



PR12-07-137
Contact: Matthew Sweeney, (212) 669-3747

July 25, 2012
Page(s): 3

LIU: AUDIT CATCHES SEAPORT OPERATOR TRYING TO WRIGGLE OFF THE HOOK FOR \$1.8 MILLION

EDC Shows Lax Oversight of Howard Hughes Corp.

[Download Audit](#)

NEW YORK, N.Y. — City Comptroller John C. Liu today announced that Howard Hughes Corporation, which the City’s Economic Development Corporation contracted with to manage and sublease retail spaces in the South Street Seaport, has shorted the City \$1,769,836 in unpaid rent and interest.

“The EDC has yet again failed to spur economic development in the City’s interest,” Comptroller Liu said. “The South Street Seaport is the City’s property, one of our brightest jewels, yet the EDC has ceded management of it to a company that has shortchanged on its rent checks.”

Unpaid Rent on Pier 17 and Fulton Street Retail

Over six years, from 2007 through Dec. 2012, Howard Hughes underpaid its rent for the retail space on Pier 17 and along the cobblestone stretch of Fulton Street between Water and South streets. The audit determined the company owes the City as much as \$1,625,902 in rent plus interest.

Howard Hughes’ pays rent equivalent to \$3.50 for every square foot of leasable space it controls. For years, however, the company understated the square footage it leased from the EDC and underpaid on rent. The EDC itself never conducted a survey to find out how many square feet it was leasing to Howard Hughes. Comptroller Liu’s audit based its estimate of underpaid rent on Howard Hughes’ own survey of retail space.

Unpaid Rent on Seaport Theatre

Howard Hughes also holds a lease to operate the Seaport Theatre at 133 Beekman St. as either a theatre or a first-class retail marketplace. The company also understated the square footage for the Theatre and owes the City \$143,934 in rent and interest for the period of 2007 through 2012, Comptroller Liu’s audit found.

Since 2001, Howard Hughes let certain groups use the Theatre space rent free. Comptroller Liu’s audit notes that, while this may be civic minded, Howard Hughes was supposed to create income from the Theatre, not donate the space. For example, in 2011, Howard Hughes reported

income of \$2,000 from the Theatre and paid a minimum base rent of just \$22,866, which might have been much higher if it had operated the Theatre according to the terms of its lease.

Howard Hughes has maintained that the Theatre property needs improvements before it can be profitably subleased, but under the lease such improvements are Howard Hughes' responsibility.

EDC Lax Management

The EDC never itself conducted routine financial reviews or audits of Howard Hughes' management of the public property. It did hire an accounting firm to review Howard Hughes' compliance with its lease, which failed to identify the fact that the company was underpaying on its rent.

Howard Hughes was hired to improve and maximize retail rents in the Seaport. However, in June 2011, Howard Hughes reported that its Seaport properties had a vacancy rate 10.6 percent. The retail vacancy rate in the City around that time was just 1.9 percent.

EDC Bail Out Not in City's Interest

In 2009, Howard Hughes' parent company General Growth Properties declared bankruptcy. The company emerged from bankruptcy in 2010 and as part of the bankruptcy settlement EDC not only helped Howard Hughes by erasing part of its debt but modified the terms of the lease to lower future payments.

Fish Market

The City and EDC failed to ensure that a wholesale fish market continued to operate at the Seaport's Fish Market, which was a requirement of the South Street Seaport Project agreement. As a result, the City is not preserving the area's historic mission and cultural importance.

Response

Howard Hughes disputed the findings and claimed it paid most of the rent it owed. It admitted that rent was underpaid on the Theatre lease, but stated that the amount owed is less than the audit determined.

Recommendations

Among its recommendations, Comptroller's Liu audit called on Howard Hughes to:

- Pay the unpaid rent and interest.
- Sublease the retail and theatre space at market rate.

Comptroller Liu's audit called on the EDC to:

- Immediately obtain an independent survey to determine the leasable square footage under its management.
- Put Howard Hughes on notice that it owes rent and interest and that the failure to pay what it owes within 15 days constitutes default under its lease.
- Regularly review Howard Hughes' financial reports to ensure that they are accurate.
- Ensure that Howard Hughes redevelopment plan includes a wholesale Fish Market.

Background

An earlier audit by Comptroller Liu found that a company the EDC contracted with to manage the office space at the Seaport not only shortchanged the City by at least \$1.3 million in unpaid rent, but also gave free office space to an EDC Board Member, which was a clear conflict of

interest. The EDC acknowledged both the unpaid rent and the conflict of interest in its response to that audit. More information is here: www.comptroller.nyc.gov/press/2013_releases/pr13-04-064.shtm

*Visit www.comptroller.nyc.gov for the latest news, events, and initiatives.
Follow Comptroller Liu on [Twitter](#). To receive Twitter updates via text message,
text "follow johncliu" to 40404.
View the latest Comptroller's office videos on [YouTube](#).*

###