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COMMUNITY BOARD No. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

NEW YORK, NY 10012-1899

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April 26, 2010

William T. Castro
Manhattan Borough Commissioner
NYC Department of Parks
Arsenal West, 24 61st Street
New York, New York 10023

Dear Manhattan Borough Commissioner Castro:

At its Full Board meeting on April 22, 2010, CB#2-Man., adopted the following resolution:

Proposed new rules regarding vending of “expressive materials” in areas of certain parks.

Whereas the Parks Department has proposed a rule change to restrict the number of vendors who may sell “expressive materials” in certain parks; and

Whereas the Parks Department explained the proposed rule at a public hearing of the Community Board 2 Manhattan Parks Committee held on April 7, 2007; and

Whereas excessive vending in parks may create conditions that are detrimental to the enjoyment of certain parks by the general public; and

Whereas the courts have held that the sale of expressive materials is protected by the First Amendment, but may be regulated by government in response to certain public needs; and

Whereas the many New York artists depend for their livelihood on the ability to directly sell their art in busy public places; and

Whereas many vendors avail themselves of the First Amendment protections to sell materials other than expressive materials; and

Whereas one of the directly affected parks, The High Line, is partly located in Community Board 2; and

Whereas other parks and street locations in Community Board 2 may also be affected indirectly by this rule change; and

Whereas the following concerns were raised regarding the rule change and these concerns were not adequately addressed at the public hearing:

1. The rule applies only to a very limited number of park locations, unlike most park rules that apply generally. This may cause vendors to spread out into other parks, some of which may be parks that currently have a different character that will be harmed by the addition of vending activity. Specific parks where this could cause harm in Community Board 2 are Washington Square, Abingdon Square, and Father Demo Square. Would new park locations for restrictions be added to the regulations on an ongoing basis? It may be better for vending to be concentrated in parks areas that are heavily trafficked by tourists or located adjacent to busy shopping areas than to have vendors in every popular community park.
2. More vendors could also be encouraged to move onto sidewalks where they are already causing congestion such as in SoHo, and Parks has no jurisdiction in these areas.
3. It is not clear what percentage of the vendors are truly vending expressive materials or what efforts have been made by the Parks Department to enforce current regulations against vendors who are selling non-expressive materials.
4. It is unclear why the new regulations will be easier to enforce against false expressive materials vendors who appear to be the real cause of the congestion and who are not protected by the First Amendment.
5. Some false expressive materials vendors may be best equipped to take over allowed locations, and true artists will be unlikely to get to these locations with their art on time to reserve them, resulting in locations where the illegal sales of other goods is tolerated because it is more controlled.
6. The rule will create a hardship on real artists who depend on sales in well-trafficked areas in parks.
7. Artists selling their art can be an inconvenience but are also an attraction for many park visitors, bringing a very “New York” activity to tourists, who seek out and enjoy the opportunity to view and purchase art from artists.
8. Opportunities for artists to support themselves by making and selling art are of great value to a city that has a tradition as a home to artists and it is not clear that they will be able to sell effectively if spread out in areas that are less heavily visited.
9. The rule seems likely to cause disputes among vendors and it is not clear how disputes between vendors over locations will be fairly handled.
10. While vendors do add to congestion in certain busy areas, these are mostly highly trafficked areas independently of the vendors and will not become areas for quiet respite just because fewer vendors are present.
11. The Green Market, a much-loved and important feature of Union Square Park, is a permitted activity that generally attracts greater crowds and causes more congestion than the expressive materials vendors nearby.
12. The Holiday Market at Union Square also creates more congestion there than the expressive materials vendors.
13. In many cases the number of vendors to be allowed in a restricted area appears arbitrary and more restrictive than what could be needed to protect public safety or enjoyment of parks, such as a total of six vendors on an entire long block of Central Park South.
14. The new regulation may not meet the legal requirements of regulation of expressive materials.

Therefore it is resolved that Community Board 2 Manhattan supports the efforts of the Parks Department to develop and enforce rules to protect our parks for the safe public benefit and enjoyment; and

It is further resolved that Community Board 2 Manhattan does not support the proposed rule change in its current form; and

It is further resolved that CB-2 Manhattan favors strict enforcement of current rules, especially issuing summonses to vendors who are mixing in with artists but are selling materials not protected by the First Amendment, as a better starting point for controlling problem areas.

Vote: Unanimous, with 40 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,

A handwritten signature in blue ink that reads "Jo Hamilton". The signature is written in a cursive style and is set against a light blue rectangular background.

Jo Hamilton, Chair
Community Board #2, Manhattan

A handwritten signature in blue ink that reads "Tobi Bergman". The signature is written in a cursive style.

Tobi Bergman, Chair
Parks, Recreation & Open Space Committee
Community Board #2, Manhattan

JH/gh

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Thomas K. Duane, NY State Senator
Hon. Daniel L. Squadron, NY State Senator
Hon. Sheldon Silver, Assembly Speaker
Hon. Deborah J. Glick, Assembly Member
Hon. Scott M. Stringer, Man. Borough President
Hon. Christine C. Quinn, Council Speaker
Hon. Margaret Chin, Council Member
Hon. Rosie Mendez, Council Member
Sandy Myers, CB2 liaison, Man. Borough President's office
Lolita Jackson, Manhattan Director, CAU

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April 26, 2010

William T. Castro
Manhattan Borough Commissioner
NYC Department of Parks
Arsenal West, 24 61st Street

Robert Redmond
Director of Capital Budget
NYC Department of Parks
Arsenal West, 24 61st Street

New York, New York 10023

New York, New York 10023

Dear Manhattan Borough Commissioner Castro:

At its Full Board meeting on April 22, 2010, CB#2-Man., adopted the following resolution:

Washington Square. A resolution in support of plans to replace the comfort station and maintenance buildings in Washington Square with a single new building.

Whereas the Parks Department presented plans for a building to replace the existing comfort station and park administration building at Washington Square Park at a public hearing attended by members of the CB-2 Parks Committee, Landmarks Committee, and the Washington Square Task Force; and

Whereas reconstruction of the decrepit rest rooms at Washington Square Park has long been a priority of CB-2; and

Whereas the design by BSKS Architects replaces three existing small structures with a single building at a total budget of approximately \$3 million; and

Whereas the design is for a long curved low building of steel, glass, and stone with a pergola motif; and

Whereas the location and design of the building were developed to minimize disturbance to important underground archaeological sites; and

Whereas the design appears to have a park-appropriate design and was well received; and

Whereas the design responds well to many of the requests made by CB-2 at a scoping meeting in 2009, including reducing the size of the rest rooms and providing access from the front of a multi-purpose building, eliminating vehicle parking within the park, creating a visitor-friendly public access to park administration, providing a certain amount roof space for both “green roof” and solar panels, and avoiding the use of fenced off maintenance areas; and

Whereas there will be four stalls in the women’s room and one stall plus three urinals with privacy separators for the urinals; and

Whereas the comfort station will be fully ADA compliant and there will be a separate “family” rest room; and

Whereas Parks was agreeable to including water saving conveniences such as infrared faucets, flushers, and hand dryers; and

Whereas Parks agreed to give consideration to a CB-2 recommendation to keep rest rooms open until park closing;

Therefore it is resolved that CB-2 is satisfied that the proposed structure is well-suited to the park and when completed will provide an important enhancement; and

It is further resolved CB-2 appreciates the extensive efforts made to design an excellent building for the park and urges the Parks Department to move forward expeditiously with construction.

Vote: Passed, with 39 Board members in favor, and 1 abstention-(Diether)

Please advise us of any decision or action taken in response to this resolution.

Sincerely,

A handwritten signature in blue ink that reads "Jo Hamilton". The signature is written in a cursive style with a large, looped "J" and "H".

Jo Hamilton, Chair
Community Board #2, Manhattan

A handwritten signature in blue ink that reads "Tobi Bergman". The signature is written in a cursive style with a large, looped "T" and "B".

Tobi Bergman, Chair
Parks, Recreation & Open Space Committee
Community Board #2, Manhattan

JH/gh

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