

## The Public Ought to Know: Public must be included in land use decisions

By Corey Bearak

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You might notice the bubble over some tennis courts in our parks. But what you may not realize is that the city does not operate these courts, nor does it operate its golf courses or driving ranges, either. Many amenities on public land, particularly in city parks, exist as a for-profit enterprise.

These private uses often serve a public purpose, but the process governing their award lacks the community input necessary to ensure businesses operating in parks act as more than cash cows for the city's general fund.

While Yankee and Shea stadia and the National Tennis Center lease parkland, the city uses a concession to allow such businesses as golf courses, driving ranges, tennis courts, marinas and restaurants to operate on city property.

The 1989 City Charter amended the process to award concessions. Previously, the Board of Estimate reviewed all concessions, big and small. That quasi-legislative body consisted of the mayor, comptroller and city council president (currently the public advocate), who had two votes each, and the five borough presidents, who had one vote each.

The changes created two classes of concessions, major concessions and all others, but left it to the City Planning Commission to define what is major. This received little attention during the debate over reassignment of the Board of Estimate's powers, and the debate over approval of concessions got deferred until after the new charter took effect.

The new City Charter subjects major concessions to community review and approval pursuant to the Uniform Land Use Review Procedure (Sections 197-c and 197-d). It defined major concessions as any "concession which has significant land use impacts or implications, as determined by the commission, or for which the preparation of an environmental impact statement is required by law" [Section 374 (b)].

This gave the City Council final say over major concessions and left all other concessions to a Franchises and Concessions Review Committee. City Hall dominates the FCRC's membership, which consists of the mayor, his budget director, his corporation counsel and another mayoral appointee, as well as the city comptroller and the affected borough president(s).

City Planning approved rules, after a few perhaps false starts, almost a decade after voters adopted the new Charter. The Dinkins administration considered draft rules. Its City Planning Commission proposed rules in 1991 and held hearings. It took until former Mayor Rudy Giuliani's second term for rules to get adopted. Former Council Speaker Peter Vallone Sr. deserves credit for pushing the issue and proposing sound criteria to define a major concession.

Yeoman's credit ought to go to former Council members June Eisland, who chaired the Land Use Committee; Walter McCaffrey, who chaired the Zoning Committee; and Sheldon Leffler, who sponsored the legislation calling for the rules. I worked closely with Chris Collins, still counsel to the Council's Land Use Division, and Civil Court Judge Bernice Siegal on the resolution and proposed criteria for major concessions that still make sense.

The rules City Planning adopted placed the vast majority of existing concessions outside city council scrutiny and the City Charter's community review process. This included all existing concessions that were up for renewal — even if the exact same concession as new would be a major concession.

This perpetuated the gaping hole that was opened because City Planning took so long to promulgate rules defining major concessions, and it allowed significant land use impacts and implications to occur without public scrutiny for almost a decade. This included renewal of the Douglaston Golf Course's concession with a garage for the golf carts. The building was a monstrosity. Prior public scrutiny would have identified a problem before construction took place.

Think further. As a boater, you may have thoughts on how the World's Fair or Bayside marinas should operate. How about suggesting that tennis concessions be free to students after school? How about seniors asking for lower golfing fees?

You can tell the Department of Parks and Recreation; they can ignore you. Your council member ignores you at his or her own risk, but since these concessions operated prior to the new rules, they were not deemed major concessions subject to community and council review.

The rules need to be changed to maximize public participation, as proposed in my July 17 column on charter revision. The Queens Civic Congress platform includes the Council's 1995 recommendations, which civic leaders Sean Walsh and Pat Dolan developed, to repeal the major concessions rules and create new ones that establish realistic triggers for public review of all marinas; parking lots; new buildings of more than 10,000 square feet — not in parks; new buildings of more than 5,000 square feet — in parks; open use in park — 5,000 square feet; restaurant — 150 seats or more; and one or more concession totaling 25 percent of one park.

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