

LIST OF REFERENCES – HISTORY OF BIOAS

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

1. [Chapter 343 of the Laws of New York of 1862.](#)
 - a. Incorporated the Brooklyn Institute [BI], the predecessor entity to the Brooklyn Institute of Arts and Sciences [BIOAS].
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 509 of the Laws of the State of New York of 1897.](#)
 - a. Incorporated a stand-alone “botanic garden and arboretum,” which was to be built under the auspices of the Brooklyn Botanic Garden [BBG].
4. [Chapter 618 of the Laws of the State of New York of 1906.](#)
 - a. Amended Chapter 509 of 1897 and **set out conflicting free access provisions** than that of BIOAS. According to 509, New Yorkers were to access the BIOAS BBG “daily, including Sundays” in contrast to BIOAS providing for free access to “public and private schools” of New York City.
 - b. **Yet none of the City of New York, New York State legislators or BBG/BIOAS stewards of the BBG undertook to codify the conflict.**
5. [Chapter 178 of the Laws of the State of New York of 1911.](#)
 - a. Amended Chapter 509 of 1897 as to other provisions than free access.
 - b. **Again, the City of New York, New York State legislators and BBG/BIOAS stewards could have undertaken to codify the conflicting free access provisions, but they did not.**
6. [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. Documents evidencing that BM and BCM continue to operate as BIOAS entities.

7. BCM and BM are “active,” “assumed names” [in effect “doing business as”] for BIOAS. [see New York State [Division of Corporations](#).]
 8. BM files its IRS Form 990 under the corporation name BIOAS. [see [2018 filing](#).]
 9. BCM reports a BIOAS restricted \$496,333 endowment in Note 10 of its audited 2017-2018 consolidated financial statements.
- C. **Evidence showing that BAM and BBG disassociated from BIOAS while still benefitting from BIOAS economic advantages.**
10. Regarding BAM, see introductory paragraph in [BAM's Current and Past Leadership](#).
 11. BAM and BBG are not “active,” “assumed names” of BIOAS. [see New York State [Division of Corporations](#).]
- D. **Examples of New York City's failure to comply with the PPP**
12. **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 [LIST OF REFERENCES – PPP D.12 a-m](#), 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](#).]**
 13. 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 **\$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!](#)]

14. 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](#)]

E. **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.**

15. "[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.**

F. **Popular press**

- 16. 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 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.
- 17. Sarah Bahr reported in *The New York Times*. [“Brooklyn Museum to Receive \\$50 Million Gift From City of New York: The funding will be the largest capital investment in the museum’s nearly 200-year history.”](#) 11/22/2021.