

Testimony to City Council Consumer Affairs Committee, February 29, 2008

Clifford I. Stanton, President, The Nice Ice Company, Inc.

In 1994, The Nice Ice Company operated out of a 5,000 sq. ft. facility on E. 2<sup>nd</sup> St. around the corner from CBGB's. It was a company I bought in 1988 for \$250,000 with the help of family. It represented virtually every penny we owned.

Nice Ice manufactured and distributed an ices type product called Frozade. We sold our ices wholesale and bulk to independent vendors who rented our 46 NYC DOH-licensed pushcarts under the same trade name. These vendors were students in between semesters of college, bartenders, actors, retirees and recent immigrants to our country.

For \$600 we rented a pushcart to the vendor for the summer. They would set their own hours, secure a location, purchase the product from us and make a profit. In some cases a decent profit. We employed between 5 and 12 workers inside the factory and warehouse, which was also licensed by DOH. We were insured, we paid taxes, we were safe. Based on our success in NYC, we launched small operations in Miami, Atlanta and Washington DC. In short, we were going places. In 1995 that all changed.

In 1995, we were divested of 45 of our 46 permits. We were told that the new law was not intended to hurt businesses and people like me, and an effort was made to somehow keep for us what was being taken from others. But, ultimately that effort failed and overnight my business was in imminent peril. Needing a venue for our product, we started to bid on locations in the NYC Parks system. Here, because large sums of revenue for the city are generated from the bids, multiple permit ownership was not only encouraged, but had to be legally preserved.

This is an important point and one that the members of this Committee must understand. Local Law 15, which essentially put us out of business, also threatened the system that NYC Parks Dept. had established where just a few operators dominated the bidding process for pushcarts primarily in Central Park. One operator in particular held over 40 permits in the Park and paid the City several million dollars per year for that right. This was now the second time that Council made an exception to the law they had just passed. The first was when it allowed for the multiple ownership of "temporary" summer-seasonal permits. This exception protected one business with essentially the same profile as mine - Coco Helado in the Bronx. I had the "misfortune" of running a summer-seasonal business with "full-term" permits, so the City had no way of making the distinction (a distinction it clearly wanted to make) between me and reputable people like Dan Rossi it had already declared persona non grata.

I moved on. I started with four Parks locations in 1995 and steadily grew it over the years. Today, we sell primarily hot dogs, beverages and ice cream to over 30 Parks vendors with carts we built and maintain and store in our licensed commissary on West 46<sup>th</sup> Street. After 1995, somewhat broken and bitter, I merged what was left of my

business with a gentleman who started the honey-roasted nuts carts in New York. I left him with the business for a time and went to work as Chief-of-Staff to former Councilman Noach Dear. When I returned to the business in 1999, we started to grow the honey-roasted nuts business. Today, we supply over 80 Nuts4Nuts carts in Manhattan.

But it is my sad duty to report that 13 years after the fact, Local Law 15 accomplished nothing in deterring what was then perceived as the illegal “renting” of a city permit. It made matters worse. Dan Rossi never rented a permit. He rented a cart that he manufactured in his New York City factory for a price that the market was willing to bare. I never rented a permit. I rented a Frozade cart so that I could sell my product, manufactured in a New York City factory, to it. By passing Local Law 15, the City destroyed an industry that provided real jobs, a real tax base, safe products & tangible services and created the very illegal “black” market it aimed to prevent.

I am approached constantly by individuals with a permit in their pocket for rent. Many of these individuals hop on a plane from Bangladesh or Pakistan when their permit is up for renewal, present the papers they have to present, collect \$5,000 for a two-year permit and hop back on a plane to return home with the lottery winnings this institution gave them. You don’t have to take my word for it. Conduct your own test. Pick a cart, any cart, ask the vendor to see if the name on his DOH vendor’s badge matches the name on the blue DOH permit for the cart.

In some respects, I don’t blame the City Council for taking the action it did. It and the Mayor I’m sure thought they were pursuing good public policy. One of the arguments back then was that pushcart permits were never intended to be held in multiples by only a dozen or so companies. They were meant to be used by individuals, to help immigrants enter the economy at relatively low cost and catch a piece of the American dream. This was an illusion. I would maintain that the City had in 1995 the perfect combination of individual permit ownership and corporate ownership. Products like Good Humor, Chipwich, Dove Bar & Tofutti became household names in part because of the carts they were able to launch in multiples on the streets of New York.

This is not a simple issue. It takes time and concentration to really understand the different elements, but I believe 446 is not only the right thing to do, but it is good public policy. Thank you.

Jeff Cicio

**Testimony**

Council Member Tony Avella. Intro #446 *disabled food veterans*, Intro # 447 *multiple food cart permits*.

- Dear Council Members, the following information will inform this council of the injustice to multiple permit holders, 1995 Local Law #15. And the health departments denying disabled veterans their rights to operate a mobile food vending cart, by prohibiting them from applying for a mobile food vending permit.
- In 1994, a group of multiple permit owners went to Albany to defend and support the rights of disabled veterans. These owners also offered help financing and any support necessary to make sure any disabled veteran had the opportunity to work as a mobile food vendor.
- Within a short period of time, these multiple permit owners were falsely accused of criminal activity and a Local Law #15 was introduced, voted on, and signed by Mayor Giuliani.
- This law prohibited all these companies from acquiring their permits and the direct result was that they all went out of business.
- It is no surprise to these companies or any other organization, Council Member, or a NYC agency, that local law #15 had one intention and one intention only.
- Anyone who tries to defend or support the rights of a disabled veteran should be aware that their good intentions and patriotic virtues to their country men and disabled veterans of war could be considered criminal activity. That's what happened.
- I support intro #447 because it will eliminate the barriers that these disabled veterans incurred trying to obtain their permits. This right was not given to them; they earned it by fighting for their country. A true patriot.
- I was a multiple permit holder at that time. I was at Albany. I still am fighting for the rights of disabled veterans. I will always fight to defend these patriotic men and women.
- Intro #446 will reinstate the few companies that have been denied their right to operate as a multiple permit holder for the past 13 years. I support this intro because then and only then will all of the multiple permit holders will have been reinstated.
- There are many multiple permit holders operating today, they were similarly situated as the few men who defended disabled veterans in Albany of 1994. It is time to fix the wrong

**Basis for rule to clarify “Transfer and Assignment of decals and licenses”**

- Health code 5.11 provides that the purported attempted transfer of a permit to a person not named there in as permittee automatically revokes such permit.
- NYC health code article 8913, commissioner may refuse to issue or renew a license or permit for any cause set for as a ground for suspension and revocation.
- NYC health code section 5.17, the board may suspend or revoke any permit for willful or continued violation of this code or for such other reasons as the board determines is sufficient grounds for suspension or revocation.
- NYC administrative code 17-314.1, sale, loan, lease, or transfer of license, permit, decal, plate or insignia, are type A violations. Grounds for removal and voiding of permit.
- 24RCNY Chapter 6 paragraph 3, unauthorized decal removal or transfer voids permit.
- Permit or certificate of qualifications, aka “Blue Paper”, states if that the permittee/licensee, refuses to answer questions in relation to this permit/license after being granted testimonial or use immunity this permit/license may be revoked or other appropriate action taken.
- Operator list form for mobile food vendor permit holders, section 17-309 “B1” of the NYC administrative code requires that you provide a signed, notarized affidavit form listing all operators of your mobile food vending unit, including their full name, home address, DOH license “ID Badge #”, and their legal relationship to you. (Example: employee, worker, etc.)
- If 75% of current permit holders are in violation of these laws, why are they not denied their permits at renewal time.
- In closing, if multiple permit holders prior to local law 15 were in violation of any of these laws the board of health or its commissioner, had the power to deny renewal and revoke such permits. Why did city council have to pass a law which targeted a few honorable patriotic businessmen?

Testimony of Denny Meyer, Veteran  
Regarding Veteran Vendor legislation  
to the Council of the City of New York  
February 29th 2008

I am Denny Meyer, I'm a Veteran. For identification purposes, I'm the President of American Veterans for Equal Rights NY, but I speak here as an individual veteran. I served in America's armed forces for ten years, during and after Vietnam, leaving as a Sgt First Class.

I am also disabled. And I'm also a first generation American. My parents came here as refugees from the tyranny of WWII. My mother arrived at Ellis Island in 1938 as an illegal immigrant; to earn a living, she first cleaned toilets at some dumpy hotel in New Jersey. She learned English and moved up the economic ladder, worked in a factory, became a real estate broker, and finally retired as a shop keeper. I served in America's armed forces for ten years out of patriotism, to pay my country back for my family's freedom.

New York City has always been a beacon of freedom for immigrants and refugees. This City is home to many prominent families who's grandparents came here penniless and first peddled wares from pushcarts on the city's bustling streets to eke out a living. They worked hard, free in this American city from tyranny and prejudice; from those first pushcarts, they opened shops, department stores, and business firms and prospered. They came here to America, to New York City, destitute and desperate for the freedom to live and work.

But, freedom is not free. All of us, including myself - a child of illegal immigrant refugees, owe our freedom to America's Veterans who sacrificed their safety for the sake of freedom. They returned from war with their bodies and minds battered from explosions and the horrors of combat. Since the Civil War, New York's veterans have had the right to earn a living for themselves by peddling from pushcarts on the City's streets.

When we see a homeless man laying on the street, with a handmade cardboard sign saying "veteran," we hurry past to avoid the smell, to avoid the sight, to avoid thinking, "there but for the Grace of God go I." But, if you have not served in our armed forces for freedom, you may not understand the sacrifice made by a formerly strong young man, the sacrifice of spirit, body, and mind, that has now reduced him to laying on the street helplessly. Who among us would not want to see that veteran standing there, instead, earning his own way, humble as it might be.

For me, it is a tragedy to see homeless unemployed veterans on the streets of this City of New York, with its Statue of Liberty beacon of freedom in the harbor welcoming the immigrants from whose roots we all come from. It is not asking very much of the people and City of New York, to honor the commitment to our American Veterans to give them priority for permits to peddle on the streets of the City famed for the freedom for which they fought and sacrificed.

**STATEMENT OF JOSEPH A. BELLO  
NYC VETERANS ADVOCATE**

**BEFORE**

**THE NEW YORK CITY COUNCIL  
COMMITTEE ON CONSUMER AFFAIRS**

**REGARDING INTROS. 446 & 447**

**COUNCIL CHAMBERS  
CITY HALL  
NEW YORK, NEW YORK  
FEBRUARY 29, 2008**

Mister Chairman, committee members, thank you for allowing me to come before you today to testify and voice my support regarding Intro's 446 & 447.

Back in 2004 Gretchen Dykstra, then the city's Commissioner of Consumer Affairs stated: *"The city's vending laws are like an onion, it has many layers, and after a while, one can't help but cry."*

It has been acknowledged many times that the city has such a complex web of overlapping and conflicting state statutes, city rules, regulations and unpublished city memorandums that they make life confusing and nearly impossible for **every** individual who vends for a living.

However, I think we can all agree and acknowledge that veterans, and in particular disabled veterans, have made extraordinary sacrifices through their service to this city and this country.

Starting after the civil war, New York State compensated veterans for their physical and psychological wounds by allowing them to vend on city streets.<sup>1</sup>

However, over the past 20 years the city has decided that, with all due respect to veterans, it can no longer provide such broad expressions of gratitude. Buildings have risen, sidewalks have narrowed, merchants and BIDs have complained.

In 2006 when Councilman Barron proposed opening more streets to vendors and lifting the cap that currently limits the number of vending licenses, he stated: *"No other businesses have a cap." "It's ridiculous we've put so much pressure on people who created employment for themselves."*

In that vain, disabled veterans have become symbols of inconvenience rather than of sacrifice. This is evident today with an administration that states every year around Memorial and Veterans Day that they support the troops and owe this city's veterans so much; yet turn their back and continue to treat those that vend for a living like criminals.

As stated, Intro. 447 addresses the unlawful restriction of food cart permits to disabled veterans by the Department of Health and Mental Hygiene ("DOHMH").<sup>2</sup>

---

<sup>1</sup> Currently subchapter 27 of Chapter 2 of Title 20 of the New York City Administrative Code (the "Code") sets forth licensing and operational requirements for general vendors throughout the City. NYC Admin. Code §17-306, governs the licensing and regulation of food vendors.

<sup>2</sup> At present, DOHMH restricts the number of food cart permits to 3000. (See New York City Administrative Code §17-307 b. 2.) And in 1991, a special category of an additional 100 food cart permits was created to be distributed solely to "disabled persons, disabled veterans and veterans". (See New York City Administrative Code §17-307 b. 3. (b).)

Pursuant to New York State General Business Law §§ 35 and 35-a, honorably discharged members of the armed forces (of the United States), who are physically disabled as a result of injuries received while in service, may vend in specified areas of Manhattan that are otherwise closed to vending due to local law, ordinance, rule or regulation.<sup>3</sup>

The state law says the city can only limit the number of disabled veterans, through the use of specialized vending licenses that are valid in specified areas. (The midtown core in Manhattan and in the vicinity of the World Trade Center) However, the city is using its own interpretation to limit the number of cart permits available to disabled veterans.<sup>4</sup> This is wrong.

Even the Urban Justice Center points out in their overview of *Street Vending Regulations in NYC* that disabled veterans are covered by NY State law rather than city law.<sup>5</sup>

The Urban Justice Center pointed out in a 2006 report they published that the greatest benefit and most positive aspect of vending was the freedom of entrepreneurship. The report also cited flexibility that came with vendors being their own bosses.<sup>6</sup>

While I agree with the entrepreneurship aspect, most veterans start vending because of either difficulty in finding a job or a career to get started in once they got out or because of changes that have taken place to them or at their job while they were deployed.

After serving at least four years and possibly being deployed to Iraq or Afghanistan several times, he or she may find themselves dealing with combat stress reactions, feeling irritable, or having trouble sleeping, which makes going to work (or back to work) a very difficult or even an impossible undertaking.

The veteran may also worry that an employer (or future employer) might not want to work with somebody who is dealing with symptoms of PTSD or other combat stress reactions.

---

<sup>3</sup> To sell food on the street you must obtain BOTH a license from the Department of Health AND a permit for the Food Cart.

<sup>4</sup> The city (DOHMH) is improperly limiting the vending rights given to disabled veteran vendors under New York State law by applying the food cart permit restrictions to disabled veterans under §17-307 in general, and by specifically including disabled veterans in the restrictions creating the additional 100 cart permits set forth in §17-307 b. 3. (b).

<sup>5</sup> [www.streetvendor.org/media/pdfs/factsheet.pdf](http://www.streetvendor.org/media/pdfs/factsheet.pdf).

<sup>6</sup> Peddling Uphill: A report on the conditions of street vendors in New York City: October 2006



Because of these issues, and possibly even being on the verge of becoming homeless, many veterans seeking treatment at VA hospitals or at a local Vet Center for Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI); or any number of disabilities received while in service need the flexibility that vending for a living affords them.<sup>7</sup>

Thus, in order to comply with state law, and to honor those veterans who made such costly sacrifices for our country, the City Council must do the right thing and remove the limitations on food cart permits for disabled veteran vendors to the extent prohibited by the state law.

To be clear, there are multiple issues and problems with the vending laws in New York City, but the answers to these problems should not come at the cost of stripping away the longstanding rights of disabled veterans to make a living.

With the number of seriously wounded in Iraq and Afghanistan far higher than that in the first gulf war, is this the most humane and prudent thing to do - limit their options before they even return home? This isn't the time to abandon them and I hope that you – the members of the Consumer Affairs Committee will not.

Thank you and I'll be happy to answer to any questions you may have.

Joseph A. Bello  
NYC Veterans Advocate  
[http://groups.yahoo.com/group/NYMetroVets/  
bjoe7@hotmail.com](http://groups.yahoo.com/group/NYMetroVets/bjoe7@hotmail.com)

---

<sup>7</sup> Department of Veterans Affairs, *What is Posttraumatic Stress Disorder?*  
<http://www.ncptsd.va.gov/ncmain/index.jsp>.



Testimony from the Street Vendor Project re: Int 446 and 447  
NYC Council Committee on Consumer Affairs  
February 29, 2008

Hello, my name is Sean Basinski, and I am the director of the Street Vendor Project of the Urban Justice Center. We are a membership-based organization of more than 650 people who sell food and merchandise on the sidewalks of our city. Thank you for the opportunity to testify today.

We are strongly opposed to Intro 446 and 447. These bills grant favors to a select and chosen few, while doing nothing to address the serious problems faced by thousands of hard-working vendors every day.

Let me start with Intro 447. The stated purpose of Intro 447 is to comply with state law by granting food vending permits to disabled veteran vendors. This basic premise is flawed. The state General Business Law 35(a) says nothing about food vendors -- it grants special privileges for disabled veterans to sell merchandise, which is an entirely different category than food. While we have many disabled veterans in our organization, and many food vendors, none of our disabled veterans even want to sell food. Disabled vets have a proud tradition in this state of selling merchandise on the streets, which is generally more lucrative than food, especially because disabled vets have the exclusive right to vend merchandise in midtown Manhattan.

Intro 446 is even more offensive. It would give 500 food vending permits back to one corporation, leaving thousands of people on the waiting list to get the one permit they need to operate their own vending business. Please explain to us how this would be fair, or how it would be consistent with the idea that vending should be a way for people to get their start owning a small business as a first step to achieving the American dream. We don't believe one person should be allowed to make millions of dollars for simply owning the permits, while hundreds of people who are actually doing the work in the streets every day are barely scraping by.

The sponsors of 446 claim the bill would address the illegal black market that currently exists for food vending permits. In fact, our organization is working to expose this illegal practice, whereby the city grants permits to people who are not even using them, while vendors who need them must pay thousands of dollars every year for a permit that the city gives for \$200. The Department of Health knows very well about this practice and turns a blind eye. We would be happy to help the City Council investigate this black market and put an end to it. But Intro 446 does nothing about the illegal leasing of permits -- in fact it will only make the leasing of permits more widespread.

We urge you to vote "no" on Intros 446 and 447. Thank you for your time.