A PROPOSAL FOR SECURING A SUSTAINABLE FUTURE FOR BLOSSOM MUSIC CENTER.

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A PROPOSAL FOR SECURING A SUSTAINABLE FUTURE FOR BLOSSOM MUSIC CENTER.

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Thesis

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ABSTRACT

Blossom Music Center began as a development acquisition within the Cuyahoga River Valley. The location would serve as the construction site of a summer performance venue for The Cleveland Orchestra. The Orchestra’s parent organization, The Musical Arts Association [MAA], planned and built the original facility between 1966 and 1968 (“Blossom History”). Award-winning architecture and expanded programming transformed the initial purchase of land into a cultural arts mecca.

The area surrounding Blossom Music Center changed in the decades since the facility opened. Cuyahoga Valley National Recreation Area was established in 1974 and later was redesignated as Cuyahoga Valley National Park [CVNP] in 2000. The legislative mandate dictated that CVNP would operate within established boundaries, but the US government did not own nor pursue acquisition of all encompassed land. Private property with a design and/or purpose not conflicting with that of CVNP could maintain ownership and function without government scrutiny (“Cuyahoga Valley National Park”).

The Cleveland Orchestra was exploring options to contend with ongoing economic challenges (“The Cleveland Orchestra: Annual Report 2011-12” 4; Makee, Personal Interview). In 2008, MAA placed nearly eighty percent of Blossom Music Center land on the open market in an effort to generate revenue (Nichols). The federal government ultimately purchased the land to be designated a part of CVNP. MAA only sold wooded land originally designated as a development buffer along Blossom’s perimeter. Buildings and programming at Blossom Music Center were not affected and the undeveloped buffer would likely be maintained through CVNP (Makee, Personal Interview).

Blossom Music Center emerged from a collection of ideas and initiatives to establish itself as a cultural arts venue. CVNP was established to protect and preserve the natural and cultural
resources within boundaries encompassing parts of the Cuyahoga River Valley. Blossom Music Center has operated within the geographical boundaries and purpose established for CVNP. MAA has been headquartered in and functionally maintained an indoor, climate controlled performing arts venue, Severance Hall. The Cleveland Orchestra spent years unable to balance an ongoing operating deficit. And MAA had been seeking opportunities to further generate revenue in attempts to address financial challenges. The following research examines individual entities in summary above, their interactions with one another, and proposals as to how the combined history may guide future actions in considering the better course aimed at preserving Blossom Music Center.
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I would like to thank those on my committee for their patience and support during this process. They, along with departmental staff, should be recognized for their effort in navigating through circumstances. I can appreciate the challenge amidst change while accommodating students through all efforts supporting academic progress.

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CHAPTER I
INTRODUCTION

The Cleveland Orchestra was originally registered with the State of Ohio as a for-profit corporation in 1915. The organization later came to operate under an umbrella corporation, The Musical Arts Association [MAA]. MAA is a nonprofit arts organization that has been registered with the state of Ohio since 1925 (“Business Filing Portal: Business Search”). In addition to managing the Orchestra, MAA has operated, maintained, and retained ownership of Severance Hall in Cleveland, Ohio. Severance Hall has served as the administrative home and principal indoor performance venue for The Cleveland Orchestra.

MAA purchased land and built a second performing arts venue, Blossom Pavilion, in Cuyahoga Falls, Ohio. Cuyahoga Falls is approximately a forty-five minute drive south from Severance Hall. The venue is located between Cleveland and the greater metropolitan area of Akron, Ohio. Blossom Pavilion has served as the summer concert series home of The Cleveland Orchestra. This outdoor pavilion has stood as the focal point of a greater complex known as Blossom Music Center [BMC].

BMC facilities expanded to include several buildings operating under numerous agreements with more than one outside corporation (Makee, Personal Interview). Programming offered at BMC has included The Cleveland Orchestra’s summer concert series; a concert schedule booked through Live Nation; and concerts, gallery shows, and theatrical performances through a partnership with Kent State University (“Blossom Grounds”; “The Cleveland Orchestra: Annual Report 2011-12” 10; “Porthouse Theatre”).

The federal government retained ownership of the majority of land bordering BMC. This surrounding land has been placed under the management of the National Park Service [NPS] and
has been designated a part of Cuyahoga Valley National Park [CVNP] (Hamm, “Re: Map”; Vaserheli; Appendix). CVNP has been operating within legislatively designated boundaries. CVNP was founded with the responsibility of promoting the park’s legislative purpose for all land within its boundaries, but the federal government does not own all of the property (93rd Congress; Hamm, “Re: Map”). Scheduling at BMC has been compatible with CVNP’s legislative purpose (Vaserheli).

MAA conducted a study in 2008 to identify industry trends and recommend potential strategies to address an ongoing operating deficit with The Cleveland Orchestra (“The Cleveland Orchestra: Annual Report 2011-12” 4). Selling a portion of BMC to generate revenue was one proposition (Makee, Personal Interview). Of the approximately eight hundred acres that comprised BMC, around six hundred were ultimately transferred to CVNP in 2011. “The Association owns the [remaining] land and all buildings theron” (“The Cleveland Orchestra: Annual Report 2011-12” 13).

**Blossom Music Center: An Arts Venue**

“Blossom was planned and built between 1966 and 1968 by the Musical Arts Association at a total cost of approximately $8 million” (“Blossom History”). The arts venue and its main pavilion were named in honor of the Blossom family. “Mr. Dudley S. Blossom served as president of the Musical Arts Association from 1936-38, and his son, Dudley Jr., served as a trustee from 1946-61” (“Blossom History”). Significant financial contributions from the family were instrumental in making BMC a reality (Dooley). The inaugural performance in Blossom Pavilion on July 19, 1968, featured The Cleveland Orchestra (“Blossom History”).

“Since the inception of Blossom Music Center in 1968, the Musical Arts Association has partnered with Kent State University and its College of the Arts to develop Blossom as a complete environment for the arts” (“Porthouse Theatre”). Programs developed by Kent State University [Kent] and in cooperation with MAA have been through the schools of Art, Music, and Theatre and Dance within the university’s College of the Arts. “These programs emphasize intensive, individualized study with prominent visiting master artists and resident Kent State faculty, including principal members of the Cleveland Orchestra” (“Kent/Blossom”; “Porthouse Theatre”).
The Cleveland Orchestra’s collaboration with Kent’s School of Music has offered a summer intensive course in chamber music. Participants have been obligated to audition in order to be a part of this course, and the competitive process is not limited to music majors at Kent. Students that have been accepted into the course were offered training in a mentored environment that included shadowing members of The Cleveland Orchestra (“News and Events”).

Faculty and staff from Kent have been afforded gallery space within Blossom Music Center at the Eells Gallery. Online media for the university promoted that “Kent/Blossom Art emphasizes the exchange of creative concepts and techniques drawn from diverse visual media including painting, sculpture, ceramics, glass and printmaking” (“Porthouse Theatre”). Such an opportunity can offer a great deal of exposure for artists showing work in the gallery. Single concerts at BMC could draw audiences of more than ten thousand.

The Kent State Foundation has owned land adjacent to BMC (Hamm, “Re: Map”). These grounds included the covered but open-air Porthouse Theatre. Educational programming summarized that “Students work within a 10-week period to create a production season alongside equity actors and professional guest directors, designers and technologists at the Porthouse Theatre Company.” A partnership between Kent and The Cleveland Orchestra was credited for the additional BMC programming, and identical text promoted as much on each organization’s website (“Kent/Blossom”; “Porthouse Theatre”). But tickets for the Porthouse Theatre performance season were offered directly to the general public through Kent State University alone (“Porthouse Theatre”).

The primary purpose of BMC has always been to provide a summer performing arts venue for The Cleveland Orchestra (Makee, Personal Interview). The Cleveland Orchestra has referred to their summer performance schedule at BMC as “Blossom Festival”. As an example, “The Orchestra’s 2012 Blossom Festival spanned from the Fourth of July to Labor Day Weekend and featured 16 concerts, including 12 by the Cleveland Orchestra” (“The Cleveland Orchestra: Annual Report 2011-12” 10).

The 2012 summer season at Blossom also featured 21 non-Festival concert performances and 7 other events hosted by Live Nation” (“The Cleveland Orchestra: Annual
Live Nation has managed BMC operations in addition to promoting their own organization’s interests. Their programming is secondary to that of The Cleveland Orchestra (Makee, Personal Interview).

Blossom Music Center is an Open Revenue Source

The reported relationship between MAA and Live Nation should be elaborated upon. MAA’s long-standing operating agreement was directly with the company Cuyahoga Falls Concerts, Inc.[CFCI]. CFCI registered as a corporation in the State of Ohio in September of 1999. It was “merged out of existence” into House of Blues Concerts, Inc. in 2009 (“Business Filing Portal: Business Search”). The agreement between CFCI and MAA should have transferred to House of Blues Concerts as “The obligations of CFCI under the Agreement are guaranteed by HOB (House of Blues) Entertainment, Inc.” (“The Cleveland Orchestra: Annual Report 2011-12” 13). HOB Entertainment, Inc. is a subsidiary of Live Nation.

The last “amended and restated” agreement between MAA and CFCI was formalized to cover 15 years commencing in November of 1999. The outlined responsibilities in their agreement stated, “CFCI will operate Blossom Music Center (BMC) and will book, promote and present special attractions” (“The Cleveland Orchestra: Annual Report 2011-12” 13). CFCI agreed to pay MAA an annual percentage of their gross receipts garnered from BMC bookings. Beyond the revenue from receipts, MAA received a single payment of $6 million for simply entering into the new agreement. Cleveland Orchestra reported contributions from Blossom Special Attractions for the fiscal year ending on June 30, 2012, totaling $1,216,000, but the exact percentage stemming from the CFCI agreement has not been publicly specified ( “The Cleveland Orchestra: Annual Report 2011-12” 12-13; “Form 990: Return of Organization Exempt From Income Tax: 2010”).

MAA began auditing solid assets possessing an inherent economic value. MAA sought property holdings that could be liquidated into proceeds separate from that generated out of its facilities and programming. BMC land was identified as a potential revenue source in an internal study conducted by MAA in 2008. The study found that only around 200 of the roughly 800 acres of BMC were being used for operations. The underutilized acreage of BMC was originally
planned as a buffer for encroaching development (Makee, Personal Interview). This
determination did not indicate the original purpose of the land had changed while under MAA
ownership. But influence over development in the region had evolved with the creation of CVNP.

    Bill Carroll from the Trust for Public Land described the landscape of the BMC buffer in
question as a selectively logged but heavily forested tract that “cradles the headwaters of several
streams that flow through [Cuyahoga Valley National Park] and into the Cuyahoga River”
(Nichols). This overview highlighted what could have been considered a potential conservation
site as MAA began assessing potential buyers of their non-essential land at BMC. The
establishment of CVNP offered some protection and preservation of natural areas around BMC.
But there were no federal mandates securing limited development of privately held properties
within CVNP borders (93rd Congress). MAA moved forward without guarantees and engaged a
private land consultant to appraise the property’s market value (Vasarhelyi).

    Dave Vasarhelyi of The Trust for Public Land said he could not speak as to what MAA’s
ultimate intentions were in publicly seeking potential buyers. It would be logical to assume,
however, that in placing land from BMC on sale in the open market, anyone with any purpose
could have bid to purchase it (Vasarhelyi).

In July 2008, the [Musical Arts Association] signed a letter of intent with The
Trust for Public Land, a national, nonprofit, land conservation organization, to sell
a portion of the Association’s Blossom land, which originally totaled
approximately 800 acres. The first phase of the land sale was completed in
March 2011 providing gross receipts of $3,980,000. The second and final phase
of the land sale was completed in October 2011 providing gross proceeds of
$5,286,000. After payment of the related expenses, the net proceeds of the sale
were used to partially reduce operating deficits. (“The Cleveland Orchestra:
Annual Report 2011-12” 13)

According to a representative of The Cleveland Orchestra, the NPS was the only buyer ever
considered (Makee, Personal Interview).

    The Future of Blossom Music Center is Uncertain

    Mary Ann Makee from The Cleveland Orchestra said MAA has never considered selling
BMC. MAA has preferred to maintain ownership of BMC and would wish to maintain autonomous
control. Dave Vasarhelyi from the Trust for Public Land noted that MAA has been doing a fine job
in managing BMC. Dennis Hamm from CVNP was an integral part of the BMC land transfer from
MAA to CVNP through the Trust for Public Land. He noted that MAA never appeared at risk of losing ownership and control of BMC. Each of the above was interviewed and asked to comment on what prompted the sale of more than seventy percent of BMC land in 2008 that was ultimately transferred to CVNP. All noted separately that there were changing circumstances and a need for MAA to raise capital (Hamm, Personal Interview; Makee, Personal Interview; Vasarhelyi).

The Cleveland Orchestra has remained in operation and, as proven by its ongoing existence, has adapted to changing circumstances. The institution has persevered under the management of MAA for nearly a century with concessions prevailing over extinction. MAA’s decision to sell a majority of BMC land has shown that the organization will convert property holdings into liquid assets through efforts to address financial challenges. The chapters to follow will present research providing an overview of finances and venues for The Cleveland Orchestra in the years surrounding the noted sale of BMC land. Following the sale, MAA retained control over the core of BMC along with the privilege to sell what remains should it be deemed necessary. An alternative owner of BMC can be proposed in order to preserve the facility and programming. Research will present specific examples in which entities of the United States government have been designed to provide for performing arts venues. The history of the United States supersedes that of MAA. The goal of this research is to show that the future of BMC would be better secured through ownership by CVNP.
CHAPTER II
THE MUSICAL ARTS ASSOCIATION

The founding mission of The Cleveland Orchestra through its parent organization, MAA, is to provide music (Makee, Personal Interview). “The Cleveland Orchestra’s place is secure on the world’s stages, including regular appearances at the major festivals of Europe and unique residency programs in Vienna, Lucerne, New York, at Indiana University and now of course, in Miami” (“2011 Annual Report: The Cleveland Orchestra Miami” 5). The Cleveland Orchestra has performed on stages of temporary and permanent performance venues. Programming for each space can vary greatly, and there has been no comprehensive data available comparing the audience for all venues in which The Cleveland Orchestra has performed. Of the two venues that MAA owns, “Blossom appears to draw a different audience than Severance geographically – and we know that demographically this is a different audience, but I would argue that this is primarily due to the style of programming we present at Blossom vs. Severance” (Sector). “The core purpose of The Musical Arts Association is to provide inspirational experience by serving the art of music at the highest level of artistic excellence” (“Form 990: Return of Organization Exempt from Income Tax: 2010”). The Cleveland Orchestra has been striving to fulfill their purpose by providing varying musical programs to different audiences at venues across national and international borders. Owning and operating any venue in which The Orchestra may perform has not been specifically noted as an imperative towards achieving the organizational mission.

Performing Arts Venues

MAA has maintained ownership of only two performing arts venues. Both are located in Northeast Ohio. Each was built under the direction of The Cleveland Orchestra and MAA. The first of these two to be built was Severance Hall. “Severance Hall serves as the home of The
Cleveland Orchestra for concerts, rehearsals, and administration.” It opened in 1931 and is regarded “as one of the world’s most beautiful concert halls.” MAA did not own but has held a 99-year lease on the land that Severance Hall was built upon. The lease “expires in 2029 and is renewable for additional 99-year periods in perpetuity” (“The Cleveland Orchestra: Annual Report 2011-12” 13). As a sign of MAA’s ongoing investment into the venue, Severance Hall underwent an extensive restoration and expansion completed early in 2000 (“Severance Hall”). Severance Hall has continued to serve as the principal performance space for The Cleveland Orchestra.

“From September 2011 to the beginning of June 2012, the Orchestra performed 96 concerts at Severance Hall” (“The Cleveland Orchestra: Annual Report 2011-12” 9).

BMC has remained the only other venue under MAA ownership. The Cleveland Orchestra website substantiated ownership of BMC with the following:

This naturally scenic setting near the Cuyahoga River was only a short drive from the cities of Cleveland and Akron, and offered a bucolic but convenient location for summer performances that would allow the Orchestra to expand into a year-round schedule of local concerts. (“Blossom History”)

The Orchestra performed at fewer than thirty-three percent of the concerts in Blossom Pavilion scheduled between Live Nation and MAA during the summer of 2012. And only eleven percent of the performances for The Cleveland Orchestra at the two venues MAA owns were at BMC during the 2011-2012 season. This percentage would become smaller when factoring in concert schedules at other venues. For example, the 2011 Annual Report for The Cleveland Orchestra Miami reported forty concerts by The Cleveland Orchestra in Miami from 2007 to 2011 (16). Full concert schedules would have to factor in additional venues not owned by MAA.

Cities other than Miami and Cleveland in which The Cleveland Orchestra has performed since The Cleveland Orchestra Miami began in January 2007: Akron (5), Amsterdam, Ann Arbor, Asheville, Birmingham (UK), Bloomington (IN), Brussels, Cardiff, Carmel (IN), Chapel Hill, Cologne (2), Columbus (GA), Edinburgh (2), Fort Myers, Friedrichshafen, Grafenegg, Kent (OH), Linz (3), Lucerne (6), Luxembourg (3), Merano, Nashville, New York (17), Newark, Newport News, Nishinomiya, Oberlin (6), Ocean Reef, Paris, Philadelphia, Salzburg (8), Sapporo, Sarasota (2), Seoul (2), St. Petersburg (FL) (2), Stresa, Tokyo (4), Toronto, Turin, Vienna (8) Washington (DC) (2). (“2011 Annual Report: The Cleveland Orchestra Miami” 16)

No alternate research supported the argument that “a year-round schedule of local concerts” would be impossible without BMC. Severance Hall has been climate controlled and
could continue practically serving as the performance and administrative home of The Cleveland Orchestra in Northeast Ohio. A varied and broad concert schedule for The Orchestra could be preserved even if circumstances lead to BMC falling outside of MAA’s control.

Finances

MAA has cited “industry-wide realities” including “structural and operating deficits, shrinking audiences, [and] the challenging relationships between board/leadership and musicians” (“The Cleveland Orchestra: Annual Report 2011-12” 4). A representative of The Cleveland Orchestra, Mary Ann Makee, noted an organizational study had been compiled in an effort to address such challenges (Personal Interview). The Annual Report of The Cleveland Orchestra for the 2011-12 season referred to what may be the same study. Dennis LaBarre said, “[MAA] began a thorough, new analysis of the landscape faced by orchestras in 2008. The backdrop for this effort was the economic distress that has become the “new normal” and the recognition of inevitable societal and demographic change affecting orchestras” (“The Cleveland Orchestra: Annual Report 2011-12” 4). Makee stated the document was not available for public review (Makee, “RE: Thank You”). But she acknowledged that one focus of the study prompted the movement to sell outlying land around the perimeter of BMC (Makee, Personal Interview).

The Executive Director of The Cleveland Orchestra, Gary Hanson, expanded on the financial circumstances of MAA.

Our board and management have looked carefully at the financial outlook of the Orchestra and brought clarity to the magnitude of our future needs. The collective conclusion is that meeting The Cleveland Orchestra’s financial challenges and sustaining this institution into its second century will require the creation of an endowment fund that is five or six times our annual operating budget. This means more than doubling the current endowment. (“The Cleveland Orchestra: Annual Report 2011-12” 7)

In 2012, Hanson credited the portion of land sold at BMC for partially mitigating a financial deficit. “The news is that while the structural deficit remained substantial, it was successfully managed in the past year thanks to record operating results, increasing fundraising, and to proceeds from the conservation sale of land at Blossom” (“The Cleveland Orchestra: Annual Report 2011-12” 7). The press supported Hanson’s assertion in saying the land sale provided “a badly needed cash infusion” for MAA that has been “somewhat strained financially” (Nichols).
CHAPTER III
CUYAHOGA VALLEY NATIONAL PARK AND THE NATIONAL PARK SERVICE

Cuyahoga Valley National Park Boundaries and Purpose

Cuyahoga Valley National Recreation Area was introduced through legislation as H.R.7077 by the 93rd Congress. The resolution was signed into law on December 27, 1974. The area was later re-designated, in name alone, as a National Park in 2000 (93rd Congress; Mackintosh, 100). The purpose of this area has remained intact as outlined in Section 1 of US Public Law 93-555.

For the purpose of preserving and protecting for public use and enjoyment, the historic, scenic, natural, and recreational values of the Cuyahoga River and the adjacent lands of the Cuyahoga Valley and for the purpose of providing for the maintenance of needed recreational open space necessary to the urban environment, the Cuyahoga Valley National Recreation Area, hereafter referred to as the “recreation area”, shall be established within six months after the date of enactment of this Act. In the management of the recreation area, the Secretary of the Interior (hereafter referred to as the “Secretary”) shall utilize the recreation area resources in a manner which will preserve its scenic, natural, and historic setting while providing for the recreational and educational needs of the visiting public. (93rd Congress)

The law stated that the Secretary would have “one year after the date of the enactment of this Act” to prepare a “detailed plan” outlining what was to become CVNP. The three point plan was to include (i) the areas “deemed essential” that would fall within park boundaries, (ii) an inventory of land that had been acquired for the park but before enactment of the law, and (iii) an “annual acquisition program” recommending property purchases during the first five years of the park’s establishment (93rd Congress, Section 3(a)). This region was to be specified on the map entitled “Boundary Map, Cuyahoga Valley National Recreation Area, Ohio” (93rd Congress, Section 2(a); Appendix). The purpose assigned to CVNP was meant to apply to all areas within the established boundaries.
There have been four revisions to the official CVNP Boundary Map from the time of the park’s inception in 1974 through 1999 (Hamm, “Re: Map”). “After advising the Committees in Interior and Insular Affairs of the United States Congress, in writing, the Secretary may make minor revisions of the boundaries” (93rd Congress, Section 2(a)). Published changes to CVNP “of a revised drawing or other boundary description in the Federal Register” would normally follow Congressional review (“Cuyahoga Valley National Park” Chapter1, Subchapter XC 460ff-1(a)). Most updates to CVNP boundaries have been finalized as an act of law (Hamm, “Re: Map”; Vasarhelyi). Some adjustments were “completed using administrative authority” (Hamm, “Re: Map”). Past changes to the footprint of CVNP have reflected shifting influences and control over land supporting the overall purpose of the park.

This fact has the potential to change in a future well beyond 2013, but CVNP has never possessed full and/or partial title to all property within its borders. In addressing the extent of CVNP authority over private lands, “The Secretary may . . . assist and consult with the appropriate officers and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes [of CVNP]” (93rd Congress, Section 4(f)). This exercise of influence could apply to “land located within or adjacent to the park” (93rd Congress, Section 4(f)). Ultimately, though, owners of private property within the boundaries of CVNP determine potential uses of their land. Full control by CVNP of property within the borders of the park could only be achieved through ownership (Vasarhelyi).

There have been several privately owned facilities operating independently to provide public recreation within CVNP borders. These areas include Camp Manatoc Reservation with the Boy Scouts, Camp Ledgewood with the Girl Scouts, park districts owned and managed separately by Metro Parks serving Summit County and Cleveland Metroparks, Boston Mills/Brandywine Ski Resorts, and BMC (Vasarhelyi). The function of all aforementioned facilities has been deemed consistent with founding legislation outlining the purpose of CVNP (Vasarhelyi). There has been no evidence of an outstanding conservation priority on the part of CVNP to purchase such entities. Such inaction would be supported by legislation stating, “The Secretary shall not acquire privately owned lands which are held and used for public recreation
uses unless he determines that such lands are essential to carry out the purposes of [founding legislation for CVNP]" (93rd Congress, Section 2(b)).

Legislation provided accommodations allowing for the acquisition of land and scenic easements. Limited appropriations were initially made available “to carry out the purposes of this subchapter, but not more than $70,100,000 for the acquisition of lands and interests in lands” ("Cuyahoga Valley National Park" Chapter1, Subchapter XC 460ff-5(a)). But it was “the express intent of the Congress that the Secretary should substantially complete the land acquisition program . . . within six years after December 27, 1974” ("Cuyahoga Valley National Park" Chapter1, Subchapter XC 460ff-2(b)). There was no ongoing purchasing plan specified, but, “Within the boundaries of the park, the Secretary . . . may acquire lands, improvements, waters, or interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer” ("Cuyahoga Valley National Park" Chapter1, Subchapter XC 460ff-1(b)). Appropriated funding for further purchases would have to be made available by law through a separate act of Congress.

There were only a few limitations as to how property or scenic easements could be acquired. "Any lands or interests owned . . . by the State of Ohio or any political subdivision thereof (including any park district or other public entity) within the boundaries of the park may be acquired only by donation or exchange for equal value” ("Cuyahoga Valley National Park" Chapter1, Subchapter XC 460ff-1(b)). Separately noted additions on the 1986 Boundary Map, 644-80,054, specified as “Scenic Easement Acquisition Area” were not eligible for future fee title purchase ("Cuyahoga Valley National Park" Chapter1, Subchapter XC 460ff-1(b); Hamm, “Re: Map”). And there were rules outlining conditions when property acquisitions would occur outside of CVNP boundaries. This section of the law indicated such property would be part of a whole where at least some portion is within park boundaries. In such cases, “Any portion of the land acquired outside the boundaries and not utilized for exchange shall be reported to the General Services Administration for disposal [through sale]” ("Cuyahoga Valley National Park" Chapter1, Subchapter XC 460ff-1(d)). In considering any acquisition, goals outlined in the legislative
purpose of CVNP would be paramount when justifying any proposal to acquire property or easements. And all acquisitions would ultimately need to fall within the boundaries of CVNP.

The National Park Service

CVNP is an independent unit operating under the management of the NPS. In as much as an act of Congress established what was to become CVNP, the NPS was created through legislation and signed into law. “The United States Code is a consolidation and codification by subject matter of the general and permanent laws of the Unites States” (United States Code). Legislation establishing the foundation for CVNP has been incorporated into Title 16, Chapter 1, in Subchapter XC of the United States Code. The foundation of the NPS is outlined in Title 16 at the base of Chapter 1 under the heading of Conservation. Codification noting where the NPS was first formalized stemmed back to legislation in 1916. The Organic Act of 1916 has been at the root of this governance (“Cuyahoga Valley National Park” Title 16, Chapter 1, Subchapter I).

The key management related provision of the Organic Act is as follows: [The National Park Service] shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified … by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. (U.S. Dept. of the Interior, 10)

The NPS could be viewed through this legislation as a government agency with the sole mandate of providing management and protection for natural resources. But reference to the “fundamental purpose” of parks under control of the NPS did not appear to have been made to supersede that of individual units. Part 1a-1 of the same law noted for the NPS in regard to each park that “the authorization of activities . . . shall not be exercised in derogation of the values and purposes for which these various areas have been established” (“Cuyahoga Valley National Park” Title 16, Chapter 1, Subchapter I). Part 1c(b) of the section further clarified in having said, “Each area within the national park system shall be administered in accordance with the provisions of any statute made specifically applicable to that area” (“Cuyahoga Valley National Park” Title 16, Chapter 1, Subchapter I).
Time and legislation have expanded the amount of property and the diversity of holdings under NPS control. The NPS structure would appear to necessitate policy promoting system-wide uniformity while offering flexibility to accommodate variety. The General Authorities Act of 1970 provided a broader definition of areas under NPS designations as “any area of land and water now or hereafter administered by the Secretary of the Interior, through the National Park Service, for park, monument, historic, parkway, recreational, or other purposes” (Dilsaver; Mackintosh, 9). Integrating “recreational” and “other purposes” into legislation afforded inclusion of most any purposed space. This accommodation affords prominent examples of areas devoted to arts and culture that have fallen under NPS management.

Arts Venues and Programming within the National Park Service

“The NPS also had custody of the John F. Kennedy Center for the Performing Arts in Washington, D.C., from 1972 until 1994” (Mackintosh, 78). The center was originally referred to as the National Cultural Center in the National Cultural Center Act of 1956 (85th Congress). This founding legislation established a supporting body of management that would function as “an independently administered bureau of the Smithsonian” (“Fiscal Year 2008 Budget Request to Congress” 2). There were two boards created within the bureau. Those who would become Trustees of the National Cultural Center would be tasked “with responsibility for constructing and administering” the facility (85th Congress; “Fiscal Year 2008 Budget Request to Congress” 1-1). Members of a separate Advisory Committee on the Arts were to be designated by and “serve at the pleasure of the President” (85th Congress). The Advisory Committee on the Arts for the National Cultural Center was responsible for programming and was expected to work in cooperation with Trustees (85th Congress). During implementation of legislation, the facility was renamed the John F. Kennedy Center for the Performing Arts in 1964. It opened to the public in 1971 once construction was complete (“Fiscal Year 2008 Budget Request to Congress” 2).

“The Kennedy Center building consists of 1.5 million square feet of usable floor space, on 17 acres of land. The building contains nine theaters, two public restaurant facilities, nine function/special event rooms, five public galleries/halls/foyers, and . . . administrative offices” (“Fiscal Year 2008 Budget Request to Congress” 1-2). Staged performances highlight “artists
and performing arts groups from throughout the nation.” Programming has included festivals and “several nationally televised programs each year.” The space has also served as the resident home and primary performance venue for the National Symphony Orchestra. In summary, the Center has promoted that they are showcasing “the best in dance, theater, music and arts education” (“Fiscal Year 2008 Budget Request to Congress” 1-2). Full control over programming, finances, and operations was given to the Kennedy Center Board of Trustees in 1994 as they “sought a new and more efficient approach to management of the Kennedy Center” (“Fiscal Year 2008 Budget Request to Congress” 1; Mackintosh, 78). Maintenance, preservation, and federal appropriations for the Kennedy Center would no longer be administered through the NPS (112th Congress, Sec. 1754-1755; “Fiscal Year 2008 Budget Request to Congress” 1).

The Kennedy Center was not the only arts venue around 1970 designated to fall under authority of the NPS. A portion of the Wolf Trap Farm in Fairfax County, Virginia, was donated with all intentions to serve as the foundation for a performing arts center (“Learn About Wolf Trap”). Legislation appears to have been crafted corresponding to wishes, and Wolf Trap Farm Park was born in 1966 (89th Congress; “Learn About Wolf Trap”). The intent of founding legislation was succinct in establishing the purpose of the park in Section 1.

That for the purpose of establishing in the National Capital area a park for the performing arts and related educational programs, and for recreational use in connection therewith, the Secretary of Interior is authorized to establish, develop, improve, operate, and maintain the Wolf Trap Farm Park in Fairfax County, Virginia. (89th Congress)

Section 2 of the same law provided that, “The Secretary of the Interior shall administer the park in accordance with the provisions of section 1 of this Act and the Act of August 25, 1916 [The Organic Act]” (89th Congress). Later amendments to the original law outlined provisions supporting a cooperative agreement with an entity outside of the government. It was stated that, “The Secretary is authorized and directed to enter into a cooperative agreement with the Foundation respecting the presentation of performing arts and related educational and cultural programs at the Center, and in such other areas of the park as may be agreed to” (“Wolf Trap National Park for the Performing Arts” Sub XXXV). The Center was referenced as the main amphitheater, the Filene Center, and the Foundation was defined as the Wolf Trap Foundation for
the Performing Arts. The Foundation was required to submit annual reports to the government and maintain its status as a 501(c)(3) (“Wolf Trap National Park for the Performing Arts” Sub XXXV). The Foundation would accept responsibilities for programming and associated operations through a cooperative agreement with the NPS (Congressional Record, H9155; Mackintosh, 78). But legislation offered that, “The Secretary may provide technical and financial assistance under such a cooperative agreement for such purposes, pursuant to such terms and conditions as he deems appropriate” (“Wolf Trap National Park for the Performing Arts” Sub XXXV).

Wolf Trap was made possible through legislation and an original donation of one hundred acres by Catherine Filene Shouse (“Learn About Wolf Trap”; “Wolf Trap National Park for the Performing Arts” Sub XXXV). The law stated additional acreage may be annexed with the restriction that “the aggregate of which shall not exceed one hundred and forty-five acres” (“Wolf Trap National Park for the Performing Arts” Sub XXXV). “The Filene Center, an open-sided auditorium, was completed [on the grounds of Wolf Trap] for its first summer season in 1971” (Mackintosh, 77-78). Programming and land were augmented through an additional donation by Shouse in 1981. Expansion plans were for the seasonal Filene Center to be accompanied on park grounds by an enclosed, year-round facility to be named The Barns (“Learn About Wolf Trap”). Beyond educational programming, “A typical season at Wolf Trap includes something for everyone with performances ranging from pop, country, folk, and blues to orchestra, dance, theatre, and opera, as well as innovative performance art and multimedia presentations” (“Learn About Wolf Trap”). Amending legislation in 2002 changed the name of Wolf Trap Farm Park to Wolf Trap National Park for the Performing Arts (“Wolf Trap National Park for the Performing Arts” Sub XXXV).

The Kennedy Center and Wolf Trap National Park for the Performing Arts were examples of areas primarily devoted to promoting arts and culture that have been managed through the NPS. These venues have not been isolated sources of arts and culture allowed within the NPS system. NPS Management Policies of 2006 cited in the section “Facilities for Arts and Culture” that "Various cultural events (such as concerts, films, lectures, plays, craft shows, and art
exhibits) are permitted when they will support a park’s purposes and objectives” (U.S. Dept. of the Interior, 136). In the absence of devoted facilities, this policy should apply to arts and culture programming in areas of adapted use that may serve multiple purposes. As the purpose, available facilities, and programming of individual parks within the NPS system can vary, it might be more appropriate for the focus of this paper to highlight examples of arts and culture programming within CVNP. CVNP has been regularly promoting seasonal programming in a printed schedule that was made available in the same format digitally online. Individual programs may differ between seasons and from one year to another. But, a single schedule could be used as a representation of offerings.

The Fall 2013 Schedule for Cuyahoga Valley National Park provided ten pages of descriptions for seasonal events. These overviews were grouped into seven different categories: For Kids, Nature & History, Cuyahoga Valley Scenic Railroad, Hiking & Recreation, Conservancy for Cuyahoga Valley National Park, Countryside Conservancy, and Music & Arts. More than twenty percent of this print was devoted to visual and performing arts within CVNP (“Fall 2013 Schedule” 8-9, 11). Two music festivals within park borders were organized by groups from and hosted within the village of Peninsula (“Fall 2013 Schedule” 9). Contra dances were promoted with no clearly identified sponsor. Art exhibits were “organized and coordinated by the Crooked River Gang, a volunteer group that promotes art in the Cuyahoga Valley” (“Fall 2013 Schedule” 8). A few music and theatre events were sponsored by the Countryside Conservancy. “The Countryside Conservancy was established in 1999 as a cooperating partner of CVNP” and operated under a mission “to support community-based food systems” (“History”). Music and theatre programs sponsored by the Countryside Conservancy were not the primary focus of their mission. Most of the seasonal arts programming for CVNP focused on music coordinated through the Conservancy for Cuyahoga Valley National Park (“Fall 2013 Schedule” 8-9). “The Conservancy for Cuyahoga Valley National Park (Conservancy) is the nonprofit partner for Cuyahoga Valley National Park (CVNP)” (“Facilities”). Remaining events in the schedule with an arts focus were sponsored by the Cuyahoga Valley Photographic Society. “As part of the Conservancy, [Cuyahoga Valley Photographic Society] sponsors monthly presentations by local,
regional, and national photographers as well as workshops, photo walks, and an annual show” ("Fall 2013 Schedule" 9).

Some arts events were scheduled in neighboring communities with most at venues within CVNP borders. Contra dances were at the Boston Township School House. Art exhibits through the Crooked River Gang were presented at the M.D. Garage, “a 1940s gas station located in the village of Boston” ("Fall 2013 Schedule" 8-9). Highlighted Countryside Conservancy programs were in one of eleven of the organization’s Countryside Initiative farms ("Fall 2013 Schedule" 11). Conservancy events were presented primarily in leased space managed by their organization ("Fall 2013 Schedule" 8-9). “All rental facilities managed by the Conservancy are leased from CVNP” ("Facilities"). The Conservancy promotes such facilities as “unique properties” with a “wide range of creative and refreshing event experiences” (“Facilities”). But no space hosting arts programming was specifically designated as a performing arts venue.
BMC opened in 1968 as an arts venue privately owned by MAA, the parent organization of The Cleveland Orchestra. The primary purpose in the planning of BMC was to provide a summer concert venue for The Cleveland Orchestra. The Cleveland Orchestra and Kent State University have promoted a partnership that has been providing expanded programming at BMC since its inception. These two organizations have collectively developed educational programs, facilities, and arts programming that have included an art gallery with displays, a performance venue with theatrical productions, and a main pavilion for concerts where The Cleveland Orchestra performs. MAA contracted with an outside company that would expand the schedule of performances at BMC while providing maintenance and operational support. Though scheduling performances for The Cleveland Orchestra have remained precedential, BMC has been established as an arts venue beyond its primary purpose. With their 2012 summer concert season at BMC as an example, The Cleveland Orchestra performed at fewer than half of all the concerts scheduled at BMC’s Blossom Pavilion.

In 1974, federal law established what was to become CVNP. CVNP has been managed as a unit of the National Park Service encompassing over 33,000 acres within park borders (Nichols). The park was assigned a specific purpose noting that CVNP “shall utilize the park resources in a manner which will preserve its scenic, natural, and historic setting while providing for the recreational and educational needs of the visiting public” (“Cuyahoga Valley National Park”). CVNP has not retained ownership of all of the land and/or title within its borders. However, the park may exercise influence over and/or pursue the purchase of private property when necessary to maintain its purpose. “Acquisition of those lands and/or interests in those
lands may be the best way to protect and manage natural and cultural resources or provide for visitor enjoyment” (U.S. Dept. of the Interior, 30).

Established borders for CVNP encompassed BMC. The Musical Arts Association has never entered into a formal programming relationship with CVNP but has continued to operate in a manner that proved consistent with the park’s purpose. It has been stated that MAA would prefer to maintain autonomous control of BMC, and CVNP has not initiated a pursuit for control of the facility through any mandate. MAA has welcomed CVNP representatives with park displays and programming promotions to events at BMC, and a more permanent interpretive plaque for CVNP was installed on BMC grounds. The Cleveland Orchestra and CVNP are “great neighbors with a mutual respect and wish for separate success.” As such, the public maintains the benefit of having both organizations despite no specific agreement (Makee, Personal Interview). MAA has never considered a programming relationship with CVNP (Makee, Personal Interview), and BMC events have not been included in seasonal park schedules. CVNP developed arts programming independently through its own supporting partnerships. Spaces have been adapted for arts programming within the park as CVNP has not inherited nor constructed a dedicated performance art venue. Management Policies of the NPS maintain that conditions within CVNP have not hindered programming and do not support an argument to construct a separate arts venue to advance the park’s purpose (U.S. Dept. of the Interior, 136).

MAA conducted an organizational study in 2008 that explored revenue options amidst a challenging economic climate. The study identified land along the perimeter of BMC as dispensable and a possible source of revenue. MAA released approximated seventy-five percent of the roughly eight hundred acres of BMC to be sold on the open market. The revenue generated through the sale of this portion of BMC would reinforce the financial position of MAA and protect against the need to sell the entire facility (Hamm, Personal Interview). The earmarked land had originally been purchased by MAA to act as a buffer between BMC and any potential development (Makee, Personal Interview). MAA stated that they had wanted the character of this land to be preserved (Vasarhelyi). Positioning the land to become a conservation opportunity under the protection of CVNP would ultimately accomplish this goal.
The land was purchased and eventually transferred to be maintained under the protection of CVNP. MAA retained control of remaining facilities, access, and established programming for BMC. But revenue generated from this sale only partially mitigated compounding operational deficits for The Cleveland Orchestra.

Accounting realities potentially overshadow aesthetic considerations in wanting to maintain MAA control over BMC. Ongoing financial challenges with The Cleveland Orchestra could compound into crisis. Said scenario would likely prompt another weighing of options and include an additional assessment of property holdings. What remains of BMC could become dispensable with any degree of economical desperation. Pursuing this course could lead to few predictable futures for BMC as an arts venue. No perceivable change in programming and operations would likely occur at BMC should MAA retain ownership during their quest for solvency. A sustained relationship with Kent State University would continue providing a broad arts base and ongoing educational outreach. And a renewed agreement mirroring that tied to Live Nation would continue providing an expanded schedule in Blossom Pavilion and operational support to maintain the facility. The substantial portion of BMC land sold provided The Cleveland Orchestra with an infusion of millions of dollars offsetting deficits enough to allow BMC to remain functionally intact. But it could become difficult to resist an appraised value of what remains of BMC that would by far surpass what the sale of its undeveloped land generated (Hamm, Personal Interview).

Blossom Pavilion is the base of an outdoor amphitheater and one of several art venues collectively known as BMC. This structure is predominate amongst all BMC facilities and serves as the performance home for The Cleveland Orchestra’s summer concert series. Dennis Dooley composed an elegant outline of the aesthetic qualities of Blossom Pavilion in the following paragraphs.

The massive, one-acre roof necessitated by the fan layout would be supported by a huge leaning arch that begins and ends at the pavilion’s far-flung extremities, reaching its apex over the stage, while the ceiling is unobtrusively supported not by interior pillars or conventional I-beams, but by thirteen long, thin, hollow (and therefore light) tubular trusses that fan out elegantly from the arch to a curved lintel beam that in turn rests on six thin columns behind the last row of seats . . .
Leaving the covered pavilion open along its sides and at its rear would enable the audience inside to enjoy the fact that they were out in the country . . . while affording those sprawled out under the stars the visual connection to the musicians on stage . . . Limiting that opening to a height of 20 feet allowed the upper walls and high, sharply tilted ceiling to create a large "enclosed" space sufficient to provide the reverberation, that sense of notes lingering in the air, that one finds in a concert hall. (Dooley)

The Pavilion may be the architectural highlight and largest monetary asset of all existing facilities at BMC. Blossom Pavilion promotes variety in the BMC schedule and offers the greatest potential for revenue generated by single ticket sales. This concept does not appear overlooked as evident through renewed long-term commitments with MAA. A full seasonal schedule at Blossom Pavilion could alone demonstrate Live Nation’s ability to effectively utilize and manage BMC. The company has already promoted itself as “the world’s largest live entertainment company” with “Over 100 Unique Venues Across the Nation” (“Services”). They have continued to provide operational support under the contractual agreement with MAA and have exercised relative freedom to book events at Blossom Pavilion. Live Nation would be the first of potential buyers of BMC should it be sold by MAA. Purchasing BMC would release Live Nation and its subsidiaries from any revenue sharing agreement with MAA. And ownership would remove any scheduling restrictions requiring that Live Nation accommodate a concert series for The Cleveland Orchestra. Sustained partnerships between Live Nation and CVNP, The Cleveland Orchestra, or Kent State University would likely be scrutinized for profitability through this most probable buyer. This would jeopardize the compliment of established arts and educational programming. The Cleveland Orchestra and Kent State’s pooled promotion of the separate BMC properties as one arts venue could disappear. Blossom Pavilion would retain its relevance as a source of recreation within the boundaries of CVNP in this scenario without Park scrutiny. But the future of programs and partnerships in what had become BMC has not been the focus of Live Nation’s collaborative business there.

There are too many variables to say with certainty what purpose BMC would maintain under new management should MAA end up in a position to sell. Creative developers could envision the site perfect for something as simple as an amusement park or RV campground. Any similar example offering recreation could escape scrutiny against the applied purpose within
CVNP boundaries. Change may provide few guarantees any portion of the arts venue programming could endure. But actions have shown that MAA has previously looked towards CVNP with hope to preserve BMC. It would not be outside of the realm of possibility for the NPS to consider purchasing this dedicated arts venue. Amongst the key principles of the Management Policies of the NPS is a responsibility to “pass on to future generations natural, cultural, and physical resources that meet desired conditions better than they do today, along with improved opportunities for enjoyment” (U.S. Dept. of the Interior, 2). Another property appraisal and an assessment of funding options would have to be explored. But if MAA were to release control of BMC, there may be only one scenario that could avoid an overall disruption or complete loss of programming and services.

The future of BMC would be better secured through ownership by CVNP. The NPS has experience structuring support for programming similar to what has been fostered at BMC by MAA. The Kennedy Center and Wolf Trap National Park for the Performing Arts serve as functional models as to how the NPS through CVNP might manage BMC. The largest differences between BMC against the two dedicated arts venues having been managed by the NPS would be size, purpose, and structure. The Kennedy Center was only afforded around 17 acres while Wolf Trap could be a maximum of 145 acres. Wolf Trap and the remaining BMC footprint have ended up being roughly the same size. But BMC would only stand as a small part of the over 33,000 acres that comprise CVNP (Hamm, “Re: Map”). The Kennedy Center and Wolf Trap have promoted a wide range of entertainment and arts education comparable to that one might have come to expect at BMC. However, the wider ranging focus of CVNP would diminish an upheld purpose of BMC. BMC programming would have to find its place as only part of the park’s whole. The Kennedy Center grew away from the NPS and into an independently operating bureau of the government. Wolf Trap developed to become a unique NPS model as it grew into one formalizing partnerships between private and government entities. This managing relationship at Wolf Trap between the NPS and a specific, independent, non-government entity is unlike the management structure established for the Kennedy Center. National Park for the Performing Arts has been a functionally separate NPS designation for Wolf Trap. But a base of similar
relationships supporting a broader set of programs at CVNP has already been cultivated. A partnered role of management for CVNP over BMC would not have to detract from the park’s greater purpose.

Wolf Trap’s functional structure governing management of an arts venue within the NPS can be applied to CVNP’s proposed management of BMC. It was noted in Section 3 of governing legislation for Wolf Trap that, “Any laws, rules or regulations that are applicable solely to units of the National Park System that are designated as a “National Park” shall not apply to any unit designated as a “National Park for the Performing Arts” (“Wolf Trap National Park for the Performing Arts” Sub XXXV). But partnerships between a National Park and outside organizations are evident outside of the Wolf Trap model. And broadly outlined NPS management guidelines offer flexibility when exploring the role of an outside organization providing visitor services (U.S. Dept. of the Interior, 144, 149-150). CVNP has already promoted nonprofit partnerships presenting arts programming through Conservancy for CVNP and Countryside Conservancy. The main focus of Countryside is not in supporting arts, and Conservancy for CVNP has worked to support a wide range of programs. But these serve as working examples of existing relationships between CVNP and nonprofits that provide management of facilities and offer programming. And little in regulations with the NPS appears to forbid subcontracts with appropriate entities providing programming and services. The relationship between MAA and Live Nation affiliates could be incorporated into a mirroring agreement between Live Nation and CVNP. This model would not be too unlike the role in which the Wolf Trap Foundation fulfills for the NPS. CVNP could exercise the option of outsourcing management away from existing cooperatives to avoid overwhelming resources of smaller organizations such as Conservancy for CVNP. Models of successful managerial relationships for CVNP to control BMC have already been applied in other circumstances. The main loss likely in this proposition for CVNP management of BMC would be an ongoing performance presence of The Cleveland Orchestra.

Under the leadership of MAA, The Cleveland Orchestra has established its brand and is recognized around the world. The Cleveland Orchestra’s reputation affords opportunities to
provide music in a variety of venues. The two venues owned by MAA have included Severance Hall, a year-round concert hall providing performance space at the organization’s home, and BMC. The Cleveland Orchestra has only occupied a small part of the overall schedule at BMC. MAA partnerships have combined efforts with those through The Cleveland Orchestra to provide expanded programming in arts and education at BMC. But BMC has been shown to provide MAA with an open source of revenue. Operational agreements have provided management of the facility without cost to MAA, an income stream from shared ticket sales, and a priority in scheduling personal performance space with no additional cost. Precedential action on the part of MAA exercised an option to sell a large portion of the land that comprised BMC. If what has remained of BMC were to be sold by MAA as a mitigating circumstance, CVNP would be positioned to better preserve relationships and programming with BMC as an arts venue.
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