



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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JEAN-DANIEL NOLAND
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

May 14, 2009

Beverley Gotay
Department of Consumer Affairs
Assistant Director of Licensing
Department of Consumer Affairs
42 Broadway, 8th floor
New York, NY 10004

Re: Conflicting Tree Grates Policies

Dear Ms. Gotay,

Manhattan Community Board 4 (CB4) requests that the sidewalk café policies related to trees and tree grates spelled out in the Rules of the City of New York¹, be amended in order to be consistent with the Department of Transportation guidelines, which require a pedestrian clear path of 8 feet from any obstruction.

Under DCA rules for sidewalk cafés, the boundary of the sidewalk café must be 8 feet from the tree pit boundary (section 2 – 46). However Section 2- 52 indicates “trees which have gratings flush to the grade, without fences or guards, shall not count as obstructions for the purpose of the minimum clear path.” Furthermore, DCA recommends “petitioners for or holders of consent to operate sidewalk cafés to remove tree guards that obstructs the required minimum free path for pedestrian passage”, as if the tree was invisible, thus reducing the clear path to 5 ft and forcing pedestrians and pets to walk in the tree pits, which damages the tree.

The distance from where the sidewalk has been cut at the tree pits (the tree pit boundary) should be used to determine the minimum clear path measurement, with or without gratings or pavers. Pavers are not flat or proper for pedestrian walking and so should not count for the minimum clear path. Further, according to the Parks Department’ planting guidelines², “tree grates are not allowed around newly planted or existing trees” (p17).

CB4 requests that the portion of section 2-52, regarding trees with gratings not counting as obstructions, be removed. In addition, the section that recommends the removal of tree guards in order to meet the minimum clear path becomes obsolete and should be removed as well.

¹ Title 6, Department of Consumer Affairs, Chapter 2 : Licenses, Subchapter F: Sidewalk Cafés, Part 1:Revocable consents for Sidewalk Café

² Tree Planting Standards, Adrien Benepe, April 2008

http://www.nycgovparks.org/sub_permits_and_applications/images_and_pdfs/TreePlantingStandards.pdf

We also request that the sidewalk café policy consider parking meters and traffic signs as obstructions, in addition to trees. The new muni-meters are rather large installations with two bollards to protect them. They are also much less frequent than the current meters. The “intelligent” signs installed by the Port Authority on Ninth Avenue are designed for highways and have no less than three bulky electronic boxes protruding from their base, which constitutes a real danger to pedestrians. The Department of Transportation has adopted a policy aimed at reducing clutter and we expect it will include the regrouping of signs on existing poles.

No matter the size of the obstructions, pedestrians might be able to walk around them but disabled persons in wheelchairs cannot. With a multitude of amenities, including sidewalk cafes, increasingly cluttering our sidewalks, pedestrians are forced to walk in the street, especially during peak hours.

Protecting the minimum clear pedestrian path is more crucial than ever, as the city is encouraging walking, and we must ensure that all obstructions are taken into account.

Sincerely,



Jean-Daniel Noland
Chair
Manhattan
Community Board 4



Christine Berthet
Co-Chair
Transportation Planning
Committee



Jay Marcus
Co-Chair
Transportation Planning
Committee



Capt. John Doswell, Co-Chair
Waterfronts & Parks Committee



John D. Lamb, Co-Chair
Waterfront & Parks Committee

[signed]

Millie Glaberman, Co-Chair
Quality of Life Committee

[signed]

Howard Smith, Co-Chair
Quality Of Life Committee

cc:

NYC Department of Parks and Recreation
NYC Department of Transportation
NYC Department of City Planning
Mayor's Office of Sustainability