



# City of New York

## OFFICE OF THE COMPTROLLER

Scott M. Stringer  
COMPTROLLER



## MANAGEMENT AUDIT

**Marjorie Landa**

Deputy Comptroller for Audit

Audit Report on the Landmarks  
Preservation Commission's Issuance of  
Certificates of No Effect

MD16-083A

**November 30, 2016**

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
1 CENTRE STREET  
NEW YORK, NY 10007

SCOTT M. STRINGER  
COMPTROLLER

November 30, 2016

To the Residents of the City of New York:

My office has audited the New York City Landmarks Preservation Commission (LPC) to determine whether it processed Certificates of No Effect (CNEs) and Expedited Certificates of No Effect (XCNEs) in a timely manner. We audit City operations such as this to increase accountability and ensure that applicable policies are followed.


The audit found that LPC does not record the actual dates that the certificates are issued. Although LPC's Permit Application Tracking System (PATS) database has a field called "issue date" that it uses to calculate timeliness, the "issue dates" recorded in PATS generally reflect the date on which a certificate was submitted for internal supervisory approval. As a result, we were unable to determine the degree to which it processed CNEs and XCNEs in a timely manner. In addition, the audit identified weaknesses in the permit issuance process and serious control weaknesses with LPC's database, which compromised management's ability to ensure that the data was accurate and that no unauthorized entries were made. The audit also identified instances where permits remained in process for excessive periods of time and instances where LPC failed to send timely notifications to applicants who had submitted incomplete applications. Finally, the audit found that LPC does not reconcile the permit fees collected by the Department of Buildings (DOB) with the permits LPC has issued.

The audit made 16 recommendations, including that LPC should: (1) ensure that the permit "issue date" field in PATS is updated to reflect the actual date that permits are printed for issuance; (2) implement controls to correct the data processing and data validation deficiencies identified and ensure that any new permit processing application has sufficient controls to mitigate such deficiencies; (3) ensure that the notifications sent to applicants when applications are incomplete are issued within one week, as required; and (4) regularly reconcile the permits reflected in the revenue reports received from DOB with the permits LPC has issued and follow up with DOB to investigate any variances or discrepancies.

The results of the audit have been discussed with LPC officials and their comments have been considered in preparing this report. LPC's complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,



Scott M. Stringer

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
Audit Findings and Conclusion .....	2
Audit Recommendations.....	2
Agency Response.....	3
<b>AUDIT REPORT .....</b>	<b>4</b>
Background .....	4
Objective.....	5
Scope and Methodology Statement.....	5
Discussion of Audit Results with LPC .....	6
<b>FINDINGS AND RECOMMENDATIONS .....</b>	<b>7</b>
Weaknesses in the Permit Issuance Process.....	7
LPC Generally Does Not Record Actual Permit Issue Dates .....	7
Permits Database Lacks Adequate Controls.....	9
Recommendations .....	11
Weaknesses in the Application Review Process .....	12
Application Review Process Not Conducted Timely.....	12
Inadequate Evidence of Violation Searches.....	13
Applications Not Consistently Dated Upon Submission .....	13
Recommendations .....	14
Other Matter .....	15
Permit Fees Not Collected .....	15
Recommendations .....	16
<b>DETAILED SCOPE AND METHODOLOGY.....</b>	<b>18</b>
<b>ADDENDUM</b>	

# **THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT**

## **Audit Report on the Landmarks Preservation Commission's Issuance of Certificates of No Effect**

**MD16-083A**

### **EXECUTIVE SUMMARY**

The objective of this audit was to determine whether the Landmarks Preservation Commission (LPC) processes Certificates of No Effect (CNEs) and Expedited Certificates of No Effect (XCNEs) in a timely manner.

LPC is responsible for protecting the City's architectural, historic and culturally significant buildings and sites by granting them landmark or historic district status and by regulating the properties and districts that receive such status. There are currently 1,364 individually designated landmarked properties and more than 35,000 properties in 139 historic districts and historic district extensions in the five boroughs.

LPC helps preserve the City's landmarked properties by regulating changes to their significant features. Owners or tenants must apply for a permit from LPC before doing certain kinds of work affecting the exterior and/or interior of landmarked properties. When proposed work on a landmarked property requires a Department of Buildings (DOB) permit but does not affect the protected architectural features of a building, the owner or tenant must obtain a CNE permit from LPC prior to getting a work permit from DOB. Certain kinds of interior work at an individual landmark or building within a historic district may qualify for an expedited permit, or XCNE. Unlike some other types of LPC permits, CNEs (and XCNEs) do not require a public hearing before the LPC commissioners or a presentation to the community board.

Applications are entered into LPC's Permit Application Tracking System (PATs) database. LPC's stated goals are to issue a CNE permit within 10 days of receiving a complete application and issue an XCNE permit within two days of receiving the application. According to the September 2015 Mayor's Management Report (MMR), LPC received 13,273 work permit applications in Fiscal Year 2015. The MMR states that during that year, LPC issued 91 percent of the CNEs within 10 days. The MMR further reports that the LPC issued 90 percent of the XCNEs within two days.



## Audit Findings and Conclusion

The audit found that LPC does not record the actual dates that the certificates are issued. As a result, we were unable to determine the degree to which it processed CNEs and XCNEs in a timely manner. Although LPC's PATS database has a field called "issue date" that it uses to calculate timeliness, we found that the "issue dates" recorded in PATS generally reflect the date on which a certificate was submitted for internal supervisory approval, which is not how the LPC defines the "issue date." Rather, LPC defines "issue date" as the date the final approved permit is printed for mailing. LPC does not maintain any evidence of this date, however. According to LPC officials, the permits are supposed to be mailed within one or two days after being printed. However, the date mailed is not a required field in PATS and is not consistently documented. Thus, we were not able to determine the degree to which LPC mailed permits in a timely manner.

In addition, we identified weaknesses in the permit issuance process and serious control weaknesses with LPC's database. Specifically, the database LPC uses to process permits has inadequate data input controls, edit checks, and audit trails. This means that management's ability to ensure that the data in PATS is accurate and that no unauthorized entries are made in the system is compromised.

Further, we identified weaknesses in the application review process that LPC uses to designate an application as being complete. We found instances where permits remained in process for excessive periods of time and instances where LPC failed to send timely notifications to applicants who had submitted incomplete applications. We also found little evidence that violation searches were conducted.

Finally, we found that LPC does not reconcile the permit fees collected by DOB with the permits LPC has issued and that the City does not consistently enforce the requirement that a fee be collected for each LPC permit issued.

## Audit Recommendations

Based on the audit, we make 16 recommendations, including:

- LPC should ensure that the permit "issue date" field in PATS is updated to reflect the actual date that permits are printed for issuance.
- LPC should document and monitor the dates on which the permits are actually mailed to the applicants to ensure that they are being mailed in a timely manner.
- For MMR-reporting purposes, LPC should measure the length of time from the date it receives a complete application to the date it mails a permit to the applicant when calculating the percentage of permits issued within LPC's timeliness targets. If it is unable to perform this calculation, LPC should disclose in the MMR that the "issue date" represents the date a permit is printed for mailing, rather than the date it is actually mailed.
- LPC should implement controls to correct the data processing and data validation deficiencies (e.g., permits missing permit numbers, permits with future issue dates) discussed in this report. LPC should ensure that any new permit processing application has sufficient controls to mitigate such deficiencies.
- LPC should ensure that the notifications sent to applicants when applications are incomplete are issued within one week of assignment to a preservationist, as required.

- LPC should require that preservationists retain evidence of the Violations database searches conducted during the processing of CNE and XCNE applications.
- LPC should regularly reconcile the permits reflected in the revenue reports received from DOB with the permits LPC has issued and follow up with DOB to investigate any variances or discrepancies.

## **Agency Response**

In its response, LPC agreed with 14 recommendations, partially agreed with one recommendation and disagreed with our recommendation that it consider collecting a portion of the permit fees from applicants to ensure that a fee is collected for all CNE permits issued.

# AUDIT REPORT

## Background

LPC is responsible for protecting the City's architectural, historic and culturally significant buildings and sites by granting them landmark or historic district status and by regulating the properties and districts that receive such status. There are currently 1,364 individual landmarks and more than 35,000 properties in 139 historic districts and historic district extensions in all five boroughs.

LPC helps preserve the City's landmarked properties by regulating changes to their significant features. Owners or tenants must apply for a permit from LPC before doing certain kinds of work affecting the exterior and/or interior of landmarked properties. LPC reviews applications to alter landmark structures, investigates complaints of illegal work and initiates action to compel compliance with the Landmarks Law.

LPC consists of 11 commissioners and approximately 67 staff members, including preservationists, researchers, architects, historians, attorneys, archaeologists and administrative staff. LPC's Preservation Department, which is responsible for issuing permits and is the subject of this audit, has approximately 34 staff members. When proposed work on a landmarked property requires a DOB permit but does not affect the protected architectural features of a building, the owner or tenant must obtain a CNE permit from LPC prior to getting a work permit from DOB. Unlike some other types of LPC permits, CNEs do not require a public hearing before the LPC commissioners or a presentation to the community board. Examples where a CNE is needed include installation of plumbing and heating equipment, interior renovations, and changes that LPC staff, pursuant to City rules, determines do not adversely affect significant features of the building.

An owner or a tenant who wants to do work on a landmarked property must submit an application to LPC.<sup>1</sup> Once an application is received, LPC staff preservationists review it to determine the type of permit needed. The application is entered into LPC's PATS database and a sequential six-digit docket number is assigned.<sup>2</sup> Permits are also assigned a six-digit regulation number and a regulation type, which together make up the permit number.<sup>3</sup> According to the Rules of the New York City Landmarks Preservation Commission, Title 63, Rules of the City of New York (Title 63), Chapter 2, Subchapter A, Section 2-03, only complete applications can be processed. If an application is incomplete, LPC's procedure is to send a Materials Checklist to the applicant within one week of the application assignment to a preservationist indicating what additional materials are needed. If the applicant has not provided the necessary materials within 60 days after the Materials Checklist is sent, LPC is supposed to send a letter (known as the 60-day letter) informing the applicant that if the requested materials are not received within the next 30 days, the application will be considered inactive and be withdrawn. An application that remains incomplete three months after the applicant has been notified that additional materials are needed is considered by LPC as withdrawn by the applicant.

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<sup>1</sup> The same application is used no matter what type of work is proposed.

<sup>2</sup> The docket number is assigned by the system as an internal tracking number for applications. A docket number can be related to one or more permits.

<sup>3</sup> The regulation number is sequentially assigned by the system and the regulation type represents the type of permit issued (e.g., CNE, Permit for Minor Work, etc.) or the action if a permit is not issued (e.g., withdrawn, staff denial, etc.).

Under the New York City Administrative Code,<sup>4</sup> once the staff has confirmed that an application includes the required materials, LPC is legally required to make a decision about CNE applications within 30 business days.<sup>5</sup> However, LPC's goal is to make such a decision and issue a permit within two weeks of receiving a complete application. Permits for certain work types can be expedited through two different methods: FasTrack Service and Expedited Certificate of No Effect Service. Through FasTrack service, LPC's stated goal is to approve a project within 10 days of receipt if: (1) the application includes all the required documents and materials; and (2) there are no outstanding violations on the building. Certain kinds of interior work at an individual landmark or building within a historic district may qualify for LPC's XCNE Service. An XCNE is issued by staff for interior alterations only above the second floor, or in the cellar or basement, and LPC's stated goal is to issue an XCNE permit within two days of receiving a complete application.

While permit application records are entered into the PATS computer database, LPC maintains hard copies of the applications and related documents in its file room. According to a report received from LPC, during the period of July 1, 2014 through December 18, 2015, LPC issued 7,323 CNEs, 1,802 XCNEs, and had 819 in-progress permit applications.

Work that requires a CNE permit always also requires a permit from DOB; consequently, once the applicant receives the CNE permit from LPC, he/she must take this permit and related documents to DOB, which is supposed to collect LPC's fees in addition to its own fees when it issues a work permit.

According to the September 2015 MMR, LPC received 13,273 work permit applications in Fiscal Year 2015. The MMR states that during that year, LPC issued 91 percent of the CNEs within 10 days. The MMR further reports that LPC issued 90 percent of the XCNEs within two days. LPC considers the date that a final approved permit is printed for mailing to be the "issue date" and it is the date that is printed on the permit.<sup>6</sup> LPC claims that its Permit Application Guide, published in 2013, led to an increase in filing of complete applications and eliminated delays previously caused by requests for missing information, as evidenced by continued faster permit issuance for CNEs.

A prior New York City Comptroller's audit, *Audit Report on the Internal Controls of the Landmarks Preservation Commission Over Permits* (Audit # MG10-073A, issued on June 17, 2010), found weaknesses with LPC's internal controls, including that LPC did not track or reconcile the LPC permit fees collected by DOB with the certificates that LPC had issued.

## Objective

To determine whether LPC processes CNEs and XCNEs in a timely manner.

## Scope and Methodology Statement

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

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<sup>4</sup> Title 25, Chapter 3, §25-306.

<sup>5</sup> Throughout this report, days refers to business days unless otherwise specified.

<sup>6</sup> Although LPC seeks to mail the permits within one to two days that is not always done. However, no matter when the permits are mailed to or picked up by the applicants, the date on which a permit is printed is deemed by LPC to be its issue date.



audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The primary audit scope was July 1, 2014, through December 18, 2015. Please refer to the Detailed Scope and Methodology at the end of this report for specific procedures and tests that were conducted.

## **Discussion of Audit Results with LPC**

The matters covered in this report were discussed with LPC officials during and at the conclusion of this audit. A preliminary draft report was sent to LPC and discussed at an exit conference held on September 21, 2016. On October 6, 2016, we submitted a draft report to LPC with a request for comments. We received a written response from LPC officials on October 21, 2016. In its response, LPC agreed with 14 recommendations, partially agreed with one recommendation and disagreed with our recommendation to consider collecting a portion of the permit fees from applicants to ensure that fees are collected for all CNE permits issued.

The full text of LPC's response is included as an addendum to this report.

## FINDINGS AND RECOMMENDATIONS

LPC does not record the actual dates that the certificates are issued and as a result, we were unable to determine the degree to which it timely processed CNEs and XCNEs. Although LPC's PATS database has a field called "issue date" that LPC uses to calculate timeliness, we found that the "issue dates" recorded in PATS generally reflect the date on which a certificate was submitted for internal supervisory approval, which is not how LPC defines the "issue date." Rather, LPC defines "issue date" as date the final approved permit is printed for mailing. LPC does not maintain any evidence of this date, however. Thus, we were unable to determine if applicants for CNEs and XCNEs have received timely responses.

In addition, we also identified weaknesses in the permit issuance process and serious control weaknesses with LPC's database. Specifically, the database LPC uses to process permits has inadequate data input controls, edit checks, and audit trails. This means that management's ability to ensure that the data in PATS is accurate and that no unauthorized entries are made in the system is compromised.

Further, we identified weaknesses in the application review process LPC uses to designate an application as being complete. We found instances where permits remained in process for excessive periods of time and instances where LPC failed to send timely notifications to applicants who had submitted incomplete applications. Each of these weaknesses could impinge on the timeliness of applicants' receipt of CNEs and XCNEs. We also found little evidence that violation searches were conducted.

Finally, we found that LPC does not reconcile the permit fees collected by DOB with the permits LPC has issued and that the City does not consistently enforce the requirement that a fee be collected for each LPC permit issued. Our review of DOB's permit fee revenue reports for the period covering July 2014 through October 2015 revealed that DOB collected no fees for 2,876 (35 percent) of the 8,308 CNE and XCNE permits issued by LPC during the period. At a minimum, the City should have collected \$273,220 for these permits.<sup>7</sup> However, if the average amount collected for LPC permits issued in Fiscal Years 2015 and 2016 is consistent with the average amount that should have been collected for these permits, we estimate that the City should have collected more than \$1.9 million for these 2,876 permits.<sup>8</sup>

### Weaknesses in the Permit Issuance Process

#### LPC Generally Does Not Record Actual Permit Issue Dates

Although LPC is required to grant a permit within 30 days of the receipt of a complete application (or give notice of denial within that same time frame), neither we nor LPC can determine the degree of LPC's compliance because the agency does not generally keep a record of the dates that permits are issued.

Under the New York City Administrative Code, Title 25, Chapter 3, §25-306, "Within thirty days after the filing of [an] application and request [for a CNE], the commission shall either grant [a] certificate, or give notice to the applicant of a proposed denial of such request. . . . The commission shall determine the request for a certificate within thirty days after the filing of [such

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<sup>7</sup> Based on a minimum fee of \$95 for each permit.

<sup>8</sup> Based on an average fee of \$682 that was collected for permits issued in Fiscal Years 2015 and 2016.

a] demand.” LPC starts the 30-day clock once it receives a complete application. In addition, pursuant to the introduction to Title 63, which sets forth the processes, procedures and standards for the agency, “there are a few different processes for expedited review for certain types of work: an Expedited Certificate of No Effect for certified interior work above the second floor, which can be issued within two days . . . and the ‘FasTrack’ program, through which a permit can be issued in 10 working days if the application is complete when submitted.” [Emphasis in original.]

The PATS system has a field that allows LPC to manually enter the permit “issue date.” LPC uses this date to stop the clock and calculate the number of days it takes to issue permits. According to PATS data, of the 7,312 CNE permits and 1,802 XCNE permits issued by LPC during the period of July 1, 2014 through December 18, 2015, 99 percent and 100 percent, respectively, were reportedly issued within the mandated time frame of 30 days. Regarding the two-day target for issuing XCNEs, only 60 percent of the XCNEs were reportedly issued within two days.

However, we found that the “issue dates” recorded in PATS generally do not reflect the dates on which the permits were issued as that term is defined by LPC. Rather, the “issue date” in PATS generally reflects the date when a permit was submitted internally to a supervisor for review and approval. An LPC official explained that in order for a proposed permit to be printed so that it can be reviewed by a supervisor, an issue date must first be entered in PATS.

Once the proposed permit is printed, however, LPC does not ensure that the “issue date” field is subsequently updated to reflect the actual date when the permit is printed for mailing. While LPC does not have a written protocol that the “issue date” be updated in PATS, an LPC official informed us that if final permits are issued within one to two days after supervisory approval the “issue date” is not updated; if longer than two days, the dates are supposed to be updated. However, we found that this was not LPC’s actual practice. Furthermore, the “issue date” field in PATS is the only place where LPC records the date that is supposed to reflect the date on which each permit is “issued” pursuant to LPC’s definition of issue date. We randomly selected 54 permits to review the hardcopy files and found no other record in the files to indicate the actual permit issue dates.

To determine the degree to which supervisors approved permits after the “issue dates” reported in PATS, we reviewed the hardcopy files for 94 sampled permits (including the 54 mentioned above) and found that the supervisor approval dates were recorded in 77 of them. Our review of the 77 sampled permit files revealed that for 46 (60 percent), the supervisor approved the permit *after* the reported issue date: in 35 of those instances, the reported issue dates were 1-2 days before the approval dates; and in 11 instances, the reported issue dates were 3-28 days before the approval dates. Of the remaining 31 files in which the dates of supervisors’ reviews were recorded, the reported permit issue dates were either the same as or after the approval dates.

Unless LPC records permit issue dates accurately, the agency cannot reliably report whether it is meeting legally-required deadlines and its own performance goals. LPC publicly reports the percentage of CNEs issued within 10 days and the percentage of XCNEs issued within two days in the MMR. In addition, when calculating the number of CNEs issued within 10 days and the percentage of XCNEs issued within two days, a difference of one day can potentially impact the calculation. (We note that we did not find this issue to be material for the period covered during this audit based on the recorded issue dates in PATS. Only 11 of the 7,274 CNE permits that were reportedly issued timely have “issue dates” that are 29 or 30 days after the application complete date.)

We note that LPC’s definition of “issue date” is not the date that a CNE or XCNE is actually mailed, but rather is the date when it is *printed* for mailing. According to LPC, a permit is supposed to be

mailed within one or two days of being printed. However, the date that the permit is mailed is not a required field in PATS and is not consistently documented in LPC's files. Thus, we were not able to determine the degree to which LPC mailed permits in a timely manner.

## **Permits Database Lacks Adequate Controls**

LPC has not implemented sufficient input controls to ensure the integrity of the data contained in PATS, which compromises management's ability to have reasonable assurance that the data in PATS is accurate and that no unauthorized entries are made in the system.

According to the NYC Comptroller's Directive #18, *Guidelines for Management, Protection, and Control of Agency Information Processing Systems*, "The protection and control of data information processing resources is an important element of the agency's overall internal control environment." Section 8.2 "Application Software Controls," also states that the purpose of these application controls is to ensure that transactions entered into an information processing environment are authorized, recorded and processed completely and accurately, and that the integrity of the data file is preserved. Relevant application controls include those designed to ensure that data is accurate, complete and timely (input controls) and those designed to ensure complete and accurate transaction processing (data processing controls).

We identified several issues with the input controls. These included instances where docket numbers were missing without any indication as to why, and instances where permit information (such as permit numbers, issue dates and regulation numbers) was changed without any indication as to why and with no evidence that the changes were reviewed and approved by authorized individuals. The ability to change information in PATS without appropriate supervisory review and approval increases the risk of inappropriate data manipulation and unauthorized issuance of permits.

A previous audit conducted by our office also found that permit records were modified after the permits were issued and that PATS did not keep track of what changes were made. In the previous audit, LPC officials responded that they were in the process of implementing a new permit processing application, PILLAR, later in 2010. However, that application was never implemented. According to officials, LPC is currently developing another system to replace PATS.

We also identified deficiencies in data processing controls. Specifically, we found the following errors in PATS:

- 7 applications with issue dates, but without permit numbers;
- 3 permits issued without expiration dates;
- 2 permits with future issue dates;
- 2 instances where permit numbers were assigned prematurely although the applications were still being processed; and
- 25 regulation numbers assigned to applications without the required regulation type.<sup>9</sup>

While we did not identify a significant number of the above deficiencies, the fact that the system allowed these errors to occur at all indicates a significant control weakness. We also identified

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<sup>9</sup> According to the PATS computer system manual, a regulation type (type of permit issued) must be chosen from a drop-down menu in PATS. Once a regulation type is chosen, the system automatically generates a Regulation number. Only completely processed permits should have a regulation number and regulation type.

unexplained gaps in the sequential docket numbers assigned to permit applications by PATS. Both the docket number and the permit number are six digits, with the first two digits indicating the fiscal year and the last four digits issued sequentially starting with 0001 through 9999.<sup>10</sup> LPC officials were unable to explain 16 (33 percent) of 49 sampled missing docket numbers stating that their “IT Director did not see these numbers in the database. . . . We believe these numbers may never have been generated in PATS. If they were generated, they were not assigned to an application.” An LPC official explained, “the system must be manually re-set with two new digits [for the Fiscal Year] once the number of dockets or permits reaches 9999. The system has to re-set both permit and docket numbers at the same time. Therefore, as soon as CNE 15-9999 has been issued, the next permit and dockets [sic] will be 16-0001, even though the docket numbers have only reached 9790.” However, we found that this explanation did not account for all gaps we identified in the docket numbers. For example, we did not find a record for docket numbers 15-8371 and 15-8372 in PATS; however, we found records for docket numbers 15-8373 through 15-8379. In addition, LPC did not maintain a log to account for unused docket numbers, so we were unable to ascertain whether the missing numbers represent: (1) permit applications that cannot be located; or (2) numbers that were never used at all.

**LPC Response:** “As requested by the auditors, LPC provided all data from PATS, for the time period of the audit, pulled from the Access database which underlies the system. However, LPC staff see and use only the interface and input/output transactions controlled by system source code. We learned during the course of the audit that some of the auditors’ questions arose with respect to their analysis of underlying database records alone, apart from the interface. However, the underlying database is never used in isolation and as a result, some findings relate to situations that never occur in actual use. For example, in actual use it is not possible to have a permit without a permit number or an issue date or a regulation type and there are no missing dockets.”

**Auditor Comment:** After the exit conference, an LPC official provided some documentation in an attempt to explain why the data we received showed applications with assigned regulation numbers but without the required regulation types. However, LPC provided no evidence by which we could verify that the records we were initially provided were not an accurate representation of the information in PATS at the time such records were generated, nor do we have reasonable assurance that this information was not changed in PATS subsequent to us notifying LPC of this issue.

Regarding missing docket numbers, we provided LPC with several instances where there were gaps in the sequential docket numbers. However, LPC was unable to provide explanations for what happened with these docket numbers. In the absence of evidence to the contrary, we have no basis to change these findings.

Finally, we found that the “last action date” field in PATS, which is intended to reflect the last action taken by a staff person concerning a permit application, is not automatically populated but entered manually. We determined that the last action date in PATS was after the issue date for 5,192 (59 percent) out of 8,854 permits, with a range of one to 265 days. According to LPC, if there is a last action date following the issue date, it is usually the date that the permits were actually mailed.

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<sup>10</sup> Since more than one permit can be issued for a docket number, applications are not assigned the same docket and permit numbers, but rather two different numbers. For example, docket number 15-8002 was assigned permit number 15-8385.



In addition, the last action does not always account for the permit actually being issued; the last action date for 358 (4 percent) permits was *prior* to the issuance date. (At the very least, the last action date should have been equal to, if not later than, the issuance date.) This is an indication of a serious lack of data integrity.

According to an LPC official, LPC does not have the source code for the PATS system and as a result has been unable to make any changes to PATS, for example, to strengthen controls and add audit trails. Consequently, officials stated that they have been unable to add fields, change the size or type of a field, require or prevent entries in certain fields, monitor changes and usage history, or add reports.

Insufficient data processing and validation controls in PATS increases the risk that data entry errors may occur. In addition, the lack of controls and inadequate safeguards in PATS increases the risk that various individuals with access to the system could, without detection, alter the information on a permit with no record of what was changed or issue unauthorized permits and later delete them from the system. LPC officials stated that the new permit processing application would address the above-mentioned flaws that exist in PATS. However, officials provided no timetable for final implementation of the new application.

## Recommendations

1. LPC should ensure that the permit “issue date” field in PATS is updated to reflect the actual date that permits are printed for issuance.

**LPC Response:** “With implementation of the APPTRAK system, LPC agrees with this recommendation. APPTRAK is being developed to clearly distinguish each step in the process by requiring separate fields for: the date of permit submission for supervisory review; supervisory approval; official issue date; date of release to the applicant by mail or pick-up; and date of pick up (when applicable). When PATS was built, the field identified as ‘issue date’ was the accurate date. After the City Comptroller’s Audit MG10-073A conducted in 2010, the agency required supervisor’s signature of a document identical to the official final permit to ensure accountability and introduce controls in the process of issuing permits. PATS cannot be changed to produce a draft version for supervisory review, and this has caused a 1-2 day delay in the processing.”

**Auditor Comment:** Until such time as APPTRAK is operational, we urge LPC to ensure that PATS is updated to reflect the actual date that permits are printed for issuance.

2. LPC should document and monitor the dates on which the permits are actually mailed to the applicants to ensure that they are being mailed in a timely manner.

**LPC Response:** “As stated in reply to recommendation 1 above, until APPTRAK is in use, we will designate the ‘last action’ field exclusively for the action of mailing or leaving the permit at the front desk for pick up. The Commission can then monitor this field to assess the elapsed time between final permit issuance and release to applicant.”

3. For MMR-reporting purposes, LPC should measure the length of time from the date it receives a complete application to the date it mails a permit to the applicant when calculating the percentage of permits issued within LPC’s timeliness targets. If it is unable to perform this calculation, LPC should disclose in the MMR that the

“issue date” represents the date a permit is printed for mailing, rather than the date it is actually mailed.

**LPC Response:** “This recommendation will be implemented with the completion of APPTRAK.”

4. LPC should ensure that a record exists to document that data changes in PATS are approved by authorized persons.

**LPC Response:** “This recommendation will be accomplished through APPTRAK which is being developed in a modern database to record each change to a record.”

5. LPC should implement controls to correct the data processing and data validation deficiencies (e.g., permits missing permit numbers, permits with future issue dates) discussed in this report. LPC should ensure that any new permit processing application has sufficient controls to mitigate such deficiencies.

**LPC Response:** “APPTRAK is being developed so as to provide data entry validation.”

6. LPC should regularly reconcile docket numbers with the permit numbers issued and document and investigate those docket or permit numbers for which there is no record.

**LPC Response:** “[S]ame as 1 above, noting that APPTRAK will allow this.”

**Auditor Comment:** Until such time as APPTRAK is operational, we urge LPC to establish practices to implement this recommendation.

7. LPC should ensure that the last action date field accurately reflects the date of the last action taken on an application.

**LPC Response:** “Until APPTRAK is in place, we will use the ‘last action’ field exclusively for the action of mailing or leaving the permit at the front desk for pick up.”

## Weaknesses in the Application Review Process

We identified some weaknesses in LPC’s permit issuance process that, if corrected, could improve controls over the processing of permits and in some instances reduce the amount of time that applications are pending.

### Application Review Process Not Conducted Timely

According to Chapter 2, Subchapter A, Section 2-03 of Title 63, if a submitted application is incomplete, a Materials Checklist is sent to the applicant requesting supplementary materials, such as drawings or pictures, necessary for LPC to deem the application complete. If the applicant does not send the materials within 60 days from the date on the Materials Checklist, a follow-up letter is sent informing the applicant that unless the materials are received within 30 working days the application will be withdrawn.

Our review of the full population of 789 CNEs and XCNEs that were in progress as of December 18, 2015 found that 25 percent of them had been in progress in excess of 120 business days,

ranging from 121 to 366 days.<sup>11</sup> With regard to the XCNEs, 86 percent of them had been in progress for 5 or more business days, with the longest being 349 days.

Accordingly, we found that staff did not withdraw applications as required when they were pending too long, and supervisors did not periodically review the applications in process to determine how long they had been pending. Additionally, LPC did not consistently issue Materials Checklists timely, if at all. Out of 61 CNE applications reviewed, 36 were received incomplete and required Materials Checklists to be sent to the applicants.<sup>12</sup> Of these 36 applications, Materials Checklists were sent to the applicants in only 14 (39 percent) instances. Furthermore, the checklists were not sent timely (within 7 business days) for 6 (43 percent) of the 14 applications—with the lateness ranging from 2 to 56 days.<sup>13</sup> At the exit conference, LPC officials argued that, contrary to its formal procedures, Materials Checklists are not required to be sent to applicants who submit incomplete applications; emails can be sent instead. However, our review found that LPC did not consistently send emails in a timely manner either. Thus, for the remaining 22 applications, 21 applicants were sent emails instead of checklists. However, 12 (57 percent) of the emails were not sent timely—with lateness ranging from 2 to 283 days. In the remaining instance, there was no evidence of either the checklist or an email being sent to the applicant.

When applications are not processed timely, applicants may not be aware that additional materials are required, which will delay their obtaining permits. In addition, when applications are not withdrawn, a backlog of pending applications can occur.

## **Inadequate Evidence of Violation Searches**

According to Section 2-04 of Title 63, upon receipt of applications, staff must verify that no Notice of Violation is in effect against the property.

A review of CNEs and XCNEs issued disclosed that 23 (92 percent) of 25 randomly sampled permit application files did not contain any evidence of a Violations database (VIP) search as required by the Rules of the City of New York. LPC does not have a formal mechanism for documenting the violation searches, nor does it require that supervisors verify that the searches were conducted.

Even though our search of the VIP database did not find any outstanding related violations for the 23 permits issued, the absence of a mechanism to demonstrate that searches are conducted increases the risk that outstanding violations may go undetected and that permits may be inappropriately granted.

## **Applications Not Consistently Dated Upon Submission**

LPC's practice is to note the date that an application is initially submitted on the application. Applications should be time-stamped at the front desk; for those applications that are not time-stamped, staff are required to write the received date on them.

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<sup>11</sup> We used 120 days because a 60-day letter is issued to an applicant as a reminder that 60 days have passed from the date a Materials Checklist was sent and informs the applicant that they have another 30 days to submit required materials to the Commission and the Commission has 30 days to issue the permit after a complete application has been received.

<sup>12</sup> The 61 applications consisted of 21 CNEs randomly selected from 9,125 applications, 15 of 38 randomly selected CNEs that took over 120 days to be processed, and 25 randomly selected in-progress applications from a population of 775 CNE applications.

<sup>13</sup> LPC requires that Materials Checklists be sent within one week of the application assignment to a preservationist; however, LPC's PATS system does not capture the assignment date. We therefore calculated the number of days from the receipt date until Materials Checklists were sent to the applicants.

However, we found that LPC did not consistently time-stamp or note the received-date on incoming applications. A review of 79 randomly selected CNEs and XCNEs issued revealed that 25 (32 percent) of the applications did not contain the date when they were submitted to LPC. Furthermore, of the 54 that were dated, the time-stamped receipt date on the hardcopy applications for 9 (17 percent) of them was different from the receipt date entered in PATS. Accurately recording the date an application is received in the PATS system is essential for tracking its processing time; a reliable process of date-stamping all incoming applications in turn is a check on the accuracy of the received-dates recorded in PATS.

We believe insufficient supervisory oversight contributes to the deficiencies discussed above. We found limited evidence of supervisory review to ensure that applications are being processed in accordance with agency guidelines. When applications are not processed or withdrawn timely, a backlog of pending applications can occur and work may be distributed inefficiently. Correcting these weaknesses could lead to improved processing and better controls over the permit issuance process.

**LPC Response:** “LPC would like to correct the statement that ‘When applications are not processed timely, a backlog of pending applications can occur and work may be distributed inefficiently.’ This conclusion, however, is in error as LPC does not distribute work based on the number of applications in staff’s workload.”

**Auditor Comment:** LPC’s argument is inconsistent with what we were told during the course of the audit. We were informed that workload *is* taken into consideration when assigning applications for review. According to the LPC Deputy Director responsible for assigning applications to staff, monthly application targets are set for each preservationist, based on the average number of applications processed by staff in prior periods.

## Recommendations

8. LPC should ensure that the notifications sent to applicants when applications are incomplete are issued within one week of assignment to a preservationist, as required.

**LPC Response:** “LPC agrees with this recommendation, noting that the time frame of one week is an agency goal, a benchmark to aim for and not a rule-based requirement, and that until APPTRAK is in use supervisors will track this activity off line.”

9. LPC should update its policies to indicate that emails are acceptable in place of sending Materials Checklists.

**LPC Response:** “LPC agrees with this recommendation and has updated the written policies.”

10. LPC should require that preservationists retain evidence of the Violations database searches conducted during the processing of CNE and XCNE applications.

**LPC Response:** “LPC agrees with this recommendation and until APPTRAK is in use will include documentation in the file.”

11. LPC should ensure that all applications are time-stamped at the front desk (or otherwise dated) when submitted to evidence the receipt date.

**LPC Response:** “LPC agrees with this recommendation and will remind staff to mark received on all materials.”

12. LPC should require supervisors to ensure that applications are processed timely and in accordance with agency guidelines.

**LPC Response:** “LPC agrees with this recommendation. APPTRAK will monitor each step in the process and until it is in use supervisors will more consistently document their review.”

## Other Matter

### Permit Fees Not Collected

LPC does not reconcile the permit fees collected by DOB with the permits LPC has issued, nor does the City ensure that the applicable fee is collected for each permit issued. As a result, we estimate that the City may have failed to collect more than \$1.9 million for permits issued during the period of July 2014 through October 2015.

Section 13-01 of Title 63 states that the fees for processing CNE applications shall be paid before DOB issues a work permit or other approval for work approved in the CNE.

According to an LPC Deputy Director, DOB collects permit application fees on behalf of LPC and sends a monthly revenue report to the agency. DOB assesses the fees based on the work proposed to be performed on the properties. LPC’s website has guidelines for permit application fees that state that, for alterations, “LPC assesses a flat fee of \$95 for the first \$25,000 of work.” Frequently, however, the fee amount is significantly higher. According to the DOB revenue reports provided to LPC for Fiscal Years 2015 and 2016, the highest LPC fee charged during that period was \$367,345 and the average fee amount was \$682.<sup>14</sup>

Pursuant to §5.2.3 of Comptroller’s Directive #11, “Reconciliation of both the number of transactions and the dollar amount must be made promptly upon receipt of periodic statements ...” However, LPC officials acknowledged that it does not reconcile the revenue reports they receive from DOB. LPC’s failure to perform monthly reconciliations of revenue collected increases the risk that revenue will not be collected or that misappropriation of funds could occur and go undetected.

To determine whether fees were collected for all permits issued, we attempted to reconcile the CNEs and XCNEs that LPC issued during the period of July 2014 through October 2015 with the permits listed on the DOB revenue reports covering that period. Our review revealed that DOB reported that it collected no fees for 2,876 (35 percent) of 8,308 CNE and XCNE permits issued by LPC during the period. Based on the minimum flat fee due the City of \$95 per permit, the City is due at least \$273,220 for these permits. However, as stated above, the average CNE permit fee collected during the period was \$682. If the average fee due the City for the 2,876 permits is

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<sup>14</sup> We determined that 99 percent of the permit fees paid in Fiscal Years 2015 and 2016 were under \$10,000. To be conservative, we calculated the average fee based on the number of permit fees for both years that were under \$10,000.



comparable with the average fee amount received during the period, we estimate that the uncollected fee amount due the City for these permits is approximately \$1,961,400.

According to an LPC official, if an applicant does not present the CNE permit to DOB in order to obtain the DOB permit, the CNE permit fee to which the City is due will not be collected. Moreover, we found that even when the CNE permits were presented to DOB, the agency did not consistently collect the CNE permit fee. Our review of DOB's Building Information Search (BIS) database for 53 sampled permits issued by LPC but not reflected in the revenue reports that DOB sent to LPC revealed that 26 were approved by DOB, but that the agency collected the fees for the related DOB permits only.

LPC's failure to perform monthly reconciliations of the permit fees collected was also noted in the previous audit conducted by our office. In its response to that audit, LPC agreed with the finding and stated, "Pending the implementation of PILLAR later this year, LPC will audit this activity manually by doing spot checks. As PILLAR is instituted, DOB will send LPC data on permit fees on a daily basis. LPC will integrate this data into PILLAR database and will be able to run regular reports reconciling fees collected by DOB to permits issued by LPC. LPC will promptly report any discrepancies to DOB." However, according to LPC officials, PILLAR is not being implemented, and there was no evidence that LPC periodically performed manual reconciliations of the permit fees. At the exit conference, LPC officials stated that periodic reconciliations were being performed, but provided no evidence (e.g., reconciliation sign-offs) by which we could confirm their claim.

## Recommendations

13. LPC should ensure that fees are collected for all CNE permits issued. To accomplish this, LPC should consider collecting the minimum fee of \$95 when it issues the permit, with DOB collecting any additional fees (based on the scope of work to be performed) at the time the permit is presented to DOB.

**LPC Response:** "LPC respectfully disagrees with this recommendation. The Rules underlying the fee structure provide for payment once the DOB permit is pulled. LPC has no capacity for receiving payments and it would be a significant expense to create such a capacity. It would duplicate a function already existing at DOB, which collects payments and has existing staff and facilities appropriate for adhering to Comptroller's Directive #11, Cash Accountability and Control."

**Auditor Comment:** This recommendation was intended to address our finding that DOB did not consistently collect the fee when issuing a permit. In lieu of collecting the fee itself, we suggest that LPC follow up with DOB to ensure that the fees are collected as required.

14. LPC should follow up with DOB on the status of the 2,876 permits discussed in this report to determine whether the appropriate permit fees are collected.

**LPC Response:** "LPC partially agrees with this recommendation, noting that the building owner/applicant decides when to submit the DOB application. It would be possible, as a follow up, for LPC to send DOB a list of all CNEs issued."

15. LPC should regularly reconcile the permits reflected in the revenue reports received from DOB with the permits LPC has issued and follow up with DOB to investigate any variances or discrepancies.

**LPC Response:** “LPC agrees with this recommendation, and until APTRACK and an electronic reconciliation protocol is in use, LPC will maintain documentation of the spot checks currently conducted on the DOB revenue report. LPC would like to point out that to date, it has not observed any discrepancies, nor did the audit offer any.”

**Auditor Comment:** Although requested, LPC did not provide us with any evidence that it conducted spot checks of the revenue reports, so we are unable to confirm the agency’s assertion that they are being done. Moreover, “spot checks” are not an effective mechanism for identifying discrepancies (i.e., the CNE permits that are not reflected in the DOB revenue reports) because spot checks—reviews of a very small number of randomly-selected permits—are not designed to identify all instances in which DOB did not receive payment for a permit.

Further, LPC is incorrect when it states that the audit did not identify any discrepancies. As stated in the report, our review of DOB’s BIS database for 53 sampled permits that were not reflected in DOB’s revenue reports to LPC revealed that DOB approved 26 of the permits, but apparently failed to collect the related CNE fees. LPC provided no evidence to refute our finding.

16. LPC should regularly send to DOB a list of CNE permits it has issued so that DOB can, at its discretion, follow up to ensure that those parties for whom it has no record of applying for a DOB permit are not performing the CNE-permitted work without the required permits.

**LPC Response:** “LPC will send DOB a list of CNE permits it has issued.”

## DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The primary audit scope was July 1, 2014 through December 18, 2015.

In order to obtain an understanding of the operations within the agency and the responsibilities of LPC's personnel in charge of processing CNE applications, we conducted walkthroughs and interviews with LPC officials and staff.

To determine LPC's requirements for processing and issuing CNEs and XCNEs, we obtained and reviewed the following: the Rules of the New York City Landmarks Preservation Commission, Title 63, Rules of the City of New York; the New York City Charter, Chapter 74, and Administrative Code, Title 25, Chapter 3, §25-306; LPC's *Permit Process Overview*; New York City Comptroller's Directive #11, *Cash Accountability and Control*, and Directive #18, *Guidelines for the Management, Protection and Control of Agency Information and Information Processing Systems*; the MMR; and information on types of permits and how to apply for permits from LPC's website. In addition, we reviewed LPC's Department of Preservation Organization Chart that listed each staff preservationist and their supervisors.

In order to assess the reliability of the computer-processed data, we examined computer-processed reports called *Reports for Applications Received and CNE and XCNE Issued* (the Permit Application Report) and *Reports for AppSec and CNE and XCNE Issued REV w Completed Date* (the Permit Application Report with Complete Dates).<sup>15</sup> We compared information for 25 randomly selected CNE and XCNE permits to hard-copy source documentation files to determine whether the information entered in PATS was valid and accurate. In addition, we pulled 10 hard-copy application files and determined whether they were recorded in PATS. We also determined whether there existed any duplicate docket numbers or gaps in docket numbers.

To assess the reliability of the computer-processed data in the *Permit Application Report with Last Action date and User* (the Permit Application report with Last Action dates), we compared the data from this report to the data contained in the Permit Application Report with Complete Dates covering the period of July 1, 2014 through December 18, 2015.

To determine whether LPC complies with Landmarks policies and guideline regarding the processing of CNEs and XCNEs, we tested the entire population of 789 CNEs and XCNEs that were still in process as of December 18, 2015. We calculated the number of days each permit application was pending.

To determine whether LPC complies with Landmarks policies and guidelines regarding the issuance of CNEs and XCNEs, we randomly selected 25 CNEs and XCNEs issued during the period of July

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<sup>15</sup> Both reports, the Permit Application Report and the Permit Application Report with Complete Date included the same permits, except the latter report included a column that contained complete dates.

1, 2014 through December 18, 2015 from the population of 9,125 CNE and XCNE permits issued and examined the application files for detailed testing.

To determine whether LPC issues CNEs and XCNEs in a timely manner,<sup>16</sup> we calculated the numbers of days it took to process the entire population of 9,114 (9,125 minus 11 exceptions) CNEs and XCNEs issued. We randomly selected 15 CNEs from a population of 38 CNEs that took longer than 30 business days to be issued and 15 XCNEs from a population of 27 XCNEs that took five or more business days to be issued to try to determine the reason for the late issuance.

To determine whether DOB, on behalf of LPC, collected fees for permits issued between July 2014 and October 2015, we obtained two revenue reports submitted to LPC by DOB: FY 2015 and FY 2016 through November 2015. We compared docket numbers from the revenue reports to the docket numbers from the Issued Permit Application Report with Complete Dates to determine whether DOB collected all permit fees due.

To determine whether we obtained the same percentages as LPC reported in the MMR of September 2015, we calculated the percentages of CNEs issued within 10 days and XCNEs issued within two days during Fiscal Year 2015 using the reported issue dates recorded in PATS. We also computed the time elapsed between the received date of applications and the date they were deemed complete by LPC for the 7,312 CNE and 1,802 XCNE permits issued during our audit period to determine the processing time for these applications.

To determine if any applications, for which permits had been already issued, were modified after the issue date recorded in PATS, we obtained a population of permit applications received and permits issued for the period of July 1, 2014 to December 18, 2015 that included information on the last action date. We extracted CNE and XCNE permits issued during the period of July 1, 2014 through December 18, 2015 and obtained a population of 9,564 permits. We then removed permits without last action dates, without issue dates, and with future issue and last action dates and obtained a new population of 8,854 CNEs and XCNEs issued. We calculated the number of business days elapsed between the issue date and the last action date for the 8,854 permits. In addition, we determined how many applications for issued CNE and XCNE permits were modified before, on and after the issue date.

To determine the reliability of the issue dates in PATS, we reviewed the hardcopy files for a total of 94 permits, including the 25 randomly selected CNEs and XCNEs issued during the period of July 1, 2014 to December 18, 2015 and the 15 randomly selected CNEs that took more than 30 business days to be issued. We also randomly selected an additional sample of 54 CNE and XCNE permits issued during the period of July 1, 2014 through December 18, 2015 to determine whether the hardcopy files contained the actual permit issue dates. We pulled hardcopy files for the sampled permits and reviewed the supervisory approval dates recorded on the permit drafts for 77 permits with dates to determine whether they preceded the issue dates of the permits. If the supervisory approval dates were subsequent to the issue dates, we then determined the number of days it took to issue the permits using the supervisory approval dates.

To try to determine whether fees were collected by DOB for permits, but not reported to LPC, we randomly selected 30 of the 3,325 permits issued during the period of July 1, 2015 to October 30, 2015 and 30 of the 419 permits issued during the period of July 1, 2014 through September 30, 2014 that did not appear on the revenue reports provided by LPC. We searched for the permits using

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<sup>16</sup> A CNE must be issued within 30 business days once the application is deemed complete. We set an under-five-business-day timeliness criterion for XCNEs for the purpose of our testing because there is no definite criteria set by LPC for expedited CNEs. LPC's internal goal is to issue XCNE permits within two days.

DOB's BIS database to see whether fees had been collected by DOB. In addition, we requested an updated Revenue report from LPC for the period of July 1, 2015 through June 30, 2016.

The results of the above tests, while not projectable to their respective populations, provided a reasonable basis for us to evaluate the controls over permit issuance process, although we were unable to determine whether permits were issued timely due to unreliable information.





Landmarks Preservation  
Commission

Meenakshi Srinivasan  
Chair

1 Centre Street  
9<sup>th</sup> Floor North  
New York, NY 10007

212-669-7888 tel  
212-669-7955 fax

October 21, 2016

Marjorie Landa  
Deputy Comptroller for Audit  
Office of the Comptroller  
1 Centre Street, Room 1100  
New York, NY 10007

Dear Ms. Landa,

Re: Audit MD16-083A

The Landmarks Preservation Commission appreciates the opportunity to respond to the above referenced draft report, which states that your audit found no instances for unauthorized or improper permit issuance or activity. I have directed my staff to implement many of the recommendations, in order to further strengthen our existing system of internal controls.

As we discussed with the audit team, the Commission expects to implement Apptrak, a new system for tracking and issuing permits in the first quarter of calendar year 2017. This system will address the concerns raised in the report.

Our responses to the individual recommendations in the report are attached.

I appreciate the opportunity to respond to the draft audit report.

Sincerely,

A handwritten signature in black ink, appearing to read "Meenakshi Srinivasan".

Meenakshi Srinivasan

**LPC Response to the Comptroller's Audit Report on the  
Landmarks Preservation Commission's Issuance of  
Certificates of No Effect  
MD16-083A**

LPC agrees with 14 of the audit's recommendations, partially agrees with 1 recommendation, and disagrees with 1 recommendation.

We appreciate the opportunity to respond to the draft audit report, which did not reveal any instances of unauthorized or improper permit issuance or activity. Further, the majority of examples identified as timeliness issues refer not to permits, but to incomplete and inactive applications, where reviews could not be completed but the records were not closed; and there are no significant instances of data error. With respect to the recommendations, LPC agrees that the database system (PATS) has weaknesses, and indeed the Commission is already developing a new system, APPTRAK, scheduled for completion in the first quarter of Calendar 2017, which will better manage the Application/Permit workflow. As you know, an earlier project to replace PATS, called PILLAR, was unsuccessful when the consultant developers were unable to deliver the specified requirements. Until APPTRAK has been completed, LPC is implementing procedural changes to address these tracking issues off-line in the interim. Written protocols for these changes have been sent to all affected staff.

We must emphasize that the items described as procedural or database weaknesses are errors of recordkeeping only and do not impact the integrity in the application review process itself. The essential purpose of issuing CNE permits is to make sure that when owners do construction work on their buildings, the work will not affect the protected features of the building and the historic district. In order to fulfill its mission, LPC develops and employs professional preservationists with the expertise to identify the effect of proposed construction on historic structures and apply the applicable rules accordingly. LPC welcomes any improvements to its systems and procedures which will enhance the performance of this mission and improve its service to its customers.

Before addressing the audit recommendations, we would like to clarify and comment on certain statements contained in the Report. As requested by the auditors, LPC provided all data from PATS, for the time period of the audit, pulled from the Access database which underlies the system. However, LPC staff see and use only the interface and input/output transactions controlled by system source code. We learned during the course of the audit that some of the auditors' questions arose with respect to their analysis of underlying database records alone, apart from the interface. However, the underlying database is never used in isolation and as a result, some findings relate to situations that never occur in actual use. For example, in actual use it is not possible to have a permit without a permit number or an issue date or a regulation type, and there are no missing dockets. Where such issues are mentioned in the report, they reference data divorced from its context in actual use. This data does not affect the

actual permits. With regard to the consequences of these errors, none of the examples provided represent situations in which an owner was prevented from or delayed in doing work on his or her property in compliance with the law. Nor did they result in any situations in which an owner was allowed to do work in non-compliance with the law.

Moreover, LPC would like to correct the statement that "When applications are not processed or withdrawn timely, a backlog of pending applications can occur and work may be distributed inefficiently." This conclusion, however, is in error as LPC does not distribute work based on the number of applications in staff's workload. With regard to withdrawing applications where the owner has not responded to requests for information, LPC agrees that closing out inactive applications is procedurally desirable. We would like to note, however, that when an owner does not respond to requests for more information, experience in this regard usually demonstrates that applicants are not planning to begin the work soon. As a matter of customer service, staff will work to issue permits to owners who respond with the requested information; this usually demonstrates the owner's intention to proceed with the work soon. Similarly, with regard to applicants being unaware that additional materials are required, as a practical matter owners who wish to do work on a building typically contact LPC themselves within a week after filing.

**Response to Recommendations:**

1. LPC should ensure that the permit "issue date" field in PATS is updated to reflect the actual date that permits are printed for issuance.

**LPC Response:** With implementation of the APPTRAK system, LPC agrees with this recommendation. APPTRAK is being developed to clearly distinguish each step in the process by requiring separate fields for: the date of permit submission for supervisory review; supervisory approval; official issue date; date of release to the applicant by mail or pick-up; and date of pick up (when applicable). When PATS was built, the field identified as "issue date" was the accurate date. After the City Comptroller's Audit MG10-073A conducted in 2010, the agency required supervisor's signature of a document identical to the official final permit to ensure accountability and introduce controls in the process of issuing permits. PATS cannot be changed to produce a draft version for supervisory review, and this has caused a 1-2 day delay in the processing.

2. LPC should document and monitor the dates on which the permits are actually mailed to the applicants to ensure that they are being mailed in a timely manner.

**LPC Response:** As stated in reply to recommendation 1 above, until APPTRAK is in use, we will designate the "last action" field exclusively for the action of mailing or leaving the permit at the front desk for pick up. The Commission can then monitor this field to assess the elapsed time between final permit issuance and release to applicant.

3. For MMR-reporting purposes, LPC should measure the length of time from the date it receives a complete application to the date it mails a permit to the applicant when calculating the percentage of permits issued within LPC's timeliness targets. If it is unable to perform this calculation, LPC should disclose in the MMR that the "issue date" represents the date a permit is printed for mailing, rather than the date it is actually mailed.

**LPC Response:** This recommendation will be implemented with the completion of APPTRAK.

4. LPC should ensure that a record exists to document that data changes in PATS are approved by authorized persons.

**LPC Response:** This recommendation will be accomplished through APPTRAK which is being developed in a modern database to record each change to a record.

5. LPC should implement controls to correct the data processing and data validation deficiencies (e.g., permits missing permit numbers, permits with future issue dates) discussed in this report. LPC should ensure that any new permit processing application has sufficient controls to mitigate such deficiencies.

**LPC Response:** APPTRAK is being developed so as to provide date entry validation. As discussed earlier in this reply, permits cannot be issued without a number.

6. LPC should regularly reconcile docket numbers with the permit numbers issued and document and investigate those docket or permit numbers for which there is no record.

**LPC Response:** same as 1 above, noting that APPTRAK will allow this.

7. LPC should ensure that the last action date field accurately reflects the date of the last action taken on an application.

**LPC Response:** Until APPTRAK is in place, we will use the "last action" field exclusively for the action of mailing or leaving the permit at the front desk for pick up.

8. LPC should ensure that the notifications sent to applicants when applications are incomplete are issued within one week of assignment to a preservationist, as required.

**LPC Response:** LPC agrees with this recommendation, noting that the time frame of one week is an agency goal, a benchmark to aim for and not a rule-based requirement, and that until APPTRAK is in use supervisors will track this activity off line.

8. LPC should update its policies to indicate that emails are acceptable in place of sending Materials Checklists.

**LPC Response:** LPC agrees with this recommendation and has updated the written policies.

10. LPC should require that preservationists retain evidence of the Violations database searches conducted during the processing of CNE and XCNE applications.

**LPC Response:** LPC agrees with this recommendation and until APPTRAK is in use will include documentation in the file.

11. LPC should ensure that all applications are time-stamped at the front desk (or otherwise dated) when submitted to evidence the receipt date.

**LPC Response:** LPC agrees with this recommendation and will remind staff to mark received dates on all materials.

12. LPC should require supervisors to ensure that applications are processed timely and in accordance with agency guidelines.

**LPC Response:** LPC agrees with this recommendation. APPTRAK will monitor each step in the process and until it is in use supervisors will more consistently document their review.

## **OTHER MATTER - FEES**

As you know, the objective of the audit was "to determine whether LPC processes CNEs and CNEs in a timely manner." However, during the course of the review, the auditors requested a copy of a report on fees, which the Department of Buildings (DOB) produces and sends to LPC on a monthly basis. LPC provided the report as requested; following are comments with respect to audit recommendations as they relate to the Fee Rule (Section 13-01 of Title 63).

The report comments on two elements of the fee collection process: 1. That fees are not collected if the work never receives a DOB permit; and 2. That LPC does not reconcile the fees with DOB.

With regard to point 1, the report states that "the City does not consistently enforce the requirement that a fee be collected for each LPC permit issued." Unfortunately, this is a misapprehension of the fee rule, and also does not take into proper consideration the nature of construction work. The LPC permit is one of the items required by DOB as part of an application for a DOB permit, and payment is due only when the DOB permit is issued. The LPC fee is due at the same time the DOB fee is due; in fact, the LPC fee amount is based on the amount of the DOB fee. Construction and renovation can take a long time to plan and carry out. The CNE is valid for four years and owners may not submit or complete their DOB filings once the CNE is issued. Also, it is not unusual for the LPC permit holder to decide not to do the work at all, just as it is not unusual for owners to plan for a renovation without actually undertaking the work. Therefore, no fees may have been collected for 2,876 out of 8,308 LPC permits during the period of the audit (page 7). The same is true for the 3,325 and 419 permits referenced on page 16 of the report with respect to testing whether fees were collected by DOB of permits, but not reported to LPC.

With regard to point 2, LPC's reconciliation of the permit fees collected, LPC notes that LPC would be



able to confirm the authenticity of the permit supplied to the DOB and listed on the DOB revenue report, but has no ability to assess the accuracy of the amount.

13. LPC should ensure that fees are collected for all CNE permits issued. To accomplish this, LPC should consider collecting the minimum fee of \$95 when it issues the permit, with DOB collecting any additional fees (based on the scope of work to be performed) at the time the permit is presented to DOB.

**LPC Response:** LPC respectfully disagrees with this recommendation. The Rules underlying the fee structure provide for payment once the DOB permit is pulled. LPC has no capacity for receiving payments and it would be a significant expense to create such a capacity. It would duplicate a function already existing at DOB, which collects payments and has existing staff and facilities appropriate for adhering to Comptroller's Directive #11, Cash Accountability and Control.

14. LPC should follow up with DOB on the status of the 2,876 permits discussed in this report to determine whether the appropriate permit fees are collected.

**LPC Response:** LPC partially agrees with this recommendation, noting that the building owner/applicant decides when to submit the DOB application. It would be possible, as a follow up, for LPC to send DOB a list of all CNEs issued.

15. LPC should regularly reconcile the permits reflected in the revenue reports received from DOB with the permits LPC has issued and follow-up with DOB to investigate any variances or discrepancies.

**LPC Response:** LPC agrees with this recommendation, and until APPTRAK and an electronic reconciliation protocol is in use, LPC will maintain documentation of the spot checks currently conducted on the DOB revenue report. LPC would like to point out that to date, it has not observed any discrepancies, nor did the audit offer any.

16. LPC should regularly send to DOB a list of CNE permits it has issued so that DOB can, at its discretion, follow up to ensure that those parties for whom it has no record of applying for a DOB permit are not performing the CNE-permitted work without the required permits.

**LPC Response:** LPC will send DOB a list of CNE permits it has issued.