El Paso is trying to shut down street vendors like IJ client Maria Robledo by making it virtually impossible to sell food on city streets.

By Matt Miller

You’ve probably heard a lot of positive buzz about street vending lately. Vendors are the darling of many food critics, and they now have their own reality television show. Consumers love the combination of eclectic menus and low prices. Budding entrepreneurs love the low cost of entry and the chance to start a business from scratch. And some cities, like Austin with its recent “Gypsy Picnic,” have begun to embrace vendors for the life and vitality they bring to the local dining scene.

Unfortunately, in many other cities, vendors are being forced to fight for their very existence. Nowhere is this truer than in El Paso, Texas, where the city has banned vendors from operating within 1,000 feet of any restaurant, grocer or convenience store. If you imagine circles with a 1,000-foot radius drawn around every single business that sells food in El Paso, you will quickly see how onerous this restriction is. It has essentially turned El Paso into a No-Vending Zone.

This new restriction has absolutely nothing to do with protecting public health or safety. It is a transparent attempt to “protect” brick-and-mortar restaurants from competition by forcing vendors out of business. Notably, the head of the El Paso restaurant association and representatives of other brick-and-mortar restaurants served on the advisory board that assisted the city in drafting the new law.

The notion that restaurants—which enjoy numerous advantages over street vendors, such as the ability to seat and serve more customers, greater storage space, and full on-site kitchens—cannot survive competition from street vendors without government assistance is silly. The government shouldn’t be in
By David B. Kennedy

Twenty years ago this September—after many years of thought-filled and careful preparation—the Institute for Justice was launched in Washington, D.C. Through hard work and adherence to principle, IJ has grown into an organization that consistently moves the nation toward greater respect for constitutional rights and individual liberty. What is the secret to the Institute’s success? It has just been a matter of tireless hard work by a wonderful group of talented people, operating with enormous goodwill, all the while adhering closely to IJ’s founding mission. But that mission is of the utmost importance.

IJ remains on mission to protect property rights. Twenty years ago, property owners faced the ever-present threat of eminent domain abuse, unquestioned regulatory restrictions on their land and unchallenged policing for profit in the guise of civil forfeiture. Twenty years later, IJ helped transform the legal landscape (even after the infamous Kelo ruling) by helping to change the law in 43 states to offer more robust protection from eminent domain abuse where once there had been little or none. IJ teamed up with legendary law professor Richard Epstein to file a series of amicus briefs with the U.S. Supreme Court, thereby reining in regulatory takings. IJ is now hard at work challenging civil forfeiture through litigation, research and advocacy in the court of public opinion.

IJ remains on mission to expand economic liberty. When IJ opened its doors, regulators and politically powerful cartels operating below the radar harassed would-be entrepreneurs to the point of exhaustion in the name of protecting the public, while really only protecting existing service providers from competition. Twenty years later, thanks in large part to IJ’s work, the courts, the media and the public are showing little tolerance for such good-old-boy networks. Today, economic liberty is on the rise and economic protectionism is in retreat.

IJ remains on mission to defend school choice. In 1991, few had ever even heard the idea of school choice and, although it was intuitively a core American value, few gave much thought to the idea that parents should or could direct the education of their children. And so IJ went to work putting that issue, too, in the nation’s consciousness, litigating all the way up to the U.S. Supreme Court, putting a human face on the issue, and winning. Because of the efforts of the Institute for Justice, today school choice is a reality for tens of thousands of kids across the nation. Through IJ-advocated school choice programs, these kids are getting a far better education today than anyone could have dreamed of 20 years ago.

IJ remains on mission to vindicate free speech. Twenty years ago, the First Amendment was in tatters, offering limited protection for political speech and second-class treatment for commercial speech. Too often the government—rather than free
and responsible individuals—decided what information the public needed to hear. But thanks to one IJ case after another, the law of the land has changed and Americans today are freer to speak and be heard than they were 20 years ago. Thanks to IJ, individual citizens may more easily advocate for the election or defeat of a political candidate without first having to get the government’s permission. Small-business owners face fewer barriers when they communicate with their customers. Free speech is expanding because of IJ’s merry band of libertarian litigators.

One of the reasons IJ has remained so successful is that they have the sophistication, confidence and vision to understand that they are not in the business of trying to right all the wrongs of this world. IJ has carefully chosen four areas of litigation that constitute the core of the American Dream—the right to own a piece of property and call it yours, the right to pursue an honest living in the occupation of your choice, the right to direct the education of your children and the right to speak freely on any subject without having to get the government’s permission. We have brought to bear all the talent and passion individuals can muster to make that dream a reality for as many Americans as possible. IJ doesn’t seek to plow well-cultivated legal fields. Rather, it seeks to plant the seeds of order, reason and justice in the fallow fields of law where liberty must flourish.

To that end, the Institute for Justice recently launched its Center for Judicial Engagement as a means of engaging the courts and convincing them that they have a vital constitutional role to play if we are to live in a nation of limited government. IJ has achieved that with individual courts over the years. Through the new Center, we have every intention of making these changes systemic.

IJ’s capabilities may have grown and its staff may have expanded, but our mission has never wavered. True effectiveness, like that demonstrated by the Institute for Justice over the past 20 years, demands the disciplined adherence to mission that is an IJ hallmark.

David B. Kennedy is the chairman of IJ’s board of directors.

Robert Wilson Doubles Down for Liberty

By Chip Mellor

As we reflect on the 20-year history of the Institute for Justice, certain achievements and events have laid a strong foundation for IJ’s future success. One of the most exciting was the $5-million challenge grant issued by Robert Wilson in 2008. With the generosity of many other IJ supporters, we met that challenge.

Bob was so pleased with the enthusiasm of our donors and what we accomplished with that first grant that he has issued a new challenge grant of $10 million. As before, Bob will provide $1 for every $2 of new or increased support of $5,000 or more. For details, please contact IJ’s Vice President for Development Beth Stevens at bstevens@ij.org.

Through this new challenge, IJ will continue to grow into a national force for liberty, securing constitutional limits on government power at a time when that has never been more important. IJ has developed the seasoned management and professional staff that, along with our time-tested strategy, ensure we are well-equipped to make the most of such generosity.

We intend for the Institute for Justice to become a household name so that when core American values of property rights, economic liberty, school choice and free speech are under assault and someone asks, “Who can we call?” there is one obvious answer: “The Institute for Justice!”

Chip Mellor is IJ’s president and general counsel.

“Bob will provide $1 for every $2 of new or increased support of $5,000 or more.”
Let’s compensate bone marrow donors

BY KUMUD MAJUMDER

My 11-year-old son, Arya, was an angel who transformed my life. His death from leukemia last April took away not just my only child, it also took away my very heart and soul, and triggered the collapse of my 23-year marriage.

Arya’s tragedy happened in part because of a lack of bone marrow donors. Each year, as many as 3,000 people in the U.S. die waiting for a bone marrow donor match. A significantly higher number of people die from complications arising from partially matched donors. This is largely avoidable, and the shortage of donors is made worse by a federal law that I and other families of cancer patients are fighting in federal court. On Tuesday, the U.S. Court of Appeals in Pasadena, Calif., will hear arguments in our constitutional challenge against the U.S. attorney general.

Our suit contests the part of the National Organ Transplant Act that bans families like ours from setting up a pilot program to offer modest compensation to donors with the most needed bone marrow and thus save more lives. The law makes offering any compensation—such as a housing allowance—a federal crime that could land everyone involved (from the doctor to the donor to the patient) in jail. In our view, the Constitution does not allow the government to imprison people for doing no harm while saving lives.

SEVERE DONOR SHORTAGE

The problem for cancer patients is that only 2% of Americans are on the national bone marrow donor registry, which makes finding a perfect donor match like finding a needle in a haystack. Finding a bone marrow donor match isn’t as simple as finding a blood donor match; bone marrow donors must be compatible on a deep genetic level—something that is especially hard to find for minorities.

Arya received a close-but-not-perfect donor match in 2009, which created painful and life-threatening complications for him that required hospitalization for an extended time. A better match may have saved his life. Expanding the donor pool will not only create more donor matches, but also better ones.

But to increase the donor pool, it makes sense to offer modest compensation to offset the inconvenience and discomfort of donating. Donors generally donate by receiving an injection once a day for five days to increase marrow-cell production, and then having marrow cells drawn from their arm using the same technique used by donors of other blood components such as platelets and plasma. The medicine can cause flu-like symptoms, and the donation process can take several hours. Right now, donors who are informed that they are a match sometimes decide not to donate, often because they can’t take time off work. Offering simple incentives, including college scholarships to young-adult donors—whose marrow is healthiest—could increase the number of people who go through with donation.

This case isn’t about medicine; everyone agrees that bone marrow transplants save lives. This case is about whether individuals can make choices about compensating someone or receiving compensation for making a bone marrow donation without the government stopping them.
Marrow Different from Organs

Inevitably when I discuss this issue, people raise concerns about markets in human organs and wonder whether compensation would exploit the poor. These are legitimate concerns that can be easily addressed in the context of marrow donations.

Organs such as kidneys do not grow back when they are removed, and kidney donation requires invasive surgery.

Bone marrow, on the other hand, is a special type of blood cell that grows back. Donating bone marrow uses a technique similar to donating other blood cells such as platelets for which compensation is legal. Donating marrow is safe, and more than 40,000 people have donated bone marrow without a single donor death. And patients receive donor bone marrow like blood, through a transfusion.

The differences between irreplaceable organs and bone marrow answer concerns about the poor. Here compensation would be a safe and ethical way to do no harm while bringing together the most needed donors and patients who are otherwise certain to die.

Despite all Arya went through, his resilience never wavered. He truly lived up to the name we gave him: “Arya Avalokitesvara”—the Great Compassionate Lord Buddha. Arya is my hero who inspired his mother and me to create an organization to fight childhood cancer (www.aryaskids.org) and fight for bone marrow transplants.

In the end, creating more and better bone marrow donor matches through a system of modest compensation will save the lives of patients, improve the lives of donors, drive down the costs of treatment and improve the quality of life of cancer patients as they battle to survive.

Arya always wished that all the kids at the hospital where he was treated would go back home one day fully cured. Let’s work to make that dream a reality.

Kumud Majumder, Ph.D., lives in Upper Saddle River, N.J. To learn more about his lawsuit, visit www.ij.org.

IJ Makes the Case That Bone Marrow Donors Should be Compensated

The Institute for Justice tenaciously advances its clients’ cases and the cause freedom. As the USA Today op-ed to the left demonstrates, IJ works to profile its clients in leading news outlets across the nation, coupling those placements with “news hooks” such as case filings or, in this case, a major court argument. Other features on this case have appeared in The New York Times, The Los Angeles Times, The Economist and in other news media outlets nationwide.

To hear IJ in action, listen to Jeff Rowes argue our bone marrow donor case before the 9th U.S. Circuit Court of Appeals, visit: http://iam.ij.org/dZIhKA.

For more information about IJ’s bone marrow donor case, visit: www.ij.org/2900.

Hear IJ in action before the 9th U.S. Circuit Court of Appeals
http://iam.ij.org/dZIhKA

KCBS-TV in Los Angeles featured the clients and attorneys of the Institute for Justice in a story on IJ’s bone marrow donor case, which was argued in February before the 9th U.S. Circuit Court of Appeals. A decision is expected in the case in the coming months.
By Christina Walsh

A southern New Jersey township is demonstrating just how far tax-hungry government officials will go in their quest for pie-in-the-sky development—and why restrictions on the use of eminent domain are so desperately needed to protect hard-working property owners.

Mount Holly officials have been using the threat of eminent domain to rip apart the Gardens, a community once home to 1,000 residents. Officials bought up more than 300 garden-style row homes and are boarding them up then tearing them down, even while they are still attached to homes that are lived in—creating “blight” with reckless demolitions that often cause severe damage to the remaining homes.

The spacious but modestly priced homes in the Gardens have attracted hard-working, low-income families since they were built in the 1950s—typically African American and Hispanic first-time homebuyers. The Gardens became a close-knit, vibrant community where residents took care of one another.

But Mount Holly officials decided 10 years ago to give the community to Philadelphia developer Keating Urban Partners so that firm could build over-priced luxury apartments and townhomes.

Leona Wright is one of the residents the township is trying to get rid of. She turned 92 last month. When she moved to the Gardens, her son was in third grade; he is now a grandfather. Her family purchased two row homes and combined them into one when her now-deceased husband, a World War II veteran, was stationed at Fort Dix. Her home is lovingly decorated with photos of her family.

Nancy Lopez also lives in the Gardens. She raised five children on her own in her three-bedroom home. At times she has worked two jobs to afford her mortgage, and also went back to school to improve her employment prospects. Her children have all gone on to college or entered the workforce and are themselves homeowners.

These women and their neighbors deserve to keep what they have worked so hard to own.

To raise awareness about this abuse and to reinforce the community’s unity and resolve, IJ teamed up with residents and held a Harvest Festival this past fall with games, prizes, donated food and a line-up of speakers from across the state. We also placed op-eds in the Philadelphia Inquirer and The Huffington Post. In January, we launched a billboard campaign, and produced a video that can be viewed at www.ij.org/MountHolly.

To underscore not only the moral bankruptcy of what the township is doing, but also its economic bankruptcy, IJ’s Strategic Research team documented that the township’s fiscal-impact study of the development relied on unrealistic assumptions about the hous-
The Gardens has been destroyed for a project that may result in a loss for the township of $1 million a year. Not only do officials refuse to provide residents with replacement housing in the new development, the amounts being offered them are half the amount smaller versions of their homes are selling for just a few blocks away.

As of the end of February, the Gardens’ residents remain in limbo—but they fight on, knowing that this is an unconscionable abuse of power that is emblematic of New Jersey’s horrible eminent domain law. The Institute for Justice will continue to fight for justice for the Gardens’ homeowners and for reform at the state level to prevent this tragedy from ever happening again. ♦

Christina Walsh is IJ’s director of activism and coalitions.

“The Gardens has been destroyed for a project that may result in a loss for the township of $1 million a year.”
By Beth Milnikel

On February 1, snow started falling in Chicago and didn’t let up until the city was buried beneath 20.2 inches of the white stuff. Chicagoans were urged not to try to drive. Everything ground to a halt.

Well, not quite everything. IJ Clinic client Just Us Lawn Care was working around the clock, plowing driveways and sidewalks clear for their customers.

Jimmie and Tiffany Williams began Just Us in 2008 because they needed to find a way to earn an honest living and support their kids. As teenagers, they had fallen prey to some of the all-too-common problems that plague inner-city youth. They had children when they were still unmarried teenagers. Jimmie ended up in jail for a while. But they had the love for one another and the strength of character to turn their lives around. They got married and Tiffany started working as a hair stylist. With a record, though, it was hard for Jimmie to find a job. Jimmie had to make his own work.

One day, the Williamses saw an ad for a pickup truck that they could afford, and they turned that listing into a business opportunity. Jimmie started knocking on doors and offering to plow snow for property management companies that oversee big apartment buildings. And when summer came, he taught himself about landscaping and lawn care to keep serving his customers. Just Us is hardworking and honest, and customers rave about their reliability and professionalism. People who knew Jimmie and Tiffany as kids are beginning to take notice, too, using them as models for their own self-improvement. They are beginning to say, “If Jimmie Williams can do it, so can I!”

Jimmie and Tiffany are constantly striving to learn more about running their business well. Jimmie took a class on entrepreneurship, and the professor referred him to the IJ Clinic for help with legal questions. Law students working in the IJ Clinic have counseled Just Us since September on issues ranging from the terms to include in a customer contract to the purchase of a second truck. Just recently, we helped negotiate the lease for an office where Tiffany will manage the accounting and customer communications for the business. We successfully refused terms that were extremely unfavorable to Just Us and we secured an option to renew at the same rent, so that Just Us can continue to grow with a secure business address. (Too bad the city requires them to pay for an entirely new license because they had a change of address—yet another item to add to our list of laws to reform.)

Just Us is a young business, run by first-time entrepreneurs. But it passed the biggest test of all by taking care of customers during the historic Blizzard of 2011. Three generations of the family went to work, with Jimmie’s father driving the second truck and their oldest son working a snow blower. They showed that this business has staying power. And they showed, once again, that the entrepreneurial spirit—the drive to build a better future for your family—cannot be beat. The IJ Clinic will do all it can to clear the way toward that future so Just Us and its owners can plow ahead no matter the season.

Beth Milnikel directs the IJ Clinic on Entrepreneurship.
By Bob Ewing

Ever since our founding 20 years ago, the Institute for Justice has insisted on fighting each of our lawsuits in two courts: the court of law and the court of public opinion.

We have built a reputation not just as first-rate litigators, but also as excellent communicators. IJ attorneys and lawsuits have been featured in countless local, regional and national media outlets nationwide and beyond. We set the terms of debate on issue after issue in the nation’s top newspapers and broadcasts with a consistent approach featuring IJ spokespeople who are accurate, timely, positive, thorough and open. And our media team personalizes, humanizes and dramatizes every story we pitch.

Yet we realize that the media market is rapidly changing. Newspapers are closing, editorial boards are shrinking and reporters of all types are busier than ever. By contrast, blogs and online social media sites are experiencing exponential growth. IJ has strategically adjusted our media relations efforts to capitalize on these profound market changes.

As a result, our communications efforts continue to thrive. We still secure great coverage in prominent traditional media outlets—like The Economist, The Washington Post, Townhall.com and National Public Radio—but now we advance liberty in the online social media world, too.

Two IJ attorneys are regular Huffington Post bloggers. In the past year, IJ’s Facebook page has grown from fewer than 3,000 fans to more than 33,000. And we have one of the most popular nonprofit channels on YouTube.

We recently pioneered a new type of YouTube clip we call a “video op-ed.” Like traditional op-eds (akin to newspaper guest columns), these pieces present opportunities for IJ spokespeople to offer our insights and set the terms of debate on popular news stories. Unlike traditional op-eds, however, video op-eds are very quick to produce and publish ourselves by simply uploading them to our YouTube channel. We then promote each of these pieces to bloggers and allies across the philosophical spectrum, thereby maximizing their impact.

Video op-eds allow IJ to make a big impact in a short time. Consider IJ Senior Attorney Clark Neily’s video op-ed on Dale Smith. A former IJ law clerk notified us that Smith, an 82-year-old Oregon barber, had been shut down by bureaucrats in a classic case of occupational licensing abuse.

Within one day, IJ produced and uploaded a video op-ed to YouTube and had it embedded on several blogs, including Ed Morrissey’s popular site, HotAir.com. Within two days, we were contacted by Playboy magazine, which saw our video and wanted to give Dale Smith a special “Heffy Award”—an honor named after Playboy founder Hugh Hefner, which recognizes those who demonstrate spirit in their golden years. The local Oregon newspaper did a story on this angle and featured IJ. Within a week, our video op-ed had more than 14,000 views.

IJ’s media team will continue to evolve and capitalize on changes in the media market, but our basic strategy will always be the same. We will consistently make a compelling and positive case for liberty in the court of public opinion.

And one day soon, the Institute for Justice will be a household name.

Bob Ewing is IJ’s assistant director of communications.
“The government has no right to deprive vendors of the opportunity to earn an honest living with a nakedly protectionist law designed to drive them out of business.”
About the publication

Liberty & Law is published bimonthly by the Institute for Justice, which, through strategic litigation, training, communication, activism and research, advances a rule of law under which individuals can control their destinies as free and responsible members of society. IJ litigates to secure economic liberty, school choice, private property rights, freedom of speech and other vital individual liberties, and to restore constitutional limits on the power of government. In addition, IJ trains law students, lawyers and policy activists in the tactics of public interest litigation.

Through these activities, IJ challenges the ideology of the welfare state and illustrates and extends the benefits of freedom to those whose full enjoyment of liberty is denied by government.

Editor: John E. Kramer
Layout & Design: Don Wilson

How to reach us:
Institute for Justice
901 N. Glebe Road
Suite 900
Arlington, VA 22203

General Information  . . . . .  (703) 682-9320
Fax  . . . . . . . . . . . . . . . . . . (703) 682-9321

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Quotable Quotes

WJLA-TV
(ABC-7 DC)

IJ Senior Attorney Bert Gall:  “If the sign had clowns on it, or dragons, Arlington County wouldn’t be trying to take it down. We’ve got meddlesome Arlington County bureaucrats trying to play art critic.”

Minnesota Public Radio

IJ-MN Attorney Jason Adkins:  “People have the right to know whether laws passed by cities to which they are subject are constitutional. Our laws should put the burden on government to justify its actions, and not treat citizens like outlaws for challenging them.”

The Wall Street Journal

“[T]he nonprofit, libertarian law firm that filed the case, the Institute for Justice, said a broader principle was at stake. At what point do state licensing rules impose ‘an unreasonable restriction on people’s ability to earn a living?’ said Clark Neily, a senior attorney with the firm, which is based in Arlington, Va.”

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At the Institute for Justice, we believe in changing the world through long-term, strategic litigation, communications, activism, training and research. Monthly givers allow us to do all this by providing a reliable source of support. And monthly giving makes donating easy for you, too—just sign up once to have your credit card or checking account charged every month. You can cancel or change your membership at any time.

Visit our website at www.ij.org/donate or contact Mary Quintanilla at 703-682-9320 x239 for more information.
Our Abbey has been making caskets for over a century.

We simply want to sell our plain wooden caskets to pay for food, health care and the education of our monks.

But the state board and funeral cartel want to shut us down.

We are fighting for our right and the right of every American to economic liberty.

I am IJ.