



LIU: CASH DISAPPEARS AT THE WATER CLUB ON EDC’S WATCH

Lax Oversight Shortchanges City Residents of Revenue and Capital Improvements

NEW YORK, NY – City Comptroller John C. Liu today released an audit concluding that lax oversight by the Economic Development Corporation (EDC) on the lease agreement for The Water Club restaurant has potentially shortchanged City residents of revenues and capital improvements.

"While the amounts involved are minor against the backdrop of billion-dollar City deficits, this report does expose the continuing problem of lax oversight by the City over its concessionaires," Comptroller Liu said. "Taxpayers have every right to insist on getting the revenue as well as public space improvements required of concessionaires. There are plenty of others who are chomping at the bit to be awarded concession agreements by the City."

The restaurant was constructed and operates along the East River between 30th and 32nd Streets in Manhattan under a lease agreement between the MDO Development Corporation (MDO) d/b/a The Water Club and the City of New York. The EDC administers the terms of the lease agreement on behalf of the Department of Small Business Services. The lease agreement requires the MDO to pay rent to the City, calculated by the restaurant’s reported revenue. It also required that the MDO make at least \$450,000 worth of capital improvements on the City’s property after consultation with Manhattan Community Board 6, including the parking lot, lighting, landscape and the adjacent public walkway along the East River.

Chief among the findings of the audit:

- **CONTROL WEAKNESSES OVER RESTAURANT OPERATIONS:** Although controls over the recording of revenue within the dining room is sufficient, they need to be enhanced in the bar operations and the Crow’s Nest to ensure gross receipts are properly reported to the City (see below under “Vanishing Cash”). The high volume of cancelled guest checks and “No-Sale” transactions indicates the likelihood that not all revenue is reported. Because the MDO’s rent is determined by the restaurant’s reported revenue, any failure to report cash receipts to the EDC shortchanges the City. In 2009, the MDO reported \$6,190,181 in gross receipts and paid the City \$495,000 in fixed rent and \$4,142 in late charges.
- **UNSUBSTANTIATED CAPITAL IMPROVEMENTS:** The auditors were unable to substantiate the \$527,939 in capital improvements claimed to be made by the MDO based on the documentation provided.

VANISHING CASH

Auditors from the Comptroller's Office posed as regular cash-paying customers during six separate unannounced visits to the restaurant in June and July 2010.

- At the only register in the Crow's Nest bar that accepts cash, our unidentified auditors determined that the bartender entered one "No Sale" into the register for every four guest checks entered. Subsequent audit of the MDO records found that in 2009, the restaurant recorded 10,243 guest checks, and then hit the "No Sale" function 6,455 times.
- Our unidentified auditors paid cash for 22 separate orders of food and beverages and recorded the amounts paid. Upon subsequent audit of the MDO records, only 10 of these 22 sales were reflected in the restaurant's sales records; the remaining 12 simply vanished from the books.

The recommendations made by Comptroller Liu to the MDO and the EDC include:

- MDO should take immediate action to strengthen its financial controls.
- MDO should complete all capital improvements as required under the lease agreement with the City.
- EDC, in acting as the managing agent of the lease agreement, should periodically monitor MDO to ensure that the proper controls are implemented to ensure that revenues to the City are properly determined and collected from MDO.
- EDC should perform a thorough review of the documentation and improvements to ensure that the improvements and associated costs meet the requirements of the lease agreement.

Both the EDC and the MDO generally agreed with the audit's findings.

Comptroller Liu credited Deputy Comptroller for Audit H. Tina Kim and the Audit Bureau for presenting the findings. The full report is available at <http://comptroller.nyc.gov/audits>.

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