



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

WILLIAM C. THOMPSON, JR.
Comptroller

**Audit Report on the Compliance of
Dyckman Marine Group, Inc.,
With Its License Agreement and Its
Payment of License Fees Due the City**

FM02-074A

June 24, 2002

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EXECUTIVE SUMMARY

On December 23, 1998, the City of New York entered into a 15-year license agreement, through the Department of Parks and Recreation (Parks), with Dyckman Marine Group, Inc. (Dyckman), to operate, maintain, and manage the Dyckman Marina (marina) on the Hudson River at the western end of Dyckman Street in Manhattan. Dyckman is responsible for the rental of moorings and slips, and the operation of the Tubby Hook Café, a restaurant at the marina. The agreement also requires that Dyckman operate a boat supply shop, a sailing school, and a boat club for use by the public, once it completes the capital improvements called for by the agreement to accommodate these facilities.

Under the agreement, Dyckman is required to pay the City the greater of a minimum annual fee that escalates each year from \$18,000 in year-one to \$35,639 for the final year of the agreement, or 10 percent of its gross receipts. Gross receipts are defined as all funds received by the licensee (without deduction or set-off of any kind) from the sale of food and beverages, use of the marina, the licensing of the premises for private functions, or related services of any kind. For the period, January 1, 2001, through December 31, 2001, Dyckman reported gross receipts totaling \$283,512 and paid \$28,351 in license fees to the City.

The audit determined whether Dyckman: maintained adequate internal controls over the recording and reporting of gross receipts; reported its total gross receipts properly, and calculated and paid all required license fees to Parks on time; and complied with certain non-revenue-related requirements of its license agreement.

Results In Brief

Dyckman charged slip and mooring rental fees in accordance with Parks's approved rates, paid license fees on time, paid the design review fee, remitted the required security deposit to the City, and maintained workers' compensation and general liability insurance. As part of the improvements completed, Dyckman has installed new fencing around the marina, built a restaurant that contains restrooms, and removed debris from the property, as required by the agreement.

However, Dyckman does not have adequate internal controls over its gross receipts. In addition, Dyckman did not report to Parks an estimated \$599,114—68 percent of its gross receipts. Consequently, Dyckman owes the City additional licensing fees totaling \$59,911. In addition, Dyckman has unpaid water bills totaling \$6,558 as of April 8, 2002. Dyckman also violated New York State liquor laws by not purchasing alcohol from authorized wholesale distributors and by not maintaining records of business transactions related to purchases and sales of alcoholic beverages.

Our physical inspection of the marina found that sections of the marina's bulkhead, decking, and retaining walls were in an advanced state of deterioration. After we notified Parks officials of our findings, they conducted their own inspection and immediately issued a Notice to Cure requiring that Dyckman make the necessary repairs. Finally, Dyckman did not obtain a permit for moving silt away from the marina—a serious violation of environmental regulations.

Consequently, we recommend that Dyckman:

- Pay the City \$59,911 in additional license fees owed.
- Pay the Department of Environmental Protection \$6,558 for water charges.

Given the audit findings in this report, it is obvious that Parks must consider terminating its agreement with Dyckman if Parks believes that Dyckman is either unwilling or unable to keep books and records and account for all revenue, as required by the agreement. At a minimum, Dyckman's failure to report all its revenues on its Gross Receipts Statements, its failure to maintain the necessary supporting documentation, and its lack of internal control issues must be addressed. Accordingly, if Parks decides not to terminate its agreement with Dyckman, Parks should require that Dyckman:

- Pay the City \$59,911 in additional license fees.

- Pay the Department of Environmental Protection \$6,558 for water charges.
- Immediately install a point-of-sale system.
- Maintain records of all boat space rentals and services (e.g., boat agreements, invoices).
- Use pre-numbered contracts to document boat space rentals.
- Report all gross revenue to the City including the fair market value of docking fees from all barter agreements.
- Obtain written approval from Parks for all sublicense agreements.
- Comply with the New York State liquor law by purchasing alcohol only from authorized wholesale distributors and by maintaining adequate records of liquor purchases and sales.
- Immediately repair the floating docks and walkways.
- Obtain the required permits for silt relocation.

If Parks decides not to terminate Dyckman's agreement, we recommend that it periodically audit Dyckman and inspect its facilities to ensure that it is adhering to the terms of the agreement.

Discussion of Audit Results

The matters covered in this report were discussed with Dyckman and Parks officials during and at the conclusion of this audit. A preliminary draft report was sent to Dyckman and Parks officials and discussed at an exit conference held on May 24, 2002. On May 30, 2002, we submitted a draft report to Dyckman and Parks with a request for comments. Written responses were received from Parks on June 10, 2002, and from Dyckman on June 14, 2002.

Dyckman's President stated in his response that he disagreed with our audit estimates of underreported gross receipts, but agreed to comply with the audit's recommendations. In addition, the President stated that Dyckman will pay the Department of Environmental Protection \$6,558 to satisfy the outstanding water bill.

With regard to silt relocation, the President stated: “One thing we find very troubling is the accusation that we removed or moved silt away from the marina. We never did anything of that sort.”

Regarding hazardous conditions at the marina, the President stated: “The floating docks and finger docks that appeared to be in a further deteriorated condition since the September 7, 2001, visit were in the process of being renovated in order to bring them up to standard by the summer season which for us began on May 1, 2002. They are almost completed for the season.”

Auditor Comment: We do not accept the claim of Dyckman’s President that silt was not “removed or moved” from the marina. Dyckman’s general ledger contained two payments totaling \$1,650 for “prop washing” at the start of the 2000 and 2001 seasons. At our May 24, 2002, exit conference, Dyckman’s President acknowledged that prop washing is commonly done at marinas to move silt in order to facilitate the movement of boats. Clearly, Dyckman’s President is aware of the seriousness of his actions and has decided to claim that they never occurred.

In its response, Parks stated that it has elected to allow Dyckman to continue its operation of the marina and restaurant if Dyckman complies with the Notice To Cure (NTC) issued to Dyckman on June 10, 2002. Specifically, the NTC requires that Dyckman pay the audit assessment of \$59,911 under a six (6) month payment plan, contact the Department of Environmental Protection to settle Dyckman’s past due water charges in the amount of \$6,558, implement the internal control recommendations, submit a formal sublicense agreement between Dyckman and Conover Canvas, Inc., to Parks for approval, take immediate action to properly account for all liquor purchases and sales, repair all damaged floating docks and walkways at the marina, and obtain the required permits for any future silt relocation projects.

The full texts of the written comments received from Dyckman and Parks officials are included as addenda to this report.

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INTRODUCTION

Background

On December 23, 1998, the City of New York entered into a 15-year license agreement, through the Department of Parks and Recreation (Parks), with Dyckman Marine Group, Inc. (Dyckman), to operate, maintain, and manage the Dyckman Marina (marina) on the Hudson River at the western end of Dyckman Street in Manhattan.

Dyckman is responsible for the rental of moorings and slips, and the operation of the Tubby Hook Café, a restaurant at the marina. The agreement also requires Dyckman to operate a boat supply shop, a sailing school, and a boat club for use by the public, once Dyckman completes the capital improvements called for by the agreement to accommodate these facilities.

Under the agreement, Dyckman is required to pay the City the greater of a minimum annual fee that escalates each year from \$18,000 in year-one to \$35,639 for the final year of the agreement, or 10 percent of its gross receipts. Gross receipts are defined as all funds received by the licensee without deduction or set-off of any kind from the sale of food and beverages, use of the marina, the licensing of the premises for private functions, or related services of any kind.

Dyckman is required to refurbish and enhance the marina's facilities by spending a minimum of \$400,000 in capital improvements. The improvements are to be completed in three phases. Phase I, scheduled for completion by 2001, requires Dyckman to spend \$160,000 to build a restaurant; make electrical and plumbing upgrades; repaint and refurbish the Quonset hut;¹ and install permanent bathrooms, a security system, new fencing, and better outdoor lighting. Phase II,

¹ The Quonset hut is a large structure used to store marina equipment and to repair boats.

scheduled for completion in 2003, requires Dyckman to spend \$193,800 towards improvements to the boat slips and moorings, and to include a boat supply shop in the Quonset hut. Phase III requires Dyckman to spend \$46,200 to operate a sailing school and boat club. (Phase III does not have a set completion date.)

Dyckman is also required to maintain the proper levels of fire, property, and comprehensive insurance coverage; submit monthly gross receipt reports and annual income and expense reports to Parks; maintain an \$8,910 security deposit with the City; and pay all utility costs, including those for water use. For the period, January 1, 2001, through December 31, 2001, Dyckman reported gross receipts totaling \$283,512 and paid \$28,351 in license fees to the City.

Objectives

Our audit objectives were to determine whether Dyckman:

- maintained adequate internal controls over the recording and reporting of gross receipts;
- reported its total gross receipts properly, and calculated and paid all required license fees to Parks on time; and
- complied with certain non-revenue-related requirements of its license agreement (i.e., completed the required capital improvements, carried the proper amounts and types of insurance, and paid for its water use).

Scope and Methodology

To achieve our audit objectives, we reviewed the license agreement, gross receipts statements, license fee payments, and other related documents for the marina kept on file at Parks. We also reviewed Parks's Revenue Journal to determine whether the fees paid by Dyckman to the City were accurate and paid on time. The scope of the audit was January 1, 2001, through December 31, 2001.

To evaluate Dyckman's internal controls over revenue, we interviewed personnel and conducted a walk-through of the operation. By doing so, we obtained an understanding of the procedures used for recording and reporting gross receipts. Based on our interviews, an examination of the marina's rental agreements and other documentation that was provided, we determined that Dyckman did not have sufficient controls in place to ensure that all receipts were recorded and properly reported to Parks. Consequently, we undertook a complete examination of all the documentation that we could obtain of gross receipt transactions for calendar year 2001 to calculate independently the gross receipts generated by the marina and the license fees that are due the City.

To determine whether Dyckman properly recorded and reported its gross receipts, we compared the amounts in the monthly gross receipt reports submitted to Parks and the amounts in Dyckman's general ledger. To test the accuracy of Dyckman's general ledger, we traced all supporting documentation (i.e., invoices, contracts for slip and mooring rentals) to the general ledger. We could not use Dyckman's 2001 corporate tax return to substantiate its revenue earnings because as of April 2002, Dyckman did not provide it to us despite several requests.

We conducted two physical counts of the boats at the marina—one on July 24, 2001, and a more detailed count from August 30, 2001, to September 7, 2001, that included measuring the length of each boat—to determine whether Dyckman had provided us with a written rental agreement for each of the boats observed on those days. We then called several customers to verify their contract rates and spoke with Parks officials to ensure that the rates charged were within agreement guidelines.

To trace the revenue received from the restaurant to Dyckman's general ledger, and to the amounts reported to Parks for calendar year 2001, we tried to review all the food and beverage documentation for this period (e.g., guest checks, cash register receipts, purchase orders, receipts). However, Dyckman provided incomplete documentation to support its records. Therefore, we independently contacted one food distributor and three beer distributors recorded in the general ledger and had them provide us with invoices of the purchases made by Dyckman during calendar year 2001. We then used the distributors' records to determine the quantities of food and beverages sold at the restaurant.

We also requested that Dyckman provide us with records showing the progress made towards complying with the provisions of the agreement on capital improvements. Dyckman provided us with canceled checks to contractors for our review. We then conducted a physical inspection of the marina and noted the presence of hazardous conditions and deteriorating piers. We returned with an engineer from the Comptroller's Bureau of Engineering to assess the conditions we found. He recommended that the conditions be repaired immediately. Accordingly, we notified Parks officials, alerting them to the serious and unsafe conditions. Subsequently, Parks issued Dyckman a "Notice To Cure," so that conditions would be corrected without delay. (See letters in Appendix I.)

Finally, to determine whether Dyckman complied with other major non-monetary provisions of its license agreement, we reviewed copies of certificates of insurance to make certain that the appropriate insurance coverage was maintained. We verified whether Dyckman made the appropriate security deposit, paid its design review fee, and paid utilities and water bills, as required by the agreement.

Scope Limitation

To conduct our audit of the license agreement between the Dyckman Marine Group, Inc., and the City, we requested that Dyckman provide specific data and detailed information regarding the reporting and verification of its revenue to Parks. These requests included, but were not limited to, the underlying documentation to support the amounts recorded in Dyckman's general ledger for calendar year 2001, and the schedules supporting the amounts reported on the gross receipts statements submitted to Parks.

Dyckman did not provide the original source documentation needed to substantiate the revenue amounts on the reports submitted to Parks. Specifically, Dyckman did not provide cash register tapes or invoices for food, beverages, and alcohol. Instead, Dyckman provided incomplete records of guest checks, credit card statements, and repair invoices; and provided less than half of the boat rental agreements. As a result, we were unable to determine whether Dyckman reported all of its revenue to the City or calculated correctly the fees it owed the City. The incompleteness of the records that were provided indicates that accurate records are not being maintained. These actions violate § 5.1 of the license agreement, which states in part:

“Licensee, during the term of this license, shall maintain adequate systems of internal control and shall keep complete and accurate records, books of account and data, including daily sales and receipts records, which shall show in detail the total business transacted by Licensee and the Gross Receipts therefrom.”

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 City Comptroller's audit responsibilities as set forth in Chapter 5, § 93, of the New York City Charter and § 6.1-6.2 of the licensing agreement.

Discussion of Audit Results

The matters covered in this report were discussed with Dyckman and Parks officials during and at the conclusion of this audit. A preliminary draft report was sent to Dyckman and Parks officials and discussed at an exit conference held on May 24, 2002. On May 30, 2002, we submitted a draft report to Dyckman and Parks with a request for comments. Written responses were received from Parks on June 10, 2002, and from Dyckman on June 14, 2002.

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With regard to silt relocation, the President stated: "One thing we find very troubling is the accusation that we removed or moved silt away from the marina. We never did anything of that sort."

Regarding hazardous conditions at the marina, the President stated that: "The floating docks and finger docks that appeared to be in a further deteriorated condition since the September 7, 2001 visit were in the process of being renovated in order to bring them up to standard by the summer season which for us began on May 1, 2002. They are almost completed for the season."

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In its response, Parks stated that it has elected to allow Dyckman to continue its operation of the marina and restaurant if Dyckman complies with the Notice To Cure (NTC) issued to Dyckman on June 10, 2002. Specifically, the NTC requires that Dyckman pay the audit assessment of \$59,911 under a six (6) month payment plan, contact the Department of Environmental Protection to settle Dyckman's past due water charges in the amount of \$6,558, implement the internal control recommendations, submit a formal sublicense agreement between Dyckman and Conover Canvas, Inc. to Parks for approval, take immediate action to properly account for all liquor purchases and sales, repair all damaged floating docks and walkways at the marina, and obtain the required permits for any future silt relocation projects.

The full text of the written comments received from Dyckman and Parks officials is included as an addendum to this report.

**OFFICE OF THE COMPTROLLER
NEW YORK CITY**

DATE FILED: June 24, 2002

FINDINGS AND RECOMMENDATIONS

Dyckman charged slip and mooring rental fees in accordance with Parks's approved rates, paid license fees on time, paid the design review fee, remitted the required security deposit to the City, and maintained workers' compensation and general liability insurance. As part of the improvements completed, Dyckman has installed new fencing around the marina, built a restaurant that contains restrooms, and removed debris from the property, as required by the agreement. However, Dyckman does not have adequate internal controls over its gross receipts. In addition, Dyckman did not report to Parks an estimated \$599,114—68 percent of its gross receipts. Consequently, Dyckman owes the City additional licensing fees totaling \$59,911. In addition, Dyckman has unpaid water bills totaling \$6,558 as of April 8, 2002. Dyckman also violated New York State liquor laws by not maintaining records of business transactions related to purchases and sales of alcoholic beverages.

Our physical inspection of the marina found that sections of the marina's bulkhead, decking, and retaining walls were in an advanced state of deterioration. After we notified Parks officials of our findings, they conducted their own inspection and immediately issued a Notice to Cure requiring that Dyckman make the necessary repairs. Finally, Dyckman did not obtain a permit for moving silt away from the marina—a serious violation of environmental regulations.

Dyckman Violated Its License Agreement By Not Reporting All of Its Revenue to the City

Our review of Dyckman's records revealed significant internal control weaknesses. Specifically, records were incomplete and therefore unreliable. Since transactions and receipts were not accurately recorded, we could not be certain that Dyckman reported all of its revenue from the marina and the restaurant. For example, Dyckman did not maintain rental agreements for all of its boat space rentals, did not use cash registers to record restaurant sales, and did not have a point-of-sale system.²

Moreover, Dyckman underreported its revenue; therefore, it did not pay all fees due the City. For the calendar year 2001, Dyckman reported revenues totaling \$283,512 and paid the City \$28,351 in licensing fees. However, Dyckman did not report an estimated \$599,114 in revenue on its gross receipts statements to Parks. This unreported amount represents 68 percent of Dyckman's total revenue for the year. Accordingly, Dyckman owes the City \$59,911 in additional fees, as shown in Table I, on the next page. Our methodology for estimating the amount of unreported revenue is discussed in the following sections of this report.

² A computerized system that tracks the purchase of items from the point of sale.

TABLE I

Schedule of Revenue Underreported
by Dyckman During Calendar Year 2001

Source of Income	Amount Reported by Dyckman to Parks	Amount Determined by the Auditors	Amount of Gross Receipts Not reported	Fees Due
Restaurant Food and Beverage Sales	\$181,001	\$722,518	\$541,517	\$54,152
Marina Revenue	94,110	122,447	28,337	2,833
Other Income	8,401 ^a	37,661	29,260	2,926
Total	\$283,512	\$882,626	\$599,114	\$59,911

^a Dyckman's other income includes rental payments received from Conover Canvas, Inc., and a site rental fee from a production company for a film shoot.

**Dyckman Underreported Revenue
From Food and Beverage Sales**

Dyckman did not report an estimated \$541,517 in revenue from the sale of food and beverages at its restaurant, the Tubby Hook Café. Consequently, Dyckman owes the City an additional \$54,152 in license fees. Although Dyckman reported \$181,001 in gross receipts to Parks for calendar year 2001, we determined that \$722,518 is a far more realistic amount.

Our review of Dyckman's books and records showed that restaurant transactions were haphazardly recorded. To compound this problem, the restaurant does not have a cash register to record sales, and according to Dyckman personnel, guest checks are discarded. However, in early October 2001, while at the marina, we came across a bag of guest checks dated August 28, 2001, through September 30, 2001. We sorted the bag of guest checks and found that Dyckman did not issue all pre-numbered guest checks in a sequential and systematic order. This resulted in missing guest checks and potentially unreported revenue to the City. The guest checks for August 28, 2001, through September 30, 2001, started with #357394 and ended with #988849, a total of 631,456 guest checks. However, Dyckman contended that only 228 guest checks were issued during that one-month period. Thus we cannot confirm whether all restaurant receipts were recorded on Dyckman's books and reported to Parks. (Appendix II shows the date and sequential issuance of pre-numbered guest checks issued.)

To perform our own assessment of the amount of food sold by the restaurant, we obtained invoices of food purchases made by Dyckman from its food distributor, Sysco. During the months of March through September 2001, Dyckman purchased \$83,867 in goods from Sysco. Based on the cost of goods sold at the restaurant, we estimated that the total receipts for food sold at the

Tubby Hook Café for this period should have amounted to at least \$226,440.³ (Appendix III shows our calculations of food revenue.)

We then contacted three of Dyckman's beer distributors. Invoices provided by the distributors for the period March through September 2001, and a physical count of Dyckman's unsold beer indicated that Dyckman's beer sales totaled, conservatively, \$310,049. Since we could not determine where Dyckman purchased its liquor, wine, and soft drinks, we contacted an operator of two similar Parks concessions in Manhattan and asked what percentage of its beverage sales are derived from liquor, wine, and soft drinks.

According to the operator, liquor, wine, and soft drink sales represent between 25 and 50 percent of total beverage sales. By using the midpoint of 37.5 percent, we estimated that, based on beer sales of \$310,049, Dyckman made at least \$186,029 in liquor, wine, and soft drink sales. Therefore, we estimate that Dyckman's total beverage sales for 2001 should have amounted to at least \$496,078. (Appendix IV shows our calculation of beverage revenue.)

Inadequate Controls Over Marina Revenue

Dyckman does not have sufficient internal controls to ensure that rental revenue from boat slips and moorings is properly recorded. Furthermore, Dyckman did not always generate a rental agreement or invoice when boat slips and moorings were rented. Consequently, we could not rely on Dyckman's records to confirm the accuracy of the revenue reported to Parks.

We conducted two physical counts at the marina and found a total of 70 boats docked at the marina. However, Dyckman provided contracts and invoices for only 46 of the 70 boats, totaling \$81,827. For seven of the remaining 24 boats, Dyckman had entered into verbal barter agreements with boat owners who, in exchange for various services, including dock repairs and nighttime security, received free slip or mooring rentals. The total value of these seven barter agreements, \$15,300, should have been reported to Parks as marina revenue. We were unable to determine the precise amount of revenue generated from the remaining 17 boats.

Based on Dyckman's summer rate (\$60/ft.) we calculated that these 17 boats (total footage 422ft.) should have generated at least \$25,320 in rental revenue. We therefore, calculated that marina revenue for calendar year 2001 should have been at least \$122,447 instead of the \$94,110 reported by Dyckman. Consequently, Dyckman owes the City \$2,833 in additional license fees for the \$28,337 in unreported revenue. (Appendix V shows our calculation of rental revenue.)

³ According to the New York State Restaurant Association, quick-service establishments such as the Tubby Hook Café charge a 300 to 400 percent sales mark-up, but expect food spoilage equivalent to three to 10 percent of the cost of the food.

Dyckman Does Not Include the Receipts of a Sublicensed Canvas Repairer in Its Gross Receipts

Dyckman permits Conover Canvas, Inc., to repair canvas boat covers at the marina. Dyckman did not obtain permission from Parks to enter into a sublicense agreement with Conover, as required by its agreement.⁴ Dyckman officials stated that they do include a rental fee they receive from Conover in Dyckman's gross receipts statements.⁵ According to Dyckman officials, the agreement between Dyckman and Conover is verbal and required that Conover pay Dyckman a rental fee of \$7,401 for calendar year 2001. Even if Dyckman reports the correct amount from its rental fee to Parks, this does not meet the requirements of the license agreement to report the sales made by Conover.

According to records provided by Conover, additional revenue from canvas repairs amounted to \$29,260 in 2001. Therefore, Dyckman should have reported this additional revenue as part of its gross receipts to Parks and paid an additional \$2,926 in license fees.

Noncompliance with State Liquor Laws

Dyckman violated the State liquor law by not maintaining records of business transactions related to the purchase and sale of alcoholic beverages during the year. According to § 106, Part 13,936, of the New York State Alcoholic Beverage Control (ABC) Law:

“Each retail licensee for on-premises consumption shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of alcoholic beverages, in gallons, purchased by such licensee together with the names, licensee numbers and places of business of the persons from whom the same was purchased, the amount involved in such purchases, as well as the sales of alcoholic beverages made by such licensee.”

Further, we found that Dyckman purchased at least \$1,088 in liquor from a retail liquor store. Therefore, Dyckman officials violated a State Liquor Authority law that requires all license holders to purchase alcohol solely from licensed manufacturers and wholesalers.

⁴ Dyckman's agreement with Parks states, “Should Licensee choose to assign or sublicense the management and operation of any element of the Licensed Premises to another party, Licensee shall seek the approval of the Commissioner by submitting a written request.”

⁵ Dyckman's agreement with Parks states that “gross receipts shall also include all sales made by any other operator. . . using the Licensed Premises.”

Hazardous Conditions Identified at Dyckman

On September 7, 2001, inspections by a Comptroller's Office engineer identified unsafe conditions at the Dyckman marina. The engineer noted that sections of the marina's bulkhead, decking, and retaining wall were in an advanced state of deterioration. § 12.5 of the licensing agreement states, "All docks/floats/finger docks/piers shall be maintained on a year-round basis with any needed repairs performed promptly." In an October 5, 2001, letter, we notified Parks officials of these serious conditions. Subsequently, Parks conducted its own inspection and issued Dyckman a Notice To Cure to make the necessary repairs. (See letters in Appendix I.) According to Parks officials, Dyckman, as of January 24, 2002, has disposed of the damaged floating dock, cordoned off the perimeter over the bulkhead, submitted engineering reports, and requested bids for repairs. Parks further stated that under its agreement, Dyckman is not required to complete bulkhead repairs until 2003. On April 30, 2002, we observed that Dyckman did in fact cordon off the area over the bulkhead. However, the floating docks have further deteriorated since our September 7, 2001, visit.

Contract Compliance Issues

Dyckman generally adhered to certain non-revenue requirements of its license agreement. As part of the capital improvements completed, Dyckman has installed new fencing around the marina, built a restaurant with restrooms, and removed debris from the property. Also, Dyckman paid its monthly license fees on time, paid the design review fee, remitted the required security deposit to the City, and maintained workers' compensation and general liability insurance, as required by the agreement.

However, Dyckman did not obtain a permit for moving silt away from the marina, and further into the Hudson River—a serious violation of environmental regulations.⁶ According to Dyckman's President, on three occasions, he hired a firm to scrape a layer of silt from the floor of the Hudson River and move the silt away from the marina. However, according to the U.S. Army Corp of Engineers, a permit must be obtained for any movement of silt because improper removal can pose a serious environmental hazard.

Furthermore, Dyckman owes the City \$6,558 for outstanding water use through April 8, 2002. As part of its license agreement, Dyckman is required to pay the City for its water use.

⁶ Silt is sediment suspended in stagnant water or carried by moving water, that often accumulates at the bottom of rivers, bays, etc.

Recommendations

1. Dyckman should pay the City \$59,911 in additional license fees owed.

Dyckman Response: “The estimates made in the comptroller’s audit, we believe, though based on best guestimate data, greatly overstate the gross revenues the Tubby Hook Café should have earned. We are, however, unable to disprove his estimated numbers. . . .We respectfully disagree with your monetary findings; we are, however, prepared to abide by your recommendations.”

2. Dyckman should pay the Department of Environmental Protection \$6,558 for water charges.

Dyckman Response: “We will be paying the DEP [the Department of Environmental Protection] \$6,558 in satisfaction of our recently determined water bill.”

3. Given the audit findings in this report, it is obvious that Parks must consider terminating its agreement with Dyckman if Parks believes that Dyckman is either unwilling or unable to keep books and records and account for all revenue, as required by the agreement. At a minimum, Dyckman’s failure to report all its revenues on its Gross Receipts Statements, its failure to maintain the necessary supporting documentation, and its lack of internal control must be addressed. Accordingly, if Parks decides not to terminate its agreement with Dyckman, Parks should require that Dyckman:

- Immediately install a point-of-sale system.
- Maintain records of all boat space rentals and services (e.g., boat agreements, invoices).
- Use pre-numbered contracts to document boat space rentals.
- Report all gross revenue to the City including the fair market value of docking fees from all barter agreements.
- Obtain written approval from Parks for all sublicense agreements.
- Comply with the New York State liquor law by purchasing alcohol only from authorized wholesale distributors and by maintaining adequate records of liquor purchases and sales.
- Immediately repair the floating docks and walkways.

- Obtain the required permits for silt relocation.

Parks Response: “DPR [Parks] has elected to allow Dyckman to continue its operation of the marina and restaurant subject to its full compliance with the attached Notice to Cure (NTC) which requires that Dyckman remedy the deficiencies noted in the Comptroller’s audit report. Dyckman is required to pay the audit assessment of \$59,911 . . . under six (6) month payment plan, and must contact the Department of Environmental Protection to settle Dyckman’s past due water charges in the amount of \$6,558.”

The NTC also required that Dyckman:

- Take immediate action to implement all of the audit’s recommendations for accounting internal controls.
- Submit to Parks for consideration and approval within thirty (30) days, a formal sublicense agreement between Dyckman and Conover Canvas, Inc. Also, Dyckman must include all gross receipts of the sublicensee in its revenue statements to Parks.
- Purchase alcohol only from authorized wholesale distributors and establish the necessary record keeping procedures to account for all liquor purchases and sales.
- Take immediate action to repair all damaged floating docks and walkways at the marina.
- Obtain the required permits before undertaking any silt removal project.

If Parks decides not to terminate Dyckman’s agreement, then we recommend that Parks ensure that Dyckman:

4. Pays the City \$59,911 in additional license fees.
5. Pays the Department of Environmental Protection \$6,558 for water charges.
6. Complies with the remaining recommendations made in this report.

Parks Response: “These recommendations have been addressed by DPR’s issuance of the . . . NTC.”

7. Is periodically audited and its facilities inspected by Parks to ensure that it is adhering to the terms of the agreement.

Park Response: Parks’s Assistant Commissioner for Revenue requested that Parks’s Internal Auditor, “conduct a follow-up review in two months to verify that Dyckman has fully complied with all audit recommendations. . . . [and] that he include Dyckman on his annual audit plan for F/Y 04.”



Roger D. Liwer
EXECUTIVE
DEPUTY COMPTROLLER

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET ROOM 530
NEW YORK, N.Y. 10007-2341

ALAN G. HEVESI
COMPTROLLER

TELEPHONE: (212) 380-8459
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WWW.COMPTROLLER.NYC.GOV
EMAIL: RLIWER@COMPTROLLER.NYC.GOV

October 5, 2001

The Honorable Henry Stern, Commissioner
New York City Department of Parks & Recreation
The Arsenal, Central Park
830 Fifth Avenue
New York, New York 10021

Dear Commissioner Stern:

I am writing to inform you of unsafe conditions at the Dyckman Marina. As part of our ongoing audit of the marina, a team of auditors and an engineer conducted several inspections of the facility and noted that sections of the marina's bulkhead, decking, and retaining wall are in an advanced state of deterioration. §12.5 of the license agreement states, "All docks/floats/finger docks/piers shall be maintained on a year-round basis with any needed repairs performed promptly." In addition, the license agreement requires that the license repair the bulkhead. However, the licensee is not required to complete bulkhead repairs until 2003. Given the seriousness of the conditions that exist, I urge you and your engineering department to take immediate action to correct the conditions to ensure the health and safety of the marina's patrons.

Attached is a copy of a report prepared by our engineers and photographs taken during the inspections. Please advise me of what actions you will be taking to address these problems.

Sincerely,

Roger D. Liwer

cc: Ms. Joanne Imohiosen, Assistant Commissioner for Revenue/DPR
Mr. David Stark, Chief of Fiscal Management/DPR
Mr. Michael Leonetti, Chief Accountant for Revenue/DPR
Mrs. Peggy Rose Viera, Mayor's Office of Operations



Michael P. Rennard, P.E.
CHIEF ENGINEER

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF ENGINEERING
1 CENTRE STREET, ROOM 650
NEW YORK, N.Y. 10007-1602

TELEPHONE: (212) 380-2250
FAX NUMBER: (212) 380-2253

ALAN G. HEVESI
COMPTROLLER

October 4, 2001

To: Michael Morgese . Assistant Director
From: Joseph Brennan, P.E.
Via: Jonathan Rubin, R.A.
Re: Dyckman Marina Inspection - DPR611
Date: September 10, 2001

On Friday, September 7, 2001, I conducted a brief inspection of the Dyckman Marina, located at Dyckman St. and the Hudson River, in the borough of Manhattan. The facility is under the jurisdiction of the New York City Parks Department, and has been leased to a Dyckman Marine Group Inc.—a private concessionaire. I was accompanied by Mr. Robert Balducci, of the Audit Bureau. At the site we met Curtis Roinestad and Nicole Clyne of the Audit Bureau who were conducting an audit. We toured the marina area by a boat driven by an employee of the concessionaire. A number of photographs were taken. My observations are as follows:

- 1.) Floating Dock – The floating dock or walkway is generally in good condition, with the exception of several small areas needing local repairs. A more serious problem exists at the Southern end of this walkway as is shown in photos 1, 2, 3 . A section of the concrete decked walkway has broken away and it is no longer riding on the vertical piling. This end is submerged underwater, and it may be pulling down the adjacent wooden decked walkway, which is tilted.
- 2.) Wooden Bulkhead – The wooden bulkhead appears to be generally in poor condition, with missing and broken members. This is shown in photos 4, 5, 6, 8, 9, and 10.
- 3.) Stationary Pier – The stationary pier with access ramp to floating dock is in fair to poor condition. The Southwest corner of this pier has settled and tilted away from the rest of the structure. This is shown in photo 7. The underpinning of the pier should be thoroughly examined before restoring the bulkhead. Note, this underpinning is not readily visible.
- 4.) Dining Area – On the Western end of the outdoor dining area is a concrete retaining wall. When viewed from the water exposed reinforcing bars are visible. This is seen in photo 11. This should be repaired as soon as possible.

Dyckman Marina Inspection
September 7, 2001

The Floating Dock

(Photo No. 1)



The piling support is missing at the end of the wooden walkway, and the walkway is tilted towards the water.

(Photo No. 2)



The concrete and the wooden walkways have broken apart. The wooden walkway is tilted towards the water. The end of the concrete walkway is submerged under the water.

(Photo No.3)



The pile support is missing and the concrete walkway is submerged.

The Wooden Bulkhead

(Photo No. 4)



The wooden bulkhead is in generally poor condition.
Parts of the bulkhead are broken or are entirely missing.

(Photo No. 5)



Another view of the bulkhead showing deteriorated beams and underlay.

(Photo No. 6)



This photograph and the next one shows that the bulkhead is settling. This stationary pier provides access to the floating dock.

Stationary Pier

(Photo No.7)



The same area from the opposite (land) side. The corner of the pier has settled and is tilting away from the rest of the structure.

The Wooden Bulkhead

(Photo No.8)



These photographs of the stationary pier show the rotting of the bulkhead, and the shifting of wooden crossbeams.

(Photo No.9)



The rotting bulkhead beneath the stationary pier.

(Photo No.10)



Another view of the bulkhead beneath the stationary pier.

The Dining Area

(Photo No.11)



Reinforcement bars are visible in the retaining wall below the outdoor dining area.



City of New York
Parks & Recreation

APPENDIX T

The Arsenal
Central Park
New York, New York 10021

Henry J. Stern
Commissioner

Joanne G. Imohiosen
Assistant Commissioner
Revenue

(212) 360-3404
greenback@parks.nyc.gov

October 24, 2001

Mr. Peter B. Shalleck
The Dyckman Marine Group, Inc.
348 Dyckman Street
New York, N.Y. 10034

Notice to Cure: Bulkhead, Docks and Building Permit
Permit # M 28-M

Dear Mr. Shalleck:

A recent inspection by Engineers and Architects from the Comptroller's office and Parks Department found the bulkhead at Dyckman Marina to be in an advanced state of deterioration. This represents a considerable hazard and must be addressed immediately. In addition, the southern section of dock of the marina has not been removed or repaired as promised by you three months ago. The temporary barrier provided for the docks is inadequate and there is no warning sign. Section 12.5 of the license agreement states, "All docks/ floats/ finger docks/ piers shall be maintained on a year-round basis with any needed repairs performed promptly." In addition, the license agreement requires the repair of the bulkhead. Please take the following action no later than November 2, 2001:

- Remove wood, metal, steel and mushroom anchor from the area adjacent to the dock ramp. No materials should be stored or kept around the perimeter of the walkway over the bulkheads.
- Repair, replace, or remove the southern most section of dock that is in an advanced state of disrepair and is sinking. This area must be properly cordoned off immediately to prevent any potential accidents and warning signs must be posted until the repair, replacement or removal is completed.
- Retain the services of a licensed Engineer to prepare plans and applications for the replacement or substantial repair of the bulkhead. The plans must include a construction schedule and a method of immediately providing measures to prevent collapse and to provide safety to all visitors to the site. The plans must be filed with all appropriate city, state and federal agencies.

Your prompt attention to these serious matters is required.

Sincerely,

Joanne Imohiosen

APPENDIX II

**Dyckman Marine Group Inc.
Guest Checks Issued between August 28 to September 30, 2001**

Date Issued	Guest Check Number	Amount
09/14/01	357394	32.90
09/24/01	666505	16.95
09/25/01	666612	16.95
09/23/01	666752	16.00
09/23/01	666756	16.00
09/23/01	666757	14.00
09/23/01	666760	19.00
09/23/01	666769	17.00
09/29/01	666773	41.00
09/30/01	666774	39.00
09/30/01	666775	29.00
09/30/01	666803	10.00
09/28/01	666804	14.35
	666805	7.25
	666806	21.90
09/29/01	666807	30.95
09/29/01	666809	17.90
09/28/01	666863	25.90
09/28/01	666864	24.90
09/28/01	666865	33.65
09/23/01	666905	30.95
09/23/01	666910	42.75
09/29/01	666914	29.90
	666951	78.75
	666952	37.80
09/30/01	666955	12.95
09/23/01	667097	21.95
09/24/01	667122	14.95
09/25/01	667129	44.35
	667131	7.00
09/23/01	667262	52.60
09/23/01	667263	24.90
09/23/01	667264	14.00
09/23/01	667265	34.90
09/23/01	667266	43.60
09/23/01	667268	50.75
09/23/01	667270	6.00
09/23/01	667271	15.90
09/23/01	667272	11.45
09/28/01	667367	47.80
09/23/01	667419	23.85
	667422	7.95

Date Issued	Guest Check Number	Amount
09/17/01	667866	20.90
09/17/01	667867	12.95
09/17/01	667868	14.95
09/17/01	667869	24.00
09/17/01	667870	16.00
09/23/01	667884	12.85
09/23/01	667885	36.50
09/23/01	667886	15.00
09/23/01	667888	43.00
09/25/01	667890	67.50
09/23/01	667891	25.00
	667895	40.50
09/27/01	667924	27.90
09/14/01	667953	44.00
	667956	76.36
09/14/01	668157	31.90
09/15/01	668159	3.50
09/15/01	668160	40.70
09/15/01	668161	22.95
09/15/01	668162	10.95
09/15/01	668164	35.15
09/15/01	668165	66.40
09/23/01	668232	70.00
09/23/01	668233	6.90
09/23/01	668237	15.00
09/23/01	668240	18.00
09/23/01	668241	7.00
09/23/01	668242	26.00
09/23/01	668243	8.95
09/23/01	668244	6.95
09/15/01	668328	12.00
09/15/01	668329	23.95
09/15/01	668330	34.85
09/15/01	668331	15.95
09/15/01	668333	10.00
09/15/01	668334	28.90
09/15/01	668335	35.50
09/15/01	668336	16.95
09/15/01	668337	12.00
09/15/01	668340	5.50
09/17/01	668470	22.90
09/17/01	668472	12.00

APPENDIX II

09/17/01	667554	19.50
09/23/01	667563	21.69
09/23/01	667565	26.85
09/23/01	667570	46.30
09/23/01	667571	22.40
09/23/01	667572	47.75
09/28/01	667723	51.00
09/28/01	667725	18.00
09/17/01	667854	18.00
09/05/01	668851	18.95
09/05/01	668805	14.00
09/15/01	668857	32.90
09/15/01	668859	11.35
09/15/01	668860	8.00
09/15/01	668861	30.90
09/15/01	668862	35.90
09/15/01	668863	8.00
09/15/01	668865	38.00
09/15/01	668880	23.65
09/04/01	668903	26.00
09/04/01	668904	14.50
09/04/01	668906	18.15
09/04/01	668911	5.00
09/04/01	668913	18.15
09/05/01	668914	24.16
09/05/01	668915	7.00
09/05/01	668916	16.95
09/05/01	668918	41.10
	829715	29.90
	829716	15.95
09/06/01	829732	13.00
	829881	91.70
	829889	25.00
	829933	25.75
08/28/01	830044	22.95
	830046	7.00
	830081	29.90
	830084	17.10
	830091	2.50
	830369	4.00
	830373	18.00
	830389	9.00
	830504	57.50
	830571	15.95
	830575	21.00
	830582	53.85
	830599	4.00
09/05/01	830637	62.35

09/23/01	668512	26.50
09/06/01	668662	22.55
09/06/01	668702	47.00
09/10/01	668725	23.20
09/10/01	668726	28.00
09/10/01	668729	36.70
09/10/01	668730	6.00
09/10/01	668731	21.95
09/05/01	668802	6.00
	830967	17.75
	830968	16.95
09/04/01	831876	39.95
09/29/01	866852	22.50
	988018	16.90
09/06/01	988166	21.85
	830969	23.95
	830971	41.85
	830972	24.90
	830980	34.85
	830981	22.85
	830983	12.85
	830987	10.95
	830990	6.95
08/28/01	831003	37.30
	831005	23.50
08/28/01	831006	26.90
08/28/01	831008	21.90
08/28/01	831009	8.50
08/28/01	831010	26.90
08/28/01	831011	34.90
	831016	49.00
08/28/01	831017	39.80
09/10/01	831096	24.90
08/27/01	831102	18.25
	831111	22.40
08/28/01	831151	4.00
08/28/01	831152	8.95
08/28/01	831154	21.90
08/28/01	831155	4.00
08/28/01	831156	14.75
08/28/01	831157	26.40
08/28/01	831158	3.50
08/28/01	831159	41.40
08/28/01	831160	17.00
08/28/01	831201	83.80
	831302	42.85
	831304	85.70
	831306	25.50

08/28/01	830672	14.75
08/28/01	830675	25.90
08/27/01	830729	33.53
08/27/01	830730	11.00
08/27/01	830734	8.95
08/27/01	830735	41.80
	830868	12.95
	830869	58.60
	830876	31.90
	830880	10.45
	830881	16.45
	830882	23.85
08/28/01	830960	52.50
	831612	26.85
	831613	21.90
	831614	17.95
09/06/01	831712	25.00
09/06/01	831713	16.00
09/06/01	831715	8.00
09/06/01	988167	8.00
09/06/01	988169	16.00
08/28/01	988353	8.00
	988360	28.20
09/15/01	988694	26.00
09/15/01	988695	35.10
09/15/01	988696	54.85
09/15/01	988697	17.95
	988781	13.20
	988802	25.50
08/27/01	988843	8.00
08/27/01	988845	46.80
08/27/01	988846	8.00
08/27/01	988847	5.00
08/27/01	988848	51.90
08/27/01	988849	46.75
Total Amount		\$ 5,679.64
Total Guest Checks		228

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	831307	13.00
	831310	8.00
	831313	13.90
09/12/01	831442	5.00
09/12/01	831443	10.00
09/12/01	831444	12.00
09/12/01	831445	39.90
	831502	18.00
	831504	8.50
	831511	45.00
	831512	2.00
	831604	24.40
	831609	6.95

APPENDIX III**Schedule of Estimated Food Sales
at Dyckman's Tubby Hook Café**

Month	Amount of Food Purchased
March 2001	319.67
April 2001	1,965.24
May 2001	6,952.53
June 2001	15,556.50
July 2001	24,661.48
August 2001	25,282.09
September 2001	9,129.05
Total Cost	83,866.56
Less 10% Spoilage	(8,386.66)
Cost after Spoilage	75,479.90
300% Sales Markup	226,439.70
Total Estimated Food Sales	\$226,439.70

APPENDIX IV

Schedule of Estimated Beverage Sales at Dyckman's Tubby Hook Café

BEVERAGE	
Name of Distributor(s)	Cost of Purchases
Oak Beverages	\$10,961.18
Manhattan Beer	70,820.90
Anheuser Busch	1,771.35
Less Ending Inventory	(1,093.63)
Total Cost of Beer Purchases	\$82,459.80
Average Cost Per Bottle	0.84
Average Sale Price Per Bottle	4.00
Percentage Markup of Cost	376%
Total Estimated Beer Sales	\$310,048.84
Total Estimated Liquor, Wine and Soft Drink Sales (37.5% of total beverage sales)*	\$186,028.80
Total Beverage Sales	\$496,077.64

*According to two similar concessions in Manhattan, liquor, wine, and soft drink sales represent approximately 25 to 50 percent of their total beverage sales. We used 37.5 percent as a basis in determining liquor, wine and soft drink sales.

APPENDIX V

Schedule of Estimated Rental Revenue

	Estimated Summer Rate (\$60/ft)	Barter Agreements Summer Rate(\$60/ft) Winter Rate (\$40/ft)	Amount Paid Per Contract or Invoice	Total Rental Revenue
Number of Boats	17	7	46	
Total Footage	422	153	—	
Rate Per Foot	60	100	—	
Amount	\$25,320	\$15,300	\$81,827	\$122,447

Addendum I - Response from the
Dyckman Marine Group, Inc.

THE DYCKMAN MARINE GROUP, INC.

348 Dyckman Street
New York, NY 10034

June 13, 2002

Mr. Roger D. Liwer
Assistant Comptroller for Audits
The City of New York
Office of the Comptroller
Bureau of Audits
1 Centre Street, Room 1100
New York, NY 10007-2341

Dear Mr. Liwer,

On January 1st, 1999 the Dyckman Marine Group, Inc. (DMG) took possession of what, in glowing terms, could only be described as a dilapidated, rundown, non-managed stretch of New York City waterfront known as the Dyckman Boatyard. It was, to our knowledge, the worst licensee (in terms of money owed the City) in Parks and Recreation's fiefdom owing six figure arrears in license fees not paid.

It was, we had been told, "...a blight..." on the very dynamic and rapidly changing community of Inwood and it was attracting elements detrimental to the very family oriented people residing in the surrounding area.

Instead of being one of a very few public access locations to the historic "heritage river Hudson" it was a seedy hangout for drug using low-lives interspersed with some good people willing, in the fine NYC tradition, to look the other way in order to utilize the minimal facilities to gain access to the water.

By undertaking this venture, the DMG committed to use its resources to transform this area of decay into a vibrant, neighborhood-friendly, open Hudson River access point for all in NYC to enjoy.

We have revitalized the marina (upgraded from boatyard) chasing out the undesirables while maintaining a base of local boaters and fisherman and attracting boating enthusiasts and their families from three states and four of the five boroughs of the City.

Contrary to an engineering study called "Dyckman Street Marina Feasibility Study" commissioned by the Washington Heights Inwood Development Corporation and prepared by Raymond, Parish, Pine & Weiner, Inc. (planning and development consultants) and Olko Engineering (marine engineering consultants) in November of 1982 wherein they say that the cost of developing a marina at the site can not be justified by the anticipated revenue stream...we believe that we have upgraded the existing facility to a level able to attract and keep family

Addendum I - Response from the
Dyckman Marine Group, Inc.

pleasure boaters many of whom have been very forthcoming with praise of the job we have been able to do, including providing a secure and safe environment.

Parts of the bulkhead are in a deteriorated condition and were when we took possession. One main reason for a large part of the problem was caused by many years, prior to our involvement, of City garbage/packer trucks utilizing the area for parking and driving over. This action put very high tonnage loads directly over the area in question, undermining the bulkhead structure. It took us a while to end this practice, around one year ago, and have noticed no further deterioration since then. We have however cordoned off the area to pedestrian traffic in the unlikely event of a structural compromise.

We are of the belief that the repair of the bulkhead area is a capital problem for the City of New York. State and Federal Heritage River Funding should be available for that purpose and we would be more than pleased to assist in obtaining those funds.

The floating docks and finger docks that appeared to be in a further deteriorated condition since the September 7th, 2001 visit were in the process of being renovated in order to bring them up to standard by the summer season which for us began on May 1st, 2002. They are almost completed for the season.

One thing we find very troubling is the accusation that we removed or moved silt away from the marina. We never did anything of that sort. We did nothing more than what occurs every time a boater takes his or her boat in or out of slip. The propeller action of every boat entering or leaving the shallower dock areas has an agitating action on the river bottom causing silt displacement. The DMG did nothing more than that. No attempt was ever made to "move silt away from the marina." Silt displacement occurs naturally when a boat is driven over the river bottom. No permits, to our knowledge, are required for this and the silt quickly returns to backfill the area. Never did we attempt to remove any river bottom silt.

The question of water usage and an outstanding bill to DEP has never been at issue. What was at issue was the accuracy of the bill. We received bills in excess of \$20,000 for a mere trickle of water usage. We requested on a number of occasions that our water and sewer bill (we have no sewer) be verified accurate by DEP. We even sent a \$1,500 good faith payment to them pending verification. The number cited in your report of \$6,558 is the first verification of the correct water usage figure and we will gladly pay it.

Contrary to your report, all boats at the marina were in fact accounted for in the reporting of gross receipts. We are of the belief that your audit is attributing seasonal rental rates to boats that were either transient or derelict.

Another troubling problem in your report is the fact that you say we never obtained permission from Parks to enter into a sublicense agreement with Conover Canvas, Inc. a canvas repairer who is renting space in our Quonset hut. Further you are charging us \$2,926 of additional gross revenue fees resulting from your conclusion that Conover Canvas had gross revenues of \$29,260 last year and we are responsible for 10% of that number.

Addendum I - Response from the
Dyckman Marine Group, Inc.

First of all, Conover Canvas Inc. was a tenant in place when we took over the marina. We charge him a very low rent which we reported every month as income to us when figuring gross receipts. We never had a lease with him and our understanding with him was that he was a month to month tenant. We have NO relationship to Mr. Conover or his canvas repair business. We also have no means of verifying anything about Mr. Conover's business, including what his gross income is, nor for that matter do we care to. Mr. Conover is a small businessman who we are probably going to put out of business because we are not going to keep him as a tenant subject to being assessed 10% of his unverifiable gross on top of the 10% we already pay on his rent. That is a moral dilemma which we are not required to resolve. We wish him well.

The Tubby Hook Café, where your audit report finds the greatest problems, is both a good and bad news story.

We were able to transform a rubbish dump, including the removal of old car bodies and boat skeletons, from a once useless piece of undeveloped real estate into what we now believe is a new entertainment and river access area with the feel of the islands and unlike anything NYC currently has to offer.

This was no easy matter, considering the fact that we have never been given a sewer hook up or a natural gas line. We built two bathrooms which empty directly into holding tanks that must be pumped out on a regular basis. We are forced to cook with propane (a very inefficient high cost cooking method) instead of natural gas.

In the summer of 2000 we opened The Tubby Hook Café in a bare bones format. It operated that summer as what can only be described as a snack bar on the river. Since very little traffic came down to the marina, very little traffic came into the Café. Inventory control was as easy as counting a few bottles and boxes. We had no wait staff; customers put in their orders directly into the kitchen.

During that summer we continued to work on the physical Café site. We put down a 10,000 sq. foot lawn for children to play on; built an eating patio on the point at Tubby Hook (as designated on the Hudson River chart) for customers to eat and drink and enjoy the water while being physically over the river; and made plans to build a real bar for cocktail service under our Café tent.

All of this was done with the understanding that at the end of the summer we would have to take everything down and store it for the winter. We did that and managed to survive the winter with only a few broken pipes.

With the coming of spring and the knowledge that summer was just around the corner we commenced the start-up procedures for summer 2001. We expected a slow but upward growth curve. On the 4th of July, we decided to have live entertainment. We had an American fiddler and his band under the main café tent and a local Latin jazz band outside on the Tubby Hook point. Each band played opposing sets and before long the word spread around the neighborhood. Before we knew what hit us we had many hundreds of people enjoying the music and food and drink.

Addendum I - Response from the
Dyckman Marine Group, Inc.

None of us in the Dyckman Marine Group has ever been in the food business before and when we ran out of food by 3:00 o'clock in the afternoon we reacted the best we could, obtaining locally the food and supplies we needed and trying to satisfy the new customers we had just acquired.

After that experience, we over reacted, purchasing large supplies of food and drink while under reacting to putting proper fiscal and inventory controls in place. This problem was worsened by the shortness of the season and the events of September 11th. In order to install a proper POS system we would have been forced to close down for a period of time in order to make the physical site changes for the installation. We could not afford to lose that revenue for the period and especially we did not want to curtail the inertia of our new found fame. We continued operating. We worked 14-16 hour days and enjoyed what we perceived as our new found success. We figured we only had a couple of months to get through and then we would set up the necessary fiscal and inventory controls for summer 2002.

This turned out to be a bad decision.

Money that we should have seen we never did. Inventory which we purchased slipped away from right under our noses. By the time we recognized what was happening the summer season had passed and the fall settled in.

We knew that we had taken losses and estimated them. We heard that some of our inventory had been sold to local merchants, and some of our rapidly hired wait staff had stolen unspecified sums of money and they had given out many free meals and drinks to friends and family.

The estimates made in the comptroller's audit, we believe, though based on best guestimate data, greatly overstates the gross revenues the Tubby Hook Café should have earned. We are, however, unable to disprove his estimated numbers.

This puts us in a very difficult position. In the private sector, when a negative situation is indicated, you suck it up, make the necessary changes where required and lick your wounds. In this situation we are not only forced to lick our wounds but required to pay a very stiff penalty to boot.

The recommendations that the Comptroller makes are almost exactly what we have already started to implement and had planned to.

We are currently putting in a point of sale system and had started to do so prior to the Comptrollers report.

We are in compliance with all regulating agencies.

We will be paying the DEP \$6,558 in satisfaction of our recently determined water bill.

We have tightened up the controls on documentation of all boat space rentals.

[Handwritten signature and date]
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Addendum I - Response from the
Dyckman Marine Group, Inc.

We no longer are entering into barter agreements but if we do fair market value will be attributed.

Repairs are being completed on all floating docks and walkways.

We respectfully disagree with your monetary findings; we are, however, prepared to abide by your recommendations.

Respectfully submitted,



Peter Blair Shalleck
President

cc: Joanne Imohiosen
Assistant Commisioner, NYC Parks and Recreation



City of New York
Parks & Recreation

**Addendum II - Response from the
City of New York Parks & Recreation**

The Arsenal
Central Park
New York, New York 10021

Adrian Benepe
Commissioner

Joanne G. Imohiosen
Assistant Commissioner
Revenue

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

June 10, 2002

BY FAX AND MAIL

Roger D. Liwer
Assistant Comptroller for Audits
The City of New York
Office of The Comptroller
1 Centre Street - Room 1100
New York, NY 10007-2341

Re: Comptroller's Draft Audit Report on Dyckman Marine Group, Inc.
January 1, 2001 to December 31, 2001 FM02-074A, Dated May 30, 2002

Dear Mr. Liwer:

This letter represents the Parks Department (DPR's), response to the recommendations contained in the subject audit of Dyckman Marine Group, Inc. (Dyckman).

DPR has elected to allow Dyckman to continue its operation of the marina and restaurant subject to its full compliance with the attached Notice To Cure (NTC) which requires that Dyckman remedy the deficiencies noted in the Comptroller's audit report. Dyckman is required to pay the audit assessment of \$59,911 (Recommendation 1) under a six (6) month payment plan, and must contact the Department of Environmental Protection to settle Dyckman's past due water charges in the amount of \$6,558 (Recommendation 2).

To comply with Recommendation 3, Dyckman must:

- Take immediate action to implement all of the accounting internal control recommendations.
- Submit to DPR for consideration and approval within thirty (30) days, a formal sublicense agreement between Dyckman and Conover Canvas, Inc. Also, Dyckman must include all gross receipts of the sublicensee in its revenue statements to DPR.
- Purchase alcohol only from authorized wholesale distributors and establish the necessary record keeping procedures to account for all liquor purchases and sales.

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City of New York Parks & Recreation

Roger D. Liwer
June 10, 2002
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- Take immediate action to repair all damaged floating docks and walkways at the marina.
- Obtain the required permits before undertaking any silt removal project.

Recommendations 4 through 7 advise that DPR ensure that Dyckman:

Recommendation 4. Pays the City \$59,911 in additional license fees.

Recommendation 5. Pays the Department of Environmental Protection \$6,558 for water charges.

Recommendation 6. Complies with the remaining recommendations made in this report.

These recommendations have been addressed by DPR's issuance of the above mentioned NTC.

Recommendation 7. Is periodically audited and its facilities inspected by Parks to ensure that it is adhering to the terms of the agreement.

As indicated in DPR's NTC, I have requested that Francisco Carlos, DPR Internal Auditor, conduct a follow-up review in two months to verify that Dyckman has fully complied with all audit recommendations. Furthermore, by copy of this letter to Mr. Carlos, I am requesting that he include Dyckman on his annual audit plan for F/Y 04.

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

Sincerely,


Joanne Imohiosen

cc: Ron Lieberman
David Stark
Francisco Carlos
Charles Kloth
Susan Kupferman, Mayor's Office of Operations



City of New York
Parks & Recreation

**Addendum II - Response from the
City of New York Parks & Recreation**

The Arsenal
Central Park
New York, New York 10021

Adrian Benepe
Commissioner

Joanne G. Imohiosen
Assistant Commissioner
Revenue

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

June 10, 2002

BY FAX AND MAIL

Mr. Peter B. Shalleck, President
Dyckman Marine Group, Inc.
348 Dyckman Street
New York, NY 10034

NOTICE TO CURE

Re: Comptroller's Draft Audit Report on Dyckman Marine Group, Inc.
January 1, 2001 to December 31, 2001 FM02-074A, Dated May 30, 2002

Dear Mr. Shalleck:

This letter addresses the findings and recommendations contained in the subject draft audit report on Dyckman Marine Group, Inc. (Dyckman). Generally, the Comptroller's audit disclosed that Dyckman did not have adequate internal controls over its gross receipts. As a result, the auditors concluded that Dyckman did not report to the Parks Department (DPR) an estimated \$599,114 of its gross receipts. Consequently, Dyckman owes the City additional license fees totaling \$59,911. In addition the audit report disclosed that Dyckman has unpaid water bills totaling \$6,558. Dyckman also violated New York State liquor laws by not maintaining records of business transactions related to purchases and sales of alcoholic beverages. Finally, the audit disclosed that Dyckman did not obtain a permit for moving silt away from the marina. This represents a serious violation of environmental regulations.

Due to the serious nature of the audit findings contained in the report, the Comptroller's Office has suggested that DPR consider terminating its contract with Dyckman if DPR believes that Dyckman is either unwilling or unable to keep books and records and account for all revenue, as required by the license agreement. To avoid such action Dyckman is required to address and implement the audit recommendations that follow.

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City of New York Parks & Recreation

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Recommendation 1. Dyckman should pay \$59,911 in additional license fees owed.

In its examination of Dyckman's records the auditors determined that the controls in place were insufficient to ensure that all receipts were recorded and properly reported to Parks. Dyckman did not provide the original source documentation needed to substantiate the revenue amounts on the reports it submitted to Parks. Specifically, the audit report stated that Dyckman did not provide cash register tapes or invoices for food, beverages, and alcohol. Instead, Dyckman provided to the auditors incomplete records of guest checks, credit card statements, and repair invoices, and provided less than half of the boat rental agreements. The audit report concluded that, "The incompleteness of the records that were provided indicates that accurate records are not being maintained" by Dyckman as required by Section 5.1 of its license agreement.

Based on an extrapolation of the information available the auditors calculated that Dyckman underreported revenue by \$599,114 as follows:

• 1. Restaurant Food and Beverage Sales	\$541,517
• 2. Marina Revenue	28,337
• 3. Other Income	<u>29,260</u>
TOTAL	<u>\$599,114</u>

ADDITIONAL FEES OWED ON **\$ 59,911**
UNDERREPORTED REVENUE AT 10%

1. The audit review of Dyckman's books and records for Food and Beverage sales disclosed that:

- Restaurant transactions were haphazardly recorded.
- The restaurant did not have a cash register to record sales.
- According to Dyckman personnel, guest checks are discarded.
- Dyckman did not issue all pre-numbered guest checks in a sequential and systematic order.

The auditors based their food and beer sales projections on the actual cost of goods taken from invoices obtained from Dyckman's food and beer distributors. Then, based on the total beer sales the auditors were able to project Dyckman's liquor wine and soft drink sales. The auditors determined that Dyckman should have paid license fees of \$22,644 on food revenue, and \$49,608 for beverage sales. The total fee payment for Food and Beverage sales for 2001 should have been \$72,252. Dyckman only paid \$18,100. The difference of \$54,152 is owed to the City.

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City of New York Parks & Recreation**

Peter B. Shalleck
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2. The auditors examination of the marina operation revealed that:
 - Dyckman does not have sufficient internal controls to ensure that rental revenue from boat slips and moorings is properly recorded.
 - Dyckman did not always generate a rental agreement or invoice when boat slips and moorings were rented. The auditors counted 70 boats docked at the marina however, only 46 contracts and invoices were accounted for, totaling \$81,827.
 - For 7 of the remaining 24 boats, Dyckman entered into verbal barter agreements with boat owners who, in exchange for various services, including dock repairs and nighttime security, received free slip or mooring rentals. The value of these agreements, \$15,300 was not reported to DPR.
 - For the remaining 17 boats the auditors calculated that at least \$25,320 in rental revenue should have been generated.
 - Based on the auditors calculations for calendar year 2001, marina revenue should have been at least \$122,447 instead of the \$94,110 reported by Dyckman.
 - The additional fees owed for underreported Marina Revenue totals \$2,833.
3. For "Other Income" the audit report found that:
 - Dyckman did not include the receipts of a sublicensed canvas repairer, Conover Canvas, Inc., in its gross receipts.
 - Dyckman did not obtain permission from DPR to enter into a sublicense agreement with Conover, as required by its agreement.
 - Conover's revenue from canvas repairs which should have been reported to DPR amounted to \$29,260 in 2001.
 - The additional fees owed by Dyckman against this revenue is \$2,926.

Dyckman has requested that DPR allow them to repay the outstanding assessment under an approved installment plan. DPR is agreeable to a six (6) month payment schedule as follows:

<u>DUE DATE</u>	<u>AMOUNT</u>
July 1, 2002	\$10,000
August 1, 2002	10,000
September 1, 2002	10,000
October 1, 2002	10,000
November 1, 2002	10,000
December 1, 2002	9,911
TOTAL AMOUNT	<u>\$59,911</u>

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You should indicate your approval with this arrangement by signing and returning the enclosed copy of this letter. A check for the first installment of \$10,000 should be mailed to reach this office by July 1, 2002.

Recommendation 2. Dyckman should pay the Department of Environmental Protection \$6,558 for water charges.

The audit report disclosed that Dyckman owes the City \$6,558 for outstanding water use through April 8, 2002. Dyckman is afforded twenty (20) days from the date of this letter to contact the Department of Environmental Protection to arrange for payment of the outstanding balance. Verification of Dyckman's remittance via a copy of the paid invoice or cancelled check should be forwarded to DPR. By copy of this letter to Jeffrey Shatz, Revenue Division Project Manager, I am requesting that he follow this item for proper settlement.

Recommendation 3. Given the audit findings in this report, it is obvious that DPR must consider terminating its agreement with Dyckman if DPR believes that Dyckman is either unwilling or unable to keep books and records and account for all revenue, as required by the agreement. At a minimum, Dyckman's failure to report all its revenues on its Gross Receipts Statements, its failure to maintain the necessary supporting documentation, and its lack of internal control must be addressed. Accordingly, if Parks decides not to terminate its agreement with Dyckman, DPR should require that Dyckman:

- Immediately install a point-of-sale system.
- Maintain records of all boat space rentals and services (e.g., boat agreements, invoices).
- Use pre-numbered contracts to document boat space rentals.
- Report all gross revenue to the City including the fair market value of docking fees from all barter agreements.

To correct the record keeping and reporting deficiencies cited in the audit report and this notice, Dyckman must take immediate action to implement the above accounting internal control recommendations.

- Obtain written approval from DPR for all sublicense agreements.

Dyckman is afforded thirty (30) days from the date of this letter to submit for DPR consideration and approval a formal sublicense agreement between Dyckman and

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Conover Canvas, Inc. Furthermore, under any approved sublicense arrangement Dyckman must make certain to include the gross receipts of the sublicensee in its revenue statements to DPR.

- Comply with the New York State liquor law by purchasing alcohol only from authorized wholesale distributors and by maintaining adequate records of liquor purchases and sales.

Dyckman must comply with this recommendation and should take immediate action to establish the necessary record keeping procedures to account for all liquor purchases and sales.

- Immediately repair the floating docks and walkways.

The audit report stated that Dyckman's floating docks have further deteriorated since the auditors visit on September 7, 2001. Dyckman should take immediate action to repair all damaged floating docks and walkways at the marina in accordance with Section 12.5 of the license agreement.

- Obtain the required permits for silt relocation.

Before Dyckman undertakes any silt removal project it must obtain the required permits as recommended by the auditors.

In summary, Dyckman should take the following action to resolve the above cited deficiencies and positively address the audit report recommendations:

- Sign and return the copy of this Notice to indicate Dyckman's agreement with the payment schedule along with a check for \$10,000 by July 1, 2002.
- Contact the Department of Environmental Protection and pay Dyckman's outstanding water charges of \$6,558 before July 1, 2002.
- Immediately implement the internal control recommendations under recommendation 3.
- By July 10, 2002, submit a formal sublicense agreement between Dyckman and Conover Canvas, Inc. to DPR for approval.
- Take immediate action to properly account for all liquor purchases and sales.
- Take immediate action to repair all damaged floating docks and walkways at the marina.
- Obtain the required permits for any planned silt relocation projects.

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By copy of this letter to Francisco Carlos, DPR Internal Auditor, I am requesting that he schedule a follow-up review in two months to verify that Dyckman has fully conformed with all audit recommendations.

We anticipate Dyckman's prompt reply and full compliance with this notice. The failure of Dyckman to completely resolve all of the serious deficiencies noted in the audit report and this letter, can result in the termination its license agreement.

Sincerely,


Joanne Imohiosen

PAYMENT SCHEDULE AGREED TO BY: _____
Peter B. Shalleck

DATE: _____

cc: R. Lieberman
D. Stark
F. Carlos
C. Kloth
J. Shatz