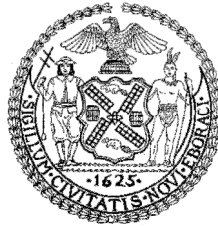


Nicholas Viest  
Chair

Latha Thompson  
District Manager



505 Park Avenue, Suite 620  
New York, N.Y. 10022-1106  
(212) 758-4340  
(212) 758-4616 (Fax)  
www.cb8m.com - Website  
info@cb8m.com - E-Mail

**The City of New York  
Manhattan Community Board 8**

Vendor Task Force  
Wednesday, July 25, 2012  
Marymount Manhattan College, 221 East 71<sup>st</sup> Street  
Regina Peruggi Room, 2<sup>nd</sup> Fl.

**Minutes**

**Board Members Present:** Michele Birnbaum, Matt Bondy, Rita Popper, Will Sanchez, Teri Slater, Nick Viest

**Public Member:** Monica Sanchez

**Excused Absence:** Debbie Teitelbaum, Barbara Rudder

The Agenda for this meeting was a general discussion of food carts, fruit stands and food truck vendors.

1. **Informational talk by Lolita Jackson**, Director of Special Projects for the NYC Office of the Mayor.

In response to questions about the merits and circumstances that would enable the return of the Vendor Review Panel, Ms. Jackson offered a brief history of the Panel and its current status.

In response to inquiry into the rules and regulations that could be put in place to restrict vendors with like merchandise from selling in front of their bricks and mortar counterparts, Ms. Jackson informed us of a 1943 case that was brought under the Commerce Clause forbidding such a restriction.

2. **Food and Fruit Carts:**

Michele Birnbaum read letters sent to the Board office with complaints about vendors from Bob Weiner, Director of Security of the Sherry Netherlands Hotel and Aaron Shmulewitz, an attorney for 785 Fifth Avenue.

Mr. Irwin of A&P Supermarkets explained that the food stores are subject to much more rigid sanitary and temperature requirements than are the fruit or food carts.

Lo Van der Valk, Carnegie Hill Neighbors, strongly advocated that there should be a very visible license number or permit on a cart so that when you complain to 311, you can refer to a specific cart number. This should be of a readable, visible size and should not be permitted to be covered. Each food and fruit cart does currently displays a permit, but they are not easily visible without approaching the vendor. Mr. Van der Valk also suggested that the annual fees paid for a license should be big enough so that they become an investment for the

vendor and, the high cost would inhibit resale, thus reducing the black market for these licenses. The revenue generated could be used for enforcement.

Many attendees complained about the proliferation of fruit stands and the inventory trucks that serviced them. These large trucks stand near the vendor and restock the stand, thus permitting the vendor to remain open for 24 hours if he were so inclined, and many are. These trucks have no sanitary or temperature control, thus raising food safety concerns. The fruit stands are often oversized and stand their produce close to the ground making them subject to exhaust fumes and garbage. Also, many stands throw their boxes and garbage in tree pits and on the sidewalk surrounding the carts.

Michele Birnbaum also reported on and provided pictures of food vendors that bake and package their own candies and cookies, a clear violation of the law.

### 3. **Truck Vendors:**

Michele Birnbaum related complaints by residents and businesses about truck vendors, which include causing pedestrian crowding, trucks being organized in self appointed districts, overstaying their time at meters, attracting rats from subway grates, pouring dirty water and grease into the streets, the presence of gas cans, food temperature concerns and sanitation violations.

Teri Slater wants to establish whether or not food trucks are really legal. She raised the question of whether or not food trucks are part of the food carts category. Can a business be legally conducted at the curb as a self-contained entity with a generator going? She pointed out that a car driver would get a ticket for idling his engine, and food trucks do not. She asks if they are they in violation of the clean air act as they proliferate on the streets and in the parks and green spaces. Teri would like to see a ruling on whether or not food trucks are legal, and if they are legal, she would like to see a separation between food carts and food trucks in terms of licensing and regulation.

Mr. Caleb of the Dept. of Health says they are working on a letter rating system for food trucks similar to what is now used for restaurants.

Nick Viest verifies with Mr. Caleb that enforcement of rules and laws for food trucks and carts both falls under the jurisdiction of the Department of Health.

Michele Birnbaum asked about sanitation around a food truck. She stated that a building or business is responsible for cleaning the street in front of their buildings up to 18 inches past the curb. She posed the question - Should food trucks be required to clean up after themselves and even have sanitation pick-up separate from the buildings they are in front of? Sean Basinski, of the Vendor Coalition, responded that vendors are supposed to clean up after themselves and their customers, and a law requiring cleanup is on the books. If they do not, Sean believes it is mainly an enforcement issue. Mr. Caleb, of the DOH, explained that vendors are supposed to bring their garbage back to their assigned Commissaries at the end of the day. Teri Slater expressed an opinion that the clean up should be constant during the day, not just at the end of the day. Customers throw garbage on the streets, and the building owner is responsible for the clean-up and can incur fines. It was generally agreed that the vendor should be responsible, and the same sanitation and cleanup laws should apply to food trucks and food and fruit vendors. Michele Birnbaum asked, if there is any check on the vendor to confirm that he is actually bringing waste back to the commissary, and is there is any way to evaluate the amount of garbage that would be expected to have been generated during a typical day. Mr. Caleb said that there is no such inspection of a vendor when he

returns to the Commissary at the end of the day to verify that he has returned the garbage he generated.

Mr. Caleb (DOH) explained that every vendor has to have a place where a cart is serviced, and this is known as a Commissary. Matt Bondy inquired whether or not every food vendor has to have a Commissary, and if they do and if they have to list their Commissary on their license, are the Commissaries licensed? Mr. Caleb (DOH) responded that the Commissaries are licensed. Mr. Bondy suggested that it would help to put the Commissary and a commercial carting company in the paperwork, because if this were the case, then there would be recourse with a commercial carter and the Commissary if you could show that they were not having regular collection. During the process of getting a Commissary license, the Commissary should show that they have a contract with a commercial carting company and the appropriate insurance. An insurance company would cancel insurance if they discovered that there were problems with the carting company or collection.

John Harding of the 34<sup>th</sup> Street Partnership expressed frustration and concern over the proliferation of vendors of all kinds and their continued persistence and non-compliance. His group has been somewhat successful in mitigating the problems, but finds that the vendors are not cooperative and that his group must maintain a constant vigil.

Michele Birnbaum reported on the fruit inventory trucks that stand at metered parking spaces all day and often all night alongside a fruit stand and re-supply the stand. These fruits are subject to high temperatures as they stand in the trucks, raising questions about their safety. The trucks are illegally parked occupying the metered spots that are meant for use by the customers of all of the businesses in the area. Ms. Birnbaum suggests that a stand come out with inventory at the start of the day and close up when the inventory is sold.

We see cardboard boxes stacked on the street from food vendors and could not confirm if these are brought back to the commissary for destruction? The fruit stands and food vendors in the following locations were discussed: 86<sup>th</sup> Street between Second Avenue and Park Avenue; 67<sup>th</sup> through 70<sup>th</sup> Streets on York Avenue near the hospitals; 87<sup>th</sup> and Lexington. Michele requested that Mr. Caleb and the DOH please look at these areas and begin to ticket on a consistent basis so as to deter the vendors' non-compliance. Mr. Caleb of the DOH agreed to focus on these areas. A ticketing blitz could help. Inspector Whelan of the 19<sup>th</sup> Precinct and Councilmember Garodnick had helped us in the past, and we had some success removing a fruit vendor from blocking a service entrance on 86<sup>th</sup> Street and in removing truck vendors from active meters. We can have success if there is targeted enforcement.

Lo Van der Valk of Carnegie Hill Neighbors expressed great concern about the fruit inventory trucks because they are illegally parked, questioned the safety of the fruit inside and is also concerned that their presence enables the vendor to re-stock his cart and sell round the clock Brenda Levin raised the issue of the Fresh Direct trucks and was referred to the Transportation Committee to request that they put Fresh Direct on a future agenda.

Teri Slater requested that we look at the clean air act and the legality of generators and containers of gasoline in trucks and on the streets. Michele Birnbaum suggested the following, as possible solutions to concerns discussed: establish truck vendor zones consisting of perhaps 2 or 3 spots with signage that signals the designation; create truck vending spots in parking lots that wish to accommodate alternative spaces inside buildings that have curb cuts and food courts within their ground floor space with guaranteed compliance with sanitary and ventilation regulations.

In general, zones should be formally set aside for truck vending as opposed to an individual driving around or parking illegally at a meter, a No Parking or No Standing zone.

Ms. Slater emphasized that local retail use areas should be restricted to truck vending. She affirms that a person who had moved into a residential neighborhood has a right to expect that it remains residential. Others can't vend in these areas and neither should street vendors be able to vend in these areas. Teri stated that local retail use areas be restricted and could perhaps that could be justified that under some other regulation aside from the Commerce clause.

Questions were posed to Mr. Caleb, but it unclear as to whether or not the DOH writes tickets for fruit stands or trucks when they are oversized or standing in illegal locations.

The community has expressed concern about the vending around the Guggenheim

Ms. Slater requested that Teresa Boemio, the legislative aide to Council Member Daniel Garodnick, look into the Clean Air Act and other regulations to see if truck vendors using generators are legal under these regulations.

Brenda Levin asked about Lexington Avenue between 86<sup>th</sup> and 87<sup>th</sup> Streets and whether or not there should be vending in this location. Michele Birnbaum responded pointing out that this is a transportation hub and has a hidden subway entrance which raises a security issue. This entrance should not be further hidden by a large food truck or vendor. Also, there are big stores there, such as Best Buy and Staples, and these meters are there to accommodate their customers.

Michele Birnbaum expressed that we can make room for vendors, but we need to accommodate the community and the rights of the taxpayer, the residents, and the businesses,

Meeting adjourned.

Respectfully submitted,  
Vendor Task Force Committee Chair