



Time to Rebuild:

A Blueprint for Reforming
New York City's Department of Buildings

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Office of the Manhattan
Borough President

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EXECUTIVE SUMMARY

For years, the New York City Department of Buildings (DOB) has struggled to fulfill its dual responsibilities to both promote and police the development of New York City's ever-changing building stock. This fundamental conflict is not new. Proposals for reconfiguring the DOB date back to the administration of former Mayor Rudy Giuliani, yet reforms that would have made the agency more effective remain unrealized.

New data contained in this report once again calls into question the effectiveness of the DOB and provides additional evidence that the agency must be reformed. Using figures published by the DOB through its monthly BUILD Indicator reports, the Manhattan Borough President's Office has uncovered disappointing new trends that lead to new questions about the DOB's ability to regulate elevator safety and to promote new building development – two of its core missions.

This report concludes that the DOB has done an increasingly poor job of keeping up with elevator inspections in New York City over the last three years – with occasionally tragic results. Recent accidents involving the death of a young boy at a public housing development in Brooklyn, as well as a December 2011 elevator fatality at an office building on Madison Avenue, only serve to underscore the need for reform.

Among the new data presented in this report:

Elevator inspections have declined substantially citywide

- **The average number of elevator inspections conducted by the DOB has declined by roughly 28 percent in recent years.**
- Specifically, from January 2006 through September 2008, the average number of monthly elevator inspections by the DOB was 7,930. Since then, the average number of monthly inspections by the DOB has plummeted to 5,723, a decline of 28 percent.
- As recently as April 2008, monthly DOB elevator inspections peaked at 9,227 – nearly double the most recent monthly average.

Meanwhile, the DOB is taking longer than ever to review new building applications in Manhattan

- **The time it takes for the DOB to review new building applications has nearly doubled in recent years.**
- Specifically, from January 2006 through September 2008, the average first review for new building applications in Manhattan occurred within 14.5 days. Since then, the average first review for new building applications has ballooned to 25.6 days, an increase of 77 percent.
- In some months, review times have exceeded 60 days.

These delays are occurring despite the fact that new building applications have declined by more than two-thirds in recent years

- **For the period from January 2006 through September 2008, the DOB received an average of 19.3 applications for new buildings in Manhattan.**
- **For the period from October 2008 through June 2011, the DOB received an average of 6.7 applications for new buildings in Manhattan – a decline of 65%.**

In short, the report concludes that the DOB – currently charged with both promoting and policing development – is fulfilling neither mission adequately.

Based on this new evidence, the report recommends that the time has come to break the Department of Buildings into two agencies – one focused solely on inspections and safety (the Office of Inspection), and one dedicated to promoting and advancing development (the Department of Buildings). Such a split would increase efficiency by refocusing resources, while also relieving the DOB of the dual responsibility of both promoting and policing development.

The new Office of Inspection (OOI) – which Borough President Stringer first called for in 2009 – would be responsible for all building inspections and the remediation of building violations. Envisioned as a quasi-governmental authority funded by building violation fines, the OOI would: draw inspectors with greater qualifications, talent, and consistent training; respond to fluctuations in development; and have the authority to reclassify building violations so that the most dangerous violations are given an urgent designation and sufficient government attention.

Finally, this report briefly addresses a controversial decision by the DOB to block access to publicly available buildings data. The BUILD Indicator reports are a small portion of the data that has been removed from City websites. In an effort to promote transparency in Government, the Manhattan Borough President's Office is posting over two hundred pages of these documents to an independent website and calls on the City to immediately reinstate public access to all buildings data.

INTRODUCTION

In January 2010, the Manhattan Borough President's Office released "*Falling Apart at the Seams*," a report that projected that 15,000 of the open violations in Manhattan's building stock are so serious that, by the City's own classification, they pose a "threat that *severely* affects life, health, safety, property, public interest or persons so as to warrant immediate corrective action."

Falling Apart at the Seams concluded that building enforcement in New York City must be reformed to eliminate what is now an inherent conflict: the dual mission of the New York City Department of Buildings (DOB) to both promote and police development. The report called on the City to restrict DOB's mission and responsibilities to advancing building projects and promoting development in general. At the same time, it recommended that the City create a new Office of Inspection (OOI) to handle all building safety issues, and more efficiently and effectively maintain safe development in New York City.

As DOB Commissioner Robert LiMandri noted at a September 21, 2009 meeting of the City Council Committee on Housing and Buildings, "what this department [DOB] consistently needs is stronger enforcement policies."¹ The creation of a new OOI would be in line with the spirit of Commissioner LiMandri's testimony.

Modeled after Ontario's Technical Standards & Safety Authority and Quebec's Commission de la construction du Quebec (CCQ), OOI is envisioned as a quasi-public agency that would house all City building inspectors and be responsible for the issuance and remediation of all building violations. OOI's budget would be funded with receipts from building violations, a unique model for New York City agencies. In the Borough of Manhattan alone, it is estimated that there are some \$60 million in uncollected building violations fines.²

¹ legistar.council.nyc.gov/View.ashx?M=F&ID=748684&GUID=1BE79A1E-ABEE-4B0C-AFD6-B8FA31B0F7E8

² www.mbp.o.org/uploads/policy_reports/mbp/buildingreportfinal.pdf

Borough President Stringer presented this specific recommendation to the New York City Charter Revision Commission in 2010.³

Now, less than two years later, a new analysis by the Manhattan Borough President's Office provides additional evidence that the Department of Buildings continues to inadequately fulfill its dual mandates to promote development and ensure safety. This report will present two key analyses that rely on BUILD Indicator reports – monthly performance reviews compiled by the DOB – and make recommendations meant to promote responsible development and ensure safety.

This report will also address the City's recent decision to block public access to DOB data and will provide links to some 227 pages of buildings data that was recently removed from the City DOB website.

PRESENTATION OF NEW DATA

In an effort to measure the quality and efficiency of critical services, the New York City Department of Buildings had posted monthly reports on their website known as BUILD Indicators. BUILD is an acronym that stands for Building Understanding, Integrity, Leadership, Dedication.

Despite recent pronouncements about their "commitment to transparency,"⁴ the DOB removed the BUILD Indicators and other data from its website sometime during the week of February 13-17, 2012.⁵ Prior to the removal of these documents from the DOB website, researchers from the Manhattan Borough President's Office had downloaded all available BUILD Indicators reports from January 2002 through June 2011, the most recent reports available as of February 2012.

³ <http://mbpo.org/uploads/reformingreport3.pdf>

⁴ http://www.nyc.gov/html/dob/downloads/pdf/biennial_report_printer_version.pdf?epi-content=GENERIC

⁵ <http://online.wsj.com/article/SB10001424052970203918304577243542549363220.html>

The 227 pages of BUILD Indicator reports that were reviewed by the Manhattan Borough President's Office have been republished and can be accessed here: http://www.mbp.org/free_details.asp?id=368

Slower building application review times in Manhattan

The most notable trend found in the BUILD Indicator reports is a troubling rise in the average number of days that it took the DOB to conduct its first review of new building applications. For the period from October 2008 through June 2011, the average first review for new building applications jumped to 25.6 days – nearly double the 14.5 days it took on average over the previous two-and-a-half year period. In some cases, review times stretched as long as 69 days.

It would be logical to assume that the surge in review times was driven by a corresponding increase in new building applications. However, as the BUILD Indicator reports show, the opposite was true. Over the same corresponding periods, the average number of new building applications actually dropped by more than two-thirds, from 19.3 per month to 6.7 per month.

The month of June 2009 was an outlier with 41 new building applications, a high not matched since January 2006, which can most likely be attributed to the expiration of the 421-a subsidy. When this month is removed, the average number of new building applications drops even further, to 5.6 per month.

Thus, as building applications began to dip substantially in October 2008, review times at the DOB increased substantially, a counterintuitive trend that undeniably points to the need for reform.

It is clear that the City has also noticed this disturbing trend. In this year's State of the City speech, the Mayor pledged to cut red tape at the DOB through the introduction of an online hub that would reduce wait times to ten days or less.⁶

⁶ http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57b-b4ef3daf2f1c701c789a0/index.jsp?pageID=mayor_press_

One additional explanation for this phenomenon may be the fact that the DOB has shed 276 positions in the last three years, and some of those jobs may have been focused on reviewing new building applications. However, with \$146.9 million in revenue and \$94.6 million in expenses at the DOB, some have questioned whether the DOB truly had to make cuts and whether DOB proceeds are being used to enhance the City's general fund at the expense of jobs and other economic activity that would result from a more focused promotion of development in New York City.

Finally, it should be noted that the City stopped posting BUILD Indicator reports on the DOB website after June 2011, making it unclear whether the trend outlined above may have gotten better or worse over the last nine months.

The bar graph in Appendix A illustrates the number of new building applications and the average number of days to review first applications from January 2006 through June 2011.

Sharp decreases in elevator inspections

In the Borough of Manhattan, apartment buildings, commercial towers and even some subway stations require safe and reliable elevator service. The DOB is the steward of the City's elevator fleet, performing thousands of safety inspections each month. Although the City's 60,000 elevators make countless numbers of vertical trips safely and without incident each day, elevator accidents and fatalities still occur, with 43 citywide elevator accidents in 2011 alone.⁷

The data included in recent BUILD Indicator reports affirms that the DOB has done an increasingly poor job of keeping up with elevator inspections in New York City over the last three years.

For the period from October 2008 through June 2011, the DOB conducted an average of 5,723 eleva-

release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2012a%2Fpr014-12.html&cc=unused1978&rc=1194&ndi=1

⁷ <http://cityroom.blogs.nytimes.com/2012/02/27/city-blames-fatal-elevator-accident-on-poor-maintenance-work/?src=twrhp>

tor inspections per month. That's a decline of more than 27 percent from the average 7,930 monthly inspections the DOB performed over the prior 33-month period. In the peak month of April 2008, the DOB inspected 9,227 elevators, or nearly double the current monthly average. At its lowest point in June 2010, the DOB inspected only 3,016 elevators citywide.

The line graph in Appendix B plots the number of citywide elevator inspections conducted by DOB inspectors from January 2006 – June 2011.

RECOMMENDATIONS

1. The time has come for the City to create an Office of Inspection. The OOI would be a quasi-governmental authority that would take responsibility for all building inspection and remediation duties from the DOB. It would house the City's building inspectors and be responsible for the issuance and remediation of all buildings violations. Other responsibilities of the DOB, such as planning examinations and issuing construction permits and certificates of occupancy, would remain with the DOB.

The OOI would provide a much needed streamlining of government resources to help remove the many layers of government bureaucracy at the DOB. In its current form, the DOB is simply unable to adequately perform the myriad, often conflicting responsibilities it has under its authority.

Funds that are currently apportioned to the DOB for buildings inspection operations should be shifted to the OOI. Most importantly, the revenue collected from OOI violations and enforcement should go directly into OOI's budget. Under the current system, revenue raised from DOB violations goes into the City's general fund rather than back into the DOB budget. This budgeting change will allow OOI to pay building inspectors at markedly higher rates, thereby attracting inspectors with greater

qualifications, talent, and consistent training. In addition, the office would demand higher levels of accountability among the City's buildings inspectors.

2. The DOB must reform its elevator inspection protocols. Setting the troubling decrease in inspection figures aside, it is clear that there are serious deficiencies in the way that the DOB manages private elevator inspections. Finding the right balance between public and private elevator inspectors should be a top priority for the City.

Private elevator inspections were first permitted by the City in 1981 and were substantially increased in 1996 after 75 percent of the DOB's elevator inspection staff was suspended by Mayor Giuliani on suspicion of bribery.⁸ However, recent incidents involving private elevator companies indicate that more accountability is required. Indeed, in the aftermath of the December 2011 elevator fatality on Madison Avenue, the DOB conducted "the largest safety sweep of elevators in its history," suggesting that the DOB itself may have had its own questions about the trustworthiness of private elevator inspections.⁹

The DOB should develop and release a plan that increases accountability for private elevator inspectors and provides the public the assurance it deserves that New York City elevators are safe and reliable.

3. Another area where government can make a positive impact is on the issue of individuals licensed to work on elevators. As a recent New York Times article noted, "anyone with a set of tools can work on an elevator."¹⁰ To remedy this shortcoming, Manhattan Assembly Member Keith Wright and New York +State Senator

8 <http://www.nytimes.com/2009/10/04/realestate/04posting.html>

9 <http://online.wsj.com/article/SB10001424052970204520204577249890317876100.html>

10 <http://www.nytimes.com/2011/12/16/nyregion/elevator-that-killed-yr-executive-was-undergoing-maintenance-city-says.html>

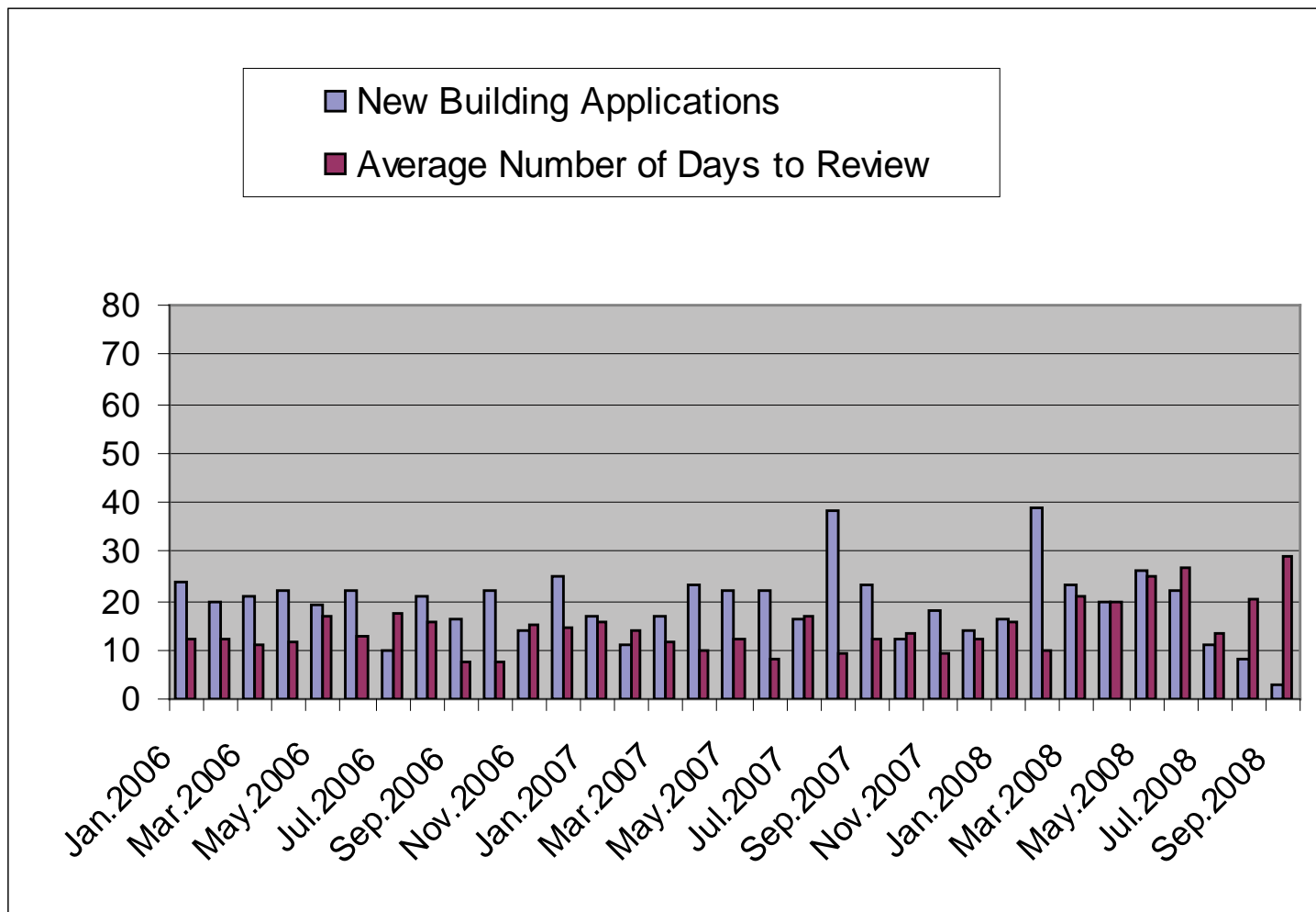
Liz Krueger have introduced A. 8359/S.6291 in the New York State Legislature. This common sense legislation would require licensing for anyone who works in the field of elevator repair, inspection or construction. The Assembly and Senate should pass this bill.

4. It is unacceptable that the DOB has blocked computerized access to public data housed on its website. Developing a new system that will allow the DOB to manage billions of hits on its website each day is certainly a daunting task, but it is not impossible. The Metropolitan Transportation Authority (MTA) has faced and addressed similar challenges, and as a result the industry for computer and smart phone apps using MTA data has flourished.

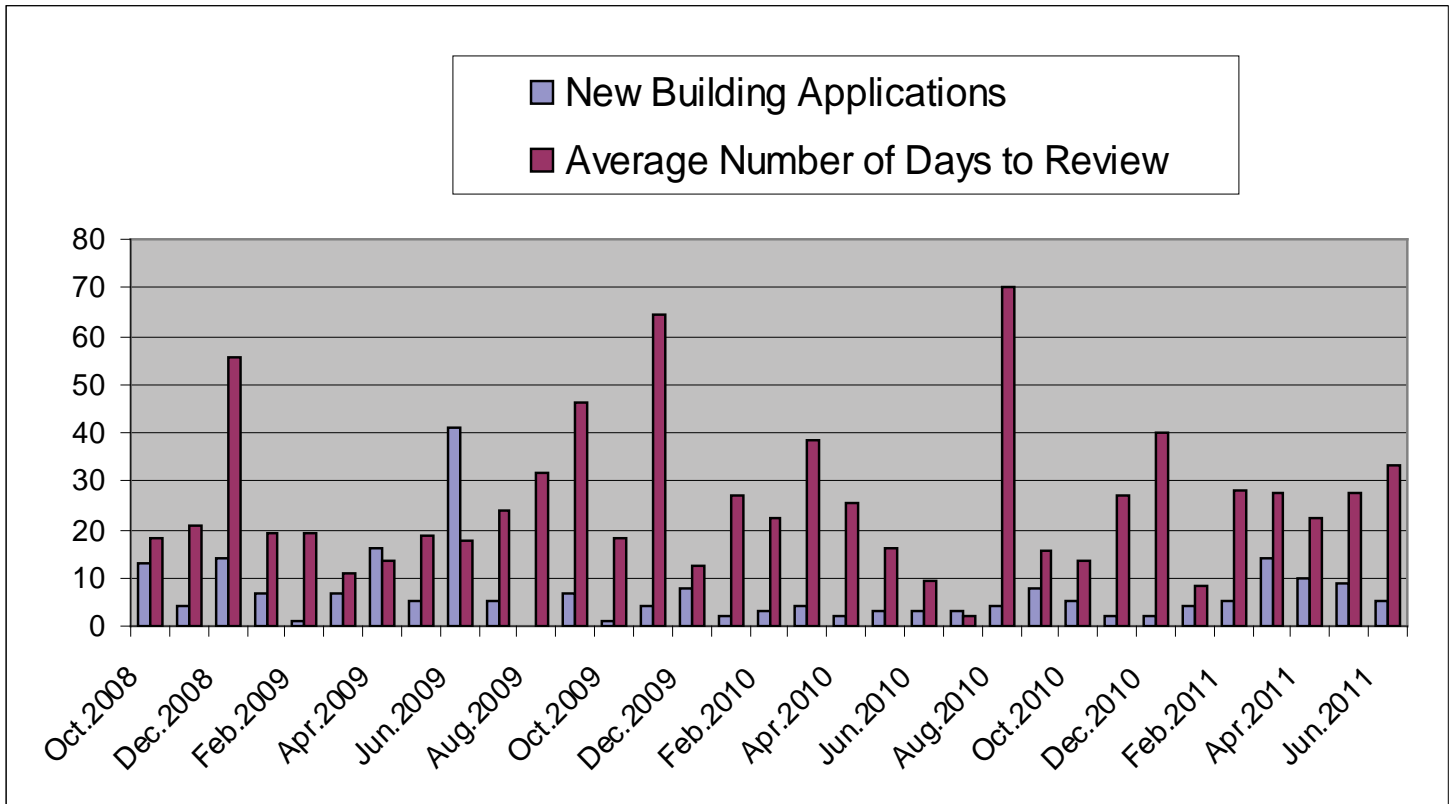
New trends that have facilitated new apps, which access and synthesize broad sets of government data, have improved the customer experience for the straphangers that use these tools. Additionally, they have arguably made the MTA a more open and efficient agency.

The DOB should work closely with the MTA and other experienced entities to develop a protocol for managing open access to its data. Like the MTA, easy access to this data will improve the customer experience and ultimately help the DOB achieve its core mission to promote development in New York City.

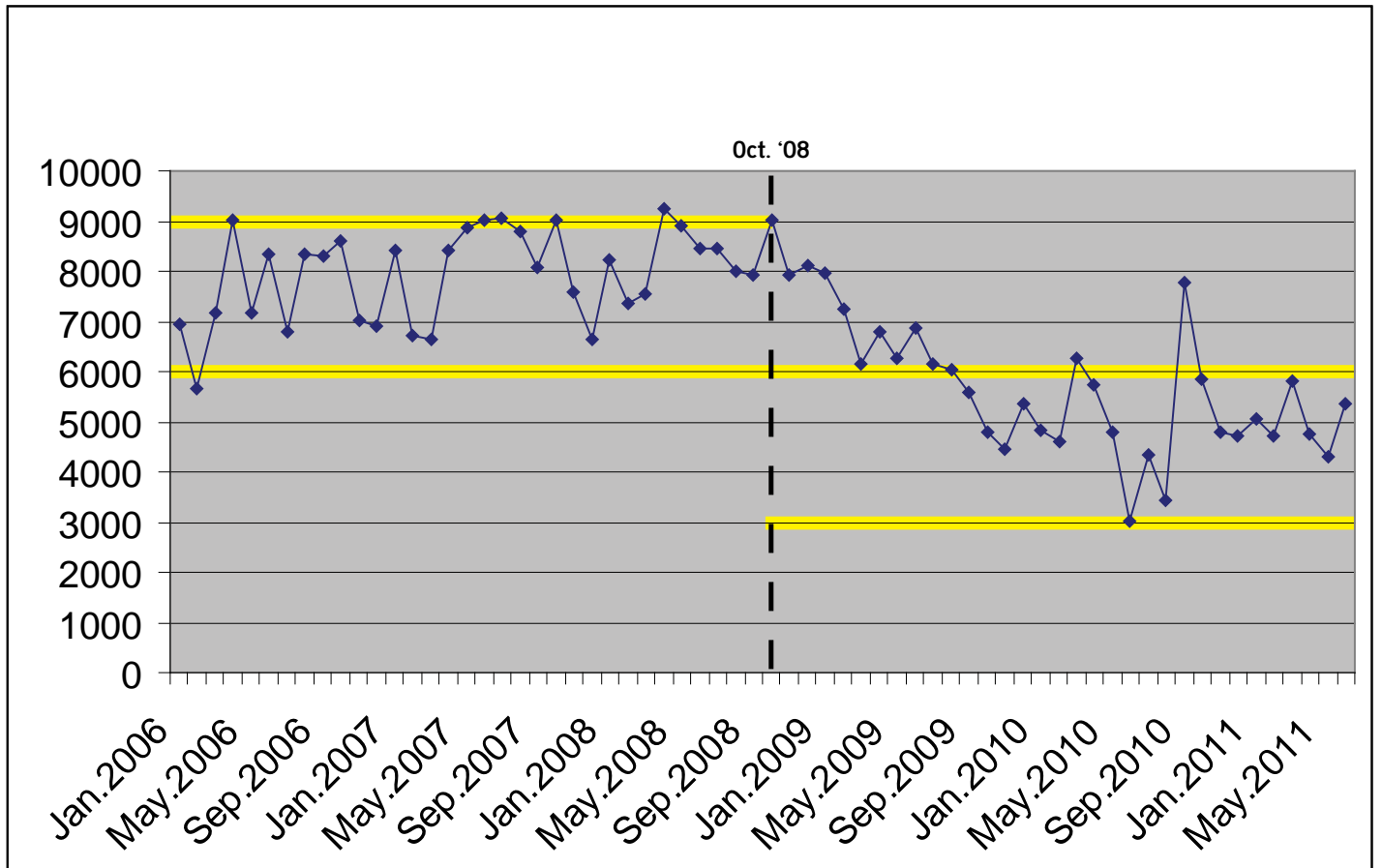
**New York City Department of Buildings
New Building Applications and Application Review Times
January 2006 – September 2008**



New York City Department of Buildings New Building Applications and Application Review Times October 2008 – June 2011



New York City Department of Buildings Number of Elevator Inspections





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