



NEW YORK CITY LAW DEPARTMENT
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Press Release

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FEDERAL COURT UPHOLDS CITY'S NEW RULE REGULATING THE VENDING OF ART IN PARKS

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New York, July 16, 2010 – Today a federal court in the Southern District of New York denied motions in two cases brought by artist vendors that sought to prohibit the New York City Parks and Recreation Department from enforcing a recently enacted rule that established designated locations in Battery Park, High Line Park, Union Square Park and portions of Central Park where vendors of visual art, printed matter and other expressive materials could sell their wares.

"We are pleased by the Court's decision," said Mark Muschenheim of the New York City Law Department and the City's lead attorney on the case. "The Court properly recognized that the recently enacted rule reflects a careful balance between the rights of vendors to engage in constitutionally protected activities and the rights of the public to enjoy the City's parks."

The Parks Department enacted the disputed rule to address congestion concerns in these four parks and to also preserve the integrity of the overall design of these parks, including the need to preserve landscapes and scenic views, and to ensure that the parks are available to the public for a wide range of activities, including active and passive recreation, performances, demonstrations and the viewing of historical monuments and public art exhibits. The rule requires vendors that seek to sell "expressive matter" in one of these four parks to do so from one of 100 designated locations (and an additional forty designated locations are available three days a week). The designated spots are available on a first come, first serve basis, and these vendors -- unlike food or souvenir vendors -- do not need a permit. If these designated spots are not available, these vendors can always sell their wares in any other city park or sidewalk, provided that they comply with general vending requirements.

In the Court's decision, U.S. District Court Judge Richard Sullivan ruled: the rule bears "the hallmarks of a carefully considered attempt to advance a significant government interest without placing undue burdens on expressive matter vendors."

The rest of the legal team included Gabriel Taussig, Robin Binder, Sheryl Neufeld and Tisha Magsino of the Law Department's Administrative Law Division.

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