

**Patricia Dolan
President
Queens Civic Congress**

**Intro 063--2010
First time Violators of the Anti-Posting Law**

City Council Sanitation Committee

March 23, 2010

Good morning, I am Patricia Dolan, the president of the Queens Civic Congress an umbrella group of more than 110 community and neighborhood based organizations representing tenants, co-op and condo owners and homeowners living in every part of Queens. I am also the president of the Kew Gardens Hills Civic Association.

As the Mayor and the Council strive to preserve New Yorkers' quality of life and prevent the city from spiraling into the neglect and decrepitude New Yorkers suffered in the nineteen seventies and early eighties, care must be taken for the esthetics of the physical city. As a long time local civic leader and community board member I am aware of how important keeping our streets and avenues attractive is to achieving that goal.

The Department of Sanitation is faced with the Herculean task of keeping the city clean and enforcing Section 10-121.1 of the Administrative Code. Intro 063 is a misplaced attempt to cater to the interests of promoters of local events will that will only send the wrong message to flagrant violators of the law. Intro 063 gives first time violators a second bite of the apple. Given the DSNY's limited enforcement resources, it is likely that "first time" violators will be habitual violators who have been covering public surfaces with their unsightly paper graffiti for years and have not yet been caught. The apple will turn into an unintended watermelon.

Make no mistake, there are no first time offenders; there are only violators caught for the first time. The typical violator of Section 10.121.1 is the experienced sponsor or promoter of a flea market, carnival or parade using lampposts, mailboxes, utility poles and other public property and even trees to plug its events. Or, the violator is a home-based business, often operating illegally and evading local taxes, promoting dubious activities: for example, purveyors of vitamins and supplements, "man with a truck" movers and "stuff envelopes at home and earn..." and the like. None of them deserve pardon, commutation or amnesty.

Local schools, civic associations, churches and religious groups have an alternative to public property and know that neighborhood stores will agree to posting announcements of community events in their windows. In more my almost two decades of civic activity, my civic has never posted an ad or announcement on public property. Never.

Fifty years after Lady Bird Johnson launched the successful nation-wide movement to rid the nation's highways of unsightly billboards and a decade after New York City banned most ads from arterial highways, the City Council must reject out of hand further "uglification" of our communities.

Patricia Dolan can be reached at 718-263-1760 or qvhca@nvbb.net

**QUEENS CIVIC CONGRESS/ PO BOX 268/ FLUSHING, NY11363/
www.queensciviccongress.org**

**TESTIMONY OF
CHIEF TODD KUZNITZ, DIRECTOR OF ENFORCEMENT
NEW YORK CITY DEPARTMENT OF SANITATION
NEW YORK CITY COUNCIL COMMITTEE ON SANITATION
AND SOLID WASTE**

**250 BROADWAY, 16th FLOOR
TUESDAY, MARCH 23, 2010 - 10:00 A.M.**

Good Morning Chairwoman James and members of the Committee on Sanitation and Solid Waste Management. I am Chief Todd Kuznitz, Director of Enforcement for the New York City Department of Sanitation. We welcome this opportunity to testify on the proposed bill. With me this morning is David Goldin, Administrative Justice Coordinator for the Mayor's Office, who will join me in answering your questions.

As proposed, Intro 63 creates a penalty mitigation program for first-time violators of the posting law. The program would allow first-time violators of the law who are not deemed to be purposeful evaders or affiliated previous violators of the poster law to pay 25% of the current penalty amount of \$75.00 for each of the total number of violations issued on the first date the posters are sighted. Additionally, it holds the respondent not liable for any notices of violation issued subsequent to the first date until three days after the notices of violation are served.

This Administration clearly recognizes that small neighborhood businesses are an integral part of the City's economy. Their ability to thrive and prosper is vital and necessary to this City's economic engine, and making New York City a friendly place to do business is a continuing goal of both the Mayor and the Speaker. We also recognize the difficulties a small business owner faces when choosing to open any business venture, including advertising his or her services or products. I wish to emphasize that like other city regulatory agencies, the Department of Sanitation has long worked with Small Business Services to ensure that commercial business owners are aware of all of the Sanitation regulations with which they must comply. We regularly work with community boards and civic groups. We attend town hall meetings to constantly educate and inform residents and businesses of their community and civic responsibilities toward compliance with all of the City's sanitation code provisions. We are always encouraged by the positive reception we receive by numerous individuals and merchants across the city at these meetings who take pride in abiding by all of the City's laws as a matter of civic duty and who are committed to keeping their communities clean and attractive for residents, visitors and customers.

Accordingly, the Department joins with the City Council and constituents from neighborhoods across the entire City in the view that the poster law is an integral component of our City's mandate to ensure street cleanliness and safety. Posters of all shapes and sizes,

conveying all sorts of information, are regularly affixed to various forms of public property. The act of posting on public property generally results in two outcomes: first, the posters remain and continue to be covered and surrounded by other posters, thus creating unsightly clutter in many of the City's neighborhoods; or, second, rain, snow and wind conditions rip or dislodge the posters, causing them to litter the streets and sidewalks where pedestrians can slip on them.

Illegal posting has long been a problem that this City has had to address. I'd like to share some statistics with you. To date in this current FY 2010, the Department has issued 55,849 Notices of Violation for illegal posting. Only one-third of these summonses were issued to persons and entities, including moving companies, internet businesses, mortgage foreclosure assistance, junk cars wanted, and locksmiths. The remaining two-thirds of those summonses – or 33,244 summonses to be exact, were issued to political candidates and elected officials. Meanwhile, 3-1-1 complaints about illegal posters on City property increased from 9,280 in FY 2008 to 13,634 in FY 2009. To date in FY 2010, we have already received 7,011 complaints of unlawful posting. In many neighborhoods, civic groups and private citizens who recognize the negative impact of illegal posters on quality-of-life have begun to patrol their individual communities to remove unlawful posters before the Department's agents have the opportunity to observe such postings.

The City's regulatory authority with regard to illegal posting is set forth in the Public Safety portion of the New York City Administrative Code under Title 10, and has existed in one form or another since the 1970s. In 1991, under the case of Sulzer v. Environmental Control Board, the New York Appellate Division, First Department, struck down the original poster law, ruling it as unconstitutional. The City Council subsequently amended the poster law in December 1993, establishing a rebuttable presumption that anyone whose name, telephone number or other identifying information appears on the poster or handbill affixed to public property is responsible for the posting. That person is then able to rebut that presumption by presenting evidence to the contrary.

In 2003, the Council amended sections 10-119, 10-120 and 10-121 of the Administrative Code to enhance the Department's enforcement of the existing poster law by expanding the prohibited areas for posting, and to increase the fines for illegal posting from \$50 to \$75. Local Law No. 2 of 2003 also made it clear that each single poster constitutes a separate violation of the law. These amendments came in response to a dramatic increase in the number of illegal postings, a practice that the Council sought to curb.

Today's Intro 63, as drafted, presents both legal and administrative problems for the Department. As written, the proposed legislation is contrary to already existing sections of the poster law. For example, it sets penalties at an amount lower than the minimum penalty prescribed under current Section 10-121. Additionally, this bill would be administratively difficult for the Department to enforce. The burden of proof would fall on the Department to prove that a respondent claiming first-time offender status is, in fact, a repeat violator, a purposeful evader or an affiliated previous violator of the poster law. This status could only be determined when the issuing officer has actual knowledge of prior Notices of Violation issued. However, the Department has a tremendous volume of posting cases. This would make

tracking repeat violators extremely difficult if not impossible. Given the administrative difficulty presented by this burden of proof, we believe the unintended consequence of this bill would be to grant a blanket 75% reduction for violations issued on the first day posters are sighted as well as a free pass on posters sighted on subsequent days to all but the most egregious of violators, regardless of their knowledge of the law or past history with posting violations.

Lastly, it is a well-recognized principle upon which our regulatory authority stands that ignorance of the law is not a defense. Small business merchants play an essential role in achieving and maintaining clean communities. They are on the frontline of their communities and set a positive example for others in their commercial areas. It has been our experience and observation that nearly all small businesses are knowledgeable of the unlawful poster law enacted nearly 20 years ago. Overwhelmingly, most often it is NOT the established "brick and mortar" neighborhood small businesses that unlawfully post. Therefore, setting up a penalty mitigation program for first-time offenders would set a bad precedent that effectively rewards ignorance of the City's existing laws and incentivizes one-time, upstart inexpensive advertising on City property as opposed to the conventional start-up practices of law-abiding small businesses. It is in the City's best interest to see that these small businesses continue to thrive during these difficult economic times, and it would be unfair to allow other individuals and entities that might otherwise directly compete with those now-struggling businesses to gain a benefit from illegal cheap advertising.

Finally, persons who are otherwise currently deterred from violating the poster law for fear of receiving a \$75 per poster law penalty may be more inclined to post posters if the penalty for a first-time offender is only \$18.75 per poster for only the posters the Sanitation Enforcement Agent sees on the first day. For example, it would likely be cheaper for businesses to accept this reduced fine as a cost of doing business than it would be to advertise in local circulars. The Department firmly believes that a far more effective approach to preventing small businesses from being subject to high fines for posting violations is through continued outreach. Working through community organizations, business improvement and commerce associations, and individual Council Members, we can continue to ensure that residents and businesses of the City are aware of sanitation laws that have been in place for decades. Indeed, I welcome this opportunity to offer to the Members of this Committee and the entire Council the Department's partnership in conducting such outreach.

Again, thank you for this opportunity to testify. I will now be happy to answer your questions.

James O'Kane
President
(718) 779-1111

Michael Terry
Executive Vice President
(718) 898-0871

Joseph Papavero
Vice President
(718) 651-3535



P.O. Box 780265
Maspeth, New York 11378

Maryanna Zero
Corresponding Secretary
(718) 326-2400

Joan Sammon
Recording Secretary
(718) 779-1111

David Daraio
Treasurer
(718) 335-1300

New York City Council Members
City Hall
Manhattan, NY 10007

February 26th, 2010

The Maspeth Chamber of Commerce sponsors Maspeth's annual street festival. We sponsor this event together with the Maspeth Kiwanis Club and Maspeth Lions club, on an annual basis for the past sixteen years. The festival takes place along Grand Avenue in Maspeth Queens.

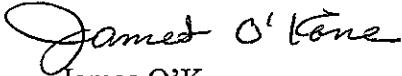
Prior to the street fair in June of 2008, posters were installed by our local Boy Scout troop, on the antique light poles along Grand Avenue, announcing the upcoming festival. The Boy Scouts volunteered their efforts and were unaware of the ordinance prohibiting this. They felt they were helping make the street fair a success, and the now feel terrible.

They feel terrible because a Sanitation Department Agent issued 32 tickets against the posters for each organization. Resulting in \$7,425 in fines. The net proceeds for the event were \$4,194.00. Therefore, we lost -\$3,231.00 (accounting statement attached).

The posters were installed in good faith to announce a festive community event. The three Fraternal, non-profit organizations turn any proceeds they raise into a multitude of good for the community of Maspeth. It's because of organizations like this that help make our communities the wonderful places they are to work, live and visit.

We feel the City of New York, and the Department of Sanitation, has unjustly treated us and excessively fined the three organizations. We save the city money and provide programs the city would have to. The city then adopted this extremely harsh position, fining us the maximum amount of money allowed under the law.

Please change the law.


James O'Kane
President
Maspeth Chamber Commerce

Gross Revenues-----	\$16,050.00
Less 20% NY City-----	\$3,210.00
Gross After NY City-----	\$12,840.00
Event Expenses-----	\$4,452.00
Event Net Profit-----	\$8,388.00
Sponsor 50%-----	\$4,194.00
Kiwanis Club-----	\$2,097.00
Lions Club-----	\$2,097.00

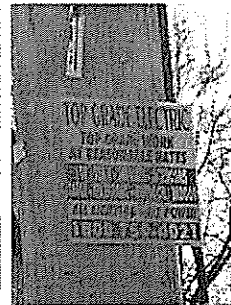
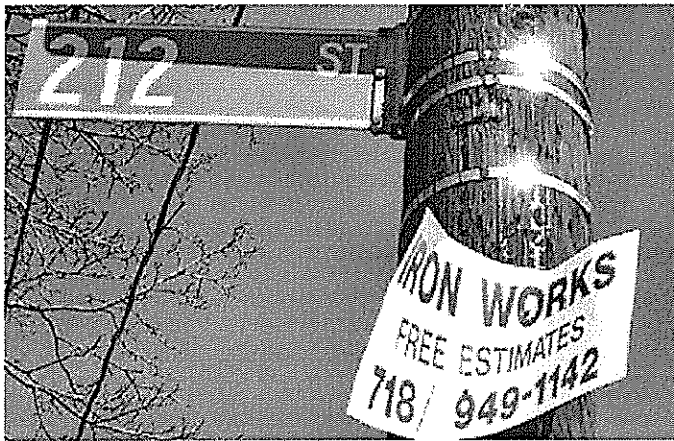
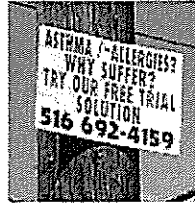
D.E.P. Summons

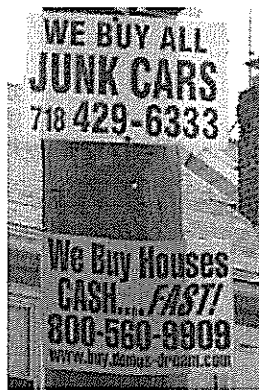
Maspeth Chamber of Commerce-----	\$2,475.00
Maspeth Kiwanis Club-----	\$2,475.00
Maspeth Lions Club-----	\$2,475.00
	<hr/>
	\$7,425.00

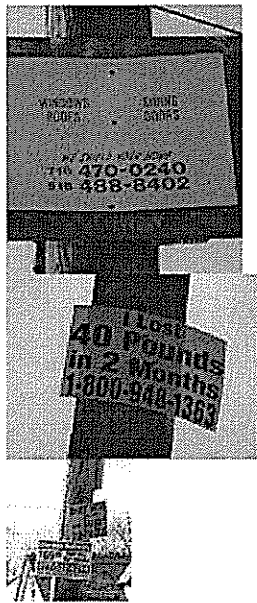
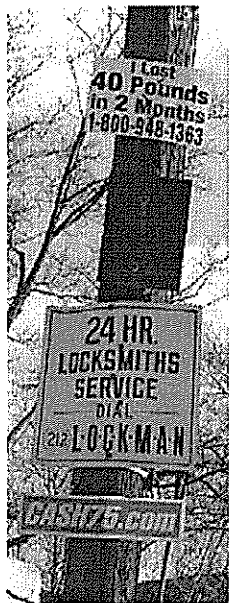
NET Income-----	\$4,194.00
DEP Summons-----	\$7,425.00
Event Totals-----	<hr/>(\$-3,231.00)

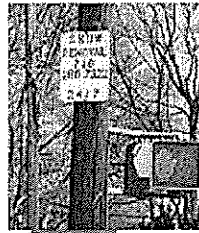
THE CREEDMOOR CIVIC ASSOCIATION

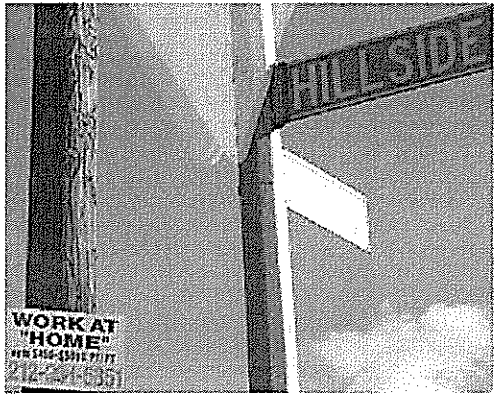
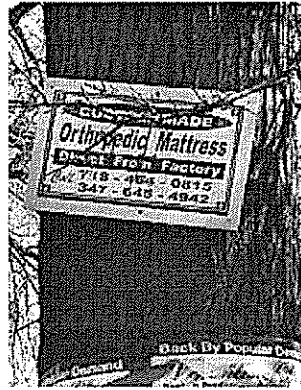
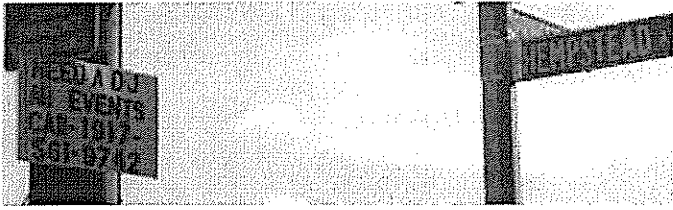
Just a few of the illegally posted signs we found

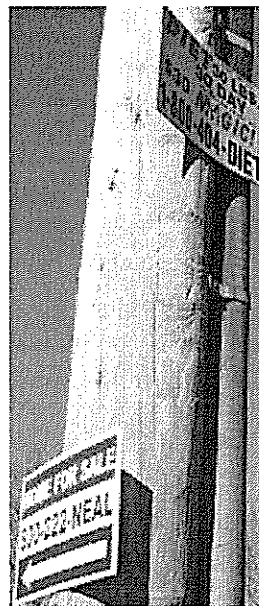
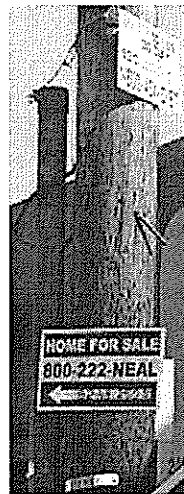
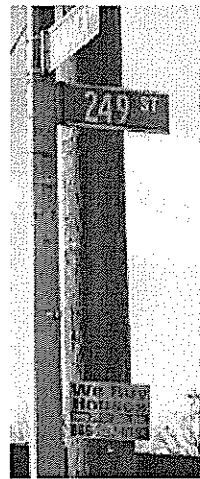




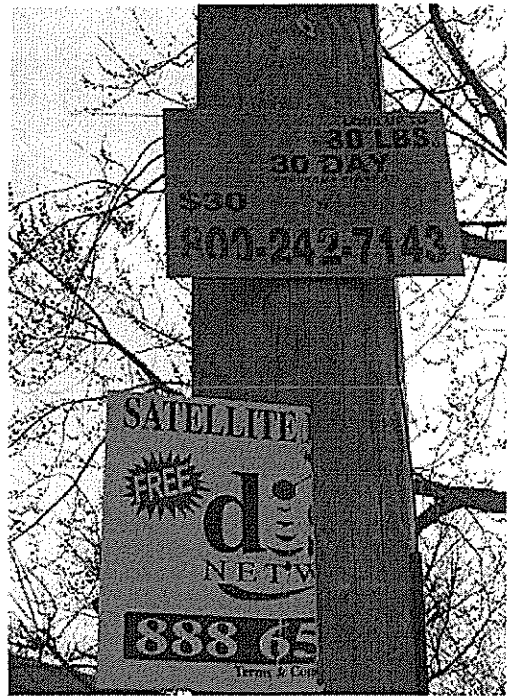


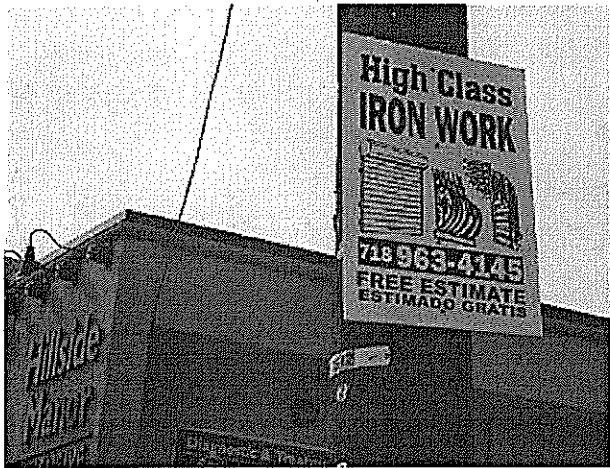


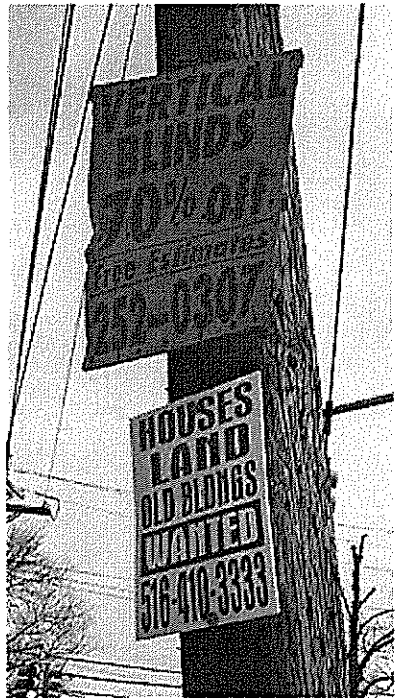
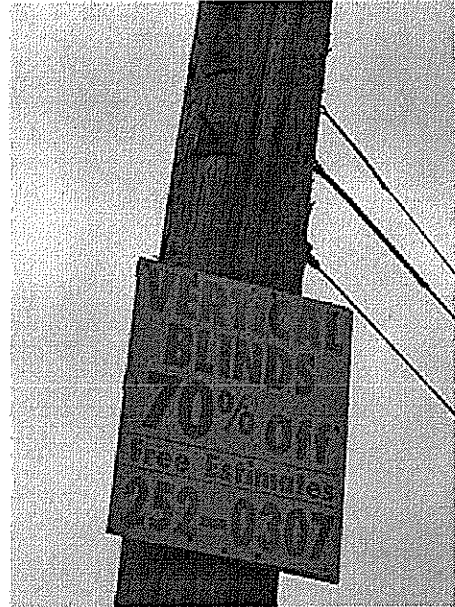


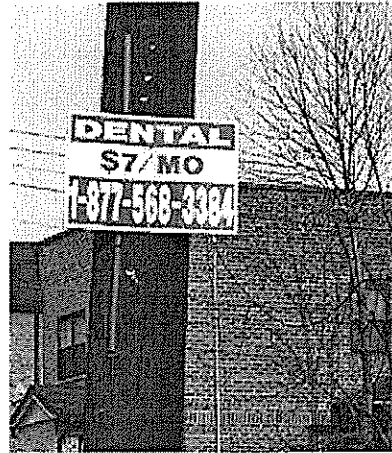












[Back to the main signs page](#)

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Citizens Against Graffiti Everywhere

PO BOX 300471 JFK AIRPORT

JAMAICA NY 11430

718-341-1395

Herr281761@aol.com

graffitibuster01@yahoo.com

Graffiti is vandalism, not art!

March 23,2010

Illegal sign posting is making our neighborhoods and commercial strips look shabby, untended and dirty. More and more graffiti, illegal sign posting, and etching is appearing and negatively impacting the quality of life of tax paying and hard working individuals and business owners. The defacement of both public and private property must stop and this trend must be reversed now.

The current provisions of the bill do provide non-profits some leeway in posting-if they do it within the parameters of the law. So upon further investigation, there is really no reason to amend this law-people just need to be made aware of the legislation in its entirety.

Civic and volunteer groups go out on a regular basis and remove all types of signs from lamp poles, telephone poles, stop signs, speed signs, street trees and basically any object that one can affix any type of advertising material to.

You can see it in every neighborhood-signs illegally posted, sometimes 6 high on public property. Many of these businesses are scams and do not care about the areas where they put up their street spam. They are only out to make a buck-legally or illegally.

The current sign removal teams from DOS are doing a great job, but they too are overwhelmed by the number of illegal postings. Groups go out, under the cover of darkness and post hundreds of signs. What neighborhood wants to wake up to a blanket of signs advertising weight loss, donate your car, houses bought all cash and many signs advertising night clubs or concerts with scantily clad women?

We, as a group are removing hundreds of signs a week and they are still coming full force. This is a time where we need to increase enforcement efforts and raise fines-not cut fines and create new loopholes.

This is more of a quality of life issue-its the difference of punishing offenders that would litter and deface our neighborhoods at any cost as long as they get business.

Respectfully submitted,
Frederick Kress

Let's face it, a lot of laws passed in NYC can be annoying, aggravating or costly to both businesses and individuals. The vast majority of these laws have a legitimate purpose.

The current anti-posting law is a good example. It keeps trash off poles and walls, and it keeps our neighborhoods looking clean, especially when those illegal posters weather and fall to the ground.

Isn't it quite rare that legislation is proposed to "water down" a current law? That's exactly what this legislation will do. It's effectively allowing those who post illegally to get away with a city-approved substantial discount.

If you are familiar with the procedures that the Dept of Sanitation must go through to determine the identities of these illegal posting violators, then you'll know how difficult is it to locate the true owners of many of these posted phone numbers. It can sometimes take weeks or months. In the meantime, these illegal advertisers are getting more and more free advertising at the expense of our neighborhoods and the law-abiding businesses in the area.

I urge you to refuse to dilute an existing, mostly successful existing law, and vote down this legislation.

Rick Duskiwicz
President, Creedmoor Civic Association, Inc.
Member, Citizens Against Graffiti Everywhere



Kiwanis Club of Maspeth

FOUNDED 1947

65-40 GRAND AVENUE • MASPETH, NY 11378

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Middle Village, New York 11379
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EDWARD M. McGOWAN, 1982

PAST LT. GOVERNORS
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EDWARD M. McGOWAN, 1978-79
*Deceased

February 26th, 2010

New York City Council Members
City Hall
New York City, NY 10007

RE: Maspeth Street Festival
Maspeth Kiwanis Club

Dear Council Members,

Every year the past sixteen years the Maspeth Kiwanis Club, Maspeth Lions Club and the Maspeth Chamber of Commerce have sponsored the Maspeth Street Festival which runs along Grand Avenue in Maspeth, Queens. This fair takes place in the month of June.

For our street festival in "2008" our local Boy Scouts volunteered this time to help put posters out to announce the upcoming event.

They placed the posters on our antique light polls along Grand Avenue and were very happy to help make the fair a success. They were unaware that the usual placements of these posters were in the store windows along Grand Avenue. Unfortunately they put them on the polls and were not aware of local ordinance restricting this.

The three non-profit organizations with all the volunteers from the community turn all the proceeds they raise into programs that save and help the community. In June 2008 we were issued 32 summonses for the 32 posters which were on 16 lamp post (they were stapled together front and back).

These 32 tickets were issued to all three organizations resulting in fines of \$7,425.00. The net proceeds for the event was \$4,194, therefore we lost -\$3,231.00 (accounting is attached).

We feel that the city of New York and the Department of Sanitation has unjustly and excessively fined the three organizations. By taking this extreme position of fines the city discourages the people who volunteer their time, effort and money. Without these people to help with these programs we cannot help our communities:

Please reconsider this decision and change this law.

Sincerely yours,

Marie Breslin
Past President "2008"
Maspeth Kiwanis Club

62 YEARS OF SERVICE TO THE MASPETH COMMUNITY
MEETS EVERY THURSDAY AT 12:15 P.M.
O'NEILL'S RESTAURANT
64-21 53rd Drive, Maspeth, NY 11378
(718) 672-9696



Gross Revenues-----	\$16,050.00
Less 20% NY City-----	\$3,210.00
Gross After NY City-----	\$12,840.00
Event Expenses-----	\$4,452.00
Event Net Profit-----	\$8,388.00
Sponsor 50%-----	\$4,194.00

Kiwanis Club-----	\$2,097.00
Lions Club-----	\$2,097.00

D.E.P. Summons

Maspeth Chamber of Commerce-----	\$2,475.00
Maspeth Kiwanis Club-----	\$2,475.00
Maspeth Lions Club-----	\$2,475.00
	\$7,425.00

NET Income-----	\$4,194.00
DEP Summons-----	\$7,425.00
Event Totals-----	(\$-3,231.00)

**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: 3/23/10

(PLEASE PRINT)

Name: Ricardo OLTON

Address: 421 Grand Ave

I represent: Grand Pass-N-Claws

Address: 448 Grand Ave Bklyn NY 11238

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. INT 63 Res. No. _____

in favor in opposition

Date: 3/23/10

(PLEASE PRINT)

Name: PATRICIA A GRAYSON

Address: 8618 Union Tpk Glendale 11385

I represent: Ridgewood Property Owners+ Civic Assoc

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: 3/23/10

(PLEASE PRINT)

Name: JOSEPH B. BRADY

Address: 121 WILSON ST - 41st St

I represent: CIVIC LEAD

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: 3/29/00

Name: Patricia J. Orlando (PLEASE PRINT)

Address: 441 39 73rd Street Fl 11367

I represent: Queen Civic League

Address: same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1090 Res. No. _____

in favor in opposition

Date: _____

Name: Frederick KRESS (PLEASE PRINT)

Address: 145-24 231 Street Springfield Garden

I represent: Citizens Against Gualtiti/Exemption 11413

Address: same as above

**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: MICHAEL AUGUGLIARO (PLEASE PRINT)

Address: 88-31 COMMONWEALTH BLVD

I represent: BELLERÖSE QUEENS

Address: QUEENS COLONY CIVIC ASSN

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: JAMES O'RAWÉ

Address: 72-01 GRAND AVE MASPETH QUES.

I represent: MASPETH CHAMBER OF COMMERCE

Address: 72-01 GRAND AVE. MASPETH N.Y. 11378

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 63 Res. No. _____

in favor in opposition

Date: 3-23-10

(PLEASE PRINT)

Name: RICK DUSKIEWICZ

Address: 88-01 LYMAN ST BELLEVILLE NY

I represent: CREEDMOOR CIVIC ASSOCIATION

Address: SAME

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 63 Res. No. _____

in favor in opposition

Date: 3/23/10

(PLEASE PRINT)

Name: William F. MARQUARDT

Address: P.O. BOX 286966 NY, NY 10128

I represent: SELF

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: 3/23/10

(PLEASE PRINT)

Name: MARYANNA ZERO

Address: 65-17 GRAND AVE

I represent: KIWANIS OF MASPETH

Address: 65-17 GRAND AVE

**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: DAVID GOLDIN

Address: ADMINISTRATIVE JUSTICE COORDINATOR

I represent: _____

Address: 1 Centre St - Rm 1012N - NY, NY 10007

**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: Chief Todd Ruznitz

Address: 1824 Shore Pkwy, Brooklyn, NY 11214

I represent: NYC Dept. of Sanitation

Address: 125 Worth St, NY, NY 10013

Please complete this card and return to the Sergeant-at-Arms