

LIST OF REFERENCES – NYBG

FA has an archive containing approximately 4,000 pages, produced in response to FA's FOIL requests. An explanatory spreadsheet is available as well. Contact info@nyersfreeadmission.org to request and explain your reason[s] for accessing the archive.

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

1. [Chapter 199 of the Laws of the State of New York of 1877](#)
 - a. p. 277: Provides for the initial incorporation of a “botanical garden in the City of New York,” **adjacent to** the American Museum of Natural History on the Manhattan Square campus.
 - b. This effort never came to fruition.
2. [Chapter 285 of the Laws of 1891](#)
 - a. Incorporates NYBG and lays out its incorporating purpose and provisions for New Yorkers' right to free admission as follows: **“[t]he said grounds shall be open and free to the public daily, including Sundays,”**
3. [Chapter 611 of the Laws of 1933](#) [p. 1291 #1327]
 - a. Amended NYBG's incorporating purpose to include “within *and without* New York State” [emphasis in original].
4. [Chapter 499 of the Laws of 1991](#)
 - a. Amended the Chapter 285 and Chapter 611 to broaden NYBG's purpose to include being a “library” and “education institution” [[see Incorporating Educational Corporation](#)].
5. [Chapter 465 of the Laws of 1994](#)
 - a. Amended Chapter 285 and authorized NYBG to **charge a “suggested” admission fee to non-primary and secondary New Yorkers with the caveat that NYBG inform New Yorkers that they could pay an amount that is “lesser or greater” than the suggested amount.**
6. [NY State Senate Bill S4449](#)
 - a. NYBG's effort to repeal New York State's authority over NYBG's admission policy, quashed by former Governor Andrew Cuomo's June 2, 2020, [VETO MESSAGE - No. 148](#).
7. 2021–2022. Unsigned [Senate Bill S8038](#) and [Assembly Bill A8562](#)

- a. [NYBG's failing to undertake the "analysis" called for in Cuomo's VETO and an effort to contravene the VETO](#), State Senator Alessandra Biaggi and Assemblywoman Nathalia Fernandez introduce new legislation, now awaiting Governor signature.
- b. [City leaders should ensure these bills are vetoed and New Yorkers should SIGN FA'S PETITION NOW!](#)

8. [NYS listed law portal. 1997-2014.](#)

- a. Each of the below laws extends the provisions to allow the NYBG to charge an admission fee continuing "after such expiration such Garden may only establish a suggested admission fee, with visitors allowed to contribute as they see fit." Click on [NYS listed law portal](#), and keyword the listed laws to get a synopsis.
- b. Copies of many of these laws were included in DCA's document production in response to FA's Freedom of Information Law [FOIL] request.
 - i. Chapter 46 of the Laws of 1997.
 - ii. Chapter 32 of the Laws of 2000.
 - iii. Chapter 46 of the Laws of 2003.
 - iv. Chapter 28 of the Laws of 2007.
 - v. Chapter 67 of the Laws of 2011.
 - vi. Chapter 120 of the Laws of 2014.
 - vii. See Nos. 6 and 7 above.

B. [New York City documents the PPP/PEC structure](#)

9. ["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.](#)

10. [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, Brooklyn 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. **Examples of New York City's failure to comply with the PPP**

11. 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](#)
12. For years, 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 of **\$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!](#)]

13. 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.**

14. [“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**

15. Britton, Dr. N.L., Director of New York Botanical Garden. [“Botanical Garden Is Widely Known: Famous for its Notable Display of Tropical Vegetation and Palms – An](#)

[Educational Adjunct – Frequent Free Lectures to the School Children on Explorations in Foreign Countries.](#) *The New York Times*. 5/17/1908.

- a. **Seeking additional City funding, NYBG Director reports,** “It is most desirable that the general endowment of the Garden for educational purposes should be increased ... and for lectures and other educational work ... [especially as it is in] easy reach of the densely populated portions of the city is a great boon ... for the Bronx ...”

16. [“Botanical Garden To Expand Its Work.”](#) *The New York Times*. 1/14/1930.

- a. Seemingly in response to demand for more City funding, a campaign for private contributions, and affirmation that NYBG was a “playground” for Bronx residents, the re-purposing to providing “entertainment, recreation” beyond NYBG’s “education corporation” status is made clear.

17. [Grace Glueck. “Metropolitan Museum to Institute Admission Charge.”](#) *The New York Times*. 10/09/1970.

- a. Covers the initiation of a pay-what-you-wish-but-you-must-pay-something admission fee for all visitors, including New Yorkers, which opened the floodgates for the other PPP/PEC institutions to do similarly.

18. [“American Museum Asking Admission, But Visitor Sets It.”](#) *The New York Times*. April 25, 1971.

19. [“The Metropolitan Museum of Art’s statement on new 2013 lease.”](#) Metropolitan Museum of Art. Website. 10/24/2013.

- a. MMA’s official statement on the amendment to its 1878 lease with the City of New York, authorizing the museum to consider a range of admission modifications in future years, subject as in the past to review and approval by the City.
- b. Article reveals that The Metropolitan Museum had been untruthful in reporting to the New York City courts that a 1970 agreement with the City authorized The Met to operate using a pay-what-you-wish-but-you-must-pay-something admissions policy yet the 1878 Lease was not amended.

20. [Randy Kennedy. “New York City Amends Fee Policy for a Visit to the Met.”](#) *The New York Times*. 10/24/2013.

- a. Article reports on an Amendment to The Metropolitan Museum’s, the American Museum of Natural History’s and the Museum of the City of New York’s Leases, during the Bloomberg administration, where the Mayor, in effect provided these institutions the right to “make an admission fee mandatory,” despite no evidence that the Office of Corporation Counsel had read, interpreted, and opined on the provisions of state and local laws, among other things or codified them for enforcement by oversight agencies.
- b. Article reveals that The Metropolitan Museum had been untruthful in reporting to the New York City courts that a 1970 agreement with the City authorized The Met to operate using a pay-what-you-wish-but-you-must-pay-something admissions policy yet the 1878 Lease was not amended.

21. Regarding the Kennedy article above,
 - a. consider a [Settlement](#) reached in a consolidated court case against The Metropolitan Museum of Art regarding its admission policy [see Justice Kornreich's 6/6/17 Decision and Order].
 - b. Then, consider [Why We Are Opposing The Proposed Metropolitan Museum Settlement](#), by Michael Hiller, principal, Hiller PC. A negation of the Settlement reported by counsel for FA Founder Pat Nicholson, party to the non-class action portion of this consolidated action.
 - c. In addition, consider a New York City Corporation Counsel [Amicus Brief](#) filed in 2014 as part of this litigation and in support of The Metropolitan Museum of Art [see fuller description above].

22. 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.

23. 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.

G. **Financial documents**

24. [Consolidated financial statements](#)
 - a. Offers an overview of NYBG's financial condition for the fiscal years ending June 30, 2017 and 2018.

25. [IRS Form 990](#)
 - a. Details NYBG 's finances for the fiscal years ending June 30, 2017 and 2018.