

OFFICE OF THE CITY CLERK
2006 APR 27 PM 4:51

**CITY OF OAKLAND
AGENDA REPORT**

TO: Office of the City Administrator
ATTN: Ms. Deborah Edgerly
FROM: Office of the City Administrator, Special Activity Unit
DATE: May 9, 2006

RE: An Informational Report on Bingo Activities in 2005

SUMMARY

This report provides information regarding the operation of Oakland's permitted bingo establishments during the 2005 calendar year. The report summarizes the receipts, expenditures, and charitable donations made by the bingo game operators, as reported monthly by each operator to the Office of the City Administrator.

The \$458,817 donated to charity by Oakland's bingo operators in 2005, was more than double that of 2004, when charitable donations were \$199,125. This continues a trend that began in 2003, following a dramatic drop in donations in 2002.

<u>Year</u>	<u>Charitable Donations</u>
2001	\$184,644
2002	57,788
2003	117,294
2004	199,125
2005	458,817

Five year total donations \$1,017,688

Of the \$458,817 total donated in 2005, ninety-two percent (\$420,917) was donated by two bingo organizations. BCD & R gave \$282,517, and Community Charities gave \$138,400. The majority of Community Charities' donation recipients were Oakland schools and Oakland non-profit organizations focused on youth. In appreciation, the City Administrator's Office has named Community Charities Oakland's Bingo Organization of the Year. We also commend BCD & R for their outstanding total contributions.

FISCAL IMPACTS

As this is an informational report, fiscal impacts are not included.

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State law limits the permit fees for bingo game operators to \$50 annually. (Cal. Penal Code section 326.5(1)(1).) State law does not address the concept of bingo hall operators, entities that lease space to bingo game operators, but all of Oakland's bingo game operators except the East Oakland Senior Center lease space. Oakland Municipal Code section 5.10.110 requires the lessors to obtain a Bingo Hall permit. In 2005, the annual fee for a Bingo Hall permit was increased from \$500 to \$1,000 to better cover the estimated \$5,000 cost of City staff oversight of bingo. Because Bingo Hall permits are issued at the start of the calendar year and the fee increase took effect at the start of the City's fiscal year, the increase did not affect City revenues in 2005.

BACKGROUND

California Penal Code Section 326.5 and Oakland Municipal Code Chapter 5.10, Title 5 are the governing regulations for bingo games. The Special Activity Permit Unit of the City Administrator's Office is the oversight agency for bingo games in the City of Oakland.

The Special Activity Permit Unit developed forms to be used by the bingo operators to report their monthly activity. The reports are not audited, but operators sign that, to the best of their knowledge, the information provided is true and correct. The information in this report is drawn from the monthly operators' reports.

FINANCIAL SUMMARY

In 2005 Oakland's bingo organizations posted gross receipts of **\$13,413,891** from bingo, a **\$654,579** increase from 2004's gross receipts of **\$12,759,312**. In 2005, bingo patrons won **\$9,584,613** in prizes, compared to **\$9,413,438** in 2004. The **\$458,817** in charitable donations made by Oakland bingo organizations in 2005 was an impressive increase of **\$259,692** from 2004's level of **\$199,125**. Although gross receipts in 2004 were over half a million dollars lower than in 2005, prize moneys were not reduced equivalently and expenses in 2004 were actually higher, resulting in lower profits. Potential explanations for the difference between the years are discussed under "Key Issues and Impacts".

	<u>2003</u>	<u>2004</u>	<u>2005</u>
Gross Receipts	\$13,477,849.00	12,759,312.00	13,413,891.00
Prizes Awarded	10,136,633.00	9,413,438.00	9,584,613.00
Expenses	3,031,529.00	3,131,559.00	3,077,652.00
Profit	309,687.00	204,009.00	751,626.00
Charitable Donations	117,294.00	199,125.00	458,817.00
Percent of Profit Donated	38	98	61

BINGO HALLS AND BINGO GAME OPERATORS

During 2005 the Office of the City Administrator's Administrative Hearing Officer permitted four locations to conduct bingo games, hereinafter referred to as Bingo Halls.

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<u>LOCATION</u>	<u>BINGO HALL OPERATOR</u>
• Durant Square Bingo Hall	Bay Area Commercial, Inc.
• Foothill Square Bingo Hall	Cornucopia Ventures, 2001 LLP
• Fruitvale Bingo Hall	Oakbay Bartco
• Fortune Bingo (337 13 th St)	Wayne Tonkin

The four locations obtained Bingo Hall Permits, as required by Oakland Municipal Code Chapter 5.10.

Both state law and the Oakland Municipal Code (OMC) authorize only tax-exempt organizations, mobile home park associations, and senior citizen organizations to conduct bingo games. In 2005, a total of six (6) tax-exempt organizations, including one senior citizen organization, were permitted to conduct bingo games at four bingo halls, down from nine (9) organizations in 2004. During the year, one (1) organization, Community Social Services of the East Bay, ceased operations. At approximately the same time, one (1) organization, Project Yes!, commenced operations. These organizations are hereinafter referred to as Bingo Game Operators.

Other than the East Oakland Senior Center, which conducted bingo in its own facility, the Bingo Game Operators leased space from the Bingo Hall Operators.

<u>BINGO GAME OPERATOR</u> (Non-profit organization)	<u>BINGO HALL OPERATOR/LESSOR</u>
• Community Charities	Durant Square/Bay Area Commercial
• BCD & R Society ¹	Foothill Square/Cornucopia Ventures
• KEDS, Inc. ²	Foothill Square/Cornucopia Ventures
• Community Soc. Svcs. of E. Bay	Fruitvale/Oakbay Bartco
• Project Yes!	Fortune Bingo/Wayne Tonkin ³
• East Oakland Senior Center	Not Applicable

KEY ISSUES AND IMPACTS

WHERE IS THE MONEY GOING?

Conforming to state and local law, Oakland's Bingo Game Operators, which staff the bingo games, are either tax exempt/non-profit organizations or senior citizen organizations. With the exception of the East Oakland Senior Center, however, the bingo profits are not used to fund the activities of the Bingo Game Operators, but are donated to other non-profit organizations and needy individuals. Although Bingo Game Operators make their own decisions about where to

¹ Breast Cancer Research and Development Society

² Kids Education Development Scholarships, Inc.

³ Fortune Bingo is located at 337 13th St.

donate, they sometimes consult with the Oaklander's Assistance Office and City Council Offices for suggestions on those with the greatest needs.

As outlined above, in 2005 Oakland's bingo game operators more than doubled their charitable contributions from 2004 levels, following an encouraging trend of almost doubling their 2003 donations in 2004. The donations provide much needed funding for Oakland schools and charitable causes, as well as for charitable organizations and needy individuals in other parts of the Bay area.

As in 2004, the 2005 donations of BCD & R Society and Community Charities comprised more than ninety (90) percent of the total bingo charitable donations. Of the \$458,817.00 donated by the Bingo Game Operators to charitable causes, 92 percent, \$420,917.00, was donated by two organizations, BCD & R Society and Community Charities. BCD & R Society donated a total of \$282,527 to charitable causes, and Community Charities donated \$138,400.

Because the City wants to encourage contributions to Oakland organizations, **Community Charities was selected as Bingo Organization of the Year**. Ninety-two percent, or \$127,000, of their donation, went to Oakland organizations or needy individuals referred by the Oaklander's Assistance Office or Council Member Reid. **Community Charities** donated to 27 different Oakland organizations or individuals, including 9 schools that each received at least \$2,500. Their most substantial donation, \$54,500, went to the Oakland Police Activities League.

KEDS, Inc. also made a significant contribution to Oakland's schools. Their entire \$26,000 in donations was given to **Fruitvale Elementary School**. **Project Yes!**'s \$5,000 in donations went directly to **Project Yes!**, an Oakland program for youth between the ages of 13 and 24. The **East Oakland Senior Center's** donations were for programs of the Center. Community Social Services of the E. Bay also made their donation of \$1,900 to Oakland organizations. **BCD & R** contributed to several Oakland organizations in 2005 and has committed to donating their profits to Oakland organizations in 2006. The detail of donations by the two major Bingo Game Donors is attached.

The 2005 charitable donations of all Bingo Game Operators and a comparison with 2004 donations is shown below:

<u>BINGO GAME OPERATOR</u>	<u>2004 DONATIONS</u>	<u>2005 DONATIONS</u>
• BCD & R Society	\$124,600.00	\$282,517.00
• Community Charities	64,225.00	138,400.00
• Community Soc. Svcs. of E. Bay	4,900.00	1,900.00
• KEDS, Inc.	2,000.00	26,000.00
• FSCCC of American Samoa	2,600.00	
• East Oakland Senior Center	800.00	5,000.00
• Project Yes!	0.00	5,000.00
	<u>\$ 199,125.00</u>	<u>\$458,817.00</u>

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Although charitable donations increased dramatically in 2005, the percentage of profits donated by each organization varied greatly. Community Charities donated 91.3 percent of their profits, Project Yes! 61.9 percent, BCD & R 53.8 percent, and KEDS 29.6 percent. The East Oakland Senior Center donated 177.7 percent of their 2005 profits, but the number is misleading, as they had accumulated a substantial surplus in prior years that they mistakenly understood they were to retain.

Community Charities' leadership, with 91.3 percent of profits donated, is another reason why they are named Oakland's Bingo Organization of the Year. The other Bingo Game Operators will be encouraged to follow this example with the establishment of new guidelines outlined below.

EXPENSE OF OPERATING BINGO GAMES

The largest expense of bingo operations is the cost of prizes. In 2005, 71 percent of the gross receipts, or \$9,584,613 was paid out in prizes. As was noted in the 2004 bingo report, bingo hall rentals and overhead expenses consume the gross profits of Oakland bingo game operators in amounts not anticipated by the state lawmakers who drafted the bingo legislation. The most significant cost of conducting bingo games is the rent paid by the bingo game operators to the bingo hall operators. Premises rents paid in 2004 and 2005 are as follows:

	<u>2005</u>	<u>LESSOR</u>
BCD & R Society⁴	\$ 582,050	Cornucopia Ventures
Community Charities	568,000	Bay Area Commercial
KEDS, Inc.	290,360	Cornucopia Ventures
Community Soc. Svcs. of E. Bay	19,600⁵	Oakbay Bartco
Project Yes!	5,450⁶	Wayne Tonkin
East Oakland Senior Center	Not applicable	

State law limits the amount for rental of property and overhead to \$2,000 per month. (Cal. Penal Code section 326.5(k)(2).) The law does not apply to cities that adopt their own ordinances. (Cal. Penal Code section 326.5(a).) Oakland adopted the provisions of the state Penal Code for its ordinance, thereby adopting the \$2,000 per month restriction. Except for Project Yes!, the rents paid by Bingo Game Operators are greater than allowed by law.

⁴ Foothill Square Bingo Hall is the landlord for 2 tax-exempt bingo organizations, BCD & R Society and KEDS. Total rents paid to Foothill Square Bingo Hall in 2005 were \$872,410. The other bingo halls hosted only one tax-exempt entity as a bingo operator in 2005.

⁵ Community Social Services of the East Bay, which operated at the Fruitvale Bingo Hall, operated for only two months of 2005. During 2004, they frequently operated at a deficit, their charitable donations were minimal, and their reporting was inaccurate. The Hearing Officer issued them a temporary permit for 2005, the extension of which was contingent upon the correction of these problems. When their first two months of operations resulted in deficit of \$7,907 and their reporting continued to be problematic, their permit was not extended.

⁶ Project Yes! commenced bingo operations at the Fortune Bingo Hall in March of 2005. The Hall did not charge them rent until July of 2005.

The rents charged by the Bingo Halls vary widely, and, in some cases, do not match the rent specified in the lease between the Bingo Hall Operator and the Bingo Game Operator. On the low end, the Project Yes! lease with Fortune Bingo Hall (Wayne Tonkin) specifies a rent of \$250 per day. Fortune Bingo is Oakland's smallest bingo venue. Project Yes! commenced operations in March of 2005, but was not charged rent until July. From July through October, Project Yes! paid \$50 per day to Fortune Bingo Hall (Wayne Tonkin), and Project Yes! was charged no rent for November or December. At \$50 per day, the rent charged Project Yes! never exceeded \$1,500 in a month's time. Had the lease rate been charged, the rent charged by Fortune Bingo Hall/Wayne Tonkin would have been greater than allowed by law, as were the rents charged by Cornucopia Ventures, Bay Area Commercial, and Oakbay Bartco

Community Charities pays Durant Square Bingo Hall (Bay Area Commercial) a flat monthly rate of \$50,000, except for the summer months of June, July, and August, when the rent was \$40,000 per month and the month of December, when the rent was \$48,000. Except for December, which is specified as a \$50,000 month, these amounts match the rents stated on Community Charities' lease.

KEDS, which operated bingo games 8 to 10 days per month, on Sundays and Mondays, paid Foothill Square Bingo Hall (Cornucopia Ventures) monthly rents of \$19,040 or \$23,800. Their rental agreement specifies a rental of \$2,850 for Sundays and \$1,850 for Mondays. A check of two of the reported months indicated that the rents charged were higher than the amounts specified in the rental agreement.

For the first eleven months of 2005, BCD & R Society, which operated bingo games at Foothill Square on Tuesdays through Saturdays, paid daily rental amounts of \$1,850 per day Tuesdays through Thursdays, \$2,150 on Fridays and \$2,850 on Saturdays. BCD & R's December report indicates that Friday rents increased to \$2,850. A spot check of BCD & R's monthly reports shows that, at least in some months, the rent paid to Cornucopia Ventures exceeded the stated daily rates. BCD & R's lease specifies rents of \$1,850 Tuesdays through Fridays and \$2,850 on Saturdays. The Hearing Officer will further investigate these anomalies.

RECOMMENDED CHANGES IN OAKLAND'S BINGO OPERATIONS

When the discrepancy between the state law and Oakland's operation was noted in the City Administrator's 2004 bingo report, the Public Safety Committee instructed the Administrative Hearing Officer to investigate and recommend changes to Oakland's code. Since then the Administrative Hearing Officer has met with the Oakland Bingo Hall Operators (landlords) and the Oakland Bingo Game operators (tax-exempt entities). The purpose of the meetings was to discuss changes to Oakland's ordinance that would reflect the reality of Oakland's current operations and provide the City with greater transparency of these operations, in order to conduct the oversight required by OMC Chapter 5.10.

The Bingo Hall Operators are reluctant to disclose the rents that they are charged by the owners of the buildings, for the purpose of the City's determination of reasonableness. If the practices of

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Bingo Halls and the tax-exempt Bingo Game Operators they house are very different from the restrictions of the state law, disclosure would likely reveal numerous areas where Oakland's bingo operations are operating in violation of the law. The Bingo Hall Operators point out that, although the rents they charge appear high, they include services and utilities.

The Bingo Hall Operators are instead focusing, and request that the City focus, on the substantial increase in charitable donations that occurred in 2005. In this context, they recommend that the City limit the number of Bingo Hall Permits issued. They believe that there is a limited pool of bingo players and that the levels of donation achieved this year can only be sustained if the number of bingo venues is limited. In 2004 bingo expenses exceeded 2005 levels, despite lower gross receipts in 2004. This can be largely attributed to the operation of Fruitvale Bingo Hall's tax-exempt bingo operators, which reported 2004 gross receipts of \$1,670,000 and expenses of nearly the same amount. Statistics from 2005 indicate these gross receipts were absorbed by the Bingo Game Operators at Foothill Square and Durant Square, without their incurring significantly greater overhead expenses.

Acknowledging that the finances and operations of a Bingo Hall/Bingo Game Operator relationship are substantially different than the restrictions of the City's ordinance, the Administrative Hearing Officer will continue to work with the Bingo Game Operators and Bingo Hall Operators on changes that will provide the City with greater understanding of the operations. The purpose of these changes will be to ensure that the City can conduct its fiduciary oversight of bingo and that support of Oakland's needy citizens and charitable organizations is the focus of those organizations permitted to conduct bingo activities in the City of Oakland.

Changes that the City Administrator's office will implement effective May 1, 2006:

- Requirement to list the address and provide either an acknowledgement or a copy of the cancelled check from each organization or individual that is a recipient of a bingo charitable donation.
- Disclosure of the EIN number for non-Oakland donation beneficiaries
- Quarterly submission of the Bingo Game Operator's financial statement
- Expectation of donation to charity of at least 90 percent of profits by year end or show of good cause

SUSTAINABLE OPPORTUNITIES

In 2005, bingo operators contributed **\$458,817** to charitable causes. A substantial portion of these contributions was made to Oakland schools, organizations, and citizens who had little or no other available community assistance resources. The contributions provided both economic and social equity benefits to the City of Oakland. It is expected that bingo operators will continue to assist disadvantaged citizens in 2006. The Oaklander's Assistance Office will continue to work with the Office of the City Administrator to inform the Bingo Game Operators of Oakland's needs and encourage them to use their bingo profits to meet these needs.

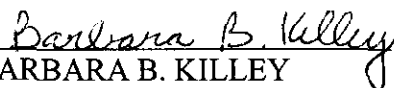
DISABILITY AND SENIOR CITIZEN ACCESS

There are no disability and senior citizen access concerns raised in this report.

ACTION REQUESTED OF THE CITY COUNCIL

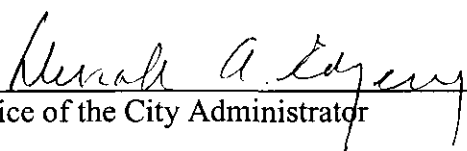
Staff requests that the Council accept this informational report on bingo activities in 2005.

Respectfully submitted,


BARBARA B. KILLEY
Administrative Hearing Officer

Attachment

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:


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Community Charities Donations - 2005

Recipient	City	Oakland \$	Other \$	Total
Montera Middle School	Oakland	2000		
Grass Valley Elem.	Oakland	3000		
Thurgood Marshall School	Oakland	3000		
Oakland Police Activities League	Oakland	54500		
Bay Area Charities	Pleasanton	0	8600	
Metro Jr. Golf links (Academy)	Oakland	2000		
Elmhurst Food Pantry	Oakland	6500		
Sobrante Park Elem	Oakland	2000		
Khadafy Foundation for Non-Violence	Oakland	2500		
Black Film Makers Hall of Fame	Oakland	2500		
Lend A Hand	Oakland	2500		
San Leandro Football	San Leandro		300	
Bishop O'Dowd	Oakland	11000		
Elmhurst Elementary	Oakland	3000		
Highland Elem.	Oakland	3000		
E. Morris Cox Elem	Oakland	3000		
Awareness Foundation	S Cal		2500	
Brookfield Elementary School	Oakland	2500		
Woodland Elementary School	Oakland	2500		
Project Outreach	Oakland	2500		
East Oakland Youth Development Center	Oakland	2500		
Global Education Partnership	Oakland	3000		
Under His Wings	Oakland	3000		
Boys and Girls Club	Oakland	1500		
Men of Valor	Oakland	1500		
House of Unity	Oakland	1500		
The Ladies Athletics	Oakland	1500		
NAACP Disaster Relief Fund	Oakland	1500		
E. Oakland Senior Center	Oakland	1000		
United Seniors of Oakland	Oakland	1000		
Oakland Community Organization	Oakland	1000		
	Total	127000	11400	138400

BCD R donations

Organization	City	Oakland \$	Other City \$	Unidentified \$	Total
Metro Golf Academy	Oakland	2000			
Our Lady of Miracles				200	
Continental of Omega	Vallejo		1750		
Sheriff's Charities, Inc	Martinez		2000		
VPD Cadets	Vallejo		10000		
Hopehouse Sports	Hayward		3000		
Jerome Horton				5600	
Vallejo Babe Ruth	Vallejo		1500		
Lodestar for Youth				130000	
Latter Reign Christian Center	Modesto		14830	0	
St Monica's				2500	
St George's				2500	
Shelter, Inc.				25000	
The Hermitage				1000	
Transitional Living Collaborative				35000	
WalMart (Larry's kids 5K)	Oakland	10000			
Mayor's Toy Drive	Oakland	5000			
Oakland Point Apts (housing)	Oakland	637			
Catholic Charities				30000	
	Total	17637	33080	231800	282517