

TESTIMONY
OF
ELLIOTT S. MARCUS
ASSOCIATE COMMISSIONER
BUREAU OF FOOD SAFETY AND COMMUNITY SANITATION
NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BEFORE THE
CITY COUNCIL COMMITTEE ON CONSUMER AFFAIRS
ON
INT. 621
A LOCAL LAW TO AMEND THE NEW YORK CITY ADMINISTRATIVE CODE
IN RELATION TO VENDORS
MAY 4, 2005
CITY HALL
NEW YORK CITY

Good afternoon, Chairperson Reed and members of the City Council Consumer Affairs Committee. My name is Elliott Marcus, and I am the Associate Commissioner for the Bureau of Food Safety and Community Sanitation at the New York City Department of Health and Mental Hygiene. With me today is Joseph Caleb, the Director of the Bureau's Office of Mobile Food Vending Inspections, and Steven Linden, Director of the Department's Licensing Office. Thank you for giving the Department the opportunity to address this very important legislation today.

With respect to Intro 621 and mobile food vending, protecting the public health by reducing the risks of food-borne illness is the Health and Mental Hygiene Department's primary role. The Bureau's greatest responsibility is assuring that the City's nearly 21,000 food service establishments and, currently, an additional 4,386 mobile year-round, seasonal and restricted area mobile food vendor permittees are properly permitted. It is a substantial undertaking, which the Bureau accomplishes by providing regular and periodic inspections to determine if food service establishments and mobile food vendors are complying with the Health Code. Beyond enforcing regulations to which food service establishment operations must adhere, Bureau inspectors spend a considerable amount of time educating operators of these establishments on food safety practices. The thrust of our program is to emphasize food safety education.

To place our comments on Intro 621 into context, I will describe how the Department regulates mobile food vending. The Department issues both a mobile food vending operator's license and a mobile food vending cart permit. The permit is a decal that the Department affixes to the cart or truck upon its successfully passing a pre-permitting inspection. With the exception

of carts operating in parks, and a few exclusive distributors, an individual may only possess one cart permit. However, there may be and often is more than one licensed vendor operating a cart. A license applicant must take and pass a mobile food vending food protection course in order to receive the license, which is a photo ID badge worn by the mobile food cart's vendor.

Although there is no current legal limit on the number of licenses the Department may issue, there is a current fixed limit of 4,100 permits for mobile food vending. Hence, there are waiting lists for permits. When a permit becomes available because an existing permittee fails to renew the permit, for example, the Department notifies those next on the waiting list that they may apply. Currently, there are approximately 9,000 licensees, a number that fluctuates considerably.

The Citywide Licensing Center at Department of Consumer Affairs receives applications for licenses and permits. Applicants are required to submit to the Licensing Center identifying documentation and proof of a Certificate to Collect Sales Tax issued by the NYS Department of Taxation and Finance. To renew an existing license or permit, vendors and cart owners must show they have no tax liabilities with New York State or New York City and no outstanding summonses issued to them for violations of the Health Code. All license applicants are required to show they have completed and passed a Food Protection Course offered by the Department's Health Academy. Permit applications must include proof that the applicant currently has, or is applying for, an operator's license.

License applicants receive their photo ID badges in the mail three to four weeks after submitting a completed and satisfactory application. An applicant for a new or renewed permit must schedule and pass a pre-permit inspection by the Department's Bureau for Food Safety and Community Sanitation before the permit will be issued.

The Department's primary concerns about Intro 621 are that some provisions of Title 17 and Title 20 are inconsistent with one another, inconsistent with provisions in the City's Health Code, and do not address the issue posing the greatest risk to public health, illegal vending. There also are several terms on which we would appreciate greater clarity.

While the terms "general," "first amendment," "specialty," and "food vendors" are defined, the term "vendor" is frequently used in the bill, which may lead to confusion. For example, section 20-466 (b) of the bill states that "no vendor shall occupy more than eight linear feet." Section 89.09 of the Health Code however, allows for carts up to ten feet long. If, in fact, "vendor" in this section, refers to all vendors, then mobile food vendors would be required to shorten their carts, unless they were specifically grandfathered into the bill. Another example of where the use of the term "vendor" is confusing is in section 20-469 (m), which states that "no vendor shall use electricity, electrical generating equipment or oil or gasoline powered equipment, devices or machinery of any kind." Mobile food vending processing carts must use some of this type of equipment to cook food and heat hot water. The Department respectfully urges the Council to specify the type of vendor to which it refers wherever the term "vendor" is used.

Sections 20-466 (d), (e) and (n), and section 17-315 (k) (2), which define restrictions on the placement of pushcarts, present several inconsistencies, and deserve better clarity. We would be happy to discuss the technical concerns or the inconsistencies in greater detail at a future date. 17-315 seems to reduce the allowable distance by half between a food vendor and bus shelters, newsstands, subway entrances, and building entrances and exits. The Department frequently receives complaints specific to the proximity of carts to bus shelters, newsstands, etc., and is concerned that decreasing the distance will result in more complaints and present greater risks to pedestrians, particularly with regard to placement near subway exits and entrances and residential buildings. We also think that section 20-466 should prohibit the use of an awning that protrudes from the set width and length of a cart as it may pose a hazard to pedestrians.

Section 20-471 addresses the seizure of perishable goods, and charges the Commissioner of Health and Mental Hygiene with accepting a delivery of any perishable items or food products that cannot be retained in custody without such items or food products becoming unwholesome, putrid, decomposed or unfit in any way be changed. As our Department does not have the capacity to dispose of food that has been seized, it recommends that such food be delivered to the Department of Sanitation for disposal.

Section 17-307 (b) places a limit on the number of food vendor licenses on whatever the active number is as of September 1, 2005. The Department does not believe there is a need to limit the number of licenses, since there are a fixed number of carts and frequently there are multiple vendors working a cart. Additionally, the bill effectively doubles the number of borough-specific permits by adding 50 each to Brooklyn, Queens, the Bronx and Staten Island. The Department is concerned that limiting the number of licenses will lead to more illegal mobile food vendors. Since licensed mobile food vendors must take and pass a food protection course, we would prefer that all those that wish to earn a living vending food have the opportunity to learn about food safety.

Section 17-307 (d) prohibits the simultaneous possession of more than one of any of the vending licenses referenced in the legislation. The Department does not believe that the bill should limit an individual's opportunities to earn a living by restricting the number of types of licenses one may possess, and it is unclear what this provision would accomplish.

Section 17-309 (d) would require fingerprinting for applicants for licenses. The Department supports the position of the Department of Consumer Affairs, and believes this requirement to be unnecessary in the absence of some articulated reason for it. Additionally, the bill does not state what should be done with the fingerprints. Complying with this provision would either require a Memorandum of Understanding with the Department of Investigation, or, result in the Department conducting the fingerprinting. Either case would require significant new funding needs.

The enforcement specifications in section 17-321, which allow only one "general", "first amendment", and "food" vendor on a blockface, would be difficult to enforce and would reduce the efficiency of inspectors. Having them make a finding as to who came to a block face first, between 5 and 11 AM, would be difficult if not impossible. As it is, inspectors must frequently call on the assistance of a police officer to assist in gaining compliance with cart placement

provisions of the current law. Enforcing this regulation will increase arguments, and the frequency with which Department inspectors must call on the police, and therefore reduce the number of inspections they are able to perform in a day. Department inspectors, assigned to a different area of the City each week in an attempt to inspect all operating mobile food carts, are far too few in number to effectively enforce this provision and as this issue is addressed in Article 20, the Department believes it would be more effective to leave this enforcement to the police. Finally, there are several pedestrian malls throughout the City, primarily in business districts, where it is now common to see multiple mobile food vendors, as well as other vendors. Applying this subsection to those sites would disrupt long-term practices and inconvenience the public's desire for quick and convenient food. These groups of vendors also are more easily regulated as they tend to set up in the same spot every day and are easier to find. In fact, in the Council's deliberations, the issue of requiring some vendors to limit their location of vending to one of several specific locations might be considered.

The Department thanks the City Council for its efforts to address the multiple vending problems that exist. However, the legislation, as it is currently drafted is unclear and poses greater enforcement challenges for the Department without a concurrent benefit. Thank you for inviting the Department to comment on this legislation. We would be happy to work with the Council on clarifications, as well as on how City agencies might work together to deal with the large public health issue presented by illegal vending. I am pleased to answer any questions you may have.

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Testimony of the New York City Department of Consumer Affairs

Pauline Toole, Assistant Commissioner

Before the City Council Committee on Consumer Affairs

On Intro. 621 and Intro. 491

May 4, 2005

Good afternoon, Chairman Reed and members of the Consumer Affairs Committee. My name is Pauline Toole, and I am the Assistant Commissioner for policy at the Department of Consumer Affairs. Commissioner Dykstra asked me to thank you for this opportunity to comment on Intro 621 that would completely overhaul the city's street vendor management policy. She commends you for daring to tackle an issue that has vexed the city almost from its inception.

Let me acknowledge at the outset that your proposal is far from a bolt out of the blue and note that Commissioner Dykstra, DCA staff and other City representatives have met with you on several occasions to discuss the complex undertaking of creating a vendor policy that would include all vendors and be simple to understand and enforce. We explored with you a scheme that would limit the number of vendors to one from each category—essentially the three per block face. We discussed at length the impact of the State law on changing vending regulations in New York City and the fact that State lawmakers anticipated a local law to streamline vending regulations. Specifically, the General Business Law Section 35-a (7-a) (10) essentially provides that the City could change its street restrictions only if the rights of disabled veterans are not diminished.

The administration, in fact, urged a slower approach. But we are viewing this proposal as the lever to put all concerns on the table in order to craft a transparent, enforceable citywide approach.

Everyone agrees that we suffer from the current hodge-podge of sometime conflicting, almost always complicated, exception ridden and often confusing street vendor rules and laws. The City would like to replace the current system with a far-reaching and completely new approach to managing vending on city streets. However, while we praise you for setting forth one approach to such a plan, upon review of the details, we do not think that it meets the stated goal.

The purpose and intentions of the proposal are clear and commendable. You have heard from the New York City Police Department about the safety and enforcement issues the bill raises. These are critical issues that would need to be adequately resolved in any new system to regulate vending.

Let me review the major issues of concern to the DCA. The listed issues only hit the high points, however, and do not cover technical drafting issues or matters that don't

involve significant policy issues. The New York City Police Department has commented on the enforcement difficulties presented by opening all streets to vendors and the limiting the number of vendors to three per block face. We concur with their testimony.

First Amendment Vendors

The definitions for “general vendor” and “first amendment vendor” are not delineated clearly because the definition for “general vendor” also includes anyone who is a “first amendment vendor.” Merging these definitions leaves unclear whether the requirements applicable to “general vendors” also cover “first amendment vendors.” To avoid the resulting ambiguity and confusion, the definitions should clearly distinguish the two types of vendors, by excluding “first amendment vendors” from the “general vendor” definition, as is done with “food vendors.”

Indeed, defining First Amendment vendors is quite difficult—for example, paintings, graffiti hats, and message-bearing t-shirts have all been found by courts to be protected speech while playing cards with pictures are not.

Requiring first amendment vendors to be licensed is unnecessarily burdensome and most likely unworkable. Suspending or revoking a license is generally the most effective sanction for enforcing compliance with a licensing law. That sanction cannot be effectively used against First Amendment vendors since it would involve barring them from exercising their First Amendment rights. The licensing requirement is also unnecessary since the priority numbers for determining the eligibility of First Amendment vendors to vend at particular locations can be assigned without requiring a license. Their priority ranking could be established based on the date of issue of the First Amendment vendor’s tax ID number.

In lieu of licensing First Amendment vendors, the agency supports a registration process that would be used for identification and to ensure tax compliance. This would give the City the opportunity to check the validity of a tax stamp at the time of registration, as well as any identification presented.

Since requiring the licensing of First Amendment vendors is unworkable for the reasons already noted, the application requirements for first amendment vendors should be revised to reflect only the information that would be needed for them to apply for priority numbers.

In addition, the proposal should affirm that registered First Amendment vendors are not permitted to sell general vending items.

Issuing Priority Numbers

The proposed method and procedures for assigning priority numbers is ambiguous and confusing. The bill would create entirely separate priority numbering systems for each of the three specified license types – specialized vendors, general vendors and First Amendment vendors –in addition to another numbering system for food vendors.

Using the license number to denote a licensee's priority status imposes an unnecessarily cumbersome and inflexible method for assigning priority numbers. It would create entirely separate priority numbering sequences for each of the different types of vendors who would be issued licenses numbered according to entirely different numbering sequences. The priority numbers should, instead, be a separately designated, sequence of consecutive numbers that are assigned in the order of ranking to applicants.

The issue of whether separate or unified priority numbering systems should be used for the different types of vendor and the methods for determining and assigning the priority numbers involves a host of both technical and policy matters that will need to be extensively explored before it can be finalized.

Also on licensing, including in the same section the grounds for approving and denying licenses and the methods and procedures to be used for determining and assigning priority numbers unnecessarily combines two entirely separate functions and activities that confuse the purposes they serve and the standards they prescribe. The difference is that the commissioner *must* exercise discretion with respect to approving or denying licenses based on a specified ground, but the commissioner is *strictly obligated* to assign the priority numbers based on the specified methods and procedures to be used. This clear distinction would best be maintained by including the two functions in separate sections.

Fingerprinting

Fingerprinting all applicants for vending licenses would be excessively intrusive and generally unnecessary for vendors who operate on public streets. They do not represent the potential threat to public safety for which a criminal background check using fingerprints would be warranted. The department supports the fingerprinting of vendors if they are arrested for violating the law. But to begin to fingerprint the applicants of these small business cannot be justified on public safety grounds.

Multiple Licenses

The ban on possessing more than one type of license leaves unclear whether a person can be issued more than one license, but can use only one of them at any one time, or if a person can only be issued one license. If it is meant as a limitation on the number of licenses that can be issued, its purpose is unclear.

A Cap on Vendors and Veteran Vendors

In 1979 the Council created a cap of 853 on general vendor licenses. This proposal would increase the number of general vendors to 1,250 in 2006 and to 2,000 in 2007. That would more than double the number of non-veteran general vendor licenses in a two year period.

The proposal excludes only specialized vending licensees (or disabled veterans) from the limitation on the number of general vending licenses that can be issued. **All qualified veterans** are excluded from the cap because section 32 of the General

Business Law entitles any qualified veteran to have a vending license. We estimate that there currently are 1304 non-disabled veteran vendors not counted in the existing cap of 853 licensed general vendors.

There currently is a waiting list of 3,133, which was reduced over time from the 5,347 people eager to become licensed vendors in 1993 when the waiting list was established. Would those people have the first opportunity to obtain a general vendor license when the cap is removed? The DCA agrees that increasing the number of licensed general vendors is sensible but only if it takes into account the waiting list, the number of licensed veterans, and the capacity to accommodate additional vendors on the City's streets.

Street and site restrictions on vending.

The bill boldly repeals restrictions that entirely bar vending on particular streets or specific zoning districts except the World Trade Center site. We commend you for continuing the prohibition on vending in the area many people consider hallowed ground.

The bill would also terminate the Street Vendor Review Panel that is now authorized to designate specific streets on which vending is prohibited during designated times because of congestions that threatens public safety. It would instead limit to three the maximum number of vendors who could be present on any block face.

This provision would replace the current combination of all-or-nothing street restrictions and specific site restrictions that govern where vendors can be on streets. Under the current system, when vending is allowed on a street, there is no further restriction on the *number of vendors* who can be present on the street.

For reasons cited by the NYPD, this provision as currently envisioned, does not create the ease of enforcement the City desired. Pedestrian safety may warrant a continuation of the ban on particular streets. We are willing to work with you to consider what procedures should be used to appropriately prohibit vending.

Other options for accomplishing that management should be thoroughly explored. Such options could include a combination of limited designated high congestion zones where vendors are prohibited, limiting vendors to a maximum number in less dense zones, and eliminating the limit in uncongested zones; assigning specific locations to vendors; or even retaining the current system.

Sidewalk Displays.

An unintended by-product of these revisions would have a negative impact on many neighborhoods. The authorization to place sales displays in front of buildings is keyed to whether or not vending is allowed on a particular street. The placement of such obstructions is regulated by section 19-136 of the Administrative Code. The opening of all streets to vending would automatically allow the placement of sidewalk displays in front of all store buildings. We believe the question of whether to open all streets to

sidewalk displays and what alternatives to vendor restrictions are available needs further examinations.

Written Notice of Exigent Circumstances Written Notice

With respect to the specific restrictions included in this provision, a major obstacle is the requirement that the police give written notice detailing the exigent condition requiring the removal of a vendor from a location. This requirement would be excessively burdensome and would essentially make ineffective the police authority to act in exigent circumstances.

Enforcement.

The requirements for determining eligibility to vend based on a vendor's priority status are also basically and fatally flawed. The provision that would establish eligibility based on who arrived first between the hours of 5:00 to 11:00 a.m. is completely unworkable since it would be impossible for the police to determine who came first. Dividing the day into two shifts apparently reflects a desire to give the coffee and hot dog vendors two bites at the apple. But we do not believe it is workable.

The procedures for determining eligibility in other cases are confusing and will require additional clarification.

The method for fixing the location where the maximum number of vendors per street location are allowed to vend also needs further review. A block face may not be most appropriate geographic basis for fixing the number of vendors allowed on a street since it could technically permit a large number of vendors to congregate in a small area. Alternatives for fixing the maximum number of permitted vendors need, therefore, to be explored, such as fixing a specific distance between vendors from the curb.

This section also mixes together two completely different requirements that are best and more clearly covered separately.

One requirement specifies the standards for determining who is eligible to vend at particular locations when more than the authorized number of vendors are present. The other specifies how the rules are to be enforced including the enforcement powers to be used and penalties imposed to ensure compliance with the rules.

The applicable provisions to effectuate each requirement should be set out separately to ensure they are clear and comprehensible.

Licensing and Regulation of Distributors.

The provisions in the bill generally adopt the existing language for the licensing persons who distribute goods to general vendors. This is an opportunity to make that existing law more effective. The DCA suggests eliminating the provision that permits distributors to use detachable signs. All too often this flexibility has been used to evade detection by unlicensed distributors. We also suggest that record-keeping language be

added. This would help to track the customers of distributors to verify vendor compliance with existing record-keeping and tax-paying requirements.

We also suggest consideration of language to hold distributors responsible for violations committed by their drivers.

Penalties.

The proposed fine schedule fixes the specific amount of the fines to be imposed for the listed violations. The schedule does not allow for discretion to impose a lesser penalty in any negotiated settlement. By eliminating discretion in setting penalties, the schedule creates no incentive to settle violations, thereby discouraging settlements and encouraging all violators to take their cases to hearings. At the least, the bill should allow for lesser penalties for settlements.

Adjudication.

The bill would switch the adjudication of general vendor law violation from the Environmental Control Board (ECB) to DCA. Since this switch would add about 8,000 cases to DCA's annual case load, it would have to be phased in over a period longer than the effective date of the bill to enable DCA to cope with the increase. Please be aware that the ECB can docket fines owed to the City. DCA, by contrast, must go to court to docket judgments.

Prohibition of structures restricting vending.

These provisions would ban structures that would restrict vending where it would otherwise be allowed unless such structures are necessary for public safety and have been approved by the NYC Department of Transportation (DOT). As written, it appears to prohibit such non-safety structures as newsstands and bus shelters, which likely is not the intent.

The DOT staff have relayed their serious concerns about this provision to us. Basically the concern is that all non-safety structures, citywide, would be barred. This would include the placement of government-sited structures such as parking meters and mailboxes. Many non-safety structures are an important part of the City streetscape and enhance the quality of life. Limiting their placement is problematic and requires further examination.

The placement of many of these structures is properly subject to the jurisdiction of the DOT. That agency's jurisdiction should remain intact.

Intro 491

Finally, let me turn to Intro. 491 which would eliminate the inquiry about an applicant's citizenship when filing a general vendor application. The DCA wholeheartedly supports eliminating this legal requirement.

**STATEMENT OF
SUSAN PETITO
ASSISTANT COMMISSIONER, INTERGOVERNMENTAL AFFAIRS
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON CONSUMER AFFAIRS
MAY 4, 2005**

Good afternoon, Mr. Chairman and members of the Council. I am Susan Petito, Assistant Commissioner for Intergovernmental Affairs of the New York City Police Department. I am accompanied by Lt. Daniel Albano, Managing Attorney of the NYPD Legal Bureau, Criminal Section, and on behalf of Police Commissioner Raymond Kelly and Deputy Commissioner Legal Matters Andrew Schaffer, we are pleased to be here today to discuss Intro. 621, comprehensively revising the regulations pertaining to vending in New York City.

We would first like to commend you, Mr. Chairman, for confronting the complex and highly charged issue before you today. The myriad of laws and regulations affecting vending, at both the state and local levels, as well as the holdings of several relevant court decisions, present vendors and enforcement personnel alike with daily challenges in keeping the streets and sidewalks of our City safe, while allowing vendors a reasonable opportunity to lawfully sell food and other merchandise to willing customers.

Intro. 621 represents a creative attempt to simplify and make internally consistent the laws affecting vending, while acknowledging the applicability of State law governing disabled veteran vendors as well as taking into account court decisions regarding the rights of First Amendment vendors. However, we must oppose the regulatory scheme contemplated in the bill, which would open virtually every street in the City to vending but require that only three vendors per blockface be present at any given time. In practical effect, up to a total of 24 vendors could be clustered around any given intersection.

We understand the appeal of the apparent simplicity of this concept, but must oppose it as unworkable. In thinking through the proposal, we must consider the practical application of the law and evaluate whether it can reasonably be enforced. The bill creates a limit of three vendors per blockface, and a priority system which attempts to make clear which type of vendor (from among food, general, First Amendment, and specialized vendor types) is entitled to evict another vendor from a City blockface.

The two major enforcement problems created by this scenario are: the tremendous dispersion of vendors seeking profitable locations throughout the City, especially if accompanied by the contemplated increase in the cap on licenses; and the inevitable increase in disputes, possibly violent, as a chain reaction of vendors with better priority numbers seeking to displace vendors already on a block spreads from block to block. Vendors seek to locate themselves in the most heavily traveled areas of the City, and as a vendor with a better priority number arrives, he or she will be entitled to demand that a vendor already present leave. That vendor would then conceivably move on to the next block, with perhaps a slightly less desirable location but one already occupied by three vendors, and the eviction process would continue. The entity which would of course be expected to resolve these contentious disputes is the Police Department, and it would be unwise and counterproductive to create a regulatory scheme which we know would strain

the already limited enforcement resources we have, to accommodate an entirely new set of disputes in every part of the City. It is also apparent that many of these disputes and disruptions would occur on the most densely populated sidewalks in the City, which would even further impede pedestrian traffic. Specifically, the priority system adds to the potential for disputes by making a distinction between incidents occurring between 5AM and 11AM as opposed to between 11AM and 5AM, and establishes that between 5AM and 11AM if two similar type vendors contend for the same space, the person who was there first gets priority. We suggest that making the choice contingent on who was there first is unworkable, since it will often be impossible for an officer to know who was there first.

Inherent in the creation of the bill's regulatory scheme is the elimination of any street on which vending would be prohibited, except for Ground Zero and lower Broadway. We submit that the consequences of such wholesale elimination of street restrictions are potentially chaotic, especially concerning the midtown core of Manhattan, arguably containing the most desirable vending locations in the City. We observed a practical demonstration of these potential consequences, when the State Legislature allowed the General Business Law provision governing disabled veteran vendors to lapse for an entire year. The tumultuous atmosphere created in midtown Manhattan, as First Amendment vendors were able to accompany disabled veteran vendors then entitled to vend within the Midtown core, could be replicated if all restrictions on streets were to be removed. For example, we remind you of the dozens of First Amendment vendors who saturated Times Square, on streets that would have otherwise been restricted, during the hiatus of the General Business Law. Again, the only way to control that possibility would be through constant and intense enforcement, and it is submitted that at a time when the Police Department needs to focus on counter terrorism, on maintaining our extraordinary success in driving down major crime, and on addressing quality of life violations of every type, the devotion of extensive resources to implementing this bill by monitoring the number of vendors on a block and adjudicating the inevitable disputes would be counterproductive in the extreme.

Beyond the conceptual framework of the regulatory scheme contained in the bill, we would like to share some observations about some of its specific provisions.

First, the bill amends the current provision regarding exigent circumstances allowing enforcement personnel to require a vendor to move, by now requiring that the officer give the vendor notice in writing detailing the exigent condition, with a copy maintained in the agency's records for a year. We submit that by definition, under exigent circumstances, it is neither practical nor responsible for the law to require an officer to issue a memo with a carbon copy before asking a vendor to move.

Second, the bill includes a new notice requirement upon seizure of a vendor's property, requiring written notice of the location of the property. Currently, the vendor is provided a copy of the Property Clerk voucher prepared when property is seized, which includes information about how to claim the property but does not include a specific location for the property, especially since the location of the seized property may change. Accordingly, we would welcome further discussion of this provision.

Third, a perhaps unintended consequence of "unrestricting" all streets to vending is the effect of the bill on Administrative Code Section 19-136 governing store merchants'

sidewalk displays. Such sidewalk obstructions are prohibited on any street where food or general vending is prohibited, and the elimination of all such prohibitions in the bill would thereby similarly permit storefront displays on every street in the City except Ground Zero and lower Broadway. It is suggested that the effect of the bill to allow these structures everywhere be carefully considered and further discussed.

Finally, the bill includes a prohibition on the placement of external structures or objects which have the effect of preventing vending unless the owner demonstrates a public safety need and authorization from the proper City agency. It is unclear how this provision is meant to be construed in light of the Department of Transportation's authority and responsibility to issue franchises, revocable consents, permits, and licenses whether for security related structures or other amenities, and we suggest further discussion on this provision as well.

In conclusion, we would like to express our appreciation for your attention to the issue of vending and the care and thought that went into creating the bill. Although we must oppose the central concept of the legislation, we agree that the current law can and should be improved, as my colleagues will also discuss.

Thank you very much, and we will be pleased to answer your questions.