

Audit Report

Contract for Operation of the Hatch and William K's Restaurants at the
Erie Basin Marina for the 2018 Season

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Department of Audit and Control

Barbara Miller-Williams

Comptroller

Kevin J. Kaufman, CPA

City Auditor

Audit Summary

Contract for Operation of the Hatch and William K's Restaurants at the Erie Basin Marina for the 2018 Season



What we did

Verified the mathematical accuracy of the rental calculation. Verified proper amounts were recorded as sales on rental calculation and that payments were received in accordance with the time frame stated in the Contract.

How we did it

Recalculated the rental calculation and vouched sales to supporting documentation, including daily sales reports and sales tax returns filed with New York State. This allowed us to verify completeness and accuracy of revenue recorded and rent received. Reviewed when rental payments were received to determine if payments were made in accordance with the time frame stated in the Contract.

Background

The City of Buffalo (the City) owns the Erie Basin Marina, including the land, buildings and marina. The City rents the two restaurants (The Hatch and William K's) located at the Erie Basin Marina to MollyWorld, LLC (the Operator). After a request for proposals (RFP) was issued the Operator was selected to operate the two restaurants. The City receives between 12-15% of the Operator's food and alcohol sales as rent, in accordance with the lease agreement (the Contract) between the City and the Operator. This audit will determine if the amount of rent paid to the City was accurate. An audit of the rental calculation was last performed on the 2016 season.

What we found

Rent was Underpaid by \$799

Errors in recording sales in the point of sale (POS) system resulted in sales of \$6,223 being omitted from the rental calculation, which created a \$799 underpayment of rent.

Rent was Never Paid Timely

None of the monthly rental payments were remitted by the due dates stated within the Contract.

Sales and Rent Decreased 23% from Prior Year

Both sales and rent received in 2018 decreased 23% from the prior year.

What we recommended

Issue an Invoice for Underpayment of Rent

An invoice for \$799 should be issued to the Operator for the underpaid rent.

Operator Should Make Timely Payments

The Operator should deliver the rent payment and supporting documentation to the City by the 15th day of each month as required in the agreement.

Operator Should Provide Supporting Documentation with Payment

Each month when rent is remitted to the City, the Operator should provide supporting documentation to aid in the reconciliation process and allow for continuous monitoring of the rent calculation.

Preface

In accordance with the goals set forth in the Annual Audit Plan, we conducted an audit of the contract for operation of the Hatch and William K's restaurants at Erie Basin Marina for the 2018 season.

The audit was conducted in conformance with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors.

The City of Buffalo constructed the Erie Basin Marina located on Buffalo's waterfront in 1974. The Marina consists of a restaurant, boat harbor, marina and multi-purpose recreational facility for use by the general public. The City issued a Request-for-Proposal ("RFP") in 2013 to find a new operator for the restaurant at Erie Basin Marina (the Hatch). After reviewing the responses to the RFP the City entered into a Contract with MollyWorld, LLC to operate the Hatch Restaurant. In 2016 the Operator added a second restaurant, William K's.

Summary of Lease Agreement

The Contract between the Operator and the City requires rental payments from the Operator to the City based on total sales at the Hatch and William K's. The Contract requires payment of a percentage of gross sales as defined below:

Gross Sales	Rent due on		
	Rent due on Food Sales	Alcohol Sales	
\$ -	\$ 1,600,000	12%	15%
\$ 1,600,001	\$ 2,400,000	13%	15%
\$ 2,400,001	\$ 3,200,000	14%	15%
\$ 3,200,001	and above	15%	15%

The rental calculation and rent payments are due monthly on the 15th day of following month. The Contract is a five-year agreement, beginning with the 2014 season and concluding at the end of the 2018 season. The Contract allows for three, two-year renewal options upon mutual agreement of both the City and the Operator.

The Contract was not renewed, but a six month extension for the 2019 season was agreed upon. The extension reduces the rent due to the City on both food and alcohol sales to 5%, which is approximately a 60% reduction in the rental rate.

Audit Objective

The objective of the audit is to verify the proper amount of rent was paid to the City for the 2018 season in accordance with the terms of the Contract.

To achieve the objective, auditors:

- Verified mathematical accuracy of the rental calculation.
- Verified the proper amounts were recorded as sales in the rental calculation by vouching amounts to supporting documentation, including daily sales summaries and state sales tax returns.
- Verified that rent due on the rental calculation agrees to amounts received by the City.
- Verified that rent payments were received within 15 days after the end of the month, as required in the Contract.
- Compared restaurant sales and rent received by the City over the last five years.

Audit Findings

Rental Calculation is Missing Sales

The rental calculation did not include sales from several events held at William K's totaling \$6,223. Staff working the events did not record the sales in the POS system resulting in an omission from the rental calculation. Additional rent of \$799 is due to the City related to the omitted sales.

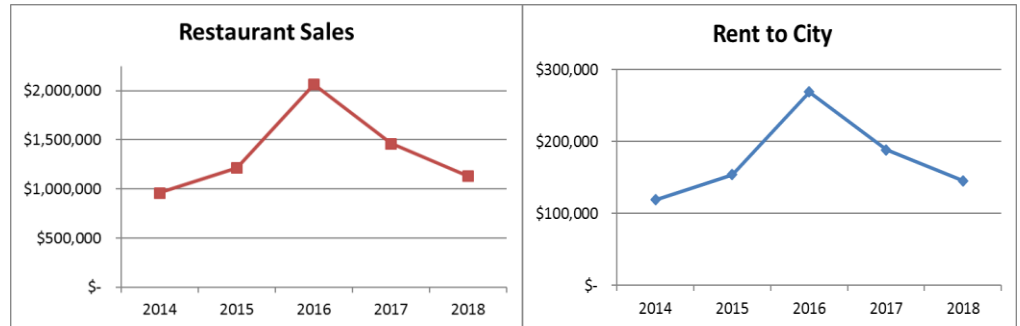
Rental Calculation and Rent Payments Not Received by Due Date

The rental calculation and rent payments are due monthly on the 15th day of the following month. The amount recorded as rent due on the rental calculation was paid in full, but all of the payments were received late.

Supporting Documentation Not Provided with Rent Payments

Supporting documentation such as a daily sales detail and a monthly POS report are not included with each rent payment. Only a rental calculation showing total monthly sales and rent is provided.

Restaurant Sales and Rent paid to the City Declined 23% in 2018



The sales and rent decline from 2016 to 2017 is mainly due to William K's not operating year round in 2017. Sales declined further in 2018 as the Hatch and William K's did not open until mid-May in 2018 compared to mid-March in 2017. Additionally, there is increasing competition for business on the waterfront and downtown. Sales and rent received in 2018 were both down 23% from the prior year.

Audit Recommendations

Issue an Invoice to the Operator for the Underpayment of Rent

An invoice for \$799 should be issued to the Operator immediately for the underpaid rent.

Rent Should be Paid Timely

The Operator should deliver the rent payment to the City by the 15th day of each month to comply with the terms of the Contract.

Supporting Documentation Should be Provided with Each Rent Payment

Each month when rent is remitted, the Operator should also provide the monthly rent calculation in excel format, the daily sales detail in excel format and the monthly point of sale (POS) system report. This will allow for continuous monitoring of the rent calculation. Currently, rent payments received are only reviewed when an audit is performed.