

## LIST OF REFERENCES – BAM

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### A. Laws pertaining to the structure of the PPP/PEC

#### 1. Chapter 50 of the Laws of the State of New York of 1859

- a. Chapter 50 incorporates BAM.
- b. As a performance arts entity, the incorporation provides a “structure” for organizing the corporation. With event tickets being the “culture/inventory” shared, free access is not provided.
- c. [Chapter 87 of the Laws of the State of New York of 1934](#) amended [Chapter 172 of the Laws of the State of New York of 1890](#).
- d. Chapter 172 provided the terms of free admission for the Brooklyn Institute of Arts and Sciences [BIOAS] and Chapter 87 expanded BIOAS's purpose to include BAM as a “musical and other performances” purpose. Thus, BAM could be said to have been obligated to follow BIOAS's free admission provisions of Chapter 172.
- e. *Regarding free admission, Chapter 172 provides:*
- f. Para. 3. The museums and libraries of said corporation shall be open and free to the public and 2. private schools of said city, at all reasonable times, and open to the general public on such terms of admission as shall be provided by the mayor and park commissioner of said city. .... [emphasis added]

#### 2. Chapter 172 of the Laws of the State of New York of 1890.

- a. Incorporated the Brooklyn Institute of Arts and Sciences [BIOAS].
3. [Chapter 87 of the Laws of the State of New York of 1934](#).
- a. [Amended Ch. 172 of 1890 to broaden the purpose of BIOAS to include “musical and other performances,”](#) which resulted in the adoption of the Brooklyn Academy of Music as a department of BIOAS.

### B. New York City documents the PPP/PEC structure.

4. [“Procedures Manual.”](#) Department of Cultural Affairs. 2005.
  - a. Describes the prerequisites PPP/PEC institutions and other New York City institutions must meet to qualify for City funding [see C.10 and C.11 of [LIST OF REFERENCES -- PPP](#)].

C. **One of the 17 PPP/PEC institutions prepares and disseminates in 1917, a report chronicling the ways in which these City-funded institutions were meeting their PPP obligation.**

5. [Guide to the Nature Treasures of New York City](#). American Museum of Natural History. 1917.

a. American Museum of Natural History [AMNH] is the integral character in this institutional accounting though it includes descriptions of the New York Aquarium, Zoological Park and Botanical Garden, as well as the Brooklyn Museum, Botanic Garden and Children's Museum.

b. **While focused on these institutions in 1917, FA identifies this tome as a representative model for New York City's oversight agency, the Department of Cultural Affairs [DCA], to use to provide evidence to city leaders and New Yorkers that all 17 of the PPP/PEC institutions are meeting the terms of controlling laws, complying contracts and DCA prerequisites to qualify for City funding.**

c. **Illustrating this possibility, FA annotated this guide to show how the publication of a document like this tome would translate well for annual publication on the DCA's and each PPP/PEC institution's website.**

D. **Evidence showing that BAM and Brooklyn Botanic Garden [BBG] disassociated from BIOAS while still benefitting from BIOAS economic advantages.**

6. Regarding BAM, see Introductory paragraph in [BAM's Current and Past Leadership](#).

7. BAM and BBG are not "active" "assumed names" of BIOAS [see New York State [Division of Corporations](#)].

E. **Examples of New York City's failure to comply with the PPP.**

8. **Despite unrepealed New York State laws, the DCA and other city agencies entered amended lease and/or new or amended license agreements with each of the PEC institutions, in contravention of New York State law in some instances and/or the DCA prerequisite to price tickets to "encourage attendance by a broad segment of the population of the City of New York" [see PUBLIC-PRIVATE PARTNERSHIP including F. 21. a-m In LIST OF REFERENCES - PPP, PARK INSTITUTIONS and DCA's "Procedures Manual"]**. These agreements were produced in response to FA's FOIL requests. New Yorkers subsidize PPP/PEC institutions with more than **\$1 BILLION annually** in direct and indirect subsidies [see [FINANCIAL ANALYSIS](#)].

9. For years, New York Botanical Garden [NYBG] has been **actively campaigning to repeal the admission provisions of Chapter 285 of the Laws of 1891 as amended by Chapter 465 of the Laws of 1994 by removing State authority over NYBG's admission provisions**. Former Governor Andrew Cuomo's June 2, 2020 **VETO MESSAGE - No. 148 quashed NYBG's efforts** as spelled out in [NY State Senate Bill S4449](#). **In the wake of Cuomo's VETO**, State Senator Alessandra Biaggi and Assemblywoman Nathalia Fernandez introduced [Senate Bill S8038](#) and [Assembly Bill A8562](#), respectively, **in an effort to contravene Cuomo's VETO**.

**Knowing the justification behind Cuomo's VETO cries out for dissemination to New Yorkers, the Adams' Administration, members of the City Council and State Legislators, because it makes even more appalling NYBG's end-run to evade Cuomo's VETO by proposing new legislation.**

Former Governor **Cuomo's VETO asserted as follows:**

"Given the unique conditions on which the [NYBG] was established, **particularly the premise that the park should be free and open to the public** and a more than 100 year track record of limiting the [NYBG's] authority to charge a fee, it is **prudent to veto this bill until the Legislature can provide a finding that the authority to charge a fee in perpetuity is necessary to make the [NYBG] fiscally sound. The current bill lacks any meaningful analysis and therefore provides insufficient grounds to overturn the long-standing preference to keep this public park free and open to the public. Also, concerning is the lack of analysis to whether the [NYBG] has made the grounds free for primary and secondary schools, as is required by the law. Until it can be demonstrated that the NYBG has met its current obligation, it would be unsound to remove the free policy from state oversight.**"  
[emphasis added]

In July 2022, Governor Hochul signed [Senate Bill S8038](#) and [Assembly Bill A8562](#). Read the JUSTIFICATION section in the Bill to learn the reasoning for Hochul's approval while recognizing that **the Bill is devoid of the facts** of the history of "free access" and instruction as being "consideration" NYBG and the other PPP/PEC institutions is to provide to New Yorkers in exchange for New Yorkers providing NYBG and the other PPP/PEC institutions **\$1 BILLION** in annual "consideration" in the form of free rent, and capital and operating costs. In 2017 and 2018, New Yorkers' consideration to NYBG amounted to **\$73.3 MILLION** and **\$87.3 MILLION**, respectively. In addition, **because of free rent, NYBG amassed an investment and endowment portfolio \$640.4 MILLION in 2017 to nd \$678.8 MILLION in 2018.** S8303 takes effect in 2025. It should be repealed and free admission provisions for **all** New Yorkers should revert back to [Chapter 285 of the Laws of 1891](#).

- **New Yorkers must act now to STOP elected politicians from parlaying our free rights for votes.** [see [SIGN FA'S PETITION NOW!](#)]

10. New York City's Department of Parks [DPR] owns New York City's four zoos; namely, the Bronx Zoo [BZ], Central Park Zoo [CPZ], Prospect Park Zoo [PPZ] and Queens [Flushing Meadows Park] Zoo [QZ] and the New York Aquarium [NYA]. However, the BZ and NYA are overseen by New York City's Department of Cultural Affairs [DCA]. DPR contracts with the New York Zoological Society [NYZS], doing business as the Wildlife Conservation Society [WCS] to manage and operate PPZ, CPZ and QZ [see HISTORY OF NYZS-WCS.] **New York State law provides for New Yorkers' free admission to each of the NYZS-WCS venues three days in a week.** Yet **the Commissioner of the DPR, an appointed official by an elected official, authorizes the charging of admission fees in each venue in violation of New York State law and to the economic and cultural harm of New Yorkers.** [see [PARK INSTITUTIONS](#)]

11. [HISTORY OF BIOAS](#)

a. Informing overview of the incorporation of, and the integration of departments into and out of, the Brooklyn Institute of Arts and Sciences [BIOAS].

12. [PUBLIC-PRIVATE PARTNERSHIP](#)

a. Informing overview of the origins and purpose of the PPP and the history of its successes and weaknesses.

F. **City demonstrates that New Yorkers are on our own if we want to challenge the city's and PEC institutions' compliance with New York State and local laws or terms of superseded contracts.**

13. "[Brief Amicus Curiae](#) for the City of New York." 2014. Supreme Court of New York. Appellate Division: First Department. *Saska et al vs. The Metropolitan Museum of Art* consolidated with *Grunewald/Nicholson vs. The Metropolitan Museum of Art*. Corporation Counsel of the City of New York.

- a. An amicus brief is filed when one is not a party to the litigation but wants to support one of the parties, known as a "friend of the court" filing. **Corporation counsel wrote in favor of The Metropolitan Museum of Art.**
- b. FA's Founder was a party to the non-class portion of this consolidated action.
- c. **Corporation counsel in effect demonstrates that if a New Yorker attempts to bring legal action against a PPP/PEC institution, the city will advocate on behalf of the institution and not the residents and taxpayers of New York City.**

G. **Popular press**

14. Dena Kleiman. "[Behind Inflated Attendance Figures.](#)" *The New York Times*. 2/21/1987.

a. **Reveals that** four of the 17 PPP/PEC institutions, namely, the Bronx Zoo, the New York Botanical Garden, the American Museum of Natural History and The Metropolitan Museum of Art, with the last overestimating attendance by 42%, counted visitors "[t]wice." In the case of The Metropolitan Museum and Museum of Natural History, their figures would plummet from 7,000,000 and 5,000,000 to 3,500,000 and 2,500,000, respectively and their cost per visitor would double. Similarly, the Bronx Zoo and the New York Botanical Garden would fall from 1,820,766 to 910, 383 and from 1,300,000 to 650,000, respectively.

15. Sarah Bahr. "[Brooklyn Museum to Receive \\$50 Million Gift From City of New York.](#)" *The New York Times*, 11/22/2021

a. States "The funding will be the largest capital investment in the museum's nearly 200-year history."

16. [BAM's Current and Past Leadership](#). Website. Undated.

b. "Two groups of leaders have been crucial to BAM's success: its executive and administrative staff, and its board of trustees. In the history of the institution, there have been three main periods of governance: the founding years and early decades of the institution when it was part of the Brooklyn Institute (1823–87); the years when the Brooklyn Academy of Music was part of the Brooklyn Institute of Arts and Sciences (1887–1971); and modern-day BAM. This last period began with the hiring of Harvey Lichtenstein as President in 1967. It continued with the separation of the institution from BIAS, after which the institution existed under the aegis of the St. Felix Street Corporation during a brief reorganization period (1970–75), and then it became the BAM we know today."

#### H. Financial information

17. [IRS 2017-2018 Form 990](#)

c. Details BM's finances for the fiscal years ending July 30, 2017 and 2018.

d. Please note: Consolidated 2017 and 2018 financial statements for the BM were not uncovered.