



**class size matters**

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Leonie Haimson, Executive Director, Class Size Matters  
Testimony on Randall's Island before the NYC Council Parks Committee  
September 22, 2008

My name is Leonie Haimson, and I'm the Executive Director of Class Size Matters, a citywide parent organization devoted to achieving smaller classes and more equitable conditions for NYC public school students. When we learned in the fall of 2006 of the city's proposed no-bid contract that would give preferential access to most of the fields on Randall's Island to private schools for the next twenty years, we were horrified – and could hardly believe that such an egregious deal could even be considered no less approved.

Yet most parents in the community and citywide knew nothing about it. We immediately contacted parent leaders such as Eugenia Simmons-Taylor, head of the Presidents Council in East Harlem, Hector Nazario, president of the Community Education Council in District 4, and David Bloomfield, at that time President of the Citywide Council of High Schools, as well as the Hispanic Federation and community groups such as Civitas, who were similarly affronted and aghast.

We wrote letters to the Mayor and the Parks Commissioner, set up a meeting with the Richard Davis of the Randall's Island Sports Foundation, and others, but despite all our efforts, the Franchise, Concession and Review Commission approved the proposal in February 2007, with only one dissenting vote, that of Manhattan Borough President Scott Stringer.

Our opposition to the deal was based not only on our view that it was inequitable and unethical– but also that it was illegal. Patrick Sullivan, then a member of Class Size Matters and now the Manhattan representative on the Panel for Educational Policy, had looked at the City Charter and determined that because of the large amount of land involved, the project was a major concession and thus had to go through ULURP, or the Uniform Land Use Review Procedure, which means review by the Community Board, the Borough President, and the City Council. Yet this had never occurred.

Though we believe that the project involved probably far more acreage than this, the city itself admitted that the project involved 12 ½ acres -- far outstripping the 30,000 sq. ft. or 2/3 of an acre that defines a "major concession" according to the City Charter. Yet at the FCRC hearings, the representative from the city's Law Department made the absurd argument that because the city would convert these fields before handing them over to the private schools, the provisions for community review did not apply.

So we recruited Norman Siegel as well as Alan Klinger and the other attorneys of Stroock, Stroock and Lavan, who generously agreed to represent the plaintiffs pro bono, to try to block this egregious deal in court.

Thankfully, we won our lawsuit last spring, as the judge immediately recognized the absurdity of the city's argument and voided the proposed deal with the private schools. However, she allowed the project itself and the creation of these fields to go ahead – without ULURP or community review.

After filing the initial papers, we also realized that there were also major environmental issues involved, and that such a major transformation involving the cutting down of hundreds of trees, the construction of new roads and infrastructure, and the installation of large amounts of artificial turf by law should require a full process of environmental review, as set out in state law.

According to the State Environmental Quality Review Act, all actions taken by localities to “to fund, approve or directly undertake projects or physical activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure” must go through a full environmental review process; but this never occurred in this case, or that of the other projects undertaken by the RISF.<sup>1</sup>

As part of our legal proceedings, our attorneys filed a Freedom of Information request to determine if any environmental review had occurred, and in response, the city released a previously undisclosed Type II memo from the Parks Department, dated August 28, 2006, which claimed that no environmental review or environmental impact statement was necessary because of the extremely limited nature of the work involved. Yet the letter erroneously described the scope of the project and the amount of work involved.

For example, while before the FCRC, the Parks Department stated that twenty seven new athletic fields would be added, in their type II memo, they wrote that only thirteen fields would be added, less than half of this number.<sup>2</sup> The letter also claimed that the new fields would be “located within areas currently used as playing fields,” without mentioning the many acres of picnic areas, trees, and other natural features to be eliminated.

Moreover, state law sets out that any project that physically alters more than ten acres of land requires a “Type 1” determination, which means that an Environmental Impact statement must be prepared. As previously mentioned, by the city's own admission, this project involved the conversion of at least 12 ½ acres, and probably far more than that, and yet they never prepared such a statement.

Unfortunately, even though this Type II memo was previously undisclosed by the city until we FOILED it, and it contained numerous errors of fact and judgment, the judge decided that because the legal statute of limitations had run out, our environmental challenge would not prevail.

As a result, the city has been allowed to evade its legally mandated responsibilities, both relating to its environmental stewardship and to the public being provided with its rightful authority to review the operations and plans of the RISF – which now include not merely the sports fields project, but also new tennis courts, the golf concession, the proposed theatre, and many other projects that will transform and privatize large areas of city-owned land that, by law, should be obligated to go through both ULURP and full environmental review.

We are concerned that there remain troubling conflicts of interest between the Randall's Island Sports Foundation and the Parks Department, as pointed out by an audit of the State Comptroller's office in 2002 and again in 2004, calling into question the propriety of any contract entered into between these

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<sup>1</sup> See the State Department of Environmental Conservation, General Applicability of SEQRA to Local Governments, posted at <http://www.dec.ny.gov/public/6465.html>

<sup>2</sup> See attached “Type II memorandum,” Randall's Island Sports Field Development Project, signed by Joshua Laird, Asst. Commissioner, Planning and Natural Resources of the NYC Parks Dept., dated July 28, 2006.

two parties. And yet subsequent to these audits, the Parks Department refused to adopt the recommendations of the State Comptroller to disentangle its finances and governance from the Foundation.<sup>3</sup> Even more questions are raised by that the fact that the Foundation will allowed to keep the proceeds of these concessions to subsidize its own operations,<sup>4</sup>

We are also concerned that since the Foundation will control the permitting of the fields to be built on the island, the same group of twenty private schools will be granted most of the new fields as well as the old, and the inequitable aspect of the deal will remain, only the private schools will be exempted from having to pay for their privileged access. Indeed, there remain troubling conflicts of interest between the Foundation and the private schools, and a lack of adequate representation of public school parents and other members of the local community on the Board.

We urge the City Council and the Parks Committee to do what it can to halt these projects and the operations of the RISF, until they can be examined more fully, both in terms of their potential impact on the environment and to analyze whether the public will have equitable access to the island and all its features and concessions. We also ask that you demand that the board of the Foundation be completely reconstituted, to include a larger share of public school parents and members of the community, to ensure that this invaluable city land is not being hijacked for the benefit of a few.

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<sup>3</sup> Oversight of Public-Private Partnerships”, Office of NY State Comptroller, June 12, 2002 at <http://nysosc3.osc.state.ny.us/audits/allaudits/093002/00n16.pdf>; and letter from Frank Houston, Audit Director, Office of NY State Comptroller, April 26, 2004 at <http://www.osc.state.ny.us/audits/allaudits/093004/03f55.pdf>.

<sup>4</sup> Patrick Arden, “City to pass bucks on Randall’s Island,” Metro NY, Jan. 31, 2007.