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**New York State Office of the State Comptroller**  
Thomas P. DiNapoli

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Division of State Government Accountability

# **Vacancies at the Clinton Towers Mitchell-Lama Housing Development**

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

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Report 2017-N-1

December 2017

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# Executive Summary

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## Purpose

The objective of this audit was to determine whether vacant housing units at the Clinton Towers Mitchell-Lama housing development were being rented in a timely manner. Our audit focused on the period January 1, 2012 through March 31, 2017.

## Background

The Mitchell-Lama Housing Program was created in 1955 to provide affordable rental and cooperative housing to middle-income families. The New York City Department of Housing Preservation and Development (HPD) is the nation's largest municipal housing preservation and development agency. Its mission is to promote the construction and preservation of affordable, high-quality housing for low- and moderate-income families in thriving and diverse neighborhoods in every borough. HPD accomplishes its mission by enforcing housing quality standards, financing affordable housing development and preservation, and ensuring sound management of the City's affordable housing stock. In New York City, there are 94 HPD-supervised Mitchell-Lama rental and limited-equity cooperative developments with approximately 44,000 total units (apartments).

Clinton Towers, a Mitchell-Lama rental development in Manhattan, is owned by Clinton Towers Housing Company, Inc., which was formed in 1972 for the purpose of constructing, owning, and operating the 396-apartment development. Clinton Towers was completed and occupancy commenced in 1973. The development is managed by P&L Management and Consulting (P&L). Prospective tenants file an application and their names are placed on a waiting list based on the size of the apartment the applicant requested. When vacancies occur, applicants should be offered and awarded apartments in the order their names appear on the lists - subject to HPD's approval.

## Key Findings

- Vacant apartments at Clinton Towers were often not rented in a timely manner. We found that for the period January 2012 through March 2017, an average of 13 apartments each month had been vacant for over 60 days, resulting in an estimated \$740,000 in lost rental revenue.
- On March 31, 2017, 15 apartments at Clinton Towers had been vacant for more than 60 days, even though there were over 9,000 applicants on the external waiting lists, resulting in approximately \$78,000 in lost rental revenue. Eleven of these apartments were vacant for more than six months, including three that had been vacant for more than a year.
- HPD is not adequately monitoring vacancies at Clinton Towers.

## Key Recommendations

- Implement policies and procedures for staff to follow when conducting audits or reviews of housing company operations, including processes for monitoring and taking corrective action on extended vacancies.
- Formally establish and clearly communicate the timeframe for housing companies to fill vacancies.
- Obtain and review quarterly vacancy reports from Clinton Towers to ensure that vacancies are

filled within the established timeframe.

- Follow up on the long-standing vacancies identified in this audit report and ensure they are filled promptly.

### **Other Related Audits/Reports of Interest**

[New York City Department of Housing Preservation and Development: The Mitchell-Lama Program - Awarding Housing Units and Maintaining Waiting Lists \(2014-N-3\)](#)

[New York City Department of Housing Preservation and Development: The Mitchell-Lama Program - Awarding Housing Units and Maintaining Waiting Lists \(2016-F-25\)](#)

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**State of New York  
Office of the State Comptroller**

**Division of State Government Accountability**

December 8, 2017

Ms. Maria Torres-Springer  
Commissioner  
New York City Department of Housing Preservation and Development  
100 Gold Street  
New York, NY 10038

Dear Commissioner Torres-Springer:

The Office of the State Comptroller is committed to providing accountability for tax dollars spent to support government-funded services and operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report entitled *Vacancies at the Clinton Towers Mitchell-Lama Housing Development*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, and Article III of the General Municipal Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller  
Division of State Government Accountability*

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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It has become increasingly difficult for New York City residents to find affordable housing. As of 2015, the U.S. Census Bureau estimated that more than half of New York City renters exceeded the U.S. Department of Housing and Urban Development's "home affordability threshold" of 30 percent of income spent on housing costs. Moreover, about 600,000 households in the City spend more than half of their income on rent.

The Mitchell-Lama Housing Program was created in 1955 to provide affordable rental and cooperative (co-op) housing to middle-income families. The New York City Department of Housing Preservation and Development (HPD) is the nation's largest municipal housing preservation and development agency. Its mission is to promote the construction and preservation of affordable, high-quality housing for low- and moderate-income families in thriving and diverse neighborhoods in every borough. HPD's mission is accomplished by enforcing housing quality standards, financing affordable housing development and preservation, and ensuring sound management of the City's affordable housing stock. In New York City, there are 94 HPD-supervised Mitchell-Lama rental and limited-equity cooperative developments with approximately 44,000 total units (apartments).

Clinton Towers, a federally subsidized Mitchell-Lama rental development in Manhattan, is owned by Clinton Towers Housing Company, Inc., which was formed in 1972 for the purpose of constructing, owning, and operating the 396-apartment development. Clinton Towers was completed and occupancy commenced in 1973. The development is managed by P&L Management and Consulting (P&L). Prospective tenants file an application and their names are placed on a waiting list based on the size of the apartment requested. When vacancies occur, applicants should be offered and awarded apartments in the order their names appear on the lists - subject to HPD's approval. Apartments in Mitchell-Lama developments tend to be very desirable because of their affordability; consequently, the waiting lists for these apartments can be quite lengthy. At the time of our audit, there were over 9,000 applicants on the waiting lists for apartments at Clinton Towers.

The Rules of the City of New York (Rules) set forth the criteria for management of HPD-supervised Mitchell-Lama developments. However, the Rules do not address the timeframe in which vacant apartments must be filled. HPD officials told us they had not established such timeframes.

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## Audit Findings and Recommendations

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We found that Clinton Towers often did not fill vacant apartments in a timely manner. According to documentation provided by Clinton Towers, for the period January 2012 through March 2017, there was an average of 13 apartments each month that had been vacant for more than 60 days. As a result, we estimate that Clinton Towers lost more than \$740,000 in potential rental income during this period. This estimate excludes any potential revenue loss for the first 60 days that apartments were vacant.

In addition, on March 31, 2017, we reviewed vacancy reports and determined that 15 apartments at Clinton Towers had been vacant for more than 60 days, even though there were over 9,000 applicants on the development's waiting lists. We estimated that the 15 vacancies would have resulted in approximately \$78,000 in lost rental revenue. This estimate excludes any potential revenue loss for the first 60 days apartments were vacant. When apartments remain vacant, individuals and families on waiting lists may be prevented from obtaining affordable housing and may be forced to seek alternative and possibly more expensive housing. In addition, current tenants may be subject to rent increases in order to make up the potential lost rental revenue.

We conclude that HPD needs to formally establish and clearly communicate a timeframe for housing companies to fill vacancies. In addition, HPD needs to strengthen its monitoring of Clinton Towers to ensure that vacant housing units are rented in a timely manner.

### Historical Vacancies at Clinton Towers

We found that HPD did not have guidelines for the length of time apartments should remain vacant before they are rented. However, a previous Office of the State Comptroller audit of the New York State Division of Housing and Community Renewal (DHCR) examined vacancies at selected DHCR-supervised New York City Mitchell-Lama developments (*Vacancies at Selected Mitchell-Lama Housing Developments*, Report 2008-S-122). This audit found that DHCR had defined 60 days as a reasonable period of time in which to fill a vacancy. Moreover, DHCR's current Regulations<sup>1</sup> state that vacancies should be filled promptly. Without a formal HPD criteria, we used 60 days as a benchmark and calculated lost rental revenue at Clinton Towers after an apartment had been vacant for 60 days.

P&L, Clinton Towers' managing agent, prepares a monthly vacancy report identifying which apartments are vacant. This report includes the number of days each apartment has been vacant and the associated lost rental revenue on each apartment for the month. We reviewed these reports for the period January 2012 through March 2017 and found, on average, there were 13 apartments each month that were vacant for more than 60 days. This resulted in an estimated \$740,000 in lost rental revenue - the calculation of lost rental revenue does not include the first 60 days that an apartment was vacant. We noted that, in April 2016, HPD approved an 11 percent rent increase at Clinton Towers. Had the development filled the identified vacancies more

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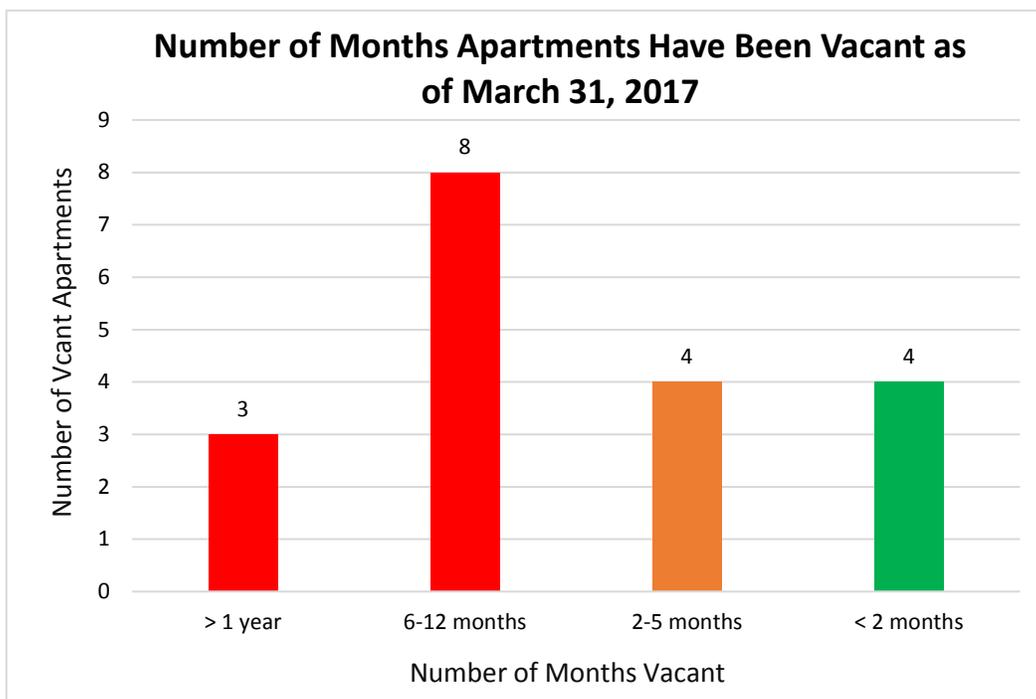
<sup>1</sup> Title 9, Part 1727-1.5 of New York Codes, Rules, and Regulations

promptly, additional funds would have been available to potentially offset or mitigate the amount of the rent increase.

In responding to our audit findings, HPD officials agreed to take steps to strengthen its monitoring of vacancies. However, officials asserted that the percentage of vacant apartments during our review period averaged around 4 percent - a rate they further asserted is comparable to the city-wide housing vacancy rate.

## Current Vacancies at Clinton Towers

According to information provided by Clinton Towers' property manager on March 31, 2017, there were 19 vacant apartments at Clinton Towers. Fifteen of these apartments were vacant for more than 60 days - some for more than one year (see graph below as well as the Exhibit at the end of this report). We focused our review on these 15 apartments.



Using base rent only, we estimate that, as of March 31, 2017, Clinton Towers lost approximately \$78,000 in rental revenue as a result of the 15 long-standing vacancies. This estimate excludes the first 60 days an apartment was vacant. Moreover, the estimate does not reflect additional income that may have been received from a variety of sources, including households with income that exceeds established requirements, garage rentals, etc.

We interviewed the property manager and the superintendent at Clinton Towers to determine the reasons for the long-standing vacancies. The following explanations were provided for the four apartments with the longest vacancies:

- **Apartment #1** - A one-bedroom apartment with a base rent of \$741 became vacant in November 2015. As of March 31, 2017, this apartment had been vacant for more than 16 months, even though there were more than 420 applicants on the one-bedroom waiting list. Officials at Clinton Towers stated that they showed this apartment to applicants on many occasions. However, since applicants are typically shown two apartments at a time, this apartment, which is considered undesirable because it is located on a lower floor near the trash pickup area, was not selected. Clinton Towers officials were unable to provide documentation to show which applicants, if any, were offered, but did not accept, this apartment.
- **Apartment #2** - A two-bedroom apartment with a base rent of \$815 became vacant in January 2016. As of March 31, 2017, this apartment had been vacant for more than 14 months despite there being more than 2,800 applicants on the two-bedroom waiting list. Clinton Towers officials explained that the apartment needed renovations. However, according to documentation provided to the auditors, the renovations did not begin until April 2016 - three months after the apartment became vacant. Officials were unable to explain why it took so long to begin the renovations. According to the documentation provided by Clinton Towers, this apartment was ready to be offered to applicants in June 2016. Clinton Towers officials stated that they offered this apartment to many applicants. However, similar to Apartment #1 above, applicants are typically shown two units at a time. This apartment, which is located on a lower floor, was declined in favor of better situated apartments (i.e., apartments on a higher floor or with a balcony). Again, officials at Clinton Towers were unable to provide documentation indicating the applicants who were offered, but did not accept, this apartment.
- **Apartment #3** - A three-bedroom apartment with a terrace and a base rent of \$963 became vacant in February 2016. As of March 31, 2017, this apartment had been vacant for more than 13 months. Officials at Clinton Towers provided documentation to show that the apartment was offered to an internal transfer applicant six months later - in August 2016. However, in September, HPD rejected the applicant's transfer application because the tenant did not have the correct family composition for the apartment's size. There was no documentation to support why this apartment was not offered prior to August 2016, or why it was not offered to the other two Clinton Towers residents on the three-bedroom internal transfer list or to the approximately 1,175 applicants on the external three-bedroom waiting list, some of whom have been waiting since 1995.
- **Apartment #4** - A three-bedroom apartment with a terrace and a base rent of \$963 became vacant in April 2016. As of March 31, 2017, this apartment had been vacant for almost one year. Clinton Towers officials explained that the apartment needed to be renovated by an outside contractor. However, according to available documentation, the renovations did not begin until August 2016 - four months after the apartment became vacant. Moreover, records indicate this apartment was ready to be offered to applicants in November 2016. Also as of March 31, 2017, Clinton Towers officials had not offered this apartment to either of the two applicants on the internal transfer list or any of the approximately 1,175 applicants on the external three-bedroom waiting list.

For the other apartments that were vacant for over 60 days, Clinton Towers officials indicated the main reasons for the lengthy vacancy period was the undesirability of the apartments or the need to have the apartments renovated. Moreover, there was a change in the development's property manager. The current property manager explained that she was assigned to Clinton Towers in September 2016 following the sudden resignation of the previous manager. This property manager stated she found the development's records in disarray. She added that, in addition to her overall management of the building, she needed to determine which applicant was next in line on the various waiting lists, as well as implement a system to ensure that apartments are offered in the order applicants appeared on the waiting lists. The property manager explained that Clinton Towers has several types of waiting lists for each bedroom size. These include an internal list for current residents seeking a transfer, an in-area list which provides preference to applicants already residing in "Manhattan Community Board 4" where Clinton Towers is located, an out-of-area external list, and an out-of-area veteran's preference list. She explained that while she had submitted some internal transfer applications to HPD for approval in late December 2016, it took her until March 2017 to become comfortable offering apartments to applicants on the external waiting lists.

Clinton Towers officials assert that their practice of offering applicants a choice of two apartments results in the less favorable apartment not being selected and thus remaining vacant for an extended period. We note the Rules<sup>2</sup> state that if an applicant is offered an apartment and refuses, the housing company may remove the applicant from the waiting list. However, a housing company can, but is not required to, offer applicants additional apartments. As Clinton Towers has more than 9,000 applicants on its external waiting lists – many of whom could be in great need of affordable housing – it is likely that these reportedly "less desirable" apartments would be acceptable to many applicants. The current practice appears to result in the underutilization of much-needed affordable housing, along with the resulting loss of rental income to the development. When we discussed this issue with HPD officials, they indicated that as long as the development is consistent in its treatment of applicants, they allow developments to exercise some discretion in this regard.

## HPD's Oversight

We attribute our findings, in part, to the need for increased oversight by HPD. The Rules require housing companies to send a quarterly vacancy report to HPD. Further, an HPD memorandum dated January 10, 2012 required Mitchell-Lama developments to submit monthly vacancy reports. We met with HPD officials to discuss their role in monitoring the vacancies at Clinton Towers and asked for their copies of the vacancy reports submitted by the management at Clinton Towers. HPD officials assert that they did not have copies of the vacancy reports. Officials added that, in lieu of the vacancy reports, monthly rent rolls are received from the management at Clinton Towers. Although the monthly rent rolls list vacant apartments, they do not specify how long an apartment has been vacant. However, we noted that the vacancy reports Clinton Towers officials are now preparing, but had not yet sent to HPD, list the number of days apartments were vacant.

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<sup>2</sup> Title 28, Chapter 3-02(j) of the Rules of the City of New York

We also asked HPD officials what they did with the rent rolls they received, and what steps they took to monitor and follow up on vacancies identified in those rent rolls. The HPD property manager responsible for Clinton Towers explained that he highlights long-standing vacancies listed on the rent rolls and then gives copies of the rolls to his managers. The HPD property manager added that he may question officials at Clinton Towers about long-standing vacancies. However, he could not provide documentation to support this statement. HPD provided us with three handwritten reports prepared by the HPD property manager. These reports, which were based on the HPD property manager's site visits to Clinton Towers in March 2016, August 2016, and January 2017, listed the total number of vacancies for the respective month. However, the reports generally did not identify specific vacant apartments and the length of time the apartments were vacant. Moreover, HPD officials were unable to provide any documentation of further follow-ups or actions taken regarding the identified vacancies. We recommend HPD implement policies and procedures for staff to follow when conducting audits or reviews of housing company operations, including processes for monitoring and taking corrective action on extended vacancies.

In response to our findings, HPD sent a memorandum on June 23, 2017 to all HPD-supervised Mitchell-Lama developments reinforcing their expectations regarding reporting and compliance with the Rules. The memorandum, among other things, requires developments to provide HPD with a quarterly vacancy report and includes a template. The template includes the date each apartment became vacant. The memorandum also states that, for all apartments that were vacant for more than 120 days, an explanation for the continued vacancy must be provided as well as a plan to resolve the issue. According to HPD officials, the 120-day timeframe reflects their experience in preparing an apartment, particularly after a long-standing occupant vacates. Officials added that the 120-day timeframe also allows for multiple outreaches to locate interested and eligible applicants. For co-ops, it allows time for applicants to acquire the purchase price. While HPD officials state 120 days is the timeframe in which housing companies are required to fill vacancies, this is not directly stated in the memorandum. We recommend that HPD formally establish and more clearly communicate a timeframe for housing companies to fill vacant apartments.

We also recommend that HPD strengthen its monitoring of Clinton Towers to ensure that vacancies are, in fact, filled within the established timeframes. As identified in this audit report, there was a lack of compliance with HPD's previously issued 2012 memorandum and with the Rules. The memorandum required developments to submit monthly vacancy reports, while the Rules require the submission of quarterly vacancy reports. When asked, HPD could not provide Clinton Towers vacancy reports for the last five-year period.

Clinton Towers has over 9,000 applicants on its external waiting lists, many of whom have been waiting for lengthy periods and could be in great need of affordable housing. HPD needs to ensure that Clinton Towers is filling vacancies in a timely manner so that applicants are provided an opportunity for affordable housing, and the development could limit any related loss of rental revenue.

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## Recommendations

1. Implement policies and procedures for staff to follow when conducting audits or reviews of housing company operations, including processes for monitoring and acting on extended vacancies.
2. Formally establish and clearly communicate a timeframe for housing companies to fill vacant units.
3. Obtain and review quarterly vacancy reports from Clinton Towers to ensure that vacancies are filled within the established timeframe.
4. Follow up on the specific long-standing vacancies identified in this report and ensure that they are filled promptly.

## Audit Scope, Objective, and Methodology

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The objective of our audit was to determine whether vacant units at Clinton Towers were being rented in a timely manner. Our audit period was January 1, 2012 through March 31, 2017.

To accomplish our objective and assess related internal controls, we reviewed the vacancies at Clinton Towers as of March 31, 2017 and reviewed prior month vacancies dating back to January 2012. We observed vacant units, interviewed P&L's property manager and Clinton Towers' building superintendent regarding their efforts to fill vacant units, and met with HPD officials regarding their oversight and monitoring of vacancies. We also reviewed rent rolls provided by HPD, vacancy reports provided by P&L, and supporting documentation at Clinton Towers, such as waiting lists, apartment move-out checklists to corroborate vacancy dates, and work orders for units that officials said were vacant due to construction or renovation work.

We conducted our performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

As is our practice, we notified HPD officials at the outset of the audit that we would be requesting a representation letter in which agency management provides assurances, to the best of its knowledge, concerning the relevance, accuracy, and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. Agency officials normally use the representation letter to assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. They affirm either that the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or

that any exceptions have been disclosed to the auditors. However, officials at the New York City Mayor’s Office of Operations have informed us that, as a matter of policy, mayoral agency officials do not provide representation letters in connection with our audits. As a result, we lack assurance from HPD officials that all relevant information was provided to us during the audit.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State’s accounting system; preparing the State’s financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

## Authority

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The audit was performed pursuant to the State Comptroller’s authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

## Reporting Requirements

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We provided a draft copy of this report to HPD officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of this report. HPD officials generally concurred with our report’s recommendations and indicated the steps that have been and/or will be taken to implement them. Our rejoinder to certain HPD comments is included in the report’s State Comptroller’s Comment.

Within 90 days after final release of this report, we request the Commissioner of the New York City Department of Housing Preservation and Development report to the State Comptroller advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

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## Contributors to This Report

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**Kenrick Sifontes**, Audit Director  
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## Division of State Government Accountability

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### Vision

A team of accountability experts respected for providing information that decision makers value.

### Mission

To improve government operations by conducting independent audits, reviews, and evaluations of New York State and New York City taxpayer-financed programs.

## Exhibit

### Duration of Vacancies and Estimated Rent Revenues Lost as of March 31, 2017

Apartment Reference Number	Vacancy Start Date	Total Days Vacant as of 3/31/17	Base Rent as of 6/1/16	Total Lost Rental Revenue
1	11/11/2015	506	\$804 <sup>a</sup>	\$11,004
2	01/15/2016	441	884 <sup>b</sup>	10,470
3	02/11/2016	414	1,045 <sup>c</sup>	11,413
4	04/15/2016	350	1,045 <sup>c</sup>	9,405
5	07/01/2016	273	804	5,628
6	07/24/2016	250	\$1,005	6,030
7	08/11/2016	232	1,045	5,225
8	08/30/2016	213	826	4,130
9	09/01/2016	211	826	4,130
10	09/01/2016	211	826	4,130
11	09/25/2016	187	826	3,304
12	10/17/2016	165	1,174	3,522
13	01/13/2017	77	0	0 <sup>d</sup>
14	01/22/2017	68	0	0 <sup>d</sup>
15	01/22/2017	68	0	0 <sup>d</sup>
<b>Total Lost Rental Revenue</b>				<b>\$78,391</b>

Note: All rent revenue lost is calculated starting from the first full month after a unit is vacant for 60 days.

<sup>a</sup> Base rent before rent increase effective 6/1/16 was \$741.

<sup>b</sup> Base rent before rent increase effective 6/1/16 was \$815.

<sup>c</sup> Base rent before rent increase effective 6/1/16 was \$963.

<sup>d</sup> No rent revenue lost due to the initial 60-day vacancy period and not calculating partial month vacancies.

# Agency Comments



MARIA TORRES-SPRINGER  
Commissioner

Office of the Commissioner  
100 Gold Street  
New York, N.Y. 10038

November 3, 2017

Mr. Kenrick Sifontes  
Audit Director  
Office of the State Comptroller  
59 Maiden Lane - 21st Floor  
New York, NY 10038

**Re: Vacancies at the Clinton Towers Mitchell-Lama Housing Development  
Audit Number: 2017-N-1**

Dear Mr. Sifontes:

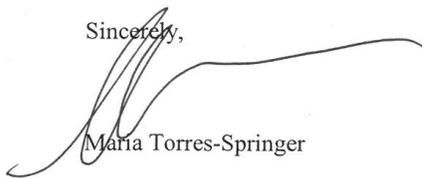
Thank you for the opportunity to respond to your Audit Report on the Audit of the Vacancies at Clinton Towers Mitchell-Lama Housing (the "Audit Report"). We appreciate the time and consideration that you put into completing the report.

HPD takes its supervisory responsibilities with respect to Clinton Towers and all Mitchell-Lama buildings very seriously. While the vacancy rate at Clinton Towers was less than four percent, well within industry norms, we agree that all Mitchell-Lama vacancies should be filled as quickly as possible. To that end, we took several steps this summer to decrease the time apartments are vacant at all City-supervised Mitchell-Lama developments. We sent out a directive dated June 23, 2017 to managing agents reminding them of our reporting requirements and mandating that they fill their vacancies within 120 days. Agents who fail to do so must provide HPD with a corrective action plan. We also have developed a training program for managing agents regarding filling vacancies and complying with the Mitchell-Lama reporting requirements.

We believe that our recent directives and increased training for managing agents will help us make significant progress toward our goal of minimizing vacancies in Mitchell-Lama buildings.

I would be happy to discuss our response with you if that would be helpful.

Sincerely,



Maria Torres-Springer

* Comment 1
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 Printed on paper containing 30% post-consumer material.

\*See State Comptroller's Comment, page 18.

AGENCY RESPONSE TO NEW YORK STATE OFFICE OF THE COMPTROLLER AUDIT OF THE VACANCIES AT  
CLINTON TOWERS MITCHELL-LAMA HOUSING (2017-N-1)  
November 3, 2017

The Mitchell-Lama program is a vital source of affordable housing for New Yorkers, which is why the Department of Housing Preservation and Development (HPD) has worked so diligently to provide the financial assistance and technical support needed to protect and preserve the 94 Mitchell-Lama developments under its purview. HPD has made significant financial investments in the Mitchell-Lama portfolio: since 2004, HPD and the Housing Development Corporation have issued over \$900 million in bonds to preserve 78 Mitchell-Lama developments consisting of 38,000 affordable apartments. These developments are now committed to remaining in the program, and will provide affordable housing for future generations. On October 26, 2017 Mayor de Blasio announced the “Mitchell-Lama Reinvestment Program,” which over the next eight years will preserve the affordability of more than 15,000 more homes in Mitchell-Lama developments where affordability is now at risk. We continue to expand our range of preservation tools, and seek to collaborate across all levels of government and with community stakeholders to ensure the long-term affordability, health and governance of this critical housing resource.

The Audit Report on the Audit of the Vacancies at Clinton Towers Mitchell-Lama Housing (the “Audit Report”) found no significant issues indicating Clinton Towers failed to follow “the Mitchell-Lama Rules” – the Rules of the City of New York, Title 28, Chapter 3 – that set the requirements for the management of City-supervised Mitchell-Lama developments. Furthermore, the identified vacancy rate at Clinton Towers of less than four percent is comparable to the City’s rental vacancy rate of 3.45% (per the U.S. Census Bureau’s 2014 Housing and Vacancy Survey) although Mitchell-Lama developments must follow a much lengthier process for filling vacancies than a landlord on the private market.

That said, we absolutely agree that filling vacancies quickly is essential and we have taken steps to strengthen our oversight and reduce the time units are vacant. We issued a directive in June 2017 reminding managing agents within the City-supervised Mitchell-Lama portfolio of our reporting requirements, mandating that they fill their vacancies within 120 days. We believe this timeframe is reasonable given the necessary steps to fill a Mitchell-Lama unit. This directive also requires a corrective action plan from managing agents who fail to meet the 120-day standard. In addition, HPD has developed a training program for managing agents, which will begin in November 2017.

HPD’s specific responses to the Audit Report’s four recommendations are as follows:

Recommendation 1: Implement policies and procedures for staff to follow when conducting audits or reviews of housing company operations, including processes for monitoring and acting on extended vacancies.

*Agency Response:* HPD has an established process for staff to monitor vacancies within the City Mitchell-Lama portfolio. We are enhancing our periodic site visits to include more detailed review of extended vacancies, which will help to ensure that management is in compliance with the directive on timeliness of filling apartments.

Recommendation 2: Formally establish and clearly communicate a timeframe for housing companies to fill vacant units.

*Agency Response:* On June 23, 2017, HPD sent a directive to all managing agents requiring them to fill their Mitchell-Lama vacancies within 120 days. This timeframe is based on our experience with the Mitchell-Lama portfolio and the numerous steps that must occur before a new tenant moves into a unit. Those steps include: making the apartment ready, which can include extensive repairs; mailing letters offering the unit to the applicant(s) at the top of the waitlist; the applicant is then given sufficient time to respond to the letter and express interest. The time applicants are given to respond varies by development; at Clinton Towers, applicants have two weeks to respond to an Offer Letter. Since an

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AGENCY RESPONSE TO NEW YORK STATE OFFICE OF THE COMPTROLLER AUDIT OF THE VACANCIES AT  
CLINTON TOWERS MITCHELL-LAMA HOUSING (2017-N-1)  
November 3, 2017

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applicant may have applied and been placed on the waitlist years before they are offered an apartment unit, they may no longer be interested in obtaining the Mitchell-Lama unit. Therefore, this process repeats until an applicant responds to management stating that they are interested in the apartment. The interested applicant must be vetted first by management and then by HPD to ensure that they meet the Mitchell-Lama requirements.

Recommendation 3: Obtain and review quarterly vacancy reports from Clinton Towers to ensure that vacancies are filled within the established timeframe.

*Agency Response:* HPD is working with Clinton Towers' management to ensure that vacancies are filled, and that accurate and complete vacancy reports are submitted quarterly.

Recommendation 4: Follow up on the specific longstanding vacancies identified in this report and ensure that they are filled promptly.

*Agency Response:* HPD is working with Clinton Towers' management to ensure that the longstanding vacancies are filled, and will ensure that all other vacancies are filled promptly as well.

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## State Comptroller's Comment

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1. As noted on page 10 of our report, the June 23, 2017 directive does not clearly state that HPD mandates or requires that vacancies be filled within 120 days. We recommend that HPD clearly communicate its requirement.