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January 21, 2020

Oversight – Examining the New York City Department of Finance’s administration of the Rent Freeze Program (SCRIE and DRIE)

1. Introduction

On January 21, 2020, the Committee on Finance, chaired by Council Member Daniel Dromm, and the Committee on Aging, chaired by Council Member Margaret Chin will hold a joint oversight hearing on the Senior Citizen Rent Increase Exemption (SCRIE) program and the Disabled Rent Increase Exemption (DRIE) program, collectively referred to as the NYC Rent Freeze Program. This hearing will examine the New York City Department of Finance's (DOF) administration of the Rent Freeze Program. More specifically, the hearing will examine DOF's progress in increasing overall annual enrollment and outreach, recent legislative and policy changes that expands the program's benefits, and other issues raised in government reports.

Those invited to testify at the hearing include representatives from DOF, the Department for the Aging (DFTA), the New York City Department of Housing Preservation and Development (HPD), other representatives from the Administration, and advocacy groups and members of the public.

2. Background and Legislative History

The SCRIE and DRIE programs provide rent exemptions from all or part of certain rent increases for senior citizens and persons with disabilities who live in rent-controlled, rent-stabilized, rent-regulated, Mitchell-Lama, and other qualifying subsidized housing, and whose household incomes are below statutory limits. The SCRIE and DRIE programs reimburse landlords with real property tax credits equal to the amount in forgone rent.

First established by New York State law in 1970, the SCRIE program was made available to tenants living in rent-controlled and rent-stabilized apartments.¹ The legislation gave

¹ See generally N.Y. Real Prop. Tax Law § 467-b.

municipalities the option to provide the SCRIE program for its senior citizens and decide on the income eligibility requirements. That same year, the New York City Council (City Council) adopted SCRIE in New York City.² In 1976, eligibility for the SCRIE program was extended to eligible tenants in certain rental and cooperative apartments in buildings subject to Articles II, IV, V or XI of the New York State Private Housing Finance Law or subject to a federally insured mortgage pursuant to Section 213 of the National Housing Act, otherwise known as “Mitchell-Lama” apartments.³ In the City, the SCRIE program was first administered by HPD. Later, the administration of SCRIE for rent-controlled and rent-stabilized apartments was transferred to DFTA, while the administration of SCRIE for Mitchell-Lama apartments remained with HPD.

In July 2005, the New York State Legislature passed legislation amending various laws enabling the SCRIE program to expand the class of heads of households eligible to participate in the rent increase exemption and tax abatement programs to include disabled persons.⁴ The Council passed conforming legislation on July 27, 2005, and the program came into effect October 10, 2005.⁵ In September 2009, as a result of a local law passed by the Council, DFTA transferred administration of SCRIE to DOF with respect to rent-controlled and rent-stabilized apartments.⁶

Prior to State legislative action in 2014, in order to be eligible for SCRIE, the total household income of the eligible senior citizen could not exceed \$29,000. For DRIE, the total household income could not exceed \$20,412 for a single-person household or \$29,484 for households comprised of two or more people. In March 2014, the State passed a law authorizing the City to increase the income threshold to \$50,000 per household for each program.⁷ On May

² See Local Law 31 of 1970.

³ See Local Law 40 of 1976.

⁴ See Chapter 188 of the Laws of 2005.

⁵ See Local Law 76 of 2005.

⁶ See Local Law 44 of 2009.

⁷ See Chapter 55 of the Laws of 2014.

14, 2014, the City Council passed a local law authorizing such an increase for SCRIE.⁸ On July 24, 2014, the City Council passed a local law authorizing such an increase for DRIE.⁹

In June 2019, New York State approved the Housing Stability and Tenant Protection Act of 2019, which made several changes to SCRIE and DRIE, which is discussed in further detail below.¹⁰

3. Program Eligibility Requirements

To become eligible for the SCRIE program, applicants must meet the following eligibility criteria:

1. Be at least 62 years old;
2. Be named on the lease/rent order or have been granted succession rights in a rent-controlled, rent-stabilized, or a rent-regulated hotel apartment or an apartment located in a building where the mortgage was federally insured under Section 213 of the National Housing Act, owned by a Mitchell-Lama development, Limited Dividend housing company, Redevelopment Company or Housing Development Fund Corporation incorporated under New York State's Private Housing Finance Law;
3. Have a combined household income for all members of the household that is \$50,000 or less; and
4. Spend more than one-third of monthly household income on rent.

To become eligible for the DRIE program, applicants must meet the following eligibility criteria:

1. Be at least 18 years old;
2. Be named on the lease or the rent order or have been granted succession rights in a rent-controlled, rent-stabilized, or rent-regulated hotel apartment or an apartment located in a building where the mortgage was federally insured under Section 213 of the National Housing Act, owned by a Mitchell-Lama development, Limited Dividend housing company, Redevelopment Company or Housing Development Fund Corporation incorporated under New York State's Private Housing Finance Law;
3. Have a combined household income that is \$50,000 or less;
4. Spend more than one-third of monthly household income on rent; and
5. Must have been awarded one of the following: Federal Supplemental Security Income (SSI); Federal Social Security Disability Insurance (SSDI); U.S. Department of

⁸ See Local Law 19 of 2014.

⁹ See Local Law 39 of 2014.

¹⁰ See Chapter 39 of the Laws of 2019.

Veterans Affairs disability pension or disability compensation; Disability-related Medicaid if the applicant has received either SSI or SSDI in the past; or United States Postal Service disability pension or disability compensation.

4. SCRIE/DRIE Participant Demographic

On December 10, 2014, DOF issued a report on the New York City Rent Freeze Program containing its best efforts at generating an estimate of the number of eligible SCRIE and DRIE households in the City.¹¹ The report also provided a breakdown of eligible population by neighborhood and language, and proposed a detailed outreach plan for enrolling more eligible senior citizens and persons with disabilities. Subsequently, by Local Law 40 of 2015, the City Council codified the report to require DOF to provide and post on its website every three years, a report (similar to its 2014 report) on the population of tenants in the City eligible to participate in SCRIE or DRIE. The report required DOF to provide, among other things, the estimated number of eligible tenants by enrollment status, borough, and neighborhood, as well details on its outreach efforts for both SCRIE and DRIE.¹² On December 31, 2018, DOF issued the first report mandated by Local Law 40.¹³

DOF used different methodologies to estimate the number of eligible households in the 2014 and 2018 reports. In DOF's 2014 report, it provided estimates based on an analysis of Housing Vacancy Survey (HVS) data. However, in the 2018 report, DOF relied on the 2017 HVS data to estimate the Rent Freeze-eligible population living in rent-controlled and Mitchell Lama units and relied on administrative data sources to estimate the Rent Freeze-eligible population

¹¹ See New York City Department of Finance, Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households (2014), available at https://www1.nyc.gov/assets/rentfreeze/downloads/pdf/2014-scrie_drie_report.pdf (last accessed on January 7, 2020).

¹² See Local Law 40 of 2015.

¹³ See New York City Department of Finance, 2018 Rent Freeze Program Report (2018), available at https://www1.nyc.gov/assets/rentfreeze/downloads/pdf/2018-scrie_drie_report.pdf (last accessed on January 7, 2020).

living in rent-stabilized apartments.¹⁴ Administrative data sources were not used to calculate the eligible population in rent-controlled and Mitchell Lama apartment units as that data was not available.¹⁵ Nevertheless, DOF still reported the number of eligible households using the same methodology as was used in 2014 for purposes of comparison.¹⁶

In the 2018 report, DOF reported that in 2016, the most recent year for which complete administrative data was available, 73,299 of an estimated 130,314 eligible households were enrolled in SCRIE or DRIE benefits citywide, placing the enrollment rate at 56.2 percent.¹⁷ By comparison, if DOF had used the same methodology that it had in 2014 and solely relied on 2017 HVS data, the enrollment rate would have been 42.5 percent, representing 74,315 enrolled households out of an eligible population of 175,050.¹⁸ In the 2014 report, the enrollment rate was 43.2 percent – with 67,042 of an estimated 155,366 eligible households receiving SCRIE or DRIE benefits.¹⁹

According to DOF, the administrative data methodology that it used to estimate eligible population for rent-stabilized apartment units provides the City with a better estimate than use of the HVS data alone.²⁰ Notably, under the new methodology, DOF estimated a significantly lower population of eligible recipients – by 44,736 individuals – than as suggested by the 2017 HVS data estimate to which the higher reported enrollment rate is attributed.²¹ Table 1 provides a comparison of enrollment rates as calculated in the 2014 report and the enrollment rates using HVS data and administrative data.²²

¹⁴ See *id.* The administrative data sources consisted a combination of the 2015 income tax data from the Internal Revenue Service (IRS) and the 2016 rent-stabilized apartment data from the New York State Homes and Community Renewal (HCR).

¹⁵ See *id.*

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ See *id.*

¹⁹ See 2014 report, *supra* fn. 11.

²⁰ See 2018 report, *supra* fn. 13.

²¹ See *id.*

²² See *id.*

Table 1. Rent Freeze Eligibility and Enrollment Estimates

	2014	2017 HVS Data	2016 Administrative
		Estimate	Data Estimate
Eligible Population	155,366	175,050	130,314
Actual Recipients	67,042	74,315	73,299
Enrollment rate	43.2%	42.5%	56.2%

By borough, total enrollment between 2014 and 2016²³ increased by 15.9 percent in Staten Island, 15.7 percent in Brooklyn, ten percent in Queens and 9.9 percent in Manhattan.²⁴ However, the borough of the Bronx experienced a negative growth of 5.3 percent.²⁵ DOF did not provide an explanation in the 2018 report as to what may have attributed to the negative growth experienced in the Bronx.²⁶

On average, the SCRIE participant is 73 years old and has been in the SCRIE program for over eight years with an average household size of 1.5 individuals and an average household income of \$18,572.²⁷ Whereas, the average DRIE participant is 57 years old and has been in the DRIE program for over five years with an average household size of 1.4 individuals an average household income of \$15,172.²⁸

5. Outreach Efforts

²³ The annual enrollment by borough data is limited to the Rent Freeze benefits administered by DOF. Mitchell Lama residents receiving SCRIE benefits administered by HPD were not included.

²⁴ See 2018 report, *supra* fn. 13.

²⁵ See *id.*

²⁶ See *id.*

²⁷ See *id.*

²⁸ See *id.*

Since the release of the 2014 Rent Freeze Program Report,²⁹ DOF reported that between 2014 and 2017 its increased outreach efforts resulted into a net growth of 10.8 percent in the number of households receiving SCRIE and DRIE benefits.³⁰ DOF further claimed that if not for attrition, enrollment in the SCRIE and DRIE programs would have increased by 26 percent.³¹ Table 2 highlights annual enrollment in the SCRIE and DRIE programs between 2014 and 2017.³²

Table 2. Annual Enrollment, SCRIE and DRIE

	2014	2015	2016	2017	Change
SCRIE (DOF)	52,171	55,791	55,215	55,539	6.5%
SCRIE (HPD)	5,723	7,109	6,721	7,225	26.2%
DRIE (DOF)	9,148	10,764	11,363	11,551	26.3%
TOTAL	67,042	73,664	73,299	74,315	10.8%

In the 2018 report, DOF stated that its Outreach Unit targeted various neighborhoods, as noted in the 2014 report, with the highest number of non-participating eligible households for SCRIE.³³ These neighborhoods included: the Upper East Side, the Upper West Side, and Stuyvesant Town/Turtle Bay in Manhattan; Kingsbridge Heights/Mosholu, Highbridge/South Concourse, Throggs Neck/Coop City, and Riverdale/Kingsbridge in the Bronx; Coney Island, central Flatbush, and Crown Heights in Brooklyn; and Flushing/Whitestone and Kew Gardens Park/Woodhaven in Queens.³⁴ Although DOF reported in its 2018 report to have targeted these specific neighborhoods, the agency did not provide any details on whether its targeted outreach

²⁹ See 2014 report, *supra* fn. 11.

³⁰ See 2018 report, *supra* fn. 13.

³¹ See *id.*

³² See *id.*

³³ See *id.*

³⁴ See *id.*

efforts resulted into increased enrollments or whether any new, under-enrolled neighborhoods were identified for the Rent Freeze Program.³⁵

Furthermore, DOF reported in the 2018 report that its Outreach Team provided a full range of case management services to applicants. In the 2018 report, DOF stated that outreach to eligible SCRIE and DRIE households was done at in-person events hosted in communities with largest population of eligible households. As a result of their efforts, DOF reported its Outreach Team attended or hosted 427 events, or an average of eight per week during Fiscal 2018.³⁶ In addition to conducting community information events, DOF states that it holds monthly events with the presidents of each of the five boroughs.³⁷

According to the agency, the DOF Outreach Team also frequently mails promotional information to potential applicants and provides assistance with the renewal process to ensure that eligible households continue to receive benefits.³⁸ DOF staff is also said to utilize its website and social media platforms to build public awareness of the programs and work regularly with another DOF unit, the Property Exemption Administration's Community Assistance Program (PEA-CAP), to conduct outreach.³⁹

According to DOF, a number of approaches will be pursued to increase outreach and enrollment in 2019, which include:⁴⁰

- Digital applications for applicants and service providers;
- A contact center to allow a single point of contact for applicants to communicate with

³⁵ The City Council notes that the 2018 report did not appear to include all information required pursuant Local Law 40 of 2015, such as: (1) the total number of tenants estimated to be eligible for the rent increase exemption programs, disaggregated by program, enrollment status, borough, and neighborhood; (2) for enrolled SCRIE/DRIE tenants, the average and median amount of the tax abatement credit received by the landlord on behalf of a tenant; and (3) a comparison of the data contained in each report with the data contained in the most recent prior report issued.

³⁶ *See id.*

³⁷ *See id.*

³⁸ *See id.*

³⁹ *See id.*

⁴⁰ *See id.*

DOF as needed;

- A partnership with the NYC Service Bureau to strategically engage civic volunteers to help spread the word and expand reach; and
- Improved marketing materials and shorter, clearer applications, and notices.

IV. Barriers to Increased Enrollment

a. Attrition

According to DOF, program attrition has been the one of two primary barriers to increased enrollment into the Rent Freeze Program.⁴¹ Attrition is the idea that as new enrollees are added into the program, participants are also leaving it. For the Rent Freeze Program, attrition is divided into two categories. The first category includes participants who are no longer eligible for reasons such as moving, death, or increased income.⁴² The second category are participants who do not renew their benefits even though they are provided with a six-month grace period to renew their benefits.⁴³ It is unknown to DOF why participants in the second group fail to renew. DOF states that proactive efforts have been implemented to help applicants renew their benefits, which include sharing a list of participants that do not renew within three months with the City Council and the Mayor's Public Engagement Unit, as well with the DOF's Outreach Team.⁴⁴ Overall, DOF states that the Rent Freeze Program loses approximately 330 participants to attrition every month.⁴⁵

Table 3 highlights the Rent Freeze Program attrition since 2014. It shows that even though new enrollment resulted in a 26 percent increase between 2014 and 2017 for the DOF-administered

⁴¹ *See id.*

⁴² *See id.*

⁴³ *See id.*

⁴⁴ *See id.*

⁴⁵ *See id.*

benefits, that growth was offset by attrition, bringing the net enrollment growth to 9.4 percent (or 10.8 percent for the overall benefits, including those administered by HPD).⁴⁶

Table 3: SCRIE/DRIE Program Attritions Since 2014⁴⁷

	2014	2015	2016	2017	Total Change	% Change Over 2014
Outgoing Benefits	N/A	(4,655)	(4,428)	(5,341)	(14,424)	-23.5%
New Benefits	N/A	6,312	4,678	4,940	15,930	26.0%
Existing Benefits	N/A	55,588	57,472	56,809	N/A	N/A
TOTAL	61,319	66,555	66,578	67,090	N/A	9.4%

b. Preferential Rent

Preferential rent is the second factor affecting annual enrollment into the Rent Freeze Program according to DOF. Preferential rent is where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation.⁴⁸

In the 2018 report, DOF stated that tenants with existing preferential rent agreements saw little incentive to enroll in the programs as their rent amount was lower than the amount they would pay if their rent were frozen under the SCRIE and DRIE programs.⁴⁹ At the time of the report, only 4.1 percent of current SCRIE and DRIE recipients had a preferential rent agreement.⁵⁰ However, as a result of recent State legislation, which is discussed in greater detail below, eligible tenants may now lock in preferential rents, rather than the legal rent, for the length of a tenancy for SCRIE and DRIE.⁵¹

⁴⁶ See *id.*

⁴⁷ SCRIE/DRIE benefits administered by DOF only.

⁴⁸ See N.Y.C.R.R. 9 § 2521.2; N.Y.C. Administrative Code, §§ 26-511(b), 26-518(a).

⁴⁹ See 2018 report, *supra* fn. 13.

⁵⁰ See *id.*

⁵¹ On September 18, 2019, the de Blasio Administration announced the release of the updated guidance allowing New Yorkers who pay preferential rents for their rent stabilized apartments to benefit from the Rent Freeze Program, available at

6. Recent Legislative and Administrative Changes Impacting the SCRIE/DRIE Programs

a. State Legislative Changes

In June 2019, New York State passed the Housing Stability and Tenant Protection Act of 2019, the strongest affordable housing and tenant protections legislation in State history.⁵² This legislation made new pro-tenant regulations permanent, repealed vacancy deregulation, reformed rent increases for major capital improvements, created protections for all tenants throughout the State, and empowered qualified communities outside of New York City to opt into rent stabilization, among other reforms.⁵³

With respect to the Rent Freeze Program, the passage of the Housing Stability and Tenant Protection Act of 2019 has allowed the City to make several changes on how rent increases are processed, which include:⁵⁴

1. *Preferential Rent Policy*:⁵⁵ New Rent Freeze Program applicants who have a preferential rent agreement and meet all program eligibility requirements can have their rents frozen at the preferential rent amount. For current Rent Freeze Program participants, if a tenant's frozen rent is based on the legal regulated rent, the next time they renew their benefits, their rent may be re-frozen at the preferential rent amount on the lease in effect on June 14, 2019 if they continue to meet all program eligibility criteria. As a result of this change, landlords

<https://www1.nyc.gov/office-of-the-mayor/news/431-19/de-blasio-administration-expands-benefit-rent-freeze-programs> (last accessed on January 9, 2020).

⁵² See Press Release, The New York State Senate, Senate Majority Passes Strongest Tenant Protections In State History (June 14, 2019), available at <https://www.nysenate.gov/newsroom/press-releases/velmanette-montgomery/senate-majority-passes-strongest-tenant-protections> (last accessed on January 9, 2020).

⁵³ See *id.*

⁵⁴ See New York City Department of Finance, Rent Freeze Program Updates, Freeze Your Rent (January 7, 2020), <https://www1.nyc.gov/site/rentfreeze/apply/rent-freeze-program-updates.page> (last accessed on January 9, 2020).

⁵⁵ See the New York City Department of Finance, Bulletin: Rent Freeze Program Updates August 2019 - Preferential Rent Policy, available at <https://www1.nyc.gov/assets/rentfreeze/downloads/pdf/misc-forms/rent-freeze-bulletin-preferential-rent-fy20.pdf> (last accessed on January 9, 2020).

will see that their tax abatement credits (TAC) will be based upon the preferential rent amounts. The credit will be the difference between the frozen rent amount and the preferential rent amount. New applicants would be required to provide a prior and current lease that clearly indicates the preferential amounts, and existing participants would not need to submit a request for an adjustment until the time of renewing benefits.

2. *Rent Unit Administration:*⁵⁶ Currently, for rent-controlled units landlords may apply with New York State Homes and Community Renewal (NYS Homes and Community Renewal) for annual rent increases and fuel cost adjustments. As a result of the State legislation, fuel costs can no longer be added to tenants' rents. Additionally, the annual maximum collectible rent increases are limited to the average of the last five Rent Guidelines Board increases for one-year leases, or 7.5 percent, whichever is less. According to DOF, landlords and tenants should expect TAC adjustment notices when it reviews fuel costs increases for 2019. This may result into a decrease in the monthly TAC from July 1, 2019 through December 31, 2019.
3. *Major Capital Improvements Administration:*⁵⁷ Currently, for rent-regulated units landlords may apply with NYS Homes and Community Renewal for rent increases for major capital improvements (MCI). As a result of the recent State legislation, the MCI cap of six percent decreased to two percent. The two percent cap is applicable prospectively for any MCIs since June 16, 2012. Additionally, the MCI retroactive increase has been eliminated and the MCI rent increases are temporary and will expire after 30 years.

⁵⁶ See New York City Department of Finance, Bulletin: Rent Freeze Program Updates August 2019 - Rent Control Unit Administration, available at <https://www1.nyc.gov/assets/rentfreeze/downloads/pdf/misc-forms/rent-freeze-bulletin-rentcontrol-fy20.pdf> (last accessed on January 9, 2020).

⁵⁷ See New York City Department of Finance, Bulletin: Rent Freeze Program Updates August 2019 - Major Capital Improvements Administration, available at <https://www1.nyc.gov/assets/rentfreeze/downloads/pdf/misc-forms/rent-freeze-bulletin-mci-fy20.pdf> (last accessed on January 9, 2020).

According to DOF, any existing MCIs that have already been submitted to the Rent Freeze Program and have future annual increases will be subject to the two percent cap. The Rent Freeze Program will also follow the guidelines issued by NYS Homes and Community Renewal.

b. Administrative Changes

DOF is currently undergoing the rulemaking process, as prescribed in Section 1043 of the New York City Charter, to amend existing rules pertaining to the SCRIE and DRIE programs. More specifically, DOF proposed rules to amend Chapter 52 of Title 19 of the Rules of the City of New York that would, among other things, establish:⁵⁸

1. requirements for eligibility for SCRIE and DRIE benefits based on the applicant's status and household income;
2. criteria for the types of apartments which are eligible for SCRIE and DRIE benefits;
3. criteria for the determination of SCRIE and DRIE abatement amounts set forth in Rent Increase Exemption Orders; and,
4. an application process, including deadlines.

On December 3, 2019, DOF held a public hearing to provide the public an opportunity to comment on the proposed rules.⁵⁹ Although the deadline for the public to provide comments ended on December 3, 2019, DOF informed City Council Finance Division staff that it would continue to accept public comment on the proposed rules in light of the various concerns raised by advocacy groups. It is unclear, however, whether additional outreach was conducted by DOF to solicit

⁵⁸ See New York City Department of Finance, Notice of Public Hearing and Opportunity to Comment on Proposed Rule, available at https://rules.cityofnewyork.us/sites/default/files/proposed_rules_pdf/scrie-drie-programs-rule.pdf (last accessed on January 9, 2019).

⁵⁹ See *id.*

feedback from the public on the proposed rules, or whether it is still accepting public comments before proceeding with the rulemaking process.

In addition to the proposed rule amendments, DOF was reported to have made several administrative improvements to the Rent Freeze Program since 2014, which includes:

1. Establishing the online NYC LEAP landlord portal, which allows property owners to submit documents necessary for the processing of Rent Freeze applications.⁶⁰
2. Improving Rent Freeze applications designed to make the application process easier, with pre-qualification tools, clear instructions, streamlined forms, and answers to frequently asked questions.⁶¹
3. Cross-training of processing staff for improved response times to applicants.⁶²
4. Creating of the SCRIE and DRIE ombudsperson positions to help tenants resolve any issues when applying for or renewing benefits.⁶³
5. Merging the units administering the Rent Freeze Program with the Senior Citizen Homeowners' Exemption (SCHE) and the Disabled Homeowners' Exemption (DHE) homeowner exemptions to become the Senior and Disabled Programs (SDP) Unit.⁶⁴
6. Launching a customer services contact center on July 1, 2019 to make it easier for participants to speak to a live representative regarding benefit and application status inquires. Individuals that contact 311 are transferred to the contact center during business hours.⁶⁵

⁶⁰ See 2018 report, *supra* fn. 13.

⁶¹ See *id.*

⁶² See *id.*

⁶³ The SCRIE and DRIE ombudsperson positions were created by the Council pursuant to Local Law 40 of 2015.

⁶⁴ See New York City Department of Finance, Fiscal 2019 Annual Report of the New York City SCRIE and DRIE Ombudspersons (October 1, 2019) (on file with the Council Finance Division).

⁶⁵ See *id.*

V. Property Tax Credits

While DOF is responsible for providing an exemption to eligible tenants under the SCRIE and DRIE program, DOF is also responsible for providing the landlord an equivalent credit on their property taxes. This amount, applied quarterly to the property owner's tax bill is to offset any taxes due in the next tax period.

In 2019, the Office of the New York City Comptroller Scott M. Stringer (Comptroller's Office) issued two Letter Reports related to audits conducted of DOF and its administration of the SCRIE⁶⁶ and DRIE⁶⁷ programs, respectively. The primary purpose of the audits was to determine whether DOF has adequate controls in place to ensure that TACs are issued to only those property owners whose tenants meet the SCRIE and DRIE eligibility requirements. As a result of the audits conducted on the SCRIE and DRIE programs, respectively, the Comptroller's Office found that DOF has adequate controls in place to ensure that TACs issued to landlords are appropriate.⁶⁸

Furthermore, based on a review of DOF's electronic database of TAC expenditures posted from July 1, 2016 through February 28, 2018, the Comptroller's Office found that for the SCRIE and DRIE programs DOF appropriately issued TACs to landlords on behalf of those tenants, did not issue TACs for SCRIE tenants whose applications were still in pending status, and appropriately revoked the benefits of ineligible tenants.⁶⁹

DOF also correctly issued prior period TACs to landlords within the current audit scope period. Additionally, it was found that DOF revoked tenants' benefits or retrieved TACs from

⁶⁶ See City of New York, Office of the Comptroller, Letter Report on the Department of Finance's Administration of the Senior Citizens Rent Increase Exemption Program (May 2019), <https://comptroller.nyc.gov/wp-content/uploads/documents/MG18-097AL.pdf> (last accessed on January 7, 2020).

⁶⁷ See City of New York, Office of the Comptroller, Letter Report on the Department of Finance's Administration of the Disability Rent Increase Exemption Program (June 2019), https://comptroller.nyc.gov/wp-content/uploads/documents/MG18_118AL.pdf (last accessed on January 7, 2020).

⁶⁸ See *id.*; also Comptroller SCRIE Letter Report, *supra* fn. 66.

⁶⁹ See *id.*

landlords when tenants passed away or moved subsequent to the issuance of TACs to landlords.⁷⁰ Finally, in the SCRIE audit, the Comptroller's Office found that for those tenants in the audit sample where DOF transferred SCRIE benefits from the primary tenants to other household members, such transfers occurred as a result of the death of the primary tenants.⁷¹

One issue identified by the Comptroller's Office, however, related to DOF's ability to correctly determine the eligibility of tenants to participate in the SCRIE program.⁷² In examining the entire population of SCRIE tenants—which was 58,279 at the time of the audit—for the purpose of determining whether any of the tenants' annual household incomes exceeded the maximum allowed income of \$50,000, the Comptroller's Office determined that DOF erroneously paid \$13,944 in TAC benefits on behalf of six tenants whose incomes exceeded the required \$50,000 threshold.⁷³

After being notified of the error, DOF retrieved \$5,267 but was unable to retrieve the remaining \$8,677 in TAC payments that had resulted from DOF's error in approving the applications.⁷⁴ According to the Comptroller's Office, DOF has since added an edit check to its integrated electronic Rent Increase Exemption (RIE) processing system intended to identify when an applicant's income exceeds the allowed threshold and prevent the approval of ineligible applications.⁷⁵

VI. Fiscal 2019 Mayor's Management Report

⁷⁰ *See id.*

⁷¹ *See* Comptroller SCRIE Letter Report, *supra* fn. 66.

⁷² *See id.*

⁷³ *See id.*

⁷⁴ *See id.*

⁷⁵ *See id.*

In September 2019, the Mayor issued the Fiscal 2019 Mayor's Management Report (MMR).⁷⁶ In the Fiscal 2019 MMR, the Mayor reported that the average time to process SCRIE and DRIE applications collected by DOF increased in three categories:⁷⁷ 1) SCRIE initial application processing increased by two days; 2) DRIE initial application processing increased by 1.3 days; and 3) DRIE renewal application processing increased by 0.7 days. DOF attributed this increase application processing times to the merging of the SCRIE and DRIE with the SCHE and DHE processing units within the agency. According to DOF, the programs were merged in an effort to cross-train processing staff to be able to assist during peak season for receiving applications, which is between January and March 15th of every calendar year for SCRIE and DRIE. It is unclear whether DOF has instituted any internal processes to ensure the timely processing of exemption applications for Fiscal 2020.

VII. 2019 Annual Report of the SCIRE and DRIE Ombudspersons

On October 1, 2019, DOF issued an annual report on the Rent Freeze Program and on the activities of the SCRIE and DRIE ombudspersons.⁷⁸ Pursuant to Local Law 40 of 2015, DOF is required to issue a report to the City Council for the prior fiscal year indicating:

1. the number and nature of inquiries received by DOF and the 311 Citizen Service Center regarding the rent increase exemption programs;
2. the number, nature, and resolution of comments and complaints received by the SCRIE and DRIE ombudspersons regarding the rent increase exemption programs; and

⁷⁶ See The City of New York Mayor Bill de Blasio, Mayor's Management Report Fiscal 2019 (September 2019), https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2019/2019_mmr.pdf (last accessed on January 10, 2020).

⁷⁷ See *id.*

⁷⁸ See Fiscal 2019 Annual Report of the New York City SCRIE and DRIE Ombudspersons, *supra* fn 64.

3. any recommendations made by the ombudspersons to the DOF commissioner regarding the administration of such rent increase exemption programs.

During Fiscal 2019, the SCRIE and DRIE ombudspersons reported a total of 1,538 inquiries and 433 cases.⁷⁹ In comparison to the prior fiscal year, there was an 8.5 percent decrease in total work volume.⁸⁰ However, the number of cases increased by 23 percent.⁸¹ DOF believes that a possible explanation for this case trend is due to the “heightened awareness and familiarity of applicants with the process, [and] more applicants now contact the ombudspersons with complicated issues.”⁸²

Email was the method most often used by individuals to contact the ombudspersons, representing approximately 72.3 percent of all workflow in Fiscal 2019 (compared to 64.5 percent in Fiscal 2018).⁸³ The total volume received by email increased by 2.4 percent from Fiscal 2018.⁸⁴ The total number of cases received by email increased by 20.7 percent between 2018 and 2019, and the number of cases received by 311 or direct call increased by 24.5 percent from the prior fiscal year.⁸⁵

The two major categories addressed by the ombudspersons, in both cases and inquiries, in Fiscal 2019 was related to application processing and TAC issues.⁸⁶ Approximately 69 percent of the inquiries handled by the ombudspersons were application-related issues.⁸⁷ This category represented a 22.5 percent increase from Fiscal 2018.⁸⁸ Application-related inquiries consisted of

⁷⁹ *See id.*

⁸⁰ *See id.*

⁸¹ *See id.*

⁸² *See id.*

⁸³ *See id.*

⁸⁴ *See id.*

⁸⁵ *See id.*

⁸⁶ *See id.*

⁸⁷ *See id.*

⁸⁸ *See id.*

application status, application updates, and document submission as well as cases that involved the ombudspersons' intervention when applicants experienced processing delays.⁸⁹ According to the report, application processing continues to be the primary reason applicants contact the ombudspersons for assistance in the SCRIE and DRIE programs.⁹⁰

TAC issues, which involve landlords or tenants seeking to adjust frozen or legal rent amounts or to verify that TAC benefits are properly reflected on a SCRIE or DRIE statement of account or property tax bill, accounted for the second highest category of inquiries handled by the ombudspersons which increased from 14.4 percent in Fiscal 2018 to 17.3 percent in Fiscal 2019.⁹¹

In the report, the ombudspersons discussed the status of the prior years' recommendations and identified 11 new issues to further improve the Rent Freeze Program for Fiscal 2019, which includes:⁹²

1. Benefit Takeover Application – DOF should include language on the benefit takeover application explaining how additional leaseholders can exercise their benefit takeover rights, including leaseholders not listed on prior Rent Freeze applications.
2. Approval Notices – Approval notices should include a statement indicating that a credit for the months following the benefit effective date should be issued to the initial applicants if the full legal rent is paid. As long as the tenant qualifies, the notice should also state that the tenant has the right to pay the frozen rent for six months following the expiration of the benefits.
3. New Eligibility Form – DOF should create a tenant form that permits participants or family members to provide notification of a participant's ineligibility (due to income,

⁸⁹ *See id.*

⁹⁰ *See id.*

⁹¹ *See id.*

⁹² *See id.*

death, a move, Section 8, etc.) for the Rent Freeze Program. This form would also allow SCRIE to track attrition data and would be similar to the “Landlord/Managing Agent Notification of Tenant’s Ineligibility” form.

4. Modify Change Form – The “Property Owner Information” section should be removed from the SCRIE/DRIE Property Change Form. Alternatively, DOF should provide a link to update property and billing information for Property Tax System (PTS).
5. Public Engagement Unit (PEU) Annual Training – DOF’s SDP Unit should conduct annual trainings with New York City Human Resources Administration’s (HRA) PEU to review the Rent Freeze Program policies and procedures, and to discuss reoccurring issues posed by Rent Freeze participants.
6. City Fighting Homelessness and Eviction Prevention Supplement (CityFHEPS) – DOF should issue official guidance concerning protocols and procedures for taxpayers eligible to receive both CityFHEPS and enroll in the Rent Freeze Program.
7. Rent Freeze Website – DOF should explore altering the Rent Freeze website to include a landlord tab on the drop-down listing of sub-items interested parties can click on. This would allow for both tenants and landlords participating in the Rent Freeze Program to access and understand information concerning the programs on a single website.
8. Redetermination – The SCRIE and DRIE redetermination applications should include language that makes it clearer to applicants that, while other circumstances will be considered, the death or retirement of a beneficiary or household member are the typical circumstances for which a redetermination is granted.

9. Social Security Disability Income (SSDI) - The SDP Unit should determine if it can legally attribute SSDI income to the year that it was accrued rather than the year that it was paid, and if so, do so.
10. Apartment Transfer (Portability) and 1/3 Rule – DOF should update the Rent Freeze guide and the benefit transfer application to explain to the SCRIE and DRIE portability applicants that if their new legal rent is lower than the previous rent, they may end up paying more in rent.
11. Notification Regarding Lease Expiration – DOF should create a publicly available rule formalizing the procedure that allows the approval of renewal benefits with a renewable application for leases expiring within a month of filing the initial application.

VIII. Conclusion

The NYC Rent Freeze Program provides much needed assistance to senior citizens and persons with disabilities in New York City by supplementing their rent payments and allowing them to remain in their homes. At a time when housing costs have risen out of reach for most working New Yorkers, it is imperative that the City protects one of its sources of affordable housing. At this hearing, the Committees look forward to learning more about DOF's administration of the Rent Freeze Program.