

**Red Hook Lobster Pound-DC, LLC  
1235 Linden Place, NE  
Washington, DC 20002**

November 13, 2012

Mr. Heder Gil  
Legislative Affairs Specialist  
Department of Consumer and Regulatory Affairs  
1100 Fourth St, SW  
Room 5164  
Washington, DC 20024

Re: Comments on Proposed DC Vending Regulations

Dear Mr. Gil:

My name is Leland Morris and I am co-owner and President of RHLP-DC, LLC which does business in DC as Red Hook Lobster Pound-DC (RHLP) and operates two food trucks that sell fresh Maine lobster rolls all around the DC metropolitan area. I am a District resident and RHLP is a DC LLC and is headquartered in Capital Hill (Ward 6). The other co-owner of RHLP is Doug Povich who is a fifth generation native Washingtonian. We both are committed to growing our business in DC and helping DC become a world-class culinary destination and an exciting and vibrant place to live and work.

Doug and I started this business in the Spring of 2010. While our first truck was being built, we started serving our lobster rolls from tents at various festivals and events in the area. Our first truck was completed in August, 2010 and after we received all of the permits and inspections required by DCRA and DOH, we opened on August 19, 2010, parking at Farragut Square for lunch. That day we served over 400 people who had lined up half way around the square, some waiting over an hour for a taste of our fresh Maine lobster rolls.

At the time, there were about 10 food trucks in DC and business was good. Based on our early success and popularity, we began construction of our second truck in the winter of 2010 and in the Spring of 2011 she was launched.

Since our debut in DC, we have received many accolades including being the first and only food truck ever listed in the Washington Post's Fall Dining Guide (2010), being voted best food truck in 2011 and 2012 in Washington City Paper's annual Best of DC competition, winning Washingtonian Magazine's 2011 Food Truck Fight, being #11 on Washington City Paper's 2011 list of the most powerful restaurants in DC, and being named one of the top 6 lobster rolls in the U.S. by Bon Appetit Magazine in 2011. In addition, we have over 35,000 loyal friends and followers on Facebook and Twitter.

I list these achievements not to boast but for two reasons. First, to underscore the fact that the new breed of food trucks that has established itself in DC and around the country is recognized as a significant and welcome trend in culinary circles. World-renowned chefs (including DC's own Jose Andres) have started food trucks and lesser know chefs have started with trucks and have "graduated" to brick and mortar restaurants. In doing so, thousands of small businesses have been started, hiring thousands of employees and demonstrating that these businesses represent a new, creative and viable business model that contributes not only to a city's streetscape but also to it's culture, vibrancy and economic vitality.

Second, it's important to understand that despite our success as one of the top food trucks in the area, it's getting more and more difficult to succeed. The continuing economic downturn facing the country and the region combined with increased competition from additional food trucks on the streets, challenge even the strongest operators, including ourselves. As the slow Winter season approaches, we are looking for ways to cut costs to try to at least break even and get us through to Spring. We have 10 full-time employees and we are doing what we can to keep them employed. Business is down compared to a year ago. While a few local food trucks have succeeded well enough to add another truck or to transition to brick and mortar restaurants, many more have gone out of business. The bottom line message is that this is not an easy business and it's getting harder, not easier. The notions that everyone out there is making money hand over fist and that there are going to be hundreds more trucks on the street are huge misconceptions. The market simply won't support it.

It's in this context that I feel compelled to address DCRA's proposed regulations. Our success and the success of the trucks currently on the streets thus far, as tenuous as that success now is, has been based on the current regulations and our ability under those regulations to park in essentially any legal parking space. This has worked fairly well so far, except for the fact that two hours (the time limit at most parking meters) is an insufficient amount of time during which to provide lunch service. The primary element of our business model is our mobility which enables us to respond to customer demand, to serve underserved areas of the city, and to partner with other businesses in the city for cross-marketing and promotional purposes. Customers and followers all over the city regularly reach out to us and ask us to come serve lunch where they work. Our ability to respond to those requests is critical to continuing and growing our business.

Your proposed regulations, while curing many of the non-controversial administrative issues that needed to be fixed, inexplicably impose several other restrictions for no apparent reasons and threaten to severely curtail our mobility and our existing service areas. They don't address any concerns that we're aware of out on the streets. Instead, they appear to be based on some vague, unstated need to "manage public space." Such a need, while generally legitimate, should not and can not be used as a pretext to impose regulations that would effectively kill our businesses in DC.

Two areas of the proposed regulations are of particular concern: those that preclude vending based on a minimum sidewalk width requirement and those that establish so-called MRV locations for vending. I'll address each area below.

### Minimum Sidewalk Widths

The proposed regulations imposing minimum sidewalk widths and required signage on our trucks appear to be aimed at fixing a pre-conceived idea that food trucks create blockages on sidewalks. As co-owner and operator of a truck that used to have some of the longer lines of customers (they are much shorter now for the reasons I mentioned above), I can attest to the fact that we have NEVER received a complaint about our line of customers blocking passage on the sidewalk or blocking any store or parking entrance for that matter. We manage our lines through frequent announcements and our customers in line are courteous and generally arrange themselves in ways to avoid blocking pedestrians. Customers in lines at food trucks are no different than customers in lines out the door at brick and mortar stores and restaurants - they move out of the way if they are in the way of passers-by. Based on our experience of operating for over two years on the streets of DC, we can attest to the fact that sidewalk blockage is not a problem that food trucks create. This is not a problem that needs addressing, especially in the way the proposed regulations do. The proposed minimum sidewalk requirements are a solution in search of a problem.

Absent evidence of a problem, why would DCRA propose regulations governing minimum sidewalk widths that would effectively eliminate food truck vending from approximately 80% of the most important places we currently vend (based on the study conducted by the Food Truck Association of Metropolitan Washington)? If DCRA has received complaints regarding food truck customers blocking sidewalks, you should say so. Moreover, it's entirely unclear how designating a minimum sidewalk width has any relevance to food trucks when food trucks, unlike sidewalk vendors or outdoor cafes of restaurants, place no physical obstructions on the sidewalk and are present at the curb for only a few hours a day.

The answer is that there is no valid reason to impose minimum sidewalk width restrictions and the proposed rules regarding such restrictions should be eliminated (except for the proposed signage rule which seems reasonable). Keeping them, especially in their current form, threatens to destroy the already fragile state of the food truck industry in the city as described above. Unnecessary regulations that would on their face preclude food trucks from operating in the largest and most important areas in the city where we currently vend cannot help but have a devastating effect on our businesses.

### Mobile Roadway Vending Locations

The proposed regulations for establishing Mobile Roadway Vending (MRV) locations appear to be aimed at solving the problem of parking congestion created by food trucks. Unfortunately, as proposed, the MRV regulations fail in at least four ways. First, they

are overly broad in terms of the perceived scope of the parking problem, and therefore must be scaled back to solve the problem and avoid creating others. Second, by proposing a first-come, first-served approach to assigning the MRV spaces to mobile roadway vendors, the proposed regulations do nothing to improve turn-over at meters. Moreover, as proposed, the proposed regulations do little to fix the primary problem that trucks face, namely the two-hour time limit for parking at a meter. Finally, the fact that there is no clear process associated with determining how MRV spaces are created and modified is highly problematic and needs to be changed.

## 1. The scope of the parking problem

Based on our experience, if there is a problem on the streets related to food truck parking, it exists only in one or two locations in the city where large numbers of food trucks congregate on a daily basis and where there is a potentially high demand for parking spaces by the public. The first area is the east and west sides of Farragut Square (on 17th St. between I St. and K St. NW). This is probably ground zero for food truck activity in terms of the number of trucks that vend there on a daily basis. If you feel compelled to implement some sort of reserved parking system it would make sense to do so here, perhaps as a pilot program.

The second most popular area where many food trucks park on a daily basis is Metro Center (by the metro stop at the corner of 12th and G St., NW), although there is less parking congestion on this block as it is often possible to find parking on adjacent blocks, even during lunch hours. Because there is more parking here, I'm not convinced that there is a need for an MRV to be established at Metro Center.

In the rest of the city where large numbers of food trucks park on a daily basis, there is no need to implement any restrictions aimed at solving problems of parking congestion caused by food trucks because there is little public demand for parking spaces in these areas. It also happens to be the case that there are few food options in these areas compared to the numbers of workers. Specifically, after Farragut Square and Metro Center, the next four most popular areas where many food trucks park on a daily basis are Franklin Park, Union Station (near 1st and Massachusetts Ave., NW), State Department (near 23rd and Virginia Ave., NW) and L'Enfant Plaza (near the metro stop at 6th and Maryland Ave., NW). In these areas, it is often possible to find parking on the same block as the food trucks and almost always on adjacent blocks even during lunch hours.

Based on these facts, I believe that it may make sense to implement an MRV-type parking scheme at Farragut Square on a pilot basis and see how that works for all the stakeholders. If it works well, the pilot could be made more permanent.

## 2. The problem with first-come, first-served

By proposing a first-come, first-served approach to assigning the MRV spaces to mobile roadway vendors, the proposed regulations do nothing to improve turn-over at parking meters where trucks sometimes begin parking well in advance of opening for business. I understand that this is a less than desirable situation and that it is probably what the proposed MRV regulations are at least in part intended to fix. Putting aside for the moment questions about where and how MRV locations are created, the main problem is that the proposed regulations have the MRV spaces being accessed on a first-come, first-served basis. Without a different means by which to assign MRV spaces on a daily basis to different trucks, the current situation where spaces are tied up for extended periods of time will continue and the MRV will have served no purpose in solving the situation.

As a solution, I endorse the reservation proposal described in the comments of the Food Truck Association of Metropolitan Washington, of which we are a member.

### 3. The two-hour parking limit

As noted at the outset, the primary problem facing food trucks is that the two-hour parking limit is at least an hour too short to function as a viable lunch service period. The time required for most trucks, once they arrive at the vending location, to set up, serve customers, break down and stow their equipment for return to their kitchens is about three hours. Under the current regulatory regime, trucks may park at legal parking spaces but the majority of those are metered for two-hour limits. Trucks, therefore, are forced to either leave a location, unable to serve customers in line, or face receiving a parking ticket from parking enforcement officers that appear to have a vendetta out for food trucks, but that's a another story.

Unfortunately, the proposed regulations do little to fix this problem. They seem to set up a trade-off where a truck desiring to operate for more than the two-hour time limit at most meters may only do so in MRV locations established by DDOT. In order to maintain the mobility that is a key feature of our business model, this would require DDOT to establish MRV locations all over the city, even in places where a truck may vend only one day a year. Clearly, that would make no sense. Therefore, as explained above, the scope of the MRV locations needs to be scaled back, at least initially, to only those areas where there is currently a high demand for food trucks.

At the same time, everywhere else, trucks should be permitted to park for a period of time that matches their normal lunch operations. I believe that period is between three and four hours for most trucks service savory food. Trucks could pay a fee and be issued four hour parking permits that could be used at any metered parking space or at an MRV location. My guess is that having the ability to park for three or four hours would eliminate virtually all of the parking tickets that trucks currently receive and would not exacerbate the parking turn-over concern because, by definition, the trucks would be parking in non-MRV locations where there is ample additional parking for private cars.

#### 4. The MRV Process

Finally, I am deeply concerned that the proposed regulations set forth no clear procedures for determining how MRVs are created, modified or removed other than to leave it up to DDOT. In order for all affected parties to know how their businesses will be impacted by your implementation of the proposed regulations, it is imperative that the MRV process be based on objective criteria that are identified in the new regulations and that we are permitted to participate in that process in a meaningful way given the inevitably significant impact that the regulations will have on our businesses. Such procedures should include some means by which to appeal any final decisions by DDOT regarding the creation, modification or removal of MRVs.

In conclusion, RHLP is committed to growing its business in DC and seeing the benefits of a vibrant food truck industry permeate the city. In order for that to happen, any new vending regulations need to be carefully tailored to address the existing issues without over-regulating or otherwise imposing unnecessary restrictions that would effectively eliminate our ability to continue to serve customers in large parts of the city where we currently vend. You have the opportunity to create mobile food vending regulations that can serve as a model for other cities around the country. Please don't waste that opportunity or worse, irrevocably damage a nascent and important small business community.

Sincerely,

Leland Morris, President  
RHLP-DC, LLC