



INSTITUTE FOR JUSTICE

June 27, 2013

Columbus City Council
90 W. Broad Street
2nd Floor
Columbus, OH 43215

Re: Food truck regulations

Dear Mayor and City Council,

The Institute for Justice (“IJ”) is a public interest, civil liberties law firm that advocates in the courts of law and public opinion to vindicate the right to earn an honest living. IJ’s National Street Vending Initiative has challenged laws in El Paso (which quickly repealed its law prohibiting food trucks from operating within 1,000 feet of a restaurant); Atlanta (which we recently won); Hialeah, Florida; and Chicago, all of which unconstitutionally restrict vendors’ right to economic liberty as protected by the U.S. Constitution’s 14th Amendment. IJ has published extensively on the benefits that street vendors provide, the barriers that too often stand in their way, and how cities can cultivate vibrant food truck scenes.¹ We also work with city councils and food truck operators across the country to reform local laws, and are currently working with the Central Ohio Food Truck Association.

Instead of pursuing a pilot program that limits vending on public property to a small number of spaces, the city should open up all public property to food trucks, with appropriate limitations that protect the public health and safety concerns of congestion, trash, and food safety.

Columbus is not alone in grappling with how to regulate food trucks. Cities across the country are debating how to license food trucks, address their effects on congestion and the potential trash customers generate, and ensure the safety of the food that trucks serve. These issues have been and can be successfully addressed using narrowly tailored laws intended to protect the public’s health and safety.

But some brick-and-mortar restaurants view the legislative process as a way to stifle food trucks in order to protect themselves from competition, by advocating for bans on food trucks within a certain distance from their businesses or prohibitions on food trucks’ operation on public property, in parking spaces or within entire areas. But protectionism is not a legitimate use of government power. Indeed, the U.S. Court of Appeals for the Sixth Circuit, which includes Ohio, said as much in response to a lawsuit by IJ challenging a government-imposed monopoly on the sale of caskets. **In ruling that the government cannot impose protectionist regulations that restrict individuals’ right to earn an honest living, the Sixth Circuit flatly ruled “that protecting a discrete interest**

¹ See, e.g., *Streets of Dreams: How Cities Can Create Economic Opportunity by Knocking Down Protectionist Barriers to Street Vending*; *Seven Myths and Realities About Food Trucks: Why the Facts Support Food-Truck Freedom*; and *Food Truck Freedom: How to Build Better Food-Truck Laws in Your City*, all available at www.ij.org/vending.

group from economic competition is not a legitimate government purpose.² Any restriction enacted based on protecting established businesses from competition in Columbus would similarly be struck down.

The Institute for Justice endorses the regulation guidelines proposed by the Central Ohio Food Truck Association. These laws are narrowly tailored and limited to protecting the public's health and safety. Specific language to address each of the regulations can be found in *Food Truck Freedom: How to Build Better Food-Truck Laws in Your City*, and we have pulled relevant code language from other cities that may work in Columbus (attached).

A vibrant food-truck industry benefits everyone. Food trucks put people to work, create opportunities for self-sufficiency, and enrich the communities in which they operate. They can, as the *Los Angeles Times* reported, provide entry-level opportunities, allowing entrepreneurs to test ideas and accumulate capital needed to climb the economic ladder and realize their next opportunity, a brick-and-mortar restaurant. Vendors also contribute to the city's coffers by paying sales tax and payroll taxes, and can activate underused spaces, bring new life to communities and make them safer, more enjoyable places to live.

Moreover, the presence of food trucks actually boosts local businesses—including restaurants. Food trucks encourage people to come out onto the streets, increasing foot traffic for everyone. Restaurants in cities like Houston, Las Vegas, Austin, and Los Angeles have heralded food trucks for increasing foot traffic to their establishments. They also provide a new way to market and expand brick-and-mortar establishments.

We know that you are committed to fostering entrepreneurship, honest enterprise, and economic growth. Columbus's entrepreneurs, their employees and families, local businesses and communities deserve to experience the benefits that food trucks provide. We encourage you to open up all of Columbus's streets to food trucks and limit regulations to protecting the public's health and safety.

Please do not hesitate to contact me at (703) 682-9320 or cwalsh@ij.org. We look forward to working with you to ensure that *all* of Columbus's entrepreneurs are allowed the opportunity to thrive. Thank you.

Best,



Christina Walsh
Institute for Justice

² *Craigmiles v. Giles*, 312 F.3d 220, 224 (6th Cir. 2002).