

REPORT TO THE CITY COUNCIL

This report was prepared by the Department of Housing Preservation and Development (HPD) in accordance with Administrative Code section 26-2503. The report describes the audits of certifications of corrections for the period from July 1, 2019 to June 30, 2020.

Local Law 117 of 2019

Pursuant to Local Law 117 of 2019, no later than March 31 annually, HPD must describe the findings of the audits of certifications of corrections performed in the previous year. HPD must audit no fewer than 15 percent of all certifications of correction of class C violations filed with the agency. The audit includes, at minimum, an inspection to ensure that the violating conditions cited in the notice of violation have been corrected. This report includes the following:

1. The total number of audits conducted;
2. The percentage of certifications of correction audited;
3. The percentage of audited certifications of correction found to have been false;
4. For audited certifications of correction found to have been false, the total amount of civil penalties collected and, if applicable, the number of additional sanctions imposed, disaggregated by type; and
5. For buildings where an audited certification of correction is found to have been false in the reporting period, whether a certification of correction filed for such building has been audited by the department in the previous five years, and whether such audit or audits resulted in a finding or findings of false certification.

HPD has exceeded the minimum requirements for audits, attempting audits for 49% of certified immediately hazardous violations (class C) and completing audits for 36% of certified immediately hazardous violations.

Certification of Correction

HPD is responsible for enforcing State and City laws and codes relating to housing quality and safety, issuing violations of the New York State Multiple Dwelling Law and New York City Housing Maintenance Code (HMC). The HMC has three classes of code violations: non-hazardous (class A), hazardous (class B) and immediately hazardous (class C). The HMC provides the timeline for correction and the certification of correction of all violations.

Class C immediately hazardous violations, include conditions that range from lead-based paint hazards, missing or defective window guards, mold, mice/cockroaches, rats, and inadequate heat and hot water, to conditions like missing signage required to inform where the key to the boiler room is located.

In all cases, except related to heat and hot water violations, service is considered completed 5 days from the mailing of the Notice of Violation. For heat and hot water violations, service is completed at the time of the inspection because the violation is posted at the building. Within the violation classification, some class C violations have a correction period of 21 days (lead-based paint, window guards, mold, mice and roaches). All other class C violations must be corrected within 24 hours of certified mail service. The Notice of Violation is mailed to the owner or the managing agent who is registered with HPD.

Once a violation is corrected, it is the property owner's responsibility to notify HPD through a Certification of Correction. The certification must be made in writing, under oath by the registered owner, or agent and can be submitted through eCertification¹ or by completing the violation documents and returning to the appropriate HPD borough office. In FY20, HPD issued 149,714 class C violations. Of the class C violations issued, 38% (57,069) resulted in a filed Certification of Correction.

Once HPD receives a proper and complete certification, a notice is generated to the tenant indicating that the owner has submitted a certification to the agency that the condition was corrected. The notice provides the tenant with the option to challenge this certification; the tenant may do so by phone or by mailing a response to HPD. HPD records these tenant challenges and attempts to schedule an appointment with the tenant to reinspect that certification. In all other cases where no challenge is received, HPD may audit such submissions. From July 1, 2019 to June 30, 2020, HPD attempted to conduct 28,044 (49%) Certificate of Correction audits of class C violations and successfully completed 20,525 (36% of total certifications) audits. Note that the decrease in these percentages as compared to FY19 was primarily due to the reduction in inspections and the focus on complaint inspections due to the COVID-19 Pandemic.

A violation is deemed corrected seventy days from the date of receipt by HPD of such certification unless a re-inspection made within such period finds that the violation still has not been corrected. HPD must record such determination upon its records and notify the person who executed the certification by registered or certified mail to the address stated in the certification that it has been set aside and the reasons therefore; a copy of such notice is sent to the complainant.

If a violation is not properly corrected, it is then considered to be falsely certified. The violation remains open and becomes a potential case for HPD to initiate in housing court. Generally, cases are generated in housing court when there are five or more falsely

¹ Lead-based paint violations and mold violations cannot be eCertified.

certified class B or class C violations on a particular building.² A person willfully making a false certification of correction of a violation is subject to a civil penalty of not less than fifty dollars nor more than two hundred fifty dollars for each violation falsely certified, in addition to the other penalties provided in the HMC for failure to correct the violation. The number of audited class C Certifications of Correction found to be false for this reporting period is 6,267 (31%). A total of 79 false certification cases have been initiated which included FY19 violations. The amount of penalties collected related to these cases is \$37,965.

Buildings which had at least one false certification in this period, (1,383 buildings) also had at least one false certification in the previous five years (FY2014-2019). On average, each building in this group had approximately 4 class C false certifications over a five-year period which is less than one false certification per year.

² *Note that Housing Court was open in a limited capacity for much of the year, impacting the number of false certification cases initiated during the period (during this time only emergency cases were heard and fewer cases were scheduled for hearings) and the amount of penalties collected.*

STATISTICAL SECTION: This statistical section reflects activity related to immediately hazardous (class C) violations only.

Activity Period	FY20
1. The total number of audits conducted	57,069
The total number of certified violations where HPD attempted a reinspection	28,044
The total number of certified violations where HPD completed a reinspection	20,525
2. The percentage of certifications audited;	
The percentage of certified violations where HPD attempted a reinspection	49%
The percentage of certified violations where HPD completed a reinspection	36%
3. The percentage of audited certifications of correction found to have been false	31%
4. For audited certifications of correction found to have been false the total amount of civil penalties collected and, if applicable the number of additional sanctions imposed, disaggregated	\$37,965
5. For buildings where an audited certification of correction is found to have been false in the reporting period whether a certification of correction filed for such building has been audited by the department in the previous five years and, whether such audit or audits resulted in a finding or finding of false certification	1,383