



AUDITOR GENERAL'S REPORT ACTION REQUIRED

Toronto Building - Improving the Quality of Building Inspections

Date:	January 15, 2014
To:	Audit Committee
From:	Auditor General
Wards:	All
Reference Number:	

SUMMARY

The objective of this review was to identify opportunities to improve operational efficiency and effectiveness of building inspection services provided by Toronto Building. The review also assessed compliance with legislative requirements as well as established Divisional policies and procedures.

Key issues identified in our report relate to the following areas:

- No inspection of 98,000 permits for over a year in 2012
- No inspection of 70 per cent of open violations
- Need to Strengthen Inspection Activity Monitoring Information
- Classification of Building Inspection Results
- Inspection Documentation is Inadequate and Inconsistent
- Quality Assurance Process Needs Improvement
- Annual Training Plan Should be Developed

This report contains 11 recommendations for improving building inspection services. Addressing the recommendations in this report will improve the quality of building inspection services, assist the division in complying with legislative requirements and ensure City-wide practices are consistent with established policies and procedures.

RECOMMENDATIONS

The Auditor General recommends that:

1. City Council request the Chief Building Official and Executive Director, and the City Solicitor to complete the review of the Dormancy Policy.
2. City Council request the Chief Building Official and Executive Director to take the appropriate action to develop and implement an action plan to resolve dormant permits and priority be given to those with unresolved violations.
3. City Council request the Chief Building Official and Executive Director review the current administrative process and the controls related to outstanding violations. Such a process ensure that there is ongoing supervisory review of all outstanding violations. In particular, the review should include an immediate evaluation of “unsafe orders” and, where appropriate, immediate action be taken.
4. City Council request the Chief Building Official and Executive Director to review system controls in IBMS to ensure additional fees to building permits issued in response to a “work no permit” violation are appropriately and consistently applied.
5. City Council request the Chief Building Official and Executive Director to ensure all inspection requests relating to construction activity are accurately recorded in the IBMS management information system. Performance measures be developed as appropriate and based on complete inspection activity information.
6. City Council request the Chief Building Official and Executive Director take steps to review data categories for recording inspection results in order to ensure management information reports are reliable and useful in deploying inspectors efficiently.
7. City Council request the Chief Building Official and Executive Director to ensure compliance with inspection documentation standards and that all inspection records are complete and reliable.
8. City Council request the Chief Building Official and Executive Director to take steps to increase the use of remote technology for recording inspection activity while on a job site.
9. City Council request the Chief Building Official and Executive Director to review the controls in place to ensure that revenue from partial occupancy permits is appropriately accounted for and collected.
10. City Council request the Chief Building Official and Executive Director review the current quality assurance process and take steps to ensure City-wide inspection practices are consistent and comply with established Divisional standards.

11. City Council request the Chief Building Official and the Executive Director to review and formalize its training program.

Financial Impact

Implementation of recommendations contained in this report will improve controls over Toronto Building inspection activities. The extent of any resources required or potential cost savings resulting from implementing the recommendations in this report is not determinable at this time.

DECISION HISTORY

The Auditor General's 2013 Work Plan included a review of the efficiency and effectiveness of inspection services provided by the Toronto Building.

This review is the third in a series of Toronto Building audits conducted over the past number of years. Past audit reports issued by the Auditor General include:

“Development Review Charges and Parkland Levies” (2010)

“Building Permit Fees – Improving Controls and Reporting” (2012)

We did not conduct an audit due to any specific concerns about the Division. Rather, the audit was conducted because of the significant role building inspectors have in ensuring construction is performed in accordance with the Building Code Act. In addition, inspection activities have not been the subject of an audit process for a number of years.

COMMENTS

The *Building Code Act, 1992* hereinafter referred to as the Act, governs building construction in Ontario. Pursuant to the Act, the Building Code regulation sets out minimum standards for construction and mandatory inspections during certain stages of construction.

Under the Act, a building permit is required before building construction or demolition can begin. Anyone engaged in construction activity without a permit is in violation of the Act and an order to comply may be issued by a City Building Inspector.

In 2012, the Toronto Building operating costs were approximately \$40.3 million. The Division's gross revenue for the same period was approximately \$64.7 million.

In 2012 Toronto Building's inspection function approved budget included 161 staff members of which 136 were Building Inspectors.

During the year, Toronto Building issued 39,670 permits, closed 27,960 permits and at year end was managing more than 146,000 open building permits. In 2012 more building permits were issued than closed.

The management of all data relating to the administration of building permits and the inspection of properties is administered through the Integrated Business Management System (IBMS).

The audit report entitled “Toronto Building – Improving the Quality of Building Inspection Services is attached as Appendix 1. Management’s response to audit recommendations included in the report is attached as Appendix 2.

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12-TDB-01

ATTACHEMENTS

Appendix 1: Toronto Building – Improving the Quality of Building Inspections

Appendix 2: Management’s Response to the Auditor General’s Review of
Toronto Building – Improving the Quality of Building Inspections

AUDITOR GENERAL'S REPORT

**TORONTO BUILDING -
IMPROVING THE QUALITY OF
BUILDING INSPECTIONS**

December 2, 2013

Jeffrey Griffiths, CPA, CA, CFE
Auditor General



TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
BACKGROUND	4
AUDIT OBJECTIVES, SCOPE AND METHODOLOGY	7
AUDIT RESULTS	8
A. IMPROVEMENTS NEEDED IN THE ENFORCEMENT OF THE BUILDING CODE ACT, 1992	8
A.1. Two-Thirds of Open Building Permits Had No Inspection for Over a Year	8
A.2. Violations Are Not Monitored or Followed Up in a Timely Manner	9
A.3. Additional Fees Inconsistently Applied to Those With an Existing “Work No Permit” Violation.....	11
B. INCOMPLETE DATA USED TO MONITOR INSPECTION ACTIVITIES	12
B.1. Incomplete Performance Measures	12
B.2. Improving Management Information of Inspection Results	13
B.3. Non-Compliance With Divisional Standards for Inspection Notes	14
B.4. Inconsistent Billing of Partial Occupancy Permits	16
C. QUALITY ASSURANCE OF INSPECTION SERVICES	17
C.1. Improvements Needed in Quality Assurance.....	17
C.2. Improve Oversight of Inspector Qualification Requirements and Annual Training Schedule	18
CONCLUSION	19
Exhibit 1: Toronto Building Open Permits December 31, 2012.....	20
Exhibit 2: Toronto Building Permits With No Inspection for Over a Year	21
Exhibit 3: Toronto Building Open Violations as of December 31, 2012.....	22
Exhibit 4: Toronto Building Inspection Results for 2012.....	23

EXECUTIVE SUMMARY

***Audit included in
annual work plan***

The Auditor General’s Work Plan included a review of the efficiency and effectiveness of inspection services provided by Toronto Building.

This review is the third in a series of Toronto Building audits conducted over the past number of years. Past audit reports issued by the Auditor General include:

- “Development Review Charges and Parkland Levies” (2010)
- “Building Permit Fees – Improving Controls and Reporting” (2012)

We did not conduct an audit due to any specific concerns about the Division. Rather, the audit was conducted because of the significant role building inspectors have in ensuring construction is performed in accordance with the Building Code Act. In addition, Inspection activities have not been the subject of an audit process for a number of years.

***Building Code Act
governs building
construction***

The Building Code Act, 1992 hereinafter referred to as the Act, governs building construction in Ontario. Pursuant to the Act, the Building Code regulation sets out minimum standards for construction and mandatory inspections during certain stages of construction.

Under the Act, a building permit is required before building construction or demolition can begin. Anyone engaged in construction activity without a permit is in violation of the Act and an order to comply may be issued by a City Building Inspector.

***Toronto Building
conducts
mandatory
inspections***

Toronto Building reviews permit applications, issues building permits and conducts inspections.

Inspectors in Toronto Building are responsible for completing mandatory inspections prescribed by the Ontario Building Code. In general terms the mandate of building inspectors is to conduct inspections for new building construction and demolition of buildings to ensure that buildings are safe, healthy, structurally sufficient, accessible and environmentally sustainable. In addition, inspectors investigate building related complaints, resolve issues or take appropriate enforcement action.

The legislation requires builders to notify the Chief Building Official once construction is ready to be inspected for prescribed stages in the building process.

***In 2012 Toronto
Building issued
39,670 permits***

In 2012, Toronto Building operating costs were approximately \$40.3 million. The Division's gross revenue in the same period were approximately \$64.7 million.

In 2012 Toronto Building's inspection function approved budget included 161 staff members of which 136 were Building Inspectors.

During the same year, Toronto Building issued 39,670 permits, closed 27,960 permits and at year end was managing more than 146,000 open building permits. In 2012 more building permits were issued than closed.

The management of all data relating to the administration of building permits and the inspection of properties is administered through the Integrated Business Management System (IBMS).

Key Issues

This report identifies areas where the administration of the building inspection process can be further strengthened. Key issues are identified below.

No inspection of over 98,000 permits for over a year in 2012

***67% of open
permits had no
inspection for over
a year***

Our review of 2012 open building permits found that 98,200 or 67 per cent of approximately 146,000 open permits had not been subject to an inspection for over a year. Certain of these permits extend as far back as 1975. Of these permits with no inspection activity, 845 also had an outstanding violation or order to comply with the Act.

No inspection of 70 per cent of open violations

70% of open violations had no inspection in 2012 to ensure compliance was achieved

In 2012 there were 3,735 open violations and only 1,120 or 30 per cent were inspected during that same year. More orders are issued than closed each year. Our review of violations found that follow-up action was not consistently carried out to ensure compliance is achieved and records accurately reflect the status of the violation.

Incomplete Monitoring Data

Compliance measure monitors 66% of inspection activity

Our review of the data used to monitor prescribed inspection activities found that the performance measure developed to monitor legislative requirements accounted for 66 per cent of 2012 inspection activity.

Classification of Building Inspection Results

45% of inspection results are for work in progress

Of the 143,649 inspections conducted in 2012 the most common inspection result was “in progress”. This result was indicated for over 64,000 inspections and in the absence of explanatory notes creates uncertainty. The extent of the “in progress” classification indicates that many of these “in progress” inspections will require re-inspection. Further analysis of this inspection result category is required.

Inspection Documentation is Inadequate and Inconsistent

Non-compliance with Divisional inspection documentation standards

Building inspection records frequently do not contain the level of detail outlined in standards set in the Division’s policies and procedures. Information entered into IBMS is not consistently recorded in accordance with standards set by the Division.

Opportunities exist to improve inspector efficiency through technology

In 2012, over 50 per cent of overall inspection activity was not recorded using available remote technology. Opportunities exist for significant improvement in the use of this technology by inspectors. Increased use of technology for recording inspection activity while on a job site will improve inspector efficiency and effectiveness.

Quality Assurance Process Needs Improvement

Quality assurance process is lacking

The Division’s quality assurance process does not ensure City-wide inspection services are consistent and corrective action is taken when performance does not comply with policies and procedures.

At a minimum, the quality assurance process should address the following:

- Reporting and follow-up on permits and violations with no inspection activity for over a year
- Improve performance and compliance measures
- Non-compliance with inspection documentation standards
- Classification of inspection results
- Follow-up on professional development training resulting from quality assurance review results

Annual Training Plan Should be Developed

Annual staff training and development schedule needs to be prepared

While most inspectors possess required qualifications and skills, the Division has not prepared a formal annual staff training and development schedule. The Building Division should develop an annual professional development plan to ensure staff are current with legislated requirements and reinforce current internal standards.

Conclusion

This report contains eleven recommendations for improving building inspection services. Addressing the recommendations in this report will improve the quality of building inspection services, assist in compliance with legislative requirements and ensure City-wide practices are consistent with established policies and procedures.

BACKGROUND

The Act governs construction in Ontario

The *Act* governs building construction in Ontario and requires a building permit be obtained before any proposed building construction or demolition can begin. The Building Code sets out minimum construction standards and mandatory inspections required of municipalities during specific stages of construction.

City Building Inspectors are responsible for enforcement

The City Municipal Code addresses Building Construction and Demolition and outlines the classes of permits issued by the City. The *Act* also requires that City building inspectors be appointed by Council to enforce both the *Act* and the Building Code.

Toronto Building's responsibility is to "ensure construction, renovation and demolition of buildings achieve the health, safety, accessibility, conservation and environmental provisions of the *Act* and other applicable law."

Building Inspectors and the Chief Building Official enforce compliance with the Act

Toronto Building is responsible for ensuring mandated inspections are conducted as prescribed in the *Act* for issued permits. Toronto Building closes issued permits once all stages of inspection are passed, including the final inspection. A permit is not closed until all deficiencies are addressed and the final inspection is completed.

The legislation requires permit holders notify the Chief Building Official once construction is ready for inspection at prescribed stages of construction. City building inspectors are obliged to conduct these mandatory inspections, within two days of the request.

Building Inspector Powers

Achieving compliance with the *Act* and the Building Code is the primary goal for inspecting construction. A building inspector may exercise any of the following powers to ensure compliance with the *Act*:

- Complete an inspection and record the results
- Issue an order to comply
- Order that construction not be covered
- Issue an unsafe order
- Require documents, tests and samples at the owner's expense
- Require, inspect and copy project documents
- Require information from appropriate experts

Certain enforcement actions can only be exercised by the Chief Building Official or Deputy appointed by Council. These include:

- Issue a stop work order
- Issue an order to uncover construction
- Use emergency powers to take any measures to terminate a danger

In addition to the above noted enforcement tools, prosecutions under the *Provincial Offences Act* may be pursued in some circumstances.

Building permits may be revoked

Under the *Act* the Chief Building Official may also revoke a permit that has been issued under certain circumstances. Examples include:

- Mistaken, false or incorrect information provided
- Construction not seriously commenced within six months of issuance
- Project work substantially suspended for over a year
- Non-compliance with terms for a conditional permit
- Permit issued in error
- Permit holder request to cancel

Of 39,670 permits issued, 200 were revoked in 2012.

Permit fees recover costs to administer and enforce legislation

The Act authorizes Council to set and collect building permit fees. Building permit types and fees are prescribed in the Toronto Municipal Code. Authorized fees are intended to recover reasonable costs to administer and enforce the Act.

The 2013 Toronto Building's operating expense budget was approximately \$47 million. The Division's estimated gross revenue was approximately \$58 resulting in net revenue of \$11 million. These figures do not include indirect costs which support divisional operations.

IBMS supports Toronto Building operations

The Integrated Business Management System (IBMS) is a corporate information technology system used to support operations in Toronto Building. IBMS is used to process building permit applications, calculate and collect permit fees as well as track project workflow including scheduling and recording the results of mandated inspections.

AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

Audit Objectives

The objective of this review was to assess controls related to inspection activities performed by Toronto Building. Specific objectives include:

- Identify opportunities to improve operational efficiency and effectiveness of the building inspections
- Assess the level of compliance with legislative requirements
- Evaluate whether Divisional practices are consistent with established policies and procedures.

The scope of the audit included building inspection activities conducted from January 1, 2011 to December 31, 2012.

Audit Methodology

Our audit methodology included the following:

- Review of the Building Code Act, 1992, the Ontario Building Code Regulation and relevant sections of the Toronto Municipal Code
- Review of relevant City policies and procedures
- Review of Committee and Council minutes and reports
- Visits to a number of construction sites
- Interviews with City staff
- Data analysis
- Review of documents and records
- The evaluation of management controls and practices
- Review of related reports from other jurisdictions

Key Risks

The key risks associated with Building Inspection process include:

- Construction without a permit
- Legal liability with respect to quality of inspections
- Compliance with legislative requirements
- Level of oversight over inspection activities
- Reliability of performance reports related to building inspections

Compliance with generally accepted government auditing standards

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 audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT RESULTS

A. IMPROVEMENTS NEEDED IN THE ENFORCEMENT OF THE *BUILDING CODE ACT, 1992*

A.1. Two-Thirds of Open Building Permits Had No Inspection for Over a Year

Contractors required to give notice when ready for an inspection

When construction projects in the City reach prescribed stages contractors schedule inspections with a building inspector. During the final inspection, the inspector confirms that construction or demolition was completed in accordance with Act requirements. Once complete, and all inspection requirements have been successfully fulfilled, the permit is closed.

146,654 open building permits at December 31, 2012

Toronto Building manages a significant number of permits each year. At the beginning of 2012, there were approximately 134,946 open permits for various projects. Throughout the year 39,668 new permits were issued and 27,960 permits were closed. Consequently, at December 31, 2012 there were a total of 146,654 open permits.

Exhibit 1 attached to this report provides a summary of open permits maintained by Toronto Building at December 31, 2012.

67% of open permits had no inspection for over a year

In 2012, approximately 98,000 of 146,000 open permits had not received an inspection for over a year. Exhibit 2 provides a summary of building permits with no inspection for over a year. More than half of these permits had not had an inspection in the last five years. Open permits with no inspection over a year date back as far as 1975. Of all open permits with no inspection in 2012 there were also 845 files with unresolved violations.

Dormancy Policy to manage permits with no activity suspended

In 2010, the Building Division developed a Dormancy Procedure to deal with inactive permits. For cases where there was no inspection activity for more than one year action was taken to change the status from active to inactive so they are no longer included in the inspector's active workload. If at some point in the future the permit holder wanted to re-activate the status, then an administrative fee would apply. The Dormancy Policy was under review at the time of the audit and inspectors have no clear direction on how to handle these matters.

Information on dormant permits is dated and provides minimal value

Based on the information in IBMS it is apparent that a significant amount of information on dormant permits is outdated and currently of minimal value. This information should be reviewed and action taken to resolve outstanding issues. In particular, the review should give priority to the 845 outstanding violations.

Recommendations:

- 1. City Council request the Chief Building Official and Executive Director, and the City Solicitor to complete the review of the Dormancy Policy.**
- 2. City Council request the Chief Building Official and Executive Director to take the appropriate action to develop and implement an action plan to resolve dormant permits and priority be given to those with unresolved violations.**

A.2. Violations Are Not Monitored or Followed Up in a Timely Manner

70% of permits with open violations had no inspection in 2012

At December 31, 2012 there were 3,735 open violations awaiting closure. Over 1,100 or approximately 30 per cent of these violations were issued between 1999 and 2009. Approximately 2,600 or 70 per cent of permits with open violations had no inspection in 2012.

Non-compliance can result in court action

According to internal policies, building inspectors monitor and follow up on orders issued under the Act in an appropriate and timely manner. Since offences under the Act, are provincial offences, prosecutions can also be pursued to encourage compliance and seek penalties.

Monthly reports available to monitor violations

Monthly reports identify outstanding violations and are distributed to inspectors for review and action. In addition, quarterly reports regarding outstanding Building Code violations are distributed to Toronto Building managers for review and action.

More than half of the violations relate to construction activity with no permit

Over half of the open violations relate to construction or demolition activities without a building permit. The remaining violations are primarily for complaints received regarding issued permits, orders to comply or unsafe orders.

Exhibit 3 provides a summary of the more common open violations at December 31, 2012 by year issued and type.

Although regular reports identifying outstanding Building Code violations are distributed to management, in many cases review and follow-up is not taking place. Our review of outstanding violations found that there was a lack of sufficient oversight to ensure building code violations are adequately resolved in a timely manner and records accurately reflect the status of the violation.

Unsafe orders should be a high priority

Unsafe orders are issued when a building is determined to be:

- a) structurally inadequate for the intended purpose
- b) in a condition that could be hazardous to the health or safety of persons in the normal use of the building, persons outside the building or persons whose access to the building has not been reasonably prevented.

Divisional guidelines require daily follow-up on unsafe orders. Given the risk and the resource requirements to follow-up, these matters should be resolved in a timely manner.

We reviewed a sample of violations, which included unsafe orders issued between 2002 and 2012. We found that over half of these orders were still recorded as open in IBMS. Resolving the status of open orders should be undertaken by the Division in a timely manner in order to ensure effective enforcement and resolution, particularly, in regards to unsafe orders.

Recommendation:

- 3. City Council request the Chief Building Official and Executive Director review the current administrative process and the controls related to outstanding violations. Such a process ensure that there is ongoing supervisory review of all outstanding violations. In particular, the review should include an immediate evaluation of “unsafe orders” and, where appropriate, immediate action be taken.**

A.3. Additional Fees Inconsistently Applied to Those With an Existing “Work No Permit” Violation

Additional fees for building permits with a violation for construction without a permit

Our review of “work no permit” violations for construction without a building permit found that while some building permits issued with an existing “work no permit” violation had the required additional fees added, others did not.

There were over 700 violations in 2012 where construction activity occurred without an appropriate building permit. Building permits issued in response to this type of violation can be subject to additional fees under the Municipal Code.

Additional fees are inconsistently charged

Upon application for a building permit, the IBMS management system prompts staff regarding outstanding violations related to the applicant. Staff are required to take appropriate action to ensure additional fees are applied. IBMS allows staff to ignore the prompt and charge no additional fee. We noted instances where additional fees are not being applied consistently

Enhance controls to ensure additional fees are consistently applied

Controls should be strengthened to eliminate the risk of not applying additional fees to applicants with existing building permits issued for properties with a “work no permit” violation.

Recommendation:

- 4. City Council request the Chief Building Official and Executive Director to review system controls in IBMS to ensure additional fees to building permits issued in response to a “work no permit” violation are appropriately and consistently applied.**

B. Incomplete Data Used to Monitor Inspection Activities

B.1. Incomplete Performance Measures

***94,200
mandatory
inspections
required within
two days***

The Act requires that prescribed inspections be undertaken no later than two days after a notice is received. Toronto Building generally only conducts inspections in response to requests from permit holders. In 2012 there were 94,200 requests received for a prescribed inspection.

***94% compliance
with regulatory
requirement***

Inspection results are entered into IBMS by inspectors and management uses reports from IBMS to monitor compliance with the prescribed two day requirement. According to information reported by management, the two day requirement is complied with approximately 94 per cent of the time for all requests.

***49,500
inspections for
other reasons***

Our review of information in IBMS found approximately 143,649 inspections were recorded in 2012. Therefore, in addition to the number of requests for a mandatory inspection Toronto Building also completed an additional 49,500 inspections. These additional inspections were related to on-site requests by contractors, responding to complaints, follow-up work on outstanding permits with no activity or a pro-active measure by an inspector. It is not possible to determine which of these inspections, if any, were required within two days.

***Compliance
measure
monitors 66% of
inspection
activities***

The performance metric used to monitor compliance includes requests for prescribed inspections which are received and recorded in IBMS. The 94,200 requests accounted for two-thirds of inspection activities in 2012.

In certain cases builders call inspectors directly to schedule an inspection appointment and if this occurs the central inspection request processing system can be by-passed unless an inspector or administrative staff processes the request.

***Need for
performance
measures of
inspection
activities***

Since reported performance measures do not include all inspections, the monitoring of inspection activities is incomplete and requires the development of additional performance measures to adequately monitor inspection activities.

Recommendation:

- 5. City Council request the Chief Building Official and Executive Director to ensure all inspection requests relating to construction activity are accurately recorded in the IBMS management information system. Performance measures be developed as appropriate and based on complete inspection activity information.**

B.2. Improving Management Information of Inspection Results

Construction or demolition of a building requires a permit and notice to the Chief Building Official so required inspections can occur at prescribed stages.

Focus of inspections is compliance

The focus during an inspection is to review and monitor the progress on construction projects with respect to applicable Building Code requirements. When non-compliance with requirements is identified an inspector may exercise the appropriate powers granted under the Act in order to achieve compliance.

The Act requires builders to give notice to the Chief Building Official when a building is ready for mandatory inspections at each prescribed stage of construction.

45% of inspection results were classified “in progress”

An “in progress” inspection result is recorded when an inspector is called to a building site and determines that the stage of construction for which the inspection relates is not capable of being fully passed and the inspector does not feel that a failure is appropriate in the circumstances.

Better information needed for “in progress” inspection results

In certain cases this result may be used when an inspector is consulted while on the site for another inspection. Since the “in progress” status is inconclusive at least one additional inspection is required.

In 2012 the “in progress” category was the most common inspection result and accounted for almost half of all inspection activity. Exhibit 4 provides a summary of all inspection results in 2012.

Errors in recording inspections

We noted certain instances where a project failed an inspection but the inspector documented the inspection result as “in progress” and did not provide appropriate explanatory notes.

Controls over the quality of data entered into IBMS need to be strengthened in order to improve the reliability of performance reports. Reliable performance reports will assist management in deploying inspectors when and where they are needed.

Recommendation:

- 6. City Council request the Chief Building Official and Executive Director take steps to review data categories for recording inspection results in order to ensure management information reports are reliable and useful in deploying inspectors efficiently.**

B.3. Non-Compliance With Divisional Standards for Inspection Notes

Poor Compliance with Established Documentation Standards

Inspection documentation standards exist

Toronto Building has developed documentation standards for building inspectors when conducting inspections. These standards provide guidance to building inspectors on IBMS documentation requirements related to inspections performed.

Minimum requirements for documentation

Policies and procedures on documentation require inspectors to include the following in their notes:

- Inspection date, inspector name, and action resulting from the inspection
- Names of individuals met during the inspection, purpose of the inspection, construction components inspected and requests for information or any orders issued
- Deficiencies noted during the inspection or cleared as a result of re-inspection

IBMS is designed to accept information through checklists. However, when deficiencies from the Building Code are noted, narrative information is often required to document the circumstances and how the deficiency was resolved.

Non-compliance with documentation standards

Our review of inspection documentation found there is unsatisfactory compliance with documentation requirements.

Certain files did not contain the documentation details required by established policies. For almost all of the projects reviewed, documentation for deficiencies was not properly recorded in IBMS.

In certain cases there was no way to determine if inspection deficiencies were resolved. In these instances, when documentation is not clear, inspectors may be required to return to the project site to ensure deficiencies are resolved.

Importance of accuracy and completeness of inspection documentation in legal matters

Inspection results form the basis of City inspection records. The accuracy and completeness of documentation is important in supporting inspection pass and fail decisions, particularly in view of potential legal liability.

Where the City is found by a court of law to be partly liable for damages, the City could be exposed to paying for all of the damages of a claimant. In the building inspection context, this can occur when a contractor has insufficient or no insurance and both the City and contractor are found liable for the costs of remedying construction deficiencies.

In many instances, legal claims occur years after construction was performed and inspection documentation is important to identify steps taken at the time of an inspection.

Use of Technology Should be Improved

Available technology is used to record less than 50 per cent of inspection activity

Building Inspectors use smart phones to record inspection results. Analysis of smart phone usage for recording inspection activity in 2012 indicates that smart phones were used to record less than half of the overall inspection activity. Manual records account for over 50 per cent of data entered into IBMS.

Although smart phones appear adequate for recording passed inspections, usage is cumbersome when deficiencies exist. The Division has a working group which reviews the use of technology and provides recommendations for improvement.

Greater efficiencies will result from use of available technology

Given that over 50 per cent of overall inspection activity is not recorded using available technology, opportunities exist for significant improvement in the use of remote technology by inspectors. Increased use of technology for recording inspection activity while on a job site will improve inspector efficiency and effectiveness.

Recommendations:

- 7. City Council request the Chief Building Official and Executive Director to ensure compliance with inspection documentation standards and that all inspection records are complete and reliable.**
- 8. City Council request the Chief Building Official and Executive Director to take steps to increase the use of remote technology for recording inspection activity while on a job site.**

B.4. Inconsistent Billing of Partial Occupancy Permits

Permit required to occupy an unfinished building

Partial occupancy permits are available for projects where a portion of construction is complete enough to allow occupancy. An example would be occupancy on the second floor of a 15 story condominium building which is not fully complete.

In order to occupy a partially complete building, a permit must be obtained from the Chief Building Official. The fee for a partial occupancy permit includes five hours of inspection activity. If additional inspection activity beyond the five hours of inspection time is required, then it is billed separately.

\$43,000 in additional inspection fees from 118 permits

In 2012 there were 118 permits with more than 5 hours of inspection time resulting in approximately \$43,000 in additional fees.

Our review of partial occupancy permits issued in 2012 found 92 permits where no inspection hours were recorded. These permits cannot be issued without an inspection. Some inspection time is always required. The fact that there was no inspection time for certain partial occupancy permits indicates IBMS does not have adequate data input controls in place. Since inspection time for partial occupancy permits is not being correctly entered, fees are not being adequately charged or collected in cases where they may have applied.

Recommendation:

- 9. City Council request the Chief Building Official and Executive Director to review the controls in place to ensure that revenue from partial occupancy permits is appropriately accounted for and collected.**

C. Quality Assurance of Inspection Services

C.1. Improvements Needed in Quality Assurance

Errors may result in claims for alleged negligent inspection

Toronto Building employs a significant number of inspectors that handle a large volume of inspection activity. These factors combined with a highly regulated environment and complex operations present potential for error and related risk management issues. Errors in inspection activity may result in claims related to alleged negligent inspections by the City.

Review current quality assurance program

Toronto Building has an in-house quality assurance process to identify opportunities to improve inspection services. The quality assurance process involves periodic review of inspector performance and monthly monitoring of IBMS reports.

Our review of the quality assurance process found that formal annual reviews by managers were not being completed in one of the districts. In addition, policy and procedure requirements are inconsistent resulting in confusion among staff members as to applicable requirements.

Quality assurance improvements are needed

Improvements in the quality assurance process should focus on regular review of the following:

- Permits and violations with no inspection activity for over a year
- Incomplete performance measures
- Non-compliance with inspection documentation standards
- Classification of inspection results
- Follow-up on professional development training resulting from quality assurance review results

Improvements in the Division's quality assurance process will assist in ensuring City-wide inspection services are consistent and corrective action is taken when performance is not in compliance with policies and procedures.

Improved quality assurance for inspection activities will also reduce the City's exposure to claims.

Recommendation:

- 10. City Council request the Chief Building Official and Executive Director review the current quality assurance process and take steps to ensure City-wide inspection practices are consistent and comply with established Divisional standards.**

C.2. Improve Oversight of Inspector Qualification Requirements and Annual Training Schedule

Building inspectors are qualified by the Ministry of Municipal Affairs and Housing

In Ontario, the Act specifies the qualifications required of an inspector. The Ministry of Municipal Affairs and Housing is the provincial body charged with building inspector examination administration.

The names of qualified staff are filed and maintained with the Director of the Building and Development Branch.

Staff complement included three unqualified inspectors

At the time of the audit, all but three inspectors in the Inspections Unit possess the qualifications mandated by the Act for the duties being performed.

Toronto Building hires inspectors who may not be fully qualified and subsequently provides time for staff to become qualified. Difficulties arise in situations where staff members are not able to successfully qualify.

Staff cannot complete inspections on their own until they become qualified, yet they are compensated at a wage rate comparable to qualified staff.

No formal divisional training schedule

Toronto Building has developed in-house training teams to oversee training and development needs. Training manuals on specific topics have been developed but annual training plans have not been formalized.

Recommendation:

- 11. City Council request the Chief Building Official and the Executive Director to review and formalize its training program.**

CONCLUSION

This report presents the results of our review of inspection services in Toronto Building. Addressing the recommendations in this report will improve the quality of building inspection services, assist in compliance with legislative requirements and ensure Divisional practices are consistent with established policies and procedures.

EXHIBIT 1**Toronto Building Open Permits December 31, 2012**

Type of Building Permit	Open Permits
Demolition	2,407
<i>Homes</i>	
New Houses	8,918
Residential Building Permit	4,731
Small Residential Projects	35,079
<i>Larger/Complex Buildings</i>	
New Building	905
Building Additions/Alterations	20,369
Mechanical	26,319
Plumbing	33,139
Drain and Site Service	6,467
Non-Residential Building Permit	1,201
Designated Structures	1,174
Fire/Security Upgrades	2,646
Multiple Use Permit	226
Change of Use Permit	1
Temporary Structures	739
Portable Classrooms	258
Sign Permit	1,588
Partial Permit	247
Conditional Permit	239
Occupancy Permit (Unfinished Building)	1
Total Open Building Permits	146,654

EXHIBIT 2**Toronto Building Permits With No Inspection for Over a Year**

Year Issued	No Inspection Over a Year	Per Cent
2012	211	0.2
2011	8,738	8.9
2010	12,262	12.5
2009	9,366	9.5
2008	9,078	9.2
2007	8,757	8.9
2006	7,240	7.4
2005	7,304	7.4
2004	6,815	6.9
2003	5,743	5.9
2002	5,455	5.6
2001	3,888	4.0
2000	3,879	4.0
1999	2,802	2.9
1998	2,311	2.4
1997	1,303	1.3
1975-1996	3,054	3.1
Total	98,206	100.0%

EXHIBIT 3**Toronto Building Open Violations as of December 31, 2012**

Year	Work No Permit	Order To Comply	Unsafe Order	Active Permit Complaint	Other	Total
2012	486	187	41	0	102	816
2011	227	114	53	0	108	502
2010	220	95	40	0	72	427
2009	149	64	37	43	15	308
2008	103	70	1	9	7	190
2007	96	59	0	5	11	171
2006	81	38	4	9	4	136
2005	68	26	0	11	5	110
2004	111	22	0	41	3	177
2003	140	18	0	80	1	239
2002	213	14	3	143	3	376
2001	111	9	0	36	0	156
2000	83	3	0	19	1	106
1999	15	0	1	5	0	21
Total	2,103	719	180	401	332	3,735
	56%	19%	5%	11%	9%	

EXHIBIT 4**Toronto Building Inspection Results for 2012**

INSPECTION RESULT	West	North	East	South	Total	Percent of Activity
Passed	9,961	12,109	10,510	19,471	52,051	36.2
Partial Inspection - Passed	38	21	74	180	313	0.2
Advisement	1,832	1,268	1,078	4,799	8,977	6.3
In Progress	11,509	14,188	4,591	33,822	64,110	44.6
Inspection Not Passed	2,088	2,815	2,926	3,091	10,920	7.6
Health & Safety Refusal	53	38	33	129	253	0.2
No Access to do Inspection	709	279	660	3,038	4,686	3.3
No Progress	202	128	78	804	1,212	0.8
Work Not Started	285	117	196	514	1,112	0.8
Work Suspended	1	2	5	7	15	0.0
Total	26,678	30,965	20,151	65,855	143,649	100.0%

**Management's Response to the Auditor General's Review of
Toronto Building – Improving the Quality of Building Inspections**

Rec No.	Recommendations	Agree (X)	Disagree (X)	Management Comments: <i>(Comments are required only for recommendations where there is disagreement.)</i>	Action Plan/Time Frame
1.	City Council request the Chief Building Official and Executive Director, and the City Solicitor to complete the review of the Dormancy Policy.	X		The Division agrees with the Recommendation to complete the review of the Dormancy Policy which is now complete, but disagrees with the suggestion in the Auditor's report that staff has no clear direction on how to handle these matters. The Dormancy Policy was an approach developed by Division management to reduce the backlog of inactive files. However, based on experience with the Policy, it was suspended in 2013, while the Division sought further advice on how to approach the issue of open files from Legal Services. Where time permits, inspectors are encouraged to resolve open files assigned to them on a case by case basis, consistent with the practice prior to the introduction of the Dormancy Policy.	Action Complete – Legal Services provided advice to discontinue the policy late in 2013. The Policy has been revoked from the Division's Policy and Procedures Manual.

Rec No.	Recommendations	Agree (X)	Disagree (X)	Management Comments: (Comments are required only for recommendations where there is disagreement.)	Action Plan/Time Frame
2.	<p>City Council request the Chief Building Official and Executive Director to take the appropriate action to develop and implement an action plan to resolve dormant permits and priority be given to those with unresolved violations.</p>	X		<p>The Division agrees with the Recommendation to develop a plan to resolve open permits using a risk management approach, which would place priority on resolving those with outstanding violations. This is a small number of 845 relative to the 146,000 open permits noted in the Auditor's report. However, the Division does not agree that it will be possible or necessary to resolve all open permits, or unresolved violations. Inventories of open building permits are not unique to Toronto and are not necessarily a significant risk to the City.</p> <p>Under the <i>Building Code Act, 1992</i> the onus is on the applicant to request inspections when construction stages are complete. This does not always happen and files remain open when permit holders do not call.</p> <p>Similar to other municipalities, Toronto Building employs a number of strategies to mitigate the risks of open permits and encourage action on the part of the permit holder, including the issuance of letters (known as Compliance letters) which convey the status of compliance of properties with permits issued, outstanding orders, etc. upon request. Recent regulatory changes to require a Final Prescribed inspection prior to occupancy only applicable to new house form buildings were also aimed at addressing open permits.</p> <p>Ultimately, if a permit remains open, where an inspection has not been requested by a permit holder, this provides some protection against liability to the City.</p>	<p>Toronto Building will develop a risk management strategy in consultation with Legal Services to address risks associated with open permit applications by Q1, 2015.</p>

Rec No.	Recommendations	Agree (X)	Disagree (X)	Management Comments: (Comments are required only for recommendations where there is disagreement.)	Action Plan/Time Frame
3.	City Council request the Chief Building Official and Executive Director review the current administrative process and the controls related to outstanding violations. Such a process ensure that there is ongoing supervisory review of all outstanding violations. In particular, the review should include an immediate evaluation of “unsafe orders” and, where appropriate, immediate action be taken.	X		The Division agrees to review current administrative processes and controls with respect to outstanding violations but does not agree that all outstanding "Unsafe" orders require immediate action or represent a significant risk, there are many reasons why a violation or Unsafe orders are kept open past the period when the imminent risk is taken care of (e.g. further reports or actions are required before the situation can be fully remediated). In some cases, the risk has been resolved but administrative actions have not been taken to close the file. It is difficult to establish standard procedures to address unsafe situations, as each case is unique.	Toronto Building will complete a pilot project which is reviewing violation orders issued prior to 2013 in one district in 2014, and consider applying approaches developed across all districts in 2015.
4.	City Council request the Chief Building Official and Executive Director to review system controls in IBMS to ensure additional fees to building permits issued in response to a “work no permit” violation are appropriately and consistently applied.	X		The Division agrees with the Recommendation to review system controls to ensure that fees related to "work no permit" are appropriately and consistently applied. However, the system for applying administrative charges where orders have been issued for work without a building permit was set up to provide some flexibility for exceptions where the additional fee is not reasonable under the circumstances. This exception is consistent with procedures established by the Division that allow the inspector not to issue an order for work without a permit where a permit has been applied for, or where construction is minor and ceases immediately. The Division agrees to consider reviewing the Procedures established for work without a permit and consider some additional controls on the application of the fee at permit issuance.	Toronto Building will review Divisional Procedures and controls on administrative fees for work without permits prior to February 2015.

Rec No.	Recommendations	Agree (X)	Disagree (X)	Management Comments: (Comments are required only for recommendations where there is disagreement.)	Action Plan/Time Frame
5.	City Council request the Chief Building Official and Executive Director to ensure all inspection requests relating to construction activity are accurately recorded in the IBMS management information system. Performance measures be developed as appropriate and based on complete inspection activity information.	X		<p>The Division agrees with the Recommendation which would require capacity in IBMS to track additional inspection types. However, the Division also currently tracks a further 4,931 inspections where the Division has established service levels and tracks performance against them. In addition to the 94,200 requests for prescribed inspections, the Division has established performance standards for staff to respond to these requests to investigate situations related to emergencies or unsafe building conditions, work without a permit, and other requests (of 1, 2 and 5 days respectively). 69% of inspections were therefore tracked against performance targets in 2012.</p> <p>Since many of the remaining inspections are at the discretion of the Division, and not in response to external requests, it may not add value or be cost effective to establish many additional performance measures against those categories of inspection activity.</p>	<p>Toronto Building's 2014 approved budget included reporting on additional inspection service levels.</p> <p>Toronto Building will investigate enhancements to IBMS functionality to improve recording of all inspection types and to track additional performance measures where they will add value, by Q4 2015.</p>
6.	City Council request the Chief Building Official and Executive Director take steps to review data categories for recording inspection results in order to ensure management information reports are reliable and useful in deploying inspectors efficiently.			<p>The Division agrees with the Recommendation to add data categories in IBMS as well as procedures that will provide more complete records of the purpose and results of inspections will improve the reliability of activity reports and be useful in deploying inspectors efficiently.</p>	<p>Toronto Building will investigate enhancements to IBMS functionality to improve recording of all inspection types by Q4, 2015.</p> <p>Resources were re-allocated in the approved 2014 budget to focus on improved quality assurance for the inspection functions of the Division.</p> <p>The Division will develop and implement an enhanced quality assurance program for inspection services by 2015.</p>

Rec No.	Recommendations	Agree (X)	Disagree (X)	Management Comments: (Comments are required only for recommendations where there is disagreement.)	Action Plan/Time Frame
7.	City Council request the Chief Building Official and Executive Director to ensure compliance with inspection documentation standards and that all inspection records are complete and reliable.	X		The Division agrees with the Recommendation to improve compliance with inspection documentation standards. However, the report indicates that steps taken by the Division to improve documentation were unsatisfactory. The Division disagrees with this comment. Service Level Standards were introduced in 2011. Improved recording of inspection results was identified as part of the implementation plan to support the Service Level Standards. The Division was in the process of implementing these standards. This is a process of continuous improvement, which has thus far extended into workshops held in 2013 and planned regularly thereafter.	The Division will continue to develop and implement new tools to reinforce compliance with inspection documentation standards as part of the enhanced Quality Assurance program, by 2015.
8.	City Council request the Chief Building Official and Executive Director to take steps to increase the use of remote technology for recording inspection activity while on a job site.	X		The Division has taken steps to increase the use of remote technology and has achieved the goals set by the Division for usage. Remote devices to record inspection results were initially introduced in 2009, and were upgraded several times also necessitating a shift in the operating platform, most recently completed just prior to 2013. The current remote devices, along with improved functionality, were necessary to enable the improved results in recording inspection results while on the job site, increasing to 72.5% in 2013, relative to 45.3% in 2012. The Division had set a target of 70% as a management tool, which has now been met.	The target of 70% usage of remote technology to enter inspection results in the field was met in 2013. Usage and the target will continue to be monitored by the Division.

Rec No.	Recommendations	Agree (X)	Disagree (X)	Management Comments: (Comments are required only for recommendations where there is disagreement.)	Action Plan/Time Frame
9.	City Council request the Chief Building Official and Executive Director to review the controls in place to ensure that revenue from partial occupancy permits is appropriately accounted for and collected.	X		The Division agrees with the Recommendation to review the controls related to fees associated with partial occupancy permits. However, the Division disagrees with the statement in the report that fees are being charged appropriately for the inspection. The system controls that the base fee must be collected prior to the issuance of an occupancy permit. This covers an estimated 5 hours of inspection time. Additional hours do not apply in all cases. Entry and collection processes for additional hours may not be warranted. Most of these inspections are related to large projects which already pay significant fees. As part of the review, the Division will consider eliminating requirements to charge for additional hours based on the effort required relative to potential revenue and initial permit fees collected.	Toronto Building will review how fees are charged for occupancy permits for consideration prior to the approval of the 2015 Toronto Building budget.
10.	City Council request the Chief Building Official and Executive Director review the current quality assurance process and take steps to ensure City-wide inspection practices are consistent and comply with established Divisional standards.	X		The Division is committed to a review enhancement of current Quality Assurance process to improve consistency of City-wide inspection practices. The Division has in place various Quality Assurance tools, including formal annual reviews of various activities (e.g. health and safety, mileage) and regular monitoring reports, which have been effective in applying standards and expectations set by the Division, but agrees practice in applying the processes could be improved in some cases.	Toronto Building's approved Operating Budget includes the reallocation of three inspection positions to new Quality Assurance resources for inspection services. The Division will develop and implement an enhanced Quality Assurance program for inspection services by 2015.

Rec No.	Recommendations	Agree (X)	Disagree (X)	Management Comments: (Comments are required only for recommendations where there is disagreement.)	Action Plan/Time Frame
11.	City Council request the Chief Building Official and the Executive Director to review and formalize its training program.	X		The Division agrees and is committed to a review of its current training program. However, the Division has already been recognized for its leadership in meeting training needs, as the recipient of a Silver Public Sector Quality Fair Award in 2006 for the successful development and delivery of training and qualification of staff required by legislation.	Toronto Building will undertake a review of the current training programs and will develop an annual work plan to formalize ongoing training related to Ministry qualifications, program and regulatory changes, refresher training and employee orientation, prior to budget approval, 2015.