

CITY OF ALBANY

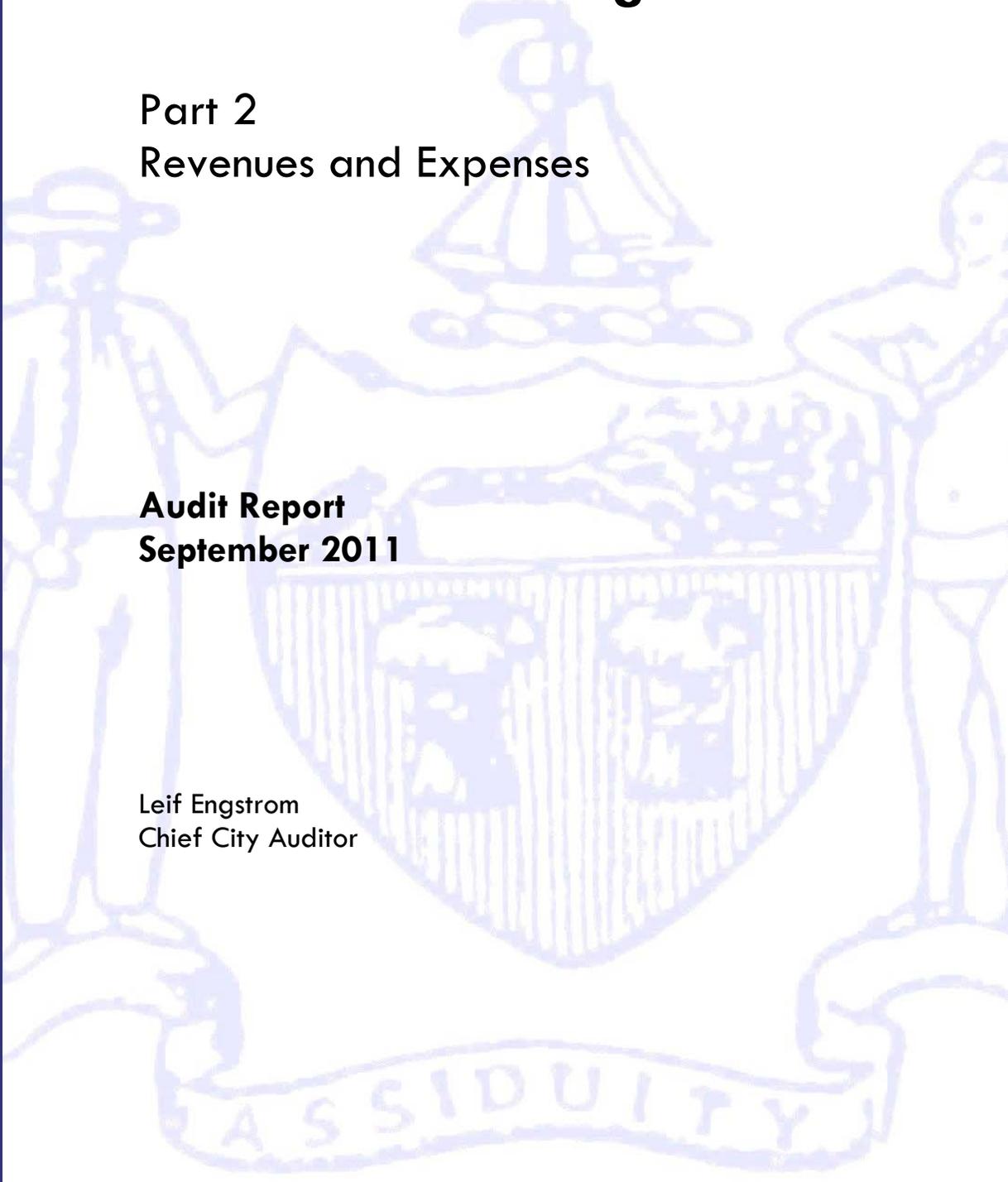
Office of Audit and Control

Performance Audit of the Division of Building & Codes

Part 2
Revenues and Expenses

**Audit Report
September 2011**

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Chief City Auditor



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Pictures are included throughout this report to emphasize the City’s important assets that are protected by code enforcement.

Executive Summary 1

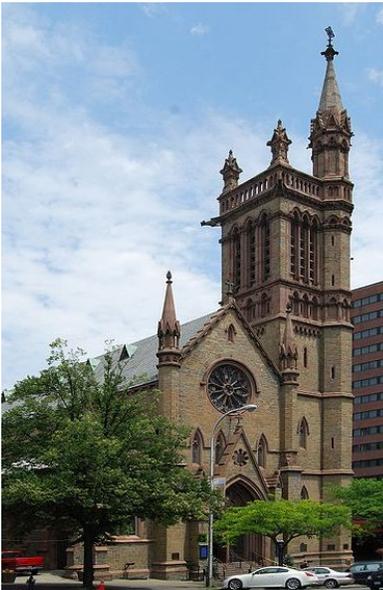
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The fees and fines for the Codes Section¹ are set in the City Code and cover less than 15% of the related Division expenses, which does not include the related expenses incurred by other departments.

Executive Summary

This part of the audit found that the Codes Section¹ fees and fines are not offsetting their related expenses. The Division as a whole does usually come close to covering its expenses, but this means that the Building Section revenues are making up for the shortfall in Codes. Additionally, there are significant code enforcement expenses incurred by other departments that are not covered at all.

The Rental Registry, Vacant Building Registry, and residential dwelling unit inspection fees are set in City Code with the stated purpose of offsetting the associated expenses. In total, the fees and fines resulting from these laws cover less than 15% of the related expenses.

At the same time the City Code tasks the Director of Building and Codes with setting all building, zoning, and housing fees sufficient to defray actual operating expenses associated with those permits. This creates a conflict that puts the Director in the position of being instructed to cover Division costs without the ability to set the fees for half of the organization.

These circumstances present the City with the opportunity to address three issues:

1. Finding the resources for improved Codes Section administration and operations.
 - If the Rental Registry and related inspection fees cover the associated costs, this is no longer an issue.
2. Addressing some areas of the building permit fee schedule that are significantly higher than Albany's neighboring towns and comparable cities.
3. Offsetting the considerable building and codes costs not included in the Division budget such as retirement healthcare and the code enforcement work of other departments such as Law, Planning, DGS, and Police.

This part of the audit also examined the expenses and benefits of the current practice of using fire companies to conduct inspections as compared to hiring full time inspectors. After significant analysis, the audit team was unable to make a recommendation on this issue due,

¹ The Division is comprised of two sections: Building, and Codes. The Building Section is responsible for enforcing building code and zoning compliance for new construction and renovations to existing buildings. The Codes Section is charged with conducting existing building maintenance inspections of rental housing, commercial buildings, and vacant buildings.



The Common Council should pass an ordinance granting the Director of Building and Codes the power to set the Rental Registry and rental unit inspection fees.

That ordinance should also require the Director to deliver an annual report relating revenues to expenses.

among other things, to the nature of the firefighter contract. Changing to full time inspectors would need to be negotiated with the firefighter union and the resulting savings and costs are unknown. Details of our analysis are included and discussed in the Part 2 Audit Results and are available to inform any decisions along this line.

Contracting with private inspectors to do rental and commercial inspections has also been raised as a possibility. This path would require significant controls in order to ensure compliance. The City would also need to address the staffing of complaint inspections, which are free of charge unless there is a violation. If management chooses to take this option, a detailed plan should be assembled and reviewed to address the control, staffing, and financial concerns and opportunities.

Finding

While extensive analysis went into this part of the audit, some of the results were inconclusive but very informative. The Part 2 finding is as follows:

(Numbering is continued from Part 1.)

10. The Rental Registry and related inspection fees do not meet their purpose of “offsetting” expenses or being “sufficient to defray” the related costs.

Recommendation

The Common Council has the opportunity to provide the Division with the flexibility to better balance revenues and expenses while maintaining the oversight needed to represent the public interest.

(Numbering is continued from Part 1.)

23. The Common Council should pass an ordinance granting the Director of Building and Codes the power to set the Rental Registry and rental unit inspection fees in order to offset the costs related to the activities. In the same ordinance the Council should require the Director to deliver to the City Clerk an annual report relating code enforcement revenues to expenditures.



Introduction

Audit Background

For any regulatory agency, the ability to achieve its mission is directly related to the adequacy of its resources. That holds especially true for code enforcement in a city with Albany's challenges. (as described in Part 1)

Code enforcement is important to the City's quality of life and it is just as important for the Code Section to have reliable, consistent, and sufficient resources for its operations. This is especially important in tight budget times. The Division regulates a residential rental industry that annually generates approximately \$230 million² in revenue for landlords. This is an industry with the potential to significantly enhance or damage the City's quality of life and as such, proper regulation is well warranted.

The Common Council recognized the importance of this issue by including language in the Code that directs the Division's functions to be self-funding. That action should have provided the City with the resources needed to carry out each code enforcement function effectively. Determining whether this is actually the case was a key objective of this audit.

In addition to examining the critical issue of adequate resources, this audit looked at a topic that has been a point of contention for years; the use of fire companies to conduct rental inspections. Watching a large fire truck pull up to conduct a rental inspection leaves many citizens with the impression that the City's allocation of resources is out of balance. This concern was raised in many of the neighborhood meetings that our office visited during its citywide risk assessment. No thorough review of Albany's code enforcement operations would be complete without an examination of whether fire company inspections are cost effective.

Division Revenues and Expenses

The Division generates revenue through an often complex set of fees and fines related to nearly all of its operations. Some of the fees are set by the Director of Building and Codes while others are set in the City Code. In 2010, the Division generated a little over \$2 million in fees. A detailed breakdown of the Division's revenues and expenses is detailed in the Part 2 Audit Results.

² Calculated using US Census, American Community Survey housing data- available at: http://www.cdrpc.org/ACS/DPs/ACS-DP4_AlbCo_City_of_Albany.pdf



Rental Registry and Inspection Fees

The Rental Registry fees are paid after the rental unit passes an ROP inspection. The fee schedule, set by City Code, for rental unit³ in a single building is as follows:

Table 2.1-Rental Registry Fee Schedule

Dwelling Units	Fee
1-5	\$30.00 per unit
6-10	\$50.00, plus \$20.00 per unit
11-20	\$100.00, plus \$20.00 per unit
Over 20	\$250.00, plus \$15.00 per unit

In order to comply with the Rental Registry, a rental unit must pass an ROP inspection. For each unit there is no charge for the first two inspections (other than the Registry fee) and each additional inspection thereafter⁴ has a \$40 fee. If the landlord or agent does not show up to a scheduled ROP inspection, there is a \$25 fee.

Similar to ROPs, there is no charge for the first and second inspections for complaints. Each additional inspection has a \$40 fee.

Vacant Building Registry Fees

In 2008, following the recommendation of the American Institute of Architects’ report on sustainable design in Albany, the Common Council adopted the following escalating set of fees for the required registration of vacant buildings:

Vacant Building Registry Fee Schedule

- \$250 first year
- \$500 second year
- \$1,000 third year
- \$1,500 fourth year
- \$2,000 each following year

This revenue line has had some significant swings in the three years since it went into effect with a high of \$116,700 in 2009 dropping to a total of \$68,600 in 2010.

Building, Zoning, Licenses, and Other Fees

The fee schedule for all other permits and licenses is extensive and set by the Director of Building and Codes. The fees are based on different criteria depending on the work being done. The permit fee is based on square footage, cost of the construction, number of items being installed, or a set fee for the type of work. Plumbing, electrical, and HVAC license fees as well as stop-work order fees

³ There is a similar schedule for rooming houses.

⁴ Additional inspections are required when code violations are found.

are also set by the Director. The complete fee schedule, last changed in January 2010 is attached to this report.

Expenses

As with all municipal operations, the principle expenses are for personnel. In 2010, the Division spent a total of \$51,712 on non-personnel expenses. This does not include Fire Department equipment and gas used during code enforcement duties.

The Division’s personnel fall under the following general categories:

Table 2.2- Division Workforce

Personnel Category	Staff
<u>Non-Sworn</u>	
Director of Building and Codes	1
Division Supervisor	1
Building Section Inspectors	6
Office Staff	8
Codes Section Inspector/Trainer	1
<u>Sworn</u>	
Deputy Fire Chief	1
Fire Investigation Unit (FIU) Building Inspectors	5
Firefighter Code Compliance Officers	approx. 200

During the Scope of this audit, the Director of Building and Codes supervised the Building Section activities, while the Division Supervisor coordinated the Codes Section activities⁵ with the Deputy Fire Chief. As of September 1, 2011 that arrangement has changed with the appointment of a new Director of Building and Codes who reports directly to the Mayor and oversees both sections.

Building Section Inspectors work almost entirely on Building Section activities. Most of the other non-sworn staff spends time on both Codes and Building work, although the Division Supervisor and two employees are primarily focused on Codes Section duties.

The sworn personnel divide their time between Codes Section duties and other Fire Department duties. The Deputy Chief and FIU staff spends about half their time on Code Section work. The amount of time spent by firefighters, who are each paid a code enforcement stipend of \$1,400 per year, varies based on the ROP and complaint inspection schedule.

⁵ The Division is comprised of two sections: Building, and Codes. The Building Section is responsible for enforcing building code and zoning compliance for new construction and renovations to existing buildings. The Codes Section is charged with conducting existing building maintenance inspections of rental housing, commercial buildings, and vacant buildings.



Scope, Objectives, and Methodology

Scope

The scope of this audit includes code enforcement operations related to the rental registry, the rental occupancy permit program, and the vacant building registry for the time period of January 2007 through June 2011.

Criteria

This audit was based on City Code, New York State Uniform Fire Prevention and Building Codes (Uniform Code), and policies and procedures of the Division of Buildings and Codes.

Objectives and Methodology

This audit was conducted in compliance with generally accepted government auditing standards issued by the U.S. Government Accountability Office (GAO.)

The overall audit methodology consisted of the following:

- Identifying, reviewing, and clarifying the City and State administrative requirements for the Division, as well as Division policies and procedures.
- Collecting, reviewing, testing, and evaluating Division data and documentation in light of the requirements, policies, and procedures.
- Conducting interviews with personnel from the Division, the City Assessor's Office, City Attorneys, and Data Processing.

Some of the methodologies used to achieve the specific objectives are outlined below each of the following objectives.

The objectives of Part 2 of this audit were:

(Numbering is continued from Part 1.)

7. Determine whether the Division's fees are covering expenses as required by City law and whether hiring full time Code Compliance Officers would be more cost effective than having firefighters perform the inspections.

To achieve the first part of this objective, the audit team:

- Identified the 2008, 2009, and 2010 revenues and 2010 expenses. *(Expenses have held steady while some revenues have fluctuated)*
- Allocated the revenues and expenses to either the Building or the Codes Sections.



Because a move to full-time inspectors would need to be negotiated in the firefighters' contract, we were not able to come to a conclusion for the second part of Objective 7.

To achieve the second part of this objective, the audit team:

- Contacted the code enforcement offices of Cohoes and Schenectady for workload and salary information.
- Identified the firefighters' inspection workload for 2008, 2009, and 2010.
- Identified the personnel costs generated by the firefighters' code enforcement stipend.
- Estimated the equipment costs of the firefighters' code enforcement work.
- Estimated the personnel and other costs that would be incurred by hiring full time inspectors to take on the firefighters' workload.
- Compared the two sets of costs.

Because a move to full-time inspectors would need to be negotiated in the firefighters' contract, we were not able to come to a conclusion for the second part of Objective 7. The cost differential, as detailed in the Part 2 Audit Results, is not large enough for us to have confidence that the negotiated costs would not outweigh the savings.

8. Determine whether the Division's fees, fines, and timelines for payment are consistent with Division Guidelines.

To achieve this objective, the audit team:

- Reviewed procedures for billing and collecting fees and fines to determine whether the City is receiving timely and complete payment.
- Sampled building permits and inspections to see if the proper fees were charged and paid.

In our sampling, we did not find any discrepancies. However the invoices are generated using Microsoft Office software while accounts receivable are generated in AS400. This creates a minor control weakness for cash transactions and the potential for human error with duplicate entry for thousands of transactions. The Treasurer's Office confirmed that mistaken entries have occurred and that they do take some effort to correct.

While neither of these circumstances rises to the level of a finding, they do lend weight to the argument that the City needs a new real property computer system that would generate both invoices and accounts payable.



Audit Results

For Part 2 of the audit, the audit team identified one finding and made one recommendation.

In addition to the finding and recommendation, the audit team conducted a large amount of analysis in pursuit of objectives that we were not able to achieve. Following the Audit Findings and Recommendations, there is a detailed discussion of the results of that analysis.

Audit Findings and Recommendations

(Numbering is continued from Part 1.)

Finding 10: The Rental Registry and related inspection fees do not meet their purpose of “offsetting” expenses or being “sufficient to defray” the related costs.

The City Code both sets the fee schedule for the Rental Registry and associated inspections and sets forth the principle that the Division’s fees should offset and be sufficient to defray the costs. The result is that the Code Section fees are not keeping up with the related costs and not achieving the stated purpose of having self-supporting code enforcement activities.

By setting the fees in the Code, the City is less likely to monitor whether the fees are meeting their purpose than if the Division is empowered to set them as conditions change.

Table 2.3 shows that in 2010, Codes Section revenues covered less than 15% of expenses.

Table 2.3- 2010 Division Revenues and Expenses

	Codes Section	Building Section	Total
Revenues	\$ 211,295	\$ 1,847,452	\$ 2,058,747
Expenses⁶	\$ 1,568,511	\$ 714,798	\$ 2,283,309

As a result of this circumstance, there is a constant question about the available funding to provide the Division with the proper

⁶ **NOTE:** The expenses in Table 2.3 do not include many costs. They only include the Division’s and the Fire Department’s direct code enforcement expenses. They do not include the cost of office space or the large expenses incurred by other departments, the Planning Board, Zoning Board of Appeals, and the Historic Resources Commission. It also does not include deferred benefit costs such as retiree healthcare and accrued vacation, sick and comp time. In short, the revenues are complete, but the listed expenses are significantly lower than the City’s full cost of implementing code enforcement.

equipment, training, and supervision to carry out its critical mission.

Finding 10 Recommendation (ST=Short Term and LT=Long Term)
 (Numbering is continued from Part 1.)

To improve the equitable funding and budgetary independence of the City’s code enforcement efforts, the Common Council should,

23. ST: Pass an ordinance granting the Director of Building and Codes the power to set the Rental Registry and rental unit inspection fees in order to offset the costs related to the activities. In the same ordinance the Council should require the Director to deliver to the City Clerk an annual report relating code enforcement revenues to expenditures.

If the Director were to set a flat \$50 fee for the Rental Registry and for each inspection after the first, it would have generated an additional \$240,700 in 2010 and \$421,000 in 2009.

- If the Director were to set a flat \$50 fee for the Rental Registry and for each inspection after the first, it would have generated an additional \$240,700 in 2010 and \$421,000 in 2009.
- Table 2.4 demonstrates that both the fee schedules and code enforcement activity impact revenues. The Division’s budgeted expenses changed by only 3% between 2008 and 2010, but there were significant changes in both the Building and Codes Sections’ expenses, as shown below:

Table 2.4- Revenues 2008-2010

	Codes Section	Building Section
2008	\$ 225,626	\$ 1,530,817
2009	\$ 319,275	\$ 1,508,777
2010	\$ 211,295	\$ 1,847,452

Increased code activity in 2008 and 2009 (See Table 1.1)

New fee Schedule

Codes Section activity increased significantly in 2008 and 2009 (as shown in Table 1.1), leading to an additional \$94,000 in revenues in 2009. The following 2010 decrease in activity had the opposite effect. Building Section revenues increased in 2010 after a new fee schedule was adopted in January of that year.



Additional Audit Results

The audit team was unable to determine whether there would be cost savings if the firefighters were to stop doing inspections. This was due to the fact that any such move would require contract negotiations and the resulting costs are unpredictable.

We were, however, able to project what the comparative costs would be if negotiations were not necessary. The final results are below in Table 2.5.

**Table 2.5- Annual Cost Comparison:
Firefighter Inspections vs. Full-Time Inspectors**

<i>Firefighter Inspection Costs</i>	
Total Code Stipend Cost	\$ 458,122
Probable Equipment Savings ⁷	<u>\$ 20,105</u>
Total	\$ 478,227
 <i>Projected Full-Time Inspectors Costs</i>	
Personnel Costs	\$ 317,799
Vehicles and Other Costs	<u>\$ 32,031</u>
Total	\$ 349,830
 Hypothetical Annual Savings	 \$ 128,397

Firefighter Inspection Costs

To make the comparison in Table 2.5, the audit team calculated the full costs of the code enforcement stipend as well as the code enforcement share of fire equipment use. Those calculations are shown below.

Table 2.6 Firefighter Code Enforcement Stipend Costs

2010 Code Stipend	\$323,453
2010 OT Costs due to Stipend	\$44,369
Social Security and Retirement	<u>\$90,300</u>
Total Code Stipend Cost	\$458,122

The code enforcement share of the fire equipment costs were calculated using the number of the calls made for different duties

⁷ This number represents the projected actual savings for the Fire Department if it stopped using its fire equipment for travel to codes inspections. The fire equipment costs that can be allocated to code enforcement are much higher, but they do not represent the actual savings that would occur. This is because, if they stopped using the fire equipment on inspections, the 15yr fire truck lifespan would not be extended and the maintenance staffing would not change.



and weighting factors to allocate the wear and tear the different activities have on the equipment. Those calculations are in Table 2.7 with the resulting cost shown in Table 2.8.

Table 2.7 Weighted Share of Fire Equipment Costs

<u>FD Call Type</u>	2008-2009 Ave. Annual # of Calls	Weighting Factor	Share of Equipment Costs
Fire	497	5	7%
Special Ops	442	2	2%
EMS	17006	1.5	67%
Others	3035	1.5	12%
Code Enforcement	<u>4539</u>	1	<u>12%</u>
Total	25518		100%

Table 2.8 Annual Fire Equipment Costs

Maintenance Personnel (incl. SS & ret.)	\$236,297
Parts and Supplies	\$106,215
Fuel	\$61,949
Capital Costs	\$503,707
Total Fire Equipment Costs	\$908,169
Codes Share of Equipment Costs (12%)	\$108,578

While it is fair to assign the fire equipment costs of \$108,578 to code enforcement, the Fire Department would not see that that much in savings if the equipment were not used for inspections. Fire Trucks have a 15-year lifespan before being put into reserve status. That 15-year standard and the maintenance staffing would not change if they stopped using the equipment for code enforcement.

The more likely savings would come from code enforcement's share of fuel, and Parts and Supplies. The codes share of those costs are \$7,400 and \$12,700 respectively, for a total savings of \$20,100 as shown in Table 2.5.

Projected Full-Time Inspector Costs

To make the comparison in Table 2.4, the audit team calculated how many annual inspections fire companies complete, the number of inspections an inspector should have scheduled in a day, as well as the expected transportation and office costs.

In doing this, we researched the code enforcement operations of Cohoes, Schenectady, and Rochester. Rochester’s inspection assignments and the types of inspections they conduct did not allow us to use it in these calculations. We were, however able to use Cohoes and Schenectady to predict the inspector salaries and amount of work we can expect the inspectors to complete.

The calculations used to project the costs of full-time inspectors are listed below. Whenever possible, we used 2010 actual data for the calculations.

Based on Cohoes and Schenectady schedules			
2010 number is not included- it is low due to scheduling errors.	▶	Typical number of inspections that a full time inspector can schedule per day.	8.5
	▶	Average annual attempted fire company inspections (2008 & 2009 average)	9,848
		Work Days in 2010 (250 days) minus 4 training days and 18 vacation/sick/personal days	228
		Average daily inspections attempted by firefighters (9,848/228)	43
Based on Cohoes top rate of \$38,000 and Schenectady top rate of \$39,000 and adjusted for higher COL.	▶	Number of full time staff to replace firefighter inspections (43/8.5)	5.08
Includes Social Security, health insurance and retirement	▶	Expected pay for full-time Code Enforcement Officer.	\$40,000
	▶	Salary and Benefit Costs for additional staff	\$317,799
\$0.42/mi, 35mi/day, 228days/yr	▶	Vehicle Costs	\$17,031
Very rough estimate of \$1,000/mo for office space, \$2,000 for equipment etc., and \$1,000 for uniforms	▶	Office Space/ Equipment/Furnishing/uniforms	\$15,000
		Total Expenses	\$349,830

Table 2.9 Expense Calculations for Using Full-Time Inspectors to Replace Fire Company Inspections

APPENDIX 2-A

Finding 10 Management Response

Finding 10: The Rental Registry and related inspection fees do not meet their purpose of “offsetting” expenses or being “sufficient to defray” the related costs.

Recommendation: Pass an ordinance granting the Director of Building and Codes the power to set the Rental Registry and rental unit inspection fees in order to offset the costs related to the activities. In the same ordinance, the Common Council should require the Director to deliver to the City Clerk an annual report relating to code enforcement revenues to expenditures.

Division’s Response: This recommendation is beyond the scope and control of the Division. However, the Division is eager to meet with the Common Council Committee on Law, Buildings and Code Enforcement to discuss amendments to the City Code that will streamline the effectiveness of code enforcement and provide for better service and transparency to all city residents. The Division is also cognizant of the yearly increased costs and expenditures necessary to undertake such a voluminous and daunting task of overseeing the entire building stock of the City of Albany. At the same time, the Division recognizes the budget constraints and finite resources of the City, as well as individual owners. As a result of these competing and equally important factors, the Division needs to review this matter further to provide a more thorough analysis.