

**New York City Department of Environmental Protection
Bureau of Water Supply**

Evaluation of the New York City-Funded Flood Buyout Program

June 2021

*Prepared in accordance with Section 4.2 of the NYSDOH
2017 Filtration Avoidance Determination*



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1. Introduction

The 2017 Filtration Avoidance Determination (FAD) requires the New York City Department of Environmental Protection (DEP) to submit two evaluation reports of the New York City-Funded Flood Buyout Program (NYCFFBO), and to ensure that funding for the full implementation of the program is continued during the evaluation period. DEP submitted the first evaluation report in June 2018; this report fulfills the second FAD deliverable due June 15, 2021. The following sections provide an overview of the history and structure of the NYCFFBO, describe the acquisition process, discuss program status and metrics, outline several case studies of projects acquired under NYCFFBO, describe challenges faced by the program, and offer conclusions.

2. Background and History

The City first participated in the acquisition of flood-damaged properties in response to floods that took place during 1996, eventually acquiring 28 properties in partnership with Delaware County, New York State, and the Federal Emergency Management Agency (FEMA) through its Hazard Mitigation Grant Program. Following Tropical Storms Irene and Lee in 2011, flood hazard mitigation, including buyouts, again became a focus among watershed stakeholders. The City agreed to participate in a second FEMA Buyout Program after requests from Delaware, Greene and Ulster Counties, resulting in the acquisition of 36 properties by the City or local municipalities.

At the urging of watershed communities, the 2014 revisions to the 2007 FAD and the June 2016 modifications to the 2010 Water Supply Permit (WSP) both required DEP to develop a new City-funded flood buyout program, allocating at least \$15 million to acquire properties for flood hazard mitigation, including those that were damaged or threatened by floods. The purpose of this NYCFFBO is to secure permanent protection of key properties for floodplain management and flood hazard mitigation, thus helping to ensure water quality throughout the West of Hudson (WOH) watershed. DEP developed the terms of the NYCFFBO through negotiations with watershed stakeholders from 2014 to 2016; these terms are codified in the NYCFFBO “Process Document” dated June 1, 2016 and the “Second Supplemental Side Agreement Among WOH Watershed Stakeholders” dated July 28, 2016. Implementation of the NYCFFBO commenced in the second half of 2016.

The key features of the NYCFFBO are community involvement and, depending on local interest, community ownership of properties (similar to the FEMA Program), with the City considering ownership when the local municipality declines. Consistent with this framework, DEP implements the NYCFFBO in partnership with the Catskill Watershed Corporation (CWC), county Soil and Water Conservation Districts (SWCDs), and Cornell Cooperative Extension of Ulster County (CCEUC) at the request of the local municipalities. The NYCFFBO has been designed with the expectation that the program will pause during FEMA-declared flood events, allowing for the leveraging of external funding for additional acquisitions supported by FEMA and/or New York State in the event of a new flood declaration; no such pause due to flooding has been implemented since the NYCFFBO was initiated. While the City pays for all acquisitions under the NYCFFBO, local municipalities are encouraged to take ownership of most properties, and all properties acquired – regardless of owner – will be protected by conservation easements (CEs) conveyed to the

New York State Department of Environmental Conservation (NYSDEC) following acquisition.

The NYCFFBO employs two unique valuation policies to maximize landowner interest while staying true to fair market value as required by the 1997 Watershed Memorandum of Agreement (MOA) and the 2010 WSP. First, the NYCFFBO employs the FEMA policy of using up to three appraisals¹ to determine the purchase price; and second, it establishes fair market value as of the appraisal date while assuming the condition of the property absent damage caused by flooding (where ownership of the premises has not changed since the flood). Since 2016, property identification, appraisal and acquisition activities have accelerated quickly and the program has established itself as a widely available and effective tool to promote flood hazard mitigation in the WOH watershed.

3. Program Structure

Pursuant to extensive negotiations with watershed stakeholders to establish rules for the NYCFFBO that align with community interests and concerns, the NYCFFBO Process Document established the following five categories of properties as eligible for acquisition:

1. **Hydraulic Study** – properties identified through a formal engineering analysis, such as a Local Flood Analysis (LFA), as necessary to complete a flood-resilience project
2. **Relocation Projects** – properties eligible for funding under CWC’s Local Flood Hazard Mitigation Implementation Program (LFHMIP)
3. **Stream Project** – properties necessary for completion of a community-approved Stream Project
4. **Erosion Hazard Projects** – properties at risk from an erosion hazard, and
5. **Inundation Projects** – properties at risk from an inundation hazard

Program policies and procedures are designed to allow maximum flexibility for municipalities to opt into the NYCFFBO, decide whether to own individual properties, or pursue possible future development of upland (non-floodplain) portions of certain municipally-acquired properties. DEP agreed that it would not solicit landowner participation, but rather would consider acquisition of a property once a landowner and the municipality concurred on opting into the program. For a property to be considered for the NYCFFBO, the municipality must first pass a formal resolution.

To facilitate community involvement, the NYCFFBO uses Outreach and Assessment Leads who are local representatives. Outreach Leads explain the program to potential participants and officials and coordinate the opt-in process. Some properties are identified through the LFA process, while others may be proposed under the Erosion or Inundation categories if the Assessment Lead determines that such properties are eligible. Landowners who contact DEP to participate in the NYCFFBO are directed to the municipality’s Outreach Lead or to the Town Supervisor or Mayor if there is no Outreach Lead.

¹ Under the FEMA “three appraisal policy” adopted for the NYCFFBO, the City commissions the first appraisal and makes the purchase offer to the landowner, who has the option to commission a second appraisal at his or her own cost. If the value of that second appraisal is within 15% of the first appraisal, the second appraisal becomes the purchase price. If the second appraisal exceeds the first appraisal by more than 15%, the City commissions a third appraisal and the purchase price is determined by using the value of the middle appraisal.

Generalized flow charts depicting the outreach and assessment process for the five program categories can be found in DEP's June 2018 NYCFFBO FAD Evaluation Report.

Properties are listed as highest priority Category 1 if they originate from LFAs; this group is a key component of the NYCFFBO. Through the LFA, buyout properties are identified through a collaborative, science-based process that seeks to improve community flood resilience. This process brings together local leaders, community members, consulting engineers, SWCDs, CWC, CCEUC, and DEP Stream Management Program (SMP) staff to review flood mitigation options. DEP and SWCDs help to initiate the LFA process, select a consultant, and provide funding for the recommended solution. As of April 30, 2021, 34 population centers had completed 22 LFAs in the WOH watershed (see Figure 1). LFAs may result in one or more recommended flood hazard mitigation projects, some of which may require property buyouts and the relocation of a business or critical facility. Some LFAs contain recommendations indicating where buyouts of floodplain properties should be considered. DEP, SWCDs, and Outreach Leads assist municipalities with understanding and considering flood buyout options, but decisions about which LFA projects are acceptable and which properties should be considered for the NYCFFBO are made locally. All completed LFAs are available on www.catskillstreams.org/LFA.

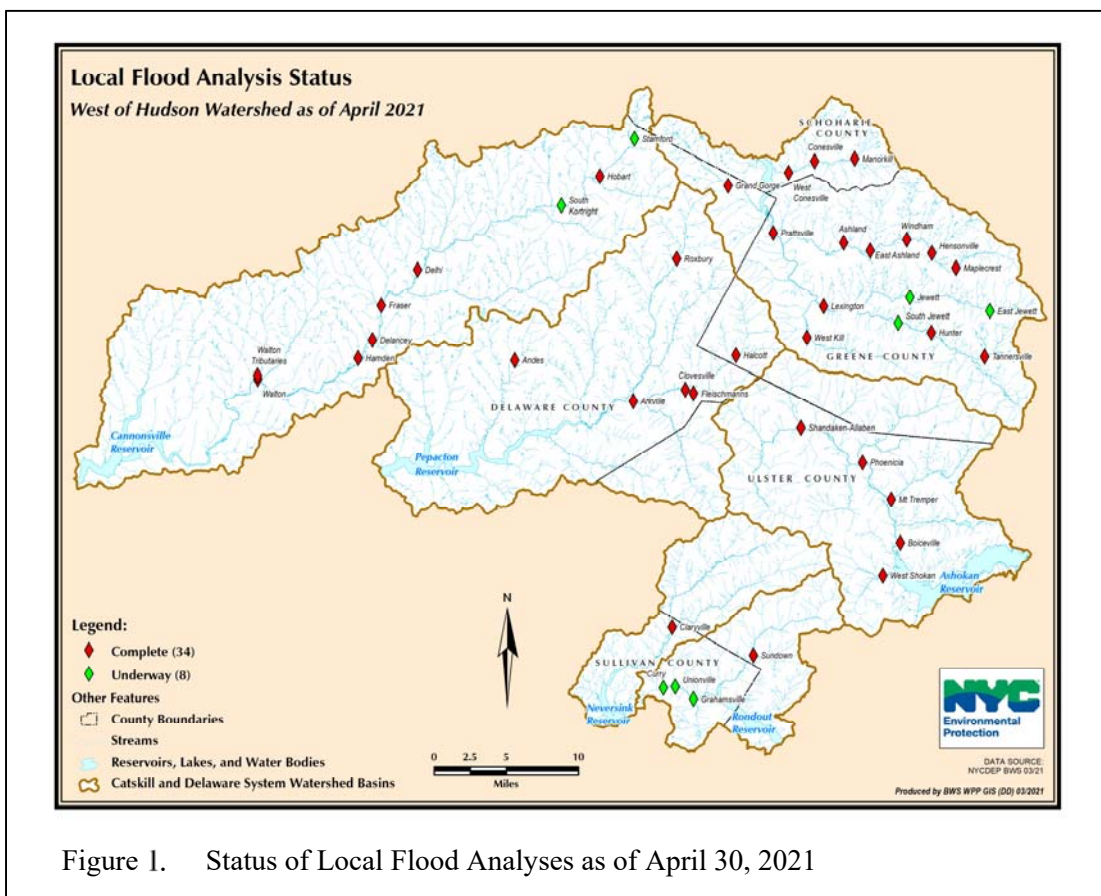


Figure 1. Status of Local Flood Analyses as of April 30, 2021

4. Acquisition Process

For properties identified by an LFA, the municipality advances to a formal resolution supporting a buyout only after a property owner has indicated interest in considering an appraisal. This municipal resolution is required to initiate the DEP acquisition process. Once a municipality passes a resolution supporting a NYCFFBO acquisition, the Outreach Lead then shares the information with DEP's Land Acquisition Program (LAP) and obtains landowner permission to access the property for inspection purposes. Only after a landowner has signaled interest and a municipal resolution is approved does the Outreach Lead and/or the municipality transfer the project to the LAP to begin the acquisition process with the owner.

The NYCFFBO acquisition process is similar to DEP's core LAP process, which involves agreement between a willing seller and a willing buyer and a purchase offer based on a fair market value appraisal. If the offer is accepted, the seller signs a purchase contract either with the City, or for properties to be acquired by municipalities, a three-party contract with the City and the municipality. The City worked closely with Delaware County and the Coalition of Watershed Towns (CWT) to create a model three-party contract specifying each party's rights, obligations, and tasks, all of which result in closings where the seller is paid by the City, with title conveyed to the local municipality or the City. DEP through its LAP manages all due diligence services (title, environmental testing and survey) prior to closing. For properties to be owned by a municipality, due diligence documents and related issues are shared and/or resolved through close consultation between DEP and local officials. The NYCFFBO appraisal process varies from the core LAP and aligns with the FEMA program with its unique valuation process using up to three appraisals to establish fair market value.

The CWC manages the demolition process, funded through the LFHMIP. After closing, all structures are removed with the exception of improvements such as culverts and rock walls. CWC has hired an engineering firm to draft Demolition and Safe Work Plans for each property and works with DEP to review these demolition plans and bid specifications for removal of structures and site restoration; CWC then solicits bids for the work and supervises the demolitions after closings. This process is the same whether a property is owned by the City or by a municipality. On properties owned by the City, DEP works closely with CWC to ensure environmental compliance during the demolition process.

5. Program Status and Metrics

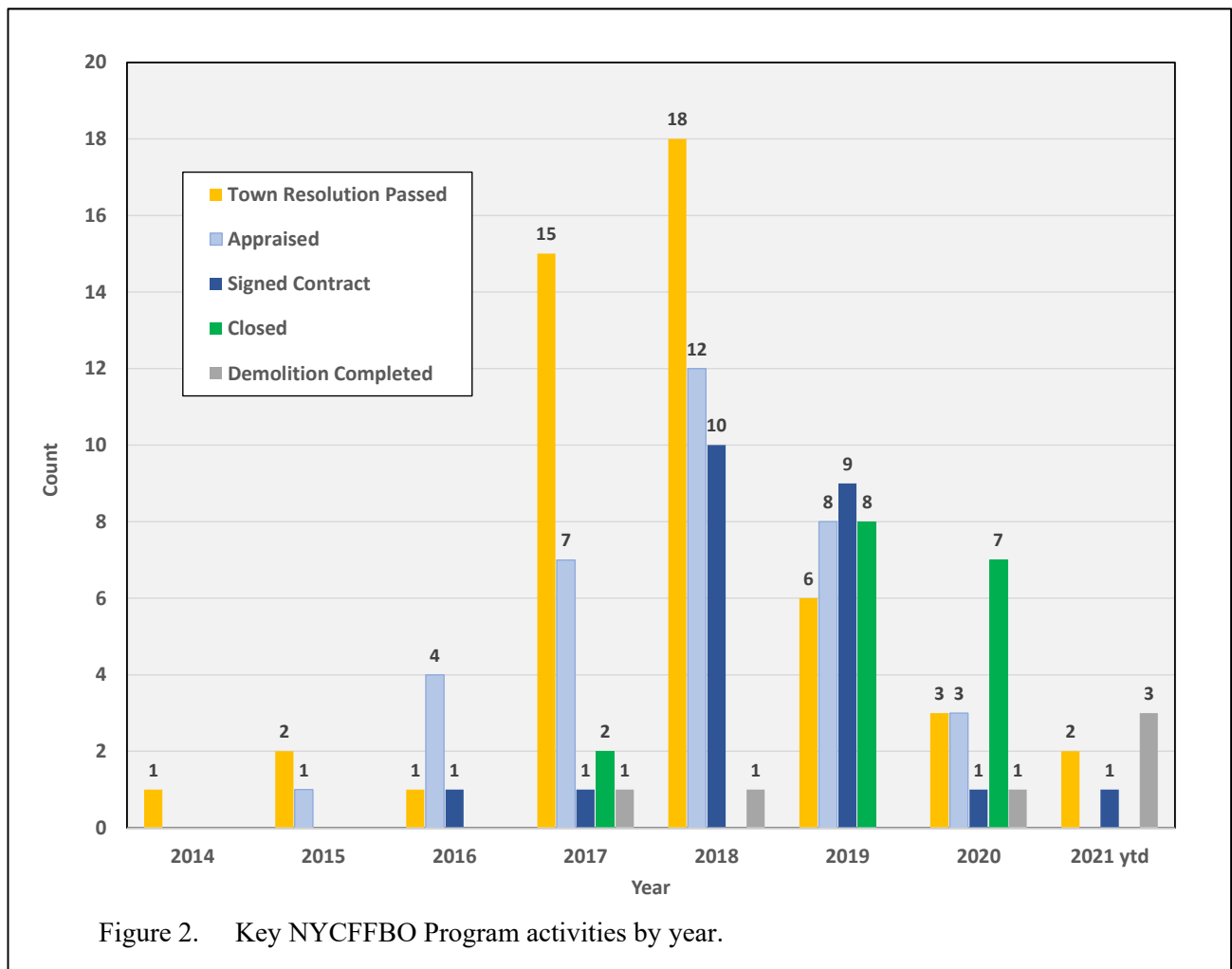
Acquisition Status

Through April 30, 2021, a total of 48 owners have expressed interest in selling their property through the NYCFFBO and had support from the local municipality in the form of a municipal resolution. The first willing seller signed a purchase contract under NYCFFBO in November 2016, and the first closing took place in September 2017. Table 1 summarizes the number of properties at each key stage of the NYCFFBO acquisition process through April 30, 2021, representing approximately six years of program activity.

Table 1. NYCFFBO key acquisition milestones as of April 30, 2021.

Category/Sub-Category	Property Count
Municipal Resolutions Passed	48
Appraisals Ordered	35
Offers Accepted	27
Offers Refused	8
Offers/Appraisals Pending	0
Contracts Executed	23
Closed	17
Demolitions Completed	6

Eight properties with municipal resolutions are still in the pre-appraisal process. Most of these are expected to be appraised in 2021 pending confirmation of eligibility, landowner concurrence, and resumption of appraisal activity by the LAP. In addition, four of the 27 properties currently with accepted offers are anticipated to be in contract by 2022. A total of 23 purchase contracts have been executed, of which 17 have closed. Figure 2 depicts the above milestones graphically by year and shows the rapid acceleration of program activity during the period 2017 to 2019.



Program Activity by Category

Table 2 provides details on program activity by county, town, and NYCFFBO Project Category for all 27 projects with accepted offers. Most NYCFFBO projects (22) have derived from the LFA process. This level of LFA activity shows that having the NYCFFBO option available provides a valuable tool that allows communities to implement projects to improve flood resilience. Other watershed communities, such as those in Delaware County, are continuing discussions regarding the merits of flood buyouts, and may consider the NYCFFBO in the future, either as a singular tool or in combination with other flood hazard mitigation strategies such as elevating or flood-proofing structures. In addition to the 22 LFA projects detailed in Table 2, one project originated through the LFA process (a car dealership in the Village of Walton) but was acquired without NYCFFBO funds by the Village with assistance from CWC through its LFHMIP; therefore, this project is not included in the statistics described in this report.

Besides the 22 LFA projects, municipalities have approved five properties for the NYCFFBO, including two in Category 3 (Stream Projects) and three in Category 4 (Erosion Projects). The three Erosion Hazard Projects are all outside of LFA areas. In those cases, the landowners contacted the municipalities requesting to be included in the NYCFFBO and the Assessment Leads coordinated an engineering study through CWC to verify their eligibility. To date there has been one resolution passed for Category 5 (Inundation Project), although many LFA resolutions have involved repetitive loss properties in hamlet areas not directly associated with mitigation projects (such as floodplain restoration). Four of the LFA-recommended sites identified for acquisition by the municipality were chosen to support flood hazard mitigation projects such as bridge replacements.

Table 2. NYCFFBO properties with accepted offers by municipality and project category as of April 30, 2021.

County	Municipality	Category	Future Owner		Total
			Municipality	City	
Delaware	Fleischmanns (Village)	LFA	0	1	1
Greene	Hunter (Village)	LFA	4	0	4
	Tannersville (Village)	LFA	4	0	4
	Hunter (Town)	Erosion	0	2	2
	Jewett	Erosion	0	1	1
	Windham	LFA	1	0	1
Schoharie	Conesville	LFA	0	1	1
		Stream	1	1	2
Ulster	Olive	LFA	3	2	5
	Shandaken	LFA	2	4	6
Totals			15	12	27

Program Funding

The 27 properties with accepted offers appraised for a total of \$4.22 million or an average of \$156,296 per property. Most properties have been valued between \$50,000 and \$300,000. Soft costs (survey, title and environmental site assessment) have comprised an additional 15% of the purchase price, on average, resulting in an average project cost of \$180,000 and a projected total acquisition cost for these 27 projects of \$4.85 million. Demolition costs, as detailed below, are covered under CWC's LFHMIP.

At this rate of expenditure, the \$15 million in committed program funding would potentially cover approximately 56 additional projects. Although the pace of NYCFFBO projects is expected to moderate in coming years as LFAs are completed, DEP will continue to monitor the adequacy of program funding, and to report on this topic during the annual FAD budget meeting held every November.

Municipal Opt-In Process

Participation in the NYCFFBO is driven by municipalities and as such, DEP does not pursue projects unless (1) there is a resolution by the local town; (2) the landowner is a willing seller; and (3) DEP is either a willing buyer or a facilitator for municipal ownership. To date, all NYCFFBO projects resulted from property-specific town resolutions, even when the town initially passed a town-wide opt-in resolution. The demonstrated level of interest in the NYCFFBO has been significant (43 resolutions since 2014) mainly due to the relatively high number of projects generated by LFAs. However, LFAs are finite in number and extent, and once those projects are complete, DEP expects a reduction in new buyouts. Interest in buyout programs is expected to increase immediately following any future flood event, and that interest is expected to be sustained for about three to four years following the flood event, whether funding is provided by FEMA or the City.

Appraisal Process

The appraisal process appears to be working effectively. Of the 27 accepted offers, three landowners chose to commission on their own a second appraisal, and the purchase price for those projects will be based on the second appraisal. The remaining 24 landowners accepted the City's offer based on the first appraisal. As could be expected from a program that offers to relieve landowners of their improved properties in flood-prone areas at fair market value, the data show a high acceptance rate. Of the 35 offers made to date, 27 (77%) have been accepted. Two offers marked as "refused" expired due to inability of sellers to solve the challenge of relocating their business, an issue further described in Section 7 below. The high acceptance rate for the NYCFFBO is comparable to the City's experience with the FEMA Buyout Program.

Contract and Closing Process

As with any new program, especially one that involves close coordination between local, City and State governments, significant time was required to draft model documents such as the three-party purchase contract for properties planned for municipal ownership, and the model CE

for those properties. The three-party purchase contract was finalized in early 2018, and 11 properties are now in contract and/or closed using that model document.

Once NYCFFBO projects are under contract, process timeframes have been consistent with the pace of core LAP acquisitions. Compared with core LAP acquisitions, NYCFFBO closings require that more resources be devoted to environmental due diligence (particularly on commercial properties) as well as coordination with landowners and municipalities. The logistical changes to City operations during the COVID-19 public health emergency during 2020-2021 have created additional challenges, but nonetheless the LAP has managed to close a total of 17 NYCFFBO projects, including seven since March 2020.

Demolitions

Demolitions are conducted post-closing, under CWC coordination through the LFHMIP. Once the closing has occurred, DEP initiates the process by ordering a Pre-Demolition Survey, which provides detailed information about hazardous materials. CWC's consulting engineers develop a detailed Demolition Plan for each property, and then CWC procures the services for a demolition vendor to remove improvements and restore the site. DEP reviews and comments on demolition plans for all City owned properties with regard to environmental health and safety standards, and CWC reviews demolition plans for municipally-owned properties.

CWC bids out all demolition contracts and has completed demolitions on six of the 17 properties acquired to date. As shown in Figure 2, the pace of demolitions accelerated in 2021, reflecting the large volume of closings which occurred in 2019 and 2020. One property needed for a stream project did not require demolition, and two additional demolitions were commissioned by the New York State Department of Transportation (NYSDOT) as part of the Mt. Tremper bridge replacement project, leaving eight properties with demolitions currently pending. Abatement of asbestos and lead, along with the removal of underground storage tanks, are additional activities managed by CWC and its subcontractors. CWC has contracted for the removal of two underground fuel storage tanks prior to closing with DEP covering the monitoring of the activity and testing of materials. Five of the six properties demolished required abatement of asbestos and one condemned building required all material to be treated as asbestos-containing material. Typical asbestos-containing materials are roofing, foundation waterproofing, floor tile, adhesives, and window caulk. The abatement process conducted by demolition contractors is monitored by independent contractors also hired by CWC.

Site restoration includes the establishment of grass cover on top soil provided by the demolition contractor, and may also involve slope stabilization for Erosion Hazard Projects. One erosion hazard acquisition in the Town of Hunter is scheduled for a DEP Stream Management Program water quality improvement project, and the other Erosion Hazard Project in Hunter has been planted as riparian buffer under the SMP's Catskill Streams Buffer Initiative.

The total cost incurred by CWC for the six completed NYCFFBO demolitions, exclusive of planning, is \$335,613, for an average cost per property of approximately \$56,000. CWC costs for engineering services to develop demolition plans, safe work plans, and contractor inspection average \$9,000 per property.

6. Case Studies

Below, four case studies are presented including updates on two projects highlighted in DEP's 2018 FAD Evaluation Report for the NYCFFBO (Shandaken and Olive) and two new projects (Tannersville and Hunter).

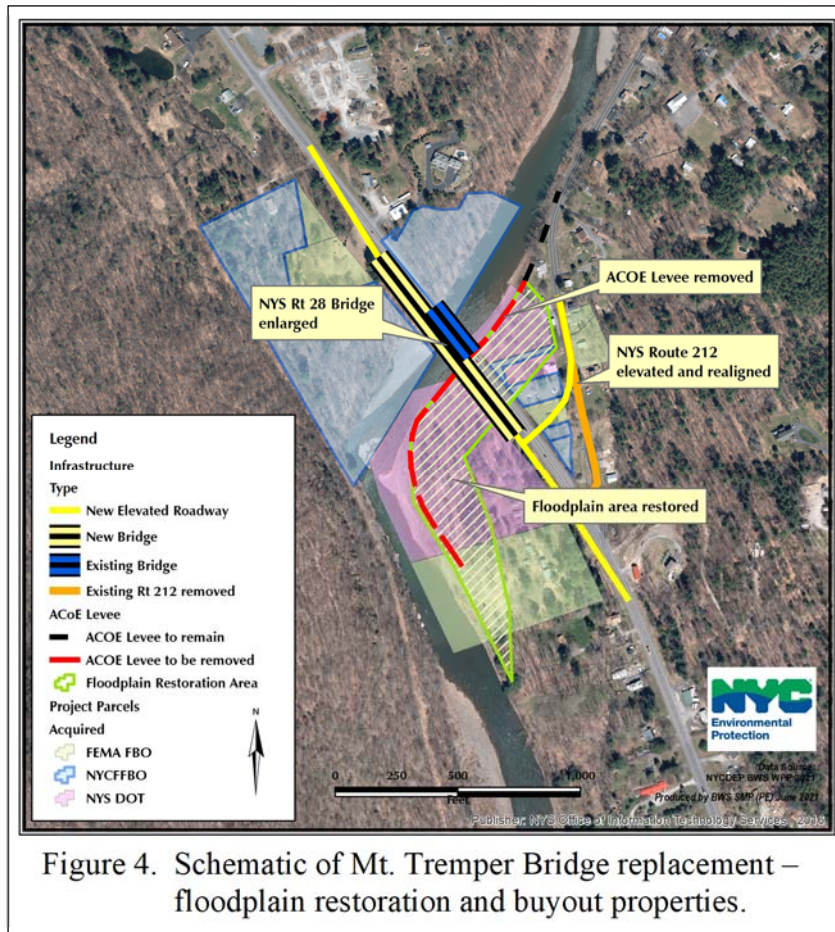
Town of Shandaken, Ulster County

DEP's 2018 FAD Evaluation Report described the bridge replacement, levee removal and floodplain restoration project in the hamlet of Mount Tremper by NYSDOT, where DEP was working with CCEUC and the Town of Shandaken to acquire properties for the bridge project. Since 2018, the NYCFFBO acquired two properties, and NYSDOT acquired the three remaining properties, all of which will be owned by the Town of Shandaken after the bridge project is complete. Construction of the bridge (see Figure 3), which is nearing completion, will lower flood elevations for a number of upstream properties and ensure that major transportation arteries (NYS Route 28 and Route 212) can remain open during flood events. NYSDOT has removed the U.S. Army Corp of Engineers levee, elevated and realigned NYS Route 212, and is in the final stages of bridge construction. Construction and removal of the old bridge will be completed in 2021. The Town of Shandaken is working to improve river access for anglers and public



Figure 3. View from downstream toward the new Mt. Tremper Bridge. The smaller, old bridge to be removed can be seen further upstream, under the new bridge.

recreation, and it has approved acquisition of two additional NYCFFBO properties on the west side of the bridge site to improve access to the river and further reduce repetitive flood damages (see Figure 4).



Town of Olive, Ulster County

DEP’s 2018 FAD Evaluation Report highlighted plans by the Town of Olive to allow eight LFA-recommended properties to enter the NYCFFBO. Since 2018, the Town, CCEUC and DEP have made significant progress by acquiring four of these properties; two now owned by the town and two by the City. CWC has completed two demolitions this year and two are underway (see Figure 5). Re-Use Plans are developed to address future uses that are compatible with the goals of water quality protection and flood resilience on certain municipally-owned properties; proposed uses include community events and recreation. As part of its LFA, the Town of Olive is also working with DEP and CWC to relocate the flood-prone Boiceville firehouse to a nearby parcel purchased by the CWC for the fire district. CWC has provided a \$577,400 grant to match funds from potential future sources for the construction of the new firehouse. The town is also supporting the relocation of another business and a rental property in the hamlet to areas outside the floodplain (see Figure 6). A CWC-funded plan for relocations of certain commercial properties in the hamlet is complete and provides a potential guide for future development.



Figure 5. A property in Boiceville following the removal of structures and site restoration. The Boiceville fire station is located in the background.



Figure 6. Status of NYCFFBO properties in Boiceville (Town of Olive).

Town of Hunter, Greene County

In 2017, the Town of Hunter, after a detailed assessment, approved a resolution to allow an Erosion Hazard Project to enter the NYCFFBO, with Greene County SWCD serving as both the Outreach and Assessment Lead. As shown in Figure 7, the residential structure located on a high bank along the Stony Clove was determined to be in imminent danger of collapse. The property owner entered into a purchase contract in 2019 and the City closed on the property in February 2020. CWC worked with a subcontractor and DEP to develop a demolition plan and the structure was removed in April 2021. As part of a water quality improvement project, DEP's SMP (through its partnership with Ulster County SWCD) will address reach-scale stream instability by stabilizing this failing hillslope (see Figure 8) and addressing several sources of suspended fine sediments contributing to turbidity in the Stony Clove, an important tributary to the Esopus Creek and Ashokan Reservoir.



Figure 7. Residential structure in the Town of Hunter hanging over a failed streamside hillslope.

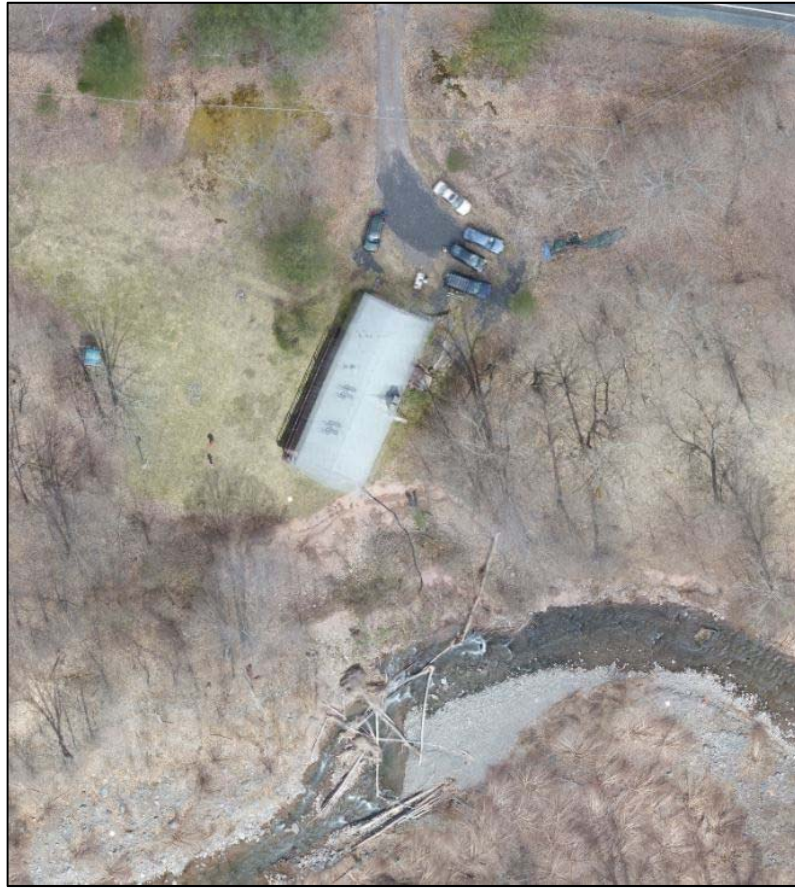


Figure 8. Aerial view of Stony Clove hillslope failure and residence (Town of Hunter).

Village of Tannersville, Greene County

The LFA approved by the Village of Tannersville recommended several properties in the floodway of Sawmill Creek as potential buyout properties. After considering potential uses, the village passed resolutions to allow three former residential properties, one commercial property, and one municipal property damaged in Tropical Storm Irene to enter the program (see Figure 9). One of the residential properties has been condemned and acquired by Greene County for outstanding taxes, while the municipal structure is the village highway garage that is to be relocated and will share a highway facility owned by the Town of Hunter. Two former residences have been acquired under NYCFFBO and preparations for demolition are underway, while one is still in the initial project stage as estate issues are resolved. The village has completed Re-Use Plans for these properties and expects to incorporate them as part of the existing park at Lake Rip Van Winkle. The properties will also facilitate access to the Huckleberry Trail on the former Ulster and Delaware rail line (see Figure 10).



Figure 9. Tannersville properties immediately following Tropical Storm Irene. The Highway Garage is on the right and the property condemned by Greene County is in the center background.

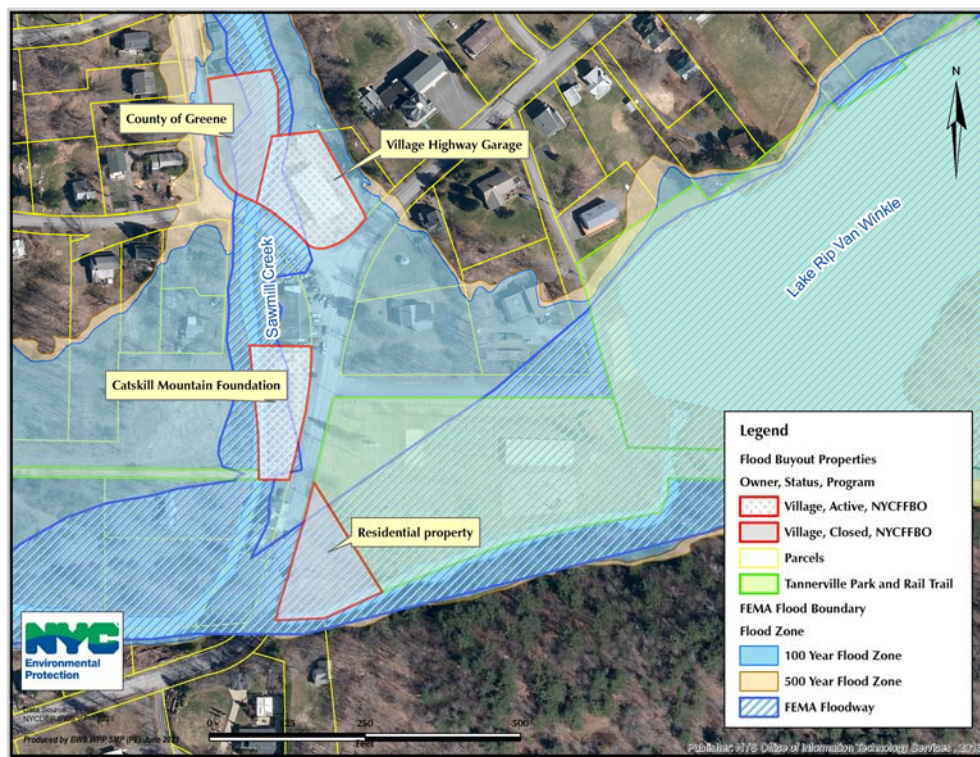


Figure 10. Status of NYCFFBO properties in the Village of Tannersville.

7. Program Challenges

The success of the NYCFFBO is two-fold: (1) it provides a tool for municipalities and property owners to eliminate repetitive flood damages, thereby building flood resilience, and (2) it provides relief to property owners who either could not afford to repair previously damaged properties or who face rising flood insurance costs and diminished property values. Positive progress and program challenges, including some identified in DEP’s 2018 FAD Evaluation Report, are described and updated below.

Property Ownership

From the outset, DEP has encouraged municipalities to own properties acquired under the NYCFFBO since local governments are best positioned to manage those properties in the long-term, particularly those in more populated hamlet areas. Municipal ownership is also preferred when implementing flood mitigation projects, since ongoing management of these sites is often under local government control. This preference to encourage municipal-ownership has largely succeeded. For municipally-owned properties, the municipality may draft a Re-Use Plan that identifies future uses such as recreation, town events, or trails. Of the 27 properties with accepted offers, 15 are planned for municipal ownership, which confirms this option is often preferred by watershed communities. Nonetheless, where a municipality declines ownership, City ownership also allows for direct and efficient implementation of future stream projects.

One programmatic challenge has been the purchase of properties from a municipality that wishes to retain use of the land – typically for recreation – but discontinue its current municipal use and remove flood-impacted structures. Three properties have been identified for such inter-municipal transfers through the NYCFFBO, two of which will involve a “flip” back to the original owner post-closing. An example is the purchase of the Village of Tannersville highway garage (which is being relocated) with title to be held by Greene County upon closing. Subsequent to closing, Greene County will then transfer the property back to the village for use as part of an adjacent park. This scenario highlights a program inefficiency in that both transfers are being conducted in order to qualify for demolition funds under CWC’s LFHMIP. These transfers are inefficient, and options to avoid such multiple transactions should be developed.

Conservation Easements

The 2016 Side Agreement requires that local municipalities who take title to land under the NYCFFBO grant a CE to the NYSDEC at closing. The CWT, Delaware County, and the City have worked with the NYSDEC to draft a CE for protection of properties acquired through the NYCFFBO. To date, the approved CE, which covers the entire property being acquired, has been granted by the involved municipality for the seven properties that have closed. The process to complete baseline documentation, after which the easement is accepted by NYSDEC and recorded, is an ongoing task. No CEs have been conveyed to NYSDEC due to pandemic-related delays in preparing baseline documentation reports that are necessary precursors to the CEs.

Under program rules, communities may also elect to retain the right to develop and/or subdivide “upland areas” they acquire under NYCFFBO that are outside of the 100-year floodplain. Although DEP identified this challenge in its 2018 FAD Evaluation Report, it has not yet been encountered as a practical matter since only three properties with very small upland areas have entered the program. In each case, the upland area was too small to be developed, and

the municipality chose to use the CE that protects the entire parcel rather than a the yet-to-be-finalized CE that allows development of the upland area. Negotiations on the CE language for parcels with upland areas remain ongoing between the NYSDEC, CWT, and DEP.

Long-term Stewardship

As noted in the 2018 FAD Evaluation Report, NYCFFBO properties owned by the City present different long-term stewardship challenges compared to parcels acquired through other LAP initiatives. Their small size, isolation from other City-owned lands, and close proximity to many residential and/or commercial neighbors are more likely to involve future encroachments. DEP continues to clearly mark and post these NYCFFBO properties to avoid conflicts. While there have been no issues related to encroachments or conflict with neighboring property owners to date, monitoring of the NYCFFBO properties will be an ongoing responsibility for DEP.

To date, the City has acquired ten properties under the NYCFFBO, seven of which are already open for recreational use such as fishing and hiking. Any activities allowed or undertaken by DEP on NYCFFBO properties must be consistent with the CE granted to the NYSDEC. In certain cases where a qualified partner wishes to propose low-impact activities that are consistent with the NYSDEC easement, DEP will consider issuing a revocable land use permit to allow such uses.

DEP and Outreach Leads develop Re-Use Plans with local leaders for municipally-owned properties. Re-Use Plans provide the municipality with the right to use the property for an identified use – consistent with the CE – without having to seek prior authorization by the NYSDEC. Re-Use Plans are reviewed and approved by NYSDEC prior to closing. In cases where an acquisition represents the first NYCFFBO property to be acquired by a municipality, the process also provides the municipality with an opportunity to review the CE in advance of the closing.

Demolition and Cleanup

Since the 2018 FAD Evaluation Report, CWC and DEP have worked successfully to fulfill environmental health and safety requirements on all NYCFFBO demolition and restoration sites. This has involved standardizing all specifications and safe work plans for demolitions, therefore decreasing the time required to prepare for demolition and site restoration. Staff from several divisions within DEP are involved, including the LAP, Stream Management Program, City Land Stewardship, and Environmental Health and Safety – an example of interdisciplinary coordination within DEP and effective partnering with external organizations and vendors. CWC has also streamlined its bidding and contract award process. While most of the properties acquired to date have been residential, the demolition of commercial structures can involve substantially higher cleanup costs and longer timeframes than typical residential properties. Municipalities have cooperated with CWC and DEP to provide demolition permits and to monitor operations. Continued coordination during the planning process will help to ensure that environmental issues are addressed in the planning phase and avoided during demolition.

Relocations

The process of relocating commercial businesses and critical facilities from properties proposed for the NYCFFBO to new sites in the same town, important to many prospective sellers

and municipalities, has been slow and complex. Through the LFHMIP, CWC can acquire property to be used as the receiver for an existing business facility now on property to be acquired under NYCFFBO. The cost of constructing a new replacement facility continues to present a financial hurdle to both commercial and municipal property owners. Neither of the two properties that DEP has appraised, where the owners plan to relocate, have advanced to contract. Relocating a commercial enterprise is a long-term process because owners must plan for costs related to moving, design and construction of new facilities, and closing two transactions while ceasing operations at one property and opening operations at another – all before making the commitment to sell the current business location. As an example of the complexities involved, the CWC has purchased a property needed for the relocation of a lumber and hardware enterprise in the Town of Windham, only to be left holding the property after the involved business failed to complete the necessary steps to relocate. This continues to be a challenge for municipalities and DEP will continue to work with CWC, municipalities, and other partners to identify potential solutions and alternate non-City funding sources.

Coordination

As discussed elsewhere, there are many moving parts to the NYCFFBO, with numerous DEP divisions, external partners, municipalities, not-for-profit organizations, and private vendors, all working in concert to accomplish program goals. These coordination efforts result in new lands acquired for permanent protection, structures removed from floodplains to benefit flood mitigation, and in many cases opportunities for new infrastructure to increase community resilience.

During the LFA process, properties needed for Stream Projects or new infrastructure may be identified and recommended for acquisitions. DEP believes that these properties should be fast-tracked to take advantage of funding, landowner interest, and/or municipal concerns. It is also worth noting that in 2018, CWC modified its rules for the LFHMIP to support the acquisition of properties needed for LFA-recommended stream or infrastructure projects. DEP believes that enhanced coordination among all NYCFFBO partners is necessary and critical to determine which program best meets a municipality's interest in pursuing flood buyout real estate activities to maximize resources and ensure efficient program implementation.

8. Conclusion

The 2016 NYCFFBO Process Document established rules and procedures that continue to provide an efficient and logical framework for program operations. Assessment Leads are responsible for evaluating properties with respect to compatibility with LFAs and the mission of NYCFFBO, while Outreach Leads are responsible for explaining the program to local communities and willing sellers. Together these key players have successfully facilitated 43 local resolutions to pursue acquisitions which, in turn, have resulted in 35 appraisals and 27 accepted offers as of April 30, 2021. In addition, these Leads have been highly effective in explaining the benefits of local ownership to municipalities, resulting in 56% of all accepted offers to date leading to municipal ownership.

The appraisal process, initially expected to be cumbersome with three potential reports possible, has been relatively smooth with only 11% of sellers choosing to commission their own appraisals. Owners who accept the purchase offers have not had significant issues with terms of

the model purchase contract, and CWC is developing demolition plans and contracting for demolitions efficiently.

Of the 17 acquisitions that have closed to date, seven are municipally owned; all of these have Re-Use Plans in place, as do two additional projects expected to close soon. While it is early in the process to evaluate ownership, monitoring, stewardship, and adherence to CEs yet to be conveyed to NYSDEC, local municipal owners are expected to manage the properties consistent with easement terms. CEs have not yet been conveyed to NYSDEC due to pandemic-related delays in preparing baseline documentation reports. A similar situation applies to NYCFFBO projects acquired by DEP; the model CE has not yet been finalized, though DEP is managing the properties consistent with CE terms similar to those used in the FEMA Flood Buyout Programs. All CEs involved in the NYCFFBO need to be finalized by the involved parties.

In summary, DEP believes that the NYCFFBO continues to be successful in meeting its original objectives. A total of 17 buyouts are completed in nine watershed municipalities spanning four counties. The NYCFFBO has allowed communities to implement their respective visions for improved flood resilience – reducing the number of properties subjected to repetitive flood damage – with a high degree of local control, while the costs and expertise associated with real estate acquisition and demolition are fully underwritten by the City and CWC. DEP is committed to working with its NYCFFBO partners to identify opportunities to increase participation in the full range of flood hazard mitigation programs available to watershed communities, and to seek improvements to program efficiency and coordination.