducted its file review on 162 "closed" files and performed limited review of the 84 "in progress" files.

**→ Description of Compliance with Paragraph 14(a): NYCHA shall ensure that a certified supervisor is onsite or otherwise available in accordance with 40 CFR § 745.227(e).**

Regulatory Requirements: 40 CFR §745.226(a) and (b)(1) sets forth the EPA-certification requirements for certified supervisors.

40 CFR §745.227(e)(2) states "A certified supervisor is required for each abatement project and shall be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the certified supervisor shall be onsite or available by telephone, pager or answering service, and able to be present at the work site in no more than 2 hours."

Applicable NYCHA Written Policies, Procedures, and/or Contract Specifications: The Compliance Department performed a search of the NYCHA Forms and Reference Library (FRL) and requested from Lead Hazard Control staff any written policies, procedures, and/or contract specifications governing lead processes to determine if these written policies, procedures, and/or contract specifications, if any, addressed the requirement set forth in 40 CFR § 745.227(e)(2).<sup>4</sup>

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<sup>3</sup> The Compliance Department was not able to perform a review of any abatements performed in common spaces during the Covered Period. The Compliance Department will conduct a monitoring of any such abatements by October 31, 2019 and provide the results to the Monitor.

<sup>4</sup> It should be noted that, in its current six-month plan (July 2019 to December 2019), the Compliance Department, in coordination with NYCHA Operations, Healthy Homes, and Legal, is developing an overall lead policy manual for the agency.

On the FRL, the Compliance Department identified GM 3758 (March 30, 2010), entitled “Lead-Based Paint Testing and Abatement.” GM 3758, among other things, “establishes the criteria for requesting LBP testing/abatement services for move-out apartments.” The Manual references the “Technical Service Department’s Environmental Health and Safety Unit” as responsible for the performance of abatement activities and, therefore GM 3758 is outdated, as abatement is presently overseen by Lead Hazard Control in Healthy Homes.<sup>5</sup> In any event, GM 3758 states “that an Environmental Field Operations (EFO) Supervisor, or designee, schedules the abatement and clearance Work Orders, and assigns the job plans (as applicable),” but does not identify the credential of this supervisor or make them responsible for the obligations set forth in 40 CFR §745.227(e). Therefore, there is no current written policy or procedure for Lead Hazard Control staff covering this requirement.

Lead Hazard Control does currently use a form entitled, “Lead Abatement Procedure & Occupant Protection Plan.” A copy of this form is annexed as Attachment 1. The form contains a regulatory compliance section, which lists, among other regulations, 40 CFR Part 745 and 24 CFR § 35.1325. The form also requires: “Following final clean-up of each work area, a visual inspection will be performed by the lead abatement supervisor, and by the third-party vendor who will be perform [sic] the dust wipe clearance inspection.” This form must be signed by the Lead Abatement Supervisor. While the form cites the applicable sections of the CFR, the form does not specifically require that the Lead Abatement Supervisor be onsite and available in the manner required by 40 CFR § 745.227.

With respect to contract specifications, Lead Hazard Control identified one vendor that performed abatement during the Covered Period. See Attachment 2.<sup>6</sup> Exhibit 2 of the contract contains a Scope of Services for Lead Abatement. The Scope defines “Adequate Personnel” as “a minimum of two (2) workers and one (1) supervisor at each abatement site. A given supervisor may be able to properly supervise more than one abatement site depending on the jobs’ relative proximity and size.” See Scope, 1.2.1. The contract provides that a monitor can be assigned for the project, with the authority to stop work “should the Monitor witness improper Work procedures or the lack of Adequate Personnel present on the abatement site.” The contract specifications further state, “The lead supervisor shall inspect the abatement area during the performance of the abatement and during cleanup and final inspection.” See Scope, 2.7.2.2.2. Lead Hazard Control stated that it has used in-house staff to performing monitoring of the contractor since approximately February or March 2019, but there are no records of this monitoring.

IT Controls: There are no IT controls in place that mandate the assignment of a certified supervisor before the start of an abatement project.

QA/Field Monitoring Protocols: In an interview by the Compliance Department with Lead Hazard Control staff on July 26, 2019, staff indicated that two NYCHA staff had been assigned as field monitors for work orders performed by the vendor since approximately February or March 2019. Lead Hazard Control staff indicated that the two NYCHA staff do not create checklists or reports to document this field

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<sup>5</sup> On February 22, 2019, the Compliance Department concluded a monitoring to assess NYCHA’s compliance with regulatory requirements related to lead abatement activities (“February 2019 MR”). The report is annexed as Attachment 2. The February 2019 MR reviewed a sample size of 69 closed work orders from 2018 and 74 closed work orders from 2009.

<sup>6</sup> The attachment includes only the relevant pages from the contract, which is voluminous. A full copy of the contract can be produced upon request. Note, the agreement is a “piggy-back” contract and thus the scope refers to HPD.

monitoring. These staff did not perform monitoring of abatements performed by NYCHA lead abatement workers.

File Review: The Compliance Department requested certifications from all NYCHA-employed certified supervisors that supervised abatement projects from January 31, 2019 through the present. A copy of these certifications is available upon request. When a vendor performs the abatement, the vendor provides the certified supervisor as required by NYCHA's contract provisions.

The Monitoring Unit (MU) reviewed 25 randomly selected lead abatement work orders from January 31-June 25, 2019 and confirmed that certified supervisors were identified on all the work orders, as indicated in the Labor Information field in Maximo.

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(e):

- For the Covered Period, NYCHA has no adequate policy, procedure, IT control, QA/field reports, or documentation to evidence compliance with the requirement that the certified supervisor was actually onsite during "all work site preparation and during the post-abatement cleanup of work areas," as required by the rule.
- For the Covered Period, there is no IT control in Maximo that automatically assigns a certified supervisor to each abatement work order or requires the certified supervisor to indicate that they were present at the site during the required time periods.
- The February 2019 MR indicates that the Monitoring Unit "was told that re-cleaning activities, which occur when lead abatement work fails to pass a 3rd party clearance inspection, do not require that a certified Supervisor be present; MU was unable to identify regulatory evidence supporting this exemption." See Attachment 3, at 5. The Compliance Department remains concerned about this issue, as at least one file reviewed contained a failed clearance examination and a later passing clearance examination, but insufficient documentation of the re-cleaning activity.

Notwithstanding these deficiencies, the file review indicated that certified supervisors were assigned to all 25 of the 25 work orders reviewed. In addition, Lead Hazard Control's form entitled, "Lead Abatement Procedure & Occupant Protection Plan" is a required document for each project and must be signed by the certified supervisor.<sup>7</sup> Also, the contract used by NYCHA for abatement during the Covered Period did contain adequate specifications on the need for the certified supervisor. Finally, Lead Hazard Control indicated that they did commence a field oversight program for abatements performed by vendors, although these site visits were not documented in any way.

**→ Description of Compliance with Paragraph 14(b): "NYCHA shall notify EPA of lead-based paint abatement activities electronically using EPA's Central Data Exchange (CDX) in accordance with 40 CFR § 745.227(e)(4)(vii)."**

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<sup>7</sup> Notably, this form has not been officially approved through NYCHA's standard process and it is not located on the official NYCHA FRL.

Regulatory Requirements: 40 CFR § 745.227(e)(4)(vii) states as follows: *“Notification must be accomplished using any of the following methods: Written notification, or electronically using the Agency's Central Data Exchange (CDX). Written notification can be accomplished using either the sample form titled “Notification of Lead-Based Paint Abatement Activities” or similar form containing the information required in paragraph (e)(4)(vi) of this section. All written notifications must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery (persons submitting notification by U.S. Postal Service are reminded that they should allow 3 additional business days for delivery in order to ensure that EPA receives the notification by the required date). Instructions and sample forms can be obtained from the NLIC at 1-800-424-LEAD (5323), or on the Internet at <http://www.epa.gov/lead>.”*

Applicable Written Policies, Procedures, and Contract Specifications: The Compliance Department performed a search of the NYCHA FRL and requested information from the staff of Lead Hazard Control for any written policies, procedures, and/or contract specifications governing lead processes to determine if these written policies, procedures, and/or contract specification, if any, addressed the requirement set forth in 40 CFR § 745.227(e)(2).

On the FRL, the Compliance Department identified GM 3758 (March 30, 2010), entitled “Lead-Based Paint Testing and Abatement.” As stated above, this document is significantly outdated, but remains on the NYCHA FRL. While outdated, GM 3758 does state as follows: “Due to federal and locally mandated notification procedures, the abatement cannot begin for, at least, 5 business days (10 business days for large abatement jobs). After submission of an abatement notice, Technical Services Department’s Field Operations (EFO) staff schedules each development in Maximo Assignment Manager, at least 2 business days prior to scheduled Lead-Based Paint (LBP) abatement and/or remediation activities.”

Lead Hazard Control currently uses a form entitled, “Lead Abatement Procedure & Occupant Protection Plan.” See Attachment 1. The form contains a regulatory compliance section, which lists, among other regulations, 40 CFR Part 745 and 24 CFR § 35.1325. The form requires the EPA CDX notification as a required attachment.

With respect to contract specifications, Lead Hazard Control identified one vendor that performed abatement during the Covered Period. Exhibit 2 of the contract contains a Scope of Services for Lead Abatement. See Attachment 2. The contract specifications do not specifically require the EPA notification, but the specifications do require compliance with all applicable federal laws, including certification requirements. As indicated below, the February 2019 MR determined that the vendor was not following this requirement and the vendor was directed to do so in January 2019.

IT Controls:

There are no additional IT controls currently associated with this requirement.<sup>8</sup>

QA Protocols: There are currently no QA Protocols applicable to this requirement. However, as discussed further below, the February 2019 MR did identify that the vendor was not following this requirement, and Lead Hazard Control staff directed the vendor to take corrective action.

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<sup>8</sup> A previous issue was raised about auto-population of the supervisor’s name on the CDX form. This issue had been resolved before the monitoring period covered in this report.

File Review: NYCHA's Compliance Department conducted a file review to determine if the notice required by 40 CFR § 745.227(e)(4)(vii) was present in the relevant project files. The Compliance Department reviewed a total of 162 completed project files. Of these 162 files, 162 project files contained the required EPA notification (100%). However, in at least one file reviewed, the file contained only the updated CDX notification and did not include the original CDX notification.

The February 2019 MR also identified the following issue with respect to CDX notifications by NYCHA's vendor: "MT reviewed 6 notices submitted to the EPA by a vendor currently assisting NYCHA with conducting lead abatement work. MT found that the EPA notices were not filed 5 days before the performance of lead abatement work, as required. When the Deputy Director of the Lead Hazard Control Department spoke with the vendor to correct the noncompliant submission of EPA notices, the vendor stated that they were unaware of the required 5 day waiting period between the submission of an EPA notice and the performance of lead abatement work." See Attachment 3, at 4.

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(e):

- For the Covered Period, NYCHA does not have current written policies or procedures, IT controls, or ongoing QA protocols to ensure that the CDX notification requirements are followed in accordance with 40 CFR § 745.227(e).
- During the Covered Period, the February 2019 MR identified that the vendor was not adhering to the EPA notification protocols. While NYCHA issued a written communication to the vendor to correct this violation going forward, it is not clear if the vendor or NYCHA previously disclosed this deficiency to EPA.
- During the Covered Period, at least one file reviewed only contained a copy of the Updated CDX notification. As an abatement firm can only submit an updated CDX notification if the firm has already submitted an original notification, NYCHA needs to obtain a copy of both the original and updated CDX notifications for its project files.

Notwithstanding these deficiencies, all 162 files reviewed contained copies of CDX notifications. Additionally, the Compliance Department obtained documentation from IT demonstrating that the name of certified supervisor is no longer automatically filled on the form.

**→Description of Compliance with Paragraph 14(c): NYCHA shall prepare and implement written occupant protection plans for all abatement projects in accordance with 40 CFR § 745.227(e)(5).**

Regulatory Requirements: 40 CFR § 745.227(e)(5) states: "A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures: (i) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. (ii) A certified supervisor or project designer shall prepare the occupant protection plan."

Applicable Written Policies, Procedures, and Contract Specifications: On the FRL, the Compliance Department identified GM 3758 (March 30, 2010), entitled "Lead-Based Paint Testing and Abatement."

As stated above, this document is outdated, but remains on the NYCHA FRL. The document does not reference occupant protection plans.

Lead Hazard Control currently uses a form entitled, "Lead Abatement Procedure & Occupant Protection Plan." The form contains language which states, "Occupant Protection Plan (OPP) requirements will be followed according to 40 CFR § 745.227(e) (5) (ii) and 24 CFR § 35.1345." The form is signed by a certified abatement supervisor.

The contract specifications reference compliance with federal laws, but do not specifically require the preparation of an occupant protection plan.

IT Controls: There are no IT controls in place to enforce the occupant protection plan requirement.

QA or Field Monitoring Protocols: NYCHA did not perform QA or field monitoring of abatement projects performed by NYCHA lead abatement workers. Lead Hazard Control staff state that they did perform monitoring of abatement projects performed by the vendor, but this monitoring was not documented through any checklist or field report, and thus it is unknown if the monitoring evaluated the vendors' compliance with the Occupant Protection Plans.

File Review: NYCHA's Compliance Department conducted a file review to determine if the written occupant protection plan required by 40 CFR § 745.227(e)(5) was present in the relevant project files. The Compliance Department reviewed a total of 162 completed project files. Of these 162 files, 148 files had completed occupant protection plans (as evidenced by the Lead Abatement Procedure & Occupant Protection Plan form) for abatement projects. Of the remaining 15 files, 5 project files contained incomplete occupant protection plans (3%), and 10 project files had no occupant protection plan (6.1%). Thus, overall 9.1% of the files review did not contain documentary evidence satisfying the regulatory requirement.

Overall Compliance Assessment: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(e)(5):

- For the Covered Period, NYCHA did not have adequate written policies or procedures or IT Controls to ensure that the occupant protection plan was prepared by a certified supervisor before the abatement project.
- For the Covered Period, NYCHA did not have adequate QA or Field Monitoring protocols to ensure that the NYCHA abatement workers or vendors were adhering to the Occupant Protection Plan during abatement projects.
- During the Covered Period, the Compliance Department's file review indicates that 5 files out of 162 did not have completed occupant protection plans and 10 files out of 162 did not have any documentation of occupant protection plans.

Notwithstanding these deficiencies, Lead Hazard Control has developed the Lead Abatement Procedure & Occupant Protection Plan form, which is now a required document for all abatement projects. Additionally, 148 out of 162 files (90.7%) reviewed had completed occupant protection plans.

**→Description of Compliance with Paragraph 14(d): NYCHA shall specify methods of collection and lab analysis in accordance with 40 CFR § 745.227(f).**

Regulatory Requirements: 40 CFR § 745.227(f) states: “Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in this section shall be: (1) Collected by persons certified by EPA as an inspector or risk assessor; and (2) Analyzed by a laboratory recognized by EPA pursuant to section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.”

The following compliance assessment is applicable only to samples collected for abatement projects.

Applicable Written Policies, Procedures, and Contract Specifications: NYCHA does not have current written policies or procedures that outline these specific requirements.

During the covered period, NYCHA utilized vendors to perform third-party clearance examinations for the abatements. The Compliance Department reviewed the contractor specifications, and the specifications satisfied the above requirement. A copy of the specification reviewed by Compliance is annexed as Attachment 4.

IT Controls: NYCHA does not have any existing IT controls that address these requirements.

QA or Field Monitoring Protocols: NYCHA did not conduct any field QA.

File Review: The Compliance Department reviewed 162 completed abatement files. Of these, 155 out of 162 had completed clearance examination reports.

Overall Compliance Assessment: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(f).

- During the Covered Period, NYCHA lacks written policies or procedures specifying the requirements of 40 CFR §745.227(f). Further, NYCHA lacks a field monitoring program to ensure that the third-party vendors performing the sampling are adhering to these requirements.

Notwithstanding this deficiency, the contract specifications contain sufficient specifications on the requirements and the file review indicates that supporting documentation on credentials of vendor staff and laboratories is being maintained in the project files.

**→Description of Compliance with Paragraph 14(e): NYCHA shall ensure that a clearance examination is performed, and a clearance examination report provided by a lead paint inspector/risk assessor certified and licensed as applicable for the property location, in accordance with 24 CFR § 745.227(e)(8) - (9). The lead paint inspector/risk assessor must be independent of the lead-based paint abatement firm, supervisor, and contractors performing the abatement work.**

Regulatory Requirements: 40 CFR § 745.227(e)(8) states, in relevant part: *The following post-abatement clearance procedures shall be performed only by a certified inspector or risk assessor*

*“(i) Following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.*



*(ii) Following the visual inspection and any post-abatement cleanup required by paragraph (e)(8)(i) of this section, clearance sampling for lead in dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.*

*(iii) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.*

*(iv) Dust samples for clearance purposes shall be taken a minimum of 1 hour after completion of final post-abatement cleanup activities.*

*(v) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:*

*(A) After conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floors of each of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.*

*(B) After conducting an abatement with no containment, two dust samples shall be taken from each of no less than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior window sill and window trough (if present) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are less than four rooms, hallways or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways or stairwells shall be sampled.*

***(C) [\*Exterior abatement provision omitted\*]***

*(vi) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.*

*(vii) The certified inspector or risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each single surface dust sample with clearance levels in paragraph (e)(8)(viii) of this section for lead in dust on floors, interior window sills, and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, interior window sills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance level or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be re-cleaned and retested.*

*(viii) The clearance levels for lead in dust are 40  $\mu\text{g}/\text{ft}^2$  for floors, 250  $\mu\text{g}/\text{ft}^2$  for interior window sills, and 400  $\mu\text{g}/\text{ft}^2$  for window troughs.*

**\*\*\*This description of compliance intentionally omits 40 CFR 745.227(e)(9) as NYCHA has not utilized the random sampling clearance methodology during this reporting period.**

Applicable Written Policies, Procedures, and Contract Specifications: NYCHA does not currently have written policies and procedures in place that delineate all steps of the clearance examination process for abatement projects.

IT Controls: NYCHA does not currently have IT controls in place for clearance examination performed in association with abatement projects. The Compliance Department identified a current gap in Maximo for abatement project work orders performed during move-outs. For abatements performed as a result of COTAs or move outs, the abatement project and the dust wipe are created as two separate child work orders. It is the Compliance Department's understanding that these work orders can be closed out independently from one another. This opens a potential risk that abatement project will not be properly closed out.

QA or Field Monitoring Protocols: NYCHA does not currently perform field monitoring to ensure that contracted risk assessor or inspectors are appropriately performing the clearance examination for abatement projects. NYCHA does have in-house staff review sampling results received from laboratories to confirm if the dust wipe sample passed or failed. However, if the sample fails, there is not adequate documentation of the steps taken to re-clean and retest the unit.

File Review: Of 162 files reviewed, 155 were found to contain copies of clearance examination reports. One additional file contained an incomplete report (0.6%), and seven files did not contain clearance examination reports (4.3%).

Overall Compliance Assessment: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(e)(8):

- During the Covered Period, NYCHA did not have adequate written policies or procedures, or a field QA process to ensure that the clearance examinations were performed in compliance with 40 CFR § 745.227(e)(8).<sup>9</sup>
- During the covered period, the file review indicated that approximately 7 out of the 162 files (4.9%) were missing or contained incomplete information on the clearance examination. Additionally, the February 2019 MR reveals several discrepancies associated with the documentation of the clearance examination process in Maximo. See February 2019 MR, at 18 – 22.
- During the covered period, there is inadequate documentation of re-cleaning following a failed clearance examination, including whether this recleaning was supervised by a certified abatement supervisor.

Notwithstanding these deficiencies, the contract specifications for vendors performing clearance examinations are in line with 40 CFR § 745.227(e)(8). Additionally, 155 out of the 162 completed project files (95%) contain documentation of completed clearance examinations. However, based on the findings of this assessment and the 2019 February MR, the Compliance Department will evaluate the clearance examination process for abatement to detect any deficiencies or gaps in this process.

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<sup>9</sup> During the Covered Period, the Compliance Department conducted a limited review on the clearance examinations for the project files labelled as in progress. The Compliance Department is still investigating the chronology of the clearance examinations for these in progress files to determine whether all work was performed in accordance with the regulatory requirements.

**→Description of Compliance with Paragraph 14(f): NYCHA shall ensure that the certified supervisor on each abatement project prepares an abatement report in accordance with 40 CFR § 745.227(e)(10).**

Regulatory Requirements: 40 CFR § 745.227(e)(10) states as follows: *“An abatement report shall be prepared by a certified supervisor or project designer. The abatement report shall include the following information: (i) Start and completion dates of abatement. (ii) The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project. (iii) The occupant protection plan prepared pursuant to paragraph (e)(5) of this section. (iv) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing. (v) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses. (vi) A detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.”*

Applicable Written Policies, Procedures, and Contract Specifications: NYCHA does not have any written policies, procedures, or contract specifications that were provided by Lead Hazard Control that would ensure adherence to this requirement.

IT Controls: NYCHA does not currently have IT controls in place for completion of the required abatement report.

QA Protocols: NYCHA does not have any QA protocols to ensure that this requirement is being adhered to.

File Review: Of the 162 completed files, 0 projects contained an abatement report prepared by a certified supervisor.

Overall Compliance Assessment: NYCHA is not in compliance with this paragraph 14(f) and 40 CFR § 745.227(e)(10), as the certified supervisor has not prepared the required abatement reports. While NYCHA has most of the documentation that would be included in the abatement report in its project files, NYCHA does not have a certified supervisor or project designer prepare the required abatement report.

**→Description of Compliance with 14(g): NYCHA shall maintain records in accordance with 40 CFR § 745.227(i) and 24 CFR § 35.125.**

Regulatory Requirements: 40 CFR § 745.227(i) states *“All reports or plans required in this section shall be maintained by the certified firm or individual who prepared the report for no fewer than 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.”*

24 CFR §35.125 states, *“The designated party ... shall keep a copy of each notice, evaluation, and clearance or abatement report required by subparts C, D, and F through M of this part for at least three years. Those records applicable to a portion of a residential property for which ongoing lead-based paint maintenance and/or reevaluation activities are required shall be kept and made available for the Department's review, until at least three years after such activities are no longer required.”*

Applicable Written Policies, Procedures, and Contract Specifications: NYCHA does not have specific written policies and procedures that specifically apply to lead abatement records.

IT Controls: NYCHA does not have IT controls that support this requirement.

QA Protocols: Before NYCHA deems a file complete, it requires that Lead Hazard Control staff review the file's contents and ensure that it contains the documentation for a completed file before it is sent to the central storage facility in Long Island City.

File Review: For purposes of this assessment, the Compliance Department requested 162 completed files. Lead Hazard Control was able to provide partial files for these projects although, as indicated above, certain project files were missing key documents, and all project files were missing the required abatement report.

In the previous February 2019 MR, the Compliance Department located 55% of the files, 78 out of 143, within a combined sample of records from 2009 and 2018.

Overall Compliance Assessment: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227 and 24 CFR § 35.125:

- NYCHA must update its record-keeping checklist to encompass all required documents pursuant to the Abatement and LSH Rules. As indicated above, all project files are missing the required abatement report, and other several files are missing key documents.
- The February 2019 MR identified missing records from the years 2009 and 2018. This assessment indicates that files are not being stored in accordance with the requirements. Most of the missing files were from 2009.
- Through staff interviews, the Compliance Department learned that Lead Hazard Control often waits a significant period before completing its files designed as in progress because it is awaiting the final reports to be sent by the vendor. However, per contract requirements, the vendor should be sending draft final reports within two weeks and the length of time from draft final to final should be no more than two additional weeks. Lead Hazard Control should be enforcing this requirement with its contractors. A similar issue was also identified in the February 2019 MR. See February 2019 MR, at 19.

Notwithstanding these deficiencies, Lead Hazard Control was able to produce 162 files for its completed projects although, as noted above, some of the required documents were missing some of the "complete" records.

**Description of Compliance with Paragraph 15 (RRP and Interim Control Projects): "NYCHA shall comply with lead-safe work practice requirements set forth in the [LSH Rule] and the [RRP Rule], when directing or performing renovation ... or maintenance work in Lead Paint Developments to which lead-safe work practices apply..."**

Beginning during 2018 and continuing through the Covered Period, NYCHA conducted the following number of Interim Control Projects:

| Status  | NYCHA Progress as of July 29, 2019               |
|---|--|
| Total Number of Units in Lead Paint Developments  | 46,372   |
| Moveouts  | 118  |
| Units with Completed Visual Assessments   | 44,387   |
| Units Still Requiring Visual Assessments Despite Attempted Access                                     | 1,864 (does not include 3 that have no attempts) |
| Units with Identified Deficiencies  | 39,596   |
| Units with no Deficiencies  | 4,791  |
| Number of Units Where NYCHA Performed Interim Controls Below Lead Safe Housing Rule De Minimus Levels | 3,365  |
| Number of Units where NYCHA Performed Interim Controls Above Lead Safe Housing Rule De Minimus Levels | 9,489  |
| Units Still Requiring Interim Controls  | 26,742   |

The total number of RRP projects in the Lead Paint Developments from January 31st, 2019 to July 30th, 2019 are 4,178 in 3,061 apartments.

Given the overall volume of projects, for this assessment, the Compliance Department conducted file review and used NYCHA databases to assess trends in overall compliance. The sample sizes and methods varied dependent upon the specific requirement and will be explained in each section below.

**→Description of Compliance with 15(a): Establishing and maintaining sufficient information in NYCHA’s renovation and maintenance computer systems to readily identify renovation and maintenance projects involving work to which lead-safe work practices regulations apply in accordance with 24 CFR §§ 35.1330, 35.1350 and 40 CFR §§ 745.85, 745.89.**

Regulatory Requirements: NYCHA interprets this requirement as ensuring that its computerized work order system, Maximo, can identify developments in which paint disturbing projects require adherence to lead safe work practices, as those requirements are defined in the above-cited regulations.

Written Policies, Procedures, and/or Contract Specifications: NYCHA Standard Procedure Manual SP:040:18 Lead Safe for Renovation, Repair, and Painting (December 2018) (“RRP SP) states as follows: “Maximo flags locations in which lead-based paint is or may be present, and identifies when RRP requirements must be met. If a Maximo work order identifies that RRP is required, all painted surfaces must be presumed to be lead-based paint.” RRP SP, at 1 – 2. The RRP SP is annexed as Attachment 5.

IT Controls: Based on prior random sampling lead inspection data, Maximo places a “flag” on units that could require RRP work. A document setting forth this IT enhancement is annexed as Attachment 6.

QA or Field Monitoring: From February 2019 to present, the Compliance Department oversaw field monitoring, performed by staff from the New York City Department of Sanitation, of RRP work at the Lead Paint Developments. The results of this monitoring are annexed as Attachment 7.<sup>10</sup>

File Review: The Compliance Department randomly selected 25 work orders that were flagged as requiring lead-safe work practices in Maximo. To test the controls for identifying work that requires lead safe work practices, the Compliance Department reviewed the work orders to verify that these units were on the list of apartments presumed to have lead-based paint. All 25 units were on the list presumed to have lead-based paint. Based on this sample size, the controls appear adequate and sufficient to readily identify units in which renovation and maintenance projects require lead safe work practices.

Overall Description of Compliance: Based on the existence of written standard procedures, the existence of IT controls, and the existence of a field monitoring program, NYCHA has established a system that can ensure compliance with the requirements referenced in Paragraph 15(a). However, the Compliance Department believes the following measures should be improved to improve actual day-to-day compliance.

- NYCHA should expand its field monitoring protocols to include interim control projects arising from the annual visual assessments.
- NYCHA’s Compliance Department should perform field monitoring to ensure that certified renovators are appropriately identifying projects that fall within the de minimus exceptions.
- NYCHA, including the Compliance Department, should more systematically address project-specific deficiencies by initiating corrective actions against staff and vendors that do not follow the stipulated requirements.

**→Description of Compliance with 15(b): Ensuring that only properly trained and certified firms and workers are assigned to perform work to which lead-safe work practices apply in accordance with 24 CFR §§ 35.1330, 35.1350 and 40 CFR §§ 745.85, 745.90.**

Regulatory Requirements: NYCHA adheres to the above-stated requirements by only permitting RRP-certified staff or vendors to perform paint-disturbing work in Lead Paint Developments.

Written Policies, Procedures, and/or Contract Specifications: Regarding vendors, the RRP SP states as follows, “Property maintenance supervisors ensure vendor employees: (1) Are Certified Renovators. (2) Have their RRP certificates on file at the development. (3) Follow lead-safe work practices under federal and local law and regulations. (4) Provide the required notifications.” See RRP SP, at 16. Developments using vendors must also provide the vendor with the “Lead Safe Practices Vendor notice.” RRP SP, at 16 and Appendix A.

Regarding NYCHA staff, the RRP states as follows: “Only Certified Renovators can perform Renovation, Repair, and Painting (RRP) work that requires RRP certification.” See RRP SP, at 14. The RRP

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<sup>10</sup> NYCHA is providing Monitoring Reports from February 2019 through June 2019. NYCHA will provide the Monitoring Report for July 2019 in early August 2019.

SP further states, “Supervisors are not permitted to assign work that requires a Certified Renovator to employees who are not Certified Renovators. If an employee who is not a Certified Renovator is assigned to complete a work order that has the ACTION REQUIRED message noted above, the employee must tell their immediate supervisor that they are not certified to complete the work order.... In Assignment Manager and ESD Dispatching, the Labor List has a field to indicate which employees are Certified Renovators. The RRP certification information is imported from the Human Resources Database daily.”

IT Controls: NYCHA has IT controls that ensure that NYCHA assigns potential RRP work orders in Lead Paint Developments to RRP certified NYCHA staff. A document describing this IT control is annexed as Attachment 6. At present, however, Maximo does not identify the vendor or vendor staff assigned to perform RRP work at the Lead Paint developments. NYCHA instead relies upon either Development staff or NYCHA paint supervisors to manually check the qualifications of the vendor and vendor staff at the development.

QA or Field Monitoring: The Compliance Department has assigned the DSNY to perform onsite compliance assessments of NYCHA staff or vendors performing RRP work. The results of this monitoring are annexed as Attachment 7. DSNY has not generally conducted onsite monitoring of interim control projects to correct paint deficiencies identified in 2018 or 2019 visual assessments.

File Review: Regarding vendors’ compliance with the certification requirements, the Compliance Department randomly selected 17 work orders from 17 distinct developments. The Compliance Department then requested the certifications of the vendor firms and workers from the associated developments. The Compliance Department then compared the certificates to the work orders in Maximo. Of the 13 responses received, ten responses included a copy of the vendor certification and a copy of the worker’s certification; two responses only had the workers certification. One development submitted the vendor and worker certificates, however; the Compliance Department deemed the development to be noncompliant because the certificates were not on file, and the vendor forwarded the certificates to the Compliance Department. Four developments did not respond to the document request.

The MU also reviewed 100 randomly selected paint contracts provided by procurement. Three did not include the firm’s RRP certificate (3%).

Regarding NYCHA staff, according to an RRP work order report generated from NYCHA’s Maximo database, from January 31, 2019 to June 25, 2019, NYCHA had 2,232 RRP work orders with 815 distinct NYCHA employees performing the work. The Compliance Department randomly selected 250 NYCHA employees and then reviewed 250 work orders associated with these employees. The Compliance Department compared the names of the NYCHA employees and work order dates from the Maximo report to a list of certified RRP employees obtained from NYCHA’s Human Resources. The analysis shows that all 250 randomly selected NYCHA employees were certified at the start of the reviewed RRP work order.

Overall Description of Compliance: Regarding vendors, NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with paragraph 15(b):

- During the Covered Period, the IT controls in Maximo are not sufficient for ensuring that the vendor and vendor staff have the appropriate certifications because Maximo does not identify the vendor assigned to the work. The required certifications are instead checked through a manual process at the development which is challenging to verify.

- During the Covered Period, the Compliance Departments requested documentation on 17 work orders to evaluate whether the development maintained the required certifications. Of the 17, 4 did not respond to the information request, and two developments did not have a copy of the vendor certification.

Notwithstanding these deficiencies, NYCHA has written procedures that require RRP certified vendors and workers to perform paint disturbing work at the Lead Paint Developments. In addition, the Compliance Department reviewed 100 randomly selected paint contracts provided by the NYCHA Procurement Department and identified that all but three had submitted the required certification.

Regarding NYCHA staff: through an aggressive training program that has certified 2643 NYCHA staff under the RRP Rule, development of IT controls that restrict the assignment of workers to RRP-certified staff, the existence of a standard procedures, and the results of the DSNY field monitoring and file review, NYCHA currently has a system in place that should ensure compliance or detect any project-specific non-compliance, with the requirements set forth in subparagraph (b). However, the controls described above apply to RRP work performed in units, and the Compliance Department has yet to assess NYCHA's compliance with RRP work performed in common areas. Therefore, until staff assignment for common area work is sufficiently reviewed and assessed, NYCHA cannot fully certify to the requirements set forth in paragraph 15(b) as to NYCHA staff.

**→Description of Compliance with 15(c): Obtaining and Maintaining certification as a certified renovation firm if any of the workers described in this paragraph are NYCHA employees, and the work they do is covered by 40 CFR part 745, subpart E ... in accordance with 40 CFR §§ 745.81, 745.89.**

Overall Description of Compliance: NYCHA is a certified RRP firm. Proof of the certification is annexed as Attachment 8.

**→Description of Compliance with 15(d): Ensuring supplies necessary to perform lead-safe work practices in accordance with 24 CFR § 35.1350 and 40 CFR § 785.85 are readily available to trained and certified workers.**

Regulatory Requirements: NYCHA interprets this requirement as ensuring that its storerooms have sufficient supplies that can be used by NYCHA staff daily to fulfill the lead safe work practice requirements.

Written Policies, Procedures, and/or Contract Specifications: Section VIII.F of the RRP SP sets forth the mandatory materials that must be included in the standard RRP kit and available at the developments. See RRP SP, at 21 – 22.

IT Controls: NYCHA does not have any IT controls to ensure compliance with the requirements of paragraph 15(d).

QA or Field Monitoring: At the direction of the Compliance Department, DSNY monitored 90 storerooms for the required supplies, according to NYCHA's Standard Procedure for RRP. Between June 10 and July 1, 2019, seven distinct storerooms did not have the required supplies (7.7%). The missing supplies were polyethylene bags, duct tape, utility knives, and the sample supply kits.

File Review: The Compliance Department did not conduct any file review to evaluate compliance with paragraph 15(d).



Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with paragraph 15(b):

- The DSNY onsite monitoring identified deficiencies at 7 storerooms out of 90 developments. The lack of supplies prevents the NYCHA staff from adhering fully to RRP requirements.

Notwithstanding this deficiency, over 92% of the developments surveyed during this period had adequate supplies and NYCHA has adopted written procedures to specify the supplies needed to fulfill the RRP requirements.

**→Description of Compliance with 15(e): Ensuring that firms and workers assigned to perform the renovation or maintenance work to which lead safe work practices apply use the RRP Renovation Checklist and establish and maintain records necessary to demonstrate compliance with the RRP Rule in accordance with 40 CFR § 745.86.**

Regulatory Requirements: The relevant portion of 40 CFR § 745.86 states as follows: *“Documentation of compliance with the requirements of § 745.85, including documentation that a certified renovator was assigned to the project, that the certified renovator provided on-the-job training for workers used on the project, that the certified renovator performed or directed workers who performed all of the tasks described in § 745.85(a), and that the certified renovator performed the post-renovation cleaning verification described in § 745.85(b). If the renovation firm was unable to comply with all of the requirements of this rule due to an emergency as defined in § 745.82, the firm must document the nature of the emergency and the provisions of the rule that were not followed. This documentation must include a copy of the certified renovator's training certificate, and a certification by the certified renovator assigned to the project that:*

*(i) Training was provided to workers (topics must be identified for each worker).*

*(ii) Warning signs were posted at the entrances to the work area.*

*(iii) If test kits were used, that the specified brand of kits was used at the specified locations and that the results were as specified.*

*(v) The work area was contained by:*

*(A) Removing or covering all objects in the work area (interiors).*

*(B) Closing and covering all HVAC ducts in the work area (interiors).*

*(C) Closing all windows in the work area (interiors) or closing all windows in and within 20 feet of the work area (exteriors).*

*(D) Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within 20 feet of the work area (exteriors).*

*(E) Covering doors in the work area that were being used to allow passage but prevent spread of dust.*

*(F) Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area 6 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors) or covering the ground with plastic*

sheeting or other disposable impermeable material anchored to the building extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering, weighted down by heavy objects (exteriors).

(G) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

(iv) If paint chip samples were collected, that the samples were collected at the specified locations, that the specified NLLAP-recognized laboratory analyzed the samples, and that the results were as specified.

(vi) Waste was contained on-site and while being transported off-site.

(vii) The work area was properly cleaned after the renovation by:

(A) Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal.

(B) Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors).

(viii) The certified renovator performed the post-renovation cleaning verification (the results of which must be briefly described, including the number of wet and dry cloths used).<sup>11</sup>

Written Policies, Procedures, and/or Contract Specifications: Section VIII.G of the RRP SP sets forth the required procedures for lead safe work practices, and for completing the required renovator's checklist. See RRP SP, at 23 – 28. NYCHA also maintains a copy of the renovator's checklist on its FRL for both staff and for vendors.

IT Controls: On April 15, 2019, NYCHA added an IT control that requires renovators to upload a completed renovator's checklist before closing out the Maximo work order. However, as indicated by the Compliance Department's monitoring, Renovators may not be adhering to this requirement because completed or correct checklists are not appearing in Maximo and there is no backend Quality Assurance process to validate the completed form. Additionally, vendors do not have handheld devices, and it is unclear how this control applies to vendors performing RRP work.

QA or Field Monitoring: NYCHA does not conduct QA of documentation in Maximo to ensure that workers are annexing the renovator's checklist before closing out the RRP work order.

File Review: The Compliance Department reviewed RRP flagged work orders that were created by NYCHA staff after April 15<sup>th</sup>, 2019, which is when the Maximo enhancement described above when

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<sup>11</sup> As has been recently discussed with SDNY, HUD, EPA, and the Monitor, NYCHA did not include the EPA cleaning verification process in its RRP processes because it was relying upon clearance examinations. However, as discussed in documents submitted regarding the corrective action plan arising from the May 31, 2019 certification, NYCHA will be, going forward, requiring the completion of the EPA cleaning verification for all RRP and interim control projects.

into effect. Pursuant to the notice issued by IT, see Attachment 9, NYCHA staff cannot close work orders without attaching the pre-acknowledgment form and renovator checklist.

The Monitoring Unit assessed 254 work orders (completed between June 1 and July 23rd) for the required attachments and confirmed if the employees were certified RPR renovators. 61% (154 out of 254) of the work orders had the RRP Renovation Checklist. The remainder of checklists were not uploaded into Maximo. The results of this monitoring, broken down by NYCHA management group are as follows:

| Management Group | Renovator Checklist missing |
|------------------|-----------------------------|
| Mixed Finance    | 89 (out of 99 WOs reviewed) |
| Queens/SI        | 12 (out of 18 WOs reviewed) |
| Bronx            | 8 (out of 10 WOs reviewed)  |
| Brooklyn         | 12 (out of 37 WOs reviewed) |
| NGO              | 17 (out of 49 WOs reviewed) |
| Manhattan        | 16 (out of 41 WOs reviewed) |

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.86:

- During the covered period, the Compliance Department’s file review indicates that approximately 39% of the renovator’s checklists have not been uploaded into the Maximo work order system. It is unknown whether these checklists exist at developments or other locations.
- During the covered period, NYCHA’s IT enhancement to Maximo does not appear effective in terms of ensuring compliance with this requirement.
- The Compliance Department has not yet identified vendor checklists that fulfill these requirements. It is not fully understood at this time if these checklists exist at developments or other locations.

Notwithstanding these deficiencies, NYCHA has adopted written procedures and forms that should allow renovator to fulfill this requirement. NYCHA also has created an IT requirement that would at least enable NYCHA staff that have handhelds to fulfill this requirement.

**→Description of Compliance with 15(f): Ensuring that residents of units and developments in which renovation or maintenance work to which lead-safe work practices apply will be performed [sic] are informed of the work to be performed and the risks involved in accordance with 24 CFR § 35.1345 and 40 CFR §§ 745.84, 745.85.**

Regulatory Requirements: The regulations cited in paragraph 15(f) require NYCHA to distribute the EPA Renovate Right Pamphlet, and to obtain acknowledgment from an adult occupant of the unit.

Written Policies, Procedures, and/or Contract Specifications: Section VIII.B of the RRP SP sets forth the required procedure for distributing the required pre-renovation materials. See RRP SP, at 17 – 19.

IT Controls: On April 15, 2019, NYCHA added an IT control that requires renovators to upload a completed pre-renovation acknowledgment form before closing out the Maximo work order. However, as indicated by the Compliance Department’s monitoring, it does not appear from Maximo that renovators are adhering to this requirement. Additionally, vendors do not have handheld devices and thus it is unclear whether this IT control applies to RRP work performed by vendors.

QA or Field Monitoring: NYCHA does not conduct QA of documentation in Maximo to ensure that workers are annexing the pre-renovator acknowledgment form before closing out the RRP work order.

File Review: The Compliance Department reviewed RRP flagged work orders that were created by NYCHA staff after April 15<sup>th</sup>, 2019, which is when the Maximo enhancement described above went into effect. Pursuant to the notice issued by IT, see Attachment 9, NYCHA staff cannot close work orders without attaching the pre-acknowledgment form and renovator checklist.

The Monitoring Unit assessed 254 work orders (completed between June 1 and July 23rd) for the required attachments and confirmed if the employees were certified RRP renovators. 51% (129 out of 254) of the work orders had the Pre-Renovation Acknowledgement form attached in Maximo. Based on the Compliance Departments’ review the remainder of forms do not appear that they were properly uploaded into Maximo. The results of this monitoring, broken down by NYCHA management group are as follows:

| Management Group | Pre-Acknowledgement Form missing |
|------------------|----------------------------------|
| Mixed Finance    | 85 (out of 99 WOs reviewed)      |
| Queens/SI        | 8 (out of 18 WOs reviewed)       |
| Bronx            | 2 (out of 10 WOs reviewed)       |
| Brooklyn         | 6 (out of 37 WOs reviewed)       |
| NGO              | 14 (out of 49 WOs reviewed)      |
| Manhattan        | 14 (out of 41 WOs reviewed)      |

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with the requirements set forth:

- During the covered period, the Compliance Department’s file review indicates that approximately 51% of the pre-renovation acknowledgement forms have not been uploaded into the Maximo work order system. It is unknown whether these forms exist at developments or other locations.

- During the covered period, NYCHA's IT enhancement to Maximo does not appear effective in terms of ensuring compliance with this requirement.
- The Compliance Department has not yet identified vendor documentation that fulfill these requirements. It is not fully understood at this time if these forms exist at developments or other locations.

Notwithstanding these deficiencies, NYCHA has adopted written procedures and forms that should allow renovator to fulfill this requirement. NYCHA also has created an IT requirement that would enable NYCHA staff that possess handhelds to fulfill this requirement. Additionally, this review did not include a review of any RRP work performed in common areas, as the focus of the compliance review has been on work performed in units. However, the Compliance Department has scheduled a monitoring of RRP practices in common areas in its six-month departmental plan.

**→Description of Compliance with 15(g): Retaining records demonstrating compliance with the regulations set forth at 24 CFR § 35.125 and 40 CFR § 745.84.**

Regulatory Requirements: This section shall focus on 24 CFR § 35.125, as the requirements of 40 CFR § 745.84 are discussed in paragraph 15(f). 24 CFR § 35.125 states as follows:

*(a) Notice of evaluation or presumption. When evaluation is undertaken and lead-based paint or lead-based paint hazards are found to be present, or if a presumption is made that lead-based paint or lead-based paint hazards are present in accordance with the options described in § 35.120, the designated party shall provide a notice to occupants within 15 calendar days of the date when the designated party receives the report or makes the presumption. A visual assessment alone is not considered an evaluation for the purposes of this part. If only a visual assessment alone is required by this part, and no evaluation is performed, a notice of evaluation or presumption is not required.*

*(1) The notice of the evaluation shall include: (i) A summary of the nature, dates, scope, and results of the evaluation; (ii) A contact name, address and telephone number for more information, and to obtain access to the actual evaluation report; and (iii) The date of the notice.*

*(2) The notice of presumption shall include: (i) The nature and scope of the presumption; (ii) A contact name, address and telephone number for more information; and (iii) The date of the notice.*

*(b) Notice of hazard reduction activity. When hazard reduction activities are undertaken, each designated party shall:*

*(1) Provide a notice to occupants not more than 15 calendar days after the hazard reduction activities (including paint stabilization) have been completed. Notice of hazard reduction shall include, but not be limited to: (i) A summary of the nature, dates, scope, and results (including clearance) of the hazard reduction activities; (ii) A contact name, address, and telephone number for more information; (iii) Available information on the location of any remaining lead-based paint in the rooms, spaces, or areas where hazard reduction activities were conducted, on a surface-by-surface basis; and (iv) The date of the notice.*

*(2) Update the notice, based on reevaluation of the residential property and as any additional hazard reduction work is conducted.*

*(3) Provision of a notice of hazard reduction is not required if a clearance examination is not required.*

*(c) Availability of notices of evaluation, presumption, and hazard reduction activities.*

*(1) The notices of evaluation, presumption, and hazard reduction shall be of a size and type that is easily read by occupants.*

*(2) To the extent practicable, each notice shall be made available, upon request, in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).*

*(3) Each notice shall be provided in the occupants' primary language or in the language of the occupants' contract or lease.*

*(4) The designated party shall provide each notice to the occupants by: (i) Posting and maintaining it in centrally located common areas and distributing it to any dwelling unit if necessary because the head of household is a person with a known disability; or (ii) Distributing it to each occupied dwelling unit affected by the evaluation, presumption, or hazard reduction activity or serviced by common areas in which an evaluation, presumption or hazard reduction has taken place. (iii) However, for the protection of the privacy of the child and the child's family or guardians, no notice of environmental investigation shall be posted to any centrally located common area.*

Written Policies, Procedures, and/or Contract Specifications: NYCHA does not have written policies or procedures that address the required notice of evaluation and notice of hazard reduction.

The contract specifications for the NYCHA XRF initiative require vendors performing the XRF testing to perform the following: “(a.) Each dwelling unit that is found to contain lead-based paint is to receive a “Notice.”; (b.) The Notice shall be in a single page format that is approved by NYCHA. (c.) The Notice is to be received by the resident within 15 calendar days of knowledge that lead-based paint is present. (d.) Notices are to be mailed directly to the Resident’s address.” See Attachment 10, Section I.12.

IT Controls: There are currently no IT controls or systems, such as Siebel, that are used to generate these required letters to residents. Instead, Lead Hazard Control Unit manually creates the notices and emails them to the development staff, who then is responsible for printing and delivering the notice to resident or placing the letter under residents’ doors.

QA or Field Monitoring: With respect to notices of evaluation arising from the NYCHA XRF initiative, the vendor is responsible for sending the notices of evaluation following completion of the XRF inspections. Lead Hazard Control reviews these notices, and they are uploaded to the Maximo work order.

NYCHA does not perform QA related to hazard reduction notices.

File Review: The Compliance Department attempted to perform a file review of Notices of Hazard Reduction performed for RRP and Interim Control projects. The distribution of these required notices to the development is a manual process, reliant upon emails and information stored on individual staff’s computers. Additionally, Lead Hazard Control does not send the Notice of Hazard Reduction unless it receives the result of clearance examinations. As disclosed below, NYCHA has not performed clearance examinations in a significant number of RRP and Interim Control projects.

Overall Description of Compliance: NYCHA is generally not in compliance with 24 CFR § 35.125(b), although certain individual files and projects may include evidence of piecemeal compliance.

**→Description of Compliance with 15(h): Containing or causing to be contained any work area to which lead safe work practices will apply by isolating the work area and waste generated so that no dust or debris leaves the work area in accordance with 24 CFR § 35.1345 and 40 CFR § 745.85(a).**

Regulatory Requirements: 24 CFR § 35.1345(b)(1) states as follows: *The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.*

40 CFR § 745.85(a)(2) states as follows: *“Containing the work area. Before beginning the renovation, the firm must isolate the work area so that no dust or debris leaves the work area while the renovation is being performed. In addition, the firm must maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and taking any other steps necessary to ensure that no dust or debris leaves the work area while the renovation is being performed. The firm must also ensure that containment is installed in such a manner that it does not interfere with occupant and worker egress in an emergency.”*

Written Policies, Procedures, and/or Contract Specifications: Section VIII.G.2. of the RRP SP sets forth the containment and worksite isolation requirements. See RRP SP, 23 – 26.

IT Controls: The information contained in this paragraph must be included in the renovator’s certified checklist. As of April 15, 2019, IT has developed a control in Maximo that requires this checklist to be uploaded before closing the work order. However, as explained in the Description of Compliance to 15(e), of the work orders reviewed by the Compliance Department, 39% of the checklists are missing from the Maximo work order.

QA or Field Monitoring: In its monitoring program overseen by the Compliance Department, DSNY has monitoring RRP projects to assess its compliance with this requirement. The results of this assessment are set forth in Attachment 7.

File Review: The results of the file review are discussed in the Description of Compliance with paragraph 15(e).

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.85(a)(4).

- NYCHA lacks the required renovator’s checklist for a significant percentage of its projects. Therefore, for many projects NYCHA does not have key document that would allow certification of compliance with this section.
- Additionally, NYCHA does not have centralized copies of its vendors’ renovator’s checklists, and thus additional information is needed to assess their compliance with this section.

Notwithstanding this deficiency, NYCHA has written procedures and forms outlining this protocol, and has performed monitoring through DSNY of a large number of RRP projects indicating that staff have improved their compliance with these requirements.

**→Description of Compliance with 15(i): Containing, collecting, and transporting waste from the renovation in accordance with 40 CFR § 745.85(a)(4).**

Regulatory Requirements: 40 CFR § 745.85(a)(4) states as follows: *(i) Waste from renovation activities must be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered. (ii) At the conclusion of each work day and at the conclusion of the renovation, waste that has been collected from renovation activities must be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris. (iii) When the firm transports waste from renovation activities, the firm must contain the waste to prevent release of dust and debris.*

Written Policies, Procedures, and/or Contract Specifications: Sections VIII.I.1 and VIII.I.3.d of the RRP SP sets forth the waste disposal requirements for work covered under the RRP rule.

IT Controls: The information required by this paragraph must be included in the renovator's certified checklist. As of April 15, 2019, IT has developed a control in Maximo that requires this checklist to be uploaded before closing the work order. However, as explained in the Description of Compliance to 15(e), of the work orders reviewed by the Compliance Department, 39% of the checklists are missing from the Maximo work order.

QA or Field Monitoring: In its monitoring program overseen by the Compliance Department, DSNY has monitoring RRP projects to assess its compliance with this requirement. The results of this assessment are set forth in Attachment 7.

File Review: The results of the file review are discussed in the Description of Compliance with paragraph 15(e).

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.85(a)(4).

- NYCHA lacks the required renovator's checklist for a significant percentage of its projects. Therefore, for many projects NYCHA does not have key document that would allow certification of compliance with this section.
- Additionally, NYCHA does not have centralized copies of its vendors' renovator's checklists, and thus additional information is needed to assess their compliance with this section.

Notwithstanding this deficiency, NYCHA has written procedures and forms outlining this protocol, and has performed monitoring through DSNY of RRP projects indicating that staff have improved their compliance with these requirements.

**→Description of Compliance with 15(j): Performing cleanup of any work area to which lead safe work practices apply until no debris or residue remains in accordance with 24 CFR § 35.1345, 35.1335 and 40 CFR § 745.85(a) and (b), and conducting and passing a clearance examination in accordance with 24 CFR § 35.1340 (including any follow-up as required by that section's subsection (e) after clearance failure(s)), as provided by 40 CFR § 745.85(c).**



Regulatory Requirements: The above regulations set forth the mandated cleaning requirements and clearance examination requirements. Due to the number the number and length of these requirements, they are not reproduced in this section.

Written Policies, Procedures, and/or Contract Specifications: With respect to cleaning, Section VIII.I of the RRP SP sets for the mandated cleaning requirements.

With respect to clearance examinations, Section VIII.J of the RRP SP sets forth the clearance examination requirements. Based on a review performed by the NYCHA Compliance Department, the May 31, 2019 certification discloses inadequacies with respect to the clearance examinations set forth in the SP. On July 10, 2019, NYCHA submitted a new proposed SOP for clearance examinations and resident worksite restrictions, which is currently being evaluated by SDNY, HUD, EPA, and the Monitor.

IT Controls: With respect to cleaning, the information required by this paragraph must be included in the renovator's certified checklist. As of April 15, 2019, IT has developed a control in Maximo that requires this checklist to be uploaded before closing the work order. However, as explained in the Description of Compliance to 15(e), of the work orders reviewed by the Compliance Department, 39% of the checklists are currently missing from the Maximo work order.

With respect to clearance examinations, the creation of an RRP or visual assessment (interim control) work order automatically generates a work order for the clearance examination. See Attachment 8. However, as has previously been disclosed in the May 31, 2019 certification, the automated scheduling function has not resulted in timely clearance examinations, and many sites have not received any clearance examinations as required.

QA or Field Monitoring: With respect to cleaning, in its monitoring program overseen by the Compliance Department, DSNY has monitoring RRP projects to assess its compliance with this requirement. The results of this assessment are set forth in Attachment 7.

File Review: As NYCHA currently tracks the number of open clearance examination for RRP and interim control work orders, the Compliance Department did not conduct a file review, but instead relied on the data set provided by IT. The number of units with no clearance examinations since the Summer of 2018 following either RRP or Interim Control work is 12,046 of which approximately 35% have been attempted.

Overall Description of Compliance: With respect to cleaning, NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with paragraph 15(j):

- NYCHA lacks the required renovator's checklist for a significant percentage of its projects. Therefore, for many projects NYCHA does not have key document that would allow certification of compliance with this section.
- Additionally, NYCHA does not have centralized copies of its vendors' renovator's checklists, and thus additional information is needed to assess their compliance with this section.

Notwithstanding this deficiency, with respect to cleaning, NYCHA has written procedures and forms outlining this protocol, and has performed monitoring through DSNY of RRP projects indicating that staff have improved their compliance with these requirements.

With respect to clearance examinations, and as previously disclosed on May 31, 2019, NYCHA is not in compliance with the clearance examination requirements set forth in paragraph 15(j), particularly with respect to the requirement set forth in 24 CFR § 35.1345(a)(1) and (2). The clearance examination issue was further outlined in the Monitor's first quarter report, dated July 2019. NYCHA also has not followed requirements for restricting resident access to work areas after it has completed the required cleaning but before it has received the results of the clearance examination. See 40 CFR 35.1345(a) and (b).

Following several discussions with the federal government and the Monitor, NYCHA submitted a revised corrective action plan on July 10, 2019 regarding the May 31, 2019 certification, with an additional addendum submitted on July 23, 2019. Both documents are currently under review by SDNY, HUD, EPA, and the Monitor. While certain components of the revised corrective action plan and addendum apply specifically to the immediate action list units, the revised corrective action plan and addendum also set forth new procedures and approaches for conducting timely clearance examinations and installing post-cleaning worksite protections. The SDNY, HUD, EPA, and the Monitor are still reviewing NYCHA's revised procedures and worksite protection protocols and have not yet approved them. However, NYCHA can begin employing certain measures as soon as July 30, although NYCHA expects that it may take through August to see the results of these improved processes:

- Stationing dust wipe technicians at NYCHA developments where a significant number of interim control projects are occurring to facilitate scheduling same-day clearance examinations;
- For projects located at other developments, establishing a dispatcher role to improve communication between field staff performing RRP work and NYCHA staff responsible for deploying dust wipe technicians to attempt same-day clearance examinations;
- Creating a daily report of dust wipe samplings to track all projects;
- Establishing a daily management call to ensure there are enough dust wipe technicians, either in house or vendor, to perform each day's work load;
- Updating procedures and renovator's checklists to require the performance of the EPA cleaning verification pursuant to 40 CFR § 745.85(b), to ensure that the renovator's have completed the project to EPA specifications; and
- Conducting a pilot of resident post-cleaning worksite protections and providing the results of the pilot to EPA and HUD for their technical review.

NYCHA will establish a regular reporting cycle with the Monitor to ensure that it is adhering to its new processes on performing timely clearance examinations.

# **APPENDIX 5**



September 4, 2019

Professor Francis E. McGovern  
401 West Alabama  
Houston, TX 77006

RE: *Independent Data Analyst Progress*

Dear Professor McGovern:

On June 4, 2019, the court gave notice of its intent to appoint Stout as the Independent Data Analyst, which was so ordered on June 25, 2019. The June 25, 2019 Order indicated that Stout shall confer with you regarding its data collection efforts and that assuming sufficient data is collected by September 4, 2019, Stout and/or you shall share that data with the parties. Please see attached Exhibit A for the presentation that I shared with you and the parties on September 3, 2019.

- Data Collection: Since June 25 (10 weeks) NYCHA has responded to over 100 requests for data, information and clarification, provided over 25 data sets for Stout's review and analysis, organized over 10 meetings with NYCHA personnel, participated in weekly calls with Stout, reviewed drafts of Stout metrics and analysis, and continues to work on over 30 requests for supplemental information. For each data source received, Stout has worked to understand the data, the human activity that creates the data, and the methodologies or systems used to collect and report the data. For each data set, the volume of data is very large. For example, the Leak work order data has over 600,000 rows and the Mold Busters work order data has over 700 data fields available. In addition, Stout has conducted in-person meetings with nearly 20 tenants at their homes in NYCHA developments to learn more about mold work order reporting, complaints, and response processes from the perspective of the resident. Data collection processes are nearly complete. Stout has developed a data protocol that NYCHA is in the process of administering for the creation of automated reporting and data sharing.
- Data Integrity: Stout is working with NYCHA to resolve several remaining data integrity questions regarding Leak and Non-Mold Busters data. The resolution of these items will result in more accurate reporting as well as data process improvements but also requires complex data integrity testing, analysis, review and revision. For example, there are a significant number of work orders that have remained open for extremely long periods, which will cause the reported remediation time to increase when the work orders are later closed. In Quarter 21, 29,914 leak and excess moisture work orders remained open as of July 31, 2019, of which 17,050 (57%) had been open for over 100 days and 10,636 (36%) had been open for over 200 days. NYCHA has individually contacted all 139 consolidations with these work orders and requested a comprehensive review of each of these work orders. Stout and NYCHA are working to resolve these remaining issues as promptly as possible.
- Revised Periodic Reports: A framework and methodology to measure NYCHA's compliance under the Revised Consent Decree has been developed. The Revised Periodic Reports will provide improved accuracy, transparency, and information regarding why NYCHA has been unable to meet the compliance requirements of the Revised Consent Decree. It is anticipated that Revised Periodic reports will be completed for Quarter 22 (for work orders open and closed from August 1, 2019 through October 31, 2019). Based on insights from the Quarterly Report analyses, as well as supplemental information or analysis, NYCHA, Stout and the Special Master plan to develop a pathway to compliance with incremental milestones to reach and sustain compliance.

- Quarter 21 Compliance Metrics: There were a total of 100,760 work orders included in Quarter 21, of which 40,859 (40%) closed during the quarter; 29,987 (30%) were excluded from the analysis for being recorded as Unfounded, closed with No Work Done, Cancelled, or work orders considered in the 5% outlier metrics detailed in the Revised Consent Decree ; and 29,914 (30%) remained opened as of July 31, 2019.<sup>1</sup> Based on the preliminary calculations using the revised methodology, 90% of all work orders that were closed in Quarter 21 (May 1, 2019 through July 31, 2019) that were classified as requiring completion in 7 days were completed within 7 days (10% of closed 7-day work orders were not completed within 7 days). 57% of all work orders closed in Quarter 21 that were classified as requiring completion in 15 days were completed within 15 days (43% of 15-day work orders were not completed in 15 days). Of the closed work orders, 91% were leak work orders that typically have prompt work order completion, which increased the overall percentage of work orders completed in 7 days. While Mold Busters is still in the process of rolling out across the NYCHA portfolio (and only accounted for 2% or 796 closed work orders after considering the work orders excluded from the analysis, as described above), it continues to demonstrate improvement in the number of days required to complete repairs using this repair protocol. For Mold Busters work orders (nearly all of which were classified as requiring 15 days to complete), the average days to complete the work order, for those work orders closed during Quarter 21, decreased by 66% from 35 days for work orders closed in May 2019 to 12 days for work orders closed in July 2019. However, a significant number of Mold Busters work orders remained open at the end of the reporting quarter and had been open for longer than 15 days.
- Recurrence and Work Order Completion: Revised Quarterly Reports will contain a new report on recurrence of mold related work orders, consistent with NYCHA's reporting to HUD related to the percentage of 2<sup>nd</sup> recurrences for closed Founded mold conditions in the same apartment unit and/or room over a 12-month period (excluding Leak work orders). Based on Stout's preliminary analyses, it appears that the Mold Busters 2.0 standard procedure for mold remediation is significantly reducing the reported rate of recurrence. Stout's calculations indicate that Founded mold work orders completed outside of the Mold Busters protocol (for consolidations where the Mold Busters protocol had not yet launched) experienced a 30% rate of recurrence within the same unit and room. For work orders completed using the Mold Busters protocol, only 4% of Founded mold workers experience recurrence within 12 months in the same unit and room. These calculations do not include Leak work orders. However, the time reported to close work orders using the Mold Busters 2.0 protocol is approximately 23 - 70 days, more than 3 - 5 times longer than the current compliance metrics of 7- or 15-days. In recent months, the time period to close work orders in the Mold Busters 2.0 protocol has been declining. However, there remains a significant number of work orders that are not closed and have been opened for much longer than the required 7 or 15 days.
- Unfounded Work Order Study: Over a one-year period ending in July 2019, 47% of all mold-related work orders under the Mold Busters 2.0 standard procedure were classified as Unfounded (whereby the recorded data indicated there was no mold growth, no water damage, and no excessive moisture) and therefore no remediation work was conducted. The inspections for certain of these were conducted in an unusually short amount of time (less than 5 minutes), raising concerns about the integrity of the inspection process for these work orders.<sup>2</sup> In addition, initial inspections of work orders classified as Unfounded has indicated that many

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<sup>1</sup> Work orders excluded from this analysis include closed work orders that were recorded as being Unfounded or having No Work Done, work orders that were cancelled, and the application of the 5% Outlier exclusion methodology detailed in the Revised Consent Decree.

<sup>2</sup> From July 23, 2018 through July 31, 2019, there were a total of 712 work orders conducted in less than 5 minutes that were classified as Unfounded. We understand that this could be, in part, related to desktop work order closures or other technology issues. We have been informed by NYCHA that the Office of Mold Assessment and Remediation ("OMAR") and the new Compliance department are developing a rigorous process to review, investigate and address these work orders.



of these work orders may be improperly identified as Unfounded. With your approval, and in coordination with NYCHA, Stout and the Independent Mold Analyst are conducting a study into these work orders.

**Next Steps & Estimated Costs**

- In September and October, Stout plans to conduct extensive analyses to identify “why” compliance is not being met in preparation and development of the KPI’s (key performance indicators) for work order segmentation. Stout (in coordination with you and NYCHA) are considering nearly 40 analyses and 15 preliminary KPIs. Based on insights from these analyses, and in coordination with you and NYCHA, we are hopeful to begin development of a Pathway to Compliance with incremental milestones to reach and sustain compliance. Stout plans to complete the data collection and data integrity efforts and transition to the development of infrastructure of the Revised Quarterly Reports to be integrated into the framework of NYCHA’s data systems and data visualizations.
- Stout anticipates a range of \$80,000 to \$120,000 of monthly professional fees associated with these activities in September and October. Thereafter, our estimated range of monthly professional fees related to the ongoing review and sustainable processes for continuous improvement of the Revised Period Report is anticipated to range from \$5,000 to \$10,000 a month.

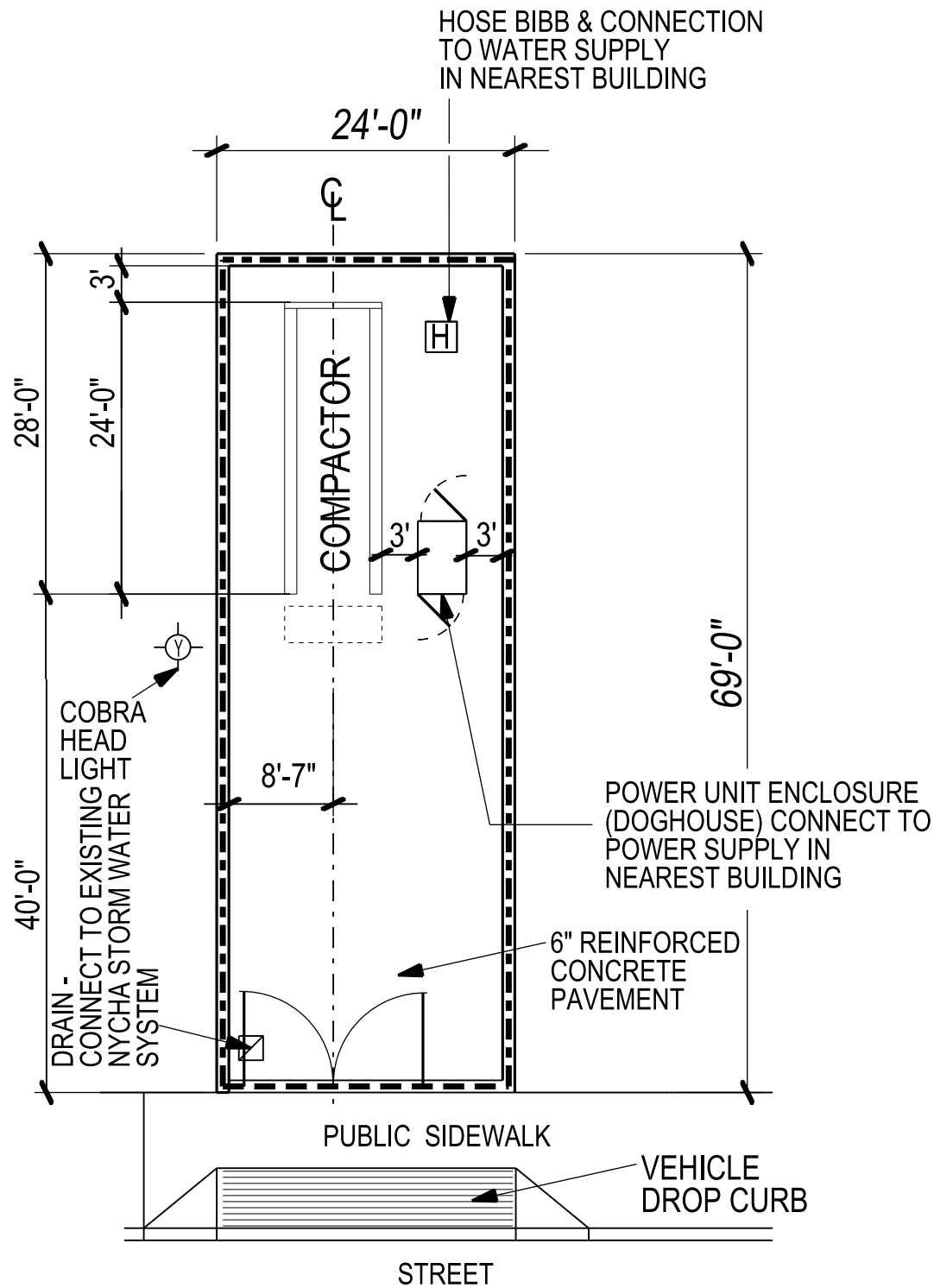
Sincerely,

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Neil Steinkamp  
Independent Data Analyst – Baez v. NYCHA

Neil Steinkamp  
Managing Director  
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# **APPENDIX 6**



One Exterior Compactor, Power Unit Enclosure, Steel Wear Strips, 6' Louver Fence in 2' Concrete Wall, Cobra Head Yardlight, One 15' Wide 6' Steel Bar Fence Double Gate, Hose Bibb and Drain, Vehicle Drop Curb, 6" Reinforced Concrete Pavement

# TYPICAL SINGLE EXTERIOR COMPACTOR YARD



# **APPENDIX 7**

**Total Visits by Monitor Team through 9/30/2019****Bronx**

1. Adams
2. Betances
3. Boston Road Plaza
4. Boston Secor
5. Bronx River
6. Castle Hill
7. Claremont Consolidation
8. Claremont Franklin
9. College Avenue
10. East 180<sup>th</sup> St-Monterey Ave
11. Eastchester Gardens
12. Edenwald
13. Forest
14. Fort Independence St-Heath Ave
15. Gun Hill
16. Highbridge Gardens
17. Jackson Houses
18. Marble Hill
19. McKinley
20. Melrose
21. Millbrook
22. Mitchel
23. Monroe
24. Moore
25. Morris
26. Morrisania Air Rights
27. Mott Haven Houses
28. Murphy
29. Parkside
30. Patterson
31. Pelham Parkway
32. Polo Grounds
33. Sack Wern
34. Sedgwick Houses
35. Sotomayor
36. Soundview
37. St. Mary's Park
38. Stanton Street
39. Throggs Neck
40. Union Consolidated
41. University Avenue Rehab
42. Webster Houses

## **Brooklyn**

43. 527 Warren Street
44. Albany I
45. Albany II
46. Armstrong I
47. Atlantic Terminal Site 4B
48. Bay View
49. Bed Stuy Rehab
50. Belmont-Sutter Area
51. Berry South – 9<sup>th</sup> Street
52. Borinquen Plaza
53. Boulevard
54. Breevoort
55. Breukelen
56. Brown
57. Bushwick
58. Carey Gardens
59. Coney Island I (4&5)
60. Cooper Park
61. Crown Heights
62. Cypress Hills
63. Farragut
64. Fiorentino Plaza
65. Ft. Greene Houses
66. Garvey (Group A)
67. Glenmore Plaza
68. Glenwood
69. Gowanus
70. Gravesend
71. Hope Gardens
72. Howard
73. Howard Avenue
74. Howard Avenue Park Place
75. Hughes Apartments
76. Hylan
77. Independence Tower
78. Ingersoll Houses
79. Lafayette
80. Linden Houses
81. Long Island Baptist Houses
82. Low
83. Marcus Garvey
84. Marcy Houses
85. Marcy Avenue-Greene Avenue Site A
86. Marlboro Houses
87. Ocean Hill Apartments

- 88. Ocean Hill Brownsville
- 89. O'Dwyer Gardens
- 90. Park Rock
- 91. Pennsylvania Avenue – Wortman Avenue
- 92. Pink
- 93. Red Hook East
- 94. Red Hook West
- 95. Reid
- 96. Roosevelt Houses I&II
- 97. Saratoga Village
- 98. Sterling Place Rehab (Sterling Buffalo)
- 99. Sterling Place Rehab (St John-Sterling)
- 100. Stuyvesant Gardens I
- 101. Stuyvesant Gardens II
- 102. Sumner
- 103. Surfside Gardens
- 104. Taylor-Wythe
- 105. Tilden
- 106. Tompkins
- 107. Unity Plaza
- 108. Vandalia Ave Houses
- 109. Van Dyke I
- 110. Van Dyke II
- 111. Walt Whitman
- 112. Williams Plaza
- 113. Williamsburg
- 114. Woodson
- 115. Wycoff Gardens

**Manhattan**

- 116. Alfred E. Smith
- 117. Audubon Houses
- 118. Baruch
- 119. Campos
- 120. Carver
- 121. Clinton
- 122. Drew-Hamilton
- 123. Dyckman
- 124. East River
- 125. Fort Washington
- 126. Frederick Douglas
- 127. Gompers
- 128. Grant Houses
- 129. Harlem River
- 130. Hernandez

131. Isaacs Houses
132. Jackie Robinson
133. Jefferson
134. Johnson
135. King Towers
136. Laguardia
137. Lexington
138. Lincoln
139. Manhattanville
140. Marshall Plaza
141. Metro North Plaza
142. Polo Grounds Towers
143. Rangel
144. RIIS I
145. RIIS II
146. Robinson
147. Rutgers Houses
148. Samuel (City)
149. Seward Park Extension
150. Smith
151. St. Nicholas
152. Taft
153. Upaca Site 5
154. Upaca Site 6
155. Vladeck Houses
156. Wagner
157. Wald
158. Washington
159. Washington Heights Rehab
160. White
161. Wilson
162. WSUR Brownstones

**Staten Island**

163. Berry
164. Mariners Harbor
165. Richmond Terrace
166. South Beach, also family day
167. Stapleton
168. Todt Hill
169. West Brighton I
170. West Brighton II

## Queens

171. Astoria
172. Baisley Park
173. Beach 41<sup>st</sup>
174. Bland
175. Carlton Manor
176. Conlon-Lifhe
177. Hammel
178. International Tower
179. Latimer Gardens
180. Leavitt St
181. Oceanside
182. Pomonok
183. Queensbridge N
184. Queensbridge S
185. Ravenswood
186. Redfern
187. Shelton House
188. South Jamaica I
189. South Jamaica II
190. Van Wyck Houses
191. Woodside

# **APPENDIX 8**

**Community stakeholders we met with or spoke to as of 9/30/2019**

1. Bronxworks, Inc.
2. Center for NuLeadership on Urban Solutions
3. Citizens Housing Planning Council
4. Community Voices Heard
5. Community Solutions
6. Families United for Racial and Economic Equality (FUREE)
7. Fifth Avenue Committee
8. Goddard Riverside Community Center
9. Good Old Lower East Side (GOLES)
10. Green City Force
11. Housing Conservation Coordinators
12. Legal Aid Society
13. Mosholu Montefiore Community Center
14. New York City Office to Prevent Gun Violence
15. New York Housing Conference
16. Northwest Bronx Community & Clergy Coalition
17. Ocean Bay Community Development Corporation
18. Public Housing Communities Inc.
19. Red Hook Initiative
20. United Neighborhood Houses
21. Urban Upbound
22. WEACT for Environmental Justice
23. Association for Neighborhood & Housing Development
24. Committee Against Anti-Asian Violence (CAAAV)
25. New York Communities for Change
26. St. Nicks Alliance
27. Woodside on the Move
28. Union Settlement
29. University Settlement
30. The Bronx Christian Fellowship Church
31. Presbyterian Senior Services
32. Brooklyn Neighborhood Services (BNS)
33. Brooklyn Workforce Innovations
34. AHRC New York City
35. Brooklyn Navy Yard
36. Green City Force
37. Urban Upbound
38. Jacob Riis Neighborhood Settlement
39. New York City Police Department (NYPD) Housing Bureau