



**The Council
of
The City of New
York**

**HON. GIFFORD MILLER,
Speaker**

A staff report to:

The Committee on Oversight and Investigations

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CHAIR**

**The Committee on
Consumer Affairs
HON. PHILIP REED,
CHAIR**

Health Club Members Beware: Read the Fine Print

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TABLE OF CONTENTS

Executive Summary.....	p. i
Background.....	p. 1
Methodology.....	p. 2
Findings.....	p. 3
Conclusion.....	p. 6
Recommendations.....	p. 7

Appendices

<u>Appendix A</u>: List of Health Clubs.....	p. A-1
<u>Appendix B</u>: New York City Health Clubs.....	p. B-1
<u>Appendix C</u>: Consumer Tips for Joining a Health Club.....	p. C-1

This report can be found at the Council's website at
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Executive Summary

A New York City (NYC) Council Investigation Division (CID) investigation has found that NYC health clubs too often fail to disclose complete and accurate information regarding membership fees and terms to consumers. They do this by failing to fully inform consumers of their right to cancel memberships, to provide full membership fee information and to permit consumers to fully review and consider membership contracts. This failure to disclose fundamental information by health clubs in NYC may be costing New Yorkers thousands of dollars and locking them into long-term contracts that are difficult to break.

During these difficult economic times, New Yorkers are careful about how they choose to spend their hard-earned dollars. Deciding to join a health club is not just a financial decision, but a serious health matter as well, as sixty percent of U.S. adults are overweight.¹ Thus, it is imperative that consumers be equipped to make fully informed decisions in this regard.

More than eight million Americans joined health clubs during 2001, and nearly a million people joined health clubs during the month of January 2001 alone.² CID conducted an investigation seeking to discover the extent to which New York City health clubs provide customers with accurate and detailed information regarding membership fees, termination policies and membership contract terms.

¹ Office of the U.S. Surgeon General. *Overweight and Obesity: At a Glance*, Factsheet. http://www.surgeongeneral.gov/topics/obesity/calltoaction/fact_glance.htm.

² International Health, Racquet & Sportsclub Association (IHRSA). *Did You Know?*. <http://csdemo12.citysoft.com/IHRSA/ViewPage.cfm?pageid=625>. 26 December 2002.

CID surveyed twenty-seven (27) health clubs associated with eight (8) different chains located throughout New York City. CID discovered the following:

- Forty-one percent (41%) of the health clubs did not provide written materials specifying their fees.
- Eighty one percent (81%) of the health clubs failed to provide investigators with a contract to review off-site upon request.
- Ninety six percent (96%) of the health clubs failed to explain all the ways in which one can terminate a membership contract under New York State law. Fifty-nine percent (59%) explained their own cancellation policies and/or one of the ways in which one can end a health club membership contract under to New York State law.

In response to the investigation CID recommends the following:

- **New York City Health Club Consumer Bill of Rights**

Adopt legislation that would require all New York City health clubs to supply potential new members with a document written in plain English which describes the terms of the contract, payment options, associated fees – including late fees and finance charges - and methods of cancellation. The legislation would require health clubs to allow potential customers to take a copy of the applicable contract off-site with them for review prior to joining.

Background

Health clubs are regulated by New York State (NYS) under Article 30 of the New York General Business Law.¹ According to NYS law, health club membership contracts cannot exceed \$3,600 per year (excluding tennis and racquet ball facilities).² Also, membership contracts cannot exceed 36 months.³ Consumers also may cancel health club membership contracts for any of the following reasons:

- Within three days of signing the contract;⁴
- If the health club ceases to offer the services stated in the contract⁵;
- If the consumer moves 25 miles from any health club operated by the seller;⁶ or
- If upon a doctor's order, the consumer cannot receive the services as stated in the contract because of significant physical disability for a period in excess of six months⁷;
- Additionally, if the customer dies, the estate may cancel the contract and be eligible for a refund⁸.

¹ N.Y. GEN. BUS. LAW §30-620, et seq (1973).

² *Id.* at 623.

³ *Id.*

⁴ *Id.* at 624.

⁵ *Id.* at 624-3.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

Methodology

CID identified eight different health club chains throughout New York City.⁹ Twenty percent (20%) of the New York City health club locations for each of the eight health club chains were identified for the investigation, for a total of twenty-seven (27) sites. Of the twenty-seven sites, two were located in the Bronx, seven in Brooklyn, fourteen in Manhattan, and four in Queens.

Following each visit, investigators completed a survey regarding:

- Membership fees, including installment or monthly payment arrangements and related finance charges;
- Cancellation policies; and
- Whether potential customers were permitted to take the membership contract with them for review prior to joining.

⁹ CID investigators visited the following eight (8) health club chains: Bally Total Fitness Club, Crunch, Dolphin Fitness Club, Equinox, Gold's Gym, Lucille Roberts, NY Health & Racquet Club, NY Sports Club.

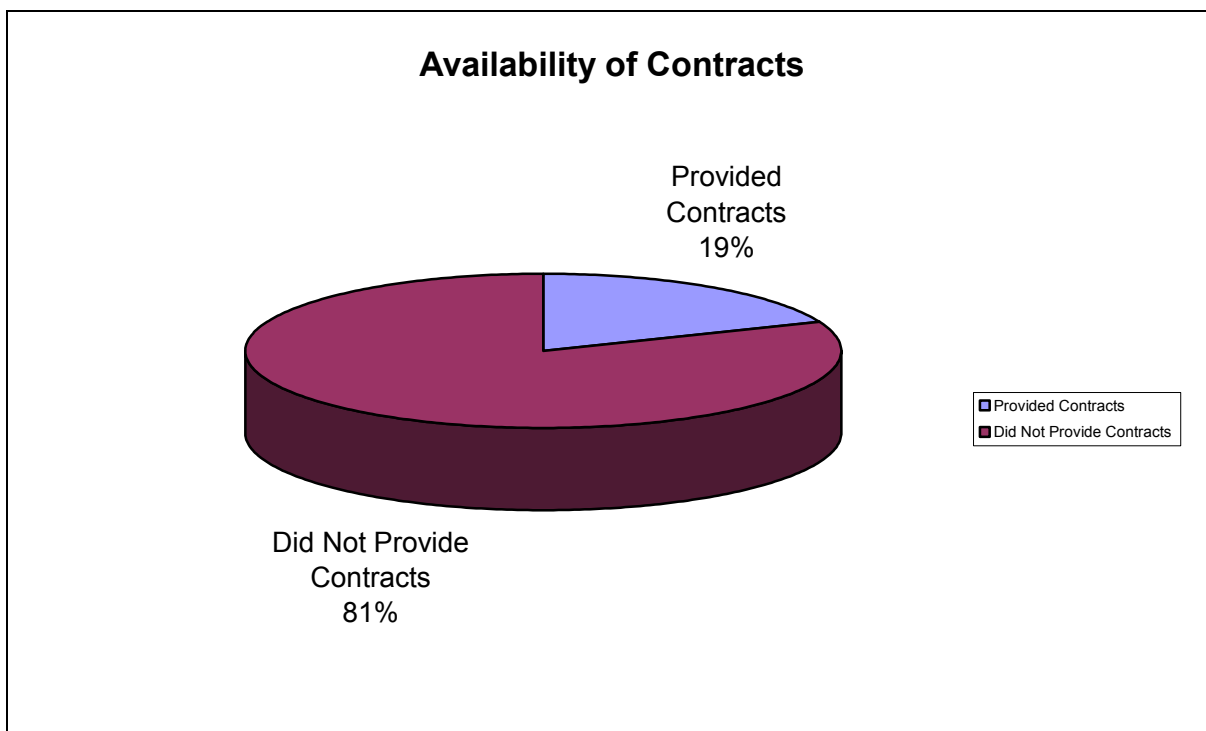
Findings

The following results are based on the twenty-seven sites that were visited by the investigators throughout New York City:

- Sixteen (16), or fifty-nine percent (59%) of the health clubs provided written materials specifying their fees. Eleven (11), or forty-one percent (41%) of the health clubs did not provide written materials specifying their fees.
- Twenty-seven (27), or one-hundred percent (100%) of the health clubs allow customers to pay membership dues on a monthly basis.
- Six (6), or twenty-two percent (22%) assess finance charges on monthly dues payments. Twenty-one (21), or seventy-eight percent (78%) do not assess finance charges on monthly dues payments.
- Five (5), or nineteen percent (19%) of the health clubs provided investigators with a contract to review off-site upon request. Twenty-two (22), or eighty-one percent (81%) of the health clubs did not provide investigators with a contract to review off-site upon request.¹⁰
 - Of the five health clubs that provided investigators with a contract upon request to review off-site, four (4) accurately explained the contents of the contract to the investigators when handing out the contract upon request. One (1) did not accurately explain the contents of

¹⁰ Investigators were able to obtain contracts to take home from the following health clubs: Crunch, Equinox, Lucille Roberts, and New York Sports Club.

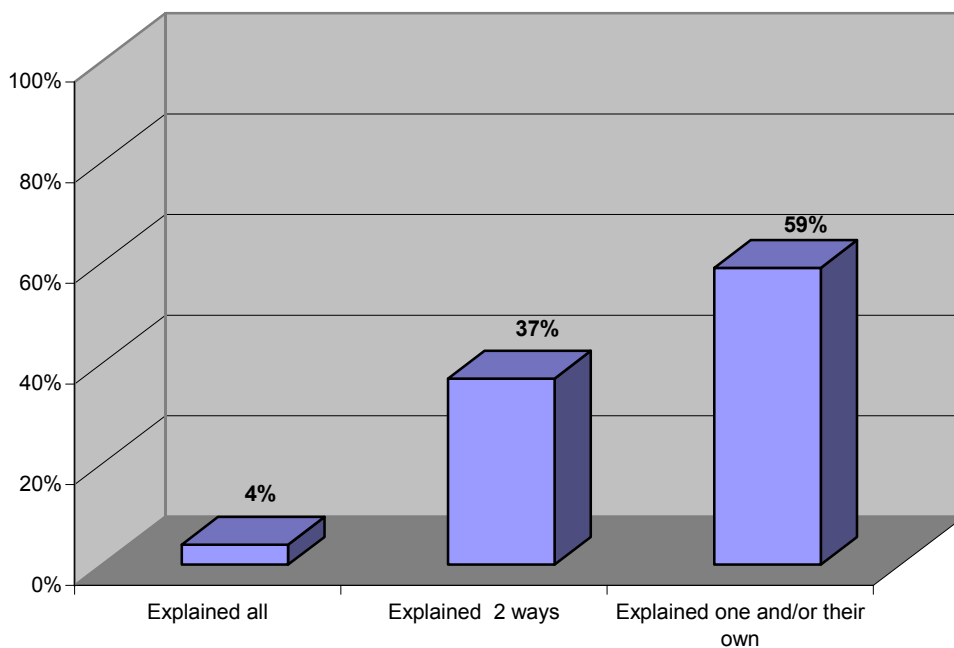
the contract to the investigators when handing out the contract upon request.



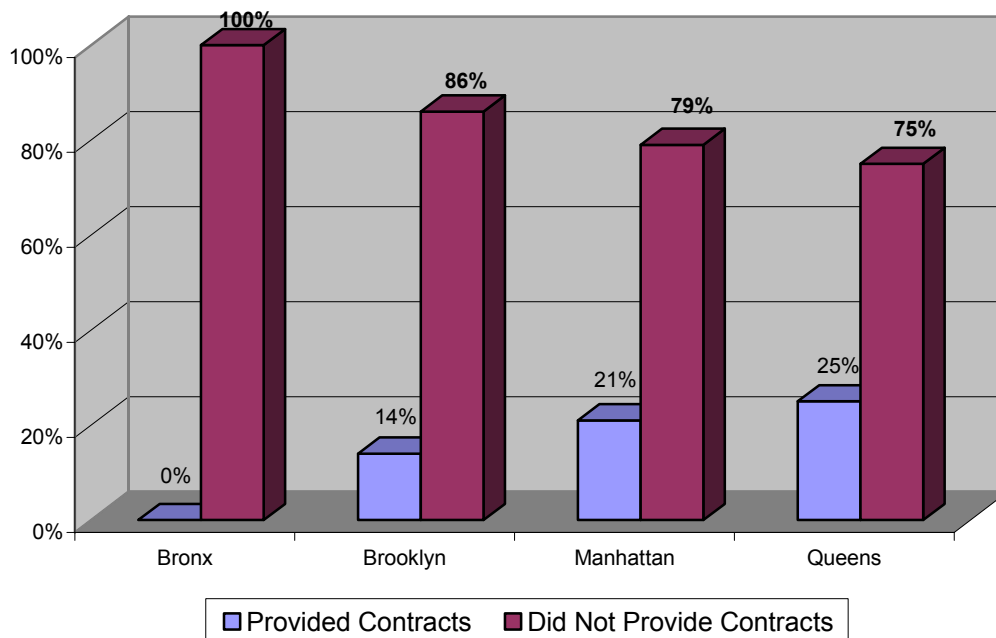
- Only one (1), or four percent (4%) of the health clubs explained all the ways in which a health club membership contract could be terminated under New York State law. Ten (10), or thirty-seven percent (37%) of the health clubs explained two of the ways in which one can cancel a health club membership contract according to New York State law. Sixteen (16), or fifty-nine percent (59%) of the health clubs explained their own cancellation policies and/or one of the ways in which a consumer can terminate a health club membership contract according to New York State law.¹¹

¹¹ See “Background” section, pg. 1, for more details.

Disclosure of New York State Cancellation Policy



Availability of Contracts by Borough



Conclusion

Unfortunately, the results obtained during this investigation reveal how difficult it can be for a customer to obtain detailed and consistent information when shopping for a health club membership. For example, slightly over forty percent (40%) of the surveyed health clubs failed to provide any written materials describing membership fees. Moreover, a mere four percent (4%) of the surveyed health clubs explained to investigators the various ways under New York State law in which a customer can cancel a health club membership.

Importantly, CID also found that only nineteen percent (19%) of the health clubs surveyed provided investigators with contracts to review off-site upon request prior to joining. Not being able to obtain a contract for quiet review can be problematic, since customers can be pressured into signing a contract without being given enough time to understand all the clauses and read the fine print. For example, upon further review and consideration, a customer may elect not to choose a monthly payment installment plan, depending on the applicable fees for such a service. Finally, since some contracts can legally last up to thirty-six months, and circumstances can easily change during such a time-period, it is extremely important that customers be fully informed of their rights, including their termination rights, when they enter into a health club contract.

Recommendations

New York City health clubs would be required to supply customers with a plain English written disclosure outlining the terms of the contract, payment options, associated fees – including late fees and finance charges - and methods of cancellation. Potential customers would also be permitted to take a copy of the applicable contract off-site with them for review prior to signing.

APPENDIX A:

List of Health Clubs

List of Health Clubs

<u>Health Club</u>	<u>Location</u>	<u>Borough</u>
Bally Total Fitness Club	2530 Flatbush Ave.	Brooklyn
	139 W. 32th St (bet. 6th & 7th Ave.)	Manhattan
	80-02 Kew Gardens Rd.	Queens
Crunch	25 Broadway	Manhattan
	1109 2nd Ave. (bet. 58th & 59th St.)	Manhattan
Dolphin Fitness Club	2030 Eastchester Rd.	Bronx
	5322 Avenue N	Brooklyn
	8701 4th Ave. (& 87th St.)	Brooklyn
	242 East 14th St. (bet. 2nd & 3rd Ave.)	Manhattan
Equinox	344 Amsterdam Ave. (bet. 76th & 77th St.)	Manhattan
	54 Murray St.	Manhattan
Gold's Gym	85 Livingston St.	Brooklyn
Lucille Roberts	2449 Morris Ave.	Bronx
	540 Fulton St.	Brooklyn
	40th & 8th Ave.	Manhattan
	54-32 Myrtle Ave.	Queens
NY Health & Racquet Club	39 Whitehall St. (bet. Whitehall & Water)	Manhattan
	110 W. 56th St.(bet. 6th & 7th Ave.)	Manhattan
NY Sports Club	179 Remsen St.	Brooklyn
	110 Boerum Pl.	Brooklyn
	10 Irving Pl.	Manhattan
	270 8th Ave. (& 23rd St.)	Manhattan
	2162 Broadway (& 76th St.)	Manhattan
	2311 Frederick Douglass Blvd.	Manhattan
	503-511 Broadway	Manhattan
	69-47 Austin St.	Queens
	153-37 Cross Island Parkway	Queens

APPENDIX B:

New York City Health Clubs

New York City Health Clubs

Health Club	No. in NYC	20% of Total	No. Chosen
Bally Total Fitness	15	3	3
Crunch	10	2	2
Dolphin Fitness Club	19	3.8	4
Equinox	12	2.4	2
Gold's Gym	6	1.2	1
Lucille Roberts	18	3.6	4
NY Health & Racquet Club	8	1.6	2
NY Sports Club	43	8.6	9
Total	131	26.2	27

Sources:

Bally Total Fitness: <http://bally.know-where.com/BallyFitness2/>

Crunch: <http://www.crunch.com/gyms/index.asp>

Dolphin Fitness Club: <http://www.dolphinfitnessclubs.com/locations.html>

Equinox: <http://www.equinoxfitness.com/home/flash/1/region/2>

Gold's Gym: <http://www.goldsgym.com>

Lucille Roberts: <http://www.lucilleroberts.com/club-locator.php>

NY Health & Racquet Club: <http://www.hrcbest.com/main/location.html>

NY Sports Club: http://www.nysc.com/know_where/know_where.asp

APPENDIX C:

Consumer Tips for Joining a Health Club

CONSUMER TIPS FOR JOINING A HEALTH CLUB

1. Visit or call at least two other health clubs to learn about dues, fees and services;
2. Ask for a free pass before you sign the contract to determine if the club is right for you;
3. Talk to other members;
4. Visit the health club during the hours that you will normally be attending.
5. Take time to think about joining and read the contract. Take it home and make sure that you understand it.
6. Under New York Law, you have 3 day cooling off period. That means that you have 3 days from the day you sign the contract to cancel the contract.
7. If you sign the contract but decide to cancel, keep a copy of the cancellation letter. Ensure that it is date and time stamped and signed by a club official.