HOUSING CODE ENFORCEMENT IN NEW YORK CITY

Michael B. Teitz and Stephen R. Rosenthal
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THE NEW YORK CITY RAND INSTITUTE

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FOREWORD

This analysis of housing code enforcement in New York City through 1969 underscores the profound shift in code enforcement activities during the late 1960s. In response to a well-publicized City campaign, tenant complaints soared from about 100,000 to over 500,000 annually; under these circumstances, heat complaints and other emergencies were given priority attention, to the detriment of other code enforcement functions. Clearly, code enforcement resources and methods of operation were not consonant with the greater responsibilities assumed by the Department of Rent and Housing Maintenance.

The 1970 Rent Control Law is a major step towards a housing code enforcement program for the 1970s. Owners of rent-controlled buildings will be permitted revenues adequate to maintain their properties. In return, the City requires certification that essential services and a high level of maintenance are provided. Moreover, eligibility for January 1972 rent increases turns on removal of all rent-impairing violations and 80 percent of all housing violations outstanding as of January 1971. Owner self-certification of violation removal, followed by a massive inspection effort, will dramatically reduce the violations backlog by the Fall of 1971.

While these innovations are encouraging, our current inability to compel recalcitrant landlords to comply with the code severely limits the effectiveness of the Code Enforcement Program. As this study shows, legal recourse through the Criminal Court is slow and unsatisfactory. Normally, such a process takes 18 months from the placement of the violation, the average fine per violation is about $2.00, and the violation often remains uncorrected. This function should be removed from the overcrowded Criminal Court, handled instead by an administrative tribunal within the Housing and Development Administration. Other City agencies have demonstrated that administrative hearings can provide adequate safeguards to all concerned, and such a procedure would permit the effective enforcement of the housing code in a manner that would protect the interests of tenants and responsible landlords alike.

This Administration is determined to curb the disturbing rate of housing deterioration and abandonment which denies adequate shelter to a significant number of New York City residents. A responsive Code Enforcement Program is part of a comprehensive City strategy to preserve the existing housing stock. While punitive
measures are necessary to enforce minimum health and safety standards, the major thrust of code enforcement is to monitor the proper maintenance of existing housing and to identify areas in which public assistance may be required. The new Rent Control Law, the City's housing rehabilitation programs, and initiatives to facilitate ownership change, are all designed to complement our code enforcement efforts.

Benjamin Altman
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PREFACE

This Report examines the City's efforts to enforce the Housing Maintenance Code and other statutes relating to the maintenance and operation of rental housing. The Office of Code Enforcement's operations in recent years are surveyed in the light of the increasing volume of tenant complaints and serious problems of deterioration in the housing stock. The program's performance has been constrained by a difficult housing market, by shortcomings in the nature and organization of its response to housing problems, and by limited manpower and stringent budgets. By documenting the strengths and weaknesses of the present program, we hope to provide the basis for consideration of urgently needed legal and administrative changes in the program.

This study is one of a series of analyses of City programs and policies related to rental housing, a joint effort of the Housing and Development Administration, McKinsey & Company, and The New York City–Rand Institute. Responsibility for research and writing varies from study to study. This Report is based mostly on special analyses of program records by the staffs of the Office of Programs and Policies and the Office of the Deputy General Counsel, HDA, with assistance from The New York City–Rand Institute. It also draws on the findings of earlier studies, including two reports by the Legislative Drafting Research Fund of Columbia University,¹ a management systems study performed by System Development Corporation in 1968,² and a study of the Emergency Repair Program by the City Administrator's Office.³

Those who took part in the research for this Report include Michael B. Teitz and Thelma Palmerio of The New York City–Rand Institute; Stephen R. Rosenthal, Barbara Hohlt, Lauren Homer, Robert Keller, Susan Leader, Grier Raggio, and

Joan Wallstein of the Office of Programs and Policy, HDA. In addition, the study draws from unpublished studies by Joan Ransahoff in the Bureau of the Budget and David Smith in the Office of the Deputy General Counsel, HDA. The final draft was written by Michael Teitz and Stephen Rosenthal, and edited by Ira S. Lowry and Karen Brown of The New York City–Rand Institute.

Research on operating programs cannot be undertaken without the cooperation of many people, especially those experienced in operations. We would like to thank the staff of the Office of Code Enforcement who provided both insight and information. For their assistance and incisive review of draft versions of this Report, we are indebted to Bruce J. Gould, First Deputy Commissioner/Counsel, Department of Rent and Housing Maintenance; Frank Dell’Aira, Director of Operations, Office of Code Enforcement; Charles Poidomani, Louis Metzinger, and Walter Goedlin, members of the staff of the Office of Code Enforcement; and George Kerchner, City Administrator’s Office.
SUMMARY

The Housing Maintenance Code of New York City is intended "(1) to preserve decent housing; (2) to prevent adequate or salvageable housing from deteriorating to the point where it can no longer be reclaimed; and (3) to bring about the basic decencies and minimal standards of healthful living in already deteriorated dwellings, which, although no longer salvageable, must serve as habitations until they can be replaced." It requires the owners of one- and two-family houses and of multiple dwellings to keep the entire structure in good repair and also to meet specific standards with respect to living space and occupancy, regular building maintenance, health and safety precautions, and structural alterations.

These regulations are administered by the Office of Code Enforcement (OCE), whose functions were moved from the Department of Buildings to the Department of Rent and Housing Maintenance in 1967, when these departments were incorporated into the new Housing and Development Administration. Only 2 years previously, responsibility for enforcing the City's winter heating law was shifted from the Department of Health to the OCE's predecessor agency, the Housing Division of the Department of Buildings. About the same time, the Housing Division was made responsible for administering the new Emergency Repair Program under which the City intervenes directly to restore essential services and correct certain types of code violations.

Thus the OCE was separated from its parent agency shortly after it was assigned major new operating responsibilities. Simultaneously, it has been faced with a phenomenal growth in the public demand for code enforcement services—partly invited by the creation of a more accessible Central Complaints Bureau with a well-publicized telephone number and partly because of unprecedented deterioration in the rental housing stock.

Although its budget quadrupled between 1964 and 1970 and its staff has tripled, the OCE has been able to provide prompt and credible response only to complaints of emergency conditions. Despite valiant efforts, it has been unable to fully enforce the Housing Maintenance Code or to stem the tide of housing deterioration. The reasons for this failure include a housing market that encourages under-maintenance, an unprecedented workload that has both impeded performance and
precluded major changes in the code enforcement system, and a lack of effective legal means for securing compliance from code violators once they are identified.

Widespread undermaintenance of the City’s rental housing stock is the result of economic and social forces too powerful to be overcome simply by attempts to enforce the Housing Maintenance Code. The increased rate of deterioration in the latter part of the 1960s is due to a combination of overly rigid rent controls, rapid increases in the costs of operating rental housing, tenants unable to afford rents adequate to cover these costs, and social pathology reflected in a rising incidence of burglary, vandalism, and fire. Landlords unable to see present or future profits from their buildings cut their losses by undermaintenance and abandonment. As deterioration has increased, so have the demands by tenants for code enforcement.

Over the period covered by this Report (1960-1969), the rental housing stock in New York City experienced increasing undermaintenance as a result of economic and social forces beyond the control of the code enforcement system. By 1968, aggregate rental revenue fell short of that required to maintain rental housing as a long-term investment by an estimated $260 million annually. In part, the rent gap may be attributed to provisions of the Rent Control Law that prevented rents from rising with costs. It also reflects the large numbers of low-income tenants whose inability to pay more establishes market rents below the long-run cost of providing well-maintained housing without subsidy.

Caught in a squeeze between controlled rents increasing at 2 percent annually and costs increasing at 5 to 8 percent annually, owners of rent-controlled housing have responded by disinvestment through undermaintenance. In transition neighborhoods, their expectations have been further eroded by the high incidence of burglary, vandalism, and fire that stem from causes beyond their control and contribute to the physical deterioration of their property and to tensions between landlords and tenants. As rental property ceases to attract investors and mortgage lenders, owners, unable to sell, cut their losses by undermaintenance and abandonment. Short-term exploitive ownership becomes both possible and tempting to unscrupulous owners.

By 1968, these trends were evident in the rising incidence of structural deterioration. Between 1960 and 1968, the inventory of sound housing increased by 2.4 percent, while the inventory of dilapidated housing increased by 4.4 percent, and the inventory of deteriorating housing increased by 37 percent. About 488,000 units (18 percent of the total stock) were substandard by 1968. About 78 percent of the substandard units were rental units built before 1947 and therefore subject to rent control.

As deterioration has increased, so have demands for code enforcement. Complaints received from tenants increased from about 100,000 annually in the early 1960s to an estimated 500,000 in Fiscal 1967-68. Part of this increase is due to the assumption of responsibility for heat complaints by the OCE’s predecessor agency in 1965; part is due to the creation of the Central Complaints Bureau with a well-
publicized telephone number. Nevertheless, the parallel rise in tenant requests to the Office of Rent Control for rent reductions to counter declining housing quality—from 113,000 in 1962 to 387,000 in 1969—attests a real growth in housing problems in the City and an increasing demand for intervention by the City to remedy these problems.

Evaluation of the performance of the Code Enforcement Program must take into account this context—an unhealthy market, rapid physical deterioration of the housing stock, and the rising number of tenant complaints.

*Code enforcement actions are most often triggered by tenant complaints, the City's initial response being determined at the point of intake. Because present screening resources and procedures are inadequate, much effort is wasted in processing redundant complaints and in responding to invalid or overstated complaints.*

About four-fifths of all complaints are now made by telephone to the Central Complaints Bureau, established in 1965; the remainder are received at Borough Offices and local offices of the Emergency Repair Program. Referrals from other City agencies account for about 2 percent of the total.

In 1969, the Central Complaints Bureau received nearly 600,000 telephone calls, of which a third were requests for information. Of the remainder, 45 percent were heat complaints and 55 percent related to other housing problems. Heat complaints are of course concentrated in periods of cold weather, when they so overload the intake system that many callers are unable to get through to a complaint clerk.

The first response by a complaint clerk is to try to contact the building owner by telephone and persuade him to remedy the offending condition; subsequently (for heat complaints, the following day) the clerk calls the complainant to find out whether this has been done. Over 60 percent of all heat complaints (many of which are duplicates) and 18 percent of other complaints are closed in this way. But the call-back procedure breaks down in times of peak load, allowing complaints to enter the next stage of the response system.

Decisions by complaint clerks as to the nature and seriousness of a complaint determine whether the City responds with an emergency inspection, a regularly scheduled inspection, or a mailed notification. Lacking adequate guidelines and unable to consult existing records pertaining to the building, the clerks cannot make sound decisions or identify redundant complaints. In 1968, inspectors found valid emergencies in only 30 percent of the complaints so classified, and no violation at all in 41 percent of the cases. Duplicate complaints may represent as much as a fifth of the intake of the Central Complaints Bureau; unless they are closed by telephoning the owner, they usually result in a needless inspection.

*With a greatly increased volume of complaints, the inspection system has become badly overloaded despite a doubling of the inspectional force. Most of the increase in the force has been used to provide prompt response to emergency com-
plaints and to provide two-man teams for work in hazardous neighborhoods. As a consequence, there are long delays before inspection of nonemergency complaints, and reinspections to clear previously placed violations are far behind schedule. Slow responses to complaints and failure to follow up on recorded violations reduce the credibility of the Code Enforcement Program in the eyes of both tenants and landlords.

In its attempt to be responsive to tenant complaints, the OCE has allowed its inspection program to get badly out of balance. In 1963, response to tenant complaints accounted for 40 percent of all inspectional activity, cyclical inspections initiated by OCE accounted for 13 percent, and reinspections accounted for 47 percent. By 1969, complaint inspections had risen to 64 percent of the total activity and reinspections had dropped to 34 percent; the cyclical inspection program accounted for less than 2 percent.

Since reinspections are presently the only way in which violations are cleared, the relative shift of resources to violation placement has resulted in a growing backlog of uncleared violations, amounting to more than 740,000 in 1968. But even complaint inspections have been unable to keep pace with the demand. While emergency complaints generally receive prompt attention, 45 percent of all nonemergency complaints had to wait 3 months or more for inspection; nearly a fourth waited 6 months or more.

Delayed response to tenant complaints reduces the credibility of City concern for tenant welfare, and delayed reinspection reduces the landlord's incentive to correct a violation. Both kinds of delay lead to an added burden on the OCE of redundant complaints about conditions not yet inspected and those already recorded as violations but not removed.

An extraordinarily high proportion of inspection visits are unproductive. Of nearly 123,000 visits made in 1968 in response to housing complaints scheduled for regular inspection, only 22 percent resulted in placement of a violation. The inspector was unable to gain access in 37 percent of the visits, and no violation was found in 38 percent of the visits. In about 4 percent of the visits, the condition covered by the complaint had already been inspected and a violation placed.

While the complaint-and-inspection program apparently identifies most buildings with code violations, inspection reports provide little useful information about this seriousness of the violations recorded or about the cost of correcting them. By one systematic estimate, about half of all violations deal with merely cosmetic defects.

In May 1969, there were one or more code violations outstanding against 91,000 out of 148,000 multiple dwellings in the City, suggesting that few buildings with substantial defects were likely to have escaped the attention of the OCE. Relatively few of these buildings accounted for most of the OCE workload. Of 733,000 violations then pending, 65 percent were located in 17,300 buildings; the 3 percent
of all multiple dwellings with 30 or more violations accounted for 36 percent of all violations.

The Housing Maintenance Code is administratively translated into a list of violation orders, many of which are regretfully unspecific as to the nature and extent of the violation. In May 1969, two violation orders accounted for nearly a fourth of all those pending: No. 508 (Repair the broken or defective plastered surfaces [of the . . .] and No. 501 (Properly repair the broken or defective . . .). Without more details, it is difficult to judge how seriously the violation affects the habitability of the building or how much it would cost to remedy the cited condition.

An HDA study concluded that nearly half of the violations pending in May 1969 were merely cosmetic defects that might inconvenience or annoy the tenant, but presented no threat to health or safety. Another 38 percent related to potential hazards; emergencies or immediately hazardous conditions accounted for only 12 percent of the total.

Once a code violation has been reported and verified, the next step is to persuade the building owner to correct it. Voluntary compliance is frequent, and procedures to elicit it could be used more extensively than they presently are. While the Office of Code Enforcement has a wide choice of sterner measures for securing compliance, its selection among these does not appear to be governed by considerations of appropriateness or effectiveness, and none of the options available to it is very helpful in dealing with a building in real financial distress.

Legal constraints require that code violators be referred to other agencies for imposition of sanctions—to the Criminal Court for fines, or to the Office of Rent Control for rent reductions—unless the violations threaten tenant health or safety. In the latter case, the OCE may issue an emergency repair or emergency vacate order, and may also request a demolition order from the Department of Buildings or request that the Office of Special Improvement Programs institute receivership proceedings.

Criminal Court prosecution is slow and its impact is negligible. In 1968-69, the average time between placement of a violation and first Court appearance was over 18 months. For those cases adjudicated in 1969, the average fine imposed by the Court was $12.62, or $1 to $3 per violation. Criminal prosecutions have little effect on violation removal. Of 329 cases studied in 1968-69, only 53 percent of violations brought to court had been removed one year later; more than half of these had been removed before the case reached the Criminal Court.

The threat of rent reductions, which can be granted more swiftly (in about 3 months), is an effective deterrent. In 1968, 350,000 applications for rent reductions resulted in owner notification. In 84 percent of these cases, services were quickly restored to avoid such reductions. However, services were restored in only 6 percent of the 57,000 cases in which rents were actually reduced.

Emergency repairs and actions taken to vacate or demolish a building do not provide a feasible approach for dealing with the uneconomic portion of the City's
housing stock. Since the inception of the Emergency Repair Program in 1965, emergency inspection visits have grown from 12,000 to 65,000 in 1969. In the latter year 22,300 emergency repairs were made. Of these 19,500 were on buildings that had previously received such repairs. These figures represent only a fraction of the total need for repairs in uneconomic buildings.

We conclude that punitive measures are ineffective on financially insolvent buildings. Criminal Court fines and rent reductions do not encourage compliance in such buildings. They only aggravate the situation by further reducing funds available for maintenance, thus hastening the process of deterioration and abandonment. Other measures are needed if such buildings are to be retained in the housing stock.

* * *

At present, much code enforcement activity is wasted effort, consisting either of inspections made in response to trivial or duplicate complaints, or of repeated placement of code violations on buildings already known to be chronic offenders. The information gathered at the time of complaint and in the course of inspections is inadequate to serve as the basis for selecting the City's best response. In any case, the responses available to OCE do not include any that are appropriate for buildings whose failure to meet code standards is a symptom of financial distress; and the punishments meted out to those violators brought to the Criminal Court are typically trivial.

Although administration of the Code Enforcement Program could be improved in many respects, such improvements alone would not suffice to secure program objectives. As the financial distress of the rental housing market has increased, more and more landlords have turned to policies of undermaintenance, multiplying the demands placed on the OCE by tenants. At the same time, OCE has been called upon by the City Administration to demonstrate more responsiveness to tenant complaints. Program managers have been valiant in their attempts to meet the demands placed on the system for inspection of complaints and placement of violations. However, simply meeting these demands would not be much of an improvement. Unless code enforcement leads to the correction of code violations and to generally better maintenance policies, it will remain no more than an ineffectual expression of public concern for housing standards.

If it is to play a significant role in a larger strategy of housing conservation, the code enforcement system must be redesigned in several respects. First, the City must acquire the legal authority and develop the administrative resources needed to respond promptly, appropriately, and effectively to code violations. Second, the housing standards set by law must be transformed into a coherent body of administrative regulations that takes account both of the concerns of tenants and the realities of the marketplace. Third, the Office of Code Enforcement must develop procedures to identify buildings that fail to meet these standards in enough circumstantial detail so that the City can choose an appropriate response.

To be effective, the overall enforcement program should be capable of being directed in response to City policy, both with respect to the types of violations that
are given priority and the areas and types of buildings in the City that need particular attention. The program's capacity to respond, to make inspections where necessary, and to induce compliance further along the code enforcement pipeline must be made consistent with the intake load resulting from these priorities. For cases involving owners of financially distressed buildings, special treatment must be available to prevent them from simply recycling through the system and consuming resources. For cases involving solvent but intransigent owners, punitive measures must be credible, strict, and swiftly applied.

Even such a redesigned Code Enforcement Program will fail to prevent housing deterioration unless it is supported by a general improvement in the rental housing market. So long as a substantial number of buildings fail to generate revenues that are adequate to support high maintenance standards, and so long as many building owners are persuaded that rental real estate will continue to be an unprofitable investment, there is little that the City can do to enforce its Housing Maintenance Code.
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I. INTRODUCTION

Since the late nineteenth century, New York City's government has accepted responsibility for setting and enforcing standards for the construction, occupancy, maintenance, and operation of residential buildings. The early regulations, such as those embodied in the Tenement House Act of 1901, were minimal. They sought only to secure very basic conditions for the health and safety of tenants.

Over the years, however, housing regulation has changed in both its nature and extent. The City's present Building Code provides very detailed regulation of design, materials, and construction methods for both new construction and alterations; it also provides for continuing inspection for structural safety, plumbing, boilers, elevators, and escalators. The Housing Maintenance Code regulates all classes of dwellings in some of its provisions; especially for multiple dwellings, it provides very detailed regulation of living space, building maintenance, services and facilities to be provided, health and safety precautions to be taken, and structural alterations permitted.

Before 1967, these codes were administered by separate divisions of the Department of Buildings, an agency reporting directly to the Mayor. When the City's housing agencies were consolidated into the Housing and Development Administration in 1967, the responsibility and the staff for enforcing the Housing Maintenance Code were removed from the Department of Buildings and placed in a newly created Office of Code Enforcement in the Department of Rent and Housing Maintenance. This move was intended to foster better coordination between housing code enforcement and related programs addressed to the private rental housing market. (While the Housing Maintenance Code covers owner-occupied as well as rental housing, almost all enforcement activity is directed to rental housing, which comprises over three-fourths of the City's housing inventory.)

Only two years previously, responsibility for enforcing the City's winter heating law had been shifted from the Department of Health to the Housing Division of the Department of Buildings; about the same time, the Housing Division was made responsible for a new Emergency Repair Program under which the City intervened directly to restore essential services and correct certain types of code violations. These recently acquired responsibilities of the Housing Division were also transferred to the Office of Code Enforcement in 1967.
This Report examines the enforcement of the Housing Maintenance Code in recent years, specifically 1960 to 1969, a period in which severe problems have been encountered in carrying out the program’s legal mandate. These problems arise from many sources: the nature of the code itself and the legal remedies it provides for violations, the organization of the Office of Code Enforcement and the resources available to it, the age and condition of the City’s housing stock, the market environment within which the program operates, and other City programs that affect the maintenance practices of building owners. We try to show how all these factors interact to limit the effectiveness of the City’s program of housing code enforcement, in order to lay a solid foundation for its improvement.

We proceed in Sec. II to review the legal basis for City regulation of housing maintenance and the nature of the standards set by the Housing Maintenance Code. There, we also describe the organization of the Office of Code Enforcement, its activities, and the operation of its program in relation to auxiliary programs.

Section III analyzes these operations in some detail, showing how and why patterns of tenant complaints, inspection activity, and violation placement and removal have changed in the last few years.

Section IV examines the problems of securing compliance with the code from the owners of buildings against which violations have been recorded, with special emphasis on criminal prosecution.

Section V provides an evaluation of the Code Enforcement Program from several perspectives: its effectiveness and efficiency in implementing the provisions of the Housing Maintenance Code, its interactions with other City programs, and its contribution to the broader objectives of City housing policy.

While the implications of our findings for reform of the Code Enforcement Program are discussed in the final pages of Sec. V, this Report does not include detailed recommendations for program changes. Our intent here is to establish a strategic framework within which specific proposals for change may be evaluated and placed in relation to each other. Some such specific proposals for change growing out of this study have already been developed by the Housing and Development Administration and its consultants; others have yet to be given detailed attention. Related reforms in the rent control law, addressed to the problem of housing maintenance, were proposed by the Mayor and passed by the City Council in the summer of 1970; they are currently being implemented by the Office of Rent Control. As they take effect, they should ease the way for further changes in the Code Enforcement Program.
II. THE CODE ENFORCEMENT SYSTEM

LEGAL BASIS OF HOUSING MAINTENANCE CODE ENFORCEMENT

The promulgation and enforcement of housing maintenance codes for multiple dwellings has been accepted for many years in New York State as a permissible exercise of the state's police power. Exercise of that power has been constrained in that the regulations must be "reasonable," a term that in this case implies that they are significantly related to the public welfare and no more burdensome on the property owner than is necessary to achieve public objectives.\(^1\)

Housing maintenance codes, as they have developed in New York State, enforce two different classes of standards. On the one hand, they specify that every building must meet certain physical standards that the law deems necessary to the public welfare. Standards of what is minimally necessary change over time. For example, in 1895 the courts upheld a regulation requiring one water outlet per floor in tenements that previously had none, but warned that it was "...reasonably apparent that one such place on each floor, fairly accessible to all the occupants of the floor, would be all that could usually and reasonably be required, and anything further would be unreasonable."\(^2\) Standards have of course changed since, and courts are no longer loath to uphold laws that require running water in individual apartments.

Housing maintenance codes may also require that the landlord keep his property in good repair. This means that whatever is part of the building, whether or not specifically covered by maintenance, building, health or other codes, must be maintained in good condition. The general obligation to prevent deterioration is assigned to the owner quite explicitly in Sec. D26-10.01 of the New York City Housing Maintenance Code: "The owner of a multiple dwelling shall keep the prem-

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\(^1\) One of the basic New York code enforcement cases is the Health Department v. the Rector of Trinity Church, 145 N.Y. 32, 39 N.E. 833 (1895) which states on page 836: "Laws and regulations of a police nature, though they may disturb the enjoyment of individual rights, are not unconstitutional, though no provision is made for compensation for disturbances. They do not appropriate private property for public use, but simply regulate its use and enjoyment by the owner. If he suffers injury, it is either *dannnum absque injuria*, or in the theory of the law, he is compensated for it by sharing in the general benefits which the regulations are intended and calculated to secure."

\(^2\) Health Department v. the Rector of Trinity Church, Ibid.
ises in good repair. . . . The owner of a one- or two-family dwelling shall keep the premises in good repair."

The obligations to repair and offer housing that meets code standards are imposed and enforced by the state for the general welfare. Although the individual tenant may benefit, he is not generally entitled to enforce code standards against the landlord except insofar as violations constitute a breach of the lease agreement. \(^3\) Besides defining standards for occupancy and maintenance of residential buildings, these codes prescribe criminal penalties for violation of standards; they also provide for civil proceedings to force a change of building management, and for administrative action to repair, vacate, or demolish the building.

**Relation of City and State Law**

The source of multiple dwelling maintenance standards and enforcement powers for New York City is the State Multiple Dwelling Law, which applies to cities with a population of 500,000 or more. That statute provides, however, that cities covered by the law may make and enforce additional regulations no less restrictive than those contained in the Multiple Dwelling Law. New York City has taken advantage of this provision by enacting a Housing Maintenance Code\(^4\) which also regulates one- and two-family housing, not covered by the Multiple Dwelling Law.

Under the authority of the Housing and Maintenance Code, the OCE has prepared an "order book" detailing the conditions that are violations of the Multiple Dwelling Law, the Housing Maintenance Code, or other state and city laws which impose requirements on dwellings. Since the order book consists of administrative definitions, it can be changed administratively.

**Legal Obligations of Landlords**

The two functions of maintenance codes, to prevent deterioration and to force landlords to supply certain minimal facilities and services deemed essential for public health and safety, are lucidly stated in the "legislative declaration" of the New York City Housing Maintenance Code, Sec. D26-1.03:

It is hereby found that the enforcement of minimum standards of health and safety, fire protection, light and ventilation, cleanliness, repair and maintenance, and occupancy in dwellings is necessary to protect the people of the city against the consequences of urban blight. The sound enforcement of minimum housing standards is essential: (1) to preserve decent housing; (2) to prevent adequate or salvageable housing from deteriorating to the point where it can no longer be reclaimed; and (3) to bring about the basic decencies and minimal

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\(^4\) Administrative Code of the City of New York, Chapter 26, Title D, enacted in 1967. A prior Title D, the "Multiple Dwelling Code" enacted in 1955, contained merely a few miscellaneous standards strengthening the Multiple Dwelling Law in certain areas.
standards of healthful living in already deteriorated dwellings, which, although no longer salvageable, must serve as habitations until they can be replaced.

Within this broad separation of repair and of supply functions, there are several categories of obligations of landlords that should be distinguished.

First, the general obligation of the owner is to keep the premises in "good repair." Some provisions of the code require specific actions, e.g., the requirement for repainting at least every three years. Others require a specific result, leaving the methods to the landlord, e.g., the requirement that the owner keep the premises free from rodents, insects, and other pests and from conditions conducive to their breeding. The methods of pest control are left to him until the City determines that he has failed to prevent infestation, at which point it may order such eradication measures as it deems necessary.

The facilities and service requirements of the code are categorized into provisions that (1) require the owner to furnish specific facilities or services, (2) require the correction of building features inconsistent with minimum health and safety standards, and (3) prohibit new construction and alterations of existing structures which would create undesirable conditions.

The code requires the landlord to furnish apartments with a variety of fixtures. Provisions of this type include Sec. D26-32.01, which provides that "the owner of a multiple dwelling shall provide every kitchen or kitchenette therein with gas or electricity or both for cooking" and Sec. D26-19.07, which requires the owner to equip every dwelling for electrical lighting. The obligation to alter a property to make it consistent with minimum standards includes Sec. D26-31.01, which requires the owner to remove water closets which exist in any yard, court, or open space, and to disinfect the area where such receptacle was located, under City direction.

Restrictions include those under Sec. D26-30.01, which forbid any alteration of multiple dwellings that will diminish the light and ventilation of a room in any way not approved by the City. Other restrictions are closely analogous to Building Code requirements; they prohibit the erection of multiple dwellings that do not meet specifications, but they do not require alteration of structures that existed before the cutoff date. Provisions of this type include Sec. D26-31.07(a)(3), which requires that each apartment in a multiple dwelling erected after the effective date of the code contain a washbasin. An analogous distinction based on a cutoff date is contained in Sec. D26-34.03, which allows the occupancy of the cellar or basement of a multiple dwelling if each room in the basement has a minimum height of eight feet in dwellings erected after 1 July 1957, and requires seven feet in buildings built before then.

Table 1 illustrates these three categories of requirements and their translation into order-book entries by the OCE. Inspectors routinely describe code violations in terms of these entries.

Section D26-22.03 requires the landlord to provide janitorial services, with no provision that the need for such services be shown. It is a specific obligation to provide a service, not a statement that the landlord is responsible for keeping the
<table>
<thead>
<tr>
<th>Housing Maintenance Code (HMC) or Multiple Dwelling Law (MDL)</th>
<th>Corresponding Order(^d)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A.</strong> In multiple dwellings of nine or more dwelling units the owner shall: (1) perform the janitorial services himself, if he is a resident owner; (2) provide a janitor; or (3) provide for janitorial services to be performed on a 24-hour-a-day basis in a manner approved by the department. (Sec. D26-22.03, HMC.)</td>
<td>(721) Provide dwelling (nine or more units) with a janitor or responsible person or janitorial service.</td>
</tr>
<tr>
<td><strong>B.</strong> In every dwelling the owner shall provide and maintain a peephole in the entrance door of each dwelling unit. Such peephole shall be located, as prescribed by the department, in such a place that the person in each dwelling unit may view from the inside any person immediately outside the entrance door. (Sec. D26-29.01, HMC.)</td>
<td>(690) Provide a peephole in entrance door of the dwelling unit so located as to permit a person inside the dwelling unit to view any person outside entrance door.</td>
</tr>
<tr>
<td><strong>C.</strong> In multiple dwellings the owner shall (1) keep the premises in good repair; and (2) in addition to the duty imposed upon him by subsection (1) of this section, be responsible for compliance with the requirements of this code, except as far as responsibility for compliance is imposed upon the tenant alone. (Sec. D26-10.01, HMC.)</td>
<td>(501-520) Some examples are: (501) Properly repair the broken or defective .... (502) Properly repair with similar material the broken or defective .... (503) Make safe by properly repairing the structural defect .... (504) Provide .... (505) Replace with new the broken or defective .... (506) Replace with new the missing .... (507) Repair the roof so that it will not leak. (508) Repair the broken or defective plastered surface, and paint in uniform color. (518) Fire escape defective. Replace the broken or defective angle iron or bar foot of gooseneck ladder with 2-in. x 1/2-in. iron bar extending across and secured to two brackets.</td>
</tr>
</tbody>
</table>

\(^d\)Department of Rent and Housing Maintenance, Office of Code Enforcement of the City of New York, *Forms of Orders*, 1968.
halls clean. Section D26-20.01 requires the owner to make small changes in his buildings' physical characteristics; each apartment is to have a peephole. This is an example of a recurring feature of code enforcement, namely, upgrading minimum health and safety standards, and then requiring that all units meet the new standards.

Section D26-10.01 states that the landlord shall keep the premises in good repair. Several entries in the order book pursuant to that section define in detail what the landlord must do to meet the standard of good repair. All order numbers under this section direct that the landlord correct specific conditions that have resulted from some failure of maintenance; they do not require that services be furnished to prevent undesirable conditions, as is the case with janitorial services.

Tenant Responsibility

Responsibility for maintaining code standards is assigned by law to the tenant as well as the landlord. Sec. D26-10.03 states that the tenant shall "be responsible for violations of this code to the extent that he has power to prevent the occurrence of a violation," but his power to prevent violations is defined so that he is responsible only for violations caused by a willful act, gross negligence, or abuse on his part or by a member of his household or a guest. In addition, there are a number of specific prohibitions against the tenant; he is, for instance, prohibited from destroying or defacing any sign that the Housing Maintenance Code requires displayed, and he cannot refuse his landlord reasonable access to the apartment for the purpose of making repairs or improvements that the code requires.

Sanctions

Three broad classes of action are now available against owners who violate the code. The City itself can apply punitive sanctions through the Criminal or Civil Courts, or it can act directly to remedy the violating condition or to recompense the tenant at the landlord's expense. Direct actions include emergency repairs, injunctive relief, vacate orders, and rent reductions. The third class of responses comprises remedies available to tenants through civil or criminal proceedings against owners.

The City's options are summarized in Table 2. Among the sanctions, only criminal prosecution and rent reductions are used extensively. The legal basis for rent reductions will be described in another report in this series, dealing with the programs of the Office of Rent Control; the effectiveness of this procedure is evaluated in Sec. IV of this Report.

The provisions of the Housing Maintenance Code are currently enforced primarily through Criminal Court proceedings against owners cited for violations of its provisions. The law prescribes fines up to $500 and imprisonment up to 30 days for a first offense, and up to $1000 and one year for second and subsequent offenses consisting of the continuation or recurrence of the same violation in the same building.
<table>
<thead>
<tr>
<th>City Remedy: Purpose and Legal Basis</th>
<th>Grounds for Use</th>
<th>Operation and Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To Punish Code Violators</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Criminal prosecution</td>
<td>Violation of codes: failure to comply with departmental order; improper registration.</td>
<td>Action taken in Criminal Court, Part VI, B. Penalties may range to a fine of $1000 and/or one year's imprisonment per violation.</td>
</tr>
<tr>
<td>(MDL 304; HMC 52)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Civil penalties</td>
<td>Violations pending for five days.</td>
<td>Action taken in Civil Court. Fine of $250 to $500 per violation.</td>
</tr>
<tr>
<td>(MDL 304 (2))</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To Compensate the Tenant</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rent reduction</td>
<td>Violation of specific code items in rent-controlled buildings.</td>
<td>Referral to Office of Rent Control may result in partial or complete reduction of legal rents depending on the severity of the conditions.</td>
</tr>
<tr>
<td>(Rent Regulations 34)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To Effect Violation Removal</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Injunction</td>
<td>Violations pending; need to effect a departmental order.</td>
<td>Court order is issued requiring specific actions; noncompliance treated as contempt of court.</td>
</tr>
<tr>
<td>(MDL 306(7); HMC 53; General City Law 20(22))</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vacate order</td>
<td>Danger to life, health or safety of a building's inhabitants.</td>
<td>Departmental order to correct conditions; if action is not taken, the building is vacated.</td>
</tr>
<tr>
<td>(HMC 56)</td>
<td>Housing conditions constituting immediate and clear health and safety hazard.</td>
<td>ERP contract or direct action to restore essential services.</td>
</tr>
<tr>
<td>Emergency repair</td>
<td>Conditions that constitute a fire hazard or threat to life, health or safety.</td>
<td>If owner fails to repair after certification of conditions by the Department, the court appoints an HDA administrator to receive all rents. City is responsible for repair and maintenance, but does not assume title.</td>
</tr>
<tr>
<td>(Admin. Code 564-18.0; MDL 390; HMC 54)</td>
<td></td>
<td>Now discontinued. Informal departmental hearings attempted to secure compliance without court action: the case was referred for prosecution if compliance did not occur within a given time period.</td>
</tr>
<tr>
<td>Receivership</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(MDL 309; HMC 55)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hearing to show cause</td>
<td>Existence of violations: no need for immediate criminal prosecutions.</td>
<td></td>
</tr>
<tr>
<td><strong>To Identify Building Owners, Agents</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Civil penalties</td>
<td>Improper registration</td>
<td>Action in Civil Court. Penalty of $250 to $500 per violation.</td>
</tr>
<tr>
<td>(MDL 304(2))</td>
<td></td>
<td></td>
</tr>
<tr>
<td>W.M.C.A. hearings</td>
<td>Building under corporate ownership is a public nuisance.</td>
<td>Departmental hearing on the nuisance may place responsibility for its existence and correction on stockholders with a beneficial interest in more than 10 percent of the corporation's stock; tenants acquire status to sue for injunctive relief.</td>
</tr>
<tr>
<td>(MDL 309; HMC 50.11)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

a Multiple Dwelling Law.
b Housing Maintenance Code.
Although the provisions are rarely used, tenants are also liable for court fines and imprisonment for violations. In addition, tenant convictions constitute grounds for summary eviction proceedings by the owner if those convictions are for violations that (1) result from willful or grossly negligent conduct and cause substantial damage to the dwelling unit, (2) result from repeated or continued conduct which substantially interferes with another person's safe and comfortable use of the building, or (3) consist of an unreasonable refusal to give the owner access to the apartment.

Besides criminal penalties, the City may also attempt to enforce the code through actions for mandatory and prohibitory injunctions in courts of competent jurisdiction. Injunctions may call for the owner or other responsible person to abate or correct violations, to comply with an order or notice of the City, or to provide other relief deemed appropriate to secure continuing compliance with the code. Failure to comply with a judicial order is punishable as contempt of court.

Direct actions to correct housing conditions will be covered in detail in another report in this series, dealing with tenant health and safety programs.

In addition to direct governmental intervention to enforce the codes, New York State law provides an alternative means of obtaining sound, properly maintained housing. This is through civil proceedings initiated by the occupants of the housing. Table 3 illustrates the range and purpose of these proceedings. Tenant-initiated remedies are predicated on an expanded notion of the obligations implicit in a lease. These laws specify the obligations of the landlord to provide minimal maintenance and services in return for the tenant's obligation to pay rent; they also provide for tenant action to enforce these obligations. The landlord has traditionally used eviction to enforce his right to receive rent payments and to remove destructive tenants. Under recently enacted laws, a tenant can obtain direct recompense for being forced to live in substandard conditions through the abatement of rents. The law also allows him to act directly to remedy the conditions by paying his rent to a court account and using this money to make required repairs under court direction if the landlord will not do so.

THE OFFICE OF CODE ENFORCEMENT

Jurisdiction

Responsibility for enforcing housing regulations related to repair, maintenance, and occupancy now rests with the OCE in the Department of Rent and Housing Maintenance. Prior to 1967, these functions were lodged in the Department of Buildings, which still regulates new construction, structural safety in existing buildings, and inspection or licensing of plumbing, boilers, and elevators. The Department of Buildings had in turn absorbed housing code enforcement functions from the old Tenement House Department which existed concurrently with the Bureau of Buildings in each borough from 1901 to 1938. In 1965, responsibility for
<table>
<thead>
<tr>
<th>Tenant Remedy: Purpose and Legal Basis</th>
<th>Grounds for Use</th>
<th>Operation and Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>To Compensate Tenants</td>
<td></td>
<td></td>
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<tr>
<td>Rent abatement:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>individual tenants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(MDL\textsuperscript{a} 302-a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violation classified by RHM\textsuperscript{b} as &quot;rent-impairing&quot; on record for six months in tenant's apartment or public parts of building.</td>
<td></td>
<td>Violations are classified by RHM. After landlord brings action for nonpayment, tenant pays rent to court as a condition for asserting this defense against eviction. If the court determines the conditions exist, withheld rents are abated until the conditions are removed. OCE\textsuperscript{c} must notify Department of Social Services of the conditions; rents are abated until the condition is removed; act is a defense against eviction.</td>
</tr>
<tr>
<td>Rent abatement:</td>
<td></td>
<td></td>
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<tr>
<td>welfare tenants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Spiegel Law, Social Welfare Law 143 (6))</td>
<td>Conditions detrimental to life or health in a building occupied by welfare clients.</td>
<td></td>
</tr>
<tr>
<td>To Effect Violation Removal</td>
<td></td>
<td></td>
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<tr>
<td>Rent escrow:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>building-wide</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(7-A proceedings, RPAPL\textsuperscript{d} 7-A)</td>
<td>Conditions endangering tenant health or safety.</td>
<td>One-third of tenants required to bring suit; if the court determines such conditions exist: (1) all rents are paid to the court which directs their use -- by an administrator -- to make necessary repairs; (2) the owner, mortgagor, or lienor may instead post a security deposit and carry out the repairs.</td>
</tr>
<tr>
<td>Rent escrow:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>individual tenants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(order No. 755, RPAPL 755)</td>
<td>Violations of record or conditions constituting constructive eviction of tenants</td>
<td>Order allows payment of rents into court; they are withheld until conditions are corrected; eviction is stayed with court order. Use of rent money to provide basic services or correct violations possible with court approval.</td>
</tr>
<tr>
<td>Rent escrow:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>individual tenants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(order No. 756, RPAPL 756)</td>
<td>Same conditions as order No. 755; utilities have been disconnected because of failure of landlord to pay bills.</td>
<td>Order to stay payment of rent until bill has been paid and service is resumed.</td>
</tr>
</tbody>
</table>

\textsuperscript{a}Multiple Dwelling Law.
\textsuperscript{b}Department of Rent and Housing Maintenance
\textsuperscript{c}Office of Code Enforcement.
\textsuperscript{d}Real Property Actions and Proceedings Law.
enforcing the heating law was transferred to the Housing Division of the Department of Buildings from the Health Department, and this responsibility was inherited in 1967 by the newly created Office of Code Enforcement.

Despite this consolidation of responsibility for housing maintenance, other agencies are still concerned with housing quality. The Department of Health has environmental health responsibilities connected with housing occupancy, e.g., testing for lead content in paint. The Fire Department inspects for fire hazards. The Office of Rent Control has its own inspectional force that may refer buildings to the OCE. Finally, sanctions and other City responses flow through the Criminal and Civil Courts, and through the Offices of Rent Control and of Special Improvement Programs in HDA.

In 1968, 2.8 million housing units were under the general purview of the OCE. These included about 800,000 one- or two-family dwelling units, of which 150,000 were occupied by renters. Of the remaining 2 million units in multiple dwellings, the great majority—close to 1.8 million—were renter-occupied. These units are located in 148,000 multiple dwelling structures which absorb most of the City's code enforcement activity. A look at their age distributions helps to explain why. Close to 40,000 "old law" tenements, built before 1901, remain in use. These structures, containing over 300,000 apartments, had little to recommend them when built; now all over 70 years old, they are obsolete in design and often in poor condition. About 49,000 "new law" tenements, built under the Tenement House Act between 1901 and 1929, still stand. Generally larger and superior in design to old law tenements, they contain over 800,000 dwelling units. Apartments constructed after 1929 under the Multiple Dwelling Law number about 650,000 in 8,000 buildings. These are the largest buildings and generally in the best condition. The remainder of the multiple dwelling stock consists of converted single-family dwellings ("brownstones") and miscellaneous rooming houses, hotels, and other buildings. Altogether, they number about 45,000 buildings that are generally quite small in size. Converted dwellings contain about 150,000 apartments and most of the City's 74,000 single-room occupancy ("rooming-house") units.

Organization and Procedures

The Office of Code Enforcement is one of the three principal divisions of the Department of Rent and Housing Maintenance, the others being the Office of Rent Control and the Office of Special Improvement Programs. Within the OCE there are centralized divisions for receiving complaints; for processing complaints, violations, and inspections data; for scheduling emergency repairs; for accounting and management; and for overseeing the five Borough Offices from which the bulk of inspections and other field activities emanate. Emergency inspections are also scheduled from local offices of the City's Emergency Repair Program in selected neighborhoods.

Code enforcement operations are complex. Figure 1 draws on a study by the System Development Corporation to present a simplified picture of flows in the present system. The following description is organized by the functional steps in processing a "case":

11
Fig. 1—The code enforcement pipeline: tenant complaint, inspection, and violation placement
**Intake.** Complaints are received directly from tenants and by referral from other HDA units or City agencies such as the Health Department or Fire Department. Those complaints not resolved at the point of intake are scheduled for further action. OCE also generates cases by cyclical inspection in particular areas. Tenant complaints and referrals from HDA or other City agencies enter the system through at least three channels: Borough Offices, local offices of the Emergency Repair Program, and the Central Complaints Bureau which receives telephone calls.

**Pre-Inspection Processing.** Complaints and referrals must be sorted according to their seriousness and then assigned for emergency response, normal inspection, or warning action. In the latter case, an owner's failure to respond to a warning may then trigger inspection.

In the present system, complaints are classified into three categories: emergency, heat, and nonemergency. Each type can be received through any intake channel, where the first action is to telephone the owner in an attempt to gain voluntary compliance. After intake, different complaint types are processed separately.

Unresolved heat and emergency complaints are processed manually to ensure prompt inspection. Heat complaints are sent to Borough Offices for recording and inspection scheduling and routing. Emergency complaints go directly to the Emergency Repair Program or are handled at Borough Offices as special priorities.

Nonemergency complaints are classified as "inspection-generating" (G, R, S) or "noninspection-generating" (N), and sent to the Electronic Data Processing (EDP) unit. Here, multiple copies of OCE's basic case record (Form 1036) are prepared for inspection-generating complaints and sent to Borough Offices for action. For other complaints, the first response is a notice mailed to the owner and to the tenant. If after 30 days the tenant reports that repairs have not been made, an inspection is scheduled.

**Inspection and Violation Placement.** The City's principal tool in code enforcement is inspection. Besides being the major action in response to complaints and referrals, OCE may initiate inspections of entire buildings or for special items.

Corresponding to the three broad classes of complaints are three classes of inspection, each with differing procedures. Emergency inspections for the most part are split almost equally between a separate force of Emergency Repair Program inspectors operating from their local offices and regular inspectors operating from Borough Offices. Heat and housing inspections are both carried out from Borough Offices.

In addition to handling the three classes of complaint-generated inspections, the Borough Offices undertake inspections for other purposes: re-inspections to determine whether previously placed violations have been corrected, court-requested inspections, departmental requests, requests by the owner for removal of violations, and others. The OCE itself generates inspection activity of two kinds in response to

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Within the inspection-generating group, three subcategories are distinguished: G, to be inspected as soon as possible; R, referral, usually from another City agency; and S, special, which includes some emergencies.
changes of law or policy. New code items may require citywide inspections soon after their adoption; periodically, the office may also schedule "cyclical" inspection of groups of buildings in an intensive effort to improve housing in selected areas. Scheduling and routing of inspections are performed at Borough Offices or Emergency Repair Offices, based on the local supervisor's judgment of current priorities.

An initial inspection may have four outcomes: (1) the inspector may be unable to gain access, (2) no violation may be found, (3) a previously placed violation may be found, or (4) a new violation may be placed against the building. The first and last cases result in further action. If the inspector cannot gain access to the apartment, then a new inspection must be scheduled. With the exception of heat complaints, all violations resulting from inspections are recorded by the EDP system. A violation notice is sent to the responsible party (i.e., the name listed in the Central Registration File).

Violation Removal. Violations are removed by reinspections that generally follow up previously placed violations, or are removed as a result of inspections at the request of the courts, the Department of Rent and Housing Maintenance, or the owners.

Referral. A violation is either removed after reinspection (at which time the case is closed) or, on evidence of nonremoval, referred to follow-up programs. When conditions exist that immediately threaten the lives or safety of occupants, the inspector may recommend that the building be vacated or referred to the Emergency Repair Program for direct City action to amend the conditions. Violations that present no immediate hazard are ordinarily referred to either the Criminal Court or the Office of Rent Control for punitive action. The choice of referrals is usually made by the inspector who records the violation, or within the Borough Office.

Sanctions. If a violation has been reported, the City may theoretically institute any of the numerous legal remedies at its disposal. (See Fig. 2 and Table 2.) As indicated above, emergency repair and vacate orders are issued by the Borough Office. The other legal actions require case referral to other code enforcement units or to other agencies.

In most cases, the sanction employed is criminal prosecution. Routine procedures have been set up to prepare cases and satisfy the legal requirements for Criminal Court action, and to present each case to the Court and record the results. The EDP unit matches buildings having violations with a registration file of parties responsible for each building's upkeep. It generates legal complaint forms and related documents and forwards them to the legal processing unit.

Before a case can be docketed for Court action, the legal processing unit must obtain the sworn signature of the inspector who noted the violations. The date for arraignment is then set, and the responsible party is notified by mail to appear before the Court. On the scheduled date of appearance, the complaint and other forms are sent to the Court.

The mailed notice is not legally binding; if the defendant fails to appear, the summons control section must personally serve him with a summons. If a defendant who has been personally served does not appear, a warrant may be issued by the Court for his arrest.
Fig. 2—The code enforcement pipeline: sanctions
Once the defendant appears, case disposition is under the control of the Criminal Court in each borough. Initial arraignment takes place before a Criminal Court judge who is supplied a list of the violations in the case (and in Manhattan, a list of the defendant's previous appearances in that Court). Although adjournments are routinely granted, most cases are terminated with a plea of guilty and the imposition of a fine. The Court may request a reinspection before sentencing and will receive reports on these inspections directly. "Not guilty" pleas, based on the contention that the violations did not exist or that the defendant is not responsible for them, are deferred for trial, the prosecuting attorney being an Assistant Corporation Counsel. The cycle may begin again if the violations have not been removed, even before the original case has been disposed of by the Court.

If the recorded violations include any of the forty listed in *Code Enforcement Procedure No. 19-1969*, the inspector may recommend rent reduction as a penalty. Violations listed in this procedure describe particularly serious conditions. Each case is directly referred to the Office of Rent Control from the Borough Office. No information on this referral is given to the EDP unit or the legal processing unit. The Office of Rent Control decides whether rents should be reduced and the amount of the decrease. The case may be simultaneously referred for criminal prosecution.

The Borough Office itself has the power to issue a vacate order, although such orders are reviewed in the Central Office. If the condition of a building warrants an order, the Office of Relocation Services, HDA, will be asked to assist in finding alternative housing for the tenants of the building to be vacated. Occasionally, cases are selected by the Deputy General Counsel, HDA, for special or unusual City action. His office prepares cases and drafts briefs. Prosecutions in the Civil and Criminal Courts are performed by the staff of the Corporation Counsel.

Tenant-initiated actions (Table 3) are prosecuted in the tenant-landlord part of the Civil Court. Although departmental records are often subpoenaed for evidence, the OCE does not actively participate in these proceedings.

**Trends in Workload and Budget**

Since 1960, the workload and budget for code enforcement have increased substantially. The increase in workload reflects the rising incidence of housing deterioration and new and transferred responsibilities for OCE and its predecessor agency. In addition to its traditional activities, the housing code enforcement agency now has responsibility for heat complaints (formerly the concern of the Department of Health), and the rapidly growing Emergency Repair Program. At the same time, housing complaints have burgeoned as housing has deteriorated and the City has improved its mechanism for receiving complaints. In the early 1960s, the Housing Division of the Department of Buildings received about 100,000 complaints annually. Heat complaints to the Department of Health numbered about 80,000. In 1969, 397,000 heat and housing complaints were received at the Central Complaints Bureau of the Office of Code Enforcement. Inspections have increased less rapidly, from about 270,000 in the early 1960s to 389,000 in 1969.
The code enforcement budget reflects this growth in activity. Table 4 shows budget appropriations for fiscal years 1964 through 1970. Although the staff has tripled, the personnel budget has nearly quadrupled due to rising salary costs. The inspectional staff has grown less rapidly than other personnel, from about 485 in 1964 to about 640 in 1970. Moreover, output per inspector has been reduced by a shift to two-man inspection teams in neighborhoods where physical safety is threatened. Union contracts now call for about 20 percent of inspectors to be assigned as backup, reducing the number of inspection teams to less than 500.

It has not been easy for the OCE to cope with its growing workload. The following sections examine how the code enforcement system has responded to change, and evaluate its present ability to deal with the City's substandard housing.

Table 4

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Funds Available ($1,000)</th>
<th>Authorized Staff Positions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Modified Expense Budget</td>
<td>Required Accruals</td>
</tr>
<tr>
<td>1963-64</td>
<td>3,424</td>
<td>118</td>
</tr>
<tr>
<td>1964-65</td>
<td>3,800</td>
<td>418</td>
</tr>
<tr>
<td>1965-66</td>
<td>4,318</td>
<td>285</td>
</tr>
<tr>
<td>1966-67</td>
<td>8,913</td>
<td>355</td>
</tr>
<tr>
<td>1967-68</td>
<td>8,530</td>
<td>355</td>
</tr>
<tr>
<td>1968-69</td>
<td>10,482</td>
<td>770</td>
</tr>
<tr>
<td>1969-70</td>
<td>11,330</td>
<td>772</td>
</tr>
</tbody>
</table>

SOURCE: Records of the Bureau of the Budget.

NOTE: Budgets exclude Federal grants of $9.6 million for special projects in Federal Code Enforcement and Model Cities Areas, beginning in Fiscal 1968. These grants have supported about 100 inspectors and an equal number of other staff, included in "Authorized Staff Positions."

\(^{a}\) Authorized by modified expense budget; not all positions need be filled, and required accruals are usually implemented by reduction of staff below authorized levels.

\(^{b}\) Expense budget as passed by the Board of Estimate with subsequent modifications during the fiscal year.

\(^{c}\) Reductions in expenditures imposed by the Bureau of the Budget during the fiscal year. See Note \(a\), above.

\(^{d}\) Modified expense budget less accruals.

\(^{e}\) Authorized staff positions multiplied by \(1 - \frac{\text{required accruals}}{\text{modified personnel budget}}\).
III. OPERATIONS

TENANT COMPLAINTS: INTAKE AND PRE-INSPECTION PROCESSING

Code enforcement activity is initiated by complaints from tenants, referrals from other City agencies, and by internal agency decisions to carry out intensive area-wide enforcement through cyclical inspections. As a result of violations placed during these activities, reinspections are made to monitor the removal of violations.

Complaints dominate the OCE’s intake, and in recent years their relative importance has grown. In FY 1967-68 an estimated total of 500,000 complaints entered the system by all channels—the Central Complaints Bureau, Borough Offices and local Emergency Repair Offices. The Central Complaints Bureau accounted for the greatest part of this intake. In contrast, neither referrals from other agencies nor cyclical inspections initiated by OCE totalled more than 10,000 each, although the effort required per case in these activities was greater than that for a typical complaint.

In the early 1960s the Housing Division of the Department of Buildings received about 100,000 housing complaints annually. The fivefold increase in housing complaints by 1967-68 undoubtedly reflects increased housing problems, but it also reflects three important organizational changes inherited from the Housing Division by OCE: (1) the transfer in 1965 of responsibility for heat complaints from the Health Department to the Housing Division, (2) the establishment in 1965 of the Central Complaints Bureau with a well-publicized telephone number, and (3) the establishment in 1966 of a direct Emergency Repair Program operating through special offices (Project RESCU). At a time of accelerating deterioration of the housing stock and abandonment by owners, these organizational changes have resulted in an increasing reliance on tenant complaints as a source of code enforcement activity.

Table 5 presents data on the volume and nature of calls received at the Central Complaints Bureau since its establishment in 1965. In its first year of operation, 1966, the Central Complaints Bureau logged 453,000 calls, of which 46 percent were heat complaints and 29 percent housing complaints. The remainder consisted of miscellaneous information requests, many of them being referred to
Table 5

CALLS RECEIVED AT THE CENTRAL COMPLAINTS BUREAU, 1966-1969

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Calls</th>
<th>Heat Complaints</th>
<th>Housing Complaints</th>
<th>Information Requests</th>
</tr>
</thead>
<tbody>
<tr>
<td>1966</td>
<td>453.5</td>
<td>209.6</td>
<td>131.4</td>
<td>112.5</td>
</tr>
<tr>
<td>1967</td>
<td>521.2</td>
<td>191.0</td>
<td>183.8</td>
<td>146.4</td>
</tr>
<tr>
<td>1968</td>
<td>646.1</td>
<td>260.4</td>
<td>165.5</td>
<td>220.2</td>
</tr>
<tr>
<td>1969</td>
<td>593.2</td>
<td>179.4</td>
<td>218.0</td>
<td>195.8</td>
</tr>
</tbody>
</table>

Thousands of Calls

Percentage Distribution

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Calls</th>
<th>Heat</th>
<th>Housing</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>1966</td>
<td>100.0</td>
<td>46.2</td>
<td>29.0</td>
<td>24.8</td>
</tr>
<tr>
<td>1967</td>
<td>100.0</td>
<td>36.6</td>
<td>35.3</td>
<td>28.1</td>
</tr>
<tr>
<td>1968</td>
<td>100.0</td>
<td>40.3</td>
<td>25.6</td>
<td>34.1</td>
</tr>
<tr>
<td>1969</td>
<td>100.0</td>
<td>30.2</td>
<td>36.7</td>
<td>33.0</td>
</tr>
</tbody>
</table>


Note: Percentage distributions may not add to 100 because of rounding.

other agencies. By 1969, the total had grown by 31 percent to 593,000 calls, although a substantial part of the increase was due to the near-doubling of requests for information.

Figure 3 presents monthly complaint intake from December 1968 through November 1969. Most of the seasonal variation is due to heat complaints. Landlords are required by law to provide heat between 1 October and 31 May of the following year. However, the winter of 1968 was not typical. Because of a strike by oil delivery workers, there was a record number of heat complaints. This probably accounts for the concurrent decline in housing complaints. More than 200,000 calls to the Central Complaints Bureau received busy signals and were unable to enter the overloaded system.

Redundancy in Complaint Intake

The existence of several possible points of entry for a tenant's complaint as well as lack of control at the major entry point—the Central Complaints Bureau—allows duplicate complaints and gives rise to redundant City responses. For example, a caller may telephone the Central Complaints Bureau, receive what he feels to be an inadequate response, and then call again claiming an emergency, or place
Fig. 3—Monthly emergency and nonemergency complaints, 1968-1969

Source: OCE tabulations.
his complaint through a Project RESCU Office. The result would be the scheduling of multiple inspections. Evidence from small samples coincides with the opinion of code enforcement personnel that redundant complaints account for as much as 20 percent of the effort in the Central Complaints Bureau and far more in Borough Offices.

Table 6 illustrates an extreme situation with data from the Bronx for one week in February 1969. Of the 2,417 complaints received, 1,154 were redundant (about 48 percent). In other words, the complaint system handled two complaints for each problem that it dealt with. Less than one-fourth of the buildings involved generated over 43 percent of all complaints. Where a large number of calls is involved, as is the case with heat complaints, the aggregate load on the intake system is increased substantially.

The Central Complaints Bureau was established in 1965 to provide an accessible and responsive mechanism for resolving housing maintenance problems. If large numbers of tenants find it necessary to complain several times, the system may be accessible, but it is evidently not responsive. In part nonresponse itself is due to complaint redundancy, which generates needless inspections that overload the inspection force. If the intake system were able to identify duplicate complaints, needless inspections could be avoided. This would save resources as well as speed response.

<table>
<thead>
<tr>
<th>Number of Complaints per Building</th>
<th>Buildings with Complaints</th>
<th>Total Complaints Received</th>
<th>Duplicate Complaints&lt;sup&gt;2&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
<td>Number</td>
</tr>
<tr>
<td>1</td>
<td>597</td>
<td>47.3</td>
<td>597</td>
</tr>
<tr>
<td>2</td>
<td>386</td>
<td>30.6</td>
<td>772</td>
</tr>
<tr>
<td>3 or more</td>
<td>280</td>
<td>22.1</td>
<td>1,048</td>
</tr>
<tr>
<td>Total</td>
<td>1,263</td>
<td>100.0</td>
<td>2,417</td>
</tr>
</tbody>
</table>


<sup>2</sup>This is an upper limit on the estimate of redundancy; it assumes that in any given building there is no more than one heat problem during the sample week and that all complaints refer to that problem.
THE CITY RESPONSE: CALL-BACK AND INSPECTION

The OCE responds to complaints about housing conditions by calling the owner, mailing a request for repairs, or making an on-site inspection. An attempt is made first to call the owner and induce him to remove the cause. For certain types of complaints a warning is mailed. If these methods fail, an inspection is scheduled. Inspection is the principal follow-up to referrals from other City agencies; finally, neighborhood inspections are sometimes initiated by the OCE to uncover violations that have not been reported by tenants or by other City agencies.

Contacting Owners

From the City's point of view, voluntary compliance by owners is the most favorable outcome of tenant complaints. A necessary condition for obtaining voluntary compliance is that tenants be able to contact their landlords. If City intervention is necessary, efficient use of resources again calls for contacting the owner to find out whether the offending conditions have been removed and, if not, to try to persuade the landlord to take action. Accurate current information about building ownership and where the owner or his agent can be reached is vital for these purposes.

Telephone Contact. We do not know the extent of tenants' knowledge of landlords' addresses and telephone numbers. Tenants' complaints indicate that some owners make it as difficult as possible for tenants to reach them. On the other hand, a sample of 719 tenants who made nonemergency complaints in February 1969 revealed that 94 percent knew their landlords; of these, 73 percent knew the landlord's telephone number. A recent regulation pursuant to the Housing Maintenance Code requires that a landlord's name and address appear on each rent bill or receipt. This provision should enable almost all tenants to contact their landlords before calling the City.

Failing to receive satisfaction or not wanting to deal with the landlord directly, a tenant may call the Central Complaints Bureau. It is a standard procedure of the Central Complaints Bureau to try to call the building's owner immediately on receipt of a complaint. If the owner is reached and agrees to attend to the complaint, the Bureau subsequently checks back with the tenant to see whether the cause of his complaint has been corrected. For heat complaints, the tenant is called on the day following notification of the owner; for other complaints, a longer period may be allowed for corrective action. If the tenant reports that the condition has been corrected, the case is closed; otherwise, the complaint is processed for further action.

Table 7 indicates that over 60 percent of all heat complaints and 18 percent of other housing complaints were closed by telephone in 1969. How often these calls actually induced activity that owners would not have otherwise taken is not ascertainable, but the procedure certainly reduces the workload for the code enforcement system by closing complaints at the point of intake and reducing the number of redundant inspections.
Table 7
RESOLUTION OF HEAT AND HOUSING COMPLAINTS RECEIVED BY THE CENTRAL COMPLAINTS BUREAU, 1966-1969

<table>
<thead>
<tr>
<th>Year</th>
<th>Heat Complaints</th>
<th>Housing Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total Complaints</td>
<td>Closed by Telephone</td>
</tr>
<tr>
<td>1966</td>
<td>290.6</td>
<td>102.4</td>
</tr>
<tr>
<td>1967</td>
<td>191.0</td>
<td>127.9</td>
</tr>
<tr>
<td>1968</td>
<td>260.4</td>
<td>139.4</td>
</tr>
<tr>
<td>1969</td>
<td>179.4</td>
<td>110.3</td>
</tr>
</tbody>
</table>

Thousands of Calls

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage Distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>1966</td>
<td>100.0</td>
</tr>
<tr>
<td>1967</td>
<td>100.0</td>
</tr>
<tr>
<td>1968</td>
<td>100.0</td>
</tr>
<tr>
<td>1969</td>
<td>100.0</td>
</tr>
</tbody>
</table>


\(^2\)Recommended for inspection or referred to other agencies.

More heat complaints than other housing complaints are successfully closed by telephone. This may be due to the high incidence of redundancy in heat complaints and the fact that many of them are caused by relatively minor equipment failures. Between 1966 and 1969, the proportion of other housing complaints closed by telephone contact fell from 46 percent to 18 percent, primarily because of the problems in the housing stock and overload in the Central Complaints Bureau. Faced with a large number of incoming calls, operators simply did not have time to make the several calls needed to locate a landlord. In the 719 sample nonemergency complaints described above, the Central Complaints Bureau tried to contact the owner in only 23 percent of the cases. The system is hard pressed to handle its intake especially during the cold months, when heat complaints are most frequent.

Even when operators have time enough to call owners, they often fail to make contact because of lack of current information; the Central Complaints Bureau's list of owners' emergency telephone numbers is systematically updated twice each year, but the list itself is incomplete, containing emergency telephone numbers for owners of about 80,000 of the 148,000 multiple dwellings in the City. In an effort to induce owners to register, OCE placed 2,000 registration violations in November 1969 and filed civil suits against some 30 owners. How far these measures will go toward the creation of a complete registration file is not yet clear.

Contact with Owners by Mail. Nonemergency complaints are classified at the time of their receipt into noninspection-generating (N) or inspection-generating (G) types. For the former, when telephone contact cannot be made, the City sends a written notice of complaint to the landlord and tenant allowing 30 days for the
alleged violation to be corrected. Tenant certification that the owner has failed to take action results in the scheduling of an inspection. In recent years, N-type complaints have numbered about 40,000 annually, of which 75 percent are cleared without inspection. This procedure appears to work well; it is examined further in Sec. IV.

Processing for Inspection: The EDP System

Complaints remaining unresolved after screening and call-back are classified as inspection-generating and then scheduled for inspection. This is the first point in the system where EDP is used extensively. Heat complaints are processed manually and inspections are scheduled from Borough Offices of OCE. Emergencies are also processed manually by Emergency Repair Program-RESCU Offices, or Borough Offices where appropriate. Other complaints flow through the EDP unit of the OCE. A small, obsolete computer (IBM 1401) prepares multiple copies of Form 1036 for inspection-generating complaints and these are sent to Borough Offices for scheduling and routing. The EDP system also flags cases for reinspection and generates cases for referral to criminal court. Although it is difficult to separate the delays due to EDP in these activities from other causes (such as overloads of heat and emergency complaints), there is little doubt that the system is inadequate. Not only are large sections of code enforcement activity excluded from this supposedly rapid and foolproof means of processing, but delays and backlogs surround it in all directions. These problems are not attributable to an inexperienced staff; the computer simply cannot handle the information processing requirements of code enforcement at the level demanded by New York City.

Inspection Activity

The general public image of code enforcement activity is that of an inspector visiting a building to record code violations. While it is true that this activity absorbs most of the OCE’s staff effort, inspection may take several forms and serve more than one purpose. Besides responding to tenants’ complaints, inspection may initiate code enforcement activity by responding to referrals or by cyclical inspection of buildings and neighborhoods as part of a larger effort to improve housing. Within these categories, inspections may focus narrowly on problems of immediate health and safety or cover the broad spectrum of violations of the Housing Maintenance Code. During the years covered by this Report, violations could be cleared only by reinspection. Also, much of the inspectors’ time is necessary for prosecution of offenders, both to sign court complaints and to appear in court. The pattern of inspectional activity in recent years reflects changing priorities among these functions of inspection.

Trends in the number of inspections, categorized by type of problem, appear in Table 8. These figures include reinspections within the "housing" category. From 274,000 in 1962, total inspection visits increased by 42 percent to 389,000 in 1969. Virtually all of the increased activity is accounted for by heat and emergency inspections, which together accounted for 31 percent of all visits in 1969.

The implications of this growth and changing distribution are threefold: (1) Emphasis in the program has shifted toward urgent health and safety problems. (2) In order to accomplish this, response to tenant complaints has been given increasing priority over other causes for inspection. (3) Despite increased resources, the inspection force has been unable to respond promptly to all complaints.

**Emphasis on Health and Safety.** In 1965, OCE’s predecessor agency was given the responsibility for responding to heat complaints that formerly lodged with the Department of Health. Shortly thereafter, it was designated to operate a new Emergency Repair Program, under which the City intervened to restore essential services and to correct hazardous conditions if the landlord failed to act. By 1967, a fourth of all inspections related to these two programs, the proportion rising to nearly a third in 1969. These figures indicate a shift in emphasis of the City’s housing maintenance policy.

The data do not permit us to distinguish clearly between growth in the incidence of heat and emergency problems and the OCE’s increased responsiveness to such problems. Indeed, a display of special responsiveness by the OCE might easily stimulate complaints that would not otherwise have been made; the creation of the Emergency Repair Program almost certainly had this last effect, but there is abundant if less rigorous evidence that the incidence of acute housing problems actually increased over the period in question.

Whatever the causes of the increased emphasis by OCE on heat and emergency responses, it was bound to have geographic repercussions. Figure 4 is based on a sample of inspection districts in the City; it shows how inspections were distributed in two years, 1967 and 1968, by type of inspection and by quality of neighborhood (using the City Planning Commission’s distinction among Major Action Areas, Preventative Maintenance Areas, and Sound Areas). Since the choice of districts in the sample was nonrandom, the relative number of inspections in each type of area is not reliably indicated by these data; however, the distributions within area types are meaningful.

Between 1967 and 1968, housing inspections (other than heat and emergency) declined in all types of areas, with the greatest decrease in Major Action Areas. However, in these worst neighborhoods, heat and emergency inspection increased sharply. In Preventative Action Areas, heat and emergency inspections increased much less; for the sample districts, the Sound Areas showed an absolute decline in all types of inspections. If this pattern applies to all areas in the City, then the resource shift must have been substantial, especially in view of the increasing use of two-man inspection teams for safety.

**Emphasis on Tenant Complaints.** Inspection resources have grown, but they are not unlimited. If health and safety items are increasingly emphasized, the relative importance of other forms of inspection will decline. As a result, tenant
<table>
<thead>
<tr>
<th>Year</th>
<th>Total Inspections</th>
<th>Housing $^b$</th>
<th>Heat $^c$</th>
<th>Emergency $^d$</th>
</tr>
</thead>
<tbody>
<tr>
<td>1962</td>
<td>274.0</td>
<td>274.0</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>1963</td>
<td>221.0</td>
<td>221.0</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>1964</td>
<td>288.2</td>
<td>288.2</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>1965</td>
<td>310.5</td>
<td>283.7</td>
<td>26.8</td>
<td>--</td>
</tr>
<tr>
<td>1966</td>
<td>349.0</td>
<td>272.9</td>
<td>64.3</td>
<td>11.8</td>
</tr>
<tr>
<td>1967</td>
<td>443.3</td>
<td>329.5</td>
<td>57.3</td>
<td>56.5</td>
</tr>
<tr>
<td>1968</td>
<td>399.7</td>
<td>275.9</td>
<td>56.9</td>
<td>66.9</td>
</tr>
<tr>
<td>1969</td>
<td>388.7</td>
<td>267.5</td>
<td>55.8</td>
<td>65.4</td>
</tr>
</tbody>
</table>

**Percentage Distribution**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Housing $^b$</th>
<th>Heat $^c$</th>
<th>Emergency $^d$</th>
</tr>
</thead>
<tbody>
<tr>
<td>1962</td>
<td>100.0</td>
<td>100.0</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>1963</td>
<td>100.0</td>
<td>100.0</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>1964</td>
<td>100.0</td>
<td>100.0</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>1965</td>
<td>100.0</td>
<td>91.4</td>
<td>8.6</td>
<td>--</td>
</tr>
<tr>
<td>1966</td>
<td>100.0</td>
<td>78.2</td>
<td>18.4</td>
<td>3.4</td>
</tr>
<tr>
<td>1967</td>
<td>100.0</td>
<td>74.3</td>
<td>12.9</td>
<td>12.7</td>
</tr>
<tr>
<td>1968</td>
<td>100.0</td>
<td>69.0</td>
<td>14.2</td>
<td>16.7</td>
</tr>
<tr>
<td>1969</td>
<td>100.0</td>
<td>68.8</td>
<td>14.4</td>
<td>16.8</td>
</tr>
</tbody>
</table>


**NOTE:** Percentage distributions may not add to 100 because of rounding.

$^a$ Inspections do not imply that access was gained to an apartment.

$^b$ Housing inspections comprise nonheat and non-emergency cases after 1965 and include re-inspections; before 1966, emergencies are included. Figures for 1967 include a large number of OCE-initiated inspections for door lights.

$^c$ Heat inspections became the responsibility of the Buildings Department in 1965.

$^d$ Emergency visits include Emergency Repair Program-RESCU and night emergency.
complaints become the dominant reason for inspections. Figure 5 illustrates this trend as revealed by "activity" counts. During each inspection, housing inspectors record the "activities" performed. These provide a proxy measure of the distribution of effort.

According to Fig. 5, between 1962 and 1969 complaint-related inspection activities accounted for a continually increasing share of the whole, increasing from 33 percent to 62 percent. Reinspection activities decreased from 60 percent of the total in 1962 to 35 percent in 1969. Cycle-inspection activities, never large in volume, decreased after 1964 to less than 2 percent of the total. A major activity shift of this kind has repercussions across the system. Complaint inspections produce violations; reinspections are necessary to remove them. If they do not remain in balance, the result is likely to be an accumulation of uncleared violations. Backlogs have indeed grown, as will be shown below.

*Delays in Inspectational Response.* With increasing emphasis on tenant complaints, the inspectional system is under great pressure and cannot act on all com-
Complaints within a reasonable time. Procedures for immediate inspection of heat and emergency complaints seem to work, although instances of delay are found. However, with rapid increase of heat and emergency complaints, action taken regarding other housing complaints has become slow.

Data from a sample of housing complaints shown in Table 9 indicate that in 1969 about one-fourth of the nonemergency complaints that were inspection-generating waited at least six months before an inspection was made. In the case of noninspection-generating complaints where a notification of complaint is sent to the owner before an inspection is ordered, over 60 percent of those eventually requiring an inspection did not receive one within six months of the complaint date. Only part of this lag is due to notification procedures, which may postpone inspection scheduling by as much as 60 days while OCE awaits tenant response. If the tenant does not respond to two mailed inquiries an inspection is not scheduled.

Delayed response is serious for several reasons. When tenants see no action, they often call HDA again to register the same complaint, further aggravating the inspection overload and delay. Also, an extensive waiting period between a tenant’s complaint and the City’s action contributes to the general impression on the part of owners and tenants that the City’s Code Enforcement Program is ineffective.
Table 9

ELAPSED TIME BETWEEN NONEMERGENCY COMPLAINTS
AND INSPECTIONS, 1969

<table>
<thead>
<tr>
<th>Months to First Inspection</th>
<th>Percent of Complaints, by Type</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Inspection-Generating</td>
</tr>
<tr>
<td>0.5 or less</td>
<td>6.3</td>
</tr>
<tr>
<td>0.5 to 1</td>
<td>3.8</td>
</tr>
<tr>
<td>1 to 3</td>
<td>44.3</td>
</tr>
<tr>
<td>3 to 6</td>
<td>22.8</td>
</tr>
<tr>
<td>6 or over</td>
<td>22.8</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
</tr>
</tbody>
</table>


α. For complaints of this class, the landlord is notified of the complaint by telephone and mail, and is allowed 30 days to comply. During the next 30 days, the tenant is given an opportunity to reconfirm the complaint; if he does so, an inspection is scheduled. Thus, procedural delays of 30 to 60 days normally precede inspection scheduling; further delays reflect the lag between scheduling and actual inspection.

Delays of this magnitude threaten the credibility of the program and its relevance to tenants.

Nonproductive Inspections. Delays can both cause and result from nonproductive inspections. Many inspections either reveal no violations or cannot be completed because the inspector cannot enter the premises. Table 10 shows the results of inspection visits made in response to housing complaints received in 1968, including only those processed through EDP. (Heat complaints and most emergency complaints are excluded.) Violations were placed in less than 22 percent of the 122,900 inspection visits related to these complaints. In 37 percent of the visits, the inspector could not gain access to the apartment and the inspection visit had to be rescheduled; in 38 percent no violations were found; and in 4 percent, a previously placed but unremoved violation was the cause of complaint. Among complaint types, referrals from other departments appear to be relatively unproductive; only 16 percent of the visits resulted in violation placement. As might be expected, violations were placed more frequently and access was easier in emergency cases; but even for these, only 35 percent of the visits resulted in placement of a violation.
Table 10
RESULTS OF INSPECTION VISITS MADE IN RESPONSE TO COMPLAINTS RECEIVED IN 1968\(^a\)

<table>
<thead>
<tr>
<th>Type of Complaint</th>
<th>Total Inspection Visits(^b)</th>
<th>Result of Inspection Visit</th>
<th>Thousands of Visits</th>
<th>Percentage Distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Violation Reported</td>
<td>No Violation</td>
<td>Violation Previously Placed</td>
</tr>
<tr>
<td>Noninspection-generating (N)(^a)</td>
<td>13.1</td>
<td>2.2</td>
<td>5.2</td>
<td>0.7</td>
</tr>
<tr>
<td>Inspection-generating (G)</td>
<td>54.4</td>
<td>11.1</td>
<td>18.6</td>
<td>1.9</td>
</tr>
<tr>
<td>Referral (R)</td>
<td>31.2</td>
<td>4.9</td>
<td>16.4</td>
<td>1.0</td>
</tr>
<tr>
<td>Emergency (S)</td>
<td>24.1</td>
<td>8.4</td>
<td>8.6</td>
<td>0.8</td>
</tr>
<tr>
<td>Total</td>
<td>122.9</td>
<td>26.6</td>
<td>46.8</td>
<td>4.5</td>
</tr>
</tbody>
</table>

**Thousands of Visits**

**Percentage Distribution**

- Noninspection-generating (N)\(^a\)
  - 100.0
  - 16.7
  - 39.7
  - 5.3
  - 38.3

- Inspection-generating (G)
  - 100.0
  - 20.4
  - 34.2
  - 3.5
  - 41.8

- Referral (R)
  - 100.0
  - 15.7
  - 46.0
  - 3.3
  - 35.0

- Emergency (S)
  - 100.0
  - 34.7
  - 35.7
  - 3.4
  - 26.2

- Distribution for all types
  - 100.0
  - 21.6
  - 38.1
  - 3.6
  - 36.6

**SOURCE:** OCE, *Statistics of Complaints Received, 1968.*

**NOTE:** Percentage distributions may not add to 100 because of rounding.

\(^a\)Includes only complaints processed through EDP.

\(^b\)Total visits made through November 1969 in response to complaints received in 1968.

\(^a\)Inspections scheduled on N-type complaints following tenant confirmation that complaints had not been remedied.

Other heat and emergency inspections not represented in the table showed a similar pattern, although access was generally easier.

Why do so many inspections reveal no violation where a tenant had taken the trouble to call the Central Complaints Bureau? Part of the reason lies in the delay itself. When a period of several months has elapsed between complaint and inspection, an owner has had more time to respond to a tenant's complaint. In addition, complaints are not adequately screened on intake.

**Inadequate Screening of Complaints.** Lack of discrimination in the screening procedure also contributes to nonproductive inspections. The OCE requires that complaints be screened to identify serious conditions for quick action, while less serious complaints are accorded lower priority. Nevertheless, complaints are made by tenants whose interest, naturally, is to bring action no matter what the severity or legal justification of the complaint. If they feel that the City responds faster where emergency conditions exist, there will be a strong incentive to try to make all complaints sound like emergencies.

Operators in the Central Complaints Bureau are supplied with a guideline list of emergency conditions to distinguish levels of severity. This list, however, does
not really provide a means for distinguishing in cases where the emergency is
determined by the severity of the condition (e.g., plaster "in danger of collapse")
rather than simply the existence of the condition (e.g., no running water). Operators
tend to record a complaint as an emergency rather than risk criticism for neglecting
true emergencies. This leads to recording of false emergencies. For example, inspect-
ors sent out in Fiscal 1968 to inspect reported emergencies found valid emergencies
in only 23 percent of the observed cases and no violation at all in 33 percent. (The
latter, however, include cases where repairs were made before inspection.)²

For nonemergency complaints, Central Complaints Bureau operators must
decide whether the condition described by the tenant merits an inspection or only
a warning letter to the landlord. Currently, operators are not supplied with written
instructions for performing this part of their job. An HDA sample of nonemergency
complaints recommended for inspection, compared with those recommended for
warning letters, revealed no significant differences between the types or the de-
scribed severity of the complaints.

HOUSING CODE VIOLATION PLACEMENT AND REMOVAL

Violation placement and removal are key indicators of code enforcement
activity and its effect on housing quality. The placement of violations involves
explicit judgments that a housing unit does not meet current public standards, and
establishes the legal basis for further action against delinquent landlords. The total
number and composition of violations thus provide some indications of the level and
type of deficiencies in the housing inventory. Violation removal occurs as a result
of action by owners to remedy housing deficiencies, followed by confirmation by an
inspector that the violation no longer exists. It is therefore a useful, though partial,
measure of the effectiveness of the City’s Code Enforcement Program in bringing
housing to standards required by law.

Since both placement and removal of violations entail inspections, they com-
pete for the same scarce resource: inspectors’ time. Other things being equal, in-
creasing responsiveness to complaints will lessen the effectiveness of post-inspection
monitoring. The consequence of such a shift is likely to be backlogs in violation
removal. This has been the pattern of events in recent years.

Trends in Violation Placement and Removal

The number of code violations placed and the number removed annually
between 1960 and 1969 are shown in Table 11. At the beginning of the decade the
two figures were roughly equal, about 200,000 per year. After 1962, the number of
violations placed increased rapidly to 778,000 in 1966, declining thereafter to 284,-
000. The number of violations removed each year also increased, but not as rapidly

² George Kerchner and Stephen R. Rosenthal, The Emergency Repair Program, City Administrator’s
Office, December 1968, p. 17.
Table 11
HOUSING CODE VIOLATION PLACEMENT AND REMOVAL, 1960-1969

<table>
<thead>
<tr>
<th>Year</th>
<th>Thousands of Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Placed</td>
</tr>
<tr>
<td>1960</td>
<td>204.7</td>
</tr>
<tr>
<td>1961</td>
<td>198.4</td>
</tr>
<tr>
<td>1962</td>
<td>195.6</td>
</tr>
<tr>
<td>1963</td>
<td>302.3</td>
</tr>
<tr>
<td>1964</td>
<td>425.5</td>
</tr>
<tr>
<td>1965</td>
<td>386.4</td>
</tr>
<tr>
<td>1966</td>
<td>777.8</td>
</tr>
<tr>
<td>1967</td>
<td>602.7</td>
</tr>
<tr>
<td>1968</td>
<td>458.0</td>
</tr>
<tr>
<td>1969</td>
<td>283.9</td>
</tr>
</tbody>
</table>


<sup>a</sup>For 1963 and following years, these figures exclude Staten Island. (The data processing system installed then by the OCE covers only the other four boroughs.) Violations placed in Staten Island are less than one percent of these totals.

<sup>b</sup>Reported backlogs are not always consistent with annual totals of violations placed and removed owing to adjustments made at the end of each year. Uncleared violations for 1960 and 1961 have been computed on the basis of differences between violations placed and removed. For 1962-1969, the figures are as given by the OCE data processing system.

as the number placed, exceeding 500,000 only in 1967. In no year from 1963 through 1968 were there as many removals as placements. As a result, the backlog of violations pending increased from less than 100,000 in 1962, to 742,000 in 1968. The backlog was reduced by 123,000 in 1969 due to a sharp decrease in the number of violations placed. Variations from year to year in the rate of violation placement and removal are complicated by special factors. For example, the requirement for peepholes partly accounts for the very high volume of violations in 1966. But overall patterns and implications remain unchanged by such variations.
The relationship between violation backlogs and the shift to complaint action has been pointed out above. Reinspections are undertaken to verify that a violation has been removed, and reinspections have been unable to keep up with the rate of placement. Housing deterioration and tenant activism during the decade have reinforced this general trend.

**Code Violations and Housing Deficiencies**

Violation information provides insight into the nature of housing problems as well as their magnitude and the City’s response to them. Unfortunately, the use of violation data to identify specific defects is limited because of the broadly inclusive violation categories.

**Violation Orders and Housing Conditions.** The existence of two types of standards under the law—those requiring specific conditions, and those requiring the upkeep of the property in "good repair"—makes interpretation of violation orders difficult. The violation order book examples shown in Table 1 illustrate the difficulty. Where the law is specific, its extension to an order is straightforward. The "minimum housing standards" required in the legislative declaration cited earlier can be precisely defined so that violation orders may in fact "secure a uniform method of expression in notices issued by the Office of Code Enforcement and . . . ensure uniform treatment of owners, lessees, etc., so as not to require from different individuals different treatment of similar conditions." However, the general "good repair" requirement of the law implies orders that are less precise. In Table 1, Case C illustrates 20 orders derived from this one section of the Housing Maintenance Code, varying in specificity from an open-ended repair order (No. 501) to one that defines, to the half-inch, the type of bar required to repair a fire escape ladder (No. 518).

Although nonspecific orders are clearly based on legal requirements, they do not provide the information the City needs to program its response to housing problems. Orders such as Nos. 501 and 505 are so general that they are used by inspectors in situations that vary widely in type, seriousness of the condition for human health and safety, and cost of removing the violations. Table 12 illustrates the range of situations covered by one order, No. 505, "Replace with new the broken or defective ——." The order is used to deal with almost every aspect of housing. It could apply to so many different situations that generalizing about the seriousness or cost of conditions involving its use is possible only after detailed statistical analysis of violations.

**Distribution of Violations.** Despite these difficulties, violation data do provide useful information about the condition of the stock and the forms of code enforcement action. Table 13 presents the aggregate distribution of buildings by number of violations pending in May 1969. By this measure, a major portion of the City’s housing stock has problems and the Code Enforcement Program does seem to be

---

Table 12

PERCENTAGE DISTRIBUTION OF HOUSING COMPONENTS
COVERED BY VIOLATION ORDER NO. 505, 1969

<table>
<thead>
<tr>
<th>Replace with New the Broken or Defective:</th>
<th>Percentage of Orders$^a$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Windows</td>
<td>58</td>
</tr>
<tr>
<td>Doors</td>
<td>12</td>
</tr>
<tr>
<td>Stairs and handrails</td>
<td>7</td>
</tr>
<tr>
<td>Skylight and bulkhead</td>
<td>4</td>
</tr>
<tr>
<td>Plumbing</td>
<td>3</td>
</tr>
<tr>
<td>Heating</td>
<td>3</td>
</tr>
<tr>
<td>Walls</td>
<td>3</td>
</tr>
<tr>
<td>Electricity</td>
<td>3</td>
</tr>
<tr>
<td>Roof</td>
<td>2</td>
</tr>
<tr>
<td>Other$^b$</td>
<td>5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

SOURCE: HDA sample of inspectors' reports, December 1969.

$^a$Based on a sample of 481 violations under order No. 505, classified by housing component.

$^b$Includes items such as appliances, dumbwaiter, chimney and smokestack, and floors.

finding them. (Whether it can correct them is a question that will be discussed below in connection with the use of penalties.)

About 62 percent of all multiple dwellings had at least one violation pending —91,000 buildings out of 148,000. The 1968 Housing and Vacancy Survey showed that only 24 percent of the renter-occupied housing units were substandard (deteriorated or dilapidated or lacking facilities); thus, it appears unlikely that many deteriorating buildings have been missed by housing inspectors.

Most of OCE’s workload is traceable to relatively few buildings. Of the 733,000 violations pending, 65 percent were found in 17,300 buildings, about 12 percent of the total. Buildings having more than 30 violations pending accounted for 3

$^a$ It should be noted that a building with no violations on record may nonetheless fail to conform to the Housing Maintenance Code. In 1969, the Office of Special Improvements, HDA, made field inspections of a random sample of 125 buildings to estimate their needs for repairs. While those with 3 or more code violations on record were much more likely to need substantial repairs than those with 2 or less, 9 out of 21 buildings with no violations on record were judged to require at least some repairs to meet code standards.
Table 13
DISTRIBUTION OF VIOLATIONS BY BUILDING, 1 MAY 1969

<table>
<thead>
<tr>
<th>Number of Violations per Building</th>
<th>Buildings</th>
<th>Total Violations</th>
<th>Average Violations per Building</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Number</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Percent</td>
<td>Percent</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>56,600</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1-2</td>
<td>34,700</td>
<td>48,900</td>
<td>6.7</td>
</tr>
<tr>
<td>3-10</td>
<td>39,300</td>
<td>208,200</td>
<td>28.4</td>
</tr>
<tr>
<td>11-30</td>
<td>12,500</td>
<td>210,300</td>
<td>28.7</td>
</tr>
<tr>
<td>31 or more</td>
<td>4,800</td>
<td>266,000</td>
<td>36.3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>147,900</strong></td>
<td><strong>733,400</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

NOTE: Percentage distributions may not add to 100 because of rounding.

*Estimated by expanding proportions from a random sample of 2,000 buildings. The standard error for the class of buildings with 30 or more violations is approximately 580 buildings.*

*Computed directly from random sample of 2,000 buildings.*

percent of buildings but 36 percent of all violations. The average number of violations for buildings in this class was 55.

We lack data on the nature of these 733,000 pending violations, but we do know the frequency with which different types of violations were recorded in 1969. As Table 14 shows, two orders accounted for 23 percent of all violations: Plaster and painting defects (No. 508) were most frequent, followed by the general repair order (No. 501). Altogether, the 20 orders listed in the table accounted for 72 percent of the violations placed; the remaining 198 orders accounted for 28 percent.

The order descriptions in Table 14 also emphasize the difficulty of evaluating violation data. Of the 20 orders, 8 are nonspecific, although their use may be constrained. For example, order No. 510 is used only in conditions that are not considered serious. To evaluate severity, we must analyze detailed violation data to find out how various orders have been used and to determine the seriousness of the conditions that they cover. Figure 6 shows the percentage distribution of violations in 1969 arrayed by severity as judged by HDA staff. Almost half the violations were classified as "cosmetic," that is, conditions that might inconvenience or annoy the tenant, but do not present serious threats to health or safety. An additional 38 percent of the violations were potential hazards; for example, leaks that could create serious problems if not corrected or doors that do not meet fire safety requirements. Emergencies or immediately hazardous conditions accounted for only 12 percent of the violations in 1969. This proportion was substantially lower than the correspond-
Table 14

VIOLATIONS PLACED IN 1969, BY VIOLATION ORDER NUMBER

<table>
<thead>
<tr>
<th>Rank</th>
<th>Order Number and Description</th>
<th>Number of Violations Placed</th>
<th>Percent of Total Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>508. Repair the broken or defective plastered surfaces and paint in uniform color the ....</td>
<td>37,845</td>
<td>13.3</td>
</tr>
<tr>
<td>2</td>
<td>501. Properly repair the broken or defective ....</td>
<td>26,587</td>
<td>9.4</td>
</tr>
<tr>
<td>3</td>
<td>556. Paint with light colored paint to the satisfaction of this department the ....</td>
<td>17,742</td>
<td>6.3</td>
</tr>
<tr>
<td>4</td>
<td>510. Abate the nuisance consisting of ....</td>
<td>17,542</td>
<td>6.2</td>
</tr>
<tr>
<td>5</td>
<td>505. Replace with new the broken or defective ....</td>
<td>16,770</td>
<td>5.9</td>
</tr>
<tr>
<td>6</td>
<td>506. Replace with new the missing ....</td>
<td>13,707</td>
<td>4.8</td>
</tr>
<tr>
<td>7</td>
<td>502. Properly repair with similar material the broken or defective ....</td>
<td>9,918</td>
<td>3.5</td>
</tr>
<tr>
<td>8</td>
<td>670. Provide hot water at all hot water fixtures.</td>
<td>9,747</td>
<td>3.4</td>
</tr>
<tr>
<td>9</td>
<td>552. Remove the accumulation of refuse and/or rubbish and maintain in a clean condition the ....</td>
<td>6,802</td>
<td>2.4</td>
</tr>
<tr>
<td>10</td>
<td>579. Repair the leaky and/or defective faucets.</td>
<td>6,348</td>
<td>2.2</td>
</tr>
<tr>
<td>11-20</td>
<td>10 violations occurring between 6,328 and 3,391 times</td>
<td>42,897</td>
<td>15.1</td>
</tr>
<tr>
<td></td>
<td>Total, 20 most frequent violations</td>
<td>205,905</td>
<td>72.5</td>
</tr>
<tr>
<td></td>
<td>All other violations(^a)</td>
<td>77,989</td>
<td>27.5</td>
</tr>
<tr>
<td></td>
<td>Total, all violations(^a)</td>
<td>283,894</td>
<td>100.0</td>
</tr>
</tbody>
</table>

SOURCE: OCE tabulations.

\(^a\)Includes 25,824 violations placed as order No. 851 that are referred to other agencies for action.
Severity of Violation | Percentage of Violations
---|---
Emergency (building) | 0 10 20 30 40 50
Emergency (apartment) | |
Sudden emergency | |
Hazardous (building) | |
Hazardous (apartment) | |
Potential hazard | |
Legal infraction | |
Cosmetic | |

Source: HDA Office of Programs and Policy Staff Evaluation.

Fig. 6—Distribution of housing maintenance code violations, by severity, 1969

...ing share of complaints and inspections. The difference appears to be the result of the misleading complaints.

We would like to be able to cross-classify violation severity by type and size of building. Available information does not allow this. However, a recent field study of rent-controlled housing indicates that older and smaller buildings have more violations per unit, a finding that is consistent with all other data about building conditions in the City.³

³ George Sternlieb, The Urban Housing Dilemma: The Dynamics of New York City's Rent Controlled Housing, preliminary draft of a report to the Department of Rent and Housing Maintenance, released in May 1970, pp. 15-4 to 15-5.
IV. SECURING COMPLIANCE

Conceivably, the existence of the Housing Maintenance Code and the possibility of enforcement proceedings in the event that a building falls below code standards incline some landlords to undertake maintenance that they would otherwise defer. The proposition is naturally difficult to test. Much more can be said about the willingness of landlords to correct violations once they come to the attention of the Office of Code Enforcement, the Office of Rent Control, or the Criminal or Civil Courts.

As noted in Sec. III, many alleged code violations are remedied by landlords once the OCE notifies them of tenant complaints. When this approach does not work or is not tried by OCE, there remain a number of more coercive measures that may be taken to secure compliance with the code. These were summarized earlier in Tables 2 and 3, according to the locus of responsibility for application (the City or the tenant) and the methods they employ (punishment of the owner, compensation to the tenant at the owner’s expense, or direct intervention by the City to correct the offending conditions). In this section, we examine the effectiveness of compliance measures, with emphasis on Criminal Court prosecution, the method most used by OCE.

VOLUNTARY COMPLIANCE

If a landlord is going to comply at all with a code enforcement request, it is preferable that he do so as soon as possible. In this respect, voluntary compliance is the most desirable outcome. It is also indispensable to the effective operation of a system as large as that of New York City, where inspection of every complaint would be prohibitively costly. The system now provides two opportunities for a landlord to remedy a housing deficiency and forestall further City action: (1) on telephone call-back from the Central Complaints Bureau, and (2) for certain non-emergency complaints for which telephone contact failed, on receipt of a mailed notice of the complaint.
When a complaint is received by the Central Complaints Bureau, an attempt is made to contact the owner and persuade him to correct the condition. This procedure appears to be quite successful. Table 7 earlier showed data on the resolution of heat and housing complaints by the Central Complaints Bureau for the years 1966-1969. In the aggregate, about 46 percent of all complaints were closed by telephone call-back. Heat complaints showed a higher rate of closure than other housing complaints throughout the four-year period, especially in 1969 when only 18 percent of housing complaints were closed by telephone, as against 62 percent of heat complaints. Interpretation of these differences must be tempered by the high rate of duplication for heat complaints. However, it is clear that a substantial proportion of complaints are taken care of by owners without further City action.

Voluntary compliance may also be obtained where the telephone contact failed and the complaint is judged to be of the noninspection-generating type (N). In this situation, a notice is sent to the landlord and tenant. If the tenant replies that the condition has been corrected or if, after a second notice, the tenant does not reply at all, the case is closed. When a tenant indicates that his complaint has been ignored, an inspection is scheduled. Emergency and heat complaints are automatically excluded from this process. Of the remainder, in recent years about one-third—40,000 annually—have been N-type complaints.

For the years 1964 through 1968, Table 15 shows how often tenants responded to these notices. Despite substantial variation in the number of complaints recorded from year to year, the proportion for which replies were received remained

<table>
<thead>
<tr>
<th>Year Complaint Received</th>
<th>Notices Mailed to Complainant (thousands)</th>
<th>Replies Received from Complainanta (thousands)</th>
<th>Complainant Reply Rate (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1964</td>
<td>34.1</td>
<td>9.4</td>
<td>27.6</td>
</tr>
<tr>
<td>1965</td>
<td>59.0</td>
<td>11.0</td>
<td>18.6</td>
</tr>
<tr>
<td>1966</td>
<td>49.3</td>
<td>12.5</td>
<td>25.4</td>
</tr>
<tr>
<td>1967</td>
<td>41.2</td>
<td>9.6</td>
<td>23.3</td>
</tr>
<tr>
<td>1968</td>
<td>43.4</td>
<td>10.3</td>
<td>23.7</td>
</tr>
</tbody>
</table>


aIt should be noted that these data are compiled at different times after the end of the year during which complaints were received. For 1965 and 1966 the date of compilation was the year end, allowing little time for replies to notices mailed close to the year's end.
quite close to 25 percent. Three-fourths of the complainants made no reply.

Whether a complainant's failure to act means that the owner removed the cause of complaint or that the tenant lost interest in his grievance cannot be determined from these data. Because the tenant took the trouble to complain in the first place and received a reminder in addition to the City's first notice, the former interpretation is probably warranted. However, tenants often persist in their complaints even when no code violation exists. About 10,300 N-type complaints placed in 1968 were scheduled by EDP for inspection after the City had warned the owner and the tenant had replied that his complaint had not been remedied. The first line of Table 16 shows the outcomes for 8,900 complaints placed in 1968 that had been followed up by one or more inspection visits before the end of November 1969. Violations were found in only 25 percent of the cases; 59 percent showed no violations.

Given that few tenants know much about the law, such unfounded complaints are unavoidable; as the table shows, they are not confined to N-type complaints, falling below half the total only for emergency complaints. Improved telephone screening might reduce them. If there still remain many complaints that are legally without basis but which cannot be closed by telephone, mailed requests to the landlord for complaint removal would constitute a more efficient first action by the City than inspection, wherever there is reasonable assurance that an immediate threat to health and safety does not exist.

Together, telephone contacts and mail responses to individuals reporting nonemergency complaints deal with more than half of the current City complaint intake. The high frequency of negative results (no violation, redundant inspection, etc.) from inspections of the remainder suggest that many more complaints could be dealt with in these ways without impairing the City response, enabling the inspection force to respond more promptly to situations in which inspections are really needed to provide information on the nature and severity of housing deficiencies. However, screening methods would have to be improved to minimize the chances that a complaint relating to a truly serious violation was subjected to the delays of voluntary compliance procedures rather than promptly inspected and remedied by the City if necessary.

CRIMINAL COURT PROSECUTION

Prosecution in the Criminal Court is now the principal sanction against housing code violators. Once a violation has been reported by an inspector, elimination of its cause does not remove the landlord's criminal liability.

Number of Cases Prosecuted

As shown in Table 17, the annual number of cases prosecuted to termination in the Criminal Court has fluctuated sharply over the past decade. From nearly
Table 16
STATUS IN NOVEMBER 1969 OF COMPLAINTS RECEIVED IN 1968 FOR WHICH INSPECTIONS WERE ORDERED

<table>
<thead>
<tr>
<th>Type of Complaint</th>
<th>Total Complaints Inspected</th>
<th>Result of Last Inspection Visit</th>
<th>Thousands of Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Violation Reported</td>
<td>No Violation Previously Placed</td>
</tr>
<tr>
<td>Noninspection generating (N)</td>
<td>8.9</td>
<td>2.2</td>
<td>5.2</td>
</tr>
<tr>
<td>Inspection generating (G)</td>
<td>34.1</td>
<td>11.1</td>
<td>18.6</td>
</tr>
<tr>
<td>Referrals (R)</td>
<td>21.6</td>
<td>4.9</td>
<td>14.4</td>
</tr>
<tr>
<td>Emergency (S)</td>
<td>18.2</td>
<td>8.4</td>
<td>8.6</td>
</tr>
<tr>
<td>Total</td>
<td>82.7</td>
<td>26.6</td>
<td>46.8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Complaint</th>
<th>Percentage Distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noninspection generating (N)</td>
<td>100.0</td>
</tr>
<tr>
<td>Inspection generating (G)</td>
<td>100.0</td>
</tr>
<tr>
<td>Referrals (R)</td>
<td>100.0</td>
</tr>
<tr>
<td>Emergency (S)</td>
<td>100.0</td>
</tr>
<tr>
<td>Distribution for all types</td>
<td>100.0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Complaint</th>
<th>24.7</th>
<th>58.8</th>
<th>7.8</th>
<th>8.7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noninspection generating (N)</td>
<td>32.2</td>
<td>54.5</td>
<td>5.6</td>
<td>7.2</td>
</tr>
<tr>
<td>Inspection generating (G)</td>
<td>22.8</td>
<td>66.6</td>
<td>4.8</td>
<td>5.8</td>
</tr>
<tr>
<td>Referrals (R)</td>
<td>46.0</td>
<td>47.3</td>
<td>4.6</td>
<td>2.1</td>
</tr>
<tr>
<td>Emergency (S)</td>
<td>32.2</td>
<td>56.5</td>
<td>5.4</td>
<td>5.9</td>
</tr>
</tbody>
</table>

SOURCE: OCE, Statistics of Complaints Received, 1968.
NOTE: Percentage distributions may not add to 100 because of rounding.

a EDR-processed complaints received in 1968 for which an inspection was required and which were actually inspected through November 1969.
b Complaints for which no access was reported on the last inspection visit, through November 1969. The number of no-access visits was much higher (see Table 10) since many complaints required one or more visits before inspection.

24,000 in 1960, the number declined to less than 16,000 in 1963; it then rose abruptly to 27,000 in 1965 and 1966, and to 30,000 in 1967 and 1968. In 1969, it dropped even more abruptly to 23,000.

Because a single criminal case against a landlord may cover any number of violations placed against a building, we should not expect to find a one-to-one correlation over time between violation placement and criminal cases brought to or terminated in court. As the reader can verify from Table 11, however, general trends are the same for violation placement as for cases terminated.

In 1968, one or more violations were placed against a building on 65,000 separate occasions; in May of 1969, about 90,000 buildings had one or more uncleared violations. Since even in the peak years for prosecution (1967 and 1968) only about 30,000 cases were terminated in court, it is clear that many violators are not prosecuted. Some are simply not reached in the ever-growing queue of violators;
Table 17

CRIMINAL COURT CASES AND FINES RESULTING FROM CODE ENFORCEMENT, 1960-1969

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Cases</th>
<th>Amount of Fine ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Terminated in Court</td>
<td>Resulting in Fines</td>
</tr>
<tr>
<td>1960</td>
<td>23,853</td>
<td>20,384</td>
</tr>
<tr>
<td>1961</td>
<td>21,307</td>
<td>18,273</td>
</tr>
<tr>
<td>1962</td>
<td>16,917</td>
<td>14,479</td>
</tr>
<tr>
<td>1963</td>
<td>15,917</td>
<td>13,657</td>
</tr>
<tr>
<td>1964</td>
<td>21,790</td>
<td>19,719</td>
</tr>
<tr>
<td>1965</td>
<td>27,317</td>
<td>25,384</td>
</tr>
<tr>
<td>1966</td>
<td>27,345</td>
<td>25,307</td>
</tr>
<tr>
<td>1967</td>
<td>30,346</td>
<td>27,058</td>
</tr>
<tr>
<td>1968</td>
<td>30,200</td>
<td>26,755</td>
</tr>
<tr>
<td>1969</td>
<td>23,471</td>
<td>21,041</td>
</tr>
</tbody>
</table>

SOURCE: OCE Summary Statistics.

*A court case covers all violations pending against the building at the time the case is filed. Although violation counts are not available for all cases, 1960-1969, fragmentary evidence indicates that the average fine per violation would be about a tenth of the average fine per case.*

others may escape prosecution by correcting violations, although such actions do not remove criminal liability. Those buildings and owners that now escape prosecution do so through lack of administrative capacity in the system or by administrative decisions that are doubtless influenced by official awareness of the backlog of prosecutable cases. Inevitably, there are instances in which similar offenses are treated differently.

**Penalties Imposed by the Courts**

The only defenses against code violations allowed by the law are nonexistence of the violation or a finding of nonresponsibility on the part of the owner. Because few defendants can claim either of these defenses, most cases result in conviction. Although the law provides for several types of penalty, fines are used predominantly in housing code violation cases. From Table 17, we calculate that 90 percent of the cases terminated in this way in 1968; in no year since 1960 was this proportion less than 85 percent. Such a high proportion of convictions reflects the serious problems of processing housing cases through the Criminal Court and, para-
doxically, defeats the purpose of prosecution. The large number of cases docketed to the courts each day precludes careful evaluation of each case. Judges are furnished only with a list of violations whose severity is not indicated. Only rarely is the court provided with any other information about the building or its owner. Under these circumstances, judges are reluctant to treat the average code violator as a criminal, even though he has ample opportunity to correct the violation before charges are brought against him. Unable for the most part to discriminate between serious and trivial cases, judges find almost all defendants guilty, but impose fines so modest as to present little or no deterrent.

Between 1960 and 1969, the average fine per case fell from $26.67 to $12.62 (Table 17). Some indication of how the fines were distributed is provided by a study conducted by the Office of the Deputy General Counsel of HDA covering 320 cases prosecuted in the Criminal Court in October 1968. These buildings had an average of 12 violations listed on the Court complaint, though an average of 27 uncleared violations per building were on record at the time. Compared to all cases in 1968, those sampled resulted in higher than average fines, the median being $15 and the mean $20.29. We have no information on the relation of fines to the seriousness of cases, but Fig. 7 shows that fines in cases with more violations were higher—$74 average for cases with more than 35 violations compared to $4.38 for cases with 1 to 10 violations—but the mean fine per violation actually decreased from $2.70 per violation in low violation cases to 97 cents per violation in cases with 35 violations or more. Most fines were low: 45 percent of the sample fines were less than $10; only 6 percent were $50 or more. The highest fine, $235, was imposed in a case with 182 violations. Fines this low mean that it is almost always more economical for an owner to pay a fine than to remove violations. For the City, fines do not even cover the cost of case processing. In 1968, legal processing and court costs were estimated by the same study at about $24 per case.

Criminal prosecution as it now functions neither causes violations to be removed nor deters owners from allowing further violations. In the sample described above, 261 of the 320 buildings were reinspected after the court appearance. Almost a year later, only 53 percent of the violations brought to court had been removed. Of these, 36 percent were removed before the court appearance. Of 7,035 violations on these buildings at the time of court appearance, 5,829 (83 percent) were still pending. Similarly, court appearances seem to have little positive effect on owner behavior. The owners of almost half the buildings in the sample had previously been subjected to criminal proceedings.

Administrative Problems in Criminal Prosecution

As elsewhere in the code enforcement system, delays and administrative problems affect the quality of operations. A study of cases reaching the Criminal

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Footnote: In fact, not all violations of record are prosecuted. When a case is presented to court, action may be taken only on items listed in the court complaint. Even when subsequent inspections have revealed violations, the OCE cannot recommend that they be considered. Another prosecution cycle is required.
1-10 violations (138 cases)

Mean fine/case, $4.38
Mean fine/ violation, $2.70

11-35 violations (62 cases)

Mean fine/case, $24.50
Mean fine/ violation, $1.40

Over 35 violations (17 cases)

Mean fine/case, $73.60
Mean fine/ violation, $0.97

Source: HDA, Deputy General Counsel's Office, study of 320 cases.

Fig. 7—Distribution of fines imposed in the Criminal Court, by number of violations per case, October 1968
Court in 1968 showed that only 29 percent were based on violations recorded in the preceding 10 months; some were based on violations recorded three years previously (Table 18). Even after the decision has been made to refer a case for prosecution, between 8 and 22 weeks are currently required to move the case from the Borough Office to the courtroom. For the ordinary case, papers and information must be manually transferred at least six and usually eight times from one unit to another. Almost no violations among those cases sampled in 1968 reached the Criminal Court in less than 4 months (Table 19). About 60 percent of violations had been placed more than 18 months before the court date.

Table 18

DELAYS BETWEEN PLACEMENT OF HOUSING CODE VIOLATIONS AND FIRST COURT APPEARANCE, 1968

<table>
<thead>
<tr>
<th>Months from Violation Placement to First Court Appearance</th>
<th>Percent of Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 5</td>
<td>( a )</td>
</tr>
<tr>
<td>5 to 10</td>
<td>29</td>
</tr>
<tr>
<td>11 to 16</td>
<td>13</td>
</tr>
<tr>
<td>17 to 22</td>
<td>23</td>
</tr>
<tr>
<td>23 to 28</td>
<td>20</td>
</tr>
<tr>
<td>29 to 34</td>
<td>8</td>
</tr>
<tr>
<td>Over 35</td>
<td>7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

*SOURCE: Unpublished study of code enforcement referrals to court by the Deputy General Counsel's Office, HDA, 1969.*

\( a \) In none of the sample cases had violations been on record for less than five months.

Case backlogs are primarily due to delays in processing through EDP. However, the time required for signing the court complaint, personal service of summons, and overloaded calendars also contribute significantly. If the inspector who recorded the violation has been shifted to another office, the court complaint papers must follow him for signature. If for any reason he cannot be located, the case must be abated. Only 20 percent of the persons summoned appear in court after receiving a mailed summons. Therefore, all other defendants must be personally served. This is difficult because of inadequate registration files. Finally, the calendars are simply overloaded, and action must be deferred if a case cannot be scheduled immediately. Half of all cases are adjourned at least once for a variety of legal and substantive reasons, including failure of defendants to appear.
Table 19
PROCESSING TIME FOR CODE ENFORCEMENT REFERRALS TO THE CRIMINAL COURT
1964 and 1969

<table>
<thead>
<tr>
<th>Stage in the Referral Process</th>
<th>Number of Days Required</th>
<th>1964</th>
<th>1969</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Minimum</td>
<td>Maximum</td>
</tr>
<tr>
<td>Inspection report checked, forwarded to EDP unit</td>
<td></td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Processing by EDP unit</td>
<td></td>
<td>19</td>
<td>39</td>
</tr>
<tr>
<td>Initial processing by legal unit</td>
<td></td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Case returned to inspector for signature</td>
<td></td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Mail summons issued, first docketing to court</td>
<td></td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>Return for personal service and redocketing</td>
<td></td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>Total days</td>
<td></td>
<td>47</td>
<td>78</td>
</tr>
</tbody>
</table>


NOTE: These figures do not include elapsed time between the placement of the violation and referral for prosecution, which may be many months.

OTHER APPROACHES TO SECURING COMPLIANCE

The City and the tenants of buildings against which code violations have been placed have access to remedies other than criminal prosecution. Only one of these, rent reductions imposed by the Office of Rent Control, has had substantial success.

Rent Reductions

In recent years, tenant demands for rent reductions have increased dramatically—from $91,000 in 1962 to $389,000 in 1969. About 70 percent of these were found to be valid by the Office of Rent Control, which then threatened the landlord with reductions in ceiling rents if the violations were not corrected. In three-fourths of these cases the landlord restored services in response to the threat. Rents were actually reduced on the remainder, about 65,000 cases in 1969. This figure still represents a 244-percent increase over the number so treated in 1962. Although this number exceeds the number of criminal prosecutions, it includes rent reductions on grounds not covered by the Housing Maintenance Code, and each case represents an individual housing unit, rather than an entire building.

On the evidence of these data, the threat of rent reduction appears to be an effective inducement to owners to respond to tenant complaints. However, like many deterrents, its actual use can be destructive. Of the 57,000 cases in which rents were reduced in 1968, only 6 percent were restored within the year. For some of the
remainder, the rent reductions were offset by savings in services and costs, and posed no threat to the financial health of the buildings. For others, they reduced the income available for building maintenance and so contributed to further deterioration. In a number of cases, rents were reduced to $1 in conjunction with the issuance of a vacate order so that the landlord could not profit from the constructive abandonment of his building.

As the volume of tenant complaints continues to increase, the number of rent reductions can be expected to increase. To achieve the positive effects without the negative will become increasingly difficult. Rent reduction is primarily a device for protecting tenants from unfair treatment; it is less effective as a means of protecting the housing stock.

City-Initiated Remedies

Direct intervention by the City in receivership proceedings, vacate and demolition orders, and emergency repair actions will be dealt with in other reports. The remaining remedy available to the City is the use of civil penalties.

Civil Court action provides a promising approach to code enforcement since it requires less stringent proof of guilt and may be brought against a building rather than against the owner. So far, however, case preparation and coordination with the Office of the Corporation Counsel have proved time-consuming. Successful civil actions have been brought in the past two years against owners of 31 multiple dwellings for failure to register properly with the OCE. Fines in most of these were $500, substantially higher than penalties in the Criminal Court.

Tenant-Initiated Remedies

Data on the use of tenant remedies are fragmentary. The annual volume of proceedings to place rents in escrow under Art. 7-A has been less than 100. The requirement that one-third of the tenants in a building bring suit is difficult to meet. Few low-income tenants have the time or resources to spend on uncertain court actions that do not resolve serious problems of management even if the case is won. Although they have generated considerable public interest, these remedies are unlikely to show substantial success in their present form.
V. PROGRAM EVALUATION

The performance of the Code Enforcement Program reflects not only the laws on which it is based, its administrative policies and procedures, and the competence of its staff, but the problems of the housing market in which it operates and the activities of other City programs impinging either on this market or on OCE itself. Here we try to evaluate this performance, first reviewing the market context of the program, then addressing three questions:

1. How well does the Code Enforcement Program fulfill the objectives set for it by law?
2. How efficient is the program in its use of resources to meet these objectives?
3. How does code enforcement relate to other City programs dealing with housing?

THE MARKET ENVIRONMENT

Over the period covered by this Report (1960-1969), the rental housing stock in New York City experienced increasing undermaintenance as a result of economic and social forces beyond the control of the code enforcement system. By 1968, aggregate rental revenue fell short of that required to maintain rental housing as

1 Problems of New York City's rental housing market during the 1960s have been reviewed or analyzed in several recently published studies, including the following: George Sternlieb, The Urban Housing Dilemma: The Dynamics of New York City's Rent Controlled Housing, a draft report prepared for the Department of Rent and Housing Maintenance, released in May 1970; Paul L. Niehanck, Rent Control and the Rental Housing Market in New York City 1968, a report prepared for the Department of Rent and Housing Maintenance, January 1970; Frank S. Kristof, "Housing: Economic Facets of New York City's Problems," in Lyle C. Fitch and Annmarie Hauck Walsh, eds., Agenda for a City, Institute of Public Administration, New York, 1970; and Ira S. Lowry, ed., Rental Housing in New York City, Vol. I, Confronting the Crisis, RM 6190-NYC, The New York City–Rand Institute, February 1970.

This subsection draws on these studies and on additional material now being prepared for publication by The New York City-Rand Institute. While the several studies cited above may disagree on some details, all subscribe at least to the general conclusions presented here in brief.
a long-term investment by an estimated $260 million annually. In part, the rent gap may be attributed to provisions of the Rent Control Law that prevented rents from rising with costs. It also reflects the large numbers of low-income tenants whose inability to pay more establishes market rents below the long-run cost of providing well-maintained housing without subsidy.

Caught in a squeeze between controlled rents increasing at 2 percent annually and costs increasing at 5 to 8 percent annually, owners of rent-controlled housing have responded by disinvestment through undermaintenance. In transition neighborhoods, their expectations have been further eroded by the high incidence of burglary, vandalism, and fire that stem from causes beyond their control and contribute to the physical deterioration of their property and to tensions between landlords and tenants. As rental property ceases to attract investors and mortgage lenders, owners, unable to sell, cut their losses by undermaintenance and abandonment. Short-term exploitive ownership becomes both possible and tempting to unscrupulous owners.

By 1968, these trends were evident in the rising incidence of structural deterioration. Between 1960 and 1968, the inventory of sound housing increased by 2.4 percent, while the inventory of dilapidated housing increased by 44 percent, and the inventory of deteriorating housing increased by 37 percent. About 488,000 units (18 percent of the total stock) were substandard by 1968. About 78 percent of the substandard units were rental units subject to rent control.

As deterioration has increased, so have demands for code enforcement. Complaints received from tenants increased from about 100,000 annually in the early 1960s to 397,000 in 1969. Part of this increase is due to the assumption of responsibility for heat complaints by the OCE in 1965; part is due to the creation of the Central Complaints Bureau with a well-publicized telephone number. Nevertheless, the parallel rise in tenant requests to the Office of Rent Control for rent reductions to counter declining housing quality or reduction of building services—from 113,000 in 1962 to 387,000 in 1969—attests to the real growth in housing problems in the City.

Evaluation of the performance of the Code Enforcement Program must take into account this context—an unhealthy market, rapid physical deterioration of the housing stock, and the rising number of tenant complaints.

ENFORCING STANDARDS OF HOUSING QUALITY

The Housing Maintenance Code is the legal basis for housing standards in New York City. It consists of an accumulation of specific requirements, few of which were enacted as part of a general scheme; and a general requirement that housing be kept in good repair. How useful are these standards? It is the responsibility of the OCE to enforce them; how well has it succeeded in doing so?
Setting the Standards

Code enforcement has certainly contributed to housing improvement through its role in expressing public standards for housing quality. Over the years, the various housing statutes and codes have widened in their range of concern and demand for ever-higher standards of performance. Giving these standards the force of law accelerates their adoption, at least where they are economically feasible.

It might be argued that these new legal standards typically do no more than codify improvements already widely adopted in response to market demand. On balance, we cannot accept this view. For example, 46,000 violations were placed in 1966 for failure to provide outside doorlocks, a recent addition to the code. During the same year, 26,000 such violations were cleared, indicating compliance with the new standard. Certainly many apartments had outside lights before the law required them, and the same could be said for other improvements. However, housing codes help establish expectations, and by intervening where tenants have little bargaining power, they cause improvements to be made in parts of the housing stock where market forces would not produce them.

If the establishment of higher standards is indeed a useful function of code enforcement, how should the standards be set, and within what constraints? Economic viability and administrative feasibility are clearly constraints. As long as owners have the option to withdraw from the market, standards that impose costs beyond the revenue-generating capabilities of buildings will result in wasted resources. Standards also must be explicit enough to be enforceable. The present system is deficient in both respects. Owners are required by the code to provide services that some tenants cannot afford (e.g., painting every 3 years). The existing order book provides only capricious guidance to an inspector charged with deciding whether or not a building is in violation of the law.

Finally, code standards, or at least priorities in enforcement, should take into account tenant perceptions of the relative importance of various housing defects as well as those of public health and public safety experts.

A recent survey of tenants in ethnically mixed neighborhoods showed, for example, that for most of them security was as important as services and maintenance. Specifically mentioned were problems of intruders where locks were nonexistent or defective, and broken mailboxes. Although violations are sometimes placed on defective entrance doors, the Housing Maintenance Code does not specifically require a functioning lock on the outside door of a multiple dwelling. Defective mailboxes are violations of the code, but do not receive much attention in the Code Enforcement Program; only about 600 violations of this type were placed in 1969.

Standards set by legislative or administrative action thus may not reflect the priorities of the public without explicit efforts to discover these priorities. Perhaps the public should be directly involved—through opinion surveys, for example—in determining the minimum housing standards which the City enforces for them.
Finding and Evaluating Housing Code Violations

In May 1969, uncleared violations were on record for 62 percent of all multiple dwellings, which accounted for a somewhat smaller proportion of all dwelling units. Although violations are an imperfect measure of structural condition, it seems probable that almost all seriously substandard units are included within the large group of buildings that have received attention from the OCE. The complaint orientation of the system makes it especially unlikely that many buildings with serious defects remain undetected. The 83,000 complaints processed through EDP in 1968 that were inspected by December 1969 involved 40,000 buildings or almost one-third of all multiple dwellings, and these excluded heat and most emergency complaints.

Once contact with a substandard building has been made, the OCE's response should be determined by the seriousness of the substandard condition and its priority in terms of City policy. Effective action depends on speed and the ability to match the action to the condition. In these terms, the code enforcement system is seriously lacking.

Faced with worsening housing conditions after 1965, the City tried to meet the problem through code enforcement, but with tools that were simply inadequate to the task. As part of a general effort to make government more responsive, a Central Complaints Bureau was established and tenant complaints were given priority; the OCE was given the heavy responsibility for investigating heat complaints, and for providing inspectional support for the new Emergency Repair Program. These changes were all sensible moves toward the creation of a responsive system. But they occurred at a time of rapidly rising demand for enforcement action, and they were not matched by improvements in methods of screening or capacity for responding to complaints.

Predictably, the result was overload. Swamped by the complaint flood, the system became reactive rather than directed as it attempted to cope with intake. Despite a doubling in the number of housing inspectors, inspection as a primary response to the uncontrolled intake proved to be infeasible. As heat and emergency inspections increased and were given priority, the work force was unable to take action in other types of complaints. Delays of six months or more developed before these complaints could be inspected. Frustrated tenants receiving no action would repeat their complaints or exaggerate their seriousness. Moreover, in the absence of effective screening, these superfluous complaints entered the inspection pipeline to cause additional delay. Were it not for the success of the Central Complaints Bureau in closing cases by telephone and screening less serious complaints by mail, the system would undoubtedly have collapsed altogether.

Further on in the pipeline, resources devoted to reinspecktion (the basic means of removing violations) did not match complaint intake. The proportion of inspectional effort devoted to reinspecktion decreased from 60 percent in 1962 to 34 percent in 1968. Violations increased faster than they could be removed until by 1968 more
than 700,000 were pending. Only in 1969 did the OCE finally manage to reverse this trend—by reducing the number of new violations placed. But even so, control of the system’s action in a broad sense remains problematical. Violation data as now recorded provide little evidence on what is wrong with buildings or how serious their problems are. Without this information, the process of targeting or evaluating the system’s performance lacks an essential component.

The conclusions drawn from these events do not depend on whether the growth of housing problems or the improved responsiveness of government is more important in generating the system’s difficulties. For whatever reason, the changes in the intake sector of the code enforcement system were not matched by changes elsewhere. Systems that have evolved by small changes over long periods of time adjust their component parts into mutual balance. When rapid change occurs in one subsystem, failure results elsewhere if adaptation is not fast enough or consumes too much effort. Code enforcement attempted to adjust to a surge in intake by increasing the number of inspectors. But to provide enough inspectors to meet the demand without other innovations is fiscally infeasible.

Unless housing deterioration and complaints decline sharply, or the City chooses to reduce its commitment to complaint response, both of which appear unlikely, other options besides inspection must be developed to answer complaints and remove violations. Field inspections are expensive; they should be reserved for situations in which no other action is acceptable. In order to respond rapidly and appropriately to all complaints, the system will require (1) improved screening on intake to eliminate duplicate complaints; (2) more effective owner-tenant contact; (3) a first response to most complaints that is quick and inexpensive, for example, mailed requests for compliance; and (4) new approaches to certification of compliance after violations have been placed.

Securing Compliance

The immediate objective of code enforcement is to secure compliance with the law. Whether owners will in fact remove illegal conditions as a result of tenant and City action, however, depends on more than code enforcement activity. Owners of financially insolvent buildings in a housing market characterized by uncertainty and fear of investment loss are unlikely to respond positively to punitive measures. In fact, such measures applied indiscriminately may speed up deterioration and eventual abandonment. When such a market is accompanied by a very low vacancy rate, unscrupulous owners of solvent buildings may be tempted to increase their cash flows by cutting maintenance. To deter them, sanctions should be uniformly applied, swift, and powerful. In short, a difficult market implies that code enforcement must discriminate; to obtain compliance from reluctant owners of buildings with adequate revenue may be possible if penalties are strong and definite; for insolvent buildings other methods must be found.

The present Code Enforcement Program presents almost the direct opposite of these conditions. Penalties are indiscriminate; applications are uncertain and weak. Economic circumstances of buildings play little or no role in the decision to
apply sanctions. Consequently, cases involving economically insolvent buildings recirculate in the courts indefinitely, preventing the effective use of penalties where they might work.

Nevertheless, the degree of compliance is substantial, most of it voluntary. A declining but still considerable proportion of complaints—about one-third—are closed by telephone call-back from the Central Complaints Bureau. Over 75 percent of complaints for which the mail-back procedure is used result in no demand for further action from the complainant. In total, perhaps half of all complaints reaching the City are resolved without violations being placed. While many of these would result in no violation if inspected, it seems reasonable to assume that some do represent voluntary removal of illegal conditions.

Most violations are eventually removed. Of the 3.9 million violations placed between 1960 and 1969, at least 75 percent had been dismissed by the end of 1969. However, a considerable proportion of these must have been placed in buildings that were later demolished. Recycling of unrepai red buildings through the system is endemic. About 36 percent of violations pending in 1968 occurred in buildings having more than 30 violations. Abandoned and demolished buildings in recent years have been characterized by a large number of these violations before they finally disappeared from the market. Similarly, 19,500 out of 22,300 emergency repairs in 1969 were made on buildings that had at least one previous emergency repair.

After violations have been recorded, there is little evidence that the use of criminal prosecution in its present form contributes much to compliance. The study cited earlier showed 47 percent of the violations still pending one year after being prosecuted in court. Of the remaining 53 percent, 36 percent had been removed before any case was brought to court. Fines are little more than a minor business expense—$12.62 was the average in 1969—and in some cases the fine per violation decreased with the number of violations brought to court. Procedures for taking cases to court are cumbersome and lengthy. In 1969, the average time between placement of a violation and first court appearance was over 18 months. Sophisticated owners can easily delay the procedures, causing further backlogs.

The threat of rent reductions seems to be effective in securing compliance. In 1969, 266,000 applications by tenants for such reductions were approved by the Office of Rent Control, but owners corrected the violation before the reduction was effective in 76 percent of these cases. Where the rent reductions were actually imposed (65,000 cases), experience in earlier years suggests that few owners subsequently comply with the law. Only 6 percent of the rents reduced in 1968 were restored in that year. For many of these buildings, rent reduction was an important step on the road to abandonment.

Recent changes in the law allow tenants to initiate remedies directly through court action. So far, little has been accomplished by this. Volumes have been minimal, on the order of 100 cases per year, of which perhaps 10 result in court orders. Proceedings are slow and their outcome so uncertain that tenants faced with the possibility of eviction are unwilling to bear the cost. This approach to enforcement appears to have limited application.
The conclusions are evident. First, owners who are ready to comply with the law only need to be told that a possible violation exists. This information should be conveyed to them as quickly and informally as possible. Each case resolved at the point of intake frees resources for dealing with the relatively small number of persistent code violators.

Second, where more forceful measures are needed, methods for securing compliance with the law should be attuned to the economic circumstances of the building, its owner, and its tenants. For buildings in financial distress, this means referral to an assistance, takeover, or demolition program that will at least remove them from the regular code enforcement pipeline. For violators who can afford to maintain their buildings, the penalty system requires reorganizing to ensure the swift and uniform imposition of strong financial penalties. Neither Criminal Court nor tenant remedies seem to be appropriate for this purpose; alternative forms of judicial tribunal, notably an administrative court system, should be studied.

ADMINISTRATIVE EFFICIENCY

Administrative problems of the Code Enforcement Program are twofold: an inefficient flow of activity through the system, and the inability to monitor and direct code enforcement action. These problems are mostly related to system overload that has resulted in backlogs and bottlenecks at critical points in the system's work flow. Problems are also caused by an increase in the responsibilities of the OCE that have not been matched by appropriate functional changes.

That the Code Enforcement Program does not present a picture of a smoothly functioning and controlled system is not surprising in the light of what has been demanded of it during recent years. We have described the shifts in City policy toward complaint response and the accompanying emphasis on health and safety at a time of rapid housing deterioration. The resulting increased complaint intake and the priority given to quick response to emergency complaints generated a system overload that resulted in failure to process ordinary complaints promptly and virtual abandonment of OCE's cyclical inspection program. These difficulties were compounded by a poorly planned departmental reorganization, low morale of the inspectional force, and a data-processing system incapable of expansion.

Departmental Reorganization

Code enforcement has been more affected by the reorganization of housing functions into the Housing and Development Administration than perhaps any other agency. Prior to 1967, enforcement of housing laws was the responsibility of the Division of Housing within the Department of Buildings. This division was an integral part of the Department of Buildings and relied on it for centralized services. For other agencies reorganization was simpler. For example, the City Rent and Rehabilitation Administration was transferred almost intact to the Office of Rent
Control with no change in workload. In contrast, the newly established OCE was required to set up a control structure under great operational pressure, while absorbing hundreds of new staff members. At the same time, certain administrative functions necessary for proper operation of the agency were not developed, notably an adequate statistical staff for the OCE Deputy Commissioner and the Director of Operations. This gap has not been filled by computer-generated information, for reasons discussed below. Thus, although the case for unification of agencies concerned with conserving and managing the housing inventory was sound, for code enforcement the transition has adversely affected administrative control and effectiveness.

Inspector Morale and Capability

Attitudes and capabilities of inspectors are vital in a system relying heavily on field inspection. At present, inspectors' morale and responsibility are low. Turnover is high. Many inspectors move to the Department of Buildings as soon as they are able to become construction inspectors. Despite the fact that pay and promotions are no better, the position of construction inspector is more attractive and entails more responsibility.

Under the burden of heavy inspection loads and tight schedules, inspectors have no time to play a larger role and are not encouraged to do so. Although they have opportunities to develop an understanding of housing conditions in local areas, they are given little or no incentive for such development. District rotation, intended to prevent graft but untested as to its effectiveness, reduces still further the relationship between inspectors and their neighborhoods. Housing inspectors are often of different ethnic or racial origins than the majority of inhabitants in the neighborhoods for which they are responsible. Furthermore, their activity often leads to no improvement. Though this may not be the fault of the inspector, he nevertheless becomes the target of frustrated and hostile tenants. It is unlikely that any reform of code enforcement that meets the problems described will be successful unless it also improves the morale and capability of the inspection force.

Computer and Clerical Operations

Problems in processing paperwork abound in the Code Enforcement Program. Partly, they result from the many agencies involved; for example, in moving cases to Criminal Court. Within the Office of Code Enforcement, the elaborate information processing network cannot handle the loads with which it is faced. It depends on a small, obsolete computer that is grossly inadequate to cope with the demands of the program. Surrounding the computer’s operations are an increasing number of clerical activities that serve to gather and prepare computer input and disseminate output.

The information processing system is now in a chaotic state. An ever-increasing and unmanageable mountain of paper produces clerical bottlenecks at many
points. Necessary data often are not available when needed. The limited capability of the existing computer has restricted not only the efficiency of present procedures but the opportunities for change. Many improvements that management considered desirable were either modified to fit the limited capability of the computer hardware or were completely discarded, and the system cannot provide information that is necessary both for management and larger policy decisions.

An appropriate EDP capability requiring less clerical backup is absolutely necessary for a smoothly functioning Code Enforcement Program. However, redesign requires decisions concerning other parts of the Code Enforcement Program.

RELATIONSHIP TO OTHER CITY PROGRAMS

Code enforcement activity both affects and is affected by other City programs related to housing. Perhaps the most important such relationship is a coordinate one with the Rent Control Program, which regulates the price of housing while depending heavily on code enforcement to regulate its quality. Code enforcement relates in a different way to the Criminal Court and to problem buildings programs, which must respond to OCE findings of the need for punishment or intervention in building management. So long as each related program takes a parochial view of its responsibilities, all are likely to work at cross purposes.

Rent Control

Rent control and code enforcement could work together to improve the housing stock, but they have not. Prior to the revision of the rent control law in 1970, the primary mission of the Office of Rent Control was to protect tenants from rent increases rather than to set ceiling rents that were equitable both for the tenant and the landlord. By holding rents below their market levels, rent control established a price at which the demand for housing exceeded the supply. With housing difficult to find, landlords were able to compensate for inadequate rents by inadequate maintenance without fear of losing tenants. The tenants then turned to the OCE for help in forcing the landlord to remedy the resulting housing deterioration.

Elsewhere in this series, we argue that substantial rent increases for most controlled housing are needed to enable owners to fulfill their obligations. But because the tight market gives owners excessive bargaining power, any propensity to divert increased rents away from maintenance must be curbed by an effective Code Enforcement Program. Code enforcement, if it is efficiently managed and backed by effective deterrents, provides the complementary pressure to ensure that rent increases are followed by improved housing quality.

Criminal Court

The Office of Code Enforcement has no control over the policies and procedures of the City's Criminal Court, but depends on the Court to punish delinquent
owners. Partly because the Court is badly overloaded, partly because judges recognize the fundamental dilemma of building owners whose rental revenues will not support a high level of maintenance, and partly because they lack the information needed to distinguish real differences in the seriousness of offenses, the fines levied by the Court are usually trivial. The only credible deterrent to code violation is the rent-reducing authority of the Office of Rent Control. The effectiveness of this procedure is subject to the same limitation as would be heavy criminal penalties—i.e., when applied to a financially distressed owner, rent reduction is more likely to lead to building abandonment than to code compliance.

**Problem Building Programs**

The City’s emergency repair, receivership, municipal loan, tax abatement, management counseling, and demolition programs receive much of their intake from OCE referrals. Their capacity to resolve or dispose of the physical and financial problems of the buildings referred to them largely determines whether or not these buildings will subsequently recycle through code enforcement.

Effective code enforcement operations require (1) the means to identify buildings that are unlikely to respond to enforcement; and (2) programs for special treatment of those buildings according to their status and value to the City and their owners. Without these outlets, making the system more efficient will amount to little more than speeding up the rate of recirculation through the system of buildings that do not meet standards.

**CONCLUSION**

At present, much code enforcement activity is wasted effort, consisting either of inspections made in response to trivial or duplicate complaints, or of repeated placement of code violations on buildings already known to be chronic offenders. The information gathered at the time of complaint and in the course of inspections is inadequate to serve as the basis for selecting the City’s best response. In any case, the responses available to OCE do not include any that are appropriate for buildings whose failure to meet code standards is a symptom of financial distress; and the punishments meted out to those violators brought to the Criminal Court are typically trivial.

Although administration of the Code Enforcement Program could be improved in many respects, such improvements alone would not suffice to secure program objectives. As the financial distress of the rental housing market has increased, more and more landlords have turned to policies of undermaintenance, multiplying the demands placed on the OCE by tenants. At the same time, OCE has been called upon by the City Administration to demonstrate more responsiveness to tenant complaints. Program managers have been valiant in their attempts to meet the demands placed on the system for inspection of complaints and placement
of violations. However, simply meeting these demands would not be much of an improvement. Unless code enforcement leads to the correction of code violations and to generally better maintenance policies, it will remain no more than an ineffectual expression of public concern for housing standards.

If it is to play a significant role in a larger strategy of housing conservation, the code enforcement system must be redesigned in several respects. First, the City must acquire the legal authority and develop the administrative resources needed to respond promptly, appropriately, and effectively to code violations. Second, the housing standards set by law must be transformed into a coherent body of administrative regulations that takes account of both the concerns of tenants and the realities of the marketplace. Third, procedures must be devised to identify buildings that fail to meet these standards in enough circumstantial detail so that the City can choose an appropriate response.

To be effective, the overall enforcement program should be capable of being directed in response to City policy, both with respect to the types of violations that are given priority and the areas and types of buildings in the City that need particular attention. The capacity to make inspections and to induce compliance further along the code enforcement pipeline must match the intake resulting from these priorities. For cases involving owners of financially distressed buildings, special treatment must be available to prevent them from simply recycling through the system and consuming resources. For cases involving solvent but intransigent owners, punitive measures must be credible, strict, and swiftly applied.

Even such a redesigned Code Enforcement Program will fail to prevent housing deterioration unless it is supported by a general improvement in the rental housing market. So long as a substantial number of buildings fail to generate revenues that are adequate to support high maintenance standards, and so long as many building owners are persuaded that rental real estate will continue to be an unprofitable investment, there is little that the City can do to enforce its Housing Maintenance Code.