

AUDIT REPORT

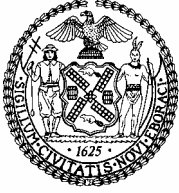


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Compliance of Hammonds Cove Marina, Inc. with Its License Agreement

MG05-096A

June 30, 2005



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, § 93, of the New York City Charter, my office has examined the internal controls over gross receipts by Hammonds Cove Marina, Inc., and its compliance with its license agreement with the Department of Parks and Recreation.

The results of our audit, which are presented in this report, have been discussed with Hammonds Cove Marina, Inc., and Department of Parks and Recreation officials, and their comments were considered in the preparation of this report.

Audits such as this provide a means of ensuring that City properties used by concessionaires under agreements with the City are operated effectively, efficiently, and in full compliance with the agreements.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/fh

Report: MG05-096A
Filed: June 30, 2005

Table of Contents

AUDIT REPORT IN BRIEF..... 1

 Audit Findings and Conclusions.....1

 Audit Recommendations.....2

INTRODUCTION..... 3

 Background.....3

 Objective.....3

 Scope and Methodology.....4

 Discussion of Audit Results.....5

FINDINGS AND RECOMMENDATIONS..... 6

 Hammonds Cove Management Violated Its License Agreement by Not Reporting All of Its Revenue to the City..... 6

 Hammonds Cove Has Inadequate Internal Controls over Its Operations.....8

 Lack of Internal Controls over the Marina’s Operations.....8

 No Separation of Duties over the Financial Operation of the Marina.....9

 Management Could Not Account for All Invoices and Work Orders.....9

 Lack of Financial Controls at the Snack Bar, the Bait and Tackle Shop, And Other Revenue Generating Operations.....10

 Inadequate Controls over Rental Agreements for Boats Stored at the Marina.....11

 Lack of a Reliable Accounts Receivable System.....12

 Sales Tax Not Always Charged or Reported.....16

 Inadequate Collection Practices.....17

 Rates and Fees Charged Not Approved by Parks.....18

 Inadequate Documentation and Monitoring of Capital Improvements.....19

 Failure to Seek Approval from Parks when Required.....23

 Noncompliance with Documentation Requirements.....24

 Prohibited Equipment Stored at the Marina.....25

 Other Issues.....25

 Hammonds Cove Management Underreported Gross Receipts When Operating the Marina as Locust Point Marina, Inc.....25

 Not All Boats Stored and Serviced at the Marina Were Registered With the New York State Department of Motor Vehicles.....27

ADDENDUM I: Parks Response

ADDENDUM II: Hammonds Cove Response

*The City of New York
Office of the Comptroller
Bureau of Management Audit*

**Audit on the Compliance of
Hammonds Cove Marina, Inc., with
Its License Agreement**

MG05-096A

AUDIT REPORT IN BRIEF

On April 2, 2003, the City of New York, through the Department of Parks and Recreation (Parks), entered into a License Agreement (or agreement) with Hammonds Cove Marina, Inc., to operate and manage Hammonds Cove (the marina). The agreement is for 15 years, with an option for an additional five years. The marina is in the Bronx, bordered by Pennyfield, Longstreet, and Harding Avenues. This licensee, as Locust Point Marina, Inc., had previously operated Locust Point marina at the same site from October 2002 to March 2003 under a temporary License Agreement with Parks.

This audit determined whether Hammonds Cove Marina, Inc., (Hammonds Cove), complied with its License Agreement with Parks by maintaining adequate internal controls over the recording and reporting of gross receipts, properly calculated and paid all required license fees when due, and complied with the other major terms of its agreement, pertaining to capital improvements, documentation, authorizations, and approvals. From April 2003 to September 2004, Hammonds Cove officials reported gross receipts of \$792,389 and paid license fees to the City totaling \$153,000. This amount included \$102,000 for the license period April 2003 to March 2004 and \$51,000 from April to September 2004.

Audit Findings and Conclusions

Hammonds Cove management violated a number of major provisions in its agreement with the City. Its books and records were inaccurate and incomplete, and it had inadequate internal controls over the financial operations of the marina. There was no segregation of duties and little or no oversight by management to ensure that all gross receipts and fees collected were accounted for and reported to Parks. As a result, for the period April 2003 to September 2004, Hammonds Cove management underreported gross receipts to Parks and consequently owes the City license fees of \$26,157 and late charges of \$2,627. In addition, sales tax due the City was either not collected or not submitted. Hammonds Cove officials also underreported gross receipts under the temporary permit in place from October 2002 through March 2003 and owes the City additional license fees of \$17,885 and late charges of \$6,796.

Further, Hammonds Cove management did not maintain adequate records to substantiate whether the licensee spent \$200,000 on capital improvements, as required. During fieldwork we found that Hammonds Cove did not have a reliable Accounts Receivable system and could not easily account for moneys owed for boat storage. Hammonds Cove management also did not obtain the required approval from Parks to incorporate the snack bar as a separate entity, subcontract the operation of the bait and tackle shop and change its rates and fees. Finally, Hammonds Cove management did not submit all the required documents to Parks.

Audit Recommendations

To address these issues, we make 36 recommendations: 26 to Hammonds Cove and 10 to Parks. The most significant recommendations are that Hammonds Cove should:

- Pay the City the additional \$26,157 in license fees and \$2,627 in late charges due.
- Establish and implement internal controls over the financial operations of the marina. In that regard, Hammonds Cove should separate the duties of individuals who record and report accounting transactions from those who collect and deposit cash receipts. Hammonds Cove officials should also closely supervise and monitor the financial operations of the marina, including the collection, recording and reporting of gross receipts.
- Maintain accounting records properly and accurately. This includes ensuring that all gross receipts are properly and accurately recorded; and that all cash receipts collected are recorded and deposited in the marina's bank account.
- Ensure that the operators of the snack bar and bait and tackle shop maintain the cash register tapes, reconcile the sales on a daily basis, and record the daily receipts; also ensure that the snack bar receipts are deposited in the marina's bank account.
- Maintain a list of all boats stored at the marina by registration number or any other identifier to establish a link between each boat, the rental agreement, and the boat's owner.
- Ensure that all future sales taxes due the City are collected, accurately calculated, and paid.
- Maintain complete and accurate records to support all capital improvement expenditures and accurately report these expenditures to Parks according to the terms of the License Agreement.
- Pay the City the additional \$17,885 in license fees and \$6,796 in late charges due, related to Locust Point marina.

INTRODUCTION

Background

On April 2, 2003, the City of New York, through Parks, entered into an agreement with Hammonds Cove to operate and manage Hammonds Cove (the marina). The agreement is for 15 years, with an option for an additional five years. The marina is in the Bronx, bordered by Pennyfield, Longstreet, and Harding Avenues. This licensee, as Locust Point Marina, Inc., had previously operated Locust Point marina at the same site from October 2002 to March 2003 under a temporary License Agreement with Parks.

The marina management provides services such as docking, storing, cleaning, painting, and repairing boats. Hammonds Cove management is required under the agreement to operate a snack bar; it also has a bait and tackle shop and a boat supply shop on the licensed premises.

Under the agreement, Hammonds Cove management is required to pay the City the greater of either a minimum annual fee of \$102,000 (in Years One and Two of the agreement) or percentages of gross receipts (22% to 16% storage, 10% ship store, 1% new boat sales, 16% boat rentals, 12% mechanical, 15% food and vending machine, and 10% miscellaneous). After the second operating year, the minimum fee escalates every two years until it reaches \$117,166 in 2018, the final year of the agreement.

Among other things, Hammonds Cove officials are required to make capital improvements to the leased premises (at the inception of the lease) amounting to at least \$200,000 and to pay a one-percent review fee for these improvements. Hammonds Cove management must also maintain insurance coverages for fire, property, comprehensive general liability, employer's liability, and workers' compensation. The licensee must also submit a \$30,550 security deposit to the City, pay water and electric bills, and keep the premises clean.

In addition, Hammonds Cove officials are required to submit to Parks a monthly gross receipts report, a yearly income and expenses statement, and an annual summary of gross receipts. From April 2003 to September 2004, Hammonds Cove officials reported gross receipts totaling \$792,389 and paid license fees to the City totaling \$153,000, which included \$102,000 for the license period April 2003 to March 2004 and \$51,000 for the period April 2004 to September 2004.

Objectives

The objectives of this audit were to determine whether Hammonds Cove Marina, Inc., maintained adequate internal controls over the recording and reporting of gross receipts, properly calculated and paid all required license fees when due, and complied with other major terms of the License Agreement, such as required capital improvements, documentation, authorizations, and approvals.

Scope and Methodology

The scope period of this audit was April 2003 to September 2004. Because of the internal control weaknesses of the licensee that we uncovered during the course of this audit, we reviewed 100 percent of the available documentation at the marina.

To understand the terms of the License Agreement and to determine whether reporting and other requirements were met, we reviewed the marina's records maintained at Parks. These records included the License Agreement, gross receipts reports, license fees payments ledger, and other relevant documents. In addition, we reviewed all of the available records maintained by the licensee at the marina.

We also reviewed the records of the predecessor marina operator, Locust Point Marina, Inc., for the period October 2002 to March 2003, since we found that some fees collected by Hammonds Cove management were for services previously provided by Locust Point Marina, Inc.

To gain an understanding of the policies, procedures, and regulations governing the operation of the marina, we interviewed Hammonds Cove officials about the procedures for recording and reporting gross receipts, and performed several observations at the licensed premises. We also reviewed the New York City Comptroller's Internal Control and Accountability Directives 1 (Principle of Internal Controls), 11 (Cash Accountability and Control), and 24 (Agency Purchasing Procedures and Controls) as they related to the objectives of the audit.

To enable us to evaluate the internal controls over revenue, we documented our understanding of the marina's operation through flowcharts, narratives, and memoranda, and then analyzed them. Based on this analysis, we determined the areas that would require testing. We examined contracts, invoices, and other available documentation to determine whether the marina management charged boat owners the Park-approved rates for boat slips, land storage, and other services.

On September 15 and 21, 2004, we took an inventory of all boats in the water and on land to determine whether a rental agreement existed between each boat owner and the marina operator. We matched the list of these boats on the premises to the rental agreements and to a map provided by the marina's office manager that showed the slips assigned to each boat owner.

To determine whether Hammonds Cove management properly recorded the gross receipts collected, we compiled, for each month, the fees recorded in the cash receipt books and traced the amounts to the computer-generated invoices that documented services provided to each boat owner.

To determine whether all fees collected were deposited, we compared amounts shown on the computer-generated invoices and the manual cash receipts books to the bank statements and the bank deposit slips. To determine whether Hammonds Cove management accurately reported its gross receipts to Parks, we traced the amounts shown on the monthly reports of gross receipts sent to Parks to the marina's books and records.

In addition, to determine whether Hammonds Cove management paid the correct license fees, we requested Parks general ledger showing all payments received from the operation of the marina. We then compared license fees paid to Parks to the fees that we calculated based on the receipt books, invoices, and bank deposits.

We also determined whether Hammonds Cove management complied with the other terms and conditions of the agreement that we deemed to be key to the operation of the marina—i.e., whether it incurred the required capital improvement expenses, paid Parks the required design review fees and security deposit, carried the proper amounts and types of insurance, and paid its water and electricity bills.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with Parks and Hammonds Cove officials during and at the conclusion of this audit. A preliminary draft report was sent to Parks and Hammonds Cove officials on May 6, 2005, and was discussed at an exit conference held on May 18, 2005. On May 25, 2005, we submitted a draft report to Parks and Hammonds Cove officials with a request for comments. We received a written response from Parks and Hammonds Cove officials on June 9, 2005.

The report made 36 recommendations: 26 were addressed to Hammonds Cove and 10 were addressed to Parks.

In their response, Hammonds Cove officials agreed with 15 recommendations and disagreed with 11 recommendations; however, they intend to implement two of the 11 recommendations that they disagreed with. They further commented that “the period of time for the audit was our actual start-up period. As with any start-up there were periods of adjustment. We were continually making these adjustments and will continue.”

Parks officials agreed with eight of the 10 recommendations. In response to four recommendations, Parks officials have issued a letter of Notice to Cure to Hammonds Cove officials. Parks officials disagreed with two recommendations concerning capital improvements spending at the marina stating that they were no longer applicable since Hammonds Cove officials provided documentation to support the capital improvement expenditures to Parks after our exit conference.

The full text of the Parks and Hammonds Cove responses are included as addenda to this report.

FINDINGS AND RECOMMENDATIONS

Hammonds Cove management paid the license fees and design fees on time, maintained the required insurance policies, paid the correct security deposit, and kept the licensed premises clean. Management also paid its electric bill on time, but as of January 2005 had not received any water bills, although management had contacted the Department of Environmental Protection about this matter. However, Hammond Cove management violated a number of major provisions of its License Agreement with the City. Our review of the books and records maintained by Hammond Cove disclosed that they are inaccurate and incomplete. We found that Hammonds Cove has inadequate internal controls over the financial operations of the marina. Because of these weaknesses, there is no assurance that all gross receipts and fees collected at the marina were recorded, deposited at the bank, and reported to Parks.

Based on the available records, we determined that Hammonds Cove officials did not report \$359,295 in gross receipts to Parks for the operating period April 2003 to September 2004. As a result of this underreporting, Hammonds Cove management owes the City \$28,784 in license fees and late charges. Although outside the scope of the audit, we also noted that the licensee did not report \$173,060 in gross receipts under the temporary permit in place from October 2002 through March 2003 and therefore owes the City an additional \$24,681 in license fees and late charges.

We found that Hammonds Cove lacked adequate controls over the collecting, recording, and reporting of revenues generated from all sources, including sales from boats (new or used), boat storage, the snack bar, the bait and tackle shop, the ice machine, and the ship store. Therefore, we were unable to confirm with reasonable assurance that all gross receipts from the operation of the marina were recorded and that fees were collected and reported for all financial transactions that transpired at the marina. In addition, there were inadequate records to support the capital improvement expenditures. We could not verify whether the licensee expended the \$189,000 in capital improvements it asserted, which is \$11,000 below the minimum required in the License Agreement.

The weaknesses that we found are discussed in greater detail in the following sections of this report.

Hammonds Cove Management Violated Its License Agreement By Not Reporting All of Its Revenue to the City

Our review of the marina's records revealed that not all gross receipts were accounted for by Hammonds Cove management for all transactions that transpired at the marina. Consequently, we could not confirm that gross receipts reported to Parks included all fees charged and collected from the operation of the marina.

According to the License Agreement:

“Gross receipts shall include all sales made for cash or credit regardless of whether the sales are paid or uncollected . . . [and] all sums due to be received by

Licensee from all sources from the operation of this license shall be included in Gross Receipts.”

Under the License Agreement, Hammonds Cove management is required to pay the City the greater of either a minimum annual fee of \$102,000 in each of the first two years of the License Agreement or various percentages on revenues earned categorized by the type of service rendered.

Based on the available records, our calculation of the gross receipts generated since the inception of the agreement in April 2003 to September 2004 disclosed that Hammonds Cove management incorrectly reported gross receipts to Parks for boat storage, maintenance, and repair. In that regard, we found that they reported only \$739,414 (67.3%) of the estimated \$1,098,709 gross revenue for the period April 2003 to September 2004.

According to Hammonds Cove officials, gross receipts reported to Parks are compiled from manual cash receipt books. However, the figures in the manual receipt books did not match the gross receipts reported to Parks. We calculated the total receipts from invoices, manual receipt books, and bank records from April 2003 through September 2004. The gross receipts shown on the invoices were higher than the receipts shown in the receipt books. Moreover, the total bank deposits were higher than the total receipts recorded in the manual cash receipt books.

We estimated the gross receipts generated by the marina by adding the total dollar amount of invoices (\$958,559) to the total amount of cash receipts that had no corresponding invoices but were recorded in the cash receipt books (\$140,150). Our analysis of invoices, cash receipts, and bank statements from April 2003 to September 2004 indicated that Hammonds Cove management understated gross receipts that it reported to Parks by approximately \$359,295. As discussed throughout this report, we found that the marina’s internal controls were inadequate and that its books and records were incomplete. Therefore, we believe that these figures could very well be higher.

Consequently, Hammonds Cove management underpaid its license fees and as a result owes the City \$28,784 in additional license fees and late charges. Specifically, for the first operating year, April 2003 through March 2004, an additional \$19,281 in license fees and \$2,352 in late charges are due the City; and for the period April 2004 to September 2004, additional license fees of \$6,876 and late charges of \$275 are due the City.

Recommendations

Hammonds Cove officials should:

1. Pay the City the additional \$26,157 in license fees and \$2,627 in late charges due.

Hammonds Cove Response: “We do not agree as we feel all appropriate fees have been paid. When reviewing spreadsheets provided it seems that there are double bookings of sales. If as per the audit they are ‘booking’ our sales at time of invoice (specifically summer slips wet [i.e., slips in the water], the audit shows recorded sales of slips in October, November and December of the same year when no additional invoices have

been issued.” The Hammonds Cove accountant stated that “the Financial Accounting Standards Board (FASB) in statement of Financial Accounting Concepts # 5 says that ‘revenue is recognized when it is realized or realizable and it is earned’” and that “in the short year (April 04-Sept. 04) where the NYC auditor’s report refers to additional license fees due, you have no additional license fees due as you had not yet exceed the minimum annual fee for that operating year.”

Auditor Comment: According to the License Agreement: “Gross Receipts shall include sales made for cash or credit (credit sales shall be included in gross receipts as of the date of the sale) regardless of whether the sales are paid or uncollected, it being the distinct intention and agreement of the parties that all sums due to be included in Gross Receipts.” As stated in the report, for the periods April 2003 through March 2004 and April 2004 through September 2004, we calculated the gross receipts generated by the marina by adding the total dollar amount of invoices to the total amount of cash receipts that had no corresponding invoices but were recorded in the cash receipt books. Therefore, contrary to the assertions of Hammonds Cove officials, we did not double-count in our calculation of gross receipts.

Moreover, the License Agreement states, “If at any time Licensee’s additional minimum annual percentage fee for a particular Operating Year becomes applicable, Licensee shall thereafter for the remainder of such Operating Year pay the percentage fee on the thirtieth day of each succeeding month in such Operating Year.” Therefore, Hammonds Cove was required to determine every month during the Operating Year whether the additional minimum annual percentage fee was applicable, which it did not do. In that regard, Hammonds Cove underreported gross receipts from April 2004 through September 2004, the second operating year, and we determined that additional minimum annual percentage fee was applicable as the cumulative fees paid were less than annual percentage fees applied to gross receipts.

Parks should:

2. Issue a Notice to Cure requiring the payment of the additional \$26,157 license fees and \$2,627 in late charges due from Hammonds Cove management.

Parks Response: “Parks has issued a Notice To Cure to Hammonds Cove to satisfy Recommendation 1 . . . to pay the additional fees and penalties owed the City.”

Hammond Cove Has Inadequate Internal Controls over Its Operations

Lack of Internal Controls over the Marina’s Operations

Our review of the marina’s operations revealed a complete absence of internal controls over its financial operations. There were no controls in place to ensure that all gross receipts were accounted for, collected, and reported to Parks. In some instances, amounts found in the receipt books could not be traced to the invoices and to bank statements; bank deposits did not

match the cash receipt books. Also, Hammonds Cove management could not account for all invoices and work orders. Work orders, which list the services rendered to boats, could not be accounted for and traced to the invoices. Consequently, we could not confirm that gross receipts reported to Parks included all fees charged and collected for operations of the marina.

No Separation of Duties over the Financial Operation of the Marina

According to the License Agreement, the licensee “shall maintain adequate systems of internal controls.” Hammonds Cove officials did not fulfill their license obligation by failing to install basic internal control functions over the accounting, reporting, and cash receipts collection activities at the marina. There was no segregation of duties between the collection of cash receipts, the depositing of receipts in the marina bank account, and the recording, and reporting of marina transactions. Further, there was no supervisory oversight or monitoring of these functions. Because of the lack of controls over the financial operations, it appears that irregularities may have occurred.

In regard to the financial operation of the marina, the Office Manager handled all the accounting transactions, reporting, and revenue collection activities without any supervision or oversight by Hammonds Cove management. He signed the rental agreements with the boat owners, filled out the work orders for repairs and maintenance, generated invoices, collected fees, issued receipts, maintained custody of the marina’s office safe, made bank deposits, and had custody of all the marina’s records. Moreover, the Office Manager had a personal notebook in which he recorded financial activities at the marina. The book contained such information as the boat registration numbers, names of boat owners, boat size, and the reason a particular boat was on the premises. He also had an updated map, which showed the names of boat owners assigned to each slip. He subsequently left his employment at the marina and took with him the notebook and the map.

We were later informed by a Hammonds Cove official that the Office Manager had been fired because there were irregularities in the records that he had maintained. As a consequence of not implementing a proper system of internal controls over the financial activities of the marina, Hammonds Cove management allowed an environment where irregularities appear to have occurred. To be in compliance with the agreement, Hammonds Cove management must implement a proper system of internal controls, of which a basic control feature would be separation of duties between recording and reporting of accounting transactions and the collection and depositing of cash receipts. Hammonds Cove management must also consistently monitor the marina’s financial operations.

Management Could Not Account for All Invoices and Work Orders

The License Agreement requires that the licensee maintain complete and accurate records. However, we found that the marina’s records were incomplete or missing. In addition, work orders were not pre-numbered and therefore could not be matched to corresponding invoices in the automated record-keeping system.

Hammonds Cove maintains sequentially numbered invoices on an automated record-keeping system. We reviewed all the invoices in the system since the inception of the License

Agreement. We found that 119 (10%) of the 1,202 sequentially numbered invoices were not in the system. Hammonds Cove officials could not account for the missing invoices and had no explanation for their absence in the system. In addition, at the beginning of this audit, we received copies of 65 invoices with a total value of \$62,872 that were generated from the marina's automated record-keeping system. However, when we attempted to view these invoices, they were no longer present in the system. Since Hammonds Cove management could not provide an explanation for why the data were missing, we could not determine whether the invoices had been deliberately deleted or whether the automated record-keeping system had malfunctioned.

In addition, marina operators could not account for all revenue from the repair and maintenance done on boats for clients. When clients request repair and maintenance for their boats, the marina operator should issue a work order itemizing all the repair and maintenance services to be rendered and the charges for these services. This information should then be included on the client's invoice. We attempted to review work orders to determine whether the charges were recorded and accounted for on the invoices. However, work orders are not pre-numbered and are not labeled with any identifier to create a link between the invoices and work orders. Therefore, we could not determine whether all the services rendered to clients were recorded on the invoices, charged to clients, and collected. Consequently, we cannot be assured that all the gross receipts from boat repair and maintenance services were accurately reported to Parks.

Hammonds Cove officials have failed to put in place adequate internal controls to ensure accountability and complete and accurate records. In that regard, the internal controls weaknesses that we found were such that moneys could be misappropriated.

Lack of Financial Controls at the Snack Bar, the Bait and Tackle Shop, and Other Revenue Generating Operations

Our review of the marina's records showed that there is no accounting for gross receipts from snack bar operations. The Hammonds Cove official responsible for the snack bar does not keep the daily cash register tapes or record individual sales as required by the agreement.

Section 4.7 of the License Agreement stipulates that the "Licensee . . . shall maintain adequate systems of internal controls and shall keep complete and accurate records, books of account and data, including daily sales and receipts records."

Further, the Hammonds Cove official who manages the snack bar takes the cash receipts home each day instead of keeping them in the marina's safe, and deposits the receipts in a bank account that is separate from the marina's bank account. As a consequence, the receipts of the snack bar are commingled with other funds that are not generated from the operation of the snack bar or the marina. Moreover, according to bank records, in May and July 2003 Hammonds Cove officials deposited \$1,650 and \$2,000, respectively for snack bar sales, but reported zero snack bar receipts to Parks for May 2003 and reported only \$285 to Parks for July 2003.

This official does record daily sales on weekly activity reports, which is also required by Section 4.7 of the License Agreement. However, since the cash register tapes were discarded,

there are no supporting documents to substantiate the figures on the activity reports. Moreover, the figures on the activity reports do not match what is reported to Parks. In fact, in one instance, we received two copies of an activity report for the same week that showed different daily sales figures. As a result of the lacking documentation and inadequate internal controls, it is impossible to identify or calculate the exact amount of cash receipts generated by the snack bar. Therefore, it was impossible to confirm the accuracy of the gross receipts reported to Parks for snack bar operations.

In addition, Hammonds Cove management subcontracted the operation of the bait and tackle shop to another party without Parks' approval (a violation of the agreement, as discussed later), and did not ensure that there were adequate internal controls over the bait and tackle shop's operation. Specifically, the operator of the bait and tackle shop does not maintain any books and records of transactions at the shop. He does not keep the daily cash register tapes or record individual sales, as required. As a consequence, it is impossible to determine the exact amount of cash receipts generated at the bait and tackle shop that should be reported by Hammonds Cove management to Parks. Without adequate internal controls, Hammonds Cove management cannot be assured that all gross receipts generated by the operation of the bait and tackle shop are properly accounted for and reported.

Moreover, Hammonds Cove receives revenue from its ship store, ice machine, and parking fees. However, there is no record indicating how much revenue is received from these activities. An unsupported figure is shown on the gross receipts report for the ship store. However, there is no indication on the gross receipts report that revenues from the ice machine and parking fees are reported to Parks, since the miscellaneous category of the report does not provide any detail of the activities of the gross receipts shown under this category.

Inadequate Controls over Rental Agreements for Boats Stored at the Marina

Hammonds Cove management lacks controls to ensure that all boats stored at the marina are accounted for and are identifiable. When boat owners requested storage services, a rental agreement was not always generated, as required. In addition, since the rental agreements were not pre-numbered, we could not determine whether copies of the rental agreements we received included all the agreements issued by Hammonds Cove management during the scope period of the audit. Therefore, there is no assurance that Hammonds Cove management has recorded and reported the storage service fees for all boats in the marina.

We found that there are no controls in place to ensure that the boat owners for every boat in the marina can be identified. On September 15 and 21, 2004, we accompanied the marina's Office Manager and took an inventory of the boats on the marina premises, both in the water and on land. Of the 188 boats we observed at the marina, we could not find rental agreements for 25 (13 %) boats.

To identify the boats, we took note of the boats' registration numbers. We then attempted to match the boat registration numbers to the boat owners' rental agreements and to the invoices in the automated recordkeeping system. However, the marina maintains its files by the name of the boat owner; boat registration numbers are often not included in the rental agreements or are not noted on the invoices in the automated record-keeping system. Therefore,

it is difficult, if not impossible, to trace the boats docked at the marina to the boat owners and to the rental agreements and the invoices. Moreover, since the rental agreements are not pre-numbered, they are not linked to their corresponding invoices. Therefore, there is no evidence that these boat owners were charged for storage and other services rendered.

The Office Manager who was employed when we commenced fieldwork kept specific boat information in his personal notebook and maintained a map that showed the slips assigned to each boat. After he left the marina's employment, Hammonds Cove officials had a difficult time identifying the boat owners. In fact, they could not identify the owners for 72 boats from the boat registration numbers. They stated that when they see the boat—the size, color, or name of the boat—they generally can identify the boat owner. In general, we found that it was difficult for us and for Hammonds Cove officials to relate the boat owners to their boats because Hammonds Cove management executes rental agreements without recording the boat's registration number. In that regard, Hammonds Cove officials cannot always trace which boat is associated with which rental agreement, with its corresponding invoices, and with its work orders. Therefore, they cannot determine whether all services rendered are appropriately accounted for and billed to the boat owner.

Lack of a Reliable Accounts Receivable System

Hammonds Cove officials did not have any controls in place to ensure that unpaid fees for services provided to boat owners were accounted for properly. Prior to September 2004, Hammonds Cove officials did not maintain any accounts receivable records; they stated that their automated record-keeping system was not capable of generating a report of outstanding fees. Therefore, officials did not know how much money was owed to the marina without checking each individual account. As previously stated, Section 4.7 of the License Agreement requires the licensee to maintain appropriate books and records and adequate internal controls.

Our analysis of all 99 customers' accounts with outstanding balances revealed that Hammonds Cove officials were not aware of several delinquent accounts. As of September 30, 2004, fees of \$84,124, which had been charged to 99 customer accounts, remained uncollected. Some of these accounts had outstanding balances since August 2003.

Our analysis also disclosed that sometimes customers paid the initial \$500 deposit, signed the rental agreement, received the services, and then did not make any more payments on the account. We asked officials of Hammonds Cove how they determined the total amount of outstanding fees at a certain point in time and learned that they could determine what was due the marina only by reviewing all individual customer accounts. Their automated record-keeping system, at that time, lacked the capability to generate accounts receivable reports, and there was no other tracking system in place. After we pointed out the importance of an accounts-receivable system, officials purchased new software in December 2004 that is capable of generating reports listing accounts with overdue balances.

Recommendations

Hammonds Cove officials should:

3. Establish and implement internal controls over the financial operations of the marina. In that regard, Hammonds Cove should separate the duties of individuals who record and report accounting transactions from those who collect and deposit cash receipts. Hammonds Cove officials should also closely supervise and monitor the financial operations of the marina including the collection, recording, and reporting of gross receipts.

Hammonds Cove Response: “We agree though Internal controls were in place as of the time of the audit. An updated program was initiated, a new computer was purchased, the office manager cannot delete invoices, a separate individual makes deposits and balances the checkbook, only management can write checks, daily reports of revenue received are kept and checked daily by ownership and compared with receipts provided to the customer.”

Auditor Comment: During the audit, there were no controls in place in the financial operations of the marina. At the end of December 2004, after our audit scope period, Hammonds Cove officials purchased new computer software. We did not test the computer software since it was acquired after our audit scope period ended; therefore, we cannot attest to the adequacy of the controls built into the system.

4. Maintain the accounting records properly and accurately. This includes ensuring that all gross receipts are properly and accurately recorded; and that all cash receipts collected are recorded and deposited in the marina’s bank account.

Hammonds Cove Response: “We agree. As per the above we make every attempt to record revenue accurately and that all cash receipts are collected and recorded in the marina’s account.”

5. Report to Parks the gross receipts for all transactions that transpired at Hammonds Cove Marina.

Hammonds Cove Response: “We disagree as we do report all transactions to Parks Department.”

Auditor Comment: As stated in the report, our review of the marina’s operations revealed a complete absence of internal controls over its financial operations. There were no controls in place to ensure that all gross receipts were accounted for, collected, and reported to Parks. Consequently, we could not confirm that gross receipts reported to Parks included all fees charged and collected for the operations of the marina. In fact, at the exit conference, Hammonds Cove officials acknowledged that they did not know credit sales should be included in gross receipts.

6. Sequentially pre-number the work orders, which list the repairs and maintenance done on the boats. The pre-numbered work orders should be linked to the invoices to ensure that all work done on the boats are properly charged to the boat owners.

Hammonds Cove Response: “We agree and we have ordered sequentially numbered work order forms and they will be listed on the customer work order.”

7. Install controls in the automated recordkeeping system to ensure that all sequentially numbered invoices can be accounted for.

Hammonds Cove Response: “We agree the Office Manager can no longer make deletions in the invoices. At the end of the day Management enters all invoices and any changes are noted. At no time will an invoice be deleted. Any change will be noted on the invoice.”

8. Maintain a reliable system that can track payments due from customers.

Hammonds Cove Response: “We agree but as you have seen our upgraded system can track outstanding invoices not only to the level of the customer but to the length of time the invoice is outstanding. We are now running the outstanding invoices weekly.”

Auditor Comment: The upgraded computer system was installed at the end of December 2004, after our audit scope period; therefore, we did not test the reliability of the data in the system.

9. Ensure that the amounts shown on the invoices, bank statements, receipt books, and in the automated record-keeping system match, or reconcile and account for any differences.

Hammonds Cove Response: “We agree and we now have an individual who comes in weekly to balance out accounts.”

10. Ensure that the operators of the snack bar and bait and tackle shop maintain the cash register tapes, reconcile the sales on a daily basis, and record the daily receipts; also, ensure that the snack bar receipts are deposited in the marina’s bank account.

Hammonds Cove Response: “We disagree as we have always had appropriate daily tapes even to the point of weather conditions. The snack bar will deposit in the marina’s account. The auditor’s statement regarding deposits actually referred to personal monies being deposited to purchase equipment and supplies in the initial start up phase. . . .We will list the snack bars receipts in the invoice system as a customer on a weekly basis.”

Auditor Comment: As stated in the report, the operator of the snack bar did not keep daily cash register tapes. When we requested documentation to substantiate the daily receipts of the snack bar, Hammonds Cove officials provided weekly activity reports in which total daily sales amounts and the weather conditions are noted. However, none of

the sales amounts noted in these reports matched the amounts reported to Parks, nor could the sales amounts be traced to the bank statements.

11. Ensure that all rental agreements are pre-numbered and are signed by each boat owner.

Hammonds Cove Response: “We do not agree on the issue of prenumbered rental agreements as it is a somewhat more difficult item. The actual numbering is not the issue but to accurately record and track all would not be feasible.”

Auditor Comment: Boat storage through rental agreements accounts for the majority of gross receipts of the marina; therefore, it is in Hammonds Cove’s best interest to accurately track the rental agreements through the use of pre-numbered documents. Pre-numbered rental agreements would ensure better controls over the slips rented and account for all rental agreements. In this way, Hammonds Cove officials would be able to easily reconcile the rental agreements with the gross receipts at the end of the operating year.

12. Maintain a list of all boats stored at the marina by registration number or any other identifier to establish a link between each boat, the rental agreement, and the boat’s owner.

Hammonds Cove Response: “We disagree as we maintain a list of all boats in the marina. The list includes all available information such as boat, length, make model, registration if available, year, type of power and we are now attempting to get Vehicle Identification numbers as that is the only consistent number.”

Auditor Comment: As indicated by the Hammonds Cove officials’ response and that at the exit conference, they are attempting to get Vehicle Identification numbers for each boat. Therefore, it appears that they do agree with our recommendation that there is a need to have a unique identifier that will create a link between the boat, the boat owner, and the rental agreement.

Parks should:

13. Issue a Notice to Cure mandating that Hammonds Cove management establish and implement an adequate system of internal controls over the financial operations of the marina. In that regard, require Hammonds Cove management to separate the duties of individuals that record and report accounting transactions from those that collect and deposit cash receipts.

Parks Response: Parks issued a “[Notice to Cure] requiring payments and the implementation of corrective action to remedy the deficiencies noted in the audit report.”

14. Issue a Notice to Cure mandating that Hammonds Cove management maintain complete and accurate books and records for the operation of the marina, including the snack bar and the bait and tackle shop.

Parks Response: Parks issued a “[Notice to Cure] requiring payments and the implementation of corrective action to remedy the deficiencies noted in the audit report.”

Sales Tax Not Always Charged or Reported

Hammonds Cove officials are required to pay the City sales tax they collect on the revenue generated at the marina. However, they do not have adequate records or internal control procedures in place to account for all sales tax collected. We found that the marina operators underpaid the City sales taxes. The marina operators charged their clients a total of \$42,716 in sales tax from April 2003 to September 2004, but paid the City only \$21,703 (51%) of that amount. As a consequence Hammonds Cove management owes the City \$21,013 (\$42,716-\$21,703) in sales tax. Moreover, we found that the marina operators did not charge sales tax on \$58,736 of sales from April 2003 to September 2004. As a result, marina operators did not charge and collect \$5,066 in required sales tax.

According to New York State regulations, only “the charge for mooring (storing of boats in a slip) is not taxable.” Therefore, all other activities at the marina are subject to sales tax. Hammonds Cove officials do not maintain records that show the reconciliation between the amounts of sales tax charged, collected, and paid to the City.

Moreover, Section 4.5 (b) of the License Agreement stipulates: “Licensee shall indicate on its statement of Gross Receipts whether or not these amounts are inclusive of sales tax collected.” However, none of the gross receipts reports sent to Parks indicated whether or not sales tax was included in the figures. Hammonds Cove officials told us that some of the amounts included sales tax and some did not, but they could not identify which amounts on the gross receipts reports included sales tax and which did not. If Hammonds Cove officials cannot identify the sales tax portion of the gross receipts as reported to Parks, then Parks cannot accurately determine the actual amount of gross receipts by which to calculate fees due the City.

Noncompliance with the sales tax and reporting provision of the License Agreement is an indication that Parks is not properly monitoring the marina’s activities, since Parks should have raised questions of whether or not sales tax amounts were included in gross receipts reports provided by the marina operator.

Recommendations

Hammonds Cove officials should:

15. Submit the \$5,066 in sales tax they failed to collect and pay the City, and submit the remaining \$21,013 in sales tax they collected but did not pay the City.

Hammonds Cove Response: “We disagree as for the period in question the sales tax figure is on billed but not collected sales tax. . . . The period ending in September 2003 is actually processed in December 2004. We were not asked to provide that filing nor were we credited in their report for the December payment. . . . With respect to boat sales tax,

any boat registered must have paid sales tax. That check would be payable by the registrant to Department of Motor Vehicles.”

Auditor Comment: During the audit fieldwork through the exit conference, we requested any documentation from Hammonds Cove officials that would substantiate that all appropriate sales taxes were paid and a copy of any certificates of sales tax exemption they received from customers. Hammonds Cove officials provided no evidence to document that all sales taxes were paid. In fact, in the Hammonds Cove response, officials indicated that they had made sales tax payments amounting to \$28,203, but they did not provide documentation to substantiate this amount.

16. Ensure that all future sales taxes due the City are collected, accurately calculated, and paid.

Hammonds Cove Response: “We agree and will track, collect and pay accurately.”

Parks should:

17. Issue a Notice to Cure requiring Hammonds Cove management to pay the \$5,066 and \$21,013 in sales taxes owed.

Parks Response: Parks issued a “[Notice to Cure] requiring payments and the implementation of corrective action to remedy the deficiencies noted in the audit report.”

Inadequate Collection Practices

Hammonds Cove officials did not monitor or collect outstanding fees of \$84,124 from 99 overdue accounts. According to Hammonds Cove officials, when customers do not pay their fees, a lien is placed on their boats. If these customers continue not to pay the balances due, their boats are eventually sold. However, in calendar year 2004, only nine (9% of the 99 accounts with outstanding balances) accounts had liens. It was only after we brought this issue of delinquency to the licensee’s attention that a list of 10 overdue accounts was sent to a collection agency in November 2004.

Moreover, there were instances in which customers had outstanding balances but continued to receive services. For example, one customer had unpaid fees totaling \$4,383 as of December 23, 2003. He was subsequently billed \$244 on July 19, 2004, \$467 on August 17, 2004, and \$1,217 on January 1, 2005, for additional services provided, bringing the customer’s outstanding balance to \$6,311. Even though this customer’s account was delinquent since October 2003, his name did not appear on the list containing the names of 10 customers that was sent to a collection agency.

The License Agreement states that “gross receipts shall not include uncollected sales debts known to be bad.” The unpaid fees we noted should not be classified as bad debt to offset gross receipts, because Hammonds Cove officials did not make the necessary effort to collect these fees prior to September 2004. In addition, as stated in the License Agreement, “Licensee

shall provide to DPR [Parks] documentation of its efforts to collect such bad debts.” In this case, documentation to substantiate the efforts to collect these outstanding fees was not provided to Parks.

Recommendations

Hammonds Cove officials should:

18. Maintain accurate records of outstanding fees.

Hammonds Cove Response: “We disagree as we maintain accurate records of outstanding fees.”

Auditor Comment: During the audit fieldwork, Hammonds Cove officials did not maintain records of outstanding fees. As stated previously, an upgraded computer system was installed in December 2004 after our scope period had ended; therefore, we did not test the reliability of the data in the system.

Moreover, to prevent the marina from paying license fees on gross receipts because of bad debts or uncollectible accounts, the License Agreement allows Hammonds Cove to deduct “uncollected sales debts known to be bad” as long as it provides to Parks documentation of its efforts to collect such debts.

19. Make a legitimate effort to collect all outstanding fees and maintain the appropriate documentation of all efforts made to collect these fees, as required.

Hammonds Cove Response: “We agree and do make legitimate efforts to collect.”

Rates and Fees Charged Not Approved by Parks

Hammonds Cove officials did not seek or receive the Parks Commissioner’s approval for fee or rate changes after the inception of the License Agreement. The License Agreement requires that Hammonds Cove officials submit a “schedule of the coming operating year concerning the days and hours and proposed schedules of fees and rates for services and products” for the Parks Commissioner’s approval. Although we found that a schedule was submitted to Parks during the initial year of the operation of the marina by Hammonds Cove management, subsequent schedules containing rate changes were not submitted to Parks for approval, as required by the agreement. In addition, the rates listed for the marina’s activities on its Web site and on the back of the contracts for winterizing boats are different from the rates approved by Parks.

Moreover, Hammonds Cove officials charged different rates for the same service and sometimes rates different from its price list and the Parks-approved price list, which is in violation of the License Agreement. Examples of different pricing for the same service are: the approved rate for summer “wet” storage (storage in the water) is \$85 per foot (of the boat), but the marina operators charged rates of \$80, \$75, or even \$70; and the approved rate for summer

and winter “dry” storage (storage on land) is \$40 per foot, but marina operators charged customers rates of \$35, \$30, or even \$27. The net effect of overcharging and undercharging customers for storage services was that the marina operator did not collect or report to Parks \$12,749 in gross receipts from April 2003 to September 2004.

We asked Hammond Cove officials for documentation indicating that the Parks Commissioner approved these changes in rates, but the marina operator could provide no such evidence.

Recommendations

Hammonds Cove officials should:

20. Submit to Parks the schedule of each year’s days and hours of operation and the proposed schedules of rates for services and products, as required.

Hammonds Cove Response: “We agree and we have submitted seasonally the schedule as required. As explained to the auditors previously the fees noted are \$85.00 per foot summer only, \$80.00 per foot summer if you agree to winter storage. Winter storage only \$45.00 per foot, combined summer and winter is \$40.00 per foot winter, Bayside or city owned marinas are given priority at \$35.00 per foot.”

Auditor Comment: As stated in the report, the schedules of rates was not submitted to, or received, by Parks, for its approval.

21. Charge Parks-approved rates for services and submit any subsequent proposed rate changes to the Parks Commissioner for approval, as required.

Hammonds Cove Response: “We agree and we are in the process of sending the most recent schedule of rates to the Parks for approval.”

Parks Response: “[Hammonds Cove Marina] officials did not seek or receive Parks’ approval for fee or rate changes after the inception of the License Agreement. To comply with Recommendations 20 and 21 [Hammond Cove Marina] must submit, for Parks’ approval, a schedule of its days and hours of operation and a proposed schedule of rates for services and products.”

Inadequate Documentation and Monitoring of Capital Improvements

Hammonds Cove management was required to make capital improvements of at least \$200,000, according to the License Agreement. In addition, the Parks Commissioner was to determine the cost of capital improvements based upon documentation provided by Hammonds Cove. Hammonds Cove officials stated that they estimated that \$189,000 was spent on capital improvements at the marina. However, they could not provide any documentation to substantiate the \$189,000 they claimed was expended, and the documentation they gave to us was incomplete and could not support this figure. As a consequence, we could not determine the amount

Hammonds Cove management spent on the capital improvements required by the License Agreement. Further, Parks cannot be sure that Hammonds Cove spent the \$200,000 minimum required by the agreement, since it was not provided proper documentation to substantiate any amounts expended.

The License Agreement states, “In the event licensee spends less than \$200,000, the difference has to be remitted to the City within 30 days following the Commissioner’s determination of Final Completion.”

Hammonds Cove management did not maintain any accounts payable records to record the amounts shown on invoices received from vendors that performed the work, and the marina’s files did not include all invoices. In one case, we requested an invoice from Hammonds Cove management to authenticate the validity of a transaction for a vendor’s work valued at \$22,748, but the marina’s operator never provided it to us. Check stubs that show payments made to vendors were maintained, but these stubs do not include information about the detailed transactions for which the payments were disbursed.

Parks did not closely monitor the capital improvements made by Hammonds Cove at the marina or issue, as required in the License Agreement, any certification to indicate that specific capital improvements were completed. In fact, Parks was unaware that a project that was supposed to have been completed in November 2003 was still in progress as of September 2004.

According to the License Agreement, three months after the certification of final completion, the licensee should give a certified statement detailing the actual cost of construction. We found no evidence that Parks issued a certificate or that Hammonds Cove provided a certified statement of the actual construction costs to Parks.

As a consequence, Parks cannot know how much was spent on capital improvements made to the marina. In that regard, Parks is also unable to determine whether Hammonds Cove should remit additional moneys to the City, in the case that any or all of the required capital improvements to the marina were not completed.

Recommendations

Hammonds Cove officials should:

22. Maintain complete and accurate records to support all capital improvement expenditures and accurately report these expenditures to Parks according to the terms of the License Agreement.

Hammonds Cove Response: “We disagree with respect to Capital construction as we did provide to the auditors a file with our cost to date. We also ask that the auditors recognize that we were not required to finish our Capital program until the third year. That would explain why we did not receive the completion statement nor had we completed the total capital expenditure.” [Sic]

Auditor Comment: During our fieldwork, Hammonds Cove officials did not maintain complete and accurate records to support any capital improvement expenditures. Records provided to us did not substantiate the amount of expenditures they contend was spent on capital improvements. During the exit conference, Hammonds Cove officials acknowledged that they focused on completing the construction work and not the tracking of costs of such improvements.

Furthermore, during our fieldwork, we requested from Parks documentation to support capital improvement expenditures incurred by Hammonds Cove. Parks did not provide any documentation.

23. Pay at least \$11,000 to Parks representing the amount of self-reported capital improvements that it did not complete at the marina.

Hammonds Cove Response: “We do not agree as we feel we are well beyond the required capital expenditure.”

Parks Response: Parks stated, “To date [Hammonds Cove Marina] has submitted and Parks Revenue Division has verified that at least \$214 thousand of capital work has been completed at the marina.”

Auditor Comment: While conducting fieldwork, we observed that improvements had been made at the marina. However, Hammonds Cove officials were unable to provide us with accurate and complete records of their capital improvement expenditures. In fact, they could give only an estimate of total capital expenditures incurred, which they asserted was \$189,000. At the exit conference Hammonds Cove officials did not provide us any documentation to support the amount of capital improvement expenditures. Moreover, at the exit conference, Parks officials also stated that they did not receive any documentation to support these expenditures. However, in their later written response, Parks officials stated that they “received and verified that at least \$214 thousand of capital work has been completed at the marina.” We question why Hammonds Cove officials did not provide us the documents they gave to Parks after the exit conference. Without such documentation we remain unable to verify the amount of capital improvement expenditures Hammonds Cove claims that it incurred at the marina.

24. Ensure that all vendors’ invoices are recorded in the accounting system to enable the marina to maintain an Accounts Payable ledger.

Hammonds Cove Response: “We agree and we will enter all Vendors invoices into the accounting system.”

Parks should:

25. Issue a Notice of Cure to recover at least \$11,000 of uncompleted capital improvements.

Parks Response: “Parks has verified that at least \$214 thousand of capital work has been completed at the marina. Therefore no payment recovery for uncompleted work is owed.”

26. Issue a Notice of Cure requiring Hammonds Cove management to substantiate its estimate of \$189,000 in completed capital improvements.

Parks Response: “Parks has verified, at least \$214 thousand of documentation to substantiate the capital work completed at the marina.”

Auditor Comment: As previously stated, we were never furnished with the documents Hammonds Cove officials provided to Parks subsequent to the exit conference. We repeatedly requested additional substantive documentation from Hammonds Cove officials that documented the amount of capital improvement expenditures they claim to have completed at the marina, but they did not provide any. We question why Parks officials would choose to accept documentation validating the marina’s capital improvement expenditures at this time when there was no substantive evidence available until after the exit conference. Moreover, we question why Parks officials did not share this evidence with us to allow us to verify the accuracy and completeness of the documentation or insisted that Hammonds Cove officials share this information with us.

27. Inspect the capital improvements purportedly undertaken and completed at the marina so that it can determine whether the licensee expended the \$200,000 required in the License Agreement and, if applicable, assess the licensee for any differences between the \$200,000 and the amount spent that was below the required amount.

Parks Response: Parks stated, “Since the inception of the license, Parks’ Revenue Division Architect has inspected the marina to ensure that the required capital construction has been completed. The architectural inspections and documentation submitted to Parks verified that [Hammonds Cove Marina] has exceeded the \$200,000 capital commitment required by the license. A certificate of completion will be issued to [Hammonds Cove Marina] after April 2006, the final scheduled date for completion of all capital work.”

Auditor Comment: During audit fieldwork, Parks provided documentation that they had inspected the marina in June 2004. However, Parks’ inspection could not have “verified” the amount of capital improvement expenditures at the marina since no substantive documentation was available to them at that time. In fact, at the exit conference, Parks officials stated that they had not received any documentation to support these expenditures.

During our audit fieldwork we observed capital improvement work still in process at the marina, some of which should have been completed, according to the License Agreement. Parks provided us with documentation indicating that they had inspected the marina in June 2004. In this documentation, they specified the status of capital improvement work conducted at the marina that was required by the License Agreement.

In one case they noted as “completed” capital improvement work for “decorative roofing and decking to be installed” that was supposed to have been completed in November 2003. However, Hammonds Cove officials provided us with documents indicating that capital improvement work of the decorative roofing was still in process as of September 2004.

Failure to Seek Approval from Parks when Required

Hammonds Cove officials did not seek the required approval of the Parks Commissioner before incorporating the snack bar as a separate entity with its own tax ID and bank account and before subcontracting the operation of the bait and tackle shop to another party. As a result of not seeking the Commissioner’s approval, the licensee entered into agreements that violated the terms of the License Agreement.

According to Hammonds Cove officials, there was no contract signed for the snack bar because it is operated by one of the partners of Hammonds Cove management. When we mentioned the status of the snack bar to Parks officials, they said that the snack bar is part of the marina and should not be treated as a separate entity. We conveyed this information to the licensee who explained that the snack bar had been separated because the previous partner did not want to have anything to do with it.

The agreement between Hammonds Cove officials and the operator of the bait and tackle shop, although signed by both parties, was never reviewed and approved by the Parks Commissioner. Therefore, it is not known whether the fee structure cited in the agreement between Hammonds Cove officials and the bait and tackle shop operator would have been approved by the Commissioner, as required by the License Agreement.

Recommendations

Hammonds Cove officials should:

28. Discontinue operating the snack bar as a separate entity from the licensed premises.

Hammonds Cove Response: “We agree and we have spoken to Parks regarding the operation of the snack bar and will make all deposits into a marina account. The existing books were open to the auditors we will also as stated previously close the snack bar account and merge with the marina.”

29. Submit to the Parks Commissioner, for his approval, the current agreement with the bait and tackle shop operator and ensure that prior approval of the Parks Commissioner is obtained before entering into any subcontracting agreement with another vendor.

Hammonds Cove Response: “We agree though Parks has a copy of the agreement with the bait shop. Please also understand that the agreement is with a 67 year old retiree who

operates it as more of a social club than a business entity. Regardless we have register tapes, we list the sales in miscellaneous.”

Parks Response: “A sublicense agreement covering the bait and tackle shop operation should be submitted to this office for legal review and approval.”

Auditor Comment: Parks did not have a copy of the bait and tackle shop sublicense agreement.

Noncompliance with Documentation Requirements

Hammonds Cove management did not provide all the documents needed to enable Parks to verify that the marina was operating properly, that gross receipts were accurately reported, and that the capital expenditure requirement had been met. However, Parks did not request them.

A summary report of gross receipts should be provided to Parks within 30 days after the end of each operating year. The purpose of this report was to show whether or not additional license fees were due the City. Because Hammonds Cove officials never prepared this report, and because Parks never requested it, Parks could not determine if additional annual license fees were due the City.

The License Agreement also requires an annual submission to Parks of a “detailed accounting of the recovery of capital and profits including an accounting of the total capital and profits to be recovered, the net balance of capital and profits remaining to be recovered, the cumulative amount recovered by Licensee since the inception of the contract, the amount recovered by Licensee in the current year, signed and verified by an officer of licensee.” However, Hammonds Cove management never submitted this document to Parks.

Additionally, Hammonds Cove officials were initially unaware that an annual Income and Expense Statement was supposed to be prepared and submitted to Parks, as required in the License Agreement. After we brought this matter to the licensee’s attention, the first statement was sent to Parks in October 2004, seven months after the end of the licensee’s operating year (April 2003 through March 2004) and six months after the date required in the License Agreement.

Recommendations

Hammonds Cove officials should:

30. Ensure that all required documents, such as the summary report of gross receipts and the annual Income and Expense Statement are provided to Parks, as required in the License Agreement.

Hammonds Cove Response: “We agree and we will provide the reports as required.”

Parks should:

31. Be diligent in obtaining all documentation required from the licensee according to the License Agreement in order to provide the appropriate level of oversight that is required of this concession.

Parks Response: “Parks will continue to ‘Notice’ [Hammonds Cove Marina] to remedy any license violations and will ensure that all required documentation is received. [Hammonds Cove Marina’s] operation will be monitored very closely.”

32. Charge the concessionaires penalties for not maintaining records as required by the License Agreement.

Parks Response: “Parks will strictly enforce Article 4.8 of [Hammonds Cove Marina’s] license agreement which imposes a charge of \$500 with respect to each incident of breach of Section 4/1 through 4.7.”

Prohibited Equipment Stored at the Marina

According to the License Agreement, “Rental or operation of jet skis or any other personal watercraft is strictly prohibited.” However, during our observation of the marina on September 15, 2004, we noted that a jet ski was stored in slip number 58B.

Recommendation

Hammonds Cove officials should:

33. Ensure that personal watercrafts are not stored in the licensed premises, in accordance with the License Agreement.

Hammonds Cove Response: “We agree and the personal watercraft will be removed. Please note that the vessel in question is owned by the Commodore of the Stepping Stone Yacht Club and has been in the marina for the previous five years before our arrival.”

Other Issues

Hammonds Cove Management Underreported Gross Receipts When Operating the Marina as Locust Point Marina, Inc.

Hammonds Cove management received \$173,060 in fees for services rendered for boat storage, maintenance, and repair at the marina when it was operated under Locust Point Marina, Inc. We determined that Hammonds Cove management, operating as Locust Point Marina, Inc., never reported these fees in gross receipts to Parks. Consequently, Hammonds Cove management underreported license fees. For the period October 2002 to March 2003, the current

licensee, operating then as Locust Point Marina, Inc., owes additional license fees of \$17,885 and late charges of \$6,796.

Recommendations

Hammonds Cove officials should:

34. Pay the City the additional \$17,885 in license fees and \$6,796 in late charges due related to Locust Point marina.

Hammonds Cove Response: “We disagree with respect to the temporary contract we feel that the flat rate fee of 15% should not be implemented on those contracts booked for summer '04 as they were listed in the monthly revenue for '03 to '04 as the payments were received. Again we feel this becomes a double booking. The full amount of the invoice is listed in the temporary contract as per the auditors report and then again as individual payments accruing during the summer season of 03.”

Auditor Comment: In our calculations of gross receipts we considered only sales billed and cash received that were not billed. Therefore, any sales booked (recorded) is considered only once in our calculation of gross receipts. Hammonds Cove commingled its gross receipts under both License Agreements. Payments made during the temporary agreement to book slips for Hammonds Cove Marina were reported in the books of Locust Point Marina, and payments made on slips rented during the temporary License Agreement were made after March 2003, when the current License Agreement became effective.

Hammonds Cove officials did not maintain complete and accurate records during the period they operated the marina under the temporary License Agreement or, as previously stated, under the current License Agreement. In that regard, they did not account for all gross receipts generated when they operated the marina under Locust Point Marina or now as Hammonds Cove Marina. Therefore, as stated in the License Agreement, “the failure . . . to keep the required records or to maintain adequate internal controls shall authorize Parks or the Comptroller to make reasonable projections of the amount of Gross Receipts.”

Parks should:

35. Issue a Notice to Cure requiring the payment of the additional \$17,885 license fees and \$6,796 in late charges due from Hammonds Cove management when they were operating as Locust Point Marina, Inc.

Parks Response: Parks issued a “[Notice To Cure] requiring payments and the implementation of corrective action to remedy the deficiencies noted in the audit report.”

Not All Boats Stored and Serviced at the Marina Were Registered with the New York State Department of Motor Vehicles

Based on our observations of boats at the marina and according to Hammonds Cove management not all boats stored or serviced at the marina had registration numbers. However, New York State law requires that boats be registered with the Department of Motor Vehicles (DMV). The law states, “If you operate the boat in NYS, you must register the boat with DMV. . . . You must paint or attach the registration number to each side of the bow of the boat.” To ensure compliance with the law, Hammonds Cove management should require registration numbers for boats when executing rental agreements for all the boats docked, stored, and serviced at the marina.

Recommendation

Hammonds Cove officials should:

36. Dock, store, and service only those boats that have a New York State registration number.

Hammonds Cove Response: “We disagree as not all vessels require such registration such as documented vessels, certain sailboats etc. We include as much information as possible such as model, year, type of power, size, insurance certificate, registration and vehicle identification number. The VIN number is the same as that of a car and is unique to that particular boat.”

Auditor Comment: As New York State law requires, Hammonds Cove officials should ensure that boats docked at Hammonds Cove marina have DMV registration numbers. In addition, Hammonds Cove rental agreement states, “All boats shall display a valid registration.”



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10021

Joanne G. Imohiosen
Assistant Commissioner
Revenue

(212) 360-3404
joanne.imohiosen@parks.nyc.gov

June 8, 2005

BY FAX AND MAIL

Mr. Greg Brooks
Deputy Comptroller
The City of New York
Office of the Comptroller
Executive Offices
1 Centre Street
New York, NY 10007

**Re: Comptroller's Draft Audit Report on Hammonds Cove Marina, Inc.
April 2, 2003 to September 30, 2004 No. MG05-096A, Dated May 25, 2005**

Dear Mr. Brooks:

This letter represents the Parks Department's ("Parks"), response to the recommendations contained in the subject audit of Hammonds Cove Marina, Inc. ("HCM").

Parks has issued the attached "Notice To Cure" ("NTC") to HCM requesting that HCM:

- Satisfy **Recommendations 1 and 34** by paying \$53,465 in additional fees and late charges;
- Implement internal control and record keeping **Recommendations 3,4,5,6,7,8,9,10, 11 and 12;**
- Pay the outstanding sales tax balance and remit the proper amended return under **Recommendations 15 and 16.** The audit noted that HCM's "Noncompliance with the sales tax and reporting provision of the License Agreement is an indication that Parks is not properly monitoring the marina's activities, since Parks should have raised questions of whether or not sales tax amounts were included in gross receipts reports provided by the marina operator." Amounts reported to Parks often do not state whether sales tax has been excluded. In those cases the numbers are recorded

Greg Brooks
June 8, 2005
Page 2

by Parks as net of sales tax. The result of including sales tax in total sales would be a percentage rent overpayment to the City. It is a basic provision of Parks permits and licenses, as well as a known and fundamental business practice of Parks concessionaires, that sales tax is excludable when reporting income to Parks. To imply that Parks could have somehow detected that HCM had not paid its sales tax by questioning whether or not HCM's reported gross receipts excluded sales tax is unfair. The tax underpayment finding and negligent collection practices could only have been disclosed through an audit examination of HCM's books and records. It most certainly does not represent any improper monitoring by Parks;

- Take appropriate action to improve its collection practices and maintain more accurate records of outstanding fees, **Recommendations 18 and 19**;
- Comply with **Recommendations 20 and 21** by submitting a schedule of HCM's days and hours of operation and a proposed schedule of rates for services and products to Parks for approval;
- Implement appropriate accounting procedures to comply with **Recommendation 24**;
- Take appropriate action to comply with **Recommendations 28 and 29**, including the submission of the sublicense agreement covering the bait and tackle shop operation to Parks for legal review and approval;
- Observe the reporting requirement of Section 4.6 of its license agreement, **Recommendation 30**;
- Take immediate action to comply with **Recommendation 33**; and
- Require registration numbers for boats when executing rental agreements for all New York State boats docked, stored and serviced at the marina, **Recommendation 36**.

The remaining recommendations state that Parks should:

- For **Recommendations 2,13,14,17, and 35**, issue a NTC requiring payments and the implementation of corrective action to remedy the deficiencies noted in the audit report.

The attached NTC represents the action taken in response to these requests.

- **Recommendation 25.** Issue a NTC to recover at least \$11,000 of uncompleted capital improvements.

As indicated in the NTC to HCM, Parks has received and verified that at least \$214 thousand of capital work has been completed at the marina. Therefore no payment recovery for uncompleted work is owed and **Recommendation 23** requiring HCM to pay \$11,000 does not apply.

Greg Brooks
June 8, 2005
Page 3

- **Recommendation 26.** Issue a NTC requiring HCM management to substantiate its estimate of \$189,000 in completed capital improvements.

As stated under Recommendation 25 above, HCM has submitted and Parks has verified, at least \$214 thousand of documentation to substantiate the capital work completed at the marina. Therefore, HCM already has complied with **Recommendation 22** ("HCM officials should maintain complete and accurate records to support all capital improvement expenditures and accurately report these expenditures to Parks according to the terms of the License Agreement"), and Recommendation 26 no longer applies.

- **Recommendation 27.** Inspect the capital improvements purportedly undertaken and completed at the marina so that it can determine whether the licensee expended the \$200,000 required in the License Agreement and, if applicable, assess the licensee for any differences between the \$200,000 and the amount spent that was below the required amount.

Since the inception of the license Parks' Revenue Division Architect has inspected the marina to ensure that the required capital construction has been completed. The architectural inspections and documentation submitted to Parks verified that HCM has exceeded the \$200,000 capital commitment required by the license. A certificate of completion will be issued to HCM after April 2006, the final scheduled date for completion of all required capital work.

- **Recommendation 31.** Be diligent in obtaining all documentation required from the licensee according to the License Agreement in order to provide the appropriate level of oversight that is required of this concession.

Parks will continue to "Notice" HCM to remedy any license violations and will ensure that all required documentation is received. HCM's operation will be monitored very closely.

- **Recommendation 32.** Charge the concessionaires penalties for not maintaining records as required by the License Agreement.

Parks will strictly enforce Article 4.8 of HCM's license agreement which imposes a charge of \$500 with respect to each incident of breach of Sections 4/1 through 4.7.

Greg Brooks
June 8, 2005
Page 4

We wish to thank the Comptroller's audit staff for their work and efforts in performing this review.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joanne Imohiosen".

Joanne Imohiosen

cc: Alessandro Olivieri
David Stark
Francisco Carlos
Susan Kupferman, Mayor's Office of Operations



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10021

Joanne G. Imohiosen
Assistant Commissioner
Revenue

(212) 360-3404
joanne.imohiosen@parks.nyc.gov

June 8, 2005

BY FAX AND MAIL

Ms. Theresa Dambinskas
President
Hammonds Cove Marina, Inc.
140 Reynolds Avenue
Bronx, NY 10465

Re: NOTICE TO CURE

**Comptroller's Draft Audit Report on Hammonds Cove Marina, Inc.
April 2, 2003 to September 30, 2004 No. MG05-096A, Dated May 25, 2005**

Dear Ms. Dambinskas:

This letter addresses the findings and recommendations contained in the subject draft audit report on Hammonds Cove Marina, Inc. ("HCM"). Generally, the Comptroller's audit disclosed that HCM management has violated a number of major provisions in its agreement with the City. The audit revealed that HCM's books and records were inaccurate and incomplete and it had inadequate internal controls over the financial operations of the marina. Furthermore the report stated that there was no segregation of duties and little or no oversight by management to ensure that all gross receipts and fees collected were accounted for and reported to the Parks Department ("Parks").

As a result HCM underreported its Gross Receipts to Parks by \$359,295 covering the audit period, and by \$173,060 under a temporary permit in place from October 2002 through March 2003, and therefore owes the City a total of \$53,465 in additional license fees and late charges. The audit examination revealed that HCM lacked adequate controls over the collecting, recording, and reporting of revenues generated from all sources, including sales from boats, boat storage, and the snack bar. Therefore the auditors were unable to confirm with reasonable assurance that all gross receipts from the operation of the marina were recorded and that fees were collected and reported for all financial transactions at the marina. In addition, the audit concluded that HCM did not

Theresa Dambinskas
June 8, 2005
Page 2

fully comply with the capital improvement requirements of its license. However, Parks records indicate that HCM has completed at least \$214 thousand of capital improvements. This subject will be addressed further below, as well as in Parks response to the Comptroller.

Specifically, the audit report requires that HCM officials should:

Recommendation 1. Pay the City the additional \$26,157 in license fees and \$2,627 in late charges due.

Recommendation 34. Pay the City the additional \$17,885 in license fees and \$6,796 in late charges due related to Locust Point marina.

The Comptroller's report disclosed that HCM understated gross revenue reported to Parks by a total of \$532,355 covering the audit period and from October 2002 to March 2003 when HCM operated the facility as Locust Point Marina, Inc. As a result the auditors calculated that HCM owed the City additional fees totaling \$44,042 plus \$9,423 in late charges. The total additional amount owed is \$53,465. As discussed at the audit exit conference, a major contributing factor to the underreported sales resulted from HCM only including income actually received rather than the total amount of its sales. Article 2.1(d)(iv) of HCM's license agreement requires that, "Gross Receipts shall include sales made for cash or credit (credit sales shall be included in gross receipts as of the **date of the sale**) regardless of whether the sales are paid or uncollected . . ." HCM's failure to comply with the Gross Receipts provision of the license substantially contributed to its sales underreporting. HCM is afforded thirty (30) days from the date of this letter to remit a check for \$53,465 to resolve the outstanding balance.

Recommendation 3. Establish and implement internal controls over the financial operations of the marina. In that regard, separate the duties of individuals who record and report accounting transactions from those who collect and deposit cash receipts. HCM officials should also closely supervise and monitor the financial operations of the marina including the collection, recording, and reporting of gross receipts.

Recommendation 4. Maintain the accounting records properly and accurately. This includes ensuring that all gross receipts are properly and accurately recorded; and that all cash receipts collected are recorded and deposited in the marina's bank account.

Recommendation 5. Report to Parks the gross receipts for all transactions that transpired at HCM.

Recommendation 6. Sequentially pre-number the work orders, which list the repairs and maintenance done on the boats. The pre-numbered work orders should be linked to the invoices to ensure that all work done on the boats are properly charged to the boat owners.

Theresa Dambinskas
June 8, 2005
Page 3

Recommendation 7. Install controls in the automated record keeping system to ensure that all sequentially numbered invoices can be accounted for.

Recommendation 8. Maintain a reliable system that can track payments due from customers.

Recommendation 9. Ensure that the amounts shown on the invoices, bank statements, receipt books, and in the automated record keeping system match, or reconcile and account for any differences.

Recommendation 10. Ensure that the operators of the snack bar and bait and tackle shop maintain the cash register tapes, reconcile the sales on a daily basis, and record the daily receipts; also, ensure that the snack bar receipts are deposited in the marina's bank account.

Recommendation 11. Ensure that all rental agreements are pre-numbered and are signed by each boat owner.

Recommendation 12. Maintain a list of all boats stored at the marina by registration number or any other identifier to establish a link between each boat, the rental agreement and the boat's owner.

The audit review disclosed that there was a complete absence of internal controls over the financial operations at HCM. The serious deficiencies noted in the audit report must be corrected through HCM's implementation of the above internal control and record keeping recommendations. At the exit conference HCM officials indicated that procedures will be implemented to comply with the above recommendations. To ensure that HCM has implemented the internal control and record keeping recommendations cited above, by copy of this letter to Francisco Carlos, Parks' Internal Auditor, I am requesting that he schedule a follow-up examination of HCM in three months. Failure of HCM to implement the corrective action recommended in the audit report will result in the termination of its license.

Recommendation 15. Submit the \$5,066 in sales tax they failed to collect and pay the City, and submit the remaining \$21,013 in sales tax they collected but did not pay the City.

Recommendation 16. Ensure that all future sales taxes due the City are collected, accurately calculated, and paid.

The audit found that HCM either failed to collect or did not pay \$26,079 in City sales tax. HCM must resolve this balance by remitting the unpaid sales tax debt identified in the report. During his follow-up review Mr. Carlos should verify that HCM has filed a proper amended sales tax return and paid the delinquent balance.

Theresa Dambinskas
June 8, 2005
Page 4

Recommendation 18. Maintain accurate records of outstanding fees.

Recommendation 19. Make a legitimate effort to collect all outstanding fees and maintain the appropriate documentation of all efforts made to collect these fees, as required.

The audit report stated that HCM officials did not monitor or collect outstanding fees of \$84,124 from 99 overdue accounts. HCM was inconsistent in its practice of placing liens against the boats of delinquent customers and also, continued to provide services to customers with past due account balances. The audit report notes that the unpaid fees cited above should not be classified as bad debts to offset gross receipts, because HCM officials did not make the necessary effort to collect these fees prior to September 2004. Furthermore, HCM did not provide any documentation to substantiate its efforts to collect these outstanding fees. HCM must take appropriate action to improve its collection practices and maintain more accurate records of outstanding fees. This item will be reviewed in Mr. Carlos' follow-up examination.

Recommendation 20. Submit to Parks the schedule of each year's days and hours of operation and the proposed schedules of rates for services and products, as required.

Recommendation 21. Charge Parks-approved rates for services and submit any subsequent proposed rate changes to the Parks Commissioner for approval, as required.

HCM officials did not seek or receive Parks' approval for fee or rate changes after the inception of the License Agreement. To comply with Recommendations 20 and 21 HCM must submit, for Parks' approval, a schedule of its days and hours of operation and a proposed schedule of rates for services and products to Charles Kloth, Assistant Director of Revenue, at this office.

Recommendation 22. Maintain complete and accurate records to support all capital improvement expenditures and accurately report these expenditures to Parks according to the terms of the License Agreement.

Recommendation 23. Pay at least \$11,000 to Parks representing the amount of self-reported capital improvements that it did not complete at the marina.

Recommendation 24. Ensure that all vendors' invoices are recorded in the accounting system to enable the marina to maintain an Accounts Payable ledger.

HCM management was required to make capital improvements of at least \$200,000. To date HCM has submitted and Parks' Revenue Division has verified that at least \$214 thousand of capital work has been completed. Also, Parks' Revenue Division

Theresa Dambinskas
June 8, 2005
Page 5

Architect has performed several inspections since the commencement of the license to ensure that the required construction has been completed. A certificate of completion will be issued to HCM after April 2006, the final scheduled date for completion of Landscaping improvements. Parks will cover Recommendations 22 and 23 in its audit response to the Comptroller. However, HCM should implement appropriate accounting procedures to comply with Recommendation 24.

Recommendation 28. Discontinue operating the snack bar as a separate entity from the licensed premises.

Recommendation 29. Submit to the Parks Commissioner, for his approval, the current agreement with the bait and tackle shop operator and ensure that prior approval of the Parks Commissioner is obtained before entering into any subcontracting agreement with another vendor.

HCM did not seek Parks approval before incorporating the snack bar as a separate entity with its own tax ID and bank account and before subcontracting the operation of the bait and tackle shop to another party. HCM should take the appropriate actions to comply with Recommendations 28 and 29. A sublicense agreement covering the bait and tackle shop operation should be submitted to this office for legal review and approval.

Recommendation 30. Ensure that all required documents, such as the summary report of gross receipts and the annual Income and Expense Statement are provided to Parks, as required in the License Agreement.

HCM should comply with this recommendation by observing the requirements of Section 4.6 of its license agreement. The reporting provision states that, "On or before the thirtieth day following each Operating Year, Licensee shall submit to Parks an income and expense statement pertaining to operations under this License, signed and verified by an officer of Licensee. Additionally, on or before the thirtieth day following each Operating Year, Licensee shall submit to Parks a detailed accounting of the recovery of capital and profits pertaining to section 4.1, including an accounting of the total capital and profits to be recovered, the net balances of capital and profits remaining to be recovered, the cumulative amount recovered by Licensee since the inception of the contract, and the amount recovered by Licensee in the current year, signed and verified by an officer of Licensee."

Theresa Dambinskas
June 8, 2005
Page 6

Recommendation 33. Ensure that personal watercrafts are not stored in the licensed premises, in accordance with the License Agreement.

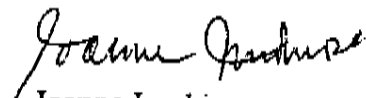
The auditors noted that HCM had stored a Jet Ski on its premises in violation of the license agreement. HCM should take immediate action to comply with Recommendation 33. HCM's observance of this requirement will be verified in the follow-up examination.

Recommendation 36. Dock, store, and service only those boats that have a New York State registration number.

The audit report noted that not all boats stored or serviced at the marina had registration numbers. However, New York State law requires that boats be registered with the Department of Motor Vehicles. To ensure compliance with the law, HCM management should require registration numbers for boats when executing rental agreements for all New York State boats docked, stored, and serviced at the marina.

DPR anticipates HCM's full and prompt cooperation in addressing the serious deficiencies in the audit report as noted above and in implementing the above stated recommendations.

Sincerely,


Joanne Imohiosen

cc: F. Carlos
D. Stark
M. Feinstein
C. Kloth
R. Yukelis

NEW YORK CITY
COMPTROLLER'S OFFICE

2005 JUN 13 P 4:31

Hammonds Cove Marina

Audit Report Response

With respect to the audit report of May 25, 2005 we strongly contest the findings for the following reasons:

1. License fee and late fees. –We do not agree as we feel all appropriate fees have been paid. When reviewing spreadsheets provided it seems that there are double bookings of sales. If as per the audit they are “booking” our sales at time of invoice (specifically summer slips wet), the audit shows recorded sales of slips in October, November and December of the same year when no additional invoices have been issued. Please also see attached Accountants response as to definitions etc.
2. We do not agree please refer to above.
3. We agree though Internal controls were in place as of the time of the audit. An updated program was initiated, a new computer was purchased, the office manager cannot delete invoices, a separate individual makes deposits and balances the checkbook, only management can write checks, daily reports of revenue received are kept and checked daily by ownership and compared with receipts provided to the customer.
4. We agree As per the above we make every attempt to record revenue accurately and that all cash receipts are collected and recorded in the marinas account.
5. We disagree as we do report all transactions to the parks Department
6. We agree and we have ordered sequentially numbered work order forms and they will be listed on the customers work order.
7. We agree the Office Manager can no longer make deletions in the invoices. At the end of the day Management enters all invoices and any changes are noted. At no time will an invoice be deleted. Any change will be noted on the invoice.
8. We agree but as you have seen our upgraded system can track outstanding invoices not only to the level of the customer but to the length of time the invoice is outstanding. We are now running the outstanding invoices weekly.
9. We agree and we now have an individual who comes in weekly to balance out accounts.
10. We disagree as we have always had appropriate daily tapes even to the point of weather conditions. The snack bar will deposit in the marinas account. The auditor’s statement regarding deposits actually referred to personal monies being

deposited to purchase equipment and supplies in the initial start up phase. The snack bar did not open until August of 2003 the sales reported at that time were for ice and vending machine soda. We will list the snack bars receipts in the invoice system as a customer on a weekly basis

11. We do not agree on the issue of prenumbered rental agreements as it is a somewhat more difficult item. The actual numbering is not the issue but to accurately record and track all would not be feasible. We mail out approximately 500 plus winter contracts and three hundred summers. We have a return rate of less than fifty percent and the customers continually lose their copies. The actual count could be slips to signed contracts for summer and boats on site to signed contracts for winter.
12. We disagree as we maintain a list of all boats in the marina. The list includes all available information such as boat, length, make model, registration if available, year, type of power and we are now attempting to get Vehicle Identification numbers as that is the only consistent number.
13. Refers to Parks Department
14. Refers to Parks Department
15. We disagree as for the period in question the sales tax figure is on billed but not collected sales tax. We however booked as each collection is made and separated the tax portion and deducted from gross receipts. The period ending in September 2003 is actually processed in December 2004. We were not asked to provide that filing nor were we credited in their report for the December payment. Our contention is that we are being double billed for sales tax with respect to gross revenues as listed in Item #1. With respect to boat sales tax, any boat registered must have paid sales tax. That check would be payable by the registrant to Department of Motor Vehicles
16. We agree and will track, collect and pay accurately
17. Refer to Parks Department
18. We disagree as we maintain accurate records of outstanding fees. Part of the marine business unfortunately includes those individuals who for whatever reason abandon their vessels. At times judgment calls are made as to when to lien a boat. The auditors failed to mention that this was a method of last resort. We first attempt to call, then write, then registered mail, send to a collection agency and then finally lien. The last two parts, credit and lien are cost prohibitive and time consuming. The process lasts over four months after which we are generally left with a vessel of little or no value which then forces us to dispose of for an

additional \$400.. The lien company charges a fee of \$200.00 while the credit/collection agency has a fee of from 15% to 18%.

19. We agree and do make legitimate efforts to collect
20. We agree and we have submitted seasonally the schedule as required. As explained to the auditors previously the fees noted are \$85.00 per foot summer only, \$80.00 per foot summer if you agree to winter storage. Winter storage only \$45.00 per foot, combined summer and winter is \$40.00 per foot winter, Bayside or city owned marinas are given priority at \$35.00 per foot. There is also a \$70.00 per foot charge for summer land storage with launching. There have been times when an individual has kept their boat for less than a full season. When this occurs the fee is prorated with a 10% surcharge to discourage such occurrences.
21. We agree and we are in the process of sending the most recent schedule of rates to the Parks for approval
22. We disagree with respect to Capital construction as we did provide to the auditors a file with our costs to date. We also ask that the auditors recognize that we were not required to finish our Capital program until the third year. That would explain why we did not receive the completion statement nor had we completed the total capital expenditure. We have also verified with Parks over \$200,000.00 of Capital costs to date and that number will continue to grow. The Parks Department has continually monitored our work and sent memorandum and approvals throughout the Capital program.
23. We do not agree as we feel we are well beyond the required capital expenditure.
24. We agree and we will enter all Vendors invoices into the accounting system
25. Refers to Parks Department
26. Refers to Parks Department
27. Refers to Parks Department
28. We agree and we have spoken to Parks regarding the operation of the snack bar and will make all deposits into a marina account. The existing books were open to the auditors we will also as stated previously close the snack bar account and merge with the marina.
29. We agree though the Parks has a copy of the agreement with the bait shop. Please also understand that the agreement is with a 67 year old retiree who operates it as

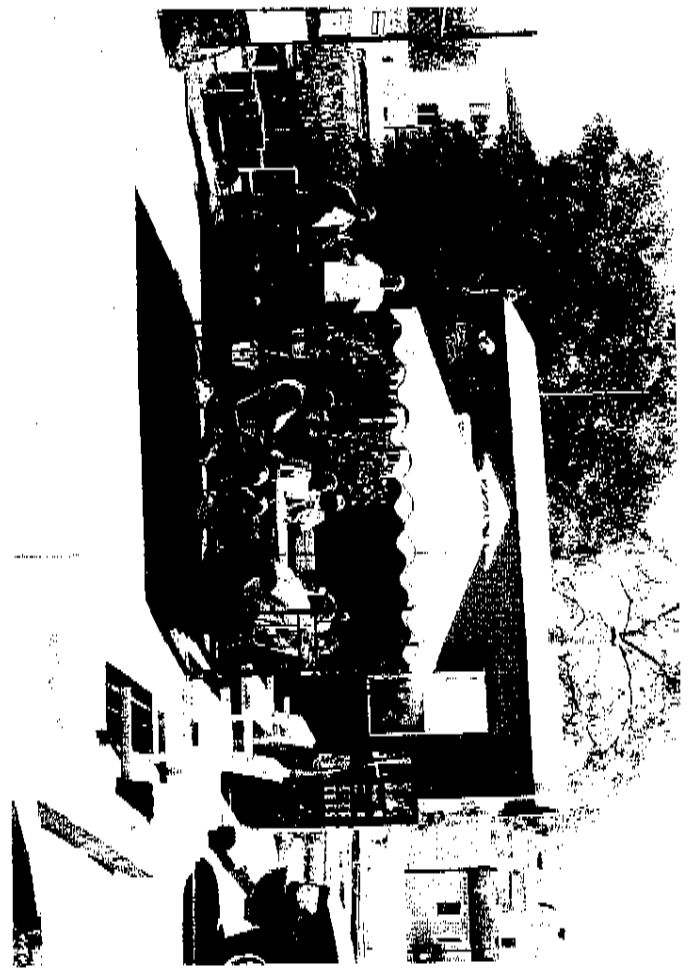
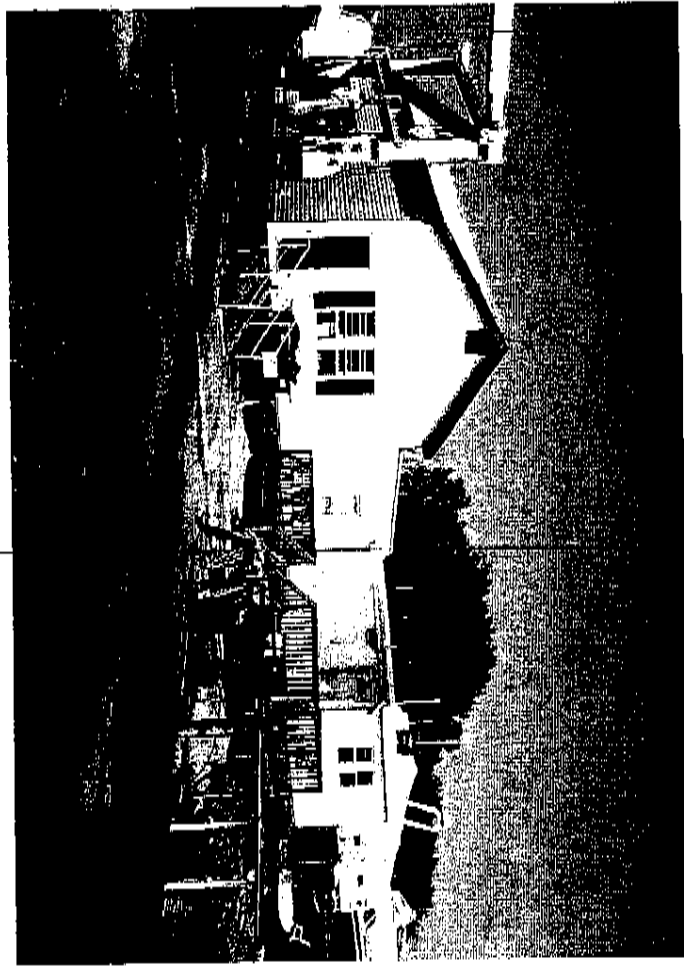
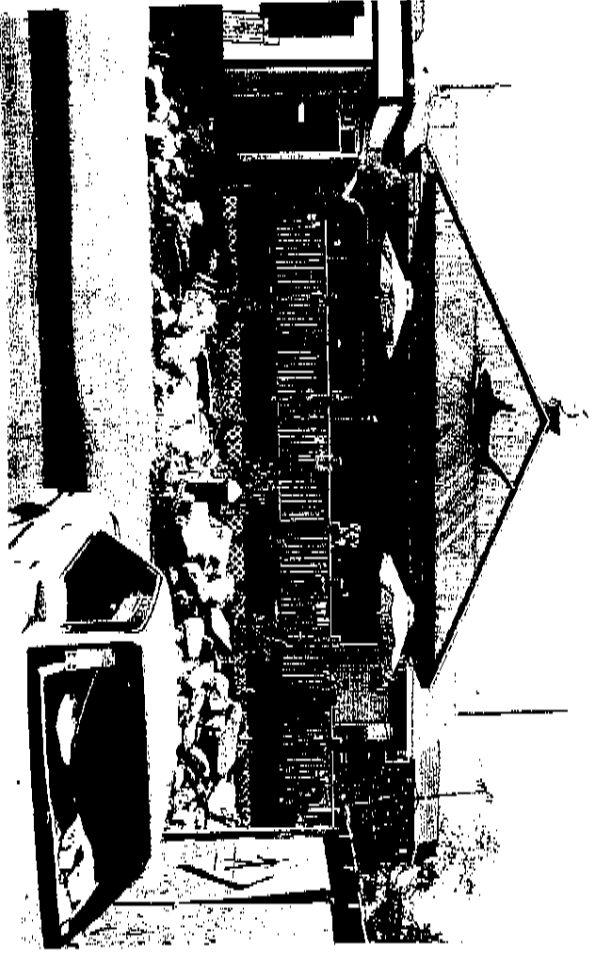
more of a social club than a business entity. Regardless we have register tapes, we list the sales in miscellaneous and taxes where appropriate are paid. Please note that "bait," is not taxable. The shop will be listed as a "customer", in the system

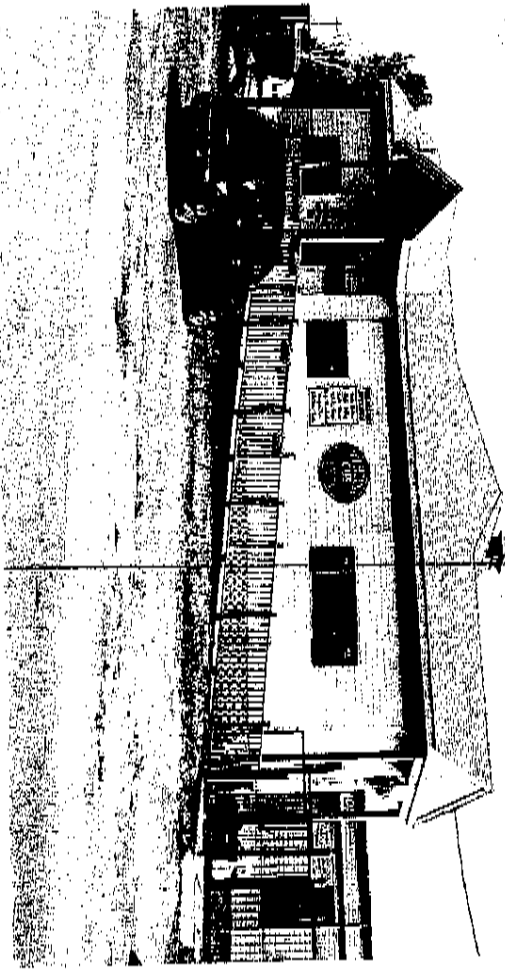
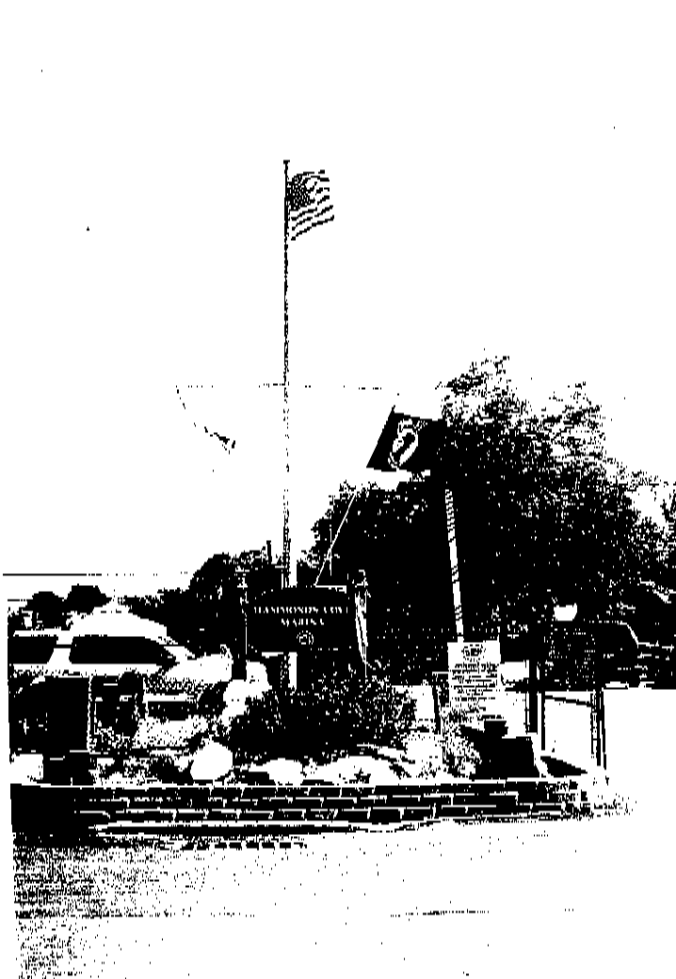
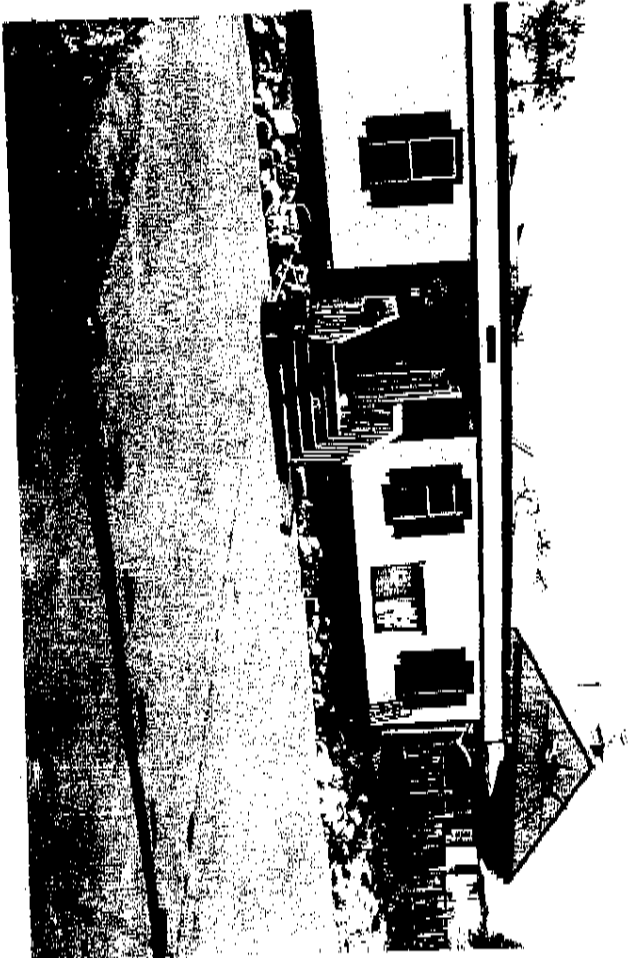
30. We agree and we will provide the reports as required.
31. Refers to Parks Department
32. Refers to the Parks Department
33. We agree and the personal watercraft will be removed. Please note that the vessel in question. is owned by the Commodore of the Stepping Stone Yacht Club and has been in the marina for the previous five years before our arrival.
34. We disagree with respect to the temporary contract we feel that the flat rate fee of 15% should not be implemented on those contracts booked for the summer of '04 as they were listed in the monthly revenue for '03 to '04 as the payments were received. Again, we feel that this becomes a double booking. The full amount of the invoice is listed in the temporary contract as per the auditors report and then again as individual payments occurring during the summer season of '03
35. Refers to Parks
- 36 We disagree as not all vessels require such registration such as documented vessels, certain sailboats etc. We include as much information as possible such as model, year, type of power, size, insurance certificate, registration and vehicle identification number. The VIN number is the same as that of a car and is unique to that particular boat.

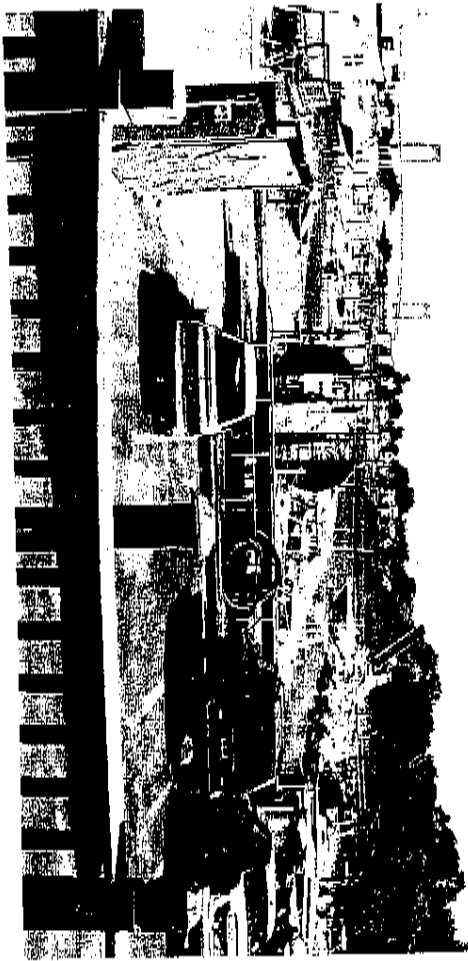
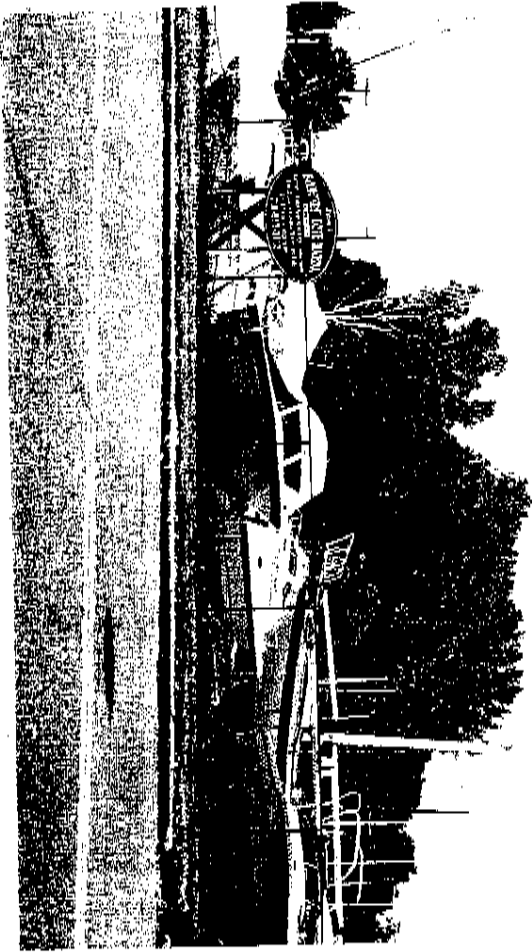
In the opening of paragraphs of the audit mention is made that we had all required licenses, insurances etc .we feel that this paragraph does not fully outline what was actually accomplished. Some of the more broad items were Boat dealership, certified tow operators, captain's license, and certified pest applicators, Fire Marshall, welding certificate and manufacturers certifications. In addition as shown in the attached photographs we would like to note the following:

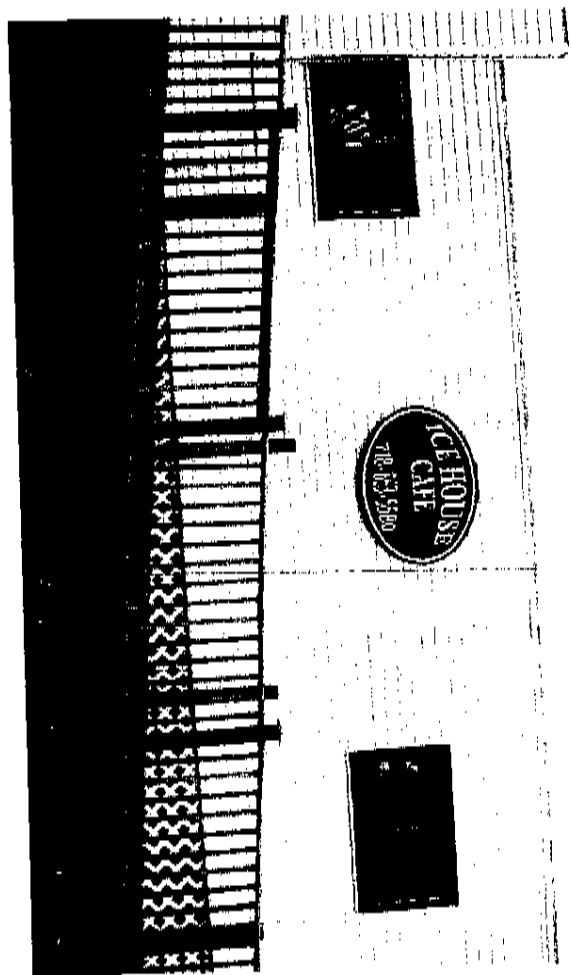
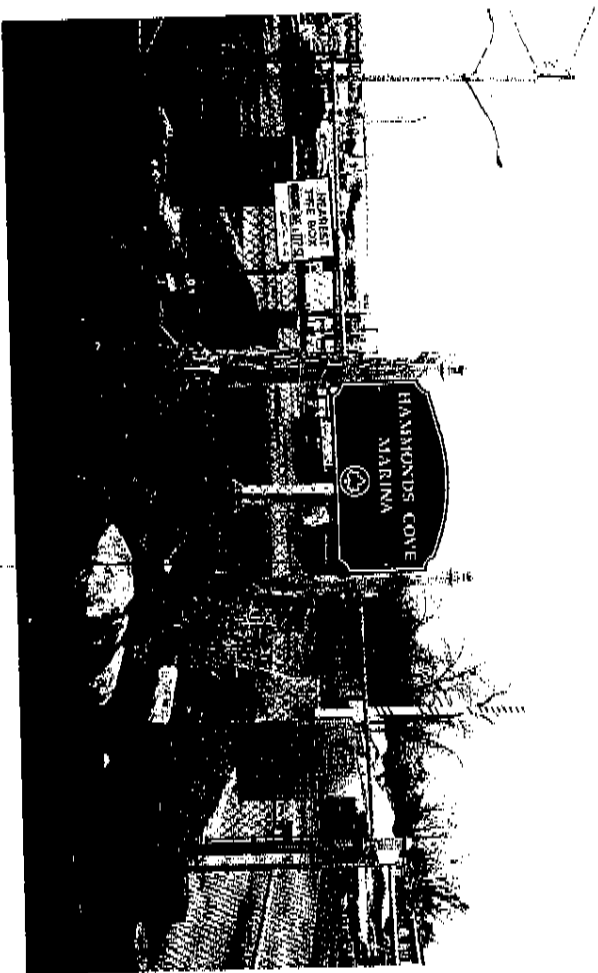
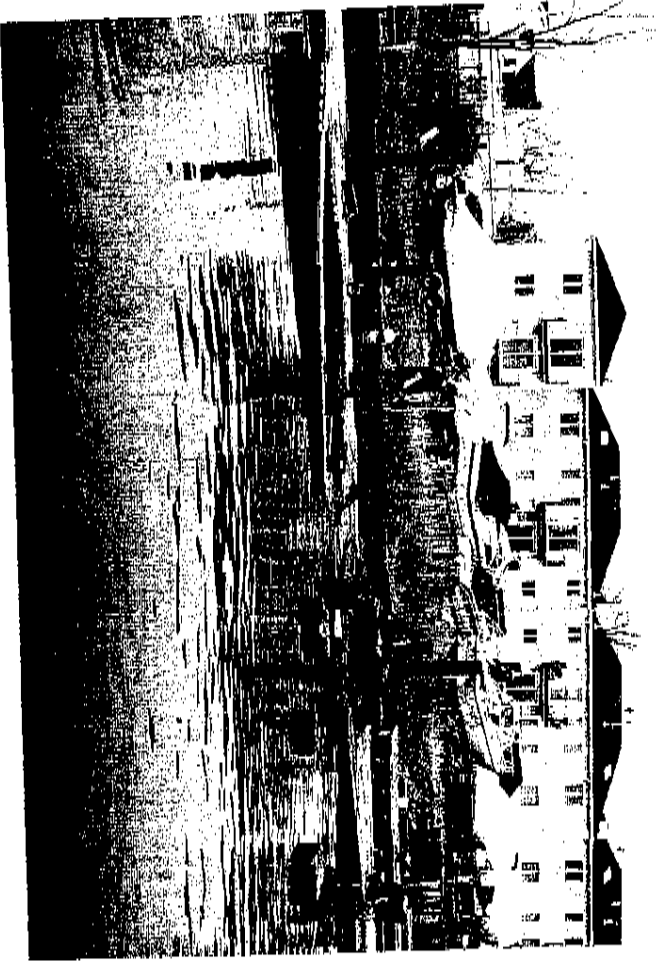
- The site was poorly maintained for a number of years
- The site had been closed for a full year with the former operator leaving before the end of their agreement.
- There were no utilities
- The docks were in disrepair
- There was no moving equipment on site for boat transport
- There were no functioning bathrooms, offices or mechanics shops

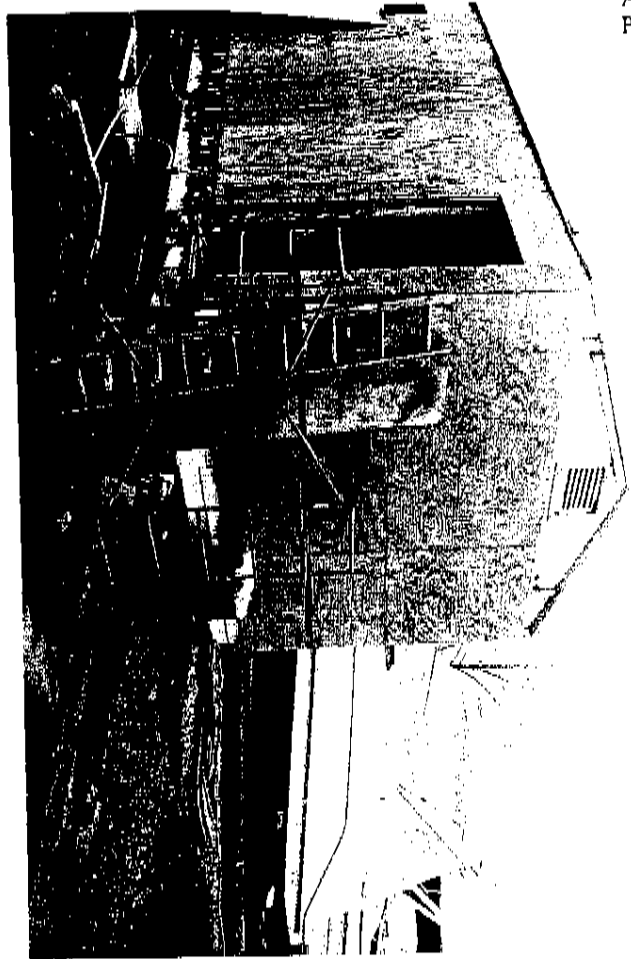
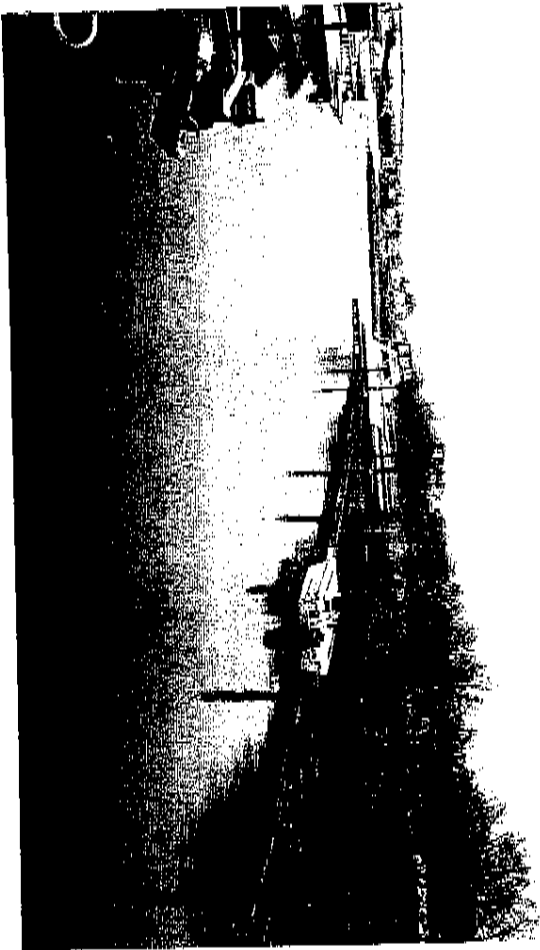
We also had a very aggressive Capital Program involving the replacement of utilities, new bathrooms, offices, snack bar, paving, and landscaping. The period of time for the audit was our actual start-up period. As with any start-up there were periods of adjustment. We were continually making these adjustments and will continue. We managed to provide the Parks Department with a revenue stream, the boating community with a safe, secure, family oriented environment and with the snack bar an outlet for the non-boating public to utilize the waterfront in an era where other avenues are being closed off to the public.

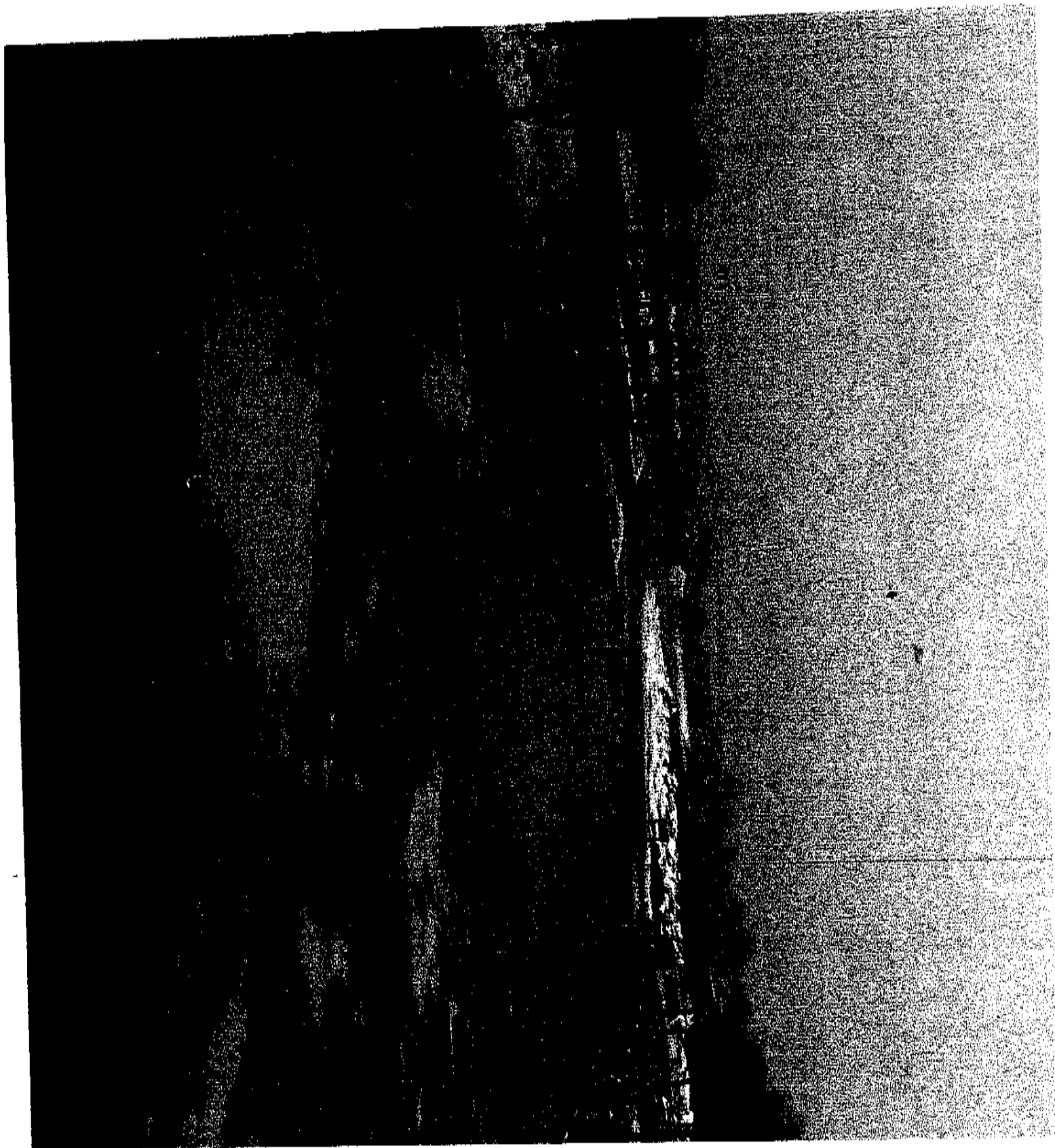












Lewand Zryd Associates, CPA's PC

Certified Public Accountants

1650 Sycamore Avenue

Suite 15

Bohemia, New York 11716

Gerard P. Lewand, CPA
Stephan Zryd, CPA

(631) 589-8080
FAX (631) 589-8185

June 9, 2005

Justin,

I have reviewed your lease with the NYC Department of Parks and have determined the following:

In part 2.1 IV, the lease says ... credit sales shall be included in gross receipts as of the date of sale.

The Financial Accounting Standards Board (FASB) in Statement of Financial Accounting Concepts # 5 says that "revenue is recognized when it is realized or realizable and it is earned". In accordance with this principle :

- 1) Revenue from services rendered is recognized when services have been performed and are billable.
- 2) Revenue from permitting others to use enterprise assets is recognized as time passes.

Therefore the fact that you may sign a contract in March for a slip to be leased beginning in May does not create a sale in March and should not be included in your March Revenue report to the Department of Parks.

In part 4.2, the lease says ... the minimum annual fee shall be paid to the City in equal monthly installments in accordance with the "Schedule of Minimum Annual Fee Payments". If at any time the licensee's additional minimum annual percentage fee for a particular operating year becomes applicable, licensee shall thereafter pay the percentage fee in such operating year.

The percentage fee basis does not become effective until such time that the fiscal year to date percentage fees have exceeded the minimum annual fee for that operating year.

Therefore, in the short year (April 04 - Sept. 04) where the NYC auditor's report refers to additional license fees due, you have no additional license fees due as you had not yet exceeded the minimum annual fee for that operating year.

In regards to your Sales Tax remitted to NY State be aware of the following:

For the first four periods, I was your accountant and have the full information, for those periods after that I only have partial information.

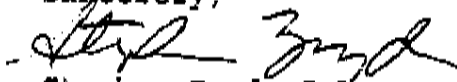
Period	Sales Tax Reported	NYS Vendor Credit	Amount Remitted
9/04 - 11/04	\$ 6311.06	\$ 108.84	\$ 6202.22 (a)
6/04 - 8/04	4093.91	70.61	4023.30
3/04 - 5/04	3889.81	67.08	3822.73
12/03 - 2/04	5390.74	92.97	5297.77

9/03 - 11/03		(e)	8857.35
6/03 - 8/03		(e)	unknown (b)
3/03 - 5/03		(e)	unknown (c)
12/02 - 2/03		(e)	unknown (d)
9/02 - 11/02		(e)	2548.48

- (a) As the auditors included Sept. 04 in their report, I have included the quarterly figures for this period.
- (b) The payment for this period would have been mailed on or about 9/20/03. Please review your bank records for amount.
- (c) Same as (b) except the payment date is 6/20/03.
- (d) Same as (b) except the payment date is 3/20/03.
- (e) NY State issues a vendor credit to the taxpayer based on taxable sales, which when added to the Sales Tax remitted will give you the total Sales Tax reported to NY State.

We have received no notices from NY State that we are delinquent in any quarterly Sales Tax return filings. The total Sales Tax remitted (from what I know) is already higher than what the auditors showed in their report. When we get the information on the unknown periods, our totals should be comparable to the that report.

Sincerely,


Stephan Zryd, C.P.A.