THE CITY OF NEW YORK
INDEPENDENT BUDGET OFFICE
110 WILLIAM STREET, 14th FLOOR
NEW YORK, NEW YORK 10038

Testimony of Theresa Devine
To the Finance Committee of the New York City Council
Regarding the Madison Square Garden Property Tax Exemption

January 7, 2008

Good morning Chairman Weprin and members of the committee. I am Theresa Devine, senior economist with the New York City Independent Budget Office. Thank you for inviting IBO to testify at today's hearing on the Madison Square Garden property tax exemption.

Since 1982, the Garden has been fully exempt from real property tax under a provision of New York State law that effectively only applies to that property. In the current fiscal year this results in a savings for the owners of the Garden of $11 million.

I note that the resolution under consideration today draws heavily upon one of the revenue options included in IBO's annual volume of Budget Options. Just to make it clear, the options in that volume are not recommendations or proposals by IBO. As with any local policy question, IBO does not take a position on whether Madison Square Garden's exemption should be repealed or continued.

What I will to do is discuss the exemption from the perspective of broadly accepted standards of tax policy and equity. My purpose is to help inform legislators and other policymakers who will determine the fate of the exemption.

First, there is broad consensus within the economics field that government subsidies for sports facilities are not an effective use of scarce public resources. There is little evidence that substantial subsidies to a sports facility generate sufficient economic activity that would not have occurred in the absence of the subsidy to return a net fiscal benefit to the city. Of course, this observation applies to all forms of public subsidy for sports facilities, not just the Madison Square Garden exemption.

Now let me turn to more specific observations about the Garden's exemption. One basic premise of good tax policy is that to the extent that economic development incentives are granted, it is preferable that they be generally available to all qualifying firms. This is the case under the city's Industrial and Commercial Incentive Program (ICIP).

The Garden's exemption is the only significant property tax exemption in state law that benefits a single private for-profit firm in the city. Because it is enshrined in state law, it is outside the city's control of economic development policy and therefore is increasingly inconsistent with the city's other benefit programs. Most glaring is the open-ended nature of the benefit. Under ICIP, for example, tax exemption benefits are granted for a limited time, with the duration depending on location and type of development.

With an open-ended benefit, the city continues to face an annual cost even if the conditions that prompted the initial deal have changed. In 1982, the owners of the Garden argued that their costs, including taxes and energy, had grown so high that they threatened their ability to keep the basketball and hockey teams playing there. Today, it is unlikely those conditions remain. With the advent of its own cable TV network, more intensive use of the facility to generate advertising revenue, and construction of new luxury boxes and club seating areas with higher ticket prices, the Garden today is by all accounts a highly profitably enterprise.

An economic development incentive provided through a permanent tax exemption, offers little chance to withdraw the tax benefit when the city is not getting the full economic benefit envisioned. Consider what happened three years ago when the National Hockey League owners locked out the players, forcing the cancellation of the 2004/2005 season. The city lost the fiscal benefit from the spending by teams and fans for over 40 home games. Nevertheless, the full exemption was allowed. Under current law, as long as teams do not play their home games in another venue, the full exemption remains in effect.

Another premise of good tax policy is to avoid favoring one entity over its competitors. The Garden's exemption helps lower its overall cost of operations, but those operations include many events besides basketball and hockey games, such as the circus, ice shows, concerts and trade shows. In many cases there are competing venues in the city for such events, particularly the small trade shows in the rotunda and the concerts held in the Washington Mutual auditorium under the Garden's main hall. Venues competing with the Garden for such events are placed at a competitive disadvantage if they are subject to the property tax.

Of course, the Garden also competes against other sports venues for fans and revenue. In recent years the city—ignoring the argument that sports facilities are a bad investment—has entered into agreements with the Nets, the Mets, and the Yankees to subsidize new facilities for each of those teams. IBO has estimated that the net present value (40 years with discount of 6 percent) of these city subsidies range from $140 million for the Nets arena to $162 million for Yankee Stadium. These deals also include additional state subsidies and federal tax exempt financing. Measured on a comparable basis, the Garden's exemption represents a city subsidy of about $218 million. While the value of the Garden's subsidy from the city is larger, with these other deals, the city has somewhat leveled the playing field in terms of public subsidies for our major league sports teams.

Again, thank you for the invitation to testify and I would be happy to answer any questions.

Testimony of Thomas Hazinski
Managing Director of
HVS Convention, Sports & Entertainment Facilities Consulting
On
Resolution 90: Madison Square Garden Property Tax Exemption

January 7, 2008

Speaker Quinn, Chairman Weprin, and Council Members, my name is Tom Hazinski, Managing Director of HVS Convention, Sports & Entertainment Facilities Consulting. I want to thank you for the opportunity to testify before you today on behalf of Madison Square Garden regarding the proposal to remove the property tax exemption currently granted to Madison Square Garden.

Let me introduce my firm and my qualifications to speak on this topic. HVS specializes in the analysis of sports, entertainment and other public assembly facilities and we help public and private owners to plan, operate, and finance their venues. I have a master's degree from the Harris School of Public Policy at the University of Chicago. My professional experience includes 17 years working in municipal finance for the City of Chicago and consulting for state and local governments regarding the development of stadiums, arenas, convention centers, and other facilities. Through my experience on approximately 250 such projects, I have become familiar with the methods of development and financing of arena projects and with analysis of their economic impacts.

I would like to briefly make three basic points: First, many local and state governments in the US support sports facilities for the purpose of generating economic benefits and the public support for Madison Square Garden is well within the norm for sports venues. Second, New York City has recently affirmed its support for major league sports facilities with deals for the Yankees, Mets, and Nets; and the MSG exemption is smaller than what has been provided to the other New York City teams. Finally, consideration of the tax treatment of the Garden should be postponed and incorporated into discussions that will occur in the near future about Madison Square Garden plans for a new arena.

MSG's property tax exemption is well within the norms for sports venues in the United States. Virtually all cities in the U.S. that have major league sports franchises, including New York City, have provided government assistance to their teams to facilitate the development and operation of sports facilities. This public support comes in many forms including: free or low-cost land, favorable lease arrangements, direct public investment in the sports facility or related infrastructure, tax-exempt bond financing, dedication of non-project tax revenues to retire debt, and exemptions from a variety of state and local taxes. Madison Square Garden is provided only one of these forms of support, an abatement of property taxes. The vast majority of sports venues do not pay property taxes and also receive numerous other types of support.

A broader national sports industry perspective demonstrates that the property tax exemption granted to Madison Square Garden is well within industry norms. In fact, in a comprehensive 2005 study by Judith Grant Long of Rutgers University, Madison Square Garden is 90th of 99 professional sports venues with respect to the level of public support.

MSG's exemption is more modest than the support New York City has offered to other professional teams. As you know, New York City has recently provided substantial support to the New York Yankees, New York Mets and for the new Nets Arena. The IBO has estimated that the Yankees will receive over $600 million in public support including $144 million in forgone property taxes and this estimate does not include additional public investment in parking garages and a new Metro-North train station that were committed after the IBO study.

IBO reports that the Mets will receive over $440 million in public support including $72 million in foregone property taxes. Similarly, the estimate of public support for the new Nets arena in Brooklyn is $340 million with $14 million in property tax savings.

The value of Madison Square Garden's property tax exemption is substantially less than the level of government support for the other three recent deals in New York. In my judgment, the City has leveraged greater economic impact from Madison Square Garden with less overall public support. The Garden generates more economic impact because it is the home of three professional teams and hosts hundreds of other events, year round, every year, that provide economic benefits to the community unlike the stadiums, which have only one major league team and lower levels of overall use. The Garden is not merely a sports facility – it attracts signature events to the City, such as political conventions and the Grammy Awards, and, with graduation ceremonies, the circus, concerts and other events, it attracts a large cross section of the City's population. The Garden has almost four million visitors a year, employs over 4,100 people, and directly generates nearly $28 million in annual tax revenue to the City.

Furthermore, since the Garden is privately owned, the City is exposed to less financial risk than in the Yankees and Mets stadium deals. Unlike the publicly owned venues that require public investment both to construct the facilities and then to replace them after they have lived their useful lives, the Garden has relied on private investment first to build the arena and theater in the 1960's and then to complete a $238 million renovation in 1990. The investment in the renovation, which at the time exceeded the cost of building a new arena, was based on the understanding that the City had entered into an agreement to provide the property tax-exemption in accordance with state law. The subsequent acquisition of Madison Square Garden by Cablevision also occurred with the understanding that there was an ongoing contractual commitment from the City to provide the property tax exemption.

Contrast that history with the Yankees: until the 1970's, Yankee Stadium was privately owned and the owners paid property taxes. In response to a threat by the Yankees to leave town, the City bought the stadium (taking it permanently off the tax rolls), invested $160 million in the stadium, and took on responsibility for maintaining and upgrading the stadium. In the early 1980's, the City faced the prospect of the Rangers and the Knicks leaving the City. The City considered the option of buying and operating the Garden, but correctly determined that offering MSG property tax relief was a less costly and less risky alternative than taking public ownership of the venue.

In its support of the recent sports venue deals in New York, the Council has affirmed its belief that the economic and community benefits that result from these deals are worth substantial public investment. Of all the venues in New York, Madison Square Garden yields the largest public benefit in exchange for the lowest level of public investment.

Finally, I suggest the Council defer further consideration of the tax treatment of the Garden until there can be a full evaluation of what government support is appropriate for the development of a new arena. As I understand it, plans for a new Garden that will involve a major investment by MSG are actively under consideration and soon to be finalized. This will be a very expensive arena, because construction above an operating train station is costly, especially at a time when the already high price of materials and labor in New York City has escalated in response to a boom in real estate development. Any decision by the City with respect to the tax treatment of the Garden should be made in the context, not only of the recent deals for the other New York City sports facilities, but also with an understanding of how Madison Square Garden plans to replace the oldest arena in the NBA and the second oldest in the NHL with a new state-of-the-art arena. Certainly, in the wake of the deals for the other teams and with the decision pending on a new arena, this is not the right moment to withdraw support established by written agreement with the City and by New York State statute.

Thank you for your consideration.

GJNY

Good Jobs New York

11 Park Place, #701
New York, NY 10007
tel. 212.721.7996 fax 212.721.5415
www.goodjobsny.org gjny@goodjobsfirst.org

Testimony of Bettina Damiani, Good Jobs New York
Before the New York City Council Committee on Finance

January 7, 2008

RE: Resolution No. 90 – The Madison Square Garden Property Tax Exemption

Good morning. My name is Bettina Damiani, director of Good Jobs New York, a joint project of the Fiscal Policy Institute with offices in Albany and New York City and Good Jobs First, based in Washington, DC. Good Jobs New York promotes accountability to taxpayers in the use of economic development subsidies. Our website, (www.goodjobsny.org) contains the only publicly available database of the city's large corporate "retention" deals and we have released numerous reports on the city's use of economic development incentives to create and/or retain jobs including our exhaustive efforts around the new Yankee Stadium project.

Thank you for the invitation to speak to you today about Madison Square Garden's special exemption from paying property taxes. We believe that this year's MSG property tax break of $12 million – which is growing because of increasing property values - is a blatant example of a tax giveaway that shifts the tax burden to smaller businesses and residents.

However, it is ironic that The Garden's 1982 deal, which had no promises to retain jobs for New Yorkers, is receiving this attention while some of the wealthiest companies in New York City, and arguably the world, get little or no scrutiny from elected officials for their own large tax breaks despite promises for jobs.

This hearing is an important opportunity to bring attention to what we believe are unnecessary taxpayer giveaways – despite claims of the contrary from many officials - that have unfortunately become too much the norm in our city. We urge you to use this opportunity to demand that more public input and transparency become the norm in proposed large discretionary subsidy deals and promote accountability for those already approved. Better dissemination of information on the costs and benefits well in advance of final confirmation of the deals would garner interest from the public, elected officials and stakeholders of the project and would help prevent corporate giveaways from creeping up on New Yorkers and the Council.

If this council demands that MSG be put back on the tax rolls, we'd like to add a few others to go on the list. This council approved over a billion dollars of tax breaks for the Yankees and Mets baseball teams for new stadiums last year. What accountability measures, for example are in place to ensure your constituents have access to good jobs and training opportunities associated with the project? Those council members responsible for garnering the "migration agreement" with the Yankees – which the majority of council members declared was a sufficient reason to support the project – must use this opportunity to bring in a new wave of accountability. Additionally, the New York City Industrial Agency under the Bloomberg Administration has approved subsidies for firms Pfizer, Bank of America and Hearst and helped shepherd through a variety of giveaways in Lower Manhattan after the attacks of 9/11[1].

But in particular, we ask for a review of the Industrial and Commercial Incentive Program, which has spun of control. This year it is the second most expensive tax expenditure program and it has cost the city $410 million.[2] Instead of nurturing growth for small firms outside of the major commercial district of Manhattan, as it was intended, the ICIP program has been so distorted that it now includes benefits to properties that have long been some of the priciest commercial district in the city.

[1] Details on GJNY's "Database of Deals" and "Reconstruction Watch" links at www.goodjobsny.org.
[2] FY 2007 New York City Tax Expenditure Report

While we applaud the council for raising the issue of the $12 million tax break to MSG, there are bigger fish to fry. Last year, these Midtown Manhattan properties together got exemptions of nearly $14 million:

Met Life Building (200 Park Avenue)
666 Third Avenue (tenants include major League Baseball)
245 Park Avenue
715 Fifth Avenue
19 East 57th Street

Without revamping the expensive ICIP program, the City has failed to use an effective tool to address New York City's more pressing economic challenges, such as diversifying the economy and its over-reliance on the volatile financial sector. Applied judiciously, taxpayer investments can strengthen the city's economy, help many more employers, and avoid costly "ransom" payments like those paid to Madison Square Garden during the Koch Administration, or like the $1 billion in subsidies for the new Yankee and Shea Stadiums, projects this council overwhelmingly approved.

This is not to say investments shouldn't be made in ensuring New York City retains and creates good paying jobs. But, back room deals like the ones made in 1982 and, as recently as last year should no longer be tolerated. The time to end taxpayer giveaways to well-connected and powerful businesses is now. As exemplified by the need for this hearing and broken promises in the Bronx, the allocation of discretionary tax breaks are not being followed carefully, despite the fact that they cost taxpayers millions of dollars.

Substantial projects remains in the pipeline – most significantly the Far West Side, Downtown Brooklyn and Willlets Point – should not follow the same path. Unless transparency and accountability become foremost in the your efforts, otherwise giveaways like the one to Madison Square Garden and the New York Yankees will look like child's play.

Thank you for opportunity to speak to you today.

Proposed Amendment by CM Lew Fidler to Proposed Res. No. 90-A
(Underlined text indicates language to be added)

Resolution calling upon the State of New York to end the real property tax exemption granted to Madison Square Garden ("MSG" or the "Garden") so that the revenue raised from putting MSG back on the City's property tax rolls can be used to provide City services or tax relief to City residents, <u>or, in the alternative, calling upon the City's Department of Finance to determine whether the 1994 and 2004-05 National Hockey League lockouts, and the 1998 National Basketball Association lockout, which prevented the teams from playing home games in Madison Square Garden, violated the terms of the exemption and to take appropriate action based upon any such determination.</u>

By Council Members Sears, Fidler, Foster, Gentile, Mark-Viverito, Weprin, and Nelson

Whereas, Madison Square Garden is a facility located in the City of New York used for sports, entertainment, expositions, conventions and trade shows; and

Whereas, The Garden was granted a full real property tax exemption by the State of New York in 1982, pursuant to section 429 of the State Real Property Tax Law, to help ensure that the Garden would continue to be the home of several of the City's professional and college sports teams and thereby bring economic benefits to the City of New York; and

Whereas, At the time the exemption was granted, the incentive was regarded as necessary to keep the sports teams from leaving the City, then thought to be a very real threat; and

<u>Whereas, In July of 1998, the National Basketball Association (NBA), representing the owners of 29 professional basketball teams in the US and Canada -- including New York's Cablevision Systems which owns the Garden and the New York Knicks basketball team-- locked out the 400 members of the Players Association, which reduced the NBA season from 82 to 50 games; and</u>

<u>Whereas, In 1994 and 2004, the owners of the National Hockey League ("NHL")--including New York's Cablevision Systems which owns the New York Rangers-- locked out their players for 103 days, and 310 days, respectively, forcing the cancellation of 468 games during the 1994-1995 hockey season, and the entire 2004-05 hockey season; and</u>

<u>Whereas, By participating in and supporting the NHL and NBA lockouts, the owners of the Garden may have violated the purpose and/or the terms of the Property Tax Exemption which specifically states that if one of the "teams shall cease to play their home games in said property at any time, the tax exemption .... shall cease immediately and such property shall immediately restored to the tax rolls and thereupon become subject to taxation"; and</u>

Whereas, The Garden and its owner, Madison Square Garden, L.P., claim to host over 500 events annually, including concerts, theatrical productions, ice shows, the circus and much more in its arena and theater and, according to the Independent Budget Office (IBO), collects both rent and concession revenue and cable broadcast advertising; and

Whereas, Other privately owned sports arenas built in recent years in other major cities, according to the IBO, generally do pay real property taxes – as did MSG from 1968 when it opened until 1982; and

Whereas, According to the Independent Budget Office, the cost of the current MSG property tax exemption, or amount of foregone taxes to the City, for Fiscal 2006 is estimated to be $12 million; and

Whereas, The $12 million generated by returning MSG to the City's property tax rolls can be used to help fund important services or to offer tax relief for City residents; and

Whereas, It is only fair that a large profitable institution such as MSG contribute its fair share, especially when ordinary New Yorkers are called on to do the same and in times of economic hardship are prevailed upon to bear an even greater burden; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the State of New York to end the real property tax exemption granted to Madison Square Garden so that the revenue raised from putting MSG back on the City's property tax rolls can be used to provide City services or tax relief to City residents, <u>or, in the alternative, calling upon the City's Department of Finance to determine whether the 1994 and 2004-05 National Hockey League lockouts, and the 1998 National Basketball Association lockout, which prevented the teams from playing home games in Madison Square Garden, violated the terms of the exemption and to take appropriate action based upon any such determination.</u>