

# AUDIT REPORT

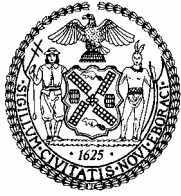


CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
BUREAU OF FINANCIAL AUDIT  
**WILLIAM C. THOMPSON, JR., COMPTROLLER**

## **Audit Report on the Compliance of Brooklyn Baseball Company, L.L.C., (Brooklyn Cyclones) with Their Lease Agreement January 1, 2003–October 31, 2004**

*FM05-080A*

**January 27, 2006**



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 responsibilities of the Comptroller contained in Chapter 5, § 93, of the New York City Charter, my office has audited the compliance of Brooklyn Baseball Company, L.L.C. (Brooklyn Cyclones) with the terms of its lease agreement with the New York City Department of Parks and Recreation.

Under the provisions of the agreement, the Brooklyn Cyclones are required to pay the City fees based on reported gross revenue for the exclusive use of Keyspan Park, located on Surf Avenue in Brooklyn. We audit concessions such as this to ensure that private concerns under contract with the City comply with the terms of their agreements, properly report revenue, and pay all fees due the City.

The results of our audit, which are presented in this report, have been discussed with Brooklyn Cyclones and Parks Department officials, and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

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](mailto:audit@Comptroller.nyc.gov) or telephone my office at 212-669-3747.

Very truly yours,

William C. Thompson, Jr.

WCT/fh

**Report: FM05-080A**  
**Filed: January 27, 2006**

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

**Audit Report on the Compliance of Brooklyn Baseball  
Company, L.L.C., (Brooklyn Cyclones)  
With Their Lease Agreement  
January 1, 2003–October 31, 2004**

**FM05-080A**

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**AUDIT REPORT IN BRIEF**

The audit determined whether Brooklyn Baseball Company, L.L.C. (BBC) paid the City the rent due in accordance with the lease agreement provisions, submitted the reports required under the lease agreement, maintained the required insurance, reimbursed the City for electricity use, paid the City for water and sewer use, made the required capital sinking fund contributions, and implemented the recommendations made in our prior audit, *Audit Report on the Compliance of Brooklyn Baseball Company, L.L.C., (the Cyclones) with Their Lease Agreement*, FN03-111A, issued June 27, 2003.

On June 1, 2001, BBC, owner of the Brooklyn Cyclones, and the New York City Department of Parks and Recreation (Parks) entered into a 20-year lease agreement commencing on June 15, 2001. The lease, which is monitored by Parks, grants BBC the exclusive right to use KeySpan Park on Surf Avenue in Brooklyn. The lease requires that BBC pay rent to the City based on game attendance, team store rent, special event net income, advertising, Surf Avenue retail area. The lease also requires that BBC deposit \$25,000 each year into a sinking fund that permits Parks to perform capital work projects at the stadium.

**Audit Findings and Conclusions**

For the audit period, January 1, 2003, through October 31, 2004, BBC maintained the required property and liability insurance that named the City as additional insured parties, and it contributed the required \$50,000 into a sinking fund. In addition, BBC paid the amount required for water and sewer charges, and reimbursed the City for electricity use.

However, BBC continues to violate its lease agreement by reporting attendance based on ticket counts rather than turnstile counts, a finding of the 2003 audit. For the 2003 and 2004 baseball seasons, BBC reported actual attendance of 140,717 and 143,472 respectively, instead of 144,214 and 144,622. It should be noted, however, that even if these amounts had been

reported, BBC would not have reached the attendance threshold of 145,001 attendees at which additional base rent becomes due.

In addition, BBC did not report \$55,339 of special event net income to Parks, as required by Article 4, §4.05, of the lease agreement. For 2003 and 2004, BBC reported special event net incomes of \$159,138 and \$245,269, respectively. However, BBC's books and records indicated that actual special event net income totaled \$212,934 for 2003 and \$246,812 for 2004. For 2003, the differences were attributable to BBC's not reporting a net profit of \$23,796 from baseball camp revenue and a \$30,000 fee from a Bjork concert. Similarly, in 2004, BBC underreported net profit from its baseball camp by \$1,543. As a result, BBC owes the City \$16,602—\$16,139 for 2003 and \$463 for 2004.<sup>1</sup>

We were able to confirm that only two of the prior report's four recommendations were implemented. As previously stated, BBC continues to violate its lease agreement by reporting attendance based on ticket stub counts rather than turnstile counts, and it did not ensure that all special event income was reported and fees from special event income were paid.

### **Audit Recommendations**

To address these issues, we recommend that BBC:

- Base actual attendance on turnstile counts, as required by the lease agreement, and maintain accurate and complete documentation that would support the attendance reported to Parks.
- Pay the City \$16,602 in additional fees for special events.
- Ensure that income and expenses are appropriately reported on the Statement of Special Event Net Income submitted to Parks.

We recommend that Parks:

- Ensure that BBC pays the City all rent due and ensure that BBC addresses the report's findings and implements the report's recommendations.

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<sup>1</sup>According to §4.05 of the lease agreement, once the annual \$143,000 special event net income threshold has been reached, BBC is required to pay Parks 30 percent of all shared special event net income.

## INTRODUCTION

### **Background**

On June 1, 2001, Brooklyn Baseball Company, L.L.C. (BBC), owner of the Brooklyn Cyclones, and the New York City Department of Parks and Recreation (Parks) entered into a 20-year lease agreement commencing on June 15, 2001. The lease, which is monitored by Parks, grants BBC the exclusive right to use KeySpan Park on Surf Avenue in Brooklyn. The lease agreement allows BBC to sell game tickets, operate a team store, sell advertising, provide food and souvenir concessions, operate or sublease retail space on Surf Avenue, and lease the stadium for special events (i.e., art, cultural, community, charity, civic, and amateur sporting events).<sup>2</sup> During the period covered by this audit, BBC subleased retail space on Surf Avenue to Peggy O'Neil and Coney Island Pizza (formerly Slices and Ices, Inc.).

BBC is required to annually pay the City, subject to certain attendance criteria, a base rent for actual game attendance, a per ticket fee for recreation area (bleacher) seat tickets issued and for paid "no-shows." In addition, BBC is required to pay a monthly rent for the team store (based on square footage of store), and certain percentages of revenues generated from special event net income, retail net profit, and advertising revenues.<sup>3</sup> The lease agreement also requires that BBC deposit \$25,000 each year into a sinking fund that permits Parks to perform capital projects at the stadium; to pay for stadium electricity; to carry comprehensive property and liability insurance that names the City as an additional insured party; to pay for the stadium's water and sewer use; and to maintain a \$50,000 security deposit with Parks. Finally, the lease agreement requires that each lease year BBC submit to Parks an Attendance Report, Statement of Special Event Net Income, Statement of Signage Revenue, and the Statement of Retail Net Profit.

Table I on the next page summarizes the payment provisions of the lease agreement:

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<sup>2</sup> The lease allows BBC to either operate stadium concessions itself or subcontract their operation. For the 2003 and 2004 lease years, Aramark, Inc., operated the concessions for BBC.

<sup>3</sup> The amount due from the team store is payable for all calendar months of the agreement year other than June, July, August, and September.

**Table I**  
Base Rent, Percentages of Revenues and Net Profit, and  
Other Payment Requirements Required by the Lease Agreement

Base Rent Based on Game Attendance	Ranging from \$0 to \$510,000, based on actual annual paid attendance. <sup>a</sup>
No-Shows	\$0.38 for each patron who purchased a ticket but did not attend the game.
Recreation Area (Bleacher) Seats	\$0.25 for each patron based on actual attendance.
Team Store Rent	1/12 of \$5 per square foot of the gross floor area for eight months, except June, July, August, and September, for which no rent is due.
Shared Special Event Net Income	30% of Special Event Net Income in excess of \$143,000.
Stadium Advertising (Signage)	50% of revenue from stadium advertising capped at \$250,000.
Surf Avenue Retail Rent	50% of the retail net profit (gross retail income less the amount of retail operating expenses), due within 30 days of the close of each quarter ending October 31, January 31, April 30, and July 31.
Capital Contribution	\$25,000 annually, paid into a sinking fund, due March 1 and October 31.
Electricity	100% of actual costs incurred for the stadium, as billed by Parks.

a Section 3.01(a)(ii) of the lease defines “actual attendance” for a particular year as the total number of ticket purchasers who actually attended the team home games (based on turnstile counts), less complimentary tickets and recreation area (bleacher) tickets. Base rent of \$100,000 is payable when actual attendance exceeds 125,000 persons. Base rent increases in steps to a maximum of \$510,000 if actual attendance reaches more than 245,001 persons.

## **Objectives**

Our audit objectives were to determine whether BBC:

- Paid the City the rent due in accordance with the lease agreement provisions,
- Submitted the reports required under the lease agreement, maintained the required insurance, reimbursed the City for electricity use, paid the City for water and sewer use, and made the required capital sinking fund contributions; and
- Implemented the recommendations made in our prior audit (*Audit Report on the Compliance of Brooklyn Baseball Company, L.L.C., [The Cyclones] with Their Lease Agreement*, FN03-111A, issued June 27, 2003).

## **Scope and Methodology**

This audit covered the period January 1, 2003, through October 31, 2004. To achieve our audit objectives, we reviewed and abstracted the relevant terms and conditions of the lease agreement. To gain an understanding of operations at KeySpan Park, we conducted unannounced observations and documented the results in the form of written memoranda.

We evaluated BBC's internal controls over ticket and revenue collection, record keeping, and reporting functions. In that regard, we conducted interviews with BBC officials to obtain a general understanding of the controls in place that affected our audit objectives. To assess the internal controls over the collection and reconciliation of tickets, we conducted announced observations to determine whether policies and procedures as stated by BBC's management were in place. We conducted a walkthrough of BBC's operations pertaining to ticket sales, turnstile use, special events, retail area space, advertising, team store rent, and the recording and reporting of gross receipts for each, and documented our understanding through written memoranda.

To ascertain whether BBC paid all rents due the City and paid them on time, we reviewed records on file at Parks, including the Parks Concessionaire Ledger and the BBC rent statements submitted to Parks. We analyzed the amount submitted to Parks and the date payment was received, and compared them to the terms in the lease agreement.

To determine whether BBC accurately calculated and reported the base rent component to the City, we reviewed the attendance report submitted to Parks, as well as the daily ticket and turnstile count sheets for each game as prepared by the BBC's ushers and ticket office staff, and the final ticket and turnstile count reports as prepared by the ticket office manager. To be reasonably assured that we could rely on the information presented on the daily ticket and turnstile count sheets, we judgmentally selected the month of August for Fiscal Years 2003 and 2004 and counted the ticket stubs. The month of August was selected because we conducted unannounced observations of the operations at KeySpan Park on August 12, 15, 19, and 24, 2004. We counted ticket stubs for the entire month of August 2003 and compared our count to



the total reported on BBC's daily ticket and turnstile count sheets; we found a few discrepancies. We also counted tickets from August 13 through August 30, 2004; we again found a few discrepancies. The results of our test, while not projectable to all tickets for the year, provided us with assurance that the daily ticket and turnstile count sheets were reliable.

For the sample period selected, we also analyzed the turnstile opening and closing numbers for each gate and game and compared the turnstile count to the ticket stub count. To determine whether the totals reported to Parks as actual attendance, no-shows, and recreation area seats were accurate, we vouched the totals on the attendance report to the final ticket and turnstile count report. We then recalculated the attendance that would have been reported to Parks from turnstile counts for each game, after deducting the recreation area and complimentary seats.

We also recalculated the rent due from the team store to determine whether BBC accurately reported and paid the rent due the City.<sup>4</sup>

To determine whether BBC properly reported special event net income, we reviewed BBC's Statement of Special Event Net Income submitted to Parks, its general ledger, special events calendars, and contracts. We reviewed the documentation pertaining to 100 percent of special events held during the audit period. We compared the monetary terms of the contracts to the amounts reported on the general ledger as received from the event to determine whether the total gross receipts were recorded properly by BBC. We analyzed the revenues and expenses for each event to calculate the net income, and compared them to the net income as reported to Parks. To determine whether special event expenses were properly reported, we sampled all special events with expenses exceeding \$500 for the audit period, which represented \$184,100 (approximately 96%) of the \$192,184 in total reported special event expenses. We traced the recorded expenditures to the invoices and to the corresponding expenditure account in the general ledger. We then determined whether the total expenses for each special event matched what was recorded on BBC's schedule of revenue and expenses. To ascertain whether revenue was derived from special events labeled by BBC as "non-charged events" and canceled events, we conducted telephone confirmations to the particular organizers of those events.

To determine whether BBC paid the required stadium-advertising fees to the City, we reviewed §7.05(b) of the lease agreement pertaining to signage revenue and compared the advertising revenue reported on BBC's Statements of Signage Revenue to the amounts recorded in the general ledger.

To determine whether BBC accurately reported its revenue and paid the appropriate amount due the City from its retail rental areas, we reviewed BBC's sublease agreements with its tenants and the statement of retail rent net income submitted to Parks. We also reviewed BBC tenant ledgers, recalculated the retail rent for each quarter, and compared our calculations to the amounts reported to Parks. To determine the appropriateness of the 2004 expenses claimed, we traced the recorded expenditures to the invoice and to the corresponding expenditure account in

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<sup>4</sup> The team store is located in the stadium and sells merchandise such as Cyclone apparel, souvenirs, and other team paraphernalia.

the general ledger. Expenses for 2003 were not reviewed because they were recurring in nature (e.g., pest extermination) and the amounts were immaterial.

To determine whether BBC maintained the proper insurance coverage and that the City was named as an additional insured party, we examined BBC's certificate of insurance. To determine whether water and sewer charges were paid, we reviewed billing records maintained by the Department of Environmental Protection. To determine whether BBC made the required sinking fund contributions, we reviewed the Parks table of payments for BBC's sinking fund. Finally, to determine whether BBC reimbursed Parks for electricity at the stadium, we reviewed billing statements and copies of canceled checks.

In addition, we conducted unannounced observations during the 2004 baseball season. We purchased baseball tickets through the advance sale ticket window and attended Cyclones home games on August 12, 15, 19 and 24. We arrived prior to the opening of the gates and witnessed whether all entrants to the stadium entered with a ticket and used turnstiles. We observed the manner in which ticket takers collected tickets at all the gates and noted whether any non-ticket holders were granted access to the stadium. We documented our observations through memoranda.

Finally, we reviewed the implementation status of the recommendations made in our previous audit (FN03-111A) issued June 27, 2003.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of 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 and §32.02 of BBC's agreement with the City, which gives the Comptroller the right to audit.

### **Discussion of Audit Results**

The matters covered in this report were discussed with officials from BBC and Parks during and at the conclusion of this audit. A preliminary draft report was sent to BBC and Parks officials and discussed at an exit conference held on October 21, 2005. On November 21, 2005, we submitted a draft report to those officials with a request for comments. Written responses were received from BBC on December 19, 2005, and from Parks on December 7, 2005.

In their responses, BBC officials stated, "Only two issues remain in dispute: the method of reporting 'actual attendance' at Brooklyn Cyclones baseball games at KeySpan Park; and the remittance and reporting of the City's share of income from certain 'special events' at KeySpan Park." The specific issues raised by BBC and our rebuttals are included in the body of the report. Parks agreed with the audit's findings and recommendations and issued a "Notice to Cure" to BBC requiring that they implement the audit's recommendations.

The full texts of the responses are included as addenda to this report.

## FINDINGS

For the audit period, January 1, 2003, through October 31, 2004, BBC maintained the required property and liability insurance that named the City as additional insured parties, and it contributed the required \$50,000 into a sinking fund. In addition, BBC paid the amount required for water and sewer charges, and reimbursed the City for electricity use.

However, BBC did not report actual attendance based on turnstile count, but rather stub count which is not in compliance with the agreement. In addition, BBC underreported special event net income by \$55,339, consequently underpaying the City by \$16,602. Finally, BBC did not implement several recommendations made in the prior report—it did not report actual attendance based on turnstile counts as required by the lease agreement, and it did not appropriately report income and expenses on the Statement of Special Event Net Income submitted to Parks.

These issues are discussed in the following sections of this report.

### **Attendance Recording and Reporting Weaknesses**

Our review of attendance records for the period July 28, 2003, through August 31, 2003, revealed 16 instances of 19 home games played for which turnstile counts were higher than the ticket stub counts. Similarly, for 2004, there were eight instances of 10 home games played for which the turnstile counts were higher than the ticket stub counts. Had BBC reported attendance based on the turnstile counts, as stipulated in the lease agreement, the actual attendance reported to Parks would have been 144,214 for 2003 and 144,622 for 2004.

BBC continues to violate its lease agreement by reporting attendance based on ticket counts rather than turnstile counts. For the 2003 and 2004 baseball seasons, BBC reported actual attendance of 140,717 and 143,472, respectively, instead of 144,214 and 144,622. Article 3, §3.01 (a)(ii), of the lease agreement defines “Actual Attendance for a particular Agreement Year as the total number of ticket-holders, other than holders of Complimentary Tickets and holders of Recreation Area Tickets, who actually attended Team Home Games during the applicable Agreement Year. Such total shall be based upon the **turnstile count** of ticket-holders, from which shall be deducted the number of holders of Complimentary Tickets and holders of Recreation Area Tickets reflected in such count, for all Team Home Games.” (Emphasis added.) Instead of using turnstile counts to record and report attendance, BBC counted ticket stubs at the end of each game, and then classified the different ticket categories on daily turnstile reports. It should be noted, however, that even if these amounts had been reported, BBC would not have reached the attendance threshold of 145,001 attendees at which additional base rent become due.

The issue of using turnstile counts to report its actual attendance to Parks was also raised in the prior audit report issued June 27, 2003. That audit report identified weaknesses in the accuracy of the turnstile counts for various reasons—different numbers of turnstiles were used for games, closing turnstile entry totals from one game were not the opening totals for the next

game, and turnstile counts could not be reconciled to the reported attendance. As a result, that audit could not determine whether BBC paid the correct base rent fees to the City.

### **Underreported Special Events**

BBC did not report \$55,339 of special event net income to Parks, as required by Article 4, §4.05, of the lease agreement. For 2003 and 2004, BBC reported special event net incomes of \$159,138 and \$245,269, respectively. However, BBC's books and records indicated that actual special event net income totaled \$212,934 for 2003 and \$246,812 for 2004. For 2003, the differences were attributable to BBC's not reporting a net profit of \$23,796 from baseball camp revenue and a \$30,000 fee from a Bjork concert. Similarly, in 2004, BBC underreported net profit from its baseball camp by \$1,543. As a result, BBC owes the City \$16,602—\$16,139 for 2003 and \$463 for 2004.

It should be noted that subsequent to the issuance of the final report, BBC remitted a check for \$7,538 for the baseball camps.

### **Prior Audit**

Through various observations, walkthroughs, and documentation received from Parks and BBC, we confirmed that only two of the prior report's four recommendations were implemented. To address two recommendations, BBC recorded and reported rent received from the Surf Avenue retail space, maintained original documentation to support the amount of expenses, and paid the correct fees to the City claimed from rent revenue; and BBC deposited the required amounts due into a sinking fund. As previously stated, however, BBC continues to violate its lease agreement by reporting attendance based on ticket stub counts rather than turnstile counts, and it did not ensure that all special event income was reported and fees from special event income were paid.

## RECOMMENDATIONS

We recommend that BBC:

1. Base actual attendance on turnstile counts, as required by the lease agreement, and maintain accurate and complete documentation that would support the attendance reported to Parks.

**BBC Response:** “Although the Audit Report recommends that BBC, ‘Base actual attendance on turnstile counts . . .’, BBC’s method of using manual ticket counts to determine the Actual Attendance (as defined by the Lease) reported to the City is both critical to ensuring the accuracy of that reporting, and required by the Lease itself. KeySpan Park’s malfunctioning turnstiles . . . have never provided an accurate count of patrons moving through turnstiles. . . . The clear intent of the Lease is that BBC report accurately the total number of ticket-holders who actually attended Brooklyn Cyclones home games, and BBC’s manual ticket counts ensure that accuracy. . . . Moreover, the ‘turnstile count of ticket-holders’ is but one component of the ‘Actual Attendance’ calculation, as BBC must also deduct from this amount ‘the number of holders of Complimentary Tickets and holders of Recreation Area Tickets’; this can only be determined by a manual count of tickets.

“The control methods incorporated into BBC’s business practices ensure that the City receives an accurate report of ‘Actual Attendance’ under the Lease by correcting the repetitive errors generated by the malfunctioning turnstiles and by permitting a determination of the appropriate deductions from gross attendance numbers. Most significantly, neither the Audit Report at issue nor any report for any previous Lease period has ever suggested that BBC has underpaid its base rent due to the City based on any Actual Attendance calculation.

“In any event, BBC will shortly be implementing an electronic system whereby the usage of the malfunctioning ballpark turnstiles as a means of counting ticket-holders will be further rendered obsolete. BBC will seek formal concurrence on the usage of an electronic system for the purpose of determining attendance counts under the Lease with the Department of Parks.”

**Auditor Comment:** Contrary to BBC’s response, the lease does not provide them discretion in the recording and reporting of turnstile counts. As previously stated, Article 3, §3.01 (a)(ii), of the lease agreement states that Actual Attendance “shall be based upon the **turnstile count** of ticket-holders, from which shall be deducted the number of holders of Complimentary Tickets and holders of Recreation Area Tickets reflected in such count, for all Team Home Games.” (Emphasis added.) Nevertheless, we are gratified that BBC despite their apparent belief that they report ‘actual attendance’ in accordance with lease provisions, agreed to implement an electronic-ticket-system that would render turnstile counts obsolete.

2. Pay the City \$16,602 in additional fees for special events.

**BBC Response:** “The Audit Report recommends that BBC pay an additional \$16,602 for special events. Of said amount, \$9,000 relates to what the report contends is the City’s 30% share of ‘a \$30,000 fee from a Bjork concert,’ but the report entirely misconstrues the nature of the amount at issue. The \$30,000 payment at issue was not a fee or revenue or anything else includable in Special Event Revenues (See Lease ¶ 4.05(c)(iii)) from which the City’s share of net income is derived – rather, it was received by BBC as a security deposit and retained as partial reimbursement for certain expenses or damages incurred by BBC in connection with the event but not reimbursed by the promoter of the concert, as demonstrated by BBC during the audit process. Moreover, BBC did not deduct such expenses or damages when calculating the Special Event Net Income to be shared with the City under the Lease. . . .

“Of the remaining \$7,602, only \$64 remains in dispute. BBC, although not required to do so under the Lease (see BBC’s response dated June 18, 2003 to the audit directed toward the 2001-2002 Lease period), has agreed at this time to include the revenue and expenses in from its youth baseball clinics for the period from January 1, 2003 through October 31, 2004 in the calculation of Special Event Net Income under the Lease. Accordingly, concurrent with the submission of this response, BBC is remitting \$7,538 to Parks. . . . However, the remaining \$64 reflects an overstatement by the Audit Report of the net income generated by the clinics, as it results from the incorrect inclusion of money received outside of the Lease Years in question, as determined and demonstrated during the audit process.

“BBC will appropriately report Special Event income and expenses.”

**Auditor Comment:** We are again gratified that BBC will comply with the terms of its lease agreement by “appropriately reporting Special Event income and expenses” and remitting a check to the City for \$7,538.

However, BBC did not provide adequate documentation to support either of its two claims that the \$30,000 payment was not a fee or revenue includable in special event revenues from which the City’s share (\$9,000) of net income is derived but rather a partial reimbursement for certain damages incurred by BBC in connection with a concert, and that the remaining \$64 reflects an overpayment of net income generated from baseball clinics outside our audit period.

Further, we are perplexed that BBC would state that these claims were demonstrated during the audit process, since BBC officials were repeatedly asked for and did not provide cancelled checks or paid invoices to support their claim that damages were incurred by BBC in connection with the concert.

In addition, BBC officials seem to believe that the audit reflected an overstatement of \$64 from net income generated from clinics that took place outside our audit period (January 1 2003–October 31, 2004). This obviously was not so. The information provided by BBC

officials was extracted from BBC's General Ledger Detail Report for the period May 6, 2003, to September 14, 2004. Clearly, the amount falls within our audit period.

Therefore, we maintain that BBC underreported special event net income and owes the City the \$9,064 balance in fees.

3. Ensure that income and expenses are appropriately reported on the Statement of Special Event Net Income submitted to Parks.

**BBC Response:** BBC did not respond to this recommendation

We recommend that Parks:

4. Ensure that BBC pays the City all rent due and ensure that BBC addresses the report's findings and implements the report's recommendations.

**Parks Response:** "DPR [Parks] has issued the attached 'Notice to Cure' (NTC) to BBC requiring BBC to implement internal control and record keeping **Recommendation 1**, and reporting **Recommendation 3**. Also, BBC is required to pay \$16,602 owed to the City on underreported special event net income under **Recommendation 2**. Furthermore, Parks' internal auditor will conduct a follow-up review to ensure that BBC complies with these recommendations." (Emphasis in original.)

"**Recommendation 4** has been addressed by Parks issuance of the above mentioned NTC to BBC." (Emphasis in original.)

In its "Notice to Cure," Parks acknowledged that BBC's method for counting and recording attendance is improper and could easily result in a future rent underpayment, and that BBC should take immediate action to implement the audit recommendation and base all reported actual attendance and base rent payments on the required turnstile counts. Parks has afforded BBC fifteen days from the date of that letter to remit a check for \$16,602, made payable to the City of New York, Department of Parks and Recreation, and put the necessary procedures in place to ensure that all special event income is properly recorded and reported to Parks. The Parks Internal Auditor will schedule a follow-up review in six months to ensure that BBC has complied with the above-stated recommendations.



## Brooklyn Cyclones Baseball Club

Class A Affiliate of the New York Mets      December 20, 2005

### HAND DELIVERY

Greg Brooks  
Deputy Comptroller  
The City of New York  
Office of the Comptroller  
1 Centre Street  
New York, NY 10007-2341

Re: Audit Report for Brooklyn Baseball Company, L.L.C. ("BBC")

Dear Mr. Brooks:

I am writing in response to your letter of November 21, 2005, soliciting our comments to the draft report of the Comptroller's Office ("Comptroller") in connection with the draft Audit Report on the Compliance of Brooklyn Baseball Company, L.L.C. ("BBC") with Its Lease Agreement<sup>1</sup> January 1, 2003-October 31, 2004, FM05-080A (the "Audit Report").

Only two issues remain in dispute: the method of reporting "actual attendance" at Brooklyn Cyclones baseball games at KeySpan Park; and the remittance and reporting of the City's share of income from certain "special events" at KeySpan Park. The following summarizes our position with respect to the outstanding issues.

### Reporting of Actual Attendance

Although the Audit Report recommends that BBC, "Base actual attendance on turnstile counts...", BBC's method of using manual ticket counts to determine the Actual Attendance (as defined by the Lease) reported to the City is both critical to ensuring the accuracy of that reporting, and required by the Lease itself. KeySpan Park's malfunctioning turnstiles, installed by the City when the building was constructed, have never provided an accurate count of patrons moving through turnstiles (e.g., they sometimes register twice when a single person enters). The clear intent of the Lease is that BBC report accurately the total number of ticket-holders who actually attended Brooklyn Cyclones home games, and BBC's manual ticket counts ensure that accuracy. Indeed, the Audit Report notes that when comparing the manual count methodology used by BBC to the turnstile counts the auditors found only "a few insignificant discrepancies" and, moreover, that "The results of our test ... provided us with assurance that the daily ticket and turnstile count sheets were reliable." (Audit Report p.5) Thus, the Audit Report findings support BBC usage of hand counts as a proper procedure to ensure that turnstile counts are accurate. Moreover, the "turnstile count of ticket-holders" is but one component of the "Actual Attendance" calculation, as BBC must also deduct from this amount "the number of holders of

<sup>1</sup> "Lease" as used herein refers to the Stadium Lease between the City of New York, acting by and through its Department of Parks and Recreation, and BBC, dated as of June 1, 2001.





Attendance" calculation, as BBC must also deduct from this amount "the number of holders of Complimentary Tickets and holders of Recreation Area Tickets," this can only be determined by a manual count of tickets.

The control methods incorporated into BBC's business practices ensure that the City receives an accurate report of "Actual Attendance" under the Lease by correcting the repetitive errors generated by the malfunctioning turnstiles and by permitting a determination of the appropriate deductions from gross attendance numbers. Most significantly, neither the Audit Report at issue nor any report for any previous Lease period has ever suggested that BBC has underpaid its base rent due to the City based on any Actual Attendance calculation.

In any event, BBC will shortly be implementing an electronic system whereby the usage of the malfunctioning ballpark turnstiles as a means of counting ticket-holders will be further rendered obsolete. BBC will seek formal concurrence on the usage of an electronic system for the purpose of determining attendance counts under the Lease with the Department of Parks.

#### **Remittance/Reporting of Special Event Net Income**

The Audit Report recommends that BBC pay an additional \$16,602 for special events. Of said amount, \$9,000 relates to what the report contends is the City's 30% share of "a \$30,000 fee from a Bjork concert," but the report entirely misconstrues the nature of the amount at issue. The \$30,000 payment at issue was not a fee or revenue or anything else includable in Special Event Revenues (see Lease ¶ 4.05(c)(iii)) from which the City's share of net income is derived -- rather, it was received by BBC as a security deposit and retained as partial reimbursement for certain expenses or damages incurred by BBC in connection with the event but not reimbursed by the promoter of the concert, as demonstrated by BBC during the audit process. Moreover, BBC did not deduct such expenses or damages when calculating the Special Event Net Income to be shared with the City under the Lease.

In short, \$9,000 of the amount that the Audit Report claims is owed in connection with the 2003 Bjork concert results from the appropriate exclusion from Special Event Revenues of a security deposit retained by BBC in partial reimbursement of certain unreimbursed expenses and damages in connection with the concert. The City did not see its share of Special Event Net Income reduced by such expenses and damages, and is not entitled to see that share increased based upon BBC's application of a security deposit toward those expenses and damages.

Of the remaining \$7602, only \$64 remains in dispute. BBC, although not required to do so under the Lease (see BBC's response dated June 18, 2003 to the audit directed toward the 2001-2002 Lease period), has agreed at this time to include the revenue and expenses in from its youth baseball clinics for the period from January 1, 2003 through October 31, 2004 in the calculation of Special Event Net Income under the Lease. Accordingly, concurrent with the submission of this response, BBC is remitting \$7,538 to Parks under separate cover, and BBC requests that the final Audit Report reflect the reduction of the amount in dispute to account for this payment. However, the remaining \$64 reflects an overstatement by the Audit Report of the net income generated by the clinics, as it results from the incorrect inclusion of money received outside of the Lease Years in question, as determined and demonstrated during the audit process.

BBC will appropriately report Special Event income and expenses.

**Conclusion**

This letter should not be construed as taking any position with respect to the matters addressed in the Audit Report (for example, and without limitation, the Audit Report's purported summary of payments allegedly due to be paid by BBC) except as expressly stated herein. BBC respectfully reserves all of its rights and remedies with respect to the matters addressed in the Audit Report and otherwise.

In light of the foregoing, BBC recommends that the Comptroller revisit the conclusions embodied and recommendations made in the draft Audit Report with respect to the issues raised herein, and make changes to accommodate BBC's objections, comments and corrections as stated above prior to issuing the final report.

Please feel free to contact me if you have any questions regarding the foregoing.

Sincerely,



Jeffrey S. Wilpon  
Senior Executive Vice President & C.O.O.

cc: Joann Imohiosen, Commissioner-Revenue  
Department of Parks & Recreation  
of the City of New York  
The Arsenal  
830 Fifth Avenue  
New York, NY 10021



City of New York  
Parks & Recreation

Adrian Benepe  
Commissioner

ADDENDUM II  
Page 1 of 5

The Arsenal  
Central Park  
New York, New York 10021

Joanne G. Imohiosen  
Assistant Commissioner  
Revenue

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

December 7, 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: Draft Audit Report On Brooklyn Baseball Company, L.L.C. (The Cyclones)  
January 1, 2003 – October 31, 2004, FM05-080A, Dated November 21, 2005**

Dear Mr. Brooks:

This letter represents the Parks Department's ("Parks"), response to the recommendations contained in the subject audit of Brooklyn Baseball Company, L.L.C. (BBC).

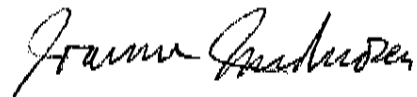
DPR has issued the attached "Notice To Cure" (NTC) to BBC requiring BBC to implement internal control and record keeping **Recommendation 1**, and reporting **Recommendation 3**. Also, BBC is required to pay \$16,602 owed to the City on underreported special event net income under **Recommendation 2**. Furthermore, Parks' internal auditor will conduct a follow-up review to ensure that BBC complies with these recommendations.

**Recommendation 4**, states that Parks should "Ensure that BBC pays the City all rent due and ensure that BBC addresses the report's findings and implements the report's recommendations. Recommendation 4. has been addressed by Parks issuance of the above mentioned NTC to BBC.

Greg Brooks  
December 7, 2005  
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We wish to thank the Comptroller's audit staff for their work and efforts in performing this review.

Sincerely,

A handwritten signature in black ink, appearing to read "Joanne Imohiosen", written in a cursive style.

Joanne Imohiosen

cc: 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

December 7, 2005

**BY FAX AND MAIL**

Jeffrey S. Wilpon  
Senior Executive Vice President & COO  
New York Mets  
Shea Stadium  
Flushing, NY 11368

**Re: NOTICE TO CURE**

**Draft Audit Report On Brooklyn Baseball Company, L.L.C. (The Cyclones)  
January 1, 2003 – October 31, 2004, FM05-080A, Dated November 21, 2005**

Dear Mr. Wilpon:

This letter addresses the findings and recommendations contained in the subject draft audit report on Brooklyn Baseball Company, L.L.C. (BBC). Generally, the audit disclosed that BBC continues to violate its lease agreement and a prior audit recommendation by reporting attendance based on ticket counts rather than turnstile counts. Also, BBC did not report \$55,339 of special event net income to the Parks Department (Parks), as required by Article 4.05 of the lease agreement and as a result owes the City \$16,602. Furthermore, BBC did not implement two of the four recommendations from the prior audit report – it did not report actual attendance based on turnstile counts as required by the lease agreement, and it did not appropriately report income and expenses on the Statement of Special Event Net Income submitted to Parks.

Specifically, the audit report recommends that BBC:

**Recommendation 1.** Base actual attendance on their turnstile counts, as required by the lease agreement, and maintain accurate and complete documentation that would support the attendance reported to Parks.

Had BBC reported attendance based on the turnstile counts as stipulated in Article 3 of the lease agreement, the actual attendance reported to Parks would have been higher by 3,497 attendees in 2003 and 1,150 attendees in 2004. Instead, the method used by BBC to record and report attendance was to tally the ticket stubs at the end of each game, and record the counts on

Jeffrey S. Wilpon  
December 7, 2005  
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daily turnstile reports. The issue of BBC using turnstile counts to report its actual attendance to Parks was also raised in the prior audit report issued June 27, 2003. Although the difference between turnstile counts and ticket stub counts disclosed in the present audit was not material enough to surpass the attendance threshold at which additional base rent would become due, BBC's method for counting and recording attendance is improper and could easily result in a future rent underpayment.

BBC must take immediate action to implement this audit recommendation and base all reported actual attendance and base rent payments on the required turnstile counts.

**Recommendation 2.** Pay the City \$16,602 in additional fees for special events.

**Recommendation 3.** Ensure that income and expenses are appropriately reported on the Statement of Special Event Net Income submitted to Parks.

BBC did not report \$55,339 of special event net income to Parks. For 2003, BBC reported special event net income of \$159,138 and for 2004, \$245,269. The audited amounts totaled \$212,934 for 2003 and \$246,812 for 2004. For 2003, BBC omitted a net profit of \$23,796 from baseball camp revenue and a \$30,000 fee from a Bjork concert. In 2004, BBC again underreported the net profit from its baseball camp by \$1,543. As a result, BBC owes the City \$16,602 (30% x \$55,339). BBC is afforded fifteen days from the date of this letter to remit a check for \$16,602, made payable to the City of New York Parks and Recreation, to clear this item.

This same issue was cited in the last audit report and the current review determined that BBC did not implement procedures to ensure that all special event income was reported and fees from special event income were paid. BBC must put the necessary procedures in place to ensure that all special event income is properly recorded and reported to Parks.

By copy of this letter to Francisco Carlos, DPR's Internal Auditor, I am requesting that he schedule a follow-up review in six months, to ensure that BBC has complied with the above stated audit recommendations.

Finally, we wish to thank BBC for its cooperation during the audit review and anticipate your prompt payment and action regarding the above recommendations.

Sincerely,



Joanne Imohiosen

Jeffrey S. Wilpon  
December 7, 2005  
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cc: Comm. Adrian Benepe  
Alessandro Olivieri  
David Stark  
Francisco Carlos

Brooklyn Baseball Company, L.L.C.  
111 Great Neck Road, Suite 408  
Great Neck, New York 11021  
Attention: Arthur Friedman  
Senior Vice President

Brooklyn Baseball Company, L.L.C.  
1904 Surf Ave.  
Brooklyn, New York 11224  
Attention: Steve Cohen

Brooklyn Baseball Company, L.L.C.  
C/o Shea Stadium  
123-01 Roosevelt Ave.  
Flushing, New York 11368  
Attention: General Counsel

Brooklyn Baseball Company, L.L.C.  
575 Fifth Avenue  
New York, New York 10017  
Attention: President and CEO

Karl Smolarz  
Vice President Facilities  
New York Mets  
Shea Stadium  
Flushing, New York 11368