

NASSAU COUNTY

NEW YORK

Review of the Department of Consumer Affairs

**Licensing Division
Procedures and Processes**

December 2023



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Report Highlights

BACKGROUND

The Nassau County Department of Consumer Affairs is responsible for protecting County residents from deceptive, unconscionable, fraudulent or illegal trade practices through licensing, enforcement and education.

Certain businesses require a license from the Department before they can conduct business in Nassau County.

These include: electronic or home appliance services, dry cleaners/laundromats, home cleaners or decorators, health clubs, home improvement contractors, and locksmiths.

At the time of this audit, the Department had over 6,400 active licenses, 95% of which were home improvement licenses.

This audit reviewed licensing procedures and processes from January 1, 2019 through December 31, 2022.

AUDIT OBJECTIVE

To review the Nassau County Department of Consumer Affairs' (Department) licensing procedures and processes.

KEY FINDINGS

The Department:

- Mismanaged the licensing process in 2019-2021 which led to a significant backlog in applications and failed to return application fees to those denied a license;
- Utilized a database system that:
 - did not meet its operational needs;
 - lacked internal controls; and
 - contained erroneous, duplicate and unnecessary data;
- Criminal history fingerprint background checks were not being conducted for home improvement license applicants due to flawed language in the Administrative Code; and
- Had reductions in staff that may have impacted efficiencies.

KEY RECOMMENDATIONS

- Continue to improve how the application process is managed to ensure that:
 - applications for licenses are reviewed in a timely manner;
 - appropriate refunds are issued to applicants denied a license, and
 - licensing decisions are consistently rendered within 90 days as required by the Administrative Code;
- With respect to the licensing database system:
 - continue to develop or adopt a system that meets all functional needs;
 - perform data cleansing to remove erroneous, duplicate, incomplete or unnecessary information; and
 - eliminate unused or redundant statuses;
- Seek amendment to the Administrative Code to allow the Department to conduct its own criminal history fingerprint background checks of applicants for home improvement licenses; until such time as the amendment is passed, use the NCPD for fingerprinting.
- Address staffing issues so that licensing functions are performed efficiently.

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Background

The Nassau County Department of Consumer Affairs (the Department) is responsible for protecting County residents and businesses from unfair, misleading, deceptive, unconscionable, fraudulent or illegal business and trade practices through licensing, enforcement and education. The Nassau County Charter (Charter) and the Nassau County Administrative Code (Administrative Code) grant the Department the authority to:

- Adopt rules and regulations concerning business licensing and registration requirements and to establish and enforce standards for safety and accuracy in business transactions;
- Investigate fraudulent or unfair dealings and violations of consumer protection laws;
- Assist, advise and cooperate with law enforcement and local, state or federal agencies to protect consumers and enforce violations of consumer protection laws; and
- Develop consumer education programs and address consumer issues through proactive initiatives and community outreach services.

The Department is led by a Commissioner whose Office manages agency operations. The Commissioner also serves as the head of the Nassau County Taxi and Limousine Commission and Director of the local arm of the New York State Department of Agriculture and Markets, Division of Weights and Measures. During the audit period (January 2019 – December 2022), a new Commissioner was appointed in January 2022, replacing the previous Commissioner who served from January 2018 through December 2021.

In addition to the Commissioner’s Office, the Department is organized into responsibility centers:

- Complaints/Hearings
- Information and Education
- Investigation and Enforcement Division
- Licensing Division
- Retail Division
- Taxi and Limousine Commission
- Weights and Measures Division

The Licensing Division is tasked with reviewing and approving applications for licenses for businesses that are required to have one by the Administrative Code.

These include:

- Sign hangers
- Dry cleaners and laundromats
- Electronics or home appliance services
- Environmental hazard remediation providers and technicians
- Health club operators
- Home improvement businesses
- Home service businesses
- Locksmiths
- Pet groomers
- Second hand precious metal & gem dealers
- Scrap metal processors, vehicle dismantlers and junk dealers
- School bus companies
- Storage warehouses.

At the time this audit was conducted there were approximately 6,400 active licenses, of which 95% were for home improvement.

Background

Application Information

Businesses apply for a license by submitting an application with all required supporting documents.

These documents may include, but are not limited to:

- Tax ID and banking information
- Certificates of required education/training
- Relevant required licenses
- Proof of insurance

Licensing Requirements

To be issued a professional/business license, applicants may also be required to do one or more of the following:

- Provide evidence of good moral character
- Provide evidence of financial responsibility
- Submit to a criminal history fingerprint background check
- Disclose previous criminal convictions.

In addition, for most licenses, the Department performs research to ensure the applicant has a valid driver's license, is not on the New York State Sex Offender Registry, and does not have outstanding judgments, child support claims, or taxes. The Department also verifies that the applicant's business has workers' compensation insurance, and that the applicant's general liability insurance covers the type of work performed under the license being sought.

After an application is submitted either in-person, online or by mail:

- Department staff reviews the application to see if it is complete;
- If deemed complete, the staff member reviews to determine if the applicant meets the standards of the particular license for issuance;
- Depending on this determination, the Department will issue a license or deny the application;
- The completed application must be processed (approved or denied) within 90 days.

Applications can be closed out for various reasons without a final decision being made to issue or deny a license, such as failure of the applicant to submit necessary information. If an application for a license is denied, the Commissioner is required to send the applicant a written statement setting forth the reasons for the refusal to grant the license.

Licenses are valid for two years. Upon the expiration of a license, if the business wants to continue their license, they are required to submit a renewal application.

The Department's website details much of this information concerning the licensing process.

Audit Findings

Finding 1

Mismanagement of Application Processing from 2019-2021

From 2019 through 2021 there was mismanagement of application processing, which led to a backlog in reviewing applications and a failure to issue appropriate refunds to those denied a license.

Backlog in Processing Applications

The Department received between 4,700 and 5,300 new and renewal applications to process each year.

Applications Received			
Year	2019	2020	2021
New Applications Received	844	745	782
Renewal Applications Received	3,951	3,968	4,495
Total Received	4,795	4,713	5,277

Source: Department of Consumer Affairs

Historically, if an application was deemed incomplete, the application and fee was returned to the applicant with a letter detailing what was missing. For the licensing process to continue, the applicant would have to resubmit the application with the appropriate documentation.

In 2019, the Commissioner who served from January 2018 through December 2021, put in place a policy in which incomplete applications were retained along with the application fee.

Under this process of keeping versus returning incomplete applications, Department staff were expected to contact applicants by email concerning missing information or documentation in order to complete the application process.

The Department mismanaged this process. According to the County's Administrative Code, a licensing decision must be rendered within 90 days, however auditors' review of a random sample of applications in process from 2019-2021 revealed:

- 20% of applications reviewed were never entered into the licensing database;
- 12% of applications sat for months before being entered into the licensing database system;
- 17% of applicants were not contacted at all by staff;
- 43% of applicants were first contacted by staff more than three months after filing an application;
- 12% of the applicants did not receive a follow-up from staff for more than three months after the first contact;
- 53% of applicants who failed to respond to staff were not sent a notice indicating that in the absence of a response within 30 days the application would be closed; and
- 217 renewal applications were placed in a "temporary license status" which was misleading because no physical temporary licenses were issued. Additionally, these applications were completely neglected, no review was done and there was no contact with these renewal applicants.

Audit Findings

The explanation given by Department staff to auditors was that the prior Commissioner (from January 2018 – December 2021) did not provide them with standard processes or procedures to follow when processing an incomplete application.

The chart below demonstrates the progress made under the new Commissioner appointed in January 2022. At the beginning of the new administration there were 7,420 open applications and by the end of the audit period the number of open applications decreased to 1,962, a reduction of 5,458 or 74%.

Open Applications Under Review			
As of	New Applications	Renewal Applications	Total
December 2021	1,460	5,960	<u>7,420</u>
June 2022	817	1,812	<u>2,629</u>
August 2022	711	1,740	<u>2,451</u>
October 2022	663	1,545	<u>2,208</u>
December 2022	546	1,416	<u>1,962</u>

The dramatic decline in number of open applications during 2022 was attributed to the following actions taken by the new Commissioner:

- Reversing the prior Commissioner’s policy of keeping incomplete applications and reinstating the policy to reject incomplete applications and return the applications and payments to applicants with a letter of explanation;
- Instructing staff to focus on reviewing the application backlog and authorizing staff to contact applicants by phone to obtain missing documentation or information; and
- Temporarily redeploying staff from other divisions of Consumer Affairs into the Licensing Division for a concentrated blitz on application reviews.

No Refund Procedure for Denied Applications

From 2019 through 2021, the Department denied 49 new applications and 28 renewal applications.

The Administrative Code requires the Department to refund half of the application fee for a license if the application is denied (and to refund the entire fee if the applicant dies or enters military service prior to issuance). Although only a small number of applications were denied, auditors found that from 2019 to the new administration in 2022, the Department did not issue such refunds and had no procedure for doing so.

Department staff reported that there was no refund process in place because, in their experience, most denied applicants eventually were issued a license after they submitted required missing information or documentation. No fee was required to issue the license, after reversing the denial, because the Department retained the previously paid fee.

In 2022, under the new Commissioner, a process was put in place to issue refunds.

Audit Findings

Finding 2

Inadequate Licensing Database System

The Department's licensing database system did not meet the Department's functional needs, lacked internal controls, and contained erroneous, duplicate, and unnecessary data.

In 2019, the prior Commissioner (from January 2018 – December 2021) implemented a new licensing database system. Department staff reported that they were not provided training or a user's manual for the system. They informed auditors that the licensing database system, which was still in use at the time of this audit, was originally designed to track driver and vehicle registrations for the Taxi and Limousine Commission and not to handle the multiple functions of the Licensing Division. The following functional and control weaknesses in the licensing database system were identified:

- The system lacked a time-stamped audit trail of significant activity of the various stages in the application process, from receipt of an application to approval or denial.
- Activity could only be traced through the written notes or documents staff scanned into the system when they reviewed applications. While this appeared to have been done consistently, a more efficient and reliable method for tracking was not available.
- The system did not support tracking or reporting metrics such as:
 - how long applications under review were in the system;
 - the number of new applications not yet reviewed;
 - the number of incomplete applications awaiting a response from the applicant; or
 - the date applications were deemed complete.
- The system lacked user roles to segregate staff responsibilities from management's.
- The system did not flag businesses with complaints, violations or unpaid penalties and fines that could prevent a license from being issued.

Data issues in the licensing database system were identified:

- The system did not allow staff to delete or edit a business:
 - multiple profiles were created for the same business and duplications could not be merged or removed.
- Of the 22 license statuses, several were no longer being utilized and others were redundant:
 - there were multiple and redundant statuses for an application awaiting information, e.g., Incomplete, Hold, Hold Judgements [sic] and Hold-Judgments.
- There were 14,918 license applications with "Unknown" status:
 - out of approximately 54,000 applications in the database during the audit period, those with "Unknown" status had no indication if the application was pending, denied, withdrawn or otherwise disposed of.
- There were license numbers for applicants who were never issued a license.

As a result of the licensing database system inadequacies, there was a need for modifications and enhancements as functionality gaps were identified. The current Commissioner informed auditors that the Department worked with the Nassau County Department of Information Technology and developed improvements to address database weaknesses and increase efficiencies.

Audit Findings

Finding 3

Criminal History Fingerprint Background Checks Were Not Being Conducted for Home Improvement Applicants

The Administrative Code requires that applicants for home improvement licenses be fingerprinted by the Nassau County Police Department. State and Federal laws forbid agencies from sharing fingerprint results. Because they would not have access to the fingerprint results, the Department chose not to send these applicants to the NCPD for fingerprinting.

A home improvement license is required to repair, maintain, replace, remodel, alter, convert, modernize, or make an addition to any land or building used as a private residence, and to make other improvements to structures or land adjacent to a private residence. This encompasses a broad array of services, including but not limited to the installation, construction, replacement, or improvement of driveways, swimming pools, porches, garages, sheds, central heating/air conditioning systems, vacuum cleaning systems, windows and awnings, sandblasting, power washing, waterproofing, floor refinishing, chimney cleaning, interior and/or exterior painting, carpet installation, and gardening/landscaping.

Applicants for a home improvement license are required by the Administrative Code to submit to criminal history fingerprint background checks.

The County's Administrative Code specifically states that all applicants for home improvement licenses "shall be fingerprinted by the Nassau County Police Department." However, New York State and Federal laws forbid agencies from sharing fingerprint results with one another. Since the Police Department is prohibited from sharing fingerprint results, the Department chose not to send applicants for home improvement licenses to the NCPD for fingerprinting.

For the Department's other license types that require fingerprinting, the language in the Administrative Code simply states that "the commissioner shall require that applicants for licenses issued pursuant to this title be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services." Under these provisions, the Department gets fingerprint report results and completes the criminal history background check.

The current Commissioner informed auditors that the necessary amendment to the Administrative Code has been submitted to the Legislature for approval.

Audit Findings

Finding 4

Inadequate Staffing

The Department of Consumer Affairs Licensing Unit had a significant reduction in staff.

The Department of Consumer Affairs experienced a 23% reduction in staff, from 26 employees in 2019 to 20 employees in 2022, due to many factors beyond the Department's control.

The Licensing unit was particularly affected, with a 60% reduction in staff from five to two individuals. As such, staff from other Units in the Department (Investigations and Enforcement) were needed to assist in handling the Licensing Unit's work of reviewing and processing applications.

The chart below details staffing reductions from 2019 through 2022.

Staffing Reduction							
Source	As of	Status	Commissioner's Office	Licensing	Weights and Measures	Investigations and Enforcement	Total
IRS W-2s	December 31, 2019	Full-Time	3	5	6	12	<u>26</u>
	December 31, 2021	Full-Time	3	4	6	10	<u>23</u>
Org. Chart	January 1, 2022	Full-Time	3	4	5	8	<u>20</u>
	December 1, 2022	Full-Time	4	2	5	7	<u>18</u>
		Part-Time	1	0	0	1	<u>2</u>

Adequate staffing can ensure timely review of applications for a license.

Audit Recommendations

- A) Continue to improve how the application process is managed to ensure that applications for licenses are reviewed in a timely manner and that appropriate refunds are issued to applicants denied a license as required by the Administrative Code.**
- B) With respect to its licensing database system:**
- continue to develop or adopt a system that meets all functional needs;
 - perform data cleansing to remove erroneous, duplicate, incomplete or unnecessary information; and
 - eliminate unused or redundant statuses.
- C) Seek amendment to the Administrative Code to allow the Department to conduct its own criminal history fingerprint background checks of applicants for home improvement licenses; until such time as the amendment is passed, use the Nassau County Police Department for fingerprinting.**
- D) Address staffing issues to ensure there is adequate staff to perform its licensing functions efficiently.**

Appendix A – Audit References

- **The website of the Nassau County Department of Consumer Affairs**
<https://www.nassaucountyny.gov/1547/Consumer-Affairs>
- **The Nassau County Charter January 1, 2022**
- **The Nassau County Administrative Code January 1, 2022**
- **Nassau County Local Law 5 – 2018**, which combined the Taxi and Limousine Commission with the Office of Consumer Affairs

Appendix B – Audit Methodology

This audit was conducted pursuant to the Nassau County Comptroller's authority as set forth in Article IV of the Nassau County Charter.

The scope of the audit was from January 1, 2019 through December 31, 2022.

The objective of the audit was to review the Department's procedures for processing business license applications and ensure the Department's compliance with the requirements of the Nassau County Administrative Code.

In order to accomplish these objectives, audit procedures included the following:

- Auditors requested copies of all policies and procedures as they related to the Department's Licensing function.
- Auditors interviewed the Commissioner and various key employees to understand the Licensing application and renewal process.
- Auditors obtained access to the licensing database system used by the Department to understand the licensing process and to review the backlog in processing applications.
- Auditors reviewed the current licensing database system to determine if it met the functional needs of the Licensing Division and reviewed system enhancements requested by the staff.
- Auditors reviewed applications with a Temporary License status to determine how many applications had this designation and how long they were assigned temporary license status.
- Auditors selected samples of each of the following licensing statuses: "Licensed," "Denied," "Pending," "Hold," "Online Pending" and "Temporary" to determine whether they were processed in accordance with the Administrative Code. Additionally, each license status was reviewed to determine if the appropriate status was given to each application selected for testing and adequate follow-up was performed for each outstanding application.
- Auditors reviewed completed applications to determine whether a licensing decision was rendered within 90 days as required by the Administrative Code.
- Auditors reviewed denied applications to ensure applicants received a refund equal to one half the application fee.
- Auditors obtained Organization Charts for the Department at various points within the scope of the audit and compared the staffing levels to 2019.

Auditors conducted this audit in accordance with regulations governing the Department. Unless otherwise indicated in this report, samples for testing were chosen using random number generation.

Auditors believe the evidence obtained provides a reasonable basis for the findings and recommendations herein.

Appendix C – Department’s Response



NASSAU COUNTY
DEPARTMENT OF CONSUMER AFFAIRS

TO: ELAINE PHILLIPS, NASSAU COUNTY COMPTROLLER
FROM: JOHN R CAPECE COMMISSIONER CONSUMER AFFAIRS
SUBJECT: AUDIT OF CONSUMER AFFAIRS
DATE: DECEMBER 01, 2023

I am in receipt of your draft audit report that was sent to me for review and response. Before I respond to the four (4) findings I would like to thank and compliment Denise Gianotti and Joseph Molinari of your staff on their professionalism during the audit process.

1. Finding 1 – Mismanagement of Application Processing:

From the start of my tenure as Commissioner I discovered there was a significant backlog of applications. Over 7,000 applications were not properly processed. The factors listed in your report accurately describe the causes. To relieve this backlog, I immediately implemented several changes outlined below:

- Incomplete/incorrect applications are returned with the license fee along with a letter explaining what needs to be done to have the application processed
- Encouraged prompt contact by staff to further explain any application deficiencies to applicant, and if necessary, arrange meetings with myself and counsel to review and render decisions
- Redeployment of staff to handle backlog and hiring of former employees as part-timers, focusing only on renewal processing
- Hiring of bi-lingual staff to work the front desk and assistant applicants who speak Spanish to facilitate accurate completion of all required forms
- During particularly busy periods, utilizing and managing overtime within our budget to process applications to keep things moving forward

These changes led to a 74% reduction in licensing backlog. In December 2021 the backlog was 7420 applications (1460 new and 5960 renewals). In December 2022 the backlog was reduced to 1962 applications (546 new and 1416 renewals). The backlog remains at a manageable rate (under 1000) and fluctuates monthly according to renewals and applications received.

Appendix C – Department’s Response

2. Finding 2 – Inadequate Licensing Database System:


Consumer Affairs operates under the APEX mainframe software process, which was implemented by the previous administration. Your report accurately points out the many shortcomings of this hastily implemented system. My Administration began researching outside vendors and reached out to the County Technology Office (IT). We now have continuing meetings with IT and IT Commissioner Stanton addressing issues, problems, and concerns with the APEX system. Together we are working to correct the deficiencies in APEX, to make it properly function and more user friendly. While this process is time consuming, it is slowly improving APEX to meet Consumer Affairs’ needs at a great savings to Nassau County by having IT do the work in-house. We anticipate the APEX system will be fully corrected sometime in the early part of next year.

3. Finding 3 – Criminal History Fingerprint and Background Checks Were Not Being Conducted for Home Improvement Applicants:

Pursuant to the Nassau County Administrative Code 21-11.4(2)b only the NCPD was allowed to fingerprint new home improvement license applicants. The NYS Department of Criminal Justice Services does not permit the Police Department to share the findings of fingerprint searches. The Department of Consumer Affairs filed for a County Administrative Code amendment to allow an authorized outside vendor to conduct fingerprint checks, just like the Department does for other licenses. This amendment will allow the Department to review applicant’s criminal history which is a matter of public safety.

4. Finding 4 – Inadequate Staffing

County Executive Bruce A. Blakeman’s Administration has made it a priority to address the staffing issues in this Department, as this office serves as an important function for our residents. To mitigate the staffing deficiencies, I collaborated with Human Resources and Civil Service in an attempt to hire and onboard new staff members. The current competitive job market and salary structure increased the challenges of filling much needed open positions. As per the approval of the new CSEA contract, the new salary chart will hopefully make these positions more attractive. Consumer Affairs has on-boarded five new staff members that covered attrition. Additionally, the Department has hired and onboarded part-time staff to bolster our resources. Efforts continue to fill the remaining vacancies.


John R. Capece
Commissioner