

**Testimony of Lindsay Greene, Senior Advisor to the Deputy Mayor for Housing & Economic  
Development before the  
New York City Council Committee on Consumer Affairs**

**Hearing on Street Vendor Modernization Act  
Intro.'s 1033, 72, 78, 432, 1061, 1299, and Preconsidered Intro.'s 5114, 5115, and 5116**

October 26, 2016

**Introduction**

Good morning, [Speaker], Chairman Espinal, and members of the Committee on Consumer Affairs. I am Lindsay Greene, Senior Advisor to the Deputy Mayor for Housing & Economic Development. I work closely with several agencies that involved with economic development, public space and business opportunity, including the Department of Consumer Affairs ("DCA"), the Department of Small Business Services ("SBS") and the New York City Economic Development Corporation ("EDC") among others. I am joined today by several colleagues from various city agencies that touch mobile vending, including DOHMH's Corinne Schiff (Acting Deputy Commissioner for Environmental Health), DCA's Amit Bagga (Deputy Commissioner for External Affairs), NYPD's Deputy Chief Frank Vega (Executive Officer, Patrol Services Bureau), and DOT's Jeff Lynch (Assistant Commissioner for Intergovernmental and External Affairs), each of whom you will hear from in direct testimony and whom are joined by many of their esteemed colleagues for Q&A. Additionally, members from SBS, MOIA and DEP are on hand for Q&A as they also interact, albeit less directly, with mobile vending. We are pleased to be representing Mayor Bill de Blasio's administration here today.

Thank you for inviting us to testify on the package of bills known as the Street Vendor Modernization Act.

These bills specifically address mobile food vending, which has been a part of the New York City landscape for over 150 years. We would all agree that vending is important to the City in multiple ways. It is a colorful part of our cultural landscape, it is a major path to economic opportunity for veterans, immigrants and recent arrivals to New York, and its vibrancy, variety and entrepreneurial spirit contributes to our overall status as the food capital of the world.

Currently, the City's vending landscape includes several categories:

- Food Carts – non motorized carts selling various foods (i.e. halal trucks, produce green carts)
- Food Trucks – motorized and mobile trucks selling food, which are not distinguished from foodcarts under current law
- General Merchandise Vendors – individuals at non-mobile tables with displayed sundries for sale (e.g. handbags)
- 1st Amendment Vendors – non-motorized vendors(usually tables) who sell books, music and art (including paintings, prints, photographs and sculptures)
- Veteran General Vendors – general merchandise vendors who happen to be vets and whom have a special cap for general vending
- Disabled Veteran Vendors – general or food vendors who are disabled veterans who are licensed by State General Business Law

General vendors are required to only have licenses, which are issued by DCA. Food carts and food trucks receive licenses (for the person working the cart) and a permit (for the cart/truck itself) from the Health Department.

There is a cap on the number of health permits for food carts and trucks of 4,100 (excluding the 1,000 permits for Green Carts), and a cap on general merchandise vendor licenses of 853. The non-green cart food permits are broken down in specific sub-groups, including:

- 2,800 full-year citywide permits
- 100 citywide permits exclusively for (i) disable veterans, (ii) persons with disabilities and (iii) veterans, in that order of priority
- 200 full year borough-specific permits, with up to 50 permits for boroughs other than Manhattan; and
- 1,000 citywide seasonal permits, which are valid from April through October each year

There is a cap on specialized general merchandise vending licenses issued to disabled veteran licenses (per State General Business Law) of 105 for midtown only, and no limit elsewhere.

There is no cap on the number of general vending licenses that may be issued to veterans. It should be noted that a large amount of vending activity that exists is either general merchandise vending or 1<sup>st</sup> amendment vending, which includes artists selling their own or others' art.

The majority of the bills under consideration today are focused on food vending and do not address other types of vending so our comments will focus on food vending but will also address how the other categories of vending create issues we must address when talking about regulatory reform related to mobile vending.

### **Where is Food Vending Taking Place?**

While we do not have a precise count of the amount of street vending activity that occurs, we know that it is widely varied and incredibly dense in many major commercial corridors, in multiple boroughs. Through a review of complaint, inspection and violation data, all for mobile food vending, we have identified several key vending hot spots, including in Manhattan south of 96th Street, and Sunset Park Brooklyn (4th & 5th Ave's), Bushwick Brooklyn (Knickerbocker & Wycoff Ave's), Jackson Heights Roosevelt Ave and Flushing Main Street in Queens, and Fordham Road in the Bronx.

### **Current Vending Regulatory Framework**

As previously mentioned, DOHMH is responsible for permitting of food vending units as well as health and safety inspections, and issuance of licenses for food vendors. DOHMH also permits and inspects food vending commissaries (of which there are currently approximately 100 throughout the City). Commissaries are the physical spaces where all food carts must, according to City and State law, be taken for cleaning, maintenance and storage when not in use.

DCA licenses general vendors and facilitates all license and permit renewals for all classes of vending, and fields a large majority of vending complaints which are then referred to PD and

DOHMH. The Police Department enforces vending on a day-to-day, non-inspection basis, and issues violations to both food and general vendors.

These are the core agencies interacting with mobile food vending, but in totality, there are many more touch points and a vast expanse of underlying laws and rules governing street vending.

In totality, there are multiple City Agencies directly involved in some aspect of vending regulation (from licensing & permitting, to enforcement and adjudication), including DCA, DOHMH, NYPD, DOT, DEP, FDNY and DSNY. The direct regulatory framework involves multiple sections of the Administrative Code, the Health Code, the Rules of the City of New York and also the NY State Sanitary Code and NY State General Business Law.

This is a complex web of regulations and agencies that has made any change in the area very difficult in the past. This complexity creates massive data inconsistencies throughout various city systems, and produces a set of vending guidelines that are agencies are striving to enforce.

You will hear from many of these agencies in direct testimony today to gain insights into the specifics of these various regulatory topics and how things are playing out on our streets currently.

Generally speaking, we all agree that the system for vending regulation we currently have could benefit from a thoughtful and diligent review. We support the Council's efforts to examine this important issue and look forward to working with the various stakeholders to consider the results of this review, and if necessary, discussing improvements that work for everyone.

We feel that these bills are the first step in that direction. I will address the major bills overall, and my agency colleagues testifying with me will offer additional feedback per their areas of expertise.

## **Bill Feedback**

### General

Generally speaking, we recognize that vending is a business and vital economic opportunity for those that do it, especially immigrants and veterans. We must also acknowledge that regulation and enforcement of vending activity is incredibly important as well. Enforcement and regulation topics in particular matter a lot to a wide range of stakeholders, including vendors themselves, and also local Community Boards, Business Improvement Districts, local property and business owners, and of course elected officials. Vending is vital part of the New York City landscape and we must make sure that it is legal, safe and works well for everyone.

### Increase in Permits

One of the major aspects of this collection of bills is a proposed increased in the quantity of food vending permits. We are supportive of the notion that legal vending is better than illegal vending. However, we cannot truly assess the impact of the proposed increase in permits without understanding the true scale and scope of vending activity currently happening on the ground. As much as would like to have it, we do not have a true complete vending activity map that accounts for all the various types of vendors, their location and whether or not such activity is legal or illegal. Knowing that would be incredibly helpful in discussing permit increases.

Accordingly, under the leadership of our Office of Operations, we are engaging in a preliminary citywide vending count starting early November that will take approximately 6 weeks, and can offer more concrete feedback then. The count will not be fully comprehensive by any means, and it will not capture seasonal vending or vending that occurs in the evening and on weekends, but it will be the first sense of directional data we acquire as a starting point.

In addition to wanting to understand the impact of numbers of new permits, we feel strongly that any new permits must also come with geographic restrictions and specifications, at least similar to those on the books now.

Further on the location point, we have very specific public safety and security concerns about the levels of current vending activity specifically in Times Square/42<sup>nd</sup> Street and around the World Trade Center, and would like to see enhanced restrictions specifically in these areas.

### Timing

We would like to utilize insights from our preliminary count to inform our feedback on the timing and specific sequence of the many milestones proposed in the bills as well.

### Enforcement

We strongly support the concept of enhanced enforcement and of more proactive enforcement. As you'll hear from NYPD and DOHMH, we do both proactive and complaint based enforcement currently. Any new enforcement scheme needs to honor the current areas of expertise the various agencies involving in vending enforcement and generally we want to make sure to not dilute the expertise and resources of these agencies. The precise structure of more enhanced enforcement is something we need to evaluate more closely and look forward to discussing that with all relevant stakeholders.

### Code Clean Up

We feel very strongly that a complete review and overhaul of the City Admin code as relates to vending is worth considering – we view recommendations to this effect as the primary goal of the proposed Advisory Board in its first year. Some of the bills proposed here contain several so-called “clean-up” items, but we do not think making changes on a piece-meal basis is productive, and would rather make changes comprehensively. We agree that regulations need to be simple and straightforward, in one section of the Code and easy to teach and train.

### Commissaries

As you will hear from DOHMH, we think a major amount of attention needs to be given to commissaries, of which the current roughly 100 are not currently enough to support an expansion of permitted vendors. Without additional commissaries, carts and trucks have no place to be safely stored, which also creates a public safety concern.

### Advisory Board

We agree that any Street Vendor Advisory Board should include multiple City agencies and external stakeholders, and we are still formulating our thoughts on what that composition might be and will share that with you over the coming weeks as we discuss other details of the bill package.

### Pilot or "Hot" Zones

We generally think the idea of using several zones across the City to try out and study the impact of some new vending rules and regulations has merit. Choosing those areas is a complex process that needs to take in account areas of concentrated vending activity and the variety in intensity and types of vending across the City. As such, we think selection of those zones should involve multiple agencies and external stakeholders, and we think this is a topic appropriate for the involvement of the proposed Advisory Board.

### Other Bills

We are supportive of more transparency and public posting of prices. We are supportive of transferring permits among family members the way businesses are handed down through generations. We also support ways to legitimize major cultural events and vending activity

associated with them but need to work on other mechanisms than proposed here to address potential legal concerns.

### **Conclusion**

As I said, we recognize that the current state of mobile vending is complex and imperfect and we look forward to working with everyone to try to make improvements.

You'll hear next from several of our Agency partners, first from DOHMH, followed by DCA, NYPD and DOT.

Thank you.

**NEW YORK CITY DEPARTMENT OF TRANSPORTATION  
TESTIMONY FOR HEARING BEFORE THE  
CITY COUNCIL COMMITTEE ON CONSUMER AFFAIRS  
REGARDING INTRO 1303  
OCTOBER 26, 2016**

Good Morning Chair Espinal and members of the Committee on Consumer Affairs. My name is Jeff Lynch, and I am the Assistant Commissioner for Intergovernmental and Community Affairs at New York City Department of Transportation (DOT). Today, I am joined by additional DOT staff including Sean Quinn, Senior Director of our Office of Bicycle and Pedestrian Programs, and Michelle Craven, Senior Executive Director of Cityscape and Franchises. I am glad to be here today to discuss our tools for analyzing sidewalk congestion, and how those could be applied to vending as proposed in Intro 1303.

I would like to note that DOT currently is not responsible for the regulation or enforcement of general or food vending activity on sidewalks. Nonetheless, we recognize that our role in maintaining the City's sidewalks as valuable transportation assets and that our expertise as transportation planners could bring key insights in making changes to the vending landscape.

There are different tools that we currently use to analyze sidewalk congestion. One tool is a pedestrian level of service analysis of proposed newsstands, as laid out in DCA's rules. The specified pedestrian level of service analysis examines the width of the pedestrian clear path from the front of the newsstand to the front of the adjacent building and the number of pedestrians walking past the proposed newsstand site at peak times. This analysis is effectively a sidewalk congestion measure for a single site, directly in front of a proposed newsstand.

Next, in Times Square, in response to concerns from many agencies and stakeholders, we assessed sidewalk and plaza congestion in one of the densest pedestrian environments in the world to develop a regulatory framework of designated activity and pedestrian flow zones that was authorized by the Council this past spring. DOT used an expansive method for this complicated analysis of sidewalk and plaza congestion through the assessment of actual pedestrian travel times under real world conditions. This tool was adapted from the tools we regularly use to measure vehicle traffic flow. DOT conducted pedestrian travel runs through the plazas during multiple time periods and combined this data with a large amount of observational study to develop a unique and specialized regulatory framework with specific zones designed for Times Square.

Now I would like to discuss how these tools could be applied to vending issues proposed in Intro 1303. I want to be clear about what is possible with DOT's current tools, which focus on evaluating current sidewalk conditions and the impacts of proposed changes at a particular location or corridor. The proposed legislation directs DOT to identify designated vending location pilot program areas based on excessive sidewalk congestion and high level of vending activity. Our current tools described above are suited to assessing a specific site or corridor, and are not practical for estimating and ranking excessive sidewalk congestion throughout the City.

For the selection of these areas, DOT would only be able to rely on information about congested conditions that we already know about or have directly observed, suggestions or requests received from stakeholders, and/or information on summons activity or complaints relating to vending from our sister agencies. Additionally, the Administration's upcoming count of current vending activity would be a useful tool in making decisions on potential pilot zones. Broadly speaking, DOT believes we are not best suited to select these areas, and the selection of areas should be decided by a broader interagency group

that will be able to comprehensively evaluate the range of relevant considerations after there is a clearer picture of the actual number and location of vendors throughout the City.

After specific areas are selected, our technical expertise could be useful in analyzing sidewalk conditions. DOT would need to survey the areas, conduct extensive observational studies, and develop a new tool based on our previous experiences. Depending on the complexity of the analysis, this effort could be costly and take up to a year based on the seasonality of vending.

Next, I would like to touch on some of the broader challenges that could occur in any effort to relocate or reorganize where vending is permitted. As you know, more people are living, working, and visiting here than ever before, and with that comes incredible demands on our streets and sidewalks. These demands for walking, biking, driving, parking, loading and unloading, vending, and commercial, entertainment, and other activities are often concentrated in the same busy locations in the city with finite public street and sidewalk space.

As a result, some locations with heavily congested sidewalks and high vendor activity may be potential candidates for relocation, but may lack available alternate locations nearby. Expanding the sidewalk might not be an option either: in some of the same locations where we would like to have more sidewalk space, the adjacent roads may carry public transit buses and be heavily trafficked. If areas where general or food vending is permitted are relocated from high pedestrian traffic areas to less busy locations, vendors may not be able to make a living. And stakeholders at any alternate location may perceive such an action as moving an issue from one area to another.

These are a few examples of factors, some that are beyond DOT's purview, that need to be taken into account when determining locations of vendors. Therefore, DOT also believes that the advisory board in this legislation should determine a recommended framework for any potential relocation of permitted vending areas, if needed.

Additionally, I want to take this opportunity to address a requirement placed on DOT by the proposed legislation regarding signage. Intro 1303 would also require DOT to mount at least one metal sign on any block in the City where vending is not allowed under Titles 17 and 20 while exempting any block without an existing pole. In recent years DOT has embarked on a policy of reducing extraneous and unnecessary signage. We also caution that the cost of installing and maintaining signage should not be overlooked. DOT believes the tools to inform the public of vending regulations, whether they be signage, pamphlets or other methods, should also be reviewed as part of the advisory board's work.

Lastly, I would like to quickly express DOT's concerns about two preconsidered introductions. The first reduces the clearance distances for vendors from bus stops, taxi stands, driveways, subway entrances and crosswalks, and the second expands the distance from the curb that vendors can operate. We feel strongly that the proposed amendments as drafted pose safety, congestion, and accessibility issues, and could cause potential conflicts with transit access.

Thank you for the opportunity to testify and I would be happy to answer any questions.

**Testimony of Amit S. Bagga  
New York City Department of Consumer Affairs**

**Before the  
New York City Council Committee on Consumer Affairs**

**Hearing on  
Introductions 72, 78, 432, 1061, 1299, and 1303 Regarding Vending**

October 26, 2016

Good morning, Chairman Espinal and members of the committee. I am Amit S. Bagga, Deputy Commissioner of External Affairs for the New York City Department of Consumer Affairs, and I am joined by several of my colleagues from our agency this morning. Thank you for the opportunity to speak with you today about vending, an important issue not only for vendors, but also for consumers, businesses, and anyone who lives or works on a street where vending takes place.

DCA's new mission is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. We serve New York City's consumers, businesses, and working families, enforcing laws and providing services that address the needs of New Yorkers, from their wallets to their workplaces. We thank the Council for calling today's hearing, as it gives City agencies, lawmakers, and the public an opportunity to provide comment on proposed vending-related legislation. As one of the many City agencies involved in vending, we appreciate this opportunity to offer testimony.

Under current law, individuals who sell goods or services on our city's sidewalks, typically known as "general vendors," must obtain a license from DCA. These are vendors who largely sell merchandise and do not sell food. Previous City Councils, concerned about potential congestion of city sidewalks, moved to limit the number of general vendor licenses that can be active at any given time. Since 1979, the total number of general vendor licenses has been capped by law at 853. Honorably discharged veterans are able to apply for general vendor licenses beyond the cap. There are currently 1,910 licensed general vendors, of which 712 are non-veterans and 1,198 are honorably discharged veterans. Certain honorably discharged disabled veteran vendors are granted privileges to vend in areas otherwise restricted to non-veteran vendors, as well as honorably discharged able-bodied veteran vendors; these privileges are granted by New York State General Business Law.

DCA's role in street vending is strictly limited to licensing general vendors and accepting paper applications for mobile food vendor licenses and permits on behalf of the Department of Health at our licensing centers. We play no role in the regulation of food vendors. We have no authority or jurisdiction in terms of determining the number of licenses available to the public, which is the purview of the Council. Additionally, DCA does not play a role in determining where and when general vendors can vend. Furthermore, DCA does not conduct any vending enforcement and also does not have the authority to confiscate goods from vendors or make any arrests.

General vending is just one of the many types of on-street commercial activities that DCA licenses. In addition to general vending licenses, we issue licenses to restaurants with sidewalk cafes, individual newsstands, and businesses that utilize “stoop line” stands, which are the wooden stands are most often used by grocery stores and bodegas to display produce and flowers, among other items. Currently, there are approximately 2,000 licensed stoop line stands, 1,200 sidewalk cafes, and 400 newsstands across the city.

Taken together, mobile food and general vending, stoop line stands, sidewalk cafes, and newsstands contribute to a variety of quality of life and congestion concerns. As the licensing agency for many of these types of business activities, DCA hears complaints on nearly a daily basis from community boards, residents, business organizations, and, indeed, council members and staff about such issues. In the last year, we’ve heard significant concerns about these issues directly from Council Members representing Brighton Beach, Flushing, and Bay Ridge, among other neighborhoods.

Current laws and rules, subject to the jurisdiction of several different agencies, allow for many different types of commercial activity to take place on the same block or set of blocks at the same time. For example, Council Member Levine, in your district, on Broadway between West 97<sup>th</sup> and West 125<sup>th</sup> Streets, vending, sidewalk cafes, newsstands, and stoop line stands are all permissible. On this strip, in addition to vendors, there are 21 licensed sidewalk cafes, seven stores with stoop line stands, and four newsstands. Even in locations where vending is restricted and other commercial activity takes place, such as parts of Main Street in Flushing and 86<sup>th</sup> Street in Bay Ridge, we have been made aware by the local community boards and council members that unlicensed vending is commonplace and has, at times, severely exacerbated other issues, such as general pedestrian congestion and transit-related congestion.

At this time, no clear mechanism exists that enables the City to assess whether or not small businesses strips, such as Fordham Road, Jamaica Avenue, Manhattan’s Third Avenue, Kings Highway, or Victory Boulevard, are appropriate for all, any, or some portion of these types of commercial activities. In fact, several agencies are involved in the process of license issuance for these commercial activities and there currently exists no process by which there can be an ongoing review of the use of sidewalk space for commercial activity.

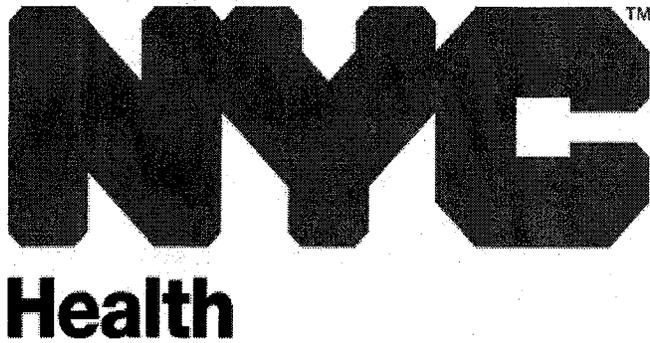
In 1995, which is when vending street restrictions were last assessed in a substantive manner, the population of New York City was approximately 7.3 million; today, it stands at more than 8.4 million. Additionally, a record 59 million tourists are now visiting New York City on an annual basis. Many neighborhoods bustling with bars, restaurants, and other commercial activity in 2016 saw a fraction of such activity in 1995. The City would greatly benefit from a legally-authorized ability to revisit the scope of on-street commercial activity as we evolve and grow.

Determining the viability of any given street to be open to vending requires all of us to be mindful of other commercial activity on streets. We would respectfully offer to the Council that in addition to basic license issuance considerations, assessing the appropriateness of a block, commercial strip, or neighborhood for commercial activity involves questions of density, transit usage, pedestrian clearance and congestion, and importantly, neighborhood character, and such questions would have to be taken into account during any deliberative process. We agree

strongly with the Council that the regulation of street vending demands a collaborative approach, and we are happy to play an appropriate role as part of this collaboration.

Identifying solutions to questions regarding vending necessarily requires input from vendors, businesses, consumers, communities, lawmakers, and regulators, all of whom together need to ensure that livelihoods are protected, economic opportunities are encouraged, that the marketplace is fair, and our streets are clean and safe. We would all benefit from concise, clear, and consistent guidelines for the conduct of commercial activity on city sidewalks and we look forward to participating in a dialogue with the Council and all other relevant stakeholders about how those can best be achieved.

Thank you for the opportunity to testify today; my colleagues and I will be happy to answer any questions from the committee.



**Testimony**

of

**Corinne Schiff, JD**

**Acting Deputy Commissioner, Division of Environmental Health  
New York City Department of Health and Mental Hygiene**

before the

**New York City Council Committee on Consumer Affairs**

on

**Introductions 72, 78, 432, 1299, 1303, 5114, 5115, and 5116 regarding Vending**

**October 26, 2016  
City Hall – City Council Chambers  
New York City**

Good morning, Chair Espinal and members of the Consumer Affairs Committee. My name is Corinne Schiff, and I am the Acting Deputy Commissioner for the Division of Environmental Health at the Department of Health and Mental Hygiene. On behalf of Commissioner Bassett, thank you for the opportunity to testify.

I would like to briefly review our work in the mobile food vending area. The Department's mission is to protect and promote the health of all New Yorkers, and when it comes to mobile food carts and trucks, that includes educating vendors about how to safely store, prepare and serve food to limit the risks of foodborne illness; inspecting carts and trucks before authorizing them to operate, to check that the required equipment for safe operation is in place; and inspecting the units once they are out on the street to evaluate compliance with food safety laws. On behalf of the city, we issue permits that allow people to operate mobile food units; we maintain permit waitlists; and we issue licenses that allow people to vend from these permitted carts and trucks. We also permit and inspect the city's commissaries, where according to both state and city law, food carts and trucks must be taken for cleaning and secured when not in use.

Regarding the suite of bills under consideration today, the Department looks forward to working with the Council on the following issues:

### **Food Safety**

The Department's top priority when it comes to mobile vending is to promote the safety of food served from mobile carts and trucks. Commissaries -- licensed facilities that provide required services to carts and trucks -- are necessary to maintain food safety standards. The lack of commissary space for the thousands of new permitted carts and trucks will need to be addressed. It is critical, and required by law, that every permit holder have a spot at a commissary. The commissary is where carts and trucks are stored when not in use, so they cannot be tampered with out on the street; where they can be properly cleaned to maintain sanitary conditions and prevent pest infestations; where waste accumulated throughout the day is disposed; and where food and supplies are available for restocking. The number of commissaries currently operating is inadequate to service all of the new units that this legislation authorizes. These new permit-holders will not be able to operate safely or legally unless new commissaries are opened.

### **Air Quality**

Second, we are concerned about the unintended impact that an increase in permitted vending units could have on air quality, particularly if it results in more vendors grilling meat. Meat grilling is a significant source of air pollution in the city, and without controls, the expansion of this type of vending could contribute to the premature morbidity and mortality associated with particle pollution. By our estimates, one additional vendor grilling meat emits an amount of particle pollution in one day equivalent to what a diesel truck emits driving 3,500 miles. The Council addressed this air quality concern with respect to restaurants in its recent revisions to the Air Code, and it is essential that it similarly be addressed in this legislation.

We know that New Yorkers care deeply about this issue. Participants in our Take Care New York community consultations last year ranked air quality as a top policy priority, and we frequently receive complaints from residents about smoke and odor coming from mobile food

carts and trucks. We must consider adding restrictions on grilling meat to minimize the consequences of increased particle pollution that might otherwise result from this legislation.

### **Healthy Food Policy**

Lastly, reforming the mobile vending industry presents an important opportunity to address matters of food policy. It is a chance to counter the abundance of unhealthy food options currently available in our communities, by increasing the availability of healthy food choices sold from carts and trucks. Together, we should consider setting standards for the healthfulness of offerings and for assuring that these units reach areas of the city that have inadequate access to affordable, healthful food. We should introduce measures to ensure that our children, in particular, are not bombarded with only unhealthy food offerings as the number of legal carts and trucks operating in their neighborhoods expands.

We also hope to work with the Council to mitigate the effects that mobile vending changes may have on Green Carts, which are permitted specifically to sell whole fruits and vegetables in neighborhoods with limited access to produce, and may become a lesser-used permit if more flexible permits are made available. We would welcome the opportunity to work with the Council to promote ways to harness the vibrant mobile food industry to address issues of food equity, and combat obesity and other nutrition-related illnesses.

Thank you for the opportunity to testify. I am happy to answer questions.



Wednesday, October 26, 2016

**STATEMENT OF DEPUTY CHIEF FRANK A. VEGA  
EXECUTIVE OFFICER, PATROL SERVICES BUREAU  
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL CONSUMER AFFAIRS COMMITTEE  
CITY HALL, COUNCIL CHAMBERS  
WEDNESDAY, OCTOBER 26, 2016**

Good morning Chair Espinal and members of the Council. I am Deputy Chief Frank Vega, Executive Officer of the New York City Police Department's (NYPD) Patrol Services Bureau. I am joined here today with Lieutenant Michael Dimino, Commanding Officer of Patrol Borough Manhattan South's Vendor Task Force. On behalf of Police Commissioner James P. O'Neill, we are pleased to join our colleagues in the Administration to discuss vendor enforcement and the proposed legislation with you today.

The Police Department recognizes that lawful street vending is an important part of the commercial history of our City. Legal street vendors contribute much to the charm and character of our City, and what often makes New York so unique is its ability to foster economic opportunity. While the Department respects an individual's right to earn a living for themselves and their families, this must be done so in an environment that complies with the laws that govern.

Enforcement of the City's vending laws and regulations is part of the myriad responsibilities that are entrusted to our patrol officers. As a quality of life issue, each precinct's vendor enforcement is driven by 311 complaints, community concerns that are often raised at Precinct Community Council meetings, and by our officer's observations while out on patrol. It is essential to note that illegal vending and other vending law violations are persistent complaints in the precincts that have high pedestrian traffic. In addition to the general responsibilities of patrol officers, vending enforcement is also supplemented by our Vendor Task Force that is stationed in Patrol Borough Manhattan South. This specialized unit is charged with singularly focusing on combatting illegal vending and trademark counterfeiting, enforcing both general and food vending rules and regulations, and training members of the Department on vending rules and regulations. Additionally, both the Midtown North and Midtown South Precincts in Manhattan have created patrol units that specifically focus on vendor enforcement. Moreover, we coordinate and provide assistance where necessary when our fellow agencies seek to take enforcement action related to vending.

While acknowledging that this is a complex regulatory scheme, the responsibility that accompanies a vending license and permit should begin with observance and respect for the City's laws and regulations. It is the policy of the Police Department to issue Environmental Control Board Summonses to permitted mobile food vendors. For more serious violations, such as unlicensed vending, the Department can take criminal enforcement, usually through the issuance of a criminal court summons. The City's laws also authorize the Police Department, and other enforcement agencies, to seize and remove property from a vendor where warranted.

Today's hearing, and the legislation proposed, starts a much-needed conversation on improving the vendor environment in our City, both for individual vendors and the agencies tasked with enforcement. In some neighborhoods in the City, vending contributes to crowded sidewalk conditions and it is essential that the possible addition of more food carts and any potential changes to placement restrictions do not inadvertently force pedestrians to enter into the street. A thoughtful balance must be struck between increasing the number of food vendor permits as well as the ability to take timely enforcement. While we have concerns on how some of the legislation may impact sidewalk conditions



Wednesday, October 26, 2016

and the quality of life of our communities, we are pleased to be a part of this conversation and we look forward to partnering with the Council on this important issue going forward.



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Gale A. Brewer, Borough President

**Testimony of Manhattan Borough President Gale A. Brewer  
New York City Council Committee on Consumer Affairs  
Testimony In Support of Int. Nos. 1303 and 72  
October 26, 2016**

Thank you Chair Espinal and members of the Committee on Consumer Affairs for having this important hearing on these important pieces of vendor legislation. I am Manhattan Borough President Gale A. Brewer.

I want to thank and congratulate the Speaker, Council Member Levine and Council staff on their work on Int. No. 1303. I say this not because it is a perfect proposal or a solution to all our vendor issues. There is no such thing. Street vendors have been a controversial issue in New York City for well over a century. There have always been tensions between food vendors and fixed location businesses. According to published reports, in the 1800s, in an effort to ease these tensions, vendors were forced to move every half hour.<sup>1</sup> After the depression Mayor LaGuardia tried to move them all to fixed, off-sidewalk locations.<sup>2</sup> And Mayor Giuliani tried to close virtually every Manhattan street to them.

The reason street vendors and especially food vendors persist is simple: New Yorkers love inexpensive accessible food and enterprising recent immigrants want to take advantage of the opportunity that this entry level business affords them.

In March, 2015, I issued a report called "Small Business Big Impact" which tries to look at the issue in the same way I believe the council is looking at this issue: food vendors are a type of small business that should be treated as a small business. In that report I called for raising the cap on food vendor permits.

The Speaker and Council Member Levine's legislation, which I am proud to join, starts with that premise but pairs it with an equally important one. Given that food vending is a business that occurs on public space – our sidewalks – we have to pay special attention to enforcement. The council legislation seeks to balance new opportunities for vendors with improved enforcement. Importantly, the set-up of the special enforcement office comes first. We need to make sure we have adequate and targeted enforcement and I think we should all be open to carefully considering the speed and amount of increase in the cap to make sure our

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<sup>1</sup> A Brief History of Street Vending in NYC, November 30, 2011 Midtownlunch.com

<sup>2</sup> Encyclopedia of New York City, Edited by Kenneth T. Jackson, Yale University 1995, p. 728-731.

enforcement can keep up with it. But no balanced proposal can be effective without both of these two critical components.

But the council deserves praise for the third, and perhaps most important, element of this legislation: The mandate it creates to experiment and think outside of the box. I have been around long enough to know how complicated this issue is and how easy fixes are destined to fail. In the 1980s Mayor Koch threw out all the street regulations in Manhattan. In the 1990s Mayor Giuliani closed most of them with very little review. We see where these approaches got us. This legislation requires four borough specific pilot programs that would allow DOT to work with community boards and BIDs to figure out new placement arrangements for vendors that would accommodate the needs of both the vendors and the communities. During the time of these pilot programs the new enforcement unit would be required to focus on these areas.

Maybe we will come up with a program that improves the situation for both pedestrians and vendors. Maybe we will learn which types of restrictions work and which have just been unnecessarily layered on top of each other throughout of decades of frustration. And while these experiments are being conducted the cap will be slowly lifted with each incremental lifting being studied and subject to recommendation by an advisory panel. At the same time we can try to give food vendors the benefit of commercial kitchens through a pilot program in which we link them to EDC funded kitchens and other commercial kitchens that may be available for such use. This should help improve food safety and hygiene especially for our newest vendors and may help some businesses move past vending into opportunities for catering or fixed location businesses. The academic in me loves nothing more than these types of controlled experiments.

I also support Int. No. 72 which I have sponsored along with Council Members Johnson, Koo, Koslowitz and Levin. This proposed local law would provide us with information on the number of pushcarts and food trucks out on the streets and sidewalks which should be valuable in crafting pilot programs and reviewing current regulations.

Finally, I cannot emphasize enough that in order for this to work this cannot be thought of as a zero-sum game between street vendors and fixed location businesses. I know that tensions have always existed that we will not be able to magically erase. This bill recognizes vendors as the smallest of our small businesses that have a place in our City's economic life. But while this legislation provides opportunities for food vendors it will also require them to take their responsibilities more seriously. My hope is that at the end of this there will be some additional opportunities for food vendors but we will no longer have situations where there are walls of vendors on particular streets blocking fixed location businesses and vendor stands that are four times the legal size constituting whole produce stores - if you want to be this big or take up this much space find yourself a store.

But improving the situation for food vendors does not mean we worsen it for our fixed location businesses. In fact our hope is that some vendors who become profitable and want to grow will leave the sidewalks and move into storefront fixed location businesses, or become what I have always referred to as "storefronters." We need to help our storefronters and those who aspire to become storefronters. That's why Council Member Johnson and I are working on a bill that would eliminate the commercial rent tax in Manhattan for owner operated retail and

food service establishments in storefronts as well as for all supermarkets. I would urge the Council to consider this legislation together with these vendor reform bills. Today we affirm our position that street vendors are legitimate small businesses worthy of our attention. We certainly can offer no less to our storefront businesses and must help them in their struggle to survive in the face of national chains and high business costs.

Thank you for the opportunity to testify today.

**SMALL** Business

# **BIG** Impact

*Expanding  
opportunity  
for Manhattan's  
storefronters*



**Gale A. Brewer**

MANHATTAN  
BOROUGH  
PRESIDENT

*March, 2015*

# Executive Summary

The Manhattan Borough President's Office (MBPO) produced this report to help more small businesses thrive and grow, because small businesses have historically provided the majority of jobs for New Yorkers and a gateway to the middle class, especially for immigrants and ethnic communities.<sup>1</sup>

Over the past few years, however, the future of the city's small businesses—and specifically street-level retail stores and restaurants—has begun to look murky. High rents, corporate competition, and real estate development deals are creating challenges over and above the ones small businesses typically face.

Activists have cited the speed with which commercial landlords move to evict small businesses to make space available for a corporate franchise or a bank, which can and do pay substantially higher rents. These evictions are having an impact on Manhattan's commercial landscape. Vast stretches where mom-and-pops once prevailed have disappeared from Clinton and Chelsea to Little Italy and the Bowery. Empty storefronts persist for weeks, months, and even years, and more and more streetcorners are claimed by major banks and corporate chains.

Launching a small business in New York City has never been easy. Of the thousands that open every year, many close that same year. Landlords evict commercial tenants for a variety of reasons. Tenants close up shop not just because of escalating rents but also because of back taxes, damages or losses for which they haven't carried enough insurance, and demographic changes among clientele. Regardless of why small businesses close, when they do, everyone loses, because small businesses hire locally, contract out services locally, make local purchases, and give New York City streets their character.

Based on what the MBPO heard from small business stakeholders, we've made recommendations under four categories: (1) help small businesses cope in the current real estate market, (2) improve government interaction with small businesses, (3) reform the city's Commercial Rent Tax, and (4) maximize resources among government agencies.



Special thanks to Lucian Reynolds of the MBPO Land Use Division for his extensive work on this report.

## HOW BIG IS SMALL?

*Finding the data to help analyze the small businesses targeted in this report was difficult because there is no standard definition of "small." We looked at how federal, state, and city agencies set the maximum number of employees a business can have to qualify as a small business:*

**Federal:** *Depending on industry sector, the U.S. Small Business Administration (SBA) measures business size by either the company's dollar value or the number of employees. The Small Business Act defines small business as generally one with fewer than 500 employees.*

*The SBA further recognizes microbusiness as an organization with fewer than five employees and small enough to require little capital (\$35,000 or less) to get started.*

**State:** *New York defines small business as a shop that employs fewer than 100 people.*

**Local:** *New York City's Small Business Services doesn't give a hard number; rather, it encourages any business to inquire about its services.*

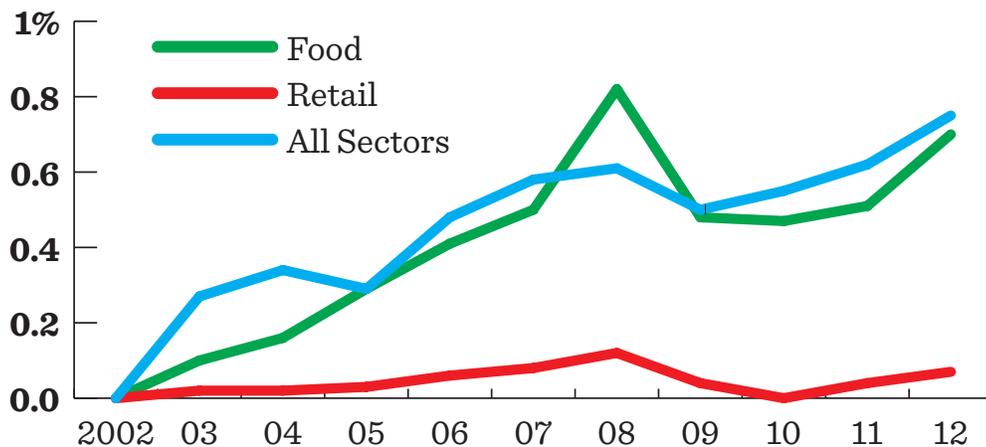
*Clearly there's a need for better integration of benchmarks and criteria between different levels of government when it comes to smaller shops. It would be great to have common thresholds. We believe that the majority of storefronters our recommendations will help are businesses with 15 or fewer employees.*

# New York City has been fertile ground for small businesses

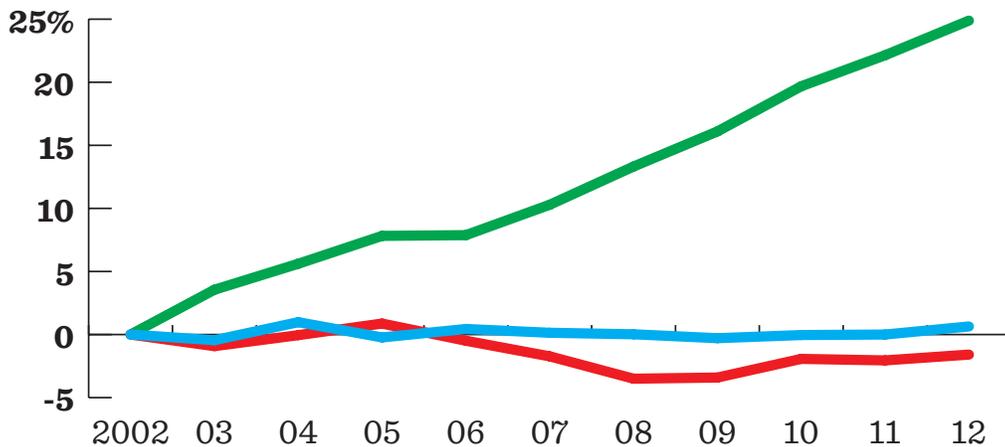
Successful small businesses make our city stronger, bolstering our unique identity and helping to revitalize neighborhoods. They provide a broad range of essential services—such as washing clothes, repairing shoes, and cooking and delivering food—and often go beyond that, exposing their customers to new products or experiences.

Although New York is one of the world’s most expensive and competitive places to do business, entrepreneurs with one or only a handful of employees are undeterred from entering the ring. According to an October 2014 report by the Center for an Urban Future, firms with fewer than five employees constituted the bulk of growth in new businesses in New York City between 2000 and 2013, providing a net gain of 31,421 jobs.<sup>2</sup>

These numbers, of course, reflect the meteoric growth in digital and tech startups, buoyed by an array of Silicon Alley co-working spaces like New Work City and AlleyNYC.<sup>3</sup> In addition, according to U.S. Census data compiled by the Center for an Urban Future, 7.9% of Manhattan residents were self-employed (meaning “in own not-incorporated businesses”) in 2012, a larger share of the workforce than in any other borough.<sup>4</sup> When you add up these tens of thousands of Manhattanites, you can see how



*Growth rate in quantity of 100+ employee firms*



*Growth rate in quantity of under-99 employee firms*

Source: U.S. Census Bureau data for New York County

## INTERVIEWEES

**Patreinnah Acosta-Pelle**,  
*Business Development  
Advisor and Consultant,  
Harlem Congregations for  
Community Improvement*

**Curtis Archer**, *President,  
Harlem Community  
Development Corporation*

**Sean Basinski**, *Director,  
Street Vendor Project*

**Wellington Chen**, *Exec.  
Dir., Chinatown BID*

**Kerri Culhane**, *Associate  
Director, Two Bridges  
Neighborhood Council*

**Alexandra Hanson**, *Policy  
Director, NYS Ass'n for  
Affordable Housing*

**William Kelley**, *Exec. Dir.,  
Village Alliance*

**Sung Soo Kim**, *President  
and CEO, Korean American  
Small Business Service  
Center of New York*

**Doug Kleimann**, *NY Real  
Estate Sales Associate*

**Tim Laghlin**, *Exec. Dir.,  
Lower East Side BID*

**Jamie McDonald**, *author  
of New York Originals: A  
Guide to the City's Classic  
Shops and Mom and Pops*

**Danny Meyer**, *CEO, Union  
Sq. Hospitality Group*

**Scott Millstein**, *Exec Dir.,  
CORO New York  
Leadership Center*

**Ramon Murphy**, *Pres.,  
Bodega Ass'n of the U.S.*

**Bernadette Nation**,  
*Director, City Business  
Assistance Program, NYC  
Small Business Services*

**Angelina Ramirez**, *Exec.  
Dir., Washington Hts. BID*

**Carlina Rivera**, *Program  
Manager, Good Old Lower  
East Side*

**Sara Romanoski**, *Man-  
aging Director, East Village  
Community Coalition*

**Penny Ryan**, *District  
Manager, Community Bd. 7*

**Fred Owens**, *Development  
Dir., Project Enterprise*

**Nancy Ploeger**, *President,  
Manhattan Chamber of  
Commerce*

**Martha Soffer**,  
*Economic Development  
Specialist, Small Business  
Administration*

firms with fewer than 20 employees constitute over 90% of the businesses in the New York metropolitan area.<sup>5</sup>

U.S. Census data on business patterns for Manhattan (New York County) between 2002 and 2012 reveal some interesting trends.<sup>6</sup> For instance, the number of businesses with fewer than 99 employees and more than 99 employees varied by only a few percentage points in 2010. The number of food establishments with fewer than 99 employees appeared to be unaffected by the 2008 recession, increasing steadily by 25% over 2002 levels. Finding success in the restaurant business is notoriously difficult, but there seems to be no limit in the number of entrepreneurs attempting to do so in Manhattan.

The focus of this report is what we call storefronters—retail stores/services and food purveyors/restaurants that rely on street-level customer activity for their success—and therein lies the challenge. In a booming commercial real estate market, chain stores don't need to be profitable to afford their lease, because the street-level location may be more useful as an advertisement than as a means to profitably move merchandise. Storefronters, on the other hand, struggle mightily to pay \$65.14 per square foot—the average Manhattan asking rent in the fourth quarter of 2014 according to Avison Young.<sup>7</sup>

The types of small businesses we seek to help are independent (not part of a national chain and not franchisees), responsive to a neighborhood clientele, and have often built their businesses with very little capital, using their life's savings or getting loans from friends or family. Franchisees are often similar to our targeted storefronters, but the nature of the franchise allows them certain economies of scale and advertising support that are not enjoyed by those who fit our definition.

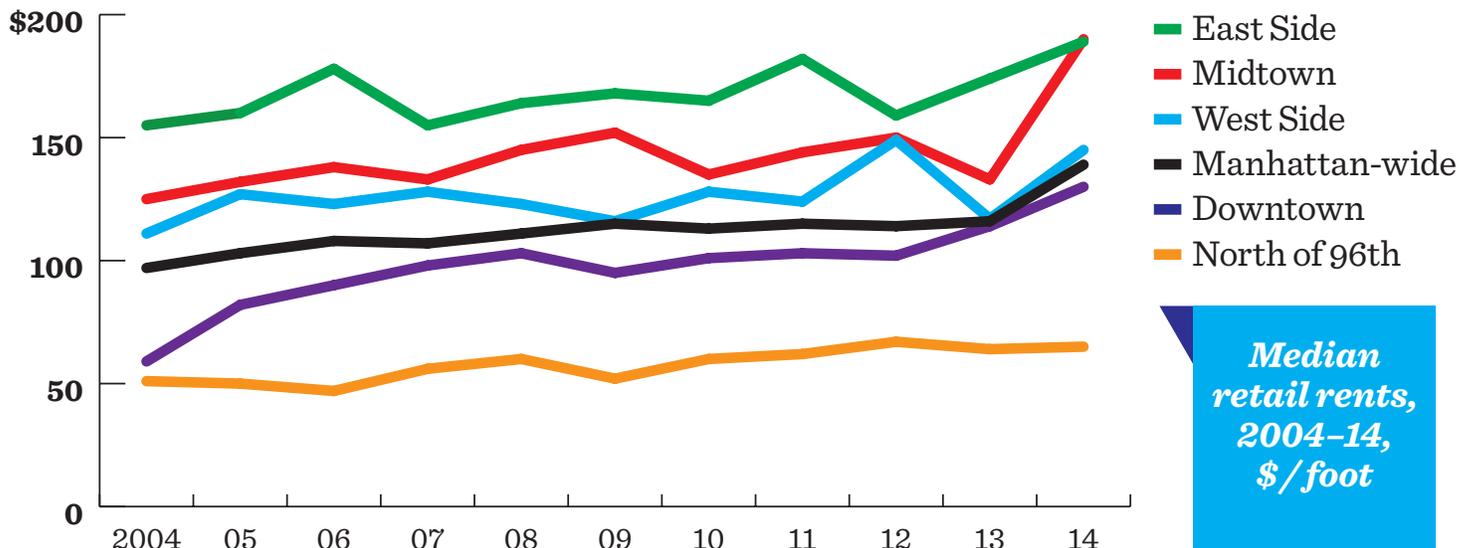
When small businesses are replaced with chain banks or chain drugstores, the market fails both the business owners and New Yorkers who prefer unique and specialized services. It also fails the economy. As noted urban theorist Jane Jacobs discussed in a 2003 interview, "The general idea at the time I wrote *The Economy of Cities* was that small businesses were . . . no longer of any importance. It's only a few years ago that it became the accepted new wisdom—which is true—that most of the jobs added in an economy are added in small businesses, not from growth in already large businesses."<sup>8</sup>

## Challenges to making it in Manhattan

This report was shaped by what we heard during interviews with individuals from a wide spectrum of organizations in neighborhoods in all parts of Manhattan (*see sidebar at left*). These interviews gave us critical perspective on the market, on the damage that large rent increases are causing storefronters, and on challenges these entrepreneurs face daily.

### Rising commercial rent and changing clientele

We've all seen businesses close under sad but recognizable circumstances. Most often, the market just does not exist for their product or service. Even well-established firms can be done in by credit problems, changes in management



Source: Real Estate Board of New York, Spring Retail Report 2014

costs, or retirement. Recently, however, New Yorkers have seen something different happening: the closing of businesses that have stood the test of time and enjoy healthy patronage from the neighborhood and surrounding city. The reason: large-scale increases in commercial rents.

As more ultra-high-income individuals move into New York City, property values and rents escalate, and owners of ground-floor retail spaces search for the new market ceiling. Many are avoiding locking themselves into 10- or 15-year leases at a price per square foot that may turn out to be below that of neighboring buildings. Instead, they are keeping their stores vacant until they land a tenant who accepts a higher rate, which establishes a new market norm.

Businesses that can't adapt their models to afford higher rents can do nothing but close. If banks and chain drug stores are the only tenants that can afford top-market prices, New York City will see greater numbers of storefronters going under.

With rising rents come new clientele, and a marked change in neighborhood demographics can significantly alter shopping patterns. The dissipation of an ethnic enclave could reduce demand for certain goods or services, even if the incoming population has the same purchasing power.<sup>9</sup> Many small businesses consider a shift in strategy risky, but their failure to alter their business strategy is just as risky. A shift in neighborhood tastes could necessitate additional investment—for instance, a capital investment like a new display counter or funding to cover the retraining of employees to provide a new service—that the owner is unable to afford.

### Ill-informed management decisions

In speaking with Bernadette Nation, Director of the City Business Assistance Program at New York City's Department of Small Business Services (SBS), we learned more about what causes businesses to fail. In the wake of natural or manmade disasters—for instance, building fires and flooding—SBS's program helps business owners pick up the pieces, connecting them to emergency response programs and helping them negotiate with insurance companies.

Here are some common small business pitfalls Ms. Nation cited:<sup>10</sup>

**Not carrying enough insurance.** Though businesses are usually required to buy insurance as part of their lease, many buy bare-minimum policies that prove insufficient for each type of coverage.

***Delaying tax payments.*** Many small businesses elect to pay their state sales tax annually rather than quarterly, which gives them more time to dip into money that should be earmarked for the state. To further complicate matters, the state may not contact the business about unpaid sales tax until the second or third year, whereupon the owner might not have properly accounted for the sales tax revenues and is unable to pay.

***Not budgeting for utilities.*** New small business owners are often unaware that utilities treat business customers differently from residential customers: if they fall behind on their payments, Con Edison will cut off electricity and gas to the shop.

## **Lack of readiness to change or expand**

Communities can change a lot over the course of a 15-year lease. If a business serves a neighborhood of young families with strollers, they may need to reflect on their business plan if a decade passes and children become adolescents but young families are no longer moving in. Consumption patterns change as well. Family bakeries and bagel shops have had a wild ride as tastes have changed from no-carb to whole-grain bread to gluten-free products.

Some small business owners may fear change, especially if they have been running their business the same way for a long time. These businesses would benefit from an organization that could help them identify the new market and make any needed adjustments to their strategy.

Changing consumer tastes might force business owners to carry more expensive products that would require taking out a loan. But because many small businesses have been built from personal savings or loans from friends or family, their owners don't have experience gathering the paperwork to successfully apply for a loan. Moreover, many fear an application that requires them to be transparent about their business's financial history and future.

Both New York State's Empire State Development Corporation (ESDC) and the federal government's Small Business Administration (SBA) have loan programs for small businesses. Independent microloan organizations like Accion and Grameen America serve needs that are too small for traditional banks and credit unions. If more small businesses could be connected with these services, more would succeed.

## **Business-inhibiting laws and policies**

Although city, state, and federal governments all have agencies that respond to the needs of small businesses, government can also restrict business when enforcing those zoning codes, laws, and regulations to protect the public's interests. These inhibitors include:

***Rigid zoning codes.*** New York City's Zoning Resolution dictates whether a business can operate in any of the five boroughs. Business types are separated into groups, and each group may be included in one or more zoning districts or commercial overlays. The city's current zoning system distinguishes between residential, commercial, and manufacturing uses. Exceptions can be made as some commercial districts may be built with residential units and certain commercial establishments are allowed in some manufacturing zones. These rigid descriptions do not leave much room for interpretation, and storefronters need room to innovate.<sup>11</sup> Real estate development is an incredible opportunity to add ground-floor commercial units to the market and increase Manhattan's overall supply. Unfortunately, many new commercial spaces are built out in large dimensions that please investors but not storefronters, who are unable to justify spacious floor plans suited to chain pharmacies and banks.<sup>12</sup>

***Uncooperative agency inspectors.*** Various New York City agencies interface with small businesses to ensure that they comply with regulations—the Department

of Consumer Affairs (DCA), the Department of Sanitation (DSNY), the Department of Transportation (DOT), and the Department of Health and Mental Hygiene (DOHMH).

The DCA protects New Yorkers from business practices that may cause economic or physical harm—for instance, misleading product signage, availability of receipts, and the sale of expired over-the-counter medicine. For many storefronters, the DCA is their principal contact with city government. But for many of the small business owners we interviewed, DCA inspectors were perceived as taking a guilty-until-proven innocent approach, viewing business owners as willfully negligent or perhaps even as scam artists.

As people making a life for themselves, storefronters are not inclined to look for problems. If the owner is discovered to have unknowingly violated a regulation, he or she should be given the opportunity to learn from this mistake and be fined only if the situation is not corrected. This situation is compounded by the fact that each city agency deploys its own inspectors with specific checklists, subjecting small businesses to at least four different visits and complex interactions over regulation.

**Commercial Rent Tax.** If you are an entrepreneur who does business between 96th Street and Chambers Street in Manhattan, the cost of doing business will likely include the Commercial Rent Tax. For the most part, this is a tax levied on for-profit commercial tenants paying at least \$250,000 per year in gross rent. It turns out that this threshold is easier for a small business to reach than one might expect.

To calculate gross rents, the city looks at how much a business pays its landlord every month per the requirements of its lease. Gross rent takes other costs into account, such as property taxes. Many commercial leases have pass-through clauses that make a lessee pay any increase in property taxes for their space. So if their landlord's property taxes increase, the tenant will have to pay the difference; what the tenants pay in property taxes is included in what is considered gross annual rent. This tax-on-a-tax punishes successful business owners for improving their neighborhoods.

**Opportunities and challenges for street vendors.** Street vendors are storefronters without a brick-and-mortar location. This style of retail should be a very low-cost, low-risk way to enter the marketplace, as the vendor doesn't need a commercial lease and may be able to get his/her business up and running with little or no credit. In reality, however, street vendors' overhead is often higher than anticipated. They may be operating from a table or cart, but their equipment and inventory may need to be transported and must be safely stored when not in use, which can be costly.

The city recognizes street vendors as a legitimate business type, but policies that limit the expansion of street vending constrain opportunity. The city capped the number of street vendor licenses in 1979 and has not been taking new names on the waiting list since 1992. (There are exemptions for U.S. military veterans or First Amendment vending like newspapers and magazines.) The city also makes it difficult for street vendors to contract private carting services for their business waste (which can result in business waste ending up in overflowing public trash receptacles).<sup>13</sup>

## **Gaps in government support**

Government agencies—New York City's SBS prime among them—provide very useful resources to help small businesses. New York State's ESDC and Harlem Community Development Corporation (Harlem CDC), along with the federal government's SBA, have offices that provide small business support. Like the regulatory agencies, these agencies seek to improve the lives of New Yorkers, but sometimes gaps in service occur.

**Department of Small Business Services.** SBS helps demystify the process of getting a business up and running and overseeing New York City's Business Improvement Districts (BIDs). Although SBS works hard to lower the barrier to entry for small businesses of every class, our interviews revealed a handful of issues that reduce its effectiveness.

While SBS offers impressive services for those preparing to establish a business that conforms to current laws and regulations,<sup>14</sup> the same types of services are not available for street vendors who may or may not hold a license but want to expand into a brick-and-mortar location. Such a service is sorely needed as New York City has no lack of entrepreneurs. This SBS service could assist them in launching informal-sector businesses or helping legitimate microbusinesses as they grow to stay in compliance with laws and regulations that previously did not apply to them.

SBS provides services to storefronters that could be complemented by available state and federal services. Unfortunately, the city does not appear to be coordinating its efforts with ESD, SBA, or other agencies. SBS is best situated to provide small businesses with individualized assistance. Entrepreneurs would be better served if SBS coordinated its services with those of other agencies, making referrals to clients and tracking when this is done.

***Business Improvement Districts.*** BIDs are credited with improving the look and feel of commercial areas by providing additional sanitation services and beautifying the area with plantings and tree care. Many BIDs, like that in Washington Heights, provide an expansive slate of services to small businesses by conducting market research and lobbying on their behalf.

Because BIDs are primarily funded by an assessment on real properties within the district's boundaries, many of our interviewees expressed dismay that the funding mechanism makes BIDs beholden to property owners over all other constituents. It makes sense that BIDs seek to improve property values for the entities that dominate their boards and from which they garner most of their budgets. But the city needs to empower BIDs to provide more services that benefit storefronters in their catchment areas.

## Recommendations

We need to pursue all possible avenues to help new storefronters survive and existing ones strengthen their foothold in Manhattan neighborhoods. Given the challenges our interviewees helped us identify, the MBPO suggests the following solutions.

### **Help small businesses cope in the current real estate market**

To take some of the pressure off of lease renewals, we recommend institution of a mandatory negotiation and mediation period, with the option of a short-term lease extension. As a long-term commercial lease draws to a close, these policies will aid both small business owners and property owners alike by ensuring a frank, informed conversation takes place while maintaining protection and flexibility for both parties. This isn't a new concept—in 1986, the Small Business Retail Study Commission (SBRSC) examined the city's retail market and included this policy in its recommendations. Three decades later, the urgency is only greater, and this is an idea whose time has come.

Unlike commercial rent control, this plan leaves the question of how much a tenant will pay for the duration of their lease to the negotiation between tenant and landlord. It does not give the city or state authority over market rates; it merely requires both parties to talk. If an agreement is not reached, the lease is extended to give the tenant a reasonable amount of time to move.

The landlord of a small retail business with an expiring commercial lease would have to contact that tenant 180 days before the end of the lease to let the tenant know whether

*Negotiate  
or mediate  
lease  
renewals*

they intend to offer a renewal. If they do, they will also have to provide the terms. Should the tenant seek to negotiate with the landlord or the landlord's representative, they would have to do so within 30 days of receiving the terms.

If the negotiation does not produce an agreement, the tenant or the landlord may invoke nonbinding mediation within 30 days. This way, landlords are not able to simply run out the clock on their tenant without coming to the table in some way. The mediation session must have a mediator present, and if the mediator feels that progress is being made toward an agreement, he or she can order that the parties attend a second round of mediation. If both parties do not agree on lease terms, the tenant's current lease is extended for one year with up to a 15% increase in rent. This gives the tenant enough time to search for a new retail space.

We also recommend an increase in the supply of ground-floor retail space to provide more competition between building owners and more competitive leases for small businesses. More commercial space in the neighborhood can also give a business that is forced to move out of its current space a way to secure a more favorable lease in the same neighborhood. This is another good idea with roots in the 1986 SBRSC report, and there are several ways the city might put it into practice:

***Don't allow ground-floor retail to expire.*** Many ground-floor commercial units have been functioning as a nonconforming use but were grandfathered as an existing use under the 1961 zoning. When these spaces lay vacant for two or more years, they were required to conform with the permitted use, which meant an end to the continuation of that space as retail. The commercial overlay would allow existing businesses to expand and new small businesses to replace those that close without the danger of losing the grandfathered retail space forever.

***Create an Urban Neighborhoods Fund.*** The New York State Association for Affordable Housing has found that current subsidy programs do not adequately support the creation of ground-floor retail. To ensure that such space is built whenever possible, it proposes an Urban Neighborhoods Fund for the city's affordable housing developments.<sup>15</sup> This fund would reduce the level of debt that a developer must carry on the retail portion of their project, which can reduce the amount of rent that that building needs to charge. Cheaper commercial spaces providing important neighborhood services can be prioritized for storefronters. The fund is structured to leverage federal and state resources and would be administered by the New York City Department of Housing Preservation and Development.

***Expand retail opportunities by expanding commercial overlay districts.*** It's critical that the city allow for additional commercial retail density in places where upzonings occur and create opportunities for commercial activity in surrounding areas. The Department of City Planning (DCP) should match the expansion of commercial overlay districts with additional zoning provisions requiring new buildings with a certain amount of commercial frontage to have a minimum number of storefront establishments. In neighborhoods like the Upper West Side, banks are assembling smaller commercial retail units to create larger frontages, which allow them to use the space as advertising. The Upper West Side's 2012 Neighborhood Retail Streets rezoning protected storefronters by preventing the further loss of appropriately sized commercial spaces. Under the new provisions, banks and formula retail could still use building cellars, space on the second floor, and commercial space behind other smaller units to expand their usable commercial area without having to dominate the street frontage.

***Create commercial opportunities for storefronters within public housing complexes.*** Commercial overlays should be added to the existing residential zones to permit retail activity. The New York City Housing Authority (NYCHA) could then remodel the bases of some of its buildings to allow for ground-floor commercial units to replace underutilized

*Expand  
the supply  
of retail  
space*

storage or workshop space. This will provide additional revenue for the cash-strapped NYCHA as well as important “eyes on the street” storefronts that help create vibrant and safe neighborhoods—something that “towers in the park”-style developments often lack.<sup>16</sup> **Create an ultra-low-intensity commercial district.** Zoning currently lumps together a broad range of uses classified as retail, but more than one metric can be used to measure building intensity. If a ground-floor retail space is strategically important to a business and the intensity is low, parts of the city could accommodate the business even if currently zoned as residential. Many residential zones allow for community facilities that can be used for medical offices. A low-intensity commercial district would create additional commercial space for other types of unobtrusive businesses. Because this class of business would no longer compete for commercial space, demand would be reduced. This pilot would require an agency with experience in business plans to assist the DCP in establishing the low-intensity threshold and reviewing applications. The low-intensity zones should be distributed near commercial areas experiencing high demand for ground-floor commercial stock.

**Make it easier to buy the building**

One way for storefronters to avoid the need for lease negotiations is to buy the commercial space they had been leasing. Given the current market for residential property in Manhattan, however, it is unlikely that many owners could manage this.

One solution is to separate residential and commercial units into condominiums. The SBA’s 504 Loan allows businesses to purchase properties valued at up to \$5 million if they can provide at least 10% of the purchase amount and if 51% of the building is used as part of the business.<sup>17</sup> A program that promotes “condo-ization” for compliance would make the purchase of ground-floor retail space possible for storefronters. A procedure with New York State’s Real Estate Finance Bureau would allow building owners to easily separate the uses if the split has no effect on residential tenants.<sup>18</sup> Once the commercial units are legally separate, the commercial tenant is far more likely to use 51% of the condominium.

To incentivize this process, the city could implement a program by which buildings that have accumulated heavy Buildings Department fines or are in arrears in Department of Environmental Protection sewer payments can get these debts reduced by using the earnings from the sale of their commercial condominium to pay for the necessary capital improvements. The property owner would have to agree to not apply for a Major Capital Improvement by New York State’s Department of Homes and Community Renewal, which would allow them to increase the tenant’s rent in return for fixing the serious, longstanding issues.

**Improve government interaction**

As noted in the previous section, improving interactions with DCA, DSNY, DOT, DOHMH, and other regulatory agencies can make small businesses more sustainable.

**Combine overlapping inspections.** Agencies with complementary goals can combine efforts to provide more comprehensive oversight. An ideal combination would be NYPD’s Traffic Enforcement Agents and Department of Sanitation inspectors. Combining inspections would give owners fewer interruptions from tending to their business and allow sanitation and traffic laws to be dealt with simultaneously. The city might pilot this process by recruiting experienced inspectors for the new position or by creating interagency teams to go into the field.

**Transform inspectors into educators.** Inspectors have the potential to become the city’s greatest asset for connecting with storefronters. While inspecting retail establishments is important for consumer protection, DCA should reform and expand this position to make it a Small Business Education Specialist to assist small businesses in achieving compliance. Education Specialists would engage in outreach on behalf of SBS, nonprofit

**Maximize city inspector efficiencies**

partners, and local BIDs when applicable. They would connect the city to the needs of the storefronter and respond with a menu of available city services.

**Provide language services for Cure Law participants.** The 2013 Cure Law—which the MBP co-sponsored as a City Council Member<sup>19</sup>—listed 84 DCA violations that can be corrected by submitting certification that the condition has been fixed. It also allows businesses to avoid DCA fines by expanding the list to include over 100 types of violations that can be corrected. We need to ensure that storefronters—regardless of their fluency in English—have enough language support to properly submit their paperwork to “cure” first-time DCA violations. Otherwise, those with limited fluency might be unable to benefit from this law, which helps small business owners by reducing the number and cost of fines, increasing transparency and fairness, and improving business education.

The persistence of street vendors in the face of adversity confirms their entrepreneurial spirit. New York City should help these sidewalk storefronters grow their businesses.

**Create a ladder of entrepreneurship.** SBS can strengthen the pipeline to fill brick-and-mortar retail spaces by helping fledgling entrepreneurs learn stronger business practices. Because every vendor has different needs, SBS could build out multilevel, multi-language curricula beginning with the basics (building and using credit) and finishing with classes on commercial lease negotiation.

**Raise the cap on vendor licenses and permits.** The current limit has not been raised since 1981. Allow new entrepreneurs to go into business for themselves. New York City should think of every new business as a startup, not just those seeking venture capital funding.

**Issue temporary license papers to replace lost or stolen licenses.** DCA does not currently issue temporary cards for vendors to use until their replacement card arrives. So if a street vendor loses his or her license card for any reason, he or she is unable to work until receipt of a replacement, which can take up to a month.

*Empower  
street  
vendors*

## Reform the Commercial Rent Tax

City government should improve how the Commercial Rent Tax deals with store-fronters. In particular, the base gross annual rent should be raised from \$250,000 to exclude the majority of storefronters from qualifying for the tax. All retail tenants should also be allowed to ignore any property tax pass-throughs when calculating gross annual rent.

## Facilitate agency collaboration

New York City has the potential to give small businesses access to a full line of free or low-cost business services. SBS’s Business Express is a fantastic tool to jumpstart new businesses.<sup>20</sup> The state’s ESD has a Business Mentorship Program.<sup>21</sup> The federal government’s SBA has impressive loan programs and conducts free seminars.<sup>22</sup> To get businesses the support they need, we recommend an integrated system in which each level of government takes in new clients and passes them off to the agency providing those services.

**Publish enhanced SBS open data.** Before the city, state, and federal governments begin sharing their caseloads, SBS must develop a way to track and tally the number of businesses it takes in and subsequently hands off to state or federal partners. These data will enter the city’s Open Data Portal (created by Local Law 11 of 2012, co-sponsored by the MBP as a Council Member),<sup>23</sup> where they can be analyzed by external organizations to better target the needs of storefronters.

**Co-locate agencies from different levels of government.** Each of the government agencies should share an office space for overlapping and complementary programs where employees who cover intake, handoffs, and strategic planning can work, communicate, and build partnerships. If developed jointly, future programs could reduce administration

*Integrate  
city, state,  
and federal  
services*

costs across all levels of government, with the savings applied to help small businesses. **Expand 311 to cover state and federal programs.** The city's 311 operators are trained to ask the right questions and navigate the caller through a special knowledge base to narrow the list of possible services. While city services and agencies are well represented, state and federal programs should also be included, especially if a similar service is not offered by the city. For example, if a minority or woman who owns a business wants to become certified as an M/WBE and do business with the state, a call to 311 would connect the client with Harlem CDC to start the certification process.

### **Leverage BID resources**

Few organizations know the current commercial climate of an area like the local BID. Moreover, BID staffers often have very close relationships with the businesses in their catchment areas. BIDs pay to collect important data, and their staff have the training to identify trends that would help local businesses strengthen their products and services in light of changing consumer tastes.

**Partner with SBS to identify and help struggling businesses.** BIDs can help identify storefronters who need SBS assistance and refer them to the closest center. For example, because the Washington Heights BID and SBS share office space, they work very closely together to target needed services. SBS should explore how this model can be replicated throughout the city and give BIDs more power to directly help small businesses.

**Develop the capacity to provide microloans.** Once the local BID has identified ways to strengthen a business, the owner may need a small loan to begin selling a new line of products or update a sign. SBS should start a pilot program to give BIDs with a large share of storefronters the ability to provide microloans of less than \$25,000. These loans can help to build a business's credit rating and expose entrepreneurs to the loan procurement process. Organizations with experience in providing microloans are in turn eligible for assistance from the SBA.<sup>24</sup>

### **Encourage government innovation**

Government can help small businesses achieve economies of scale. As with the Affordable Care Act, action by the state or federal governments to unify the buying power of individuals or small organizations brings economies of scale to everyday people.

**Create a New York State commercial insurance exchange platform.** Commercial insurance comes in many forms. Depending on the nature of a business and where it is located, it could have at least four types of commercial insurance. While many commercial leases require fire and theft insurance, other types of insurance (like business interruption insurance and flood insurance) are often not required but no less important. When leases do require fire and theft insurance, storefronters sometimes buy cheap plans with poor coverage. A commercial insurance exchange would allow them to input important aspects of their business— such as risk factors, size of shop, and approximate value of capital investment—and then allow them to shop between the various plans according to monthly cost or payout.

**Launch an annual SBS competition for small business apps.** Small businesses have a great deal to gain from the proliferation of smartphones. Well-written apps can help them work together and build their own scale without having to be part of a chain. Mind My Business by Vizalytics Technology allows business owners to subscribe to a feed about what is happening in their neighborhood and what people are saying about their shop.<sup>25</sup> CUPS by Urban CUPS Inc. creates a single customer loyalty program for independent coffee shops to share, freeing consumers to reward themselves by drinking coffee regardless of where they are in Manhattan.<sup>26</sup>

## Next steps

As a follow-up to this report, we will convene a series of roundtables with small business stakeholders, elected officials, and city, state, and federal agency representatives—including all individuals we interviewed for this report.

The first two roundtables—one for Upper Manhattan and another for Lower—will focus on first-year pitfalls among new storefronters. From these discussions, we will gather information from city, state, and federal agencies to produce a menu of the most common pitfalls that can doom a business in its infancy. Such a comprehensive publication does not currently exist and would be indispensable to new and existing businesses.

The second series of roundtables will focus on three of our recommendation areas: (1) Help small businesses cope in the current real estate market (2) Improve government interaction with small businesses (3) Maximize resources among government agencies.

Our goal is to learn which of our recommendations will best serve a particular neighborhood or community and tailor strategies to varying needs across the borough.

With this targeted feedback, we will be better prepared to move ahead on all fronts to increase the social mobility that small businesses have always provided New Yorkers, especially lower-income families and immigrants. Storefronters and small businesses more generally are essential to preserving the character of our neighborhoods and maintaining the livability of New York City for the middle and working class.

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October 25, 2016

Testimony for the Public Record Intro #1303

Regarding legislation that would increase, probably double, the number of food carts and trucks in the city, please consider the following for the public record.

It seems unconscionable for city planners to set into motion an increase in the number of street vendors without authentic oversight. Authentic oversight means: appointment of a “czar” or deputy mayor to oversee an agency of professionals to track, monitor, and keep tabs on the vendors located throughout the city, insuring compliance with the codes governing their activities.

Currently, street vendors, and food carts in particular, fall under the auspices of three city agencies: the Department of Mental Health and Hygiene; the Department of Consumer Affairs; and the Small Business Administration. In my observation, there is little or no oversight whatsoever. There appears to be no accountability. Vendors in violation of rules and regulations do so with impunity. There is no relief for citizens who have issues and problems with such vendors, and there is no relief for vendors who also require problem-solving.

Another “panel” to oversee the increased number of vendors is not a solution. Why do I say this?

A food vendor now operates on the sidewalk directly in front of a residential apartment building at 40 East 89th Street.

This vendor is in violation of at least two and possibly four rules in the city’s guidelines: 1. His cart stands within six feet of the entrance to 40 East 89th Street and the windows of some of its residents. 2. The cart is within twelve feet of the bus stop on Madison Avenue. 3. The cart is far less than 200 feet from the St. Thomas More pre-school. 4. On a daily basis, beginning more than two years ago, the vendor generated an oppressive and unwanted stifling odor of garlic and onions throughout the block.

I became aware of the vendor in June, 2014, after days and days of smelling grilled meat at 8:30 every weekday morning. This unwanted odor seeped into my apartment. Frequently, the odor suffused the lobby of my building, and there were days, in the hot summer, when the block reeked.

I lodged complaints with the three city agencies mentioned above. After months and months of being shuffled from one city agency to another, I finally learned that the Department of Mental Health and Hygiene was the managing agency. I contacted them almost daily.

The odor persisted. I called 311 routinely. I contacted Gale Brewer's office, Dan Garodnick's office, and e-mailed the Mayor's office. I continued to lodge complaints with the Department of Health and Hygiene.

In trying to solve my problem, I learned that really, no one is in charge of street vendors. No one really knows what's happening on the street. The vendors obtain permits and disappear into the fabric of the city, operating off the radar of any governing body.

The odor on my block has diminished to some extent, but even beyond the odor, what is a vendor doing on a purely residential block in a non-commercial area, on a quiet, tree-lined block of apartment buildings?

I would like to know if vendors pay sales tax or any other taxes related to their operations? Are they asked to submit bookkeeping records that document their activities?

I have worked in NYC for the past forty years and paid city, state, and federal taxes. I would not want to think that I am paying taxes for the privilege of living on my block while a street vendor who has established himself on the sidewalk conducts business in spite of regulations and with no accountability.

I am not the only resident with complaints. I attended a task force meeting last week and heard from residents along East 68th Street, whose windows face a wall of vendors who advertise with brilliant, moving LED lights that remain on late into the night. A resident who lives near the Second Avenue subway project lamented the fact that the moment the years-long construction project ended and the crews cleaned up, a vendor moved onto her block. A man who invested his family's life savings into a small restaurant, with employees for whom he provides health insurance, now has to compete with a food truck owner who, recognizing the customer base of the small restaurant, parked directly in front and is now

leeching customers from the restaurant owner.

The sheer number of complaints on all sides of the vending issue (from vendors, disabled vets, their relatives, as well as from business owners, residents, and community/neighborhood groups) suggests that the current system is very broken. It is unmonitored and unmanaged. Increasing the number of vendors will only add to the dysfunction. I am guessing that those who issue the permits are not the ones who live with the consequences.

It's fine to consider additional vendors in heavy-trafficked, transitional areas such as Lincoln Square, for example, or Times Square, or in front of museums and large retail zones, where vendors do not interfere with existing retailers and, most importantly—do not affect *tax paying residents*.

To date, the food vendor on the corner of my block remains, often creating a bottleneck along the sidewalk where elderly people using walkers are inconvenienced, and where his truck provides an unsightly anomaly on a quiet, tree-lined street. The vendor caters to construction workers who do not live in the neighborhood and other non-residents. I have never observed one of my neighbors buying food from this truck. Now, when the original vendor is not there, a second vendor takes his place.

I have to assume that doubling the number of vendors would result in other vendors moving onto our residential block. Since the first one operates undisturbed, others will follow.

Therefore, I am opposed to legislation increasing the number of street vendors until:

1. Current problems on all sides of the issue are heard, considered, addressed, and solved to the extent possible.
2. The city appoints a "czar" for street vending--a mayoral deputy with staff that tracks the vendors and is the go-to for problems: i.e., centralize oversight of street vending with authentic management, not a "panel."
3. A study to determine whether or not more street vendors are really warranted is conducted.
4. Zones and locations are established and maintained, chosen with the consent of the surrounding community
5. Consistent, daily monitoring of the activities of the vendors is guaranteed, with penalties and consequences for non-compliance.

Last: this bill creates opportunity for a very small segment of the population—less than 1%. Many of the people who receive permits will turn out to be non-NYC residents. A much larger group of New Yorkers will be affected: residents; those who have invested life savings into cafes and bistros that employ New York’s parents, students, and entry-level workers (while also providing health insurance); and thousands more who seek to preserve a quieter, uncluttered spot in the metropolis and pedestrians who simply want to get where they’re going.

Until better planning and management of this situation is possible, the new legislation guarantees an increase in already-existing problems that have not been solved. This is why I oppose it.

Please do not hesitate to contact me should you have any questions or suggestions for me.

Sincerely,

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**TESTIMONY ON INTROS 72,78, 432, 1303**  
**OCTOBER 26, 2016**

Speaker Mark-Viverito, Chair Espinal, Council Member Levine, the Committee and all Council Members, thank you for hearing my testimony today.

I am testifying as a co-founder and part of the coalition of *New Yorkers for Street Vending Reform* and as *Co-Chair of the Vendor Task Force Committee of Community Board 8 in Manhattan*.

I will submit a written narrative, but because of time constraints, I will give you the following bullet points:

- We're opposed to lifting the caps. There is no explanation as to how you arrived at the 635 per year number.
- We support a Vendor Enforcement Force, but the size of the Force is not addressed. There needs to be a ratio of the number of enforcement agents to vendors, and it needs to be substantial and active in all areas of the city, as is meter enforcement, not just in **congested** vending areas.
- At this moment, there are no legal spots for truck vendors. All their locations are in illegal parking areas, i.e. *No Standing, Loading and Unloading Only, Ambulance and Access-A-Ride spots, etc.*
- There should be assigned vending locations using a bidding or medallion system or community based planning for converting parking lots, etc. to vending zones.
- Violations should be issued to **both** the permit holder **and** the licensed vendor who is manning the cart of the permittee, as **both** are contributing to the non-compliant act.
- The Environmental Impact Statement or study should be implemented **before** there is any increase in the numbers of vendors, not **after**, just as an EIS is done **prior** to constructing a building.
- The EIS should include the effects of vending on the quality of life of **residents**, which is not included in your study, and how cooking odors, fumes, generator noise and oil spills affect them.

- Incentivize and encourage **shared** bricks and mortar locations as is done in Chinatown and *by Baskin Robins and Dunkin' Donoughts*. Parking lots could be used to accommodate multiple food trucks, and areas modelled after *La Marqueta* should be encouraged.
- Be aware that the vendor increase will empty store fronts by encouraging food businesses to expand, not to other store locations, but to the street where their expenses will be minimal, as is currently happening.
- The proposed **Street Vendor Advisory Board** should also include the **City Planning Commission**.
- One member from a community group is wholly inadequate. Communities should have multiple representatives.
- The Advisory Board should not be proposing locations. The communities should be the voice of whether or not vending should be increased or decreased in their neighborhoods and where these locations, if any, should be. If any locations are proposed by a government agency, they should be subject to an open hearing.
- There should be a mechanism for an individual or group to request that a street be restricted to vending.
- There should be a mechanism in the *Advisory Board* for arbitration of vendor complaints which could be brought by groups or individuals.
- All considerations or changes should be based on Community Based Planning.
- School kitchens should not be used for food preparation by anyone not affiliated with the parent or student body of that school, as security in our schools should be paramount.
- Training, mapping, and the web-site should be put in to place immediately.
- With respect to Intros # 72, 78 and 432, I believe they have merit.

Michele Birnbaum

A founder of New Yorkers for Street Vending Reform

and

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**TESTIMONY ON INTROS 72,78, 432, 1303**  
**OCTOBER 26, 2016**

Speaker Mark-Viverito, Chair Espinal, Council Member Levine, the Committee and all Council Members, thank you for hearing my testimony today.

I am testifying as a co-founder and part of the coalition of *New Yorkers for Street Vending Reform* and as *Co-Chair of the Vendor Task Force Committee of Community Board 8 in Manhattan*.

We are opposed to lifting the cap on food vendors to 635 per year from 2018 through 2025 and to giving power to the *Department of Transportation* in consultation with other city agencies to remove all caps after 2025, as called for in Intro #1303. It is not explained anywhere in this bill as to how you arrived at the 635 number.

After carefully reading Intro # 1303, I also have many concerns. While I am pleased that you have included a vendor enforcement force, something for which I've advocated for many years, you have not addressed the size of the force which I believe you should define by explaining its ratio to the number of vendors on the street. You have said that it will be active in area adjacent to retail, congested areas and areas included in the designated vending locations pilot program, but to be successful, it needs to be substantially active throughout the city just as the parking meter compliance force is.

While you have addressed the issue of location by assigning permits to each of the five boroughs, you have not addressed the street and sidewalk crowding in both commercial and residential areas that the proposed increase in licenses would cause, nor have you addressed the illegality of all food truck parking. At this moment, there is no legal parking spot for a food truck. They park at meters, in *No Standing Zones, Commercial Loading and Unloading Zones, Ambulance Parking and Access-A-Ride only spots*, etc. To even consider an increase in the number of licenses without considering a program of assigned vendor locations using something like a bidding or medallion system, is asking for chaos on our streets. There have been many reports of violence over disputed vending location spots and reports of carts being left on the streets 'round the clock so as not to lose their vending space. This is a breach of the health code which requires the carts to be cleaned every 24 hours, lures rats to the location, causes visual blight and gives the businesses and residents no relief from vending on their streets.

Violations should be issued to both the permit holder **and** the licensed vendor who is manning the cart of the permittee, as **both** are contributing to the non-compliant act.

*The Environmental Impact Statement* or study that you are proposing should not take place **after** the additional vendors are on the streets, but **before** and should

include analysis of the effect of street vendors on the quality of life of **residents** as well as businesses and bricks and mortar food establishments. An EIS for a building is done prior to its construction.

The EIS will look at the impact on job opportunities for vendors, the diversity of food options available, sidewalk congestion, the health of the restaurant industry and the health of the food retail industry while the quality of life of a **resident** who lives with the cooking odors, fumes, generator noise and oil spills is not considered.

Also, it is **not** the responsibility of government to make sure that there is diversity of food options in the city. The free market will do that, and any type of food could be accommodated within a bricks and mortar location. These locations could be shared by those who might otherwise have individual trucks or carts on the street, and sharing storefronts should be encouraged and incentivized. There is precedent for that in the city, i.e. Chinatown and *Baskin Robins and Dunkin' Donoughts*. Parking lots could be converted to accommodate multiple food trucks, and areas such as *La Marqueta* on Park @ 125<sup>th</sup> should be encouraged.

Increasing the caps without addressing location will empty store fronts by promoting and incentivizing food businesses to expand, not to other store locations, but to the street where their expenses will be minimal. This is already happening and has been going on for many years. It is a puzzle how this happens when the law supposedly calls for one license/one cart.

Your proposed *Street Vendor Advisory Board* consists of *the Commissioners of the Department of Consumer Affairs, the Department of Health and Mental Hygiene, the Department of Small Business Services, the Department of Transportation, and the Police Department, with three members appointed by the Speaker, one of whom represents street vendors, one of whom represents the small business community and one of whom who represents a community organization, and two members appointed by the Mayor, one of whom represents street vendors and one of whom represents the small business community.* But, missing from this panel and should be included, is the *City Planning Commission* who should be the ultimate arbiter of what happens on our streets. Also, one member from a community group is wholly inadequate, as most of the other members are appointed by city government and will reflect the beliefs of their appointees. Communities should have a multiple of their own representatives.

The *Advisory Board* should not be proposing locations. The communities should be the voices of whether or not vending should be increased or decreased in their neighborhoods and where these locations, if any, should be. Also, there is no mechanism for an individual or community group to request that a street be restricted to vending, as there was with the now defunct *Vendor Review Panel*. The individual has no place to bring complaints and expect arbitration. He/she should be able to come to this panel. If the *Advisory Board* **does** suggest locations, they should be subject to an open hearing.

Community based planning is lauded by many of our elected officials, and it should be utilized for decisions on street vending locations, as well.

School kitchens should **not** be used for food preparation by anyone not affiliated with the parent or student body of that school, as security in our schools should be paramount.

The training, mapping and web-site that you refer to should be implemented immediately, even if there is no increase in licenses.

With respect to Intros # 72, 78 and 432, I believe they have merit.

Thank you for your kind attention.

Sincerely,

Michele Birnbaum

*A Co-founder of New Yorkers for Street Vending Reform*

and

*Co-Chair of the Vendor Task Force Committee of Community Board 8 in Manhattan.*

**Testimony before the Committee on Consumer Affairs  
of the New York City Council  
By John Doyle, Senior Vice President  
Real Estate Board of New York  
October 26<sup>th</sup>, 2016**

Good afternoon Chairperson Espinal Jr. and members of the committee on Consumer Affairs. The Real Estate Board of New York, representing over 17,000 owners, developers, managers, and brokers of real property in New York City, thanks you for the opportunity to testify on the proposals relating to street vending in New York City.

These bills – Intros. 1061 and 1303 as well as T2016-5114 and T2016-5115 – aim to amend and expand the existing regulations pertaining to food vendors. REBNY and its members fully support efforts to improve employment and business opportunities for all New Yorkers, particularly those in our city's immigrant community, whom these pieces of legislation would largely affect. Although the bills in question are well-intentioned, we believe that there are areas in which they must be amended to ensure that achieving their goals does not come at the expense of other small businesses, pedestrian and public safety, and sustainability.

On the subject of safety, T2016-5114 and T2016-5115 raise a number of concerns. The former would allow pushcarts to be placed within three feet of the curb, and the latter would modify clearance requirements near driveways, subway exits, and crosswalks. A location must currently have a 12-foot clear path to the curb before vending is permitted to ensure a safe walking path for pedestrians. Permitting a vending cart to be located three feet from the curb, as opposed to the current one-foot maximum, would result in five-foot-wide carts protruding eight feet into the sidewalk, leaving a four-foot space for pedestrians to pass through – assuming the vendor does not have a line of customers. This amount of space – only one foot wider than the legally required size of a doorway for pedestrian path – is inadequate and will likely result in pedestrians walking behind the cart and possibly, into vehicular to avoid the line of customers.

Concerning T2016-5115, reducing the minimum clearance requirements in highly trafficked areas would add to congestion around public areas like subway stations and taxi stands, which already lend themselves to overcrowding during peak hours. This could create hazards for and potentially endanger both pedestrians and the vendors themselves, who may be situated too closely to areas such as driveways used for deliveries.

To address these issues of pedestrian safety, the City should conduct a study to establish a pedestrian congestion standard so that vending will only be permitted at those times and in those places where it does not pose a threat to pedestrian safety. Vendor clustering should also be reviewed as part of this study.

Intro. 1303 would gradually expand the number of street vending permits and create a vending law enforcement unit to enforce these proposed laws. REBNY understands the desire to curtail the black market in permits and provide affordable business opportunities for a broad portion of the population. However, at each phase of granting additional vending permits, a periodic and meaningful review of the current issued licenses should be pursued. Furthermore, this bill might run counter to current sustainability efforts.

As we know, NYC is making great strides to reduce its carbon footprint. This legislation will likely lead to a significant increase in the number of idling food trucks throughout the city. Not only will these new trucks impact air pollution themselves, but they are likely to cause increased traffic congestion, further contributing to decreased air quality. REBNY and its members have been highly committed to the City's "One New York" plan, which cites vehicle idling as a "major source of pollution," and states that "people who live near heavily-trafficked roadways face significantly higher risks of suffering from asthma and heart diseases, among other conditions."<sup>1</sup> The increased number of food trucks necessitates a provision for these vendors to comply with rigorous standards that reduce both pollution and noise levels.

Intro 1061 raises also safety concerns. This bill would allow individuals to sell flowers and plants without a license for the seven days leading up to Asian Lunar New Year, including the holiday itself. In addition to requiring potential license holders to demonstrate that they can collect sales tax, the more important goal of the licensing process is to vet applicants for prior misconduct. Without undergoing the requisite training or first taking a test in accordance with the provisions of the proposed Int. 1303, individuals would be exempt from the collection of any fines they may incur, and there would be no way to ascertain any history of violations of temporary vendors during this eight day period.

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<sup>1</sup> *One New York: The Plan for a Strong and Just City*, pp193  
<http://www.nyc.gov/html/onenyc/downloads/pdf/publications/OneNYC.pdf>

This bill also fails to establish the Office of Street Vendor Enforcement as a meaningful oversight body regarding the issuance of the first increment of additional permits. In fact, the bill provides that additional permits will be issued every March 1<sup>st</sup> regardless of the contents of the Street Vendor review Panel's annual reports to the City Council, or if no report is issued at all. This is not a meaningful standard of enforcement. The first issuance of permits should be contingent on the full implementation of a fully-funded Street Vendor Enforcement Unit. The issuance of subsequent allocations should require an affirmative vote by the Council following the issuance of the Review Panel's report, which should contain detailed analyses, and a public hearing. Additionally, REBNY believes that it would be fair and just for property owners to be allocated seats on this Review Panel at the same level as street vendors.

Thank you again for the opportunity to comment, and we look forward to continuing our conversations with the Council to continue improving these pieces of legislation.



## Committee on Consumer Affairs Street Vendor Regulations

Testimony by Julia Kite, Policy and Research Manager, Transportation Alternatives  
Wednesday, October 26th, 2016

### SUPPORT WITH AMENDMENT

- The expansion of food vendor permits will enhance New York City's vibrant street life
- Intro 1303 establishes a regulatory framework and all street users will benefit from smart, consistent enforcement of vending rules
- Intros 5114 and 5115 require amendment to ensure pedestrian safety
- The safety and free movement of pedestrians must always be prioritized, and bike lanes must be kept clear of vending equipment

Thank you for convening this hearing. I am Julia Kite, Policy and Research Manager of Transportation Alternatives. We are a 43-year old non-profit with more than 150,000 activists in our network, dedicated to promote biking, walking, and public transportation as alternatives to cars in New York City. We advocate on behalf of New York City's pedestrians and cyclists for safer, better, more livable streets. And we consider the sidewalk to be a crucial part of the street, essential not just to pedestrian safety and movement but to the sustenance of a vibrant public life as well.

Pushcarts have been a part of the New York City streetscape for well over a century, and food vendors contribute to our street life while reducing barriers to entry into business. Like everything else, the regulation of street vendors is a balancing act: the right to make a living and the provision of products to a market must also incorporate safety and public space usage considerations. Fortunately, these can all coexist. We believe that with proper regulations, pedestrian level of service can be maintained, properly licensed vendors can thrive, and illegal vendors can be removed from the streets. We can have our hot dogs (or doughnuts, or arepas, or halal chicken, or banh mi) and eat them, too.

#### **Intro 1303: Support**

**Transportation Alternatives supports the expansion of food vendor permits** as stipulated in Intro 1303, as well as **the creation of the Office of Street Vendor Enforcement and the establishment of the Street Vendor Advisory Board.**

- All street users will benefit from **smarter, more consistent enforcement** organized under this office.
- The new Office will **create a regulatory framework** to ensure that all operators are following food safety practices and are properly licensed, which protects the public.
- Enforcement will be focused on areas the Department of Transportation designates as excessively congested, meaning that **resources will be targeted to where they are needed most.**
- The required study of the impacts of the increased number of permits, as created in this bill, will allow for **evaluation** of the changes and **accountability** for outcomes.



However, we must emphasize that pedestrian accessibility and flow must not be compromised by vendor operations. **Level of service for people walking must always be preserved.**

- We suggest that the Department consider borrowing innovations from recent legislation concerning **regulation of plazas**, most notably Times Square and the creation of different zones for commercial activity and pedestrian movement. In some heavily congested locations, it may be appropriate to install similar zones for vendors.
- We also urge the **expansion of the DOT's parklet program** to include new spaces for food vending. There is demand for both food and new public spaces; expanded parklets would create a place for both.

### **Intros 5114 and 5115: Support with Amendment**

Intros 5114 and 5115 must be amended to avoid creating safety hazards for all street users by preventing food vendor carts and equipment from occupying bike lanes and from obstructing critical view and accessibility at key street locations.

We broadly agree with the stipulations of Intro 5114, but we would like to raise the suggestion that the placement regulations for food carts be brought in line with those relating to newsstands.

- The DOT requires that newsstands allow **a minimum clear path of 9.5 feet in width, and maintain a straight and unobstructed 1.5-foot path between the structure and the curb.**<sup>1</sup> This is a larger allocation for pedestrian space than Intro 5114 requires, and it means that food carts will not fit onto sidewalks of 12-foot width.
- -The most congested sidewalks can cope less well with any loss of pedestrian space, and we recommend that this legislation make **special exemptions for parts of the Manhattan central business district where the free flow of foot traffic is already limited at rush hours.** If pedestrian traffic spills into a roadway it creates dangers for all street users, especially during rush hour.

While Intro 5114 clearly states that pushcarts must be on a particular part of the sidewalk abutting the curb, we would like to emphasize the need to codify that **at absolutely no time is it appropriate for a vendor on a sidewalk adjacent to a bike lane to use that bike lane** for storage, loading and unloading, or vending.

- Food vendor equipment is among the obstructions to bike lanes our members have reported.
- It creates a safety hazard for both cyclists and the vendor, and defeats the purpose of having a bike lane. **Our bike lanes are not for parking or commerce** - they are travel lanes in constant use and must be treated likewise.

Finally, while we are pleased to see bus stop access preserved in Intro 5115, **we have reservations about reducing the distance a vendor must keep from a driveway, crosswalk, or subway entrance from ten feet to five feet.**

- We are concerned that lessening this distance may **dangerously obstruct the views that pedestrians and drivers have of each other at crossings.** This is especially true if carts have umbrellas or other attachments, and will be more dangerous for children and shorter pedestrians.

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<sup>1</sup> <http://www.nyc.gov/html/dot/html/infrastructure/streetfurniture.shtml#newsstands>



- With ridership of the subway near record levels, we are also concerned about **sidewalk congestion at station entrances**. Putting carts closer to them will worsen pedestrian traffic flow.
- The current ten-foot requirement is **reasonable** and **not an impediment** to fair business opportunity. Benches and newsracks are not allowed within 15 feet of subway entrances, and benches are not allowed within 10 feet of crosswalks and driveways,<sup>2</sup> so it is unreasonable to let pushcarts, with their greater height, sit closer.

Finally, we would like to see **distance from bike infrastructure** considered with regard to vendor siting. Rules for placement of benches require them to be at least eight feet away from bike racks that are parallel to the curb, and five feet from racks perpendicular to the curb and bike share stations. We believe this is a reasonable regulation for food vendors as well. This preserves access to and from essential parts of the city's bike infrastructure.

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<sup>2</sup> <http://www.nyc.gov/html/dot/downloads/pdf/citybench-siting-rules-march2016.pdf>



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**October 26, 2016**

**Statement by Monica Blum, President of the Lincoln Square Business Improvement District, to the NYC Council Committee on Consumer Affairs regarding the Street Vendor Modernization Act and related bills.**

Thank you to Council Member Espinal and members of the Consumer Affairs Committee for the opportunity to submit testimony regarding the package of bills pertaining to vending. My name is Monica Blum and I am the President of the Lincoln Square Business Improvement District (BID). I represent some 250 businesses and not-for-profit and cultural organizations in and around Lincoln Center on the Upper West Side of Manhattan. Our district extends from Time Warner Center at Columbus Circle and along Broadway, Columbus Avenue and Amsterdam Avenue up to 70<sup>th</sup> Street. We have some 35,000 students, 25,000 residents and 23 million visitors annually.

I commend the Council for taking on the incredible task of trying to come up with a comprehensive overhaul of street vending. However, I do not think that something as complex and complicated as this should be rushed through without sufficient time for all stakeholders, business owners, property owners, civic groups, Community Boards and vendors to review these proposals in a deliberative and thoughtful manner. I have been advocating for and working on vendor reform for 20 years. I am extremely familiar with the complexities of the vending laws and was around when the City's Street Vendor Review Panel was active. Over the years I am pleased to say that for the most part we have developed a pretty good relationship with most of our vendors, both food and general. We have worked together, along with our partners at the 20<sup>th</sup> Precinct and the Departments of Consumer Affairs, Sanitation and Mental Health and Hygiene, to insure compliance with the various laws and regulations.

**Office of Street Vendor Enforcement:** We support Int. 1303's creation of an Office of Street Vendor Enforcement (something similar existed many years ago and was pretty effective in that they understood the various complex laws and regulations.) However, we are concerned that the new office be adequately funded to deal with an annual increase in the number of vendors, and believe it should be a 24/7 operation as vending continues all evening and on the weekends. We also applaud your efforts to increase food diversity and support increased entrepreneurial opportunities.

**Mechanism for Siting:** One of the major shortcomings of the proposed legislation is that it does not contain any mechanism for the siting of vendors. Our sidewalks are a precious commodity; they are for public use and not for private use absent appropriate input and review. Currently, where a vendor goes is determined by the vendor community; food vendor efforts to self-regulate often end in fights or vendors selecting locations that are not legal. Every other sidewalk use has siting criteria and various requirements – i.e. newsstands, sidewalk cafes, planters, benches and even trees. All of these also require government, local and/or property owner input – Community Boards must also approve many of these applications after appropriate City agency review, and in the case of newsstands, property owners must be notified and have an opportunity to make their views known. Distances and other requirements, including congestion, pedestrian traffic, etc. are reviewed for these applications. The legislation before you does not require any local or stakeholder input despite the fact that property owners are now responsible for the sidewalks.

New York City and our streets and sidewalks have changed dramatically over the past 20 years. There has been a **tremendous increase** in street furniture, including new and improved bus shelters and newsstands, the addition of wayfinding signage, benches, trash and recycling receptacles, bike share, bike racks, bike lanes and the addition of a million trees. Vision Zero is a priority for this administration and DOT is taking steps to improve pedestrian safety throughout the city. In our district, around Lincoln Center, major pedestrian safety improvements in the 65<sup>th</sup> Street bowtie are being implemented – these include neck downs, expanded pedestrian space and a bike lane - all designed to alleviate pedestrian congestion and make the area safer for pedestrians and bike riders. In addition to these physical changes, **New York's population has grown** and the number of tourists has increased to over 56 million today.

**Hot spots:** In Lincoln Square and elsewhere our sidewalks have become extremely congested and crowded with tourists, theater goers, sidewalk cafes, and with new residential buildings. Plus we are directly across from Central Park, which has its own bike rental program. Lincoln Square already has a vending “hot spot” in Calabrese and Keegan Plaza (not an official plaza), an incredibly congested sidewalk area at the main entrance to the 7<sup>th</sup> busiest subway station, Columbus Circle/59<sup>th</sup> Street, where multiple vendors compete for limited space daily with bike hawkers, street performers and the general public, including tourists, going to and from Central Park, Time Warner Center, Lincoln Center, Mt. Sinai, John Jay College, and Fordham University, among other places. Often SAPO permits this space. We support the idea of DOT designated hot spots; however, we are concerned that there can only be one per borough and we are concerned with the way the language has been drafted as it suggests that DOT could eliminate current vending location restrictions. We think that DOT should have the authority to impose additional restrictions, not remove them, to ensure pedestrian safety and the number of hot spots should be expanded.

**A study of vending:** We commend the Council for trying to study the situation; however, it does not make sense to study the impact of increasing the cap seven years from now in 2025. Why wouldn't the Council want to study conditions as they exist now – before increasing the cap? It just doesn't make sense. That way you could get a handle on how many legal vendors are out there, how many vendors rent their carts from licensed vendors and if they are even on the waiting list, and how many use counterfeit permits? After a study, an annual determination could be made on how many new food vending permits to issue.

**Clearances:** Bills identified as **T2016-5114 & T2016-5115** deal with changes to existing clearances, many of which were enacted years ago, **for safety reasons**, when New York was considerably less congested than it is today. These bills will change the distances between vendors and **crosswalks, corners, driveways, subways entrances and in bus stops and taxi stands**. Currently the law requires that vendors must be **10 feet from crosswalks, driveways, subway entrances, and crosswalks**. T2016-5115 proposes reducing that distance to **5 feet**. This makes no sense especially in light of increased pedestrian traffic on our sidewalks and is in direct conflict with Vision Zero. And, with miles of bike lanes all over the City, reducing the distance from driveways is incredibly dangerous. Food vending carts are large and block sightlines. Permitting vending closer to crosswalks and especially vehicles also endangers vendors. Reducing clearances at Calabrese and Keegan Plaza, one of our most congested locations with the 7<sup>th</sup> busiest subway entrance in New York City, would make this location even more dangerous.

**T2016-5115** also permits vending in **bus stops and taxi stands**. Currently the law is very clear – there is no vending in bus stops and taxi stands at all for safety reasons. Passengers exiting and entering buses should not be blocked by vendor carts; the same is true for taxis. Wheelchair and other physically challenged individuals cannot maneuver around these large carts or general vending tables. The proposal would permit vending from 25 feet of the bus stop or taxi sign in the direction of the stand. This just

doesn't make sense. The majority of MTA buses measure **at least 40 feet long** and as all New Yorkers know, buses typically bunch up or bottleneck at their stops. If you exit in the rear, under this proposal, you may well be blocked by a vendor. This is a major safety hazard for all passengers, but particularly the elderly or physically challenged. **T2016-5114** would permit vendors to be 3 feet from the curb whereas now they must abut the curb. This would result in **MORE** congestion on our sidewalks as vending carts would be in the middle of the sidewalks and in busy areas, pedestrians would be forced out into the streets behind the carts, putting them in harm's way. **We oppose T 2016-5115 and T2016-5114 and don't think any changes related to distances and clearances should be made until and after the Street Vendor Advisory Board and the Office of Street Vendor Enforcement evaluate existing conditions with an emphasis on pedestrian safety.**

Finally, these bills do not address the black market. Increasing the fees from \$200 to \$1000 will not deter those who hold multiple permits from renting them to others. How can you address this when you don't know who rents or who is illegal? We believe adding more permits before a study will only exacerbate the black market as the new food vending permits will most likely continue to be illegally "rented". We all know that frequently private agreements are made to "sell" sidewalk space. What we have now is a free for all.

In conclusion, I commend the City Council for tackling this complex issue; however, we urge you not to pass any legislation that will change our streetscape forever and not necessarily for the better. A comprehensive overhauling of vending must be done right taking into account concerns of all stakeholders. You cannot un-ring the bell. Thank you for your thoughtful consideration of our concerns.



**Testimony of the NYC BID Association  
on the Street Vending Modernization Act**

**Michael Lambert and Ellen Baer, Co-Chairs**

*Committee on Consumer Affairs*

*Wednesday, October 26, 2016*

Good morning, Chairman Espinal and members of the committee, and thank you for the opportunity to testify today on behalf of the New York City BID Association on the Street Vending Modernization Act. I'm Michael Lambert (BSG)/Ellen Baer (HSC), co-chair of the Association and I'm joined by the other co-chair, Ellen Baer (HSC)/Michael Lambert (BSG).

The BID Association represents the 72 Business Improvement Districts across all five boroughs. You will hear from a number of individual BIDs today, who will discuss the vending issues particular to their own local communities. In our diverse City, each community has a different relationship with its vendors and for that reason, alone, there is no one-size-fits all solution. We would like to provide an overview of the Association's preliminary thoughts on the substance and process relating to Intro 1303 and the other bills that form part of what is being called the Street Vending Modernization Act.

First of all, we applaud the City Council for tackling this complex issue. Street vending has a rich history in our City and it has provided a livelihood for generations of immigrants. As many have noted, however, the laws and regulations governing street vending have not been subject to a thorough overhaul in decades. Given the City's rapid population and economic growth in recent years, and the dramatic changes in the ways that New Yorkers use and travel through the public realm, we agree that it is high time to create a new framework for vending – one that continues to provide economic opportunities, while respecting and effectively addressing questions of health, safety, and shared public space.

There are several proposals in the legislation that we think need further study and amendment.

First, with respect to evaluating the impacts of expanding the number of food cart permits: As introduced, the legislation does not require a comprehensive evaluation of the impacts of the new permits until after all 4,200 of them have been issued, in 2025. Given that no one knows how many food vendors are currently operating illegally, or where, there should be an initial impact study before any new permits are released, to better understand where there are particular issues and the nature of them. Subsequently, each year's increase should also be subject to a formal evaluation and approval process, based on objective criteria. It will be extremely important to have the ability to ensure that such a large increase in the number of food vendors operating on City streets is being done safely and effectively, which the current, somewhat casual approach taken by Intro 1303 does not provide.

Second, the proposed Designated Vending Locations pilot program gives the Department of Transportation (DOT) sole discretion to designate chronically congested areas as vending “hot spots” and to waive or modify restrictions on vending placement, including potentially the opening and closing of streets – so long as there is no net loss of vending space. We believe that designation of these “hot spots” and changes to existing regulations should be subject to review and approval through a formal public process that addresses the needs of all local stakeholders. We also believe that limiting the Designated Vending Locations to four – with no more than one per borough – fails to recognize the reality on the ground. Our own survey of our members suggests that there are certainly more than four locations even now, before any new permits have been issued. We recognize that this is to some extent a resource issue for DOT. But the legislation should at least allow for an increase in the number of Designated Vending Locations as the number of new permits grows.

This leads to a broader point. The use of the City’s public spaces, including sidewalks, is fundamentally a land use issue. But the legislation does not treat street vending in the same way other public space uses are evaluated. A process to establish criteria for siting and for local input – whether prior approval, or as part of an annual evaluation – should be incorporated into the legislation. Local communities should be able to have some say over the number of vendors, their locations and operating hours, just as they do now with sidewalk cafes, for example.

We strongly object to the proposed changes in placement restrictions – such as increasing the allowable distance from the curb to three feet, and allowing vending closer to crosswalks and subway entrances. These would further inhibit pedestrian traffic flow and add to already unsafe levels of crowding and congestion on our sidewalks, pushing pedestrians into the streets and conflicting with the goals of Vision Zero. The Street Vendor Advisory Board is supposed to review existing laws and regulations governing street vending, and we see no reason not to wait for completion of that review before proposing changes to any current laws.

Finally, we welcome the creation of a dedicated street vending enforcement unit. We believe that the current system of enforcement works for no one. The vendors themselves often feel harassed with nit-picking violations, while, from our point of view, it often feels like enforcement is ineffective in regulating environmental and health issues, siting, and general compliance with existing laws. We hope the proactive efforts prescribed in the legislation to help vendors better understand the applicable laws and regulations will ultimately help reduce the number of violations that vendors receive. In the meantime, it will be critical that this new unit have sufficient resources and be deployed effectively to address vending enforcement citywide.

This is a once-in-a-generation opportunity to get street vending right, in a way that is fair to all stakeholders. The proposed increase in the number of vendors is very large. Such a complicated issue cannot be rushed through the legislative process without giving ample time to the many concerned parties – from small business owners, to local residents, civic groups, property owners, and of course, vendors themselves – to engage thoughtfully and constructively in the process. We look forward to working with you in that spirit, and are happy to take any questions you might have for us.



October 26, 2016

To: Speaker Mark-Viverito and Members of the New York City Council

From: Alfonso Morales, PhD, Professor of Urban and Regional Planning

RE: New York City Council Intro 1303-2016

I am supportive of increasing the number of mobile food-vending permits in New York City.

For 25 years I have researched marketplaces and street vendors and the lessons learned in my work have been applied in jurisdictions around the country, including New York City. My research is published in books, top peer-reviewed academic journals, and discussed in periodicals around the country. I work with government and non-profit organizations enhancing communities through reintegrating vendors into local economies. I see the opportunity to develop and realize mutually advantageous goals in New York City by increasing the number of mobile food-vending permits. I will review three evidence-based goals that we can all support.

First, increasing the number of permits makes for a more robust and resilient retail environment by generating new economic activity and business relationships in the small business sector, which employs so many people.<sup>1</sup> Food carts and trucks make options available to people, they act as eyes on the street, and generate foot traffic essential to store-front business. Food vendors establish supply chain relationships and utilize products from warehouses that other establishments no longer desire.<sup>2</sup> We can expect ambition to increase with the number of vendors and they will have a need for support in strategizing for growth and business succession. Increasing the number of permits is one type of legal and organizational support vendors need to help them develop and realize their goals.

Second, increasing the number of permits will reduce the current black market in permits and replace that market with legitimate means to business. The current situation forces people to decide against legitimate business and creates exploitative relationships in the rental of permits. The City should seek regulatory approaches generative of economic and social opportunity.<sup>3</sup> Increasing the number of permits fosters people's interest in legitimate business practices and increases and supports their integration into banking and credit systems, and other aspects of the business practices essential to a robust economy.<sup>4</sup>

Third, increasing the number of permits will amplify economic and social benefits and opportunities for families, particularly immigrants, women and children. My research, shows how food carts and trucks

stimulates people's imagination, making their life experiences relevant to their present moment.<sup>5</sup> Vending presents an opportunity for people to transform their experience into realistic goals they can obtain.<sup>6</sup> Further, the hard work of vendors, their visibility, and independence helps reconstruct stereotypes some people have of this important activity. Family and friends exemplify an important work ethic and earn income to advance their ambitions.<sup>7</sup> Such businesses also support families in securing capital for further entrepreneurship. Finally, and importantly, various non-economic benefits obtain to neighborhoods and their vendors, such as eyes on the street, work experience for youth, and the sense of community that vendors help create.<sup>8</sup>

Finally, the City should recognize that value of their implementation strategy. Increasing the number of permits over the next several years accommodates the interests of store-front business, fosters imagination and subsequent planning among those interested in business, and allows for the evaluation of the increased number of permits, the modification of enforcement processes, and especially for the creation of support structures vendors need for growing their businesses. The increased cost of vending permits should support the business aspirations of all, store-front and street, through the enforcement of mobile vending statute, by providing support services to these ambitious entrepreneurs, and by helping mobile vendors spread the benefit of their hard work throughout this great city.

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<sup>1</sup> Morales, Alfonso. 2011. "Public Markets: Prospects for Social, Economic, and Political Development." *Journal of Planning Literature*. 26(3): 3-17.

<sup>2</sup> Gaber, John. "Manhattan's 14th Street Vendors' Market: Informal Street Peddlers' Complementary Relationship With New York City's Economy." *Urban Anthropology and Studies of Cultural Systems and World Economic Development* 23, no. 4 (1994): 373-408.

<sup>3</sup> Morales, Alfonso, Steve Balkin and Joe Persky. 1995. "Contradictions and Irony in Policy Research on the Informal Economy: A Reply." *Economic Development Quarterly*. 9(4): 327-330. Morales, Alfonso. 2000. "Peddling Policy: Street Vending in Historical and Contemporary Context." *International Journal of Sociology and Social Policy*. 20(3/4): 76-99. Morales, Alfonso. 2012. "Understanding and Interpreting Tax Compliance Strategies Among Street Vendors." Chapter 5 in *The Ethics of Tax Evasion: Perspectives in Theory and Practice*. Robert McGee, (editor). Springer, New York & Dordrecht, (pp 83-106).

<sup>4</sup> Morales, Alfonso and Gregg Kettles. 2009. "Healthy Food Outside: Farmers' Markets, Taco Trucks, and Sidewalk Fruit Vendors." *Journal of Contemporary Health Law and Policy*. 26(1): 20-48.

<sup>5</sup> Morales, Alfonso. 2009. "Public Markets as Community Development Tools." *Journal of Planning Education and Research*. 28(4): 426-440.

<sup>6</sup> Basinski, Sean, Mathew Shapiro and Alfonso Morales, (2017). Stuck in Park: New York City's War on Food Trucks. In *Cultivating Food Justice: Race, Class and Sustainability*. Julian Agyeman, (editor). Cambridge: MIT University Press.

<sup>7</sup> Morales, Alfonso. 2009. "A Woman's Place is on the Street: Purposes and Problems of Mexican American Women Entrepreneurs." In *Wealth Creation and Business Formation Among Mexican-Americans: History, Circumstances and Prospects*. John S. Butler, Alfonso Morales, and David Torres, (editors). West Lafayette, Purdue University Press, (pp 99-125). Morales, Alfonso. 2012. "Understanding and Interpreting Tax Compliance Strategies Among Street Vendors." Chapter 5 in *The Ethics of Tax Evasion: Perspectives in Theory and Practice*. Robert McGee, (editor). Springer, New York & Dordrecht, (pp 83-106).

<sup>8</sup> Morales, Alfonso, Steve Balkin and Joe Persky. 1995. "The Value of Benefits of a Public Street Market: The Case of Maxwell Street." *Economic Development Quarterly*. 9(4): 304-320.

FOR THE RECORD

**October 26, 2016**  
**TESTIMONY OF LAWRENCE A. MANDELKER for**  
**THE NEW YORK METROPOLITAN RETAIL ASSOCIATION (NYMRA)**  
**COMMITTEE ON CONSUMER AFFAIRS**  
**Chair: Hon. Raphael L. Espinal, Jr.**

**NYC COUNCIL INTRO 1303 of 2016**

Chair Espinal and members of the Committee: I represent NYMRA, the New York Metropolitan Retail Association. NYMRA is an organization of national chain retailers operating in the City of New York. Although we generally support the idea of increasing employment opportunities for new immigrants by gradually doubling the number of permits to vend food on the streets and sidewalks, we are concerned that this bill – introduced only last week – will move forward too fast for the Committee to consider the unintended potential adverse consequences to City consumers and the City’s diverse immigrant residents. New York should take the time and comprehensively study the needs and impacts of the emerging mobile retail food industry, from allocation of territories to working conditions and benefits of non-owner food cart employees

The bill would allow the number of permits to increase by almost 50% at the rate of 600 per annum commencing March 1, 2018, But the survey by DOHMH, DOT and DCA called for in the bill analyzing the impact of the increased number of mobile food vendor permits on job opportunities for vendors, diversity of food options, sidewalk congestion, health of the restaurant industry, health of the food retail industry and the efficacy of the Office of Street vendor Enforcement in reducing violations would not have to be submitted until March 1, 2025, seven years later. We believe that the survey should come first and inform government’s decision to increase the number of permits.

The bill should present the Council with an opportunity to deal with a number of chronic issues that arise in connection with the mobile food vending industry. First, unlike their brick and mortar brethren, Mobile Food Service Vendors do not either collect or remit sales tax. Point of Sale technology presently exists that could calculate and record the amount of sales tax that is collected and provide an audit trail for the City to follow. Mobile Food Service Vendors directly compete with coffee shops, luncheonettes, bodegas, delis and small snack bars/ lunch counters. Such establishments are often owned by first generation immigrant families The City should not allow their Mobile Food Service Vendors competitors the advantage of being allowed to operate without charging or collecting sales tax.

Immigrant owned coffee shops, luncheonettes, bodegas, delis and small snack bars/ lunch counters, like all brick and mortar coffee shops, luncheonettes, bodegas, delis and small snack bars/ lunch counters are periodically inspected for health and food safety violations. They are required to display “Letter Cards” representing the health and safety grades awarded by the inspectors. The bill should require that Mobile Food Service Carts be inspected with the same frequency and vigor as brick and mortar

luncheonettes and delis and that letter grades be displayed to warn consumers if there are any problems. Letter grades provide essential warnings to consumers.

We urge the Council to use this bill as an opportunity to take the time and comprehensively study the needs and impacts of the emerging mobile retail food industry

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**Testimony before NYC City Council**

Good afternoon honorable members of the City Council. My name is Natasha Lycia Ora Bannan and I am Associate Counsel at LatinoJustice PRLDEF, a national civil rights organization engaged in advocacy and impact litigation on behalf of underserved Latino communities along the east coast. Thank you for the invitation to address you today on the important issue of economic justice for working class street vendors, many of whom are Latino and almost all are immigrants.

As you know, immigrants are a vital part of New York City's economy,<sup>1</sup> often serving as the economic engine in their communities through small businesses and entrepreneurial ventures.<sup>2</sup> Part of the creativity and vibrancy immigrant-owned businesses bring is the culinary traditions that expand both the available options in their communities for ethnically relevant food choices as well as diversifying the choices available. These businesses include street vendors, who carry their traditions with them from corner to corner of this city, contributing to the culturally diverse and economically vibrant communities they are a part of.

However many of these workers have been laboring under exploitative



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New York, NY 10013-2815  
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<sup>1</sup> Approximately 1.9 million residents, or 46%, of New York City's workforce are immigrants. New York State Department of Labor, Division of Immigrant Policies and Affairs, <https://labor.ny.gov/immigrants/> ("Immigrant entrepreneurs . . . are creating jobs and contributing to regional economic revival and growth. Nationally, immigrants make up only 12% of self-employed workers, but in New York City the figure is 49% . . .")

<sup>2</sup> Office of the State Comptroller, *The Role of Immigrants in the New York City Economy* (Nov. 2013), [https://www.osc.state.ny.us/reports/immigration/NYC\\_Immigration\\_Rpt\\_8-2014.pdf](https://www.osc.state.ny.us/reports/immigration/NYC_Immigration_Rpt_8-2014.pdf).

conditions, paying upwards of thousands of dollars for a permit issued years and years ago because no more have been or will be issued without the necessary changes to regulations. Street vending is often an entry point into the city's economy; a chance for immigrants, many of whom are Latinos/as, to provide for their families, pay their rent, and develop business skills. Their presence is often overlooked yet their contributions are significant, particularly within their communities. Yet laboring as part of an invisible economy that is ripe with exploitation and abuse, often indebting vendors and their families as they sell food and products in our streets daily, is unacceptable and cannot be condoned, even implicitly by refusing to act on a simple measure that could create more economic opportunity for low-wage workers while addressing the exploitation that street vending is currently infected with. We know that it is always the most vulnerable among us who are most susceptible to exploitative labor practices, and street vending is not exempt. It is incumbent upon government to identify, address and eradicate such abuse when its surfaced, which is what this body has a chance to do today. Thank you for your time.

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October 26, 2016

**Written testimony submitted to the NYC Council Committee on Consumer Affairs, in relation to  
Int. 1303-2016**

Hon. Rafael L. Espinal, Jr., Chair

Good Morning Chair Espinal, Jr., committee members and guests.

I'm Melissa Chapman, Senior Vice President for Public Affairs at the Brooklyn Chamber of Commerce (BCC). I am delivering testimony on behalf of Carlo A. Scissura, President and CEO of BCC.

BCC is a membership-based, business assistance organization that represents the interests of over 2,100 member businesses as well as other businesses across Brooklyn. The Brooklyn Alliance is the not-for-profit economic development organization of the Chamber, which works to address the needs of businesses through direct assistance programs and services.

Thank you for convening today's hearing, which in addition to other items, seeks to solicit feedback related to expanding the availability of food vendor permits. While the overall goal of this proposal is in line with our mission to promote a healthy and robust business environment throughout Brooklyn, we oppose the proposed legislation in its current form. Rushed implementation, in the absence of a wide-ranging and inclusive study, will negatively impact small businesses across New York City. As such, we concur with a June 2015 statement issued by the NYC BID Association, in which it suggests that such a study must be the result of an extensive, collective, and inclusive effort, with input from public realm stakeholders, including business and property owners, residents, Community Boards, Business Improvement Districts, and other neighborhood organizations.

Another reason that we are opposed to this proposal is because it will unintentionally hurt small storefronts in the long-run, and not necessarily curtail the issue of illegal permitting. Small brick-and-mortar businesses are subject to a host of laws and regulations that often cut into valuable resources needed to operate. These include formal licensing and public approval from local Community Boards, as well as approval from NYC agencies. Expanding the availability of permits, without a serious analysis of the impact, will devastate brick-and-mortar businesses, particularly if both groups are not held to the same operational standards. Another example that shows an imbalanced approach to this proposal is the fact that restaurant establishments must comply with the city's letter-grade system, which is administered by the Department of Health. On the other hand, there is no such requirement for street vendors.

Further, such an expansion in permitting may reduce access to metered parking spaces and commercial loading zones for brick-and-mortar businesses. As an alternative, the City should work to identify specific zones in public spaces where vendors can ply their trade in a way that is safe for them as well as customers.

We support the portion of Int. 1303 which calls for the establishment of a street vendor advisory board, however it is crucial that this is one of the pre-requisites for any permanent change that applies to street vending, including an increase in the application cap. As we mentioned earlier, such a task force should include a wide range of representatives, including brick-and-mortar stores.



**Brooklyn Chamber  
of Commerce**

**The  
Brooklyn  
Alliance**

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These are all important considerations that this committee must make in order for there to be an equitable co-existence between these business groups. Otherwise, any sudden expansion in the application cap will create an unstable commercial environment.

Thank you for providing us with the opportunity to testify on this issue.

CAS/mc



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**Testimony of Jessica Lappin  
President, Alliance for Downtown New York**

**New York City Council Hearing on Intro 1303-2016  
Committee on Consumer Affairs & Committee on Transportation  
October 26<sup>th</sup>, 2016**

Good morning Chairs Espinal and Rodriguez. My name is Jessica Lappin and I am the president of the Downtown Alliance, the business improvement district representing Manhattan south of Chambers Street. It is a pleasure to be here today to discuss Intro. 1303 and we are pleased that the Council is tackling a comprehensive overhaul of street vending.

Lower Manhattan is New York City's second largest central business district. It is home to nearly 90 million square feet of commercial real estate, more than a quarter million jobs, over 1000 storefront businesses, and over 60,000 residents. And that does not include the 14 million people who will visit Lower Manhattan this year.

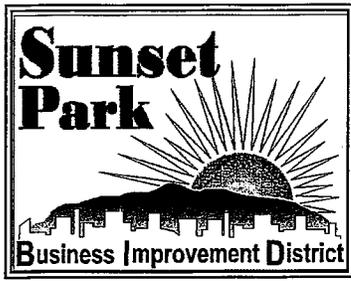
Street food vending has long been a part of Lower Manhattan's landscape. Clean, well-regulated and appropriately located street vending can provide a pathway to business ownership for veterans and low-income New Yorkers, while contributing positively to the overall retail landscape of the district. That said, today's poorly thought out regulatory system has led to lax enforcement and a chaotic street environment that disadvantages pedestrians and others who compete for the use of our crowded streets.

This bill represents a long overdue effort to rationalize the city's approach to street vendor regulations. Pairing a gradual increase in vendor licenses with ramped up enforcement and a serious review of vending locations is a reasonable and welcome approach. This initiative is a crucial chance to get things right and balance the needs of our brick and mortar small businesses and vendors. With that in mind, unless the items below are addressed, it will be hard for any real reform and rationalization to take place:

1. Intro. 1303's proposal to allow the Dept. of Health and Mental Hygiene (DOHMH) to entirely eliminate the existing cap on street vendor licenses after March 1, 2025 is inconsistent with the City Council's intent of taking a measured and responsible approach to issuing additional permits. It unnecessarily eliminates the Council's own authority, cuts out communities, and makes the number proposed in the legislation moot. That should be eliminated.
2. The proposed Office of Street Vendor Enforcement is vaguely defined by Intro. 1303. It fails to identify an agency to be responsible for enforcement and does not establish adequate staffing and sufficient resources on a citywide level to deal with issues of vendor cart cleanliness and sanitation.

3. Intro. 1303 further establishes a new Street Vendor Advisory Board (SVAB). The SVAB appears to be charged with preparing recommendations for the creation of “designated community spaces” for vending, as well as analyzing the “results” of the increased number of vending permits. The board composition only includes one community appointment to speak on behalf of all communities. This is deeply troubling. The legislation does not require any form of community input or specify a mandated venue for feedback into the SVAB’s work. It is unclear what metrics would be used to determine the “results” of the proposed permit expansion.
4. The legislation appears to do little beyond raising the fee for a permit to address the thriving black market for vendor permits.
5. Exempting vendors from the letter grading system used by the Dept. of Health and Mental Hygiene does nothing to level the playing field between vendors and bricks and mortar small businesses. Intro. 1303 continues to place bricks and mortar small businesses at a disadvantage.
6. It is unclear how the city will respond if all of the new permit holders attempt to use the same congested vending locations that are already overwhelmed. The Council should consider a geographically based model for street vendor permitting. Issuing permits for specific high traffic locations (such as the plaza in front of 140 Broadway in Lower Manhattan) would provide certainty for street vendors while greatly reducing conflicts at popular locations.
7. Our public spaces are critically important community resources and their use should be subject to serious review and community feedback. We urge the City Council to amend Intro.1303 to require that any change to existing vending restrictions be subject to the Uniform Land Use Review Process (ULURP). This extensive vetting procedure would give vendors, small business owners, local residents, civic groups, property owners, Community Boards, Borough Presidents and the City Council the opportunity to review new vending locations.

Well-regulated street vendors can and should be a vital part of our city’s economy. With several changes Intro. 1303 could become a positive step in the right direction.



# Sunset Park District Management Association



## Sunset Park Business Improvement District

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## TESTIMONY ON VARIOUS INTROS - OCTOBER 26, 2016

I am Renee Giordano, Executive Director of the Sunset Park Business Improvement District, in Brooklyn. I want to thank Councilman Rafael L. Espinal, Jr, chair of the Consumer Affairs Committee and the other committee members for holding this hearing and giving us the chance to weigh in on this important issue. As you all know, Street Vending in NYC has been a very contentious subject and a difficult situation to monitor. Over the years, many regulations have been passed in an attempt to create a fair balance between the brick and mortar businesses and the street vendors. By now, there are so many overlapping regulations that it is a monumental task to overhaul. I commend the City Council for attempting this and trust you will listen to all the input from the various stakeholders before making a decision on the final regulations.

The Sunset Park Business Improvement District represents over 600 mostly small, Mom & Pop businesses which are overwhelmingly run by immigrants. Some of our members actually had been street vendors and eventually saved enough money to open a store. Owning a business is not easy, despite what some people think and involves many hours of hard work, and often years of economic hardship before any positive results are seen.

While we have a concern about some of the points of the proposed changes, there are some positive aspects too. I will attempt to address some of the salient points in each Intro.

**Vending Signs on parking sign poles:** This is extremely overdue in NYC. It is the best way for vendors and the enforcement agents to be aware of where vending is allowed and where it is not. It has been a suggestion of ours for years and we were very glad to see it in this Intro.

**Street Vending Enforcement Unit:** For many years, it has been acknowledged that one of the difficulties is the enforcement of the myriad of vending rules. Therefore, the creation of a Street Vending Enforcement Unit is welcomed. There had been a similar unit many years ago, which was not given enough staff and resources to do a sufficient job all over the city. We suggest that this time the strength of this unit not be compromised by a lack support.

**Street Vendor Advisory Board:** We applaud the use of an advisory panel to study and evaluate the impact of street vending and the viability of the various regulations, old and new. However, the report and recommendations to the city council are not required to be submitted until January 1, 2018. Just 3 months later, on March 1, 2018, the permits for food vendors will begin to be increased. We suggest that the study be done sooner, to determine these impacts and to give ample time for possible changes necessary.

**A major study of the impacts** is designated to be done from August 2024 until March 2025, however by that time the number of licenses will have already nearly doubled and perhaps already caused an adverse impact on the sidewalk congestion, health of the restaurant industry and the health of the food retail industry. The study needs to be done sooner in order to continually evaluate the different effects so that the regulations can be tweaked as they

are being instituted.

**Department of Transportation pilot program for the creation of Designated Vending Locations:** The criteria seems confusing, and it is unfair to specify that they can't define more than one of these locations per borough without first seeing what they determine is best.

**Increase in the number of Food Permits:** While we understand the need for this, our concern is that this may be accomplished before the new Enforcement Unit is really in place, and before the study of the impact of these new permits is completed.

**Rules were created to address safety issues.** The situations which caused the need for these safety measures to be passed still exist. To allow a food cart to now be 3 feet in from the curb cuts down on the safe walking space of a pedestrian. Reducing the distance from driveways, subways entrances, crosswalks and corners again will create a more congested sidewalk, which was the reason for these rules in the first place. **Today we have more vendors and more pedestrians than ever before, so if the sidewalks were dangerous enough before to cause the council to create safe distances, it is even more important today to keep those rules in place and maybe add new ones to address new unsafe situations being created.**

**Transfer of a permit to a family member:** It seems unfair that highly sought after permits can just be passed along to a family member. There is nothing in the new regulations that indicates that the new permittee now must fulfill the same requirements that the original holder needed, specifically as a food vendor. It is our understanding that the issuance of permits is to an individual and therefore should not just transfer to another automatically.

**Posting of prices for food vendors:** This is an important step in finally forcing food vendors to adhere to similar requirements as restaurants. We would like to see that the letter grade system be extended to food vendors as well, thus protecting the public from more dangers than are found in a restaurant. The idea that this can't be done in the same fashion because they are mobile and can't be found is not valid. Most of the carts and trucks are stationary once they establish their locations. That is why there are all the other issues surrounding the overcrowding of our streets and sidewalks. If vendors, food and general, want to be considered small businesses, then they should be subject to all the same rules and regulations as small businesses are.

Intro 1303 and the other Intros being proposed are extremely important and have been many years in the making. It is unfortunate that the City Council has put such a short time frame on the discussion of the proposals. As we read through the many changes and the portions of the laws that will so far remain unchanged for now, it is hard to speak to everything included with only a few short days of preparation. While we know that some of the stakeholders have been meeting with members of this committee and discussing their requests, now that there is a formal proposal, there needs to be a unified method by which the council should reach out and discuss all the ramifications with all the parties that will be involved. Hearing from a few of us, each in a 2-minute time span doesn't do justice to the possible impact these Intros will have on so many lives.

We hope that you will consider putting off a formal vote and review careful the many suggestions you are receiving today, while looking to include those who couldn't attend today or submit testimony. There still needs to be more dialogues with the various stakeholders who will be affected. As our elected representatives, we are putting our lives and livelihoods in your hands and need you to be cognizant of the huge impact it will have on life in every community in NYC.

Respectfully,



Renee Giordano  
Executive Director

## Testimony of Mark Dicus, SoHo Broadway Initiative

October 26, 2016

My name is Mark Dicus, I'm the Executive Director of SoHo Broadway Initiative, the not for profit that manages the business improvement district along Broadway in SoHo. The SoHo Broadway corridor is a vibrant mixed use community that includes residential, office and retail operating side by side. Vendors are attracted to the robust amounts of foot traffic that fill our sidewalks. Our organization was formed to improve sidewalk congestion found within our district.

We are very familiar with rules governing vending and have close working relationships with many vendors in our corridor. We've also spent thousands of dollars mapping the area and developing a guidebook to show where vending is permitted. In fact, many vendors come to our office for help finding legal locations in our district.

We are pleased to see that Council is interested in tackling comprehensive reform of the rules governing street vending.

While vendors are an important member of the SoHo Broadway community, our sidewalks are overcrowded with pedestrians competing for limited amounts of space. While this legislation is a start, it does not go far enough in addressing many of the fundamental flaws facing the street vendor system.

This legislation adds 4,200 new food vendor permits and loosens several location restrictions, but leaves the main elements of the system essentially unchanged. Such an unprecedented increase in the number of food carts on our sidewalks, minimally requires that the tools to properly regulate vending be up and running successfully before any new permits are issued.

The proposed legislation does not address the black market for food cart permits. The bill also does not change the first come first served system by which locations are chosen, vendors will continue to fight for locations and be encouraged to break the rules.

Will permit holders and licensed food vendors who pay thousands of dollars a year in fines continue to have their permits and licenses renewed? Last year, the Department of Health and Mental Hygiene did not deny the renewal of a single food cart permit because of multiple violations and revoked only 12 permits for multiple violations.

The City should not be creating a business model where fines are just a cost of doing business. The City should be creating a system that incentivizes compliance with the rules and revokes the permit of those who blatantly and continually violate the law.

The legislation also does not clear up the vagueness in the rules that leads to thousands of summonses that are issued and dismissed each year.

The legislation also does not modernize food carts to address the noise and exhaust pollution they create.

New York City Council, Consumer Affairs Committee Hearing  
10/26/2016

## Testimony of Mark Dicus, SoHo Broadway Initiative

The legislation continues the one size fits all approach to siting vendors that does not give communities any input in the siting of a food vending cart on a public sidewalk.

Please form the Advisory Board and give all stakeholders including vendors the opportunity to shape a system that works for the City. Give Community Boards and BIDs a formal role on this advisory board as these organizations have a wealth of knowledge about the needs and concerns of their communities.

All revisions to the location restrictions should be referred to the Advisory Board and no changes to these restrictions should be authorized as part of this legislation. Once the system is functioning then we can determine whether more food carts can be accommodated.

Please create the Street Vendor Enforcement Unit, it will be an important tool in ensuring the rules are being followed creating a more level playing field for vendors. More details are needed as to the size, authority and deployment of this unit to ensure that it has the resources needed to be successful. Will the unit be staffed with NYPD police officers or peace officers? How many officers will be part of this unit? Where will the unit be deployed from? The Initiative feels strongly that the unit should be staffed with NYPD police officers who have the authority to make arrests, confiscate property and write summonses for any violation observed. The unit should be deployed from the Borough commands and must be staffed with enough enforcement officers to be successful. Creating a Street Vendor Enforcement Unit is only part of the solution and is not a magic potion that will cure all of the problems of the current system.

Please start a pilot designated vending locations program to test innovative approaches to the placement of vendors in our City. As currently drafted, a designated location could be an entire borough and DOT could rewrite all of the rules without meaningful oversight. However, as with any other use of public space, this decision should be subject to a formal process of community input, review and approval.

Street vending significantly impacts the quality of life of the residential population, the office workers and the ground floor retail business that call our district home. This is a once in a lifetime chance to reform the system, but it must be done in a way that allows meaningful input from impacted stakeholders. Forming an advisory board with meaningful opportunities for public input and dialogue should be the first step in that process.

As currently drafted, the Initiative cannot support this legislation and we urge you to take the approach outlined today to reform the system.

Testimony to the New York City Council  
Committee on Consumer Affairs  
October 26, 2016  
Intro. 72-2014, Intro. 78-2014, Intro. 1299-2016, Intro. 1299-2016

Thank you for the opportunity to testify today. My name is Ellen Goldstein, Vice President of Policy Planning and Research for the Times Square Alliance. First, we at the Alliance want to thank Speaker Mark-Viverito, Council Member Levine, and Chair Espinal for stepping up to address such a complex issue.

We agree with the authors of these bills that street vendors are an essential part of New York City's fabric, providing economic opportunities for hardworking individuals—many of whom are immigrants—and contributing to a vibrant street life. We also agree that New York City's vending regulations are confusing, convoluted, and long overdue for comprehensive reform. As they stand today, vending rules do not work for anyone—not for vendors, not for mom-and-pop stores and property owners, and not for the officers tasked with enforcement. Accordingly, we think that Intro 1303, subject to certain modifications and clarifications, presents an important first step towards creating more rational vending regulations and contains the seeds of some potentially powerful reforms.

Rather than delve deeply into the specifics of bills that will surely evolve in the coming weeks, we wish primarily at this point to speak of a few core principles that we feel should guide how the Council and the Administration approach any vending reform legislation:

- 1) **Criteria requiring hard data about pedestrian safety and flow should guide time, place and manner vending regulations.** Rather than endlessly modifying hundreds of one-size-fits-all requirements that no one can remember (is it 3 feet from a curb, or is it 5 feet from a fire hydrant? Is that on a wildly crowded 15-foot wide sidewalk next to a subway station or on a barren 25-foot sidewalk next to the West Side Highway?), we believe the starting point should be explicit, objective criteria which lead to a rigorous and factual analysis of zones that have been identified as especially problematic.

Those criteria would fundamentally relate to how many people are on the sidewalk, how many people are forced to walk in the street, what are the entry and egress flows immediately adjacent (e.g. how many enter and exit the adjacent subway stop, theater, or bus stop, and when). Use nationally codified "Level of Service" analysis developed by transportation experts as a guide for determining whether a sidewalk is functioning well or not or if crowding is endangering pedestrians. Hard facts will help identify real problems and solve them.

- 2) **Have clear mechanisms for identifying potentially problematic zones and allow communities to have a say in that process.** Make sure that there is a clear process for having DOT identify areas that need potential study, but the community should have a voice as well, even if it is not definitive.
- 3) **Ongoing and iterative review of regulations should be informed by the community, criteria, and facts.** Any ongoing policy-setting body should have true community representation and

input, have criteria related to pedestrian flow and safety, and be required to regularly review and update both regulations and the regularly refreshed data which drive them.

Our sidewalks and public spaces are utilized in innumerable ways, both to accommodate pedestrians and to accommodate commercial activities. They have changed considerably since so many of the vending regulations were last updated, and will change again in the future. These bills contain the seeds of larger reforms. If they are modified to require the City to give communities a voice in the process, and to recognize the unique characteristics and ever-changing facts of our communities, they have great potential.

Thank you for allowing us the opportunity to testify.



## **Testimony on the Street Vending Modernization Act**

**Rob Byrnes, President  
East Midtown Partnership**

to the Committee on Consumer Affairs  
Wednesday, October 26, 2016  
10:00 AM

Chairman Espinal and Members of the New York City Council:

My name is Rob Byrnes, and I'm president of the East Midtown Partnership, a Midtown Manhattan Business Improvement District. I also co-chair the New York City BID Association Working Group on Street Vending, and in that capacity I've been privileged to meet with more than two dozen City Council members – often in their district offices – as the association has advocated for meaningful reforms to the street vending system in the City of New York.

The East Midtown Partnership is wholeheartedly in support of the position statement issued by the BID Association. However, based on my immersion in this issue over the past 18 months in all five boroughs – and with not just Council Members, but also members of the Administration, agency representatives, small business owners, Community Boards, city residents, and, yes, vendors – my testimony today will focus on a few specific items I feel are important for significant, effective reforms to a badly broken system.

First, though, let me note that the package of legislation incorporates some much needed elements, especially the creation of a multi-agency enforcement unit. This unit should result in fairer, more consistent enforcement of street vending, benefiting all parties, specifically including vendors who are understandably confused by overlapping jurisdictions and inconsistent enforcement.

That said, it doesn't make sense to increase the number of vending permits before the city has had an opportunity to get a sense of what the enforcement needs are, what resources are needed, and how those resources should be allocated across the five boroughs. The creation of the Office of Street Vendor Enforcement and cross-training of its staff should be a priority, with any increase in permits coming only after the city has proven its ability to monitor and enforce laws and regulations as they pertain to the existing vending community.

Siting is also a concern, and one City Council needs to address. Street vending is, at its core, a land use issue, and should be given the same public scrutiny as other land use issues. If a restaurant must go through multiple levels of Community Board and governmental approval before opening a sidewalk café (not to mention the related expense), and if the siting of every other element on our streets and sidewalks is subject to community and governmental review, there is no logical reason that vending locations should be exempt from public oversight.

The so-called “Black Market” has been cited as an impetus for reforming the system, and yet the Street Vending Modernization Act really does nothing to address that. Merely adding an additional 4,200 new permits will not make the problem disappear, and in fact could perpetuate it. The “Black Market” can only be addressed by treating that criminal enterprise as a criminal enterprise, and putting some teeth into the law through strict penalties on those who exploit this largely immigrant workforce.

Finally, City Council should not reduce existing legal distance restrictions on the sidewalks. In their wisdom, past Council legislation – including some action quite recently – has set requirements that vendors keep adequate space between their carts or tables and crosswalks, driveways, doorways, hospital entrances, and the like to allow for safe pedestrian flow and protect public safety. We already know that in many areas of this crowded city, obstacles – including vendors – force pedestrians off the sidewalk and into the street. Further restricting sidewalk access would present a direct threat to public safety and be in conflict with the goals of Vision Zero.

There are other parts of this package of legislation that should be rethought, but I will leave those to my colleagues.

The time is right for an overhaul of a broken system, and the Speaker, Council Member Levine, and others who have been involved in this effort are to be commended. Much of the framework for positive, progressive reform to the street vending system can be found in this package of bills. But it needs to be reworked, with a focus on reforming regulation and enforcement and gauging that impact before potentially adding more disorder to the streets. With more time and greater opportunity for the public, Community Boards, the small business community, and others to participate in this discussion, I am hopeful City Council can craft meaningful vending reforms that will benefit small businesses, residents, and vendors alike.

Comments of Andrew Eiler on Intro 1303

Thank you for the opportunity to testify. Judging by the few committee members I recognize, its been a long tome since I last appeared before Council Committee as Director of Legislative Affairs for the Consumer Affairs Department.

Based on my experience with thus subject, I am here today to comment on the following issues that in my view are raised by the provisions of Intro 1303 that substantially revise important features of the City's street vendor laws.

1. The bill creates the Office of Vendor enforcement and, among other responsibilities, confers on it, "the power and duty" to *enforce all state and local laws relating to vending.*"

While vesting the power and duty to enforce all laws affecting vending, it fails to confer the *authority* to enforce that is vested in the agencies now tasked to do so under laws that are listed that the Office is given the power to enforce. Among the laws missing from the list is chapter 1 of Title 20, the DCA's license enforcement law that authorizes and empowers the DCA

enforce all the licensing laws under Chapter 2 that includes subchapter 27, the general vendor law. That subchapter in turn authorizes the DCA and NYPD to use various measures to enforce the general vendor law. Its most significant provisions authorize the seizure of the goods of unlicensed vendors and vendors operating on specified restricted streets and authorizes the imposition of criminal penalties for certain violations.

The seizure provision can certainly be effectively implemented by uniformed police armed with a badge and gun. Does anyone however, expect the same from unarmed inspectors who lack police powers to arrest resisting vendors? Turning this responsibility over to them effectively repeals these enforcement measures or subjects unarmed inspectors to violence when seeking to apply them unless accompanied by uniformed officer that simply doubles the work load.

The bill in no way circumscribes the authority or power agencies now have to enforce the same laws. It instead sets up a two tiered system of different agencies tasked to enforce the same laws. So does the newly constituted Office replace and assume responsibility for enforcing all laws affecting

street vending, including the licensing of all vendor and leaving existing agencies nothing left to do, including the licensing functions, or only some of those responsibility. Who knows. The bill certainly doesn't tell

The bill calls for the new Office to focus its enforcement efforts in the designated vending locations pilot program and other designated locations that effectively calls for reducing if not altogether avoiding enforcement in unfocused areas. That will soon turn the unfocused areas into wild west zones for vending.

2. Order of priority for issuing new permits.

The order of priority for issuing permits provides that vendors who had been on a waiting list prior to Oct. 11, 2011 and have remained since the date of issuance (presumably of a food vendor license) are ranked *below* vendors who been continuously licensed as food vendor since just March 1, 2014. Does it really seem fair to anybody that persons on the list years earlier should be ranked *lower* than mere late-comers?

3. The ostensive purpose of bill to relieve vendor congestion is entirely at odds with increasing the number of vendors by 600 permits per year for seven years. It would be easier to square a circle than to achieve those totally conflicting goals.

4. DOT is mandated to consult only with Community Boards and BIDs regarding modification or waiver of street restrictions, presumably only in the pilot program location, but not with vending community that would be most affected by those decisions.

A law could hardly require a more one-sided consultation with affected interest that entirely ignores the interests of important groups affected by the decisions.

No standards are provided as the basis for making those decision.

Since modifications or restrictions alter existing laws or rules that designate the restrictions, any proposed modification or waivers will undoubtedly trigger using CAPA procedures that will be fruitful grounds for endless hearings and litigation over any changes to be made.

**NYC Veterans Alliance**  
**[www.nycveteransalliance.org](http://www.nycveteransalliance.org)**

Testimony by Kristen L. Rouse  
NYC Veterans Alliance

Hearing on  
“Street Vendor Modernization” Legislation

NYC Council Committee on Consumer Affairs

October 26, 2016

My name is Kristen L. Rouse. I am a veteran of the United States Army, I served three tours of duty in Afghanistan, and I live in Brooklyn. I am testifying on behalf of the more than 200 dues-paying members of the NYC Veterans Alliance, several of whom are veteran street vendors, and who have been active in advocating for reforms for NYC street vendors.

Street vending is a time-honored tradition in New York City, but our system for regulating and supporting this vibrant community of entrepreneurs must be streamlined and updated to reflect today's economy and needs, and to minimize the costs and restrictions for hardworking people to make a living. For these reasons, we support the spirit and intent of this package of street vendor modernization legislation.

Yet we must remind this committee that veteran street vendors have been central to New York City's street vending community going back more than a century, and veteran vendors merit both protection and preference as the city modernizes its policies and regulations. Veteran street vendors have been the heart and soul of NYC's veteran entrepreneur community going back to 1894, when New York State established a law that assured disabled Civil War veterans free and unrestricted access to selling goods on the street. Today, NYC has more than 1,700 veteran street vendors, yet city policies, restrictions, and selective enforcement have significantly scaled back the ability of veteran vendors to make a living as intended by the original law. Street vending is a hard job, and made even harder by complicated rules and restrictions that make vendors easy targets for summonses and fines that take away profits. This hefty cost of doing business also feels like a betrayal of veterans who were once promised unrestricted access to vending on the streets.

We fully support bills that streamline regulation of street vending so that no one is unduly punished just for trying to make a living. But we remind this committee that veterans must be specified in these bills as a protected class of street vendors. We've heard from veteran street vendors that they feel unfairly targeted and fined by police, especially in the midtown core, while unlicensed vendors appear to operate freely. City policy has over the years eroded and restricted the freedoms of veteran vendors provided by the original state law, with their only apparent recourse being to sue the city. Our city government can and must do better to honor the service of veterans and the historic protections that New York provides our veteran street vendors. We therefore make the following recommendations:

1. **Any reform legislation must make mention of veterans in order to retain and reinforce these protections.** As it currently stands, Introduction 1303 makes only a mention that the law will not interfere with state law pertaining to veteran vendors. This is not enough.
2. **Any raising of caps on mobile food vending permits must protect the current minority of veteran street vendors.** We believe that veteran vendors make up approximately 15% of NYC's vending population. Set-asides for veteran vendors must not fall below this 15% mark.
3. **Language establishing a vending board must specify inclusion of veteran vendors on that board.**
4. **Veteran vendors must be exempt from waiting lists.**
5. **Veteran vendors must have preference in licensing.**
6. **Mobile vending permits for veterans ("V" permits) that are currently restricted to the boundaries of parks must be granted citywide access.**

Veterans have served to protect our nation's freedoms and way of life during wartime and peacetime, and sacrificed years of their lives and careers to this end. Many of our veterans have been injured and disabled during the course of their service to our nation. The service of our veterans is essential to protecting the freedoms we enjoy in this city. Veterans are a minority of our city's population, and veteran vendors are a minority—albeit an important one—as well. They nevertheless deserve recognition, protection, and the preferences that were enshrined in state law decades ago.

On behalf of the NYC Veterans Alliance, I thank you for the opportunity to testify today. Pending your questions, this concludes my testimony.



October 25, 2016

Honorable Speaker Mark-Viverito and Members of the New York City Council:

I am writing as the Chair of the Department of Nutrition and Food Studies at NYU in support of lifting the caps on New York City's mobile food-vending permits (Intro 1303). I am one of three Principal Investigators on a research project on street vending in seven cities including New York City, Toronto, Mexico City, New Delhi, Singapore, Shanghai, and Sydney.

1. Based on the 7-city study of street vending we find that city governments are changing their attitude towards street vendors from opposition in the 20th century model to encouragement and accommodation in the 21st century.
2. Street vendors are increasingly seen as important to the character of a city with three things in mind:
  - a. Livelihood of migrants.
  - b. Law -- regulation of street vendors based on questions of traffic flow and public health; and eyes on the street as security concerns increase (streets are safer when there are more people and especially regulars at street corners).
  - c. Liveliness of cities -- local culture, tourism, livability of cities, when expansion is well regulated.

More nutritional, sustainable, and interesting foods become available with well-regulated street vendors, which ensures better access to livelihoods, and micro-entrepreneurship, and makes cities more lively and secure.

Sincerely

Krishnendu Ray  
Associate Professor  
Chair, Department of Nutrition and Food Studies  
New York University  
New York 10003  
212-998-5530  
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October 26, 2016

RE: Int. No. 1303 - in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board

Dear New York City Council Committee on Consumer Affairs:

As a second generation owner of Shanghai MKS, a local manufacturing business, I am writing to support this bill.

In 1979, Shanghai Stove Inc, DBA Shanghai MKS opened its door in Manhattan Chinatown, manufacturing kitchen equipment for the Chinese foodservice market. During the early 1990's recession, the pressures of loss leader pricing and high rent forced my parents to make some serious adjustments, starting by moving into Brooklyn.

Knowing sheet metal fabrication for the food service industry, they took a chance in the mobile food industry. Currently, Shanghai MKS is the premier outfitter of mobile kitchen solutions in New York City and its surrounding areas.

Throughout the years, by working with NYC DoHMH and always pushing the envelope for compliancy, new solutions and technologies were implemented into mobile foodservice units. Contrary to popular belief, these improvements helped promote sustainably safer, cleaner, and healthier work and food environments.

Shanghai MKS currently employs 14 full-time employees, and there are over 10 local manufacturers of mobile foodservice units in NYC. By introducing this bill, the number of skilled labor jobs will increase. This will not only locally anchor good paying jobs, but manufacturing businesses, as well.

Moreover, the mobile food vending industry is extremely robust, not only made of food vendors and manufacturers. There are over 120 NYC-licensed commissaries where mobile food units are required to be stored at and cleaned, a multitude of food purveyors, distributors, and wholesalers, as well as insurance companies offering worker compensation insurance. This bill will create exponential growth in the industry, which in turn will bring in millions of tax dollars.

Shanghai MKS kindly welcomes the opportunity to work with NYC to improve street vending.

Sincerely,

Ernie Wong  
Shanghai MKS

TESTIMONY FOR THE RECORD  
CITY COUNCIL HEARING ON INTRO. #1303-2016  
October 26, 2016

My name is Barbara Morris. I am the widow of a disabled veteran and have a valid food operator license. I have been stuck in court for the past 7 years fighting to get a food cart permit under state laws granting disabled veterans the right to vend because the city refuses to give us priority for citywide permits.

If Council member Levine is serious about helping immigrants and veterans – both disabled and non-disabled – before ANY proposal is enacted, it is crucial that this council demand a clean list of ALL permits issued to date to ensure that every permit is valid and every permit holder is legitimate. In the past, the health department failed to remove the names of permit holders that were revoked or expired thereby creating the illusion that the cap was reached and there were no permits available. That proved to be untrue as permits were being stockpiled. It is very likely that there are a large number of permits available right now, and there may not be a demand for the large number as proposed in this bill, which will dramatically increase the numbers to well over double. Additionally, a few years ago, the Health Department wiped out all priority when it stopped including license numbers on each license. We all know there is a tremendous amount of illegal permit leasing and no accountability as to the manner in which food cart permits are issued by DOHMH through a magical mystery lottery that is as cloaked in darkness. If, in fact, a list for citywide permits prior to 2011 was created by a lottery, that list must be abolished and citywide permits must be issued by the ORIGINAL date of issuance of the license to ensure that the process is fair with veterans getting the highest priority.

Currently, there are no waiting lists for disabled veterans – the 2007 list was exhausted in 2012 and a new list will not be created until after both the existing disabled person list and the existing veteran lists are exhausted. There are approximately 200 people combined on both lists and giving 35 permits a year means that it will take six years before a list for a disabled veteran will even be created for a citywide permit. I would like to ask the sponsors of this bill where do I stand as a person holding a license since 2009 in the disabled veteran category? It appears from this proposal that I and all others in the disabled veteran category are relegated to the lowest denomination. Or is it rather that according to paragraph 5 – under general business law section 32, all veterans and non-veterans will be issued **CITYWIDE** permits above the 5% cap without having to be on any waiting list?

This council needs to do its homework carefully and honestly if it is serious about helping immigrants and veterans – both disabled and non-disabled.

Barbara Morris  
180 West End Avenue, #4E  
New York, New York 10023  
(917) 499-7984



## Food Chain Workers Alliance

1730 W. Olympic Blvd. Suite 300, Los Angeles, CA 90015  
213-761-8893 \* [www.foodchainworkers.org](http://www.foodchainworkers.org) \* [info@foodchainworkers.org](mailto:info@foodchainworkers.org)

October 26, 2016

Dear Consumer Affairs Committee,

On behalf of the Food Chain Workers Alliance, I am here to voice our strong support to the Street Vendor Modernization Act.

The Food Chain Workers Alliance is a national coalition of worker-based organizations whose members plant, harvest, process, pack, transport, prepare, serve, and sell food. We are working to build a more sustainable food system that not only provides for healthy food but also ensures that the people who are making and selling our food – including the street vendors of New York City – are treated fairly.

As a native New Yorker I've enjoyed the foods from vendors my entire life. From a hot dog to a fruit juice, they've always been there when I needed a snack or quick breakfast. I was first exposed to the many difficulties food vendors face when as a college student. I interned with a street vendors organization in East Harlem that provided services, helped to educate vendors on rules and represented them in court. Through my internship I saw the hardworking vendors the majority of them immigrant women trying to raise families and give their children better opportunities. I saw them trying to achieve the American dream. They were also a great value to that community providing foods that reminded folks of home and exposing people to new tasty foods.

For many years, vendors have not been treated fairly. The low cap on food vending permits – imposed in the 1980's after lobbying from big corporations – has created a system based on exploitation and abuse. Exploitation at the hands of permit owners who charge exorbitant rates to rent permits that they themselves do not use. Abuse at the hands of police, who arrest and ticket vendors brave enough or desperate enough to try vending without permits, just to support themselves and their families.

We know from our experience that, unlike most celebrity chefs you see on TV, and unlike most people who write books on food policy, the majority of people who make and serve our food are women, immigrants, and/or people of color. This is absolutely the case for the street vendors in our city. They work long hours for little pay. They often do not have time to go to their Community Board meetings. They often may not know who their Council Members are. And yet the decisions made in rooms like this dramatically affect their lives.

This administration, and this City Council, have pledged to address the inequality that exists in New York City. Doing so, creating a more just city and a more just food system, can be controversial. Many people in power – restaurant owners, real estate companies, business associations – will object. I ask you to consider just as strongly the thousands of workers, selling food right now on the streets in communities across this city, whose lives will change forever if they receive a permit.

Thank you for the opportunity to testify today.

Sincerely,

Diana Robinson  
Campaign and Education Coordinator

*Members: Alliance for Fair Food \* Brandworkers International \* Brooklyn Food Coalition \* California Institute for Rural Studies  
Coalition of Immokalee Workers \* Comité de Apoyo a los Trabajadores Agrícolas \* Community to Community Development  
Familias Unidas Por La Justicia \* Farmworker Association of Florida \* International Labor Rights Forum \* Laundry Workers Center \* Migrant  
Justice \* Northwest Arkansas Workers' Justice Center \* OUR Walmart \* Pioneer Valley Workers Center  
Restaurant Opportunities Centers United \* Rural Community Workers Alliance \* Rural & Migrant Ministry  
Street Vendors Project \* Teamsters Joint Council No. 7 \* UE Research and Education Fund: Warehouse Workers for Justice  
UNITE HERE Food Services Division \* United Food & Commercial Workers Local 770 \* Workers Center of Central New York*

FOR THE RECORD



**DELORES RUBIN**  
Chair

**Jesse Bodine**  
District Manager

CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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October 24, 2016

Hon. Melissa Mark-Viverito, Speaker  
City Council  
250 Broadway, Suite 1856  
New York, New York 10007

Hon. Rafael Espinal, Chair  
Committee on Consumer Affairs  
250 Broadway, Suite 1880  
New York, New York 10007

Hon. Corey Johnson  
City Council  
250 Broadway, Suite 1804  
New York, New York 10007

Hon. Gale A. Brewer  
Manhattan Borough President  
1 Centre Street, 19<sup>th</sup> floor  
New York, New York 10007

**RE: Vending legislation**

Dear Speaker Mark-Viverito, Council member Espinal, Council member Johnson, and Borough President Brewer

Manhattan Community Board 4 (MCB4) welcomes the opportunity to comment on the proposed package of legislation for reforming Street Vendor operations and licensing.

It is unfortunate, however, that MCB4 learned about the legislation and hearing only 13 days ago, when the bills were made public. The timing forced the Transportation Committee to address the legislation at its meeting and have it approved by the Executive committee preventing a full public hearing with discussion and vote of the full board. Considering the extent of the vending reforms put forth, greater transparency and more time to comment and better understand the legislation should have been exercised. While

MCB4 appreciates the opportunity to comment, the City Council's timing is hostile to public input and involvement and the board hopes additional hearings will be held on the legislation.

We appreciate the long history of vending in New York City and its role in empowering immigrants and US veterans. We also appreciate that the limit on vending permits, unchanged since the early 1980's, has led to a "black market" of vending permits allegedly costing as much as \$20,000/year and substantial illegal street vending. Reform is needed. However, we believe this legislation would exacerbate the problems, not address them.

This legislation, which would double the number of street vendors operating on New York City sidewalks, combined with LinkNYC installations, tour bus stop queues, long distance bus stop queues, sidewalk cafes, and encroachment from the non-enforcement of A-frame rules shows a complete disregard for public space and pedestrian safety. Were this legislation to be good for New Yorkers, it must further protect, not endanger, pedestrians and street vendors.

MCB4 **opposes** the legislation, **unless** the following changes are made:

A proper consultation with the public is undertaken, with presentations to community boards, block associations, Business Improvement Districts, and other relevant parties. These presentations should include supporting data, including numbers of licenses, current locations where vendors are set up on a regular basis, and statistics on current enforcement practices.

Without the results of the Designated Vending Location programs or without having an inventory of where the carts can be sited in accordance with current regulations, giving more licenses than can be used legally will lead vendors who have invested their savings in a license to operate illegally.

Should any aspect of the legislation pass, we request that all of Community District 4 be included in the pilot Designated Vending area program run by the Department of Transportation.

**Placement and Siting:**

In no case should restrictions for placement of street vendors be relaxed. That the legislation would allow a vendor to setup 3' into the sidewalk from the curb and 5' from the corner is an unwarranted encroachment on the sidewalk and further privatizes public space. The rules should be made consistent with Vision Zero and pedestrian flow priorities and other sidewalk furniture. A logical reform would be to make street vending placement consistent with Newsstand guidelines, which include a 9.6 feet pedestrian right-of-way between the cart and the property line and that no item be placed on the cart that expands the footprint or protrudes into the pedestrian right of way.

Creating guidelines for street vendor locations would streamline the process and codify their existence; much like the city has done for other types of street furniture and uses of public space. Sites should be approved through that process and no additional licenses should be granted for use in the Central Business District (Manhattan below 60<sup>th</sup> Street). Greater scrutiny must also be given to the land use adjacent to the permitted spaces and whether or not it is an appropriate location for a vendor to operate (schools, restaurants, retail, and residential buildings). Vendors should not be allowed to operate on public plazas, without proper coordination and approval from the plaza maintenance partner.

Any reform of the licensing program must have pro-active measurements to prevent a license black market. Our board has received reports that licenses are copied and used by multiple vendors in multiple locations. New licenses should be embedded with GPS tags. This will prevent the duplication of licenses and allow the NYPD or any enforcement unit to properly monitor the location and operation of each vendor.

We recommend allowing food carts to operate in parking spaces, similar to DOT's Street Seats program, where their effect on pedestrian congestion will be less. This is the way food carts historically operated and would also prevent the need for vehicles to drive onto sidewalks to pick-up the carts at the start and end of the day.

### **Enforcement:**

We applaud the following:

- Creation of a dedicated enforcement unit;
- Creation of a training program with an examination on vending restrictions;
- Creation of a website and app with map of areas of the sidewalk where vending is not permitted, for both food and general vendors;
- Attaching fines to a cart and a license, which can be evaluated at renewal regardless of who pays the fine

The number of officers dedicated to enforcement is paltry. After seven years there could be over 8,000 street vendors; guaranteeing a healthy ratio of officers to vendors is critical to properly regulate if the city is going to permit an increase in licenses.

Many food carts generate noxious smoke that gets into nearby businesses or residential buildings. Creating smoke should be illegal. By contrast, a restaurant must vent its kitchen to the roof. Street carts should be subject to similar health regulations. Often this smoke comes from propane gas tanks and generators, whose loud, pollution-emitting engines should also be prohibited. In addition to creating health and safety standards for mobile vending, the City should be proactively working on environmentally safe green carts and creating locations where vendors can plug in their carts.

### **Licenses:**

MCB4 appreciates that US veterans will get priority for vending licenses, and 5% are set aside for them through this legislation. However, that number should be at least doubled,

to 10% of the eligible licenses, if the current cap is increased to 600/year over seven years.

Thank you for taking into consideration our comments.

Sincerely,



Delores Rubin  
Chair



Christine Berthet  
Co-Chair, Transportation  
Planning Committee



Yoni Bokser  
Co-Chair, Transportation  
Planning Committee

**Committee on Consumer Affairs, New York City Council  
Wednesday, October 26, 2016 at 10:00 A.M  
Council Chambers, City Hall, New York, NY**

**Comments of the New York City Hospitality Alliance on:**

- Int. No. 72 - in relation to reporting and posting online information pertaining to mobile food vendors
- Pro. Int. No. 78A - in relation to requiring food vendors to post prices
- Int. No. 432 - in relation to allowing ill or incapacitated street vendors to transfer their license to a family member
- Int. No. 1299 - in relation to certificate of authority to collect state sales tax as required for mobile food vendors
- Int. No. 1303 - in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board
- Preconsidered Int. No. - A Local Law to amend the administrative code of the city of New York, in relation to permitting street vendors to vend within three feet from the curb
- Preconsidered Int. No. - A Local Law to amend the administrative code of the city of New York, in relation to permitting street vendors to vend 25 feet from a bus stop or taxi stand, and 5 feet from any driveway, subway entrance or crosswalk
- Preconsidered Int. No. - A Local Law to amend the administrative code of the city of New York, in relation to permitting food vendors to place items on their vending vehicle or pushcart

The New York City Hospitality Alliance is a not-for-profit trade association representing thousands of diverse eating and drinking establishments throughout the five boroughs that are impacted by the proposed package of mobile vending legislation.

Commercial use of the public sidewalk has always been part of our city's fabric. Today, ticket sellers, jewelry peddlers, newsstand operators, food vendors, general merchandise vendors, and sidewalk cafes all contribute to the vibrant street scene that makes New York City what it is.

Yet we recognize that there are many regulatory issues surrounding street vending, and that these are symptoms of a broader problem, namely, our City's broken system for regulating commercial uses of the public sidewalk. Time and again, comprehensive reform has been neglected, in favor of piecemeal efforts aimed at particular uses. The result has been a patchwork of legislation over the decades, each adding a new layer of confusion and inconsistency to the regulatory framework. Unfortunately, this legislation continues that trend.

We support the goal of comprehensive commercial sidewalk use reform, but that is not what this bill is. This legislation aims solely at food vending, does not solve the many problems that exist with food vending, and in fact makes the situation worse.

**First, waiting six years to conduct a study is backwards.** The annual increase in the number of food vendor permits begins in 2018, but the Health Department is not required to begin its study of the impact of this increase on pedestrian congestion, enforcement, and local mom and pop brick and mortar businesses until 2024. Increasing the number of food vendor permits first, and then studying the impact later, is

frankly the opposite of an appropriate data-driven approach to solving the issues posed by food vending. Instead, there should be an appropriate study first, with the results reported to the Council within a year. That way, decisions could be made based on available data, not data to be gathered six years from now.

**Second, the black market is unaffected by this legislation.** Although it is claimed in broad terms that the proposed legislation will reduce the black market in illegal permit renting, the available data tells a different story. At present, there are over 13,000 food handler permits, many of whom illegally rent food vendor permits. By increasing the number of food vendor permits at a rate of 600 per year over the next several years, the new number will only reach a fraction of the number of food handler permit holders, substantially the same situation as currently exists. Food handlers who wish to have a permit and cannot get one will still illegally rent, except now more will be able to do so. It is therefore quite unrealistic to believe that the black market for food vendor permit holders illegally renting to food handler permit holders will be affected in any meaningful way. Instead of increasing the number of permits, a more effective (and proven) way of addressing the black market would be to reverse the Giuliani-era law that prohibited vendors from selling their businesses or forming partnerships and corporations, which left vendors wishing to sell their businesses with no choice but to go underground.

**Third, increasing the number of food vendors is an odd way to attempt food diversity.** We have heard from proponents of the proposed legislation that the only reason why there is so little diversity amongst the food offerings of our City's food vendors is because black market renters are so saddled with the cost of permit renting that they lack the risk tolerance to offer anything but tried-and-true sellers like hot dogs or chicken and rice. There is zero data to support this argument. Plus, the assumption is flawed, as it fails to account for all the vendors who are not black market participants. Why are the majority of them not offering foods like lobster rolls and kale wraps? The answer, we submit, is obvious: because traditional street foods are safer bets for most vendors, including those operating legally. If the Council's goal truly is to increase food diversity, then permits should be categorized and restricted to certain food types. Increasing the number of permits, on its own, is not the solution to increase food diversity.

**Fourth, safety issues take a back seat.** Conspicuously absent from this legislation is the requirement that food vendors be subject to the same Health Department letter grading regime that brick and mortar businesses are subject to. The central argument that the Health Department accepted when it adopted letter grading was that the public has a right to know the sanitary conditions where food is prepared and sold. If that is true, then why is the public denied that right when it comes to food vendors? There is no greater public interest in the food safety of a hot dog prepared in a kitchen than a hot dog prepared on the street. There are also other safety issues this bill does not address, including the use by food vendors of unsafe gasoline generators, and the

excessive smoke created by grilling meat on the street. This creates the incongruous situation in which restaurants cannot house propane gas heaters in their licensed sidewalk cafes, but a few feet away food vendors can (and do) operate noisy, smelly, and dangerous gasoline powered food carts.

**Fifth, enforcement is unclear.** While we appreciate all parties' recognition that increased enforcement must be a component of any increase in the number of food vendors, the proposed legislation leaves too many questions to be answered at the agency level. Critically, the legislation is silent as to which agency will house the new enforcement unit, and what that unit's powers will be. It appears from the structure of this legislation that the purpose behind delaying issuance of the additional permits until 2018 is to allow sufficient time for the enforcement unit to get underway. But the time it takes to develop an entire new office is unpredictable. Therefore, it would be in better keeping with the Council's enforcement goals to set the start date for the issuance of the additional permits at no less than one year after the new enforcement unit is constituted, staffed, and trained, not a date certain as the current legislation provides. As for the violations the new unit will issue, it should be made clear that the penalty for recidivism for major violations such as vending in prohibited areas is revocation of the permit. To that end, the enforcement unit must have the power, and obligation, to seize the carts of those who operate without a permit. Otherwise, the payment of fines will continue to be a mere cost of doing business for bad operators.

**Sixth, sidewalk congestion remains an issue.** The proposed legislation does not address head-on the significant sidewalk congestion issues posed by the increased number of food vendors on the street. Instead, it is hoped that the enforcement unit will step-up compliance with the existing clearance requirements in various problem areas throughout the City. While increased enforcement is certainly necessary, it is a separate issue from how many vendors should be permitted on a given sidewalk in the first place. Currently, and under the proposed legislation, there is no limitation on the number of food vendors permitted to occupy a sidewalk. This should be addressed by adding a simple requirement that food vendors must not operate within a certain number of feet from any other food vendor. Doing so would prevent the walls of sidewalk-congesting food vendors common in popular locations.

**Finally, the clear path requirement should be modernized.** Illustrating the inconstancies left by the piecemeal approach to regulating commercial uses of the public sidewalk, several commercial uses are required to maintain defined clear paths for safe pedestrian flow, but are measured in a variety of different ways. For example, newsstands must maintain a 9.5 ft. clear path, measured in front of the stand to any obstruction, and 15 ft. of clear path on either side of that area. Sidewalk cafes must maintain a minimum 8 ft. clear path (or more in some contexts), measured from the café boundary to any obstruction. Yet under existing law, food vendors are not subject to any similarly-measured clear path requirement. Instead, food vendors are only prohibited from operating on sidewalks with less than 12 ft. of clearance, measured from the private property line to the curb or any obstruction. That method of measurement



must be modernized. Similar to newsstands and sidewalk cafes, food vendors should be subject to a minimum clear path for pedestrian safety, measured from the front of the

pushcart to the building or other lawful obstruction opposite it (such as a sidewalk café, loading dock, planters, benches, etc.) and a certain number of feet on either side of that area. Doing so would go a long way towards harmonizing the influx of new food vendors with existing commercial uses, such as sidewalk cafes.

We look forward to working with the Council on these suggestions.

Respectfully submitted,

New York City Hospitality Alliance

**Questions/Comments? Please contact:**

Andrew Rigie, Executive Director: 212-582-2506 / [arigie@theNYCalliance.org](mailto:arigie@theNYCalliance.org)

Robert Bookman, Counsel: 212-513-1988 / [rbookman@pandblegal.com](mailto:rbookman@pandblegal.com)



**Testimony before the New York City Council  
Committee on Consumer Affairs  
Int. 1301/2016, Int. 0072/2014 & Int. 0078/2014  
October 26, 2016**

Good Morning Chair Rafael Espinal and other members of the New York City Council's Committee on Consumer Affairs. My name is Nelson Eusebio and I'm the Executive Director of the National Supermarket Association (NSA). The NSA is a trade association that represents the interest of independent supermarket owners in New York and other urban cities throughout the East coast, Mid-Atlantic region and Florida. In the five boroughs alone, we represent 400 stores that employ over 15,000 New Yorkers.

Some quick background on our industry – beginning in the late 1970s, supermarket entrepreneurs began opening stores in areas abandoned by the large chains, as they were economically depressed and mostly minority neighborhoods. These men and women had the vision and the commitment to fill a vacuum in those communities, at a time when the term “food desert” had not even been coined. Currently, many NSA members continue to serve those areas by offering healthy foods and full service supermarkets.

I'm here today to testify on three items relevant to our membership – Int. 1303/2016, Int.0072/2014 and Int.0078/2014.

**Int 1303/2016** - A Local Law to amend the New York City charter and the administrative code of the city of New York, in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board.

The NSA has long struggled with a tumultuous relationship between store owners and street vendors. Street vendors often set up shop directly outside of our member stores, undercut them in pricing and essentially steal business right out from underneath them. This can result in losses of up to five to six thousand dollars a week. Many street vendors operate illegally, setting up in loading zone or metered parking and operating there for extended periods of time. This often results in confrontation between store owners and street vendors. I think we can all agree that doesn't benefit anyone. With that being said, NSA most certainly believes in the right to entrepreneurship and the right for street vendors, many of whom are immigrants, to provide for their families. It is precisely this balance we're seeking in the Street Vendor Modernization Act. While we commend the New York City Council for working to put together a well thought-out piece of legislation, there are certain measures that need to be included in order to make this legislation live up to the spirit of the law and alleviate many of the issues brick and mortar stores, particularly supermarkets face from the street vending community. Our suggestions are as follows:

1. More detail on the Enforcement Unit - NSA was particularly pleased to see a separate enforcement arm, a task force overseeing that arm and a focus on enforcement around supermarkets. However, in order to ensure this unit functions as intended, the NSA recommends that Int. 1303 include a method whereby constituents can report directly to



the unit i.e. a hotline or another method to directly communicate and report violations. We also recommend that the law spell out how the unit will be staffed according to a reasonable ratio of enforcement agents to vendors and require that the unit lay out parameters and priorities for how they intend to targeted illegal street vending behavior.

2. Increased penalties and violation clauses – this bill does not address, in any meaningful way, penalties associated with street vendor operating violations. It is incumbent upon the council to review the various penalties and to update them accordingly. With that being said, NSA believes that Int. 1303 should also include a clause for repeat violators whereby after a given number of repeat offenses, licenses are suspended and eventually can be revoked. This is a way to ensure that ‘bad actors’ do not continue to disregard the law.
3. Next, transparency – Int. 1303 should include a clause requiring street vendors to report specific location and times of operation. Int. 0072 is a start but needs to go further in terms of reporting specific locations of operation. NSA wants to make clear that without this piece of legislation, Int. 1303 inadequately addresses the concern and oversight sought by this legislation.
4. Lastly, restriction on vendor location. We recommend Int. 1303 add a provision placing a 200-foot restriction around supermarkets. The city has a duty to protect brick and mortar small businesses that drive New York City’s economy. However, this is not just an economic issue, it’s also a public health concerns and the NSA believes it is in the interest of public health to not only protect the supermarket industry but to take steps to ensure that people around NYC have more access to fresh fruits and vegetables.

Supermarkets are shutting down in all five boroughs –threatened by skyrocketing rents, high taxes, cumbersome fines and low margins. A balance must be struck between protecting the viability of the supermarket industry and meeting the needs of street vendors.

For this reason, the NSA urges the City Council to take our suggestions into consideration before moving forward.

**Int.0072/2014** - A Local Law to amend the administrative code of the city of New York, in relation to reporting and posting online information pertaining to mobile food vendors.

This legislation is an important step for transparency with an industry that we believe has operated relatively unchecked throughout the city. While the scope of this bill is narrow, we believe this aggregated data can serve as a building block for further policy development.

To further strengthen this legislation, the NSA recommends that Int.0072 include a provision requiring DOHMH to summarize this data in a yearly report to the Council and relevant Committee chairs. We also recommend that the reporting be broken down more specifically by location, by neighborhood and even street, not just by borough. If vendors were required to report areas in which they operate, it would allow the agency to have a better handle



NATIONAL  
SUPERMARKET  
ASSOCIATION

on the effectiveness and efficiency of the program and a better understanding of how to improve it.

**Int.0078/2014** - A Local Law to amend the administrative code of the city of New York, in relation to requiring food vendors to post prices.

The supermarket industry is highly regulated and the Department of Consumer Affairs mandates that stores post price tags on each product. Stores that fail to do so can suffer large fines, harming their businesses, and indirectly the communities they feed.

We are glad to see measures that level the regulatory playing field with other related industries selling the same products.

However, there are many other DCA and DOH regulations of the supermarket industry that we believe should be extended to the pushcart industry for basic consumer protection reasons but for also regulatory parity. For example, the supermarket industry faces stringent refrigeration requirements for both display and storage items. Push carts should be held to the same standard, but instead you see stands with produce sitting out for hours, unrefrigerated on a 90-degree day.

We also implore the Council to further examine these discrepancies and consider legislative action. The NSA would be happy to serve as a resource in this process.

Thank you for hearing remarks from the National Supermarket Association on this important topic and I welcome any of your questions.



**The Garment District Alliance**  
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2nd Floor  
New York, NY 10018

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garmentdistrictnyc.com

FOR IMMEDIATE RELEASE  
OCTOBER 26, 2016

## **Garment District Alliance transcript of verbal testimony**

NYC Council hearing on Street Vendor Legislation  
City Hall - Committee on Consumer Affairs

October 26, 2016

Good morning, Councilmembers. My name is Barbara Blair; I am President of the Garment District Alliance, representing the more than 6,000 businesses within our neighborhood, all of whom have been notified of this legislation and the GDA's objection to it.

The Garment District Alliance fully supports the Council's intent to reform mobile food vendor regulations but is firmly in opposition to the legislation being proposed.

In our view, no new legislation should be proposed until a comprehensive evaluation of current conditions, including the documenting and siting of current vendors, has been conducted. The evaluation should include data on the location of current vendors, which vendors are currently operating illegally, what the nature of violations are, and data showing the most common violations. The evaluation should also show the projected impact of adding additional vendors to neighborhoods.

Evaluating the program after it has been implemented does not allow for benchmark information to be established prior to a change being made.

Furthermore, language in the legislation is vague. As an example, the use of the term "sidewalk congestion" leaves up to interpretation exactly what defines "congestion." A clear definition of regulatory terms and statements will ensure that interpretation is not entirely subjective. Changes such as "extending the placement of carts from abutting to within three feet of the curb" would mean that a cart could be in the middle of a sidewalk. Naturally this is untenable.

Another troubling aspect of the legislation is the compressed timing of hearings. In many cases, community boards, small businesses, neighborhood stakeholders and others have not had sufficient time to study the issue and make important contributions to the process, seemingly circumventing public input.

The GDA recommends a rigorous study of how our sidewalks are currently being used, which must include space requirements associated with those uses, such as newsstands, news boxes, bike docks, muni meters, bus stands, LinksNYC, fire hydrants, trash receptacles, subway entrances and vendors. Once armed with this information, we recommend that DOT study where additional vendors might appropriately be placed, to ensure

that all restrictions are met. DOT should study pedestrian flows and the capacity of our sidewalks to absorb additional congestion and obstacles. If there is an opportunity for additional vending, those locations should be subject to public review, to ensure that we are always meeting the overriding objective of creating a livable city with a public realm that is manageable and accommodating.

The GDA is strongly in favor of one aspect of the legislation: the office of street vendor enforcement. At this time, our ability to govern existing vending legislation is woefully inadequate. Enforcement officers trained in the myriad of laws currently on the books, and with the capacity and mandate to enforce them, would be a welcome improvement to our street environment.

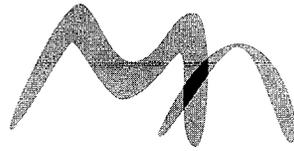
The GDA is not against vending, but we do not have a system that currently works. Until we can adequately address current conditions, we should not endeavor to increase the number.

We strongly oppose this legislation.

Sincerely,

A handwritten signature in black ink that reads "Barbara A Blair". The signature is written in a cursive, flowing style.

Barbara A. Blair



MADISON AVENUE  
BUSINESS IMPROVEMENT DISTRICT

**Testimony of the Madison Avenue BID before the New York City Council Consumer Affairs Committee  
October 26, 2016**

Good morning, Chair Espinal, and members of the Consumer Affairs Committee.

My name is Matthew Bauer, and I am president of the Madison Avenue Business Improvement District, which covers Madison Avenue from East 57 to East 86 Streets in Manhattan. On behalf of our Board of Directors, and the over 800 businesses within our district, I would like to express our concern that many of the items within the Street Vending Modernization Act will diminish pedestrian safety and business conditions for our members. I would like to focus our testimony on three specific siting provisions that have been included in the Act.

First, we are opposed to the item in the pre-considered introductions that allows vending carts to further encroach the sidewalk by permitting them to be placed three feet away from the curb. Given that many of the sidewalks in our district range between 12 and 13 feet, and the width of a cart is typically five feet, this amendment would provide clear pedestrian paths of between 4 and 5 feet, which is not adequate for safe pedestrian flow. In support of this point, NYC Consumer Affairs Department regulations state that sidewalk cafes must maintain a minimum clear path of 8 feet between the outer limit of the café and any object near the curb, which is much more required pedestrian clearance than what is proposed for sidewalks with food carts under this pre-considered introduction.

Second, we are opposed to the item in the pre-considered introductions that allows vending carts to be placed within five feet of the corner quadrant. The corners of Madison Avenue are quite busy with pedestrians and delivery personnel. Placing carts five feet closer to the corner than currently allowed will block sight lines of pedestrians to vehicular hazards, and diminish the visibility of retailer storefronts to shoppers. Once again, this new rule is inconsistent with other rules for the siting of private businesses on public sidewalks. For example, under NYC Consumer Affairs Department regulations, newsstands must be located ten feet away from the corner.

Third, we are opposed to the item in the pre-considered introductions that allows vending carts to be placed within a bus stop, as long as it is located 25 feet away from the bus stop sign. Madison Avenue contains the routes of the M1,2,3 and 4 buses, and multiple lines of express buses heading to the Bronx and other locations. Madison Avenue is so congested with buses that it includes one of the city's only two-lane 24-hour bus lanes. Given that the typical NYC bus is 40 feet long, and that multiple buses often pull to the curb at the same time, placing carts in bus stops will be a danger to passengers entering and exiting city buses. Moreover, this is completely inconsistent with other NYC rules governing street furniture. For example, under the Rules of the City of New York, even First-Amendment protected newspaper distribution racks cannot be placed in bus stops.

As stated by the New York City BID Association, of which I am a member of the Board, the Street Vending Modernization Act represents a once-in-a-generation opportunity to get street vending right, in a way that is fair to all stakeholders. We look forward to working with you on the issues I just described as part of this critically important process.

Thank you.

# **WORKSMAN CYCLES-800BUYCART**

94-15 100th Street Ozone Park, NY 11416

718-322-2003 jack@worksman.com

10-26-16

Good morning and thank you members of City Council for your time.

Some of you may remember me from previous meetings of the City Council on issues concerning permits. I have spoken here more than once dating back to the 1980s. If I look different, well I didn't age as well as my wife I guess.

For most of you who do not know me, my name is Jack Beller and I am Vice President at Worksman Cycles-800BuyCart. We are New York City's, and possibly the country's oldest manufacturer of mobile food vending carts, trailers, trucks and kiosks. We are also known for our industrial tricycles, bicycles. Continuously manufacturing here in NYC since 1898, first in Manhattan, then in Brooklyn and now in our facility in Ozone Park Queens, we have provided opportunities for employment throughout that time to New York City residents, who earn an income, pay their taxes, buy homes, raise families and contribute to the overall vitality of the New York City economy.

I spoke against restricting the number of permits back when it was first conceived; because I knew that it would create an opportunistic grey-market, driving up costs, changing the game so to speak for what I felt was the original intent of food vending: to offer the most basic path to a capitalist enterprise for those without much money. These were people like my parents who were immigrants, or those without means due to circumstances of life they were born into.

That said, any modification to the law that increases the number of available permits available is a good thing so I heartily encourage the passage of Intro 1303. This modification will go a long way to return the food vending permit back to its intended purpose, to allow people to sell food instead of what it had become, an asset used to generate income in and of itself.

Increasing the number of available permits will no doubt be of potential benefit to the company I work for as well, because more permits means more additional vendors which means more mobile food vending units will need to be produced and sold. This will also benefit the City as we potentially will be able to hire more personnel who pay taxes, raise families here and well you get the picture.

I am pretty sure that most of the BIDS will come out against the expansion of the number of permits, claiming that more street vendors will only hurt the businesses of the brick and mortar food venues, who pay rents to the real estate owners. This has been an ongoing claim since the restrictions on permits were put in place. However given the high rents we know are associated with New York real estate, the really low vacancy rates and the number and variety of restaurants available on most commercial city streets, this claim seems to me unfounded.

This is the kind of business the City needs, employing its own residents producing a product that is used within its jurisdiction, generating revenue from its onset through to its actual use on the streets. Unlike many manufacturing businesses that have left New York, because they can produce elsewhere at far lower costs, the mobile food carts, trucks, etc. that we produce for the New York market, need to be produced here for practical reasons.

In summary, increasing the number of permits for vendors is good economic policy for New York City; it potentially increases business for manufacturers, which increases their ability to hire fellow residents, which increases the tax rolls and gives people money to spend in the city further enhancing the economy. I urge you to pass this legislation. Thank you.



October 26, 2016

**Testimony in support of expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board**

My name is Cindy VandenBosch and I am the Founder and President of Turnstile Tours, a social enterprise that has been offering tours about the street food industry in the Financial District and Midtown for over six years. In that time, we have shared the stories and delicious food of over five dozen street vendors with thousands of people, both New Yorkers and tourists, and one of the vendors we work with even catered my wedding.

I am here today on behalf of Turnstile Tours to demonstrate our support for the passage of this bill to ensure that street vendors, most of whom are immigrant and working class people, can operate their small businesses and support their families with the support of the city.

At no point in New York City's history have we experienced such cultural diversity. New Yorkers and tourists alike understand that fact, and that the street food industry offers opportunities to taste some of the most authentic and traditional cuisines, and from the newest waves of immigrant and migrants, dishes like kati rolls, tortas, empanadas, pernil, and jerk chicken. As with the waves of Jewish and Italian immigrants of the past, today street vending is still key to providing entrepreneurial opportunities to immigrant and working class people, the lifeblood of our great city, but we need to do better to make it possible for vendors to operate lawfully. *and make a living.*

We give food cart tours year-round and are out there working with street vendors in the rain, snow, and heat, on holidays like New Year's Day and during Ramadan. The vendors we know are hardworking entrepreneurs and workers, people from places like Bangladesh, Egypt, Trinidad, Mexico, and Ecuador. They are mom and pop businesses. They are mothers and fathers, sons and daughters, and, as with any small business, they take great pride in their work. They know the names of their regular customers and look forward to seeing them. They know the comings and goings of their block. And they're dedicated to providing quality food at affordable prices, an increasing rarity in this city.

We believe the changes proposed will help the City of New York reset its relationship with street vendors in a way that's constructive rather than destructive. The changes proposed will help open up opportunities for street vendors to gain access to much-needed affordable commercial kitchen space and will enable vendors to operate their businesses without the constant fear of losing their permits - and therefore livelihoods - every other year due to predatory black market pricing. Our city has changed significantly since 1983 when the cap on permits was put into place, and the permitting system can change in order to support small entrepreneurs in their efforts to build culinary businesses.

*Furthermore, this bill will give vendors a voice at the table in untangling the complex web of regulations that affect their businesses and will simultaneously improve clarity around enforcement practices.*

Turnstile Tours, Inc., 89 East 2nd Street, 2nd Floor, Brooklyn, New York

## **Testimony on the Street Vending Modernization Act**

(Intro 1303)

**Leslie A. Ramos, Executive Director  
82<sup>nd</sup> Street Partnership**

Wednesday, October 26, 2016

10:00 AM

Good afternoon Chairman Espinal and members of the City Council.

My name is Leslie Ramos. I'm the Executive Director of the 82nd Street Partnership, a Business Improvement District serving businesses in Jackson Heights and Elmhurst, Queens. I also co-chair the New York City BID Association Working Group on Street vending.

I want to thank you for your effort at tackling the black market for street vending permits. Over the past two years, I have met many victims of this immoral practice, and their stories are truly heart breaking. Street Vending is part of the fabric of this City. In the community that I serve, street food can provide comfort to those who have left their families behind to make New York City their home. But so do the small, family and immigrant owned businesses that line the streets of Queens. Many of these families have worked for many years as cooks and servers and are now pouring all of their savings into a business in order to provide for their families. For them, owning a small business is not a symbol of success but instead a part of the continued struggle. Despite owning a business, many of the owners are working poor. They are not only some of the most flavorful businesses we have; they are also the most vulnerable to unfair competition.

The current proposal completely ignores the impact that increasing street vending will have on the City's small and immigrant-owned businesses. The legislation calls for a study in 2025, but that's nine years from now, and only after the number of vendors have doubled. This is unacceptable. Before we proceed to increase the number of permits, the City needs to understand the challenges that small businesses are currently facing when they are surrounded by street vendors. Also, if food vendors will be allowed to park in front of restaurants, some rules need to be revisited to lift regulations that unfairly burden these restaurants and hinder their ability to compete with street vendors that have much lower overhead costs. For example, business owners are responsible for the cleanliness of the sidewalk as well as for eighteen inches from the curb. Businesses owners are often fined for garbage on the street even when there's a

food cart between them and the street. We need to determine now, not in 2025, what we are trading off.

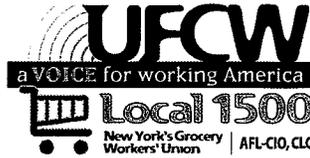
I would also like to see a provision in the bill **limiting the number of permits per vendor** or franchise. We often discuss street vending as an entrance to entrepreneurship, but the reality is drastically different. The City's Street vending laws should not be a tool to run city-wide enterprises. This is not fair for small brick and mortar businesses and it's definitely not fair for other food vendors seeking to find a profitable spot.

The proposed **Vending Location Pilot Program** sounds like a great idea. We all can recognize spots in need of additional enforcement. However, limiting the spots to one area per borough does not reflect reality, and, I fear, takes away DOT's ability to quickly adjust to changing vending patterns. While we should start the program now, the legislation should be flexible enough to allow the administration to determine the number of areas in need of enforcement.

Lastly, the Office of **Street Vendor Enforcement** should enhance, not replace, the efforts of local precincts. While the New York Police Department needs to do a better job at ensuring officers are informed of the City's complex vending regulations, we should not underestimate the importance of having regular, community-based enforcement. I have seen great efforts by officers to learn the rules and ALSO educate the vendors. As a matter of fact, my local precinct took the initiative to print the rules and distribute them to the vendors prior to issuing any fines. Despite these efforts, vendors break the rules whenever they know beat officers are not around. I seriously doubt that a small team serving all 5 boroughs would be able to be more effective. We need both. We need a team that knows the rules and gets to know the good and bad actors on the street AND we need well-trained officers to ensure that the rules are being followed on a regular basis.

The proposed ideas in this bill should be the start, not the end of the conversation. As you will/have heard from others today, our streets are a web of urban uses. All of these aspects, ranging from pedestrian flow to newspapers stands should be taken in consideration. Otherwise we will be simply putting a small band aid on a large wound.

Thanks for the opportunity to speak today.



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ANTHONY SPEELMAN, *President* • ROBERT NEWELL, *Secretary-Treasurer* • RHONDA NELSON, *Recorder*

**October, 26, 2016**

**Testimony of Anthony Speelman**

**President, United Food and Commercial Workers, Local 1500  
Street Vendor Modernization Act**

Good afternoon.

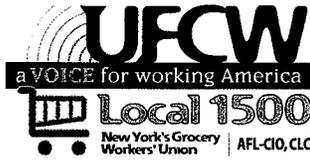
My name is Anthony Speelman, and I am the president of UFCW Local 1500, New York State's largest Grocery Workers Union. I am here today to testify on the Street Vendor Modernization Act, a bill whose main goal is the lifting of the limitation on the number of licenses for street vendors in NYC.

What is missing is any substantial concern for the impact that street vending has on the city's 600 or more neighborhood supermarkets; many of whom employ the hard-working men and women of my Local Union.

With over 20,000 members, Local 1500 is one of the largest locals in the UFCW and the largest in New York State. Our union represents men and women in Queens, Staten Island, The Bronx, Brooklyn, and Manhattan-along with thousands more in Nassau, Suffolk, Westchester, Putnam and Dutchess Counties.

Our members work for companies that have a long history in NYC. These companies such as Fairway, D'Agostinos, Stop & Shop, Gristede's and Shop Rite have been serving New Yorkers for many years. Our members receive better salaries and better benefits because of the hard work Local 1500 has done in negotiating on their behalf.

However, all is not well. Over the past 16 years we have lost many of our jobs, as supermarkets have been forced into bankruptcy. This is not the fault of NYC alone. The city's regulatory environment has made



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ANTHONY SPEELMAN, *President* • ROBERT NEWELL, *Secretary-Treasurer* • RHONDA NELSON, *Recorder*

it difficult for our employers to compete in today's city. In this challenging environment, the city council is adding one more obstacle: adding additional street vendors.

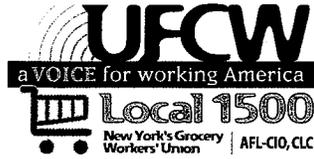
This proposal flies in the face of a regulatory system that allows produce vendors to set up shop directly in front of, or adjacent to, our neighborhood supermarkets. According to our companies they can lose anywhere from \$5,000 to \$7,000 a week to street vendors. This is definitely not a, "No harm, no foul," situation.

When those lost sales go to the street, it means that workers lose hours, get laid off, or just don't get hired in the first place. Produce is sold on the street and really good paying jobs are sacrificed, but why? The reason lies in the council's unwillingness to take a chance and reverse 70 years of bad legal precedent.

When the court ruled-in 1943 that the city couldn't restrict vendors solely on the basis of competition, it did so in the face of Mayor LaGuardia's effort to ban all street peddling in New York-something we do not want to happen, because we applaud the efforts of striving street vendors to pursue their vision of the American Dream.

But we don't think that their pursuit should be fulfilled at the expense of our hard working members. The legislation before you calls for a greater "focus" on supermarkets, but the bill is out of focus when it comes to the preservation of supermarkets and our members.

In order to get into the right kind of focus the council needs to place the needs of this vital industry front and center. To treat our member's survival as merely ancillary to the needs of street vendors is like putting the peddler's cart before the supermarket horse?



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ANTHONY SPEELMAN, *President* • ROBERT NEWELL, *Secretary-Treasurer* • RHONDA NELSON, *Recorder*

The right focus means finding ways-through the city's overriding authority to ensure the health and safety of its citizens and to regulate where vendors can operate in the public interest. I'll leave it to some of

my coalition partners to lay out the specifics here, but suffice it to say, there are ways that the city council can do this legally. But in order to do this, you need the will to recognize that fairness involves finding the right balance, something that the current bill only does in part.

Our members are watching and hoping that the council will amend this proposal to reflect the genuine needs of their employers and themselves. We stand ready to work with you in order to achieve this goal.

Thank you.

October 24, 2016



## THE CINNAMON SNAIL

630 flushing avenue, 4<sup>th</sup> floor, Brooklyn, NY 10121  
ph 732-788-9337  
TheCinnamonSnail@gmail.com

### Testimony of Adam Sobel, The Cinnamon Snail

I started my kosher certified vegan mobile food business in 2010 with \$11,000 that I scraped together from working as a private chef. Because permits weren't available for NYC I had to start in Hoboken NJ.

When we finally found an NYC permit to rent, my food truck The Cinnamon Snail became one of the most sought after food trucks in the country, drawing national and international tourists to our truck daily. We received numerous accolades and awards, and were listed as the #1 place to eat on any kind in NYC on Yelp.com and the #4 in the entire USA. We served different neighborhoods daily, providing an extra yummy vegan kosher dining option in 7 different communities each week, which otherwise had no options for working people observing these dietary choices.

In early 2016 the cost and legal complications associated with renting an NYC mobile food vending permit became so large, that I had no choice but to shut down our food truck operations in NYC. Due to the city's broken permit system, our trucks now have been forced back to serving only out of state, where they still attract customers from all over the country and the planet.

In January of 2016 we launched our first brick and mortar location in midtown Manhattan, and are opening a second location downtown this winter. We currently employ 42 people, who are all on the books and paid a respectable living wage, and are planning to hire another 18 people by early 2017.

Without having been able to launch our business on a serious budget, I never would have been able to start a business in NYC. Street vending is an integral part of New York City's famous food culture, and a way for entrepreneurs to start a small business without getting themselves into insurmountable debt. The City Council should pass this bill and issue more food vending permits.



October 26, 2016

Judson Memorial Church is a community of faith wholly united and unapologetically rooted in seeking the spirit of justice in its myriad and intersectional forms. Justice, as we live it, is a determination to ending the marginalization of our neighbor. It is an unwavering commitment to securing equal opportunity and jobs for all. And it demands that social institutions guarantee every person the continuing right to participate in economic decision-making that affects them.

It is because of our continuing tradition of justice-seeking that the Judson community supports this legislation, the Street Vending Modernization Act, which is a critical step toward economic justice for street vendors, for New Yorkers, and for all. This act is an inclusive move toward providing even more hard-working business owners, job creators, and entrepreneurs with opportunities to expand their livelihood and to continue contributing to the growth and vitality of the communities they serve. This act is an interpersonal move toward empowering mothers, fathers, grandparents, towards empowering families, with stability, security, and the resources to provide for their loved ones. And this act is a developmental move towards growing the vitality of our streets, enriching neighborhood life and strengthening community development.

The Street Vending Modernization Act is critical to securing the city's wealth of public life and lifting up our most valuable resource, New Yorkers themselves. No matter what faith tradition one holds dear, our collective humanitarian commitment to The Golden Rule calls us to treat others the way we would prefer to be treated and to think outside the silos and systems that keep us and our neighbor from pursuing and embodying justice. This current chance to advance an economics of opportunity gives us – and the city as a whole – a clearly-defined and clearly-inclusive moral and ethical vision. The logical end to the core truth of this act is that those of us most marginalized by the injustices in our society will be those who transform the shape of our collective future – the immigrant, the poor, the families struggling to survive: The street vendor.

We look forward to helping to advance the Street Vending Modernization Act and to ensuring an economics of justice for more and more New Yorkers.

***May the waters of economic opportunity be undammed and flow freely over this city. May access to hope, security and the riches of creation move through increased hands until all people experience the abundance that justice has to offer, that New York City has to offer, that this country, at its best, has to offer.***

In faith,

**Rev. Dr. Donna Schaper**

**Rev. Micah Bucey**

**Eric Poellot, Community Minister**

55 Washington Square South, New York, New York 10012

212-477-0351 fax: 212-995-0844

[www.judson.org](http://www.judson.org)

Donna Schaper, *Senior Minister*

Micah Bucey, *Associate Minister*



## Morton Williams Supermarkets

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# Testimony of Morton Sloan

## Morton Williams Supermarkets

### Street Vendor Modernization Act

### October, 26, 2016

Good afternoon Chairman Espinal and council members.

My name is Morton Sloan and I am one of the owners of Morton Williams Supermarkets, a family owned and operated business whose headquarters are in the Bronx. We currently operate 14 NYC markets and employ over one thousand New Yorkers-most of whom we hire from our Kingsbridge office. Most of these workers are union members with good living wage jobs along with pensions and benefits.

We are here today to testify on the Street Vendor Modernization Act, a bill whose main goal appears to me to be the lifting of the limitation on the number of licenses currently available for vending in the city. What is missing is any substantial concern for the impact that street vending has the viability of stores like mine that not only pay millions of dollars in real estate taxes, but that also provide an important public health service to the city-especially in neighborhoods that have been designated as underserved because of their poor health outcomes.

The most compelling question that this legislation asks is: Does the city want street vendors to replace existing tax paying stores? The current bill, with potentially no limit on the number of vendors in the next few years, will flood the streets and make it difficult for many stores-but especially supermarkets-to survive.



## Morton Williams Supermarkets

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The average real estate tax that I pay in each and every store that my family owns and operates is \$850,000. When we add exorbitant rents, wages for our union workers, pensions and health benefits, what we see are significant investment in our customers and the workers who have good careers in the food industry. Just take away the rent and taxes and we could easily undersell the vendors who are operating in front of our stores with impunity-and embarrassing us by offering goods at artificially low prices.

Compare all of our expenses with the current \$200 permit that a peddler needs to go into business. How is that fair competition?

Make no mistake about it, vendors are also very resourceful, and with the cap raised we could easily see grocery sales, meat and fish sales in refrigerated trucks, and the return of the milk and dairy wagon from the turn of the last century. Is that the council's goal?

This is not the first time that I have testified before the council on this issue. I first came before you 12 years ago when a similar bill was being considered to raise the cap on vendors. I opposed the bill because produce vendors were taking away thousands of dollars from neighborhood supermarkets just like mine.

Since that time, hundreds of supermarkets have disappeared in precisely those neighborhoods where residents need access to a full range of healthy food options-not just produce. About ten years ago, the council made its own contribution to the disappearing act when it passed the Green Carts bill-supposedly designed to bring fruit and vegetables to neighborhoods that didn't have them. What happened?

These green carts-operating in front of subway entrances and bus stops-went directly to the shopping strips where supermarkets like mine were providing the same produce. The carts were supposed to go to "underserved areas." Instead, by making the catchment areas so larger, all of the successful vendors were the ones



## Morton Williams Supermarkets

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who found their way to shopping strips were supermarkets were generating thousands of customer trips-providing our underselling competitors with a readymade customer base.

The point is simple: produce vendors go to the areas where the supermarkets operate because we generate the substantial foot traffic-around five thousand customers a week that makes vending profitable. It is without a doubt a zero sum game.

To add insult to injury, when the vendors leave garbage strewn over the streets in front of our stores, we are the ones ticketed because-as the taxpaying entities-we are held responsible. In addition, the vendors' "inventory trucks," (How silly does that sound?) block our loading zones preventing our deliveries from being made and leading to our suppliers being forced to pay tens of thousands of dollars in parking tickets.

In our two Bronx stores-right in the heart of the underserved neighborhood-we have six fruit and vegetable peddlers operating in close proximity-a clear example of how misguided the Green Carts program has been.

While we can't simply point the finger at these carts as the cause of the disappearing supermarkets, but we can say that they were one of the variables that have led to stores being unable to remain profitable-especially in neighborhoods that badly need them.

What has the council done in the current legislation to address this problem of cannibalization? The answer unfortunately is nothing. This is not to say that there is nothing good in the legislation before you. For instance, we applaud the proposed dedicated enforcement unit having banged our heads futilely for the past two decades trying to get the city to simply enforce the current regulations.

But we can only give at best two cheers for this unit because we don't see any mention of the resources available to it, the number of enforcement agents, or



## Morton Williams Supermarkets

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any discussion of how to penalize persistent vendor violators who treat violations as a cost of doing business. The council needs to address these features in the bill and not leave the details to some future regulatory body.

But what about the elephant in the room? How can it be that NYC has a program called “Fresh” that is designed to promote and preserve supermarkets in underserved areas, while at the same time the city council is advocating putting hundreds of more vendors on the street, many of whom will be operating in front of the very markets we are looking to preserve?

The council’s proposal calls for a greater enforcement in areas where there are supermarkets, but leaves this issue alone-almost like a third rail because of some legal ruling called Good Humor versus NY decided over 70 years ago that said that the city couldn’t regulate vending locations based solely on competition.

Many rulings later, however, we find that municipalities across the state have been granted legal authority to limit vending because of the role they play in insuring public health and safety. That is why I am joining with my colleagues in advocating that the current bill be amended to provide the following restrictions on vendor locations:

- (1) Public Safety and 200 foot cordon: We propose to place a 200 foot restriction around supermarkets. This restriction is based on pedestrian congestion since supermarkets are the pedestrian anchor at all local shopping areas. The 200 foot rule would apply to all retail outlets that generate more than 5,000 customer trips a week;
- (2) Public health restriction of 500 feet: The city has recognized through its Fresh and Green Carts programs that there are communities at risk for adverse health outcomes. It has also recognized that supermarkets are disappearing; threatening the city’s attempts to redress the problem of food deserts and underserved communities. This restriction is defensible on any rational public health basis-and would signal that the city council is



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willing to balance the needs of vendors with the needs of communities at risk.

Morton Williams has been dedicated to this city for 65 years, and we want to continue to grow, employ more New Yorkers, and supply the city with a full range of healthy products-especially the vital fruits and vegetables. Please make our task here easier by balancing the needs of vendors with those of store owners like myself who have contributed so much over the years to the city's economic and public health.

Thank you

*Dwight Stephen Harris  
Luz-Mary Harris  
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October 25th, 2016

Rafael L. Espinal, Jr., Chairperson and Honorable Members: Vincent J. Gentile, Julissa Ferreras-Copeland, Karen Koslowitz and Rory I. Lancman  
Committee on Consumer Affairs  
The New York City Council  
City Hall  
New York, NY 10007

RE: Hearing on Amending Various Local Laws Regarding Mobil Vendors  
Wednesday, October 26, 2016, 10:00 AM, Council Chambers - City Hall

The proposed series of bills concerning street vendors will change New York's landscape and street-scape forever and not for the better.

**The proposed increase of food vendor permits, more than doubling the number of vendor permits over the next seven years is unwarranted, and will place an additional burden on already congested streets, sidewalks, and residential space above the sidewalks of our City:**

The legislation before the committee proposes to increase the number of food vendor permits by 600 annually, more than doubling the number of vendor permits over the next seven years. This increase in vendor permits will not result in better, more accessible services for the citizens of New York. Instead, it will simply be more of what we have already seen -- a clustering of numerous vendors around high traffic areas which are already served, or over served, by existing vendors. In most instances, under served areas are not somewhere the street vendors want to -- or will go. So the net effect will be increased clustered congestion in high traffic, high volume areas.

We urge the Council to consider issuing vendor permits valid for various geographic areas of the city. The number of permits valid for a geographic area should be arrived at by consultation with the local Community Boards. This would reduce the amount of "clustering" encourage vending in under served areas, and reduce the congestion.

**The lack of siting provisions in the proposed legislation, including no input from Community Boards and other stakeholders will create a "wild, wild west" atmosphere of vendor turf wars, a degradation of environmental conditions, and increased congestion:**

The proposed legislation contains no siting criteria or requirements, no input from property owners who are legally responsible for their sidewalks where food carts eventually go and no input from Community Boards and other stakeholders. Moreover, the current food vendor carts create odors, noise and trash which restaurants do not. For example most of the vendor carts now use portable generating units, and propane cookers. The generating units produce noise, and the propane cookers are not required to have any odor control systems of the type used by restaurants. Used food containers are routinely discarded in the streets and subways by patrons. Most, if not all, vendors do not have a garbage can near their cart. They pile their garbage in the street trash receptacles which often overflow and attract rats. In addition, many street vendors also play loud music to attract customers, and/or for the enjoyment of their employees. The music is played with no regard for the residents living above. This noise, and use of amplified music by street vendors could be addressed by community boards using a siting review process.

Building owners are legally responsible for their sidewalks. However we have observed that in some instances where buildings have tried to improve the street-scape with protective ironwork around trees it is soon destroyed, or used as trash receptacles by vendors. Overuse of sidewalks, particularly overnight unattended storage provides a habitat for rats.

In addition, we have seen that some vendors become extremely hostile and aggressive when dealing with others, be they residents or other vendors who attempt to use a space that a vendor believes they have a vested right to use. For example, when we tried to exit a re-routed bus which opened its doors by some vendor tables, the vendors tried to tell us that we could not walk between the tables, because that was their space. And proceeded to aggressively waive their arms forcing us to walk in the street to the corner. Overuse of the sidewalks also blocks the entry and exit from taxis along the street, forcing users to walk in the streets to the cabs.

We urge the Council to create a siting process utilizing Community Boards, and similar to that which is required for every other private use of our sidewalks, i.e. sidewalk cafes, newsstands, etc.). This provides an opportunity to examine the environmental and health impacts and consult with all stakeholders - before making drastic changes that will impact our most precious commodity -- sidewalk space -- which is already so congested.

In the past, we have been forced to close our windows because of the odors and noise from street vendors in our neighborhood.

**The proposed legislation, to more than doubling the number of vendor permits over the next seven years, will also increase the burden on parking:**

It is undisputed that currently street vendors are getting a "pass" on the enforcement of parking regulations. Many street vendors are using vehicles as ancillary supply vehicles. They sometimes simply put a large sign in the window of the van with the words "Street Vendor". The traffic enforcement officers then do not ticket these vehicles for overtime parking, or even if the van or support truck is placed next to a fire hydrant. In our neighborhood the ancillary supply vehicles are parked in front of our building 24 hours a day, 7 days a week, year round.

**The creation of a street vendor advisory board duplicates the already existing structure of Community Boards:**

The proposed legislation would also create a street vendor advisory board, which will include vendors, brick and mortar small businesses, representatives from community groups and city agencies, to examine the rules for duplicative, unclear, or unnecessary provisions. However, the City of New York already has a vibrant and functioning system of Community Boards. The strength of these boards is that they are made up of local stakeholders who understand the needs of each of the local and diverse areas of the City. The legislation should utilize and capitalize on the expertise which these Boards have developed over a number of years in dealing with just the types of issues with which council is concerned.

**The proposed legislation should not reduce the pedestrian right of way and access to public transit which now exists:**

This bill would change minimum distances from a bus stop or taxi stand driveway, subway entrance or crosswalk. To place a mobile cart within 5 feet of a subway entrance could, in some instances create a choke point that is smaller than the subway entrance. The current law provides for ten feet from any driveway, any subway entrance or exit, or any corner. The proposed legislation would reduce this to 5 feet. The effect of this could be to eliminate one, or two columns of foot traffic and make it so that only two people could pass each other at some subway entrances -- creating a real "choke point" during rush hour. Don't forget that it is not just the cart that causes the congestion, but also the line that forms to purchase at the cart. We have been forced to walk in the street in the mornings, because the sidewalk is blocked, not by just the cart, but by the line that forms on the sidewalk.

**Conclusion:**

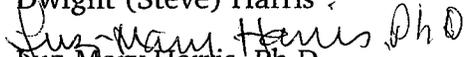
New York does not need more congested streets. New York does need safer, less congested streets and sidewalks that promote the safe and efficient flow of all forms of traffic that occur in the city -- pedestrians, automobiles, trucks, bikes, and emerging technologies such as electric

personal transport. More vendor permits do not contribute to the primary purpose of our streets. More vendors only add a burden and additional obstacles to an already crowded environment. Give Community Boards a role in street vendor siting, and input on the number of vendors operating in their districts. They know their local conditions, and can more readily curb abuses. Even the Parks Department offers an example for vendor management which does not allow intensive concentration and overnight, unattended storage.

Sincerely,



Dwight (Steve) Harris



Luz-Mary Harris, Ph.D

cc:

City Councilmember Helen Rosenthal

[lrahman@council.nyc.gov](mailto:lrahman@council.nyc.gov)

Testimony Before the City Council on Behalf of the East 86<sup>th</sup> Street Association. 10/26/2016

My name is Andrew Fine, I am a resident of East 84<sup>th</sup> Street in Manhattan and a member of the board of the East 86<sup>th</sup> Street Association.

Street Vending is a major quality of life issue in our community.

- There is no effective enforcement of existing regulations. Various requirements, for instance, distance from store entrances (20'), corners (10'), subway entrances (10'), and bus stops (10') are routinely ignored. Size and height restrictions are also routinely flouted.
- Street vendors are a strong contributor to sidewalk congestion in our densely populated residential neighborhoods. The East 86<sup>th</sup> Street subway station, for instance has an annual ridership of 21 Million. Why would one street vendor be entitled to 40% of the sidewalk?
- Street vendors regularly park all day at metered spots, depriving residents of short term parking and local businesses of parking for customers.
- Street vendors have little or no regard for garbage and sanitation issues. Vendors regularly stuff corner garbage cans (which is illegal) causing them to overflow- further burdening the Dept of Sanitation and contributing to unsanitary conditions.
- Food prepared and eaten on the sidewalks increases congestion, pollution, garbage, and attracts rats.
- Street vendors represent unfair competition to brick and mortar retailers in an environment where there are already far too many vacant commercial properties.

We strongly oppose the SVMA. We suggest:

- Renewed efforts to enforce existing regulations. Increased NYPD foot patrols to enforce these regulations and other quality of life offenses.
- No new Street Vendor permits.
- A change in zoning to prohibit street vending within 6 blocks of the East 86<sup>th</sup> Street and Lexington Avenue Subway Station and within 4 blocks of other subway stations on the Upper East Side.

The current permitting structure has created a black market for permits and has stifled the entrepreneurship it sought to foster. Simply doubling the number of permits will only make the problem even larger. We don't need more permits, we need more oversight and reform to make sure the permits end up in the intended hands, not the black market.

We understand that as opponents of the SVMA and opponents of the expansion of street vendor permits, we are up against a surprisingly well funded and robust lobbying effort. We urge the City Council to put the quality of life interests of Millions of New Yorkers ahead of the interests of a few, well connected special interests. Thank You.

Madam Speaker, members of City Council, Ladies and Gentlemen. My name is Max Crespo, and I am the founder of Neapolitan Express and Move Systems. More importantly, I am the child of immigrant parents and a native son of Harlem. I am honored to be called by this committee to speak on the proposed bills regarding mobile vending. I want to start off by applauding City Council and especially Speaker Melissa Mark Viverito and Councilman Levine & Richards for their tireless work on this matter.

Mobile Food Vending is part of the fabric of our great city. It is an integral backbeat in the beautiful symphony of New York. New York City is the greatest machine that has ever existed, and food is the fuel of that machine. Food carts and food trucks are great because they get to go where the people are. New York City mobile food vendors feed over 1 million people a day, every day. Our street food is as New York as the World Trade Center, or as the New York Yankees or as the greatest symbol of both New York and our Great Country, The Statue of Liberty. Especially Lady Liberty. My parents came to this country as many of our food vendors do. Hungry and poor. This great City gives them the opportunity, through hard work, the opportunity to get ahead and build a better life for their children. It is on their shoulders that I stand and it is upon the shoulders of vendors like them that our city is fed and keeps moving forward.

Mobile food vending gave me an opportunity to create two companies, Neapolitan Express and Move Systems, that has employed over 400 New Yorkers, all earning above the living wage bill requirements, and has created pathways to ownerships for franchisees of national brands such as the iconic Nathan's Hot Dogs and now Neapolitan Express.

With this said, nothing is perfect. My grandfather would tell me, "If you want to make God laugh, tell Him your plans.". The proposed bills are a great step forward, but there are some glaring holes that should be address.

**The Environment-** As a great progressive City, we care about Climate Change and our impact on the environment. Mobile Food Vending units emit the equivalent of close to 2 million cars and truck emissions of greenhouse gases annually. There is a way to power food carts and food trucks that would eliminate 98% of these harmful greenhouse and cancer causing gases and at the very least, a preference should be given to those that are complying with DEP, CARB, CAFÉ & EPA regulations.

**Public Safety** - In this matter, our environment is tied directly to our public safety. Mobile Food Carts and Trucks are a collection of hydrocarbons - propane tanks and gasoline or diesel generators. The law is very clear. Propane tanks are not allowed within 20 feet of any spark ignited engine. This is extremely dangerous for the vendor as well as our Great City. We have been extremely lucky that incidents haven't been as deadly as they have been in cities like Philly and D.C , but hoping against the odds on public safety is not a recipe for success. These dangerous propane tank and generator combinations should be immediately banned within this bill to be replaced by Clean Energy Fuels systems that are better for the environment, better for the vendor and most importantly better for the people of New York.

**P.O.S & Monitoring-** Point of Sale systems. We should make sure that all of us do our part to pay our fair share and sales tax is what pays for the most important thing on earth - our children's future and our school system. All units should have a Point of Sale system that accepts credit card and debit cards, akin to the taxi industry. This will bring an estimated \$300 million dollars annually to the City's coffers - enough to pay for Universal Pre-K or Universal After school programs for our children. This POS will also assist with the monitoring and compliance of mobile vending, allowing inspectors to pinpoint where carts are at all times via GPS.

**Disabled Veterans** - Our disabled Veterans have paid the ultimate price, giving us all the rights we hold so dear and the ability to strive for a better life. We should honor their sacrifices and make exceptions for Disabled Vets to employ other Veterans and allow them the ability to live a life of dignity which they have earned.

**Licensing** - Today, it takes an average person over 8 weeks to receive the licenses required to work on a mobile food vending unit. This discourages many workers as there are costs involved and prevents small businesses from growing and hiring. Let's be fair - Treat mobile vending units the same way that restaurants are treated by requiring one supervisor to have Food Handler Permits and Mobile Food Vendor permits, not all of the workers. It is akin to having a dishwasher on his first day to have the same licenses as the business owner just to get a job. It's not fair and should be changed.

Again, I want to thank this great body for the honor of the invitation to speak. I am truly honored and want nothing more than to make this industry better. I live by the words that my father taught me and his father taught him - "If you can leave the world a little better than how you got it, then you led a good life". I am hopeful that we are all are doing just that.

Max Crespo  
Founder  
Neapolitan Express & MOVE Systems

Jeff Orlick  
Iwantmorefood.com  
Queens, NY

My name is Jeff Orlick. I created the Roosevelt Avenue Midnight Street Food Crawl and the Tastes of the World tour in Jackson Heights, Elmhurst, Woodside and Corona, Queens. I also create and organize events linking culture and food in New York City. My work in this industry has been featured on national and international television as well as the Wall Street Journal, New York Times, Daily News as well as many other publications and travel guides around the world. Today, though retired from tours, I continue to lead travel journalists, professors, and reporters around Queens and New York City, generally finding ways linking culture and food.

Doing tours and events in Queens has given me a unique perspective, giving me an opportunity to understand tourists, locals, entrepreneurs, established businesspeople, and politics.

As I saw it, tourists came to me because they want the legendary *Real New York*. They want to be immersed in our culture. Most of my guests are educated about NYC; they've read the census report and they know they won't find Italians in Little Italy. And they know there's no food for New Yorkers in Times Square. They want the real stuff, not chains; they want nothing to do with PR reps or copyright lawyers. They want to see the seeds of New York.

When I bring people to Roosevelt Avenue, their eyes light up with the buzz of the street. They get dizzy from the IRT overhead and they are comforted by the rice and egg tacos from Tia Julia. When they leave the street food on Roosevelt Avenue, they can't wait to come back to 82nd Street on their next trip to New York. These are the pictures they are most excited to show their friends when they get back to LA or London. This is the stuff the NYC tourism board should go monkeys over.

100 years ago, it was the Jews, the Italians, and the Germans selling on the streets of New York City - and today these are the surnames on the buildings and businesses that are iconic to us. When I see the street vendors on Roosevelt Avenue, I see my family - who came from Eastern Europe and created themselves in the Lower East Side. And every time I see the current ones fined and confused, I see my own - trying, then being squashed. This is our future and our past.

I hear the city is trying to encourage small businesses to thrive. Well, these are our micro-entrepreneurs, and you are strangling them. I heard they are thwarting Walmart and supporting their own residents. With this current climate around street vendors, we are being hypocrites. Believe what's printed on the subway ads from Small Business Services, and support the vendors. There are many ways that you can legislatively help, like creating a specialized division for street vending, and, for now, adding to the permits is a great start.

The business of vending on this scale allows them to send their young children to school. It



Dondi McKellar &lt;dondibubblesnyc@gmail.com&gt;

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**Statement of Dondi McKellar, Food Vendor, Street Vendor Project, Leadership Board/Chairman of Veteran Committee.**

1 message

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**Dondi McKellar** <dondibubblesnyc@gmail.com>

Wed, Oct 26, 2016 at 8:25 AM

To: Sean Basinski &lt;sbasinski@urbanjustice.org&gt;, Matthew Shapiro &lt;mshapiro@urbanjustice.org&gt;

Cc: vmao@urbanjustice.org

Bcc: Joseph Bello &lt;bjoe7@hotmail.com&gt;

In Support of Street Vending Modernization Act

Mayer Bill de Blasio, Speaker Mellisa Mark-Viverito and New York City Council Members.

My name is Dondi McKellar, LGBTQ, Disable Navy Veteran who serve 1981-1985 Active Duty. My rate while in service was Disbursing Clerk/Payroll, LES and travel pay. I looked at numbers all day long, the numbers guy. I currently serve on Community Board 2 in South Bronx. I have been a street vendor since 2004.

It is estimated that there are 20,000 street vendor in New York City by the Street Vendor Project. Now the Department of Consumer Affairs has identify that 1,721 veterans are street vendors. Within that number 144 disable veteran have specialize mobile food permit (V Permit) which allow them to work around city parks. The 144 V Permit seek citywide status. So I was very delighted to see the 5% increase to the Veterans Citywide permits in this piece of legislation.

In New York State since 1896, after the Civil War, Veterans have been given the right to vend, hawk and pedal on the streets, through state Business law 4, Article 35. Veterans could vend so they could provide for their families. People from all cultures and backgrounds have actively vend and share apart of who they are here. This city is truly a melting pot. The tourist and native New Yorkers look for and appreciate diversity.

Street Vending Modernization Act support all New Yorkers who desire to vend food and provide for their family..., this is long over due. While preserving the foot prints of the Veteran Vendor Community .

I do wish that the City Council review two section.

First one transferring permits to family member. This should be reserve for those who has been in service to US Military (Veterans).

Second Veterans should be included on the street vendor advisory board.

In Conclusion:

I would personally like to commend the Speaker Melissa Mark Veverito and the New York City Council for their time and effort they put into this much needed legislation.

**Favio Ramirez - Caminatti**

Executive Director

Email: favio@elcentronyc.org

Facebook: El Centro Del Inmigrante

Twitter: @ElCentroNY

Dear New York City Council Members,

El Centro del Inmigrante is the largest NYC's Worker Center and community-based organization. It was founded in 1997 in Staten Island; since then, we are the older NY member of the National Day Laborer Organizing Network (NDLON), and proudly co-founders of the New York Worker Center Federation (NYWCF). Our mission is to promote the economic advancement and well-being of immigrant workers and their families.

El Centro works mainly with the community of day laborers and domestic workers on Staten Island, but also on the other four boroughs. Like street vendors, day laborers are frequently the targets of anti-immigrant bias. Like vendors, they are often the subjects of complaints from local businesses owners who would rather not see them on the corner. Like vendors, they receive harassment from police and from community residents.

Even with all the struggles they face, both street vendors and day laborers perform vital services that our city could not function without. Many people who call to complain about day laborers will just as quickly hire them to renovate their home or mow their lawn. And the same is true for vendors. Many of the titans of Wall Street buy a cup of coffee from an immigrant vendor each morning.

And it is not just the bankers on Wall Street. Many of our members work such long hours that they don't have the time to cook their own meals. They cannot afford to eat from restaurants, and they may not have the time to sit down. They rely on street vendors for their daily sustenance. In this way, one community of immigrant workers is supporting the other. Isn't that what good neighbors do?

In recent years the City Council has made efforts to improve the lives of low-wage immigrant workers in our city, including domestic workers, day laborers, restaurant workers, and carwashers. We ask that you do the same for our brothers and sisters who sell tacos, tamales, and other foods on the street. We stand in solidarity with them in their efforts to increase the cap on vending permits, so that more of them can work without the fear of ticketing, arrest and deportation.

Intro 1303 would be a positive step forward for all immigrant workers in New York. That is why we urge you to pass this proposal into law.

In solidarity,

Favio Ramirez-Caminatti



**EL CENTRO**  
DEL INMIGRANTE

350 Port Richmond Ave, Staten Island, NY 10302

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[www.elcentronyc.org](http://www.elcentronyc.org)

# ONE 181<sup>st</sup> Street

**TESTIMONY OF ELIEZER BUENO, RESTAURANT OWNER AND  
REPRESENTATIVE OF FIVE ADDITIONAL BUSINESSES ON 181<sup>ST</sup> STREET IN  
WASHINGTON HEIGHTS  
New York City Council Committee on Consumer Affairs  
Hon. Rafael Espinal, Chair**

## **Int. 1303-2016**

*Int. 1303-2016, A Local Law to amend the New York City charter and the administrative code of the city of New York, in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board.*

**October 26<sup>th</sup>, 2016**

Good Morning. I want to thank the members of the City Council for this opportunity to speak. My name is Eliezer Bueno and I own a restaurant, Empanadas Monumental, located on 181<sup>st</sup> Street, at the epicenter of the street vendor activity in Washington Heights. I am here representing my business and the business owners and employees of Exclusive (Clothing Store), Manhattan Hardware, La Casa de Las Maletas (Suitcase Store), Emergildo Bakery, and Fajas La Grenua (Apparel Store). We are all immigrants and we are responsible for the livelihood of a total of 55 employees (across our respective stores).

We are here today because we are frustrated. We are frustrated by the fact that this bill was drafted and introduced without taking into consideration the real life negative impact that this bill will have on brick and mortar small business owners – immigrant small business owners who provide employment to thousands of immigrant New Yorkers, which in turn provides robust revenue streams to the City of New York through our employees' income taxes, our businesses' taxes, and fees paid to multiple city agencies.

While we are encouraged by the fact that a vendor bill has been introduced we are concerned that in its present iteration it will have unintended consequences on our brick and mortar small businesses. These are our concerns:

- Street Vendors do not incur the same expenses and fees paid to the city that brick and mortar businesses incur. Brick and mortar businesses must pay rent, insurance, taxes, pass health inspections, and pay for garbage pick-up, just to name a few. When we have to compete with businesses who do not have the same level of expenses and burdens, that then endangers the very existence of our businesses. We believe that street vendors should pay taxes, provide insurance, pay for the garbage pick-up for the garbage they produce, and pass regular health inspections.
- There is no clear enforcement infrastructure to prevent unauthorized street vending. Street vendors run their businesses, knowing that any fines for violations, that they may have to pay, is calculated into “the cost of doing business”. This is hardly an incentive to follow the rules. This bill does not indicate how street vendors who violate the rules will truly be disincentivized, either through fines or removal from the area.
- There are no clear guidelines on where street vendors can operate. Street vendors should be placed in areas where there is a need for their products, not in front of or near brick and mortar small businesses that sell the same or similar products. Without clear guidelines for their placement, small businesses will suffer and the general quality of life of our streets will continue to deteriorate.
- Conduct an assessment of the impact that street vendors have on small businesses and overall quality of life in the city now, and not in 2025 as proposed by the present bill. If we don’t understand what the impact is now, of the present state of things, how can we create a bill that addresses the needs of the vendors while protecting small businesses?

We believe that a bill that evens the playing field would lead to a more

robust economy that would benefit all New Yorkers.

In short, our brick and mortar small businesses anchor our communities, we provide stability to our neighborhoods - through our permanent presence, and by the products we sell and by the jobs we create.

We strongly urge the City Council to go back to the drawing board, invite immigrant small business owners into the negotiations so that we can craft a bill that will promote upward mobility and economic access to ALL New Yorkers, not just street vendors.

October 26<sup>th</sup>, 2016

To the Members of the New York City Council,

Thank you for the opportunity to speak concerning today's proposed legislation. My name is Ryan Thomas Devlin, and I am a professor of Public Administration at John Jay College here in New York City. I have spent the last 10 years researching and writing about street vending, informality, and conflicts over public space here in New York City. My testimony here today is based on evidence from this research. I support Intro 1303 because I feel it represents a common-sense, even-handed improvement on the overly restrictive and ultimately ineffective set of laws currently in place.

Vending law as it exists now serves to encourage informal activity and black markets. This happens whenever laws regulating commercial activity are written in ways that do not reflect socio-economic reality on the ground. The cap on permits, put in place in 1983, has remained basically unchanged since, despite the long waiting list for permits, the proliferation of unpermitted food vendors, and the development of a black market in food vending permits. This is a simple matter of economics—supply and demand. There is pent-up demand for the goods and services food vendors provide and food vendors are trying to meet this demand but are prevented from doing so legally and efficiently because of out-of-step regulations. Raising the number of available permits to better reflect economic and social realities on the ground and would go a long way to solving issues of informal practice and black markets.

Now, this is not to say the government has no role in regulating markets. Obviously, when markets function in ways that produce unacceptable side effects, government has a role to step in and impose some limits and parameters for the good of society as a whole. One of the problems with the current set of street vending regulations, however, is that most of them were not put in place to benefit the public good broadly defined. Rather they were enacted during the 1980s largely to protect the narrow interests of business and property interests.

For instance, the cap on food vending permits was put in place by Local Law 17 of 1983. In the few years prior to 1983, there were roughly 9,000 licensed food vendors, however the new law capped permits at 3,000. This, by the way, was the first hard, permanent cap on food vending in the city's history. This artificially low number was arrived at largely to satisfy demands of business and property interests at the time. Remember that in the early 1980s, the city was still emerging from the fiscal crisis of the 1970s. City government was generally very accommodating to the demands of the property sector. Enacting harsh vending laws to severely limit the number of street vendors was part of this accommodation.

We have come a long way since the 1980s. New York is no longer in crisis. Street vending is now seen as a vital, welcome addition to city life. Many cities across the country try to encourage street vending and have reformed laws to make street vending easier. New York should follow suit, and resist catering to the narrow interests of the anti-vending set at the expense of everyday New Yorkers. The truth of the matter is that business and property interests—now organized through BIDs, tend to be anti-vendor not out of some sort of civic-mindedness, but because they perceive vendors as competition and a threat to their own bottom line. City government should not be in the business of playing favorites. A progressive-minded council that cares about the needs of regular working-class New Yorkers should not prioritize the interests of the wealthy and well-connected over those of everyday citizens. Vendors want to pursue the American dream through hard work and entrepreneurialism. New Yorkers want inexpensive, convenient and innovative food. Let supply meet demand and raise the cap.

Thank you,

A handwritten signature in black ink, appearing to read 'Ryan Devlin', with a long horizontal line extending to the right.

Ryan Thomas Devlin, Ph.D.  
Assistant Professor  
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## Testimony in Opposition to Intro 1303-2016

**presented by: John Bonizio, Chairman  
Westchester Square B.I.D.  
25 Westchester Sq., Bronx NY 10461**

My grandfather was a first generation Italian immigrant who supported his family from the back of a horse drawn vegetable cart in the early part of the 20th Century. He and my grandmother raised 11 children in their home in the Bronx, and their progeny grew and advanced to become the hard working professionals, tradesmen and entrepreneurs that are part of the strong fabric of this City.

As their proud grandson, it is with regret that I stand before you today in opposition to Intro 1303. The emotional side of me wants to support this Bill, but the practical side of me (a trait I am told was handed down from my Grandfather) knows that this bill is a flawed and ill-considered mistake being shoved down the throats of this Council and this City by a lame-duck Speaker whose motives are clearly emotional and anything but practical.

This Bill, much like the Affordable Care Act, has been introduced to provide an answer to a problem that many recognize but none have been able to adequately address. And like Obamacare, it has been introduced and is being forced to a vote without the proper research and study that are necessary to insure that the impact of the Bill will not create unintended consequences that will be detrimental to the City's pedestrian and small business communities.

Throughout the past decade, our City has adorned itself with 1 million trees, street furniture, bike share racks, bus shelters, kiosks and any number of amenities that have taken space from the pedestrians that traverse our sidewalks. This Bill will further reduce our already overcrowded public spaces and be exacerbated by an inability to harmonize the needs of pedestrian traffic flow with the unorganized site grabs that are sure to be the hallmark of vendor competition.

The politics of this legislation is obvious to nearly all in this great Chamber: this is the "Speaker's Bill", and it carries with it a hands-off warning that demands its approval from the rank and file. But this Bill is flawed, poorly contemplated and ill-prepared to meet the needs of this growing City. It is therefore incumbent upon the members of this great body to stand up and adhere to the oath they took to protect this City and its people by voting NO until such time as a thorough, data-driven, multi stakeholder evaluation can be employed to determine its true impact upon our City.

A graphic featuring a black and white photograph of a city street with buildings and a person in the background. Overlaid on the image is the text "New York Street Vending Reform" in large, bold, black letters. The word "New" is stacked above "York", and "Street Vending" is stacked above "Reform".

# New York Street Vending Reform

To: Media and Concerned Elected Officials  
From: New Yorkers for Street Vending Reform  
Date: October 18, 2016  
Re: New York City Street Vending Modernization Act

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## INTRODUCTION

On October 13, 2016, the New York City Council introduced the Street Vending Modernization Act. The proposed legislation amends the New York City Charter and three titles of the New York City Administrative Code: Health, Transportation, and Consumer Affairs. The key aspects of the bill, along with proposed areas of improvement, are as follows:

### SPEAKER MARK-VIVERITO'S STREET VENDING MODERNIZATION ACT

#### *Increase in Number of Permits—Potentially No Cap Due to Exceptions*

- General Rule: 3,000 permit cap on full-term permits. Admin. Code § 17-307(b)(2)(a)(i).
  - o 200 of these permits shall be designated for use exclusively in specified boroughs.
- Exceptions:
  - Beginning March 1, 2018, *new full-term permits not to exceed 600* “in any year” will be issued in the following order of priority:
    - (1) The applicant was placed on a waiting list for a full-term or temporary permit prior to October 2011, remained on the waiting list, and was licensed as a food vendor since March 1, 2014.
    - (2) The applicant has been licensed as a food vendor since March 1, 2014.
    - (3) The applicant was placed on a waiting list for a full-term or temporary permit prior to October 2011 and remained on the waiting list. § 17-307(b)(2)(b).
  - On March 1, 2018, an *additional 35 permits* will be issued, “*with an additional 35 authorized each year on March 1 through 2024,*” so long as the total number of permits issued under this subparagraph shall not exceed 345. 17-307(b)(3)(a).
    - In issuing these licenses, preference will be given to veterans with a valid general vendor license, disabled veterans, disabled persons, and veterans.
    - Nothing in this subdivision can prohibit the issuance of any license or permit to a veteran or disabled veterans as those terms are defined in Section 17-306.

- Reserved Authority for **Even More Permits**
  - In addition to the new above-mentioned permits, proposed Section 17-307(b)(2)(b)(vi) grants the *Commissioner the power to create additional permits* pursuant to proposed section 17-325.3, which allows the issuance of additional “full-term food vendor permits and temporary food vendor permits, notwithstanding the [3,000 and 600 permit limits] contained in 17-307.” §17-325.3. (See *Study of Vending* below)
  - The proposed Street Vendor Advisory Board, which is outlined below, shall issue to the council each year from 2019 and 2024 a “recommendation on *whether* the department of health and mental hygiene’s authority to issue *any or all the [600 or 35 permits] should be restricted, expanded, or otherwise altered* based on an analysis of the results of the increased number of mobile food vendor permits issued....” § 20-465.2(b).

***Enforcement—Nebulous Standards***

- A street vendor enforcement unit, which shall include enforcement agents who are specially trained in state, local laws, and rules related to vending on the streets and sidewalks, will be created in New York City. NYC Charter Ch. 1, § 13-C.
  - Areas of special enforcement focus will include:
    - Locations designated by the pilot program (see *Pilot Program* below)
    - Areas adjacent to retailers that dedicate *substantial floor area* to the sale of fresh fruits and vegetables, and
    - Any other area identified by the department of transportation as *excessively congested* and featuring a high level of vendor activity.
  - *Neither “substantial floor area” nor “excessively congested” are defined by the law.*
- All violation proceedings will be handled by a “tribunal established within the Office of Administrative Trials and Hearings or within any agency of the City of New York.” § 17-321(e).
  - All penalties and judgments imposed by the aforementioned tribunal shall be “considered to have been issued against the permittee associated with such permit” for the purpose of non-issuance, revoking, or not renewing a food vendor permit. *Id.*

***Study of Vending and Authorization to Issue Additional Vending Permits—No Cap on Future Permits***

- While a study will be completed before March 1, 2025, including an analysis of the increase in the numbers of permits, the proposed legislation lifts the cap on the number of permits that may be issued—without the possibility of decreasing the number of issued permits—based on a balancing of the following factors:
  - Job opportunities for vendors,
  - Diversity of food options,
  - Sidewalk congestion,
  - Health of the restaurant industry,
  - Health of the retail food industry, and
  - Efficacy of the office of street vendor enforcement. § 17-325.3.

***Possible Removal of the 20 Foot Outside of Entrance Restriction—Overly Burdensome for Whom?***

- Under the proposed legislation, the street vendor advisory board will be instructed to reevaluate whether laws, such as the minimum distance of 20 feet from any building entrance or exit, *“should be clarified, are overly burdensome, or are duplicative.”*

### ***Pilot Program—Lax Standards and Unclear in Development and Execution***

- The Department of Transportation will operate a pilot program beginning no later than March 1, 2017, in at least 4 areas in the city, which contain a high level of vendor activity and excessively congested sidewalks.
  - o But the Department of Transportation may “***waive or modify restrictions on the placement of food and general vendors***” contained in the Administrative Code.
    - How will the pilot program be accurate if the Department may waive or modify the applicable restrictions regulating vendors?

### ***Training, Examination, and Website***

- No licenses shall be renewed or issued without a certificate of successful completion of training developed by the department on the vending restrictions in the code and passage of an examination administered by the department. § 17-315.
- The department or another agency designated by the mayor shall create a website and mobile phone app that will allow the user to view a map of areas of the sidewalk where food vending is prohibited. *Id.*

## **QUESTIONS & AREAS OF IMPROVEMENT**

### ***(1) Define Nebulous Standards like “Excessively Congested” and Restrict Vendors Accordingly***

- The proposed legislation gives authority to “focus” enforcement on “excessively congested” areas without defining what those terms mean.
- **Proposal**: The legislation should ***prohibit*** vending in areas deemed “excessively congested.”
  - o Increasing enforcement in areas deemed “excessively congested” does nothing to address the congestion without additional regulations preventing vendors from vending in excessively congested areas.
  - o What does it mean that enforcement will “focus” on retailers with “substantial floor area” dedicated “to the sale of fresh fruits and vegetables” or “excessively congested” areas?

### ***(2) No Definite Protection for Restaurant or Retail Stores***

- “Health of the restaurant industry” and “health of the food retail industry” are merely factors that will be considered in permitting the issuance of ***additional*** vending permits in the future—beyond those explicitly granted in the proposed legislation.
- **Proposal**: Grant authority to ***decrease*** the number of permits based on the results of the study.

### ***(3) Create Zones Where Vending is Prohibited Based on Excessive Congestion***

- The proposed law questions whether the proposed minimum distance of 20 feet from any building entrance or exit should be reconsidered, and the law voices concern for excessive congestion.
- **Proposal**: Define “excessively congested” as *5,000 customer transactions per week*, prohibit vending *200 feet in front of any store* deemed to be “excessively congested,” and enforce the new restrictions to minimize street congestion and enhance public safety.
  - o Raising the cap should be accompanied by a *land use review* so that the city can determine whether the locations are in the best interest of the health and safety of New Yorkers.
  - o What metrics will the legislation detail that relate to the *feasibility of certain locations*?

- Shouldn't the city *designate locations on some rational public interest basis*? Why shouldn't locations be determined like they are in the park?

***(4) Increase Penalties for Violators—Greater Opportunity Comes With Greater Responsibility***

- The SVMA authorizes the issuance of additional vending permits without increasing currently lax penalties on violators. Proportional increases on violators must be included.
- **Proposal**: License suspension should be required upon a permittee being found in violation of applicable vending laws for a second time. Revocation should be required for third-time violators.
  - Ensure the enforcement unit is well staffed and given the resources to properly investigate illegal activity like black market extortion and people who abuse multiple permits. One person, one cart should be the rule—no one should be allowed to be an absentee landlord exploiting vendors.

***(5) Future Raising the Cap—Should Not be an Administrative Decision***

- After the study of vending takes place, the SVMA lifts the cap on the number of permits that may be issued based on a balancing of factors mentioned above at the discretion of the department.
- **Proposal**: Remove the administrative discretion of the department to issue additional permits beyond the legislated cap.
  - It does not make good public policy sense for the SVMA to authorize the issuance of additional permits based on the results of a study with unclear and undefined parameters.

***(6) Re-submission Review Process Should Be Required***

- **Proposal**: All current permit holders should be required to re-submit their applications and be subject to a regulatory review. The public should know who the vendors are and how to contact them. Permit renewals should be subject to a review process.

***(7) Private Right of Action and General Enforcement***

- The SVMA lacks a clear and meaningful enforcement system.
- **Proposal**: To ensure vendor compliance, the SVMA should create a 311-style hotline for retailers and community residents to report evidence of illegal vending and violations of the current laws. Furthermore, a private right of action should be available, under the jurisdiction of the newly-created tribunal—for any store owner to seek an injunction against any vendor violating vendor laws within 200 feet of his or her store entrance.
  - Mandate the publication of clear rules that apply across the board for food and general merchandise vending to ensure clarity and fairness.
  - Create a regulatory mechanism to track the source of street vendor produce—and a process of inspection for their suppliers. All produce suppliers must register and their facilities must be inspected regularly for cleanliness.
  - Add the inventory parking rule—persistent violators must be towed and their inventory confiscated

***(8) Worker Protection***

- The SVMA does nothing to protect the immigrant, entrepreneurial community it was created to protect.
- **Proposal**: Clear and consistent regulations must be put in place for any vendor who works for a permit holder to ensure that minimum wage, working conditions, and other workplace protections are in place.

# Viverito's Vending Scandal

by Robert Lederman



NYC Council Speaker Mellisa Mark Viverito with MOVE Systems CEO James Meeks (L)

Extensive evidence [linked at the end of this article] indicates that City Council Speaker Mellisa Mark-Viverito is working with a corporation, MOVE Systems, to privatize all vending in NYC. MOVE Systems is backed by Wall Street billionaires, a natural gas company, one of the nations largest financial service providers and NYC real estate investors.

As a key part of this backroom deal, she has thrown her full influence behind Intro #1303-2016, a misguided law creating thousands of new food vending permits, seemingly in order to serve the interests of just one corporation.

There will be a City Council hearing on Intro #1303-2016 on Wed. 10/26 at 10AM in City Hall. If the hidden agenda behind Intro #1303-2016 is implemented, it could end the livelihoods of the City's 20,000 independent legal vendors and replace them with a citywide vending monopoly.

MOVE Systems is no mom and pop food vending operation.

It's board of directors includes:

\*Richard Schaeffer, the billionaire former Chairman of NYMEX Holdings, Inc. and the New York Mercantile Exchange;

\*Winston C. Fisher, the billionaire Co-Chair of the NYC Regional Economic Development Council who serves as a Trustee on the Citizens Budget Commission. He is a member of the Real Estate and Construction Council of Lincoln Center, serves on the Board of the Realty Foundation of New York, and is on the Board of Trustees at Syracuse University;

\*Tom Higgins, Chief Administrative Officer of First Data, a mobile financial services corporation. Higgins retired in 2010 after a 24-year career with the U.S. Government. He worked in the national security and foreign policy areas and was a member of the Senior Executive Service. Prior to joining First Data, Higgins was the head of Operational Control at JPMorgan Chase & Co.

Why are Wall Street bankers, an international financial services corporation, a natural gas energy provider, a former national security officer and the ambitious Speaker of the NY City Council involved in an effort by a food vending corporation to monopolize all NYC vending?



Speaker Viverito posing in MOVE food cart outside City Hall

#### \*Follow The Money

An average food cart in NYC will consistently earn \$1,500 to \$3,000 a day if it establishes regular customers or is located in an area with tourists. Assuming an average take of \$1,500 from one cart and multiplying that by just the 500 MOVE carts the City Council initially plans to install on the streets via Intro #1303-2016, that would come to \$750,000 a day.

Multiply that steady stream of dependable food cart sales by 365 days and it comes to \$273,750,000 per year. That's a pie with enough slices to feed the hungriest politicians.

According to a press release distributed by Council Speaker Viverito about the MOVE food cart initiative (see evidence below), "NYC has nearly 8,000 food carts."

From the text of Intro #1303-2016: "Intro #1303-2016 would gradually expand the number of permits to vend food on the streets and sidewalks of New York City, roughly doubling the total number over the course of seven years."

The Speaker apparently envisions an armada of 16,000 food carts under this law. Other than a financial incentive, what could possibly induce Speaker Viverito to reverse 100 years of determined efforts by the City Council to reduce the number of vendors in NYC, and instead to literally double them?

Under current NYC rules, all food carts are required to meet stringent standards of construction and operation, including sanitation and NYC Health Department specifications about the commissaries where they are stored overnight, sanitized and supplied with food. Speaker Viverito's City Council writes all the vending laws and could change them at any time so as to benefit MOVE.

Once the MOVE carts become the new standard, the thousands of food carts that Speaker Viverito envisions would have to comply with the same high tech design features.

MOVE systems would provide the carts, the natural gas, the mobile financial services, the electrical pedestals that MOVE and Con Ed will have to install citywide to serve the carts, and the commissaries that are required by NYC law to service, supply and clean all food carts. Imagine the revenue from supplying the hotdogs, bottles of water, buns, cleaning supplies and fuel to 16,000 standardized food carts.

A corporation with that kind of money flow could easily fund Speaker Viverito's campaign to be the next Mayor.

**\*Why Doesn't MOVE Systems Open Up 500 New Food Carts Themselves? Why Issue Thousands Of New Food Permits To Illegal Vendors When NYC is Allegedly Overwhelmed With The Present Number Of Legal Vendors?**

This is the keypoint exposing the entire scam behind Intro #1303-2016. It explains why the new law and the MOVE agenda are directly connected:

Under NYC law you can only own one food vending permit.

Without thousands of new food permit holding vendors to work with, MOVE systems could operate only one food cart. If the City Council were not persecuting immigrant food vendors on a daily basis, there would be no demand for the MOVE carts and no backroom deal for the Councilmembers sponsoring this bill.

The immigrant vendors who obtain the new permits will in effect be serfs, working in carts owned by MOVE. The corporation can afford to give them use of the carts for free because they will be selling them all their supplies, gas, electricity and food as well as getting millions each month in revenue from the ads on the carts and millions more in fees it will earn from all the credit card transactions on all of the carts.

**\*The Natural Gas Connection Behind This Deceptive Vending Initiative**

Among the biggest political controversies in NY is the issue of fracking natural gas. One of the world's largest reservoirs of shale gas is the Marcellus region of Upstate NY, which is also the source of all NYC drinking water.

Activists have successfully pressured Governor Cuomo to ban shale gas fracking due to the many health, safety and environmental issues. In States where fracking is widespread, like Oklahoma and Pennsylvania, shale fracking has caused thousands of earthquakes, polluted ground water and damaged the health of people and animals. For now, there is a total ban on gas fracking in NY State.

If fracking were to permanently pollute NYC's pristine water source (considered the best drinking water in the entire U.S.) it would create an immediate financial, social and public health catastrophe. Estimates are that the City would have to spend billions to construct a new water filtration plant where none is now needed.

It would be hard to find a single resident constituent of Speaker Viverito's that wants gas fracking to be legal in Upstate NY, yet she is boosting the gas industry and exploiting immigrant vendors to do so.

What a publicity coup for the desperate NY State gas fracking industry to be able, with Speaker Viverito's help, to show off thousands of new food carts "cleanly" powered by natural gas.

From Council Speaker Viverito's press release:

<http://council.nyc.gov/html/pr/051115vc.shtml>

"Being the fuel provider to MOVE's cleaner, safer vehicles is an honor for Clean Energy," said Peter Grace, Senior Vice President of Sales at Clean Energy Fuels. "Everyone is a winner with the launch of these eco-friendly vehicles, especially New Yorkers who love their food carts." Clean Energy Fuels is the leading provider of natural gas fuel for transportation in North America. First Data and Clean Energy Fuels are both investors in MOVE Systems."

\*A Useful Idiot

Aiding the deceptive efforts of Council Speaker Viverito and MOVE to privatize all vending in NYC is Sean Basinski, founder of The Street Vendor Project (SVP). Some experienced street vendors with firsthand exposure to his group know it by a different name (the Surveillance of Vendors Project).

SVP claims to be NYC's main vendor advocacy organization, yet it's funded in part by the NY City Council (every street vendor's worst enemy); Wall Street firms; banks; The U.S. Dept of Justice; and real estate developers all of whom are BID (Business Improvement District) members. The BIDs wrote virtually all the anti vending ordinances ever passed by the NY City Council.

Basinski's 17 years of "vendor advocacy" has resulted in zero gains and huge losses for vendors. Thousands of immigrants that the NYPD were previously allowing to vend without a license under the First Amendment lost their right to sell handcrafts, pottery and handmade jewelry due to a misguided lawsuit SVP sponsored, lost, and then never appealed (*Mastrovincenzo v City of NY*). Basinski has advocated for licensing First Amendment protected artists, despite NYC law and Federal Court rulings explicitly stating that they are exempt from any license or permit.

At the same time, he has publicly defended the illegal sale of food from unlicensed, unhygienic carts and the sale of copyright infringed, bootleg and trademark infringed goods on NYC streets by the members of the SVP.

Basinski has variously claimed to represent anywhere from 100 to all 20,000 vendors who work in NYC yet his group consists of a very small number of food and merchandise vendors, most of whom are vending illegally. These are the vendors Councilmembers posture in front of on the steps of City Hall while proclaiming their love for all NYC vendors and their sincere efforts to reform vending for our benefit.

Most of the City's 20,000 vendors, both legal and illegal, consider Basinski one of the biggest threats to vending rather than an advocate for it. For the past three Council Speakers, he has been the perfect beard to hide their anti vendor agenda.

\*Privatizing The Vending

For more than two decades City Councilmembers have been suggesting that privatization of all forms of vending on NYC streets is the only solution to what they describe as a vending nightmare. Privatization has already taken place in the NYC Parks for all vendors, other than those protected by the First Amendment.

Before becoming Speaker of the City Council, CM Viverito was the chair of the City Council's Parks Committee, where she gained intimate knowledge of the Parks hundreds of vending concessions.

Virtually every vendor you see behind a food cart in NYC Parks is an immigrant employee of a food vending corporation. According to the NY Times, many are paid less than minimum wage. Most of the

thousands of food carts currently working in NYC Parks are owned by just three vending corporations, with the Parks Department deliberately creating a monopoly in order to make managing them easier.

Contrary to her press release, Speaker Viverito's plan is not about creating thousands of newly licensed independent food vendors. It is about making all the City's vendors subservient to a corporation she's closely connected to, with Intro # 1303-2016 as the vehicle for accomplishing it.

**\*The MOVE Food Carts Are A Trojan Horse Guaranteeing That All Sidewalk Vending Spots Will Be Privatized**

If you examine the MOVE website you will see that the carts are only one part of their plan. Each cart will be tethered to a sidewalk charging station that will be connected to the electric grid by Con Ed. Such an infrastructure plan will cost millions to install and necessitates that the vending spots be permanently reserved for these specific carts so that no other vendors set up in them.

For that to happen the entire system of law governing street vending would have to dramatically change. Since NYC was founded it has been a first come first served system with no one "owning" a vending spot on the public sidewalks.

The Viverito-MOVE agenda would require a citywide concession system where all vending spots, not just those for food vending, are acquired by bidding against every other vendor.

This is the system the City Council must implement in order for the MOVE plan to function, though neither Speaker Viverito or her co-sponsors will publicly admit it. In fact, it's unlikely the co sponsors have fully thought out what the ramifications of this Intro would be on the streets. Like the members of Congress, they vote for bills the Speaker tells them to support but often haven't even read.

With the MOVE carts being the Trojan Horse that opens the doors to permanently destroying independent vending, one corporation with the financial resources to bid for all the vending spots will try to get a citywide franchise, exactly as Citibank did with the Citibikes and as Cemusa got for their thousands of electronic street furniture billboards. All the presently existing independent vendors whether they are artists, food vendors or general merchandise vendors, will be eliminated. A Mayor Viverito could be instrumental in granting such a franchise.

**\*But Isn't Intro #1303-2016 About Helping Poor Immigrant Vendors?**

Helping immigrants become legal vendors is a positive goal which most New Yorkers, and most legal vendors, completely support. But there is no evidence that this bill will help the oppressed vendors it claims to be aiding.

Once privatization and bidding for vending spots begins, the food vendors Council Speaker Viverito and The Street Vendor Projects' Basinski are pretending to be advocates for have no chance of outbidding a vending corporation like MOVE for a vending spot. MOVE is backed by the Council Speaker and billionaires with virtually unlimited financial and political resources.

**\*What Is The Payoff For Viverito and the Other Councilmembers For Supporting A Bill That The BIDs and The Entire Business Community Opposes?**

NYC's powerful Business Improvement Districts want dramatically fewer vendors in their territories, not many thousands more. In fact, virtually every BID was founded specifically to eliminate their local vendors, and food vendors happen to be their #1 target. Why are councilmembers supporting a bill so completely at odds with political reality? Who exactly is the constituency that the Speaker of the City Council and her minions are trying to satisfy?

It is surely not the phoney Street Vendor Project. It can't be the thousands of immigrant vendors who illegally vend food today, since this bill will eventually put most of them out of business.

Nor is it the thousands of street artists, disabled vets or licensed general merchandise vendors who are now legally working, and who will be displaced by the privatization of vending.

Could it be the Wall Street and real estate billionaires behind this huge vending scam who will benefit? The environmentally criminal fracking industry? Elected officials hungry for big campaign contributions?

All three groups?

Decide for yourself after you examine the evidence.

\*What Do Vendors Actually Want From The City Council?

If NYC's elected officials are truly interested in helping us, here's a suggestion that 100% of the City's vendors would support:

We need fewer and more rational restrictions, not more and more arbitrary restrictions crafted by the BIDs and by Councilmembers who know nothing about vending. We need rational, rather than arbitrary, enforcement of the existing laws.

The NYPD needs to be trained so that they understand both the vending laws and vendors' rights. Police should be directed to only respond to situations where enforcement is genuinely needed, rather than acting as rent a cop enforcers who spend their time harassing and intimidating vendors on behalf of the BIDs.

We do not need the re-creation of the hated Street Vendor Review Panel, which Intro # 1303 also proposes, or a new pseudo police force specifically to target and harass vendors, as this bill also proposes. These two add ons to Intro #1303 expose the utter hypocrisy of those proposing this bill.

Why give thousands of immigrants a new license, then create bigger and better ways to restrict where they can sell while you harass, summons and arrest them?

And if you want input from the City's vendors, try inviting genuine vendor advocates to your hearings and meetings rather than exclusively dealing with a fake vendor advocacy group that you fund and helped create.

LINKS:

\*Official City Council page on Intro # 1303-2016

<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2858236&GUID=EFEAD05C-4A4E-47E3-ACDA-ADEAA0FB3F2A&Options=&Search=>

\*MOVE Systems

<https://www.movesystems.com/>

MOVE Systems board of directors and staff

<https://www.movesystems.com/about#team>

\*Speaker Viverito's press release announcing MOVE initiative:

<http://council.nyc.gov/html/pr/051115vc.shtml>

OR here:

<https://www.scribd.com/document/327697061/Viverito-MOVE-Press-Release>

\*Electrical stands installed on NYC sidewalks for the MOVE food carts:

<https://www.movesystems.com/our-solutions#MRV>

From the MOVE website: "Simply Grid's curbside electrification enables the provisioning of electricity to mobile food vendors and idling vehicles in order to meet their energy needs."

\*Food Carts Get a High End Reboot, Wall Street Journal

<https://www.scribd.com/document/327696248/Food-Carts-Get-a-High-End-Reboot-WSJ>

Food Trucks In NYC To Ditch Diesel, Go Solar In Attempt To Clean Up City's Air Pollution

<https://www.scribd.com/document/327696335/Food-Trucks-in-NYC-to-Ditch-Diesel-Go-Solar-in-Attempt-to-Clean-Up-City-s-Air-Pollution>

\*The Future Of Food Carts (From the MOVE Systems website)

<https://www.scribd.com/document/327696659/Future-of-Food-Carts>

\*NY Times 9/4/03, The Six Figure Price Tag For Selling A \$2 Hot Dog

(Describes how most NYC food vendors are already low wage employees of corporations)

<http://www.nytimes.com/2013/09/05/nyregion/the-six-figure-price-tag-for-selling-a-two-dollar-hot-dog.html>

\*New York Aims for Eco-Friendly Street Food, Wall Street Journal

<https://www.scribd.com/document/327696755/new-york-aims-for-eco-friendly-street-food-wsj>

\*Big landlord backs eco-friendly food-cart startup, CRAINS

<http://www.crainsnewyork.com/article/20151117/TECHNOLOGY/151119871/big-landlord-backs-eco-friendly-food-cart-startup>

\*Basinski defends the sale of counterfeit and trademark infringed merchandise by members of The Street Vendor Project:

<https://www.scribd.com/document/327697002/Basinski-Supports-Counterfeit-Vendors>

Queens Courier: City Council targets 'bootleg' vendors, Wednesday, November 22, 2006

EXCERPT:

Vendors of counterfeit goods, beware. A bill introduced to the City Council recently would let the City's Department of Consumer Affairs (DCA) levy higher fines and summonses to peddlers selling bootleg DVDs, fake designer jeans, and faux bags...Industry insiders estimate that about \$31 billion was spent on counterfeit goods last year in the City, up from an estimated \$23 billion in 2003...However, Sean Basinski, director of the Street Vendors Project, a non-profit dedicated to helping the estimated 10,000 street vendors in New York City, said that the new bill could hurt financially struggling vendors more than it helps. "Going after vendors is really going after the smallest fish in the pond," Basinski said. "The City Council should be instead punishing the people who are making millions off of it and not the poor people who are selling this only because they have to support their families."

Many street vendors can barely support themselves with their earnings, said Basinski, who guessed vendors opted to sell counterfeit goods because they can usually fetch higher prices and better profits. All vendors who sell counterfeit goods are unlicensed, he said.

"Even if you sell totally legitimate merchandise you are going to be arrested," Basinski said. "Vendors think that you might as well sell what will make you money in those few hours that you have to sell before you have to run from the police."

Comments or questions?

Robert Lederman

President of A.R.T.I.S.T.

(Artists' Response To Illegal State Tactics)

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(201) 777-0391 (leave a message)

Good morning. My name is Beazer Pitiger, and I am a member of the Disabled Veteran Vendor's Advisory Committee. A Board established by General Business Law 35A, in conjunction with the Department of Labor, to help promulgate those rules with our cities agencies.

I am here to speak in **STRONG** opposition to intro 1303 or as Madame speaker refers to it as the **STREET VENDING MODERNIZATION ACT**.... On May 11th, 2015, Speaker Melissa Mark-Viverito **(PAUSE)** along with Council Member Donovan Richards and **MOVE Systems** CEO James Meeks **(PAUSE)** announced a pilot program to provide 500 safer, cleaner and more environmentally friendly food carts to vendors throughout our Cities neighborhoods. With the pretense of an unselfish objective **(PAUSE)** our most crowded streets were subjected to an unsafe experiment **(PAUSE)** with an unproven model **(PAUSE)** for the benefit of greedy and wealthy corporations. I am here to provide evidence that these, so-called safe-carts, are anything but that. In fact, in my view, and in the view of many horrified bystanders **(PAUSE)** these carts are extremely dangerous incendiary devices that **CAN** and **HAVE** exploded in a flash...Literally. On the morning of Oct 8th 2016 **(PAUSE)** on 52nd Street and Sixth Avenue **(PAUSE)** A Nathan's corporation hot dog cart **(PAUSE)** built by **MOVE Systems** corporation **(PAUSE)** burst into flames and was entirely engulfed by intense fire, heat and toxic black smoke within seconds. Thankfully, it was pre-lunch, and the typically massive

crowds and lines for food had not yet formed. Imagine what could have happened, had this (**sarcastic tone**) safe, environmentally friendly food cart would have ignited at noon. I have some posters of this hazardous bonfire for all to see. (**show everyone the posters of the fire**) And, for anyone who is interested, I have a video of this alarming incident for public viewing at the end of this meeting. Take notice of how our brave firefighters were cautious of going anywhere near this volatile food cart bomb. In all my many years as both a citizen and a vendor in New York City (**PAUSE**) I have never seen or heard of a food cart going up in flames (**PAUSE**) in the way that this video portrays. This unfortunately, was not an isolated incident. I have heard of other incidents, but have not had the time to independently investigate or verify them. I hope that some of the reporters in this room, will assist us in documenting those other incidents. It would not be in the best financial interest of the **MOVE Systems** leadership, to inform the Speaker, the City Council or other interested parties about the dangerous nature of these Carts. So, I am here to do just that. No one will want to wash blood off their hands, when these incendiary carts start burning and killing our citizens. I urge the city council leadership and members to do the right thing for the safety of our citizens and reconsider their support for this intro. Kill this legislation now, before these food carts start killing us.

Quenia Abreu, President

New York Women's Chamber of Commerce

212-491-9640

Testimony

NYC Council Committee on Consumer Affairs

October 26, 2016

Int 1303-2016 A Local Law to amend the New York City charter and the administrative code of the city of New York, in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board.

Good Morning. Thank you Chair and City Council Members for giving me the opportunity to testify today. My name is Quenia Abreu, I am the president of the New York Women's Chamber of Commerce, an organization that advocates and actively works to support and assist women, specially disadvantaged women, become economically empowered through business ownership, microenterprise ownership and self-employment.

One of the most valuable things we can do for our women is to provide them with the tools that will help them become economically sufficient. In the city of New York, a street vendor's permit is one of those tools.

Street vending offers incredible opportunities for countless women to make a decent living while taking a critical first step in the direction of growing a business, without sacrificing the care they take of their families. Moreover, for formerly incarcerated women street vending is a highly accessible way to reenter the workforce as they rebuild their lives.

Reason why, the New York Women's Chamber of Commerce supports Int 1303-2016 with the following observations and recommendations:

In the spirit of economic justice, a plan must be put into place immediately to end the street vendors permit black market to ensure that only one permit is given per individual. We need to punish those who have made a practice of taking advantage of others by renting the permits at exorbitant annual cost.

In the spirit of entrepreneurial fairness and diversity, new permits should not only be available to food vendors, but other industries should also be considered, so we don't end up over

populating the neighborhoods and saturating the city with taco trucks and halal food (as much as I love them). We need to have a diverse and healthy mix of products available by our street vendors.

Order and safety must prevail, therefore a plan that addresses organization, regulations, inspections and enforcement should be implemented sooner than later. As it is, some neighborhoods are over-crowded with street vendors activities making it difficult to walk on the sidewalks. Street vendors should not become a nuisance and an inconvenience to business owners, residents and pedestrians. They should add value to our neighborhoods and make our city more attractive.

Since we started the Women's Chamber in 2002 we had to turn away hundreds of women who came to our office seeking assistance to get a street vendor's permit to start a microenterprise that would allow them to generate an income to support their family. Every time we said no, we took an economic opportunity away from these women. We are excited to see the city is working to change that! The Women's Chamber applauds the efforts of Council Member Levine and other Councilmembers who are working to increase the number of opportunities women will have to enter the street vending industry and we look forward to working with you to make it happen.

Again thank you for the opportunity to testify today.

**Subject:** FEO Gary Altman Street Vendor Modernization Act (SVMA)

**From:** Boots Whitlock (boots\_whitlock@yahoo.com)

**To:** hearings@council.nyc.ny.us;

**Date:** Wednesday, October 19, 2016 11:20 PM

Mr. Altman,

I would like to submit the following testimony and references for testimony on 26 Oct:

-According to state law (GBS Article 4 Section 35-a) the city MUST issue permits to Veterans, this is why the city is doing it because we won that privilege in court. There are about 210 thousand Veterans in the city. That is a potential 210 thousand permits. You don't need to issue new permits, all you need to do is make Veterans aware of their privilege under STATE LAW. You can help by creating an exchange where above board legitimate contracts/partnerships are created to join Veterans with those very entrepreneurs that you are trying to get into a food cart. The SBA is very good at this sort of thing.

-Subsection 2 of GBS Article 4 Section 35-a is being used by the city to restrict Veterans to around parks Fraudulently! It is actually meant as a fair competition clause (ref: "in areas where General Vending is authorized"). General Vending is NOT authorized around parks. Pursuant to this section we must fall in line with the rules of the city that every other vendor must follow, so in areas where General Vending is authorized we don't have to be around our carts. Due to the ruling in the City of New York vs Rossi General Vending in this subsection must read "general vending and mobile food vending". So now that you understand you have UNLIMITED CITY WIDE permits being issued to Veterans, you must see my heart sink when you want to further saturate the market with more permits. A vote for increasing the number of Permits is a vote to put Veteran Vendors OUT OF BUSINESS.

-Subsection 11 states that wherever the City of New York authorizes vending (even that of 1st amendment vendors) we are allowed to vend there as well (we must be by our carts in this case because we are invoking our special privilege). Now you have unlimited permits being issued and Veterans taking those spots that others can't take so now we're in the position of having carts stacked like cord wood all over the city!! Please don't create chaos like this! A vote for increasing the number of Permits is a vote for chaos on the streets!!!

-Please consider Veterans when you consider this bill. The only thing this bill will do is create chaos and cause Veteran Vendors like myself to go out of business.

Boots Whitlock  
Veteran: United States Marine Corps  
Phone: 516-317-6846  
E-Mail: Boots\_Whitlock@Yahoo.com

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## Attachments

- Matter of Rossi v New York City Dept.pdf (164.83KB)
- chap371.bmp (846.62KB)
- General Business Law Article 4 section 32.doc (28.00KB)
- General Business Law Article 4 section 35.doc (24.00KB)

- General Business Law Article 4 section 35a.doc (55.50KB)
- KASWAN v APONTE.pdf (106.40KB)

# DRIVE CHANGE

*Food Trucks for Social Justice*

Date: 10/26/2016

## **Testimony - Street Vendor Modernization Act**

Thank you to the Street Vendor Project and the vendor-members of SVP who have worked tirelessly to advocate for a New York that fosters entrepreneurial growth, small business regulation, and amazing food.

Thank you to the members of City Council for supporting this bill and for hosting this hearing.

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I am here today to testify on behalf of my organization, Drive Change, and in favor of the passing of the Street Vendor Modernization Act.

Drive Change uses the food truck workplace to run a 1 year Fellowship for young adults coming home from jail and prison.

I started Drive Change after working as a teacher on Rikers Island for three years. New York is one of two states that automatically treats 16 year olds and older like adults – there are over 1,000 teenagers on Rikers Island at any given time. There are nearly 50,000 16 and 17 year olds arrested in New York State as adults each year...all as adults.

While at Rikers, I witnessed a racist and classist system – nearly 80% of my students were detainees who simply could not afford their bail. When a young adult is released, employment and enrollment in school are often unattainable; some young returning citizens cannot live in public housing – for my students, the roads ahead were paved with red lights, stop signs and dead-ends.

The one place inside of Rikers where students were happy and thriving was a culinary arts class. I thought, I think I can start a food truck business as the platform for a workplace training Fellowship for my students when they are released from jail and prison.

And that is what I did.

In 2012 I left my full time job and I started working on the Kimchi Taco truck to build a network and learn the mobile food vending industry.

Drive Change 630 Flushing Avenue, Brooklyn, NY 11206  
www.drivechangenyc.org □ @drivechangenyc □

# DRIVE CHANGE

## *Food Trucks for Social Justice*

From the onset, I learned how challenging and outdated the regulations around vending are in NYC. Creative, small business owners were being pushed out of the industry because of intense regulation and the inability to access the coveted city-wide permit – at the time being sold for \$30,000 on the black market.

Additionally, I witnessed first hand the cumbersome requirement of Certificate of Authority filing for all employees that work on mobile vending units. The barriers to even work for another vendor were intense and often forced people to incur fees.

I instantly realized that if it were not for our non-profit status and I would not be smart to start a food truck in NYC.

Committed to working with the DOHMH, I decided to incorporate the Drive Change truck (Snowday, a farm-to-truck concept that serves food sourced from within 150 miles supporting local economy) and pursue a restricted area permit.

The parking restriction has been a challenge for our operation.

Without parking contracts, we are not in a position to vend. Without vending, we cannot run our Fellowship program year round, and the number of young adults returning home from jail and prison that we serve is affected by this restriction.

Further, there are young adults coming home from the system and into Drive Change that have their own entrepreneurial dream to start their own mobile food vending business. Those dreams of self-employment and sustainability are squashed by the current conditions.

Drive Change has now worked with 19 returning citizens (men and women ages 18-25) over two years. Our food truck won the Vendy Cup for Best Food Truck in 2015. We struggle daily to find parking/vending options and that affects our ability to run our Fellowship and impact the lives of our Fellows. Our program is at risk because of the current limitations put on the industry.

All of the Fellows that have graduated Drive Change are now in full-time employment opportunities or back in college full-time.

With the passing of this law, we hope that Drive Change and any mobile vendor that agrees to use employment as a tool to support returning citizens – will gain access to city-wide permits so we can expand the number of young adults that our organization can work with annually.

# DRIVE CHANGE

## *Food Trucks for Social Justice*

We know that there are other food trucks in NYC who would like to affiliate with our mission. At least 10 other mobile vendors have approached us asking about how they too can use employment as a tool to turn red lights green for court-involved youth. We propose that 3% or 18 permits be set aside for mobile vendors that affiliate with Drive Change.

We commit to working directly with DOHMH to ensure regulation – to support small business practices that are good for entrepreneurs and good for the city.

###



INSTITUTE FOR JUSTICE

**Statement of  
Dick M. Carpenter II, PhD  
Director of Strategic Research, Institute for Justice  
in support of lifting New York City's caps on mobile food vending permits**

Speaker Mark-Viverito and Members of the New York City Council:

On behalf of the Institute for Justice (IJ), I write in support of lifting the caps on New York City's mobile food-vending permits. IJ is a national public-interest, civil-liberties law firm that advocates in the courts of law and public opinion to vindicate the constitutional right of all Americans to earn an honest living. For years, IJ, through its National Street Vending Initiative, has worked in courts, in city councils, and in the streets to help improve vending conditions in cities across the United States. And for years, we have been deeply concerned about New York City's destructive permit caps, which keep untold numbers of hard-working entrepreneurs out of work or in the shadows.

Undoubtedly, you have received input from individuals and groups advocating from various perspectives for or against lifting the caps. My support for lifting the caps is based on empirical research a colleague and I recently completed. Below, I describe the relevant primary findings of that research.

I serve as a director of strategic research at IJ, where my team produces social-science research relevant to, among other things, the regulation of occupations. We recently completed two studies specific to the street vendor occupation.

In the first, published under the title "Upwardly Mobile: Street Vending and the American Dream," we surveyed 763 licensed vendors in the 50 largest cities in the United States to discern the demographics of vendors and characteristics of their businesses. This first-of-its kind research also included an in-depth economic case study of New York City's vending industry.<sup>1</sup>

For many years, street vending—or "peddling"—was populated almost exclusively by lower-income workers, particularly new immigrants, who gravitated to vending due to a lack of other opportunities. Our research indicates that today's vendors are diverse, hard-working business owners and job creators—just the people cities should welcome with open arms. Specifically,

- full-time vendors work, on average, more than 11 hours a day, five and a half days a week, and three out of four part-time vendors hold a second job;
- 39% of vendors are employers, averaging 2.3 full-time and 2.7 part-time workers; and
- one out of three vending business owners plans to expand.

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<sup>1</sup> This study is available at <http://ij.org/report/upwardly-mobile/>.

Indeed, vending offers an accessible avenue to entrepreneurship, especially for immigrants, minorities and those with less formal education. Our study found:

- 96% of vendors own their own businesses;
- 51% of vendors are immigrants, and the average immigrant vendor has been in the United States for 22 years;
- like the cities they serve, vendors are diverse: 62% are persons of color, including 35% who are Hispanic; and
- 28% of vendors did not complete high school, and 63% completed no specialized training before becoming vendors.

Even as vending provides opportunities for upward mobility for those who are able to break into the industry despite the city's caps, it also positively benefits the surrounding community. Our economic analysis of street vending in New York City found that through their economic activity, vending businesses can make sizable contributions to their local economy. In 2012, vendors' contributions to the New York City economy totaled an estimated 17,960 jobs, \$192.3 million in wages, and \$292.7 million in value added. And contrary to charges by vending critics that vendors don't pay taxes, our results indicate New York City vendors contributed an estimated \$71.2 million to local, state, and federal tax coffers.

The city's vending industry has generated this considerable amount of economic activity, and could make even more sizable contributions to the city's economy if the city lifted the caps. Lifting the caps incrementally would also start to close the black market for permits that currently funnels massive wealth away from the legal, taxable market and from hard-working vendors who simply want to earn an honest living without having to buy a \$25,000 permit under the table.

Similar to myths about the tax status of street vendors, a pervasive misbelief is that street food sold by vendors is unsanitary. Our second study dispels this myth—food served by street vendors is every bit as safe as that produced by restaurants.

In "Street Eats, Safe Eats: How Food Trucks and Carts Stack Up to Restaurants on Sanitation"—later published in the peer-reviewed, scientific journal *Food Protection Trends*—we analyzed more than 260,000 food-safety inspection reports from seven large cities.<sup>2</sup> In each of those cities, mobile vendors are covered by the same health codes and inspection regimes as restaurants and other brick-and-mortar businesses, allowing an apples-to-apples comparison. The report finds:

- In every city examined—Boston, Las Vegas, Los Angeles, Louisville, Miami, Seattle and Washington, D.C.—food trucks and carts did as well as or better than restaurants.
- In six out of seven cities—Boston, Las Vegas, Los Angeles, Louisville, Miami and Washington, D.C.—food trucks and carts averaged fewer sanitation violations than restaurants, and the differences were statistically significant.

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<sup>2</sup> This study is available at <http://ijj.org/report/street-eats-safe-eats/>.

- In Seattle, mobile vendors also averaged fewer violations, but the difference was not statistically significant, meaning mobile vendors and restaurants performed about the same.

The results suggest that the notion that street food is unsafe is a myth. They also suggest that the recipe for clean and safe mobile food vending is simple—inspections. Just as sanitation inspections help assure the public that restaurants are clean and safe, they can do the same for mobile food vendors. More burdensome regulations proposed in the name of food safety, such as outright bans, caps on permits, and limits on when and where mobile vendors may work, do not make street food safer—they just make it harder to get. In New York City, street vendors who are able to obtain a permit are subject to an initial inspection, while those operating on the black market or illegally are not. Lifting the caps would subject more street-food vendors to initial inspection, ensuring the safety of their food is consistent with our study's findings.

In closing, lifting the caps on food vending permits in New York City would open the way for greater job creation, entrepreneurship and economic expansion, especially for those on the first rung of the economic ladder. And it can be done while maintaining public health and safety.

As one of the world's great cities, New York City often serves as a model, a standard against which the leaders of cities in other countries compare themselves. In many of those cities, street vending has been and remains a contentious issue, with vendors denied even the most basic of economic opportunities. By lifting the cap on vending, New York City's leadership will not only benefit its own citizens, it will demonstrate to the world the benefits that accrue from the innovative and forward-looking policy thinking that has made New York City a world leader.



# STREET EATS, SAFE EATS:

HOW FOOD TRUCKS AND CARTS STACK UP  
TO RESTAURANTS ON SANITATION



BY ANGELA C. ERICKSON  
JUNE 2014

# STREET EATS, SAFE EATS:

HOW FOOD TRUCKS AND CARTS STACK UP  
TO RESTAURANTS ON SANITATION

BY ANGELA C. ERICKSON

JUNE 2014



## EXECUTIVE SUMMARY

Street food, long a part of American life, has boomed in popularity in recent years. Yet an idea persists that food from trucks and sidewalk carts is unclean and unsafe. This report tests that common, but unsubstantiated claim by reviewing more than 260,000 food-safety inspection reports from seven large American cities. In each of those cities,

mobile vendors are covered by the same health codes and inspection regimes as restaurants and other brick-and-mortar businesses, allowing an apples-to-apples comparison. The report finds:

- In every city examined—Boston, Las Vegas, Los Angeles, Louisville, Miami, Seattle and Washington, D.C.—food trucks and carts did as well as or better than restaurants.
- In six out of seven cities—Boston, Las Vegas, Los Angeles, Louisville, Miami



and Washington, D.C.—food trucks and carts averaged fewer sanitation violations than restaurants, and the differences were statistically significant.

- In Seattle, mobile vendors also averaged fewer violations, but the difference was not statistically significant, meaning mobile vendors and restaurants performed about the same.

The results suggest that the notion that street food is unsafe is a myth. They also suggest that the recipe for

clean and safe food trucks is simple—inspections. Just as sanitation inspections help assure the public that restaurants are clean and safe, they can do the same for mobile vendors. More burdensome regulations proposed in the name of food safety, such as outright bans and limits on when and where mobile vendors may work, do not make street food safer—they just make it harder to get.





THE INSTITUTE FOR JUSTICE ANALYZED THOUSANDS OF INSPECTION REPORTS COVERING MOBILE VENDORS, RESTAURANTS AND OTHER PURVEYORS OF FOOD FROM SEVEN OF AMERICA'S LARGEST CITIES—BOSTON, LAS VEGAS, LOS ANGELES, LOUISVILLE, MIAMI, SEATTLE AND WASHINGTON, D.C.

## INTRODUCTION

America loves food trucks. These new mobile vendors are creating jobs, satisfying hunger and making downtowns cool again. But they are not an entirely new concept. Street vending has long been an entry point for entrepreneurship in America. During the Great Depression, Americans pushed carts in the street to sell five cent apples.<sup>1</sup> Waves of immigrants sold oysters, pickles, kabobs, halal and more.

Despite this country's deeply rooted history with street food and America's growing love for food trucks, some people have claimed that food trucks and food carts are unsanitary and nothing more than "roach coaches." Take, for example, a recent news story by Eric Flack, a reporter for Louisville's WAVE3, who asked if food trucks are "really all that clean?" In an apparent "gotcha" moment, Flack asked Connie Mendel—head of the local office in charge of food inspections—if she ate at food trucks. Mendel chortled at such an idea and said, "That's funny."<sup>2</sup>

But "all that clean" compared to what? How do food trucks stack up to restaurants? Flack does not ask these

questions or compare food trucks to any other food source except for this opinion from Mendel: "We feel you can operate safer from an actual building."<sup>3</sup>

Unfortunately, city officials often rely on such claims that brick-and-mortar restaurants are safer to justify restrictions on both food trucks and carts, including outright bans on mobile vending as well as limits on when and where vendors may sell. These laws not only push food trucks and carts out of cities, they also stifle entrepreneurship, destroy jobs and hurt consumers.<sup>4</sup>

As American culture shifts towards re-embracing street food, this report tests the claim—common but unsubstantiated—that food trucks and carts are unsafe. The Institute analyzed thousands of inspection reports covering mobile vendors, restaurants and other purveyors of food from seven of America's largest cities—Boston, Las Vegas, Los Angeles, Louisville, Miami, Seattle and Washington, D.C.<sup>5</sup> In each city, mobile vendors are covered by the same health codes and inspection regimes as restaurants, allowing an apples-to-apples comparison of sanitation practices.<sup>6</sup> The results show that mobile food vendors, including food trucks and carts, are just as safe and sanitary as restaurants—often more so.

## METHODS

To examine differences between food trucks, carts and other types of food establishments—particularly restaurants—this report relies on inspection data collected from government agencies in Boston, Las Vegas, Los Angeles, Louisville, Miami, Seattle and Washington, D.C. The Institute requested data going back to 2008 or the first year with accessible data that included mobile vendors. Data were collected through part

or all of 2012 or, in the cases of Boston and Louisville, through July 2013. In all, the Institute reviewed 263,395 inspection reports across the seven cities. During the inspections, officials count the number of food-safety violations they observe.<sup>7</sup> For example, inspectors look for minor things like clean counters and proper labeling, bigger concerns like proper food storage and hand-washing facilities, and serious issues such as sick employees and spoiled foods.

For each city, the Institute calculated the average number of violations per establishment for each category of



food service—food trucks, restaurants and so on. These raw numbers are useful, but not sufficient for determining how mobile vendors compare to brick-and-mortar establishments. Other factors, such as variations in traffic or greater frequency of inspections, could be driving any differences. Additionally, any differences in the raw numbers could be simple random chance—it just so happens that during a given period of time when a random group of establishments was inspected, one category of food service received fewer violations—instead of a genuine distinction.

To control for factors that could muddy comparisons and to determine whether the differences between mobile vendors and brick-and-mortar restaurants are genuine or mere random chance, this report relies on two types of statistical analyses. The first, fixed-effects OLS regression, provides the average number of violations for each food-service category compared to mobile vendors. In other words, the first type of analysis estimates how many more or fewer violations restaurants would receive, on average, than mobile vendors, after controlling for various

factors.<sup>8</sup> The second type of analysis, Poisson regression, provides a rate estimating how many times more or fewer violations each food-service category would receive, on average, compared to mobile vendors.<sup>9</sup>

When looking at the rate of violations, keep in mind that the average numbers of violations were low for all types of food service in all cities. Thus, some eye-popping comparisons are not as dramatic as they may appear. For example, it may be startling to see the Boston results below (Table 2) suggesting that restaurants received 385 percent more violations than food carts, but food carts averaged just one violation per cart, so 385 percent more is only about four violations per restaurant.

In some cities, the data did not make it possible to distinguish between food trucks and food carts, so they were lumped together in one “mobile vendor” category. In others, trucks and carts are separate categories, so separate analyses compared each of them to restaurants, grocery stores and so on.

Further details about the analysis can be found in Appendix A, and Appendix B provides full regression results.<sup>10</sup>

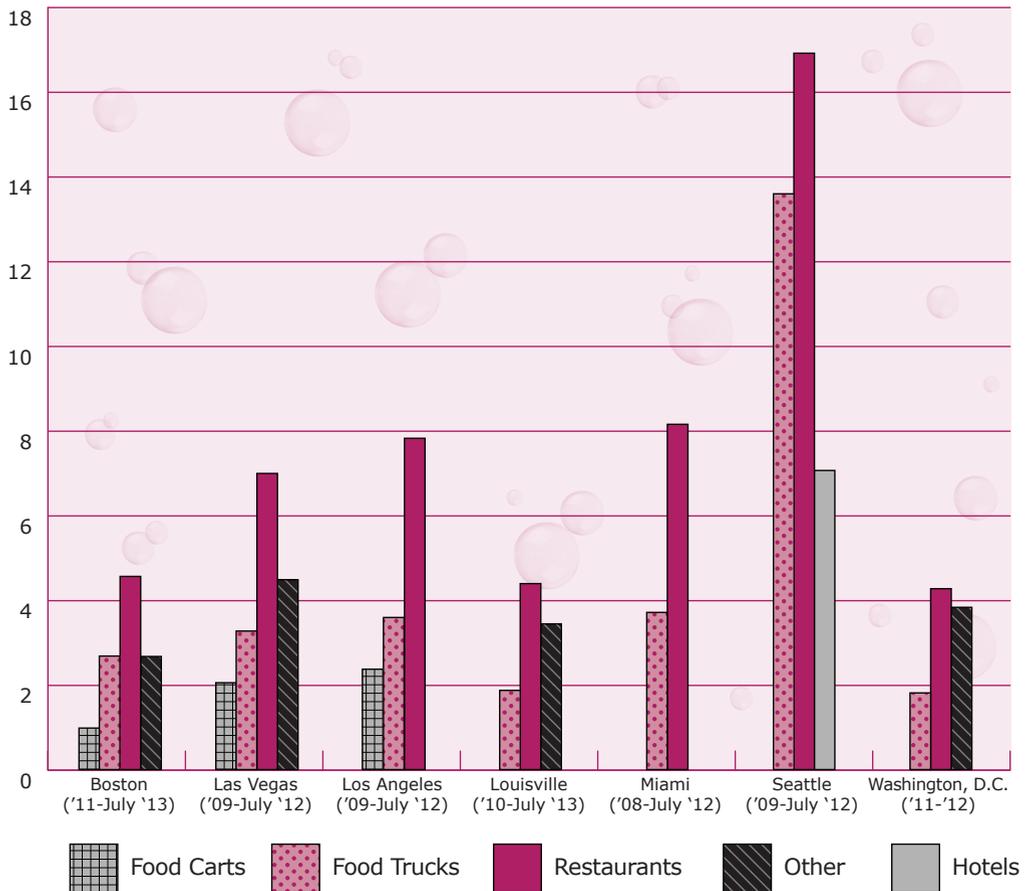
## RESULTS

Across the seven cities, findings were consistent: Food trucks and carts are every bit as clean and safe as restaurants and other types of brick-and-mortar food establishments. As Figure 1 shows, in recent years, violations per establishment were few, regardless of the category of food service. In six of the seven cities, violations by food trucks and carts ranged from just one to four violations per truck or cart, while restaurants averaged just four to eight. The exception, Seattle, appears to have had more frequent violations for both mobile vendors (nearly 14 per vendor) and restaurants (almost 17 per restaurant), because the city's inspection regime weights each violation more than the other cities.



ACROSS THE SEVEN CITIES, FINDINGS WERE CONSISTENT:  
FOOD TRUCKS AND CARTS ARE EVERY BIT AS CLEAN AND SAFE AS  
RESTAURANTS AND OTHER TYPES OF  
BRICK-AND-MORTAR FOOD ESTABLISHMENTS.

**Figure 1: Average Food-safety Violations by Category of Food Service**



Notes: In Louisville, Miami, Seattle and Washington, D.C., the "food truck" category includes both trucks and carts. Due to differing inspection regimes, comparisons across cities are not valid.

Not only were violations infrequent, but mobile vendors compared well to their brick-and-mortar counterparts, as shown in Figure 1, and this was confirmed by statistical analysis. In analyses for six of seven cities, food trucks and carts had fewer violations than restaurants, and the differences were statistically significant. In Seattle, even though mobile vendors had fewer violations on average than restaurants, upon statistical analysis, the difference was not statistically significant. This means mobile vendors and restaurants in Seattle performed about the same.



## BOSTON

The Boston Inspectional Services Department, which inspects all food establishments for potential violations, provided inspection data for 2011 through July 2013. In that time, the department conducted 29,898 inspections of food establishments, including trucks, carts, restaurants and other establishments such as grocery stores, cafeterias and caterers. Table 1 provides the average number of violations by establishment type. It also breaks out different types of violations as classified by Boston—critical foodborne, critical, non-critical and total.

A critical foodborne violation refers to activities that are the most prevalent contributing factors to foodborne illness as identified by the Center for Disease Control—such as not posting consumer advisories and improper labeling of ingredients. A critical violation is one that is more likely than other violations to affect the public health—such as unclean food contact surfaces and improper sewage and waste water disposal. Non-critical violations will not seriously affect the public health; these are things such as adequate lighting and hair restraints.

As Table 1 shows, violations were uncommon across all categories of food service, and both Boston’s food trucks and carts outperformed restaurants, as trucks averaged 2.7 total violations, mobile food carts—hot dog stands and other sidewalk carts—just one, and restaurants 4.6.

The story is similar when looking at different types of violations. Trucks and carts received fewer critical and non-critical violations than restaurants. For critical foodborne violations, trucks and restaurants were comparable and carts received fewer violations, but all averaged less than one violation per establishment.

These differences held up under statistical analysis, as shown in Table 2. Results show that Boston’s food trucks averaged fewer total violations, critical violations and non-critical violations than its restaurants, and the differences were statistically significant. On critical foodborne violations, the difference between trucks and restaurants was not statistically significant, meaning they were essentially the same. Boston’s food carts averaged fewer total violations, critical foodborne violations, critical violations and non-critical violations than its restaurants, and the differences all were statistically significant.

**Table 1: Boston Food-safety Violations,  
2011-July 2013\***

	Average (Mean) Violations	Standard Deviation	Minimum	Maximum
<b>Total Violations</b>				
Food Trucks	2.68	2.90	0	18
Restaurants	4.56	4.46	0	41
Carts	0.98	1.53	0	10
Other	2.67	3.36	0	30
<b>Critical Foodborne Violations</b>				
Food Trucks	0.87	1.25	0	6
Restaurants	0.84	1.33	0	12
Carts	0.36	0.75	0	6
Other	0.47	0.93	0	9
<b>Critical Violations</b>				
Food Trucks	0.11	0.32	0	2
Restaurants	0.30	0.55	0	4
Carts	0.04	0.21	0	2
Other	0.17	0.43	0	4
<b>Non-critical Violations</b>				
Food Trucks	1.70	1.94	0	11
Restaurants	3.42	3.37	0	30
Carts	0.57	1.08	0	8
Other	2.03	2.60	0	23

\*Data provided by Boston Inspectional Services Department and based on 296 inspections of 76 food trucks, 17,634 inspections of 2,813 restaurants, 1,447 inspections of 497 carts and 10,521 inspections of other food establishments.

**Table 2: Estimated Differences in Food-safety Violations, Boston, 2011-July 2013 (Statistically Significant Results in Italics)\***

	<b>Average Violations Compared to Food Trucks</b>	<b>Rate of Violations Compared to Food Trucks</b>	<b>Average Violations Compared to Food Carts</b>	<b>Rate of Violations Compared to Food Carts</b>
<b>Total Violations</b>				
Restaurants	<i>1.87 more</i>	<i>69% more</i>	<i>3.39 more</i>	<i>386% more</i>
Other	<i>0.19 fewer</i>	<i>2% fewer</i>	<i>1.33 more</i>	<i>181% more</i>
<b>Critical Foodborne Violations</b>				
Restaurants	<i>0.03 more</i>	<i>4% fewer</i>	<i>0.45 more</i>	<i>136% more</i>
Other	<i>0.37 fewer</i>	<i>48% fewer</i>	<i>0.06 more</i>	<i>28% more</i>
<b>Critical Violations</b>				
Restaurants	<i>0.18 more</i>	<i>156% more</i>	<i>0.25 more</i>	<i>568% more</i>
Other	<i>0.03 more</i>	<i>37% more</i>	<i>0.10 more</i>	<i>258% more</i>
<b>Non-critical Violations</b>				
Restaurants	<i>1.65 more</i>	<i>101% more</i>	<i>2.70 more</i>	<i>535% more</i>
Other	<i>0.14 more</i>	<i>19% more</i>	<i>1.19 more</i>	<i>275% more</i>

\*Results listed derived from OLS and Poisson regressions. Because of the use of two different statistical analyses, the direction and significance for average violations and rate of violations may differ where the differences between trucks or carts and restaurants are small. Full regression results for total violations can be found in Appendix B.<sup>11</sup>



## LAS VEGAS

The Southern Nevada Health District, which inspects all food establishments in Las Vegas, provided inspection data from 2009 through July 2012. In that time, the agency conducted 84,816 inspections of food establishments in Las Vegas, including trucks, carts, restaurants and other establishments such as grocery stores, cafeterias and food processors.

Table 3 provides the average number of violations by establishment type.<sup>12</sup> As

the table shows, all categories of food service had few violations, and both Las Vegas' food trucks and carts outperformed restaurants, as trucks averaged 3.3 violations, mobile food carts—hot dog stands and other sidewalk carts—two, and restaurants seven.

Statistical analysis confirms these differences, as shown in Table 4. Results show that Las Vegas' food trucks and carts averaged fewer violations than its restaurants, and the differences were statistically significant.

**Table 3: Las Vegas Food-safety Violations, 2009-July 2012\***

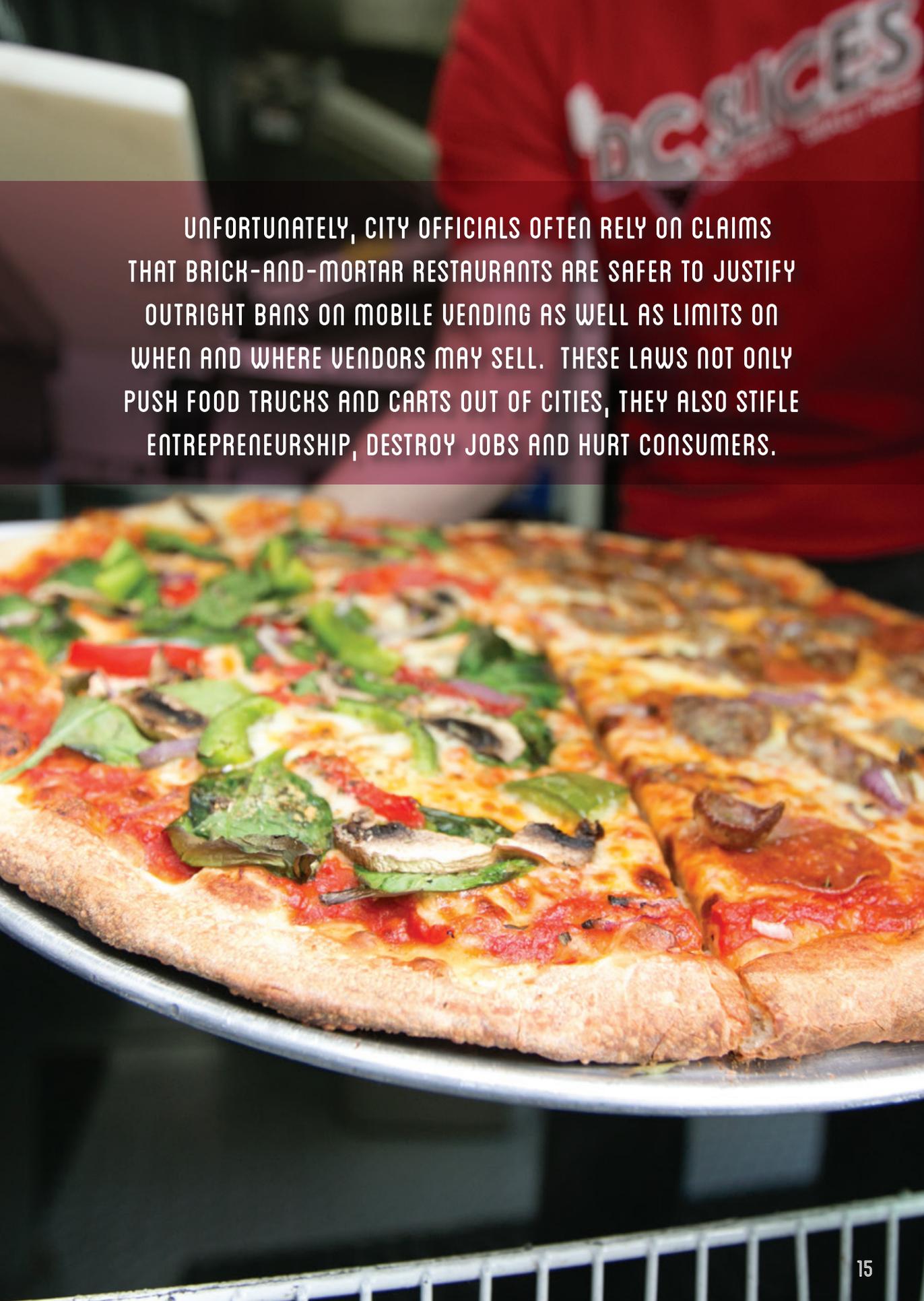
	Average (Mean) Violations	Standard Deviation	Minimum	Maximum
<b>Food Trucks</b>	3.27	4.88	0	31
<b>Restaurants</b>	6.99	6.78	0	89
<b>Carts</b>	2.05	3.62	0	46
<b>Other</b>	4.39	5.08	0	100

\*Data provided by the Southern Nevada Health District and based on 494 inspections of 163 food trucks, 42,611 inspections of 8,670 restaurants, 1,993 inspections of 602 carts and 39,718 inspections of other food establishments.

**Table 4: Estimated Differences in Food-safety Violations, Las Vegas, 2009-July 2012 (Statistically Significant Results in Italics)\***

	Average Violations Compared to Food Trucks	Rate of Violations Compared to Food Trucks	Average Violations Compared to Food Carts	Rate of Violations Compared to Food Carts
<b>Restaurants</b>	<i>3.58 more</i>	<i>108% more</i>	<i>4.71 more</i>	<i>237% more</i>
<b>Other</b>	<i>1.09 more</i>	<i>31% more</i>	<i>2.22 more</i>	<i>111% more</i>

\*Results listed derived from OLS and Poisson regressions. Full regression results can be found in Appendix B.



UNFORTUNATELY, CITY OFFICIALS OFTEN RELY ON CLAIMS THAT BRICK-AND-MORTAR RESTAURANTS ARE SAFER TO JUSTIFY OUTRIGHT BANS ON MOBILE VENDING AS WELL AS LIMITS ON WHEN AND WHERE VENDORS MAY SELL. THESE LAWS NOT ONLY PUSH FOOD TRUCKS AND CARTS OUT OF CITIES, THEY ALSO STIFLE ENTREPRENEURSHIP, DESTROY JOBS AND HURT CONSUMERS.



FOR THOSE POLICYMAKERS CONCERNED ABOUT HEALTH AND SAFETY, THEY SHOULD ENSURE—THROUGH INSPECTIONS—THAT MOBILE FOOD VENDORS ARE HELD TO THE SAME SANITATION STANDARDS AS RESTAURANTS. IN THIS WAY, THE PUBLIC CAN ENJOY FOOD FROM VENDORS THAT IS BOTH DELICIOUS AND SAFE WHILE ALLOWING ENTREPRENEURSHIP AND ECONOMIC GROWTH TO THRIVE.

## LOS ANGELES

The Los Angeles County Department of Public Health, which inspects all food establishments for potential violations, provided inspection data for 2009 through July 2012. In that time, the department conducted 45,611 inspections of Los Angeles' food establishments, including trucks, carts and restaurants.

Table 5 provides the average number of violations, showing that

violations were uncommon across all categories of food service.<sup>13</sup> Both Los Angeles' trucks and carts outperformed restaurants, as trucks averaged 3.6 violations, mobile food carts—hot dog stands and other sidewalk carts—2.4, and restaurants 7.8.

These differences held up under statistical analysis, as shown in Table 6. Results show that both Los Angeles' food trucks and food carts had fewer violations than its restaurants, and the differences were statistically significant.

**Table 5: Los Angeles Food-safety Violations, 2009-July 2012\***

	Average (Mean) Violations	Standard Deviation	Minimum	Maximum
<b>Food Trucks</b>	3.59	6.40	0	100
<b>Restaurants</b>	7.82	5.25	0	100
<b>Carts</b>	2.37	5.74	0	36

\*Data provided by Los Angeles County Department of Public Health and based on 2,928 inspections of 601 food trucks, 42,089 inspections of 7,542 restaurants and 594 inspections of 236 carts.

**Table 6: Estimated Differences in Food-safety Violations, Los Angeles, 2009-July 2012 (Statistically Significant Results in Italics)\***

Average Restaurant Violations Compared to Food Trucks	Rate of Restaurant Violations Compared to Food Trucks	Average Restaurant Violations Compared to Food Carts	Rate of Restaurant Violations Compared to Food Carts
<i>4.48 more</i>	<i>120% more</i>	<i>5.65 more</i>	<i>237% more</i>

\*Results listed derived from OLS and Poisson regressions. Full regression results can be found in Appendix B.

## LOUISVILLE

The Metro Health and Wellness Department in Louisville, which inspects all food establishments for potential violations, provided inspection data for 2010 through July 2013. In that time, the department conducted 34,500 inspections of food establishments, including mobile food vendors, restaurants and other establishments such as grocery stores, caterers and cafeterias. The department does not distinguish between food trucks and mobile carts, so they were analyzed

together as mobile vendors.

Table 7 provides the average number of violations by establishment type.<sup>14</sup> As the table shows, violations were rare across all categories of food service, and Louisville's mobile vendors outperformed restaurants, as vendors averaged 1.9 total violations and restaurants 4.4.

Statistical analysis confirms the difference, as shown in Table 8. Results show that Louisville's mobile vendors averaged fewer violations than its restaurants, and the differences were statistically significant.



**Table 7: Louisville Food-safety Violations, 2010-July 2013\***

	Average (Mean) Violations	Standard Deviation	Minimum	Maximum
<b>Mobile Vendors</b>	1.87	3.11	0	35
<b>Restaurants</b>	4.39	4.51	0	42
<b>Other</b>	3.44	4.08	0	40

\*Data provided by Metro Health and Wellness Department and based on 648 inspections of 117 mobile vendors, 16,958 inspections of 2,540 restaurants and 16,894 inspections of other food establishments.

**Table 8: Estimated Differences in Food-safety Violations, Louisville, 2010-July 2013 (Statistically Significant Results in Italics)\***

	Average Violations Compared to Mobile Vendors	Rate of Violations Compared to Mobile Vendors
<b>Restaurants</b>	<i>2.44 more</i>	<i>128% more</i>
<b>Other</b>	<i>1.35 more</i>	<i>82% more</i>

\*Results listed derived from OLS and Poisson regressions. Full regression results can be found in Appendix B.



## MIAMI

The Florida Department of Business and Professional Regulation, which inspects Miami food establishments for potential critical and non-critical violations of the food code, provided inspection data covering 2008 through July 2012. In that time, the department conducted 25,463 inspections of food establishments in Miami, including mobile vendors (the department groups together food trucks and carts) and restaurants.

Table 9 provides the average number of violations by establishment type. It also breaks out different types of violations as classified by the department—critical, non-critical and total. Critical violations refer to both foodborne illness risk factors (such as foods improperly cooked and toxic substances stored improperly) and violations pertaining

to safety and good business practices (such as an unsafe water source and not displaying a current license). Non-critical violations, such as poor maintenance of surface areas and improper storage of cleaning equipment, are generally targeting preventive measures.

As Table 9 shows, both categories of food service saw few violations and Miami's mobile vendors outperformed restaurants, as vendors averaged 3.7 total violations and restaurants 8.2. The story is similar when looking at different types of violations. Food trucks and carts received fewer critical and non-critical violations than restaurants.

These differences held up under statistical analysis, as shown in Table 10. Results show that Miami's mobile vendors averaged fewer total violations, critical violations and non-critical violations than its restaurants, and the differences were statistically significant.

**Table 9: Miami Food-safety Violations, 2008-July 2012\***

	Average (Mean) Violations	Standard Deviation	Minimum	Maximum
<b>Total Violations</b>				
Mobile Vendors	3.71	3.62	0	31
Restaurants	8.15	7.97	0	69
<b>Critical Violations</b>				
Mobile Vendors	3.31	3.15	0	26
Restaurants	5.43	5.39	0	47
<b>Non-Critical Violations</b>				
Mobile Vendors	.40	.94	0	10
Restaurants	2.72	3.25	0	36

\*Data provided by Florida Department of Business and Professional Regulation and based on 1,627 inspections of 730 mobile vendors and 23,836 inspections of 3,959 restaurants.

**Table 10: Estimated Differences in Food-safety Violations, Miami, 2008-July 2012 (Statistically Significant Results in Italics)\***

	Average Restaurant Violations Compared to Mobile Vendors	Rate of Restaurant Violations Compared to Mobile Vendors
<b>Total Violations</b>	<i>4.19 more</i>	<i>117% more</i>
<b>Critical Violations</b>	<i>1.96 more</i>	<i>61% more</i>
<b>Non-critical Violations</b>	<i>2.24 more</i>	<i>597% more</i>

\*Results listed derived from OLS and Poisson regressions. Full regression results for total violations can be found in Appendix B.<sup>15</sup>



## SEATTLE

The King County Board of Health, which inspects all food establishments in Seattle for potential violations, provided inspection data for 2009 through July 2012. In that time, the board conducted 34,122 inspections of Seattle food establishments, including mobile vendors, restaurants and hotels. The board uses mobile food service as a classification and does not separate trucks from carts, so they were analyzed together.

Table 11 displays the average number of violations by establishment type.<sup>16</sup> As the table shows, Seattle's mobile vendors outperformed restaurants, as

vendors averaged 13.6 total violations and restaurants 16.9.

However, these differences disappeared under statistical analysis, as shown in Table 12. Results show that the difference between Seattle's mobile vendors and restaurants was not statistically significant, meaning that mobile vendors and restaurants performed essentially the same.

It is worth noting that Seattle's higher levels of violations, compared to other cities, likely result from an inspection regime that counts each violation based on the severity. For example a non-critical violation may count as two, whereas a critical violation may count as 15.



**Table 11: Seattle Food-safety Violations by Establishment Type, 2009-July 2012\***

	Average (Mean) Violations	Standard Deviation	Minimum	Maximum
<b>Mobile Vendors</b>	13.59	21.05	0	95
<b>Restaurants</b>	16.91	20.37	0	155
<b>Hotels</b>	7.06	11.47	0	65

\*Data provided by King County Board of Health and based on 1,143 inspections of 139 mobile vendors, 32,230 inspections of 2,762 restaurants and 749 inspections of 63 hotels.

**Table 12: Estimated Differences in Food-safety Violations, Seattle, 2009-July 2012 (Statistically Significant Results in Italics)\***

	Average Violations Compared to Mobile Vendors	Rate of Violations Compared to Mobile Vendors
<b>Restaurants</b>	1.51 fewer	9% fewer
<b>Hotels</b>	<i>6.89 fewer</i>	<i>60% fewer</i>

\*Results listed derived from OLS and Poisson regressions. Full regression results can be found in Appendix B.



## WASHINGTON, D.C.

The Washington, D.C., Department of Health, which inspects all food establishments for potential violations, provided inspection reports for 2011 and 2012. In that time, the department conducted 8,985 inspections of food establishments, including mobile vendors, restaurants and other establishments such as grocery stores and wholesalers. The Department does distinguish between food trucks and carts; however, the populations were too small to analyze separately and so were combined into one category.

Table 13 provides the average number of violations by establishment type. It also breaks out different types of violations as classified by D.C.—critical, non-critical and total. Critical violations refer to both foodborne illness risk factors and public health interventions, such as foods cooked improperly and failure to display consumer advisories. Non-critical violations refer to good retail practices, such as the presence of insects and

rodents and improper disposal of sewage and waste water.

As Table 13 shows, violations were uncommon across all categories of food service, and D.C. mobile food vendors outperformed restaurants, as vendors averaged 1.8 total violations and restaurants 4.3. The story is similar when looking at different types of violations. Mobile vendors received fewer critical and non-critical violations than restaurants.

Statistical analysis confirms these differences, as shown in Table 14. Results show that D.C.'s mobile vendors averaged fewer total violations, critical violations and non-critical violations than its restaurants, and the differences were statistically significant. Note that while restaurants and other brick-and-mortar establishments received an estimated 10 times as many critical violations as vendors, this difference is not as large in reality as it may appear. Mobile vendors received a tiny fraction of a violation per vendor, and the other categories received fewer than two per establishment.



**Table 13: Washington, D.C., Food-safety Violations, 2011-2012\***

	Average (Mean) Violations	Standard Deviation	Minimum	Maximum
<b>Total Violations</b>				
Mobile Vendors	1.81	1.31	0	7
Restaurants	4.27	4.74	0	40
Other	3.83	3.84	0	22
<b>Critical Violations</b>				
Mobile Vendors	0.12	0.41	0	2
Restaurants	1.80	1.97	0	14
Other	1.45	1.63	0	10
<b>Non-Critical Violations</b>				
Mobile Vendors	1.69	1.14	0	6
Restaurants	2.47	3.26	0	26
Other	2.38	2.75	0	16

\*Data provided by Washington, D.C., Department of Health and based on 133 inspections of 102 mobile vendors, 7,749 inspections of 2,762 restaurants and 1,103 inspections of other food establishments.

**Table 14: Estimated Differences in Food-safety Violations, Washington, D.C., 2011-2012 (Statistically Significant Results in Italics)\***

	Average Violations Compared to Mobile Vendors	Rate of Violations Compared to Mobile Vendors
<b>Total Violations</b>		
Restaurants	<i>1.63 more</i>	<i>94% more</i>
Other	<i>1.55 more</i>	<i>89% more</i>
<b>Critical Violations</b>		
Restaurants	<i>1.30 more</i>	<i>1,066% more</i>
Other	<i>1.12 more</i>	<i>934% more</i>
<b>Non-critical Violations</b>		
Restaurants	<i>.34 more</i>	<i>23% more</i>
Other	<i>.44 more</i>	<i>28% more</i>

\*Results listed derived from OLS and Poisson regressions. Full regression results for total violations can be found in Appendix B. <sup>17</sup>

## CONCLUSION

Thanks to low start-up costs, street vending is an ideal opportunity for entrepreneurs with big ideas but little capital. Not surprisingly, following the recession, the number of food trucks on the streets exploded, with vendors selling everything from ice cream and hot dogs to crème brûlée and sushi. Consumers appreciate the diverse menus, low prices and convenience of mobile vendors.

In the seven cities studied here, street food is every bit as safe as food from a restaurant. In each of these cities, food trucks, carts and restaurants are held to the same sanitation standards, and trucks and carts did just as well if not slightly better during sanitation inspections than restaurants—and violations by all types of food businesses were rare. The notion that food trucks and carts are unsafe is simply a myth.

Sensationalist news reports like the WAVE3 story misinform both the public and policymakers. The WAVE3 report caused an uproar, with customers who bought tickets to an upcoming food-truck festival asking for refunds and some vendors saying new customers are now more reticent to try their products.<sup>18</sup> Such misinformation has

also been offered to justify laws that unfairly restrict mobile vendors' ability to compete. But this report shows that it makes no more sense to shut down or burden food trucks or carts with anti-competitive regulations under the guise of food safety than it would to shut down or burden restaurants, hotels or grocery stores.

It shouldn't be surprising that food trucks and carts are just as clean and sanitary as restaurants. Both business models rely on repeat customers, and few people are going to eat twice at a place that made them ill. With the rise of social media like Yelp, word of mouth about a business—whether good or bad—spreads further and more quickly than ever before. And one advantage of food trucks and carts is that it is easier to watch as your food is being prepared—something you simply cannot do at most restaurants. So consumers can rest assured that food trucks and carts are as clean as restaurants, and in fact are often more so.

For those policymakers concerned about health and safety, they should ensure—through inspections—that mobile food vendors are held to the same sanitation standards as restaurants.<sup>19</sup> In this way, the public can enjoy food from vendors that is both delicious and safe while allowing entrepreneurship and economic growth to thrive.



IN THE SEVEN CITIES STUDIED HERE, STREET FOOD IS EVERY BIT AS SAFE AS FOOD FROM A RESTAURANT. THE NOTION THAT FOOD TRUCKS AND CARTS ARE UNSAFE IS SIMPLY A MYTH.

## APPENDIX A: METHODS

To isolate the influence of establishment types ( $\beta$ ) on the inspection scores ( $Y$ ) received, these analyses measured differences using OLS regression with fixed-effects. Inspection scores were regressed on establishment types and dummy variables representing day of the week ( $\Theta$ ), month ( $X$ ) and year ( $\Omega$ ). Weekday, month and year reveal variability of inspections across time.

Seattle and Washington, D.C., include a risk variable ( $\Psi$ ), which those cities use to identify the potential risk associated with an establishment dependent on the manner in which it prepares and serves food. For example, high-risk categories include establishments that handle raw ingredients extensively, like most sit-down restaurants; moderate-risk categories include establishments that have limited preparation, like a deli or coffee shop; and low-risk categories include establishments such as hot dog stands and convenience stores that primarily serve prepackaged or limited preparation foods.

An establishment can be inspected once or multiple times in one year with little consistency across establishments. Additionally, the type of food served at or from an establishment determines the level of detail required during a health inspection, which means not all the inspection categories apply to every establishment. The establishment fixed effect ( $\Phi$ ) isolates and eliminates the individual specific differences.<sup>20</sup>

Because sanitation scores are a count of the number of violations during an inspection and most inspections have few violations, a Poisson regression was also used. As with the OLS, inspection scores were regressed on establishment types and the time dummy variables. Standard errors were clustered by establishment to account for multiple inspections per business.

The following is the OLS model for Boston:

$$Y = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{other}) + \Theta + X + \Omega + \Phi + \epsilon$$

The Poisson model is:

$$\ln(Y) = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{other}) + \Theta + X + \Omega$$

“Y” represents inspection demerits with zero or no demerits being the best score. The



reference year is 2011 with the analysis covering 2011 through July 2013.  $\beta_1$  represents the coefficient for restaurants, and  $\beta_2$  represents the coefficient for grocery stores, cafeterias, caterers, etc. The models were run separately for food trucks and carts.

The OLS model for Las Vegas is:

$$Y = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{other}) + \Theta + X + \Omega + \Phi + \epsilon$$

The Poisson model is:

$$\ln(Y) = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{other}) + \Theta + X + \Omega$$

“Y” represents inspection demerits with zero or no demerits being the best score and up to 100 demerits being the worst score. The reference year is 2009 with the analysis covering 2009 through July 2012.  $\beta_1$  represents the coefficient for restaurants, and  $\beta_2$  represents the coefficient for grocery stores, processors, cafeterias, etc. The models were run separately for food trucks and carts.

The OLS model for Los Angeles is:

$$Y = \beta_0 + \beta_1 (\text{restaurants}) + \Theta + X + \Omega + \Phi + \epsilon$$

The Poisson model is:

$$\ln(Y) = \beta_0 + \beta_1 (\text{restaurants}) + \Theta + X + \Omega$$

“Y” represents inspection demerits where zero is the best possible score.<sup>21</sup> The analysis is from 2009 (the reference year) through July 2012.  $\beta_1$  represents the coefficient for restaurants. The models were run separately for food trucks and carts.

The following is the OLS model for Louisville:

$$Y = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{other}) + \Theta + X + \Omega + \Phi + \epsilon$$

The Poisson model is:

$$\ln(Y) = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{other}) + \Theta + X + \Omega$$

“Y” represents inspection demerits.<sup>22</sup> The reference year is 2010 with the analysis covering 2010 through July 2013.  $\beta_1$  represents the coefficient for restaurants, and  $\beta_2$



represents the coefficient for grocery stores, cafeterias, caterers, etc.

The OLS model for Miami is:

$$Y = \beta_0 + \beta_1 (\text{restaurants}) + \Theta + X + \Omega + \Phi + \epsilon$$

The Poisson model is:

$$\ln(Y) = \beta_0 + \beta_1 (\text{restaurants}) + \Theta + X + \Omega$$

“Y” is the number of violations coded consistent with the other cities above, and  $\beta_1$  represents the coefficient for restaurants. The analysis is from 2008 (the reference year) through July 2012.

The OLS model for Seattle is:

$$Y = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{hotels}) + \Theta + X + \Omega + \Psi + \Phi + \epsilon$$

The Poisson model is:

$$\ln(Y) = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{hotels}) + \Theta + X + \Omega + \Psi$$



“Y” is the number of inspection demerits with zero being the best possible score. The reference year is 2009 with the analysis covering 2009 through July 2012.  $\beta_1$  represents the coefficient for restaurants, and  $\beta_2$  represents the coefficient for hotels. Seattle also has a risk rank fixed effect ( $\Psi$ ). Seattle ranks establishments that sell pre-packaged food with limited preparation as the lowest, one, and establishments with complex food preparation and storage as the highest, three.

The OLS model for Washington, D.C. is:

$$Y = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{other}) + \Theta + X + \Omega + \Psi + \Phi + \epsilon$$

The Poisson model is:

$$\ln(Y) = \beta_0 + \beta_1 (\text{restaurants}) + \beta_2 (\text{other}) + \Theta + X + \Omega + \Psi$$

“Y” is the number of violations. The analysis was run for 2011 and 2012.  $\beta_1$  represents the coefficient for restaurants, caterers, cafeterias and hotels, and  $\beta_2$  represents the coefficient for grocery stores, corner stores and wholesalers. Like Seattle, Washington, D.C. has a risk rank fixed effect ( $\Psi$ ) based on the District’s ranking of establishments, where one is the least risky and five is the riskiest.



# APPENDIX B: REGRESSION OUTPUT

**Table 15.**  
**Boston Food Trucks**

	OLS			Poisson		
	Coefficient	Robust SE	p	Coefficient	Robust SE	p
Restaurants	1.872	0.253	0.00	0.527	0.107	0.00
Other	-0.187	0.251	0.46	-0.020	0.109	0.86
<b>Weekday</b>						
Tuesday	-1.399	0.909	0.12	-0.261	0.287	0.36
Wednesday	-1.514	0.906	0.10	-0.284	0.287	0.32
Thursday	-1.523	0.907	0.09	-0.298	0.287	0.30
Friday	-1.413	0.908	0.12	-0.240	0.287	0.40
Saturday	-1.447	0.907	0.11	-0.253	0.287	0.38
Sunday	-2.507	0.944	0.01	-0.867	0.324	0.01
<b>Month</b>						
February	-0.046	0.117	0.69	-0.094	0.040	0.02
March	0.329	0.126	0.01	0.095	0.039	0.02
April	0.088	0.135	0.51	0.058	0.041	0.16
May	0.284	0.126	0.02	0.138	0.037	0.00
June	-0.077	0.133	0.57	0.006	0.040	0.89
July	-0.517	0.130	0.00	-0.111	0.042	0.01
August	-0.140	0.132	0.29	-0.021	0.042	0.62
September	-0.402	0.123	0.00	-0.151	0.043	0.00
October	-0.153	0.128	0.23	-0.027	0.041	0.51
November	-0.341	0.141	0.02	-0.027	0.044	0.54
December	-0.273	0.152	0.07	0.009	0.048	0.85
<b>Year</b>						
2012	0.461	0.095	0.00	0.148	0.028	0.00
2013	0.335	0.116	0.00	0.129	0.034	0.00
Intercept	3.529	0.978	0.00	1.178	0.315	0.00
sigma_u	2.471					
sigma_e	3.012					
rho	0.402					

**Table 16.**  
**Boston Carts**

	OLS			Poisson		
	Coefficient	Robust SE	<i>p</i>	Coefficient	Robust SE	<i>p</i>
Restaurants	3.391	0.092	0.00	1.580	0.079	0.00
Other	1.334	0.087	0.00	1.033	0.082	0.00
<b>Weekday</b>						
Tuesday	0.231	0.149	0.12	0.438	0.171	0.01
Wednesday	0.123	0.147	0.40	0.415	0.171	0.02
Thursday	0.118	0.147	0.42	0.404	0.171	0.02
Friday	0.226	0.147	0.13	0.462	0.171	0.01
Saturday	0.181	0.148	0.22	0.447	0.171	0.01
Sunday	-0.353	0.222	0.11	-0.099	0.235	0.67
<b>Month</b>						
February	-0.032	0.115	0.78	-0.090	0.040	0.03
March	0.358	0.126	0.00	0.101	0.039	0.01
April	0.102	0.131	0.44	0.058	0.041	0.16
May	0.269	0.122	0.03	0.135	0.037	0.00
June	-0.058	0.129	0.65	0.012	0.040	0.76
July	-0.492	0.126	0.00	-0.111	0.042	0.01
August	-0.145	0.127	0.25	-0.031	0.042	0.47
September	-0.393	0.122	0.00	-0.150	0.043	0.00
October	-0.160	0.127	0.21	-0.027	0.041	0.50
November	-0.330	0.138	0.02	-0.033	0.044	0.45
December	-0.231	0.150	0.12	0.017	0.048	0.73
<b>Year</b>						
2012	0.450	0.092	0.00	0.145	0.028	0.00
2013	0.318	0.113	0.01	0.124	0.034	0.00
Intercept	0.387	0.182	0.03	-0.573	0.165	0.00
sigma_u	2.324					
sigma_e	2.970					
rho	0.380					

**Table 17.**  
**Las Vegas Food Trucks**

	OLS			Poisson		
	Coefficient	Robust SE	<i>p</i>	Coefficient	Robust SE	<i>p</i>
Restaurants	3.575	0.287	0.00	0.732	0.096	0.00
Other	1.085	0.286	0.00	0.267	0.096	0.01
<b>Weekday</b>						
Tuesday	0.375	0.291	0.20	0.113	0.055	0.04
Wednesday	0.191	0.291	0.51	0.078	0.055	0.15
Thursday	0.123	0.290	0.67	0.064	0.055	0.24
Friday	0.048	0.290	0.87	0.051	0.055	0.35
Saturday	-0.371	0.289	0.20	-0.026	0.055	0.63
Sunday	-0.239	0.310	0.44	-0.051	0.060	0.39
<b>Month</b>						
February	-0.064	0.079	0.42	-0.006	0.015	0.68
March	-0.161	0.079	0.04	-0.022	0.015	0.15
April	-0.105	0.085	0.22	-0.015	0.016	0.37
May	0.030	0.088	0.74	0.015	0.016	0.36
June	-0.055	0.082	0.50	0.003	0.016	0.83
July	0.166	0.087	0.06	0.040	0.016	0.01
August	0.322	0.095	0.00	0.076	0.018	0.00
September	0.028	0.086	0.74	0.013	0.017	0.44
October	-0.176	0.087	0.04	-0.020	0.017	0.25
November	0.100	0.102	0.33	0.035	0.019	0.07
December	-0.124	0.104	0.23	-0.007	0.020	0.72
<b>Year</b>						
2010	0.107	0.039	0.01	0.021	0.008	0.01
2011	0.544	0.045	0.00	0.100	0.009	0.00
2012	1.306	0.060	0.00	0.231	0.011	0.00
Intercept	2.758	0.409	0.00	1.073	0.111	0.00
sigma_u	1.578					
sigma_e	5.558					
rho	0.075					

**Table 18.**  
**Las Vegas Carts**

	OLS			Poisson		
	Coefficient	Robust SE	p	Coefficient	Robust SE	p
Restaurants	4.711	0.112	0.00	1.214	0.054	0.00
Other	2.221	0.110	0.00	0.748	0.055	0.00
<b>Weekday</b>						
Tuesday	0.359	0.276	0.19	0.110	0.054	0.04
Wednesday	0.181	0.275	0.51	0.076	0.054	0.16
Thursday	0.118	0.275	0.67	0.063	0.054	0.24
Friday	0.038	0.275	0.89	0.049	0.054	0.36
Saturday	-0.362	0.274	0.19	-0.026	0.054	0.62
Sunday	-0.204	0.295	0.49	-0.044	0.059	0.46
<b>Month</b>						
February	-0.061	0.078	0.43	-0.005	0.015	0.71
March	-0.160	0.078	0.04	-0.022	0.015	0.14
April	-0.106	0.084	0.20	-0.015	0.016	0.34
May	0.038	0.087	0.67	0.016	0.016	0.32
June	-0.049	0.081	0.54	0.004	0.015	0.82
July	0.176	0.086	0.04	0.042	0.016	0.01
August	0.340	0.094	0.00	0.080	0.018	0.00
September	0.059	0.085	0.49	0.019	0.017	0.25
October	-0.170	0.087	0.05	-0.019	0.017	0.26
November	0.130	0.100	0.19	0.041	0.019	0.03
December	-0.107	0.103	0.30	-0.003	0.020	0.88
<b>Year</b>						
2010	0.107	0.038	0.01	0.021	0.008	0.01
2011	0.549	0.044	0.00	0.103	0.009	0.00
2012	1.300	0.059	0.00	0.233	0.011	0.00
Intercept	1.618	0.294	0.00	0.591	0.076	0.00
sigma_u	1.569					
sigma_e	5.524					
rho	0.075					

**Table 19.**  
**Los Angeles Food Trucks**

	OLS			Poisson		
	Coefficient	Robust SE	<i>p</i>	Coefficient	Robust SE	<i>p</i>
Restaurants	4.484	0.143	0.00	0.786	0.049	0.00
<b>Weekday</b>						
Tuesday	-0.313	0.424	0.46	0.145	0.074	0.05
Wednesday	-0.233	0.421	0.58	0.145	0.074	0.05
Thursday	-0.187	0.420	0.66	0.144	0.074	0.05
Friday	-0.242	0.421	0.57	0.133	0.074	0.07
Saturday	-0.206	0.426	0.63	0.122	0.074	0.10
Sunday	1.110	0.516	0.03	0.248	0.089	0.01
<b>Month</b>						
February	0.124	0.115	0.28	0.012	0.017	0.45
March	0.101	0.097	0.30	0.018	0.015	0.23
April	0.041	0.102	0.69	0.006	0.015	0.71
May	-0.021	0.097	0.83	-0.006	0.014	0.70
June	0.081	0.110	0.46	0.018	0.016	0.26
July	0.251	0.128	0.05	0.030	0.018	0.10
August	0.326	0.123	0.01	0.033	0.018	0.06
September	0.533	0.121	0.00	0.069	0.017	0.00
October	0.282	0.135	0.04	0.025	0.019	0.19
November	0.104	0.132	0.43	0.011	0.019	0.55
December	-0.141	0.120	0.24	-0.004	0.018	0.81
<b>Year</b>						
2010	-0.402	0.067	0.00	-0.056	0.009	0.00
2011	-0.701	0.070	0.00	-0.094	0.010	0.00
2012	-0.829	0.090	0.00	-0.102	0.013	0.00
Intercept	3.721	0.450	0.00	1.178	0.091	0.00
sigma_u	2.430					
sigma_e	4.633					
rho	0.216					

**Table 20.**  
**Los Angeles Carts**

	OLS			Poisson		
	Coefficient	Robust SE	<i>p</i>	Coefficient	Robust SE	<i>p</i>
Restaurants	5.648	0.237	0.00	1.214	0.105	0.00
<b>Weekday</b>						
Tuesday	0.254	0.393	0.52	0.264	0.074	0.00
Wednesday	0.440	0.391	0.26	0.275	0.073	0.00
Thursday	0.436	0.391	0.26	0.268	0.073	0.00
Friday	0.443	0.390	0.26	0.265	0.073	0.00
Saturday	0.402	0.394	0.31	0.245	0.074	0.00
Sunday	0.843	0.492	0.09	0.265	0.091	0.00
<b>Month</b>						
February	0.130	0.116	0.26	0.013	0.016	0.43
March	0.131	0.097	0.18	0.020	0.015	0.16
April	0.040	0.101	0.69	0.005	0.015	0.74
May	0.024	0.097	0.80	0.000	0.014	0.98
June	0.232	0.111	0.04	0.037	0.016	0.02
July	0.321	0.132	0.02	0.036	0.018	0.05
August	0.342	0.126	0.01	0.032	0.018	0.07
September	0.452	0.119	0.00	0.058	0.017	0.00
October	0.289	0.138	0.04	0.025	0.019	0.20
November	0.034	0.123	0.79	0.003	0.017	0.85
December	-0.155	0.121	0.20	-0.004	0.018	0.84
<b>Year</b>						
2010	-0.468	0.069	0.00	-0.064	0.009	0.00
2011	-0.849	0.070	0.00	-0.113	0.010	0.00
2012	-0.958	0.091	0.00	-0.118	0.012	0.00
Intercept	1.996	0.458	0.00	0.635	0.127	0.00
sigma_u	2.454					
sigma_e	4.520					
rho	0.228					

**Table 21.**  
**Louisville Mobile Vendors (Trucks and Carts)**

	OLS			Poisson		
	Coefficient	Robust SE	p	Coefficient	Robust SE	p
Restaurants	2.441	0.164	0.00	0.826	0.076	0.00
Other	1.354	0.166	0.00	0.596	0.077	0.00
<b>Weekday</b>						
Tuesday	0.200	0.243	0.41	0.030	0.112	0.79
Wednesday	0.177	0.247	0.47	0.024	0.113	0.83
Thursday	0.102	0.246	0.68	0.016	0.112	0.89
Friday	0.095	0.256	0.71	-0.017	0.114	0.88
Saturday	-0.019	0.273	0.94	-0.051	0.117	0.67
Sunday	-0.044	0.215	0.84	-0.101	0.116	0.39
<b>Month</b>						
February	0.000	0.101	1.00	0.023	0.032	0.46
March	-0.158	0.095	0.10	-0.058	0.032	0.07
April	0.151	0.141	0.28	0.069	0.035	0.05
May	0.208	0.188	0.27	0.067	0.043	0.12
June	0.060	0.113	0.60	0.027	0.030	0.37
July	0.009	0.097	0.93	0.009	0.029	0.75
August	-0.356	0.222	0.11	-0.090	0.079	0.26
September	0.201	0.117	0.09	0.107	0.033	0.00
October	0.070	0.112	0.53	-0.009	0.034	0.80
November	-0.099	0.103	0.34	-0.040	0.032	0.21
December	-0.060	0.106	0.58	0.005	0.033	0.88
<b>Year</b>						
2010	0.719	0.073	0.00	0.201	0.026	0.00
2011	0.606	0.113	0.00	0.160	0.037	0.00
2012	0.282	0.068	0.00	0.062	0.025	0.01
Intercept	1.352	0.346	0.00	0.523	0.137	0.00
sigma_u	1.913					
sigma_e	3.729					
rho	0.208					

**Table 22.**  
**Miami Mobile Vendors (Trucks and Carts)**

	OLS			Poisson		
	Coefficient	Robust SE	p	Coefficient	Robust SE	p
Restaurants	4.191	0.126	0.00	0.773	0.032	0.00
<b>Weekday</b>						
Tuesday	2.922	0.378	0.00	0.868	0.105	0.00
Wednesday	2.524	0.371	0.00	0.826	0.105	0.00
Thursday	2.606	0.372	0.00	0.841	0.105	0.00
Friday	2.529	0.377	0.00	0.826	0.105	0.00
Saturday	2.205	0.374	0.00	0.775	0.105	0.00
Sunday	0.732	0.515	0.16	0.354	0.136	0.01
<b>Month</b>						
February	0.308	0.211	0.15	0.060	0.029	0.04
March	0.228	0.218	0.29	0.052	0.029	0.07
April	-0.482	0.212	0.02	-0.042	0.031	0.18
May	-1.080	0.213	0.00	-0.106	0.031	0.00
June	-1.730	0.201	0.00	-0.255	0.031	0.00
July	-0.215	0.231	0.35	-0.011	0.030	0.72
August	-0.391	0.241	0.11	-0.023	0.032	0.47
September	-0.565	0.239	0.02	-0.054	0.032	0.09
October	-0.522	0.242	0.03	-0.053	0.032	0.10
November	-0.598	0.272	0.03	-0.049	0.036	0.17
December	-0.852	0.257	0.00	-0.107	0.035	0.00
<b>Year</b>						
2009	-1.368	0.151	0.00	-0.154	0.017	0.00
2010	-1.487	0.225	0.00	-0.175	0.027	0.00
2011	-3.323	0.150	0.00	-0.435	0.019	0.00
2012	-3.495	0.213	0.00	-0.466	0.027	0.00
Intercept	3.533	0.438	0.00	0.761	0.112	0.00
sigma_u	2.877					
sigma_e	6.570					
rho	0.161					

**Table 23.**  
**Seattle Mobile Vendors (Trucks and Carts)**

	OLS			Poisson		
	Coefficient	Robust SE	p	Coefficient	Robust SE	p
Restaurants	-1.505	1.368	0.27	-0.094	0.111	0.40
Hotels	-6.893	1.589	0.00	-0.915	0.191	0.00
<b>Weekday</b>						
Tuesday	0.103	2.951	0.97	0.292	0.256	0.25
Wednesday	-0.849	2.963	0.77	0.264	0.256	0.30
Thursday	-0.251	2.980	0.93	0.270	0.257	0.29
Friday	0.741	2.964	0.80	0.387	0.257	0.13
Saturday	-0.596	3.003	0.84	0.279	0.257	0.28
Sunday	-0.315	3.358	0.93	0.120	0.283	0.67
<b>Month</b>						
February	-1.626	0.934	0.08	-0.085	0.070	0.22
March	0.898	0.932	0.34	0.102	0.078	0.19
April	-2.009	0.894	0.03	-0.113	0.067	0.09
May	-3.274	0.893	0.00	-0.286	0.072	0.00
June	-2.652	1.026	0.01	-0.158	0.073	0.03
July	-0.298	1.232	0.81	0.011	0.099	0.92
August	-1.090	1.257	0.39	-0.028	0.090	0.76
September	-5.733	1.042	0.00	-0.400	0.083	0.00
October	-6.436	1.009	0.00	-0.522	0.093	0.00
November	-5.098	0.976	0.00	-0.428	0.083	0.00
December	-5.743	0.982	0.00	-0.409	0.084	0.00
<b>Year</b>						
2010	-0.135	0.621	0.83	0.007	0.056	0.90
2011	-0.801	0.585	0.17	-0.006	0.054	0.91
2012	-0.318	0.745	0.67	0.061	0.060	0.31
<b>Risk Rank</b>						
2	-3.243	0.822	0.00	-0.567	0.140	0.00
2/3	-8.459	1.727	0.00	-1.243	0.347	0.00
3	5.419	0.760	0.00	0.506	0.104	0.00
Intercept	12.828	3.140	0.00	2.313	0.267	0.00
sigma_u	8.730					
sigma_e	15.340					
rho	0.245					

**Table 24.**  
**Washington, D.C., Mobile Vendors (Trucks and Carts)**

	OLS			Poisson		
	Coefficient	Robust SE	p	Coefficient	Robust SE	p
Restaurants	1.630	0.151	0.00	0.661	0.088	0.00
Other	1.550	0.169	0.00	0.636	0.092	0.00
<b>Weekday</b>						
Tuesday	0.732	0.918	0.43	0.224	0.305	0.46
Wednesday	0.837	0.913	0.36	0.325	0.148	0.03
Thursday	0.641	0.912	0.48	0.370	0.148	0.01
Friday	0.945	0.917	0.30	0.329	0.148	0.03
Saturday	0.739	0.919	0.42	0.399	0.148	0.01
Sunday	0.859	1.575	0.59	0.327	0.148	0.03
<b>Month</b>						
February	0.113	0.258	0.66	0.248	0.182	0.17
March	-0.024	0.248	0.92	-0.006	0.059	0.93
April	0.021	0.255	0.94	0.025	0.034	0.45
May	0.061	0.233	0.79	-0.013	0.032	0.67
June	-0.142	0.241	0.56	-0.017	0.033	0.60
July	0.337	0.263	0.20	-0.006	0.032	0.85
August	0.396	0.246	0.11	-0.021	0.034	0.53
September	-0.287	0.243	0.24	0.069	0.033	0.04
October	-0.349	0.230	0.13	0.065	0.031	0.04
November	-0.418	0.230	0.07	-0.089	0.033	0.01
December	-0.524	0.252	0.04	-0.104	0.032	0.00
<b>Year</b>						
2012	-0.586	0.088	0.00	-0.147	0.033	0.00
<b>Risk Rank</b>						
2	0.489	0.192	0.01	-0.174	0.035	0.00
3	1.344	0.193	0.00	0.374	0.063	0.00
4	2.051	0.273	0.00	-0.164	0.012	0.00
5	-0.162	0.472	0.73	-0.046	0.168	0.78
Intercept	1.110	0.934	0.23	0.168	0.055	0.00
sigma_u	0.000					
sigma_e	4.719					
rho	0.000					

## ENDNOTES

1 Public Broadcasting Service. "Timeline of the Great Depression." <http://www.pbs.org/wgbh/americanexperience/features/timeline/rails-timeline/>.

2 <http://www.wave3.com/story/22818583/health-department-worried-about-food-truck-sanitation-safety>.

3 <http://www.wave3.com/story/22818583/health-department-worried-about-food-truck-sanitation-safety>.

4 Norman, E., Frommer, R., Gall, B., & Knepper, L. (July 2011) "Streets of dreams: How cities can create economic opportunity by knocking down protectionist barriers to street vending." Institute for Justice: Arlington, VA.

5 Initially Las Vegas, Los Angeles, Miami, Seattle and Washington D.C. were chosen from the 50 largest cities in the U.S. because their sanitation records were accessible and included ways to distinguish by establishment type. Later both Boston and Louisville were added after news reports suggested that food trucks

performed worse than restaurants during inspections.

6 Local codes are governed by state sanitation laws, which are mainly concerned with cleanliness, food sourcing and storage, food temperatures and employee health and knowledge. They also address vermin, refuse, consumer protection, utensils and equipment. Additionally, the seven municipalities studied all require food-truck and cart owners to work out of a commissary—shared commercial kitchen—where they must store food, containers and supplies as well as prepare food, clean utensils and dispose of liquid and solid waste. The commissaries, like restaurants and mobile vendors, must pass periodic health inspections to remain open.

7 In Las Vegas, Los Angeles, Louisville and Seattle, violations are given demerit values depending on the severity of the violation. For example, a foodborne violation may have a demerit of five whereas a business practice violation may have a demerit of one. In these cities, the sum of the demerits is the number provided by the agencies and is reported here as number of violations.

8 Analyses controlled for when an establishment was inspected—day of

the week, month and year—because variations may occur with higher traffic and lower traffic days and with seasonal and yearly fluctuations in demand, weather, foods, pests and other factors. The analyses also controlled for each individual establishment because some businesses may be inspected more often or have consistent issues based on something other than the type of food establishment they are. The analyses for Seattle and Washington, D.C., also controlled for risk categories assigned by the cities. These categories are assigned based on establishments' methods of food preparation and delivery—pre-packaged versus fresh food, ice cream versus warm lunch entrees and so forth. Analyses controlled for these categories so that an abundance of high-risk, and therefore potentially high-violation, establishments in one category would not skew results.

9 The Poisson regression is commonly used for analyzing count data, which we have here (i.e., counts of violations). However, the results of OLS regression tend to be easier to understand and are included here for ease of interpretation.

10 The full regression output for models in Boston, Miami and Washington,

D.C., using the numbers of critical and non-critical violations can be supplied upon request.

11 The full regression output for the models using the number of critical foodborne, critical and non-critical violations separately can be supplied upon request.

12 The number of violations here is actually the number of reported demerits, where more severe violations receive more demerits.

13 The number of violations here is actually the number of reported demerits, where more severe violations receive more demerits.

14 The number of violations here is actually the number of reported demerits, where more severe violations receive more demerits.

15 The full regression output for the models using the number of critical and non-critical violations separately can be supplied upon request.

16 The number of violations here is actually the number of reported demerits, where more severe violations receive more demerits.

17 The full regression output for the models using the number of critical and non-critical violations separately can be supplied upon request.

18 <http://fatlip.leoweekly.com/2013/07/26/inspection-scores-suggest-louisville-food-trucks-arent-as-scary-as-wave3-thinks/>.

19 For more information on good food-truck laws see: Frommer, R. & Gall, B. (November 2012) "Food-truck freedom: How to build better food-truck laws in your city." Institute for Justice: Arlington, VA; <http://ij.org/vending>.

20 The OLS models were also run without the establishment fixed effects and the Poisson models were run with establishment fixed effects. The results of these models were not appreciably different from the ones used in this report. These results can be provided upon request.

21 These values were transformed from the original grade that removes demerits from 100.

22 These values were transformed from the original grade that removes demerits from 100.

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# UPWARDLY MOBILE

*Street Vending and the American Dream*



BY DICK M. CARPENTER II, PH.D.

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## EXECUTIVE SUMMARY

**As old as the country itself,  
American street vending has  
never been more prominent.**

It's the subject of television shows, think pieces and – less happily – burdensome regulations in cities coast to coast. Despite vending's popularity both with the public and as a target for regulation, data about vendors and their economic contributions have been hard to come by. Until now.

To help remedy this dearth of information, the Institute for Justice surveyed 763 licensed vendors in the 50 largest cities in the United States. This report presents the findings of that survey as well as an in-depth economic case study of New York City's vending industry. It also tells the stories of a diverse group of vendors and their struggles to make a living and grow their businesses. These are real-life examples of how city regulations can get in the way of budding entrepreneurs.



## KEY FINDINGS INCLUDE:

### **VENDING OFFERS AN ACCESSIBLE AVENUE TO ENTREPRENEURSHIP, ESPECIALLY FOR IMMIGRANTS, MINORITIES AND THOSE WITH LESS FORMAL EDUCATION.**

- 96% of vendors own their own businesses.
- 51% of vendors are immigrants, and the average immigrant vendor has been in the United States 22 years.
- Like the cities they serve, vendors are diverse: 62% are persons of color, including 35% who are Hispanic.
- 28% of vendors didn't complete high school, and 63% completed no specialized training before becoming vendors.

### **VENDORS ARE HARD-WORKING BUSINESS OWNERS AND JOB CREATORS—JUST THE PEOPLE CITIES SHOULD WELCOME WITH OPEN ARMS.**

- Full-time vendors work, on average, more than 11 hours a day, five and a half days a week, and three out of four part-time vendors hold a second job.
- 39% of vendors are employers, averaging 2.3 full-time and 2.7 part-time workers.
- One out of three vending business owners plans to expand.

### **THROUGH THEIR ECONOMIC ACTIVITY, VENDING BUSINESSES CAN MAKE SIZABLE CONTRIBUTIONS TO THEIR LOCAL ECONOMY.**

- In 2012, vendors' contributions to the New York City economy totaled an estimated 17,960 jobs, \$192.3 million in wages and \$292.7 million in value added.
- New York City vendors contributed an estimated \$71.2 million to local, state and federal tax coffers.

New York's vending industry generates considerable economic activity — but it could do even more if not for the city's artificial cap on licenses and permits. This cap has kept countless would-be vendors out of business and forced others to operate illegally. Many other cities, including Los Angeles, Miami and Chicago, likewise dampen vending's economic potential through outright bans and arbitrary limits on when, where and how vendors may work.

Not only do such regulations cost cities economic activity, jobs and taxes, but they also close off an otherwise viable path to entrepreneurship and upward mobility. Cities would do better to open their streets and sidewalks to hard-working vendors who are just trying to build their American Dream.



## INTRODUCTION

After hundreds of years on America's urban streets, vending is an "overnight" success—most especially street food. Suddenly, multiple television shows feature food trucks and their innovative fare.<sup>1</sup> In 2010, *New York Times* food columnist John T. Edge declared, "Street food is hip,"<sup>2</sup> and a 2009 *Washington Post* story observed, "Street carts are the year's hottest food trend."<sup>3</sup> And the trend shows no signs of slowing down: Celebrity chef and street food aficionado Anthony Bourdain announced plans in 2014 for a New York City market hall that will feature "a dream list of chefs, operators, street food and hawker legends from around the world."<sup>4</sup> Since 2008, the sector has grown an average of 8.4% a year, and revenue, which in 2012 reached \$650 million, is expected to quadruple to \$2.7 billion by 2017.<sup>5</sup>

For much of our nation's history, street vending—or "peddling"—has been a way for lower-income workers, particularly new immigrants, to make a living and climb the economic ladder.<sup>6</sup> The industry still holds the same economic promise, but it now attracts a more diverse crop of workers: immigrants, yes, but also ex-professionals, retirees and young entrepreneurs.<sup>7</sup> In cities around the country, vendors sell a dizzying array of

goods—both food and merchandise—from trucks, carts, tables, stands and kiosks.<sup>8</sup>

The allure of street vending lies in its low startup and overhead costs. Vending provides an accessible avenue into entrepreneurship—a way to be one's own boss and to start something that can grow into a bigger enterprise. Among food vendors, for example, it's common to find young, creative chefs using a cart or truck to test-market ideas, build a customer base and capital and take the first steps toward opening a restaurant.<sup>9</sup>

Particularly during the recent recession, street vending has also been seen as an escape from unemployment. Michael Wells, co-director of New York City's Street Vendor Project, reported a surge of calls from people trying to find a new way to make a living after losing their jobs.<sup>10</sup> Asociación de Vendedores Ambulantes, a vendor association in Chicago, also works with aspiring vendors who wish to start new businesses after struggling to find work elsewhere.<sup>11</sup>

This report provides a first-of-its-kind look at the people making a living as entrepreneurs on America's streets and sidewalks. The Institute for Justice surveyed licensed vendors in the 50 largest U.S. cities. By far the broadest survey ever done of the industry, it reveals that today's street vendors are bootstraps entrepreneurs: Despite having little formal training, they have built long-lasting businesses and created jobs, often through long hours



and hard work. And an in-depth case study of vendors in New York City shows the economic benefits—including jobs and taxes—street vendors can bring to a city.

To date, hard data about street vendors have been scarce, but facts about the industry are increasingly important as cities across the country consider how to regulate vending—and as vendors push back against onerous rules. New York City, despite its storied history of vending, arbitrarily caps food permits and vending licenses, keeping would-be vendors out of work or forcing them to operate illegally<sup>12</sup>—and fostering a flourishing black market for permits.<sup>13</sup> Although home to a thriving food-truck scene, Los Angeles completely bans sidewalk vending, exposing the thousands of Angelenos who vend anyway to citations, fines and even jail time.<sup>14</sup> Chicago won't allow food trucks to sell within 200 feet of any

brick-and-mortar establishment that serves food, effectively making much of its downtown off-limits.<sup>15</sup> Miami bans vendors from public parking lots and street parking spaces and forbids them from staying in one place any longer than it takes to make a sale.<sup>16</sup>

Many cities are simply imposing old, ill-fitting regulations on a rejuvenated industry, while others are bending to pressure from businesses in traditional storefronts that fear upstart competition.<sup>17</sup> Either way, a better understanding of who vendors are, what they do and how they contribute to local economies is crucial to dispel myths and lead to better policymaking. This report sheds light on the industry not only through survey and economic data but also through stories of men and women in the business and their struggles to survive and thrive.

## SURVEYING STREET VENDORS

To learn more about the street vending industry, the Institute for Justice surveyed 763 vendors in the 50 largest U.S. cities. The sample was drawn from lists of licensed vendors in each city, and the survey was conducted by telephone in the fall of 2013 by Technometrica, a New Jersey-based polling company. For further details on methods, see the Appendix.

The complete survey and full results are available online at

[WWW.IJ.ORG/UPWARDLY-MOBILE](http://WWW.IJ.ORG/UPWARDLY-MOBILE)

## LAURA PEKARIK CHICAGO

Laura Pekarik is probably not who most people envision when they hear “street vendor.” She is nevertheless exemplary of today’s new class of vendors. With an associate’s degree in business, she is among the 24% of vendors with some college (see Figure 4, p. 12). And like most vendors (see Figure 6, p. 15), she had a working life before vending: a successful management career in marketing. Then came an announcement from her sister – cancer.

Diagnosed in 2010, Kathryn Pekarik, Laura’s sister, is one of more than 330,000 Americans<sup>18</sup> with non-Hodgkin lymphoma, a type of blood cancer. Laura and her mother quit their jobs to take care of her. During a benefit to help defray the costs of Kathryn’s medical care, Laura hosted a bake sale, selling 250 of her homemade cupcakes. Friends and family couldn’t get enough of the sweet treats and requested more.

After Kathryn recovered, Laura considered returning to her job but chose instead to go into business for herself. Like many new entrepreneurs, Laura lacked money for a storefront, so she used her entire savings to open the Cupcakes for Courage food truck in 2011. Now, at 3:30 a.m. every weekday and many weekends, Laura begins a long workday that includes not only baking 200 cupcakes to sell from her truck but also overseeing a growing business,<sup>19</sup> from which she donates 10 percent of sales to cancer charities.<sup>20</sup>

Like many vendors (see Figure 2, p. 9), Laura is an employer: Her business employs a dozen staff members. Laura has also branched out to other baked goods and now offers catering and pre-ordering, which requires her to bake up to 500 cupcakes at a time.<sup>21</sup> In addition, she purchased another truck and opened a brick-and-mortar location in 2012. The store, Courageous Bakery, also serves as a new home for Laura’s food trucks, which continue to operate in Chicago – though not in all of Chicago.

City laws make it illegal for Laura and other food-truck operators to vend within 200 feet of any fixed business that serves food. Because restaurants tend to cluster together on streets and blocks, this “proximity restriction” has made entire swaths of Chicago inaccessible to food trucks. The fine for violating the 200-foot rule goes up to \$2,000 – 10 times greater than the fine for blocking a fire hydrant. To enforce this rule, the city is forcing food trucks to install GPS tracking devices that broadcast their every move.

Seeing the regulations as unjust, Laura joined with the Institute for Justice to sue the city of Chicago in late 2012. IJ argues that in existing primarily to protect restaurants – and not the public at large – the 200-foot rule violates Laura’s and other vendors’ right to earn an honest living under the Illinois Constitution.<sup>22</sup> IJ also argues that the Windy City’s use of GPS devices for enforcement violates the state Constitution because of its anticompetitive purpose and the lack of limitations on the access or use of any data collected.<sup>23</sup>

### SMALL-BUSINESS OWNERSHIP

Street vendors are overwhelmingly small-business owners: 96% of large-city vendors own their own business, and 90% of those also own the truck, cart, stand or other structure from which they sell.<sup>3</sup> Most vendors own only one structure, but some have grown into larger businesses with 10, 20 or even 50 vending units.

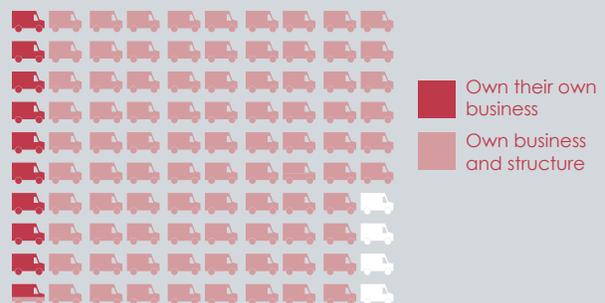


FIGURE 1: VENDOR BUSINESS AND STRUCTURE OWNERSHIP IN LARGE U.S. CITIES



## JOB CREATION

Street vending creates jobs not only for vendors but often also for others: 39% of vendors employ full- or part-time workers. The average vendor-employer has 2.3 full-time and 2.7 part-time workers.<sup>b</sup>

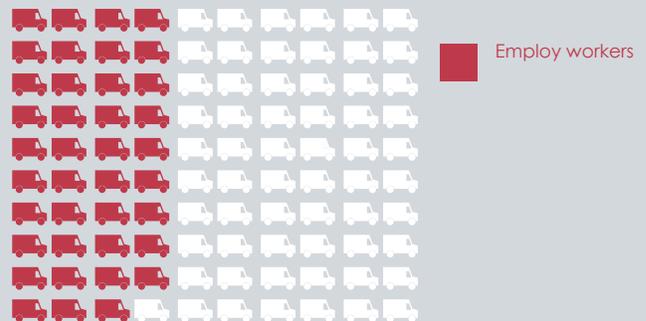


FIGURE 2: VENDORS AS EMPLOYERS IN LARGE U.S. CITIES

## GREG BURKE CHICAGO

Laura's company has survived despite the city's intrusions, but Chicago has managed to destroy other businesses, like Greg Burke's. An engineer by training, Greg built a flourishing career in the construction industry. And then came the Great Recession. Along with millions of other Americans, Greg found himself unemployed in 2010. As the recession lingered, he struggled to find work in an industry hard hit and slow to recover. With few prospects, Greg took matters into his own hands.

For years at Chicago Bears games, Greg had been frying schnitzel (a hand-breaded and fried pork or chicken cutlet), putting it between two pieces of bread and

topping it with grilled onions and peppers. People loved Greg's sandwiches and told him he should sell them for a living. In 2011, he started to do just that. He bought a vintage 1970s Jeep with his life savings, converted it into a food truck and became the Chicago Schnitzel King. In so doing, he joined the ranks of tens of thousands of street vendors, most of whom sell food (see *Wide Variety of Food & Merchandise*, p. 18).

Greg and his wife, Kristin, built a popular business, but the city's draconian laws drove them away. "We had a strong, loyal following," Kristin said. "Unfortunately, because of the restrictive food-truck laws we couldn't make enough money to survive and support our growing family."<sup>24</sup> The Burkes moved to North Dakota in 2014—the Chicago Schnitzel King is no more.

## LONGEVITY & FUTURE PLANS

Street vendors are successful, averaging eight years in business with plans to continue for at least another 10 years. More than one-third of vendor-owners plan to expand, mostly by growing their current business, though nearly one-quarter of this group hope to open a brick-and-mortar storefront. Half of vendors' employees also hope to start their own vending business.

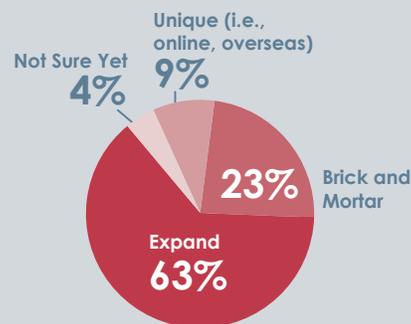


FIGURE 3: ASPIRATIONS OF LARGE-CITY VENDING BUSINESS OWNERS WHO PLAN TO EXPAND



## YVONNE CASTANEDA EL PASO, TEXAS

A similar fate almost befell Yvonne Castaneda of El Paso, Texas.

On a typical day, Yvonne awakens at 5:00 a.m. to begin preparing food for her business. She buys ingredients from a local supplier and then takes them to a commercial kitchen where she prepares delicious, low-cost burritos greatly in demand by her regular customers. From there, she loads the burritos into her food truck and begins her route. Yvonne's business, like most vendors' (see Figure 12, p. 20), is mobile. Most days, she will stop at parks, construction sites and a local plasma center. Before the end of the day, she'll sell more than 50 burritos and an assortment of soda, candy, potato chips and other prepackaged items.<sup>25</sup> Mexican food is a staple among food vendors in the United States, though today's vendors offer a variety of foods and other goods (see Wide Variety of Food & Merchandise, p. 18).

Although Yvonne stops vending at around 4:00 p.m., her workday won't end until about 6:00 p.m., when she has finished unloading and cleaning her truck and preparing for the next day. On weekends, she orders food and supplies for her business and completes hours of paperwork and accounting. Yvonne's workdays and weeks are long, but such commitment is typical among vendors (see Figure 9, p. 17).

Like most vendors (see Figure 5, p. 13), Yvonne has had no formal training in the industry, other than a food

handling course required by the city and an optional business management course offered by the health department, but she learned quickly and her business grew steadily. She is proud of the business that she started in 1996, proud that on 50 burritos a day she can cover all of her expenses and still support herself, her husband, Hector, who was put out of work by a severe on-the-job injury, and their daughter, Destiny. As it has for countless other mobile vendors across the country, owning a food truck has offered Yvonne a gateway to self-sufficiency and entrepreneurship.<sup>26</sup> But this path was very nearly closed to her and other El Pasoans.

In 2009, city leaders effectively turned El Paso into a no-vending zone with the adoption of a new food-truck law.<sup>27</sup> The core of the law was a proximity restriction prohibiting mobile food vendors from selling food within 1,000 feet of a brick-and-mortar restaurant. Making matters worse, the law also prohibited mobile vendors from stopping and waiting for customers, meaning they weren't allowed to park in one spot during the lunch hour and serve food steadily to customers. Instead, vendors had to keep driving constantly unless a customer happened to see them and flag them down; once finished with a transaction, vendors had to get back on the move immediately.<sup>28</sup>

For any vendor, but particularly for a food vendor, successfully operating under these kinds of parking restrictions is utterly unrealistic. Even with preparation completed prior to driving a route, serving food from a truck or cart requires equipment setup, last-minute food preparation and packaging, cleanup and other related

## LOW EDUCATION & TRAINING DEMANDS

Street vending is a way for people with less education and little specialized training to open their own businesses. Fewer large-city vendors have completed high school compared to other workers—28% of vendors have less than a high-school education versus 18% of city residents.

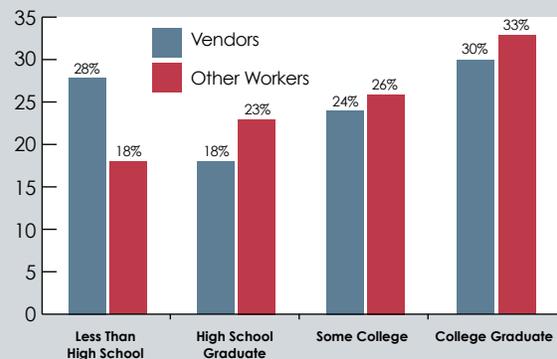


FIGURE 4: VENDOR EDUCATION COMPARED TO OTHER WORKERS IN LARGE U.S. CITIES<sup>c</sup>

activities that make a constant motion model of vending impossible. This logic was, however, lost on city inspectors, who enforced the new law with hefty fines.<sup>29</sup>

As a result, Yvonne was pushed out of locations where she had vended for years. As it is for many business owners, particularly retailers, location is a key factor in a vendor's success. Vendors like Yvonne typically choose to operate in business districts (see Figure 13, p. 21) — the very spot in El Paso that was now off-limits. Yvonne sought solutions, like paying to park in a private lot, but nothing she tried effectively attracted customers.<sup>30</sup> Her sales, previously enough to support her family, deflated to half their normal volume. Before the new law,

Yvonne's daily take was approximately \$450, which left her with about \$300 after expenses. Slashing that in half left her struggling to make ends meet.<sup>31</sup>

For almost two years, Yvonne tried to work within the new law, but, facing the real prospect of losing the ability to provide for her family, she partnered with IJ to sue the city of El Paso in early 2011. Just a few months later, city officials voted unanimously to lift most of the 2009 restrictions on mobile food vendors, including the 1,000-foot proximity restriction.<sup>32</sup>

Fortunately for Yvonne, attempts at economic protectionism by city leaders did not cast her out of work, but Atlanta vendors would not be so lucky.

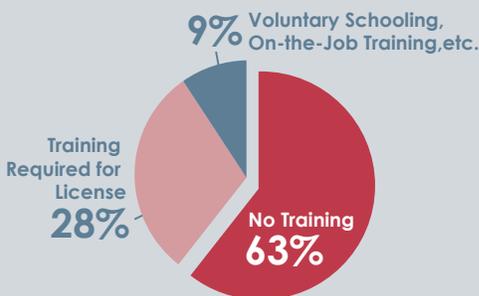


FIGURE 5: VENDORS' TRAINING IN LARGE U.S. CITIES<sup>d</sup>

Nearly two-thirds (63%) of vendors completed no specialized training prior to opening shop. Most vendors who did undergo training did so to meet municipal licensing requirements. These programs, which typically include hygiene classes, took, according to the vendors surveyed, an average of five months to complete.



## LARRY MILLER ATLANTA

For almost 30 years, Larry Miller had been a fixture at Atlanta Braves games, not as a player or a spectator but as a vendor selling shirts, hats, jerseys and snacks to fans. On Opening Day 2013, however, Larry and other vendors arrived only to be run off by police with threats of fines or arrest,<sup>33</sup> all thanks to Mayor Kasim Reed.

Larry began vending in 1985, selling T-shirts at the old Atlanta Stadium. He expanded with a table and additional merchandise — all the while paying the required fees and taxes.<sup>34</sup> Larry's 30-year tenure is more than triple the average of eight years in the vending business (see Longevity & Future Plans, p. 10).

Game days are long for Larry — usually about 14 hours. He arrives at the stadium four hours before game time and stays until everyone has left, usually three hours after the game has ended. Preparations add several more hours: The truck must be loaded, ice and water picked up from a wholesaler and peanuts cooked the night before. Post-game, he cleans and restocks.

Larry's small business allowed him to purchase a home, raise a family and create employment opportunities for others.<sup>35</sup> As he put it, "For generations, street vending has been a way for people in Atlanta to work hard and climb the economic ladder."<sup>36</sup> Unfortunately, city officials seemed intent on cutting off this path to upward mobility.

The dust-up leading to Larry's banishment from Turner Field began in 2009, when the city gave a street vending monopoly to a multi-billion-dollar Chicago-based company, General Growth Properties. GGP's plan included building metal kiosks adorned with paid advertising throughout Atlanta, evicting vendors who already worked at those locations, and then renting the kiosks to vendors for up to \$20,000 per year.<sup>37</sup> This is a vast sum, especially given that the average full-time, year-round street vending business generates a modest \$35,000 in annual profits (see Table 1, p. 17).

Arguing that Atlanta's actions violated the Georgia Constitution, Larry worked with IJ to sue the city. The court agreed with Larry in a December 2012 decision,<sup>38</sup> but victory was short-lived. The following spring, Mayor Reed cracked down on most of the city's vendors, refusing to let them operate.<sup>39</sup> Dozens of thriving businesses were shuttered overnight.

Although Larry was able to find a private lot near Turner Field from which to vend, the location was terrible. "Where I normally saw thousands at my old location, I saw only a few hundred," Larry recalls. "I lost 90 percent of my business. I could not make my house payments, and my house went into foreclosure."<sup>40</sup>

Larry and IJ sued again to force Atlanta to let people work under the city's original vending law, which the court's earlier decision had restored. They won again, with the judge ordering Reed to fulfill his duties,<sup>41</sup> but the mayor still refused. Within minutes of a 2013 contempt hearing prompted by IJ's requests, the City Council

## PRIOR WORK EXPERIENCE

Unlike "peddlers" of earlier eras who often lacked other employment skills or opportunities, most of today's vendors have prior work experience: Approximately 73% of large-city vendors held other jobs before vending. Of those, 29% have backgrounds in various professions, and 28% have experience in service industries.<sup>e</sup>

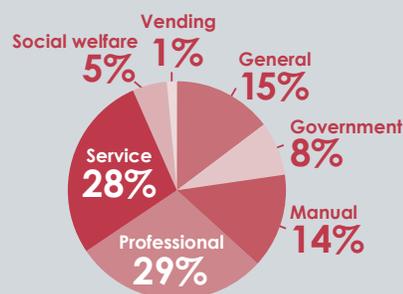


FIGURE 6: TYPES OF JOBS PREVIOUSLY HELD BY VENDORS IN LARGE U.S. CITIES



approved a new vending law. It was not until early 2015, however, that the city adopted an ordinance enabling Turner Field vendors to return to work. In 2017, vendors' livelihoods will again be disrupted as the Braves move to a new stadium in nearby Cobb County.<sup>42</sup> It remains unknown whether vending will be permitted at the new stadium and, if so, under what conditions.

Now aged 65—a senior member of an industry that already skews older than the general workforce (see Figure 17, p. 24)—Larry could retire, but he has other ideas.

Like many vendors who own their businesses, Larry is planning for his business's future (see Figure 3, p. 10).

Given the coming changes to Turner Field, Larry may opt to spend summers at Falcon Stadium, where a new professional soccer team will be kicking off in 2017.<sup>43</sup> "I will have to get creative. I don't know anything about soccer," he laughs, "but I am learning. They are probably going to have one famous player that will mean good jersey sales."

### FULL-TIME, PART-TIME & SEASONAL WORK

Most large-city street vendors (67%) work full time, but sizable minorities vend part time (33%) or seasonally (40%).<sup>f</sup> Most part-time and seasonal vendors supplement their incomes with second jobs.<sup>g</sup> For some part-time and seasonal vendors, street vending may fill gaps in income when full-time, year-round jobs are unavailable; others may see vending as an opportunity to own a business but need additional employment to make ends meet.

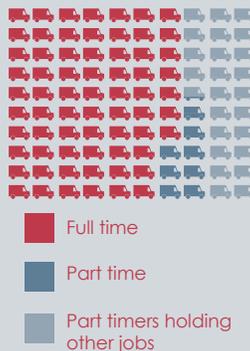


FIGURE 7: FULL-TIME VS. PART-TIME STREET VENDING IN LARGE U.S. CITIES

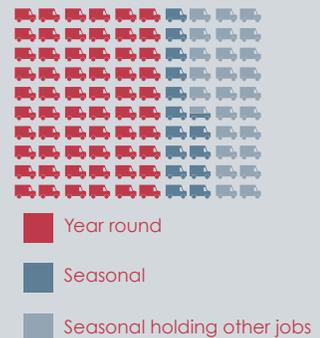


FIGURE 8: YEAR-ROUND VS. SEASONAL VENDING IN LARGE U.S. CITIES

## MODEST EARNINGS

Street vendors in America’s largest cities are bootstraps entrepreneurs, running modest businesses that average about \$145,000 in annual receipts for those operating full time and year round and considerably less for those operating part time and seasonally. After paying for fuel, supplies, wages, insurance, taxes, fees and other costs, full-time and year-round vendors generate profits of about \$35,000 per business and take home less than \$18,000 in personal income.

**TABLE 1: AVERAGE (MEAN) ANNUAL SALES, PROFIT AND INCOME FOR LARGE-CITY VENDING BUSINESSES, 2012**

	Full time	Part time	Year round	Seasonal
Sales	\$146,896	\$23,578	\$144,620	\$26,535
Profit	\$36,044	\$5,891	\$34,794	\$9,462
Income	\$14,408	\$15,768*	\$17,796	\$10,355*

\*Includes income from non-vending sources

## LONG WORKDAYS

Full-time vendors work five and a half days a week, on average,<sup>h</sup> and put in long hours, averaging 11 to 12 hours a day spent preparing to sell (food prep, packaging, etc.), serving customers and performing general business tasks such as bookkeeping and purchasing.<sup>i</sup>



**FIGURE 9: AVERAGE WORK WEEK FOR FULL-TIME STREET VENDORS IN LARGE U.S. CITIES**

**FIGURE 10: AVERAGE WORK DAY FOR FULL-TIME STREET VENDORS IN LARGE U.S. CITIES**



## JERI WINGO LOS ANGELES

Atlanta’s tumultuous history of regulatory fits and starts and capricious enforcement is not unique. More than 2,000 miles west, Los Angeles, too, has been the scene of a decades-long struggle over the freedom to work in public spaces, a struggle Jeri Wingo has witnessed first-hand.

Jeri creates and sells custom buttons. Around her community, buttons are worn widely to make political and cultural statements and facilitate conversation about current events. Using her skills as a graphic artist, Jeri designs buttons tied to significant people or incidents, community celebrations or vigils held in the park where she most commonly vends. She also creates buttons for regular customers by special request. “When I see someone wearing a button, I know instantly if it’s mine,” she says. “No one makes buttons like I do.”

Every Sunday, Jeri wakes early to load her car with her wares and drive to Leimert Plaza Park, where she sets up a table and canopy to serve the plaza’s many visitors. A major hub of black culture in Los Angeles, the Leimert Park neighborhood attracts artists and performers with its galleries, museums, performance venues and other

arts-related establishments. The plaza itself serves as a place for people to meet up, play chess, participate in drum circles and watch children play Double Dutch.<sup>44</sup> Its iconic status draws visitors from all over the country and even the world – it’s the perfect setting for a vendor like Jeri to sell her products.

Jeri also vends at special events, holiday celebrations, vigils and other gatherings, but she works part time so she can also pursue acting – the reason she originally moved from Grand Rapids, Mich., to Los Angeles with her two daughters in 1985. When show business prevented her from fulfilling her family responsibilities, Jeri put acting on hold. In the meantime, she worked other jobs and took some graphic arts classes, which she used to begin making and selling buttons in 1990.

Jeri’s vending was intermittent until 2010, when she began working weekends regularly. By then, her daughters were grown and she could refocus her efforts on acting. Regular vending enables her to support herself while also providing the flexibility to take auditions and accept jobs. Although most vendors work full time, Jeri is one of about a third who vend part time. Of these, many work other jobs (see Figure 7, p. 16).

Acting is a difficult business to break into, but vending is not without challenges of its own. As Jeri notes, “I would vend more often, but it’s so much trouble. I set up

## WIDE VARIETY OF FOOD & MERCHANDISE

Most large-city street vendors sell food (78%) or merchandise (21%); about 1% offer services such as cutting hair. Vendors’ offerings are quite diverse and include a wide variety of ethnic foods – Mexican, Korean, Thai, Lebanese, Greek, Philippine, German, Peruvian, Columbian, Ecuadorian and many more – as well as all sorts of merchandise, such as apparel, cosmetics, crafts, artwork, glass light fixtures and even emu oil.



FIGURE 11: FOOD OFFERINGS OF STREET VENDORS IN LARGE U.S. CITIES

somewhere and police come and shut me down. Business owners run me off because they don't want me in front of their building." She has not been arrested, but not every vendor is so fortunate.

Los Angeles is home to thousands of sidewalk vendors selling fruit, pupusas (tortillas stuffed with cheese, pork and beans), bacon-wrapped hot dogs and goods like cell phone accessories and T-shirts.<sup>45</sup> One city report estimates that 50,000 vendors work on city sidewalks, with 10,000 of them selling food.<sup>46</sup> Altogether, they generate an estimated \$504 million in annual sales.<sup>47</sup> Yet, and somewhat surprisingly given Los Angeles' exemplary food-truck laws,<sup>48</sup> vending on city sidewalks is illegal, punishable by misdemeanor charges and \$1,000 penalties – and the L.A. City Council voted in July 2015 to reinstate a ban on park and beach vending.<sup>49</sup> In 2013, more than 1,200 vendors were arrested and close to 300 citations were issued by the Los Angeles Police Department and Bureau of Street Services.<sup>50</sup>

City officials have tried many times over the years to legalize and regulate sidewalk vending, never with any success.<sup>51</sup> In 2014, however, a new effort began following a motion by City Council members Curren Price and José Huizar<sup>52</sup> and with support from the Los Angeles Street Vendor Campaign.<sup>53</sup> Early plans included a permitting





scheme requiring training devised by the city’s Economic and Workforce Development Department; a food vendor certification offered by the county Department of Public Health; city business tax registration; an EWDD assessment; and location and time assignments from the departments of Public Works and Recreation and Parks.<sup>54</sup>

Committee meetings at which early plan versions have been discussed have drawn hundreds of people—vendors, including Jeri, community members and interest group leaders—all asking questions, making arguments for or against and monitoring the progress of the effort.<sup>55</sup> Whereas the pro-street vending camp argues that vendors’ rights are being infringed, reform opponents protest that vendors pose unfair competition to brick-and-mortar shops and restaurants and predict enforcement problems for any legal vending program.<sup>56</sup>

As of this writing, no ordinance has been adopted, and so the ubiquitous yet often illegal vending continues. But in Leimert Plaza Park, for now at least, Jeri and other vendors work with little interference. Jeri continues to sell her buttons each weekend—paying local homeless men to set up her table and canopy—and interact with the scores of visitors who crowd the plaza. “Vending is fun to do,” Jeri says. “I like to talk to people, and from the money I make from visitors I buy food from other vendors to give to the homeless in the area. The money kind of circulates around the park.”

### MOSTLY MOBILE

Most large-city vendors are mobile: 83% sell from trucks, carts or temporary stands such as tables. Only 7% work at permanent stands like kiosks, market booths or designated areas at sporting venues.<sup>j</sup>

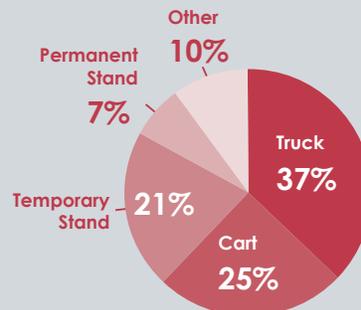


FIGURE 12: STRUCTURES USED BY STREET VENDORS IN LARGE U.S. CITIES

### POPULAR IN BUSINESS DISTRICTS

Business districts are the most popular location for mobile vendors, the top choice for 43%.<sup>k</sup> For the rest, location preferences vary widely: 24% of large-city mobile vendors fall into the “other” category, which includes festivals, craft shows, universities, amusement parks, construction sites and more. More than one-fifth of mobile vendors primarily work street fairs and events.<sup>l</sup>

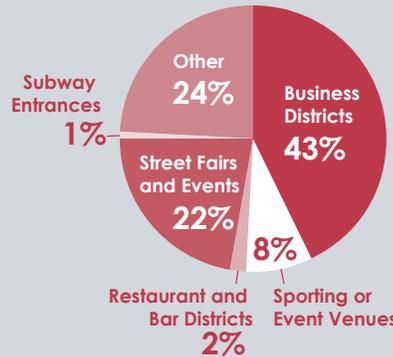


FIGURE 13: LOCATIONS MOBILE VENDORS WORK THE MOST IN LARGE U.S. CITIES

### RACIAL AND ETHNIC DIVERSITY

Like the cities they work in and serve, large-city street vendors are racially and ethnically diverse. Nearly two-thirds — 62% — are persons of color, and more than one-third — 35% — are Hispanic.

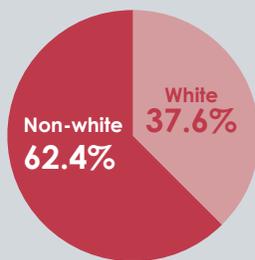


FIGURE 14: VENDOR RACE AND ETHNICITY IN LARGE U.S. CITIES

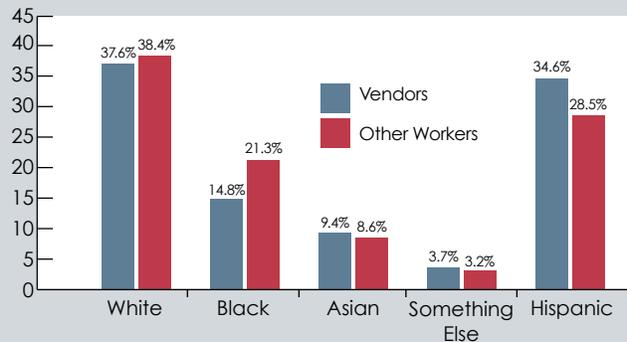


FIGURE 15: VENDOR RACE AND ETHNICITY COMPARED TO OTHER WORKERS IN LARGE U.S. CITIES

## SILVIO MEMBRENO HIALEAH, FLA.

Although the statistics in this report come from America's 50 largest cities, many findings likely apply also to vendors in other cities. For example, Hialeah, Fla., a city in Miami-Dade County, is home to a robust vendor community offering goods including churros (fried dough pastries), produce, bottled water, guarapo (a sugarcane drink) and —Silvio Membreno's specialty for the past 16 years—flowers. Silvio prepares bouquets of flowers and sells them from the back of his van in a private parking lot. He specializes in roses but also sells sunflowers, orchids and other varieties.<sup>57</sup> He has built up a clientele that values the quality flowers he provides at reasonable prices.

Like countless immigrants before him, Silvio came to the United States in search of better opportunities for his young family. Silvio, who arrived from Nicaragua in 1998 at the age of 36, never imagined he would abandon his native country, but after years of war, corruption, dictatorship and economic turmoil,<sup>58</sup> he knew he could not raise his family there. Silvio's immigrant status means he is in the majority of vendors (see Figure 16, p. 23); his Hispanic ethnicity puts him in the second largest racial or ethnic group among vendors (see Figure 15, p. 21).



After arriving in Hialeah, Silvio worked in construction but found it difficult to balance work against his children's needs. He saw in Hialeah's active street vending scene a way to provide for his family while enjoying the flexibility he needed as a single father. He also identified a gap in the market for quick-service, fresh-cut flowers. Soon, he began vending on the side, and eventually he left construction altogether.

Seven days a week, Silvio is up at 5:00 a.m., arranging flowers in bundles of six or 12. The half-dozen bouquet goes for \$5, the dozen for \$10. By 7:00 a.m., he is selling flowers to drivers who wave him over while stopped at a red light or to customers who pull into the parking lot. He remains until 10:00 p.m., except for short trips to purchase flowers for the next day.

Street vending has been the path to success for Silvio, but Hialeah, like other cities in South Florida, including Miami, has continually erected road blocks to slow him and other entrepreneurs down. In 1994, Hialeah adopted a vending ordinance, later amending it to protect brick-and-mortar businesses from competition. The centerpiece of these regulations was a proximity restriction that made it illegal for vendors to work within 300 feet of any store selling "the same or similar" merchandise.<sup>59</sup> In other words, street vendors like Silvio had to stay a football field away from any store with which they might compete—not to protect public health or safety, but to shield entrenched businesses from entrepreneurs who might offer consumers lower prices or better products.

The ordinance also prohibited vendors from standing still: Except during a transaction, street vendors had

to keep moving. It banned vendors from displaying their goods anywhere on public or private property. And the ordinance forbade vendors from placing merchandise, supplies or equipment on the ground—even when vending on private property with the owner's permission. Violating the ordinance could mean fines of \$500 per infraction per day.<sup>60</sup>

Although he believes in the rule of law, Silvio saw the city's ordinance as not only onerous but also unjust. So in 2011, he joined with IJ to sue Hialeah for violating his right to earn a living free from unnecessary government intrusion.

Eager to see the lawsuit go away, the City Council changed its statutes in early 2013,<sup>61</sup> but these alterations accomplished little. The proximity restriction was eliminated, but all other rules were left in place. The council also *added* regulations prohibiting remaining in one place while selling prepared foods, effectively banning food trucks and carts.

Silvio persisted, but 18 months later Miami-Dade civil court Judge Jorge Cueto upheld the city's regulations.<sup>62</sup> Undeterred, Silvio appealed to the Third District Court of Appeals in Florida. As he awaits the court's decision, Silvio stands seven days a week on the corner of 49th and 4th, West, in sunny Hialeah, selling roses to passersby, just as he has for 16 years.

Twelve hundred miles away, in New York City, another immigrant keeps the same hours as Silvio and sells similarly priced products. Her plans for her business may mean people in Hialeah and elsewhere will be able to enjoy her food without having to visit the Big Apple.

## IMMIGRANT ENTREPRENEURS

Street vending is especially attractive to immigrant entrepreneurs: 51% of vendors are immigrants, compared to 23% of other workers in large cities. The average immigrant vendor has lived in the United States for 22 years.

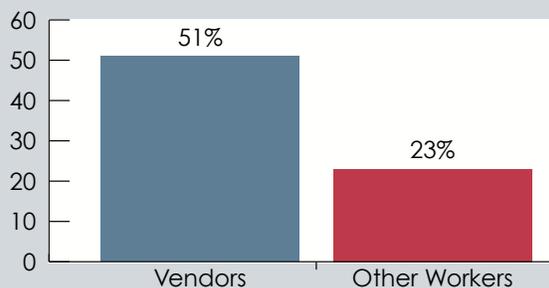


FIGURE 16: IMMIGRANT STATUS OF STREET VENDORS COMPARED TO OTHER WORKERS IN LARGE U.S. CITIES

## DORIS YAO NEW YORK CITY

In some ways, Doris Yao, the owner of A-Pou's Taste, a New York City food vending business, defies generalizations. Most of her competitors sell halal chicken on rice; Doris sells Taiwanese pot stickers.<sup>63</sup> She's a woman in a mostly male industry (see Figure 18, p. 25). Her educational attainment—she's a college graduate—outpaces that of most vendors (see Figure 4, p. 12).

In other ways, Doris is the quintessential street vendor. To run her successful fleet of food carts, Doris works grueling 15-hour days, typically beginning at 6:00 a.m. at a commissary where she loads the carts, moving them out by 6:30 a.m. to beat the snarl of Manhattan traffic. At 9:00 a.m., her three carts stationed around Manhattan, Doris and her employees start cooking, propping open the cart windows at 11:00 a.m. to begin lunch service. They keep at it until 5:00 p.m., when they pack up for the return trip. Back at the commissary by 8:00 p.m., the carts are cleaned and food is prepped for the following day, a process that lasts past 10:00 p.m.

Like most vendors, Doris is an immigrant and has prior non-vending work experience (see Figure 6, p. 15). She came to the United States from Taiwan in 1981.<sup>64</sup> Her 30-odd years in the United States put her above the average for immigrant vendors (see *Immigrant Entrepreneurs*, p. 23). In Taiwan she worked in fashion.<sup>65</sup> Upon arriving in the United States, she worked in a garment factory, but after a few years she started her own line of accessories, eventually building a thriving business. Although



### OLDER ENTREPRENEURS

Street vendors tend to be older than other workers in large cities: Nearly two-thirds of vendors are ages 25 to 54, and one-third are older than 55.



FIGURE 17: AGE OF STREET VENDORS COMPARED TO OTHER WORKERS IN LARGE U.S. CITIES

lucrative, it was stressful, eventually causing Doris health problems that led to her returning to Taiwan in 2006 to recover and care for family.

In 2010, Doris returned to America and bought an existing food cart that served dishes based on ones from her native Taiwan.<sup>66</sup> Before she bought it, the cart was a finalist at the Vendy Awards,<sup>67</sup> unofficially known as the “Oscars of Street Food.”<sup>68</sup> But when taking over the business, she improved the recipes by eliminating artificial flavoring and MSG, substituting natural ingredients and making everything by hand.<sup>69</sup> Doris’ improvements were a hit.

A-Pou’s Taste has since expanded into three locations throughout Manhattan, and Doris now employs a dozen people. She insists that they all have vendor and food preparation licenses. She also pushes employees to strike out on their own, which some have done. As survey data indicate, this is not uncommon (see Longevity & Future Plans, p. 10).

Like that of any small business owner, Doris’ success is a testament to her perseverance through adversity. Working outdoors puts vendors like Doris at the mercy of the weather, but perhaps more daunting are the manmade challenges they face. After completing sanitation training and obtaining the paperwork necessary to serve food, would-be New York City street vendors can apply for permits to work in a park, on private property or at a street fair or market.<sup>70</sup> Getting permission to sell on public property like sidewalks, however, is nearly impossible, as the city has capped the number of unrestricted, year-round, citywide mobile food vending unit (MFV) permits at just 2,800.<sup>71</sup>

Last raised in 1981,<sup>72</sup> this artificially and arbitrarily low cap fuels a booming black-market trade in permits, as individuals lucky enough to have once received permits continually renew and then illegally rent them out to desperate entrepreneurs. MFV permits, which cost just \$200 to renew every two years,<sup>73</sup> can fetch up to \$25,000 on the black market.<sup>74</sup>

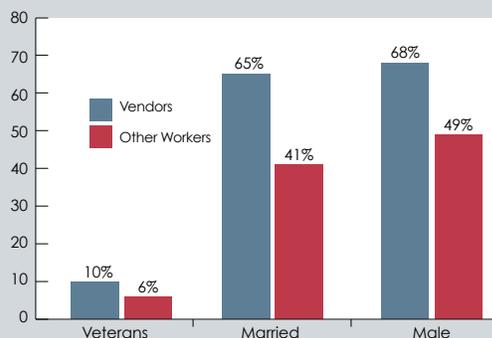
Not surprisingly, permit holders rarely give them up. And although the city keeps waiting lists for its various MFV permit categories, it can take a while to get through them. The lists, which themselves have caps,<sup>75</sup> were last opened in 2007.<sup>76</sup> Buying a black-market permit, or chancing it without any permit at all, is many New York City vendors’ only option.

Other city decisions can dramatically affect vendors’ day-to-day operations. In 2013, bike racks sprang up around New York City as part of a new bike-sharing program, forcing businesses like Doris’ out of their familiar vending locations. At her new spot, Doris saw her daily patrons dwindle from 100 to 30,<sup>77</sup> resulting in losses of hundreds of dollars a day.<sup>78</sup> Most vendors won’t get rich from their businesses (see Table 1, p. 17), so such seemingly small decisions by city officials can have oversized implications for these hard-working individuals.

Unbowed, Doris plans to expand her business into a line of frozen foods based on her food-cart menu, while maintaining the carts for advertising. When her frozen food business gets off the ground, it will be yet another example of how street vending is a launching pad to expanded opportunities, all to the benefit of the local economy and beyond. Yet, all by itself, New York City’s street vending industry makes a significant contribution to the Empire City.

## OTHER DEMOGRAPHIC CHARACTERISTICS

Compared to other workers in large U.S. cities, street vendors are substantially more likely to be veterans. And those veterans are more likely to be disabled: 32% of vendor veterans are disabled, compared to 17% of veterans in large-city workforces. This is likely because many state and municipal vending laws make special accommodations for them.<sup>m</sup> Vendors are also substantially more likely to be married and male.



**FIGURE 18: STREET VENDORS’ VETERAN AND MARITAL STATUSES AND GENDER COMPARED TO OTHER WORKERS IN LARGE U.S. CITIES**

# A DAY IN THE LIFE OF A VENDOR



**6:30 AM**  
After grabbing coffee and breakfast, Doris Yao arrives at her commissary in Brooklyn to check her supplies.



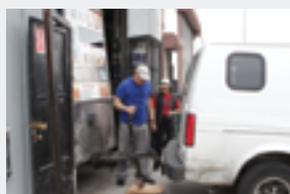
**7:00 AM**  
She goes to a nearby restaurant depot to buy ice for the carts.



**7:45 AM**  
She takes produce from the refrigerator in the commissary...



**7:45 AM**  
...and loads it into a cart.



**8:00 AM**  
An employee hitches one of the three carts to the back of Doris' van.



**8:15 AM**  
Doris drives the cart to its spot in Astor Place.

**9:15 AM**  
An employee guides Doris as she backs the cart onto the sidewalk, and they unhitch it.



**9:15 AM**  
Doris and her employee push the 1,000-pound cart into place.



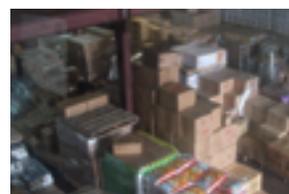
**9:45 AM**  
The employee starts to cut tomatoes, cucumbers and lettuce.



**10:20 AM**  
The employee cooks noodles and steams dumplings.



**10:30 AM**  
Doris visits several warehouses in Brooklyn and Queens to pick up meat, vegetables and dry goods.





## 12:00 PM

Doris purchases more ingredients and supplies. One of her employees calls to ask for more bread for the halal cart, so she stops to buy some.



## 3:30 PM

She makes her weekly visit to a wholesale grocer in Brooklyn.



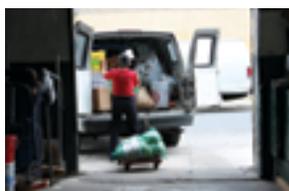
## 4:30 PM

She packs the back of her van with boxes of takeout containers and bags of rice.



## 7:00 PM

Doris arrives at the halal cart as her employee is serving the last dinner customers and closing. They hitch the cart to her van.



## 12:30 PM

Her van filled to capacity, Doris stops at her commissary to unload.

## 7:45 PM

She returns to the commissary and puts the carts away for the night.



## 1:00 PM

Doris braves more traffic on the Queensboro Bridge.

## 10:00 PM

Doris starts all over, preparing food for the next day.



## 2:00 PM

After restocking the halal cart with pita bread, Doris eats lunch (a wrap from the cart).

## STREET VENDING AND THE LOCAL ECONOMY: A CASE STUDY OF NEW YORK CITY

Walking the streets of New York City, it is easy to see signs of the economic activity generated by vendors like Doris Yao. Doris' delicious and convenient dishes are the visible results of her carefully honed recipes and culinary techniques—and the long hours she and her employees put in every day. In turn, Doris' grateful customers provide incomes for her and her employees. Harder to see, but no less important, are the businesses that supply fresh food, paper products and more to A-Pou's Taste. Also less evident are the grocery stores, clothing shops and other outlets that Doris and her employees, as well as her suppliers' employees, patronize with their hard-earned wages. Yet all this economic activity starts with Doris. And it is multiplied many times over by New York City's thousands of vendors.

The direct and secondary "ripple" effects that vendors have on a local economy can be estimated using what is known as economic contribution analysis. New York City makes a good case study because it has by far the largest list of licensed vendors among large cities, providing ample data for such an analysis.<sup>79</sup> (Some estimate as many as 10,000 vendors work in the city, though not all are required to be licensed.<sup>80</sup>) IJ started by asking a random sample of 209 food and non-food vendors for their business expenses for one year—2012. These figures were extrapolated to all the city's vendors and

used to estimate the industry's local economic effects with IMPLAN, specialized software and datasets used for economic contribution analysis (see Appendix for details, p. 36).

The economic contributions of street vendors to New York City's economy in 2012 are illustrated on the next page. First are **direct effects**, the most visible fruits of vending businesses, which account for the people they hire and the products and services they offer. In one year, New York City's vendors employed an estimated 16,332 full- and part-time people, including proprietors, and generated more than \$78.5 million in wages.<sup>81</sup> And vending businesses produced an estimated \$82 million in unique value—or "value added." Value added, similar to gross domestic product, measures the value businesses create beyond the raw or intermediate goods they purchase.

For example, Doris' value added is everything that goes into transforming pork, cabbage, spices and other ingredients—as well as a host of other intermediate goods—into a hot lunch served up where hungry office workers can easily buy it. That includes the labor of Doris and her employees to buy, transport and prepare ingredients, sell finished dishes and clean up after a day's work; the recipes and techniques she has developed; and the fees and taxes (like sales taxes) she pays on the business. All that adds up to the unique, visible and edible value Doris' business directly offers New York City consumers.

Street vendors also contribute to New York City's economy in less obvious ways, such as by purchasing supplies. An industry's spending on intermediate goods

# STREET VENDORS' CONTRIBUTIONS TO NYC'S ECONOMY

ESTIMATES FOR 2012

## DIRECT EFFECTS FROM STREET VENDORS

16,332 jobs  
\$78.5 million wages  
\$82 million value added



Vendors' spending on supplies

## INDIRECT EFFECTS FROM VENDORS' SUPPLIERS

1,150 jobs  
\$80.3 million wages  
\$155 million value added



Household spending by vendors' employees

Household spending by suppliers' employees

## INDUCED EFFECTS FROM VENDORS' AND SUPPLIERS' EMPLOYEES

478 jobs  
\$33.5 million wages  
\$55.7 million value added



## TOTAL EFFECTS

17,960 jobs

\$192.3 million wages

\$292.7 million value added

\$71.2 million taxes

and services generates **indirect effects**: Doris’ purchases of food, fuel, cleaning supplies and other things, like rented storage space, she needs to run her business have a ripple effect, supporting jobs and production at her suppliers. In 2012, suppliers employed an estimated 1,150 people and paid \$80.3 million in wages to provide goods and services to the city’s vendors. Those goods and services contributed an estimated \$155 million in value added to the local economy.

Finally, the vending industry contributes to New York City’s economy through **induced effects**. Another kind of unseen ripple effect, induced effects come from household spending by employees – both those of the vending industry and those of its suppliers.<sup>82</sup> Doris’ business enables her and her employees, as well as her suppliers’ employees, to pay for housing, food, entertainment and more. Their spending in turn supports more

jobs and economic activity at the retail outlets and other businesses they patronize.<sup>83</sup> Personal spending by New York City vendors’ employees and suppliers’ employees supported an estimated 478 jobs, \$33.5 million in wages and \$55.7 million in added value in 2012.

Altogether, in 2012, the seen and unseen economic contributions of street vendors to New York City’s economy totaled an estimated 17,960 jobs, \$192.3 million in wages and \$292.7 million in value added. And through their economic activity, vendors contributed an estimated \$71.2 million to local, state and federal tax coffers.

**TAX CONTRIBUTIONS FROM VENDING**

State and Local	\$35.5 million
Federal	\$35.7 million
<b>TOTAL</b>	<b>\$71.2 MILLION</b>





## CONCLUSION

New York's vending industry makes sizable contributions to the city's economy, but it could contribute more if the city lifted or eliminated its permit caps to allow more vendors on its streets legally. Thousands of New Yorkers languish on waiting lists. Others would like to join a waiting list, if only it were open.

Meanwhile, tired of paying black-market prices for bootleg permits and despairing of ever obtaining legal ones of their own, some vendors are closing up shop. Adam Sobel, the chef-owner of Cinnamon Snail, one of New York's most celebrated food trucks, announced in February 2015 that he would stop vending in the city because of permitting problems.<sup>84</sup>

New York City's destructive permit caps frustrate the efforts of energetic, entrepreneurial people like Adam and funnel huge sums of money away from value-creating activities, like business expansion and job creation, and into a black market that enriches a few.

Other cities can learn from New York City's example, both good and bad. Although the Big Apple's vending population, like its economy and overall

population, is far larger than that of most other cities, the New York City case study illustrates how economic effects from one industry can ripple through a community, supporting jobs and economic activity that, while unseen, are nonetheless real. For cities looking to expand economic opportunities, facilitate job growth and realize greater tax revenue, welcoming street vendors is a low-cost and potentially high-reward option. Yet too often, in New York City and elsewhere, burdensome regulation remains the rule.

In 2011, the Institute for Justice catalogued common vending regulations in the 50 largest U.S. cities and found that nearly all large cities had erected major impediments to street vending.<sup>85</sup> Like Chicago, 19 other cities enforced blatantly anticompetitive rules barring mobile vendors from operating near brick-and-mortar establishments selling similar products. Eleven cities simply banned vending or certain types of vending on public property. Those bans included Los Angeles' complete prohibition on sidewalk vending and Chicago regulations that forbade vendors from selling flowers or any prepared food other than ice cream from a cart. A handful of cities prohibited vendors from staying in a single spot any longer than necessary to make a sale,



as in Hialeah, Miami and much of the rest of South Florida. Most common among large cities were restricted zones where vending was disallowed—often covering the very commercial, entertainment and sporting areas that are so attractive to vendors.

Large cities impose other types of restrictions, too, and countless smaller cities have regulations of their own. The city planning commission in Turlock, Calif. (pop. 70,000), for example, voted—at the request of the Turlock Downtown Property Owners Association—to ban food vendors from the downtown area.<sup>86</sup> And when Noblesville, Ind. (pop. 50,000), adopted a \$1,000 licensing fee for food trucks—almost 10 times what nearby Indianapolis requires—the effect was as good as a ban. A year and a half later, zero permits had been filed. City planning director Christy Langley remarked, with Midwestern understatement, “It hasn’t been very popular.”<sup>87</sup>

Such hurdles to street vending can close off an otherwise accessible avenue to entrepreneurship. The survey reveals that the vast majority of vendors own their own businesses, as well as the trucks, carts, stands or other

The survey findings suggest that vendors are exactly the types of entrepreneurs cities should want to encourage.

structures from which they sell, and many have grown businesses large enough to employ others. The survey results also indicate that vending provides a means of upward mobility for people who might not otherwise be able to break into business: entrepreneurs with less education, those of

lesser means and others who may lack ready access to capital, including immigrants and minorities.

The survey findings also suggest that vendors are exactly the types of entrepreneurs cities should want to encourage. Vendors are hard workers and risk takers. Full-time vendors work long days and long weeks, and part-time vendors typically work a second job to make ends meet. Most vendors have other work experience yet take a chance on a new venture, often with hopes of growing a startup into something bigger. Vendors persevere through bad weather, unpredictable foot traffic and regulatory hurdles. Despite such challenges, the average vendor has so far lasted eight years in business.

Some cities have seen the potential that entrepreneurs like these hold. The East Liberty neighborhood in Pittsburgh has worked to *increase* the number of vendors

on its streets. According to Cherrie Russell, a spokesperson for the nonprofit East Liberty Development Inc., the idea to encourage more vending came after she “noticed that there always seemed to be a lot of activity and life on the blocks where the vendors were set up.” She wasn’t alone. Tony Moquin, district manager for a clothing store in the area, observed, “We’ve noticed that a lot of customers come into our store after they’ve stopped to look at what the street vendors are selling. We definitely like having them out here.” ELDI encouraged more vending by offering grants to vendors to offset licensing fees and teaching workshops to vendors on local codes, theft prevention, basic bookkeeping and marketing. ELDI also asked vendors to operate at least three days a week.<sup>88</sup>

Similarly, when Harbor Springs, Mich., invited food trucks to town, city officials discovered something quite unexpected: “Food trucks actually bring people downtown as opposed to just taking away from existing restaurants,” observed Tom Richards, Harbor Springs’ city manager. “They become an attraction and increase the number of people in your downtown.”<sup>89</sup>

And with more people comes increased business for brick-and-mortar establishments, as people who come downtown for the food trucks stumble upon shops and restaurants they’ve never seen before and bring friends and family back for return visits.

When Lakeland, Fla., began holding once-a-month food-truck rallies downtown, restaurant owners feared a significant loss of business. But the opposite occurred. Every time a food-truck rally kicked off, restaurants grew busier. One restaurant owner estimated the first rally produced a 30 percent increase in his business, an increase that remained even after the rally ended.<sup>90</sup>

Another Lakeland restaurant owner — originally a food-truck skeptic — was so impressed, he identified a gap in the local market and built his own food truck to fill it. “The concept is that it has a brick oven on the truck,” the owner, Giovanni Moriello, said. “It was custom made by a friend of mine who put [it] in the truck. Lakeland doesn’t have a brick oven pizza right now.”<sup>91</sup>

With the increase in traffic at his brick-and-mortar restaurant and the addition of his food truck, this owner will do more business with suppliers, and he may hire more employees to man his truck. His employees and his suppliers’ employees will spend their wages on goods and services in Lakeland. And perhaps in a few years, the employees hired to run the new food truck will be inspired to go into business with a truck of their own. Other cities can likewise unleash such economic potential. It’s as simple as clearing away outmoded and anticompetitive regulations and opening streets and sidewalks to vending entrepreneurs pursuing their American Dream.



## APPENDIX: STUDY METHODS

The study of street vendors has largely been dominated by ethnographic research,<sup>92</sup> although at least one study of vendors has used survey methods.<sup>93</sup> The scope of this project—a study of street vendors in the 50 largest cities in the United States—necessitated the use of survey methods, described in greater detail here.

### SURVEY

#### Sample

The survey sample included 763 street vendors across all 50 cities listed in Table A1. The sample was constructed by securing a list of all licensed vendors from each city. This facilitated the creation of a population of licensed vendors. There are, of course, an unknown number of people who vend in these cities illegally. There are also certain categories of vendors that can work without government permission, therefore resulting in no lists of vendors. By definition, identifying them for inclusion in the population was impossible, which means the findings in this study can be generalized only to licensed vendors.

The sample was constructed as a stratified random sample. The number of participants in the sample from each city was proportional to each city's percentage of vendors in the 50-city (licensed) vendor population. After proportional quota frequencies were set for each city, vendors from the respective city lists were called randomly until quotas were filled.

TABLE A1: 50 LARGEST CITIES IN THE U.S.

Albuquerque, N.M.	Louisville, Ky.
Arlington, Texas	Memphis, Tenn.
Atlanta	Mesa, Ariz.
Austin, Texas	Miami
Baltimore	Milwaukee
Boston	Minneapolis
Charlotte, N.C.	Nashville, Tenn.
Chicago	New York
Cleveland	Oakland, Calif.
Colorado Springs, Colo.	Oklahoma City
Columbus, Ohio	Omaha, Neb.
Dallas	Philadelphia
Denver	Phoenix
Detroit	Portland, Ore.
El Paso, Texas	Raleigh, N.C.
Fort Worth, Texas	Sacramento, Calif.
Fresno, Calif.	San Antonio
Honolulu	San Diego
Houston	San Francisco
Indianapolis	San Jose, Calif.
Jacksonville, Fla.	Seattle
Kansas City, Mo.	Tucson, Ariz.
Las Vegas	Tulsa, Okla.
Long Beach, Calif.	Virginia Beach, Va.
Los Angeles	Washington, D.C.

## Data Collection

Survey data collection by Technometrica, a New Jersey-based polling company, occurred over a three-month period during the fall of 2013. All surveys were completed by telephone. Because of the comparably greater representation of immigrants in the vendor industry, survey questions were translated into multiple languages, and multilingual speakers were used in data collection. Prior to data collection, the survey was pre-tested on a small sample of vendors. Results from the pre-test were used to refine questions for the sake of clarity and precision. The full survey, including basic results, can be found online at [www.ij.org/upwardly-mobile](http://www.ij.org/upwardly-mobile).

## Analyses

The analysis of all closed-ended variables, except expenditure variables among New York City vendors, was completed using descriptive statistics. All analyses were completed using probability and sample weights to reflect the unequal probabilities of participants to end up in the sample and the over- or underrepresentation of vendors in certain cities due to response biases.

## ECONOMIC CONTRIBUTION

The economic contribution analysis of vendors in New York City was completed using input-output analysis. The purpose of this type of analysis is to estimate the broader economic benefits an area receives<sup>94</sup> from a given event or industry by measuring patterns of spending and re-spending within an economy.<sup>95</sup> It does so by tracing linkages (i.e., the amount of spending and re-spending) among sectors of an economy and calculating the total business activity resulting from a particular sector or industry.

Most often, this type of analysis is used to measure the impact of a new industry, business, product or event in a region. For example, it can be used to predict the amount of production, labor income and taxes generated and the number of new jobs created as a result of building a new factory in a community. However, it is also used in economic significance or economic contri-

bution analysis,<sup>96</sup> which measures the significance or contribution of a project, program or industry within a local economy.<sup>97</sup> Examples include studies of the economic contributions of sunflower farms,<sup>98</sup> petroleum production,<sup>99</sup> agriculture<sup>100</sup> and others.<sup>101</sup> Like these and other studies,<sup>102</sup> this analysis of the vending industry in New York City was completed using the IMPLAN system.<sup>103</sup> This widely used and nationally recognized tool enables one to input various economic data for an industry or event. Using the linkages between the particular industry and more than 500 other sectors in a region's economy, it determines the resulting total output, income, jobs, taxes and other effects.

Estimating these metrics requires identifying primary activities involved in the industry and estimating expenditures for those activities.<sup>104</sup> One of the most common methods for doing so is to survey consumers or business owners<sup>105</sup> and ask participants to identify expenditures across various categories. Business owners, for example, would list expenditures for supplies, advertising, payroll and benefits, maintenance and other expenses.<sup>106</sup> In this expenditure-based approach, the "ripple effect" of an industry's spending patterns is then calculated as the spending and re-spending works its way through the economy of a study area.<sup>107</sup>

In the present study, vendors in New York City were asked to identify their expenditures across 16 different sectors: office, storage and kitchen rental, vending unit rental/mortgage, vending unit maintenance, gas/diesel, propane/kerosene, employee wages, employee benefits, proprietor income, insurance, permits/fees, food and non-food supplies and merchandise, advertising, accounting services, legal services and communications technology. These categories were identified from prior research and through consultation with working vendors.

New York City was used as the study area for several reasons. First, it has a long tradition of street vendors. Second, among the 50 cities used for the survey, it has the largest population of licensed vendors. Third, the geographic borders of the city are easily defined. Fourth, the area approximates a self-contained local trade area (i.e., local residents typically fulfill most of their routine household needs within the area).<sup>108</sup> Finally, the study

area includes the locations where most of the spending associated with the industry occurs.<sup>109</sup> The use of cities as study areas is quite common, as is the use of metropolitan statistical areas<sup>110</sup> and states.<sup>111</sup>

The specific sample used for the analysis included 209 food and non-food vendors.<sup>112</sup> New York City has three general categories of licensed vendors – general merchandise vendors, food vendors and those who are licensed but lack certain permits. The sample was proportionally stratified by these categories and quotas met through random selection. For the economic contribution analyses, participant responses were weighted so that all expenditure totals were inferred to represent the population of 10,000 vendors in the city.

The economic impact or contribution results of this type of analysis are usually reported in several categories: employment, value added, labor income and taxes.<sup>113</sup> Employment measures the number of jobs in New York City due to the vending industry. Value added measures the value of goods and services less the intermediary goods required to create products sold to consumers. Labor income is payroll paid to employees plus proprietors' income. Taxes include federal, state and local tax revenues associated with the industry.<sup>114</sup>

Each of the categories, except for taxes, is a summation of direct, indirect and induced contributions

or impacts. Direct is the value of goods and services purchased by consumers in the industry, typically measured through sales. Indirect measures the jobs and production needed to manufacture the goods and services vendors sell to consumers. These supplier industries purchase additional supplies to meet vendors' needs, with this cycle continuing until all additional indirect effects are purchased from outside the region under study.<sup>115</sup> Payments for goods and services produced outside the study area (i.e., outside New York City) are excluded because these effects impact businesses located in other regions.<sup>116</sup> Induced includes spending of local households due to income received through their work in vending and with its suppliers.<sup>117</sup>

Ordinarily, economic contributions or impacts are determined through the use of sales data modeled as direct effects, from which secondary effects are calculated. Unfortunately, sales data gathered on the survey were not deemed reliable enough for use in the analysis, although another type of direct effect – wages and income<sup>118</sup> – was reliable and included in the analysis as such. Instead, the results reported above were derived by using the aforementioned vendor expenditures in an "analysis by parts."<sup>119</sup> In this type of analysis, vendor expenditures were modeled as indirect effects and other effects (induced, taxes, etc.) were estimated from there.



## ENDNOTES

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- 104** Bangsund and Leistriz, 1995.
- 105** Bangsund and Leistriz, 1995; Bangsund and Hodur, 2013; Chhabra et al., 2003; Delpy, L., & Li, M. (1998). The art and science of conducting economic impact studies. *Journal of Vacation Marketing*, 4(3), 230-254; Gentner and Steinback, 2008; Grado, S. C., Strauss, C. H., & Lord, B. E. (1997). Economic impacts of conferences and conventions. *Journal of Convention & Exhibition Management*, 1(1), 19-33; Tyrrell, B. J., & Ismail, J. A. (2005). A methodology for estimating the attendance and economic impact of an open-gate festival. *Event Management*, 9, 111-118; Crompton, J. L., Lee, S., & Shuster, T. J. (2001). A guide for undertaking economic impact studies: The Springfest example. *Journal of Travel Research*, 40, 79-87.
- 106** Hodur, N. M., & Leistriz, F. L. (2006). Estimating the economic impact of event tourism: A review of issues and methods. *Journal of Convention & Event Tourism*, 8(4), 63-79.
- 107** Bangsund and Hodur, 2013.
- 108** Hodur and Leistriz, 2006.
- 109** Hodur and Leistriz, 2006.
- 110** Braun, B. M. (1992). The economic contribution of conventions: The case of Orlando, Florida. *Journal of Travel Research*, 30, 32-37.
- 111** Bangsund and Leistriz, 1992; Bangsund and Leistriz, 1993; Bangsund et al., 1994; Coon and Leistriz, 1988.
- 112** Tyrrell and Ismail (2005) used a similar sample size in their impact analysis, which included vendors.
- 113** Day, n. d.
- 114** Bangsund and Leistriz, 1995; Bangsund and Hodur, 2013; Clouse, C. (2012). *Analysis and economic impact of the film industry in northeast Ohio & Ohio*. Cleveland, OH: Cleveland State University; Otto and Varner, 2005.
- 115** Kim, C., Scott, D., Thigpen, J. F., & Kim, S.-S. (1998). Economic impact of a birding festival. *Festival Management and Event Tourism*, 5, 51-58.
- 116** Gentner and Steinback, 2008.
- 117** Clouse, 2012; Kim et al., 1998; Gentner and Steinback, 2008.
- 118** Kim et al., 1998.
- 119** Day, n. d.

## SURVEY ENDNOTES

- a** The remainder of business owners rent a vending unit from someone else.
- b** The median number of both full-time and part-time employees is one; the means are skewed upward by a few dozen vendors with anywhere from five to 98 employees.
- c** Data on other workers drawn from the 2012 American Community Survey.
- d** Voluntary training includes general business courses as well as specialized training, such as blacksmithing, leather works, photography and cooking classes. Some vendors reported receiving on-the-job training from other vendors, parent companies/franchisors or other relevant businesses, such as restaurants. And some sought training on an ad hoc basis, such as through online resources, personal instruction (e.g., art or music lessons) or friends.
- e** Differences in response to this question were examined by different demographic characteristics. Only one proved to be significant. Immigrant vendors were more likely to have had a job prior to working as a vendor compared to non-immigrant ones.
- f** Forty-eight percent vend full time throughout the year, 20% vend full time seasonally, another 20% vend part time seasonally and just 13% vend part time year round.
- g** Part-time vendors report holding second jobs in the following categories: 31% services, 11% social welfare or government, 11% professions, 10% manual labor and 9% general, with 28% reporting no other employment. Seasonal vendors report holding second jobs in the following categories: 20% services, 21% general, 8% professions, 7% social welfare or government and 8% manual, with 37% reporting no other employment.
- h** Part-time vendors work about four days per week.
- i** As would be expected, full-time vendors spend more hours per day working, and vendor-owners spend more time preparing to serve customers compared to non-owners.
- j** Those who sell from something “other” than these four categories (trucks, carts, temporary stands and permanent stands) most often do so from trailers pulled behind a vehicle, but the diversity of operations also includes tables, designated areas within other businesses, suitcases, personal vehicles (e.g., cars, SUVs, pickup trucks) and even off their persons (e.g., tickets held in a bag).
- k** Most vendors – 70% – choose locations to reach a critical mass of people, but others select locations for their convenience or due to personal connections. For 4% of vendors, city rules and restrictions primarily determined their locations. For full results, see [www.ij.org/upwardly-mobile](http://www.ij.org/upwardly-mobile).
- l** Mobile vendors are not, of course, confined to a single location. On average, they operate in three different locations on a typical weekday, spending about six hours in the location they vend the most. On weekends or for special events, they add two locations to their typical weekday locales. For locations of vendors operating permanent stands, see [www.ij.org/upwardly-mobile](http://www.ij.org/upwardly-mobile).
- m** For example, under New York law, cities are barred from interfering with hawkers and peddlers “without the use of any but a hand driven vehicle, in any street, avenue, alley, lane or park of a municipal corporation,” who are veterans honorably discharged as disabled (N.Y. Gen. Bus. Law § 35 (Consol. 2015)). Accordingly, New York City exempts such veterans from its cap on general merchandise vendors and reserves 100 year-round citywide mobile food vending unit permits – the most coveted type – exclusively for disabled veterans, disabled persons and non-disabled veterans (NYC Business Solutions. (n.d.). *Street vending*. Retrieved from [http://www.nyc.gov/html/sbs/nycbiz/downloads/pdf/educational/sector\\_guides/street\\_vending.pdf](http://www.nyc.gov/html/sbs/nycbiz/downloads/pdf/educational/sector_guides/street_vending.pdf)). Georgia law also stipulates that disabled veterans be exempt from any “occupation tax, administrative fee, or regulatory fee for the privilege” of peddling (Ga. Code Ann. § 43-12-1 (2015)).





## DICK M. CARPENTER II, PH.D.

Dr. Dick Carpenter serves as a director of strategic research for the Institute for Justice. He works with IJ staff and attorneys to define, implement and manage social science research related to the Institute's mission.

As an experienced researcher, Carpenter has presented and published on a variety of topics ranging from educational policy to the dynamics of presidential elections. His work has appeared in academic journals, such as *Economic Development Quarterly*, *Economic Affairs*, *The Forum*, *Fordham Urban Law Journal*, *International Journal of Ethics*, *Education and Urban Society*, *Urban Studies* and *Regulation and Governance*, and magazines, such as *Regulation*, *Phi Delta Kappan* and the *American School Board Journal*. Moreover, the results of his research have been quoted in newspapers such as *The New York Times*, *The Washington Post* and *The Wall Street Journal*.

His research for IJ has resulted in reports such as *Disclosure Costs: Unintended Consequences of Campaign Finance Reform*, *License to Work*, *Private Choice in Public Programs: How Private Institutions Secure Social Services for Georgians*, *Designing Cartels: How Industry Insiders Cut Out Competition* and *Victimizing the Vulnerable: The Demographics of Eminent Domain Abuse*.

Before working with IJ, Carpenter worked as a school teacher and principal, public policy analyst and faculty member at the University of Colorado Colorado Springs, where he currently serves as a professor. He holds a Ph.D. from the University of Colorado.

## ABOUT IJ

The Institute for Justice is a nonprofit, public interest law firm that litigates to secure economic liberty, school choice, private-property rights, freedom of speech and other vital individual liberties and to restore constitutional limits on the power of government. Founded in 1991, IJ is the nation's only libertarian public interest law firm, pursuing cutting-edge litigation in the courts of law and in the court of public opinion on behalf of individuals whose most basic rights are denied by the government. The Institute's strategic research program produces social science and policy research to inform public policy debates on issues central to IJ's mission.

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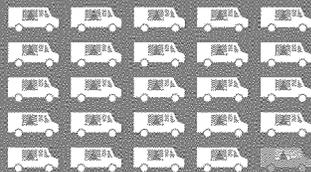
# ENTREPRENEURSHIP AND JOB CREATION

Every day, tens of thousands of people make their livings on America's streets and sidewalks, selling everything from fusion tacos and classic hot dogs to handmade jewelry and souvenir T-shirts. Vending offers these individuals an accessible path to self-sufficiency and entrepreneurship.

For cities looking to expand their economies and help create jobs, welcoming vending entrepreneurs is a low-cost and potentially high-reward strategy.

## STREET VENDORS ARE SMALL-BUSINESS OWNERS

A whopping 96% of vendors own their own vending businesses, and as many as one-third of these vendors have plans to expand their vending operations or open storefronts.



■ Own their own business

## STREET VENDORS ARE JOB CREATORS

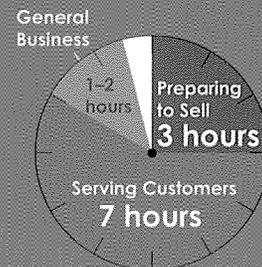
Thirty-nine percent of vendors who own their own businesses are also employers. On average, they have created 2.3 full- and 2.7 part-time jobs. Plus, half of vendors' employees hope to start their own vending businesses one day.



■ Full-time  
■ Part-time

## STREET VENDORS ARE HARD WORKERS

Full-time vendors work, on average, more than 11 hours a day, five and a half days a week. Three out of four part-time vendors hold a second job.



Average Work Day for Full-Time Street Vendors in Large U.S. Cities

## IJ.ORG/UPWARDLY-MOBILE

Source: Institute for Justice survey of 763 licensed vendors in the 50 largest U.S. cities. For further details, see Carpenter, D. M. (2015). *Upwardly Mobile: Street Vending and the American Dream*. Arlington, VA: Institute for Justice.

# OPPORTUNITIES FOR UPWARD MOBILITY

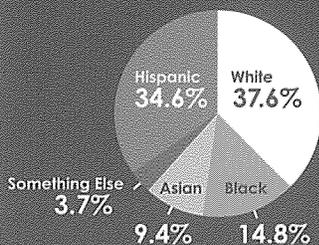
With low startup and overhead costs, vending is a great way for people with little capital or training to open their own businesses and gain a foothold on the economic ladder. That's why it has long been a beacon for economically disadvantaged groups, like persons of color and immigrants.

By welcoming vendors, cities can expand economic opportunities, especially for these and other economically disadvantaged groups, while making streets and sidewalks more vibrant.

## STREET VENDORS ARE RACIALLY AND ETHNICALLY DIVERSE

Nearly two-thirds of vendors in large cities are persons of color, including more than one-third who are Hispanic.

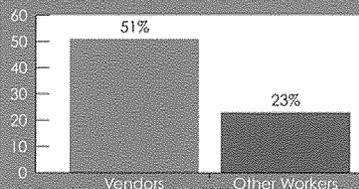
Vendor Race and Ethnicity in Large U.S. Cities



## STREET VENDING IS ESPECIALLY ATTRACTIVE TO IMMIGRANT ENTREPRENEURS

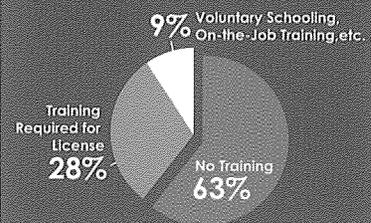
More than half of vendors are immigrants, and they're not necessarily recently arrived: The average immigrant vendor has lived in the United States for 22 years.

Immigrant Status of Street Vendors Compared to Other Workers in Large U.S. Cities



## STREET VENDING OFFERS OPPORTUNITY TO THOSE WITH LITTLE TRAINING

Little training or formal education is needed to start a vending business: 63% of vendors completed no specialized training prior to going into vending. And compared with 18% of other workers in large cities, 28% of vendors have less than a high-school education.



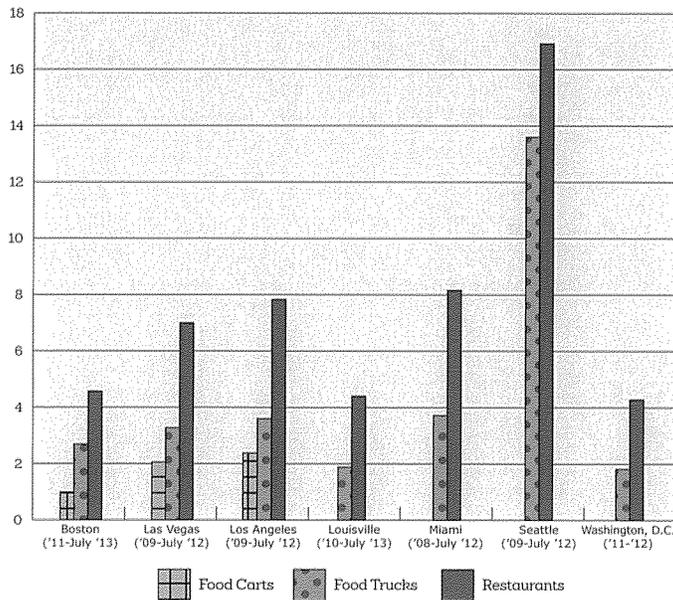
## IJ.ORG/UPWARDLY-MOBILE

Sources: Institute for Justice survey of 763 licensed vendors in the 50 largest U.S. cities and 2012 American Community Survey. For further details, see Carpenter, D. M. (2015). *Upwardly Mobile: Street Vending and the American Dream*. Arlington, VA: Institute for Justice.

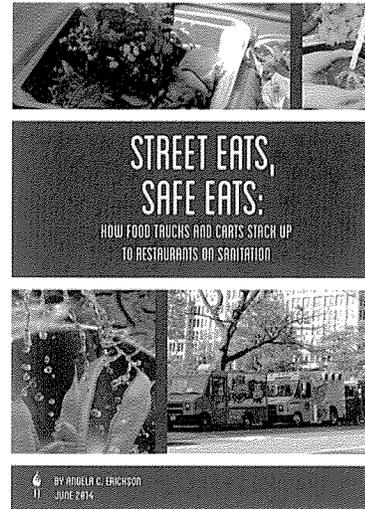
# SAFE AND DELICIOUS FOOD

Street food is more than delicious; it is also safe. In *Street Eats, Safe Eats*, the Institute for Justice reviewed more than 260,000 food-safety inspection reports from seven large American cities. These cities inspect street vendors using the same criteria that they use for brick-and-mortar restaurants. And in every one, food trucks and carts did just as well as—or even better than—restaurants.

## FOOD TRUCKS AND CARTS VS. RESTAURANTS: AVERAGE FOOD-SAFETY VIOLATIONS



Notes: In Louisville, Miami, Seattle and Washington, D.C., the "food truck" category includes both trucks and carts. Due to differing inspection regimes, comparisons across cities are not valid. In Boston, Las Vegas, Louisville, Miami and Washington, D.C., the differences between mobile vendors and restaurants were statistically significant. In Seattle, the difference was not statistically significant, indicating that mobile vendors and restaurants performed about the same.



All that is required to protect the public's health are clear rules and the same inspections used for restaurants, just as in each of the cities studied and many others around the country. Arbitrary bans and limits on whether, when and where vendors may work don't improve public health—they only stifle entrepreneurship, destroy jobs and limit consumer choice.

Cities can enjoy the many benefits of food trucks and carts, including economic opportunity, new jobs and great food, without sacrificing food safety.

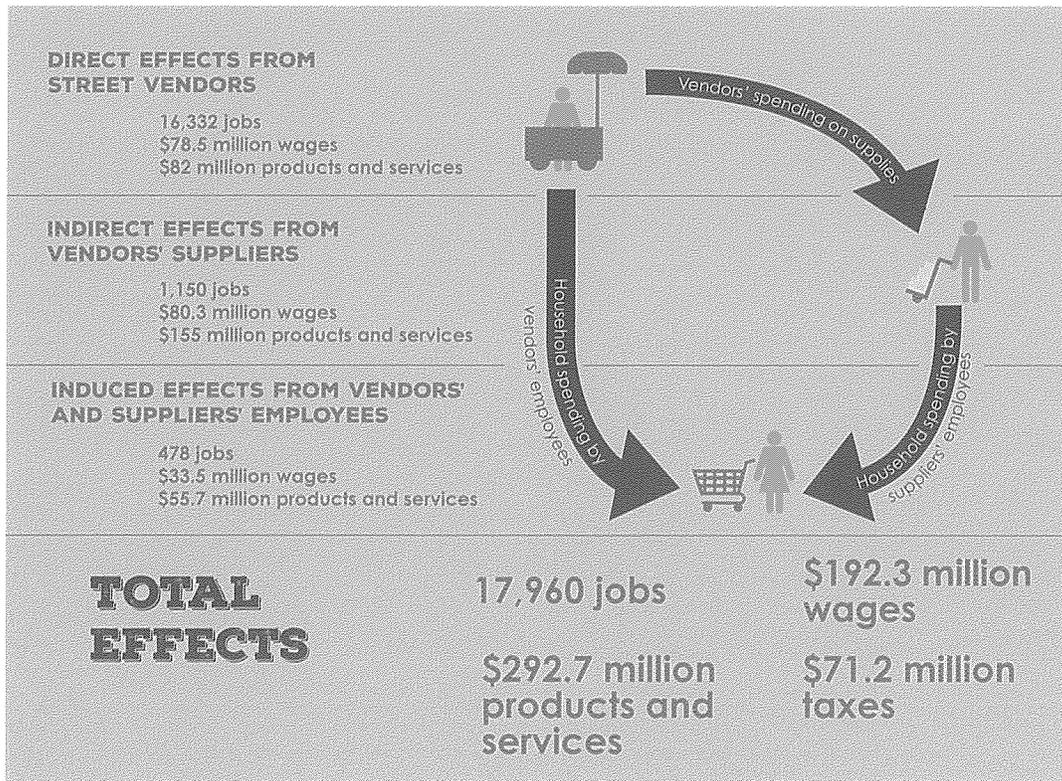
## IJ.ORG/UPWARDLY-MOBILE

Source: Erickson, A. C. (2014). *Street Eats, Safe Eats: How Food Trucks and Carts Stack Up to Restaurants on Sanitation*. Arlington, VA: Institute for Justice.

# ECONOMIC BENEFITS AND TAX REVENUE

Street vendors' economic activity ripples throughout the communities they serve. New York City provides an excellent example of how vendors' contributions extend far beyond the food and merchandise they sell.

## STREET VENDORS' CONTRIBUTIONS TO NYC'S ECONOMY ESTIMATES FOR 2012



In 2012, street vendors contributed an estimated 17,960 jobs, \$192.3 million in wages and \$292.7 million in products and services to the New York City economy.

These contributions came from direct effects in the form of jobs created, wages paid and products and services; indirect effects resulting from vendors' spending on supplies like fuel and rented storage space; and induced effects accounting for household spending by vendors' and their suppliers' employees.

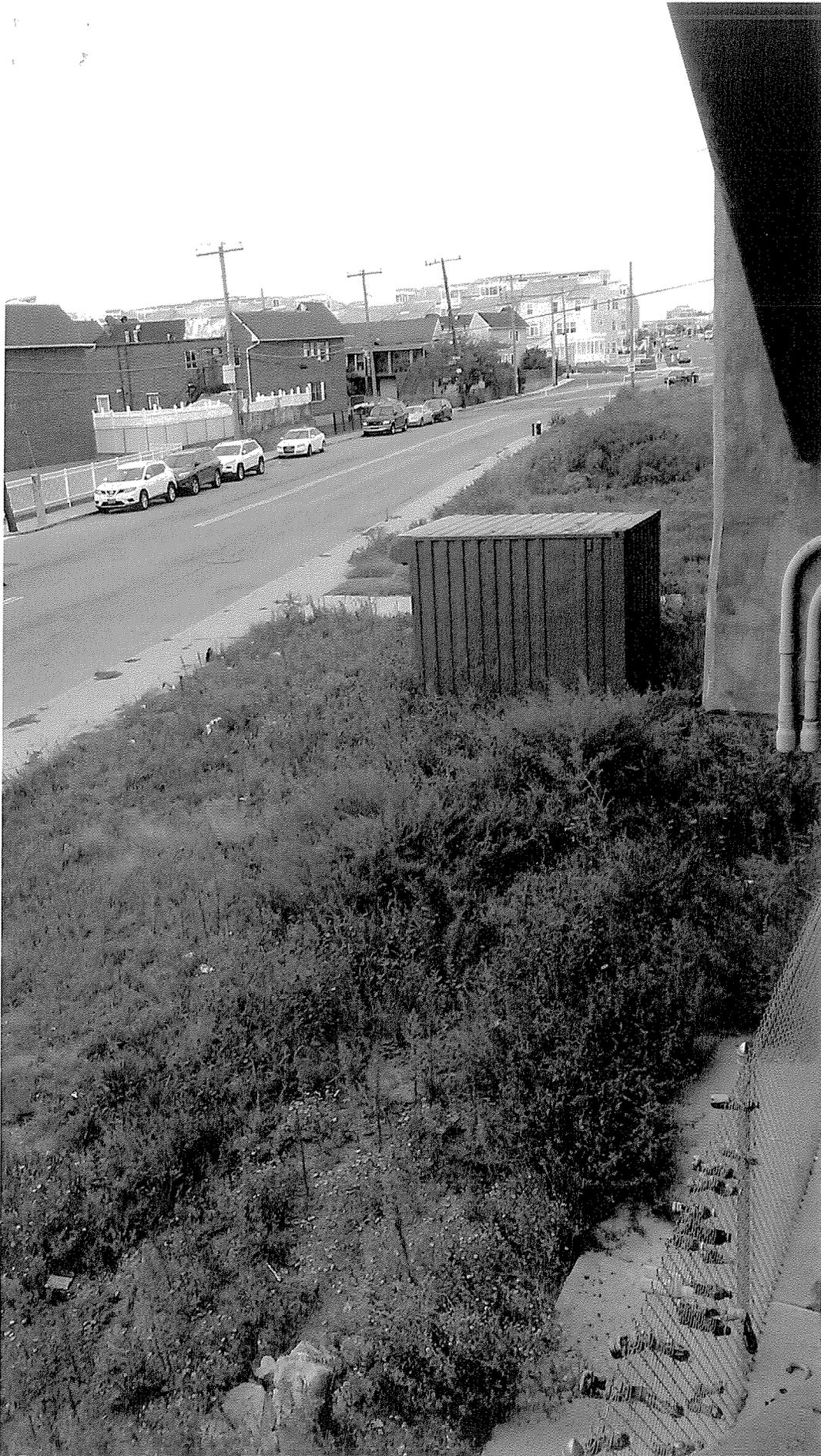
Meanwhile, New York City vendors poured an estimated \$71.2 million into local, state and federal tax coffers.

Vendors' contributions to New York City's economy could have been even greater if not for the city's artificial caps on licenses and permits. New York and other cities can unleash street vending's full economic potential by clearing away burdensome regulations and opening streets and sidewalks to vending entrepreneurs.

## IJ.ORG/UPWARDLY-MOBILE

Source: Institute for Justice economic contribution analysis of vending in New York City. For further details, see Carpenter, D. M. (2015). *Upwardly Mobile: Street Vending and the American Dream*. Arlington, VA: Institute for Justice.

FOR THE RECORD



# Far Rock Café



## **Executive Summary**

The Far Rock Café envisions a cooperative Café Bar Business that serves the community by nourishing our neighbors' bodies, minds, and spirits. In addition, to selling food items, the space will also promote cultural diversity, local networking, free Wi-Fi services and grass organizing hub. The Far Rock Café Owners are Alexis K. Smallwood, Tionna Smalls and future investors. The café would promote healthy eating, a friendly and warm atmosphere and even outdoor seating in the spring/summer/fall seasons.

The mission of Far Rock Café will be to increase food options, employment and economy growth for the Far Rockaway community. Far Rockaway is a food desert without any healthy options that speaks to the cultural diversity of the Far Rockaway community, there's a healthy conscious population that hasn't been tap into yet. We will also provide free Wi-Fi services, a sharing broad for information. There are chains of Papa John's, Chinese Food restaurants and the usually Fried Chicken Spots. There are gardens that are growing fresh vegetables in the summer that could be used. I would like to be able to import fruits and vegetables from different countries for different drinks. We have a division between the east and west end of the peninsula and Far Rock Café would break those barriers.

We will sale wraps, salads, vegetarian dishes, soups, waffles and fried chicken along with fresh squeezes juices(Hulk: green apple, kale,, ginger, cucumbers and lemons) refreshing drinks and smoothies. Our products are inspired by the cultural diversity of Far Rockaway. Our specialty will be the soups and drinks of the day from a different countries.

The revenue from customers, corporation catering and renting the space for parties and events will help me maintain the income for the space. We will be open from 6 am to 7pm with extended night time hours for summer time. Our customers are form the Caribbean, Poland, African, Russia, and the Dominican Republic. Food has a wonderful way of bring people together.

Our only competitor are fast food Chinese food, Papa John's, Goody's, Smoothies Haven, Thai Food, Subway, Boardwalk Pizza's)restaurants and the corner stores( 20/20 ). There aren't many places to eat. We don't have a large selection food eateries for the residents that live here in Far Rockaway. We have the potential to bring healthy eating to the Rockaway Peninsula in a major way. There is no other restaurants that would be able to combined different cultural divierity and Food like us. Within the five boroughs juice bars are popping up and their introducing healthy eating too communities of color. Our disadvantages could be transportation storms, and racism. We would provide healthy eating without over pricing the residents that live here.

## **Mission Statement**

Our mission will be to provide excellence customer services, healthy eating solutions and promote cultural diversity.

## Products

Far Rock Café will sell fresh salads, wraps, fresh juices (wheatgrass shots), smoothies, teas, coffee, soups, and specials like chicken and waffles. The juices, smoothies along with the food will come from all- natural fruits and vegetables. Our goal is to make sure that the soups and salads are made from the best ingredients. I have reached farm in New York State that can delivery Fresh free of GMO fruit and vegetables.

## Product Pyramid

### Menu

#### **Breakfast**

1. Lavender Blue Waffle/ Turkey Bacon \$4.50
2. Rose Coconut Raspberry Waffle/ Turkey Bacon\$4.50
3. Greek Yogurt Bowl \$4.00
4. Far Rock- Passion Bowl-Organic Dragon Fruit, mango, banana and raw agave blended with pomegranate \$10.00

#### **Lunch**

1. Chicken Soup \$6.00
2. Beet Soup \$6.00
3. Squash Soup \$6.00

#### **Salads**

1. Boston, Endive, Oak Leaf Salad \$4.00 \$6.00
2. Red Leaf , Green Leaf Salad \$ 4.00 \$6.00
3. Kale, Spinach, and Oak Leaf Salad \$4.00 \$6.00

#### **Wraps**

1. Turkey Bacon Avocado( Turkey Breast, Turkey bacon, kale, cheddar avocado, tomato, red peppers and low fat ranch dressing) \$6.00
2. Asian Chicken on the Beach Wrap(Chicken breast, Kale, mandarin orange, almonds ,crispy noodle, and sesame vinaigrette) \$6.00
3. Hulk Special ( Chicken, Pesto, tomato, mozzarella) \$6.00

4. Caribbean Jerk Dreams Chicken Wrap ( Chicken Breast Jerked with Kale ,Spinach , Red Peppers, Mango, and Purple lettuce) \$8.00

**Ice Cream**

1. Midnight Passion-Cinnamon Basil Ice Cream \$4.00
2. Purple Mountain-Lavender Ice Milk \$4.00

**Fresh Cold Pressed Juice**

Product Name	Ingredients				Price/x ounce Bottle
Fresh	Pineapple, Cucumber, Mint				\$6.00
	GREEN THING	quantity	Price	cost per serving (estimate)	
	*^Celery	4 stalks	3.49 /package >half used	1.30	
	*^kale	4 stalks	1.99/lb about half used	.99	
	Lemon	½ lemon	.79/each	.39	
	*Apple	3	5.99/package 3lbs 8 apples	2.24	
	*^Cucumber	1	.66/each	.66	
	^Parsley	2 stalks	.99/each >half used	.23	
	*^Ginger	1 inch length	3.99/each	.44	

Tasting	30 oz		\$6.25
Serving	15 oz		\$3.12
Bottle Serving			\$5 - \$8
Retail Price			

\*Organic Ingredient

\*\*CELERY, KALE, CUCUMBER, PARSLEY, GINGER WOULD BE GROWN IN FAR ROCKAWAY!!

Note:

All Ingredients purchased at retail price from local Stop & Shop  
 Wholesale organic/local ingredients would be cheaper  
 TRADER JOE's organic retail ingredients would be cheaper

GREEN JUICE (Bottle) Retail

ROOTED	15 oz	5.00-8.00
EVOLUTION	15.2 oz 32oz	5.49 Rockaway Stop & Shop 9.99
BLUEPRINT	10oz 16oz 32oz	5.99 9.99 15.99
NAKED green smoothie NOT COLD PRESSED but popular	15oz	3.49 2.99 Rockaway Stop & Shop

JUISI	16oz	5.99
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LUMI	16oz		8.99	
SUJA	16oz		7.99	

THE SQUEEZE	16oz		7.99	
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MORNING SUN

*Orange	6	5.99/Package/ 3lb >half used	5.00	Can bring this cost down by at least 2 dollars via wholesale
*^Carrot	7	1.29/package/ 1lb >half used	1.00	
*^Ginger	1 ½ inches	3.99	.70	
Tasting Serving	30oz		\$6.70	
Bottle Serving	15oz		\$3.35	

\*Organic Ingredient  
^Would be grown in FAR ROCKAWAY

	MORNING SUN (bottle retail)			
	ROOTED	15oz	TBD	
	BLUEPRINT	10oz	\$5.99	
	EVOLUTION	15.2oz	\$4.29 Rockaway	
	JUISI	n/a	n/a	
	LUMI	16oz	\$8.99	
	SUJA	16oz	\$7.99	
	THE SQUEEZE	16oz	\$7.99	
Flourish	Celery, Kale, Cucumber, Lemon, Apple, Parsley, Ginger			\$6.00
Fly	Orange, Carrot, Beet, Turmeric			\$6.00

### Smoothies

1. Caribbean Take Over ( passion-orange-guava juice, mango sorbet, mango, strawberries) \$3.50 \$6.00
2. Mango Madness ( POGJ., Mango, sorbet, non-fat frozen yogurt, mango, banana) \$3.50 \$6.00
3. Pomegranate punch( Pomegranate- blueberry juice, on-fat frozen yogurt, strawberries, blueberries) \$3.50 \$ 6.00
4. Kale-pineapple ( pineapple, Kale, pineapple mangos bananas ) \$3.50 \$6.00

### Coffee

1. Iced- Coffee \$2 \$4
2. Hot-Coffee \$2 \$4
3. Flavored Coffee\$2 \$4

### Tea

1. Lavender \$2 \$3 \$ 4
2. Peppermint\$2 \$3 \$ 4

- 3. Ginger\$2 \$3 \$ 4
- 4. Chai Tea\$2 \$3 \$ 4

We will market and distribute our juices and gourmet foods to health conscious individuals and establishments who share our values of social food justice and cooperative economics, in our own neighborhood and beyond.

**Market Analysis**

Our customers are from the Caribbean, Poland, African, Russia, and the Dominican Republic. Food has a wonderful way of bring people together. Far Rock Café represents all walks of life who have made Far Rockaway their home. We have Trinidadian customers Guyanese customers and Jamaican customers that will enjoy our food while being able to use the Wi-Fi services. We will use flyers, posters, word- of mouth ad tastings to tap into our demographics. I've been living in Far Rockaway since 2006. I've always heard community residents express concerns over healthy eating establishments. For the past eight years, it's been my experience that they are looking for a café that is healthy conscious and affordable. Another marketing tool or tools will be to utilize social media like face book, titter, instagram, and the wave newspaper. Our vision needs to address health issues within the community of color. Indigestion, diabetes, constipation, hypertension high and low obesity stress and varicose Veins. The Juice bar should be able to cater to our Trinidadian, Puerto Rico, Dominican, Jamaica, Panamanian, and healthy conscious residence.

**Financials**

<b>Cooperative Business Workshop: Financial Outline</b>		
<b>Variable costs and margin (units)</b>		
		Amount
Price		\$10.00
Total Variable Costs (per unit)		\$20,000.00
Margin per unit	<i>Price minus Costs</i>	-
		\$19,990.00
<b>Fixed Costs (monthly)</b>		
		Amount
Total Fixed Costs	<i>Add all monthly costs</i>	\$20,000
Sales per month	<i>To calculate the number of units you must sell per month to cover fixed costs, divide total monthly fixed costs by the margin per unit.</i>	-1

<b>Investment</b>		
		Amount
Total	<i>Add all investment needed</i>	\$20,000
Sales needed	<i>Number of units to sell to pay the investment. Divide investment by the margin.</i>	
Months to Pay off Investment		
Sales per month	<i>Divide the sales needed to pay the investment by the number of months</i>	
<b>Salaries</b>		
		Amount
Total	<i>Add all monthly salaries</i>	\$10,000
Sales per month	<i>Number of units to sell per month to cover salaries. Divide salaries by the margin per unit</i>	-1
<b>Break-Even</b>		
Sales per month	<i>Number of units to sell per month to cover all costs and salaries and break-even. Add up all monthly sales needed to make a total.</i>	-2
* Material developed by The Working World, 2014		

<b>Cooperative Business Workshop: Financial Outline</b>		
<b>Variable costs and margin (units)</b>		
		Amount
Price		\$8.00
Total Variable Costs (per unit)		\$20,000.00

Margin per unit	<i>Price minus Costs</i>	-\$19,992.00
<b>Fixed Costs (monthly)</b>		
		Amount
Total Fixed Costs	<i>Add all monthly costs</i>	\$20,000
Sales per month	<i>To calculate the number of units you must sell per month to cover fixed costs, divide total monthly fixed costs by the margin per unit.</i>	-1
<b>Investment</b>		
		Amount
Total	<i>Add all investment needed</i>	\$20,000
Sales needed	<i>Number of units to sell to pay the investment. Divide investment by the margin.</i>	-1
Months to Pay off Investment		
Sales per month	<i>Divide the sales needed to pay the investment by the number of months</i>	
<b>Salaries</b>		
		Amount
Total	<i>Add all monthly salaries</i>	\$1,935

Sales per month	<i>Number of units to sell per month to cover salaries. Divide salaries by the margin per unit</i>	0
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**Break-Even**

Sales per month	<i>Number of units to sell per month to cover all costs and salaries and break-even. Add up all monthly sales needed to make a total.</i>	
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*\* Material developed by The Working World, 2014*

**Cooperative Business Workshop: Financial Outline**

**Variable costs and margin (units)**

		Amount
Price		\$8.00
Total Variable Costs (per unit)		\$20,000.00
Margin per unit	<i>Price minus Costs</i>	-\$19,992.00

**Fixed Costs (monthly)**

		Amount
--	--	--------

Total Fixed Costs	Add all monthly costs	\$20,000
Sales per month	To calculate the number of units you must sell per month to cover fixed costs, divide total monthly fixed costs by the margin per unit.	-1
<b>Investment</b>		
		Amount
Total	Add all investment needed	\$20,000
Sales needed	Number of units to sell to pay the investment. Divide investment by the margin.	-1
Months to Pay off Investment		36
Sales per month	Divide the sales needed to pay the investment by the number of months	0
<b>Salaries</b>		
		Amount
Total	Add all monthly salaries	\$1,935
Sales per month	Number of units to sell per month to cover salaries. Divide salaries by the margin per unit	0
<b>Break-Even</b>		
Sales per month	Number of units to sell per month to cover all costs and salaries and break-even. Add up all monthly sales needed to make a total.	-1

**\* Material developed by The Working World, 2014**

Cost 1	Cold Press Juicer	\$6,000
Cost 2	Bottling Machine?	\$2,000
Cost 3	Initial Inventory	\$4,500
Cost 4	Marketing Material: Shirts, Hats, Biz Cards, Flyers	\$1,500
Cost 5	Licenses/Permits	\$5,000
Cost 6	POS System	\$1,000
Cost 7	Store front/ Shipping Container	\$10,000
Cost 8	Commercial Wheatgrass juice	\$200
Cost 9	waffle maker	\$20
Cost 10	Other supplies ( Spoons, forks, bowls ,etc)	\$6,000
Cost 11		\$2,000.00
	Cooking Grill	
Total Investment	Add up all Investments	\$38,220

Member 1	Alexis Smallwood	129
Member 2		
Member 3		
Member 4		
Member 5		
Member 6		
Member 7		
Member 8		
Member 9		
Total Hours Worked per month	Add up all the hours worked for all members in a month	129
Minimum Salary	The minimum salary per hour to stay with this work	\$15.00
Total Salary per month	Multiply the total number of hours by the minimum salary	\$1,935
<p><b>* Material developed by The Working World, 2014</b></p>		

## Governance Rules for Rooted in the Rock

1. Currently, all members are on the board. And the option to bring on 2 outside advisors will be determined at a later date and according to growth.
2. Meeting Schedule:
  - a. Weekly Sunday meetings at 5pm: Rotating amongst all 3 member's homes. In time and as the cooperative grows the number of meeting can be scaled down.
3. New internal policy decision making process:
  - . Modified Consensus: Far Rock Café will always strive for group consensus. If consensus cannot be reach within 2 meetings the group will consult their advisory board and if still no consensus can be made they will move to 2/3 vote.
  - a. Votes for new membership need to be consensus (to revisit). Mediator may be needed if consensus cannot be reached.
4. Roles: All members will divide labor equally.
  - . Production (making Juice)
  - a. Marketing: Branding and creation of promotional material
  - b. Marketing: Community Outreach
  - c. Sales
  - d. Delivery
  - e. Administration
  - f. Operations
5. Compensation for Salary: Aspiration Hourly rate of \$20/hr knowing that in start up phase hourly salaries will be adjusted accordingly to sales.
6. New member eligibility:
  - . Share values and vision of Rooted in the Rock
  - a. Probationary period of 6months to a year or equivalent of X hours
  - b. Performance evaluation has to be satisfactory (TBD what "satisfactory" entails.
  - c. Some sort of fee will be applied to become owner.
7. TBD
8. Written warnings will be given and documented based on severity of issue. Warning can be followed up with a one on one with manager, if impasse is reached outside mediation would be brought in.
9. TBD
10. Yes: willing to hire employees that could be invited to worker/owner candidacy
11. Profit division:
  - . Payout to owners: 60% to owners
  - a. Business/Cash flow Retention: 30%
  - b. How much to pay Debt 10%

## **Skills/Experience**

Great customer service skills, organization skills, caregiver skills, and great cooking skills.

We need a food handlers licenses, vendors certifications, and learn to use a point of sales system. Some members are still learning how to drive, which will eventually help with product delivery and distribution. We will each learn technical skills to make the business work

**Roles** We will all learn the different roles in creating a business.

I believe that we all need to share roles and responsibility. In order for this business to work we all need to be on board and learn all of the roles that come with being a business owner. We will all learn how to do all the roles that's need to running a business with canning food and juice .

Compensation sure also be no more than \$14.00 an hour with the chance for NYC health insurance. We should be compensated by how many hours we work on juicing and bottle our gourmet foods. I would feel better if we paid our self every two weeks.

## **Executive Summary**

The Far Rock Café envisions a cooperative Café Bar Business that serves the community by nourishing our neighbors' bodies, minds, and spirits. In addition to selling our products the space will also promote cultural diversity, local networking, free Wi-Fi services and grass organizing hub. The Far Rock Café Owners are Alexis K. Smallwood and Tionna Smalls. The brand would promote healthy eating, a friendly and warm atmosphere and even outdoor seating in the summer.

The mission of Far Rock Café will be to increase food options, employment and economy development growth for the Far Rockaway community and increase in property value and employment to Far Rockaway. Far Rockaway is a food desert without any healthy for option, that spokes to the culture diversity of the Far Rockaway community, there's a healthy conscious population that has been tap into yet. We will also provide free Wi-Fi services, a sharing broad for information. There are chains of Papa John's, Chinese Food restaurants and the usually Fried Chicken Spot. There are gardens that are growing fresh vegetables in the summer that could be used. I would like to be able to import fruit from different countries for different seasons for the drinks. We have a division between the east and west end of the peninsula and Far Rock Café would break those barriers.

We will sale wraps, salads, soups, waffles and fried chicken along with fresh squeezes juices(Hulk: green apple, kale,, ginger, cucumbers and lemons) refreshing drinks and smoothies. Our products are inspired by the cultural diversity of Far Rockaway. So, we will have drinks and soups of the day from a different country.

The revenue customers, corporations catering and renting the space for parties and events will help me maintain the income for the space. We will be open from 6 am to 7pm with extended night time hours for summer time. Our customers are from the Caribbean, Poland, African, Russia, and the Dominican Republic. Food has a wonderful way of bring people together.

They only competitive we have are fast food Chinese food, Papa John's, Goody's, Smoothies Haven, Thai Food, Subway, Boardwalk Pizza's)restaurants and the corner stores( 20/20 )There aren't many place to eat . We don't have a large selections food eatery for the residents that live here in Far Rockaway. We have the potential to bring healthy eating to the Rockaway Peninsula in a major way. There is no other restaurant that would be able to combined different cultures together. Within the five boroughs there are other juice bars that are introducing healthy eating and living too communities of color. Our disadvantages could be transportation storms, and racism. We would provide healthy eating without our pricing the residents that live here.

### **Mission Statement**

Our mission will be to provide excellence customer services, healthy eating solutions and promote cultural diversity.

Alexis Smallwood  
57-07 Shore Front Parkway Apt 1708  
Far Rockaway, NY 11692  
Phone: 347-608-3556  
Email:alexissmallwood83@gmail.com

New York City Council  
Committee on Consumer Affairs  
City Hall Park  
New York, New York 10007

October 26, 2016

Dear City Council,

I am here today to gradually support Melissa Mark- Viverito and the several of the City Council for members ( Corey D. Johnson, Karen Koslowitz, Margaret S. Chin , Rafael L Espinal, Mark Levine, and Ydanis A. Rodriguez) sponsoring legislation with tripling the number of food vendor permits, which will allow me to become my own business owner in Far Rockaway. As a resident of Far Rockaway , I am disappoint that the City of New York hasn't given permits out since the 1980's, causing the black market to gain profits while , the law abiding entrepreneurs wait for our chance.

I've been working since I was 14 years- old , I have experience in all areas, such as being a retail, customer service representative for the following businesses like Aerosols, old Navy, Wendy's ,Taco Bell's and residential buildings, like the Continental as a receptionist/porter and even have experience as Medical Assistant in NY Queens Hospital. With the being said, I do believe if given the opportunity to have my own business I will achieve the dreams I set out years ago.

Far Rockaway is a food desert and we are the ones that would benefit tremendously from the legislation, especially, since a lot of civilian can't afford to bid for City of New York Parks Department concession stands. We have limited infrastructure and we're being priced out because of the housing market. I was working two jobs before I had to quit and become a stay home mother to take care of my 10 year old son Alexander because the businesses I work for couldn't work with my schedule.

Please help a single mother, become a permit holder that will lead me to become a successful business owner one that believes in the community, and wants to be part of their future progress. I have attached my future business plan for your review and a photo of the location which is located at Beach 59<sup>th</sup> Rockaway Beach Blvd in Front of the train station. Please help me fulfill my dreams of becoming a food vendor permit holder.

In Solidary,

Alexis Smallwood

**From:** Boots Whitlock

**Sent:** Friday, October 28, 2016

**Subject:** Veterans Given back seat in testimony on Vending

I am upset that it wasn't until three hours and fifty minutes 3:50 into the hearing that a Veteran got to speak. click the link for the video of testimony.. you'll have to watch three hours and fifty minutes to see what Veterans have to say.

Until the City of New York understands the full significance of New York General Business Law Article 4, it would be irresponsible to release any more permits.

Facts:

- article 4 guarantees permits to Veterans
- there are approximately 210,000 Veterans in the city.

We are starting to fight in court to attain our HARD EARNED benefits as Veterans. When we are done Veterans will be informed that they do rate a permit that affords them citywide access.

Answer me this: Why do we as Veterans have to FIGHT NYC to get benefits we've been guaranteed since 1896??? Why doesn't the city WANT to give us what state law GUARANTEES us??

Boots Whitlock

Veteran: United States Marine Corps

E-Mail: [Boots\\_Whitlock@Yahoo.com](mailto:Boots_Whitlock@Yahoo.com)

# Matter of Rossi v New York City Dept. of Parks & Recreation

Matter of Rossi v New York City Dept. of Parks & Recreation 2015 NY Slip Op 03047  
Decided on April 9, 2015 Appellate Division, First Department Published by New York  
State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is  
uncorrected and subject to revision before publication in the Official Reports.

Decided on April 9, 2015

Tom, J.P., Moskowitz, DeGrasse, Richter, Kapnick, JJ.

103793/12 -103794/12 -103796/12 12600 103795/12 12599 12598 12597

[\*1] In re Danny Rossi, Petitioner-Respondent,

v

New York City Department of Parks and Recreation, Respondent-Appellant., In re  
Elizabeth A. Rossi, Petitioner-Respondent, -against- New York City Department of Parks  
and Recreation, Respondent-Appellant.

In re Rabah Belkebir, Petitioner-Respondent, -against-

v

New York City Department of Parks and Recreation, Respondent-Appellant.

In re Martin Diaz, Petitioner-Respondent, -against-

v

New York City Department of Parks and Recreation, Respondent-Appellant.

Zachary W. Carter, Corporation Counsel, New York (Michael J. Pastor of counsel), for  
appellant.

Danny Rossi, respondent pro se.

Elizabeth Rossi, respondent pro se.

Rabah Belkebir, respondent pro se.

Martin Diaz, respondent pro se.

[\*2]

Order and judgment (one paper), Supreme Court, New York County (Joan B. Lobis, J.), entered March 25, 2013, granting petitioner Danny Rossi's petition to annul the determination of ECB, dated May 31, 2012, which sustained three notices of violation of 56 RCNY 1-03(c)(1), affirmed, without costs. Order and judgment (one paper), same court and Justice, entered March 25, 2013, granting petitioner Elizabeth A. Rossi's petition to annul the determination of ECB, dated May 31, 2012, which sustained two notices of violation of 56 RCNY 1-03(c)(1), modified, on the law, to deny the petition with respect to the notice of violation premised upon GBL 35-a (7)(i), and otherwise affirmed, without costs. Order and judgment (one paper), same court and Justice, entered March 25, 2013, granting petitioner Rabah Belkebir's petition to annul the determination of ECB, dated May 31, 2012, which sustained one notice of violation of 56 RCNY 1-03(c)(1), affirmed, without costs. Order and judgment (one paper), same court and Justice, entered March 25, 2013, granting petitioner Martin Diaz's petition to annul the determination of the New York City Environmental Control Board (ECB), dated May 31, 2012, which sustained 11 notices of violation of Rules of City of New York Department of Parks and Recreation (56 RCNY) § 1-03(c)(1), modified, on the law, to deny the petition with respect to the two notices of violation premised upon General Business Law (GBL) § 35-a(7)(i), and otherwise affirmed, without costs.

In these related article 78 proceedings, petitioners, who are disabled veterans holding mobile food vending licenses, challenge notices of violation issued by respondent New York City Department of Parks and Recreation (DPR) for failure to comply with Parks Department officers' directives to move their food carts. Most of the notices of violation allege that petitioners were asked to move their carts because GBL 35-a(3) provides that only two street vendors holding "specialized vending licenses" (SVLs) may vend on each "block face." SVLs are issued to disabled veterans by way of a priority system based upon the veteran's date of application (GBL 35-a[1][a], [b]). When three or more SVL holders attempt to vend on the same "block face," the two SVL holders with higher priority have the exclusive right to vend, and any other SVL holder vending on that "block face" is deemed to be vending without having obtained a license (GBL 35-a[3]). Since other SVL holders with higher priority were vending on the dates in question, the Parks Department officers asked petitioners to move, and issued the notices of violation when they refused. Separate from the "block face" issue, two of the notices of violation issued to petitioner Diaz, and one issued to petitioner Elizabeth A. Rossi, allege that they refused to move after being told that their food carts violated certain footage restrictions contained in GBL 35-a(7)(i).

GBL 35-a governs the issuance of SVLs to disabled veterans who "hawk, peddle, vend and sell goods, wares or merchandise or solicit trade" (GBL 35-a[1][a]). Petitioners argue that this statute does not apply to food vendors. The central issue presented in this appeal is whether the phrase "goods, wares or merchandise" encompasses food. We conclude that it does. "It is fundamental that a court, in interpreting a statute, should attempt to effectuate the intent of the Legislature" (Matter of State of New York v John S., 23 NY3d 326, 340 [2014] [internal quotation marks omitted]). "As the clearest indicator of legislative intent is the statutory text, the starting point in any case of interpretation must always be the language itself, giving effect to the plain meaning thereof" (Majewski v Broadalbin-Perth Cent. School Dist., 91 NY2d 577, 583 [1998]). Because the terms "goods" and "merchandise" are not defined in GBL 35-a, they should be construed in accordance with their common, everyday meaning (Matter of New York Skyline, Inc. v City of New York, 94 AD3d 23, 27 [1st Dept 2012], lv denied 19 NY3d 809 [2012]).

The word "goods" is broadly defined as "something manufactured or produced for sale" (Merriam-Webster's Collegiate Dictionary 539 [11th ed 2003]). Likewise, "merchandise" is defined as "the commodities or goods that are bought and sold in business" (id. at 776). As a matter of common parlance, the term "goods" plainly includes food. For example, one often refers to canned foods as "canned goods," and baked items as "baked goods." Thus, food products such as those sold by petitioners fall within the common, everyday meaning of "goods" and "merchandise" (see *Monroy v City of New York*, 95 AD3d 535 [1st Dept 2012] [food is "merchandise" as that term is used in city regulation governing the sale of merchandise]). If the legislature had intended to exclude food from the purview of GBL 35-a, it could have expressly [\*3]done so, as it did, for example, in General Municipal Law § 85-a [explicitly excepting "food products" from the phrase "goods, wares or merchandise"]. Its failure to have made such an exclusion in GBL 35-a indicates an intention to include food within the broad reach of the statute.[FN1]

The phrase "goods, wares or merchandise" is drawn verbatim from GBL 35-a's companion statute, GBL 32, which governs the rights of veterans to vend. That statute, from its inception, has been understood to apply to all categories of vendors, including food vendors (see e.g. *City of Buffalo v Linsman*, 113 App Div 584 [4th Dept 1906] [sale of vegetables]; *Matter of Sharpe v New York City Dept. Of Health & Mental Hygiene*, 2008 NY Slip Op 32094[U] [Sup Ct, NY County 2008] [mobile food vending]; *People v Mann*, 113 Misc 2d 980 [Dist Ct, Suffolk County 1982] [sale of hot dogs]; *People v Gilbert*, 68 Misc 48 [County Ct, Otsego County 1910] [sale of peanuts and popcorn]; see also *Good Humor Corp. v City of New York*, 290 NY 312 [1943] [involving sale of ice cream and local law regulating sale of "goods, wares or merchandise"]). It would be incongruous for the legislature to have viewed food as "goods, wares or merchandise" for purposes of GBL 32, but not for GBL 35-a.

It is axiomatic that "a statute . . . must be construed as a whole and that its various sections must be considered together and with reference to each other" (*People v Mobil Oil Corp.*, 48 NY2d 192, 199 [1979]). A review of the myriad provisions in GBL 35-a makes clear that the statute was intended to, inter alia, combat sidewalk congestion and promote public safety in areas where vending is taking place. For example, vending is

prohibited on sidewalks where the pedestrian path is less than 10 feet wide (GBL 35-a[3]). There are also restrictions on, inter alia, vending within bus stops and taxi stands, and near subway entrances, driveways, disabled access ramps and entrances to stores (GBL 35-a[7][h], [1][i], [1][viii]). Other parts of the statute prohibit interference with fire hydrants and traffic barriers, use of oil and gas powered equipment, and vending over subway grates, ventilation grills and manholes (GBL 35-a [7][g], [1][iii], [1][v]). The congestion and safety concerns underlying these provisions pertain to all vendors regardless of what they are selling, and there is no rational reason why the legislature would intend for these restrictions to apply to general vendors but not food vendors.

The passing reference to food vendors in GBL 35-a(11) fails to demonstrate that the legislature did not intend food vending to be covered under the statute. That subdivision, which provides for certain caps on vending by disabled veterans, is merely an acknowledgment that there are different types of vendors — namely "food, general [and] vendors of written matter" (GBL 35-a[11]), and sheds no light on the central question of whether food is "goods" or "merchandise." Likewise, the fact that two different agencies regulate street vending in New York City does not mean that the State Legislature intended to carve out food vending from GBL 35-a.

Having concluded that the vending limitations contained in GBL 35-a apply to the sale of food, we turn to the remaining issues presented in this proceeding. Petitioners were vending in front of the Metropolitan Museum of Art, which is abutted by a five-block span of sidewalk on the west side of Fifth Avenue extending from the side streets of East 79th Street through East 84th Street. On the east side of Fifth Avenue, this span comprises five distinct blocks separated by the above side streets, each of which forms a T-junction with Fifth Avenue. Most of the notices of violation were issued because petitioners had allegedly violated the provision in GBL 35-a(3) allowing no more than two SVL holders to vend on a given "block face."

DPR and ECB take the position that the entire span of sidewalk in front of the museum comprises a single "block face" for purposes of GBL 35-a(3). We disagree. The regulations enacted with respect to this statute define "block face" as "the area of sidewalk spanning from one intersection to the next" (Rules of City of New York Department of Consumer Affairs [6 RCNY] § 2-315[a][1]). The term "intersection" is defined in the Vehicle and Traffic Law (VTL) as, inter alia, "[t]he area embraced within the prolongation or connection of the lateral curb lines . . . of two highways which join one another at, or approximately at, right angles" (VTL 120[a]). Likewise, the New York City Department of Transportation's regulations define "intersection" as "the area contained within the grid created by extending the curblines of two or more streets at the point at which they cross each other" (Rules of City of New York Department of Transportation [34 RCNY] § 2-01). Because the T-junctions formed where Fifth Avenue meets each of the streets from East 79th through East 84th Streets are all separate intersections, the multi-block sidewalk span in front of the museum is not a single "block face." Thus, in light of the provisions of the VTL and RCNY, ECB's interpretation of the term "block face" was an error of law. Accordingly, ECB erroneously sustained those notices of violation based on the restriction of two SVL holders per "block face." [FN2]

Contrary to the dissent's view, the "block face" issue, which was fully briefed in the article 78 proceedings below, is properly before us. CPLR 7804(g) provides, in relevant part, that "when the [article 78] proceeding comes before it, whether by appeal or transfer, the appellate division shall dispose of all issues in the proceeding" (emphasis added). Thus, we are empowered to resolve all issues raised in the article 78 petitions, including the "block face" issue (see *Matter of 125 Bar Corp. v State Liq. Auth. of State of N.Y.*, 24 NY2d 174 [1969]; see also Alexander, Practice Commentaries, McKinney's Cons Laws of NY, Book 7B, CPLR C7804:8 ["To preserve judicial economy, . . . 7804(g) has been interpreted as a direction to the Appellate Division to consider all of the questions that are presented in an Article 78 proceeding no matter how the case arrived at its doorstep"]). We disagree with the dissent's position that we should defer to ECB's construction of the term "block face." The issue before us turns solely on statutory interpretation, and no such deference is owed since we are not interpreting a statute "where specialized knowledge and understanding of underlying operational practices" or "an evaluation of factual data and inferences to be drawn therefrom is at stake" (*Matter of RAM I LLC v New York State Div. of Hous. & Community Renewal*, 123 AD3d 102, 105 [1st Dept 2014] [internal quotation marks omitted]).

ECB properly upheld those notices of violation issued to petitioners Diaz and Elizabeth A. Rossi premised upon GBL 35-a(7)(i). Under that provision, SVL holders are prohibited from "occupy[ing] more than eight linear feet of public space parallel to the curb" and "more than three linear feet to be measured from the curb to the property line." [FN3] The sole defense raised in the administrative proceedings to these notices of violation, which have nothing to do with the "block face" issue, was that GBL 35-a does not apply to food vending [FN4]. In light of our rejection of this defense, no basis exists to vacate these notices of violation.

All concur except Tom, J.P. who dissents in part in a memorandum as follows:

TOM, J.P. (dissenting in part)

I dissent to the extent that the majority reaches matters not briefed by the parties and not reached by Supreme Court, thus providing no basis for review. It is axiomatic that in the absence of an adverse ruling by which a party is aggrieved, no appeal lies (CPLR 5511). Since petitioners have not filed a cross appeal, any administrative rulings adverse to them are likewise not subject to review in respondent's present appeal.

Petitioners are all disabled veterans of the United States Armed Services who operate as mobile food vendors on the sidewalk in front of the Metropolitan Museum of Art in Manhattan. The issue presented by this appeal is whether they were properly charged with violating General Business Law section 35-a, subdivision 3, which imposes a limit on the number of vendors who may conduct business at a particular location.

These article 78 proceedings, consolidated for appeal, challenge penalties imposed on petitioners by respondent New York City Department of Parks and Recreation (DPR) and

upheld by the Environmental Control Board (ECB or the City) for refusing to leave the sidewalk area fronting the museum to comply with the statutory limit of two such vendors per restricted block face. These density restrictions are prescribed by General Business Law § 35-a, which provides for the issuance of a specialized vending license (SVL) to any honorably discharged veteran who, like petitioners, has a service-related physical disability.

Each petitioner holds a Mobile Food Vendor Full Term License issued by the New York City Department of Health and Mental Hygiene (DOHMH), which enables the holder to conduct operations as a food vendor. Petitioner Danny Rossi owns and operates his own food vending cart, which meets the agency's specifications and requirements. Since 2007, he has been operating his food cart in front of the Metropolitan Museum of Art on the west side of Fifth Avenue in the vicinity of East 82nd Street. In addition to the cart which he personally operates, Mr. Rossi owns at least two other food vending carts. He employs his adult daughter, petitioner Elizabeth A. Rossi, to operate one and petitioner Martin Diaz to operate the other. The final petitioner, Rabah Belkebir, owns and operates his own food cart at East 79th Street and Fifth Avenue. For each cart owned, Mr. Rossi and Mr. Belkebir hold a Citywide Full Term Mobile Food Vending Permit, also issued by DOHMH, which certifies that a particular cart or vehicle is authorized for use in food vending.

Petitioners were directed to move their food carts because state law provides that only two street vendors holding "specialized vending licenses" may vend on each "block face" (General Business Law § 35-a [3])[FN5]. DPR construes the five-block uninterrupted stretch of sidewalk on Fifth Avenue fronting the Metropolitan Museum of Art to constitute a single "block face" for purposes of General Business Law § 35-a, subdivision 3. Since other, more senior (higher priority number) SVL holders were present on each of the dates in question, the Parks Department officers asked the petitioners to move, and issued them notices of violation when they refused.

A brief historical analysis of the relevant statutes is instructive. Article 4 of the General Business Law confers on honorably discharged veterans of this state who procure the necessary license the right to "sell goods, wares or merchandise or solicit trade upon the streets and highways within the county of his or her residence" or within the city wholly embracing that county (General Business Law § 32 [1]). Moreover, municipalities are forbidden to promulgate any local law or regulation that prohibits or interferes with the exercise of such right by licensed veterans who are physically disabled as a result of injuries received during military service [\*5](General Business Law § 35). In *Kaswan v Aponte* (160 AD2d 324 [1st Dept 1990], affg 142 Misc 2d 298 [Sup Ct, NY County 1989]), this Court upheld the right conferred by section 35, which supersedes and proscribes any local law restricting the right of disabled veterans to engage in hawking or peddling — specifically, in *Kaswan*, a local regulation intended to abate congestion. In response to our ruling, section 35 was amended to exempt cities with a population of one million or more to permit the exercise of some degree of local regulatory authority over the activities of such vendors (L 1991, ch 687, § 1). Thereafter, the legislature enacted section 35-a, which originally provided for the issuance of restricted location permits to

qualifying disabled veterans (L 1995, ch 115, § 3). The statute was re-enacted in 2004 to implement the present licensing system, expressly subjecting licensees to local restrictions on the number of vendors who may operate at a given location under certain specified conditions (L 2004, ch 11, § 1).

The statute subjects the SVL holder to local restrictions on the number of vending carts, vehicles or stands imposed by the locality "[i]n areas where general vending is authorized" (General Business Law § 35-a [2]). It further confers upon the SVL holder the right to vend at times and in locations where vending is otherwise prohibited, with the proviso that no more than two SVL holders may vend on such a "restricted block face" (General Business Law § 35-a [3]). The statute provides for a priority system, based on seniority, to establish which vendors have the right to continue operating when the density limit on the number of vendors per block face is exceeded.

DPR officers issued violations to petitioners for failing to obey directives to move their food carts. In each case, the officers asserted that they instructed the petitioner to move his or her cart because the respective petitioner did not have "priority" on that "block face" (General Business Law § 35-a [1] [b]). The summonses issued to petitioners were the subject of four administrative hearings conducted before the same Administrative Law Judge. Danny Rossi appeared pro se and also acted as the representative of the other three petitioners. The agency was represented by Parks Department Enforcement personnel, Sergeant Asha Harris and Officer Travis Herman.

Mr. Rossi began by noting that the issue of whether an enforcement officer's direction to move a food cart was lawfully issued had been the subject of several prior hearings. He submitted a number of determinations that dismissed the charge of failing to comply with a lawful order of a Parks Department officer, including one concerning Martin Diaz, all of which found that General Business Law § 35-a is inapplicable to food vendors. Mr. Rossi argued that the statute only "applies to general vending" and that "the priority system isn't used in this case." As to any restriction on the number of vendors, Mr. Rossi contended that the location where the carts were being operated is not a restricted area for food vendors. In support of his argument, he referred to title 17 of the Administrative Code (regulating food vending)[FN6] and a listing of streets restricted under that title, which does not include the subject location. He further noted that under Parks Department regulations, the only restriction on the placement of carts is that they be located at least 30 feet from a park entrance, a rule with which he fully complied. In response, Sergeant Harris reminded the ALJ that the violations were issued to petitioners under section 35-a, not the Administrative Code. She then proceeded to explain the priority licensing system.

The ALJ issued four substantially identical decisions dismissing all of the violations against each of the four petitioners and finding that General Business Law § 35-a is inapplicable to food vendors. Thus, the ALJ concluded, petitioners were not subject to the limit of two SVL holders per block face contained in subdivision (3), the directive given to petitioners by DPR officers to remove their food carts from the sidewalk in front of the Metropolitan Museum of Art was unlawful, and it could not serve as a basis for issuance

of a violation for failure to comply with the officer's "lawful direction or command" (56 RCNY 1-03 [c] [1]).

The DPR pursued an administrative appeal before the ECB, which reversed the ALJ's [\*6] findings. In four determinations essentially identical in substance and issued on the same day, the Board found that the restriction on the number of vendors contained in General Business Law section 35-a applies to food vendors and general vendors alike. While no definition of the terms "goods, wares or merchandise" appears in section 35-a or elsewhere in the New York State Consolidated Laws, the Board observed that the dictionary definition of "goods" includes "food products," such as "baked goods" (citing Webster's Third New International Dictionary [1986]), and that food products are among the goods subject to regulation under article 2 of the Uniform Commercial Code. The Board also rejected petitioners' contention that they did not violate the statutory prohibition against more than two SVL holders "vend[ing] simultaneously on the same block face" because, as Danny Rossi had argued, the list of restricted areas issued by DOHMH includes only the east side of Fifth Avenue, not the west side in front of the Metropolitan Museum of Art. The Board instead invoked the local requirement to obtain written permission from the Parks Commissioner to vend in areas subject to his supervision (Administrative Code § 17-315 [i]) to find that the area fronting the museum from East 79th to East 86th Street constitutes a "restricted block face." Finally, the Board refused to consider Mr. Rossi's argument that an SVL may be used only for general vending, that it requires a general vending license and is labeled "disabled veteran general vendor" as "factual assertions made for the first time on appeal." In reversing the ALJ's determinations, the Board sustained all of the violations against petitioners.

The subject article 78 proceedings were commenced by notices of petition and petitions verified September 14, 2012. As on the administrative appeal, petitioners argued that food vendors are not regulated by the state statute but, rather, are subject to city regulation by DOHMH under article 17 of the Administrative Code. They further argued that the ECB's finding that the area between East 79th and East 86th Street is a single restricted block face for purposes of the statute is arbitrary and capricious. The City responded that while its licensing provisions have distinguished between general vendors and vendors of food since 1977, state law has never made any such distinction.

In granting the petitions, Supreme Court issued four substantially identical decisions reasoning that only general (non-food) vendors are subject to General Business Law § 35-a, while food vendors are regulated by Administrative Code § 17-301 et seq. The court further noted that "[t]he Department of Consumer Affairs, which is charged with issuing general vendor licenses, explicitly excludes food vending from the purview of general vendor licenses" (citing Administrative Code § 20-452 [b]). Because it found section 35-a to be inapplicable to food vendors, the court held that the DPR officers had unlawfully directed petitioners to move their food carts and, thus, petitioners could not be charged with failing to comply with a lawful direction of a Parks Department officer. The court did not reach the question of whether the entire sidewalk area fronting the museum constitutes a single block face for purposes of restricting vending to two specialized vending licensees.

On appeal, the City, argues that while regulation of food vendors is the province of DOHMH, General Business Law § 35-a is not confined to general vendors but applies to all vendors, including food vendors.

In support of their opposing position that the numerical restrictions of section 35-a do not apply to them, petitioners, appearing pro se, respond first, as they argued before the ALJ, that the Department of Consumer Affairs (DCA) has no authority to regulate their operations, which fall under the aegis of DOHMH. Second, they point out that none of them has been required to obtain an SVL in order to conduct operations as a food vendor and that a general vending license does not permit the vending of food [FN7]. Finally, since food is not mentioned among the wares covered by General Business Law § 35-a, they contend that the statute does not apply to vendors [\*7]of food.

As the City frames it, the issue before us is whether the statutory reference to those holding a "license to hawk, peddle, vend and sell goods, wares or merchandise or solicit trade upon the streets and highways" (General Business Law § 35-a [1][a]) includes food vendors within its purview or, more particularly, whether the statute includes food among the categories of "goods, wares or merchandise" sold by SVL holders. The City argues that the dictionary definition of "goods" is particularly broad and that article 2 of the Uniform Commercial Code, which applies to transactions in goods, is construed to include food items (see e.g. *Frigalment Importing Co. v B.N.S. Intl. Sales Co.*, 190 F Supp 116 [SD NY 1960] [chicken]; *Feld v Levy & Sons*, 37 NY2d 466 [1975] [bread crumbs]).

It may well be that, as the City contends, General Business Law section 35-a can be read to encompass food vendors. It is broadly drafted and nowhere expressly exempts the vending of food from its ambit (see *Majewski v Broadalbin-Perth Cent. School Dist.*, 91 NY2d 577, 583 [1998] [legislative intent is best reflected by the statutory language]). For the purpose of this appeal, it may be assumed, without deciding, that the statute's scope is as broad as the City suggests. It is unnecessary to decide the issue because, even accepting the City's interpretation, the statute does not afford a predicate for issuance of the subject violations to petitioners under the particular facts of this case.

Preoccupation with state law detracts from the purpose of article 78 review. The narrower question to be decided by this Court is whether Supreme Court correctly found that the ECB's administrative order overturning the ALJ's hearing determination was "arbitrary and capricious, affected by error of law or an abuse of discretion" under CPLR 7803 (3) (*Matter of Castanon v Franco*, 290 AD2d 293, 293 [1st Dept 2002], quoting *Matter of Kaphan v DeBuono*, 268 AD2d 909, 911 [3d Dept 2000])[FN8]. The subject violations were issued pursuant to General Business Law § 35-a (3), which provides in relevant part:

"Specialized vending licenses issued pursuant to this section shall authorize the holders thereof to vend on block faces . . . on the days and at the times when other vending businesses have been prohibited on such block faces pursuant to any local law, ordinance,

by-law, rule or regulation. Not more than two such specialized vending licenses shall be authorized pursuant to this subdivision per restricted block face . . ."

Where, as here, a question of pure statutory interpretation is presented, the courts are not obliged to accord deference to the construction of the law espoused by the agency (see *Matter of KSLM Columbus Apts., Inc. v New York State Div. of Hous. & Community Renewal*, 5 NY3d 303, 312 [2005]).

Whether or not General Business Law § 35-a applies to petitioners, the ECB identified no local provision that otherwise prohibited vending in front of the Metropolitan Museum of Art, thereby implicating the statutory limit of two vendors per block face. Subdivision (2) of the statute subjects qualifying disabled veterans holding SVLs to local restrictions on the placement of vending carts. Subdivision (3) permits such SVL holders to vend "on the days and at the times when other vending businesses have been prohibited on such block faces pursuant to any local law, ordinance, by-law, rule or regulation," with the proviso that "[n]ot more than two such specialized vending licensees shall be authorized pursuant to this subdivision per restricted block face" (General Business Law § 35-a [3]). Thus, even assuming that petitioners are bound by the statute, as the City contends, they must be shown to have been using the status of SVL holder to vend at a time and place "when other vending businesses have been prohibited." Once again, the City identifies no such local prohibition in effect at this location, and the restriction of "not more than two . . . specialized vending licenses per restricted block face" under § 35-a (3) is not [\*8]implicated.

As the basis for finding the location where petitioners were issued violations to be a restricted block face, the ECB invoked section 17-315 (i) of the Administrative Code, which prohibits vending in areas subject to Parks Department jurisdiction "unless written authorization therefor has been obtained from the commissioner." This provision is inapposite. As the ALJ noted, petitioners were not cited for vending without a permit. Nor does this provision impose the type of restriction contemplated by section 3 of the statute by prohibiting the operation of "other vending businesses" on the block face on particular days and at specified times. Absent a showing that, pursuant to statute, petitioners were allowed to vend at their location when the locality prohibited other vendors from conducting business, they are not subject to the statutory limit of two such authorized vendors (General Business Law § 35-a [3]).

Whether other regulations, such as those issued by DCA, restrict vending on the block face at the subject times is immaterial. "It is settled that a court's review of the propriety of an agency's determination is confined to the particular grounds invoked by the agency in support of its action" (*Matter of L & M Bus Corp. v New York City Dept. of Educ.*, 71 AD3d 127, 136 [1st Dept 2009], mod on other grounds 17 NY3d 149 [2011], citing *Matter of Yarborough v Franco*, 95 NY2d 342, 347 [2000]; *Matter of Montauk Improvement v Proccacino*, 41 NY2d 913, 913-914 [1977]). Thus, on this record, there is no basis for finding petitioners in violation of the statutory limit of two SVL holders per block face pursuant to section 35-a, subdivision 3. Furthermore, since the applicability of

section 35-a is the issue contested by the parties on appeal, there is no question that it has been preserved for review.

As an alternative basis for annulment of the ECB determination, in the verified answer to the individual petitions, it is conceded that "the City has separated vendors into general vendors and food vendors for the purposes of licensing since 1977." The ECB's determinations represent an inexplicable departure from administrative precedent and conflict with these longstanding regulatory distinctions. As pointed out by Mr. Rossi at the start of the administrative hearing before the ALJ, a number of prior determinations found General Business Law § 35-a to be inapplicable to food vendors. The ECB acknowledged its break with agency precedent in its determination of the administrative appeal in the Martin Diaz case. Referring specifically to an October 5, 2011 determination dismissing an identical violation issued to Mr. Diaz for failing to comply with an order of a DPR officer, the Board stated, in a footnote, that "res judicata" is inapplicable due to an "intervening change in the applicable legal context. . . . The Board's finding that GBL 35-a applies to food vendors is such a change in context."

An agency, like a court, is not inexorably bound by the doctrine of stare decisis to conform to an incorrect application of a statute, but it is required to provide the reason for a change in its established position (*Matter of Charles A. Field Delivery Serv.*, [Roberts] 66 NY2d 516, 519, 520 [1985]). Having stated that its finding that General Business Law § 35-a is applicable to food vendors constitutes a change in position, the ECB's failure to provide any explanation renders the instant determinations arbitrary as a matter of law. As the Court of Appeals noted:

"when an agency determines to alter its prior stated course it must set forth its reasons for doing so. Unless such an explanation is furnished, a reviewing court will be unable to determine whether the agency has changed its prior interpretation of the law for valid reasons, or has simply overlooked or ignored its prior decision. Absent such an explanation, failure to conform to agency precedent will, therefore, require reversal on the law as arbitrary, even though there is in the record substantial evidence to support the determination made" (*id.* at 520 [internal citation omitted]).

The ECB determination sets forth various reasons why the agency thinks section 35-a should apply to food vendors; it does not state why the City is departing from a regulatory system that has concededly drawn a clear distinction between food and non-food vendors for nearly four decades. Although the issue was placed before it, the ECB has not explained why, or by what [\*9]means, regulations aimed at general vendors are to be applied to food vendors, essentially by treating them as specialized vending licensees. An agency, as a general matter, is required to adopt a rational interpretation of the law under which it operates (see *Matter of Howard v Wyman*, 28 NY2d 434, 438 [1971]), and particularly so where, as here, the agency proposes to reverse its position with respect to the law's application.

ECB's determination does not demonstrate that its interpretation of General Business Law section 35-a is consistent with the City's existing regulatory structure. As Supreme Court

noted, the definition of "general vendor" specifically provides that it "shall not include a food vendor" (Administrative Code § 20-452 [b], citing Administrative Code § 17-306 [c]). Furthermore, as Mr. Rossi observed, the specialized vending licensee is designated on the license itself as "a disabled veteran general vendor." In addition, qualification for an SVL requires proof that the applicant "holds a general vending license" (6 RCNY 2-315 [b][3][iii]). Thus, under the City's licensing system, a general vendor is not permitted to sell food; only a general vendor can apply for an SVL; the SVL is expressly denominated a "specialized license," held by a "general vendor"; and SVL holders are only restricted by General Business Law § 35-a (2) "[i]n areas where general vending is authorized." Taken together, these various provisions amply support Supreme Court's conclusion that the City's restrictions on the number of qualifying disabled veterans who may vend on a restricted block face apply exclusively to those persons it licenses as general vendors [FN9]. The provisions also illustrate the extent to which ECB's proposal to subject food vendors to statutory restrictions placed on SVL holders is at variance with the established regulatory scheme.

As this matter illustrates, application of general vending restrictions to food vendors presents some practical inconsistencies. The evidence presented to the ALJ by Mr. Rossi demonstrates that the areas where food vending is restricted by DCA regulations differ from those areas restricted by DOHMH regulations. The policy reasons behind the requirement of consistent results — particularly "guidance for those governed by the determination made" and "stability in the law" — are not advanced by requiring the food vendor, regulated by DOHMH, to anticipate being subjected to vending restrictions directed at the general vendor and promulgated by DCA (Matter of Charles A. Field Delivery Serv., [Roberts] 66 NY2d at 519). Nor are impartiality and the appearance of justice promoted by issuing a food vendor a general vending license, which does not permit the vending of food, for the apparent purpose of subjecting the food vendor to general vending restrictions (id.).

The majority questions the City's position that the five-block stretch of sidewalk fronting the Metropolitan Museum of Art from 79th to 84th Streets constitutes a single "block face." Agency regulations define the term as "the area of sidewalk spanning from one intersection to the next" (6 RCNY § 2-315 [a][I]). Meanwhile, Vehicle and Traffic Law § 120, subdivision (a) defines the term "intersection" as, inter alia, "the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles." It is beyond dispute that the T-junction formed by each intervening street from 80th to 83rd Street constitutes an intersection under the statute, and ECB has offered no explanation for its contrary interpretation. The significance of the omission in the present context appears to be minimal, however, in view of Sergeant Harris's testimony that, due to the prohibition against vending in bus stops and the profusion of bus stops along the entire length of sidewalk fronting the museum, there are only [\*10]two areas where vendors can legally position their carts. Thus, it may be that petitioners and the competing food vendors who outranked them were operating not only on the same block face, as construed by the ECB, but on the same block, as delineated by bounding intersections, rendering the point moot for the purpose of determining whether statutory density restrictions were exceeded.

In any event, Supreme Court did not reach the question of whether the ECB's definition of block face is arbitrary and capricious, the City is not aggrieved by any adverse decision on the matter (CPLR 5511), the subject has not been briefed by the parties, and the issue is not before this Court. Even if the question were properly presented for review, the pertinent inquiry is whether the ECB has a rational basis for construing the sidewalk fronting the Metropolitan Museum as a single block face, not merely, as the majority decides, whether the agency's construction of the term intersection varies from that of the Vehicle and Traffic Law. "It is well settled that the construction given statutes and regulations by the agency responsible for their administration, if not irrational or unreasonable, should be upheld" (Matter of Howard v Wyman, 28 NY2d at 438 [1971]; see Matter of Tommy & Tina, Inc. v Department of Consumer Affairs of City of N.Y., 95 AD2d 724 [1st Dept 1983], affd for reasons stated below 62 NY2d 671 [1984]). In the absence of any briefing by the City concerning the reason for designating the subject location as a restricted block face, this issue is not reviewable.

Finally, a determination of whether petitioners were in violation of statutory density restrictions under the criterion established by the majority would first require a determination as to whether petitioners were vending on the same block as competing food vendors, a question unanswerable on the present record. We do not know where these food carts were located at the time the violations were issued. All the food carts could have been clustered within a single block directly in front of the museum entrance, which would subject petitioners to the restriction of section 35-a (3) even if the stretch of sidewalks fronting the museum are deemed separate block faces. Thus, simply finding that "the multi-block sidewalk span in front of the museum is not a single block face" does not, as the majority presumes, automatically resolve the issue in favor of petitioners.

Accordingly, the respective judgments (each denominated order and judgment) should be affirmed.

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: APRIL 9, 2015

DEPUTY CLERK

Footnotes

Footnote 1: There is nothing in the legislative history to indicate that the legislature intended to exclude food vending.

Footnote 2: The dissent's reference to the number of bus stops in front of the museum, an issue not fully developed in the administrative record, has no bearing on the legal issue of whether the sidewalk area in front of the museum constitutes a single "block face."

Footnote 3: Although, in general, the provisions of GBL 35-a(7) are not applicable to the area where petitioners were vending, the specific prohibitions contained in GBL 35-a(7)(i) apply to all SVL holders, regardless of where they vend (see GBL 35-a[3]).

Footnote 4: In the article 78 petitions, petitioners argued that these size limitations create a disadvantage for disabled veteran food vendors since they purportedly conflict with certain city regulations. We do not reach this issue because it was not raised in the ECB proceedings (see *72A Realty Assoc. v New York City Env'tl. Control Bd.*, 275 AD2d 284, 286 [1st Dept 2000]).

Footnote 5: The term "block face" is not defined in General Business Law article 4.

Footnote 6: Presumably Administrative Code § 17-315 (i) requiring written authorization from the Commissioner of Parks to vend within areas under Parks Department jurisdiction.

Footnote 7: General Business Law § 35-a (5) provides for a color coded identification to accompany an SVL, which shall be displayed by the SVL holder, and current DCA rules provide for the assignment of a priority rank to the vendor.

Footnote 8: The City concedes that since petitioners do not challenge any factual finding (CPLR 7803 [4]; 7804 [g]), this is the appropriate standard of review.

Footnote 9: The City, at oral argument, informed this Court that it does indeed issue SVL's to food vendors, and there are indications in the record that some, if not all of the petitioners have obtained them. Presumably, to qualify, petitioners first obtained general vending licenses. The City does not explain its rationale for issuing a general vending license to a vendor who cannot use it to sell food, and neither party has provided any guidance concerning the actual use of the SVL by food vendors within the existing regulatory framework.

## Chap. 371.

**AN ACT** to authorize the issuing of licenses to honorably discharged soldiers, sailors and marines for hawking, peddling and vending of merchandise within this state.

BECAME a law April 22, 1896, with the approval of the Governor. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Every honorably discharged soldier, sailor or Right to hawk and peddle goods. marine of the military or naval service of the United States who is a resident of this state shall have the right to hawk, peddle and vend any goods, wares or merchandise or solicit trade within this state by procuring a license for that purpose to be issued as herein provided.

§ 2. On the presentation to the clerk of any county in which any soldier, sailor or marine may reside, of a certificate of discharge from the army or navy of the United States, such county clerk shall issue without cost to such soldier, sailor or marine a license certifying him to be entitled to the benefits of this act.

§ 3. This act shall take effect immediately.

Search N.Y. GBS. LAW § 32 : NY Code - Section 32: Licenses to veterans of the armed forces of the United States

1. Every honorably discharged member of the armed forces of the United States, who is a resident of this state and a veteran of any war, or who shall have served in the armed forces of the United States overseas, and the surviving spouse of any such veteran, if a resident of the state, shall have the right to hawk, peddle, vend and sell goods, wares or merchandise or solicit trade upon the streets and highways within the county of his or her residence, as the case may be, or if such county is embraced wholly by a city, within such city, by procuring a license for that purpose to be issued as herein provided. No part of the lands or premises under the jurisdiction of the division of the state fair in the department of agriculture and markets, shall be deemed a street or highway within the meaning of this section.

2. Any such former member of the armed forces of the United States may present to the clerk of any county in which he has resided for a period of at least six months, his original certificate of honorable discharge, or a copy thereof duly certified by the recording officer or a certificate in lieu of lost discharge issued by a department of the armed forces of the United States which shall show that the person presenting it is a veteran of any war, or that he has served overseas in the armed forces of the United States. He shall also fill out a blank which shall when filled out state his name, residence at the time of application, nature of goods to be sold, and if the applicant is working on commission or percentage for any person, firm or corporation, the name and business address of such person, firm or corporation. This statement shall be signed by the applicant in the presence of the county clerk, or a deputy designated by him, and the name on this application and on the original certificate of honorable discharge shall be compared by the county clerk to ascertain if the person so applying is the same person named in the original certificate of honorable discharge. Such county clerk when so satisfied shall issue, without cost, to such former member of the armed forces of the United States, a license certifying him to be entitled to the benefits of this section.

3. A copy of this statement shall be attached to the license granted by the county clerk and shall remain attached thereto. On presentation to such clerk of the affidavit of such surviving spouse and two other residents of the county, that he or she is such surviving spouse, accompanied by such original certificate of honorable discharge of his or her deceased spouse, and the filing of the statement hereinabove required, such county clerk shall issue, without cost to the surviving spouse, a license certifying the surviving spouse to be entitled to the benefits of this section.

4. The license provided for by this section shall be used and valid only for use in the county in which it was issued, except that if issued in a county embraced wholly by a city, it may be used within such city.

5. The application for the license herein provided shall be accompanied by a photograph of the applicant taken within thirty days prior to such application and upon the issuance of such license shall be attached thereto.

6. A license issued without cost, under the provisions of this section, shall be personal to the licensee and any assignment or transfer thereof shall be absolutely void. Upon satisfactory proof by affidavit of the loss or destruction of any license issued as herein provided, the county clerk shall issue a duplicate license for the one so lost or destroyed and in which event the word "duplicate" shall be legibly written in ink across the face thereof.

7. A person assigning or transferring, or attempting to assign or transfer any such license or using or attempting to use such license contrary to the provisions of this section shall be guilty of a misdemeanor.

8. Any provisions of this section to the contrary notwithstanding, any city, village or town may, by local law or ordinance, require a person holding a license issued pursuant to the provisions of this section by the clerk of the county in which such city, village or town is located, to file a further application with such official of the city, village or town as is designated in such local law or ordinance, for the issuance of a local license and may prescribe the terms and conditions under which such local license may be issued and may prohibit the right to hawk, peddle, vend and sell goods, wares or merchandise or solicit trade upon the streets and highways within any such city, village or town under the provisions of this section unless such local license has been issued. - See more at: <http://codes.lp.findlaw.com/nycode/GBS/4/32#sthash.6kd3xEHG.dpuf>

## General Business Law Article 4 section 35-a

Subject to the provisions of this section but notwithstanding any inconsistent provisions of any general, special or local law:

1.

(a) In cities having a population of one million or more, the official designated by a local law or ordinance to issue a local license to hawk, peddle, vend and sell goods, wares or merchandise or solicit trade upon the streets and highways within such city shall issue specialized vending licenses to honorably discharged members of the armed forces of the United States who are physically disabled as a result of injuries received while in the service of said armed forces and who are eligible to hold licenses granted pursuant to section thirty-two of this article. Such specialized vending licenses shall authorize holders thereof to hawk or peddle within such city in accordance with the provisions contained in this section. Specialized vending licenses issued under this section shall permit the holders thereof to vend on any block face, and no licensee authorized under this section shall be restricted in any way from vending in any area, except as provided in this section.

(b) The official in such city responsible for issuing specialized vending licenses shall set forth by rule procedures for issuing specialized vending licenses pursuant to this section; such rules shall establish a priority system, based upon the date of application for specialized vending licenses issued pursuant to this section, provided, however, that any disabled veteran vendor holding a specialized vending license issued in such city prior to March first, two thousand three, shall be accorded a priority based upon the date of issuance of such specialized vending license.

2. In areas where **general vending** is authorized, outside of the area specified in subdivision seven of this section, all specialized vending license holders, including those vendors authorized to vend in the area specified in subdivision seven of this section, shall be subject to those restrictions on the placement of vehicles, pushcarts and stands contained in any local law, ordinance, by-law, rule or regulation of a city having a population of one million or more, to the extent that such restrictions are not inconsistent with the provisions contained in subdivisions four, five, six and eight of this section.

3. Specialized vending licenses issued pursuant to this section shall authorize the holders thereof to vend on block faces, outside the area specified in subdivision seven of this section, on the days and at the times when other vending businesses have been prohibited on such block faces pursuant to any local law, ordinance, by-law, rule or regulation. Not more than two such specialized vending licensees shall be authorized pursuant to this subdivision per restricted block face, provided that no restriction shall apply to such licensees when vending on such block faces except as provided in paragraphs (e), (g), (h), (i), (j), (k) and (l) of subdivision seven of this section; and

provided further no specialized vending licensee shall vend on any sidewalk unless such sidewalk has at least a ten-foot wide clear pedestrian path to be measured from the boundary of any private property to any obstructions in or on the sidewalk, or if there are no obstructions, to the curb. Where three or more specialized vending license holders attempt to vend simultaneously on the same block face, the two specialized vending license holders with the higher priority, as established pursuant to paragraph (b) of subdivision one of this section, shall have the exclusive right to vend on such block face, and any other specialized vending license holder vending on such block face shall be deemed to be vending without first having obtained a license.

4. Where exigent circumstances exist, a police officer of the city may order a specialized vending license holder to temporarily move from a location; for purposes of this subdivision, "exigent circumstances" shall mean an immediate threat to public safety caused by unusual and severe pedestrian congestion due to an impediment other than the specialized vending license holder, or by an accident, fire, parade, demonstration or other emergency situation. Nothing herein shall be construed to limit such city's authority to place restrictions on vending in order to protect national security.

5. Specialized vending licenses to vend shall be accompanied by a photographic color coded identification which shall include the priority number established pursuant to paragraph (b) of subdivision one of this section, and shall be displayed by such specialized vending license holder.

6. Specialized vending licenses to vend shall not be loaned, leased, subcontracted or otherwise transferred except:

(a) Upon the death of the disabled veteran who held the license, the license shall be transferred by operation of law to the surviving spouse or, if there is no surviving spouse or the surviving spouse elects not to use the license, to the guardian of a minor child or children who may use the license for the support of the minor child or children. The license shall revert to the licensing agency for reassignment upon the death of the surviving spouse, if the surviving spouse remarries, when the youngest minor child reaches age eighteen, or when either the surviving spouse or guardian of the minor child or children elects not to use the license to vend in the city of New York or abandons the use of the license. Temporary periods when the spouse or guardian do not vend shall not cause the license to revert to the licensing agency in the absence of other evidence of an intent to abandon the use of the license; a period of six months or more in which the holder of the license does not vend shall create a rebuttable presumption that the spouse or guardian has abandoned the use of the license; and

(b) If the veteran who holds the license becomes totally and permanently disabled, the holder of the license may transfer it to the holder's spouse or, if the veteran has no spouse, to an

adult child if the child assumes the duty to support the veteran. The license shall revert to the licensing agency when:

- (1) the veteran who held the license immediately before the transfer dies;
- (2) the spouse dies or divorces the veteran who held the license immediately before the transfer; or
- (3) the child to whom the license is transferred dies or renounces the obligation to support the veteran who held the license immediately before the transfer.

7. In the borough of Manhattan in the city of New York in the area bounded on the east by Second avenue, on the south by Thirtieth street, on the west by Ninth avenue and Columbus avenue and on the north by Sixty-fifth street, the following additional provisions shall apply to the issuance of specialized vending licenses to disabled veteran vendors pursuant to this section:

(a) such specialized vending license holders shall be prohibited from vending on Second avenue, Third avenue, Lexington avenue, Park avenue, Vanderbilt avenue, Madison avenue, Fifth avenue, Sixth avenue, Seventh avenue, Broadway, Eighth avenue, Amsterdam avenue, Ninth avenue, Columbus avenue, Thirty-fourth street between Lexington avenue and Seventh avenue, Forty-second street between Lexington avenue and Eighth avenue, Forty-ninth street between Lexington avenue and Seventh avenue, Fiftieth street between Lexington Avenue and Seventh avenue and Fifty-seventh street between Lexington Avenue and Seventh avenue;

(b) there shall be a limit of one authorized specialized vending license holder per block face;

(c) there shall be a limit of one hundred five specialized vending license holders authorized to vend within the area at any one time to be allocated as follows: sixty upon the effective date of the chapter of the laws of two thousand four which amended this paragraph, an additional fifteen commencing three months from the effective date of the chapter of the laws of two thousand four which amended this paragraph, and an additional ten in each of the succeeding three years commencing on January thirty-first, two thousand five;

(d) the rule set forth pursuant to paragraph (b) of subdivision one of this section shall establish, pursuant to the priority system, procedures for issuing specialized vending licenses pursuant to paragraph (c) of this subdivision; any dispute regarding the implementation of such procedure shall be subject to a prompt hearing before an administrative law judge with the New York state department of labor, provided that if such judge determines that a specialized vending license holder willfully violated such procedure, such specialized vending license holder shall be subject to a thirty day suspension of the specialized vending license to peddle in the area described in this subdivision; if any specialized vending license holder who has

been determined to have willfully violated such procedure is determined, in a subsequent proceeding, to have willfully violated such procedure at any time following the initial violation, such specialized vending license holder shall be subject to a one-year suspension of the specialized vending license to peddle in the area described in this subdivision; if such specialized vending license holder is determined for a third time to have willfully violated such procedure, such specialized vending license holder shall be subject to permanent revocation of the specialized vending license to peddle in the area described in this subdivision;

(e) specialized vending licensees under this section shall:

(i) permit regular inspections by the official in such city responsible for issuing specialized vending licenses or any authorized city agency of any goods, vehicle, pushcart, or stand used in the operation of the vending business, or any premises used by him or her for the storage or preparation of goods intended to be vended in such business; and

(ii) provide the official in such city responsible for issuing specialized vending licenses or other authorized officer of the city on a semi-annual basis, or more often if required by local law, by-law or regulation in such city, the address and name of the owners or the manufacturers, suppliers or distributors from whom the specialized vending licensee receives his or her goods and also the address at which the specialized vending licensee stores his or her goods or any vehicle, pushcart or stand used in the operation of the vending business;

(f) no specialized vending licensee shall vend on any sidewalk unless such sidewalk is at least ten feet in width;

(g) no vending vehicle, pushcart, stand, goods, or any other item related to the operation of a vending business shall touch, lean against or be affixed permanently or temporarily to any building or structure including, but not limited to, lamp posts, parking meters, mail boxes, traffic signal stanchions, fire hydrants, tree boxes, benches, bus shelters, refuse baskets or traffic barriers;

(h) no vending pushcart, stand or goods shall be located against display windows of fixed location businesses, nor shall they be within twenty feet from an entranceway to any commercial building or store, measured as a radius extending from the center of the doorway, except where such doorways are within forty feet from each other, and in such case a vending pushcart, stand or goods shall be an equal distance from the center of the doorway of each such commercial business or store at the furthest possible distance on the sidewalk from the building line, and no vending pushcart, stand or goods shall be within sixty-five feet of the entranceway to any theater, movie house, indoor sports arena, or place of worship or school,

measured as a radius extending from the center of such entranceway;

(i) no specialized vending licensee shall occupy more than eight linear feet of public space parallel to the curb in the operation of a vending business and, in addition, no specialized vending licensee operating any vending business on any sidewalk shall occupy more than three linear feet to be measured from the curb toward the property line;

(j) each specialized vending licensee who vends from a pushcart or stand in the roadway shall obey all traffic and parking laws, rules and regulations as now exist or as may be promulgated, but in no case shall a specialized vending licensee restrict the continued maintenance of a clear passageway for vehicles;

(k) no specialized vending licensee shall vend using the surface of the sidewalk, or a blanket or board placed immediately on the sidewalk or on top of a trash receptacle or cardboard boxes to display merchandise. No specialized vending licensee display may exceed five feet in height from ground level. The display may not be less than twenty-four inches above the sidewalk where the display surface is parallel to the sidewalk, and may not be less than twelve inches above the sidewalk where the display surface is vertical. Where a rack or other display structure is placed on top of or above a table or other base, the size of the base shall not be less than the size of the display structure placed thereon. Nothing shall be placed on the base so as to exceed the size limitations contained in this paragraph. No specialized vending licensee shall use any area other than that area immediately beneath the surface of the display space of the storage of items for sale; and

(l) no specialized vending licensee shall:

(i) vend within any bus stop or taxi stand or within ten feet of any driveway, any subway entrance or exit or any corner; provided, however, for the purpose of this subparagraph, ten feet from any corner shall be measured from a point where the property line on the nearest intersecting block face, when extended, meets the curb, except when noncompliance with the ten foot limitation of this paragraph is due to the placement of an obstruction. In such case the specialized vending licensee may vend within ten feet; provided, however, that such licensee must vend as far as possible from the nearest such driveway, subway entrance or exit, or corner, and in no event within five feet of such driveway, subway entrance or exit, or corner;

(ii) vend on the median strip of a divided roadway unless such strip is intended for use as a pedestrian mall or plaza;

(iii) vend over any ventilation grill, cellar door, manhole, transformer vault, or subway access grating;

(iv) sell or offer for sale any item directly from any parked or double-parked motor vehicle;

(v) use electricity or oil or gasoline powered equipment devices or machinery of any kind; provided, however, that such specialized vending license holder shall be authorized to use self-contained battery packs not exceeding sixteen volts in total solely to provide lighting for their vending business;

(vi) vend within thirty feet of an entrance to a park or within a park under the jurisdiction of the agency in such city that is responsible for such city's parks and recreational areas unless written authorization therefore has been obtained from such agency;

(vii) vend within twenty feet of a sidewalk cafe;

(viii) vend within five feet from bus shelters, news stands, public telephones, or disabled access ramps; and

(ix) vend within ten feet from entrances or exits to buildings which are exclusively residential at street level.

7-a. In the borough of Manhattan in the city of New York, the following additional provisions shall apply to the issuance of specialized vending licenses to disabled veteran vendors pursuant to this section:

(a) such specialized vending license holders shall additionally be prohibited from vending on Broadway between Murray Street and Battery Place and on Park Row between Ann Street and Spruce Street;

(b) such specialized vending license holders shall additionally be prohibited from vending in the area including and bounded on the east by the easterly side of Broadway, on the south by the southerly side of Liberty Street, on the west by the westerly side of West Street and on the north by the northerly side of Vesey Street.

8. Any dispute concerning the location of a vendor under subdivision three of this section shall be subject to a prompt hearing before an administrative law judge with the New York state department of labor, provided that if such judge determines that a specialized vending license holder willfully violated such procedure, such specialized vending license holder shall be subject to a thirty day suspension of the specialized vending license to peddle in the area and on the days and at the times described in subdivision three of this section; if any specialized vending license holder who has been determined to have willfully violated such procedure is determined, in a subsequent proceeding, to have willfully violated such procedure at any time following the initial violation, such specialized vending license holder shall be subject to a one-year suspension of the specialized vending license to peddle in the area

and on the days and at the times described in subdivision three of this section; if such specialized vending license holder is determined for a third time to have willfully violated such procedure, such specialized vending license holder shall be subject to permanent revocation of the specialized vending license to peddle in the area and on the days and at the times described in subdivision three of this section; other disputes arising under this section, other than those disputes arising under paragraph (d) of subdivision seven of this section, shall be adjudicated in accordance with local laws, ordinances, by-laws or regulations concerning general vending.

9. There shall be established within the agency responsible for issuing specialized vending licenses in such city an advisory committee consisting of up to six disabled veteran vendors who shall consult with the official designated to issue specialized vending licenses under this section concerning the process by which specialized vending licenses are issued and the restrictions herein are enforced. The members of such committee shall be elected on or before August first, nineteen hundred ninety-eight by a majority of the disabled veteran vendors holding general vending licenses in such city as of August fifteenth, nineteen hundred ninety-eight. The election of such members shall be by an election which shall be conducted by the state department of labor; provided, however, that if the majority of such disabled veteran vendors holding general vendor licenses in such city as of June fifteenth, nineteen hundred ninety-eight fail to select the members of such committee on or before August second, nineteen hundred ninety-eight, the agency responsible for issuing specialized vending licenses in such city may still establish procedures for issuing specialized vending licenses pursuant to this section no later than October first, nineteen hundred ninety-eight. In the event a committee member resigns or is unable to fulfill his or her duties, such member will be replaced by someone from the ranks of the disabled veteran vendors by consensus of veterans on the existing committee.

10. The agency responsible for issuing specialized vending licenses shall publish educational materials describing the provisions of state and local laws, rules and regulations governing disabled veteran vending in the city of New York and enforcement thereof for distribution to the public and appropriate city enforcement agencies.

11. Where the city of New York authorizes general vending, through permit, auction, lottery or any other method subsequent to the effective date of this subdivision other than temporary general vendor licenses issued in connection with street fairs on any block face, street or avenue specified in paragraph (a) of subdivision seven or subdivision seven-a of this section, the prohibitions and restrictions in this section on vending by specialized vending licensees shall not apply on such block face, street or avenue and the number of specialized vending licensees authorized per block face, street or avenue shall, at a minimum, be equal to the greatest number of any single type of other vendor including but not limited to food, general, or vendors of written matter and others similarly situated on such block face, street or avenue.

- See more at: <http://codes.lp.findlaw.com/nycode/GBS/4/35-a#sthash.zQReolG.dpuf>

# KASWAN v. APONTE

142 Misc.2d 298 (1989)

**Joseph Kaswan, Petitioner, v. Angelo J. Aponte, as Commissioner of the Department of Consumer Affairs of the City of New York, et al., Respondents.**

**Supreme Court, New York County.**

**January 13, 1989**

Joseph Kaswan, petitioner pro se. Peter L. Zimroth, Corporation Counsel (Terri Feinstein Sasanow of counsel), for respondents.

EDWARD H. LEHNER, J.

The issue raised in this case is whether the New York City regulation restricting the areas where street peddling is authorized

[142 Misc.2d 299]

is applicable to one who holds a disabled veterans preferential vendors license pursuant to article 4 of the General Business Law.

This proceeding, which was commenced by petitioner acting *pro se*, seeks to enjoin the city "from violating the provisions" of General Business Law § 35. Petitioner asserts that he is physically disabled as a result of military combat and holds a "Veterans License to Hawk, Peddle and Vend Merchandise" issued pursuant to General Business Law § 32, subdivision (1) of which provides in part that: "Every honorably discharged member of the armed forces of the United States, who is a resident of this state and a veteran of any war, or who shall have served in the armed forces of the United States overseas \* \* \* shall have the right to hawk, peddle, vend and sell goods, wares or merchandise or solicit trade upon the streets and highways within the county of his or her residence \* \* \* or if such county is embraced wholly by a city, within such city, by procuring a license for that purpose to be issued as herein provided".

Subdivision (2) provides that such licenses shall be issued, without cost, and subdivision (8) provides that: "Any provisions of this section to the contrary notwithstanding, any city, village or town may, by local law or ordinance, require a person holding a license issued pursuant to the provisions of this section \* \* \* to file a further application \* \* \* as is designated in such local law or ordinance, for the issuance of a local license and may prescribe the terms and conditions under which such local license may be issued".

Pursuant to authority granted by the City Council, the Department of Consumer Affairs adopted Regulation 11 which restricts general and food vendors from peddling at hundreds of specified locations in the city during designated hours. Petitioner, who received a summons for selling in violation of the regulation, asserts that it is inapplicable

to him in light of the fact that he holds a physically disabled veterans license pursuant to article 4 of the General Business Law.

The city contends that the regulation applies to all as "the interest of the City in protecting pedestrians from being forced off the sidewalks in highly congested areas far outweighs petitioner's singular interest in peddling wherever he wants". Further, it argues that petitioner, in effect, seeks a writ of prohibition which "does not lie to prevent administrative action such as enforcement of municipal regulations".

[142 Misc.2d 300]

## DISCUSSION

On the procedural issue, the court will convert the proceeding, pursuant to CPLR 103 (c), into an action for a declaratory judgment, and since the issue is clearly one solely of statutory construction, will treat the papers as cross motions for summary judgment.

A form of this statute has been in effect since 1896, the basic advantage granted to nondisabled veterans being the right to obtain a vendor's license without requiring the payment of a fee. As noted above, General Business Law § 32 (8) permits localities to require an additional license, and to "prescribe the terms and conditions under which such local license may be issued".

The key section, insofar as this case is concerned, is General Business Law § 35, which provides in part that: "no such bylaw, ordinance or regulation shall prevent or in any manner interfere with the hawking or peddling, without the use of any but a hand driven vehicle, in any street, avenue, alley, lane or park of a municipal corporation, by any honorably discharged member of the armed forces of the United States who is physically disabled as a result of injuries received while in the service of said armed forces and the holder of a license granted pursuant to section thirty-two".

The most recent amendment of section 35 occurred in 1978 when by Laws of 1978 (ch 550, § 27) the term "physically disabled" replaced the word "cripple". The amendment was part of an omnibus measure to eliminate anachronistic terms from the law that were "demeaning to the physically handicapped". (*See*, 1978 McKinney's Session Laws of NY, at 1737.)

Clearly then, under section 35 a locality cannot by local law restrict the right of a person granted a license as a physically disabled veteran under section 32 to sell goods on the streets. This is not to say that a local law or regulation of general applicability relating to public safety can be violated by the holder of such a license. But the regulation here is essentially directed to avoiding a congestion of peddlers at certain heavily traveled locations. (*See*, *Huggins v City of New York*, [126 Misc.2d 908](#) [Sup Ct, NY County], which upheld the validity of Regulation 11.)

Since apparently the number of persons holding physically disabled veterans peddlers licenses is not large, there is no reasonable fear of congestion, and the potential for injury to

[142 Misc.2d 301]

pedestrians as a result, if Regulation 11 is held inapplicable to the holders of such licenses.

In *People v Mann* ([113 Misc.2d 980](#) [Dist Ct, Suffolk County 1982]), the defendant disabled veteran was charged with violating Vehicle and Traffic Law § 1157 (c), which prohibits selling or soliciting on any portion of a State highway. The court, holding that the exemption granted under General Business Law § 35 prevailed over the general prohibition of the Vehicle and Traffic Law, found the defendant not guilty. It is noted that in *Mann* the court construed the specific right granted by the General Business Law as prevailing over the provisions of another State statute of general applicability, while here the conflicting provision is a city regulation, which of course, cannot deprive a person of a right provided by State law.

The cases cited by the city do not support its position. In *Genovese v City of New York* (NY County, index No. 26441/87), it was held that a disabled veteran did not have the right to vend food from a motorized vehicle at a location prohibited by Regulation 11 as the section 35 exemption is limited to sales from "a hand driven vehicle", and *Eggleston v Scheibel* (60 Misc. 250 [Sup Ct, Westchester County 1908]) did not involve sales by a disabled veteran.

In conclusion, the city's cross motion to dismiss is denied, and the court declares that the restrictions contained in Regulation 11 limiting where a vendor may sell do not apply to a person who holds a physically disabled veterans license issued pursuant to General Business Law § 32, and the city is hereby enjoined from enforcing said regulation against such licensees.

**Michele Birnbaum**  
**1035 Park Avenue**  
**New York, New York 10028**  
**Tel & Fax: (212)427-8250**

**TESTIMONY ON INTROS 72,78, 432, 1303**  
**OCTOBER 26, 2016**

Speaker Mark-Viverito, Chair Espinal, Council Member Levine, the Committee and all Council Members, thank you for hearing my testimony today.

I am testifying as a co-founder and part of the coalition of *New Yorkers for Street Vending Reform* and as *Co-Chair of the Vendor Task Force Committee of Community Board 8 in Manhattan*.

We are opposed to lifting the cap on food vendors to 635 per year from 2018 through 2025 and to giving power to the *Department of Transportation* in consultation with other city agencies to remove all caps after 2025, as called for in Intro #1303. It is not explained anywhere in this bill as to how you arrived at the 635 number.

After carefully reading Intro # 1303, I also have many concerns. While I am pleased that you have included a vendor enforcement force, something for which I've advocated for many years, you have not addressed the size of the force which I believe you should define by explaining its ratio to the number of vendors on the street. You have said that it will be active in area adjacent to retail, congested areas and areas included in the designated vending locations pilot program, but to be successful, it needs to be substantially active throughout the city just as the parking meter compliance force is.

While you have addressed the issue of location by assigning permits to each of the five boroughs, you have not addressed the street and sidewalk crowding in both commercial and residential areas that the proposed increase in licenses would cause, nor have you addressed the illegality of all food truck parking. At this moment, there is no legal parking spot for a food truck. They park at meters, in *No Standing Zones, Commercial Loading and Unloading Zones, Ambulance Parking and Access-A-Ride only spots*, etc. To even consider an increase in the number of licenses without considering a program of assigned vendor locations using something like a bidding or medallion system, is asking for chaos on our streets. There have been many reports of violence over disputed vending location spots and reports of carts being left on the streets 'round the clock so as not to lose their vending space. This is a breach of the health code which requires the carts to be cleaned every 24 hours, lures rats to the location, causes visual blight and gives the businesses and residents no relief from vending on their streets.

Violations should be issued to both the permit holder **and** the licensed vendor who is manning the cart of the permittee, as **both** are contributing to the non-compliant act.

*The Environmental Impact Statement* or study that you are proposing should not take place **after** the additional vendors are on the streets, but **before** and should

include analysis of the effect of street vendors on the quality of life of **residents** as well as businesses and bricks and mortar food establishments. An EIS for a building is done prior to its construction.

The EIS will look at the impact on job opportunities for vendors, the diversity of food options available, sidewalk congestion, the health of the restaurant industry and the health of the food retail industry while the quality of life of a **resident** who lives with the cooking odors, fumes, generator noise and oil spills is not considered.

Also, it is **not** the responsibility of government to make sure that there is diversity of food options in the city. The free market will do that, and any type of food could be accommodated within a bricks and mortar location. These locations could be shared by those who might otherwise have individual trucks or carts on the street, and sharing storefronts should be encouraged and incentivized. There is precedent for that in the city, i.e. Chinatown and *Baskin Robins and Dunkin' Donoughts*. Parking lots could be converted to accommodate multiple food trucks, and areas such as *La Marqueta* on Park @ 125<sup>th</sup> should be encouraged.

Increasing the caps without addressing location will empty store fronts by promoting and incentivizing food businesses to expand, not to other store locations, but to the street where their expenses will be minimal. This is already happening and has been going on for many years. It is a puzzle how this happens when the law supposedly calls for one license/one cart.

Your proposed *Street Vendor Advisory Board* consists of *the Commissioners of the Department of Consumer Affairs, the Department of Health and Mental Hygiene, the Department of Small Business Services, the Department of Transportation, and the Police Department, with three members appointed by the Speaker, one of whom represents street vendors, one of whom represents the small business community and one of whom who represents a community organization, and two members appointed by the Mayor, one of whom represents street vendors and one of whom represents the small business community.* But, missing from this panel and should be included, is the *City Planning Commission* who should be the ultimate arbiter of what happens on our streets. Also, one member from a community group is wholly inadequate, as most of the other members are appointed by city government and will reflect the beliefs of their appointees. Communities should have a multiple of their own representatives.

The *Advisory Board* should not be proposing locations. The communities should be the voices of whether or not vending should be increased or decreased in their neighborhoods and where these locations, if any, should be. Also, there is no mechanism for an individual or community group to request that a street be restricted to vending, as there was with the now defunct *Vendor Review Panel*. The individual has no place to bring complaints and expect arbitration. He/she should be able to come to this panel. If the *Advisory Board* **does** suggest locations, they should be subject to an open hearing.

Community based planning is lauded by many of our elected officials, and it should be utilized for decisions on street vending locations, as well.

School kitchens should **not** be used for food preparation by anyone not affiliated with the parent or student body of that school, as security in our schools should be paramount.

The training, mapping and web-site that you refer to should be implemented immediately, even if there is no increase in licenses.

With respect to Intros # 72, 78 and 432, I believe they have merit.

Thank you for your kind attention.

Sincerely,

Michele Birnbaum

*A Co-founder of New Yorkers for Street Vending Reform*

and

*Co-Chair of the Vendor Task Force Committee of Community Board 8 in Manhattan.*

October 25, 2016

Hon. Melissa Mark Viverito  
Speaker of New York City Council  
250 Broadway, Suite 1856  
New York, NY 10007

Hon. Margaret Chin  
Council Member, 1<sup>st</sup> Council District  
250 Broadway, Suite 1804  
New York, NY 10007

Dear Speaker Mark-Viverito and Council Member Chin:

We are writing to you about the Street Vending Modernization Act recently proposed in the City Council that will make comprehensive reforms to the rules that govern street vending.

We are pleased to see that Council is interested in tackling comprehensive reform of the rules governing street vending. The SoHo Broadway corridor is a vibrant mixed use community that is also a popular shopping area attractive to vendors. While vendors are an important member of the SoHo Broadway community, our sidewalks are overcrowded with pedestrians competing with vendors for limited amounts of space.

While this legislation is a start, it does not go far enough in addressing many of the fundamental flaws facing the street vendor system. This legislation adds 4,200 new food vendor permits and loosens several location restrictions, but leaves the main elements of the system essentially unchanged.

The proposed legislation does not address the black market for food cart permits nor does it change the first come first served system by which locations are chosen. The legislation will not clear up the vagueness in the rules that leads to thousands of summonses that are issued and dismissed each year and does not modernize the food carts to address the noise and exhaust pollution they create. The legislation continues the one size fits all approach to siting vendors that does not give communities any input in the siting of a food vending cart on a public sidewalk. ***Please fix the system before adding any more food carts and loosening any location restrictions.***

Please form the Advisory Board and give vendors, small business owners, local residents and others the opportunity to shape a system that works for the City. Give Community Boards and BIDs a formal role on this advisory board as these organizations have a wealth of knowledge about the needs and concerns of their communities. ***Form the Advisory Board to hear from stakeholders about what is broken, use the***

**Board's recommendations to implement legislation that fixes the system and then figure out if more vendors can be handled.**

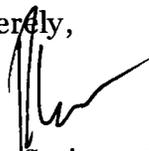
Please create the Street Vendor Enforcement Unit, it will be an important tool in ensuring the rules are being followed creating a more level playing field for vendors. More details are needed as to the size, authority and deployment of this unit to ensure that it has the resources needed to be successful. **Creating a Street Vendor Enforcement Unit is only part of the solution and is not a magic potion that will cure all of the problems of the current system.**

Please start a pilot designated vending locations program to test innovative approaches to the placement of vendors in our City. As currently drafted, a designated location could be an entire borough and DOT could rewrite all of the rules without meaningful oversight. **Significantly more detail is needed to define the goals, scale and scope of the designated vending locations to ensure that it is successful and makes improvements to the system.**

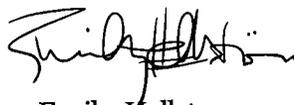
Street vending significantly impacts the quality of life of the significant residential population, the office workers and the ground floor retail business that call our district home. This is a once in a lifetime chance to reform the system, but it must be done in a way that allows meaningful input from impacted stakeholders-from small business owners, local residents, civic groups, property owners and vendors. **Forming an advisory board with meaningful opportunities for public input and dialogue must be the first step in that process.**

As currently drafted, the Initiative cannot support this legislation and we urge you to take the approach outlined above in tackling this much needed reform of the street vending system. We look forward to working with you.

Sincerely,



Brian Steinwurtzel  
President



Emily Hellstrom  
Vice President



Mark Dicus  
Executive Director

Cc: Hon. Gale Brewer, Manhattan Borough President  
Tobi Bergman, Chairperson Community Board 2

Dear Speaker Viverito

I would like to express my absolute opposition to adding 4,200 new street vendor licenses. I live in Soho and street vendors is a nightmare in our neighborhood and is only getting worse. Many of them are illegal but police enforcement is practically non-existent. I've spoken with our local precinct who openly admits it's a huge problem but says it simply doesn't have the manpower to enforce the law. Please, fix the current situation before creating a new and bigger problem. I'd urge you to:

- first set up a Citizens Advisory Board of local residents, business and community groups to address the many flaws already present in the current vending system **before** issuing thousands of more permits
- implement a Street Vendors Enforcement Unit, specially trained in the complex vending laws
- offer more details on where the new food carts can locate, with input from the Citizens Advisory Board
- table this at committee until more community and business input is heard

Best regards.

Anne Palmer  
NY 10012

Marna Lawrence  
19 Cleveland Place, #1D  
New York, NY 10012

October 24, 2016

Melissa Mark-Viverito, Speaker  
New York City Council  
250 Broadway Suite 1856  
New York, NY 10007

Re: Vendor Legislation: Concerns & Opposition

Dear Speaker Viverito:

I am writing in regard to the Street Vending Modernization Act, and other related legislation recently proposed in the City Council, which will make comprehensive reforms to the rules that govern mobile food vendors on our sidewalks. For a number of years many of us who live in SoHo and NoHo and the surrounding neighborhoods such as Little Italy (Nolita) have been focused on improving the overwhelming situation regarding food vendors, and we all know that much work still needs to be done to adequately address the problems before us.

However, this current vendor legislation – particularly specific proposals that would reduce many of the placement restrictions now in place – would not be good for our local community. Therefore I cannot support the bills as presented.

This new legislation will add 4,200 new food vendor permits **before any good study is done that would help everyone to better understand the vending situation.** The proposed bills do not address the black market for mobile food vendor permits, or the thousands of summonses that are issued and dismissed each year because of vagueness in the rules. Further, the bills fail to address the noise and exhaust pollution created by food carts, or the use of non-compliant and often dangerous gasoline powered generators.

The legislation continues the one size fits all approach, and is being put forward without adequate community input. I urge you and your colleagues on the Council to rethink the current legislation, and to open the discussion to include the Community Boards along with a wider range of the local stakeholders, most particularly local residents..

This is a complicated topic that will impact communities for years to come. Reform is welcome, but it must be done in way that allows meaningful input. As currently drafted, I cannot support this legislation and I urge you to slow down the process, so that a better result can be achieved.

Sincerely,

Marna Lawrence

Dear Speaker Melissa Mark-Viverito,

Before making decisions behind closed doors and issuing new permits citizens demand :

First set up a Citizens Advisory Board of local residents, business and community groups to address the many flaws already present in the current vending system **before** issuing thousands of more permits;

Implement a Street Vendors Enforcement Unit, specially trained in the complex vending laws;

Offer more details on where the new food carts can locate, with input from the Citizens Advisory Board

Table this at committee until more community and business input is heard.

Sincerely,  
Regina Cherry



1407 BROADWAY, 41ST FL.  
NEW YORK, NY 10018

Tel: 212-789-7000  
Fax: 212-221-4399

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October 25, 2016

Dear Council Speaker Mark-Viverito and Council Member Chin:

I am writing to you in regards the Street Vending Modernization Act recently proposed in the City Council that will make comprehensive reforms to the rules that govern street vending.

I am pleased to see that Council is interested in tackling comprehensive reform of the rules governing street vending. The SoHo Broadway corridor is a vibrant mixed use community that is a popular shopping area attractive to vendors. While vendors are an important member of the SoHo Broadway community, our sidewalks are overcrowded with pedestrians competing with vendors for limited amounts of space.

This legislation adds 4,200 new food vendor permits and loosens several location restrictions without making any fundamental changes to a system that is an utter failure to both vendors and the public alike. The proposed legislation does not address the black market for food cart permits, the thousands of summonses that are issued and dismissed each year because of vagueness in the rules and does not address the noise and exhaust pollution created by food carts. The legislation continues the one size fits all approach to siting vendors that does not give communities any input in the siting of a food vending cart on a public sidewalk. ***Fix the system before adding any more food carts and loosening any location restrictions.***

The proposed legislation calls for adding 4,200 new permits into an already broken system. Please form the Advisory Board and give vendors, small business owners, local residents and others the opportunity to shape a system that works for the City. Give Community Boards and BIDs a formal role on this advisory board as these organizations have a wealth of knowledge about the needs and concerns of their communities. ***Form the Advisory Board to hear from stakeholders about what is broken and use the Board's recommendations to draft legislation that fixes the system and then figure out if more vendor's can be handled.***

I welcome the creation of a Street Vendor Enforcement Unit and it will be an important tool in ensuring the rules are being followed creating a more level playing field for vendors. More details are needed as to the size, authority and deployment of this unit to ensure that it has the resources needed to be successful. ***Creating a Street Vendor***

***Enforcement Unit is only part of the solution and is not a magic potion that will cure all of the problems of the current system.***

I welcome a pilot designated vending locations program to test innovative approaches to the placement of vendors in our City. As currently drafted, a designated location could be an entire borough and DOT could rewrite all of the rules without meaningful oversight. ***Significantly more detail is needed to define the goals, scale and scope of the designated vending locations to ensure that it is successful and makes improvements to the system.***

This is a complicated topic that will impact communities for years to come. Reform is welcome, but it must be done in way that allows meaningful input from impacted stakeholders-from small business owners, local residents, civic groups, property owners and vendors. ***Forming an advisory board with meaningful opportunities for input and dialogue must be the first step in that process.***

As currently drafted, I cannot support this legislation and I urge you to take the approach I've outlined above in tackling this much needed reform of the street vending system.

Most Sincerely,

A handwritten signature in black ink, appearing to read "Jared Epstein". The signature is stylized and cursive.

Jared Epstein  
Vice President  
Aurora Capital Associates

Michele Varian  
496 Broadway  
NYC, NY 10012

October 25, 2016

Melissa Mark-Viverito, Speaker  
New York City Council  
250 Broadway Suite 1856  
New York, NY 10007

Re: Vendor Legislation: Concerns & Opposition

Dear Speaker Viverito:

I am writing in regard to the Street Vending Modernization Act, and other related legislation recently proposed in the City Council, which will make comprehensive reforms to the rules that govern mobile food vendors on our sidewalks. For a number of years many of us who live in SoHo and NoHo have been focused on improving the overwhelming situation regarding food vendors, and we all know that much work still needs to be done to adequately address the problems before us.

However, this current vendor legislation – particularly specific proposals that would reduce many of the placement restrictions now in place – would not be good for our local community. Therefore I cannot support the bills as presented.

This new legislation will add 4,200 new food vendor permits before any good study is done that would help everyone to better understand the vending situation. The proposed bills do not address the black market for mobile food vendor permits, or the thousands of summonses that are issued and dismissed each year because of vagueness in the rules.

Further, the bills fail to address the noise and exhaust pollution created by food carts, or the use of non-compliant and often dangerous gasoline powered generators.

The legislation continues the one size fits all approach, and is being put forward without adequate community input. I urge you and your colleagues on the Council to rethink the current legislation, and to open the discussion to include the Community Boards along with a wider range of the local stakeholders, most particularly local residents..

This is a complicated topic that will impact communities for years to come. Reform is welcome, but it must be done in way that allows meaningful input. As currently drafted, I cannot support this legislation and I urge you to slow down the process, so that a better result can be achieved.

Sincerely,

A handwritten signature in cursive script that reads "Michele Varian". The signature is written in dark ink and is positioned at the bottom of the letter, below the typed name "Michele Varian".

Michele Varian, Resident and Small Business Owner

PS – What is being done to address the Property Owner's (or as it is often passed on to the Retail Business Owner) General Liability for incidents on the sidewalk of privately owned buildings & business?

designer, maker, mentor, curator, retailer, wholesaler

Michele Varian

Soho Shop & Design Studio:

27 HOWARD ST (at the bottom of CROSBY ST)

NYC, NY 10013

telephone: 212-343-0033

website: [www.michelevarian.com](http://www.michelevarian.com)

twitter: @michelevarian

instagram: michelevarian

pinterest: michelevarian

facebook: michelevarian.shop

Dear Speaker Viverito,

As residents of Soho we were very distressed to learn that the City Council wants to add 4,200 more food carts to the existing 4,235 and that you are promoting the bill. In our mixed use neighborhood which is already overrun with street vendors, sidewalks so crowded that on weekends you can barely walk down them, narrow streets many of which are blocked by construction that bumps out into the street and too many cars and not enough parking the last thing we need is more food carts. Quality of life for the residents of Soho must be a consideration. There it is imperative that the City Council do the following:

- Set up a Citizens Advisory Board of local residents, business and community groups to address the existing problems in the current vending system
- Implement a Street Vendors Enforcement Unit, specially trained in the complex vending laws
- Offer more details on where the new food carts can locate, with input from the Citizens Advisory Board
- Table this at committee until more community and business input is heard.

We look forward to the City Council taking the above actions to ensure that the community is heard before approving any new food cart licenses.

Thank you.

Rona Trokie & Martin Silverman  
Greene Street

New York, NY 10012

October 24, 2016

Melissa Mark-Viverito, Speaker  
New York City Council  
250 Broadway Suite 1856  
New York, NY 10007

Re: Vendor Legislation: Concerns & Opposition

Dear Speaker Viverito:

I am writing in regard to the Street Vending Modernization Act, and other related legislation recently proposed in the City Council, which will make comprehensive reforms to the rules that govern mobile food vendors on our sidewalks. For a number of years many of us who live in SoHo and NoHo have been focused on improving the overwhelming situation regarding food vendors, and we all know that much work still needs to be done to adequately address the problems before us.

However, this current vendor legislation – particularly specific proposals that would reduce many of the placement restrictions now in place – would not be good for our local community. Therefore I cannot support the bills as presented.

This new legislation will add 4,200 new food vendor permits before any good study is done that would help everyone to better understand the vending situation. The proposed bills do not address the black market for mobile food vendor permits, or the thousands of summonses that are issued and dismissed each year because of vagueness in the rules. Further, the bills fail to address the noise and exhaust pollution created by food carts, or the use of non-compliant and often dangerous gasoline powered generators.

The legislation continues the one size fits all approach, and is being put forward without adequate community input. I urge you and your colleagues on the Council to rethink the current legislation, and to open the discussion to include the Community Boards along with a wider range of the local stakeholders, most particularly local residents..

This is a complicated topic that will impact communities for years to come. Reform is welcome, but it must be done in way that allows meaningful input. As currently drafted, I cannot support this legislation and I urge you to slow down the process, so that a better result can be achieved.

Sincerely,

Timothy B. Rosser

Testimony of Valerie S. Mason  
submitted to the Public Hearing of the NYC Council, Committee on Consumer Affairs  
October 26, 2016  
President of East 72<sup>nd</sup> Street Neighborhood Assn  
www.E72NA.com

My name is Valerie Mason and I am the President of the East 72<sup>nd</sup> Street Neighborhood Association. Our association represents over 6500 residents from Second Avenue to York Avenue in Manhattan. We are here to address some of the issues raised by the Street Vendor Modernization Act of 2016. We agree with many of the thoughtful suggestions made by earlier speakers as to the need for more commissaries, and real enforcement, and rules that work for both the protection of residents and pedestrians, small businesses and street vendors. We hope that the Consumer Affairs Committee considers many of the suggestions made, including ours as they move forward with this bill.

Attention to this issue is long overdue and we applaud the Council's efforts to finally clarify the rules and laws regarding street vending, however, we cannot endorse of tying the issuance of more permits to putting what we have all been screaming for as far as I can remember, an enforcement scheme in place for street vending. As the Mayor's office admitted this morning in its sworn testimony, it does not have any idea how many street vendors, licensed and unlicensed are currently on our streets, although there at least appears to be some consensus that there are many illegal duplicated licenses that are being used. We need to know exactly how many vendors are on the street now, agree on rules that protect all the stakeholders as they exist today, get an enforcement mechanism that works and then, if desirable, increase the number of permits. One year between setting up the enforcement rubric, the advisory board and these pilot districts and issuing additional permits is not enough. We believe that once the foregoing is set-up, then the Council, representatives of the city agencies and the community boards should reconvene and see if it is in all of the stakeholders' collective best interests to issue additional permits.

While we understand and support the Council's desire to protect hardworking immigrants and veterans from the current unscrupulous practices of the illegal secondary market in licenses (and we agree that is something government should do), we must also remember and protect the other stakeholders -- small businesses, hard-working property tax paying residents and pedestrians that use our sidewalks daily. Rather than trying to increase the supply of licenses (of which there is no guarantee that more licenses will make the secondary market disappear), we believe the better course of action is engage the appropriate investigative authority (perhaps the district attorney) to conduct an investigation, and criminally prosecute those who are abusing both the system and the vendors. As an aside, it would also be helpful, if as part of the count the Mayor's office is about to undertake, they take note of all of the license numbers too.

While street vendors are a part of the rich history of New York City, we cannot equate the streets and sidewalks of 100 years ago, with the New York City of 2016 and beyond. The population has grown dramatically; our sidewalks are overflowing, especially in Manhattan. As the DCA Commissioner recited in his testimony earlier today, in 1995 there were 7.3 million residents, today there are 8.4 million and last year, there were a record 59 million tourists on our sidewalks.

In our neighborhood alone, due to the growth of Lenox Hill Hospital, Sloan Kettering, Cornell New York Hospital, and the addition of many new high rise residential buildings, and last but not least, the construction and the soon to be open Second Avenue Subway, our sidewalks are overwhelmed by people going to and from work and the ordinary hustle and bustle of a vibrant residential community.

Our neighborhood sidewalks cannot handle more street vendors, let alone the ones that are out there today. Take a walk down York Avenue along the hospital corridor, even with wide sidewalks, you can barely make it down the sidewalk (imagine you are elderly or in a wheel chair) with the multiple vendors all along the sidewalks right up to the crosswalks, and take a walk down the same corridor at night, when you can see the rat population at play as a result of the residue of all the on sidewalk cooking and the refuse left by patrons in trash cans that were not meant to handle restaurant refuse.

Exit the subway at 68<sup>th</sup> Street and Lexington Avenue near Hunter College, and see the congestion on the sidewalk caused by more than 5 huge food vendor trucks and carts on a daily basis -- again the debris, greased sidewalks, and trash is, frankly disgusting. And the only means of enforcement of what little rules there are, the police do what they can, and what is that? Give tickets, and those are meaningless. Ask the police yourselves, did you know, they can only issue a maximum of 3 tickets a day to each cart? And the dollar amounts of the tickets themselves do not act as a deterrent to bad behavior either. Did you know since many of the vendors are not the actual holders of the permits, the tickets go to some other source and wind up never being paid?

Try and turn the corner at Lexington Avenue and 72<sup>nd</sup> Street to walk towards the bus or the subway at 68<sup>th</sup> street, where the coffee vendor cart and his customers block pedestrians from crossing the street on a regular basis.

While the bill proposes setting up an enforcement mechanism with an Advisory Board, which we absolutely applaud, it contemplates that the Advisory Board will only have “one member of a community organization.” This is not enough because every community is different. We believe it is the Community Boards that should have the ultimate jurisdiction for determining placement of vendors, following whatever the law and rules are regarding street vending, in collaboration with the stakeholders in their communities.

In that regard, based on the experience of our neighborhood, we believe the bill should include the following:

There should be at least 20 feet from the doorway of any residential building or any entry way to a doctor’s office (be it classified as a residential or commercial building) to any vending cart.

There should be at least 10 feet from any hydrant or any crosswalk to any vending cart; Pedestrians should not be forced to cross 2X2 because a coffee vendor is wedged right between the edge of a crosswalk and a tree pit.

A vendor that is grilling meat should not be closer than 10 feet to any tree pit. After the Department of Health Commissioner Schiff’s testimony this morning regarding the air

particulate that one meat griller spews into the air in one day (being the equivalent of the amount of pollution sent into the air by a diesel truck driving 3500 miles), we don't believe that any future licenses should be given for this type of street vendor.

There should be no carts permitted within 6 blocks (in every direction) of any entry to any subway station – the priority should be to maximize the pedestrian ingress and egress to the subways. Just take a walk down East 77<sup>th</sup> Street and see what that it looks like during rush hour, as pedestrians need to make their way around a coffee cart on the corner of Second Avenue and 77<sup>th</sup> Street.

There should be no carts permitted within 40 feet of any sign denoting a bus stop, 20 feet is not enough, the buses are too long, and the vending carts wind up block egress from the buses, or entry to the buses, when two buses are in the bus stop simultaneously, as often happens.

There should be no vendor carts of the same type of merchandise within 20 feet of a storefront that sells the same type of merchandise, i.e., no coffee vendor near any Dunkin Donuts or diner.

Each vendor should be required to carry at least \$1million of liability insurance. What if the propane tank they use explodes? Again, this was not an issue 100 years ago, but it certainly is today.

Vendors should only be permitted on Avenues, not a residential side and cross streets.

Vendors should not be permitted to have neon and advertisements on their carts.

Vendors should be required to clean-up the sidewalk they occupy at the end of every day before they leave.

Vendors need to be as close to the curb as possible, the new legislation says they have to be at least 3 feet from the curb into the sidewalk (we believe the current rule is that they have to abut the curb). To move them further onto the sidewalk, again impedes, on what the sidewalks are really meant for, pedestrians from being able to move freely and without fear of getting hurt.

Whatever agency will ultimately be in charge of enforcement, its budget has to be robust, and there can't just be 4 enforcement officers per borough.

Inspection of the cleanliness of vending carts can't just be done at the commissaries, just like restaurants get surprise inspections, the same must be done by the agents while the vendors are on the street.

While New York City has a tradition of street vendors, it is first and foremost a city of pedestrians, and we need to respect our pedestrians and keep their space as safe and clean as we can.

Thank you.



## Little Red School House & Elisabeth Irwin High School

To whom it may concern,

My name is Kate Deming. I am in 5th grade at the Little Red School House here in New York. I am here today because I need to address a big problem in New York. Street Vending Permits. Many newly arrived immigrants start food vending businesses because they can cook their home country food, and it's a job that they can support their family on. But there is a big problem with this. There are only 4,325 permits that are given out, but about 15,000 other vendors without permits and without work. There is a 15 year waiting list for legal permits which cost \$200. But most vendors go on the black market and those permits cost up to \$25,000. These immigrants are struggling already with money and on top of it paying \$25,000 for a black market permit when they could've been saving to send money back home or to bring their families to America. Not to mention that if you don't have a permit and you are caught illegally selling, you get a \$1,000 ticket! That's much more than a legal permit. Why does someone like me, a student, want to support this you ask?

Last year, when I was in fourth grade my class was very involved with The Street Vending Project and The Urban Justice Center. We took a field trip The Urban Justice Center and met Sean Basinski, the organization director at The Street Vending Project. He was originally going to give us a presentation of what the project was about but then technical problems occurred and he was unable to do so. But what happened was even better than a presentation, we met the real thing. An Immigrant that had recently got a ticket for selling without a permit. When he told us his story we just got attached to this project, this organization. We needed to help. What he told us was that he has family in Mexico and was unable to fly them to America because he got that ticket. But what people don't understand is that he, and many like him, cannot get a permit for years unless they buy them on the black market. So what choice do these vendors have? Put yourself in their shoes. You just moved to a new country, you barely speak the language, you try to send back money to your family while working a full time job and you have no idea what's going to happen. If the cap on the permits is lifted many vendors will be able to live their life not running away trying to sell food while trying not get caught at the same time. We need street vending; they need street vending.

Also last year our class had been doing a yearlong project about immigrants in NYC about 100 years ago. Food vendors were everywhere back then and it was start of how NYC is now. For example, in NYC there are so many types of food, you can have Chinese food, Italian food, mexican food, the choices are endless if you just walk down a block. That's what makes NYC Special. Food vendors back then and today are letting New Yorkers having a taste of everything. That is important. We need to take a close look at how this permit situation is getting dealt with. What should we do? I think we should is gradually lift the cap on permits, so we really know how much this will affect the city. We need to lift this cap, let the vendors support themselves, their families, and most importantly do what they love. To cook. To work. They can work and showcase different food, and not have to pay 25,000 dollars to do it. To show us something we haven't tasted before. These immigrants need our help. They need legal permits. Give them freedom. Let them do their jobs. Lift the cap. Lift the freedom back up. This is the promised land, let's do this New York. Let's do it for the people. This is very important to me, to my class, we have been protesting and writing to everyone we can. We can do this. Let's raise the cap! Thank you.

Sincerely,

Kate Deming

Lower School/Middle School: 272 Sixth Avenue (at Bleecker Street), New York, NY 10014 • Tel: 212.477.5316 • Fax: 212.677.9159

High School: 40 Charlton Street, New York, NY 10014 • Tel: 212.477.5316 • Fax: 212.675.3595 • lrei.org

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## Little Red School House & Elisabeth Irwin High School

To whom it may concern,

I have lived in New York City almost all my life and one big part of my city is seeing the food vendors on the street selling all different types of food. Some of our best food comes from vendors. When I was learning about this issue I thought about both sides of the argument. There are a lot of street vendors already in New York City, but getting new permits seems almost impossible. I met a vendor named Veronica who waited twelve years for a permit. It seems to me that there must be a way to make the system more fair and still make sure that sidewalks aren't too crowded.

All the street vendors I see are working hard and probably supporting their families, but many of them are either working without a permit because the city limits the number of permits they issue to street vendors or they bought permits for about \$25,000 on the black market. Vendors who get permits from the city directly only have to pay \$200 and they get to renew their permits every 2 years if they want to, even though some people buy the permits just to make money on the black market and don't even want to be a vendor. There are thousands of people on the waitlist to get a permit and the new law would allow more, but only 600 more, which seems like a step in the right direction. At least this is a good compromise for everyone. I really believe that if this 600 permit idea goes through more people will be able to start a good business and would be happy, without making the streets too crowded. I think the right thing to do here is to make a compromise. I'm not saying fill the streets with vendors but let's find a solution!

The issue of the food cart permits is very important to me because even though I'm not an immigrant, this country is made up of immigrants and I think it is important to help people succeed here in the United States and in New York City. Many people come here to work and to start a business and many people who already live here want to be a part of the food and restaurant business. But this can be really expensive. Being a food vendor you get to start a food business without having to open a restaurant. Let's make the system more fair for everyone.

Sincerely,

Tess Taetle

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October 26, 2016

Rafael Espinal  
Chair, Consumer Affairs Committee  
New York City Council  
City Hall  
New York, NY 10007

Re: Support for Intro. 1303-2016

Dear Council Member Espinal,

I am the Executive Director of T'ruah The Rabbinic Call for Human Rights, a non-profit organization that brings together rabbis and cantors from all streams of Judaism, together with all members of the Jewish community, to act on the Jewish imperative to respect and advance the human rights of all people.

I am proud to support Intro 1303, which will expand opportunities for street vendors and allow them a better chance at the American dream.

Today's street vendors are the direct descendants of the pushcart sellers, once a fixture of New York life. As a Jew whose family came to America from Eastern Europe some 100 years ago, I know how these small business ventures propelled immigrants into the middle class. Today, we need policies that give vendors the same chance to follow this path. That is why I am supporting vendors' right to work legally, under their own permits, without fearing daily arrest and confiscation of their equipment.

Jewish law also protects the rights of low-wage workers, establishing protections against taking unfair advantage of those most vulnerable to exploitation.

Of course, vendors must comply with the many regulations that exist to ensure public health and safety. And, vendors must be given the fundamental right to operate their business in public space. For this reason, I support Intro. 1303, which will increase the number of existing food vending permits, thereby expanding opportunity for vendors and helping secure for them a better livelihood.

On a personal level, my family and I have been active for years in the movement for the rights of street vendors in New York City. We have gotten to know vendors and to understand the struggles they face. We have taken these struggles on as our own because we believe vendors deserve to be treated with justice, fairness and respect.

I hope you will join me in supporting Intro. 1303 and other policy changes that support street vendors in their campaign for workers' rights and human rights in New York City.

Sincerely,



Rabbi Jill Jacobs



10/28/2016

To whom it may concern:

Hello, please accept my endorsement for the Street Vendor Modernization Act. I can only assume that you are being bombarded with many different voices so I wanted to offer a little insight from a former street vendor.

My brothers and I started our business on a street cart back in 2006. It was a tough business, in fact we spent most of 2006 figuring out where to set up and which commissary to store our cart in. Once we finally started vending we were quickly embraced by the public, before we knew it we were incredibly busy and had become a staple of our neighborhood in Soho. In fact, in 2009 Mayor Bloomberg came down to give us a visit on the street.

Our success on the streets gave us the tools we needed to open our first restaurant. By operating a street cart with my brothers, we were able to learn crucial business lessons without the pressures of investors which is typically the case in a restaurant. This enabled us to grow organically, 1 store at a time. Something that is all too rare these days. In 2008 we opened our first restaurant. Thanks to being a street vendor, we now have 4 restaurants in New York and employ over 100 people.

I hope you will consider my story when voting on the Street Vendor Modernization Act.

Kind regards,

Brian Vendley  
Managing Partner  
Calexico



**NEW YORK CITY  
FOOD POLICY CENTER  
AT HUNTER COLLEGE**

Testimony to the New York City Council Committee on Consumer Affairs

Testimony of Charles Platkin, Ph.D., J.D., M.P.H., Distinguished Lecturer, Hunter College, CUNY; Executive Director, New York City Food Policy Center at Hunter College

Int. No. 1303, A Local Law to amend the New York City charter and the administrative code of the city of New York, in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board

October 27, 2016

Thank you to Chairman Rafael L. Espinal, Jr. and the members of the Committee on Consumer Affairs for the opportunity to submit written testimony regarding the proposed Local Law to amend the New York City charter and the administrative code of the city of New York in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement and establishing a street vendor advisory board.

I am grateful to Council Member Levine, and the co-sponsors, for their work that went into proposing this bill, which seeks to improve regulations that govern our city's food vendors. I would urge this committee and the City Council to support this important legislation, with consideration of the amendments proposed herein that go to further protecting the health of the residents and visitors to New York City.

I am providing written testimony on behalf of the New York City Food Policy Center at Hunter College, of which I am the executive director. The Center was created in 2012 to develop collaborative, innovative and evidence-based solutions to preventing diet-related diseases, and promoting healthy eating and food security in New York City and other urban centers. The Center works with policy makers, community organizations, advocates and the public to create healthier, more sustainable food environments. We thank the City Council and the Speaker's office for their support of our Center.

We understand the rationale for an increase in food vendor permits for the evident benefits of job creation among immigrants and other entrepreneurs, freedom of enterprise, and improving the equity dialogue; however, any legislation regulating the selling of food in an urban center like New York City requires strict consideration of its health impact and presents an opportunity not only to increase new micro-businesses but also to promote health. However, we propose amendments to the bill to go further toward protecting the health of New Yorkers and its millions of annual visitors to include certain health provisions that impact nutrition and food safety.

## Nutrition

Great strides have been made in improving public health across New York City in recent years, notably reducing the number of both obese<sup>1</sup> and severely obese<sup>2</sup> public school children. However, the statistics are still grim, and New York remains in the midst of an epidemic of diet-related diseases that are disproportionately impacting racial/ethnic minorities and those with lower incomes:

- More than half of adult New Yorkers are overweight (34 percent) or obese (25 percent),<sup>3</sup> and obesity is associated with poorer mental health outcomes, reduced quality of life and some of the leading causes of death in this country: diabetes, heart disease, stroke and certain cancers.<sup>4</sup>
- More than one in ten New Yorkers are living with diabetes, putting them at increased risk of heart attack, stroke, blindness, kidney failure, nerve damage and amputations.<sup>5</sup>
- More than one in three adults lives with cardiovascular disease.<sup>6</sup> Heart disease and stroke are among the leading causes of death in New York City.<sup>7</sup>
- Only 10 percent of New Yorkers are consuming the recommended daily servings of fruits and vegetables.<sup>3</sup>

While many laudable initiatives have significantly improved the city's food landscape across the five boroughs (e.g., Green Carts, Shop Healthy, Farmers Markets/Health Bucks, and FRESH), there is more that can be done and street vendors can play a critical role in increasing access – to either healthy or unhealthy foods. Studies show the negative impact of street vendors selling unhealthy products:

- A 2014 study of mobile food vendors in the Bronx showed that unhealthy food vendors outnumbered healthy ones, and the former can negatively impact the overall healthfulness of a neighborhood's food environment – with researchers adding the important caveat that “it need not.”<sup>8</sup>
- Research on urban food vending indicates that mobile food vendors contribute to after-school snacking among children, a consideration that should be given due concern,<sup>9</sup> considering the number of our city's public school children who walk by vendors on their way to/from school or transit to school.

To address nutritional concerns, we propose adding an incentive for vendors to: display calorie and/or nutritional information for the products they are selling (as well as ingredients lists, upon request), who sell only fruits and vegetables, and/or who locate their carts in areas designated as in need of additional healthy food outlets. These recommendations are aligned with previous city regulations (i.e., menu labeling in chain restaurants and Green Carts requirements) and would further the city's efforts to promote healthy eating, address disparities in access to nutritious food and improve the overall food environment.

Global health and wellness sales are expected to hit a high of \$1 trillion in the U.S. in the coming year.<sup>10</sup> Research has shown that customers increasingly want and seek healthy options,<sup>11</sup> and are willing to pay more for them (if their income allows).<sup>12</sup> Stands that sold healthier items fared just as well economically as those vending unhealthy products.<sup>13</sup> Corner stores that sold produce made a higher profit from fruits and vegetables than from energy-dense snacks.<sup>14</sup> Restaurant chains that increased their lower-calorie food and beverage offerings had increased sales and customer traffic.<sup>15</sup> In NYC, we can point to the success of restaurants offering healthy food and

beverages such as Dig Inn, Roast Kitchen, The Butcher's Daughter, Fresh & Co., Chop't, Sweetgreen, Liquiteria and Hu.

While the research on calorie menu labeling and/or nutrient labeling has shown mixed results,<sup>16,17,18,19</sup> in addition to the studies that show a positive impact there is also anecdotal evidence that it creates conversation and awareness around healthy food choice and consumption– and still has significant value as a base to improve healthy food policy.

### **Food Safety**

The city has taken steps to improve food safety for those who eat out, including the 2010 legislation that introduced restaurant letter grading, which informs consumers at point-of-entry of every establishment's sanitary status. While NYC's mobile food vendors are required to take the Food Protection Course for Mobile Vendors,<sup>20</sup> food safety in mobile vending (with inherent challenges such as lack of access to running water) remains a grave concern.

- A study of NYC food vendors published in *Public Health Reports* (the official journal of the U.S. Public Health Service and the U.S. Surgeon General) documented risks to public health, including unsanitary food handling, food contamination, and meat storage at potentially improper temperatures.<sup>21</sup>
- A 2015 study of Manhattan food vendors found that the majority (57 percent) of vendors did not change gloves after handling money, a requirement of the NYC Health Code to prevent foodborne illnesses.<sup>22</sup>

To address food safety considerations, we propose that vendors undergo supplementary training that includes education covering the most common violations that put the public at risk for foodborne illness. We understand that food vendors are obligated to take a food safety course, however, based on the research cited above, we believe that street food vendors need additional specialized food safety training, including information on how they can avoid expensive violations. Opening up more than 600 new permits is a unique opportunity to continue the narrative and discussion regarding a higher level of training for new food vendors.

We propose these amendments to be included in the form of an incentive to the vendors, to encourage adoption – rather than as yet another requirement subject to a fine if not met (as a study shows that the majority of street vendor fines go unpaid<sup>23</sup> and the goal is not to place undue burden on vendors).

### **Selling Healthy Food by Vendors and Assistance from the New York City Food Policy Center at Hunter College**

To help vendors receive incentives, we at the NYC Food Policy Center at Hunter College, who work with more than 100 nutrition students each year at Hunter College, would like to offer our resources to provide a sustainable program, utilizing our students to analyze recipes from vendors who need assistance with providing nutrition information on a voluntary, cost-free basis to the vendor.

We would also like to offer to create website materials and conduct trainings for these food vendors to demonstrate the value, both from an economic and public health standpoint, in selling

healthier food options. Education can include simple behavioral economic strategies that have been shown to increase sales of high-margin, healthy foods.<sup>24</sup>

For example, prominently displaying healthy food and beverage options can increase their sales.<sup>25,26</sup> The city's Shop Healthy program<sup>27</sup> has successfully trained corner store and supermarket managers about the importance of stocking, placing, and promoting healthier food products and this training could be expanded and tailored to street vendors, with assistance and support from the Center.

As a food policy center, we believe that there should be a discussion around healthy food and beverage options; calorie, nutrient and ingredient labeling and transparency; and improving food safety training and understanding of food safety issues among food vendors. The proposed legislation to expand the number of food applications would greatly benefit the city's diverse and lively streets, increasing jobs and food options for passersby. By including the amendments as proposed herein – to promote the sale of healthy foods in high-need neighborhoods and to increase food safety training – the law would help protect the health of New Yorkers and its visitors, highlighting New York City Council's dedication to the health and welfare of all people.

We at the New York City Food Policy Center at Hunter College stand ready to help in any way we can to realize the vision of a New York City that is without hunger, with healthy food access, food justice and with an elimination of food related chronic disease and that is not only the food capital of the world, but the healthy food capital of the world.

For more information about the NYC Food Policy Center at Hunter College, visit our website at [www.nycfoodpolicy.org](http://www.nycfoodpolicy.org) or e-mail Dr. Charles Platkin at [info@nycfoodpolicy.org](mailto:info@nycfoodpolicy.org).

Thank you again for the opportunity to provide written testimony.

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<sup>1</sup> Berger M, Konty K, Day S, Silver LD, Nonas C, Kerker BD, et al. Obesity in K–8 students — New York City, 2006–07 to 2010–11 school years. *MMWR Morb Mortal Wkly Rep.* 2011;60(49):1673–1678.

<sup>2</sup> Day SE, Konty KJ, Leventer-Roberts M, Nonas C, Harris TG. Severe obesity among children in New York City public elementary and middle schools, school years 2006-07 through 2010-11. *Prev Chron Dis.* 2014; Jul 10;11:E118. doi: 10.5888/pcd11.130439.

<sup>3</sup> New York City Department of Health and Mental Hygiene. Epiquery: NYC Interactive Health Data System - Community Health Survey 2014. Accessed October 27, 2016. <http://nyc.gov/health/epiquery>.

<sup>4</sup> U.S. Centers for Disease Control and Prevention. Adult Obesity Causes and Consequences. <https://www.cdc.gov/obesity/adult/causes.html>. Accessed October 27, 2016.

<sup>5</sup> Gupta L, Olson C. Diabetes in New York City. New York City Department of Health and Mental Hygiene: Epi Data Brief 25; April 2013.

<sup>6</sup> New York City Department of Health and Mental Hygiene. Heart Disease. <https://www1.nyc.gov/site/doh/health/health-topics/heart-disease.page>. Accessed October 27, 2016.

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Nombre: Marco Reynoso

Ley de Modernización de la Venta Ambulante

Mi nombre es Marco Reynoso y soy miembro de la organización Se Hace Camino Nueva York por más de 10 años. Estoy aquí para dar mi apoyo a la Ley de Modernización de la Venta Ambulante. Para comenzar, quiero agradecer especialmente a los concejales patrocinadores y co-patrocinadores de este proyecto de Ley por haberlo introducido como propuesta para reformar la ley a favor de nuestras comunidades, a las demás organizaciones locales que han estado en la cabeza de esta campaña y todos los vendedores ambulantes porque su lucha incansable. Más que un miembro de Se Hace Camino, también me permito identificarme como un pequeño negociante de la ciudad de Nueva York. Por 30 años le he servido a la comunidad en un Deli & Grocery ubicado en el 204 de Irving Avenue, Brooklyn. Soy inmigrante del Ecuador y por más de treinta años he sido testigo de la contribución que los vendedores ambulantes le han dado a la comunidad de Bushwick y de su integración dentro del desarrollo económico de la ciudad.

Hoy he venido a exponer mi testimonio porque conozco muy de cerca este tema y su dinámica en el área en el que vivo y debo decir que hay muchas cosas que deben ser ordenadas y modificadas para el beneficio de nuestras comunidades. La población aumenta, la ciudad se transforma y desde hace más de tres décadas los vendedores ambulantes han estado sujetos a la misma realidad: No hay permisos.

Considero que la implementación de esta nueva ley no afectará negativamente a los pequeños negocios establecidos, puesto que hay una gran diferencia entre el tipo de servicio que ambos prestan. Por el contrario, la implementación de esta nueva ley aliviará a miles de familias y niños que dependen directamente del dinero que día a día se produce por la venta ambulante. Al mismo tiempo, la posibilidad de que se modernice la venta ambulante le permitirá a la ciudad incluir el aporte de los vendedores ambulantes a la economía local por medio de los impuestos correspondientes. Legalizar la venta ambulante crearía miles de trabajos necesarios. Estos trabajadores nuevos usarían su dinero en pequeños negocios como yo y seguirán invirtiendo en nuestra comunidad. Desde mi experiencia como negociante, he experimentado la lucha de los vendedores ambulantes en nuestras comunidades por no tener un permiso que legalice su trabajo; también he experimentado el hostigamiento y la discriminación de las autoridades, y ya que se ha tomado un gran paso en este proceso, yo quisiera que el acoso y la persecución a los vendedores ambulantes se detengan como una medida de protección inmediata,

Además, aunque la ley de modernización de la venta ambulante es un primer paso clave, me preocupa que no ofrezca una cantidad de permisos suficientes para la cantidad de vendedores ambulantes que hay en nuestra ciudad. Quisiera que ustedes analizaran la posibilidad de expedir una cantidad de permisos suficiente con base a la estadísticas de la población ya que ninguno de nosotros quiere que dejemos a las familias son como alimentarlas. .

Pido que, la ciudad abre sus puerta para que los empresarios inmigrantes pueden salir adelante



Nombre: Marco Reynoso

Street Vending Modernization Act

My name is Marco Reynoso. I have been a member of Make The Road New York for over 10 years and I am the proud owner of a Deli & Grocery in Bushwick, Brooklyn. I have served my community as a business owner for more than 30 years. I am here today to support the Street Vending Modernization Act. I want to thank specially Council Members sponsors and cosponsors on this bill, local organizations that have been at the top of this campaign and all street vendors in New York City for their tireless fight.

I am an immigrant from Ecuador and for over 30 years I've witness of the cultural and economical contribution that street vendors have given to Bushwick as well as their contribution to the local economic development of the city.

But, as the city has transformed and more families struggle to survive, street vendors have been tied up in the same reality: No permits. Although, I think that the implementation of this new law will not affect negatively operating small businesses, since there's a big difference between the types of service that both provide.

The implementation of this new law will support thousands of families and children that are currently depending directly on the money that street vending produces.. At the same time, the Street Vending Modernization Act would allow the city to count the input of street vendors to the local economy through taxation. By legalizing street vendors, thousands of badly needed jobs will be created. These newly employed workers will then go on to support small businesses like myself.

The harassment and persecution that I have seen of street vendors in my community pains me. They are struggling small business owners like me and they deserve to be treated with respect.

While this legislation is a great first step, I am worried that doubling the current number of permits won't be sufficient to cover the true number of street vendors in our city. I am deeply concerned that even after this legislation, there would still be struggling vendors left out. In short, I ask that New York City open the doors for immigrant entrepreneurs to flourish.



Nombre: Oscar Vivar

## Ley de Modernización de la Venta Ambulante

Mi nombre es Oscar Vivar, soy miembro de Se Hace Camino Nueva York, originariamente de México y he vendedor ambulante desde hace mas o menos 15 años. Vendo elotes, pinchos y me encuentro ubicado en la Avenida Roosevelt con Junction Blvd en Queens. Es una área con alta participación de vendedores ambulantes que urgentemente necesitamos permisos. Quisiera darle mis agradecimientos especiales a la concejal Melissa Mark-Viverito, al concejal Mark Levin, a la concejal y representante de nuestro distrito Julissa Ferreras-Copeland y a todos los demás miembros del concejo que han sido aliados en la introducción de este proyecto de ley que busca resolver una parte del problema que enfrentamos los vendedores ambulantes.

Hace 25 años tomé la decisión de emigrar a la ciudad de Nueva York desde mi ciudad natal en Méjico, en búsqueda de un mejor futuro y con la esperanza de hacer realidad mis sueños y poderle brindar apoyo a mi familia. Hace 16 años y después de haber hecho diferentes trabajos difíciles en los cuales era explotado, decidí convertirme en un vendedor ambulante para ser el dueño de mi propio negocio y tener flexibilidad con el horario de trabajo para así poder compartir con mi esposa y mis hijas. Durante estos 16 años he pagado por el alquiler de un permiso para poder trabajar tranquilamente, y hoy por hoy, la cantidad que pago por dicho alquiler asciende a US 16.000 mientras que la ciudad sólo le cobra US 200 a los dueños de los permisos por la renovación cada dos años.

Si desde que comencé a trabajar como vendedor ambulante hubiera tenido un permiso, seguramente todo el dinero que he gastado en el alquiler, lo hubiera podido invertir en la compra de una casa. Pudiera ofrecerles mejor calidad de vida a mi esposa y a mis hijas. Pudiera ofrecerles una mejor educación. Durante todo este tiempo de experiencia como vendedor ambulante he aprendido que nosotros los vendedores ambulantes somos parte activa de la cadena productiva. Vendemos nuestros productos, también compramos a otros comerciantes los materiales que necesitamos para prepararlos. y le aportamos a la ciudad con el pago de nuestros impuestos.

Es el momento de acabar con el mercado negro y de demostrar que somos muchos los vendedores ambulantes que estamos organizados y que queremos trabajar sin incumplir la ley. Este proyecto de ley es una gran oportunidad para que la venta ambulante deje de ser ilegal y comience a verse como parte de la esencia cultural e histórica de la ciudad de Nueva York.

Quisiera que este proyecto de ley se pusiera en marcha pronto con la ayuda de los demás concejales y la administración del alcalde De Blasio para que así mi sueño y el del resto de vendedores ambulantes de poder tener un permiso para trabajar dignamente sea una realidad.



Name: Oscar Vivar

In favor of: Street Vending Modernization Act

My name is Oscar Vivar. I am a member of Make The Road New York.

I'm proud to testify today in favor of the Street Vending Modernization Act. I'm originally from Mexico and I've been a street vendor for 16 years on Roosevelt Avenue in Queens. My wife and I sell Corn and 'Pinchos' among the many other street vendors on Roosevelt Ave. The Street Vending Modernization Act would help me, my family and thousands of other street vendors across the city.

To begin, I would like to give special thanks to Speaker Melissa Mark-Viverito, Council Member Mark Levin, My Council Member Julissa Ferreras-Copeland, and all the cosponsors of this bill..

Twenty-five years ago, I decided to immigrate to New York City from my home city in Mexico. I came in search of a better life and with the hope to make my dreams a reality to be able to provide for my family. 16 years ago, after having taken several difficult jobs where I was exploited, I decided to become a street vendor to be the owner of my own business. Being a street vendor gave me the flexibility to spend time with my wife and two daughters. During my 16 years as a street vendor, I've paid to rent a permit. Today, I pay \$16,000 every two years for a permit that costs the owner only \$200 to renew every two years.

If I had had a permit from the beginning, I would have been able to invest that in buying a home. I would have been able to offer the better quality of life for my daughters that I dreamt of.

In my time as a street vendor, it's become clear how crucial street vendors are in the productive economy of New York City. Not only do we sell our products, but we are consumers in the market as well.

We support our city paying taxes.

Now is the time to end the black market. We want to work without breaking the law. This proposal offers the incredible opportunity to legalize and legitimize street vending as part of the cultural and historic essence of New York City.

I commend and urge our City Council and Mayoral Administration to pass this proposal so that the dream of street vendors across the city to work with dignity can become a reality.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

Name: David Bros for Natasha Lycia Or Bannan (PLEASE PRINT)

Address: Associate Counsel

I represent: Latino Justice PRLOEF

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SUMA Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 12/26/16

Name: Irma Losala (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SUMA Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 12/26/16

Name: Maria Carchi (PLEASE PRINT)

Address: 8

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/20/16

Name: Maria Villar (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

Name: Thomas Coggin (PLEASE PRINT)

Address: WIEGO (Women In Informal Economy

I represent: Globalizing & Organizing)

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: ~~DAE~~ Rev Micah Bruce (PLEASE PRINT)

Address: \_\_\_\_\_

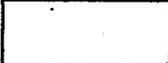
I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: CATHERINE BARNETT

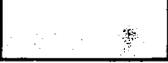
Address: 275 SEVENTH AVE NY NY 10001

I represent: RESTAURANT OPPORTUNITIES CENTER OF NY

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Jill Jacobs (Rabbe)

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Jack Beller

Address: Workman Cycles

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Dave Cook

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Jeff Orlick

Address: Queens

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Adam Sobel

Address: The Cinnamon Snail

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Cesar Fuentes

Address: RHFV Red Hook Food Vendors

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/2016

(PLEASE PRINT)

Name: Autumn Wark

Address: 83-34 Hefferts Blvd.

I represent: Vendors / A.R.T.O.S.T.

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/2016

(PLEASE PRINT)

Name: Diana Robinson

Address: 100-03 89 AVE Richmond Hill, NY 11418

I represent: Food Chain Workers Alliance

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Natasha Licia Ora Bannan

Address: 99 Hudson St, 14th fl, NY

I represent: Latino Justice Project

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 26/10/2016

(PLEASE PRINT)

Name: THOMAS COGGAN

Address: \_\_\_\_\_

I represent: WOMEN IN INFORMAL EMPLOYMENT <sup>GLOBALIZING & ORGANIZING</sup>

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: JORDYN LEXTON

Address: 630 Flushing Avenue Brooklyn NY 11206

I represent: Drive Change

Address: 630 Flushing Avenue Brooklyn NY 11206

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/2016

(PLEASE PRINT)

Name: Lo van der Valk

Address: \_\_\_\_\_

I represent: Carnegie Hill Neighbors

Address: 170 E 91 ST. NY NY 10128

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: FAVIO RAMIREZ-CAMINATTI

Address: 55 AUSTIN PL #3D, STATEN ISLAND NY 10304

I represent: EL CENTRO DEL INMIGRANTE

Address: 1546 CASTLETON AVE, STATEN ISLAND 10302

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. SUMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: ANEY WONG

Address: ~~73 GERRY STREET~~ SHANGHAI MKS

I represent: SHANGHAI MKS

Address: 73 GERRY STREET, BROOKLYN, NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Marlene Guinchard

Address: Chela & Garnacha

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Darcia Abreu

Address: 177 West 83rd St.

I represent: NY Women's Chamber of Commerce

Address: 1824 Amsterdam

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MR. SWANA

Address: 1240 SUTTER AV B'KLYN, NY

I represent: NEW DOW

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MORTON SLOAN  
Address: MORTON William Supermarkets 15 E. Kingsbridge Rd  
I represent: MORTON William's Supermarkets <sup>bx</sup>  
Address: same as above <sub>10465</sub>

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: NYS Senator Jose Peralta  
Address: 32-37 Jackson Blvd  
I represent: NYS Senate District 13  
Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Richard Lipsky  
Address: 140 Riverside Drive  
I represent: Bodega Associates  
Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Ramon Murphy + Frank Meate

Address: \_\_\_\_\_

I represent: Bole 99 Associates

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/26/2016

(PLEASE PRINT)  
Name: Brad Kerstman

Address: 1399 Franklin Ave, Garden City

I represent: New Yorkers for Street Vending Reform

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)  
Name: Krishnendu Ray

Address: NYU Food Studies

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Alfonso Morales

Address: University of Wisconsin

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Angelina Ramirez

Address: \_\_\_\_\_

I represent: Washington Heights BND

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Sean Basinski

Address: Street Vendor Project

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10-26-2016

(PLEASE PRINT)  
Name: Josh Gatewood

Address: 58-61 59th St. Maspeth, NY 11378

I represent: New York City Food Truck Association

Address: NYC

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)  
Name: Mohammed Attia

Address: Street Vendor Project

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)  
Name: Julia Chimbora

Address: Street Vendor Project

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: RAYMOND RAMIREZ

Address: 563 West 182nd NYC

I represent: RESIDENT of WASHINGTON HGTS

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Ana Cordero

Address: 114 W 228th St 6C

I represent: Kolomoira Coffee Shop

Address: 185 Sherman Av.

**THE COUNCIL  
THE CITY OF NEW YORK**

*Several street vendor bills*

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: CRAIG LEVINE

Address: 361 E. 161st St., Bronx

I represent: The Bronx Defenders

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Yanki Tshering

Address: (BCNA) Business Center New Americans

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Mitchell Balmuth

Address: 376 E 81 Street

I represent: \_\_\_\_\_

Address: Mitchell Balmuth

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Dan Rossi

Address: 1123 Jensen Avenue, Mamaroneck NY

I represent: disabled veteran vendor Advocate

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Borken Morris - disabled vet widow

Address: 180 West End Ave 4E

I represent: disabled veteran's widow

Address: (myself)

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Deputy Chief Frank Vega

Address: 1 Police Plaza

I represent: NYPA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Lt. Michael Dimino

Address: 1 Police Plaza

I represent: NYPA

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Ellen Baer and Michael Lambert

Address: \_\_\_\_\_

I represent: NYC BID ASSOC

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

*Veteran*  in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Boots Whitlock

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Andrew Fung

Address: 171 E. 84th St

I represent: EAST 86th St Assn

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Valerie Mason

Address: 320 E. 72 St

I represent: E 72 Neighborhood Assn

Address: 325 E. 72

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Amit Bagge, Deputy Commissioner, DCA

Address: \_\_\_\_\_

I represent: DCA

Address: 42 Broadway

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Leslie Ramos

Address: \_\_\_\_\_

I represent: 82nd St. Partnership

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jeff Lynch

Address: Asst Comm Intergov + Comm Aff.

I represent: DOT

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Eli BUENO

Address: 550 W. 181<sup>ST</sup> ST

I represent: 181<sup>ST</sup> Small Business

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 <sup>4515</sup> Res. No. 5114

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: MONICA BLUM LINCOLN Sq. BID

Address: 1841 Broadway Suite 112

I represent: LINCOLN Square Bus. Imp. District

Address: 1841 Broadway NYC 10023

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1003 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10-26-16

(PLEASE PRINT)

Name: RENEE GIORDANO

Address: 5116 9 5TH AVE. BK 11220

I represent: SUNSET PARK BID

Address: 5116 9 5TH AVE. BK 11220

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Matthew Bauer

Address: 59 E 79 St, NY, NY 10075

I represent: Madison Avenue BID

Address: 59 E 75 St NY NY 10075

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: CLIFF STANTON

Address: 3861 CANNON PLACE BX 10463

I represent: NUTS Y NUTS

Address: 610 W. 46th St NY 10036

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: John Marano

Address: Throggs Neck Homeowners Assoc

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Rob Byrnes

Address: \_\_\_\_\_

I represent: East Midtown Partnership

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Corinne Schiff

Address: Acting Deputy Commissioner

I represent: Division of Environmental Health

Address: Department of Health + Mental Hygiene

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26

(PLEASE PRINT)

Name: Ellen Goldstein

Address: \_\_\_\_\_

I represent: Times Sq. Alliance

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Lisa Scrin & John Bonizio

Address: \_\_\_\_\_

I represent: Westchester Sq BID

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. 1303

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Michele Birnbaum

Address: 1035 Park Ave

I represent: Community Board 8 Manhattan

Address: 501 Park Ave

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Jessica Lappin (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Downtown Alliance

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

Name: Jennifer Brown (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Flatiron 23rd St BID

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/2016

Name: JOHN DOYLE (PLEASE PRINT)

Address: 570 Lexington Ave

I represent: REBNY

Address: same

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Lauren Danzinger

Address: /

I represent: Meatpacking BID

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Ana Cordero

Address: \_\_\_\_\_

I represent: Kdmaro Coffee Shop

Address: Washington Hgts

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Joseph Lorusso

Address: \_\_\_\_\_

I represent: Sinera Shoes, Inc

Address: Washington Hgts

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Sonia Enriquez

Address: \_\_\_\_\_

I represent: Florida Restaurant

Address: Washington Hgts

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Stephen ASARO

Address: 475 W. 57 St.

I represent: MOBILE Food Vendors

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: MARTIN WHELAN

Address: 135 JACKSON ST, BROOKLYN, 11211

I represent: MYSELF

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Patricia Gouris

Address: \_\_\_\_\_

I represent: Manhattan CB4

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Robert Lederman (PLEASE PRINT)

Address: 555 Bwy

I represent: ARTIST

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Mark Dicus

Address: 594 Broadway, Suite 311

I represent: 50th Broadway Initiative

Address: Same

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26

(PLEASE PRINT)

Name: Rachel Thieme

Address: 92 Dupont St, Brooklyn

I represent: Sunnyside BID

Address: 45-56 43rd St, Sunnyside Queens

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: James KUSHNER

Address: 687 W 204th St

I represent: Disabled Veterans Vendors Board member

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Dan Biederman

Address: \_\_\_\_\_

I represent: Urban Mgmt

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Barbara Blair

Address: \_\_\_\_\_

I represent: Garment District BID

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/2016

(PLEASE PRINT)

Name: Frank Wessely

Address: 554 Broadway, Suite 311

I represent: SoHo Broadway Initiative

Address: Same

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Nelson Eusebio

Address: \_\_\_\_\_

I represent: National Supermarket Association (NSA)

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: JULIEN M. GORDON

Address: 40-42-78 Street

I represent: Justice Urban Vendors

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10-26-16

(PLEASE PRINT)

Name: Delmy ZELAYA

Address: 1965 22 RD

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: MAX CRESPO

Address: 232 EAST 111 STREET, NY NY 10027

I represent: NEARLITAN EXPRESS

Address: SAME

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Christine Lynch

Address: 39-37 57th St, Woodside NY

I represent: Local Color NYC

Address: same

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: JACK Beller WORKSMAN

Address: ~~10050 800 St~~ 23 Old Field

I represent: WORKSMAN Cycles/800BUYCART

Address: 94-15 100th St Ozone Park 11416

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Dowdi McKellar

Address: 856 E 167, Bronx, N.Y. 10459

I represent: Street Vendor Project

Address: 40 Rector St

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/27/16

(PLEASE PRINT)

Name: Jerry Chin, E.A.

Address: 4518 Court Sq #400 LIC NY 11101

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10-26-16

(PLEASE PRINT)

Name: Joe Glaser

Address: 209 Skillman Ave

I represent: LA Bella Torta Truck

Address: SAME

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jessica Walker

Address: Resident

I represent: Manhattan Chamber of Commerce

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Lindsay Greene.

Address: ~~Mayor~~ Administration

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Alexander Eick

Address: 200 E 11th St

I represent: MYSELF

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/2016

(PLEASE PRINT)

Name: Armando A. Crescenzi

Address: 2335 Yates Avenue Bx NY

I represent: Veterans First Ltd, NYC

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Vendor Bills Res. No. 115

in favor  in opposition

Date: 10/26/2016

(PLEASE PRINT)

Name: STEVE HARRIS

Address: 2109 BROADWAY #3-109

I represent: SELF

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/25/16

(PLEASE PRINT)

Name: Robert Bookman

Address: 325 Broadway, NYC

I represent: N.Y.C. Hospitality Alliance

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303, 5114, 5115 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Julia Kite

Address: \_\_\_\_\_

I represent: Transportation Alternatives

Address: 111 John Street, NY, NY 10038

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Roman Nykolarchuk

Address: 4304 13<sup>th</sup> ave Apt 1B Brooklyn NY

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303- Res. No. \_\_\_\_\_

in favor  in opposition

Date: \* Need to speak EARLY

(PLEASE PRINT)

Name: beazer Pitiger Disabled Veteran

Address: 68-15 SELFRIDGE St 4C

I represent: ADVISORY BOARD State Dept of

Address: Laboe to Promogate 35A -

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1033 etc. Res. No. \_\_\_\_\_

in favor  in opposition

Date: October 26 2016

(PLEASE PRINT)

Name: Lindsay Greene

Address: NYC City Hall

I represent: NYC Mayor's Office

Address: NYC City Hall

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303-2016 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Edward Perez

Address: 3842 9th Ave New York, NY 10034

I represent: United Restaurant & Lounge Group

Address: 3835 9th Ave New York, NY 10034

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Paige Halper

Address: Institute for Justice

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Cindy Vanden Bosch

Address: 89 East 2nd Street Brooklyn, NY 11218

I represent: Turnstile Tours

Address: 89 East 2nd Street, Brooklyn, NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Alexis Smallwood

Address: 51-07 Shore Front Rockaway

I represent: \_\_\_\_\_

Address: 51-07

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Ryan Devlin

Address: John Jay College

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Brendan Sexton

Address: 425 Merrick Ave Westbury NY

I represent: UFCW Local 1500

Address: 425 Merrick Ave Westbury NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Jessica Garcia

Address: 370 7<sup>th</sup> Ave NY NY

I represent: RWDSU (Labour)

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Melissa Chapman

Address: 2515 Glenwood Rd Brooklyn NY 11216

I represent: Brooklyn Chamber of Commerce

Address: 335 Adams St. Brooklyn NY 11231

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Lena Afridi

Address: \_\_\_\_\_

I represent: ANHD

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Jesse Badine

Address: \_\_\_\_\_

I represent: Manhattan Community Board 4

Address: 330 West 92 St.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA 1303 Res. No. \_\_\_\_\_

in favor  in opposition without review

Date: 10/26/2016

(PLEASE PRINT)

Name: Terrri Cube

Address: \_\_\_\_\_

I represent: CB2 Manhattan

Address: 3 Washington Sq Village, NYC 10012

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303/72 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Manhattan Boro Pres Gale Brewer

Address: 1 Centre St

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/24/2016

(PLEASE PRINT)

Name: SANTE ANTONELLI  
Address: 120-55 QUEENS BLVD KEW GARDEN  
I represent: THE QUEENS ECONOMIC DEVELOPMENT CORP.  
Address: 120-55 QUEENS BLVD KEW GARDEN

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 26 OCT 2016

(PLEASE PRINT)

Name: Kristen Rouse  
Address: 180 S Oxford #2 Brooklyn 11217  
I represent: NYC Veterans Alliance  
Address: Po Box 532 NY NY 10159

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: JERRY LEY  
Address: 84 11 168th PLACE  
I represent: MYSELF  
Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1303 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Joseph Fentanao

Address: 27 Santa Monica St

I represent: Local 338 RWDSU

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/2016

(PLEASE PRINT)

Name: Jan Poulos

Address: 1399 Franklin Ave, Greenwich

I represent: New Yorkers for Street Vending Reform

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Angela De La Rosa

Address: 4139 Broadway

I represent: El Condado Nuevo Restaurant

Address: 4139 Broadway

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SVMA Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Ariel Barbouth

Address: Nuchas

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms