

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONSUMER AFFAIRS

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April 24, 2012  
Start: 10:19 a.m.  
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HELD AT: Council Chambers  
City Hall

B E F O R E:  
DANIEL R. GARODNICK  
Chairperson

COUNCIL MEMBERS:

Daniel R. Garodnick  
Karen Koslowitz  
G. Oliver Koppell  
Michael C. Nelson  
Julissa Ferreras  
Stephen Levin  
Melissa Mark-Viverito  
Vincent J. Gentile  
Domenic M. Recchia, Jr.  
Gale A. Brewer  
Brad Lander  
Daniel J. Halloran  
Mark Weprin

## A P P E A R A N C E S

Kathleen McGee  
Director  
Mayor's Office of Special Enforcement

Lt. Daniel Albano  
New York City Police Department

Robert Edman  
Assistant Commissioner  
NYC Department of Health and Mental Hygiene

Julio Rodriguez  
Executive Director  
Environmental Control Board

Erik Joerss  
Director of City Legislative Affairs  
NYC Department of Consumer Affairs

Sean Basinski  
Director  
Street Vendor Project  
Urban Justice Center

Sasha Ahuja  
Organizer  
Street Vendor Project

Matthew Shapiro  
Staff Attorney  
Street Vendor Project

Mohammad Saad Ali  
Board Member  
Street Vendor Project

James B. Williams  
Board Member  
Street Vendor Project

## A P P E A R A N C E S (CONTINUED)

Brad Beckstrom  
Director of Government Affairs  
Mount Sinai Hospital

Jeannine M. Jennette  
Executive Director of Public Safety  
Columbia University Medical Center

Monica Blum  
NYC BID Association

Shira Gans  
On behalf of  
Scott Stringer  
Manhattan Borough President

Steven B. Wasserman  
Criminal Practice  
Legal Aid Society

Lee Wellington  
Planning Fellow  
Pratt Center for Community Development

David Weber  
Co-founder of Rickshaw Dumplings  
Founder/President  
NYC Food Truck Association

Peter Davies  
Broadway Residents Association

Peter Davis

Patrick Condren  
Executive Director  
86th Street Bay Ridge BID  
Fifth Avenue Bay Ridge BID

## A P P E A R A N C E S (CONTINUED)

Kaja Kuehl  
Adjunct Associate Professor  
Graduate School of Architecture, Planning and  
Preservation  
Columbia University

Julie Behrens  
Adjunct Professor of Urban Planning  
Columbia University

Jonathan Sunshine  
Street Vendor Project

Yanki Tshering  
Executive Director  
Business Center for New Americans

Michele Birnbaum

Lo Van Der Balk  
Carnegie Hill Neighbors

Dr. Elaine M. Walsh  
President  
East 86th Street Association

Richard Juliano  
Lincoln Square BID

Jessamyn Waldman Rodriguez  
CEO  
Hot Bread Kitchen

David Mkrtchyan  
Street Vendor

## A P P E A R A N C E S (CONTINUED)

Dr. Suzanne Wasserman  
Director  
Gotham Center for New York City History  
CUNY Graduate Center

Bob Zuckerman  
Executive Director  
Lower East Side BID

Renee Giordano  
Executive director  
Sunset Park BID

Ron Dwenger  
Chair  
Consents and Variances Committee  
Community Board 5

Michael Lambert  
Executive Director  
Jerome Gun Hill BID

Ralph Di Toro

Armando Crescenzi  
Veterans First, Ltd.

Dan Rossi  
Street Vendor

Cassandra Flechsig  
Green Cart Program Manager  
Karp Resources

Cindy VandenBosch  
Co-founder  
Urban Oyster

## A P P E A R A N C E S (CONTINUED)

Albert Loera  
Street Vendor

Mohammed Altaf Hussain  
Super Kennedy Fried Chicken and Pizza

Clementina Garcia  
Organizer  
VAMOS Unidos

Jeff Orlick  
Roosevelt Avenue Midnight Street Food Crawl

Baye Hanne  
Street Vendor

Brian Hoffman  
Midtown Lunch

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2 CHAIRPERSON GARODNICK: Good  
3 morning, everyone. Welcome to the Consumer  
4 Affairs Committee of the New York City Council.  
5 Today's date is Tuesday, April 24th. My name is  
6 Dan Garodnick, and I have the privilege of  
7 chairing this committee.

8 I am joined today by Council  
9 Members Melissa Mark-Viverito, Vincent Gentile,  
10 Steve Levin, and I'm sure we will be joined by  
11 others throughout the course of this hearing.

12 Street vending, which is the  
13 subject of today's hearing, has long captured New  
14 Yorkers' entrepreneurial spirit, from immigrants  
15 looking to make a living in their new country, to  
16 established brick and mortar store owners  
17 endeavoring to expand their businesses. Street  
18 vending is intricately woven into the fabric of  
19 New York City, contributing to our cultural  
20 diversity and overall economy.

21 Of course, street vending has also  
22 created many problems on our streets. For as long  
23 as vendors have existed, they have raised  
24 objections from brick and mortar businesses and  
25 some residents and there have been many efforts to

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regulate where and when they may sell their goods.

The rules over the years have gotten more complicated. Some say too complicated, for vendors, the police or community leaders to follow. The result, in some cases, is the issuance of thousands of violations with steep penalties that may never be collected by the city.

Residents complain about the noise, visual distractions and trash that vending brings to neighborhoods, as well as the dangers that crowded sidewalks impose on pedestrians when streets are lined with vendor trucks, carts and tables.

Brick and mortar store owners continue to site the injustices of competing with businesses that pay no rent because they use city streets and that set up shop in neighborhoods with no advanced notice to communities.

In short, vendors, residents and businesses are all frustrated by a system of rules and enforcement that is perceived as being unfair. That will be the focus of today's hearing, fairness: fairness to vendors, fairness to residents and fairness to brick and mortar

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businesses.

The committee has selected seven bills for today's agenda, each aimed at improving one aspect of either the rules that govern where vendors may or may not vend, the mechanism used to tie violations to permit renewals, the current fines and fine structure applied when those rules are broken, or the transparency of the adjudicatory process when violations are contested.

Intros 434 and 435, sponsored by Council Member Steve Levin, would reduce the maximum vendor fine to \$250 and would slow the escalation of fines respectively.

Intro 684, 727 and 789 all deal with permissible locations from which vendors may vend. Intro 684, which is sponsored by Council Member Gale Brewer, would prohibit food carts and trucks from vending within or abutting taxi stands. Intro 727 and 789, bills that I have sponsored, would also prohibit vending in certain locations. Intro 727 would apply a uniform 20 foot vending prohibition for all commercial buildings and for buildings that are exclusively

1 residential at street level. Intro 789 would  
2 prohibit vending on sidewalks abutting no-standing  
3 zones around hospitals.  
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5 Intro 817, a third bill that I have  
6 sponsored, would clarify existing law by requiring  
7 that a food truck or cart permit number is  
8 recorded on notices of violation issued to the  
9 license holders working under those permits.

10 Finally, Intro 16, sponsored by  
11 Council Member Melissa Mark-Viverito, would  
12 require that the Environmental Control Board  
13 provide quarterly reports to the City Council  
14 regarding the violations that it adjudicates.

15 So, we have a big hearing ahead.  
16 We look forward to hearing from many of you.  
17 Before we hear from the administration, who is  
18 here to testify as our first panel, I want to turn  
19 the microphone briefly over to a couple of my  
20 colleagues who have sponsored bills on today's  
21 agenda, and to recognize that we've been joined by  
22 Council Member Julissa Ferreras and Council Member  
23 Karen Koslowitz from Queens. Now, I'll turn to  
24 Council Member Steve Levin, who is the author of  
25 Intros 434 and 435. Councilman?

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2 COUNCIL MEMBER LEVIN: Thank you,  
3 Mr. Chairman for holding this important hearing  
4 today. With me here is a box of tickets that have  
5 been issued over the last year, just to give some  
6 kind of physical scale to what we are dealing with  
7 today. Chairman, I want to thank you for holding  
8 this important hearing today.

9 CHAIRPERSON GARODNICK: Were they  
10 all paid?

11 COUNCIL MEMBER LEVIN: No, they  
12 were not all paid, because the fines were too  
13 high. Chairman Garodnick, I want to thank you  
14 very much for holding this important hearing today  
15 and for allowing me the opportunity to speak on  
16 Intros 434 and 435.

17 Intro 434 reduces the maximum fine  
18 from \$1,000 to \$250 for infractions of the vending  
19 code. Intro 435 defines unrelated violations of  
20 vending rules as separate offenses. Together,  
21 these bills will restructure the penalty system  
22 for street vendors and align fines with the  
23 penalties for other businesses throughout New York  
24 City.

25 The complexity of the vending code

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is mind boggling for both the vendors themselves and the officers in charge of enforcement. The quote/unquote "alphabet soup" of agencies with oversight over vending issues and the confusing and almost contradictory nature of some of their rules, coupled with the lack of an educational program for vendors or for the police, leads to enormous confusion and expensive and often unwarranted fines.

For a vendor making \$14,000 a year, fines of up to \$1,000 for non-health related infractions are extremely prohibitive and punitive. And IBO report released last year and a recent study by the University of Wisconsin showed just how few vendors are actually able to pay these expensive fines.

The City of New York spends \$7.4 million to dole out about 25,000 to vendors each year, which results in \$9 million in fines levied on our city's smallest businesses in 2009. The majority of these tickets were given out for minor violations, such as having one's license tucked into their jacket, not for violations that endanger the public's health or safety in any way.

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2                   However, the city only collected  
3 \$419,852, a fraction of what it spends on  
4 enforcement from the tickets in that same year.  
5 This isn't because vendors are a group of  
6 scofflaws. Most vendors are law-abiding citizens  
7 simply trying to make a living. But they cannot  
8 afford to pay these outsized fines. By reducing  
9 the maximum fine from \$1,000 to \$250, vendors will  
10 be able to pay their tickets and not risk losing  
11 their license.

12                   Additionally, unlike most other  
13 penalty scheduled, the vending code allows tickets  
14 to increase for unrelated offenses. For example,  
15 if a vendor is found to be too far from the curb,  
16 he can be given a fine of \$50 for his first  
17 offense.

18                   If that vendor is also not wearing  
19 his license conspicuously, he will also be given a  
20 fine for \$100, the penalty for a second offense,  
21 even though he had not been ticketed for that  
22 offense previously. It is the equivalent of  
23 receiving a more expensive parking ticket for  
24 parking in a bus stop simply because you once  
25 reduced a parking ticket for not properly

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displaying a muni-meter receipt.

The escalating fine structure means that vendors often reach the \$1,000 maximum fine very quickly. Intro 435 will change this structure.

At first glance, sky high fines might seem like a deterrent to illegal behavior, but as the University of Wisconsin study released this morning points out, street vendors are much less likely to pay the fines that are over \$800. In fact, fines that were \$399 or less were paid 47 percent of the time, whereas fines of over \$800 were only paid 7 percent of the time.

By lowering the maximum fine to \$250 and changing the escalating penalty structure, the city will actually recoup more of the \$7.4 million spent on enforcement each year. The vending code needs to be updated in order to reduce confusion and starting with the fine structure is an important first step.

I look forward to working with Chairman Garodnick, other members of this committee and the Department of Consumer Affairs to ensure that all business owners, including

1  
2 street vendors are treated fairly. Thank you, Mr.  
3 Chairman, for your time.

4 CHAIRPERSON GARODNICK: Thank you,  
5 Council Member Levin. Now, I'll turn to Council  
6 Member Mark-Viverito.

7 CHAIRPERSON GARODNICK: Thank you,  
8 Mr. Chair. I want to begin by thanking you, Chair  
9 Garodnick, for holding this hearing, which I think  
10 is very important. And also to thank all the  
11 members of the public who are here today.

12 I'm Council Member Melissa Mark-  
13 Viverito. I'm here in support of my bill, Intro  
14 16-A, as well as Intro 434 and 435, sponsored by  
15 Council Member Levin, which I have co-sponsored.

16 Street vendors have been part of  
17 the fabric of New York City life for generations.  
18 Since the earliest days of the city, new  
19 entrepreneurs started selling their wares from  
20 pushcarts in order to earn a living and support  
21 their families. Successful street vendors have  
22 then branched out into more permanent stores.

23 They also don't necessarily compete  
24 with established businesses. Street vendors tend  
25 to sell smaller, more limited merchandise compared

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2 to brick and mortars stores. According to one  
3 study, here in New York, by Professor John Gaber  
4 [phonetic], street vendors actually help establish  
5 stores by contributing to our vibrant street life  
6 and drawing more people to walk our neighborhood  
7 sidewalks. These small entrepreneurs make New  
8 York a vibrant city and help all businesses.

9           Instead of supporting these hard  
10 working entrepreneurs, however, the city has too  
11 often resorted to aggressive enforcement. I've  
12 said this over and over, I believe that these  
13 excessive fines are criminalizing the work of  
14 those who come here, contribute to our city, make  
15 our city what it is. Criminalizing hard work is  
16 not something that I would support and it's not  
17 something I don't think that the City of New York  
18 should be supporting.

19           Despite the rising demand for  
20 vending licenses, the city has kept the cap on  
21 vending licenses the same for decades. They also  
22 face punitive fines for small violations, which  
23 can easily mount into the thousands of dollars,  
24 fines that the vendors can't afford to pay.

25           As indicated, there was a study

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2 that was released this morning that shows that  
3 when we do lower the fines, in fact it will  
4 generate more revenue for the City of New York.  
5 Because, as mentioned, the vendors are hard  
6 working individuals who want to abide by the laws  
7 and want to pay their fines.

8           The Environmental Control Board is  
9 also not required to disclose the fines it  
10 imposes. So, Council Member Levin's bills would  
11 lower the fines to more reasonable rates, and my  
12 bill would require that the Environmental Control  
13 Board report vendor fines on a quarterly basis,  
14 which will provide for greater accountability and  
15 transparency.

16           In essence, these bills will make  
17 it easier for entrepreneurial street vendors to  
18 support their families and succeed in New York  
19 City.

20           I look forward to discussing these  
21 and other issues related to vending. I want to  
22 thank Speaker Quinn and Chair Garodnick, again,  
23 and hope this legislation advances through the  
24 hearing and to the full City Council for a vote.  
25 Thank you.

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2 CHAIRPERSON GARODNICK: Thank you,  
3 Council Member. I want to note, we've been joined  
4 by Council Member Domenic Recchia of Brooklyn.  
5 With that, we are going to turn to our first panel  
6 of the day, which will include Kathleen McGee, who  
7 is the Director of the Mayor's Office of Special  
8 Enforcement. Ms. McGee, if you wouldn't mind,  
9 when you get started, introducing the rest of the  
10 representatives who are there at the witness table  
11 with you. Welcome.

12 KATHLEEN MCGEE: Of course. Thank  
13 you. Good morning, Chair Garodnick. It is on.  
14 Sure, is this better? Good. Good morning,  
15 members of the committee and Chair Garodnick. My  
16 name is Kathleen McGee, as noted I'm the Director  
17 of the Mayor's Office of Special Enforcement.

18 I'm joined by Lieutenant Dan Albano  
19 of the New York City Police Department; Assistant  
20 Commissioner Robert Edman of the Department of  
21 Health and Mental Hygiene; Environmental Control  
22 Board Executive Director and Office of  
23 Administrative Tribunals and Hearings Deputy  
24 Commissioner Julio Rodriguez; and Director of City  
25 Legislative Affairs, Erik Joerss of the Department

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of Consumer Affairs.

Thank you for the opportunity to testify on the seven bills before the committee today.

The Office of Special Enforcement is responsible for coordinating enforcement efforts across City agencies to address quality of life issues. Vending is one such issue, so I am here to present the Administration's response to the legislation.

Upon conclusion of my written remarks, my colleagues and I will be happy to take your questions regarding our positions on the bills.

Introductory Number 16-A would require the Environmental Control Board to issue quarterly reports to the Council detailing vending violations and dispositions of those violations for the previous quarter. The Administration supports this proposal.

Introductory Number 817 would require Notices of Violation issued by health sanitarians and police officers for food vending violations to include the permit number of the

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2 food truck or pushcart from which the violation  
3 occurred. Currently, Notices of Violation for  
4 civil infractions have a location where a DOHMH  
5 employee or police officer could write a truck or  
6 cart's decal number. Similar to the permit  
7 number, the decal number is a unique identifier  
8 specific to the individual cart and can also be  
9 used to identity the permit holder.

10 In the weeks ahead, the Department  
11 of Health will promulgate rules to streamline and  
12 clarify some of their vending rules, and while  
13 DOHMH currently includes decal numbers in their  
14 NOVs, we expect to propose a rule change to  
15 clarify this to include permit numbers instead of  
16 decal numbers. We therefore support the Council's  
17 efforts to codify this practice into law, but note  
18 that a parallel change to the form of criminal  
19 summonses is not within the City's power to  
20 effectuate.

21 The next three bills, Introductory  
22 Numbers 684, 789, and 727, would add further  
23 restrictions to where vending is permitted in the  
24 five boroughs. Intro 684 would prohibit vendors  
25 from working within or against taxi stands; Intro

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2 789 would prohibit vending within the sidewalk  
3 abutting no-standing zones adjacent to hospitals;  
4 and Intro 727 would clarify the current  
5 prohibition on vending within building entryways,  
6 adding service entrances and exits and  
7 standardizing at 20 feet the distance from  
8 entrances and exits from which both general  
9 vendors and food vendors can sell their wares.

10 The Administration supports the  
11 intent of these proposals, as we expect that they  
12 would reduce confrontation and sidewalk  
13 obstruction in heavily trafficked areas. We look  
14 forward to working with committee staff to refine  
15 the language of these bills.

16 The final bills, Introductory  
17 Numbers 434 and 435, would, respectively, cap the  
18 maximum penalties for multiple vending violations  
19 and limit the circumstances in which graduated  
20 penalties are assessed for multiple violations.  
21 Across the City, compliance with the vending rules  
22 and laws is poor at best, and complaints continue  
23 to be very high. Therefore, we do not support  
24 decreasing penalties for vending violations.

25 The Administration would support,

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2 however, clarifying the statute to reflect ECB's  
3 current practice, which ensures that notices of  
4 violations issued on the same day carry the same  
5 penalty level.

6 Thank you for the opportunity to  
7 testify. We are available to answer any questions  
8 the Committee has at this time.

9 CHAIRPERSON GARODNICK: Thank you  
10 very much. Before I turn to my colleagues, let me  
11 just ask you a couple of points about your  
12 testimony. First, and I think that we probably  
13 will spend most of our time, I suspect, in this  
14 panel talking about 434 and 435, because the  
15 Administration was very supportive of all the  
16 other bills on the agenda, and we appreciate that.

17 Let's just talk about Intro 817 for  
18 a moment, about tying the licenses to the permits.  
19 You noted that today there is a decal number that  
20 is associated with a particular cart and that it  
21 is similar to a permit number. Can you explain to  
22 us exactly how a decal number relates to the  
23 permit number and as it relates to a particular  
24 licensee who is working with that cart at that  
25 time? Help us understand the interrelationship

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there.

KATHLEEN MCGEE: I'm going to defer to Assistant Commissioner Edman for that.

ROBERT EDMAN: Good morning. There are three numbers associated with each cart, each vending unit. One is the permit number. The other is what we refer to as the CAMIS number. Both those numbers are--

CHAIRPERSON GARODNICK:  
[interposing] I'm sorry. What did you say the second one was?

ROBERT EDMAN: CAMIS number.

CHAIRPERSON GARODNICK: CAMIS?

ROBERT EDMAN: Yes, C-A-M-I-S.

CHAIRPERSON GARODNICK: Okay, and then the third one?

ROBERT EDMAN: Is a decal. The decal, all of those numbers, all three numbers are unique to that unit. The CAMIS number is a system generated number that's unique to that unit. The permit number is also unique to that unit. The decal number, when it's placed on the unit by after an inspection, is also unique to that unit.

Either of those numbers by

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2 themselves track back to the other two. So if  
3 there's a CAMIS number, we can track back to the  
4 permit and the decal and vice versa. They're  
5 essentially interchangeable.

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Now, whenever a summons is written,  
7 the summons is issued to the vendor on the unit.  
8 That vendor's name is on the summons. That  
9 vendor's CAMIS number is on the summons. The  
10 decal number of the unit is on the summons. So,  
11 therein lies the tie between the unit, the decal  
12 and the vendor and the vendor's CAMIS number.

13

As was testified, if the choice is  
14 to actually list the permit number, we would  
15 support that. It essentially gives the same  
16 information.

17

CHAIRPERSON GARODNICK: Today, when  
18 a permit comes up for renewal, a permit holder  
19 needs to resolve any outstanding fines and  
20 penalties associated with their carts before the  
21 permit is renewed. Is that correct?

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ROBERT EDMAN: Yes, there are  
23 certain fines that have to be addressed, yes.

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CHAIRPERSON GARODNICK: Do they  
25 similarly need to resolve issues if there is an

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outstanding fine related to a CAMIS number or a decal?

ROBERT EDMAN: Yes, that's essentially the same thing as the permit.

CHAIRPERSON GARODNICK: Okay. At the moment of the permit's renewal, is there a way for the renewing authorities to determine whether there are outstanding penalties associated with the CAMIS number or the decal?

ROBERT EDMAN: Yes. I might defer to my colleagues from DCA. But they have access to the systems that allow them to get that information as to whether there are outstanding fines that are owed to the ECB.

CHAIRPERSON GARODNICK: Does anybody else want to take a shot at that?

ERIK JOERSS: As he said, we are on that same CAMIS system. So the fines there should be accessible to it, that are connected to the permits.

CHAIRPERSON GARODNICK: Okay. We have the good fortune of Council Member Levin having brought 7,000 vendor permits to this hearing, so we have the violations and we'll send

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2 a couple of samples over to the witness table just  
3 for you all to identify for us exactly how this  
4 gets tied to the permit. Obviously, what our goal  
5 here is to ensure that the owner of the permit is  
6 self-policing their own licensees and the folks  
7 who are actually operating out there every day.

8 We talk about all of the  
9 complication of vendor rules and we talk about  
10 enforcement and confusion for vendors, confusion  
11 for BIDs, confusion for communities, but the folks  
12 who are in the best position to actually make sure  
13 that the rules are being followed are the folks  
14 who at the end of the day will have to be liable  
15 for fines that are incurred by the workers on that  
16 cart.

17 So we're glad you all are  
18 supportive of the change. It sounds like you're  
19 willing to make some of these changes at this  
20 point by rule, which we also appreciate. But it's  
21 still not entirely clear to us how those questions  
22 are resolved at the point of permit renewal today.

23 ROBERT EDMAN: Sure, we'd be happy  
24 to.

25 CHAIRPERSON GARODNICK: Thank you.

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2 We'll pass those along. Let me also ask the  
3 question here about the criminal summonses. Ms.  
4 McGee, can you or one of the other folks on the  
5 panel explain to us the distinction here between  
6 the criminal and the civil fines that vendors  
7 could be subject to?

8 LT. DANIEL ALBANO: Good morning,  
9 Dan Albano from the Police Department. When we  
10 issue a criminal court summons, the summons is  
11 returnable, obviously, to criminal court. What we  
12 don't have on a criminal court summons, the space  
13 to write a permit number in addition to any  
14 license number that the vendor might have, the  
15 permit number for the truck.

16 The city doesn't have control over  
17 the format for a criminal court summons. That  
18 would require a change up in Albany.

19 CHAIRPERSON GARODNICK: So your  
20 point here is that in order to accomplish that  
21 we'd need state legislative action. Just give us  
22 a sense of the different types of penalties or the  
23 different types of violations that we're talking  
24 about that would yield a criminal as opposed to a  
25 civil complaint.

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2 LT. DANIEL ALBANO: The criminal  
3 court summons could be used for any of the general  
4 vending regs. The violation of the size and  
5 placement restrictions all have a corresponding  
6 criminal penalty which is identical to the civil  
7 penalty, but we just have it returnable to  
8 criminal court.

9 CHAIRPERSON GARODNICK: You have an  
10 option essentially?

11 LT. DANIEL ALBANO: Yes, sir.

12 CHAIRPERSON GARODNICK: Ms. McGee,  
13 let's go back to you for a second on 434 and 435,  
14 and then I'm going to go to my colleagues, and  
15 we'll start with Council Member Levin.

16 You noted that across the city,  
17 compliance with vending rules and laws is poor.  
18 Could you say a little bit more about what you  
19 mean by that and what you would regard as poor  
20 compliance? And also, why you believe compliance  
21 is poor?

22 KATHLEEN MCGEE: Well, I am going  
23 to defer to some of the additional panelists here.  
24 But I would start by saying that the Mayor's  
25 Office of Special Enforcement, as well as PD and

1  
2 the other agencies represented here today,  
3 continue to receive high levels of numbers of  
4 complaints regarding vending, particularly illegal  
5 vending here in New York City. It's our  
6 responsibility then to go out and address those  
7 complaints through inspections.

8 The results of those inspections  
9 can be violations issued either by criminal court  
10 summons or by ECB violation. I'll defer to Dan  
11 Albano regarding the statistics that he had at  
12 hand.

13 LT. DANIEL ALBANO: I have  
14 statistics for our enforcement efforts, but I do  
15 not have statistics for the number of complaints,  
16 but they are, as the Director testified, quite  
17 high. It's a constant source of community  
18 complaints at precinct, City Council meetings and  
19 other forums that the Police Department interacts  
20 with the public.

21 CHAIRPERSON GARODNICK: 311 data  
22 should be available to us for complaints about  
23 vendors. Is that available to us at today's  
24 hearing?

25 KATHLEEN MCGEE: I don't believe we

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2 have it today, but we will get that to you  
3 forthwith.

4

CHAIRPERSON GARODNICK: Because  
5 certainly, we're talking about compliance with  
6 vending rules being poor and also complaints being  
7 high, certainly being able to understand exactly  
8 what that means for complaints to the city through  
9 311, that would be very useful and we'd appreciate  
10 your follow up on that.

11

Also, the complaints, are they  
12 complaints about legal vendors doing illegal  
13 things? I'm sorry, legal vendors doing illegal  
14 things or are they complaints about illegal  
15 vending? Can you break those down for us?

16

KATHLEEN MCGEE: We'll look at see  
17 what the data is coming into 311. I can tell you  
18 anecdotally it's both.

19

CHAIRPERSON GARODNICK: If you  
20 could just repeat that answer. Some of the folks  
21 in the audience couldn't hear you so well.

22

KATHLEEN MCGEE: We will look into  
23 the breakdown on 311 as to how that information is  
24 presented. But I can tell you anecdotally it is  
25 both. It is both legal vendors doings illegal

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things and illegal vendors vending illegally.

CHAIRPERSON GARODNICK: We're going to hear more about the fine structure and the fact that it is difficult for vendors to pay very high fines in certain circumstances. Even a thesis that perhaps if we were to lower fines that it might yield greater recovery to the city because there would be more of a chance for a vendor to essentially stay alive in the business and not simply have to pack it up, pack it in because the fines were beyond their ability to even conceive of paying. Can you address that and respond whether you agree/disagree and why on both?

KATHLEEN MCGEE: Well, I'd say at this point I think the Administration's position vis-à-vis these two introductory bills is clear, as stated in my testimony previously. However, I would say that you referenced earlier a study that came out today. I think we'd certainly be interested in reading that study. But at this point, we take no position on whether or not lowering fines would, in fact, be more of a deterrent, if that's--

CHAIRPERSON GARODNICK:

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[interposing] Well actually--

KATHLEEN MCGEE: --the people would be willing to pay.

CHAIRPERSON GARODNICK: --I think the thesis is that it would yield more payment to the city. Obviously, the report was just released today, but we would like a formal response from the Administration on that because it certainly would aid us in our consideration of these bills. Can we ask you for that?

KATHLEEN MCGEE: Certainly. We'd welcome the opportunity to review that.

CHAIRPERSON GARODNICK: Good. Thank you. Now, I'm going to turn to Council Member Levin, and to note that we've been joined by Council Member Koppell.

COUNCIL MEMBER LEVIN: Thank you, Mr. Chairman. So I'm going to just kind of cut right to it. You know, I approached this issue when I introduced these two pieces of legislation, along with several of my colleagues, about a year and a half ago. I met with a group of vendors and they described to me what's actually happening. What struck me was that there's an issue of

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fairness.

So I just want to ask, does the Bloomberg Administration think that it is fair for a vendor who makes \$15,000 a year and lives in New York City, with how expensive it is to live in New York City, so \$15,000 a year. Does the Bloomberg administration think it's fair for that vendor to receive \$1,000 fine for not properly displaying a license, even though they have it tucked into their jacket? Is that fair? Does that strike you; I mean it's a gut check question. Does the Bloomberg administration think that that's a fair thing for somebody to pay one-fifteenth of their yearly income on a violation like that?

KATHLEEN MCGEE: I can tell you I'm not prepared to answer that sort of hypothetical today. What I can tell you is that the city's--

CHAIRPERSON GARODNICK:

[interposing] Hold the answer for one second. I just want to make this point right off the bat. You're going to hear some things you're going to like. You're going to hear some things you won't like. The hearing just has to be without reaction. This is an environment in which we are

1  
2 here to hear everybody's views on the subject,  
3 whether we like them or not. So I would just ask  
4 the folks who are here today and certainly my  
5 colleagues to please treat this hearing with that  
6 level of decorum. Please, go ahead.

7 KATHLEEN MCGEE: Thank you. What I  
8 can tell you with respect to the two introductory  
9 bills before us, Intros 434 and 435, is that the  
10 Administration has indicted in my testimony today,  
11 we are more than willing to sit down with Council  
12 and support clarifying the statute to reflect what  
13 is already current practice, that is fairness in  
14 violations issued on the same day.

15 COUNCIL MEMBER LEVIN: I do  
16 appreciate that effort. I, with all due respect,  
17 disagree that it addresses the real issue. I have  
18 a question, why don't we, as a city, if we're  
19 going to do this, if we're going to allow  
20 escalating--so 435 addresses the issue of  
21 escalating fines for unrelated offenses, whether  
22 they're the same day or whether they're not the  
23 same day. Why do we do this for vendors when we  
24 don't do it for something like parking tickets?

25 Why is that I do not get an

1  
2 escalating fine for my muni-meter violation even  
3 though I may have gotten a ticket previously for  
4 parking in front of a fire hydrant? Why is a fire  
5 hydrant--parking in front of a fire hydrant is  
6 actually pretty serious. You can block a fire  
7 truck from accessing a fire hydrant in the case of  
8 a fire. That's a pretty serious thing to do.  
9 That's \$115 fine every time you do it, every  
10 single time you do it.

11 Why then would a vendor get  
12 escalating fines for things like being too far  
13 from the curb or being too close to the entrance  
14 of a building or being too close to the curb or  
15 not properly displaying their license? I don't  
16 understand why they get the escalating fines but  
17 the general population doesn't. Why is that?

18 KATHLEEN MCGEE: Well, if we're  
19 comparing to motor vehicle parking infractions, I  
20 could tell you that repeated incidents on the same  
21 vehicle over the course of not just one day but  
22 multiple days would result, for example, in a car  
23 being towed from that location, which could be  
24 considered a higher penalty.

25 COUNCIL MEMBER LEVIN: No, no. For

1  
2 separate offenses on separate days in separate  
3 locations, if you don't pay your fines you  
4 eventually might get your car towed. But you're  
5 not getting an increased fine every time your  
6 muni-meter is expired or you don't display your  
7 muni-meter or you're parked in front of a fire  
8 hydrant or you're parked in front of a bus stop.

9           What I'm getting at is this: if you  
10 were to try to do that, if we were to try to do  
11 that as a City Council and try to introduce  
12 escalating fines to the general population because  
13 of their parking tickets, there would be riots in  
14 the streets. We would all get un-elected. There  
15 is no possible way that this body would ever do  
16 that. I don't think that the Bloomberg  
17 administration would support such an action.

18           Because the general population,  
19 which has political clout, because we all got to  
20 get reelected, we would not do it, but why is it  
21 that the street vendor population faces such  
22 things? I don't understand why that is.

23           It's the question that I asked a  
24 year and a half ago and I still can't figure it  
25 out.

1  
2 KATHLEEN MCGEE: I'll defer to Dan  
3 Albano from the NYPD to perhaps help out.

4 LT. DANIEL ALBANO: If I could draw  
5 an analogy. When a car is illegally parked, the  
6 summons is issued to the car. Of course the  
7 liability goes back to the owner of the car. But  
8 we can't tell who parked that car illegally each  
9 time. It could be a different driver. Look at  
10 the situation with going through a red light and  
11 the red light camera catches you. That fine is  
12 significant lower because it's to the vehicle  
13 owner, the registered owner of the vehicle as  
14 opposed to when a policeman observes you go  
15 through a red light, pulls you over, and issues a  
16 summons. That summons is to the driver and it's a  
17 higher fine.

18 Similarly in the VTL, the vehicle  
19 and traffic law, certain moving violations like  
20 speeding, going through red lights, blowing past  
21 stop signs, they have a higher fine, or they have  
22 a recidivist scheme where each time the driver is  
23 convicted of that, the fine could potentially go  
24 up. That's not the case with parking violations  
25 because we don't know who was behind the wheel of

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the car and illegally parked the car.

COUNCIL MEMBER LEVIN: That's a question of personal liability. That you're observing the vendor doing it and that's why?

LT. DANIEL ALBANO: Well, it's the same vendor. You're writing the summons to that particular vendor, like--

COUNCIL MEMBER LEVIN:  
[interposing] The same owner of the car. I mean the car owner is the car owner. I own a car. I got liability--I mean I accept the liability of owning that car. Part of that liability in New York City is getting parking tickets. I mean that's the cost of living in New York City and owning a vehicle. I mean in real terms, I mean just--that would be an awfully convenient excuse for any car owner that it's your car, you own it, but you can't prove that you didn't park it the night before.

LT. DANIEL ALBANO: And the fine stays the same each time the car is illegally parked.

COUNCIL MEMBER LEVIN: Right, that's not my point.

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LT. DANIEL ALBANO: But that's not the case with the operator of a vehicle. Under the traffic law, when the operator of a vehicle commits a moving violation, the fine goes up.

COUNCIL MEMBER LEVIN: So every time--how about talking on a cell phone while you're driving? That's not the same fine every time? That's the same fine every time?

LT. DANIEL ALBANO: I'm not sure, sir.

COUNCIL MEMBER LEVIN: I'm pretty sure it is. But my point is this: it's still not \$1,000. It's still not \$500. These are vendors making \$15,000 a year, getting \$1,000 or a \$500 fine for innocuous things. I mean that's the outrage here is that the punishment does not fit the crime. That's a constant. There has to be some correlation between the punishment and the crime. The violation like not properly displaying, having your license in your pocket instead of around your neck, that is not commensurate with \$1,000 fine. I mean I think that that's common sense.

Anyway, I'll just move on to the

1  
2 issue that came out in the report today. I know  
3 that you haven't really had a chance to really  
4 look at it. It's pretty clear that of the tickets  
5 that were issued that were over \$800, 7 percent  
6 were paid. Of the tickets that were issued  
7 between \$400 and \$799, that was 25 percent of the  
8 time that those were paid. Of the tickets that  
9 were up to \$400, 47 percent of the time those were  
10 paid.

11 So I want to know, what evidence  
12 does the city have that the higher fines that were  
13 implemented acted as a deterrent? If they're not  
14 being paid because they're astronomical--I mean  
15 for somebody, again, making \$15,000 a year, to pay  
16 a fine of over \$800, the reason they're not being  
17 paid is that people can't afford to pay them.

18 So what evidence does the city  
19 have? I mean, you mentioned deterrent. What  
20 evidence do you have that it actually acts as a  
21 deterrent? Do you have any evidence to back this  
22 up?

23 KATHLEEN MCGEE: We don't have any  
24 evidence before us that it is an incentive to  
25 continue with bad behavior, nor that it is a

1  
2 deterrent. But certainly at this point, we don't  
3 see that lowering the penalties is going to  
4 increase compliance. Again, we welcome the  
5 opportunity to review the study that just was  
6 mentioned today for the first time and to come up  
7 with an administrative position on it and to  
8 evaluate it in light of the testimony given today.

9 COUNCIL MEMBER LEVIN: It would  
10 follow, I mean this is a percentage of tickets  
11 being levied that are being paid. If you're  
12 averaging about half of them being paid, I mean  
13 obviously that's not ideal. You want 100 percent  
14 compliance. But it's a lot higher than 8 percent  
15 or 7 percent.

16 So I really do hope that you do  
17 take a look at that because it's in the city's  
18 interest. I mean this is a question where now  
19 we're looking at what's in the interest of the  
20 City of New York. If we're talking about over \$7  
21 million being spent annually on enforcement and  
22 only \$400,000 being collected, the system is  
23 really not working. If the higher fines are only  
24 getting a collection of 8 or 7 percent, I mean  
25 that's just not working. There's something wrong

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with that and I think we need to take a clear-eyed look at that.

I want to ask, on average how many vendors per year are failing to renew their license?

ERIK JOERSS: Erik Joerss for DCA. I can tell you in the last year we had about 100 that did not renew.

COUNCIL MEMBER LEVIN: A hundred that did not renew.

ERIK JOERSS: Yeah.

COUNCIL MEMBER LEVIN: Has DCA done a study as to why vendors are not renewing?

ERIK JOERSS: And that's on general vendors.

COUNCIL MEMBER LEVIN: How about food vendors?

ERIK JOERSS: Food vendors, I don't have that. I'll defer.

ROBERT EDMAN: Bob Edman, Department of Health. We currently do not have those numbers in front of us at this time as to the number of food vendors that do not renew their license.

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2 COUNCIL MEMBER LEVIN: I would be  
3 interested to know that number. Has DCA done a  
4 study though to ascertain why vendors are not  
5 renewing their licenses? Do we know why, if 100  
6 general merchandise vendors are not renewing their  
7 license, do we know why they're not? Do we have a  
8 sense of maybe are those vendors, those that--

9 ERIK JOERSS: [interposing] We have  
10 not commissioned; we have not done any kind of  
11 study on it. I imagine it's for a myriad of  
12 reasons.

13 COUNCIL MEMBER LEVIN: Do we have a  
14 sense of whether or not those vendors owe a lot of  
15 fines and that's why they're not renewing their  
16 licenses?

17 ERIK JOERSS: We haven't looked at  
18 that.

19 COUNCIL MEMBER LEVIN: That would  
20 be something that would be important to know if  
21 we're looking at the issue. What is the average  
22 amount of fines owed by vendors? Do you know the  
23 average amount of fines owed?

24 ERIK JOERSS: No.

25 COUNCIL MEMBER LEVIN: What type of

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education or training program does the Department of Consumer Affairs administer before granting new permits for general vendors?

ERIK JOERSS: Well, on our website, before you even get licensed, all of the regs and laws that are applicable are available in a downloadable, portable or downloadable handout. In the licensing packet itself when you do become licensed, those applicable laws and regulations are also in the packet.

COUNCIL MEMBER LEVIN: Okay. But you guys have said that it's complex, right? It's a complex system of codes?

ERIK JOERSS: Sure.

COUNCIL MEMBER LEVIN: So does DCA have a training program? I mean when we go into-- City Council candidates in the campaign finance board, and it's complex, a complex set of rules. We have to go into a training and they have to train us because if they just give us the stuff, the compliance is going to be all out of whack. So we actually have to go through a training. You can have a training session with 25 people. I mean you can actually probably do it in a cost

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effective manner so you're not going like, I mean it's not a tutorial system necessarily.

Why are we not doing a training program?

ERIK JOERSS: Well, I would say--

COUNCIL MEMBER LEVIN:

[interposing] If it's so complex, because the issue is that vending community, a lot of vendors are from immigrant communities, from all over the world. And they're coming here first generation, this is their first opportunity to have their own business in America. This is their first opportunity to have their own business in New York City. And really, this is a way in which they're moving up the ladder economically in this country.

But English is very often not their first language spoken. And so with such a complex set of rules, why does DCA not have a pretty robust training program, because that could probably help with compliance.

ERIK JOERSS: Well I would say a couple of things. I would say the campaign finance board analogy, public funds are given to candidates running for office, which is probably

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why that kind of training is put into place.

DCA licenses 55 different categories. We also enforce the Consumer Protection Law. To put in robust training programs, I imagine just about every one of those categories could make a good case where they should have it. I'm not sure resources are available to have 55 trainings for all license categories and trainings on the CPL itself.

COUNCIL MEMBER LEVIN: I wanted to ask, back to the fine structure, I think this is my last one for now. Back to the escalating fine structure, regarding separate violations. Brick and mortar restaurants, for example, and brick and mortar stores, general merchandise stores, do they face the same type of escalating fine structure?

ERIK JOERSS: Do you want to go with restaurants?

ROBERT EDMAN: In so far as restaurants are concerned, the Health Department prescribes a minimum and maximum fine amount for violations of the Health Code. That ranges from \$200 to \$2,000 per violation per day.

COUNCIL MEMBER LEVIN: But do they

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necessarily escalate for unrelated non-health related fines?

ROBERT EDMAN: Not at this time.

No, they don't.

COUNCIL MEMBER LEVIN: Okay. Thank you, Mr. Chairman. I appreciate it. Thank you all very much.

CHAIRPERSON GARODNICK: Thank you, Council Member Levin for your very good questions. I want to recognize, and I'm sorry I didn't do it before; Council Member Brewer has joined us. She is, as I noted at the outset, sponsor of one of the bills on today's agenda. We're going to go to Council Member Melissa Mark-Viverito for questions.

COUNCIL MEMBER MARK-VIVERITO:

Thank you, Mr. Chair. You know, I've got to say I'm very disturbed by what I'm hearing. Let me ask a question. I don't know who's going to answer. Obviously the fact that you have to kind of lobby amongst yourselves about who is going to answer is clearly one of the concerns we have, some of us, about the way that licenses are issued and the oversight and issuing of violations.

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2                   What would you say is the aim of  
3 this find structure? Is it correcting behavior or  
4 is it deterring hard working members of our  
5 society in our city from working? Is it a  
6 deterrence to correct behavior or is it a  
7 deterrence--

8                   CHAIRPERSON GARODNICK:

9 [interposing] Sorry. Council Member?

10                   COUNCIL MEMBER MARK-VIVERITO: Is a  
11 deterrent from people--

12                   CHAIRPERSON GARODNICK:

13 [interposing] Council Member, hold for one moment.  
14 I'm sorry; I need to interrupt your flow. I'm  
15 sorry I need to do it, because you're asking  
16 important questions. We have a lot on the agenda  
17 today and I have to slow this all down and stop it  
18 every time we have reaction. So, please, I just  
19 ask, out of deference to the questioner and to the  
20 folks who are here testifying, who will be many of  
21 you in a few minutes, to please just refrain from  
22 the public reaction to the questions or to the  
23 answers. Council Member, I'm sorry to interrupt  
24 you.

25                   COUNCIL MEMBER MARK-VIVERITO: I'll

1  
2 repeat it. Thank you, Mr. Chair. What is the aim  
3 of the current fine structure when it comes to our  
4 street vendors? Is it to deter people from  
5 working or is it to correct behavior? I want to  
6 hear what the answer is from the administration.  
7 Because I'll give you my answer but I want to hear  
8 the official response.

9 KATHLEEN MCGEE: The purpose of  
10 this law enforcement scheme, as with other law  
11 enforcement schemes promulgated by the city is to  
12 ensure compliance with the laws and to deter  
13 illegal behavior.

14 COUNCIL MEMBER MARK-VIVERITO:  
15 Well, I don't agree that that's the case. I think  
16 that this is, again, another effort by this  
17 administration to criminalize the poor in this  
18 city. That's what this is about. Because I think  
19 that Council Member Levin hit the nail on the head  
20 when he talked about the inconsistencies. There  
21 is no escalating fine structure when it comes to  
22 other industries. But the hard working people who  
23 are out there on the street, trying to provide for  
24 themselves and their family are being  
25 criminalized. We are trying to force people off

1  
2 the streets, trying to force people out of work.  
3 That is what this is doing.

4 I don't know if you saw the report  
5 last week that was issued, or two weeks ago, the  
6 poor in this city is growing, it is growing. So  
7 anyone that is attempting to work, to provide for  
8 their families, that should not be criminalized  
9 behavior. We should be encouraging people to work  
10 in this city and supporting people to work.

11 It is a scheme, as you talk, it is  
12 a scheme. I get very angry, because I'm very  
13 passionate about social injustice in this city.  
14 There is great injustice in this city,  
15 particularly when you look at the faces--I would  
16 love you to look at the faces of the vendors in  
17 this room. These are people that are working in  
18 this city and they're trying to provide and they  
19 contribute a lot in many different ways. So that  
20 was my first question.

21 The other question I have is that  
22 in 2006, if I'm not mistaken, the penalty schedule  
23 for vendors increased to \$1,000. That wasn't too  
24 long ago. What was it before that? That was  
25 when, my understanding, the fines were increased

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to \$1,000, right? What was it before that?

KATHLEEN MCGEE: I don't have that information. It was certainly lower, but I don't have that information for me at this time.

COUNCIL MEMBER MARK-VIVERITO: Yes?

JULIO RODRIGUEZ: Good morning. I'm Julio Rodriguez from the Environmental Control Board. I believe that before 2006, the maximum fine was \$250.

COUNCIL MEMBER MARK-VIVERITO:

Okay. So then, you know, here we go, we have a dataset. Why has there been no comparison done as to the percentage of fines that were paid when it was at \$250. Now you've implemented a fine of \$1,000. Has there been any analysis done as to the percentage of fines that were paid when the fees were lower versus since you've been implementing it in 2006? Has there been any analysis and study done to that effect?

JULIO RODRIGUEZ: Again, in preparation for this hearing, what we did here at the Environmental Control Board is we went through our records to see the number of violations that were issued per year from 2005 through 2011. But

1  
2 before I go into that, I just want to state that  
3 at the Environmental Control Board and at OATH,  
4 our mission is fair and timely hearings. So in  
5 regards to the amount of the fines, that is sort  
6 of irrelevant for our purposes. Whatever is in  
7 the law is what we will adjudicate and we're held  
8 to.

9 I'll give you some of the  
10 statistics. In 2005, for example, my information  
11 is that there were approximately 28,000 violations  
12 issued, and out of those 28,000 violations issued,  
13 there were approximately \$9 million in imposed  
14 fines. Out of the \$9 million that were imposed,  
15 approximately \$979,000 was collected. So that's  
16 roughly 10 percent of what was imposed was  
17 collected. That's for 2005.

18 In 2006, after the fines changed,  
19 the number of violations issued--when I say  
20 issued, I should say the number of violations  
21 received by the Environmental Control Board, filed  
22 with the Environmental Control Board. It's  
23 approximately 29,000. The amount imposed was a  
24 little over \$10 million. The amount collected was  
25 approximately \$1.4 million. That represents about

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14 percent collected from what was imposed.

In 2007, not to go through all the numbers unless you want me to, the percentage was about 13 percent. In 2008, it was about 20 percent. In 2009, it was approximately 18 percent. In 2010, 14 percent.

COUNCIL MEMBER MARK-VIVERITO:

Right. But I also would like to see the figures when it comes to the number of permits that were renewed.

JULIO RODRIGUEZ: That I don't--

COUNCIL MEMBER MARK-VIVERITO:

[interposing] I understand you don't do that. I'm more interested in Council Member Levin's bills. I'm glad to hear that mine is not be challenged or opposed by this administration. We want to see that data more clearly in terms of also the renewal of the licenses and whether any study has been done about what the average penalties are.

What is the vendor violations, what are they for? They're for minor offenses, no? Who can talk to that, what the average penalty is for? I think Council Member Levin alluded to some of them.

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2 KATHLEEN MCGEE: I don't believe  
3 anyone here has that information.

4 COUNCIL MEMBER MARK-VIVERITO: So  
5 you talked about getting us access to the 311  
6 data. Would that include that information? I  
7 know that the report that I'm actually codifying  
8 into law would have that kind of information. But  
9 what's--

10 KATHLEEN MCGEE: The 311 data would  
11 only provide complaints coming in to the city that  
12 the city had to respond to, not the results of  
13 those inspections.

14 COUNCIL MEMBER MARK-VIVERITO: So  
15 nobody can give me an answer as to what the  
16 average vendor violation is for, or penalty. I  
17 mean I think that's something that you should be  
18 able to have on hand. I think, based on the study  
19 that was done in the report, which I would hope  
20 that you look at, it's for very minimal offenses  
21 that you're charging people \$1,000 for. I think  
22 information that if it could be made available to  
23 this committee, we would like to see it.

24 The other is just quickly with  
25 regards to how is it that each of these agencies

1  
2 interacts with each other in terms of the  
3 oversight that you have when it come to issuing  
4 licenses. I mean, you've got NYPD, you've got  
5 DOH, you've got DCA, you've got ECB. Is there any  
6 point where you coordinate efforts? I mean how do  
7 you interact with each other as agencies when it  
8 comes to these matters?

9           ERIK JOERSS: I can tell you from  
10 DCA, we process licenses, general vending licenses  
11 and we take licensing data and process and  
12 basically in a sense service the secretarial pool  
13 for Department of Health license, food license,  
14 vendor licenses.

15           ROBERT EDMAN: That is correct.  
16 That's the interaction between Health and DCA.  
17 They process the license applications. Health  
18 conducts the inspections and actually approves the  
19 issuance of a permit to a vending unit. Health  
20 would also do the enforcement, sometimes in  
21 conjunction with NYPD and the Department of  
22 Sanitation and/or the Department of Parks. That's  
23 enforcement on the ground, so that's how we  
24 interact with those other agencies. DCA handles  
25 the processing. Of course, any summonses that we

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issue go through the ECB for adjudication.

COUNCIL MEMBER MARK-VIVERITO: The ECB, can you tell us here, now, like in terms of all the violations that are issued in any given year. When you were giving me these breakdowns, 2005, 2006, 2007, you said 28,000 and 29,000. Were those just the vendor violations?

JULIO RODRIGUEZ: Yes, those are just vendor-related violations.

COUNCIL MEMBER MARK-VIVERITO: Now, of all the violations that you issue in any given year, what percentage would you say are coming from vendor violations?

JULIO RODRIGUEZ: That information I do not have here today.

COUNCIL MEMBER MARK-VIVERITO: Is that something that could be provided to us in terms of like a percentage, if you could categorize, you know, where the violations are coming from. You know, is that something that could be done?

JULIO RODRIGUEZ: I think so. So, just to clarify, what is it exactly that you--

COUNCIL MEMBER MARK-VIVERITO:

1 [interposing] Well, the total number of summonses  
2 that you handle, the percentage that comes from  
3 street vending violations versus other violations.  
4 I mean if that's kind of something that could be  
5 done.  
6

7 JULIO RODRIGUEZ: That's something  
8 that I believe we can do.

9 COUNCIL MEMBER MARK-VIVERITO:

10 Okay. All right, so then going just quickly back,  
11 because I mean these figures we need to look at,  
12 the ones that you were giving me, the breakdown,  
13 2005, 2006, 2007, because I would just dare say,  
14 considering that there was such a jump in the  
15 amount that was fined and being paid, I think it  
16 doesn't look like there was a great increase in  
17 the amount of violations that were being honored  
18 and paid, because the fine increased considerably.  
19 So that additional revenue that you accounted for,  
20 for one year to the next, I think just comes  
21 because of the fine increase, not necessarily that  
22 there was greater compliance. We would need to  
23 see your data to be able to analyze it more in  
24 depth.

25 So I think I will leave it there.

1  
2 I just want to say I'm glad that this hearing is  
3 happening. I do appreciate you being here. But I  
4 really don't understand how we continue to  
5 criminalize people that are really just trying to  
6 survive, in essence survive. This city, it's  
7 becoming much more difficult for people that are  
8 working, that are working poor. You know, because  
9 people work in this city and still are considered  
10 poor on the indicator and the poverty measure.  
11 You know, we've got to do more. I don't think  
12 that we're doing enough and I don't think that  
13 these bills are unreasonable. I think they're  
14 actually reasonable. I want to thank Council  
15 Member Levin for his leadership. I really want to  
16 thank all the vendors that are here personally  
17 taking time because your time is money. Thank you  
18 all.

19 CHAIRPERSON GARODNICK: Thank you,  
20 Council Member. Let me just follow up, before we  
21 go to Council Member Gentile, with one point about  
22 the renewal of licenses. Maybe this is for DCA,  
23 but you all can point me in the right direction if  
24 that is not correct.

25 When the license is--I'm sorry,

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2 when the permit is renewed, as we discussed  
3 before, there needs to be an evaluation of whether  
4 there are outstanding penalties associated with  
5 the permit or with any license connected to that  
6 permit. Is that correct?

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ERIK JOERSS: I believe so, yeah.

8

CHAIRPERSON GARODNICK: Okay.

9 Well, DCA does the renewal of the permits,  
10 correct?

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ERIK JOERSS: Yes.

12

13 CHAIRPERSON GARODNICK: So I would  
14 think that would be a point of certainty for DCA  
15 as to whether or not that would be something that  
16 you would look to do when renewing the permits.

17

18 ERIK JOERSS: I don't know that we  
19 have all the information of what outstanding fines  
20 there are.

21

22 CHAIRPERSON GARODNICK: Is that one  
23 of the reasons why you think that it is important  
24 for Intro 817 to be passed?

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ERIK JOERSS: Well, not passed for  
the parallel rule change. Was the rule change on  
817?

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CHAIRPERSON GARODNICK: It was.

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2                   ERIK JOERSS: Or the parallel rule  
3 change--

4                   CHAIRPERSON GARODNICK:  
5 [interposing] Either way, because you don't  
6 believe that DCA right now has the ability to  
7 determine whether there are outstanding fines. Is  
8 that correct?

9                   ERIK JOERSS: Certainly not all of  
10 them.

11                   CHAIRPERSON GARODNICK: Okay. That  
12 was my question. The reason is because it is--  
13 well, actually, I don't want to put words in your  
14 mouth. Why can't you determine it with certainty  
15 today?

16                   ERIK JOERSS: As I said, we don't  
17 get all of that information.

18                   CHAIRPERSON GARODNICK: I don't  
19 know if you all had a chance to take a look at the  
20 tickets. If I can ask the sergeant to bring a  
21 sample over to the panel and we can come back to  
22 you at the next gap here, but we'd like you to  
23 take a look at the tickets. I want to understand  
24 clearly where that CAMIS number, permit number,  
25 decal is specified on the ticket and where exactly

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2 it would be useful for DCA to be able to take a  
3 look or what the number is specifically that you  
4 should be looking for to figure out whether there  
5 are outstanding fines associated with the permit.  
6 We'll come back to that point. We are now going  
7 to go to Council Member Gentile.

8 COUNCIL MEMBER GENTILE: Thank you,  
9 Mr. Chairman. So what I'm hearing is that in  
10 order for a permit or a license to be renewed, the  
11 fines have to be paid. Yet, DCA does not have the  
12 info on whether fines are outstanding when the  
13 renewal comes up.

14 ERIK JOERSS: Council Member, the  
15 tickets are generally written to the person who's  
16 working the cart as opposed to the cart itself or  
17 the permit itself.

18 COUNCIL MEMBER GENTILE: So when  
19 you're talking about renewals, are you talking  
20 about the renewal of the individual's food vending  
21 license or the cart?

22 ERIK JOERSS: Food vending itself,  
23 again, we merely process it. We get the  
24 information from the Department of Health and are  
25 told whether or not to move forward with it.

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COUNCIL MEMBER GENTILE: So it is the Department of Health that needs to check whether or not there are outstanding violations, outstanding fines?

ERIK JOERSS: Yes.

COUNCIL MEMBER GENTILE: Who's the Department of Health here?

ROBERT EDMAN: I am.

COUNCIL MEMBER GENTILE: So answer that question. DCA asks you: can we renew this license? We're talking about permits or licenses here?

ROBERT EDMAN: I guess I would have to ask you to clarify exactly which one it is here.

COUNCIL MEMBER GENTILE: So it is the food vendor's license and the permit is for the cart. Is that correct?

ROBERT EDMAN: That's the way we think of them. The permit refers to the actual vending unit. The license of the--

COUNCIL MEMBER GENTILE:  
[interposing] The individual. So when you're renewing the license and DCA asks you is this okay

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2 to renew, what information do you give to DCA as  
3 to whether or not there are any outstanding fines?

4 ROBERT EDMAN: I believe we will  
5 have to come back to you with the answer to that,  
6 because that information is all provided through  
7 the systems that are accessed from DCA, whatever  
8 information is needed for the renewal of licenses.  
9 Either through their data system or ECB's data  
10 system.

11 COUNCIL MEMBER GENTILE: So we're  
12 seeing the problem right here as to why fines are  
13 not being collected and why licenses get renewed  
14 and fines don't get collected. We see right here.  
15 I think Commissioner McGee, as the Mayor's Office  
16 of Special Enforcement, I think this is, along  
17 with the Criminal Justice Coordinator, is a job  
18 that needs to get done here about coordinating all  
19 this information so that if there is an  
20 outstanding fine, it gets paid before the license  
21 is renewed. That seems to me is one of the issues  
22 of why we've got 13,000 tickets and only 400 paid  
23 in 2010.

24 ERIK JOERSS: Just to add, Council  
25 Member, DCA does do a search of ECB records.

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2 COUNCIL MEMBER GENTILE: It does do  
3 a search of ECB records.

4 ERIK JOERSS: Yes.

5 COUNCIL MEMBER GENTILE: So why  
6 can't you come up with the information then of  
7 whether or not fines were paid?

8 ERIK JOERSS: Again, on Health, I'm  
9 talking on general.

10 COUNCIL MEMBER GENTILE: On  
11 general, and I'm talking about food vendors.  
12 Okay. So the issue here, and I'm talking about  
13 food vendors, is a big one and a growing one that  
14 needs to be coordinated. That's an issue and 817  
15 hopefully will address that issue.

16 You all said how difficult it is to  
17 navigate the different rules and regulations for  
18 vendors, general vendors and food vendors. You've  
19 got the administrative code, the rules and  
20 regulations of the City of New York, you've got  
21 the Department of Consumer Affairs, Department of  
22 Health, Department of Transportation, all  
23 containing rules and regulations concerning  
24 vendors, particularly in the case that I'm  
25 concerned about, food vendors.

1  
2           Who has the comprehensive knowledge  
3 in the city of all the laws and regulations  
4 pertaining to vendors? Who has that comprehensive  
5 knowledge?

6           KATHLEEN MCGEE: I'll answer that,  
7 Council Member. There are people within the  
8 various agencies who do have--individuals who have  
9 a comprehensive overview of the vending rules and  
10 regulations, as you've just described them.  
11 However, I don't know that there is any one agency  
12 in and of itself in terms of enforcement that has  
13 a comprehensive view of how things are enforced.  
14 They're enforced based upon the agency's rules and  
15 regs. And obviously, the Department of  
16 Transportation, for example, isn't going to  
17 necessarily do enforcement where it's not  
18 appropriate, where it's more appropriate for  
19 Health. So there are different areas of  
20 enforcement. For the individual agencies there  
21 are, again, people within those agencies who may  
22 have a more comprehensive overview.

23           COUNCIL MEMBER GENTILE:  
24 Commissioner, it says particularly in the health  
25 code in the Administrative Code, Chapter 17, where

1  
2 it talks about food vending and enforcement of  
3 food vending regulations, it says that in fact any  
4 public health sanitarian or employees of the  
5 department and police officers shall have the  
6 power to enforce all laws, rules, regulations  
7 relating to food vendors. So it's a cross agency  
8 enforcement responsibility, is it not?

9 LT. DANIEL ALBANO: I can speak for  
10 the Police Department, sir. Street officers don't  
11 have the expertise, nor are they equipped to  
12 enforce some of the sanitary regulations. For  
13 example, how hot the water temperature is, that's  
14 not something that the average officer in the  
15 street would know or has been trained to enforce.

16 Our area of responsibility with the  
17 food vendors is the size and placement of their  
18 carts on the street and what street they're  
19 located upon.

20 COUNCIL MEMBER GENTILE: And even  
21 when it comes to that, police officers have been,  
22 in my experience, at least in the experience of my  
23 community, have been unwilling to move forward and  
24 enforce regulations that apparently they're  
25 require to enforce under this administrative code.

1  
2 I think we've met with you about this very issue  
3 over some time. I understand it's very difficult  
4 and I understand it's very complex and  
5 overlapping.

6 The city, back in 1995, also  
7 understood that issue and as a result created a  
8 particular panel to address specific issues around  
9 the city relating to street vendors. They created  
10 the Street Vendor Review Panel. That was created  
11 in 1995 and was designed, intended to handle  
12 specific situations if, in fact, we couldn't do it  
13 on a citywide basis because it was too complicated  
14 and it was to individual circumstance, we do it on  
15 a specific basis through the Street Vendor Review  
16 Panel.

17 I have asked in my community for  
18 the Street Vendor Review Panel to be convened by  
19 the commissioner of Small Business Services. It  
20 is the law. It says that within 60 days of  
21 request that that panel be convened. As of yet, a  
22 year and a half later, the city has refused to  
23 convene the Street Vendor Review Panel.

24 I would ask you, now no one is here  
25 from Small Business, but I would ask you, would

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you agree that that's in contravention of the law?

KATHLEEN MCGEE: While I haven't review the law, if that in fact is the law, then we'll reach out to Small Business Services and have them be in contact with you.

COUNCIL MEMBER GENTILE: I would appreciate that, and we've done the same. It seems to me that there are things in the law that can be helpful but the city refuses to use those provisions. I will hold you to that.

I want to finish up by asking you if in fact the Department of Health, I believe, you have the list of the 3,000 people who have the food cart permits. I would ask that you share that list with us here in the City Council, that list of 3,000 permit holders. I understand there's a limit of 3,000 in the city by law. Not only the 3,000 but how many permits each person holds.

ROBERT EDMAN: Just to clarify, you're referring to, again, the permits for the units.

COUNCIL MEMBER GENTILE: For the units, for the food cart units.

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ROBERT EDMAN: And you're  
requesting a list that contains--

COUNCIL MEMBER GENTILE:  
[interposing] A list of the permit holders and how  
many permits each person holds.

ROBERT EDMAN: Sure, we'd be able  
to provide that.

COUNCIL MEMBER GENTILE: The reason  
I ask is because maybe what we need to do is  
change the types of licenses or categories that we  
have that we're dealing with. The small business  
owner, the small cart person versus what I think  
this permit will show. This permit list I think  
will show that we really have a large scale  
enterprise business going on that is not really  
being spoken about where many of these permits are  
held by the same person. Those permits are then  
rented out to food vendors who rent those carts on  
the street.

In fact, when I've spoken to some  
vendors, one of them said to me that he pays  
\$2,000 a week to rent his cart. So business is  
big. This is a big business. So I'm not really  
prepared at this point to buy the argument that

1  
2 lowering fines is going to create greater  
3 compliance. This is a big business in many, many  
4 cases. I think that list will show how big this  
5 underground business is with permits being rented  
6 at high, high prices to food vendors who are  
7 spending a lot of money, therefore making a lot of  
8 money and therefore should be paying the fines  
9 that have been imposed upon them. Thank you, Mr.  
10 Chair.

11 CHAIRPERSON GARODNICK: Thank you  
12 very much, Council Member. We're going to go to  
13 Council Member Koslowitz, and when she's done, I'm  
14 going to ask a few while we're able to straight  
15 out where it is exactly on the ticket here what  
16 the information is that allows you to track within  
17 the vast systems that cross over your agencies to  
18 ensure that there are not outstanding fines when  
19 you renew a permit. Council Member Koslowitz?

20 COUNCIL MEMBER KOSLOWITZ: Thank  
21 you. I'm sitting here and I have to tell you I am  
22 livid. I worked on this for 11 years. It's  
23 supposed to be one cart one person. That is the  
24 law. Because it used to be one person can own 500  
25 licenses and rent them out. So the vendor would

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2 make 25 cents on the dollar while the person who  
3 owned the carts made 75 cents on the dollar, and  
4 we changed that here.

5           The fines were \$250. It seems that  
6 there's a war on street vendors. I'm not  
7 condoning, because I know in my neighborhood, in a  
8 two-block radius there are seven carts around.  
9 But it seems that the Administration has dropped  
10 the ball on everything and they're just out to  
11 give these people that they almost know they're  
12 not going to get paid because they don't have that  
13 kind of money.

14           The review panel was in existence.  
15 I sat on it. It hasn't been sat on probably since  
16 I left. It's a disgrace that we're picking on  
17 immigrants who are hard working, when we don't  
18 abide by the laws ourselves.

19           Does anybody know why the review  
20 panel hasn't met?

21           KATHLEEN MCGEE: No, we don't know.

22           COUNCIL MEMBER KOSLOWITZ: It's a  
23 law. There are laws that have been on the books.  
24 Fines went up from 2006. Just when the economy  
25 was starting to tank, you decided to raise the

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2 fines on the food vendors. I just want to say  
3 that the Administration isn't obeying the laws  
4 that are on the books.

5 And not to know, I mean when you  
6 renew your driver's license, if you have  
7 outstanding tickets, you don't get your license.  
8 Not to know what outstanding tickets, you've  
9 dropped the ball.

10 The review panel let all the  
11 agencies come together and you can talk about  
12 these issues. If it doesn't meet, nobody talks,  
13 so everybody does their own thing. I think it's a  
14 shame what is going on and I'm appalled that the  
15 laws on the books aren't being followed. I just  
16 wanted to say that.

17 CHAIRPERSON GARODNICK: Thank you,  
18 Council Member Koslowitz. I think you highlight a  
19 point of frustration for all of us which is that  
20 the rules here are either unclear or they're not  
21 being followed or there's lack of clarity even  
22 between the agencies as to how exactly the rules  
23 can be followed or what is missing to be able to  
24 allow for that to happen.

25 So let me go back to the panel and

1  
2 see if I can get further clarification, either  
3 through reference to the tickets themselves or  
4 through a clearer explanation as to why the  
5 information is not available to the renewing  
6 agency as to what the outstanding fines are that  
7 are associated with that permit or license.

8 ROBERT EDMAN: It's difficult to  
9 explain.

10 CHAIRPERSON GARODNICK: I'm not  
11 sure. He needs to do it in a microphone is the  
12 one thing because we need to capture it.

13 ROBERT EDMAN: This particular  
14 summons was issued to the vendor. That's the  
15 vendor that was at the location operating the  
16 unit. It contains the vendor's license number or  
17 permit number, if you will.

18 CHAIRPERSON GARODNICK: Is that the  
19 number which is below city and state on this?

20 ROBERT EDMAN: Huh?

21 CHAIRPERSON GARODNICK: Is that the  
22 number that is listed below city and state?

23 ROBERT EDMAN: Yes. In this case  
24 it's 0500--

25 CHAIRPERSON GARODNICK:

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[interposing] That's okay, don't tell us the number. We just want to understand the number itself. That is a license number.

ROBERT EDMAN: That's the vendor's license.

CHAIRPERSON GARODNICK: The vendor's license, so the person standing out there on the street who actually has been issued a ticket at that moment.

ROBERT EDMAN: To the far right of that there's another set of numbers on the same line in this case. That's the decal number of the unit.

CHAIRPERSON GARODNICK: Okay. On all the other samples that we have, we don't see any other numbers on that same line. Now, if you did not have--just to be clear--if you did not have that set of numbers, which is all the way on the right hand side of that same line, you would not have the decal number. Okay, right. So interestingly, in the ticket that you have, you have numbers that don't exist on any of the tickets that are in my hands, which of course is just a random sampling here. If you don't have

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2 that number, then there is no way to tie this to  
3 the permit holder. Is that correct?

4 ROBERT EDMAN: If we don't have  
5 that information, that's correct.

6 CHAIRPERSON GARODNICK: Now there  
7 is also nothing on this ticket which actually says  
8 you've got to put the decal or the permit number  
9 here. Is that right?

10 ROBERT EDMAN: That is correct.

11 CHAIRPERSON GARODNICK: So if you  
12 are an officer who is issuing this ticket, you  
13 wouldn't necessarily know that something is  
14 missing here because there's no place for it to be  
15 clearly articulated on this ticket. Is that  
16 right?

17 ROBERT EDMAN: Well, our officers  
18 are trained in exactly where they should locate  
19 this information, even though it's not clearly  
20 demarked for that purpose.

21 CHAIRPERSON GARODNICK: Well  
22 they're not trained too well because all of the  
23 tickets that I have don't have that number on  
24 them. We have the whole box and actually I was  
25 trying to figure out where that number was. So

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it's not on the ticket and the officers are not putting that number down.

That's clearly the source of our problem because unless we have that number on the ticket we can't actually make sure that the fine is being paid when the permit is being renewed.

ROBERT EDMAN: If I might.

CHAIRPERSON GARODNICK: Sure.

ROBERT EDMAN: Without looking at the summonses, they may all be summonses to illegal vendors who neither possess a permit for the unit, a license for themselves or a decal. They might be purely illegal. But again, I'm not looking at the summonses.

CHAIRPERSON GARODNICK: I understand. I will tell you that for each one of them there is a license and a license number. So when there is a license and a license number it clearly has a decal and it has a permit that it is associated with. That is not available on any of these tickets.

So I think we've identified at least the source of the problem, and which of course are what we are trying to correct with

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2 Intro 817.

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Now, I just want to note we've been joined by Council Members Nelson, Lander and Halloran. We're going to turn to Council Member Brewer, who again is the sponsor of one of the bills on today's agenda.

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COUNCIL MEMBER BREWER: Thank you very much. I am supportive of all the legislation pending. I have a couple of questions. When you do the breakdown at ECB, do you have notion of whether that's Manhattan or the other boroughs? Do you have an idea about the location? Any of the years, you don't have to go through them all, but is that something that you do, the breakdown?

JULIO RODRIGUEZ: Yes, it is.

COUNCIL MEMBER BREWER: So, like, for instance, I don't know, pick 2010 or 2009, do you know how many, either percentage or number is Manhattan or Brooklyn or just some breakdown?

JULIO RODRIGUEZ: In terms of the violations received per borough?

COUNCIL MEMBER BREWER: Yes, yes.

JULIO RODRIGUEZ: So for 2010 you asked? In 2010, the Environmental Control Boar

1  
2 received approximately 20,000 notices of violation  
3 that were issued in Manhattan. In the Bronx, we  
4 received approximately 1,700; in Brooklyn,  
5 approximately 2,400; in Queens, approximately  
6 1,500; Staten Island, 33. There were  
7 approximately 280 tickets that did not contain the  
8 number for the issuing agency.

9 COUNCIL MEMBER BREWER: Any  
10 borough. The reason I mention that. I'm not  
11 surprised. Because in Manhattan we obvious have a  
12 lot of pedestrian traffic and that's good for a  
13 vendor.

14 I mention that because it's almost  
15 like a different world. My situation is that the  
16 police departments, thanks to this wonderful  
17 gentlemen, call all the time. But we have almost  
18 half of our precincts now time is spent on  
19 vendors. I think it's complaint driven. That's  
20 the issue.

21 So what I'm wondering is do you  
22 after this hearing look toward pulling together  
23 Karen Koslowitz's review panel, which I must admit  
24 didn't even know existed. But where in the future  
25 are you going to have a discussion? There was

1  
2 even a fistfight the other night in my community  
3 between two neighbors over whether or not the  
4 vendor should be there. That's what's happening.  
5 That's a food vendor.

6 So my question is after this  
7 hearing do you plan to convene the review panel or  
8 whatever is appropriate for a task force to have a  
9 discussion on this topic? It's creating havoc on  
10 the streets of Manhattan below 96th Street.

11 That's as simply and bluntly as I could speak. I  
12 mean fistfights, somebody ended up in the  
13 hospital, over whether or not a vendor should be  
14 there.

15 KATHLEEN MCGEE: As I indicated to  
16 Council Member Gentile, we will review the law  
17 regarding the panel and take it back to the  
18 Administration and the various agencies.

19 COUNCIL MEMBER BREWER: If the  
20 review panel, I don't know what its beginning and  
21 end is, but some kind of an ongoing discussion  
22 regarding this issue. Is that something that you  
23 would consider?

24 KATHLEEN MCGEE: I think it is  
25 something that we're here for right now and we're

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going to bring it back for further discussion.

COUNCIL MEMBER BREWER: When you do that will trucks' issue also be included? Thanks to the Health Department, almost four years ago I convened a discussion about the trucks when they started to appear because my constituents call 311 every minute about a truck. So I'm wondering if that too will be part of the discussion when you have your panel.

KATHLEEN MCGEE: All food vendors that would be subject to the same restrictions would be included and that would include food trucks.

COUNCIL MEMBER BREWER: Okay. My other question is the issue of how do you decide, how do you discuss what the rules are. We have everything overnight, yes or no? Parking spaces to be held onto, yes or no? Propane, yes or no? How much fruit can be in the truck before it goes to the cart? All of these issues are not clear to the community and I suppose they're clear to the vendor but they're not necessarily to the vendor and certainly not to the public. How do you make it clear to the police officer who has to enforce?

1  
2 I really feel bad for the police department,  
3 that's my opinion. They are reacting to  
4 complaints is my understanding. The fact of the  
5 matter is it's hard to understand these very  
6 complicated rules.

7 So my question is what kind of  
8 training, although you may have answered that with  
9 PD, and do you, as part of this review process,  
10 think about streamlining the information for the  
11 vendor and for the public?

12 KATHLEEN MCGEE: I would say  
13 generally, and this would go beyond NYPD to any  
14 agency enforcement, it's a matter of resources and  
15 it's a matter of time. By that I mean, as you  
16 indicated, Council Member, when a police officer  
17 is out on the street, his main intention is to  
18 make sure that people are safe, that traffic isn't  
19 blocked and to the extent that he is going to  
20 enforce rules and regulations vis-à-vis food  
21 vendors, that's his priority. As Lieutenant  
22 Albano already referred to--

23 COUNCIL MEMBER BREWER:  
24 [interposing] He can never retire. That's the  
25 problem.

1  
2 KATHLEEN MCGEE: Well that's true.  
3 They're just not equipped to do the health  
4 sanitarian training. So to streamline inspections  
5 of food vendors really requires a multi-agency  
6 approach and streamlining is a tricky word. It's  
7 difficult to streamline that is so--

8 COUNCIL MEMBER BREWER:

9 [interposing] I understand that. But I'm telling  
10 you now from the vendor perspective, I mean even  
11 the general vendors. Okay, so I got the lady with  
12 the jewelry. She hires somebody who's got the  
13 license. That might be why we have a problem with  
14 the tickets. When she goes to the bathroom god  
15 knows what help. You know, that's the problem.  
16 When can she go to the bathroom? She can't sell.  
17 I'm so intimately involved with these. We spend  
18 half of our time in our office on vendors, half of  
19 our time. I got 15 emails just this morning on  
20 vendor issues in my district.

21 I feel for the vendors. I want the  
22 fines reduced. But I also need to have  
23 clarification for the vendors, the police, the  
24 public, the fights. It's not going well. So you  
25 need a really serious discussion internally. And

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2 again, guess what, it's below 96th Street in  
3 Manhattan. There's your problem. Focus there and  
4 figure with the business, the BIDs, the community,  
5 the police department, the community boards and  
6 everyone. I'm begging you to sit down with all of  
7 us and figure this out.

8           The vendors want to be there. You  
9 can't imagine what goes on in the trucks. My son  
10 is working in a truck. I'm not going to tell you  
11 which one. Let me tell you, he's really gained  
12 negotiation skills like the president of the  
13 United States couldn't do better. He's  
14 negotiating with everybody. It's crazy. It's  
15 like World War III out there.

16           So my question is when are you  
17 going to convene this task force to deal with  
18 these issues?

19           KATHLEEN MCGEE: We don't have a  
20 time table but we will be bringing it back to  
21 everybody--

22           COUNCIL MEMBER BREWER:  
23 [interposing] Would you get back to the chair with  
24 some idea so that these issues get ironed out?

25           KATHLEEN MCGEE: Absolutely.

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COUNCIL MEMBER BREWER: Thank you.

Thank you, Mr. Chair.

CHAIRPERSON GARODNICK: Thank you, Council Member Brewer. I will note that we spend a similar amount of time in the Fourth Council District dealing with some of these challenges. We welcome your comments.

I want to go back to Council Member Levin before we release this panel, which has been generous with their time, and move on to the many other folks who are here to testify today. Council Member Levin?

COUNCIL MEMBER LEVIN: Thank you, Mr. Chair. I do want to thank the panel for your testimony and for your willingness to be open and candid with us. I just had one last question. Going back to 2006, I'm wondering can you explain to me exactly what happened in 2006 that resulted in the fine structure being changed. If you could kind of elucidate that for the committee that'd be great.

KATHLEEN MCGEE: I unfortunately wasn't here at that time. I don't have that knowledge, nor does anyone else in particular. I

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2 was informed that in fact that the penalties were  
3 originally raised back in 2003 but then did not go  
4 into effect until 2006. But beyond that it  
5 appears we don't have any knowledge about the  
6 events of 2006.

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COUNCIL MEMBER LEVIN: They were  
8 raised via legislation? They were raised via  
9 administrative code?

10

KATHLEEN MCGEE: I'm afraid I don't  
11 know.

12

COUNCIL MEMBER LEVIN: Okay. It  
13 would be great if we could follow up and just to  
14 give a sense of the history as to how we arrived  
15 at--I mean it really is I think incumbent upon us  
16 to look at, in terms of collection and all of  
17 that, you know where the changes have been and  
18 really whether this has been effective. I think  
19 looking at the study that was released today is  
20 kind of showing that it does not seem as if this  
21 is an effective way to raise the revenue and so  
22 that's why I would love to be able to have that  
23 information from DCA. But I do want to thank you  
24 all for your testimony and coming down. Thank  
25 you, Mr. Chairman for your time.

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2 CHAIRPERSON GARODNICK: Thank you,  
3 Council Member Levin. There was an unusually high  
4 number of questions today which we didn't have  
5 answers to. I guess we would ask that you all  
6 collectively come back to us with the answers to  
7 those questions. There was an assortment of  
8 questions from a variety of questioners over here,  
9 and the list of course, all of the outstanding  
10 requests we certainly will look forward to  
11 receiving that from you.

12 It helps us in our oversight  
13 function, of course, and we do count on the  
14 Administration to come as prepared as you possibly  
15 can be for these hearings. We thank you for your  
16 presence and we look forward to talking about  
17 these bills with you further. So, thank you.

18 KATHLEEN MCGEE: Thank you.

19 CHAIRPERSON GARODNICK: I'm going  
20 to call the next panel up, which includes  
21 representatives of the Street Vendor Project: Sean  
22 Basinski, Sasha Ahuja, Matthew Shapiro, Mohammad  
23 Saaad Ali and James Williams. If you can come  
24 join us, as soon as the Administration is up and  
25 come and get settled.

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[Pause]

CHAIRPERSON GARODNICK: Okay, folks, welcome. It looks like you're going to kick us off, so please be my guest. Identify yourself first please before you speak.

MOHAMMAD SAAD ALI: Honorable City Council Members, friends and colleagues, my name is Mohammad Saad Ali. I am a Board Member of the Street Vendor Project and I'm also a food vendor in New York City for like 14 years now.

Personally I used to be a teacher in my country but the only thing I can do here is to be a vendor and I'm proud to be a vendor. I support my wife and three children from my food vending business. I also send money every month to my family back in Egypt who also rely on me. This is true for every immigrant.

When I started this job in 1999, the maximum violation price for vendors used to be \$250, which was too much for us but it was still acceptable. Then in 2006, the violations changed it to a maximum of \$1,000. That's when one of our biggest problems started.

I have received many violations for

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things like vending too close to the crosswalk or vending on a restricted street. I have had to pay thousands of dollars to renew my vendor's license. One year I had to pay \$2,000. Another year I had to pay \$3,000 dollars to renew my license. I remember that on that day I paid these fines, my wife cried a lot because of the amount of money we had to pay. It was extremely difficult for me to pay these fines but I had no other choice. If I did not renew my vendor's license I wouldn't have work and my family wouldn't have survived.

Simply, we cannot pay this amount of money for a violation. We are a part of this society. We have to make a living. We are responsible for our families and just like you we have a lot of bills to pay. The only way to meet all of our basic needs is to keep working and keep our jobs.

We have to renew our licenses as food vendors every two years. Even if my license is renewed today, I will still have bad dreams of renewing it in the coming two years, as I may get three or four violations and may not be able to pay them the next time around.

1  
2 Let's be clear. We respect the  
3 police officers and appreciate their job. But no  
4 one is perfect. Sometimes we make mistakes.  
5 Sometimes the police give us unfair violations and  
6 we are left to pay them. We are given the tickets  
7 and the police tell us to go to court and dismiss  
8 them, which is not true because it's not easy for  
9 a vendor to dismiss a ticket to the court.

10 We do not want to lose our jobs as  
11 vendors because it is very hard for us to find  
12 another job as immigrants. It is a disaster for  
13 us to lose our jobs and it's also a disaster for  
14 the city to have thousands of us without jobs  
15 every year. If we cannot work, the City will have  
16 to spend more money on unemployment and other  
17 public benefits.

18 We are here today asking your  
19 support on our two bills, Intros 434 and 435, and  
20 to allow us to continue to work. I hope that the  
21 day comes when I go to my work where I feel safe  
22 and secure because with the \$1,000 violation I  
23 can't be safe and secure. I have to go with a  
24 camera, a measure tape. I have to be ready to  
25 dismiss a ticket which can stop me working.

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Thanks for your time.

CHAIRPERSON GARODNICK: Thank you.

JAMES B. WILLIAMS: Good morning, Honorable members of the City Council, my friends, my colleagues, all of my fellow vendors. Good morning to us all. My name is James B. Williams. I am a veteran of the United States Air Force. I have been a street vendor in New York City for nine years. I have been a board member of the Street Vendor Project for almost the whole time. I also have four children that rely on me for financial support.

I originally got my vendors license because I wanted to have my own business. Even though it would be a small business, I could call it my own. I'm a general merchandise vendor, by the way. I really wanted to have a food truck but they weren't issuing any more licenses.

So to be able to get a general vendor's license, the only reason I was able to get it because I'm an Air Force veteran. I currently sell women's jewelry on 16th Street and 5th Avenue in Manhattan.

We are here today joined by our

1  
2 supporters and friends to show our pressing  
3 support for Intros 434 and 435.

4           Six years ago, the Environmental  
5 Control Board raised the maximum fine, from \$250  
6 to \$1,000 for minor vending violations that have  
7 nothing to do with health or safety. These fines  
8 have put thousands of people out of work,  
9 including myself.

10           Ladies and gentlemen, going back to  
11 the question that was asked to the panel before,  
12 who raised the fines was the commissioner at the  
13 time at the Environmental Control Board. They  
14 were given the authority by the Mayor's Office.  
15 That's who raised the fines, the commissioner at  
16 that time. Just so you know; they didn't have an  
17 answer.

18           When I first started working as a  
19 vendor I received many tickets. I received  
20 tickets for things like not having my license  
21 clearly displayed and for having a table that was  
22 too long. Two years ago I was unable to renew my  
23 license because owed almost \$1,000 and there was  
24 no way I could pay those fines. I was out of work  
25 for two years and it was devastating for me and my

1  
2 family. I could no longer support my children as  
3 I fell behind on my court ordered child support  
4 payments.

5           There are many veterans like me who  
6 have been put out of work by these \$1,000 fines.  
7 These men and women put their lives on the line  
8 for our country. They came back to New York and  
9 many of them could not hold a regular job and  
10 wanted to become vendors so they could operate  
11 their own businesses. Now they are penalized with  
12 \$1,000 fines for minor violations. Please respect  
13 our military veterans, all our immigrant veterans  
14 by passing 434 and 435. We are calling for a vote  
15 on this.

16           I'm glad to be here at this hearing  
17 today, but we need a vote and pass these two bills  
18 into law.

19           Thank you for the opportunity to  
20 testify on these important bills that will make a  
21 dramatic difference in the lives of thousands of  
22 vendors and their families.

23           CHAIRPERSON GARODNICK: Thank you  
24 and thank you for your service.

25           MATTHEW SHAPIRO: Good afternoon,

1  
2 my name is Matthew Shapiro and I have been a staff  
3 attorney at the Street Vendor Project for almost  
4 three years. Every day vendors come into our  
5 office with the tickets they get while working on  
6 the street and my main job is to represent them in  
7 court on these tickets.

8 Some people have complain that  
9 there is no enforcement of the vending violations  
10 and vendors are running amok around the city, but  
11 I think we saw proof of the 20,000 some odd  
12 tickets that are written each year.

13 The administration testified before  
14 that complaints are up. I'd like to know how many  
15 of these complaints are for these minor  
16 administrative violations that we're talking about  
17 today. How many people have complained because  
18 the vendor was not displaying their license? Are  
19 they really complaining about that or are they  
20 just complaining that there's a vendor on the  
21 street and they don't want him there? That's not  
22 what we're here to talk about today.

23 Most of the time vendors come in to  
24 our office with not just one ticket, but with two,  
25 three, or even five or ten. Most of the tickets

1  
2 that I see are for minor violations like having a  
3 box on the side of your cart because you just got  
4 a delivery of fruits and vegetables and you didn't  
5 have time to put them on your push cart. I've  
6 seen that one many times.

7           Sometimes we see tickets for food  
8 vendors' umbrellas touching street signs. I've  
9 seen tickets like that for \$1,000. These are the  
10 types of violations that Intros 434 and 435 will  
11 address. We're not talking about health code  
12 violations or food temperature violations. We're  
13 not talking about vending without licenses or  
14 permits. Those are different types of violations.  
15 We're talking about these minor administrative  
16 violations.

17           The top three violations, someone  
18 asked for the top violations that are issued to  
19 vendors. The top three administrative violations  
20 that are issued to vendors are vending less than  
21 ten feet from a crosswalk, failing to keep all  
22 items in or under your pushcart and failing to  
23 conspicuously display your license. These are the  
24 most commonly written violations and the fines for  
25 these needs to be reduced. It is unimaginable

1  
2 that you could receive \$1,000 for that type of  
3 violation. I don't care how many times you've  
4 done it.

5 It is crucial to remember that  
6 vendors must pay these fines to renew their  
7 licenses or permits. Vendors come into our office  
8 all the time with bills for \$5,000 or \$10,000 for  
9 tickets that they received for these types of  
10 violations. There's nothing we can do for them at  
11 that time. It's heartbreaking when I tell them  
12 they cannot renew their license, they cannot renew  
13 their permit and they have to try to find another  
14 job. That's why we're here today to pass Intros  
15 434 and 435.

16 Some people may say that vendors  
17 can just go to the court and fight the tickets and  
18 get them dismissed. However, it is not so easy.  
19 I have appeared at the ECB several times a week  
20 for the past almost three years now and have  
21 defended thousands of tickets. Street vendors are  
22 mostly immigrants whose primary language is not  
23 English and they don't understand the City's  
24 complex vending rules and regulations and they  
25 can't even begin to understand the adjudicative

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process at an administrative tribunal.

The ECB provides no attorneys or other representatives to help the vendors and usually they're left there to defend themselves alone, having no idea what to do or even what the ticket was about.

I have also appeared before many of the administrative law judges at the ECB and they support lowering the \$1,000 tickets. They can't publicly come out and say that today but they have told me that they support lowering the \$1,000 tickets because they think it's crazy to impose \$1,000 ticket for these types of violations, but they have no power to do that. They have to follow what's in the Administrative Code.

It is time to change the fine structure to something more reasonable that won't put hardworking immigrant entrepreneurs out of work. It is time to pass Intros 434 and 435. We are also submitting detailed testimony regarding the language in Intro 427 that we'd like to work on. I thank you for the opportunity to testify here today.

CHAIRPERSON GARODNICK: Thank you.

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We have your suggestions on 727. Thank you.

SASHA AHUJA: Good afternoon everybody. My name is Sasha Ahuja. I'm the organizer at the Street Vendor Project and have been working on this campaign for almost a year now.

I'm here today to talk about-- without repeating the things that have already been said--but to really talk about the work that we put into this campaign and into these two bills to meet with the wide net of stakeholders who we know are concerned with street vending issues.

We've done tremendous work to meet with the borough chambers of commerce and talk to them about similar issues that many of the members of their chambers experience and how they're essentially identical to the issues that street vendors have when it comes to getting very high fines for very small violations that have nothing to do with safety and nothing to do with health.

We've also been doing and continue to do work with the Business Improvement Districts, specifically those in which vendors oftentimes are residents in the same area where a

1  
2 BID exists. We've done tremendous with the 82nd  
3 Street BID in Jackson Heights and the Washington  
4 Heights BID uptown, two areas where we know street  
5 vendors oftentimes live a block or two away from  
6 the places where they're doing work. Those  
7 organizations also know and understand that we  
8 must continue to work together in order to support  
9 the street vendors and also the small business.

10 Part of the work of our  
11 organization is continuing to remind street  
12 vendors that it's important to know the small  
13 businesses that they are around and to building  
14 the strong relationships and to continue to fight  
15 this myth that oftentimes street vendors and small  
16 businesses have--or that there is a lot of tension  
17 between these two entities in a community.

18 I want to speak to also something  
19 that was mentioned earlier. The first thing that  
20 we heard was that supposedly, you know, the  
21 administration is saying that compliance is poor  
22 at best. I really want to harp on the question  
23 that Council Member Levin had asked: what is the  
24 city doing, if anything, to ensure that compliance  
25 is at its best.

1  
2 We want to work together,  
3 especially with these two bills, to create a  
4 culture of compliance, one in which street vendors  
5 feel that they can actually pay these fines if  
6 they are receiving them and really fully  
7 understand the particular rules, as we know how  
8 nuanced and complex they are. Our organization  
9 serves to really help explain the nuanced and many  
10 rules to the street vendors to ensure that  
11 compliance is something real and something that is  
12 achievable for every single vendor in New York  
13 City.

14 I just want to close by saying  
15 we've had tremendous support from organizations  
16 who understand that the issues that we're here to  
17 talk about today are not just street vending  
18 issues. These are immigrant rights issues. These  
19 are issues that working families face when they  
20 receive very high fines. We estimate maybe 20,000  
21 families are affected by street vending fines  
22 because there are somewhere around 20,000 street  
23 vendors or families in which the only form of  
24 income is from one street vendor who's trying to  
25 make a living.

1  
2 So, thank you again for the  
3 opportunity to testify today and we look forward  
4 to continuing to work with members of City Council  
5 to pass Intros 434 and 435. Thank you.

6 SEAN BASINSKI: My name is Sean  
7 Basinski. I'm the Director of the Street Vendor  
8 Project at the Urban Justice Center.

9 I want to thank the Chair and all  
10 the Council Members for having this hearing and  
11 being here to listen to us today.

12 I'm going to be very brief. I  
13 didn't write down my testimony. Primarily my job  
14 was going to be to respond to what the city  
15 testified. But honestly, in my mind they didn't  
16 have much to say, so I don't have too much to  
17 respond to there, except a couple of very brief  
18 things.

19 One is on the compliance issue,  
20 which is that the city testified that they didn't  
21 think the fines should be lowered because it would  
22 be bad for compliance. Actually, we think that  
23 the reverse is true and I'll tell you why. When  
24 you owe \$5,000 or \$10,000 or \$15,000, as many  
25 vendors do, remember that the only time you need

1  
2 to pay that is when you renew your license, and  
3 maybe your license doesn't expire for another six  
4 months or a year or a year and a half.

5 At this point, you have no  
6 incentive to follow the rules because you know  
7 that you're not going to be able to pay those  
8 fines when your license come due and you're going  
9 to lose your license. You might as well owe  
10 \$100,000 in tickets, and in fact some vendors do  
11 owe \$100,000 or more in tickets. Those are the  
12 few vendors that are causing the problems in terms  
13 of compliance because they don't have any skin in  
14 the game anymore.

15 If you reduce the fines to a level  
16 that vendors can actually pay, and it's a big  
17 difference. If you get five tickets at 250,  
18 that's something that vendors can find that money  
19 and pay. But five tickets at 1,000 bucks or ten,  
20 most of our vendors don't have that kind of money.  
21 They can't borrow it and they don't have that  
22 money and so they lose their licenses.

23 So I really dispute what the city  
24 said. In fact, I think that the opposite is true.  
25 I think that their lack of any backing or any

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2 statistics or any real rationale for what they  
3 said is an indication that they don't know what  
4 they're talking about, with all due respect to  
5 them.

6 I was going to be presenting our  
7 report here today, but I'm happy to see that it  
8 sounds like the Council Members have already done  
9 a good job of reading that or at least getting the  
10 main points. Of course, the main point really for  
11 me is that we've heard from vendors and it's  
12 pretty clear that high fines are bad for street  
13 vendors and their families.

14 I think that report touches on a  
15 broader point, which is that high fines for street  
16 vendors are bad for all of New York City. They're  
17 bad because of compliance. They're bad because  
18 they reduce the amount of money that the city  
19 collects. They're bad because when vendors can't  
20 work it's bad for our neighborhoods and it's bad  
21 for the tax base and it's really bad for everyone.

22 We hope that there will be a swift  
23 vote on these bills. At this point, we will take  
24 any questions that you have and we thank you very  
25 much for your time here today.

1  
2 CHAIRPERSON GARODNICK: Thank you  
3 very much. Let me note that we've been joined by  
4 Council Member Mark Weprin of Queens. Let me  
5 thank you all for your thoughtful testimony and  
6 also your impressive advocacy over the past year.

7 Let me just understand a little bit  
8 from you all about the point about fines for minor  
9 things as opposed to perhaps major things. In  
10 your testimony, I note that you had pointed out  
11 that vendors were getting thousand dollar fines  
12 for what you regarded as small potato stuff like  
13 an umbrella touching a street sign or things like  
14 that.

15 What would you regard as a major  
16 issue? What would you guys identify as the more  
17 serious offenses that you see vendors doing  
18 periodically, the things that you would put in a  
19 different category?

20 JAMES B. WILLIAMS: Well, according  
21 to what my thoughts on that is that maybe when  
22 you're setting up in the morning and you have your  
23 supplies and you're setting up and you don't have  
24 your licensed displayed and your equipment is on  
25 the side of your table, that's two tickets. An

1

2 officer could give you two tickets, which is  
3 unnecessary. You're just setting up.

4

Mr. Chairman, I just paid almost  
5 \$1,000. I didn't work in two years. It took me  
6 two years. I had to borrow money to pay off to  
7 get my license back. I've been a vendor for  
8 years.

9

MATTHEW SHAPIRO: Mr. Chairman, I  
10 think that most people would say that the more  
11 serious violations are health code violations  
12 which deal with food safety, the same violations  
13 that even restaurants have to comply with. So  
14 when you have food out of temperature of if you  
15 have, you know, soiled food. Those are more  
16 serious violations which are not what we're here  
17 to talk about today. Those have nothing to do  
18 with Intros 434 and 435.

19

CHAIRPERSON GARODNICK: So separate  
20 from the health related, food handling violations,  
21 you don't think that there's anything in the code  
22 that exists that falls into a slightly higher  
23 degree of seriousness than other things. Like,  
24 for example, would you put a higher level of  
25 concern of vending in front of a fire hydrant or

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2 in a crosswalk than you would, say, for having an  
3 umbrella touching a street sign but not obscuring  
4 it? Or, you know, vending in a location which is,  
5 say, ten feet in front of a residential building  
6 as opposed to, you know, sitting out in a traffic  
7 lane?

8 I guess what I'm trying to get is  
9 can you all create any differentiation between the  
10 violations that exist or do you view them all as  
11 similarly non-important?

12 SEAN BASINSKI: I think that's a  
13 good question. It's not something that we've  
14 talked about amongst our membership because it's  
15 not something that's come up. I mean if we were  
16 going to redesign the entire fine system, I think  
17 it's likely that some violations should receive a  
18 lesser fine than others. Right now there's one  
19 fine system for all violations that we're talking  
20 about. So that's never come up before and that  
21 would be a complete redesign of the system.

22 I do think though that none of the  
23 violations which would be affected by Intros 434  
24 or 435 are worth of \$1,000 ticket.

25 CHAIRPERSON GARODNICK: We have a

1  
2 number of other bills on the agenda today that  
3 obviously were not specifically promoted by the  
4 Street Vendor Project. We have your comments on a  
5 potential amendment for Intro 727 and we  
6 appreciate that. Do you all want to comment on  
7 any of the other bills on today's agenda? I just  
8 want to give you an opportunity to do that.

9 MATTHEW SHAPIRO: We don't have any  
10 comment on the other bills, just what we submitted  
11 as written testimony.

12 CHAIRPERSON GARODNICK: Thank you.  
13 I'm going to go to Council Member Gentile.

14 COUNCIL MEMBER GENTILE: Thank you,  
15 Mr. Chairman. Thank you all for being here today.  
16 Mr. Shapiro, I just want to clarify because you  
17 gave the impression that those who adjudicate  
18 these fines basically have their hands tied and  
19 currently have to impose these \$1,000 fines. They  
20 don't want to impose these \$1,000 fines but the  
21 law requires them to impose that amount.

22 Isn't it a fact though that if you  
23 look at the current law as it stands, there is  
24 actually discretion built into this law now,  
25 whereby the penalty is not more than \$1,000 which

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2 means it could be less than \$1,000, as long as  
3 it's \$250 or more? But less than \$1,000?

4

MATTHEW SHAPIRO: Sure. In the  
5 Administrative Code, yes that's true. But in the  
6 ECB rules that they promulgated pursuant to the  
7 Administrative Code, they're required to impose  
8 \$1,000 penalty after your sixth offense. So, no,  
9 they don't have any discretion when they're  
10 imposing these fines.

11

COUNCIL MEMBER GENTILE: I'm just  
12 being told that there was an ECB schedule that  
13 came out. So I tend to stick to the law, but ECB  
14 apparently has put out a schedule that they use.

15

MATTHEW SHAPIRO: That's correct.

16

COUNCIL MEMBER GENTILE: We'll have  
17 to take that up with ECB, not with you, Mr.  
18 Shapiro. I'm sorry about that.

19

MATTHEW SHAPIRO: Okay.

20

COUNCIL MEMBER GENTILE: I want to  
21 actually ask Mr. Ali, you're the food vendor,  
22 correct?

23

MOHAMMAD SAAD ALI: Yes.

24

COUNCIL MEMBER GENTILE: Okay. Mr.  
25 Ali, I thank you for being here today. I'm sure

1  
2 you're a very responsible food vendor. You're  
3 here today. You've talked about your family and  
4 how hard you work and I appreciate that and really  
5 respect you for it.

6 I'm just curious though, if there  
7 is a food vendor who repeatedly, repeatedly  
8 occupies prohibited spaces on the sidewalk, if  
9 there is a food vendor or a general vendor who  
10 violates traffic and parking laws repeatedly, if  
11 there is a food vendor who repeatedly violates the  
12 health code or DCA regulations or violates the  
13 rules against throwing offensive matter into the  
14 streets or the sewer, if you have a food vendor  
15 like that who repeatedly commits those violations,  
16 wouldn't you say that an increased fine would be  
17 appropriate for that vendor?

18 MOHAMMAD SAAD ALI: I don't think  
19 that this can happen to repeat the violation as  
20 the way you said. Because if I'm in a restricted  
21 for one time, I get the ticket and I get a warning  
22 that if the police come the second time they will  
23 remove my wagon. This is the law. They will take  
24 it with them and I will spend like two or three  
25 weeks to get it back. So I would be out of work.

1  
2           So we don't have a chance to repeat  
3 being like in a prohibited area or blocking the  
4 traffic. This doesn't happen. We can't do that  
5 because in the violation it's not only increasing  
6 the fine but taking off, they take my wagon, the  
7 whole stuff and everything.

8           COUNCIL MEMBER GENTILE: So you're  
9 saying there are no repeated violations. Someone  
10 does not repeatedly commit the same violations.

11           MOHAMMAD SAAD ALI: Not these  
12 serious violations like being in a restricted area  
13 of blocking the traffic. I can't do that because  
14 the wagon is taken. This is the law.

15           COUNCIL MEMBER GENTILE: When I saw  
16 traffic laws or parking laws, I'm talking about  
17 distance from the crosswalk and things of that  
18 nature, which may not be immediately dangerous but  
19 it is a violation. If someone repeatedly commits  
20 that violation, is three feet from a crosswalk  
21 instead of ten feet from a crosswalk, shouldn't  
22 that person suffer that type of increased  
23 violation if he repeatedly does it? He comes back  
24 every day, every day or every other day, comes  
25 back and repeatedly parks their cart five feet

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2 from a crosswalk?

3

4 MOHAMMAD SAAD ALI: If this is  
5 repeated and the maximum is going to be \$250, I  
6 agree for that. But for \$1,000, they said, if  
7 somebody got this big amount of violation he has  
8 to pay when he renewed the license, he will not  
9 renew it and he will keep doing the mistakes of  
10 the violation because he knows he's out of the  
11 game, he can't work no more. By increasing them  
12 to \$250, I would be able to work again and I will  
13 be more to the law. I would not do these mistakes  
14 because I need my job, I need my license. I have  
15 to renew it, I will keep working. And I can pay  
16 the money.

16

17 But if I got like \$5,000 and I  
18 can't pay them, I will think what can I do at the  
19 rest of the year they have the license, I'll do  
20 all the mistakes because I will not renew my  
21 license anymore. And I know friends who've done  
22 that. They don't have any hope to renew to their  
23 license, so they tell me, I will do the violations  
24 because I will not work a vendor anymore. Okay,  
25 what will he do next? They don't know.

25

COUNCIL MEMBER GENTILE: Well, as

1  
2 we heard from testimony before, they may not  
3 necessarily have to--those violations may not come  
4 up on a renewal license, because no one has  
5 information that cross checks. But you're  
6 responsible, so I applaud you for that, that  
7 you're responsible and you do the right thing. I  
8 just want to ask you, do you pay rent for the cart  
9 that you use?

10 MOHAMMAD SAAD ALI: No, I don't. I  
11 don't. I don't pay rent. I own the cart and I  
12 have a temporary permit which starts in April and  
13 the end of it is October, at the end of October  
14 and after that I rent a wagon, yes, because I  
15 don't have a permit for the whole year. My permit  
16 is temporary. I wish I could have full term, but  
17 I don't.

18 COUNCIL MEMBER GENTILE: So your  
19 cart permit is temporary.

20 MOHAMMAD SAAD ALI: Is temporary.  
21 When we come to October, I rent a wagon. But I  
22 hear you saying that they rent the wagon with  
23 \$2,000, which is not true at all. I don't know  
24 who said that.

25 COUNCIL MEMBER GENTILE: Come to

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Brooklyn.

MOHAMMAD SAAD ALI: The maximum price to rent a wagon is \$200 for the hotdog carts and it's like \$300 weekly for the big carts.

COUNCIL MEMBER GENTILE: But you pay that rent every month, right?

MOHAMMAD SAAD ALI: Now, I don't because I have the permit.

COUNCIL MEMBER GENTILE: When you do, after your seasonal permit is over, you pay the rent every month.

MOHAMMAD SAAD ALI: Yeah, I can rent a wagon.

COUNCIL MEMBER GENTILE: Right.

MOHAMMAD SAAD ALI: \$200 a week.

COUNCIL MEMBER GENTILE: Right. \$200 a week, so you pay that every week, right?

MOHAMMAD SAAD ALI: Yeah, I have to pay for it.

COUNCIL MEMBER GENTILE: So that's a cost of doing business, right?

MOHAMMAD SAAD ALI: If I can get the wagon. I mean if there is a wagon available for renting, because sometimes we don't find,

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because the permits are capped and this is a serious problem.

COUNCIL MEMBER GENTILE: Right.

MOHAMMAD SAAD ALI: When you say that the permit is rented with 15 grands or 18 grands, it's not because we do a lot of business and we have a lot of money. No, this is because they are limited and the permit owner would like to make a very good profit for himself.

COUNCIL MEMBER GENTILE: I hear you.

MOHAMMAD SAAD ALI: We have the problem but we try to figure it out. I don't know what to do.

COUNCIL MEMBER GENTILE: I hear you. Whatever you pay for the cart each week is the cost of doing business.

MOHAMMAD SAAD ALI: Of course, of course.

COUNCIL MEMBER GENTILE: Right.

MOHAMMAD SAAD ALI: Yes.

COUNCIL MEMBER GENTILE: Thank you.

MOHAMMAD SAAD ALI: Thank you.

CHAIRPERSON GARODNICK: Thank you,

1  
2 Council Member. Let me just jump in with a  
3 question here because we take your point about  
4 making sure that vendors have skin in the game and  
5 that they not see the fines as such that they're  
6 so exorbitant that there's no reason for them to  
7 continue complying with any rules because they're  
8 going to essentially burn out the license anyway.

9           But let's also talk about how to be  
10 fair in this process because we really do want to  
11 make sure that our rules are fair, both to the  
12 vendors and also to the public.

13           If we were to separate the two  
14 bills that you all proposed, one of them which of  
15 course has capping the fines at \$250 and the other  
16 one says only escalate the fines for the same  
17 offense. The current schedule, the one which goes  
18 all the way up to a thousand bucks, if you were to  
19 have it apply only for the same offense, let's  
20 just take this as an example, for a vendor who  
21 fails to give their license upon request. So  
22 failure to carry and exhibit a license on demand,  
23 that's a section of the Administrative Code which  
24 is a requirement of a vendor which I'm sure every  
25 vendor testifying and the folks who are here,

1  
2 something almost everybody could probably do  
3 rather easily because you're licensed vendors who  
4 have the right to sell on the streets of New York  
5 City.

6 But a scenario in which you failed  
7 to do that once, the rule would be that you would  
8 be subject to a \$50 fine under the multiple  
9 offense schedule by ECB. I would assume that that  
10 would be not a very likely situation where you  
11 would fail to do it again because most vendors  
12 carry their license and they have it on display  
13 and that's not a hard rule to comply with.

14 But if you were to do it a second  
15 time, the fine would go up to \$100. Not \$1,000,  
16 not \$10,000, but go up to \$100. So far, not  
17 unreasonable right? Right.

18 So the third violation, the third  
19 time, the third time for that particular problem,  
20 you fail to carry and show your license while you  
21 are vending, the penalty would go up to \$250. I  
22 know that that's as far as you guys want to go,  
23 but it also seems to me that we're talking about  
24 the same problem repeatedly, one that actually has  
25 implications for other vendors. It has

1  
2 implications for the public. It has implications  
3 for everybody. It goes up to \$250 at that point,  
4 after the third violation.

5 It's not until the fourth violation  
6 that it goes to \$500. And the fifth time, and  
7 this is within two years, that a police officer  
8 has come up to you and said, hey can I see your  
9 license, and you don't have it, that they're  
10 charging you \$750. It's not until the sixth time,  
11 the same problem, that you would get \$1,000  
12 penalty.

13 So my question for you is if we  
14 were talking about the same violation, is that  
15 schedule really so unfair.

16 SEAN BASINSKI: I'll tell you why.  
17 I think that's a good example. You chose a good  
18 example, Chair Garodnick. First of all, we know  
19 that two years is a long time. In some spots you  
20 could be visited every week by the police. So in  
21 some spots you might get visited over the course  
22 of two years five or six times, in which case, if  
23 it happens five or six times that's a lot. If  
24 they come every week though, it's not a lot.

25 Not just that, in some locations

1  
2 they do come every week. Not because there are  
3 complaints, like we heard from before but because  
4 there are things like the peddlers squad whose  
5 only job every day in New York City is to go  
6 around and enforce the vending rules, whether  
7 there are complaints or not. This is what they do  
8 every day.

9           The one that you cited about  
10 failing to display a license, so the first time  
11 it's very cold, it's inside my jacket. A lot of  
12 vendors, when they have a thick parka on in the  
13 wintertime, it's very hard to have it outside  
14 because you're wearing a thick jacket. Let's say  
15 though that you're guilty because it was inside  
16 your jacket that first time.

17           So then the second time, and we  
18 heard about this quite a bit, the license  
19 actually, you know they have it hanging around.  
20 So let's say they take it outside the parking.  
21 Now it's actually gotten turn around, and we hear  
22 about this quite a bit, don't we, Matt? That they  
23 were displaying their license but the license on  
24 the hanging thing got flipped toward them and so  
25 the policemen gave them a ticket for that. Well

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that's the second time, now we're at \$100 now.

So now a year later, let's say they're good for another ten months, and now a year later they just got to their spot. They're not working yet but they're setting up the location. But the police come and say you're working. No, I'm not working, I'm not vending anything, I'm still setting up. The police office writes on that ticket: vending, failed to display license. Why was your license in your pocket? Because you were still setting up, you were fixing some boxes and you had yet to do it.

When you get to ECB court, the judge is not going to believe you when you go and say I wasn't vending yet. The judge is very likely going to believe the police officer. So now those are three separate situations, three different scenarios where this happens and now you're at \$250 and it's only been on year. So now you've got two more years.

So, no, I don't think it's simple. It might sound from a distance that somebody is being a bad actor in that case if they got three or even six times that this happened. In some

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2 spots, with some of the ways that these tickets  
3 are written and some of the fact that we've heard  
4 that it's so difficult to defend them at ECB  
5 court, it can easily happen. In that case, I do  
6 think it's unfair, absolutely.

7 CHAIRPERSON GARODNICK: Okay. I  
8 take your point about our need to have enforcement  
9 agents who are demonstrating a fair degree of  
10 responsibility and reasonableness out there.  
11 Obviously if somebody is just in the process of  
12 setting up it's different from the fact when  
13 they're in the middle of a transaction and they're  
14 not displaying their license or where it's facing  
15 in as opposed to out. You know, we want our  
16 officers to be fair and responsible.

17 What we have to do here is try to  
18 develop those rules which when we read them and  
19 when we put them in the books that they are  
20 objectively right. You know, I don't know exactly  
21 whether or not the \$250 mark and you start  
22 presumably at \$50 and go up to \$250 for the sixth  
23 offense, I suppose. Is that what you guys would  
24 propose, something along those lines?

25 SEAN BASINSKI: It would be the

1  
2 fourth. The fourth and fifth and sixth would all  
3 be \$250.

4 CHAIRPERSON GARODNICK: Oh, fourth,  
5 fifth and sixth would all be \$250. Okay. Well  
6 that's the challenge that we have because we take  
7 your point about enforcement and the rules  
8 themselves are so complicated that we realize that  
9 they're hard for the vendors and they're hard for  
10 the police. You know the challenges that I see in  
11 the district that I represent are not so much of a  
12 peddlers squad which is constantly all over the  
13 vendors, it's the fact that the police really  
14 don't have any interest in actually enforcing  
15 vendor problems which are known and repeated.  
16 That may be a different challenge in other parts  
17 of the city.

18 SEAN BASINSKI: I do think that you  
19 raise a good point which is that the severity of  
20 the thousand dollar tickets is very much tied to  
21 the unjust system of ticketing, whereby the police  
22 officers are not well informed about what the  
23 rules are, which exacerbates the problem. And  
24 also the unfairness that happens at ECB when there  
25 are no procedures in place to defend these tickets

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properly.

So, if you had fair enforcement and if you had well trained officers and if you had a fair process in place at ECB, a thousand dollar ticket might be okay. But until that happens, it's not okay because it's not fair because we see these things happening every day.

CHAIRPERSON GARODNICK: Okay, I take your point. Council Member Levin?

COUNCIL MEMBER LEVIN: Thank you, Mr. Chairman. I don't have any questions; I just wanted to say briefly that going back to August 2010, looking back I have a memo from Street Vendors Project on this issue. I just want to acknowledge the great grace and discipline with which the Street Vendors Project has embarked on this endeavor of getting these bills passed. I'm very appreciative of being able to work with you and you've shown me a lot about how to be effective and responsible advocates.

There are over 30 sponsors on each of these two bills, bipartisan support. That's not in any way attributable to my effort, that's attributable to your efforts, because you have

1  
2 done a remarkable job of making your case to each  
3 individual Council Member. I just want to  
4 acknowledge Sean's efforts and Sasha's efforts,  
5 but really I want to acknowledge the efforts of  
6 the advisory board of the Street Vendors Project  
7 and all of the vendors who have participated  
8 because you're the ones that have made your case  
9 so effectively.

10 So I just want to acknowledge that.  
11 It's been a pleasure to work with you. Thank you.

12 JAMES B. WILLIAMS: Thank you.

13 CHAIRPERSON GARODNICK: Thank you,  
14 Council Member Levin. We also certainly  
15 appreciate your advocacy on these issues as well.  
16 With that, we have no further questions for this  
17 panel. We thank you for being here.

18 JAMES B. WILLIAMS: Thank you for  
19 having us.

20 MATTHEW SHAPIRO: Thank you.

21 SEAN BASINSKI: Thank you.

22 CHAIRPERSON GARODNICK: It's a  
23 pleasure. The next panel will be Brad Beckstrom  
24 of Mount Sinai Hospital, Jeannine Jennette of  
25 Columbia University Medical Center and Monica Blum

1  
2 of the New York City BID Association. Come join  
3 us; we're delighted to have you.

4 [Pause]

5 CHAIRPERSON GARODNICK: We've been  
6 joined by Council Member Robert Jackson. Thank  
7 you, Council Member.

8 [Pause]

9 CHAIRPERSON GARODNICK: Thank you  
10 very much. Whenever you all are ready, you can  
11 get started. Go ahead.

12 MONICA BLUM: Thank you very much.  
13 My name is Monica Blum, and I'm here today on  
14 behalf of the New York City BID Association.  
15 Thank you, Chairman Garodnick and members of the  
16 committee for this opportunity to testify.

17 The New York City BID Association  
18 represents the 67 business improvement districts  
19 throughout New York City. Let me state at the  
20 outset that the Association has not taken a  
21 position on the bills that you are considering  
22 today; however, a number of my colleagues will be  
23 testifying or submitting written statements. In  
24 fact, we are as well.

25 My remarks will be general and more

1  
2 historical in nature. We commend you for your  
3 efforts to address the food vending situation, a  
4 complicated situation to say the least.

5 Let me also say that we are not  
6 opposed to vendors. Many of us have good working  
7 relationships with the vendors in our districts.  
8 We recognize that food vending serves a legitimate  
9 need and that many people like and use them.

10 The New York City BID Association  
11 has a long history with this issue and has been  
12 attempting to deal with vending for many, many  
13 years. We recognize the complexity of the  
14 situation; the regulations are confusing, unclear,  
15 and as a result, make enforcement extremely  
16 difficult. This is true for both general vending  
17 and food vending.

18 However, we believe that in  
19 addition to the legislation you are considering  
20 today, there needs to be a comprehensive overhaul  
21 of the regulations and statutes that govern  
22 vending. The current regulations are simply  
23 unworkable, extremely confusing, and are very  
24 difficult to enforce. We believe that even  
25 vendors are often unclear as to where they can go

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and cannot.

In 1999, our organization which was then known as the BID Managers' Association, undertook, at its expense, a comprehensive review of the many vending regulations and ultimately drafted a comprehensive bill, known as 110, subsequently revised to be 110A, that unified the regulation of food and general vendors in one broad piece of legislation that established assigned locations, or warrants, for vendors. We also proposed a lottery system that would have insured that vendors who had been at their particular locations for a long time would have a fair shot at keeping those locations.

That legislation also had locations where vending, both food and general, was not permitted, as well as other provisions. Our goal was to develop a structure that would balance the interests and needs of all, the general public and the vendors. Under our proposal, no one location, or corner, would be saturated with vendors and many more locations would have become available. Although there was considerable interest in that legislation at the time, due to the complexity of

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the issue, it did not move forward.

We commend the Council for taking this step today to try to bring some rationale to vending. While our original bill may be too dusty for consideration today, the New York City BID Association is eager to work with all parties to try and come up with a solution that works, and that is enforceable. Having five food vendors, many selling the same product, right next to each other clearly does not work.

We are happy to work with you and the members of the Council in coming up with a comprehensive statute that is rational, and balances the needs of all concerned. Thank you for the opportunity to be here today.

BRAD BECKSTROM: Good morning. My name is Brad Beckstrom and I am the Director of Government Affairs at Mount Sinai and I welcome the opportunity to address Chairman Garodnick and other members of the committee this morning.

We're here to express strong support for New York City Council Introduction 789, which would amend the administrative code to prohibit vending on the portion of hospital

1  
2 sidewalks that abut to a no standing zone. The  
3 legislation would help address an important  
4 patient safety issue created when vendors locate  
5 near hospital entrances and obstruct areas where  
6 patients are dropped off and picked up.

7 Mount Sinai urges that you adopt  
8 this legislative proposal and we would look  
9 forward to working with you on this matter.

10 The Mount Sinai Hospital campus is  
11 located between 98th and 102nd Street from Madison  
12 Avenue to Fifth. On any given day 35,000 people  
13 enter one of our buildings, 4,500 people obtain  
14 outpatient care, there are more than 300 people  
15 who get emergency department care, and as many as  
16 1000 individuals are receiving inpatient care on  
17 any given day. We obviously care for a large  
18 number of individuals, many of these who are  
19 handicapped and elderly. It is a busy facility  
20 located on some of the busiest roads in New York  
21 City.

22 In recent years the number of  
23 vendors located on our hospital campus has nearly  
24 doubled. In fact, on many weekdays we have as  
25 many as 35 vendors located on one of our

1  
2 sidewalks. This situation creates patient safety  
3 hazard issues, diminishes patient access, results  
4 in street congestion and limits emergency vehicle  
5 and personnel access to our facility.

6 I would like to share just a few  
7 examples of problems that we've experienced and  
8 why this legislation is required.

9 Number one: curbs are frequently  
10 used for patient pick-up and drop-off from private  
11 vehicles. Vendors often line the curbs in front  
12 of our hospital, in front of our doors where  
13 people come and go. This makes it difficult and  
14 dangerous for people to access the sidewalk from  
15 their vehicle while having to maneuver around  
16 vendors.

17 It is not uncommon, in fact, for a  
18 drop-off patient to have to walk down Madison  
19 Avenue in a traffic lane to get to the hospital  
20 door.

21 Ambulettees often drop people off  
22 as well curb side. The sidewalk congestion adds  
23 to the time the ambulettees block traffic. The  
24 ambulettees wait while the patient enters the  
25 building and then leaves. The delays their

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leaving and really results in additional traffic congestion.

In the event of an emergency which requires the hospital to evacuate, the vendors would be occupying the same space that is needed by the hospital to stage evacuation methods.

And finally, many of our vendors are close to entrances and curbside. They would be in the way of emergency personnel and vehicles we need for a disaster.

It's important to note that this legislation does not prohibit vendors from locating on hospital property. Rather, it only precludes them from locating on certain areas.

Again, I thank you for the opportunity to address you this morning and we strongly urge that the City Council support and adopt 789.

JEANNINE M. JENNETTE: Good morning, Councilman Garodnick and members of the committee. My name is Jeannine Jennette, Executive Director of Public Safety at Columbia University Medical Center in northern Manhattan. I am here to speak in strong support of Council

1  
2 bill 789, which would prohibit vending on the  
3 sidewalk abutting no standing zones that are  
4 adjacent to hospitals. Attached to my written  
5 testimony is a letter that Executive Vice  
6 President and Dean at CUMC, Dr. Lee Goldman, wrote  
7 to Councilman Garodnick in support of this bill.  
8 I ask that it be included in the record along with  
9 my testimony.

10 In recent years, we have seen  
11 significant growth in the number of vendors, both  
12 general and food, in the area surrounding CUMC and  
13 New York Presbyterian, our affiliated hospital.  
14 At the center of our campus, the super block  
15 bordered by 165th Street, 168th Street, Broadway,  
16 and Fort Washington Avenue, last Thursday  
17 afternoon, there were 19 separate vendors. This  
18 does not include the two newsstands, the two ice  
19 cream trucks that generally park on 165th and  
20 168th Streets later in the day. This also does  
21 not include the vendors nearby, across the street  
22 or out in front of other buildings on campus.

23 Over half of the vendors on the  
24 super block were located adjacent to a no standing  
25 zone, including two that were parked directly next

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2 to a fire hydrant, and several located close to  
3 the emergency room entrance where the ambulances  
4 pull up to bring in the patients. This cluster of  
5 vendors, especially towards the corner of 168th  
6 Street and Broadway, creates tremendous traffic  
7 problems, both pedestrian and vehicular, near the  
8 carts, and makes it more difficult for staff,  
9 students, visitors, ambulances, and especially our  
10 patients, many of whom are disabled and limited in  
11 some other way, to access our facilities.

12           Imagine coming out of the subway,  
13 as many of our patients do, and being caught in  
14 pedestrian traffic that makes it harder to reach  
15 your doctor's office. Imagine trying to pull up  
16 in a car, taxi, or Access-A-Ride van to get into  
17 the hospital, even the emergency room, and not  
18 being able to get as close as possible. Council  
19 bill 789 will address this situation and make it  
20 easier for those who really need to get to the  
21 hospital to do so.

22           While the vending carts themselves  
23 are obviously on the sidewalk and not on streets,  
24 most of these carts have to be dropped off and  
25 picked up every day by a van or truck powerful

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2 enough to tow them. They also receive deliveries  
3 of supplies throughout the day. This means that  
4 oftentimes, not only are the carts blocking the  
5 sidewalk, they or their delivery trucks are  
6 actually blocking the street, including blocking  
7 no standing zones.

8 I should also note that many  
9 vendors will often leave their cars in metered  
10 spots adjacent to where they are located for the  
11 entire day, thus exacerbating the traffic  
12 situation on our block even further. This is  
13 illegal but very difficult to enforce.

14 Prior to coming to Columbia in  
15 2002, I was a member of the New York City Police  
16 Department. From 2001-2002, I served as the  
17 commander of the 67th Precinct, which includes the  
18 area around SUNY Downstate Hospital. Even back  
19 then we had problems with vendors taking up  
20 valuable sidewalk and street space and making it  
21 more difficult for the people to get to the  
22 hospital.

23 Certainly, stricter enforcement of  
24 the consumer protection laws, as well as all  
25 health, and environmental regulations will help,

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2 and we work closely with our local precinct to try  
3 to maintain order, but the situation around  
4 CUMC/NYP has gotten out of hand. I fear that it  
5 could get worse, that we will see more vendors,  
6 taking up more space, and making it more difficult  
7 for people to access the health care they need.  
8 Please pass 789. Thank you. I am happy to answer  
9 any questions.

10 CHAIRPERSON GARODNICK: Thank you  
11 very much. I actually think that it's pretty  
12 straightforward and we appreciate your testimony.  
13 I certainly agree with you on 789, as it's a bill  
14 that I introduced. Since we have such a long  
15 agenda here today, we're going to leave it at  
16 that. But we thank you very much for your  
17 testimony.

18 BRAD BECKSTROM: Thank you very  
19 much.

20 CHAIRPERSON GARODNICK: We're going  
21 to bring up the next panel, which include Shira  
22 Gans, who's a representative of the Borough  
23 President of Manhattan, Scott Stringer; Steven  
24 Wasserman of the Legal Aid Society; Lee Wellington  
25 of the Pratt Center; and David Weber for NYC Food

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Trucks.

[Pause]

CHAIRPERSON GARODNICK: As soon as you're settled, Ms. Gans, you can kick it off.

SHIRA GANS: For the record, my name is Shira Gans and I am presenting testimony on behalf of Scott Stringer, the Manhattan Borough President.

Thank you to Council Chair Daniel Garodnick and the Committee on Consumer Affairs for holding this important hearing to address inequities in the City's Administrative Code. I urge the City Council to pass Councilmember Stephen Levin's Intros 434 and 435.

Entrepreneurs are the lifeblood of this city and the backbone of our economy. As a city, we should encourage and foster industrious citizens like street vendors who want to own and operate their own businesses. Instead, my office routinely hears from business owners burdened by fees and fines. They feel as though New York City government too often views them as a revenue source to be nicked and dimed, rather than as a critical avenue for economic development.

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2           The City's own numbers support  
3 these anecdotes. Comparing 2002 to 2011 data,  
4 fine revenue from the Consumer Affair Tribunal has  
5 increased by 126 percent, Environmental Control  
6 Board by 133 percent, general Administrative Code  
7 violations by 175 percent, and the Health Tribunal  
8 by an astounding 352 percent. Last year the City  
9 collected over \$816 million in fines. Things have  
10 gotten out of control, and too often it is small  
11 business owners who are paying the steepest price.

12           For New York City to run smoothly,  
13 we need rules and regulations. And, citizens and  
14 business owners alike have a responsibility to  
15 know and follow those rules and regulations. But  
16 the punishment should fit the crime. That is why  
17 I am here today to lend my support to Intros 434  
18 and 435. A legal street vendor should not be  
19 subjected to a \$1,000 fine for improperly  
20 displaying a license. It is not right and it is  
21 not fair.

22           My office has been working with  
23 Council Member Margaret Chin, the Department of  
24 Consumer Affairs and the NYPD to enhance public  
25 awareness of and compliance with laws related to

1  
2 the sale of counterfeit trademark merchandise. We  
3 identified that lack of compliance often stemmed  
4 from lack of awareness. As with counterfeit  
5 merchandise, I recommend that Consumer Affairs and  
6 NYPD improve outreach and education for street  
7 vendors regarding relevant aspects of the  
8 Administrative Code.

9 I commend the Street Vendor Project  
10 for their tireless advocacy and for making sure  
11 street vendors have a voice in city government. I  
12 believe the majority of street vendors want to  
13 comply with city regulations. Unfortunately,  
14 these regulations are often confusing and  
15 unavailable in vendors' native languages. Just as  
16 we ask business owners to do their due diligence  
17 in learning city codes, we must meet them halfway  
18 and provide the tools that make these codes  
19 accessible and understandable.

20 When we start treating business  
21 owners with the respect they deserve, I believe we  
22 will strengthen not only our economy but also our  
23 communities. Thank you.

24 STEVEN B. WASSERMAN: I am Steven  
25 Wasserman, with the Legal Aid Society. I'm

1  
2 connected to the Criminal Practice and in  
3 particular I handle the property problems and  
4 issues that arise in connection with criminal  
5 prosecutions.

6           Legal Aid also strongly favors the  
7 passage of 434 and 435 and we do so for two  
8 principle reasons. First, because of our  
9 experience with the plight of unlicensed street  
10 vendors and secondly, because of our experience  
11 with the very harsh and rigid fining policy that  
12 exists over at the Environmental Control Board.

13           Now, with respect to unlicensed  
14 vendors, as bad as it is for the licensed vendors,  
15 this is a life that is overshadowed by constant  
16 fear of arrest, expropriation and deportation. A  
17 neighborhood vendor may be tolerated on Monday and  
18 incarcerated on Tuesday, her liberty, property,  
19 and immigration status subject to revocation and  
20 forfeiture.

21           Many of our clients facing  
22 deportation came to the attention of Immigration  
23 authorities as a result of an arrest for  
24 unlicensed vending. In an effort to respond to  
25 complaints by local retailers, or to abate what

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2 they characterize as "quality of life conditions",  
3 the NYPD often is thrust into the role of exposing  
4 undocumented workers to removal proceedings by  
5 Immigration authorities.

6 For that reason we think it is  
7 important to try to expand the opportunities for  
8 licensed vending as broadly as we possibly can and  
9 to make it as easy as possible to operate within  
10 the law. I mean the plight of those many  
11 thousands who are forced to sell things on the  
12 street, outside the law, is probably the most  
13 important reason to try to relax the fining  
14 schedule and to try to make it easy to operate  
15 legitimately.

16 Now, secondly, we are painfully  
17 familiar with the rigid and unforgiving fines  
18 policy at the New York City Environmental Control  
19 Board. This is why by the way, we incidentally  
20 also support the legislation by Council Member  
21 Mark-Viverito for the Council to actually monitor  
22 the actual results and verdicts before ECB. In  
23 our experience, the Board tends to elevate revenue  
24 enhancement over regulation and strict liability  
25 over deterrence.

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2           One current example is our client  
3 Albert Prince, a noted local sculptor who uses  
4 found objects in his artistic creations. Mr.  
5 Prince was fined \$2000 and had his van impounded  
6 for taking an old rooftop TV antenna from a pile  
7 of materials left by the curb.

8           Now, the fine and impoundment  
9 levied on Mr. Prince was, of course, part of a  
10 different regulatory scheme, but I assure you it  
11 is enforced ruthlessly and without any exception.  
12 Now the \$2,000 fine that Mr. Prince received  
13 happened to be a twenty-fold increase over the  
14 traditional fine for taking recyclables.

15           When the proposal to increase this  
16 fine by a factor of 20 came before the City  
17 Council in 2009, several Council Members expressed  
18 strong reservations about the potential sweep of  
19 the enhanced penalties. They were given  
20 categorical assurances from City officials that  
21 the enhanced penalties would not actually be  
22 applied to anyone taking any amount of recyclable  
23 materials, but only to those operating for  
24 commercial purposes, for serious business reasons,  
25 and in great bulk.

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2 But in fact, the fine schedules  
3 tend to be imposed in a fairly ruthless way, and  
4 we have heard time and again from ECB that their  
5 hands are tied and that they really are unable to  
6 reduce or to give any sort of relief from the  
7 existing fine schedule.

8 Now, the other thing to be said  
9 about \$1,000 is that this is the maximum fine for  
10 any misdemeanor. It's the maximum fine for  
11 unlicensed vending. It's the maximum fine for  
12 drunk driving. So the fine schedule is just  
13 absolutely completely out of line, I mean even  
14 with penal sanctions.

15 Look, I just want to say that New  
16 York loves and needs its street vendors, and owes  
17 them a fairer opportunity to conduct their  
18 businesses under reasonable regulations. Thank  
19 you.

20 LEE WELLINGTON: Good afternoon,  
21 Chairman Garodnick and members of the City  
22 Council. My name is Lee Wellington, and I am a  
23 Planning Fellow at the Pratt Center for Community  
24 Development. I'm also a law student at Brooklyn  
25 Law School.

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2           The Pratt Center has provided a mix  
3 of technical assistance and policy work for folks  
4 looking to start a vendor marketplace, looking at  
5 food access issues and the relationship to  
6 downtown redevelopments, and to participatory  
7 planning in diverse communities across all five  
8 boroughs.

9           We are pleased to voice our support  
10 for these bills for two key reasons. First, the  
11 legislation before you today is consistent with  
12 the core values of the Pratt Center. Intros 434  
13 and 435 reflect a participatory process with the  
14 goal of reaching more equitable outcomes. And  
15 second, through our work providing technical  
16 assistance to local development groups, we  
17 understand the importance of street vending as a  
18 vital community development tool. This  
19 legislation will make it easier to street vendors  
20 to thrive while working within the existing  
21 regulatory framework.

22           So turning first to process issues,  
23 the Administration quadrupled the maximum fines  
24 for street vendors in 2006. This increase,  
25 coupled with an escalating penalty schedule, was a

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2 dramatic change to the regulatory framework for  
3 vendors. Yet the question of the \$1,000 fines,  
4 that never went before the City Council. Instead,  
5 the Environmental Control Board simply used its  
6 rulemaking authority to enact this sweeping  
7 regulatory change. Vendors, and all New Yorkers,  
8 deserved a far more extensive public process, and  
9 we're pleased that the City Council is now  
10 considering measures to reform the City's penalty  
11 schedule.

12           After reviewing other escalating  
13 penalty schedules within the Administrative Code,  
14 it is hard to find anything as punitive as the  
15 vending regulations that stand today. We are  
16 dealing with immigrant entrepreneurs that are  
17 earning wages hovering at the poverty line.

18           A \$1,000 ticket, it might be 5  
19 percent of a vendor's annual income, or it might  
20 be as high as 20 percent. Because vendors see  
21 penalty amounts increase with each minor, and I  
22 should emphasize, unrelated offense, \$1,000  
23 tickets are not uncommon. And because many of our  
24 City's vendors are immigrants with limited English  
25 language skills these tickets are incredibly

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2 difficult to defend in administrative courts.  
3 Consequently, vendors must face a very difficult  
4 decision, deciding on the cost of basic living  
5 expenses or paying fines that are grossly out of  
6 proportion to the alleged violations at issue.

7           The Pratt Center's technical  
8 assistance and policy work has only reinforced the  
9 importance of street vending in community  
10 development. Presently, we are working with  
11 Cypress Hills Local Development Corporation to set  
12 up a vendor marketplace on an underutilized lot on  
13 Pitkin Avenue in Brooklyn. We have partnered with  
14 Brooklyn Law School's Community Development Clinic  
15 to help local vendors understand the many agencies  
16 that regulate vendors in New York City, and  
17 register for Certificates of Authority.

18           Vending regulations, as we've seen  
19 today, are not always intuitive, and while there  
20 are a number of organizations, like the Street  
21 Vendor Project that are doing such important to  
22 help vendors understand these regulations, it is  
23 certainly a complex line of work. Therefore, it  
24 is not surprising that vendors can receive several  
25 tickets in a day for minor infractions, like not

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2 wearing a vending license, or being too close to a  
3 building entrance.

4 Many of these regulations are  
5 indeed important to the productive functioning of  
6 a densely populated city. But the escalating  
7 penalties as they currently standing are leading  
8 to a counterproductive result. Vendors, unable to  
9 afford the fines, may not renew their licenses to  
10 vend legally on the City's streets. Regulations  
11 need to be crafted carefully so that vendors are  
12 able to stay within the existing regulatory  
13 framework.

14 Most importantly, we need vending  
15 in New York City. Vending can create important  
16 hubs of activity in downtown commercial corridors  
17 to attract more foot-traffic. Vending can also be  
18 a gateway to economic opportunity, as we saw from  
19 the testimony of vendors at the Street Vendor  
20 Project.

21 The Pratt Center has been focused  
22 on supporting immigrant food businesses, and  
23 strengthening the production economy more  
24 generally. Food production is a \$5 billion  
25 industry in the City, and continues to be a

1  
2 growing source of sustainable employment,  
3 particularly for immigrant communities. Street  
4 vending, since this City's beginnings, is an  
5 important tool in launching these viable food  
6 businesses.

7           The Pratt Center strongly supports  
8 regulations that allow food entrepreneurs, and  
9 entrepreneurs of all sort, to get their start on a  
10 fair playing field. Intros 434 and 435 are  
11 important steps in the direction of equity for  
12 some of the City's smallest of small businesses.  
13 We thank you for your time, and welcome any  
14 questions that you may have.

15           DAVID WEBER: My name is David  
16 Weber. I'm co-founder of Rickshaw Dumplings which  
17 operates several hospitality businesses in New  
18 York City, including two restaurants, a food truck  
19 and a kiosk in Times Square. I'm also the founder  
20 and president of the New York City Food Truck  
21 Association which represents 37 small businesses  
22 that operate premium food trucks here in New York  
23 City. And I'm a voracious eater and also a zealot  
24 New Yorker that thinks this is really the best  
25 place on earth and what we really need is a

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regulatory structure that can create opportunities for the best vendors on earth.

The first thing I want to really convey to everyone is that I think that there is space for street vendors and restaurants to coexist. One of the common flashpoints we often see is street vendor versus restaurant.

What I see in the industry is everyone that works in hospitality is very focused on making sure that the customer gets what they want at the end of the day. Even to quote, you know, last year in the *New York Times*, the senior vice president of the National Restaurant Association Hudson Riehle, he referred to street vendors and in particular food trucks, as mobile restaurant units. So I think that we're all part of the same purview.

I've had a lot of talks where with the New York Restaurant Association. One of the things that they're more worried about for their constituents is access into this market. I think that taking the time to look at that, to incorporate restaurants more broadly into street vending is going to help in the long term.

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2 Street vendors have a lot of things  
3 to offer the city in terms of tax revenues, job  
4 growth, tourism, activating public space, and I  
5 think most importantly as acting as an incubator  
6 for entrepreneurs to work themselves up through  
7 maybe a cart to a food truck and hopefully one day  
8 to a brick and mortar business.

9 Several of my members have gone  
10 through this very same route, including the Bistro  
11 Truck, the Cupcake Stop, Dessert Truck, Kimchi  
12 Taco Truck, Mexicue, Schnitzel and Things,  
13 Souvlaki GR, the Treats Truck and Van Leeuwen Ice  
14 Cream, and we have two or three more coming that I  
15 can't release here today. But, you know, these  
16 aren't just like street vendors, these are  
17 incubators. This is a way to stimulate small  
18 business, to grow jobs and to increase tax  
19 revenue.

20 I think taken as a whole the  
21 introduced legislation is extremely reasonable.  
22 Lowering the fines and creating more mechanisms to  
23 ensure that those fines get paid makes a lot of  
24 sense. One of the things that we're a huge  
25 advocate for within our constituency is community-

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2 oriented vending. So staying clear of taxi stands  
3 seems to be extremely reasonable and making way  
4 for people that need hospital care also seems  
5 extremely prudent. So taken as a whole, I think  
6 all of these are great and an excellent first step  
7 in improving the regulatory structure. But I  
8 think that there's still a long, long way to go.

9 I was really delighted to hear  
10 about the Street Vendor Review Panel. I think  
11 that some sort of interagency task force to take a  
12 look at vending as a whole and rethink it would be  
13 great.

14 Two key issues that we've been  
15 working on for a long time are that there's no  
16 legal place right now for food trucks to vend in  
17 the city because they can't vend from meters, from  
18 hydrants, loading/unloading zones, basically  
19 everyplace is off limits. So finding curated  
20 locations throughout the city I think would go a  
21 long way towards some sort of stability.

22 I think that the instability and  
23 the chaos that the current system creates is  
24 what's leading to a lot of the complaints which  
25 leads to the enforcement which leads to the

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2 tickets. So I think that a larger rethinking is  
3 going to help a lot.

4           Lastly: transparency. You know,  
5 just no one knows. It was extremely clear that  
6 even the regulatory agencies overseeing this don't  
7 fully have a clear grasp of what the rules are.  
8 One of the big things I do when I go around and  
9 visit BIDs and community boards is just educate  
10 them on my knowledge and we're all constantly all  
11 sharing knowledge about what is this larger sense  
12 of the entire group of the regulatory structure.  
13 So any steps in that direction I think would be  
14 great for street vendors, for retail  
15 establishments and the city as a whole.

16           CHAIRPERSON GARODNICK: Thank you.  
17 I only have one question and it's similar to a  
18 question that I asked the folks from the Street  
19 Vendor Project before. Is there something  
20 inherently unfair with the fine structure, even  
21 going up to \$1,000, if you're talking about having  
22 it for the sixth offense for the same violation,  
23 as opposed to a hodgepodge of violations? I can  
24 understand you get there pretty fast if you're  
25 talking about multiple different violations. Each

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one of them could be independently small.

But if you're talking about for the same violation, is that inherently unfair?

STEVEN B. WASSERMAN: Well, it could be harsh if there's really no--

CHAIRPERSON GARODNICK:  
[interposing] Make sure your microphone is on.

STEVEN B. WASSERMAN: Sorry. It could be harsh if there really is no lawful way for a person to avoid that infraction. I mean if it really is in the nature of the business, I mean such as the fact that there is no legal place to park a vending truck.

CHAIRPERSON GARODNICK: Put the trucks aside for a second because the trucks are a separate issue that we're going to take up next. But let's talk about the vendors for whom we actually have legal places for them to be and rules that are at least articulable, if not complicated they are articulable.

STEVEN B. WASSERMAN: Well, I think the point to be made really is that you would not see people offending six times if there actually was an efficient way of assuring that the fines

1  
2 were being paid. I mean the fact of the matter is  
3 I think a lot of the multiple offending that  
4 you're seeing is really a result of the fact that  
5 these fines are just unpaid and there's probably a  
6 very small number of offenders and they probably  
7 just tend to walk away from the legitimate  
8 business rather than pay them.

9 CHAIRPERSON GARODNICK: It's still  
10 unclear to me as to whether you are seeing \$1,000  
11 fines which are accruing quickly because of a  
12 multitude of small unrelated offenses, or whether  
13 you're dealing with what I would regard as an  
14 obviously much more serious issue where somebody  
15 is doing the same thing over and over and over  
16 again, which they shouldn't be doing. I think we  
17 could probably agree that that is a much more  
18 serious situation, correct?

19 STEVEN B. WASSERMAN: It is. But  
20 I'm wondering if it really exists. I mean it  
21 seems to me that \$250, I mean if you're selling a  
22 \$5 item with a 40 percent margin of profit, I mean  
23 \$250 is certainly going to put you on the mat. I  
24 mean it may take you out of business altogether.  
25 I mean there is no question that a thousand bucks

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2 is going to be absolutely lethal. I mean you  
3 heard the testimony five and six times.

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5 So it really seems to me you would  
6 not even see recurrent fines of \$250 in a world  
7 where those fines were really being collected in  
8 an effective manner.

9

10 CHAIRPERSON GARODNICK: Understood.  
11 But of course, again, the thousand dollars does  
12 not come into play until a sixth offense. But I  
13 understand \$250 is big. It starts, of course, at  
14 \$50. I understand your point. I think we can all  
15 agree that the dollar amounts are large,  
16 particularly relative to the income of the folks  
17 who are actually vending and who are earning a  
18 living doing this.

19

20 It's one of the reasons why, by the  
21 way, I happen to think that the bill which ties  
22 the licenses to the permit holder actually perhaps  
23 may even solve a lot of the problems that we see,  
24 because the folks who actually are in the best  
25 position to police bad acts from those who are  
26 actually doing bad acts are the folks who will get  
27 socked with the penalty at the end of the day.

28

29 The question that I'm trying to get

1  
2 to the bottom of here is it's a fairness question  
3 about whether or not if you're hitting the same,  
4 if you've got the same problem repeatedly. Not  
5 whether you should get up to a thousand bucks on  
6 day one for having a few different ministerial  
7 problems. It seems to me that if you change the  
8 law so as having that apply to the increments  
9 going up only for the same offense, well then may  
10 you'd collect a couple of \$50 fines, but you would  
11 not actually see that go up to \$1,000 quite so  
12 fast.

13 STEVEN B. WASSERMAN: I'm really  
14 not sure there's an individual who would be  
15 deterred by a thousand but not by 250. But  
16 assuming what is not obvious, that that person  
17 exists, it seems to me there's a good case for  
18 just taking that person out of business rather  
19 than fining him. I mean if you have a multiple  
20 recidivist on some kind of really serious  
21 infraction, I don't understand why they're vending  
22 on the street at all.

23 CHAIRPERSON GARODNICK: Well it  
24 sounds like it may actually have that effect,  
25 right? I mean if a fine starts at 50 bucks but

1

2 goes up to \$1,000, perhaps you are actually taking  
3 them off the street. Is that what you're saying?

4

STEVEN B. WASSERMAN: Well, it  
5 would be, but I mean why not just do it in an  
6 honest way.

7

CHAIRPERSON GARODNICK: Well, I  
8 mean then--is that the recommendation?

9

STEVEN B. WASSERMAN: No, I mean I  
10 really think that 250 is really an ample  
11 deterrent. I mean that's what you get for  
12 driving--

13

CHAIRPERSON GARODNICK:  
14 [interposing] By the way, I agree too that, you  
15 know, a lot of these fines are ample deterrent  
16 when you're talking about any dollar amount. But  
17 the question that I have is really focused on the  
18 same, if somebody is doing the same thing over and  
19 over again. I think I hear your point and I think  
20 we'll leave it there. We also have a lot of folks  
21 who are looking to testify and I don't want to  
22 hold up the hearing on this.

23

So let me just call up the next  
24 panel. We appreciate all of you being here today.  
25 The next panel is going to be Peter Davies of

1  
2 Broadway Residents, Lizabeth Fuchs--oh, I'm sorry.  
3 I didn't realize Council Member Weprin had a  
4 question. But we'll make sure that he has lots of  
5 chance in the next one. Lizabeth Fuchs of Time  
6 Warner Center, Tom Belfiore of the Time Warner  
7 Center and Patrick Condren of Bay Ridge, 86th  
8 Street and 5th Avenue.

9 [Pause]

10 CHAIRPERSON GARODNICK: It looks  
11 like we may not have our complete panel here.  
12 Sir, what is your name?

13 PETER DAVIES: My name is Peter  
14 Davies, Pete Davies.

15 CHAIRPERSON GARODNICK: Okay, Pete,  
16 welcome.

17 PETER DAVIES: Thank you.

18 CHAIRPERSON GARODNICK: Sir, either  
19 of you, tell me your name.

20 PATRICK CONDREN: Patrick Condren,  
21 Bay Ridge BID.

22 CHAIRPERSON GARODNICK: Great. And  
23 do we have either Mr. Belfiore or we don't have  
24 Lizbeth Fuchs. Are you Mr. Belfiore?

25 PETER DAVIES: I'm Peter Davies.

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This is my neighbor Peter Davis.

CHAIRPERSON GARODNICK: All right, well we'll bring you both up on the same panel. Why don't we start with Davies and we'll end with Davis. How's that?

PETER DAVIES: That's good.

CHAIRPERSON GARODNICK: Go ahead.

PETER DAVIES: Good morning, Chairman Garodnick and fellow Council Members. Thank you for this hearing, which is covering very important points.

I am here as a member of the Broadway Residents Coalition, an ad hoc group of more than 80 SoHo residents, to express support for Intro 727, which would coordinate and standardize minimum clearance regulations for vendors.

I've lived along Broadway in SoHo for over 30 years. I'm not looking to turn back the clock, and I don't begrudge anyone from trying to make a living. I understand how difficult that can be. But the current situation with vendors in our neighborhood is out of control.

For all the previous speakers who

1  
2 spoke about minor infractions, terming placement  
3 of vending tables and stuff as minor, I invite  
4 them to come to SoHo. I invite you to come to  
5 Broadway, where you can't walk down the sidewalks  
6 because of the number of vendors.

7 A recent survey that we made of the  
8 blocks between Houston Street and Canal Street  
9 showed over 90 vendors on these six blocks. There  
10 are 30 vendors on my block front alone. As the  
11 weather improves we're already seeing an increase  
12 in vendors. Just last week 3 new food carts  
13 joined the 5 food carts on my block. Many of  
14 these food carts are there 24 hours a day, 7 days  
15 a week. They do not comply with the law. They do  
16 not go back into their commissary for servicing or  
17 cleaning. They're there 24/7.

18 Based on the existing laws, no more  
19 than 3 of those 30 plus vendors are in a place  
20 that can be called legal because the sidewalks  
21 here are only 17 feet wide and they can't be  
22 within 20 feet of a doorway. But the existing  
23 laws are barely enforced.

24 The crowding caused by all types of  
25 vendors on this stretch of Broadway, where the

1  
2 sidewalks are only about 17 feet wide, has created  
3 a situation where pickpockets now thrive amid the  
4 crush of shoppers. This is evidenced by the  
5 recent arrival of off-duty uniformed NYPD  
6 officers, hired by local stores to run  
7 interference between opportunistic crooks that  
8 prey on unsuspecting shoppers along the jam packed  
9 sidewalks.

10 This is an unexpected consequence  
11 of too many vendors in one block. It's not the  
12 vendors that are doing those crimes. But the  
13 situation is created where you can't get through,  
14 all the sudden you're in a jam of people and  
15 people are getting pickpocketed.

16 I would like to thank my neighbors  
17 in SoHo who have come together as the Broadway  
18 Residents Coalition to improve conditions in our  
19 neighborhood, work that is being done without pay  
20 but with big benefit to our community and is a  
21 model for how neighborhood issues can be dealt  
22 with when responsive and responsible citizens work  
23 together.

24 What we need is guidance from the  
25 top. Mayor Bloomberg is a man of information. He

1  
2 knows how to put information together. If he  
3 wanted this coordinated, he could make it happen.

4 Finally, above all, what's needed  
5 is enforcement of existing laws. There's  
6 something backwards going on here because I keep  
7 hearing talk of well if you get six violations--  
8 well, no, if you're in a place that violates the  
9 law, you're already violating the law. You do not  
10 need to be cited by an office to be in violation  
11 of the law. That only codifies that you've  
12 violated.

13 So vendors need to be responsible.  
14 If you know that that spot is illegal, please  
15 don't be there. We talk to the vendors on our  
16 blocks. They say yeah, we know we're illegal but  
17 until the NYPD comes, we're not moving. So there  
18 is a disconnect here between the civic  
19 responsibility of vendors and how this all works  
20 together. Thank you very much for your time and  
21 good luck.

22 PATRICK CONDREN: Good morning,  
23 Councilman and members of the Council. My name is  
24 Patrick Condren. I'm the Executive Director of  
25 the 86th Street Bay Ridge BID and the Fifth Avenue

1  
2 Bay Ridge BID, which are two of the smallest in  
3 size and assessments of the 67 BIDs in New York  
4 City. Since 2001, however, we do provide services  
5 seven days a week.

6 In May of 1994, the City of New  
7 York placed a ban on vendors in the area that  
8 includes 86th Street BID and Fifth Avenue BID.  
9 However the ban apparently did not include food  
10 vendors.

11 Since 2005, 86th Street, in  
12 particular, building owners, merchants and  
13 residents have discussed the growing presence of  
14 food vendors within the district. Meetings and  
15 discussions with Community Board 10 and many New  
16 York City agencies have produced expressions of  
17 frustration as many of these mobile units  
18 negatively impact the BID small business owners.  
19 These units are part of a large and extensive  
20 enterprise in New York City. They're dispatched  
21 to various locations, frequently competing  
22 directly with long established businesses which  
23 are not mobile.

24 These BIDs and other local BIDs and  
25 merchants associations in a variety of testimony

1  
2 being presented, and many local business owners  
3 have joined together with Community Board 10 to  
4 state that this is five borough issue that needs  
5 clarity now. We're also appreciative that the New  
6 York City BID Association is stating the same  
7 thing, obviously.

8                   There are numerous and often  
9 conflicting rules and regulations which this  
10 gentleman just described, which need  
11 solidification now. We applaud the leadership of  
12 our local community board in requesting the City  
13 of New York to enact clear and meaningful  
14 guidelines for licensing, regulation and  
15 placement.

16                   An apparent lack of attention, by  
17 the City of New York, to this issue, has prompted  
18 many small businesses and small business groups to  
19 express frustration, bewilderment and a demand to  
20 clear the situation up now. As many people know,  
21 we have individual store owners who want to secede  
22 from the BID because they don't think we do  
23 enough. So, having said that, thank you.

24                   CHAIRPERSON GARODNICK: Go ahead.

25                   PETER DAVIS: Good afternoon, Peter

1  
2 Davis. I'm a resident, 543 Broadway. I live  
3 between Prince and Spring. Presently I'm  
4 addressing the 20 foot issue. Our block, our  
5 street is only 17 feet wide, the sidewalk. So the  
6 20 foot marking goes out into the street itself.  
7 So I think we have to reexamine that. This is not  
8 a good issue.

9 Presently on our blocks, we have 30  
10 vendors and actually according to the regulations  
11 with the 20 foot marking, there should be one  
12 vendor per side of the block.

13 I have an illustrated map there.  
14 Here is an illustrated map. This actually shows  
15 all of these curves, these are the legal markings  
16 from the city. It means nothing. We have 30 to  
17 40 vendors on the block and legally one.

18 CHAIRPERSON GARODNICK: Got it.  
19 Thank you very much. One thing that I might  
20 suggest if you have not had success in working  
21 with the local police precinct, which I suspect  
22 that you have not is to reach out directly to the  
23 Street Vendor Project. They expressed a  
24 willingness to us to try to help resolve  
25 challenges that exist in various neighborhoods.

1  
2 So I would encourage you to engage with them, not  
3 taking away the substance of your point because  
4 that's something that we're trying to grapple with  
5 here legislatively. But I also encourage you to  
6 take a look at that. Council Member Levin?

7 COUNCIL MEMBER LEVIN: Thank you,  
8 Mr. Chair. Actually, I just wanted to kind of say  
9 what the Chairman just said which is that first I  
10 do appreciate, I've gotten a number of emails, Mr.  
11 Davies and Mr. Davis, from your neighborhood. Mr.  
12 Condren, as well, I've heard from your  
13 neighborhood.

14 I'm always sensitive to those  
15 concerns and I think that laws should be followed.  
16 I would recommend, in my experience working with  
17 the Street Vendors Project that they're more than  
18 willing to work with their membership to resolve  
19 any issues that are arising in specific hotspots.  
20 Obviously SoHo is certainly a hotspot. So I would  
21 recommend reaching out to them and I'd be happy to  
22 facilitate that as well.

23 PETER DAVIES: My original  
24 testimony, I was going to speak against 434, but I  
25 learned a lot here today and I understand that

1  
2 that's a really crazy issue that needs to be dealt  
3 with, so I did cross that out there. I do welcome  
4 any interaction with the Street Vendor Project. I  
5 do hope that the Street Vendor Project helps their  
6 members become responsible and good civic  
7 neighbors. So I would love to facilitate that  
8 interaction.

9 COUNCIL MEMBER LEVIN: That's  
10 wonderful and I do appreciate that. I think I see  
11 Sean Basinski in the back, so I'll make sure that  
12 you guys touch base before you leave.

13 PETER DAVIES: Thank you.

14 COUNCIL MEMBER LEVIN: Thank you.

15 CHAIRPERSON GARODNICK: Thank you  
16 very much. Do you have a question too? Council  
17 Member Gentile?

18 COUNCIL MEMBER GENTILE: Thank you,  
19 Mr. Chairman. Mr. Condren, I'm curious, has there  
20 been an effort on the part of the BIDs, your BID  
21 or the Association of BIDs to try to address some  
22 of the inequities in the regulations that are put  
23 forth with general vendors versus food vendors and  
24 how they interact with the community or the BIDs?

25 PATRICK CONDREN: I'm not speaking

1  
2 on behalf of the BID Association, but as I  
3 understand it, a number of years ago when I was  
4 more actively involved, there was several, as I  
5 think Monica Blum referred to before,  
6 Introductions that should be revisited. Take a  
7 whole clean white piece of paper and start all  
8 over again here. Sometimes things just don't work  
9 and it's a little too--I've heard the word  
10 complicated, frustrated, angry, you know  
11 throughout this whole morning.

12 Yes, we've addressed the individual  
13 regulations with our community board because we  
14 believe it's a larger issue.

15 COUNCIL MEMBER GENTILE: Now, in  
16 your BID particularly, and I know that from your  
17 BID that you have a zero sidewalk display district  
18 that's part of your BID, is that correct?

19 PATRICK CONDREN: That's correct.

20 COUNCIL MEMBER GENTILE: So what it  
21 in effect means is that any brick and mortar  
22 business in your BID cannot put as much as a  
23 sandwich board outside their business without  
24 receiving a summons. Am I correct?

25 PATRICK CONDREN: Very well said,

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correct. It's not a level playing field at all.

COUNCIL MEMBER GENTILE: But there could be a restaurant on wheels on the corner.

PATRICK CONDREN: And they are a restaurant on wheels. They're not just pretzel carts or hotdog stands anymore. They serve everything from Philly cheese steak to et cetera. And we've had several individual longstanding businesses go out of business or change hands in recent years over this issue.

COUNCIL MEMBER GENTILE: Another thing, am I correct in that there are some regulations about vending in certain zoning districts that are in the DCA regs but show up nowhere in the zoning regulations.

PATRICK CONDREN: That's my understanding as well. It creates a conflict for the local enforcement groups and a challenge for the police department, who has regularly tried to ascertain what is enforceable and what is not. It's a conundrum, it's a paradox, it needs to be completely ripped up and start all over--

COUNCIL MEMBER GENTILE:  
[interposing] Yes, I think cleaning the slate is

1  
2 probably what we should do in the long run, you're  
3 right.

4 PATRICK CONDREN: Thank you.

5 COUNCIL MEMBER GENTILE: Thank you  
6 all for coming. Thank you.

7 PATRICK CONDREN: Thank you very  
8 much.

9 PETER DAVIS: Thank you.

10 PETER DAVIES: Thank you.

11 CHAIRPERSON GARODNICK: Thank you,  
12 Council Member Gentile. Our next panel will be  
13 Kaja Kuehl, Julie Behrens, Jonathan Sunshine and  
14 Rachel Spector.

15 [Pause]

16 CHAIRPERSON GARODNICK: Is Rachel  
17 Spector here? We already have your testimony.  
18 Yanki Tshering will also be on this panel. Please  
19 go right ahead. Do you want to start us off,  
20 right in the middle? Go ahead.

21 JULIE BEHRENS: Sure. Good  
22 morning, members of the City Council. My name is  
23 Julie Behrens and I am an adjunct professor of  
24 Urban Planning at Columbia University.

25 Last year, along with my colleague

1  
2 Kaja Kuehl, who is also here to testify today, we  
3 taught a graduate level urban planning studio that  
4 worked with the Street Vendor Project to conduct a  
5 comprehensive analysis of street vending in New  
6 York.

7           Conducting both qualitative and  
8 quantitative research through direct observation,  
9 mapping, interviews with vendors, customers and  
10 the general public, analysis of existing rules and  
11 regulations, violations data, and public space and  
12 storefront retail surveys, our research found that  
13 vending benefits the City in a number of important  
14 ways and can be leveraged to promote citywide  
15 planning goals such as improving public space,  
16 promoting entrepreneurship, and increasing access  
17 to affordable food and merchandise.

18           We will be submitting the full  
19 planning study with our written testimony, but I  
20 wanted to highlight a few of our main findings  
21 here today, particularly as they relate to the  
22 improvement of public space, one of the city's  
23 most important public amenities.

24           Our students conducted a public  
25 space survey of Lower Manhattan and found that

1  
2 even in this dense neighborhood there are a number  
3 of places--examples include along Water Street,  
4 nearby the FDR, and some public plazas and POPS or  
5 privately owned public spaces--that were actually  
6 underutilized or had very little street life  
7 either due to poor urban design, or to the lack of  
8 destination to draw people into that space.

9           At the same time, customer surveys  
10 revealed that convenience and affordability were  
11 the top reasons why people in Lower Manhattan buy  
12 from vendors, and that the vending experience  
13 would be much improved by having more places to  
14 sit and eat in the public spaces where vendors  
15 sell. Our study found that opening currently  
16 underutilized public spaces to vending, especially  
17 where there is space for seating, has great  
18 potential to activate these underutilized spaces,  
19 encourage street life, increase access to  
20 affordable and convenient food and merchandise,  
21 and improve the overall streetscape of Lower  
22 Manhattan.

23           Improving public space is just one  
24 way in which vending serves as a public amenity  
25 and a tool for advancing related citywide planning

1  
2 goals. Vending is an important part of the  
3 economic landscape, providing opportunities for  
4 employment, entrepreneurship, innovation and small  
5 business development particularly among new  
6 immigrants and others that may face language,  
7 educational or other barriers to the traditional  
8 workplace.

9                   Vending has been used to promote  
10 healthy and locally grown produce through  
11 Greencarts and Greenmarkets programs, promotes  
12 local artisans and craftspeople in curated market  
13 places, provides access to convenient merchandise  
14 for the general public, and even increases safety  
15 in our public spaces by providing eyes and ears on  
16 the street. We shouldn't forget that it was a  
17 vendor who actually tipped the police off about a  
18 bomb in the back of an SUV a few years ago in  
19 Times Square.

20                   Under current conditions, vendors  
21 face high barriers to doing business. There are  
22 limited spaces where vending is permitted,  
23 regulations tend to be confusing and contradictory  
24 and fines pose a real threat business with such  
25 low profit margins.

1  
2 We're here today to support Intros  
3 434 and 435 which will do a long way towards  
4 rationalizing and limiting the amount of fines  
5 that can be levied against vendors. We feel that  
6 this will improve conditions for vending for also  
7 for the general public and will recognize vending  
8 as a public amenity that it is. Thank you.

9 KAJA KUEHL: My name is Kaja Kuehl.  
10 I'm an adjunct associate professor at the Graduate  
11 School of Architecture, Planning and Preservation  
12 at Columbia.

13 CHAIRPERSON GARODNICK: Sorry I did  
14 some damage to your name.

15 KAJA KUEHL: So I co-taught this  
16 planning studio last year with Julie Behrens. I  
17 want to add some detailed findings that we made  
18 during this study.

19 We took a closer look at the  
20 current fine structure, and compared the multiple  
21 offense schedule that escalates fines for vendors  
22 up to \$1,000 that we're discussing today, with  
23 other laws governing public space and found huge  
24 discrepancies between the fines applicable to  
25 vendors compared and those for owners of motor

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vehicles for example.

If a vendor fails display his license around his neck, he or she receives a fine according to the multiple offense schedule, which can escalate up to \$1,000. In contrast, if you park your car without displaying a current registration sticker, the fine is \$65 and it does not escalate, no matter how often you do it.

Similarly, if you park your car on a sidewalk, it's \$115, if you park it on a pedestrian crosswalk, it's \$165 and you can do this as often as you want. It will always be \$165.

So, in contrast, if a vendor parks his cart 20 inches away from the curb, as opposed to the required 18 inch, he or she could be fined \$1,000. We think that's' unreasonable.

What was said before, with an estimated average income of a vendor of \$14,000 a year, \$1,000 fine just puts him out of business and that's the reason why many of these fines don't get paid.

So we think the current fine structure is not very smart business practice for

1  
2 the city either. According to an Independent  
3 Budget Office report from 2010, the city spent an  
4 estimated \$7.4 million to regulate and enforce  
5 vending, while only \$1.4 million was collected in  
6 fees and fines. Moreover, of the 15.8 million  
7 levied in fines in 2008 and 2009, only 6 percent  
8 got paid.

9           So why do fines not get paid? To  
10 find answers, we looked at the 20,000 violations  
11 that were requested by Street Vendor Project as a  
12 Freedom of Information Act request. We found that  
13 53 percent of vendors do not show up in court.

14           Of those that do show up in court,  
15 nearly half of them get dismissed, meaning that  
16 the court finds that there was actually probably a  
17 misunderstanding about issuing the violation in  
18 the first place. That's no surprise. We heard  
19 this before. The rules are complex.

20           We also looked, and we have a  
21 visual of this. I'm happy to pass that around  
22 after I'm finished maybe, that looked at where  
23 these fines are issued. As you can imagine, the  
24 majority of fines are issued in Midtown and Lower  
25 Manhattan, which is where those rules are most

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complex.

It's clear that in these areas it comes to a lot of different interpretations of these rules. As you can imagine, like many speakers before, we think there needs to be a comprehensive overhaul of these rules, but we also think that that shouldn't hold up Intro 434 and 435 to pass now to allow vendors to work on the streets. Thank you.

YANKI TSHERING: Can you hear me?

Good afternoon. My name is Yanki Tshering and I'm the Executive Director of the Business Center for New Americans, a nonprofit organization that is dedicated to assisting immigrants, refugees, women, and others in need to achieve self-sufficiency and wealth creation through business development and expansion, savings, and home ownership. We achieve this by providing micro loans, and of course we work with many, many street vendors who come to us for loans. We also provide specialized training, and personal coaching.

The Business Center is certified as a CDFI by the CDFI fund at the U.S. Department of

1  
2 Treasury and is also certified by the SBA as a SBA  
3 Intermediary Lender. In the July 15, 2011 online  
4 version of CNN Money listed the Business Center  
5 for New Americans was featured as one of the 10  
6 top microfinance organizations in the U.S.

7 The reason I bring this up is to  
8 establish our credibility and hope that it will  
9 reinforce what many before me have said in support  
10 of Intro 434 and 435.

11 In partnership with our clients, we  
12 help them successfully establish and run small  
13 businesses, save money, or invest in a first home.  
14 Since 1997, we have provided hundreds of  
15 workshops, assisted over 3,702 businesses, and  
16 disbursed loans worth \$8.9 million.

17 Last week, the Honorable Mayor  
18 Bloomberg of New York City, recognized the  
19 Business Center for our dedication to helping  
20 immigrant entrepreneurs, by presenting us with the  
21 American Dreamer Award for 2012 in the business  
22 category.

23 Again, I mention all these  
24 credentials to point out that we are a objective  
25 and dedicated organization that takes our mission

1  
2 and role in helping new Americans in a sensible  
3 and pragmatic manner by collaborating with city  
4 agencies like the Department of Business Services  
5 and the Office of Financial Empowerment, an  
6 extremely progressive and effective initiative at  
7 the Department of Consumer Affairs. OFE was the  
8 first local government initiative in the nation  
9 with a mission to educate, empower, and protect  
10 New Yorkers with low incomes so they can build  
11 assets and make the most of their financial  
12 resources.

13 I am here to request that we look  
14 at the mission of OFE which is a part of the  
15 Department of Consumer Affairs, and apply that  
16 mission to the challenges with street vendors, who  
17 are also New Yorkers' face. Of all the groups of  
18 disadvantaged entrepreneurs that we work with at  
19 the Business Center, we have found that street  
20 vendors are the most vulnerable and once they get  
21 even one fine for \$1,000 their financial situation  
22 quickly spirals out of control. Paying the fine,  
23 may mean not paying their rent, often means  
24 cutting back on food and in a few cases using  
25 their meager savings for their children's further

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education.

The fact that many street vendors are limited English speaking immigrants makes communication with law enforcement difficult. Last winter, one of our clients, a vendor in Brooklyn, had his permit under his jacket and he was fined \$500. We hear these stories over and over again. One client in Chinatown placed a wooden crate next to her vegetable cart and she was fined \$1,000. Our clients often get multiple tickets at the same time and have little knowledge as to why they are receiving tickets, and in interactions with law enforcement, or when they attend hearings at the Environmental Control Board, have almost no opportunity to defend themselves.

What we are also gravely concerned about is that there is a growing lack of trust in city government and a growing sense of injustice among our clients. If the fines were lowered, street vendors would be able to pay their fines, thereby resulting in increased revenue for New York City and ensuring that vendors are in compliance and can focus on managing and growing

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their business.

Street vendors are hardworking taxpayers and individuals with limited work options as a result of their skill level, language skills or mobility. If they are out of work due to high fines, they oftentimes have very limited or no options to seek other employment.

Every day, we hear from our political leaders, the importance of creating jobs and their hard work to pass legislation which supports this important goal. Our vendors are not asking for a hand out, they are creating their own jobs and working hard so that they can support their families and continue to become productive members of their community. We understand the need to have laws to protect consumers but sensible fines and collaboration with the organizations which work with street vendors is a better way to achieve this goal.

The Business Center for New Americans therefore would like to request the City Council to reduce the maximum fines for vending violations and defining unrelated violations of vending rules and regulations as separate

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offenses. Thank you very much.

JONATHAN SUNSHINE: Good afternoon, members of the Council and the people of the audience. My name is Jonathan Sunshine. I am an entrepreneur. I'm one of the entrepreneurs that come here. I'm also a part of the Street Vendor Project as well as I came here to talk about, you know, the Intro 434 and 435. I am in favor of passing that bill, because once that bill gets passed, then it'll be good for a lot of people who are just hard working people.

See, what I want to say is this: that is seems to be a defying between the small business community and the street vendors. The fact of the matter is that since the 1800s, since the early 1700s, the street vendors have all been the street vendors and there's vending in all areas. There's vending in sports. There's vending in theater. And, you know, they don't get fined like that because they're all part of different kinds of businesses.

But the point is this: the smallest of the small businesses are street vendors. A lot of it because we help improve the economy, we make

1  
2 things better. We work in parks. We work on the  
3 streets. And we work all over to help bring, you  
4 know, food or crafts or other kinds of things to  
5 people.

6           And I say this: it's part of their-  
7 -they come from around the world and we deal with  
8 people who come from around the world. Now  
9 there's a big language barrier here and that's one  
10 of the reasons why a lot of street vendors get  
11 fined because they don't understand exactly what's  
12 being said to them and they don't know the  
13 American law system. At least it's not defined in  
14 their language. So they get caught up in the  
15 system, a system that says--you know, poor and  
16 immigrant families who can't make out--you know, a  
17 lot of them just don't speak enough English to get  
18 by. If you went to another country, you want to  
19 learn the language of the country. Well, this is  
20 America. A lot of people comes to America, the  
21 land of the free and the home of the brave, you  
22 know.

23           I happen to be a Native American,  
24 born citizen of this country. But the thing is  
25 this, I see a lot of the things that go on out

1  
2 there in the streets and everything. A lot of the  
3 street vendors, especially, you know and I count  
4 myself as one of them because I'm part of the  
5 street vendors and I'm also a part time street  
6 vendor. The thing is that we have different skill  
7 levels. Some of us are singer/songwriters.  
8 Others are artists and other, you know, jewelry  
9 makers. I also fall in that category.

10 But the point I was trying to say  
11 is we're all part of the small business community.  
12 I mean from the first covered wagons that came out  
13 and believe me when I say those covered wagons and  
14 they were starting it. They started banks and  
15 other things. They were vendors that came from  
16 other countries and came to America to make their  
17 dreams come true. Now there was also an Indian  
18 population there was also, you know it's got to do  
19 with--

20 CHAIRPERSON GARODNICK:

21 [interposing] I'm going to ask you to wrap it up  
22 in a sec. If you can, just bring it to a close.  
23 We'll have some questions I think.

24 JONATHAN SUNSHINE: Okay, I'll  
25 bring it to a close now. All I can say is that

1  
2 it's a part of commerce. I mean commerce, it's  
3 all about commerce. Big business versus small  
4 business and you've just got to recognize the  
5 street vendors as part of the small business  
6 working community.

7 CHAIRPERSON GARODNICK: Thank you.  
8 Yes, we certainly do. We appreciate your  
9 comments. I know that we have questions from  
10 colleagues. We're going to start with Council  
11 Member Mark Weprin, with my apologies again for  
12 missing him before.

13 COUNCIL MEMBER WEPRIN: That's  
14 okay. Thank you, Chair Garodnick. I apologize.  
15 It's been a busy day today. I had a couple of  
16 hearings, so I've been in and out. So I haven't  
17 really had a chance to ask some questions I had  
18 before of maybe other people. Since you're the  
19 lucky panel to be in front of me, I just had some  
20 questions.

21 You've been here the whole time. I  
22 understand Council Member Koslowitz raised the  
23 issue that the law she claims currently states  
24 that one person, you can have a license for an  
25 individual cart but not for four or five carts or

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2 trucks or something like that. Do you know if  
3 that's true or not?

4

KAJA KUEHL: There's a difference  
5 between a license for a vendor and a permit for a  
6 truck, for a food truck in particular. So a  
7 vendor can only have one license. Every vendor  
8 who vends on a food truck has to have a separate  
9 license for that truck. However, the permit for  
10 the truck is something separate.

11

COUNCIL MEMBER WEPRIN: Right.

12

KAJA KUEHL: That can be owned by  
13 someone else.

14

COUNCIL MEMBER WEPRIN: That could  
15 be what?

16

KAJA KUEHL: That permit for the  
17 truck can be owned by someone else.

18

COUNCIL MEMBER WEPRIN: Right. Let  
19 me back up and you'll sit through my little  
20 soliloquy here about my neighborhood.

21

So I represent a district in  
22 Eastern Queens. Over the last year or two, we've  
23 had a number of food carts pop up all over the  
24 area, not in huge numbers, but one here and one  
25 there, in mostly residential neighborhoods, but

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with small strips of commercial businesses.

As crazy as this may sound to people in this room and other people, I'd say it's the number one complaint I've gotten over the last year is about food carts. The complaints come from residents who don't like then food carts because they don't like the look it gives the neighborhood. From the merchants, who all came to me upset about an unfair competition idea that here's a food cart come in, in some cases selling the same food that they're selling and not having to pay rent and electric and everything else, you know to do their thing, you know letter grades and all those other things.

These are new immigrants who own businesses, you know, in the neighborhood, from all over the world. I got one on my block, the one across the street from my office we have a new food cart that's been coming there every day. I don't know who owns the cart and the business in charge. I do know the person in the cart works for somebody else. He works 11 hours a day, gets paid \$40 for the day. This is what he does.

I can't imagine they'd bring in

1  
2 more than 100 customers a day. That would be like  
3 the highest I could imagine they'd bring in there.  
4 So they're not making much money on this cart.  
5 But someone is still making a couple hundred  
6 dollars and they're not sitting there laboring in  
7 this cart, worrying about where they're going to  
8 go to the bathroom, because the merchants, most of  
9 them, don't let them go to the bathroom in their  
10 stores. One guy has been and that's the only  
11 place this person has to go.

12 My question is this: I'd like to  
13 figure out a way, because where I'm from it's hard  
14 to find people who are like encouraging me to  
15 support food carts. They haven't come forward.  
16 You know, if it wasn't up to them, there wouldn't  
17 be food carts in the neighborhood.

18 I understand the fines seem  
19 excessive in many cases. But for me to support  
20 that, I can't just go home and say guess what, I  
21 lowered the fines on these food carts you hate.  
22 So what can I do as a legislator who is supposed  
23 to be representing my neighborhood when everyone  
24 complains about them? Some of the arguments I  
25 agree with, some I don't, but I still have to

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represent them.

So you're a bright panel. I thought maybe you could help me with my problem.

YANKI TSHERING: I just wanted to say it sounds almost a little bit like a trick question, but at the same time I sympathize with you. I understand where you're coming from, because as I mentioned before, we work with street vendors, we work with restaurants. So, different businesses have a different way of looking at this issue.

I think a good starting point is having that review board that several people mentioned earlier. I think the whole business of street vending has to be looked at carefully. The fines have to be rethought. This issue of where and when we can have vendors, who has the vendor permit. Again, the fine issue is very important. All of that has to be reviewed.

You know, maybe in your neighborhood there shouldn't be 100 vendors, street vendors, food vendors. Maybe that has to be--

COUNCIL MEMBER WEPRIN:

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[interposing] My heart just stopped. I'm sorry.

YANKI TSHERING: Maybe that has to be, you know, sort of decided on a neighborhood by neighborhood basis, but in a fair and just way.

COUNCIL MEMBER WEPRIN: Which I would agree with actually. What you said is not different than what I've said to a lot of people in the neighborhood is that we need to really review the whole process, how these permits are being done, who's holding the licenses, where are they allowed to be put, you know, where can they be put, because certainly some areas are much more conducive to these street vendors than others. Where there are no other sources of food and places to go, you know, universities and hospitals and business districts where there's plenty of competition and everyone can make a living.

Mr. Chairman, just let me ask you this question if I'm allowed, or is this completely out of line? Is that something we're going to be--can we consider some type of discussion like was just suggested, that we review the whole thing. I mean I know that's part of what we're doing here today. But to come up with

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2 a way that will give me something to bring home to  
3 say we're looking at where people can vend, what  
4 kind of problems may be caused by the way they're  
5 vending, in order for me to go home and say I've  
6 done something to try to ease the burden somewhat  
7 but at the same time trying to help the vendors  
8 who are being hit with these extraordinary fines.

9 CHAIRPERSON GARODNICK: Council  
10 Member, first of all thank you for your comments  
11 and for your advocacy on this issue. Obviously  
12 this is an issue that concerns many of my  
13 constituents too, and I think we're even going to  
14 be hearing from them in a moment.

15 So the short answer is absolutely.  
16 This committee remains open to trying to find ways  
17 to overhaul rules, to be thoughtful about the  
18 rules. The bills that are on the agenda today are  
19 an effort to propose bills that create elements of  
20 fairness on all fronts. Certainly the comments  
21 that we've heard from folks today, even if they  
22 have only commented on one bill or another, it  
23 does not seem like there is extraordinary distaste  
24 for any of the bills that are on today's agenda,  
25 at least as a general matter.

1  
2                   So I am certainly open is the short  
3 answer. We know about the issues that are present  
4 in Eastern Queens and we want to be as helpful to  
5 you as we possibly can.

6                   COUNCIL MEMBER WEPRIN: Thank you,  
7 sir.

8                   CHAIRPERSON GARODNICK: Thank you.  
9 With that, we have no other questions for this  
10 panel. As promised, I'd like to call up Michele  
11 Birnbaum, Lo Van Der Valk, Elaine Walsh and  
12 Richard Juliano: Mr. Van Der Valk representing  
13 Carnegie Hill Neighbors; Elaine Walsh representing  
14 East 86th Street Association; and Mr. Juliano  
15 representing the Lincoln Square BID.

16                   [Pause]

17                   CHAIRPERSON GARODNICK: Ms.  
18 Birnbaum, would you like to start us off?

19                   MICHELE BIRNBAUM: Sure. Chairman  
20 Garodnick, Council Members thank you very much for  
21 hearing my testimony today.

22                   My name is Michele Birnbaum, and  
23 while I am a member many community groups that  
24 work to affect the quality of life of our city's  
25 residents and have worked on this issue for many,

1

2 many years, I'm testifying on behalf of myself  
3 today.

4

5 I want to thank the Council Members  
6 for recognizing that the business of street  
7 vending significantly impacts both residential and  
8 commercial neighborhoods in all of the boroughs  
9 and therefore, requires the serious attention of  
10 our elected officials.

11

12 While there are many laws and  
13 regulations that govern all kinds of vending, the  
14 lack of the manpower to effect adequate  
15 enforcement is a serious restraint when trying to  
16 address compliance issues. However, it remains  
17 important that street vending continue to be  
18 monitored, that existing laws continue to be  
19 improved, and that new laws are instituted that  
20 address new concerns.

21

22 I want to say in advance of the  
23 rest of my testimony that I respect the vendor  
24 community as being extremely hard working. I can  
25 verify by my own personal observations the length  
of hours that some put in, in the course of a day.  
Many of the vending vehicles are out all hours of  
the day and night and that requires a lot of

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2 manpower and a lot of diligence. However, there  
3 is a tremendous impact of this community on the  
4 rest of the community.

5 I strongly support Intro 16-A,  
6 because vending is big business, and the city  
7 should be able to identify repeat offenders and be  
8 cognizant of their financial impact on the city.

9 I support Intro No 684, 727 and  
10 789, because it would be wrong for a vendor to  
11 encroach on the facility of another business or  
12 residence, thus negatively impacting that  
13 facility's ability to function to the maximum  
14 benefit of the owners or workers. Blocking a main  
15 entrance or service entrance of a residential  
16 building or store or crowding a taxi relief stand  
17 seriously impacts the ability of that entity to  
18 function.

19 We had a fruit vendor in my  
20 neighborhood that blocked the service entrance of  
21 a major apartment building for years, thus  
22 impeding all deliveries and garbage pickup. I'm  
23 happy to say that our Council Member and the 19th  
24 Precinct has given us relief on that matter.

25 Being on the sidewalk abutting a no

1  
2 standing zone adjacent to a hospital has  
3 additional hazards. I think it's obvious because  
4 a no standing provides pick-up and drop off, an  
5 obviously needed service for all patients and  
6 especially those who have limited mobility and  
7 need to be dropped as near to the entrance as  
8 possible that this is an important intro.

9           With regard to Intro 817, certainly  
10 it makes good sense to have a permit number on an  
11 issued notice of violation, as is customary on  
12 other types of violations. This makes tracking  
13 and enforcement more likely and efficient.

14           However, I don't support Intro 435  
15 because the fee structure for vending infractions  
16 has been, and remains fairly non-punitive. The  
17 change of including for the same offense in my  
18 opinion waters it down even further. Making this  
19 change, but not changing the two year cycle of  
20 fine escalation makes this intro a little too  
21 benign. If the intent of this change is to deter  
22 wrong behavior, I believe it will fail. The  
23 change will make sure that the financial hardship  
24 is so minimal that no street vendor ever needs  
25 really to be concerned of his consequence for his

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noncompliance.

As you heard earlier, we understand that this is not a very large earning community for individuals, however, with some vendors paying as much as \$1,200 a month rent for their carts, we really can't claim that the majority of vendors are really only earning \$14,000 a year. I submit that there are much larger groups that are in charge of the vendors that are actually working the carts and out on the street and in fact this is a very big business.

Most of the infractions in the city with parking cars near hydrants or whatever, the fees don't go up and they don't go down. This is the case, a fine for the same infraction usually gets reduced in year three, goes up again until year five and then gets reduced again in year six and so on.

A vendor, because this is now for the same infraction, could conceivably have many of these cycles going on for different infractions at the same time. And then the fact that he is a multi-law violator would really have no repercussions.

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2 I would say that this protects bad  
3 behavior, as the cost to the vendor is really  
4 minimal as to be considered the cost of doing  
5 business.

6 With regard to Intro 434, which  
7 lowers the top fine rate of \$1000 to \$250, we have  
8 to make sure that we don't demean the seriousness  
9 of controlling street vending. It is a very  
10 serious issue. It affects the public very  
11 dramatically, both with pedestrian safety, visual  
12 blight and consumer protection.

13 The system of levying fines was put  
14 in place to be punitive. The threat of punishment  
15 controls behavior. It's basic. A person may be a  
16 violator, but that doesn't mean he'll get caught  
17 every time. Intermittent punishment gives license  
18 for the offender to take chances because sometimes  
19 he'll be caught and sometimes he won't. We don't  
20 have an effective or large enough enforcement  
21 force in working actively to ensure that  
22 violations are always caught and fined.

23 Just because we get a number of how  
24 many infractions were actually fined in the course  
25 of a year or how many people were fined or how

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2 many tickets were issued, it really doesn't speak  
3 to the number of infractions. That's sort of the  
4 denominator that we never get. So it may sound  
5 terrific to say that there were 10,000 tickets  
6 given out, but if the number of infractions were  
7 30,000, then that's not an impressive number.

8 This whole basic of intermittent  
9 punishment gives license for the offender to take  
10 chances, because sometimes he'll get caught and  
11 sometimes he won't. The whole system of gambling  
12 is based on this principle. Sometimes you win and  
13 sometimes you lose and you never know when, so you  
14 just keep playing.

15 With fines this low, noncompliant  
16 behavior is often a worthwhile gamble for the  
17 street vendor because it's just the cost of doing  
18 business. In my opinion, it will encourage or at  
19 least not be punitive enough to address  
20 noncompliant behavior.

21 In summary, I support all of the  
22 intros with the exception of 434 and 435. I thank  
23 this committee again for dealing with this issue.

24 DR. ELAINE M. WALSH: Good  
25 afternoon, Chair. I thank you and the Council for

1  
2 having the hearing today. My name is Elaine Walsh  
3 and I'm the President of the East 86th Street  
4 Association, a nonprofit civic association focused  
5 on the improvement of the quality of life and of  
6 living in Yorkville. Our membership includes  
7 businesses, property owners, and residents.

8           The East 86th Street Association  
9 supports all of the intros except 434 and 435. We  
10 believe that the intros that are before us today  
11 are a good first step but just the tip of the  
12 iceberg, towards more pedestrian-friendly and ADA  
13 compliant sidewalks.

14           Complaints about street vendors are  
15 the number one complaint we receive at our  
16 organization. Merchants and residents object to  
17 the idea that one day without any warning a vendor  
18 can show in front of their store or home and set  
19 up shop. No other business can take this action.  
20 A sidewalk cafe requires a licensing and  
21 permitting and Community Board process so why not  
22 street vendors? News stands require a vetting  
23 process and so do all unregulated uses.

24           Our residents, property owners and  
25 merchants are also stuck with cleaning up after

1  
2 the vendors when they leave and all during the  
3 day. It is the property owners who sweep and  
4 power wash the sidewalks to maintain a clean  
5 appearance. It is the property owner who will  
6 receive tickets if the street is not clean.

7 Street vendors in our area stuff  
8 the corner bins with their trash and leave boxes  
9 next to the cans. This happens even though  
10 vendors are required to remove their own trash.  
11 They also operate under sidewalk sheds which is a  
12 violation and more importantly a public safety  
13 problem.

14 Our residents and merchants object  
15 to the over-sized and multiple tables used by  
16 vendors, the oversized food carts, the selling of  
17 food off the sidewalk, the carts with metal spikes  
18 holding coolers taking up even more sidewalk  
19 space.

20 In addition, our sidewalks are  
21 narrow and they do put their tables and carts  
22 within the 20 foot limit for entries to buildings.  
23 There are even vendors who put up A-frame signs  
24 which are also not allowed under the sign age laws  
25 but for retailers they may put them in the

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building line.

We also have food carts that take food orders and have fliers that go out from the food vendors advertising their location and how you can order your food for pickup.

Vendors here in our area park near hydrants, next to hydrants, they block sidewalks and crossways as well as busy intersections. They run propane tanks without regard to pedestrian safety or any safety.

Enforcement in all areas is necessary and funds need to be allocated if these bills are to have any impact.

In addition, the smelling of the foods from the carts can be smelled in the stores and people's homes. This is both unfair to the residents and the merchants. Restaurants are required to control their emissions and so should the food carts.

Regarding the fine structure, the vendors are violating a range of laws and are putting our residents at risk with the modes of their operation, from selling food that is displayed on the street, smoking, not using hair

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2 guards or gloves and taking space away from  
3 pedestrians. It is extremely difficult for our  
4 residents, particularly those who are disabled or  
5 elderly who may be using a cane, to walk down our  
6 streets.

7 I think you know the violations  
8 ensure that the businesses can continue to do what  
9 they want to do, these vendors. Vendors are  
10 knowledgeable of the laws that govern their  
11 businesses and function with the idea that  
12 enforcement seldom occurs and when it does they  
13 will not pay the fines given and if they do it is  
14 just part of the cost of doing business.

15 We heard earlier about the issues  
16 in Manhattan there were 20,000 tickets that were  
17 given I think last year. If you look at that and  
18 seeing that the previous panel gave us a board, in  
19 two areas in downtown Manhattan. But if you have  
20 20,000 tickets a year, it comes out to 50 tickets  
21 a day. That is not an exorbitant number of  
22 tickets, given all the violations.

23 We all should remember that the  
24 vendors are not all independent operators but work  
25 for holders of the license or work for a cartel.

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2 It is our concern that the Department of Finance  
3 needs to be involved to be looking at the tracking  
4 of the licenses and some coordination with sales  
5 tax. I don't think there are any records kept on  
6 the sales tax issue at all.

7 Brick and mortar businesses as well  
8 as other businesses know that there are laws that  
9 govern their operations. If they do not abide by  
10 the law they are fined. Vendors should not be  
11 given a pass.

12 We thank the Council for the first  
13 good start and look forward to working with them  
14 as they proceed. Thank you.

15 CHAIRPERSON GARODNICK: Thank you.

16 DR. ELAINE M. WALSH: Some of my  
17 testimony is not handwritten. As I sat and  
18 listened, I learned a few things.

19 CHAIRPERSON GARODNICK: We got it.  
20 That happens.

21 RICHARD JULIANO: Good afternoon.  
22 My name is Richard Juliano with the Lincoln Square  
23 Business Improvement District. Thank you, Chair  
24 Garodnick and members of the Consumer Affairs  
25 Committee for the opportunity to testify before

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you today.

The Lincoln Square Business

Improvement District supports Intro 684,  
introduced by Council Member Gale Brewer, and  
supported by other members of the Council to amend  
Section 1 subdivision b and Section 2 subdivision  
e of 17-35 of subchapter of Chapter 3 of Title 17  
of the Administrative Code of the City of New York  
to prohibit food vending within taxi stands.

This amendment corrects an omission  
in Title 17, bringing it in line with Title 20.  
Title 20 Chapter 2 Subchapter 27 of the  
Administrative Code of the City of New York  
Subsection 20-465e prohibits general vending in  
DOT designated taxi stands.

The Lincoln Square Business

Improvement District recognizes that food vending  
provides a legitimate service, offering food at an  
affordable price to the general public. However,  
there are locations where food vending carts  
should be prohibited as they impede the safe flow  
of pedestrian traffic and cause obstructed sight  
lines, placing members of the general public in  
danger.

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2                   Currently, food vending is  
3 prohibited on sidewalks in many locations,  
4 including sidewalks along bus stops. We believe  
5 that the same restrictions that apply to bus stops  
6 should apply to taxi stands. Taxi stands are  
7 generally located in areas of high pedestrian  
8 volume, including commercial and business  
9 districts, cultural institutions and other highly  
10 trafficked areas, to assist the public in hailing  
11 a taxi after a performance, shopping or dining.  
12 Prohibiting food vending in heavily utilized taxi  
13 stands will make for a safer pedestrian  
14 environment.

15                   Food carts in taxi stands obscure  
16 sight lines, making it difficult for pedestrians  
17 to hail a taxi and to see whether a taxi is  
18 waiting, pulling into, or away from a curb lane.  
19 This typically leads to potentially dangerous  
20 pedestrian and vehicle encounters. Because the  
21 sight line is obstructed, a pedestrian could  
22 easily step off the curb into the path of a moving  
23 cab.

24                   In addition, where several carts  
25 line a taxi stand, people waiting for a cab have

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to maneuver around carts, oftentimes with multiple packages, just to get close to the curb.

Within the boundaries of the Lincoln Square Business Improvement District, we have several taxi stands. One is located in front of the shops at Columbus Circle to accommodate thousands of shoppers, diners and patrons of jazz at Lincoln Center who attend nightly performances. Over a year ago, food vendors began to line the sidewalk along the existing taxi stand, making it difficult to hail a taxi. We believe this problem is not unique to Columbus Circle but is replicated daily in other areas other city.

As I stated earlier, this amendment will bring Title 17 in line with Title 20, and that's why we're pleased to support Intro 684. It will provide a safer environment for thousands of people who hail taxis from DOT designated taxi stands throughout the city. Thank you.

LO VAN DER VALK: My name is Lo Van Der Valk. I'm representing Carnegie Hill Neighbors. It's a small community in the Upper East Side. We have various vendor issues. We're very glad that this committee has convened this

1  
2 meeting and you've taken the time to let everybody  
3 speak without time limits. I think it's been a  
4 great educational experience for all of us.

5           People talk about the review board  
6 panel that was in existence more than ten years  
7 ago. This is maybe a small start in reviving at  
8 least and discussing the issues.

9           On the matters at hand of  
10 substance, we support 16-A, the quarterly review  
11 of the ECB. We think that's a good start, again  
12 with the statistics, it's a way to rationally  
13 improve the future.

14           We agree with 684, that taxi stands  
15 should be allowed to operate and your provisions  
16 there are very useful, as well as 727, respecting  
17 the entrances of buildings and stores. As well as  
18 789, we heard the testimony of Mt. Sinai Hospital  
19 and also Columbia Presbyterian Hospitals. Mt.  
20 Sinai is in our neighborhood to the north. We  
21 appreciate their problems and we think that this  
22 begins to address the issues they face.  
23 Obviously, there will be remaining issue. So we  
24 support 789. And 817, a need for permit numbers  
25 on violations is, of course, very important.

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2 In 434 and 435, we see you  
3 struggling with it. We've taken no position on  
4 it, but we think it's a very serious matter.  
5 We've heard testimony that you have to create some  
6 kind of situation where enforcement is important  
7 and where the fines just don't become another cost  
8 of doing business.

9 We very much sympathize with and  
10 we're glad that the view was expressed by Council  
11 Member Weprin on the impact on neighborhood. We  
12 experience that as well. We think that that's an  
13 important aspect to take into account. It doesn't  
14 mean that we're against vendors. We think there  
15 are places where vendors have their proper role  
16 but there are certain places where there is  
17 crowding and too many vendors and it creates a  
18 change in a residential neighborhood. That goes  
19 especially for the vendor trucks. We think  
20 there's a place in the city for trucks, especially  
21 in commercial districts, but not necessarily in  
22 residential districts, even after 7 in the evening  
23 because it does change the context of the  
24 neighborhood.

25 We think that the vendors do

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2 provide, and Weprin mentioned that, do provide  
3 competition to existing stores and that's a  
4 concern. We've seen some stores just disappear  
5 without even voicing why they were having such  
6 difficulty because they were themselves  
7 immigrants and didn't feel that they had a big  
8 voice.

9 I want to also say that there is  
10 this view, the better use of public spaces that  
11 vendors could contribute to that. But they can  
12 also detract from public spaces. We need our  
13 sidewalks, which are narrow, for example on  
14 Lexington as you approach the subway stations. We  
15 need them for walking and getting by. When  
16 vendors obstruct, that makes urban living more  
17 difficult. I know that vendors are an important  
18 source of income for people starting their careers  
19 in this country, but we should not look to vendors  
20 as the solution to these larger social problems.

21 I know that it may sound like a  
22 very ultra conservative position and it's not  
23 meant to be. But we should take care of the city  
24 as it is and enhance it as a living experience.  
25 That's the job of crafting better vendor

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2 legislation, which means discussing, lots of  
3 discussions with the interest groups to find a  
4 more optimal solution that satisfies all parties.  
5 Thank you so much.

6 CHAIRPERSON GARODNICK: Thank you  
7 to all of you for your very thoughtful testimony.  
8 We have questions from Council Member Gentile.

9 COUNCIL MEMBER GENTILE: Thank you,  
10 Mr. Chair. Ms. Walsh, I believe that's you're  
11 name, right?

12 DR. ELAINE M. WALSH: Yes.

13 COUNCIL MEMBER GENTILE: I just  
14 want to emphasize or ask you, you had testified  
15 that if a violation or summons is given for a  
16 dirty sidewalk or grease in the street, that  
17 summons goes to the business owner of the brick  
18 and mortar business, is that correct?

19 DR. ELAINE M. WALSH: Yes, it does.

20 COUNCIL MEMBER GENTILE: So it's  
21 the owner of the brick and mortar business that's  
22 responsible for the sidewalk and the place in  
23 front of his or her business.

24 DR. ELAINE M. WALSH: Correct.

25 Should a fruit vendor drop a banana peel and

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2 somebody slips, it is the owner of the brick and  
3 mortar store that's legally responsible. Because  
4 vendors do not carry nor can they get insurance.

5 COUNCIL MEMBER GENTILE: So it's  
6 not a defense to say it really was the result of  
7 the food vendor being out on the curb?

8 DR. ELAINE M. WALSH: Yes, it is  
9 the result of the--

10 COUNCIL MEMBER GENTILE:

11 [interposing] It is the result--

12 DR. ELAINE M. WALSH: The  
13 Sanitation Department does not listen to that.

14 COUNCIL MEMBER GENTILE: Right. So  
15 in effect, I think Mr. Chair, underscoring here  
16 some inequities that affect the business, the men  
17 and women who run the brick and mortar businesses  
18 here, particularly the burden is placed on them, a  
19 high burden placed on them with the summonses that  
20 they receive day in and day out.

21 DR. ELAINE M. WALSH: Yes. Let me  
22 just say, also when grease or different waters are  
23 spilled onto the street, that is also the  
24 responsibility of the brick and mortar owner to  
25 clean up. Those types of spills are more

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difficult to clean also and can then go into our sewer system that causes other contaminants.

CHAIRPERSON GARODNICK: Thank you, Councilman. Now we have a question from Council Member Levin.

COUNCIL MEMBER LEVIN: Thank you, Mr. Chair. I just had one question for Ms. Birnbaum, just in looking through your testimony. I apologize for having to run out before. You said in the first paragraph of the second page with regards to 435, it says it appears as though the intent is to make sure that the financial hardship be so minimal that no street vendor ever need be concerned that we have any consequences for his noncompliance. If I park too close to a fire hydrant I pay a very hefty fine each and every time. The fee doesn't go up and it doesn't go down.

The fine for parking next to a hydrant is \$115 every single time. I mean that's considerably less than the maximum fine of \$1,000 fine for a vendor. So I mean part of what we're trying to do is to make the fine commensurate with the violation. If the violation is parking in

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2 front of a fire hydrant and the fine is seen  
3 commensurate of \$115 then that would probably be  
4 more in line with a violation that a vendor might  
5 receive. I mean that's kind of what we're trying  
6 to do here is make sure that we're not having  
7 fines escalating to \$1,000. We're trying to get  
8 it to be more in line. I understand where you  
9 went on with the way, because of the years and the  
10 cycles it reverts. But I just--

11 MICHELE BIRNBAUM: [interposing] Do  
12 you want me to clarify?

13 COUNCIL MEMBER LEVIN: --you could  
14 speak to that.

15 MICHELE BIRNBAUM: Well, also, I  
16 think you have to think of this. You know, the  
17 vendor community can't really have it both ways.  
18 They are a professional community. They are a  
19 business community. The point had been made here  
20 today how often they are--it's a starting business  
21 towards a brick and mortar business. I submit  
22 that now it has become where brick and mortar  
23 businesses are now expanding those businesses by  
24 buying food trucks and becoming vendors.

25 So, in fact, a lot of this is very

1  
2 big business. You know, we don't have the time to  
3 go into all of that. But with relation to the  
4 fine, what came out of a lot of the testimony was  
5 that it seemed as though the vendor community was  
6 happy to live with certain fines if they were  
7 appropriate to the infraction. They defined  
8 certain minor infractions versus major  
9 infractions, et cetera, et cetera, and I'm sure  
10 that that's probably a good idea to look at that  
11 and maybe change the fine structure as it's based  
12 on infractions rather than numbers of times.

13 But to go back to the fire hydrant  
14 analogy, I think the distance you're supposed to  
15 be is 12 or 14 feet, whatever. So do I pay more  
16 in my fine if I'm only 6 feet from the hydrant or  
17 if I'm supposed to be 14 but I'm really 13.5 and I  
18 get the same fine. Is that fair? You know, I  
19 think you can really just go down the line here  
20 and really nitpick. But the bottom line with  
21 fines is that they are supposed to be deterrents.

22 I submit to you that the majority  
23 of the public, certainly me, I'm very fearful of  
24 having my meter expire, of parking too close to a  
25 hydrant, of doing all of those things where just

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2 going through the course of a day you can end up  
3 owing lots of fines if you're not paying attention  
4 to infractions.

5 Then of course, what is minor? I  
6 think you have to define that. If somebody breaks  
7 a window, that's not impacting the whole world,  
8 but it's an infraction. If there's a law against  
9 doing something to somebody's property, I think it  
10 should be enforced.

11 I agree that there's probably room  
12 to define what is a minor and what is a major  
13 infraction. But I think this is a different way  
14 of looking at the analogy which others had  
15 approached earlier.

16 COUNCIL MEMBER LEVIN: Because it  
17 mentioned you asked why would we reduce the fine  
18 to \$250?

19 DR. ELAINE M. WALSH: Well that was  
20 answered for me today.

21 COUNCIL MEMBER LEVIN: Okay. Well  
22 thank you very much for your testimony. Thank you  
23 for coming down.

24 DR. ELAINE M. WALSH: Thank you  
25 very much.

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COUNCIL MEMBER LEVIN: We appreciate it.

CHAIRPERSON GARODNICK: I will add my thanks to all of you for your advocacy today and certainly throughout the course of the year when we talk about these and other issues. I certainly appreciate it. We thank you for taking the time to be here today.

DR. ELAINE M. WALSH: Thank you.

MICHELE BIRNBAUM: Thank you.

CHAIRPERSON GARODNICK: The next panel is Jessamyn Waldman Rodriguez. Are you here? Okay. David Mkrtchyan, did I get you? Close enough. Tressie Smiley, and Suzanne Wasserman.

The panel after that will be--make sure everybody's here. Ron Dwenger, are you here? Okay, good, you're going to be up next. Bob Zuckerman, I see Bob. Renee Giordano, are you here? Great. Layla, oh is Layla gone? Are you testifying in her place? You don't need to? Okay. Ron, so you're going to come up in the next? Okay. So Layla is gone. How about Mr. Ignacio Sanchez, are you here? Arturo, are you

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here? No? Peter Davis we heard from already.  
Michael Lambert, are you here? You are? Okay,  
great.

Hi.

JESSAMYN WALDMAN RODRIGUEZ: Hi.

CHAIRPERSON GARODNICK: Go right  
ahead.

JESSAMYN WALDMAN RODRIGUEZ: Red is  
on. Hi. I'm Jessamyn Rodriguez. I'm the CEO of  
Hot Bread Kitchen. I'm going to sort of speak to  
one particular issue, which is really relating to  
micro food vendors.

Hot Bread Kitchen is an innovative  
social enterprise that opens pathways to career  
advancement and business ownership for foreign-  
born women and minority entrepreneurs really just  
in the culinary industry. We do this through two  
programs: Project Launch, which is a workforce  
development program and HBK Incubates, which is a  
kitchen supported through the City Council that's  
meant to allow for entrepreneurs a place to  
formalize their businesses.

So HBK Incubates, as I mentioned,  
was developed only a year and a half ago with

1  
2 significant support from the Speaker, Melissa  
3 Mark-Viverito and several Council Members who are  
4 present today came to the opening of it. We  
5 developed to help micro food entrepreneurs, such  
6 as street vendors, formalize and grow their  
7 business to increase earning potential and create  
8 jobs in East Harlem and in Upper Manhattan.

9 I've always said in pitching it  
10 that what we're trying to do is provide a place  
11 for the woman who sells tamales that she's making  
12 in her home a place to bring that business in,  
13 formalize the business, sell them legally so that  
14 she can start paying taxes, workers compensation  
15 and generate more revenue for her family.

16 So that's the case that I've been  
17 showing and pitching for the past year and a half.  
18 The truth of the matter is, is that we're having a  
19 really hard time adequately serving the people for  
20 whom we have developed this program.

21 One significant barrier for many  
22 low-income micro entrepreneurs, like street  
23 vendors, is the cost of incorporation, licensing  
24 and insurance which are all necessary to formalize  
25 a business and expand in the marketplace. Just to

1  
2 get to the point where you can sell legally might  
3 cost between \$2000 and \$5000, which is prohibitive  
4 for many entrepreneurs.

5           So we went out and we fundraised a  
6 significant amount of money from some private  
7 businesses in the city to help subsidize that  
8 cost, and we launched the LIFE program, which  
9 stands for Low Income Food Entrepreneurs, which  
10 offsets those startup costs. So that people, you  
11 know if you're low income and you have a food  
12 business and you have proven sales, you can come  
13 into the kitchen and produce legally to sell your  
14 product.

15           But something very interesting has  
16 come up in our recruitment for the LIFE program.  
17 A more significant barrier to getting people into  
18 the kitchen to the point where they formalize  
19 their business is the fees and the restrictions  
20 that exist for street vendors. Recently, we had a  
21 meeting of female street vendors from East 116th  
22 Street. The meeting was convoked with the support  
23 of the Street Vendors Project. We provided a tour  
24 of the kitchen and asked many questions about the  
25 needs of those women who are selling successful on

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116th Street.

When we designed HBK Incubates and the LIFE Program, these were exactly the women that we had hoped to serve through the program. But we were humbled to hear that they were not immediately concerned about formalizing their business or bringing it into a commercial kitchen, but they were really more concerned about more pressing issues. Many of them faced multiple \$1000 fines and felt harassed by the local authorities.

This issue was so present in their minds that it was difficult for them to see benefit of coming into an incubator kitchen while these punitive fines were outstanding. Food vendors are the most vulnerable to receiving these fines and many have been put out of business because of it.

As we've heard over and over again in today's testimony, street food vendors and vendors in general are hardworking, tax-paying entrepreneurs working to support their families and communities. They are mainly foreign born individuals with limited English capacity, which

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2 are all factors that restrict them from accessing  
3 other forms of employment. For some, \$1,000 fine  
4 represents more than a months vending income,  
5 forcing parents to choose between paying fines and  
6 buying food or school supplies for their children.

7           There is a lot that my  
8 organization, Hot Bread Kitchen, can do to support  
9 economic growth and help these street vendors.  
10 However, efforts in bringing these businesses into  
11 a legal production space are undermined by these  
12 exorbitant fines, an economic too large for low-  
13 income food entrepreneurs to bear. These unfair  
14 and arbitrary fines must be reduced in order for  
15 these successful culinary entrepreneurs to take  
16 the first steps towards economic sustainability.  
17 For this reason, Hot Bread Kitchen supports Intros  
18 434 and 435 to reduce the amount of fines and  
19 provide a logical escalation of penalty.

20           CHAIRPERSON GARODNICK: Thank you.

21 And now, for the historical perspective.

22           DR. SUZANNE WASSERMAN: Good  
23 afternoon and thank you to Chairperson Dan  
24 Garodnick and the other City Council members. My  
25 name is Suzanne Wasserman. I'm a historian and

1  
2 I'm the Director of the Gotham Center for New York  
3 City History at the CUNY Graduate Center.

4           New Yorkers have spent well over a  
5 century struggling with the complex yet ever  
6 present problem of peddling and vending. In fact,  
7 New York City's history of contention with vendors  
8 and their wares dates all the way back to its  
9 colonial origins. Laws prohibited peddlers from  
10 selling their wares on city streets as early as  
11 the 1680's.

12           But peddling and vending provides a  
13 way to work that requires little capital and has  
14 traditionally been an alternative to charity or  
15 welfare. Debates concerning peddling and open air  
16 markets have consistently been flashpoints of  
17 contention amongst vendors, merchants, shoppers  
18 and city administrations. Some view the issue  
19 angrily, others nostalgically and still others,  
20 like me, argue that peddling contributes to the  
21 vibrancy of city life. Every administration in  
22 the last 150 years has tried to deal with what has  
23 historically been called "the pushcart problem."

24           As an historian, I'd like to  
25 address one issue that has persisted since at

1  
2 least the 1920s and that is perhaps erroneous  
3 belief by merchants that pushcart vendors undercut  
4 their business. The historical evidence at least  
5 shows that vendors actually attract business.

6 In the 1920s merchants on the Lower  
7 East Side lobbied vigorously to remove pushcarts  
8 from in front of their stores. Yet, a 1925 report  
9 by the US Department of Agriculture found that "in  
10 general the presence of a pushcart market  
11 increases the trade of the stores adjacent to  
12 them. Business thrives on the side where they  
13 congregate, while business on the opposite side  
14 often remains dull." Mayor LaGuardia abolished  
15 open air markets in 1938, but by 1941, gross sales  
16 on Orchard Street had dropped off by 60 percent.

17 In an interview conducted in the  
18 late 1980s, Max, a former merchant on Orchard  
19 Street stated: I moved to Essex Street Market when  
20 it opened because they took the pushcarts away.  
21 People didn't come around like they used to. I  
22 figured once they take away the pushcarts they  
23 wouldn't bring the customers as much as they did  
24 before. Once the pushcarts went away the business  
25 died out.

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2                   What the city and the business  
3 community have failed to realize time and time  
4 again is that street life, in its variety of  
5 forms, enlivens the city and makes New York, New  
6 York. As American cities become more and more  
7 homogenized, it is of the utmost importance for  
8 New Yorkers to fight to retain what in fact makes  
9 New York unique.

10                   Three-star chef David Ruggerio put  
11 it this way, "Let's just recall that umbrella'd  
12 hot-dog carts are part of what makes living in  
13 this city worthwhile. Banish hotdogs from the  
14 streets and: what kind of city are we left with?  
15 So give the street vendors a break, Mr. Mayor, we  
16 all know you enjoy them, too." Thank you.

17                   Honorable Members of City Council,  
18 friend and colleagues, my name is Davit Mkrtchyan.  
19 I am a street vendor artist photographer. I am  
20 working in the Times Square area after midnight.  
21 There are thousands of vendors and artists in that  
22 time in Manhattan.

23                   I am a father of three children  
24 between 8 and 19 years old. My income supports my  
25 entire family.

1  
2 I am here today to voice my and my  
3 colleagues' opinion about Intro 727, a bill that  
4 will put many vendors out of work if it passes.

5 Intro 727 will prohibit vending in  
6 front of any doors. Until now, the regulation  
7 says that street vendors must vend more than 20  
8 feet from any entrance.

9 We all know in Times Square, there  
10 are many, many doors and many are used very  
11 infrequently. Almost none of the doors are in use  
12 by the time most street vendors come out to vend  
13 after midnight on many streets, I mean in Midtown  
14 Manhattan.

15 If Intro 727 passes, I estimate  
16 that 30 percent of street vendors in my area,  
17 myself included, will lose their jobs. This means  
18 many families will have their sole income-earner  
19 out of work.

20 Council Member Garodnick, is it  
21 possible that Intro 727 came about because of one  
22 or two vendors in your district? Members at the  
23 Street Vendor Project are happy to work with these  
24 few vendors to help them find a spot that the  
25 community can agree upon. Please do not pass

1  
2 Intro 727 as it is written. Too many street  
3 vendors will be negatively impacted. Too many  
4 hardworking people, immigrants, veterans, single  
5 parents will be out of work.

6 Why New York City too many street  
7 vendors? Because people, they are losing the jobs  
8 and many of them they're becoming street vendors.  
9 Don't you think instead of apply to welfare, a  
10 better way to become a street vendor and try to  
11 earn some money for the families.

12 If government sees that there are  
13 too many cars in the street, in a highway, the  
14 traffic, the government has to build new streets  
15 and new avenues, new highways.

16 The lady before told the street  
17 vendors don't pay taxes. For example, I pay  
18 taxes. I pay my taxes. And this year I get  
19 \$12,000 back because I have children.

20 So I hope you will think about how  
21 difficult it is for street vendors to make a  
22 living in these economic times before you move  
23 forward with Intro 727. We hope you stand with  
24 street vendors and do the right thing. Thank you  
25 for your support.

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2 CHAIRPERSON GARODNICK: Thank you  
3 to the panel for your testimony. Let me just  
4 raise two points in response. The first relates  
5 to Intro 727. We appreciate your testimony and we  
6 do have specific comments from the Street Vendor  
7 Project on the subject of potential changes to  
8 727. We are trying in that bill to try to address  
9 the fact that there is a lack of uniformity in the  
10 rules between some entrances which allow for  
11 vending within or no more than 10 feet from the  
12 entrances, or no fewer than 10 feet from the  
13 entrances and others which require 20 feet gap  
14 between a vendor and a building entrance. Also  
15 there is a lack of clarity between entrances and  
16 exits.

17 So this goes to the point of trying  
18 to create more uniformity in the rules so that  
19 they are easier to understand and also, of course,  
20 to protect the entrances and exits to buildings  
21 where you do have people coming and going. We  
22 understand your point about Times Square. We're  
23 going to take a look at that, and we appreciate  
24 you raising it.

25 As to the point on New York City

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2 history from Dr. Wasserman, I certainly agree with  
3 you that street vendors do contribute to our  
4 street life in New York City. I certainly hope  
5 that any proposals being made in this hearing are  
6 done with an effort to both recognize that and  
7 also to make sure that that rules make sense and  
8 that they are fair and that they are enforceable.  
9 So we appreciate what you said.

10

I thank the whole panel for your  
11 testimony. We're now going to call the next  
12 panel, which is Bob Zuckerman, Renee Giordano, Ron  
13 Dwenger, and Michael Lambert.

14

The panel after that will be  
15 potentially, if you're here, Cassandra Flechsig.  
16 Are you here, Cassandra? She'll be back? Okay.  
17 Dan Rossi is here. I see him. Armando Crescenzi,  
18 here? Ralph Di Toro? Great. You'll be next.

19

Ron, go ahead.

20

RON DWENGER: Mr. Chairman and  
21 Council, the members of Community Board 5 extend  
22 their thanks extend their thanks and appreciation  
23 for the opportunity to address you this morning on  
24 the issues--this afternoon, sorry--on the issues  
25 of street vendors in New York City. I'm Ron

1  
2 Dwenger. I'm the chair of the Consents and  
3 Variances committee of Community Board Five.

4           While lawful street vending is an  
5 important part of the economic history of the City  
6 and the members of CB5 recognize street vendors as  
7 valuable contributors to the rich history and the  
8 very charm and character of the city. On an ever  
9 increasing level, the complaints of residents and  
10 businesses beg to be addressed. We believe that a  
11 reformation of the City's Street Vending Laws and  
12 a clear set of rules and regulations accompanying  
13 stronger enforcement would be of benefit of all  
14 parties: the residents, businesses, the vendors  
15 themselves as well as the millions of tourists  
16 that visit the city every year.

17           Our concerns take the form of the  
18 following. Some of the rules and regulations of  
19 the various departments are confusing. They are  
20 often contrary. The rules and regulations are not  
21 standardized. Thus reformation into a single  
22 standardized code is necessary so that all  
23 departments, police, DOT, DCA, Health, ECB are all  
24 functioning with the same set of rules and  
25 regulations.

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2 With respect to the food vendors,  
3 frequently there is a trail of offensive odors and  
4 smoke that remain in the area all day, coupled  
5 with noise and light pollution, the spillage of  
6 cooking oils and charcoals, and an obnoxious build  
7 up of trash. These elements result in a negative  
8 impact on the neighboring residents and businesses  
9 in the area long after the vendors have left.

10 We worry about food safety and  
11 would seek that all vendor employees be required  
12 to take food protection course of the mobile food  
13 vendors.

14 We are interested in proper signage  
15 in designated areas stating "no vending" as well  
16 as new rules and regulations that prevent vending  
17 in specific areas such as residential areas, in  
18 front of late night bars and nightclubs, at the  
19 entrance of subways, near construction and repair  
20 sites, and under scaffolding.

21 We are concerned about the overall  
22 number of vendors, especially in business areas  
23 like Times Square, Herald Square, Sixth Avenue  
24 between 42nd Street and the park, and many other  
25 areas in Community Board 5.

1  
2 We recognize that many of the rules  
3 and regulations have been confusing in the past,  
4 moving forward the fines for multiple repeated  
5 violations simple need to be enforced, in order to  
6 impress upon vendors that compliance is a  
7 necessary privilege of possessing a vending  
8 license.

9 I thank you again for the  
10 opportunity to address you this afternoon. Thank  
11 you.

12 RENEЕ GIORDANO: Hello. My name is  
13 Renee Giordano. I would like to thank Chairman  
14 Garodnick and the other members of the Consumer  
15 Affairs Committee. I also want to commend you for  
16 staying this late, thank you, and allowing us to  
17 testify on these bills.

18 As Executive Director of the Sunset  
19 Park Business Improvement District for the past 15  
20 years, I have been working to create a viable and  
21 successful economic base for our community. This  
22 has been a tremendous challenge with over 500  
23 small mom and pop shops. Over the past few years  
24 there has been a large turnover and more vacancies  
25 than ever.

1  
2 On Feb 4, 2004, the City Council  
3 made the following legislative--

4 [Pause]

5 CHAIRPERSON GARODNICK: We'll just  
6 take a quick moment to solve our technical  
7 difficulty.

8 [Pause]

9 RENEE GIORDANO: On February 4th,  
10 2004, the City Council made the following  
11 legislative declaration for Intro 109 as it  
12 increased the penalties to the present level for  
13 street vendors vending illegally. "The Council  
14 finds that certain areas of New York City are  
15 excessively crowded with food and general vendors.  
16 Though some of these merchants are properly  
17 licensed with the Departments of Health and  
18 Consumer Affairs, many are not. Moreover, both  
19 licensed and unlicensed vendors are operating in  
20 violation of certain Health and Consumer Affairs  
21 laws and regulations, primarily by vending in  
22 illegal locations."

23 "The Council finds that as a result  
24 of these violations, neighborhood citizens have a  
25 difficult time navigating their own streets. They

1  
2 are overwhelmed by the noise and congestion the  
3 vendors generate, and they wish for a more orderly  
4 community. In response to their concerns, the  
5 Council finds it necessary to increase the fines  
6 imposed on vendors operating illegally. Through  
7 such legislation, the Council intends to curtail  
8 the improper growth of vendors in certain  
9 neighborhoods while protecting those merchants who  
10 operate legally."

11 Since that time, nothing has  
12 changed. The adverse conditions that were being  
13 corrected still exist throughout the city.

14 Therefore, we ask that you not pass  
15 Intros 434 and 435, which will bring us back to  
16 before 2005 when the newly increased fines began  
17 to take effect. A small fine didn't keep vendors  
18 from breaking the law in 2004 and it will still be  
19 a nominal fee for their doing business on the  
20 street today. Small business owners are really  
21 struggling too. They must put in long hours in  
22 their shops every day, even holidays, and even  
23 when there are no customers. They can't even  
24 leave their businesses to come here to advocate  
25 for themselves. That is why you may have noticed

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there are few if any business owners here today.

We further want to point out that while these bills seek to lower fines for vending illegally, there are many fines and regulations which are heaped upon small businesses that nobody seems to speak about.

Last year, the Department of Consumer Affairs made its rounds on 5th Avenue in Sunset Park. No business got a warning or was given the chance to correct the error first. Minor infractions, such as printing the wrong date on a receipt, carry an immediate fine of \$250. One business had five Xacto knives hanging in a spot that the agent felt was not in compliance with the regulations. The business received a \$250 fine per knife, for a total of \$1,250. Why is this penalty so high and multiplied so quickly? That store at this time actually went out of business.

We would, however, like to thank you for the other five bills before you today. We feel that Intro 16 which will require ECB to provide quarterly reports is a very good bill. It will give important data concerning vending in New

1  
2 York City and the adjudication process, which can  
3 be used to formulate new regulations and tweak old  
4 ones.

5 We also want to thank you for  
6 Intros 727, 684, and 789 which would redefine  
7 placement regulations. For our avenue it will be  
8 extremely helpful to have the restrictions  
9 increased to 20 feet and the doorways better  
10 defined to include service doors and exits. We  
11 have sidewalks that often are only 12 to 13 feet  
12 wide. And once several food carts and vendors set  
13 up, there is little room for baby carriages and  
14 shopping carts.

15 By placing the permit number of the  
16 cart on the summons, Intro 817 will help to show  
17 how often the summons is going to a vendor with an  
18 un-permitted cart.

19 We recognize that creating adequate  
20 and reasonable regulations and policies that deal  
21 with street vending is very difficult. It is a  
22 matter that seems to affect everyone in the city,  
23 whether a business, a resident or a vendor. We  
24 thank you for taking the time to learn about this  
25 concern and to try to create a fair and equitable

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system for the citizens of New York City.

I'd like to add a little something though that I hadn't originally put in my testimony. As I was riding here on the train, I met two people who happen to be street vendors but who I consider my friends. Actually, I apologize to them for the testimony that I just gave. For the past five years, the Sunset Park BID has been working closely with many of the street vendors in Sunset Park to create a district through Intro 36 in which both store based merchants and street vendors with coexist equally.

However, it has still not been implemented. It hasn't been passed. It's important that the City Council leadership recognize and embrace these plans and ideas, which will create a mixed economic base and bring fairness to our systems. Intro 36 will allow both vendors and store based businesses the chance to make a living. Thank you.

CHAIRPERSON GARODNICK: Thank you very much. Bob Zuckerman?

BOB ZUCKERMAN: Thank you, Chairman Garodnick and Council Member Levin for convening

1  
2 this hearing and for your perseverance in hearing  
3 all this testimony and being very attentive after  
4 sitting here for several hours. I'm wondering why  
5 I wanted to join you, a few years ago, up there,  
6 but I really do appreciate it and I appreciate the  
7 fact that this has been a very fair and balanced  
8 hearing and that you've tried to hear from sort of  
9 both sides of the issue.

10 I'm the Executive Director of the  
11 Lower East Side Business Improvement District. We  
12 actually are not taking a position on any of these  
13 intros. We thought, our executive board and I,  
14 thought it was important for us to come here today  
15 for a couple of reasons.

16 Street vending is not, ironically,  
17 not a very big issue in the Lower East Side,  
18 compared to 80 and 100 years ago, when all you had  
19 was pushcarts. I mean we were the original  
20 district for the pushcarts. The reason for that  
21 is that especially during the daytime weekdays  
22 there's just not sufficient foot traffic to make  
23 it worthwhile for a lot of street carts and  
24 vendors and food trucks and what have you.

25 But they are starting to creep up,

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2 so it is starting to become somewhat of an issue  
3 for some of our merchants who have mentioned this  
4 to me.

5 We just really wanted to be here to  
6 reiterate the call from Monica and the BID  
7 Association. I also serve as an officer of the  
8 New York City BID Association. To say that we  
9 believe that there really needs to be a  
10 comprehensive and holistic look at the entire  
11 street vending issue, whether it be pushcarts,  
12 whether it be food trucks that are now becoming  
13 very, very popular that really were not an issue,  
14 let's say even ten years ago. There were a  
15 handful of food trucks and now they're all over  
16 the place. It's great for New Yorkers because  
17 people enjoy the food that they have there.

18 You know, it's been several  
19 administrations that really haven't taken a whole  
20 comprehensive look at this. We have a year and a  
21 half left of this administration, so I'm not sure  
22 that that will actually happen.

23 One of the things that I'd like to  
24 put on the table just for the future is maybe what  
25 the city needs, because it is such an important

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2 part of the economy, is something like an Office  
3 of Vending, an Office of Street Vending that  
4 either could come out of the Mayor's Office or  
5 possibly be part of DCA, Consumer Affairs, that  
6 would help coordinate.

7

8 Because just sitting and listening  
9 to all this testimony this morning and early  
10 afternoon, it's very interesting, you could see  
11 clearly that the whole system is kind of broken.  
12 It's kind of like the Wild, Wild West out there.  
13 To have one office that really helps coordinate  
14 all of the different agencies. You have Health,  
15 you have the Environmental Control Board that's  
16 for violations, you have Sanitation, you have, I  
17 mean DCA. It goes on and on and on. Something to  
18 look forward to for the future, it's just a  
19 suggestion that we just wanted to put on the  
20 table.

21

22 You know, vendors are obviously an  
23 important part of the city but so are all of our  
24 property owners who pay property taxes--that have  
25 gone up significantly--and merchants as well. So  
that's really all I came here to say. Thanks for  
listening.

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MICHAEL LAMBERT: Good afternoon.  
Thank you, Chairman Garodnick for your leadership on this hearing. It has been very informative for me as well. I also want to thank all the other members of the Committee on Consumer Affairs as well.

My name is Michael Lambert. I'm the Executive Director of the Jerome-Gun Hill Business Improvement District, which is under the oversight and leadership of the New York City Department of Small Business Services and Commissioner Rob Walsh. The BID is managed by the Mosholu Preservation Corporation, a community support program affiliated with Montefiore Medical Center in the Norwood section of the Northwest Bronx.

The Mosholu Preservation Corporation also known as MPC, has provided an array of community-based programming, including economic development service to residents of Norwood for more than 30 years. The Jerome-Gun Hill BID runs geographically on Jerome Avenue from Marshal Parkway to East Gun Hill Road and along East Gun Hill Road from Jerome Avenue south to

1  
2 Webster Avenue. Anchored by Montefiore Medical  
3 Center, the Jerome-Gun Hill BID is home to more  
4 than 200 small businesses, many of which currently  
5 face very difficult economic times.

6 For more than 16 years, the Jerome  
7 Gun Hill Business Improvement District has existed  
8 to support this small business community by  
9 providing supplemental sanitation, marketing and  
10 advertising, security, technical assistance,  
11 advocacy, and other essential services that have  
12 helped these businesses operate in a stable  
13 environment.

14 One of the paramount issues that I  
15 have faced in my short career as the executive  
16 director of the Jerome-Gun Hill BID has been  
17 dealing with the issues created by street vendors.  
18 In particular, those issues created by those  
19 vendors who choose to operate illegally, creating  
20 a number of challenges to those small businesses  
21 within the BID's boundaries.

22 These challenges include, but are  
23 not limited to the creation of unsafe conditions  
24 such as unsafe congestion along area sidewalks,  
25 the creation of unsanitary conditions created by

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2 food vendors that do not adhere to rules and  
3 regulations set forth by New York City's  
4 Department of Health, and vendors who operate in  
5 proximity to local businesses in violation of the  
6 law and in some cases directly compete with local  
7 business owners who pay significant taxes and  
8 rents in the area.

9           While the BID realizes everyone's  
10 right to earn a living, we also feel that this  
11 should be done in an environment that is  
12 respectful of the community and the laws that  
13 govern the community. I have had numerous  
14 conversations with small business owners from the  
15 BID, and the presence of illegal vending is by far  
16 their biggest complaint. This issue has also been  
17 raised by property owners, who realize the  
18 deleterious effects that these vendors can have on  
19 the small business community within the BID's  
20 boundaries.

21           Removal of illegal vendors often  
22 consumes time and effort from the officers of our  
23 local precinct, the 52nd, under the leadership of  
24 Inspector Joseph V. Dowling, continues to deal  
25 with the problem on an ongoing basis. This

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2 however, does take resources away from other  
3 crimes begin committed throughout the district.

4 While the BID applauds the  
5 legislation being put forward by the City Council  
6 that will help to manage the way in which vendors  
7 operate, we would also like to see a fine and  
8 penalty structure that will hold illegal vendors  
9 accountable, in addition to regulations related to  
10 the numbers of vendors that may legally and safely  
11 operate within the district.

12 I thank you for your time this  
13 morning and look forward to supporting legislation  
14 that is fair to the City's Business Improvement  
15 District Community where vending issues are  
16 concerned. Thank you for your time and attention.

17 CHAIRPERSON GARODNICK: Thanks very  
18 much to all of you on the panel. I should note  
19 that I actually did, Mr. Zuckerman, introduce a  
20 bill a number of years ago which would have  
21 consolidated all of the licensing and enforcement  
22 authority under one single agency. So if that's  
23 something that you all would like to see us pick  
24 back up, I certainly am open to it. We should  
25 talk about that further. So thank you.

1  
2 Oh, there's a question from Council  
3 Member Levin.

4 COUNCIL MEMBER LEVIN: Just one  
5 thing to add is that I think that's a great idea  
6 about creating a Mayor's Office to coordinate it.  
7 It seems as if it would be cost effective. If you  
8 just have, you know, not too many staff members to  
9 be able to coordinate this, it would provide a way  
10 in which I think that the public, the street  
11 vending community, the BID associations, could all  
12 have kind of a clearinghouse by which to air their  
13 grievances. I think that that would probably be a  
14 good thing. I do support the idea.

15 CHAIRPERSON GARODNICK: Thank you,  
16 Council Member. Thanks to all of you for being  
17 here today. The next panel is Ralph Di Toro,  
18 Armando Crescenzi, Dan Rossi and Cassandra  
19 Flechsig. I'm sorry if I'm doing damage to your  
20 name.

21 The next panel up after them is  
22 potentially, if you are here, Baye Hanne? Good.  
23 Kathleen Dunn, are you here? No. Jeff Orlick,  
24 are you here? Jeff Orlick? Great. Clementina  
25 Garcia? You are here, great. Siobhan Wallace? I

1  
2 believe. Jack Tsai from Fresh Meadows? Thomas  
3 DeGrast? Thomas also, I believe. Cindy  
4 VandenBosch? Brian Hoffman? Mohammed Altaf  
5 Hussain? Great. How about Alberto Loera? Okay,  
6 Mr. Loera you're here.

7                   Gentlemen, I'm sorry to keep you  
8 waiting. Please go right ahead.

9                   ARMANDO CRESCENZI: Good afternoon,  
10 Council Members and Chairman. My name is Armando  
11 Crescenzi. I'm delighted that this hearing is  
12 taking place because it seems a long time in  
13 coming. I have to say one thing, though, I'm  
14 disappointed that the veterans community was not  
15 represented here, except in the person of Mr.  
16 Williams from the Urban Justice project.

17                   Street vending is a veteran issue.  
18 Veterans and disabled veterans have priority to  
19 many of the opportunities. It's always been that  
20 way historically since World War II, since the  
21 Civil War, if my colleague will correct me, I'll  
22 stand corrected. But I understand that veterans  
23 have always had a priority street vending in New  
24 York City and I'm disappointed that veterans have  
25 not been represented here. We have more standing

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2 than anybody else or just as much as anybody else  
3 and we have not been properly represented here at  
4 this meeting today.

5 Having said that, I would like to  
6 stick to the agenda which I am aware of, and that  
7 has to do with Intro 16A, regarding the quarterly  
8 reports from Environmental Control Board,  
9 regarding vendor adjudication. I would like to  
10 say under the law the vendor respondent is  
11 entitled to due process, specifically, the right  
12 to a fair hearing and an opportunity to make a  
13 thorough defense.

14 CASSANDRA FLECHSIG: I apologize.  
15 I ran out apparently right before the panel  
16 started. My name is Cassandra Flechsig. I'm  
17 speaking on behalf of Karp Resources and Karen  
18 Karp.

19 CHAIRPERSON GARODNICK: Welcome.

20 CASSANDRA FLECHSIG: Thanks.

21 ARMANDO CRESCENZI: Getting back to  
22 the issue regarding the Environmental Control  
23 Board and a quarterly report regarding vendor  
24 adjudication.

25 There is no fairness. We're

1  
2 entitled to a fair hearing and an opportunity to  
3 be heard under our due process rights. There is  
4 no fairness when an ordinary street vendor is up  
5 against an experienced Administrative Law Judge  
6 with legal and judicial education.

7           The current legal circumstances  
8 relating to street vending in New York City afford  
9 individual vendors very little rights or  
10 protections before the law. Actually it's quite  
11 like a trap.

12           We are lead to believe we're going  
13 to get a fair hearing at the Environmental Control  
14 Board and when we get into the hearing room, we  
15 get nothing. It's almost as though the hearing  
16 office is a prosecuting attorney. That is  
17 outrageous. I mean I can subpoena all of my tapes  
18 and I can show you how I've been pushed around  
19 again and again by Environmental Control Board  
20 hearing officers to basically trap me into a  
21 situation where my defense is invalid.

22           I have brought several appeals and  
23 I have won several appeals. So I'd just like to  
24 say that what is going on at the Environmental  
25 Control Board level does require some oversight

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2 and a quarterly report is necessary. That  
3 quarterly report should include information  
4 regarding the rate of dismissals, the rate of  
5 fines. That would only be a fair baseline and it  
6 would be an indicator of the equity on the part of  
7 the administrative law judge and the appeal board.

8 In addition, the quarterly reports  
9 should reveal which defenses are viable against  
10 certain violations. This will serve to hold the  
11 Administrative Law Judges accountable to a fair  
12 standard in determining dispositions of  
13 violations. I've had numerous violations. You  
14 know, it's the luck of the draw. One hearing  
15 officer will see it my way. Another hearing  
16 officer will produce law out of midair and I'm  
17 baffled by that. So naturally I appeal those and  
18 I win those.

19 Regarding Intro 435A, the fine  
20 schedule is out of control. The first fine is 50  
21 bucks, then 100 bucks, then 250 and then 500, then  
22 750 and then 1,000. I mean you're driving the guy  
23 out of business. It doesn't make any sense. It  
24 doesn't make any sense.

25 I have some other information, some

1  
2 data regarding general vending. This year alone,  
3 more than 600 general vendors, disabled American  
4 vets failed to renew their license. I would  
5 submit that it is because of the harassment  
6 they're getting in midtown and the harassment that  
7 they're getting in the more viable spots,  
8 particularly around museums and particularly  
9 around other tourist attractions.

10 So out of the 1,200 now, I believe  
11 there are 1,200 disabled vets licensed to general  
12 vend in New York City, according to my last count,  
13 more than 600 failed to renew. I speculate that  
14 it is because of the harassment and the fines and  
15 the fine schedule.

16 I'd also like to go on to say as it  
17 pertains to the intro, I would eliminate the  
18 multiple fine schedule. I would eliminate it  
19 completely. If a vendor is regularly violating  
20 the same type of violation, if he continually is  
21 putting his oil down a street trap or subway trap  
22 or if he has a Health Department complaint or  
23 there's a safety issue, then you know what,  
24 suspend his license. Maybe he needs some remedial  
25 training. Maybe he needs some support. Maybe he

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2 needs to go back to the Health Department and take  
3 the course again. What is the point? Is this  
4 about revenue for the city or is this about the  
5 Health Department, is this about food safety? Is  
6 this about food safety? Is it about general  
7 vendors making a living?

8 All right, so I would say eliminate  
9 the vendor multiple food offense schedule and  
10 suspension and retraining would probably be a more  
11 appropriate way to welcome the immigrant community  
12 and new people into street vending.

13 Regarding, Intro 684, the taxi  
14 stand prohibition, I understand, you know you  
15 don't have to be a logical genius to understand  
16 you don't want to block, you don't want to  
17 interrupt taxi service. However, some taxi stands  
18 are a block long or two blocks long. How is that  
19 fair to a street vendor? You're eliminating,  
20 you're putting a man out of work for a guy who has  
21 the ability to drive to LaGuardia Airport, Kennedy  
22 Airport, Westchester County. Why? So you can  
23 have a full block in front of the Met that's a  
24 taxi stand?

25 You're putting a person out of

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2 work. You're putting a disabled veteran out of  
3 work in favor of who? A taxi driver? I respect  
4 taxi drivers but they're in violation of more  
5 infractions than probably any other industry in  
6 the city. So why should we cater to them? Why  
7 should a disabled veteran vendor sacrifice a  
8 viable location, which are in short demand, for a  
9 two block long taxi stand? It's outrageous.  
10 There should be a designation in a taxi stand.  
11 Any taxi stand more than three or four taxis long,  
12 you know, should include a spot for a disabled  
13 veteran vendor.

14 I would like to say, while I'm on  
15 the point, likewise, the bus stop prohibition is  
16 also being utilized as a pretext to eliminate  
17 viable vending locations. The same thing, if a  
18 bus stop is more than two buses long, a vendor  
19 should be allowed to work there. He's not in  
20 anybody's way. If you take a look at Fifth  
21 Avenue, what has the Grand Central Partnership  
22 done? What has the Fifth Avenue BID done?  
23 They've put down massive planters. If those  
24 massive planters are allowed in a bus stop, how  
25 come a street vendor can't work there? How are

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2 you putting a man out of work in favor of a  
3 massive street planter? It's outrageous. It  
4 makes me sick when I see it. Grand Central  
5 Partnership is the biggest offender. And 86th  
6 Street is the next biggest offender.

7

8 All right, so bus stops are being  
9 utilized as a pretext to eliminate viable vending  
10 locations. I want to point out specifically that  
11 from 34th Street to--from 83rd Street to 84th  
12 Street, which was designated a bus layover area,  
13 was dubiously converted to a bus stop. All right,  
14 now when did this happen, in the middle of the  
15 night? You know, they just removed the signs that  
16 said bus layover area and changed them into bus  
17 stop. They put a disabled veteran out of  
18 business.

18

19 I just want to go on to say that  
20 also happened on 34th Street where they extended  
21 or added a new bus stop. Now there's another  
22 disabled veteran looking for a spot on 34th Street  
23 because he had been working there for years. I  
24 don't know if he's here today. But he's out of  
25 business now. He's looking for another viable  
spot because the city has decided to put in

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another bus stop.

So what's going to happen? Because of this rule, because of the taxi stand prohibition and the bus stop prohibition, can we expect the city to extend bus stops and put planters and extend taxi stands all over the city to continue to drive us out? The city is not playing fair with us. The city is not playing fair. They are using every trick in the book.

If you go downtown, you'll see these benches and bicycle racks.

Let me just wrap up. On the equal protection clause, specialized vendors, disabled vets, we are only allowed 105 in midtown. That's outrageous. There is no regulation on other types. There is no number limitation on artists. There is no limitation on food cart vendors. But if you are a disabled vet, 105 is the max. I can assure you no more than 30 or 40 vendors work in any one day. So a lot of spots that truly belong to disabled vets are being sucked up by rogue street vendors, illegal purse vendors and some of the more un-aesthetic street cart vendors.

I would like to propose that--I

1  
2 would just like to wrap up by saying I have many  
3 more things to say. I would like to propose that  
4 in order for anyone to work in the midtown core,  
5 they must be a veteran or be associated with a  
6 veteran. That could include a partnership or  
7 joint venture or corporation or a lease. Why  
8 should the juicy spots go to the ordinary public  
9 or new immigrant when a disabled vet is out of  
10 work? It's just lopsided.

11 It's the veteran who fought for the  
12 rights, you know, for capitalism and we are being  
13 disenfranchised. We're being excluded from  
14 midtown.

15 With that, I'd just like to say  
16 this requirement would force the relationship to a  
17 transitional foreign permittees who may not have  
18 the same level of allegiance or pride in this  
19 country.

20 Furthermore, having more veterans  
21 in midtown would make the City a safer place.  
22 Thank you for putting up with my rant.

23 CHAIRPERSON GARODNICK: That's all  
24 right. We appreciate your being here. Thank you.

25 DAN ROSSI: Good afternoon,

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2 Councilman. I'm sorry the rest of the crew isn't  
3 here. I heard over and over when you were  
4 speaking to the city and you were speaking to  
5 Urban Justice and everyone, you asked questions  
6 and no one had really straight answers for you.  
7 Oh, my name is Dan Rossi. I'm sorry.

8 One of the things that you kept  
9 coming back on was multiple offenders, a person  
10 going after it. I understand what you were  
11 saying, if that person keeps getting a ticket and  
12 getting a ticket and getting a ticket. But the  
13 money isn't the deterrent to it. Fifty-one  
14 percent of the tickets aren't fought. They're not  
15 going to pay the ticket anyway. They're just  
16 going to go get themselves a new license because  
17 you've made it so easy for a vendor to carry  
18 multiple licenses. That's what they've been  
19 doing.

20 But to go back on that, the reason  
21 why the limit should be \$250 is because that's the  
22 right thing to do. There are honest vendors who  
23 get entrapped into getting more tickets. It's  
24 usually because of enforcement agents who have an  
25 agenda. Then they'll go up in front of an ECB

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judge who really doesn't know what he's doing and he'll get hit and there you go.

This \$250 cap is a double edge sword that no one is talking about here. Do you know what happens if I get 12 tickets and I pay them? What do you think happens? Don't say nothing. I go in front of the next level of court. There's OATH. There's only one thing they want, is my license. So when you get 12 tickets, you'll pay your \$2,500 in fines. But when you go in front of OATH, they're going to ask you what did you do, you're losing your license. It's as simple as that.

So this isn't a sweet deal for the vendor who thinks he's going to get away with just paying \$250 each time. He's getting himself into a trap. He's going to lose his license.

The last bill and the most important bill that you have is connecting the permit to the ticket. Now, you ask why people don't pay their tickets. It's all black market. You asked before--you had the numbers wrong. You said there were 3,000 permits. There are 1,500 permits. There are 3,100 citywide with 200 of

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them being out of borough. You got 1,000 temporary and you got 1,000 green card.

Multiple permit operators are only distributors and manufacturers. The only ones who hold multiples are in the temporary permit thing. Citywide permits are one per person. But what they've done, thanks to Councilwoman Koslowitz, and she brought up a few points too. I'm sorry she's gone. They converted legitimate companies into illegitimate companies. The vending industry and what no one seems to understand is that vendors are just going through a cycle. They come, they go. You'll be lucky if you see the same vendor in two years. You'll be very lucky. They just come through the system, they make a few dollars, they move on to taxi drivers or something else.

But the permit that you took away from the legitimate company, which I was one of them, and you gave to the individual who had nothing to do the industry anymore is leasing it. So today you've got--the city will admit to 75 percent of the permits being in the black market. It's probably higher. So there's your companies.

1  
2 You have a company that leases permits from  
3 individuals. He goes ahead and hires a licensed  
4 vendor to vend. They put the permit on his cart.  
5 Now, the vendor gets the ticket. If they put the  
6 permit number on the thing, the permit owner gets  
7 the ticket. The guy who's running the black  
8 market doesn't get anything.

9 Now who's fault is that? That's  
10 your fault. I met with Commissioner Mintz and I  
11 brought a member of the black market with me. He  
12 explained what he was doing. He said so what, I  
13 don't care. This is the commissioner of Consumer  
14 Affairs saying I don't care.

15 So you have Council Members, you  
16 have BID members, and you've got administrative  
17 members who are all involved in not wanting to do  
18 the right thing. So what do you want us to do?  
19 You're putting our feet to the fire.

20 There was a mention of a Mayor's  
21 office. We had that already. We had a Mayor's  
22 Steering Committee under Mayor Dinkins. That was  
23 stopped when I exposed the president of the Fifth  
24 Avenue Association trying to lease the disabled  
25 veteran permits.

1  
2 We had the street vendor review  
3 panel. That was stopped when I organize the  
4 industry to shut it down, because it was the  
5 phoniest thing you ever saw in your life.  
6 Councilwoman Koslowitz brought it up. I testified  
7 at every hearing. The second day of hearing, she  
8 went screaming out of the room, saying it was the  
9 dumbest thing she ever saw. The president of the  
10 Fifth Avenue Association brought her back in and  
11 sat her down, be a good girl and shut your mouth.  
12 She never came after that day.

13 Councilman Noach Dear took over for  
14 her. After two hearings, he never came. The way  
15 they closed the streets was the Mayor handed them  
16 a list. What was on the list, they closed the  
17 streets. We had to organize every aspect of our  
18 industry to shut it down. We did it from the  
19 public. We were unable to do it. The general  
20 public did it. They did a survey. Eighty-five  
21 percent of the people said shut it down. It was a  
22 joke.

23 I met with Commissioner Walsh when  
24 he first took office. He told me straight out,  
25 Dan, he says we don't know how they shut one

1  
2 street down. We're not going to get involved in a  
3 Mickey Mouse thing like that. So the street  
4 vendor review panel, I would welcome it if it was  
5 an honest panel. It's not an honest panel, it's  
6 nonsense.

7 So let's go over this. The bill  
8 with the surveys, if someone was going to sit down  
9 and really look it might work, but I don't know.  
10 The two bills about the fines, it's the right  
11 thing to do. It's the right thing to do.

12 The bill about attaching the permit  
13 number to the ticket, you have to do it. You'll  
14 get rid of a good percentage of black market.

15 The other bills are a little  
16 cloudy. Where does the taxi stand end? You want  
17 to stop no standing in front of a hospital, come  
18 on. The hospital is three blocks long. The  
19 entrance is in the middle. That means for the  
20 next block and half in either way no vendors? Put  
21 a limit on the distance.

22 The one with the doorways, many of  
23 these service entrances are nailed shut. So all  
24 you're doing is taking locations away from  
25 vendors. Those three are really off the table.

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The other ones, you know.

CHAIRPERSON GARODNICK: Okay, thank you. Thanks for your testimony on the bills and for your broader insights too.

DAN ROSSI: Sure.

CASSANDRA FLECHSIG: Thank you. My name is Cassandra Flechsig and I'm the Green Cart Program Manager at Karp Resources. We're a food consulting firm contracted by the Department of Health to provide technical and business support to the New York City green cart vendors, so thank you for this opportunity.

Our company president, Karen Karp had to leave a little bit early, but I'm going to read a statement that we prepared. I do have copies if you'd like them. I have plenty of copies for everybody else when they come back.

CHAIRPERSON GARODNICK: Thank you very much.

CASSANDRA FLECHSIG: Okay. For centuries, New York City has been a destination for newcomers seeking economic opportunity. New York City has had a vibrant street vending culture going back more than 400 years that has offered

1  
2 low barrier entry strategies to entrepreneurs from  
3 an array of backgrounds.

4 Many presenters of famous brands  
5 and my own ancestors were immigrants who started  
6 their American journeys and careers through  
7 vending. We are a city quite advanced compared to  
8 others around the country. With strong policies  
9 that enable a path to economic success for those  
10 with few resources.

11 Quite often, those entering the  
12 world of street vending have limited work options  
13 due to general skill level, limited education and  
14 language barriers. Street vendors face many  
15 challenges along their opportunity journey, yet  
16 they are committed to this effort, creative in  
17 their management of these micro enterprises.

18 Vendors are hard working taxpayers  
19 supporting families and paving the way for a  
20 better future for their children. Our particular  
21 experience with street vendors comes from four  
22 years of providing technical assistance, education  
23 and industry liaison support to vendors in the New  
24 York City Green Cart Initiative.

25 As City Council is well aware, New

1  
2 York City Green Carts is the result of legislation  
3 that created a special class of street vending  
4 permits allowing the sale of whole fresh fruits  
5 and vegetables in designated precincts with low  
6 availability of fresh produce, few traditional  
7 brick and mortar food stores and high rates of  
8 diet related illnesses.

9           Individuals who become green cart  
10 vendors are either former employees of other  
11 street vendors with citywide permits or newcomers  
12 to the city and new to vending. We provide  
13 vendors with tools to enter and we hope thrive as  
14 street vendors. Workshops and one-on-one  
15 consultation in small business skills, permit  
16 getting and permit retaining, produce purchasing,  
17 produce handling, merchandising, EBT applications  
18 and operations, community relations and vending  
19 for success.

20           The latter efforts focus  
21 significantly on how to navigate the agencies that  
22 touch green carts: the New York City Department of  
23 Health and Mental Hygiene, for a confusing mix of  
24 program support permits and violations; the NYPD,  
25 BIDs and on occasion the Mayor's Office of

1  
2 Immigrant Affairs and the Fire Department and  
3 specifically how to vend safely, legally and  
4 profitably.

5 Violation schedules are difficult  
6 to find and even more challenging to understand.  
7 The fines vendors receive are irrational for their  
8 level of trade. Accessing clear information about  
9 what actions constitute a violation and  
10 understanding why fines are doled out is a huge  
11 challenge for vendors of any skill and language  
12 level and green carts are no exception.

13 We strongly believe that all street  
14 vendors should follow the rules, but as the  
15 current fines are prohibitively high, we have seen  
16 numerous green cart vendors go out of business  
17 simply because they could not afford to pay them.  
18 While we do not want to see vendors engaging in  
19 behavior that poses a risk to public health, we do  
20 not believe that anyone benefits if the local  
21 fruit and vegetable stand goes out of business  
22 because they set up a few inches too close to a  
23 building or had a box that wasn't broken down.

24 Because the nature of street  
25 vending is more often a one-on-one or one cart/one

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staff situation, that staff person being the permit holder vendor him or her self, when a fine is to be paid or challenged, it means a lost day of work and revenue, something that is economically prohibitive for most vendors.

If they do not understand the violation or can't pay the fine and subsequently they are forced to stop vending, they oftentimes have few or no options for other employment.

Karp Resources supports the passing of Intro 434 and Intro 435 because we believe it will enable street vendors to be more responsible, more successful and more profitable small business people in New York City, better able to contribute to their families, our city and the economy generally.

CHAIRPERSON GARODNICK: Thank you very much.

RALPH DI TORO: My name is Ralph Di Toro and my organization is Vet and I'm the sole person in the organization. I'm a little bit taken back by the fact do these laws apply, are going to apply to disabled veterans if you put them in effect. We have a little difference of

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agreement and understanding with Dan and I. He says no, I say yes.

CHAIRPERSON GARODNICK: Let me just be very clear as to how this works in a hearing. You guys come and you offer your opinions and your thoughts and we listen to them. I understand. This is not a point where we're going to be going back and forth. What we'd be happy to do is you can reach out to us after the hearing.

RALPH DI TORO: No problem.

CHAIRPERSON GARODNICK: We'll be happy to have the conversation. But why don't you state your view, one way or the other and then we'll--

RALPH DI TORO: [interposing] Sure, no problem. Thank you. I'm in full support of 434 and 435. Nothing else could be said that wasn't already said. My colleagues have said it. Other people have said it quite eloquently.

CHAIRPERSON GARODNICK: We doubly and triply appreciate your testimony and that you're being concise.

RALPH DI TORO: As far as going towards 684, if a taxi stand is here, why can't

1  
2 the vendor be to the left of it where there's not  
3 no taxi stand? Why do you say adjacent to it? I  
4 mean what you're doing is shrinking space for a  
5 group of people, disabled vets, that have a  
6 limited amount of space that's already there.

7           Concerning the doorway situation,  
8 there is a law that's on the books already  
9 concerning that you can't vend in front of a  
10 doorway, it's already there. So this law 727 is  
11 only redundant. If you check, and I might be  
12 mistaken, but I think I'm right.

13           789, we go to the hospital  
14 situation. I have the unfortunate pleasure of  
15 being a permanent resident on many occasions to  
16 Columbia Presbyterian Hospital due to my service  
17 connected disability. I have yet to see  
18 congestion. I have yet to see a massive amount of  
19 vendors as that lady said. Her testimony to me  
20 was a complete, it was a slap in the face to the  
21 vending community in general because I support  
22 vending. But I'm partial to the veteran vending.

23           As far as the tickets are  
24 concerned, the fines are way too high. Way too  
25 high for people. We don't make a lot. Everybody

1  
2 thinks we don't pay taxes and we don't file taxes.  
3 How do they think we renew our license? I mean we  
4 pay taxes and we do pay rent. We paid with our  
5 blood and we paid with our service to our country.

6 So if this country is based on  
7 capitalism, we're part of capitalism. Let the  
8 free market work. Meaning if I'm selling  
9 sunglasses in front of a store and he's selling  
10 sunglasses, then we compete. That's where the  
11 competition comes in. Don't get me out and put a  
12 bus stop there because you have the power. Let's  
13 be fair about it.

14 That's why I feel that this is all  
15 laws, you're creating laws--I think the  
16 smokescreen is everything is complicated. Well  
17 it's really not complicated. I'm not an MBA and I  
18 know, I read the laws for general merchandising,  
19 disabled veterans, food licensing and it's very,  
20 very simple. If everybody follows the law  
21 properly then it's fine. It's the enforcement  
22 that's not done. We're lacking enforcement.

23 I thank you very much for the  
24 opportunity to speak.

25 CHAIRPERSON GARODNICK: We thank

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2 you. For the vets, we certainly appreciate your  
3 service and your insights on this issue today. I  
4 don't think that there are any further questions  
5 for this panel but we appreciate you being here.  
6 Thank you.

7

RALPH DI TORO: Thank you.

8

CHAIRPERSON GARODNICK: The next  
9 and last panel, I'm going to call you up all  
10 together. It's a slightly bigger panel than we've  
11 done, but since you're the last we're going to put  
12 you all together. Cindy VandenBosch, we had  
13 called earlier, and I understand you're here now.  
14 Albert Loera, Mohammed Altaf Hussain, Clementina  
15 Garcia, Jeff Orlick and Baye Hanne.

16

Is there anybody else who has  
17 signed up to testify who I have not called? Just  
18 to be very clear. Brian Hoffman. We'll take a  
19 look Brian. Did you fill out a form? We called  
20 you. I think you might have been out at the time.  
21 That's fine. Just stay put. We're going to have  
22 everybody on this panel go. Just stay right there  
23 and make sure that I don't close the hearing  
24 without calling you. Okay? You'll be the last  
25 one.

1  
2 I would just encourage you if it's  
3 something that's been said already; obviously the  
4 hearing has been now going on for five and a  
5 quarter hours. Restrain yourselves if you can but  
6 we're here to listen, so you know obviously please  
7 say what you have to say. Make sure you're  
8 speaking into the microphone. You're first.

9 CINDY VANDENBOSCH: Hi. My name is  
10 Cindy VandenBosch. Thank you so much for having  
11 us here today. I am co-founder of Urban Oyster  
12 which is a tour company that gives--we give food  
13 cart tours in midtown and the financial district.  
14 We've been doing this since the spring of 2010 and  
15 have hosted thousands of people from all over the  
16 United States and throughout the world.

17 I'm here today to share what we've  
18 learned from this experience, both giving tours,  
19 getting to know the vendors and also researching  
20 the industry. I'm also here to express our  
21 support for the passage of two bills, Intro 434  
22 and 435.

23 On our food cart tours, we  
24 highlight, of course, the delicious and affordable  
25 cuisine and the character that each mobile

1  
2 business brings to its neighborhood and explore  
3 the multi-faceted role that vendors play as  
4 activators of public space, eyes on the street for  
5 the safety of all New Yorkers, and engines for  
6 jobs in the city. We are out in Midtown and the  
7 Financial District every week year-round and see  
8 how hard vendors--and I think this is something  
9 that's come up again and again--but how hard  
10 vendors work and just how much they invest in  
11 running their businesses and feeding the people of  
12 our neighborhoods.

13 We're proud as a business to  
14 promote and support their businesses through our  
15 tours and share their individual stories with a  
16 broader public, from the vendor who has been  
17 cooking halal food for two decades near Bryant  
18 Park to the immigrant chef who is soon to open his  
19 own brick and mortar restaurant in Queens.

20 I mentioned earlier that we have  
21 people that come for a variety of reasons. We  
22 have international tours and reporters, longtime  
23 New Yorkers come on our tours, law firms send  
24 groups on our tours, college students who are  
25 learning about urban planning or public policy.

1  
2 While these motivations are varied,  
3 one thing we hear time and time again from  
4 everyone is that street vendors are a symbol of  
5 New York City. They represent the city's spirit  
6 of entrepreneurship, diversity of cultures and  
7 cuisines, and it's bustling landscape. .

8 While tour attendees are amazed by  
9 the quality of the food and the attention to its  
10 preparation, many are surprised by just how much  
11 each individual mobile food vending business does  
12 to fuel the local economy. You know, you think  
13 about the metal fabricators that have to be hired  
14 to design and make the carts and trucks; the  
15 mechanics that need to be hired to maintain them;  
16 the nearly 100 commissaries in the city where the  
17 units are stored; the wholesale markets where the  
18 food is purchased; the commercial kitchens where  
19 the prep work is done; the graphic designers and  
20 printers that create the signage for these  
21 businesses; food delivery services; and, yes,  
22 companies like ours that provide an on-the-ground  
23 perspective of what the people in this industry  
24 contribute to the city we live in. These are all  
25 jobs created by the existence of the mobile food

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industry.

On a regular basis, we hear stories from vendors about just how challenging it is to stay afloat in an industry. Most of the vendors clearly understand that regulations are in place for a reason, but the high fines that are given out, so frequently for minor violations set up vendors for a cycle of poverty and that was never what the industry was supposed to be about.

We appeal to you to please consider lowering the fines so that these small businesses can turn around and invest the profits they do make into growing their businesses, thereby supporting the creation of even more local jobs in New York City.

I'd just also like to support, I'm really glad that there's been a discussion about taking a step back and revamping and clarifying the regulatory framework, because as researchers we've had difficulty trying to understand all the regulatory frameworks. Our first language is English. I can't even imagine what it is if you arrive to this country and you want to open a food cart business, how to navigate those laws. I

1  
2 think that there are various organizations that  
3 have tried to do that well. We support that.

4 So thank you for taking the time to  
5 listen to our testimony and for your consideration  
6 in passing Intro 434 and 435.

7 CHAIRPERSON GARODNICK: Thank you.  
8 Next?

9 JEFF ORLICK: This is going to be a  
10 little similar. My name is Jeff Orlick. I write  
11 about street vendors along Roosevelt Avenue on my  
12 website I want more food dot com. I lead tours in  
13 the areas of Jackson Heights, Elmhurst and Corona  
14 called the Roosevelt Avenue Midnight Street Food  
15 Crawl and also the Taste of the World Tour.

16 These tours have been featured on  
17 national television as well in the *Wall Street*  
18 *Journal*, *Daily News* and popular websites such as  
19 Goth Mist [phonetic] and Serious Eats.

20 In just less than six months, it  
21 has attracted hundreds of people from New Jersey,  
22 Brooklyn and Manhattan as well as from around the  
23 country plus Australia and Europe. They come here  
24 because they want the legendary real New York.  
25 They want to be immersed in our culture.

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Most of my guests are educated.

3

They have read the census report and they know

4

that there are no Italians in Little Italy and

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they know there's no culture of New York in Times

6

Square. They want the real stuff, not chains.

7

They don't want nothing to do with PR firms or

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copyright lawyers.

9

When I bring tourists to Roosevelt

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Avenue, their eyes light up with the buzz of the

11

street. They get dizzy from the IRT overhead and

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they are comforted by the rice and egg tacos from

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Tia Julia truck. When they leave, they can't wait

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to come back to 82nd Street on their next visit to

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New York. This is the stuff the NYC Tourism Board

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should go monkeys over.

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A hundred years ago, it was the

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Jews, the Italians and the Germans selling on the

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streets of New York. Today, these are the

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surnames on many of the businesses and buildings

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that are iconic to us. When I see the street

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vendors on Roosevelt Avenue, I see my family from

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Eastern Europe who created themselves on the Lower

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East Side. Every time I see the current ones

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finned, I see my own trying and being squashed.

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This is our future and our past.

Now I heard the city is trying to encourage small business. Well these are the micro entrepreneurs and you are strangling them. I heard the city is thwarting Walmart and supporting our own residents. With these high fines, we are hypocrites. Believe what's printed on your subway ads from the Small Business Services and support these vendors.

There are other ways you can legislatively help, like providing forms in multiple languages or lifting the cap on mobile permits, but this is a start. Lower the maximum fines. The business of vending on this scale allows them to send their children to school. It helps them contribute to the character of the neighborhood. It encourages them to be the eyes on the street. It helps them to become a person with an identity. With \$1,000 fines, we are choking their ability to continue.

This is not about mobile versus brick and mortar. This is about educating without suffocating. You must choose the objective of your fines: to educate or suffocate. If you want

1  
2 your city represented by Starbucks, Pink Berry and  
3 Popeye's, continue the high fines.

4           The Middle America businesses can  
5 absorb these costs that individuals cannot. With  
6 these high fines you are promoting the  
7 sterilization of our culture. Our brick and  
8 mortars should be on the same side as the street  
9 vendors because when they destroy every other  
10 local business on their block, who will be left to  
11 support them on the last Starbucks' free corner?

12           Do you want Maria the tamale lady  
13 cleaning the floors of Poppa Johns? Or do you  
14 want to help her business come from Tamale Lady to  
15 Tamale Empire?

16           Now the waiting list is 15 years  
17 for some mobile vending permits. No matter what  
18 levels of fines exist, there will always be more  
19 vendors coming. These street vendors are not  
20 going away. You choose, will Marie the Tamale  
21 Lady starve or will she thrive? You pick who  
22 succeeds in our city, Arkansas Walton with Walmart  
23 or your friends from the PTA and your neighbors.  
24 This is our family and this is who we are.  
25 Thanks.

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ALBERT LOERA: Hi, good afternoon. My name is Albert Loera. I don't have anything prepared. I am a street vendor. I'm also a member of the Street Vendor Project. I've been a vendor since I remember, since I was little. I sell here in the District 5 I think, by 86th Street and Lexington Avenue. Our business is selling tacos off a truck. It's called Paddy's Taco Truck [phonetic].

I am a father of three children. I don't make \$1,000 in a month. So with that said, I want my children to go to school. I want my children to go to college and university. But with these high fines it's very hard for them to have a chance so they can go to college or university.

I earn a living like that. I love being on the street. I have helped so many people on the street and I have made so many people happy selling my product, including tourists. So that's why I think it's very important for these two bills to pass, 434 and 435. I'm in full support of it and I just can't wait until that passes so my children can go to college and university.

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Thank you very much.

CHAIRPERSON GARODNICK: Thank you.

MOHAMMED ALTAF HUSSAIN: Good afternoon and hello, Honorable Council Members. My name is Mohammed Altaf Hussain.

I came to the U.S. 12 years ago from Bangladeshi. First, I drove a yellow cab. Then I got my food vendor license. I have worked as a vendor for the last six years.

I have a food truck in Brooklyn, near Kings County Hospital, I sell breakfast and lunch. My wife is in school for nursing. We live in Crown Heights.

Last June, I opened a fried chicken and pizza restaurant in Flatbush, not far from my vending spot. It's called Super Kennedy Fried Chicken and Pizza.

I don't have any problem with street vendors. In fact, I think vendors are good for my business.

There are some Senegalese vendors near my restaurant who are some of my best customers. They come in and use the bathroom and buy food from me. When they see the sidewalk is

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dirty, they tell me, so I can clean it and don't get a ticket from Sanitation.

They also store their things in my basement and pay rent, which helps me pay the rent at the restaurant. So, I don't see anything wrong with the vendors.

As for food vendors, if there was one outside my restaurant, I would be happy. Vendors do not compete with stores. Some people like food from the vendors, and some people like to go inside. We have chairs and tables inside our restaurant that people like to use. We have air conditioning in the summer, which brings many people. And we have a bathroom which some people like to use.

A lot of people cannot afford to have a meal inside a restaurant, but they buy from vendors.

In fact, there is a taco vendor about a block away from my restaurant. And further down there are three more vendors who sell the same things I do. They do not bother me and I do not bother them. Even though we sell the same food, I do not have a problem with them.

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Right now, I am saving my money.

Next year I want to open another restaurant. I am hoping I will not receive any high tickets this year so I can do this more easily. And maybe some day I will own 10 or 12 restaurants.

Thank you for giving to me the chance to listen to my story.

CLEMENTINA GARCIA: Hello and good afternoon. My name is Clementina Garcia. I'll be reading my testimony.

My name is Clementina Garcia. I am a street vendor and a Organizer at VAMOS Unidos, Street Vendor Mobilizing and Organizing in Solidarity. We are a grassroots community-based organization of over 600 street vendors in the Bronx, Brooklyn, Manhattan and Queens area. We build the leadership of adults and youth street vendors across New York City. I am here on behalf of the street vendors of the VAMOS Unidos. We support Intro 434 and 435.

In our street vendor community the majority of the families depend on their everyday earning to be able to pay their bills and their children's education. We have seen what these

1  
2 high fines can do in our street vendor community.  
3 Thing like our vendors becoming homeless because  
4 of the hard decision of the necessity of paying  
5 their tickets before their rent to be able to have  
6 an opportunity to apply for the waiting list for a  
7 permit for a cart.

8           The permits have being capped for  
9 over 30 years limiting the ability to vend with a  
10 complete license. The fines that our vendors  
11 receive are \$1,000 for not having a permit that  
12 the city has failed to increase since 1979. With  
13 this in mind we are asking to please support Intro  
14 434 that would allow the fines from \$1,000 to  
15 reduce to \$250. We would also like to ask for  
16 your support for Intro 435 that would stop the  
17 fines going up to \$1,000 after the sixth violation  
18 unless they are for the same violation.

19           We want to be able to vend in our  
20 communities. The importance of the Intros 434 and  
21 435 passing is because it would benefit many  
22 families who struggle day to day, working long  
23 hours and sometimes making just \$30 a day. They  
24 are not able to pay unjust fines of \$1,000. Money  
25 can be used for other thing like sending their

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kids to college.

With this in mind I ask again to the New York City Council to please support Intro 434 and 435 that in these harsh economic times would reduce fines from \$1,000 to \$250 and stop the staking for different violation to increase to \$1,000 after the sixth violation. Thank you.

CHAIRPERSON GARODNICK: Thank you very much. If one of you could make room--oh, we have two more people. So if two of you could make seats for our last two people. Great, thank you very much. Sir, would you like to go ahead.

BAYE HANNE: My name is Baye Hanne. I'm from synagogue. I been in this country, I started working like street vendor since 1984 in Times Square. You know, in that time is good, you know, and then, you know, I bring my family because I have seven kids to take care.

Later on, in 2005, I have a treatment [phonetic] and then I have cancer.

CHAIRPERSON GARODNICK: Take your time.

BAYE HANNE: I have my remark because--and then I support, you know, like seven

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2 kids in my house. In 1997, I have my license,  
3 vendor license. I start working with, you know,  
4 and later on I think, you know, they start giving  
5 me ticket, you know, like 2010. I have, you know,  
6 like six tickets, you know for \$1,000, \$1,000.  
7 Okay.

8 My doctor write letter for them,  
9 you know, about my sickness because, you know,  
10 every Monday, Tuesday I go about my chemo. You  
11 know, I can't go to court to take care of that,  
12 that's why they give me everything. Six tickets,  
13 you know for everything \$6,000, you know. I go  
14 over there. I bring them the letter from the  
15 doctor. They don't accept it. They say you have  
16 to pay or you're not going to get your license. I  
17 do everything. You know, I go to 42, they say  
18 here you don't have a problem. Your problem is in  
19 66 Jones Street [phonetic]. You know, you have to  
20 take it over there, you know. When you go here  
21 they're going to give you your license.

22 I do everything I can. Even now,  
23 my Con Edison is 3,000 and something because I  
24 don't have--I receive SSI like \$600 and something  
25 for seven kids. How I'm going to get that. Even

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2 Con Edison tell me, you know, on Friday if you  
3 don't pay \$600 and something they're going to cut  
4 my light.

5 That's why I come here to see what  
6 you can do, you know, about my things. Because  
7 they're supposed to give me my license. I go over  
8 there tell me even if you give me like, you know,  
9 plan payment, I'm going to pay. You have to give  
10 me my license to work. If I don't have license,  
11 how I'm going to work? That's the problem.

12 Before it's not some like now.  
13 Before you can vend without license, and now if  
14 you are without license they're not going to let  
15 you. That's the problem. That's just what I come  
16 here for to see what kind of help I can get, you  
17 know, to go back to work.

18 CHAIRPERSON GARODNICK: So here is  
19 what I would suggest. My legislative director is  
20 sitting over in the corner. I'm going to have you  
21 talk to her and we'll see if there's anything that  
22 we can do to help you in your specific situation.  
23 We appreciate you sharing your story. I know this  
24 is difficult. But Theresa Bomeo [phonetic] is  
25 sitting right over there.

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BAYE HANNE: Thank you.

CHAIRPERSON GARODNICK: I just want you to speak with her after you come off the panel and we'll see if there's anything that we can do to help you in your particular circumstance. Okay?

BAYE HANNE: Thank you.

CHAIRPERSON GARODNICK: All right. Thank you. Brian, would you like to finish the panel?

BRIAN HOFFMAN: Yeah. Well, I wrote good morning on my paper, but I think good afternoon is probably more appropriate at this point.

So my name is Brian Hoffman and I write for a very popular food blog called Midtown Lunch. We're devoted to finding--this is a very important photo--mention my name again? Brian Hoffman.

I write for Midtown Lunch, which is a popular blog. We look for affordable, delicious lunches in the business districts. I specifically work in Midtown and the Financial District. In those neighborhoods, the lunch options seem to be

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2 limited from the brick and mortar stores to either  
3 high end steakhouses or generic bodegas, or fast  
4 food chains. I imagine the reason for that is  
5 because the rents and the property taxes in the  
6 storefronts in Manhattan are really astronomically  
7 high, so that only the established and wealthy  
8 corporations can really afford to pay rent in  
9 those spaces.

10 Like many people, the readers and  
11 the others writers on Midtown Lunch and maybe many  
12 of you as well, I'm not really a fan of those  
13 places, those highly processed and bland fast food  
14 chains. I wish that I could afford to eat at high  
15 end steakhouses every day, but unfortunately I  
16 can't. So I look for other options.

17 For us, food carts and trucks  
18 provide that option and they have for a long, long  
19 time, hundreds of years in this city. They offer  
20 an authentic, carefully prepared meal that is  
21 affordable and filling and it really makes getting  
22 through the rest of the work day much easier for  
23 me and for the thousands of devoted lunchers who  
24 read Midtown Lunch every day.

25 We all understand that, you know,

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2 like all other businesses, food carts and trucks  
3 need to be regulated. But I have seen in the few  
4 years that I've written for Midtown Lunch, many of  
5 our favorite carts and trucks disappear because  
6 they can no longer afford to operate because the  
7 thousand dollar violations are so astronomically  
8 high.

9           And of course, as we've been  
10 through, these can be for minor violations. I  
11 don't look at these things as crimes. You know, I  
12 did a little research last night and the ticket  
13 for jumping a turnstile in the subway system,  
14 which I think we can all agree with criminal  
15 intent when someone jumps a turnstile, \$500 at the  
16 most. So, \$500 for that but \$1,000 for something  
17 like forgetting to wear your license around your  
18 neck but instead having it in your pocket.

19           As I've mentioned earlier, the  
20 owners of these food carts and trucks are not in a  
21 financial position to afford the expensive rents  
22 in Manhattan and so they're probably also not in a  
23 financial position to afford a \$1,000 ticket for  
24 violation that might be beyond their control or  
25 due to misunderstanding or something like that.

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2 I'll wrap it up because I know it's  
3 getting a little late. I just want you to  
4 reconsider these fines. They were once \$250 and  
5 that's I think a reasonable amount. \$1,000 will  
6 put these small business owners out of business.  
7 I think the point of these tickets is to reprimand  
8 rather than destroy businesses and livelihoods.  
9 So please allow them to operate legally and  
10 fairly. And please allow me and people like me to  
11 have our lunch, which I'm sure you're all  
12 sympathetic to at this point in the day. So thank  
13 you.

14 CHAIRPERSON GARODNICK: I certainly  
15 can endorse having lunch at some point.

16 BRIAN HOFFMAN: Yes.

17 CHAIRPERSON GARODNICK: I want to  
18 thank you all in the panel for your testimony. I  
19 want to thank everybody who has participated in  
20 this hearing, and certainly my colleague Steve  
21 Levin for sticking it out. Damien Butvick, Rachel  
22 Cordero, Theresa Bomeo for their work on this  
23 hearing.

24 I do want to note we obviously will  
25 continue to process what we have heard from

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2 everybody today to incorporate them into the bills  
3 and to consider how that impacts our moving  
4 forward.

5 We've heard a few comments about  
6 the trucks specifically. That obviously was not a  
7 subject of this hearing but I think we all  
8 recognize that as a result of the case which made  
9 it impossible for a truck to sell at a parking  
10 meter that there are trucks that are operating  
11 illegally today and to the extent that we want to  
12 embrace trucks as something which is important to  
13 New York, we're going to have to develop rules  
14 that allow that to happen in a way that respects  
15 them as a business and also respects the  
16 communities where they frequently are serving.

17 With that, Mr. Hussain, to the  
18 extent that you are still here, we hope that you  
19 will own 10 to 15 businesses someday and we are  
20 pulling for you. Thank you all for your  
21 participation in this hearing. With that--

22 COUNCIL MEMBER LEVIN:

23 [interposing] Mr. Chairman--

24 CHAIRPERSON GARODNICK: --I'm going  
25 to give Mr. Levin a chance to say the final word

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and then we'll be adjourned.

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COUNCIL MEMBER LEVIN: I just want

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to thank you, Mr. Chairman for holding this

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hearing. I want to thank your staff, the Council

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staff, my Chief of Staff Ashley Thompson for

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working on this and everybody that came out to

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testify. So I just want to thank you.

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CHAIRPERSON GARODNICK: Great.

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Thank you very much. With that, we are adjourned.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature *Donna Hintze*

Date May 18, 2012