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The Roof Over Our Heads: The Case For Stronger Enforcement Of New York City's Housing Maintenance Code

Make the Road New York

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Abstract

[Excerpt] New York City's Housing Maintenance Code (the Code) establishes minimum standards for buildings with multiple apartments. Today, the Code contains some of the most progressive laws in the country regulating interior building conditions such as heat, water, light, plumbing, plaster, and rodents. Thanks, in part, to advocacy by Make the Road New York (MRNY) and other tenant organizations and legal service providers, the City’s current Code enforcement system also includes a number of effective enforcement policies. In 2007, the City Council passed the Safe Housing Act, groundbreaking legislation that took a targeted approach to improving the worst living conditions for New Yorkers and authorized the creation of the Alternate Enforcement Program (AEP). Each year, through the AEP, the City’s Department of Housing Preservation and Development (HPD) selects 200 of the city’s most poorly-maintained residential buildings and notifies their landlords that the buildings require wide-scale repairs. If a landlord then fails to make those repairs, HPD may intervene to have the repairs made and recoup the cost of the repairs from the landlord.

Nevertheless, New York City continues to face a housing crisis, with much of its affordable housing stock falling into disrepair and many low-income tenants living in appalling conditions. Without strict mechanisms compelling landlords to adhere to the Code, substandard conditions go uncorrected in many working-class and poor neighborhoods, especially majority Latino and African American areas in the South Bronx, Central Brooklyn, and Upper Manhattan. This means that many tenants continue to live in substandard apartment buildings for far too long.

While the AEP has substantially transformed conditions for many tenants in distressed buildings, the shortage of affordable housing in New York City means that the neighborhoods where landlords allow their buildings to fall into disrepair are often the same neighborhoods experiencing rapid gentrification and high levels of displacement. After hearing reports of landlords taking advantage of the AEP to force low-income tenants out, renovate the apartments and then rent to young professionals willing to pay a significantly higher rent, MRNY conducted a survey of tenants in AEP buildings. MRNY surveyed 85 tenants in AEP buildings in the area surrounding MRNY’s Brooklyn office, surveying tenants from a range of building sizes and covering buildings from all five years of the AEP.

Here, we report the results of those surveys. After five years of the AEP, they provide significant insight into the functioning of the AEP from the perspective of AEP building tenants - both in terms of those aspects of the AEP that function well and should be expanded upon, and those aspects of the AEP that may require improvement. They also point the way towards other enforcement mechanisms that might better preserve New York City’s housing stock and ensure that all tenants live in conditions that are safe, sanitary and comfortable.

This report will demonstrate that there is an intense and ongoing need for the AEP and that it should be expanded in order to increase its impact. MRNY believes, however, that safe and healthy housing conditions should not come at the expense of affordability - in other words, that tenants should be able to expect necessary repairs to be made without being displaced from their homes and communities as a result. MRNY recommends, therefore, that the AEP incorporate additional mechanisms to help prevent tenant displacement. Finally, based on the surveys we conducted, MRNY found that there is some room for
improvement with regards to HPD’s communication with tenants and the quality and extent of repairs. MRNY believes that a series of minor adjustments to the AEP could greatly enhance its effectiveness.

**Keywords**
housing, Alternate Enforcement Program, AEP, housing maintenance, New York City

**Comments**

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EXECUTIVE SUMMARY

New York City's Housing Maintenance Code (the Code) establishes minimum standards for buildings with multiple apartments. Today, the Code contains some of the most progressive laws in the country regulating interior building conditions such as heat, water, light, plumbing, plaster, and rodents. Thanks, in part, to advocacy by Make the Road New York (MRNY) and other tenant organizations and legal service providers, the City's current Code enforcement system also includes a number of effective enforcement policies. In 2007, the City Council passed the Safe Housing Act, groundbreaking legislation that took a targeted approach to improving the worst living conditions for New Yorkers and authorized the creation of the Alternate Enforcement Program (AEP). Each year, through the AEP, the City's Department of Housing Preservation and Development (HPD) selects 200 of the city's most poorly-maintained residential buildings and notifies their landlords that the buildings require wide-scale repairs. If a landlord then fails to make those repairs, HPD may intervene to have the repairs made and recoup the cost of the repairs from the landlord.

Nevertheless, New York City continues to face a housing crisis, with much of its affordable housing stock falling into disrepair and many low-income tenants living in appalling conditions. Without strict mechanisms compelling landlords to adhere to the Code, substandard conditions go uncorrected in many working-class and poor neighborhoods, especially majority Latino and African American areas in the South Bronx, Central Brooklyn, and Upper Manhattan. This means that many tenants continue to live in substandard apartment buildings for far too long.

Before my building was in the AEP program, the electricity was horrible, the pipe-heating would go on and off, we had rodents, and the light fixtures filled up with water, causing leaks. Once, breaking glass injured me. Now, after the AEP, there are new windows, new lighting and an exit sign in the hallway. Within my apartment there are new light bulbs, a refrigerator, and new walls. I would like to point out that the City did the work, not the landlord.

- Laura, a tenant in a large AEP building where she has lived for 30 years

While the AEP has substantially transformed conditions for many tenants in distressed buildings, the shortage of affordable housing in New York City means that the neighborhoods where landlords allow their buildings to fall into disrepair are often the same neighborhoods experiencing rapid gentrification and high levels of displacement. After hearing reports of landlords taking advantage of the AEP to
force low-income tenants out, renovate the apartments and then rent to young professionals willing to pay a significantly higher rent, MRNY conducted a survey of tenants in AEP buildings. MRNY surveyed 85 tenants in AEP buildings in the area surrounding MRNY’s Brooklyn office, surveying tenants from a range of building sizes and covering buildings from all five years of the AEP.

Here, we report the results of those surveys. After five years of the AEP, they provide significant insight into the functioning of the AEP from the perspective of AEP building tenants – both in terms of those aspects of the AEP that function well and should be expanded upon, and those aspects of the AEP that may require improvement. They also point the way towards other enforcement mechanisms that might better preserve New York City’s housing stock and ensure that all tenants live in conditions that are safe, sanitary and comfortable.

It’s a good idea for the City to make sure that landlords are making necessary repairs in the buildings with the worst conditions in New York City. The Alternative Enforcement Program should be expanded to benefit more tenants.

- Gladys Puglla, a tenant in Bushwick and MRNY member

This report will demonstrate that there is an intense and ongoing need for the AEP and that it should be expanded in order to increase its impact. MRNY believes, however, that safe and healthy housing conditions should not come at the expense of affordability - in other words, that tenants should be able to expect necessary repairs to be made without being displaced from their homes and communities as a result. MRNY recommends, therefore, that the AEP incorporate additional mechanisms to help prevent tenant displacement. Finally, based on the surveys we conducted, MRNY found that there is some room for improvement with regards to HPD’s communication with tenants and the quality and extent of repairs. MRNY believes that a series of minor adjustments to the AEP could greatly enhance its effectiveness.

Key Findings
A majority of tenants reported that their building’s physical safety improved due to its participation in the AEP.

Tenants were asked to rate the physical safety of their building before and after the AEP. Most tenants reported that their building’s physical safety was significantly better after the AEP than before.

The top three safety ratings given by tenants before the AEP were 4, 5 and 6 out of a possible score of 10. In contrast, after the AEP, the top three safety ratings tenants gave their buildings were 7, 8 and 9 out of a possible score of 10.
Only one tenant scored their building 9 out of 10 for safety before the AEP, but nine tenants gave their building a 9 after the AEP. Only three tenants scored their building 8 out of 10 for safety before the AEP, but 18 tenants gave their building an 8 after the AEP. These survey results speak to the AEP’s effectiveness at addressing some of the worst problems and most dangerous conditions in these buildings.

Tenants think that the AEP improves conditions in their buildings but not all necessary repairs are made and not all repairs are made properly

Tenants largely found that the AEP was effective in correcting many bad and dangerous conditions in their buildings, and many tenants praised the improvements to their living conditions brought about by the AEP. At the same time, however, a majority of tenants informed us that not all bad conditions were corrected. For example, only 12 out of 85 tenants said that all problems in communal areas were fixed through the AEP.

A significant number of tenants also reported that conditions repaired while their building was in the AEP had re-emerged as problems after the building exited the program. The most commonly reported conditions that were not permanently rectified through the AEP were vermin, leaks, mold, damage to floors, general dirtiness, and lack of heat.

Tenants do not receive enough information about the AEP and HPD’s work in their buildings

76.5% of the tenants we surveyed told us they did not know that their building was part of the AEP. The same number of tenants, 76.5%, did not know what the AEP was. 43.5% of tenants had not heard of HPD.
Tenants also reported a lack of communication with HPD during their building’s participation in the AEP. A worrying 85% of tenants reported that HPD never updated them on progress while their building was in the AEP program. Other tenants reported receiving updates and information from HPD but most reported that those updates came infrequently. Only 5% of tenants reported that they had received monthly updates from HPD while their building was in the AEP.

Tenants in AEP buildings are being displaced and/or facing efforts to displace them

- 23.5% of tenants surveyed said they were asked to leave while their building was in the AEP
- 31.8% of tenants surveyed reported that their landlord had tried to get them to move out
- 38.8% of tenants surveyed told us that other tenants in their buildings had left during the AEP

Of the respondents who gave reasons why other tenants had left, half (9 out of 18 respondents) said they had left because they had been “bought out.” In other words, the landlord had paid them money to vacate their apartments. Other responses included poor conditions/lack of needed repairs and that tenants were asked to leave so that repairs could be made.

For example...
One large building we surveyed is a telling example of tenant displacement and changing demographics. In a building of 33 units, we surveyed 21 of the tenants. 12 of the tenants surveyed told us their landlord had tried to buy them out. All of these tenants who had been asked to leave were Latino tenants who had lived in the building for 10 years or more. In addition, all but one of these long-term tenants reported that many other tenants had left the building during the AEP after accepting buy-outs. In contrast, of the tenants who had not been asked to leave, all but one had lived in the building for under one year, they consistently lived in newly renovated apartments on the top two floors of the building, and were not of the same race, ethnicity or income bracket as the long-term tenants.

Disturbingly, many tenants who reported that other residents of their buildings had left due to landlord buy-outs also told us that the new tenants moving in to replace them were of different races, ethnicity and/or income bracket than the prior residents. The most commonly reported difference between the new tenants and the old tenants was race. Some tenants explicitly stated that “whites” had moved in to replace the old tenants.
We should be clear: this pattern of displacement is not taking place in AEP buildings because of their placement in this program. Gentrification and displacement are taking place in neighborhoods like Bushwick regardless, and the tactics noted above are likely just as common in non-AEP buildings as in AEP buildings. The goal of the AEP, however, should be to maintain affordability and protect the stability of the community even as necessary repairs are made. The success of the AEP program should be measured not only in the number of repairs made and violations corrected, but also in tenants’ ability to stay in their homes and benefit from improved housing conditions over the long term.
RECOMMENDATIONS

To increase the impact of the critical work being done by the AEP:
• The AEP should be expanded to include 40% more buildings.
• The AEP eligibility criteria utilized by HPD should continue to be inclusive of buildings of different sizes.
• The City should develop an alternative system for securing and conducting repairs in small buildings that address the problems experienced by HPD when working with small buildings in the AEP. However, until such a system is implemented, small buildings should remain eligible for the AEP.

To help prevent tenant displacement:
• When a building enters the AEP, HPD should inform all tenants of the following (including providing written information):
  • The basic rights of rent regulated tenants;
  • New York City laws regarding tenant harassment;
  • Nearby legal service providers and tenant advocacy organizations who can advise tenants regarding buy-outs and their rights.
• HPD should develop a mechanism for sharing information about AEP buildings with the Department of Homes and Community Renewal, the state agency responsible for enforcing rent regulation laws in New York, and in particular with its recently-created Tenant Protection Unit.
• HPD should develop a mechanism for sharing information and coordinating with agencies responsible for addressing housing discrimination, including the New York State Attorney General’s Department.
• HPD should regularly update tenants about the progress of repairs in their buildings and should provide a mechanism for tenants to obtain a timeline for repairs in their apartment so that tenants considering landlord buy-outs have information about when they can expect conditions in their building and apartment to improve. (See the following set of recommendations regarding communication with tenants.)
• The City should work with community agencies such as MRNY to find public policy solutions that will deter landlords from harassing AEP tenants and penalize landlords who do engage in harassment to displace rent regulated tenants.

To better engage with and inform tenants:
• HPD should develop a concrete and systematic protocol for communication with all AEP tenants to ensure that its communication with tenants is as effective as possible. This protocol should include a set of practices that must take place in all AEP buildings; these practices should include that:
  • HPD representatives have an in-person meeting with AEP tenants when a building is first selected for the AEP;
  • HPD representatives hold a building-wide tenants’ meeting after a landlord fails to make necessary repairs in an AEP building and before HPD commences their work on the building;
  • Once the landlord fails to make repairs, HPD provides tenants with a projected timeline for repairs;
HPD provides tenants with regular updates regarding the progress of repairs in their buildings;
Tenants should be informed and updated when AEP repairs are taking longer than expected;
HPD should ensure that all information distributed to tenants complies with Executive Order 120 requiring every City agency which has direct interaction with New Yorkers to provide language assistance in the top six languages spoken by New Yorkers.
When a building enters the AEP, all tenants of that building should receive a language-appropriate document that explains the AEP as well as HPD’s protocol for communication with AEP tenants, in other words, what the tenant can expect from HPD in terms of information and updates.
In addition to its current mechanisms to communicate with tenants, HPD should utilize a variety of technological tools and develop new mechanisms to improve communication with tenants. These new mechanisms should be included in the above-mentioned protocol. In particular:
HPD should provide AEP tenants with the option of receiving updates from HPD via text message;
HPD should also be able to receive text messages from AEP tenants;
HPD should create an online tracking system where AEP tenants can create an account and log in to check the status of repairs, see the history of visits, upload photos of outstanding violations, etc.
Each year, HPD should publicly release a list disclosing all landlords with a building in the AEP, identifying landlords with multiple AEP buildings as well as landlords who have failed to repay monies owed to the City for AEP repairs.

To improve the quality and extent of repairs:
- The Housing Maintenance Code should be assessed and updated in order to expand the poor housing conditions addressed and corrected by the AEP.
- After conducting its cellar-to-roof inspection, HPD should consult with AEP tenants regarding the complete list of repairs for the building and consider tenant feedback.
- AEP tenants should have a direct mechanism to alert the HPD staff member responsible for their building of additional violations not already identified by HPD, such as violations that arise after HPD conducts its cellar-to-roof inspection.
- HPD should actively seek tenant feedback shortly after the completion of repairs and then annually for five years after buildings leave the AEP.
- HPD should provide tenants with a direct number they can call to report bad conditions that have re-emerged after being repaired through the AEP. This phone line should utilize the technological tools mentioned above so that, for example, AEP tenants can take photos of bad conditions and send them to HPD via text message.

To create real economic incentives for landlords to comply with the Housing Maintenance Code:
- Create a Repair Enforcement Board
ABOUT MAKE THE ROAD NEW YORK

Make the Road New York (MRNY) is the largest participatory immigrant organization in New York with over 13,000 members. With vibrant community centers in Bushwick, Brooklyn; Jackson Heights, Queens; Port Richmond, Staten Island; and Brentwood, Long Island; MRNY gives voice to thousands of immigrants and working class New Yorkers through community organizing, educates tomorrow's leaders and provides services to support families.

MRNY has two Housing and Environmental Justice committees which meet every week at its Queens and Brooklyn offices to discuss and organize around tenants’ rights and affordable housing. MRNY has a long history of policy work on housing issues that particularly impact low-income tenants. MRNY also has a legal services department which provides extensive housing-related services to low-income tenants every year, including representing tenants facing eviction and illegal lock-outs, as well as assisting tenants to obtain much needed repairs.
BACKGROUND – WHAT IS THE ALTERNATIVE ENFORCEMENT PROGRAM?

New York City's current housing laws stem from an era when the city's poor and immigrant population lived in uninhabitable tenements. While the city's laws and policies have evolved dramatically to keep up with changing housing markets and population needs, working-class and poor immigrant communities continue to face some of the worst housing conditions in the city.

The Department of Housing Preservation and Development (HPD), created in 1987 under Mayor Koch, began as an effort to convert the city's many abandoned buildings into livable housing for new tenants. This is the agency that now monitors the conditions of private-sector housing in New York City and is primarily responsible for ensuring landlords' compliance with New York City's Housing Maintenance Code. The Housing Maintenance Code (the Code) establishes minimum standards for buildings with multiple apartments, known as multiple dwellings. Today, the Code contains some of the most progressive laws in the country regulating interior building conditions such as heat, water, light, plumbing, plaster, and rodents.

The Code classes building violations based on seriousness. Class A violations are non-hazardous violations such as minor leaks or peeling paint. Owners have 90 days to correct such violations after a Notice of Violation is issued by HPD. Class B violations are designated as "hazardous," and include infractions such as front doors that are not self-closing, lack of lighting in a building's hallways or stairways, and vermin infestations. Building owners are given thirty days to repair these violations, and an extra two weeks to certify the violation's removal.

The most serious violations - such as lack of electricity, heat, or hot water, the presence of lead-based paint, and inadequate fire escapes - fall under the Class C, or "immediately hazardous," category. Class C violations must be resolved within 24 hours, and certified within two weeks. If this does not occur, HPD can take corrective action through its Emergency Repair Program (ERP). Under the ERP, the city will correct the Class C violations and then bill the owner for all repairs made. A lien can be placed on the owner's property if they do not resolve the debt within 90 days.

In spite of the City's progressive Code and ERP, without strict mechanisms compelling landlords to adhere to the Code, substandard conditions go uncorrected in many working-class and poor neighborhoods, especially majority Latino and African American areas in the South Bronx, Central Brooklyn, and Upper Manhattan. 

2HPD Online Glossary.
3Inequitable Enforcement.
4Inequitable Enforcement.
MRNY helped lead a successful campaign to pass the Safe Housing Law (Local Law 29). Local Law 29, passed by the City Council in 2007, created the Alternative Enforcement Program (AEP). Each year HPD selects 200 of the city's most poorly-maintained residential buildings to participate in the program and notifies their landlords that the buildings require wide-scale repairs. If a landlord then fails to make those repairs, HPD may intervene to have the repairs made and recoup the cost of those repairs from the landlord.

For several years, MRNY's Housing and Environmental Justice committee worked hard to win passage of the Safe Housing Law and the approval of AEP by the City Council. When this happened, in 2007, it was a huge victory for NYC tenants. Tenants were tired of poor housing conditions and violations which, instead of being repaired in the timeframes required by the Maintenance Code, stayed unrepaired for years. Tenants were tired of landlords whose failure to maintain their buildings put the health of their children and family members in jeopardy. These tenants saw in AEP a legal instrument to pressure those responsible to make needed repairs and to offer apartments free of infestations, mold, lead, leaks, etc.

- Angel Vera, Housing and Environmental Justice Organizer,
  Make the Road New York

The AEP is one of the most recent tools used by the city to hold landlords accountable in these neighborhoods. The goal of the program was to improve the overall quality of housing in New York by imposing stricter penalties on the “worst of the worst” landlords - those with the largest number of hazardous building code violations. Both tenant advocates and the Rent Stabilization Board - a group of landlords and building managers - supported this new enforcement mechanism at the time that it was initially created, making the Safe Housing Law a landmark piece of housing legislation.

The 200 buildings in New York City with the highest number of Class B (“hazardous”) and Class C (“immediately hazardous”) violations, as well as the largest outstanding emergency repair bills, are required by HPD to enroll in the AEP each year, and can only apply to be discharged from the program once all necessary repairs have been made and the owner has paid off all ERP repairs made. Out of the buildings identified to participate in AEP for Fiscal Year 2013, 102 were in Brooklyn, 58 in the Bronx, 24 in Manhattan, 13 in Queens, and 3 on Staten Island. The AEP buildings in Brooklyn were heavily concentrated in the neighborhoods of Bushwick, East New York, Ocean Hill-Brownsville, Flatbush, Bedford Stuyvesant, and Crown Heights - areas with large working-class and poor immigrant populations. Twenty-seven AEP-enrolled buildings - 13.5% of all the AEP buildings

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In New York City - were located in the 37th City Council District alone.\(^9\)

In 2010, MRNY successfully fought alongside other tenant organizations and legal services for the expansion of the AEP to specifically designate asthma triggers, such as mold and vermin, as hazardous conditions requiring repair in order for a landlord to avoid AEP intervention. In January 2011, the City Council passed Local Law 7 to make these changes to the Safe Housing Law.\(^10\) Local Law 7 also expanded AEP to include a greater number of buildings with 20 or more residential units in the group of buildings that are mandated to participate in the program each year.

The City's 2011 Housing and Vacancy Survey, based on data from the 2010 U.S. Census, reported that only 4.3% of renter-occupied apartments in the five boroughs had serious housing maintenance code deficiencies - "one of the lowest levels since these conditions were first measured in 1991."\(^11\) This marked improvement in the overall conditions of New York City's rental units is thanks, in part, to the success of the AEP.

**HPD's 5-Year Evaluation of the AEP**

The Safe Housing Act required HPD to issue an evaluation of AEP's progress after five years of the program's operation. HPD's five-year report tracks the AEP's successes and challenges through the end of 2012. This detailed report examines raw data on the neighborhood distribution of AEP-enrolled apartment buildings, looks at the types of repairs and system replacements that have been made, and measures the funds the city has spent on AEP buildings, as well as the repair bills and fees that have been collected from building owners. A major focus of the report is the AEP's "success," or discharge, rate. This analysis of AEP building discharge rates is broken down by round (program year), building size, foreclosure or tax lien sale status, and annual ERP expenditures. Markers of success that the report examines include: numbers of Class B and C violations corrected; percentages of buildings that are discharged within the first four months and the first year of AEP enrollment; and money that the city has saved by reducing spending on ERP emergency repairs, and recouping outstanding ERP debts from AEP-enrolled landlords.

HPD's five-year evaluation is based on 800 buildings with a total of 7,945 units that had been enrolled in AEP for at least a year of the program, as of January 2012. Examining the results achieved in those buildings, HPD's report finds that "the AEP is working as intended."\(^12\) At the time of the report's publication, an impressive 424 buildings had been discharged from the program and more critically, 67,000

\(^9\) Calculation based on data from Alternative Enforcement Program Building List: January 2013. The 37th District represents the communities of Bushwick, Cypress Hills, East New York, Ocean Hill-Brownsville, City Line, and Wyckoff Heights.


\(^11\) Maintenance deficiencies, as measured in the HVS, included: "additional heating required; heating breakdown; cracks or holes in interior walls; presence of rodents; presence of broken plaster or peeling paint; toilet breakdown; water leakage into unit." Units were considered to have serious violations if 5 of these 7 deficiencies were found. U.S. Bureau of the Census, 2011 New York City Housing and Vacancy Survey.

Class B and C violations had been corrected. HPD had spent $23.5 million making repairs and providing utilities to these 800 buildings, and the City had collected around $20 million in AEP charges and fees from building owners and management companies.

HPD’s five-year report found that owners and managers of small buildings with five or fewer units had a much lower success rate with AEP than landlords of larger buildings, who tended to respond more quickly to AEP’s threats of fines and Orders to Correct. Owners of small buildings have fewer resources in general, which means they have less money to spend on repairs and system replacements as well as payment of open charges and liens. HPD’s report recommends limiting the number of buildings with under six units that can be enrolled in AEP, and finding other alternatives for improving conditions in small buildings, buildings in foreclosure, and distressed buildings. (For further discussion of this proposal, see Analysis section below.)

HPD’s five-year report provides a wealth of information on how the AEP has successfully operated during the last five years. Notably missing from the HPD evaluation, however, are the perspectives and opinions of tenants in AEP buildings. This report helps to fill that gap. Through MRNY’s surveys of AEP tenants, a more nuanced picture of the AEP emerges, revealing a program that is extremely valuable as a mechanism for improving conditions in New York City’s worst buildings; and at the same time, a program that has particular limitations and room for continued improvement.

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13 Of these 424 buildings that were discharged, 216 owners made the necessary corrections within four months and avoided extra fines and inspections, while 116 complied only after HPD Issued them an Order to Correct, mandating extensive repairs and system replacements to correct code violations.

METHODOLOGY

To survey tenants of AEP buildings, MRNY used a randomized sampling approach. We chose a survey sample of 180 units in AEP buildings, using the neighborhoods around our Brooklyn office as our test site. We generated a random selection of AEP buildings in the 34th and 37th districts, within parameters that ensured substantial (though not precisely equivalent) representation of tenants from small, medium and large buildings, and also representation from buildings throughout the last five years of the AEP program. The list of buildings surveyed consisted of a total of 28 buildings, including three large buildings with a total of 66 units, nine medium-sized buildings with a total of 58 units, and 17 small buildings with a total of 57 units – giving a total of 181 units. The list of buildings surveyed is included here in Appendix B.

For the purposes of this study, building size was defined as follows: large buildings contain 10 or more units; medium-sized buildings contain six to nine units; and small buildings contain five units or less. These definitions of small, medium and large buildings were deliberately chosen to be consistent with the categorization of buildings by HPD in its recent report about the AEP.

The geographical area covered by the surveys included buildings in Williamsburg, East New York, Bushwick and Bedford-Stuyvesant, with the vast majority of the buildings surveyed being located in Bushwick.

A standard survey tool was developed (see Appendix A) and survey participants had the option of completing the survey in English or Spanish. All units in the survey sample were visited at least twice, at different times of the day, and many units were visited three times. Units that were clearly vacant (identified by boarded up windows, an appearance of being uninhabited, and/or identification by other tenants as being uninhabited) were not visited more than once.

One limitation to this methodology was that we were unable to survey all tenants in all of the buildings selected – in most cases this was due to tenants being unwilling to participate or tenants not being home on each occasion that we visited.
their building. The remaining cases of units that were not surveyed were units in buildings that were completely vacant. Of the 28 buildings we surveyed, 4 buildings were completely boarded up and vacant, and one other building was observably vacant on the first floor. An additional limitation was that we were only able to conduct the survey in English and Spanish. Consequently, we were not able to obtain surveys from tenants who were not proficient in English or Spanish.

Utilizing this methodology, we were able to collect a total of 85 surveys from AEP tenants, out of a total sample group of 181 units, that is, 47% of our total sample group. We also collected detailed testimonials from a number of the tenants surveyed. Additional interviews were done with tenants in other AEP buildings in Brooklyn as well as the Bronx.
SURVEY RESULTS

To survey tenants of AEP buildings, MRNY used a randomized sampling approach. We chose a survey sample of 180 units in AEP buildings, using the neighborhoods around our Brooklyn office as our test site. We generated a random selection of AEP buildings in the 34th and 37th districts, within parameters that ensured substantial (though not precisely equivalent) representation of tenants from small, medium and large buildings, and also representation from buildings throughout the last five years of the AEP program. The list of buildings surveyed consisted of a total of 28 buildings, including three large buildings with a total of 66 units, nine medium-sized buildings with a total of 58 units, and 17 small buildings with a total of 57 units — giving a total of 181 units. The list of buildings surveyed is included here in Appendix B.

For the purposes of this study, building size was defined as follows: large buildings contain 10 or more units; medium-sized buildings contain six to nine units; and small buildings contain five units or less. These definitions of small, medium and large buildings were deliberately chosen to be consistent with the categorization of buildings by HPD in its recent report about the AEP.

The geographical area covered by the surveys included buildings in Williamsburg, East New York, Bushwick and Bedford-Stuyvesant, with the vast majority of the buildings surveyed being located in Bushwick.

A standard survey tool was developed (see Appendix A) and survey participants had the option of completing the survey in English or Spanish. All units in the survey sample were visited at least twice, at different times of the day, and many units were visited three times. Units that were clearly vacant (identified by boarded up windows, an appearance of being uninhabited, and/or identification by other tenants as being uninhabited) were not visited more than once.

One limitation to this methodology was that we were unable to survey all tenants in all of the buildings selected — in most cases this was due to tenants being unwilling to participate or tenants not being home on each occasion that we visited their building. The remaining cases of units that were not surveyed were units in buildings that were completely vacant. Of the 28 buildings we surveyed, 4 buildings were completely boarded up and vacant, and one other building was observably vacant on the first floor. An additional limitation was that we were only able to conduct the survey in English and Spanish. Consequently, we were not able to obtain surveys from tenants who were not proficient in English or Spanish.
Utilizing this methodology, we were able to collect a total of 85 surveys from AEP tenants, out of a total sample group of 181 units, that is, 47% of our total sample group. We also collected detailed testimonials from a number of the tenants surveyed. Additional interviews were done with tenants in other AEP buildings in Brooklyn as well as the Bronx.

Survey Results

Who did we survey?
As noted in the above methodology, our sample group of buildings for these surveys was designed to include a relatively even mix of units from small, medium and large-sized buildings. However, we were not able to collect surveys from all units in all of the buildings in our sample group. Of the 85 surveys we collected, the breakdown by building size was as follows:

![Figure 1: Apartments surveyed by building size](image)

Tenants participating in the survey were asked how long they had been living in their apartment:

![Figure 2: Length of tenancy](image)
Tenants participating in the survey were also asked about their rent regulated status. Of the 85 respondents, 35.3% identified as being the tenant of a rent regulated apartment. In other words, 30 of the tenants were either living in a rent stabilized or rent controlled apartment. Those tenants have a guaranteed right to renew their leases and, when they do renew, their rent increases are regulated. The rest of the respondents said that they were not rent-regulated tenants or they did not know.

What did participants know about the AEP?
76.5% of the tenants we surveyed (and one building superintendent!) told us they did not know that their building was part of the AEP. The same number of tenants, 76.5%, did not know what the AEP was. 44.5% of tenants had not heard of HPD. The difference between these two numbers and further conversations with the tenants surveyed indicate that some tenants may have been familiar with the program and HPD’s involvement in the building, even if they did not know the name of the Alternative Enforcement Program.

Tenants also reported a lack of communication with HPD during their building’s participation in the AEP. A worrying 85% of tenants reported that HPD never updated them on progress while their building was in the AEP program. Other tenants reported receiving updates and information from HPD but most reported that those updates came infrequently. Only 5% of tenants reported that they had received monthly updates from HPD while their building was in the AEP.

![Figure 3](image)

What are the most common problems in AEP buildings?
Tenants in our surveys reported a wide range of conditions that needed to be repaired before their buildings entered the AEP. More than half (51.8%) reported that problems included bad conditions in their individual apartments as well as bad conditions in the communal areas of the building.
The ten conditions most commonly reported by tenants were:

- Holes or cracks in walls
- Rats/Mice
- Leaks
- Old paint
- Damaged ceilings
- Mold
- Broken entry to building
- Damaged floors
- Broken windows
- No heat

A majority of tenants (61.2%) reported three or more bad conditions existing in their apartments and buildings before the AEP.

Do tenants think the AEP is effective?
Tenants were asked to rate the physical safety of their building before and after the AEP. The majority of tenants reported that their building’s physical safety improved due to its participation in the AEP.

The top three safety ratings given by tenants before the AEP were 4, 5 and 6 out of a possible score of 10. In contrast, after the AEP, the top three safety ratings tenants gave their buildings were 7, 8 and 9 out of a possible score of 10.

Only one tenant scored their building 9 out of 10 for safety before the AEP, but nine tenants gave their building a 9 after the AEP. Only three tenants scored their building 8 out of 10 for safety before the AEP, but 18 tenants gave their building an 8 after the AEP. These survey results speak to the AEP’s effectiveness at addressing some of the worst problems and most dangerous conditions in these buildings.
Tenants largely found that the AEP was effective in correcting many bad and dangerous conditions in their buildings, and many tenants praised the improvements to their living conditions brought about by the AEP. At the same time, however, a majority of tenants informed us that not all bad conditions were corrected. Only 12 out of 85 tenants said that all problems in communal areas were fixed through the AEP.

A significant number of tenants also reported that conditions that had been repaired while their building was in the AEP had re-emerged as problems after the building exited the program. Some of the problems mentioned by multiple tenants that were not permanently rectified through the AEP were: vermin, leaks, mold, damage to floors, general dirtiness, and lack of heat.

Testimonial evidence received from AEP tenants indicated that on many occasions, bad conditions that negatively impact tenants are not actually violations under the Code and therefore were not corrected through the AEP. This may lead tenants to believe that the AEP had not fixed all the violations when, in fact, the poor housing conditions were not violations under the law in the first place (for example, faulty or missing window locks and latches would not constitute a violation and missing light-fitting covers are also not a violation). This should be addressed in the Housing Code itself. With an updated and expanded Housing Code, additional problems would be addressed and corrected by the AEP.

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**Figure 6**

*Tenant assessment of effectiveness of AEP repair process*

- **Yes, all the problems were repaired**: 26%, 13%
- **Most of the problems were fixed but not all**: 21%, 19%, 18%
- **Just a few problems were fixed**: 38%, 14%
- **No, nothing was repaired**: 28%, 27%

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**Are tenants being displaced from AEP buildings?**

Our survey asked tenants to respond to a series of questions about displacement of tenants from their buildings, both during and after the AEP. Tenants were asked about their own experiences and about their observations of other tenants and units in their buildings.
None of the tenants we surveyed reported that they had been displaced for a substantial period of time due to AEP repairs. Only three of the tenants we surveyed reported that they left their building while AEP repairs were being conducted and two of those tenants reported that they were out of their apartments for less than a week. A further 20% reported that they were asked to leave while their building was in the AEP but they refused. The majority of tenants (63.5%) said that they were not asked to leave their apartments during their building’s time in the AEP.

However, when asked if their landlord had tried to get them to move out, 31.8% of tenants surveyed said yes. In addition, 38.8% of the tenants we surveyed told us that other tenants in their buildings had left during the AEP. When asked to identify how many tenants had left during the AEP, responses ranged from 1 to 15 tenants. About a quarter of respondents (25.9%) were unsure whether other tenants had left their building during the AEP. Another quarter (25.9%) told us that no tenants in their building had moved out while the building was in the AEP.

Of the respondents who gave reasons why other tenants had left, half (9 out of 18 respondents) said they had left because they had been “bought out.” In other words, the landlord had paid them money to vacate their apartments. Other responses included poor conditions/lack of needed repairs and that tenants were asked to leave so that repairs could be made.

Disturbingly, many tenants who reported that other residents of their buildings had left due to landlord buy-outs also told us that the new tenants moving in to replace them are of different races, ethnicity and/or income bracket than the prior residents. The most commonly reported difference between the new tenants and the old tenants was race. Some tenants explicitly stated that “whites” had moved in to replace the old tenants.

When we conducted our surveys, about a third of the respondents (34.1%) told us that there was at least one apartment vacant in their buildings at that time. 38.8% of tenants were not sure about vacancies in their buildings or did not respond to that question on the survey. Only 27.1% of survey respondents stated with certainty that there were no vacancies in their buildings. Based on the observations of staff and volunteers conducting our surveys, our survey sample included four completely vacant buildings (out of 28 sample buildings) and a total of 25 vacant units. In other words, at least 13.8% of the units in our survey sample were vacant at the time we conducted our surveys.

Participants were asked about their own experiences with landlords pressuring them to move out and buy-outs. 31.8% of tenants surveyed told us that their landlord had tried to get them to move out of their building. Of those respondents, the majority (55.6%) told us that their landlord had offered them money to move out of their apartments. Here, it should be noted that buy-outs overwhelmingly affect rent-regulated tenants. This is because tenants without any rent regulated
status can simply be evicted at the end of their lease term without cause, whereas tenants in rent-regulated apartments are entitled to receive a renewal lease at the end of each lease term. In situations where a rent regulated tenant is fully compliant with their lease and the law, a buy-out is one of the only ways that a landlord can get that tenant to leave the apartment in order to rent it to a new tenant who will pay a higher rent.
ANALYSIS

The survey data collected by MRNY and the testimonials of AEP tenants and tenant advocates who chose to speak in-depth about their experiences with the AEP reveal a program that is functioning well but that should be strengthened in some areas. Overall, the AEP is proving to be a very effective tool to improve housing conditions for tenants in distressed buildings who, without HPD intervention, would probably not experience any relief. Because the program has been successful in achieving this goal, MRNY believes it should be expanded to assist more New York City tenants. At the same time, however, feedback from tenants and tenant advocates indicates that HPD’s mechanisms to communicate and consult with tenants - and to provide them with information during the program - are not effective enough. The program does not always achieve complete success in making repairs, with some repairs not being addressed and other problems that are corrected re-emerging after a short period of time. Furthermore, there is evidence that unscrupulous landlords may be taking advantage of the AEP to displace low-income, rent-regulated tenants, and MRNY believes that the AEP should incorporate additional safeguards to help tenants stay in their homes and benefit from the improved conditions that result from the AEP.

The AEP has helped thousands and thousands of tenants in the City. They have felt that their health and their safety has improved, thanks to the fact that their homes have been repaired, whether by the landlord or by HPD. This protection should be expanded to include all homes with violations that threaten the well-being of people who live there.

- Angel Vera

The Alternative Enforcement Program Is Highly Effective at Making Repairs and Should Be Expanded

As discussed above, New York City landlords are not automatically penalized when Code violations are found in their buildings and, therefore, many fail to make needed repairs. As a result, prior to the introduction of the AEP, many tenants in the City’s poorest neighborhoods endured unsafe and unsanitary housing conditions for years and many tenants were living in highly distressed buildings with large numbers of uncorrected violations. The AEP has brought much-needed relief to a large number of these tenants. As reported by HPD, in the five years since it began, the AEP has led to the correction of over 67,000 hazardous violations in 800 of New York City’s most neglected buildings. HPD has spent $23.5 million making repairs and providing utilities to these 800 buildings. The City has also been successful in collecting around $20 million in AEP charges and fees from building owners and management companies.
In December 2010 a report of the New York City Independent Budget Office (IBO) revealed that the AEP is successful in motivating landlords to repair violations before the City intervenes to make the repairs. Then, the IBO reported that landlords had made repairs to correct 76% of the violations in AEP buildings.15

This success was corroborated in our surveys. The vast majority of tenants we surveyed reported that the physical safety of their buildings had improved due to the AEP. The vast majority of tenants reported that at least some of the repairs needed in their apartments and buildings were completed through the AEP. Some tenants told us that all of the bad conditions in their apartments and public areas of their building were fully corrected through the AEP. When asked to provide just three words to describe the AEP, a number of tenants we surveyed gave overwhelmingly positive descriptions such as: “effective, innovative, excellent;” “help, safety, better;” and “excellent, satisfied.”

While many tenants like these have been greatly assisted through the AEP, there are still many more tenants throughout the City who continue to live in sub-standard, even dangerous, conditions and many living in distressed buildings with high numbers of violations. The City should expand the AEP to encompass more buildings each year. As this is done, however, it is integral to maintain a strong balance between large and smaller buildings so that all New York City tenants can benefit from this critical program, regardless of the size of their building.

I am grateful because my building entered into the Alternative Enforcement Program three years ago. The owner and HPD have made a number of repairs.

- María Cortes, a tenant in a medium-sized AEP building in Brooklyn where she has lived for 21 years

As noted above, HPD’s own 5-year report on the AEP identifies a number of problems with the participation of small buildings in the AEP, in particular due to financial distress and foreclosures. MRNY’s experience with AEP tenants and our survey data both confirm HPD’s assessment that working with smaller buildings represents additional challenges. MRNY believes, however, that the fact that the owners of small buildings have fewer resources to make repairs is precisely why it is so important that the City ensure that these buildings receive much-needed repairs. Tenants who live in small buildings face some of the worst remaining

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housing conditions in New York City. These poor conditions often affect tenants' health as well as their overall quality of life, such as in Bushwick, where community members face asthma rates that are four times higher than the city's average.

HPD raises legitimate concerns regarding small buildings remaining in the program for multiple years, in particular small buildings that are in financial distress. Accordingly, HPD has proposed that these buildings be taken out of the AEP and that their owners be provided with incentives such as loans and tax credits that are conditioned on repairs being made as strategy for bringing these buildings up to Code. Based on the findings of our own surveys and on HPD's experiences, MRNY supports HPD's argument that the AEP is not the best program for small buildings in financial distress and that a new system should be created for addressing Code enforcement in those buildings. However, until there is implementation of a new system that is better-adapted to the particular circumstances of small buildings, it is essential that tenants of small buildings continue to receive assistance through the AEP. We therefore recommend that the City work on implementing a specially-adapted system for securing and conducting repairs in small buildings in distress, but that, pending the implementation of that system all small buildings continue to be eligible for and assisted through the AEP.

Overall, the AEP is clearly an innovative and effective tool in the fight for better conditions for New York City tenants and as such, it should be expanded so that it can achieve its full potential.

**HPD Should Improve Its Mechanisms to Communicate with AEP tenants**

> [M]any tenants do not know their buildings are in the AEP. From their perspective, an unknown contractor comes in, makes minimal repairs that the landlord should have been made weeks if not months ago, and then leaves.

- Jonathan Furlong, Assistant Director for Community Organizing, Pratt Area Community Council, Brooklyn

By far, the problem most commonly reported by the AEP tenants we surveyed was their lack of communication with HPD, and the lack of information they received about the AEP and the work being done in their buildings. This finding in our surveys was corroborated by tenant advocates at other organizations. HPD has
systems for communicating with AEP tenants but they are not always effective at ensuring that AEP tenants are properly informed of HPD’s intervention in their building. Many AEP tenants report not knowing that their building is or was in the AEP; or if they do know, they report not being informed as to its progress in the program. Many tenants in AEP buildings reported waiting a long time for repairs and not knowing if or when those repairs would ever be made. It is the nature of the AEP selection criteria that AEP tenants are living in chronically distressed buildings that have been in this state for many years. While it is therefore understandable that these buildings cannot be repaired instantly, AEP tenants require clear and regular communication from HPD to give them some hope that conditions in their building will, indeed, improve. More effective communication with tenants could also reduce the rate at which AEP tenants leave their buildings because they find the conditions intolerable (see discussion of Tenant Displacement below). Tenants who are aware of a clear plan to improve conditions in their building are more likely to remain, rather than moving out because of the poor conditions and lack of repairs.

I have hardly had any contact with HPD in the last few years. I should say that finally, today, city inspectors came in to check on my apartment and began repairs. I don’t know who called them. I really don’t know much about the AEP but it could have done a much better job at helping people like me.
- Alejandra, a tenant in a large AEP building where she has lived for over 15 years

Better communication with AEP tenants would also improve the operation of the AEP. AEP tenants could be an important source of information for HPD regarding developments in their buildings, including information about new conditions arising during the program that need repair, poorly made repairs, and re-emergent bad conditions. This would, in turn, help to improve the quality of AEP repairs and the extent to which AEP buildings are comprehensively repaired in a lasting way.

The AEP Should Ensure that All Required Repairs Are Made at a High Quality and that Bad Conditions Do Not Recur

During the five years of the program, I have met with satisfied tenants whose apartments have been repaired and I have seen units with improvements made thanks to the program. I have also met semi-satisfied tenants who had benefited from repairs, but because the repairs were not done properly, the same problems they had before came back.
- Angel Vera

While thousands of tenants have undoubtedly benefited from repairs made through the AEP, many of the tenants we surveyed told us that the repairs done through the program were not of a high quality. Many also reported that, as a result, bad
conditions rectified through the AEP returned soon after. AEP tenants who have lived with deplorable housing conditions, often for years, are often deeply disappointed or frustrated that when they finally see conditions improve, only to find soon after that the bad conditions re-emerge due to inadequate repairs. Furthermore, it is not an effective use of city resources to expend monies on repairs that have to be re-made soon afterwards, especially when not all monies expended by the city are ultimately recouped from landlords by HPD.\(^\text{17}\)

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**HPD fixed the radiators and the kitchen floor and the landlord did about half of the other needed repairs. While some things are better, still not all of the repairs have been completed and many of the repairs they did were not done properly.**

- María Cortes, a tenant in a medium-sized AEP building in Brooklyn

**My building has broken pipes. In the common areas, the staircases and doors are broken and deteriorated. Also, I had no heat during the winter. With the AEP program, these problems are currently being fixed but at a very slow pace. I believe the AEP is definitely a help but so far it’s been too slow.**

- Carmen, a tenant in a medium-sized AEP building in Brooklyn

**HPD Should Do More to Protect Low-Income Tenants in AEP Buildings from Displacement**

**The landlord has tried to get tenants to move out. He has tried to kick me out of my apartment by putting signs on my door or giving them to my kids. Two tenants from the third floor have already moved out.**

- Jose, a tenant in a small AEP building in Brooklyn

As discussed above, our surveys with AEP tenants revealed that some unscrupulous landlords are taking advantage of the AEP to displace low-income tenants in order to renovate their rent-regulated apartments and rent them at much higher rates, completely de-regulating the apartments in some cases. Many tenants reported that they had been pressured to accept buy-outs and that their neighbors had been bought out of their apartments. Our surveyors observed that many AEP buildings contained a mix of un-renovated units - occupied by low-income tenants of color - and fully renovated units - occupied by wealthier young professionals.

The landlord preferred not to have any problems and took the easy way out by selling the building, which was then demolished. Because the property was sold, people were forced to leave and, with the new building came younger, white and wealthier tenants. Before, the majority of tenants were African-Americans. Most of the current tenants have been here less than a year and a half.

- Paul, a superintendent in a medium-sized AEP building in Brooklyn

Displacement of low-income tenants - who are often people of color - is a commonly observed trend in gentrifying neighborhoods around the City. Tenants who have lived in rent regulated apartments in low-income communities for many years find themselves forced out through a range of tactics such as landlord harassment, pressure from landlords to take buy-outs, landlords failing to make repairs, and sometimes as a result of their own declining economic situation and inability to pay rent.

A common complaint we heard from AEP tenants was that real repairs to their building took too long under the AEP, or that when repairs were made, they were poorly made and the bad conditions came back. Not only is this dangerous, unsanitary and uncomfortable for tenants, it also contributes to displacement in low-income communities when tenants get tired of living in terrible conditions and give up their rent regulated apartments. Once rent-regulated tenants leave, landlords often renovate units that had previously gone without repairs for many years and then rent those units to tenants who are willing and able to pay much higher rents, often wealthier young professionals who change the character of the neighborhood.

We should be clear: this pattern of displacement is not taking place in AEP buildings because of their placement in this program. Gentrification and displacement are
taking place in neighborhoods like Bushwick regardless, and the tactics noted above are likely just as common in non-AEP buildings as in AEP buildings. The goal of the AEP, however, should be to maintain affordability and protect the stability of the community even as necessary repairs are made. The success of the AEP program should be measured not only in the number of repairs made and violations corrected, but also in tenants’ ability to stay in their homes and benefit from improved housing conditions.

For example...

One large building we surveyed is a telling example of tenant displacement and changing demographics. In a building of 33 units, we surveyed 21 of the tenants. 12 of the tenants surveyed told us their landlord had tried to buy them out. All of these tenants who had been asked to leave were Latino tenants who had lived in the building for 10 years or more. In addition, all but one of these long term tenants reported that many other tenants had left the building during the AEP after taking buy-outs. In contrast of the tenants who had not been asked to leave, all but one had lived in the building for under one year, they consistently lived in newly renovated apartments on the top two floors of the building, and were not of the same race, ethnicity or income bracket as the long-term tenants.

It is critical, therefore, that the AEP protect itself from becoming yet another tool that landlords can take advantage of in order to displace low-income tenants. When working with AEP buildings, HPD should take innovative and creative steps to ensure that landlords cannot use the AEP to displace tenants with impunity. Strategies to minimize tenant displacement could include providing tenants with clearer information about the progress of repairs in their buildings so they are less likely to feel forced to take landlord buy-outs; increased contact with AEP tenants (as suggested above) to also inform tenants of their rights as rent-regulated tenants and the laws against landlord harassment; and greater collaboration with state agencies, such as the Department of Housing and Community Renewal (and in particular its recently created Tenant Protection Unit).

Many landlords have not done anything to ensure that the program benefits tenants; on the contrary, and especially with new landlords, they are harassing tenants, mostly immigrant tenants, letting their apartments fall into disrepair, and denying services, causing tenants to finally get tired of the situation and give up and move.

- Angel Vera

Based on the results of our research and our survey results, MRNY believes that there is an intense and ongoing need for the AEP and that it should be expanded in order to increase its impact. However, MRNY also believes that safe and healthy housing conditions should not come at the expense of affordability - in other words, that tenants should be able to expect necessary repairs to be made
without being displaced from their homes and communities as a result. MRNY recommends, therefore, that the AEP incorporate mechanisms to help prevent tenant displacement. Finally, based on the surveys we conducted, MRNY found that there is some room for improvement with regards to communication with tenants and the quality and extent of repairs. MRNY believes that a series of minor adjustments to the program could greatly enhance its effectiveness.
OTHER POLICY ALTERNATIVES – REPAIR ENFORCEMENT BOARD

New York City continues to face a housing crisis, with much of its affordable housing stock falling into disrepair and many low-income tenants suffering terrible living conditions. Even with programs like the AEP in place, landlords in New York City who violate the Housing Maintenance Code do not face immediate fines, even for the most hazardous violations. According to the City’s own analysis, it is hemorrhaging taxpayer money on existing repairs programs, with landlords owing the City over $65.3 million as of December 2012 for repairs and fees billed from 2008 through 2012. This means that many tenants continue to live in substandard apartment buildings for far too long. As discussed above, this is not only dangerous, unsanitary and uncomfortable for New York City tenants— it also contributes to tenant displacement in low-income communities.

Currently, making needed repairs is not usually good business sense for landlords with rent-regulated tenants. Owners and managers who do not make repairs suffer few economic or other penalties and therefore have little incentive to make repairs. In May 2013, the New York City Independent Budget Office reported that of the 480,000 violations that HPD issued in 2011, only 11% of were corrected by deadline. For the worst repairs and buildings, the repairs may be made by HPD through either the ERP or the AEP, and the cost then recouped from the landlord. But this only happens in a minority of cases where tenants need repairs, to correct the most serious types of code violations. The majority of landlords avoid making necessary repairs with impunity. For a landlord with rent-regulated tenants, it therefore makes greater business sense not to fix code violations, because at worst all they risk is eventually having to pay for repairs made by HPD’s contractors. For most landlords here is no additional financial penalty.

This report has shown that, although programs like the AEP are working towards improving this situation, much more is needed to improve conditions for New York City tenants. The City needs to implement immediate and forceful incentives that drive landlords to make repairs, even when their tenants are paying lower rents. One solution to this problem is a Repair Enforcement Board—a alternative tool that has been advanced by New York tenant advocates for some years. Set up as an administrative tribunal with the power to fine landlords on-the-spot for Housing Maintenance Code violations, a Repair Enforcement Board would more effectively keep the apartments of New York tenants safe and habitable by giving landlords a forceful and immediate financial incentive to make timely repairs.
Models for more stringent housing code enforcement already exist in other U.S. cities. In Los Angeles, tenants can contact the Code Enforcement Division of the Los Angeles Housing Department (LAHD) by phone, online, or in person, to file complaints regarding unaddressed repairs. LAHD officials also inspect all apartment buildings on a regular basis—once every five years—and can issue fines if violations are found at the time of inspection. If code violations are found, the building’s owner has 30 days to repair the violation, or less time if a violation is considered very serious. If the landlord fails to make the necessary repairs within this time period, they are summoned to an administrative hearing, and may have their case forwarded to the Office of the City Attorney as a criminal complaint.\(^2\)

San Francisco’s Housing Inspection Services also utilizes a code enforcement process that includes stringent fees and criminal complaints. In this case, when Notices of Violation are not fulfilled, a San Francisco housing inspector issues a citation to the owner or agent managing an apartment or hotel building, and the landlord must pay the fine immediately or appear before a San Francisco Municipal Court. This tool is used in more serious or chronic cases of code violations. Failure to provide heat in residential buildings can result in a misdemeanor with fines up to $1,000, and other infractions can result in fines of $360.90 per violation, up to a total of $7,500 in fines per building. All fines are payable to the San Francisco Municipal Court.\(^2\)

There is also a model analogous to a Repair Enforcement Board that already operates in New York City: the Environmental Control Board (ECB). The ECB, a division of New York City’s Office of Administrative Trials and Hearings, processes and conducts hearings for disputed fines and tickets from a variety of city departments and agencies. These include the Department of Buildings, Department of Sanitation, and Department of Transportation, amongst several others. The ECB functions as an administrative tribunal for New York residents who owe civil fines due to city code violations. Residents can pay fines issued by city agencies directly to the ECB, or they can contest their Notice of Violation at an ECB hearing, either pro se or with a lawyer or other representative present.\(^2\) Currently, however, violations issued by HPD are not processed by the ECB in any way, and do not involve immediate fines.

HPD already has a telephone hotline, available via 311, for tenants to file complaints related to housing maintenance code violations. When tenants call this hotline, a complaint is recorded and a HPD building inspector later visits the site and can issue a Notice of Violation if they find that the reported violations (or any other code violations) do exist. This process lacks teeth, however, because Notices of Violation issued by HPD are not tied to fines or any other immediate consequences
Introducing immediate fines for Code violations that could be paid or challenged at an administrative tribunal (a Repair Enforcement Board) would drastically strengthen the City's Code enforcement.

The Association for Neighborhood and Housing Development, Inc. (ANHD) and New York City's former Public Advocate, Betsy Glaubaum, have proposed an administrative tribunal model for a Repair Enforcement Board that would allow HPD to impose, docket, and enforce civil penalties for housing violations. Under this model, HPD would commence issuing fines along with Notices of Violation, with fine amounts determined by the number of code violations and severity of the threat these hazards pose to tenants. These fines could then be paid directly to HPD, or appealed at the Repair Enforcement Board. To ensure even greater efficacy, this complaint process should also be supplemented by regular DHPD inspections of buildings enrolled in the AEP, as well as all other buildings with outstanding Class B and C violations, or high numbers of outstanding violations of any Class.

Since 1997, Chicago has used a municipal code enforcement model that operates similarly to New York's ECB, but also covers housing code violations. In this model, many types of municipal code violations are adjudicated through the city's Department of Administrative Hearings. Reviews of the program note that this approach has helped streamline municipal code enforcement overall and was at one point considered a model example for other cities. However, Chicago tenant advocates argue that the Administrative Hearings are not a fully effective forum for resolving serious housing code violations as the Chicago Housing Court, because they still lack the serious penalties, such as criminal convictions or threats/orders to vacate.

It is therefore critical that a Repair Enforcement Board in New York City also be equipped with the power to order landlords to correct violations (with consequences for non-compliance) along with the power to imposed and collect fines. To this end, strengthening the recourses currently available to tenants who want to sue their landlords in housing court is similarly critical. The Repair Enforcement Board, as it has been proposed by ANHD and others, would offer an administrative alternative to Housing Court that takes some of the burden off of individual tenants, but it would not replace or weaken Housing Court as an avenue.
through which tenants can obtain repairs. Rather, the two could complement one another and give tenants and the City a larger range of options for holding landlords accountable.

To develop robust and effective Code enforcement, New York City must implement a range of enforcement mechanisms that (1) provide strong incentives for landlords to voluntarily make repairs; that (2) heavily penalize those landlords who do not comply with the Code, and that (3) ensure that tenants with non-compliant landlords are not forced to endure dangerous and unsanitary conditions. Currently, programs like the AEP and ERP go some way to achieving the third of these characteristics, by making repairs for tenants with non-compliant landlords. But these programs do not go far enough, and this report has examined how the AEP in particular should be expanded to assist more tenants with fewer delays. Incentives for voluntary compliance and penalties for non-compliance, however, are not currently part of the City’s enforcement strategy at all. The introduction of a Repair Enforcement Board would change that, creating strong economic incentives for landlords to comply with the Housing Maintenance Code by immediately penalizing landlords who violate it. With the power to order landlords to make repairs, a Repair Enforcement Board would also create an effective avenue for tenants with non-compliant landlords to quickly and judiciously enforce their right to safe and well-maintained housing.
RECOMMENDATIONS

To increase the impact of the critical work being done by the AEP:
- The AEP should be expanded to include 40% more buildings.
- The AEP eligibility criteria utilized by HPD should continue to be inclusive of buildings of different sizes.
- The City should develop an alternative system for securing and conducting repairs in small buildings that address the problems experienced by HPD when working with small buildings in the AEP. However, until such a system is implemented, small buildings should remain eligible for the AEP.

To help prevent tenant displacement:
- When a building enters the AEP, HPD should inform all tenants of the following (including providing written information):
  - The basic rights of rent regulated tenants;
  - New York City laws regarding tenant harassment;
  - Nearby legal service providers and tenant advocacy organizations who can advise tenants regarding buy-outs and their rights.
- HPD should develop a mechanism for sharing information about AEP buildings with the Department of Homes and Community Renewal, the state agency responsible for enforcing rent regulation laws in New York, and in particular with its recently-created Tenant Protection Unit.
- HPD should develop a mechanism for sharing information and coordinating with agencies responsible for addressing housing discrimination, including the New York State Attorney General’s Department.
- HPD should regularly update tenants about the progress of repairs in their buildings and should provide a mechanism for tenants to obtain a timeline for repairs in their apartment so that tenants considering landlord buy-outs have information about when they can expect conditions in their building and apartment to improve. (See the following set of recommendations regarding communication with tenants.)
- The City should work with community agencies such as MRNY to find public policy solutions that will deter landlords from harassing AEP tenants and penalize landlords who do engage in harassment to displace rent regulated tenants.

To better engage with and inform tenants:
- HPD should develop a concrete and systematic protocol for communication with all AEP tenants to ensure that its communication with tenants is as effective as possible. This protocol should include a set of practices that must take place in all AEP buildings; these practices should include that:
  - HPD representatives have an in-person meeting with AEP tenants when a building is first selected for the AEP;
  - HPD representatives hold a building-wide tenants’ meeting after a landlord fails to make necessary repairs in an AEP building and before HPD commences their work on the building;
- Once the landlord fails to make repairs, HPD provides tenants with a projected timeline for repairs;
- HPD provides tenants with regular updates regarding the progress of repairs in their buildings;
- Tenants should be informed and updated when AEP repairs are taking longer than expected;
- HPD should ensure that all information distributed to tenants complies with Executive Order 120 requiring every City agency which has direct interaction with New Yorkers to provide language assistance in the top six languages spoken by New Yorkers.
- When a building enters the AEP, all tenants of that building should receive a language-appropriate document that explains the AEP as well as HPD’s protocol for communication with AEP tenants, in other words, what the tenant can expect from HPD in terms of information and updates.
- In addition to its current mechanisms to communicate with tenants, HPD should utilize a variety of technological tools and develop new mechanisms to improve communication with tenants. These new mechanisms should be included in the above-mentioned protocol. In particular:
  - HPD should provide AEP tenants with the option of receiving updates from HPD via text message;
  - HPD should also be able to receive text messages from AEP tenants;
  - HPD should create an online tracking system where AEP tenants can create an account and log in to check the status of repairs, see the history of visits, upload photos of outstanding violations, etc.
  - Each year, HPD should publicly release a list disclosing all landlords with a building in the AEP, identifying landlords with multiple AEP buildings as well as landlords who have failed to repay monies owed to the City for AEP repairs.

To improve the quality and extent of repairs:
- The Housing Maintenance Code should be assessed and updated in order to expand the poor housing conditions addressed and corrected by the AEP.
- After conducting its cellar-to-roof inspection, HPD should consult with AEP tenants regarding the complete list of repairs for the building and consider tenant feedback.
- AEP tenants should have a direct mechanism to alert the HPD staff member responsible for their building of additional violations not already identified by HPD, such as violations that arise after HPD conducts its cellar-to-roof inspection.
- HPD should actively seek tenant feedback shortly after the completion of repairs and then annually for five years after buildings leave the AEP.
- HPD should provide tenants with a direct number they can call to report bad conditions that have re-emerged after being repaired through the AEP. This phone line should utilize the technological tools mentioned above so that, for example, AEP tenants can take photos of bad conditions and send them to HPD via text message.

To create real economic incentives for landlords to comply with the Housing Maintenance Code:
- Create a Repair Enforcement Board
Survey

Please read the Survey Instructions carefully before you start!

Make sure the address at the top is correct!

Section 1 – Tenant Information:

1. How long have you lived in this building?
   - ☐ Less than 1 year ☐ 1-3 years ☐ 3-5 years ☐ 5-10 years
   - ☐ 10-20 years ☐ More than 20 years

2. Are you rent stabilized/rent controlled?
   - ☐ Yes ☐ No ☐ I don’t know

Section 2 – Informing Tenants

3. Do you know what the Department of Housing Preservation and Development (HPD) is?
   - ☐ Yes ☐ No

4. Do you know what the Alternative Enforcement Program (“AEP”) is?
   - ☐ Yes ☐ No

If no, tell participant:

“The Alternative Enforcement Program was started by HPD in 2008 to force landlords to make major repairs. Every year, HPD chooses 200 apartment buildings with the worst housing code violations. If the owners refuse to make the repairs, HPD will make them and charge the bill to the owners.”
5. Did you know your building was in the AEP program?
- Yes
- No

6. If yes, when did you find out?
- 2008
- 2009
- 2010
- 2011
- 2012
- 2013

7. While your building was in the AEP program how often did HPD update you about what was happening with the building?
- Weekly
- Monthly
- Every 6 months
- Yearly
- Every 2 years
- Never

Section 3 – Before and After the AEP Program

8. Before your building entered the AEP program were there bad conditions in:
   - Your apartment
     - Yes
     - No
   - Communal areas (hallways, etc.)
     - Yes
     - No
   - Building structure
     - Yes
     - No
9. If yes to any of 8, what kinds of problems were there?

- Leaks
- Broken windows
- Holes or cracks in walls
- Damaged ceilings
- Mold
- Damaged floors
- Damaged floor coverings
- Old paint
- No heat
- No hot water
- Broken radiators
- Rats/Mice
- Bed Bugs
- Gas leaks
- Broken stove/oven
- Broken lighting
- Debris
- Faulty electric
- Broken plumbing/faucets
- Broken front door
- Broken entry to building
- Elevator didn't work
- Damage to stairways
- Damaged mailboxes
- Dangerous conditions — describe _____________________________________________
- Other _________________________________________________________________

10. After your building entered the AEP program were these problems solved in:

a. Your apartment
   - Yes, all the problems were repaired
   - No, nothing was repaired
   - Most of the problems were fixed but not all
   - Just a few problems were fixed

b. Communal areas e.g. hallways
   - Yes, all the problems were repaired
   - No, nothing was repaired
   - Most of the problems were fixed but not all
   - Just a few problems were fixed

c. Building structure
   - Yes, all the problems were repaired
   - No, nothing was repaired
   - Most of the problems were fixed but not all
   - Just a few problems were fixed
11. Were there any problems fixed during the AEP program that have come back again?
   - Yes
   - No

   What kind of problems?

   ___________________________________________________________
   ___________________________________________________________

12. Rate the physical safety of your building before it entered the AEP program on a scale of 1 to 10 (circle one):

   1  2  3  4  5  6  7  8  9  10
   1 = very unsafe   10 = very safe

13. Rate the physical safety of your building after the AEP program on a scale of 1 to 10 (circle one):

   1  2  3  4  5  6  7  8  9  10
   1 = very unsafe   10 = very safe

**Section 4 – Tenant Displacement**

14. Were you asked to leave while your building was in the AEP program?
   - Yes, I left
   - Yes, but I didn't leave
   - No, I wasn't asked to leave
15. If you left the building, how long were you out of the building?
   - Less than 1 week
   - 1 week to 1 month
   - 1 to 3 months
   - 3 to 6 months
   - 6 months to 1 year
   - More than 1 year

16. Did some tenants move out of your building during the AEP program?
   - Yes
   - No
   - I don’t know
   How many?________________________________________
   Why?______________________________________________

17. Have new tenants moved in to replace them?
   - Yes
   - No
   - I don’t know

18. If yes to 17, are the new tenants a different:
   - race
     - Yes
     - No
     - I don’t know
   - ethnicity
     - Yes
     - No
     - I don’t know
   - income bracket
     - Yes
     - No
     - I don’t know

19. How many vacant apartments are there in the building now?
   - There are ____ vacant apartments.
   - I don’t know
20. Has your landlord tried to get you to move out?
   □ Yes    □ No

21. Has your landlord offered you money to leave your apartment?
   □ Yes    □ No

Section 5 – Overall Impressions

22. Give us 3 words that describe your experience of being in the AEP program:

   ___________________________  ___________________________  ___________________________

23. Tell us more if you’d like.

   ___________________________
   ___________________________
   ___________________________
   ___________________________

Participant Name: ___________________________ Phone Number ___________________________
### APPENDIX B – LIST OF BUILDINGS SURVEYED

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<th>YEAR IN AEP</th>
<th>BOROUGH</th>
<th>#</th>
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