

To: Members of the New York City Congressional Delegation and Senators Hillary Rodham Clinton and Charles E. Schumer

From: Develop Don't Destroy Brooklyn
Fifth Avenue Committee
Fiscal Policy Institute
Good Jobs New York
New Yorkers for Parks
New York Public Research Interest Group
NYC Park Advocates
Pratt Center for Community Development
Save Our Parks
Sustainable South Bronx

Re: Stop federal tax breaks for sports facilities

June 17, 2008

Dear Members of the New York City Congressional Delegation:

As you are aware, the New York Yankees are building a new stadium across the street from their current home in the Bronx. The project is being supported with significant subsidies including \$943 million in tax free bonds. Good Jobs New York has done extensive research on the Yankee stadium project – estimating taxpayer subsidies for the project at \$800 million - including a concise report “Insider Baseball” that is available on its website at http://www.goodjobsny.org/inside_baseball_preview.htm.

Now, it has become known that the Yankees are seeking an additional \$350 million in tax free bonds, and that New York City officials have confirmed they are seeking support from the Internal Revenue Service (IRS) that would allow the New York City Industrial Development Agency (IDA) to issue triple tax exempt bonds on behalf of this project and others like the proposed Brooklyn Nets Arena.

The New York City Independent Budget Office estimates that the proposed \$350 million in bonds for the Yankees would cost city, state and federal taxpayers \$83 million. With cost overruns for the promised replacement parkland (the new Yankee stadium is being built on what were once Macombs and parts of Mullaly Parks) taxpayers are already paying more than was originally stated. It is unclear what the taxpayer contribution for tax free bonds for the Brooklyn Arena would be, but the larger Brooklyn Atlantic Yards project has already received about \$300 million in direct subsidies.

In 2006 the Bloomberg Administration successfully lobbied the IRS to grant a special ruling stating that tax-free bonds issued by the IDA for new Yankees and Mets baseball stadiums could be repaid using PILOTs (payments in lieu of taxes). Many tax experts believe that is in direct contradiction to the intention of the 1986 Tax Reform Act – championed by the late Senator Daniel Patrick Moynihan - which explicitly stated that bonds sold for future sports construction projects would be taxable. The Act left a

loophole, however, allowing tax-free bonds to be issued if 90% or more of the debt would be repaid from generally applicable taxes.

IRS regulations state that tax-free bonds may be repaid with PILOTs only if the PILOTs sufficiently resemble generally applicable taxes. Since the teams would not be subject to property tax payments because the Yankee and Mets stadiums are on city owned property, we argue that the PILOTs are a special charge - levied for the sole purpose of repaying bonds - and do not resemble generally applicable taxes. Shortly after the special ruling, the IRS sought to clarify its regulations by proposing changes that would require PILOT payments to be commensurate with actual tax payments based on current assessments.

We ask that you clearly communicate to the Treasury Department and the IRS that its regulations should be clarified to ensure that in the future no sports facilities will be eligible to receive federal tax exempt financing. The issues involved are laid out carefully in a May 2008 letter by Rep. Dennis Kucinich available at <http://domesticpolicy.oversight.house.gov/story.asp?ID=2014>.

Please let us know your views on this matter and if you have questions that we can help you with. You may contact Bettina Damiani of Good Jobs New York at 212.721.7996 or Bettina@goodjobsfirst.org. Rather than bending the rules for wealthy private interests, we need to ensure that public dollars are wisely invested in projects that will benefit all New Yorkers.

CC: New York City Mayor Michael Bloomberg
Deputy Mayor Robert Lieber
Economic Development Corporation President Seth Pinsky
Rep. Dennis Kucinich
Assembly Member Richard Brodsky, Chair Corporations, Authorities and Commissions Committee