



November 13, 2012

Mr. Helder Gil  
Legislative Affairs Specialist  
Department of Consumer and Regulatory Affairs  
1100 4th Street SW, Room 5164  
Washington, DC 20024

Re: Notice of Third Proposed Rulemaking -- Chapter 5 (Vendors and Solicitors) of Title 24  
(Public Space and Safety) of the District of Columbia Municipal Regulations

Dear Mr. Gil:

Counsel for Democracy (CFD) appreciates the opportunity to provide the Department of Consumer and Regulatory Affairs with comments regarding the Third Proposed Rulemaking for Street Vending. CFD is a nonprofit organization that seeks to provide the American people with a voice in public policy. We advocate and litigate where current or proposed statutes, regulations, or policies do not align with public opinion and where an issue presents an injustice or wealth destruction for society. We build and maintain a network of talented legal advocates committed to promoting social change. Our coalition develops strategic partnerships with policymakers, activists, firms, intellectuals, and advocacy organizations.

Mobile street vendors such as food trucks engage their customer base by connecting directly with the public through grassroots marketing and social media. The public has the opportunity to provide immediate and meaningful input regarding the scheduling of locations and hours, menus, vending needs in the community, and more.

We support the District's efforts to amend street vending regulations, and specifically to clarify the relevant licensing and permitting processes. However, we have concerns that the proposed rulemaking does not safeguard the public interest in access to diverse, convenient, and competitively affordable food choices and that it excessively restricts the ability of mobile street vending entrepreneurs to conduct business. A recent site survey conducted by the District of Columbia Food Truck Association of the ten most popular serving locations in the District found that the proposed "10 foot rule" can potentially keep food trucks out of 8 of those 10 locations.

In addition, we also have concerns regarding the following:

**I. Section 503.3 (j):**

The provision prohibiting the sale of "offensive merchandise" is vague, unenforceable, and violates the First Amendment. Therefore, we recommend amending the current language from "any offensive merchandise, including pornographic or obscene materials" to "any merchandise that is pornographic or obscene."

**II. Section 504.3 (c):**

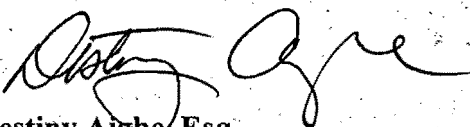
The disqualification for a vending license should not be premised merely on being "[a]rrested, cited, or ticketed," but only upon conviction for the offense of vending without a license. The fact of an arrest does not establish that a violation has occurred. Many arrests do not result in charges, or the charges are dismissed. Even if an individual is arrested and subsequently charged, he or she is presumed innocent until proven guilty. Therefore, we recommend amending the current language from "[a]rrested, cited, or ticketed by the MPD for vending without a license" to "[a]rrested, cited, or ticketed by the MPD leading to a conviction for vending without a license."

**III. Section 533.1:**

Providing the DDOT Director with the "discretion to add, modify or remove a Mobile Roadway Vending location at any time" allows one individual to have unsupervised and unregulated power without any public or industry oversight of such action. There is no opportunity to appeal, disagree with, or counter the decisions of the DDOT Director. Therefore, we strongly urge that this particular provision be removed unless an adequate system of safeguards is put in place.

Please let us know if you have questions after you have reviewed these comments. We welcome the opportunity to be involved in the process of finalizing these regulations.

Sincerely,



**Destiny Aigbe, Esq.**

President and Executive Director

Counsel for Democracy

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