

**Underlying Conditions Program
Coordinator**

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**New York City
Department of Housing Preservation
and Development**

**Office of Preservation Services/
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See FAQs Inside

This pamphlet contains frequently asked questions for owners concerning the Underlying Conditions program and is provided for your convenience only. For complete information, consult the law and applicable rules.



August 2013

FAQ – Underlying Conditions (English)

The New York City Department of Housing Preservation and Development (HPD), Division of Code Enforcement, is responsible for enforcing the New York City Housing Maintenance Code and the New York State Multiple Dwelling Law.

For more information or to learn more about the New York City Department of Housing Preservation and Development please visit our website www.nyc.gov/hpd or call the City's Customer Service Center at 311.

www.nyc.gov/hpd



For New York City Information Call 311

FAQs
Frequently Asked
Questions

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FAQs

Frequently Asked Questions

WHAT IS THE PURPOSE OF LOCAL LAW 6 OF 2013?

LL6 allows HPD to issue orders that require residential building owners to correct underlying conditions that have caused, or are causing, a violation of the Housing Maintenance Code, or of other relevant State and local laws.

WHAT BUILDINGS MIGHT BE SUBJECT TO LL6?

The rules target buildings that have recurring violations caused by infrastructure problems. The LL6 criteria are intended to focus on buildings that have recurring water leak and mold violations where owners have failed to address the impaired building system that is causing those violations.

ARE ALL RESIDENTIAL BUILDINGS SUBJECT TO LL6?

HPD will not issue orders to one- or two-family buildings, or to certain buildings that are subject to other enforcement actions by HPD, or that may be the subject of a loan from HPD.

HOW MANY BUILDINGS WILL BE TARGETED EACH YEAR?

HPD expects to identify and issue these orders to approximately 50 buildings per year, prioritizing based on the number of apartments affected and the number and severity of violations.

WHAT MAY CAUSE A BUILDING TO BE SELECTED FOR LL6?

(1) A building with a Class B or Class C violation on record related to the existence of mold or water leaks that was issued by HPD within the prior year preceding issuance of the order that has not been properly certified as corrected by the owner, or that was corrected by the

Department; and such building;

- (i) Contains three to five dwelling units and at least 50% of such units have one such violation;
- (ii) Contains six to nine dwelling units and at least 25% of such units have one such violation; or
- (iii) Contains ten dwelling units or more and at least 15% of such units have one such violation.

(2) HPD will prioritize selection of buildings meeting the criteria above first by those buildings with the highest total number of Class C violations relating to the existence of mold or water leaks, followed by those buildings with the highest total number of both Class C and Class B violations relating to the existence of mold or water leaks.

WHAT CIRCUMSTANCES MAY EXCLUDE A BUILDING FROM LL6?

HPD may exclude a building if it otherwise meets the criteria above but is:

- (1) A one- or two-family building;
- (2) ALREADY subject to an Alternative Enforcement Program (AEP) Order to Correct, or to the appointment of a 7A administrator
- (3) Subject to Comprehensive Litigation action by HPD;
- (4) Conveyed to a new owner after an *in rem* judgment of foreclosure in favor of NYC in the Third Party Transfer Program within the last five years; or
- (5) The subject of a preservation loan made by HPD or the NYC Housing Development Corporation within the last two years.

HOW LONG DOES THE OWNER HAVE TO COMPLY AND CAN AN OWNER GET AN EXTENSION?

An owner must comply with a LL6 Order within four months of the issuance of the Order, or with HPD's approval, within an additional two months, and submit the documentation required.

To request a two month extension, an owner must submit the following documentation to HPD within two months of issuance of such Order:

- (1) An affidavit from a NYS-licensed professional engineer (PE) or registered architect (RA) in a form approved by HPD, identifying the Underlying Condition that is the source of the mold or water leak; and
- (2) An affidavit from the owner of the building in a form approved by HPD stating that the Underlying Condition and related violations will be corrected, describing the work that will be performed to correct such Underlying Condition and violations, and stating that the work will be completed within the extended time period.

HOW DOES THE OWNER GET A RESCISSION OF LL6?

HPD will grant a rescission if an owner submits a Request for Rescission.

If there are no Underlying Conditions:

(i) An owner must submit an affidavit from a NYS-licensed professional engineer (PE) or registered architect (RA) in a form approved by HPD stating that there are no Underlying Conditions that are causing the mold and water leak violations; and

(ii) An owner must submit a completed dismissal request form.

If Underlying Conditions and related violations have been repaired:

(i) An owner must submit an affidavit from a NYS-licensed PE or RA in a form approved by HPD identifying the Underlying Condition that was the source of the mold or water leak violations, stating that the Underlying Condition and related violations were properly repaired, and identifying who repaired the Underlying Condition and related violations; and

(ii) An owner must submit a completed dismissal request form, and HPD inspectors must find that at least 80% of the mold and water leak violations have been repaired

HPD MAY ALSO RESCIND AN ORDER FOR THE FOLLOWING REASONS:

- 1. A 7A administrator had been appointed

for the building, and this fact became known to HPD after issuance of the Underlying Conditions Order;

- 2. A preservation loan was closed by HPD or HDC during the four- or six-month period for compliance with the Underlying Conditions Order;
- 3. HPD completed the repair work required under the Underlying Conditions Order;
- 4. HPD selected the building for participation in the AEP Program during the four- or six-month period for compliance with the Underlying Conditions Order; or
- 5. The Order was issued to a building that should have been excluded

WHAT ARE THE PENALTIES ASSOCIATED WITH AN UNDERLYING CONDITIONS ORDER?

If an owner fails to comply with an Order within the required time period, HPD may initiate Comprehensive Litigation in Housing Court. HPD may seek a civil penalty of \$1,000. for each dwelling unit subject to LL6, with a penalty of no less than \$5,000. HPD may also hire a contractor to make the repairs and will bill the owner. HPD is subject to laws that may make such work significantly more expensive than it would cost the owner if he/she performed or contracted for the work. All costs incurred by HPD that remain unpaid by the owner will result in a lien placed upon the building and lot. The City will bill the property owner through the Department of Finance for the cost of the emergency repair plus related fees and/or for the cost of sending a contractor to attempt to make the repairs. If the owner fails to pay, the City will file a tax lien against the property. The lien will bear interest and may be sold and/or foreclosed to collect the amount owed.

WHO CAN I CONTACT IF MY PROPERTY IS IN THE UNDERLYING CONDITIONS PROGRAM AND I HAVE QUESTIONS?

You should contact a Program Coordinator at 212-863-8865.