

## **APPEALS COURT UNANIMOUSLY RULES IN FAVOR OF PLANNED RESTAURANT AT UNION SQUARE PARK PAVILION BUILDING**

### ***COURT ALSO DISMISSES CHALLENGE TO UNION SQUARE HOLIDAY MARKET***

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New York, N.Y., June 18, 2013 – Corporation Counsel Michael A. Cardozo and Parks Department Commissioner Veronica M. White today announced that a State appeals court has unanimously rejected a lawsuit challenging the planned seasonal restaurant in the Union Square Park pavilion and the Union Square Holiday Market.

The Appellate Division, First Department rejected an attempt by the Union Square Community Coalition (USCC) to prevent concessioner Chef Driven Market, LLC, from proceeding with construction or operation of a restaurant in the pavilion building, or the City from proceeding with the necessary approvals for the restaurant. The Court also granted the City's motion to dismiss USCC's entire lawsuit, which sought to eliminate not only the planned restaurant, but also the seasonal Union Square Holiday Market, an immensely popular attraction for park goers for more than 15 years.

"This decision correctly recognizes that the City Charter gives the Parks Department discretion to include restaurants and holiday markets in parks and that these elements are an appropriate use of parkland," said Corporation Counsel Michael Cardozo. "Seasonal amenities such as outdoor cafés and bazaars enhance the park experience for City residents and visitors alike."

"Concessions like restaurants and holiday markets have been a welcome addition to the host of amenities in our open spaces for over a century and we are very happy that we will continue that tradition at Union Square," said NYC Parks Commissioner Veronica M. White. "We look forward to having a new food option for park-goers in Union Square Park's restored north end and I am grateful to the Union Square Partnership for its significant help in furthering this endeavor and their continued support."

"We appreciate the swift and clear clarification of the law," said Victor A. Kovner, a partner at Davis Wright Tremaine, the firm representing Urban Space. Since 1997, Urban Space has operated a holiday market on the paved South Plaza of Union Square Park.

"The Union Square Partnership is extremely gratified by the appellate division's unanimous decision and thrilled that plans for the Union Square Park concession can proceed," said Jennifer Falk, executive director of the Union Square Partnership. "This terrific new amenity will enliven the park, making it even more inviting and safer for all visitors. We look forward to welcoming everyone to Union Square Park's new concession next spring."

"We're thrilled to move forward with serving high-quality, environmentally-friendly, and affordable Greenmarket-based food," said Chef Driven LLC principal Simon Oren.

The City had appealed from a January 2013 ruling by Justice Arthur Engoron of State Supreme Court, New York County, granting the plaintiffs' motion for a preliminary injunction and denying the City's attempt to dismiss the lawsuit. The Union Square Partnership filed an amicus brief supporting the City's position on appeal.

In 2008, the USCC brought a previous Article 78 petition challenging the Parks Department's plans to renovate the northern portion of Union Square Park and, in particular, its plan to grant a concession to operate a restaurant in the Pavilion Building. The lawsuit was found to be untimely and was dismissed, since the restaurant concession had not yet been awarded at the time.

The Law Department's legal team included Deborah Brenner of the Appeals Division, and Hilary Meltzer and Amy McCamphill of the Environmental Law Division.

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