



**Testimony on Randall's Island before the NYC Council Parks Committee
Geoffrey Croft, September 22, 2008**

Good Morning. My name is Geoffrey Croft. I am president of NYC Park Advocates. Very serious land use issues have arisen in conjunction with the unprecedented construction on Randall's Island. Over the last few years more than \$ 215 million dollars has been secured transforming hundreds of acres of parkland on Randall's Island. Another \$ 20 million is currently pending. Yet the city and the Randall's Island Sports Foundation (RISF) have managed to bypass environmental reviews and public input on the largest park reconstruction project in the city's modern history.

According to the plan, this project represents the building of the "largest outdoor athletic complex in the City," comprising of sixty-six playing fields, rest rooms, lighting, designated parking and staffed information booths. Dozens of acres of flora and fauna have already been destroyed and the island's wildlife habitat has been seriously disturbed. It has been estimated that thousands of trees have been removed. The plan also calls for the installation of the city's largest concentration of the environmentally questionable and highly controversial artificial turf. These plans were developed by a private non-profit, in consultation with the city's parks department and private schools. Additionally, a \$ 14 million dollar tennis concession is currently being built. However no City Uniform Land Use Review Procedure ("ULURP") analysis has been undertaken, no EIS, no analysis under the City Environmental Quality Review Act ("CEQRA"), has occurred. And most importantly, the area's residents and neighboring communities have had virtually no opportunity to give input or air their legitimate concerns in a public forum. This project has gone unchecked and largely without public transparency and scrutiny. Communities must have meaningful input on significant land use decisions regarding public lands. These issues have ramifications city-wide, not only because the island is used by many who live outside the area but due to the process by which this plan has been developed.

By way of background, the City, through the Department of Parks and Recreation ("DPR"), entered into a no-bid contract (the "Concession") with RISF, a private organization. They claimed the project would convert 12.5 acres of Randall's Island into sports fields and renovate approximately 158 acres of what it claimed were preexisting sports fields. Pursuant to the terms of the agreement, the RISF would, in turn, enter into a no-bid 20-year contract with a consortium of 20 private schools for exclusive use of the overwhelming majority of these approximately 171 acres during the prime after-school hours, essentially, privatizing the majority of the sports fields on Randall's Island during this time in exchange for a fee.

The number of acres involved in the Concession and the reconstruction can only be approximated, because the City has yet to be held accountable for the exact plan it intends to pursue and the exact number of acres. (Two weeks ago the number of acres had apparently grown to 220.) Moreover, the approximately 158 acres that the City claimed were “sports fields” included not just sports fields, but many areas that were used for passive recreation, such as picnicking and family outings. An essential element of the public’s ability to assess whether the current project being built is desirable for the local East Harlem and South Bronx community and the City as a whole is a firm grasp on the scope of the project. Thus, these public hearings will hopefully illuminate this issue, one which should have been a matter of public record long ago.

Following a notice of a public hearing published in the City Record from January 23, 2007 to February 13, 2007, a public hearing was held by the mayoral controlled Franchise Concession Review Committee (“FCRC”) on February 13, 2007 to review the Concession, at which time limited public comment was had – again, such comments were based on incomplete and inaccurate information regarding the true scope of the project. The FCRC voted to grant the Concession on February 14, 2007.

A group of concerned citizens and civic groups commenced an Article 78 proceeding, District 4 Presidents' Council v. Franchise and Concession Review Committee of the City of New York, in June 2007 to challenge this so-called Concession on the grounds that the City had unlawfully failed to perform a ULURP review prior to granting the Concession. After extensive briefing and oral argument, Justice Shirley Werner Kornreich granted the Petition, holding that ULURP review was required. In rejecting the City’s strained interpretation of the Concession agreement, the Judge noted that “[a]llowing the City to avoid ULURP review . . . when a concession has been granted would undermine ULURP’s purpose of requiring community input on significant land use decisions regarding public land.” The Court initially reserved decision on Petitioners’ motion to amend the Petition to add a cause of action for failure to prepare an Environmental Impact Statement as would be required under SEQRA, but has since denied this application due to a statute of limitations. Thus, the decision on the June 2007 petition is now final before the Court. However this decision does not change the fact that an environmental review should have been performed.

Despite the Court’s order that a ULURP review is required, the City has continued construction on Randall’s Island – which again includes the uprooting of wildlife habitats, aboricide and deforestation of many areas, and will include, at over one million square feet, the largest installation of controversial artificial turf in the United States. Indeed, this on-going conglomeration of construction has left vast areas of Randall’s Island inaccessible to the public and yet more areas unusable for recreation, either active (sports games, etc.) or passive (picnicking, sunbathing). Indeed, while the Petitioners sought a preliminary injunction to halt

the construction – and destruction – on Randall’s Island until such time as a full and public review had been completed, this injunction was denied on May 14, 2008. However, as a matter of practicality unless this project was immediately halted, by the time this would have made its way through legal proceedings the judge's ULURP decision would have been moot as this phase of the project would have already been built without public input or without any environmental reviews. There is a very strong sense that the community does not want the plan that is being built. However unless we act now regarding future construction they will still have no say. And only the RISF along with the private schools will have had input into these important land use decisions.

It has also recently come to light that the DPR misstated the scope of work being performed as part of the sports field development. Instead of a Type 1 Memo which would have triggered an environmental review, the DPR filed a Type 2 which dramatically under reported the scope of work being performed. The city acted in bad faith to avoid doing an EIS. The city had originally declared the project wouldn’t need an environmental review based on its claim that only 13 new athletic fields would be built.

In a July 28, 2006, Type 2 memorandum, Parks Department planner Joshua Laird said 64 new athletic fields “will replace 51 existing fields.” The memo stated that construction of the fields constitutes an "in kind replacement, rehabilitation or reconstruction of the ball fields on the same site." (City attorney Lawrence S. Kahn also confirmed this to a reporter a year and a half later. "The city declined to comment after Metro mentioned the disparity to the Law Department." - Metro - February 19, 2008)

Yet at a February 13, 2007, hearing of the Franchise and Concession Review Committee, which approved the deal, DPR Deputy Commissioner Liam Kavanaugh put the figure for existing fields at 36, bringing the number of new fields to 28, or more than double the 2006 claim. "Currently, there are 36 fields available on the Island," said Mr. Kavanaugh.

The city's characterization of this project as being an "in kind replacement, rehabilitation or reconstruction" of ball fields on the same site is absurd. However misrepresenting the scope of work was important because it allowed the city to file an Environmental Assessment Statement (EAS) and avoid doing a more comprehensive Environmental Impact Statement (EIS).

It is important to note the required process for completing an (EAS) does not include a public comment period. A fact that the DPR is fond of pointing out. Under 6 NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA, §617.6), a Lead Agency (in this case the Parks Department) is required to coordinate its review only with other Involved Agencies. This is defined as any agency that has jurisdiction by law to fund, approve or directly undertake an action, or which has a discretionary decision in any such regard. As a courtesy, they sometimes circulate environmental assessments to certain other interested agencies. An agency is defined

as being a part of the state or local government. Neither SEQRA, nor the New York City Environmental Quality Review process requires official public review or a public comment period as part of the EAS process. Should the Parks Department, as Lead Agency, determined that the RI project had the potential to cause adverse environmental impacts, an Environmental Impact Statement would have been prepared, including opportunities for extensive public review. Only certain minor actions identified by the state, known as Type II actions, are exempt from environmental review. A "lead agency", responsible for undertaking, funding or approving an action, determines whether the action requires environmental review.

This is very important. In the community's lawsuit challenging the RI deal the plaintiffs were time barred from bringing action on this. They were not even made aware of the existence of the Type 2 Memo until a year and a half later when they received it in a FOIL request. Remarkably we were told last week that the DPR will now be conducting some sort of environmental review. This after much of the Island is already under construction.

The issues that cry out for public review are many. In addition to issues surrounding the creation and use of sports fields, there is also the tennis center. Local Council member Melissa Mark Viverito having been in office for more than two years was only shown the plans for the \$ 14 million dollar tennis concession only a few weeks ago. This while the private developer began constructing months earlier. They are building a 30,000 square foot covered tennis building, and according to company promotional materials, a 20,000 Sq. foot club house complete with bar and seating for up to 4000. Each one of these project elements should have also triggered a ULURP in relation to the project being a major concession, and in all likelihood an EIS. Yet this project has also managed to bypass all environmental reviews, as well as public transparency.

Also troubling was language included in a September 21, 2007 press statement from the DPR regarding the cancellation of the water park. In it their spokesperson refers to a portion of the island as "existing festival and concert grounds on the island's western shore." It is clear from this that the city was attempting to establish precedent and stake out future commercial uses for this section of the park, apparently without first going through the State Alienation process, and again, without consulting the community. Also interesting because they counted these as sports fields in the plans they submitted in the legal proceedings.

Two weeks ago a brand new configuration suddenly appeared. In a meeting with Council member Melissa Mark Viverito, Liam Kavanaugh delivered a new version which contained the phase "Harlem River Event Area" on a project map. As I understand it this new addition was not even pointed out in the meeting. They are now trying to absorb this into the plan, again with no clear source of authority, no ULURP or CEQRA review and no opportunity for public hearing and comment.

Last year, from June to October 2007, the general public was prevented from using these same many acres of parkland on Randall's Island's western shore. This was due to the erection of a concert stage and use of surrounding parkland which had been set aside to accommodate a few concerts in Summer/Fall. This area of the park is frequently used for many established park purposes, both active and passive recreation, including soccer, volley ball, bike riding and picnics and many people rely on these free public open spaces. This commercial use had completely prohibited the public from using the area for months and also cut them off from being able to access the water front along this section of the park.

It appears the City, in connection with the Randall's Island Sports Foundation (RISF), has attempted to circumvent alienation legislation by allowing the building of a "temporary" concert area to remain during the entire summer and into Fall when the public's use of the parkland is the greatest. The desire for these commercial events is being driven by the fees negotiated by the RISF which are used for the operation and maintenance of the island. (Plans for "Bronx Shore Fields," were also officially unveiled to the council member for the first time at the same meeting.)

In closing, the City and private groups should not be allowed to unilaterally make land use decisions without community participation and consultation. Important land use decisions must have significant public input. These projects will not only dramatically alter the island's physical configuration, but also the public's former uses of the park.

The time has come to lift the shroud of secrecy and bureaucratic manipulation that has surrounded the Randall's Island reconfiguration for far too long. The issues above should be elucidated for the public, the City and the RISF should be held accountable for its actions, and the public, including its elected officials, should be given the opportunity to have input into what they believe is best for the community and the City. Please help us halt these future projects until this can be accomplished.

NYC Park Advocates Inc. is a non-profit, non-partisan watchdog group dedicated to improving public parks, restoring public funding, increasing public recreation programs, expanding open space and accessibility, and achieving the equitable distribution of these vital services in New York City for all. We are the only non-profit park advocacy group dedicated to all City, State and Federal parkland in New York City. For more information please visit us at <http://nycparkadvocates.org>.