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Things To Know About Developers

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Five Things To Know About Developers

How BAA and Other Developers Shortchange Workers and Airports

1. World-Class Airports Have Rejected the Developer Model

At least three airports—Newark, NJ; Harrisburg, PA; and Indianapolis International—have recently exited their contracts with developer BAA.

Over the past seven years, BAA has been removed from the Newark, NJ and Harrisburg, PA airports. In 2007, the Indianapolis Airport Authority announced that BAA would not finish its contract at the Indianapolis International Airport.¹

In Newark, the Port Authority now has a direct relationship with concessionaires after BAA's contract

was not renewed in 2001.² The Port Authority did not comment publicly on the reasons for the removal.

In 2001, the Susquehanna Area Regional Airport Authority removed BAA Harrisburg from its management contract at Harrisburg International Airport.³ BAA Harrisburg filed a lawsuit against the Susquehanna Area Regional Airport Authority, and the case was resolved out of court.⁴

Award-winning⁵ large- and medium-hub airports

Airport Concessions Programs Have Rejected the Developer Model

Far from being the trend, as developers have claimed, few airports have chosen the developer model. The following medium and large airports issued significant Requests for Proposals in the past five years and rejected the developer model between 2003-2008:000

Atlanta: all food and beverage in Concourse E— 2005

Atlanta: all retail – 2007

Cincinnati: several food and retail RFPs – 2004

Denver International Airport – multiple - 2006

Detroit-Wayne County: Concourse C – 2005

Detroit-Wayne County: new North Terminal – 2007

Dallas-Fort Worth: new international terminal – 2004

El Paso International: all food and retail – 2006

Fort Lauderdale-Hollywood: all retail – 2006

JFK International Terminal 3 (Delta): multiple - 2007

JFK International Terminal 5 (Jet Blue): all food and retail – 2007

LGA USAir Terminal: all food – 2006

LGA USAir Terminal: all retail – 2007

McCarran International (Las Vegas): multiple – 2004-2006

Memphis: all food and retail – 2004

Miami International Airport: multiple – 2004-2005

Milwaukee International Airport: all food – 2007

Minneapolis-St Paul International: all food and retail (open to Developers) – 2003

Nashville International Airport: all food and retail – 2006

Chicago-O'Hare: duty free, news/gifts – 2006

Chicago-O'Hare: international terminal – 2007

Oakland International Airport: all food and retail (open to Developers) – 2006

Orlando: multiple – 2007

Phoenix: multiple – 2003-2006

Portland: 13 locations – 2005

Providence: all food and retail – 2006

Richmond: all food and retail – 2005

San Francisco International: domestic terminals (direct lease approach) – 2004

Seattle-Tacoma International: all food and retail – 2004

Spokane International Airport: all food and retail – 2005

Tucson International Airport: all food and retail – 2005

By contrast, the following airports are the only airports that have awarded new business to developers in the past four years:

Cleveland Hopkins – 2008

Boston-Logan International (Terminal C) – 2005

Baltimore-Washington International – 2004

Miami International (Central Terminal) – 2004

In fact, only the following airports have a developer presence.

Baltimore-Washington International

Boston-Logan International

Cleveland Hopkins

George Bush Intercontinental (Terminal E)

JFK International (Terminal 8&9)

LaGuardia International (Central Terminal)

Miami International (Central Terminal)

Orlando International (retail only)

Pittsburgh International

like Minneapolis and San Francisco have recently expressed their reasoning behind not going the way of the developer. In 2003, San Francisco began to work towards a developer program for its food and beverage operations, but chose a direct leasing model instead. While the airport was close to selecting a developer, “during the course of extensive negotiations with Marketplace, the developer ranked first for a new Master Lease/Developer Program, it became apparent to the Airport that the Airport could redevelop the Program on a more cost-effective and timely manner by moving forward under a Direct Lease Program, rather than a Master Lease/Developer model.”⁶ The airport found that Marketplace’s cost to the airport would “reduce revenue to the Airport to an unacceptable level [...]”⁷

In sum, the airport found that a developer would not guarantee the same revenue as other leasing models, and would not give the airport enough control

over the process.⁸

The Metropolitan Airports Commission (MAC), which oversees the Minneapolis-St. Paul International airport, released an RFP in 2003 for batches of prime leases. In evaluation of the proposed business model, MAC gave the following reasons, among others, for issuing this kind of RFP rather than one for a developer: past success in managing the concessions directly, projected revenue to MAC, and less disruptive construction due to fewer necessary changes.⁹ The Review Team, consisting of representatives from airlines, the airport and the general traveling public, determined that the airport could “build on its strengths” rather than “scrap the current program” by bringing in a developer.¹⁰ MAC did allow developers to submit responses to the RFP, and both BAA and Westfield did so; however, prime concessionaires received higher scores and were ultimately selected.

2. Small and Disadvantaged Businesses Struggle; Airports Take On Added Risk

When BAA entered Baltimore-Washington International (BWI) airport in 2004, BAA agreed to allot 30% of its business to Disadvantaged Business Enterprises (“DBE”s).¹¹

At Church’s Chicken, one of the BWI brands operated by a local DBE, there was pressure for the DBE to conform to the prices charged at an off-airport Church’s Chicken restaurant in Philadelphia, over 100 miles away and in a different state than BWI. The DBE desired to charge prices comparable to what other fast-food stores in the metropolitan area were paying, but was refused by BAA. The DBE also suffered because of BAA’s demand that Church’s open at 5 a.m. instead of 9 a.m., despite few passengers desiring fried chicken as early as 5 a.m.¹²

Church’s Chicken closed its doors in July 2006 and its DBE operator sought bankruptcy protection.¹³

In Philadelphia, the developer saw some of its smaller subtenants suffer following the attacks of 9/11/2001. The owner of Barson’s and Hymie’s Deli at Philadelphia expressed concern: “Local guys can’t do the huge investments—you can’t weather (an interruption in business) the way a Host Marriott can,” he said. “You’ve got huge amounts of

dollars tied up in rents.”¹⁴

Because developers bring in stores under many small and separate leases, they also bring more risk to the airport. When a small store is forced to close, the developer must seek out a replacement subtenant to keep the location from being vacant for too long. In the airport concessions industry, it is not a simple matter to have one company quickly replace a completely separate entity, as concessions concepts are chosen carefully to ensure the right mix, and new concepts require new build-outs.

Prime concessionaires, by contrast, can immediately step in and operate the store directly while finding a replacement subtenant. Prime concessionaires are typically responsible for keeping all spaces under their management open at all times, thereby ensuring that the airport maintains its revenue stream.

Prime concessionaires also support their DBE subtenants and joint venture partners by guaranteeing loans that were obtained to fund the development and construction of DBE-operated stores.¹⁵ Given the higher costs of doing business in an airport, many DBEs are unable to operate in an airport without such start-up support.

3. BAA Has Made False Claims to Win Business

In response to Cleveland Hopkins International Airport's request for information, Mark Knight, BAA USA's President, made several statements about working conditions and labor relations under BAA's developer model, many of which proved to be misleading or downright false:

BAA summarized labor relations under the developer model with the following statements to the Cleveland Airport:

BAA claims, "In summary, under a developer approach there are more jobs, better jobs and better opportunities for advancement (because there are more companies). Competition for workers drives up wages and benefits and a competitive concessions model drives

up customer satisfaction and working conditions."

The evidence does not support these claims. It is simply not true that jobs are better under BAA's model, as the wages and benefits section of this report reveals. UNITE HERE members know that the prime model better rewards hard work with respect to wages, benefits and career advancement. UNITE HERE has found the uneven playing field under the developer model actually drives down wages and benefits. Union concessionaires under the developer model who are working side by side with non-union concessionaires are at an unfair disadvantage because while they are paying decent wages and benefits, their non-union competitors

CASE STUDY: BAA Maryland Impact at BWI

The reality at Baltimore-Washington International Airport is quite different than that described by BAA:

BAA claimed: "Pre-BAA (Pre-May 1, 2004) there were approximately 500 concession employees at BWI. Although approximately 300 were employed by HMS Host, they were not unionized employees. Apparently the union was in negotiations with Host and had been for several years, however there was not a contract in place. So strictly speaking, there were no unionized employees pre-May 1, 2004."

The approximately 450 HMSHost employees in BWI had successfully organized a union with UNITE HERE and were in fact unionized employees when BAA took over. Once the union was recognized in February 2003, they began negotiating their first union contract, so contract negotiations had been going on for months, not years.

BAA: "Today, between Creative Host and Hudson there are approx. 300 unionized employees."

This is an overstatement of union representation at BWI. Between Creative Host and Hudson, there are approximately 200 unionized employees as of the writing of this report.

BAA: "When it was awarded the contract, BAA agreed that all of the existing employees would be hired and hired at their existing salary and benefits."

Approximately 90 of the 450 workers at HMSHost were absorbed into concessions operator Airport Concessions 2000, but with significantly lower wages and benefits. 172 were absorbed by GladCo, and the whereabouts of the approximately 188 remaining workers (41%) are unknown.

BAA: "Salaries and benefits are excellent at BWI."

The wages and benefits that BAA provided to the Cleveland airport reveal the following information for 44 BAA subtenants at Pittsburgh and Baltimore. These wages and benefits do not approach what UNITE HERE members negotiate in their contracts.

Moreover, if these are the wages and benefits BAA chose to advertise, it is distressing to imagine how poor the wages and benefits may be at the other airports that BAA chose to omit from its report. Here are some "highlights" from BAA's report on its subtenants:

- Average monthly health insurance cost: \$181.30
- Average annual salary for non-managerial staff: \$17,680
- Largest employer offers no health insurance, no pension, and wages as low as \$3.55/hr

BAA: "Clearly at BWI, the union's position has improved significantly under a developer."

Workers' position at BWI has not improved under a developer. In 2004, BAA stood by as Airport Concessions 2000 beat back workers' attempts to continue their bargaining momentum [see following section of report]. As late as 2006, UNITE HERE staff reported hearing complaints of dissatisfaction with the developer environment from long-term BWI workers.

have lower labor costs. At least one union concessionaire under the developer model has had to request wage and benefit give-backs because it can no longer afford to pay previous wages and benefits.

Furthermore, developers have caused a decline in job standards at an airport. Before BAA entered BWI, Pittsburgh and Boston, UNITE HERE represented around 750 total airport concessions employees and had 100% density in the food and beverage

operations of these airports. Since BAA entered these airports, the number of union jobs has decreased, and UNITE HERE currently represents around 550 total airport concessions employees at BWI, Pittsburgh and Boston—and has very low union density at these airports. In fact, BAA turned a blind eye to one of its subcontractor's labor relations, even when the situation led to that subcontractor's illegal conduct and a public labor dispute.

4. BAA Enabled Anti-Union Company to Lower Standards, Bring Labor Strife

History of BAA Subtenant Airport 2000 Concessions, LLC¹⁶

An example of BAA's hands off approach to its subtenant's employees is a dispute at the Baltimore-Washington International Airport (BWI) that began in 2004. UNITE HERE Local 7 represented 450 HMSHost concessions workers at BWI before BAA took over the concessions program and granted a good portion of the business to Airport 2000 Concessions ("A2K"), a local company with no previous airport experience.

A2K re-hired 87 of the HMSHost workers. These workers began re-organizing their union, but the company resisted by threatening, surveilling and disciplining workers.

A2K's behavior proved to be a problem for maintaining labor peace at the airport. A union activist was terminated (unlawfully, as the federal government later determined), and a managing partner intruded on a worker who was talking to a union organizer on break time, later announcing that she did not want any employees talking to anyone from the Union. The company also solicited grievances and ordered employees to remove their union buttons.

The workers filed Unfair Labor Practice (ULP) charges with the federal government. Three days after the charges were filed, a group of workers presented A2K majority partner Erroll D. Brown with a copy of the charges in the company's office at BWI. Workers also took part in a large demonstration and rally, which included leafleting inside the airport, marching on a picket line, and chanting.

The NLRB affirmed a judge's finding that A2K committed 10 violations of the NLRA, including engaging in coercive interrogation and illegal surveillance.¹⁷

BAA claimed ignorance of its own subtenant's violations of the law, and did nothing to restore an orderly environment at the airport. Then-BAA Maryland President (now BAA USA President) Mark Knight reported to a journalist that "[i]t's really their [A2K's] call and I just don't know enough about it to really talk specifically."¹⁸ When asked by the journalist about A2K workers having approached BAA about scheduling issues, Knight said, "I can't imagine that would be the case, but I don't know every little thing that goes on."¹⁹

Another airport, San Francisco International, is similar to a developer in that it manages dozens of concessions leases. In December 2007, employees at 44 food service locations at SFO were poised to go on strike before the busy holiday season because they had been negotiating a contract for over a year with no resolution in sight. The strike threat has since been resolved, but this struggle illustrates a symptom of such an environment.²⁰

Inexperience with unions, an ideological anti-worker approach, and the developer's unwillingness to mandate steady revenues by maintaining labor peace are hallmarks of this kind of model, and the risk of a labor dispute is greater with transition to a developer airport.

By contrast, at airports with the prime concessionaire model, the prime tenant is able to set a positive example for its small and local subtenants. For example, in Las Vegas, San Jose, Los Angeles and Milwaukee, to name a few, the prime concessionaire and its subtenants are all union employers providing quality wages and benefits, and those airports have enjoyed many years of peaceful labor relations.

5. Concessions Employees Suffer Under A Developer

Wages and benefits are inferior to what prime concessionaires offer

While BAA claims to bring “more jobs, better jobs and better opportunities for advancement,”²¹ UNITE HERE’s experience has shown that, in fact, concessions employees benefit from a larger employer.

Because a prime concessionaire has several positions in many types of outlets, from quick-serve to fine dining, it offers more scheduling flexibility and greater opportunity for career advancement. Employees are able to move up the ladder, while maintaining their seniority and benefit plans. A concessions subtenant under a developer can employ as few as four employees,²² leaving very little potential for advancement with the same employer, and, as we show further on, less appealing wages and benefits.

BAA’s selective sample of wages at BWI reveals

One employer under the developer model asks employees to pay as much as \$887/month for medical benefits—clearly unaffordable for an employee making \$8.50/hour.

an average wage, potentially including management-level employees, of approximately \$8.50/hour (translating to an average of \$17,680 per year for the 60% of workers in its sample who are full time employees). Fully 57% of these employers under BAA’s model do not even report offering medical benefits

to their non-management staff. One employer asks employees to pay as much as \$887/month for medical benefits—clearly unaffordable for an employee making \$8.50/hour.

On the other hand, airports with prime or multiple-prime concessionaire models attract concessionaires that can provide average wages as high as \$9.64 (\$20,066) with 90% of

health care costs paid by the employer (HMS Host in Seattle), and \$10.41 (\$21,652) with 100% of health insurance costs paid by the employer (HMS Host in Los Angeles). These prime employers also offer pensions.

Prime vs. BAA Wage and Benefit Comparison

| Sample Wages: | Union Prime ²³ <i>Excludes managers</i> | BAA ²⁴ <i>May include managers</i> |
|--|---|--|
| Wages: Hourly Average | \$9.96 | \$8.50 |
| Wages: Annual Average | \$20,716.80 | \$17,680.00 |
| Medical Premium Charged Employees: Monthly Average | \$29.80 | \$181.70 |
| % Of Employers Who Report Offering Medical Benefits to Staff | 100% | 43% |
| % Of Employers Who Report Offering Retirement Options to Staff | 100% | 45% |

Career Ladder Spotlight: Cindy Richardson

Former Seattle-Tacoma International HMS Host employee Cindy Richardson discusses her career track.

First Day: December 16, 1985

Position: Cashier

Salary: \$3.85/hr (\$8,000/year)

Last Day: June 2, 2003

Position: Floating Lead 1

Salary: \$12.87/hr with tips from Starbucks (\$34,000-35,000/year with tips)

"I've done everything. I started at the snack bar, and I've done production, Pizza Hut, Starbucks. As a floating lead I managed two Starbucks, Cinnabon and Quick Connect.

"I liked the diversity of having different things. It was never the same thing every day. I

liked knowing a lot of different concepts. Any time a new concept would come in, it perked my interest. My husband also worked [at Host] for 12 years, so I had flexibility in my schedule.

"When I was branch champion for Cinnabon, I got to go to Vancouver, BC and open a brand-new Cinnabon. They wanted someone geographically close who knew the concept. It was a new terminal, so I got to train workers, and work an opening gala.

"Late in my career, my dad suffered a massive stroke and my mother was older, so I was able to coordinate schedules around doctor's appointments.

"Developers have no place for growth. It's important that people have the opportunity to try something different."

Notes

- 1 IndyChannel, May 4, 2007
- 2 Conversation with Concessions Manager Susan Bush, The Port Authority of New York and New Jersey, March 7, 2007
- 3 Cumberland County Court, PA, Docket 01-4097. "BAA's Bad Times in Pa / Harrisburg officials dissatisfied." *Newsday NY*, Monday, June 4, 2001
- 4 More information is available at the Cumberland County Court of Common Pleas website:
http://records.ccpa.net/webink_public/Browse.aspx?dbid=0, Docket 01-4097
- 5 Airport Revenue News awarded MSP "Best Overall Concessions Program" honors in 2007, and San Francisco won this award for large hub airports in 2006 (www.airportrevenue.com, accessed February 1, 2008)
- 6 SF Concessions Report, 2003 (167)
- 7 SF Concessions Report, 2003 (189) Full quote: "During the course of extensive negotiations with Marketplace, it became apparent to staff that the cost of Marketplace's services would reduce revenue to the Airport to an unacceptable level and that the airport could redevelop the food and beverage facilities on a more cost-effective and timely manner by moving forward under the direct leasing model, rather than a developer model."
- 8 SF Concessions Report, 2003 (176, 181)
- 9 MAC Management And Operations Committee Minutes, 2004 (18)
- 10 "From its review of the current MSP concessions, all the proposals received and the site visits of six (6) other airports, the review team determined that MAC's current program is equal to or better than any other airport that was visited. With this information as a backdrop, the Review team feels that MAC should not scrap the current program, but build on its strengths and make changes where warranted. The Overall Airport Proposals did not convince the Review Team that a more dramatic change to a developer or fee manager model is needed." MAC Management And Operations Committee Minutes, 2004 (12)
- 11 Cohn, Meredith. "Over 300 jump at chance to be BWI entrepreneurs." *Baltimore Sun*, April 1, 2004.
- 12 Eldridge, Earle. "Minority BWI Food Franchise Owners Sought Sale." *The Examiner*, August 12, 2006. *Beasley Food Ventures et. al. vs. AFC Enterprises, Inc*
- 13 U.S. Bankruptcy Court, District of Maryland, Bankruptcy Petition #06-17013, Dismissed April 24, 2007
- 13 Van Allen, Peter. "Airport retailers try to digest the impact of 9/11." *Philadelphia Business Journal*, March 29, 2002
- 14 As example, see Paradies' joint venture agreement in Phoenix and Hudson's joint venture agreement in Dallas/Fort Worth.
- 15 Airport 2000 Concessions LLC and UNITE HERE Local 7, Hotel and Restaurant Employees Union, CLC. Information in this section is from Cases 5-CA-32092 and 5-CA-32185, April 24, 2006, and Cecil, Andrea. "BWI workers allege unfair labor practices." *The Daily Record*, August 19, 2004, unless otherwise noted.
- 16 Airport 2000 Concessions, LLC and UNITEHERE Local 7, Hotel and Restaurant Employees Union, CLC. Cases 5-CA-32092 and 5-CA-32185, April 24, 2006
- 17 Cecil, Andrea, "BWI workers allege unfair labor practices" *The Daily Record* August 19, 2004.
- 18 Cecil, Andrea, "BWI workers allege unfair labor practices" *The Daily Record* August 19, 2004.
- 19 Mark Knight, 4/2/07
- 20 Rosenberg, Mike. "Strike Could Close SFO Restaurants." *The Examiner*, December 18, 2007
- 21 A company operating under BAA at BWI employs four workers.
- 22 Sampled from actual 2007 wages of food service and retail workers at LAX, MKE, MSP, ORD, SEA
- 23 From wage samples provided by BAA to Cleveland Hopkins International Airport, 2007
- 24 From wage samples provided by BAA to Cleveland Hopkins International Airport, 2007