

METROPOLITAN EXPOSITION-RECREATION COMMISSION

RESOLUTION NO. 168

Approving an amendment to the Agreement dated February 11, 1992 with Trail Blazers, Inc., and authorizing the Chairman and Secretary/Treasurer to execute a Fifth Amendment To Agreement.

The Exposition-Recreation Commission finds:

1. On April 21, 1980 the Parties entered into an Agreement for the Club's professional basketball team to play in the Memorial Coliseum (the "1980 Agreement"). The 1980 Agreement was modified by an Agreement dated October 20, 1981, (the "Modifying Agreement"), by an Agreement dated July 18, 1984, (the "Second Amendment"), by an Agreement dated May 31, 1985 (the "Third Amendment"), and by an Agreement dated July 25, 1986, (the "Fourth Amendment").

2. Section 23 of the 1980 Agreement provides that the Commission shall supply security personnel for all of the TBI's National Basketball games at the Coliseum.

3. The 1980 Agreement and the subsequent amendments to that Agreement are silent with respect to any contractual requirement that security personnel supplied by Commission follow the directions of NBA game officials with respect to ejecting persons from the Coliseum.

4. The Board of Governors of the NBA adopted a rule at its meeting on October 30, 1991, requiring arena security personnel to warn and/or eject abusive spectators from the arena, at the direction of NBA game officials on the scene. A copy of the memorandum to NBA general managers' reflecting this new rule is attached as Exhibit A.

5. On November 6, 1991, TBI advised all of its season ticketholders of the requirements of the new NBA rule mentioned above. A copy of this letter is attached as Exhibit B.

6. The Commission and TBI desire to amend the Agreement between them so as to provide a contractual basis for Coliseum security to carry out the directives of NBA game officials with respect to warnings and ejections of persons from the Coliseum, in accordance with the above mentioned rule, and providing for TBI to defend and indemnify the Commission and its employees in the event of claims or litigation from spectators who have been warned or ejected.

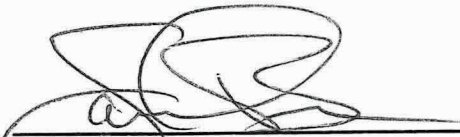
BE IT THEREFORE RESOLVED:

1. That the Chairman and Secretary/Treasurer are authorized, on behalf of the Commission, to execute the Fifth Amendment To Agreement, a copy of which is attached to this resolution.

2. That Commission security personnel shall, upon appropriate direction by the NBA game officials on the scene, warn and/or eject any person as directed by the official.

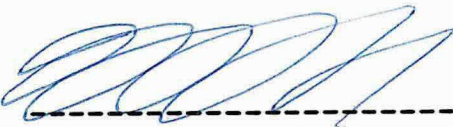
3. Any directives issued by NBA game officials to Commission personnel pursuant to this section requiring the warning and/or ejection of any person shall be considered action of TBI for purposes of TBI's duty to defend and indemnify Commission, its officials, agents, and employees, pursuant to Paragraph 11 of the Agreement, as amended.

Passed by the Commission on March 11, 1992.


Chairman


Secretary/Treasurer

APPROVED AS TO FORM:



General Counsel

Metropolitan Exposition-Recreation Commission

P.O. Box 2746 • Portland, Oregon 97208 • 503/731-7800 • Fax #731-7870 • 777 NE Martin Luther King Jr. Blvd.

DATE: March 4, 1992
TO: Metropolitan Exposition-Recreation Commission
FROM: Commission Liaison and Staff
SUBJECT: NBA Crowd Control Rules/Amendment to Coliseum Agreement

Background

The NBA Board of Governors addressed the subject of the "out of control" fan and issued a memo, dated November 1, 1991, from Russell T. Granik, Deputy Commissioner & Chief Operating Office for the NBA, to all NBA General Managers informing them about the "Fan Behavior Rule" adopted by the NBA Governors at their meeting on October 30, 1991. A copy of this memo is attached as well as a copy of the letter sent to the Season Ticket Holders.

Update

For some time, Mark Williams, Commission's General Counsel, has been working with staff and the Trail Blazer's attorney, to amend the Blazer agreement in order to provide a contractual basis for the Commission to implement the abusive fan rule adopted by the NBA Board of Governors.

Under our current Agreement there is no specific contractual basis providing that Metro ERC security personnel carry out warnings and/or ejections of fans upon order by the referees. If the Commission carries out this activity for the Trail Blazers, it is prudent to have an explicit contractual basis for this service, as well as defense, indemnification and insurance agreements. Ejecting fans forcibly from a game solely on things that they say can be a somewhat risky business, and, at a minimum, indemnification should be provided for this service. This "Fifth Amendment to Agreement" provides the Commission this protection (Recitals, Item F.).

Recommendation

The attached Fifth Amendment To Agreement has been signed by the Trail Blazers, by Geoffrey H. Petrie, Senior Vice President and we recommend that the Commission authorize its Chairperson and Secretary/Treasurer to sign this agreement also by passing Resolution No. 168.

FIFTH AMENDMENT TO AGREEMENT

This Agreement, dated for reference purposes February , 1992, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation acting by and through its Metropolitan Exposition-Recreation Commission (hereinafter collectively referred to as the "Commission"), and TRAIL BLAZERS INC., an Oregon corporation (hereinafter referred to as "TBI").

RECITALS:

- A. On April 21, 1980, the Parties entered into an Agreement which pertains to the Memorial Coliseum (the "1980 Agreement"). The 1980 Agreement was modified by an Agreement dated October 20, 1981, (the "Modifying Agreement"), by an Agreement dated July 18, 1984, (the "Second Amendment"), by an Agreement dated May 31, 1985, (the "Third Amendment"), and by an Agreement dated July 25, 1986, (the "Fourth Amendment").
- B. Section 3 of the 1980 Agreement provides that the Commission shall supply security personnel for all of TBI's National Basketball Association (NBA) basketball games at the Coliseum.
- C. The 1980 Agreement and the subsequent amendments to that Agreement are silent with respect to any contractual requirement that security personnel supplied by Commission follow the directions of NBA game officials with respect to ejecting persons from the Coliseum.
- D. The Board of Governors of the NBA adopted a rule at its meeting on October 30, 1991, requiring arena security personnel to warn and/or eject abusive spectators from the arena, at the direction of the NBA game officials on the scene. A copy of the memorandum to NBA general managers reflecting this new rule is attached and incorporated herein as Exhibit A.
- E. On November 6, 1991, TBI advised all of its season ticketholders of the requirements of the new NBA rule above-mentioned. A copy of TBI's letter to its season ticketholders is attached and incorporated herein as Exhibit B.
- F. The Commission and TBI desire to amend the Agreement between them so as to provide a contractual basis for Coliseum security personnel to carry out the directives of NBA game officials with respect to warnings and ejections of persons from the Coliseum, in accordance with the above-mentioned rule, and providing for TBI to defend and indemnify the Commission and its employees in the event of claims or litigation from spectators who have been warned or ejected.


AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants hereinafter specified, the Parties agree that Section 3 of their Agreement dated April 21, 1980, shall be amended by adding the following paragraphs (a) and (b):

- (a) Security personnel supplied by Commission shall, upon appropriate direction by the NBA game officials on the scene, warn and/or eject any person as directed by the official.

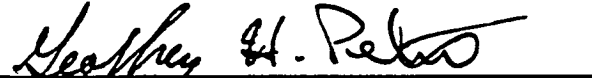
- (b) Any directives issued by NBA game officials to Commission personnel pursuant to this section requiring the warning and/or ejection of any person shall be considered actions of TBI for purposes of TBI's duty to defend and indemnify Commission, its officials, agents, and employees, pursuant to Paragraph 11 of the Agreement, as amended.

METROPOLITAN EXPOSITION-RECREATION COMMISSION

By: 
Chairperson

By: 
Secretary/Treasurer

TRAIL BLAZERS INC.

By: 
Geoffrey H. Peters

Title: Senior Vice President

APPROVED BY:



Mark B. Williams OSB #84107
Senior Assistant Counsel
Metropolitan Service District
Of Attorneys for Commission
Date:

gl 1075

MEMO TO: NBA GENERAL MANAGERS

FROM: RUSSELL T. GRANIK

DATE: NOVEMBER 1, 1991

RE: FAN BEHAVIOR RULE

OGC# 5.32.E.14(R)

This will confirm that the Board of Governors adopted the following rule at its meeting on October 30, 1991:

Commencing with the 1991-92 season, if, in the opinion of the game officials, a spectator verbally abuses players and/or coaches in a manner which interferes with the ability of the coach to communicate with his players during game play or huddles, such spectator shall, at the direction of the game officials, be given a warning by a building security officer. If such spectator continues to behave in an abusive manner, the game officials shall direct a building security officer to eject the spectator from the arena.

Any season ticket holder who (i) has been ejected for the first time during a season for verbal abuse or (ii) whose season tickets were used by a spectator who was ejected for the first time during a season for verbal abuse, shall be sent a written notice by his home team (with a copy to the League Office) advising him that if he, or someone using his tickets, is ejected from a game for verbal abuse for a second time during such season, his season tickets shall be revoked. If such season ticket holder, or someone using his tickets, is, in fact, subsequently ejected from a game for a second time during the season for verbal abuse, the home team shall revoke his season tickets.

NBA General Managers
November 1, 1991
Page 2

All teams shall include the foregoing rule in their season ticket applications and renewals, beginning with the 1992-93 season.

The failure of a team to enforce the foregoing rule will subject such team to a fine of up to \$250,000.

Accordingly, all teams shall instruct their building security representative that, upon notification by a game official, a building security officer must read the following statement to any fan whom the officials have determined is interfering with the ability of a coach to communicate with his players during game play or huddles:

"The game officials have determined that you are verbally abusing the players and/or coaches of the [Insert Team Name] in a manner which is interfering with the ability of the coach to communicate with his players.

This is your first and only warning. If the game officials determine that, after receiving this warning, you are continuing to interfere with the ability of the coach to communicate with his players, you will be ejected from the building."

You should further instruct your building security representative that, after reading this warning to the fan, the building security officer shall advise the game officials that the warning was, in fact, communicated to the fan. The building security officer should also note the fan's seat number and attempt to find out the fan's name and communicate such information to a team representative.

If, after receiving this warning, the fan continues, in the opinion of the game officials, to interfere with the ability of the coach to communicate with his players, a game official shall instruct building security to eject the fan from the arena.

If you have any questions, please call Joel Litvin or me.

November 6, 1991

Dear Season Ticket Holder:

Russ Granik, Deputy Commissioner & Chief Operating Officer for the NBA, has informed all NBA teams that the Board of Governors has adopted the following rule:

"Commencing with the 1991-92 season, if, in the opinion of the game officials, a spectator verbally abuses players and/or coaches in a manner which interferes with the ability of the coach to communicate with his players during game play or huddles, such spectator shall, at the direction of the game officials, be given a warning by a building security officer. If such spectator continues to behave in an abusive manner, the game officials shall direct a building security officer to eject the spectator from the arena.

Any season ticket holder who (i) has been ejected for the first time during a season for verbal abuse or (ii) whose season tickets were used by a spectator who was ejected for the first time during a season for verbal abuse, shall be sent a written notice by his home team (with a copy to the League Office) advising him that if he, or someone using his tickets, is ejected from a game for verbal abuse for a second time during such season, his season tickets shall be revoked. If such season ticket holder, or someone using his tickets, is, in fact, subsequently ejected from a game for a second time during the season for verbal abuse, the home team shall revoke his season tickets."

It is very important that season ticket holders whose tickets are used by anyone other than the licensee be made aware of the above ruling.

Please be advised that the Trail Blazers, as a member of the National Basketball Association, will abide by the above ruling.

Sincerely,

TRAIL BLAZERS INC

Berlyn Hodges
Vice President/Administration

BH/lr