







NO WORK IN NEWARK

City Must Free Entrepreneurs





Cover Photos Top—To help would-be entrepreneurs in Newark who want to become street vendors, the city should (among other reforms) issue permits year-round, not only once a year, as it does now. Bottom—Like many businesses in Newark, the owner of this restaurant experienced months of delays in opening because of Newark's complicated licensing and permitting maze.

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Executive Summary

With its history of violent crime and political corruption, Newark has become a city that is synonymous with urban dysfunction. Despite recent declines, its murder rate remains four times the national average, and the past three mayors before current Mayor Cory Booker have been convicted of committing serious crimes. Newark has lost nearly half its population since 1950, including most of its middle class. Its unemployment rate and other measures of economic health place the city well below average.

Nevertheless, Newark still possesses a community of grassroots entrepreneurs who provide for themselves and their families, employ their neighbors, and ensure that useful goods and services are available in areas that large businesses have frequently

shunned. These entrepreneurs are the economic anchor of many Newark neighborhoods.

The purpose of this study is to examine grassroots entrepreneurship in Newark and offer practical recommendations on how Newark could reform its laws and practices to encourage more small business. In particular, this study has the following recommendations:

- Eliminate the longstanding economic model in Newark—topdown and bureaucratic/government control—which seriously interferes with entrepreneurship among low-income residents;
- Better perform core government functions, such as policing and infrastructure maintenance;
- Reduce the burdens of occupational licensing, including eliminating much licensing, reducing wait-times and red tape for permits, and overcoming the culture of obstructionism and even outright corruption that so many entrepreneurs identified;



- While still maintaining those relatively few regulations that are designed to protect the public's health and safety, the taxi market should be substantially deregulated, including removing the caps on taxi permits. The medallion system should be abolished. This would create job opportunities and raise the quality of service;
- Newark should revolutionize its bureaucracy and bureaucratic culture that leaves entrepreneurs, especially food-service entrepreneurs, waiting for months and months for licenses and permits;
- There is no reason for the state to require barbers to take cosmetology courses or possess a high school diploma. Nor is there any reason for Newark to force barber shops to close on Sundays. In fact, the state repealed its Sunday-closing law for barbers a generation ago;
- Eliminate or simplify licensing for a variety of occupations that the city regulates, from street vending to parking lot ownership;
- Eliminate the use of eminent domain for economic development, particularly when blight is invoked as a pretext for what is really

just an effort to transfer property from poorer owners to wealthier ones. Newark is one of the worst eminent domain offenders in a state that is a poster child for eminent domain abuse.

Introduction: A Portrait of Newark

Understanding the challenges that Newark faces requires understanding fundamental social and economic problems, and how Newark has been affected by dramatic industrial and demographic changes.

By virtually every measure, Newark ranks near the social and economic bottom of American cities. A Newark resident is almost three times as likely as the average New Jersey resident to lack a high school diploma and about five times as likely to lack a college degree. The violent crime

rate is more than twice the national average, and the murder rate is more than four times the national average.² Of Newark's many street gangs, at least five claim more than 200 active members.³ One in six Newark residents has a criminal record.⁴

The economic picture is similarly grim. Unemployment in Newark, which has always been above average, skyrocketed with the current recession to more than 14 percent.⁵ In the African-American community, which represent more than half of Newark's residents, almost one in four men do not have jobs.⁶

The median Newark income is less than half of its statewide counterpart.⁷ In 2008, before the current recession unfolded, almost 20 percent of households in Newark earned less than \$25,000 per year.⁸ In a city of only 91,000 households, the Newark Housing Authority maintains 8,000 units of public housing and administers federal housing subsidies to an additional 4,000 homes.⁹

These city-specific problems exist in the context of New Jersey's notoriously high taxes and hostility to business and entrepreneurship. According to the Small Business and Entrepreneurship Council, New Jersey ranked dead last of all 50 states on the Small Business Survival Index in 2008, meaning it has the least friendly environment for entrepreneurship.¹⁰ New Jersey also has the highest property taxes in the nation, with the median rate at almost \$6,600.¹¹

Despite the social and economic upheavals of post-WWII Newark, one thing remained constant: terrible government.

Hostility to entrepreneurship and high taxes are not generally considered a recipe for prosperity, and it shows in cities like Newark.

Newark's social and economic problems present a stark contrast to its earlier years in which it was one of the nation's premier cities. 19th century Newark was an emerging industrial powerhouse. Inventors were developing new methods for processing leather and iron, and coming up with electric lighting, celluloid and the stock ticker (one of Thomas Edison's many Newark innovations).¹² During the late 19th century, Newark also established itself as a major international center for insurance and remains home to companies such as Prudential.¹³

Between 1880 and 1920, Newark's population rose from about 135,000 to nearly half-a-million.¹⁴ Just prior to the Great Depression, many credibly claimed that Newark was the greatest industrial city in the world. In addition to its booming economy and status as an immigrant Mecca, downtown Newark boasted 63 live theaters and 43 movie theaters.¹⁵ Market and Broad, called the "Four Corners," was the busiest pedestrian and vehicle intersection in the world.¹⁶

The economic and social dislocations of the Great Depression and World War II caused a significant northward migration of African-Americans to northern industrial centers such as Newark. In the 1950s, Newark, along with Washington, D.C., began to grow into America's great northern "Black" cities (Newark became majority African-American in the mid-1960s). But Newark's African-American migrants arrived just as the major industrial manufacturing jobs were leaving. Remaining work, such as port employment, was dominated by unions that were hostile to black labor. Surrounding municipalities offered Newark companies tax breaks that made it better for them to relocate outside of Newark than rehabilitate aging facilities in the city.

The influx of black economic migrants and the outflow of industrial jobs created a perfect storm of what came to be called "white flight"—the abandonment of American cities by middle-class whites.

As industry and the middle class focused on the suburbs, Newark became a "big government" city, meaning that the municipal government began to play an increasingly large role in the lives of its citizens. Nowhere was this shift more evident than in Newark's embrace of public housing. Newark used destructive urban renewal to raze old housing stock and used federal money to



erect sprawling public housing projects that would later become national symbols of urban desolation and criminality. Newark eventually had more residents in public housing than any city in America.¹⁸

The rapid transformation of Newark's demographic profile led to serious racial tensions. By the 1960s, many predominantly black neighborhoods were served by white-owned businesses that had been established when those neighborhoods were still majority-white. The city government also skewed heavily white despite the growing African-American population. Fewer than 10 percent of police officers were African-American, and most of them held subordinate positions. The black community's economic and political exclusion—reinforced by widespread police brutality and political corruption—turned Newark into the sort of tinderbox that many industrial cities had become by the late 1960s.

The match was struck on July 12, 1967, when two white police officers arrested a black cab driver for illegally passing them. ²⁰ The officers dragged the apparently incapacitated driver into the Fourth Precinct, which was just across the street from the Hayes Homes public housing project. A rumor began to circulate at Hayes Homes that the police had killed the cabbie, though he was only hospitalized. This incident sparked six days of rioting in which 26 people were killed, hundreds injured and millions of dollars in property was damaged. ²¹ Police made 1,500 arrests. ²²

The mayhem in the summer of 1967 accelerated Newark's decline. The population continued to drop as the middle class of all races continued decamping for the suburbs. In 1975, Harper's magazine ranked America's 50 largest cities according to 24 categories such as crime and schooling. Newark, by far the worst, was in the bottom 10 percent in 19 categories and actually dead last in nine.²³

Despite the social and economic upheavals of post-WWII Newark, one thing remained constant: terrible government. In 1970, Newark elected the first black mayor of any northeastern city, Kenneth Gibson, who unseated the corrupt Hugh Addonizio, the last non-black mayor of Newark.²⁴ Gibson made the restoration of Newark's collapsing tax revenues a priority, attempting this by raising taxes on businesses that remained in Newark. This drove businesses out of Newark, drove others such as Ballantine's Brewery into bankruptcy, and continued the longstanding system of crony capitalism in which businesses clamored for tax breaks and other favors from City Hall.²⁵

Unemployment doubled under Gibson and large companies such as Prudential Insurance and the Port Authority enjoyed countless sweetheart deals.²⁶

Gibson was indicted for conspiracy and misconduct during his last term and ousted by Sharpe James in the 1986 election (Gibson was acquitted on these charges, but indicted years later for bribery and fraud, eventually pleading guilty to tax fraud in 2002).27 James continued the tradition of big business power-brokering even as the city slid further into the firestorm of gang crime that engulfed many American cities during the late 1980s and 1990s. In 1996, Money Magazine declared Newark the most dangerous city in America,28 and its nucleus of white-collar jobs in downtown office buildings (jobs that existed primarily because of backroom deals for large corporations) were filled with people who did not actually live in Newark. The city's primary economic development accomplishments during the James era were standard, top-down redevelopment projects such as the construction of a sports stadium to attract a professional hockey team and the building of a performing arts center. None of these initiatives altered the basic stagnation of the Newark economy.

Embroiled in scandals and under federal investigation for abusing his power for financial gain, James decided not to run for re-election in 2006. He was later convicted of fraud related to rigging the sale of city properties to his mistress who flipped them for huge profits, and sent to federal prison.²⁹

James' decision not to run opened the door to Cory Booker, a reformer with a distinctly different pedigree than Newark's previous mayors. A Rhodes Scholar with a law degree from Yale, Booker and his slate trounced the establishment opposition in 2006. Booker focused on reducing crime and other reforms, including supporting charter schools as an alternative to Newark's notorious mainstream public schools. Crime has dropped significantly during Booker's tenure and Newark had a murder-free month in March 2010 for the first time in more than 60 years. He was re-elected overwhelmingly in 2010.

A Culture of Big Government, Not Entrepreneurship

In the Newark economy, virtually everything is forbidden, unless it is permitted. One cannot use property, hire anyone or engage in most common occupations without government permits and licenses. Worse yet, one quarter of the city's land area and its economic center of gravity is the Port Authority, a quasi-government entity that requires a contract with, and a cut of the profits from, anyone wanting to do business there, whether they operate an airline or a shoeshine stand.

A symbol of Newark's big government culture is the city's own website.³³ There are extensive resources on the website about how businesses can secure city contracts and the elaborate rules the government has had to institute to prevent

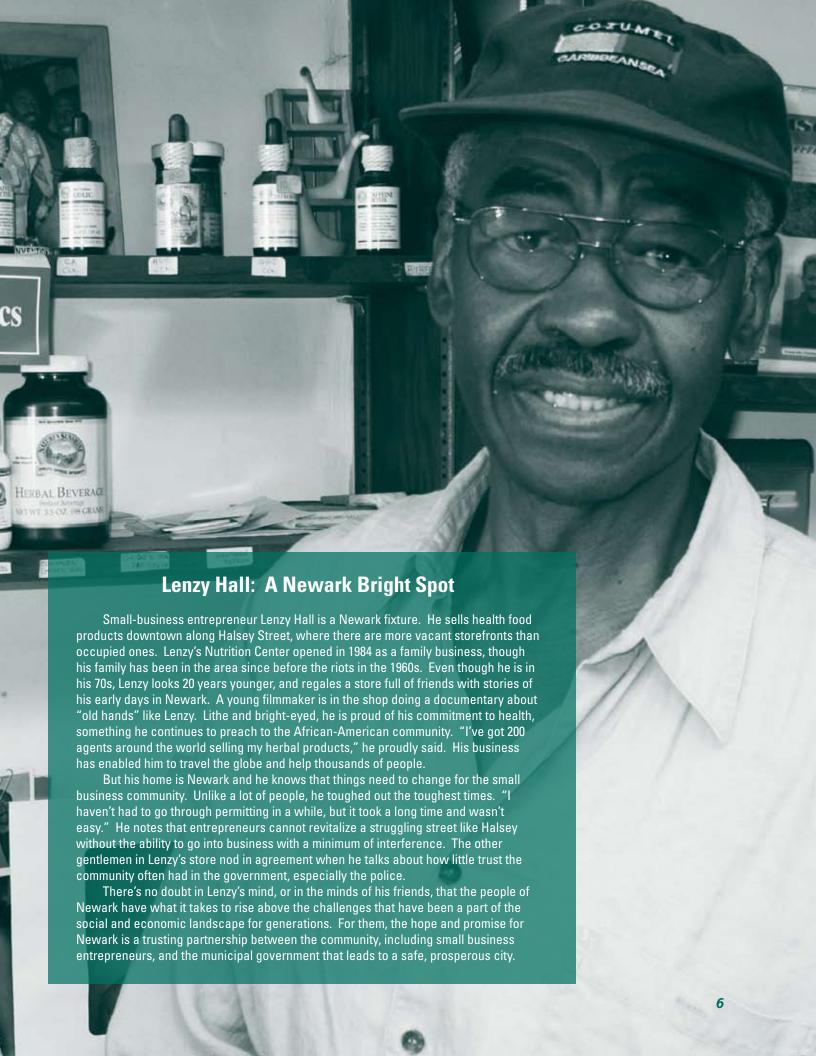
corrupt public officials from awarding contracts to cronies and financial supporters. But there are essentially no resources on the website for entrepreneurs who want to go into business. No license applications, no guidance, no sense of what departments one needs to visit or how long it will take to get into business.

Fractious racial politics of the past and present have created a culture in which Newarkers often need the assistance of city councilors, the mayor, the police and other public officials to get things done. There was a consensus among Newarkers interviewed for this study—both African-American and otherwise—that the culture of political agitation and confrontation, often rooted in racial resentments on all sides, has come to dominate Newark public life in a way that makes it difficult to do anything without having connections and working with the right people.

Mayor Cory Booker's greatest challenge and greatest accomplishments involve disentangling Newark from the legacy of corrupt agitators like former Mayor Sharpe James. It is unsurprising that grassroots entrepreneurs without political connections who are trying to start a small business feel demoralized when trying to get underway in the culture that is Newark.

Even well-meaning nonprofits trying to encourage entrepreneurship in economically depressed areas seem to have succumbed to the top-down model. Courses on entrepreneurship routinely involve instruction on how to get government grants and contracts. And official efforts, such as the entrepreneurship incubator at the New Jersey Institute of Technology, reflect an emphasis on the sort of sophisticated entrepreneurship that is not a realistic option for low-income Newarkers. Hat is needed most in Newark are opportunities entrepreneurs can create for themselves without a great deal of additional education or financial capital. But it is just those kinds of opportunities that rely more on individual initiative and sweat equity—and not government largess—that the system discourages.

The key for Newark is to get more done by doing less. Newark simply must get out of the way of those who want to create



businesses and employ others. It must resist the temptation—a temptation to which the city has succumbed for generations-to make entrepreneurial success dependent on who one knows. Mayor Booker's support for school choice programs, in which parents are given the opportunity to send their children to charter schools, shows the current city leadership understands that choice and incentives can be transformative. This report encourages Mayor Booker and everyone in Newark to adopt a decentralized, choice-oriented model of entrepreneurship for the whole city. There is enormous potential among Newark residents to become the source of their own prosperity, but that energy cannot be released without dismantling the legal and cultural barriers to grassroots entrepreneurship.

Occupational Licensing

Like virtually every city across the country, Newark presents a complicated web of city and state occupational licensing laws. For grassroots entrepreneurs, who almost by definition have scarce financial resources and little ability to hire attorneys, this web is usually impossible to avoid and very difficult to escape from once in it.

The remarkable thing about mandatory occupational licensing is that, as a rule, it serves no legitimate purpose. Economists who specialize in

studying occupational licensing have been consistently unable to identify practical benefits from licensing.³⁵ Different states with different approaches to licensing the same occupation have the same experiences. There is no strong evidence that licensing an occupation results in better services or improvements in public safety. There are only two groups that clearly benefit from the existence of occupational licensing laws: those in government who administer the laws, and thus gain employment and power, and existing businesses that often work with the political establishment to create new barriers to entry to keep out new competitors. For government officials and existing businesses, such laws are a winwin; but for consumers—who never see new and innovative services and who pay higher prices for poorer service—and for would-be entrepreneurs who want to better serve consumers while providing economic opportunity for themselves and others, such laws are nothing short of a disaster.

The lack of benefits from licensing laws is true even for highly skilled professionals. In one recent study, for example, variations in dental licensing across states did not produce better dentists or a healthier public in the states with the most restrictive licensing regimes. ³⁶ If there is no conclusive evidence that licensing dentists improves public health, then what is the likelihood that the horde of occupational licensing is effective at providing the public with better, safer services? Is there any reason, for example, to believe that, until it was amended in the summer of 2010, Louisiana's decision to license florists resulted in better flower arrangements than what consumers bought in the other 49 states where florists do not need a license?³⁷

The only thing government-imposed occupational licensing does with any certainty is raise prices for consumers and limit competition, and this explains why licensing has proliferated enormously since the end of World War II. 38 Occupational licensing is a barrier to those who want to enter a market. In other words, occupational licensing laws make it harder for entrepreneurs to go into business. By screening out entrepreneurs, occupational licensing laws reduce the supply of the goods or services that those entrepreneurs would have provided. It is,



of course, elementary economics that when the supply of something goes down, the price goes up.

And that is the point.

Occupational licensing represents a restriction on perfectly fair competition in the marketplace in order to drive up prices for the benefit of those who hold licenses to practice the occupation in question. It should come as no surprise that economists who study occupational licensing have discovered that it is typically practitioners of the regulated occupations that lead the charge for regulation, not the public.

Eliminating occupational licensing—or at least simplifying the process of applying for a government-issued license and removing all arbitrary barriers to entry—is the easiest, cheapest and most effective step Newark could take immediately to raise employment and unleash the creativity of its native entrepreneurs.

Taxis

Owning and operating a taxi is an entry-level entrepreneurial opportunity that has put food on the table for countless Americans and many recent immigrants. Driving a cab takes little more than knowledge of the road and routes, a safe, insured and inspected vehicle, and a desire by the driver to earn a living. But unfortunately, in Newark, as in other big cities across the country, the local transportation market is bound up in so much red tape that starting an independent taxi business is next to impossible.

This red tape, which suppresses competition and thus diminishes quality, has created a taxi culture in Newark that is notorious for bad service and drivers who refuse to run the meter. In a recent ride the author of this report took from Newark's Pennsylvania Station to a local hotel—the driver refused to run the meter even after being asked to do so. He was surly and uncommunicative other than to say it was \$10 to the hotel, which was only a few blocks from the station, higher than the fare would have been on the meter. In speaking with other Newark residents, this was not an uncommon experience.

There are two basic types of cabs in Newark. First, under city law, there are 200 cabs licensed to service passengers at Newark Liberty International Airport.³⁹ These cabs each require an airport medallion. These medallions are bought and sold on a secondary market and, according to the head of Newark's taxi commission, cost approximately \$300,000.40 In other words, a person who wants to go into the cab business and pick up passengers at Newark's airport must not only invest in a car, he or she must also buy a prohibitively expensive license, in the form of an airport medallion, to go into business. These medallions are expensive because they are scarce, but that scarcity is created entirely by the government placing an artificial limit on the number of medallions available. Worse yet, the system is self-perpetuating because once drivers or companies have invested so much in medallions, they have an enormous incentive to preserve the cap on the number of medallions in order to protect their artifical value.

The second type of license is an ordinary taxi license to serve passengers across Newark except at the airport. There are 400 such licenses.⁴¹ This number is also fixed by city law, and there are no plans to expand the number of licenses.

The Newark taxi commission is also a model of how not to run a municipal bureaucracy. The commission does not have a website or provide any information online. No applications, rules or regulations are available. No one in the office—whether you call or visit in person—can give a prospective entrepreneur any insight into when or how someone might be able to start a new taxi company. All they will tell you is how to obtain an individual taxi driver's permit, which involves showing up on a designated day and standing in line.

The U.S. Federal Trade Commission has repeatedly concluded that barriers to entry into the taxicab business do not help consumers. ⁴² This should come as no surprise. Competition—and the positive economic incentives it provides—leads to innovation and improvements in customer service.

Newark should follow the lead of innovative cities such as Minneapolis, which recently deregulated its taxi business. Anyone who wants to drive should be allowed into business, and Newark should not be dissuaded by cries that opening the taxi market will improperly "take" away the money that medallion holders have invested in their permits. A federal court of appeals recently rejected a lawsuit by drivers who tried to stop the deregulation of the Minneapolis taxi market, ruling that no one has a "right" to be part of a government-created cartel that prevents others from taking up honest work to support themselves and their families.

Food Service

Food-service entrepreneurs actually find Newark to be a pretty friendly place to do one of the most difficult things in business: open a successful restaurant.

Although there is plenty of room for improvement in permitting delays, Newark deserves commendation for two things that distinguish it from other cities. First, Newark appears to realize how long permitting can take, particularly for the food-handler's permit, and will allow restaurant entrepreneurs to go into business provisionally until a food-handler's class is available. Second, Newark also allows food-vending trucks, which provide a low-overhead, flexible and innovative entrepreneurship opportunity. Newark also gets an honorable mention for allowing its many street vendors to sell food.

Having said that, there are still areas in need of improvement. In particular, Newark restaurateurs repeatedly expressed concerns over the slow pace of permitting, the often unhelpful city workers responsible for permitting, and Newark's persistent problems with crime and infrastructure.

Restaurants

Ignatius Paslis is the sort of entrepreneur that every community needs more of. After working for several years in construction and seeing work dry up after the market went flat, he decided to pursue his dream of becoming his own boss. He wanted a simple business that he could start on a modest budget and operate with the skills he had learned in business school. He found a perfect opportunity in an available storefront in the heart of the Rutgers campus in downtown Newark. He would open a small café offering basic foods and beverages to the student and lunchtime crowds, with plenty of lounging space for chatting and surfing the wireless Internet connection. Metro Café opened in May 2010, just missing the end of the school year and, with it, his best source of customers.

Ignatius learned that one of the most important skills a Newark entrepreneur needs is the ability to cut through rolls of red tape. It took three to four months for him to get the host of licenses and permits that he needed, including state and municipal business licenses, tax identification, a waste permit, food-handler's permit, building inspections, fire inspection, and even permission from the historical preservation committee.

The delays were brutal, especially when he was spending money to work on a business that could not open without the appropriate permits. Because of Newark's depressed economy, the landlord offered Ignatius two months free rent, which he burned up waiting for Newark to let him go into business. He would call city hall to check on the status







Due to the overbearing regulations places on starting up a business in Newark, the owners of the Metro Cafe (left) and this food truck (right) have had to overcome government-created barriers to open their businesses. Sadie Galarza and Michelle Rosado, who own the food truck, could not afford to wait to launch their mobile business until they had enough money to paint it, so they just decided to launch their business and worry about the paint later.

of his applications and no one would answer the telephone. The city-offered courses for the food-handler's permit were always booked up with a months-long wait list.

"I want to do things by the book," he said, "but there are too many rules."

For example, Ignatius wanted to recover the awning in front of his business, replacing the sign for the previous tenant with his new Metro Café colors and logo. To do this, he had to petition the Newark Historic Preservation Commission because Metro Café, though not in an historic building, is within a designated historic preservation district. The Commission holds hearings only once a month and the application needs to be filed 14 days prior to the hearing. Although Ignatius was ultimately able to put up his awning, this experience symbolized the needless drag that Newark government routinely imposes on the inherent dynamism of entrepreneurs. A budding businessperson should not have to beseech a municipal commission to replace a simple awning over a new business, particularly when the business is not itself in an historical structure.

"The other frustrating thing," Ignatius added, "is that the city doesn't really get its main jobs done."

The sidewalk in front of Metro Café is broken and uneven, and—echoing the concerns raised by another entrepreneur who did not wish to use his real name for this report for fear of reprisals—garbage just sits out front for days without being picked up. Ignatius can take care of his own private space inside Metro Café, which he has outfitted with a stylish modern décor, but he cannot fix the public spaces that should tie the city together.

The key reform Newark needs to help its restaurant entrepreneurs is to streamline the permitting process and make it more efficient. Efficiency has two basic components. First, permits should be granted

faster. Second, municipal workers should reliably be available to answer questions and update applicants on the status of their permit applications.

Food Trucks

One bright spot on the Newark entrepreneurial scene is the presence of food trucks. All across the nation, mobile food trucks offer the urban lunchtime crowd a diverse array of inexpensive American mainstays and ethnic cuisine. Food trucks in some cities have led innovative culinary movements that blend, for example, Asian and Latin American influences.

Unfortunately, too many cities across the country have banned food trucks or severely restricted them. The culprit, as usual, is economic protectionism. Traditional brick-andmortar restaurants with high fixed costs and immobility often resent the flexibility and rock-bottom prices that food trucks provide.

But not Newark, which allows food trucks and thus has supplied low-income food entrepreneurs with a way to get into business that does not require the full





capital investment of a conventional restaurant. This is exactly how the government should operate: After requiring the would-be entrepreneur to meet basic health and safety concerns, the entrepreneurs are free to pursue an honest living in the occupation of their choice without needless and often purposefully anticompetitive government-imposed restrictions standing in their way.

Sadie Galarza and Michelle Rosado are, like Ignatius, victims of the recession. When Sadie was laid off last year, she decided that she would use the opportunity to pursue her dream of business ownership. "There was no work in Newark and I had some money saved," she said. "It seemed like a time to take a chance."

Michelle was also looking for a business opportunity and she actually owned a delivery van that would be ideal for a food truck. These twenty-somethings formed a partnership, pooled their money, called on their own skills and the help of relatives to outfit the vehicle, and then opened Sabor del Cielo ("Taste of Heaven"), a rolling restaurant serving delicious Puerto Rican cuisine.

Sadie and Michelle walk a thin edge every day. Having sunk everything they have into their business, all of their hopes and dreams depend on getting people up to the window of their food truck at lunchtime. They embody the courage and daring of the very best entrepreneurs. In fact, their food truck is just a gray box because they didn't have enough money to outfit it, buy supplies and paint it. They must work hard every day to put money away to paint their truck so customers can remember and recognize them. How many people would have the guts to go all-in like Sadie and Michelle?

Like Ignatius, they encountered a lot of bureaucracy, especially a long wait for a food-handler's license. But, in their case, Newark waived the requirement of having the license before they opened and they were allowed to go into business as long as they took their training as soon as it was available. Newark also allows them to pull their truck over and sell food wherever there is available curbside space. In other words, they are not forced to work out of a fixed spot every day as is often the case in other locales. That means they have the freedom to experiment with locations and follow crowds to maximize their business—they have the freedom to succeed.

The flexibility Newark is showing food truck entrepreneurs is something that should be expanded across the board. Sadie and Michelle are the sort of self-reliant businesswomen that drive economic expansion and prosperity everywhere. Newark should

make things even easier for other food truck entrepreneurs and make things much better for other occupations subject to needless licensing.

Street Vending

For those with little capital, one of the simplest businesses is a push cart selling ordinary wares such as clothing, hats, purses or food. All it takes is a little cart, which can be made by hand for a few hundred dollars, and some low-cost goods. It is often an ideal business for recent immigrants who arrive with relatively little and come from cultures where street vending is common.

Newark has a bustling street vendor culture, with most of the carts clustered in the downtown core. Allan Smith has been a vendor for 13 years. An immigrant from Trinidad and Tobago with a shock of dreadlocked hair, Allan began vending to be his own boss, support himself and his family, and enjoy interacting with people on the streets of Newark. His cart is piled high with purses and hats, and he pauses conversation to attend to customers as they browse the goods he has for sale.

Vending is generally a good business. Because of low overhead and modest capital costs, Allan caters to low-income Newark residents who find his prices and convenience ideal. But low overhead does not mean no overhead. Allan must pay to transport and store his push cart each night. He works long hours, often in bad weather, and his income fluctuates with the season and with the economy. Now, with unemployment and economic uncertainty high, he finds fewer customers, and those he has drive harder bargains.



Peddlers need an annual license, and they are expensive at \$250.⁴⁴ That is a substantial sum for someone who is trying to minimize startup costs or who may just be scraping by. Even more problematic, such licenses are typically issued only once a year, in April.⁴⁵ Thus, a person who wants to go into the peddling business needs to wait until April for a license, regardless of his or her ability to go into business immediately and regardless of market conditions. There is no obvious reason for either the high cost of the license or their once-a-year issuance.

Newark made an exception to the peddling license rules in October and November of 2008; the city accepted applications for new licenses to help residents earn more money during the unfolding recession.⁴⁶ The city recognizes, in other words, that street vending can provide a low-cost way to go into business and provide a quick revenue stream. Given this recognition, it is unclear why Newark restricts licenses at all. A sensible and simple reform would be to issue vending licenses year-round.

Another helpful reform would be to eliminate the vending license prohibition for those with a criminal record. ⁴⁷ The harsh reality of the Newark workforce is that a significant fraction of residents, particularly men, have a criminal background, often involving nonviolent

drug offenses. While the government may have a legitimate interest in ensuring that street vendors do not become distributors of stolen goods, a blanket prohibition on granting peddling licenses against anyone convicted of a crime at any point in his life goes much too far.

The city could easily limit the restrictions to persons who have been convicted of crimes of fraud and dishonesty. The dearth of gainful employment opportunities for people who have served time warrants providing them with a plausible avenue for business ownership and self-support.

Concerns about peddling carts being used to sell illegal goods appear overstated. A casual stroll down Newark's street vending hot spots makes several things clear. First, the carts all sell new goods. Second, the public display of goods on open-air street carts makes the inventory easy for passing law enforcement to inspect. Finally, as Allan made clear, the community of street vendors police themselves. They realize that their collective legitimacy depends on everyone selling legitimate goods at reasonable prices.

At a minimum, Newark ought to at least experiment with granting street vending licenses to those with criminal backgrounds.

Flower Vending

Astonishingly, Newark requires a permit to sell flowers. 48 Yet even the city seems to recognize the superfluous nature of the permit. There are no qualifications. It is simply a matter of processing paperwork and paying the \$25 fee. This is an example of bureaucracy for its own sake that should be abolished.

Arranging and selling flowers is something anyone can do, and there is not even the faintest possibility that a person could be injured by a flower arrangement. A small floristry shop or selling flowers on the street provide low-income city residents with a traditional entrepreneurial opportunity. Newark should not impose



needless red tape on such simple occupations.

Like the requirement that barber shops have a window so that authorities and competitors can verify that the business is closed on Sundays, Newark's florist licensing law has a foggy origin that is likely rooted in hostility to immigrant peddlers who could provide flowers at a lower price than established brick-and-mortar florist shops. But brick-and-mortar stores have no right to be protected from competition from entrepreneurs with a different business model. Anti-competitive laws like this should be repealed.

Public Markets

Operating a public market like a flea market, or being a vendor in such a market, is a simple entrepreneurial opportunity for low-income Newark residents. But as soon as three people want to come together at the same time in the same place to sell different things, an array of licensing requirements come into play.

First, both the "operator" of the market and the individual "vendors" need licenses. ⁴⁹ The operator needs a license even if he or she simply provides the space for the market at no charge. For example, a gas station that allowed two food carts and an artist's kiosk to set up in the parking lot for free to attract customers to the gas station would become a public market operator. The ordinance thus stamps out small-scale, spontaneous entrepreneurship as much as burdens more organized endeavors.

Not only are there needless licensing requirements for both market operators and vendors, the licensing scheme allows members of the public, including potential competitors, to object to licensing. ⁵⁰ Each application for a market operator or vendor license must be submitted to the Director of Finance at least 30 days before going into business.

Although the Director is not supposed to entertain "palpably frivolous objections," it is not clear in the ordinance what the limits of the objections are. It appears to be well within the scheme

for potential competitors to object. In other words, higher-cost retailers, such as traditional brick-and-mortar stores, can undermine either entire public markets or individual vendors with objections that have no purpose other than to protect existing businesses from competition.

An objection triggers a mandatory public hearing by the Newark Director of Finance in which evidence may be collected and witnesses may be heard.⁵² In beauracratese, such a hearing is "subject to all relevant administrative laws, ordinances and regulations." In other words, a person who wants to set up a simple market, or who simply wants to sell something in such a market, must be prepared for a legalstyle challenge coming from a potential competitor or a neighborhood curmudgeon who simply does not like the idea of a public market nearby. If the proposed market is not authorized under the zoning code for the location the operator wants, then he or she must seek a variance and endure all of the delay and bureaucracy that entails.

Finally, even if Newark is prepared to grant the license, the entire market must be fenced in behind a seven-foot barricade installed along the property lines.⁵³

The substance of these regulations is to eliminate any possibility that a low-cost public market could be assembled quickly and spontaneously through the cooperation of market operators, vendors and other

entrepreneurs. Instead—in keeping with Newark's general approach to business—public markets need to be run from the top down, subject to rigid bureaucratic licensing and regulation, and exposed at all times to the threat of an objection by a competitor or neighborhood nuisance.

Barber Shops

Barbering is an occupation that is overregulated everywhere and Newark is no exception. New Jersey statutes require extensive training and have many rules that, like most occupational licensing restrictions, are far more than necessary to protect public health. The conclusion of this study is that the overregulation of barbering represents a successful effort by existing tradesmen to erect barriers to entry into what is actually a very simple job that many people could do. The government-imposed license and senselessly burdensome educational requirements create needless barriers to this otherwise very accessible trade.

The city of Newark earns the dubious honor of having the most blatantly protectionist and illegitimate barbering law in New Jersey. In Newark, it is against the law to open a barbershop on Sunday and working hours are restricted every other day of the week.54 And not only that, all barbershops must have windows that allow observation of the interior, presumably to allow government officials and competitors to ensure that a rogue barber is not serving customers on a Sunday or after designated hours.55 Although the precise origin of this law could not be determined, it is clearly aimed at disabling competitors and likely

harkens back to an era in which state and local governments in the northeast were passing countless economic regulations to interfere with the economic liberty of immigrants who were willing to work longer hours than established, and usually white, workers.

If you want to set up a barber shop, in addition to the usual red tape associated with opening a business, you need a shop license from the state.⁵⁶ But to get a shop license, you must have three years of experience working in someone else's shop. There is no legitimate reason to prevent aspiring barbers from opening their own businesses for three years. Cutting hair is not rocket science and the only real danger to the public from a licensed but inexperienced barber is a bad haircut that will grow out in a few weeks. Any education needed to prevent the spread of contagions, such as lice, can be dealt with in a brochure and training that might tally into the tens of hours—not into years of apprenticeships. Not even the traditional professions such as law and medicine require new lawyers and doctors to work for others for three years before starting their own practices. The primary purpose of this requirement appears to be to limit the ability of new entrepreneurs to enter the market and compete with existing shops.

Other requirements for barbers are similarly baseless. For example, barbering now requires a high school diploma. ⁵⁷ There is no rational reason to require someone who simply trims hair, beards and mustaches to have completed high school. There cannot possibly be any connection between the ability to cut hair and a high school diploma. This sort of regulation hits hardest in urban areas like Newark that have a disproportionate number of residents who lack a high school diploma.

Aspiring barbers must also complete a full cosmetology course, including extensive instruction in techniques that many barbers never use, such as manicures, pedicures, facials and chemistry related to cosmetology. In New Jersey, the academic and practical instruction for a cosmetology license must add up to at least 1,200 hours. Tuition at even an inexpensive cosmetology school can run more than \$10,000. That is a substantial investment in time and money for someone who just wants to be a simple barber. The investment is even more daunting when barbers can only expect to earn about \$14 per hour in New Jersey. Then, despite graduating from a cosmetology school, barbers must take a state-administered test.





By law in Newark, barber shops must close on Sunday, even though that may be an ideal time to serve busy customers.

Going-Out-of-Business Sales

Most new businesses fail, and most of those that close their doors do so within just the first few years of opening. And, to ultimately succeed, many entrepreneurs must become "serial entrepreneurs"—trying one new enterprise after the next to finally succeed after earlier businesses have failed. As unfortunate as a failed business is, however, its demise creates opportunities; opportunities for the unsuccessful business owner to try something new, opportunities for consumers to purchase goods at discounted prices, and opportunities for other entrepreneurs to step into the failed business' space and create something new. In fact, it is vitally important for entrepreneurs and for the economy that unsuccessful businesses be able to wind down quickly and efficiently.

Newark, however, imposes needless costs and bureaucracy on going-out-of-business sales. Believe it or not, a license is necessary to hold a going-out-of-business sale and a business cannot advertise that it is going out of business without government permission. ⁶⁰ The only apparent purpose for this law is to protect existing businesses from other businesses that may use a going-out-of-business theme to attract customers. But let's be clear: There are already laws on the books to prevent the fraud of never-ending going-out-of-business sales; all Newark's licensing requirement does is add insult to injury for businesses that must genuinely close shop.

Under municipal law, only established businesses may go out of business.⁶¹ In other words, you must prove to the government that you have been in business in order to go out of business. Next, you have to provide the government with a detailed statement of your inventory, continuously update the inventory over the course of the sale, and not bring in any new inventory.⁶²

As noted above, the apparent purpose of the going-out-of-business license is to prevent fraudulent sales from occurring. These would be sales in which a business falsely stated that it was going out of business in order to attract customers who might think that the store will offer special discounts or goods or services that will not be available for long.

But it is not clear what the law is supposed to accomplish. Again, New Jersey law already prohibits outright fraud. Consumers do not need to be protected from low prices. And it is difficult to imagine that so many business owners would resort to false sales—and in so doing somehow harm consumers—that Newark's intrusive going-out-of-business licensing scheme could be justified.

Newark overlooks the most glaring problem with its going-out-of-business licensing regime: It is patently unconstitutional. Stating to the public that one is going out of business is a constitutionally protected form of commercial speech. The U.S. Supreme Court looks with great disfavor on laws that forbid people from saying things without first getting government permission. In the law, this is called a "prior restraints."

So, in sum, Newark's going-out-ofbusiness law imposes a needless burden on those struggling with the challenges of a failing business, is useless at protecting the public, and violates the right to free speech, to boot. This law should be out of business.

Shoe Shine

Newark requires a license to perform one of the simplest services imaginable—shining shoes. 65 A potential shoeshine artist must register with the police and pay a series of fees. The government can deny a shoeshine license if the budding entrepreneur has been convicted of a crime.

There is no imaginable public benefit to requiring a license for shining shoes. Furthermore, a shoeshine is not in any position of trust or in any position to harm anyone, so prohibiting this means of earning an honest living for an individual who has committed a crime but has served his time makes no sense at all. All this restriction does is close down yet another means of employment for an entire class of individuals who most need such opportunities to get back into the American mainstream. How are people with criminal records supposed to rehabilitate and support themselves if they are barred from even the simplest work?

Even people convicted of crimes retain a basic constitutional right to earn an honest living free from unreasonable government interference. Given the total absence of any legitimate justification for licensing shoeshines, Newark's law is not simply a bad idea, it's almost certainly unconstitutional too.

All this restriction does is close down yet another means of employment for an entire class of individuals who most need such opportunities to get back into the American mainstream.

Hand-Billers

Newark makes it a crime to distribute advertising material by hand without a government license.⁶⁶ To get a license to distribute advertising handbills, an applicant must designate the proposed extent of her handbilling, including a length of time, provide a physical description of oneself, one's addresses for the past three years, and submit to a criminal background check.⁶⁷ If the chief of police deems the applicant of good moral character after this process, the applicant must undergo fingerprinting and be photographed.⁶⁸

How can any of these requirements be necessary for a job that amounts to passing out coupons for discount lunches or shoes?

This law does not alleviate littering or reduce the possibility of people being a nuisance to the public. After all, littering and making a nuisance are already against the law.

Because the law exempts the employees of businesses engaged in handbilling, the apparent purpose of the law is to prevent businesses from hiring people on a short-term basis to advertise short-term sales. Such a law advantages large businesses with access to mass advertising media such as television over small businesses that are much more reliant on traditional forms of street-level advertising. In other words, once again, Newark has a needless licensing law that seems tailormade for squelching competition.

Not only is the law a waste of time and energy, it has the added disadvantage of being flatly unconstitutional for the same reason that the going-out-of-business sale license is. The free speech clause of the First Amendment generally does not allow the government to a license speech, whether that speech is political or commercial. To be sure, the government can reasonably regulate the time, place and manner of handbilling through general ordinances, but getting government permission to speak in the form of a costly and time-consuming license offends the Constitution.

Auctioneering

Newark also imposes an array of bizarre and unconstitutional requirements on auctioneers. 69 Not only do these regulations interfere with ordinary auctions, they would



make it illegal for a tech entrepreneur in Newark to create a business like eBay or any of the other Internet auction sites.

To the extent Newark's auctioneer's license addresses a legitimate government interest in fraud prevention, the license is superfluous. New Jersey law already regulates auctioneers and prohibits fraud and the sale of stolen goods.

The other licensing requirements are either totally arbitrary or reflect an effort to protect conventional businesses from competition from auctions. For example, a prospective auctioneer must submit a resumé to the government, detailing auction work for the past three years, along with letters of reference and other evidence of integrity. The government appears to have the discretion to deny a license based on its subjective judgment that an auctioneer lacks character.

Other requirements seem plainly unconstitutional and protectionist. For example, Newark requires an auctioneer to be a city resident for at least three years before being allowed to engage in auctioneering. But the U.S. Supreme Court has long regarded durational residency requirements as a violation of the right to travel or the Commerce Clause. In other words, the Constitution has created a common American market and citizens are allowed to move from state-to-state or within states to find work without encountering residency requirements. Imagine what the economy, and life in general, would be like if all occupations were subject to a residency requirement. The only plausible reason for this lengthy residency requirement is to discourage auctions and auctioneering, likely to protect the business model of established retail goods stores.

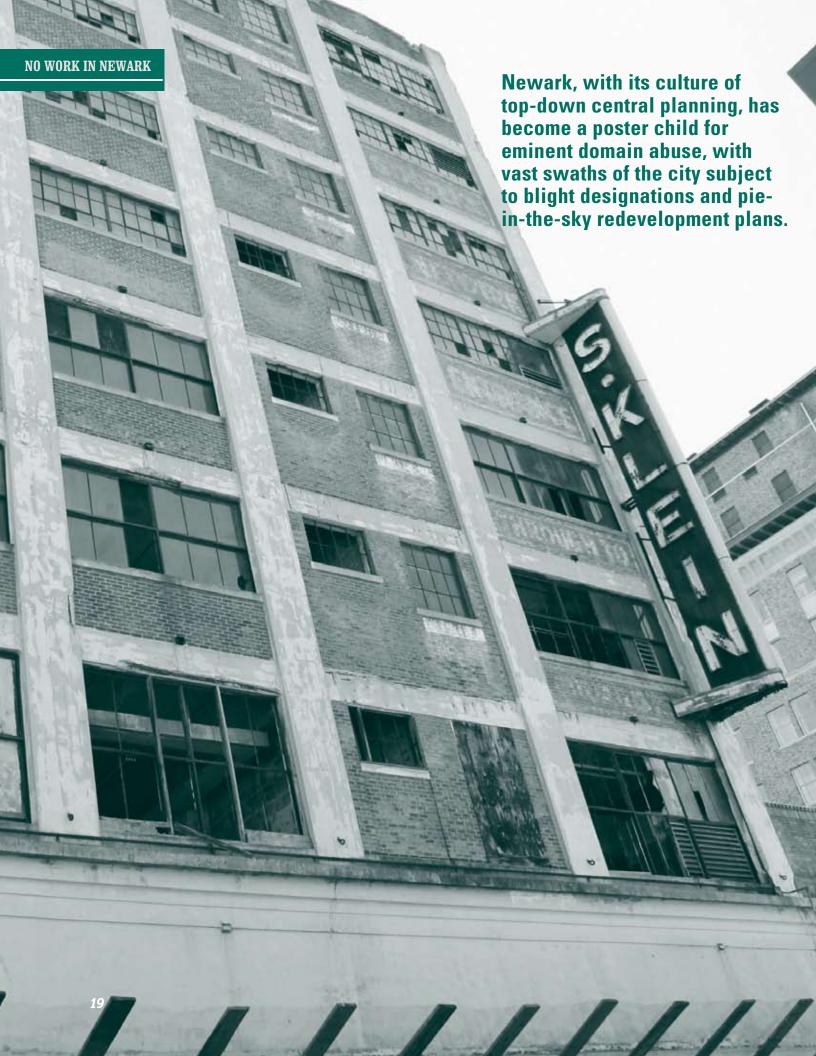
The protectionist nature of the auctioneering license regime is evident in the restrictions on when licenses will be issued and when auctions can be held. Besides prohibiting auctions on Sundays, auctions are prohibited from September through December. Because whatever theoretical harms auctions pose to the public must exist year-round, not just four months of the year, the only conceivable basis for restricting auctions to the first eight months of the year is to prohibit auctions during the months leading up to and including the holiday season. Retailers depend on the holidays to make much of their sales and profits, and do not want auctioneers liquidating goods at discount prices during that time.

Parking Lots

Like most densely populated cities in the northeast, Newark suffers from a shortage of parking. Cities should, therefore, encourage private parking businesses, which not only provide a valuable service, but also provide a simple entrepreneurial opportunity. But Newark's approach to parking regulation is to tax and license entrepreneurs into submission and prevent them from making simple business decisions, such as changing prices, to respond to market conditions.

Like many cities, opening a parking lot in Newark is a nightmare and the bureaucracy does not stop once one is in business. First, a license is required, though it is in no sense obvious why a license should be necessary to do what nearly every adult knows how to do: park a car. A Newark would be able to introduce a great deal of flexibility into its parking situation simply by letting private entrepreneurs establish parking businesses wherever zoning permits. The parking lot license should simply be abolished.

Even if it is not abolished, the process for getting and maintaining a parking lot should be vastly simplified. As it stands now, parking entrepreneurs must submit an application with a detailed drawing of the parking lot with the parking spaces delineated.75 According to the law, the lot itself must have the spaces delineated. While it probably makes sense for most parking lots to have the spaces delineated, this is clearly something the owners of parking lots can do without the government telling them to do it, especially as it may make sense for parking lots to organize themselves differently to accommodate different size vehicles. The point is that this sort of micro-management of small details consumes resources in unnecessary bureaucracy and retards innovation, particularly when vehicle size is now so diverse.





Then the license is good for only one year, thus generating all the bureaucratic compliance costs—for both government workers and the parking lot entrepreneur—every year.⁷⁶

The strangest requirement though is for pricing. Under Newark law, a parking lot cannot change its prices without government permission. Not only that, an application for a price change cannot take effect earlier than 45 days after the request.

Price-fixing goes against all economic logic, particularly in the case of parking spaces. The demand for parking fluctuates hourly during the workweek, usually plummets on the weekend, and may be especially intense during a major event like a professional basketball game. Prices convey information and, in the case of parking lots, allow people to make decisions about where to drive, whether to carpool, and how far away from a destination to park.

It is a truism of economics that price-fixing leads to shortages because low prices make people buy a lot of something without providing incentives for new entrepreneurs to enter the market. It makes no more sense to fix the price of parking at below-market rates than to fix the price of cars or video games at below-market rates.⁷⁸

Newark's price-fixing is either a misguided effort to protect consumers from fluctuating parking rates or a misguided effort to protect parking lot owners from competition. In either case, there are fewer parking spots, and the ones that exist are not rationally allocated, so long as Newark arbitrarily interferes with the ability of parking lot entrepreneurs to make pricing decisions for themselves based on what the market will bear.

Garage Sales

Even garage sales require licenses in Newark. And you can only participate in one each year. That means that if you have your own garage sale in the spring, you cannot offer anything for sale at a neighbor's garage sale in the fall. The license application requires the applicant to list every participant in the garage sale to ensure that no one is holding such a modest means of earning a few dollars while at the same time clearing out one's surplus possessions more than once a year.

Property Rights

It is not just crime that renders property insecure in Newark. It is the government, too. Local governments in New Jersey are among the worst abusers of eminent domain in the nation. Eminent domain is the traditional power to take private property for public uses, such as for roads or a courthouse. But too often, especially in Newark and across New Jersey, eminent domain is being used by the government for someone else's private gain.

The abuse of eminent domain is a problem that has existed in New Jersey and elsewhere since the end of the Second World War. Governments in New Jersey have long used eminent domain to transfer private property from one private owner to another, usually in the name of so-called blight eradication.80 Even if one accepts the elimination of true urban blight—meaning conditions of squalor that are a direct threat to public health and safety—as a legitimate government responsibility, the statutory definition of blight has expanded dramatically over the years. According to the New Jersey Legislature, property can be declared blighted simply because it is not being put to what city planners regard as the highest economic use.81 Such loose standards are an invitation for abuse and the loss of property and the vitally important constitutional rights that protect its owners.

Newark, with its culture of top-down central planning, has become a poster child for eminent domain abuse, with vast swaths of the city subject to blight designations and pie-in-the-sky redevelopment plans. Newark city planners use blight designations and eminent domain to assemble large land masses for grandiose redevelopment projects. This approach of mass bulldozing became the prevalent model through the late 1990s and 2000s as private developers and their allies in municipal government used redevelopment law and eminent domain to cash in on the real-estate bubble. Indeed. redevelopment was the context in which former mayor Sharpe James broke federal law in concocting fraudulent land transfers of municipal property to his girlfriend so she could flip the property for windfall profits.82

Few understands the corrupt and indiscriminate abuse of eminent domain

better than local businessman George Mytrowitz, owner of a family body shop on the McCarter Highway just across from the Ironbound District. George was a leader of the Mulberry Street Coalition, a group of property owners in the Mulberry Street neighborhood. The city had slated the area for demolition so that a private developer could build—what else—the sort of luxury condominium developments that were all the rage but are now often bankrupt and plagued with foreclosed or unsellable units.

George's property is a dusty workingclass shop that has been part of the Mulberry Street neighborhood for generations and in George's family just as long. He was stunned to discover that Newark could legally, and without scruples, take his property and that of his neighbors to transfer to politically connected property developers. Even in Newark, with its reputation for sleazy backroom deals, this seemed too much. He said, "I know what's going on here is not legal by the Constitution."83

It was especially galling to George and his neighbors that they—who formed the commercial and residential core after the exodus of so many others from their area and elsewhere in Newark—were being targeted. "It's betrayal," George explained, "when the city goes after those who have worked here, think Newark is a great place, and wouldn't think about going anywhere else."

The blight system is rigged against property owners and in favor of the government and its private developer cronies.

The blight system is rigged against property owners and in favor of government and their private developer cronies.

When the government declares an area blighted and reserves the authority to use eminent domain, the law gives that blight declaration an overwhelming presumption of legitimacy. Worse yet, if a property owner is worried that the government is one day going to seize her land in the name of blight eradication, she must challenge the blight designation immediately, possibly years before any taking or threat of taking actually occurs. Blight zones that are not challenged immediately become immune from legal challenges.

Bringing suit is extremely costly and complex because a property owner must prove not simply that her own property is not blighted, but that the entire designated blight zone is not blighted. Br Incredibly, until a New Jersey court recently declared doing so unconstitutional, New Jersey law allowed local governments to enact blight zones without giving property owners any notice other than the sort of generic legal notices that no one reads that appear in the back of the newspaper.

Because local governments and the state Legislature are so out of control in New Jersey, the state courts have become the first and last line of defense of property rights. And, even as difficult as it is to win such suits, property owners have begun to do just that, largely because the New Jersey Supreme Court has recognized constitutional limitations on the definition of blight and because municipal land-grabs have become so outrageous.⁸⁹

George and his neighbors in the Mulberry Street Coalition are among property owners across New Jersey who have successfully stood up to eminent domain abuse in court. The details of the judicial decision offer some insight into what "business as usual" means in Newark. The principals in the Mulberry Street Redevelopment Project were Emile Ferina and Bruce Wishnia. Wishnia was an aide to Newark councilwoman Bessie Walker and chaired fundraising for councilman Hector Corchado. Ferina and Wishnia, as well as family members, were frequent contributors to Newark politicians such as former mayor Sharpe James and councilpersons Walker, Corchado, Chaneyfield-Jenkins, Amador and Bradley. As noted earlier, former mayor Sharpe James' federal corruption convictions are related to bogus land deals that were part of Newark's pervasive use of blight designations to move private property from the hands of ordinary people into the hands of the wealthy and politically connected.

Newark should repudiate the use of eminent domain for private economic development. All the evidence since the U.S. Supreme Court's infamous *Kelo* decision—which removed federal constitutional barriers from eminent domain for private economic development—is that stable property rights attract investment and grow the local economy



more than eminent domain abuse, particularly when redevelopment projects using eminent domain have a tendency to become dramatic and costly failures. One major reform Newark can implement to help entrepreneurs and promote prosperity is simply swear off the abuse of eminent domain for private economic development. In other words, stop using government power to destroy businesses that currently operate within the city.

Doing Core Government Functions Right

It seems clear that the best thing Newark can do to help foster entrepreneurship in the city is to get out of the entrepreneurs' way. But at the same time, Newark must do much more in the area of core government functions to secure the basic social conditions under which economic prosperity is even possible.

The city's biggest challenge in this regard is crime, which Mayor Booker, to the credit of his administration, has made a major priority. People cannot operate successful businesses, or patronize businesses, if the streets are not safe and private property is not secure.

John Doe's⁹² pet shop is a case in point. He and his family have operated a small pet store in Newark for a generation. It's noisy and bustling, but with animals, not customers. There are fish, rodents and birds waiting for someone to take them home. Colorful enclosures and elaborate aquarium seascapes line the shelves.

Although his shop is filled with happy sounds, John is not happy himself. The recession has hit hard. Business comes and goes as the economy goes up and down, and right now it's down. Spending on pets is a luxury that people cut back on when times are tough. John understands that.

But Newark's crime culture makes it just that much harder. Everyone is worried about being burglarized. He can never leave anything very valuable in the store, which, despite its modest interior, has a sophisticated alarm system. The alarm was expensive to install and is expensive to maintain. So too are the roll-down shutters that his pet shop and virtually every other business in Newark have. It is essential to transform one's property into a fortress at night.

John rolled his eyes when asked about his experience with crime. It's everywhere, he says, if not here at this store then at the one next door or up the street. There is no point in calling the police if it is not a violent crime. Police reports are later filed for insurance purposes, but there is no sense that anyone is actually looking for the perpetrators. The police themselves have an uneasy relationship with city residents,

especially African-Americans, who have a long memory of the well-documented pattern of police brutality and racism that was part of law enforcement in Newark for generations.

In addition to the heavy security that is a prerequisite of operating even a simple business, there are visible signs of lawlessness and economic depression that make Newark streets feel insecure. There is graffiti on private and public property, often filled with gang symbols. Idle young men sit on steps in front of liquor stores and minimarts or just loiter on the corner, giving the impression of drug dealing and unemployment.

John seems to have accepted the crime situation as unchangeable, even though it has declined in recent years. He fusses more about the city government's inability to reliably provide other basic services, such as garbage collection. And he points to the uneven street, riddled with potholes and cracks. Those things need to be fixed, he remarks, but it takes forever or never happens. His daughter, whose husband works in the construction industry, talks angrily about the delays and unpredictability associated with getting building permits and being able to engage in constructive labor.

Indeed, Newark is a portrait of the decline in the infrastructure of America's big industrial cities. Concrete is flaking off of overpasses in large chunks, exposing rusty rebar. The paint on bridges is faded and flaking off. Newark will not emerge as a mainstream 21st-century city until the municipal government acquires a basic competence in the core functions of government such as policing crime and maintaining a well-functioning city infrastructure.

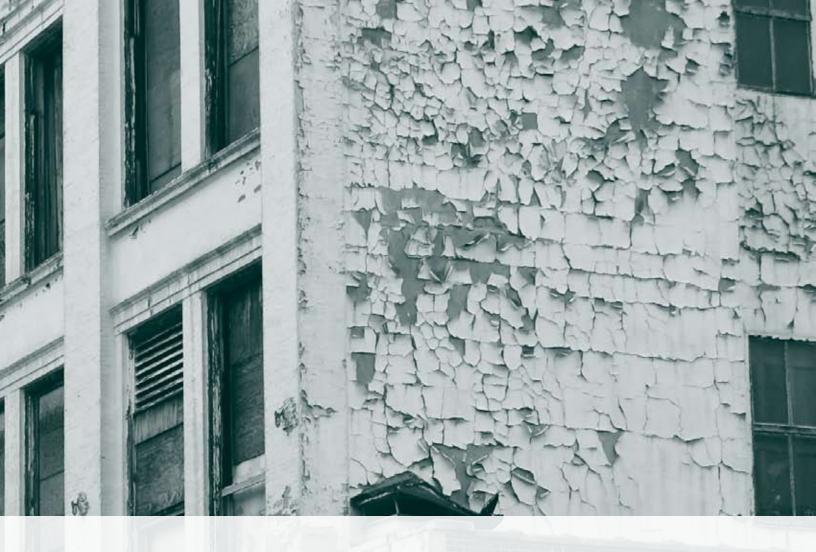


Recommendations

The city of Newark can make the following simple changes to help entrepreneurs help themselves and put their communities to work:

- Simplify the process for getting permits for food services such as restaurants and food trucks.
- Require all municipal employees who deal
 with the public to be courteous, prompt
 and informed; put all permitting and other
 entrepreneur-relevant information on the
 Internet and allow people to submit and
 monitor applications electronically; expedite
 permit processing across the whole spectrum
 from zoning variances to business licenses to
 building permits.
- Abolish the cap on taxis and allow anyone who meets certain minimal standards, such

- as insurance and possession of a safe vehicle, to enter the taxi market; eliminate the medallion system.
- Allow vendors and peddlers to acquire licenses any time of the year; abolish needless licensure requirements such as those for flower peddlers.
- Eliminate the requirement of Sunday closures for barber shops.
- Eliminate going-out-of-business sale licensure.
- Eliminate virtually all the red-tape associated with parking lot businesses.
- Declare eminent domain for private economic development unacceptable in Newark; require that the city will declare property blighted only if it presents a concrete threat to public health.
- Focus on continued crime reduction.
- Improve key quality-of-life issues for small business such as garbage collection.



Conclusion

Newark faces enormous challenges in good times, but the need to promote economic liberty is even more urgent in today's economic climate. The fundamental problem with the culture of Newark is that it is government-oriented, top-down and hostile to most grassroots entrepreneurs who are just trying to make it.

Mayor Booker should use his innovative approach in education and fighting crime and corruption to unleash the creativity and prosperity of Newark entrepreneurs. Strip away the bureaucracy, make city government responsive to ordinary entrepreneurs, and allow people to make decisions for themselves.

Newark is not going to spend its way to prosperity or find salvation in the gifts of Internet millionaires like Mark Zuckerberg, who in September 2010 pledged \$100,000,000 to revitalize Newark's failing public schools. ⁹³ Newark must finally learn to do what this nation has always done to produce lasting prosperity: trust the genius and daring of entrepreneurs.







Endnotes

(All Internet content was current as of October 2010.)

- 1 Newark high school grads vs. NJ high school grads: 57.9 percent vs. 82.1 percent, college grads: 9 percent vs. 29.8 percent. http://quickfacts.census.gov/qfd/states/34/3451000.html.
- 2 http://www.fbi.gov/ucr/cius2009/data/table_08_nj.html, http://www.fbi.gov/ucr/cius2009/data/table_01.html. The murder rate is more than five times the national average.
- 3 http://www.state.nj.us/njsp/info/pdf/njgangsurvey-2007.pdf.
- 4 http://www.nytimes.com/2008/04/27/nyregion/27excons.html.
- 5 http://www.nj.com/news/index.ssf/2009/08/newark_unemployment_rate_reach.
- 6 http://www.city-data.com/housing/houses-Newark-New-Jersey.html.
- 7 http://quickfacts.census.gov/qfd/states/34/3451000. html, http://quickfacts.census.gov/qfd/states/34000.html.
- 8 http://factfinder.census.gov/servlet/ADPTable?_bm=y&geo_id=04000US34&-qr_name=ACS_2008_3YR_G00_ DP3YR3&-ds_name=ACS_2008_3YR_G00_&-_lang=en&-_sse=on.
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- 10 http://www.sbecouncil.org/uploads/sbsi%20 2008%5B1%5D1.pdf.
- 11 http://money.cnn.com/2010/09/30/pf/taxes/highest_property_taxes/index.htm?source=cnn_bin&hpt=Sbin.
- 12 John T. Cunningham (1989), *Newark*, New Jersey Historical Society, ISBN 0-911020-18-7, p.181.
- 13 Id., p.186.
- 14 *Id.*, p.201.
- 15 http://en.wikipedia.org/wiki/History_of_Newark,_New_ Jersey#cite_ref-10.
- 16 Id.
- 17 http://en.wikipedia.org/wiki/Great_Migration_%28African_American%29.
- 18 http://en.wikipedia.org/wiki/History_of_Newark,_New_ Jersey#cite_ref-10.

- 19 http://www.cornwall.rutgers.edu/images/stories/pdf/ Herman-July_2002-Report.pdf.
- 20 http://en.wikipedia.org/wiki/1967_Newark_riots#cite_ref-3.
- 21 Id.
- 22. Id.
- 23 Harper's, January 1975.
- 24 William Kleinknecht, "Gibson Gets Three Years Probation," *Star-Ledger*, November 1, 2002.
- 25 Cunningham, p.339.
- 26 Thomas Dolan, "Newark and Its Gateway Complex, Part 3: A Weakened City," *The Newark Metro*, http://www.newarkmetro.rutgers.edu/reports/display.php?id=17&page=3.
- 27 Cunningham, p.339.
- 28 Carla Fried, "America's Safest City: Amherst, N.Y.; The Most Dangerous: Newark, N.J.," *Money Magazine*, Nov. 27, 1996.
- 29 http://www.nj.com/news/index.ssf/2008/09/sharpe_james_to_be_behind_bars.html.
- 30 http://en.wikipedia.org/wiki/Cory_Booker.
- 31 http://www.huffingtonpost.com/2010/04/01/newark-murder-free-in-mar_n_521145.html.
- 32 http://newarkelection2010.com/ward/mayor.
- 33 http://www.ci.newark.nj.us/.
- 34 http://www.njit-edc.org/about/index.php.
- 35 See generally Morris Kleiner, Licensing Occupations: Ensuring Quality or Restricting Competition? (The Upjohn Institute 2006), pp. 62-64. Kleiner concludes that licensing occupations has uncertain and frequently adverse effects on service quality but a consistent effect in raising the wages of workers subject to licensure because licensure reduces supply.
- 36 Morris M. Kleiner & Robert T. Kudrle, "Does Regulation Affect Economic Outcomes? The Case of Dentistry," *Journal of Law and Economics*, Vol. 43, No. 2 (Oct. 2000), pp. 547-582.
- 37 Louisiana repealed its decades-old floristry licensure on July 12, 2010, a few months after the Institute for Justice filed suit in federal court to strike down this needless deprivation of economic liberty.

- 38 In the early 1950s, less than five percent of the labor force required a government license. *See Kleiner* at 1. By 2010, that figure is about 30 percent. *See* Morris M. Kleiner & Alan B. Krueger, *Analyzing the Extent and Influence of Occupational Licensing on the Labor Market*, NBER Working Paper Series #14979, *available at* http://www.nber.org/papers/w14979.
- 39 Newark R.O. § 34:1-5.
- 40 Karen Keller, "Council Stiffens Fine on Illegal Cab Trade in New Brunswick," *Star-Ledger*, May 24, 2009, p. 23. The precise structure of the medallion system remains mysterious. There is clearly a medallion system, as the taxi commission, drivers and newspaper articles attest. Yet Newark ordinances state that permits to pick up at the airport are issued annually by lottery according to a complex formula.
- 41 Newark R.O. § 34:1-5.
- 42 See generally Mark A. Frankena & Paul A. Pautler, An Economic Analysis of Taxicab Regulation (1984) (FTC Bureau of Economics Staff Report), available at: http://www.ftc.gov/be/econrpt/233832.pdf.
- 43 http://www.ci.newark.nj.us/government/city_departments/economic_housing_development/central_planning.php.
- 44 Newark R.O. § 8:7-3.
- 45 This is the current regulation maintained by the tax department
- 46 http://www.nj.com/newark/index.ssf/2008/10/newark_makes_peddlers_licenses.html.
- 47 The ordinance does not prohibit peddling licenses for convicted criminals, but it is the understanding of the peddlers themselves that the city will not license people as peddlers if they have a criminal background.
- 48 Newark R.O. § 8:13-2.
- 49 Newark R.O. § 8:11-2.
- 50 Newark R.O. § 8:11-3.
- 51 Newark R.O. § 8:11-3(c).
- 52 Newark R.O. § 8:11-3(d).
- 53 Newark R.O. § 8:11-6(b).
- 54 Newark R.O. § 8:3-1.

- 55 Newark R.O. § 8:3-3.
- 56 N.J. Admin. Code tit. 28, § 13:28-2.1.
- 57 N.J. Admin. Code tit. 28, § 13:28-1.1. See also N.J. Stat. Ann. § 45:5B-21. Under the original barbering statutes in New Jersey, a barber had to have an eighth-grade education. Even that is silly. Barbering is an on-the-job skill one acquires through practical study and experience. No education is necessary. The state got it exactly backwards by increasing, rather than eliminating, the educational requirements for barbers.
- 58 N.J. Admin. Code tit. 28, § 13:28-1.
- 59 This figure comes from the U.S. Department of Labor Bureau of Labor Statistics using 2009 data. http://www.bls.gov/oes/current/oes395011.htm#st.
- 60 Newark R.O. § 8:5-3.
- 61 Newark R.O. § 8:5-7.
- 62 Newark R.O. § 8:5-5.
- 63 The U.S. Supreme Court has protected commercial speech under the free speech clause of the First Amendment since the 1970s. *See Va. Pharm. Bd. V. Va. Consumer Council*, 425 U.S. 748 (1976).
- 64 See Neb. Press Assoc. v. Stuart, 427 U.S. 539 (1976).
- 65 Newark R.O. § 8:14-2.
- 66 Newark R.O. § 8:6-1.
- 67 Newark R.O. § 8:6-2.
- 68 Newark R.O. § 8:6-3.
- 69 Newark R.O. § 8:1-2.
- 70 Newark R.O. § 8:1-3.
- 71 Newark R.O. § 8:1-3(b)(2).
- 72 See, e.g., Saenz v. Roe, 526 U.S. 489 (1999).
- 73 Newark R.O. § 8:1-7.
- 74 Newark R.O. § 8:2-2.
- 75 Newark R.O. § 8:2-3(c).
- 76 Newark R.O. § 8:2-8.

- 77 Newark R.O. § 8:2-20.
- 78 Or, for that matter, to leave a parking lot entrepreneur stuck with above-market rates.
- 79 Newark R.O. § 8:24-2.
- 80 For example, see Wilson v. City of Long Branch, 27 N.J. 360, 381-82 (1958) (stating that the post-WWII amendment to the New Jersey Constitution authorizes the Legislature to enact eminent domain laws to remediate genuine urban blight that poses a danger to the community).
- 81 Legislative overreach was the subject of *Gallenthin Realty v. Borough of Paulsboro*, 191 N.J. 344 (2007). The New Jersey Supreme Court invalidated Paulsboro's exercise of eminent domain on the ground that the blight statute could not be interpreted to authorize local government's to take property simply to put it to a higher economic use because such an interpretation would violate the state constitution.
- 82 http://www.nj.com/news/index.ssf/2008/09/sharpe_james_to_be_behind_bars.html.
- 83 Kate Moran, "From New London to Newark and Beyond, Residents Oppose Government's Use of Eminent Domain," New London (Conn.) *The Day*, Feb. 13, 2005.
- 84 *Gallenthin Realty*, 191 N.J. at 360 (stating that the government is presumed to have acted within the bounds of the Constitution when enacting property rights statutes and pursuing eminent domain).
- 85 N.J. Stat. § 40A:12A-6(b)(7) (granting property owners within a redevelopment zone 45 days to file suit after the redevelopment zone is adopted, but owners may file suit only if they formally objected at a public hearing). If a redevelopment zone is not challenged, it is presumed valid and immune from any future challenge that the redevelopment zone was not in fact blighted.
- 86 Harrison Redevelopment Agency v. DeRose, 398 N.J. Super. 361, 368 (App. Div. 2008).
- 87 See N.J. Stat. § 40A:12A-5. Blight designations apply to entire areas, not individual properties. Thus, in challenging a blight determination, the property owner must prove that the entire blight zone is not blighted, not simply establish that her property is not blighted.
- 88 See Harrison, 398 N.J. Super. at 367-68.
- 89 See Gallenthin, 191 N.J. at 348.

- 90 Mulberry Street Area Property Owner's Group v. City of Newark, Docket No. ESX-L-9916-04 (N.J. Super. Law Div. July 19, 2007). This decision is available at http://www.njeminent domain.com/Mulberry%20St%20v%20City%20of%20 Newark%20%282007%29%281%29.pdf.
- 91 See id. at 3.
- 92 This business owner asked that his real name not be used.
- 93 http://www.nytimes.com/2010/09/23/education/23newark.html.

About the Author

Jeff Rowes is a senior attorney at the Institute for Justice. He joined the Institute in September 2005 and litigates cutting-edge constitutional cases protecting First Amendment, property rights, economic liberty and other individual liberties in both federal and state courts.

Jeff represents cancer patients, the families of cancer patients, a renowned doctor, and the nonprofit MoreMarrowDonors.org in their path-breaking constitutional challenge to the federal criminal prohibition on compensating bone marrow donors. Jeff also represents the monks of Saint Joseph Abbey in Covington, La., in their federal lawsuit against a state law that deprives them of economic liberty by requiring them to become licensed funeral directors just



to sell their handmade wooden caskets to the public. His other clients include the Community Youth Athletic Center in National City, Calif., which is fighting the city's plan to declare the gym's neighborhood blighted in order to be able to transfer the gym's property and the property of hundreds of business owners to connected private developers.

Jeff's opinion pieces on constitutional law have appeared in *The New York Times*, *The Wall Street Journal*, *USA Today* and many other news outlets.

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