



INSTITUTE FOR JUSTICE

March 31, 2022

Via Electronic Mail

Mr. Tom Brown, Director
Forsyth County Planning & Zoning Commission
110 East Main Street, Suite 100
Cumming, GA 30040

Re: Forsyth County Mobile Vending & Business Licenses

Dear Mr. Brown:

My name is Daniel Rankin, and I am an attorney with the Institute for Justice (IJ). IJ is a public-interest law firm that advocates for entrepreneurs' right to earn an honest living. As part of that mission, we file lawsuits against arbitrary government actions that deny people their right to economic liberty. This includes *Jackson, et al. v. Raffensperger*, 843 S.E.2d 576 (Ga. 2020), where IJ recently secured a victory before the Georgia Supreme Court.

I am writing to you today on behalf of Mr. Forrest (Andy) Forde, a resident of Forsyth County. Mr. Forde is currently trying to start a new business, specifically a flower shop in a covered wagon to sell flowers in various parts of the county. Because Mr. Forde's business would qualify as a "mobile vending activity" under the Forsyth County Code, he must not only submit a mobile vending application but also obtain a business license from the county. App. A, Ch. 16, art. IV, § 23.

Mr. Forde has informed me that even though he has followed the requisite steps to obtain a business license, you have denied his application. The Business License Department, however, has no discretion to deny a license to a legal business. *See* Ch. 22, art. II, § 32; *see also Short v. City of Corneilia*, 49 S.E.2d 483, 487 (Ga. 1948) ("[T]he municipal authorities are not vested with discretion to grant or refuse licenses" to "a useful and per se lawful occupation").

More troubling, though, are the reasons you gave Mr. Forde for why you were denying his license. You expressed concern about low-quality vendors potentially entering the county and stated an intention to protect existing businesses from competition. If true, these statements suggest that the county is unlawfully engaged in economic protectionism. *See Jackson, et al. v. Raffensperger*, 843 S.E.2d 576, 580 (Ga. 2020)

(“[T]he Georgia Constitution’s Due Process Clause entitles Georgians to pursue a lawful occupation of their choosing without unreasonable government interference.”); *Davis v. City of Macon*, 421 S.E.2d 278 (Ga. 1992) (“The court must stand fast against the unceasing efforts of subsidy-seekers, and against their demands for tax preference and protectionism.”).

IJ often files, and wins, lawsuits nationwide that challenge license denials on such grounds. As I mentioned, we recently won a lawsuit before the Georgia Supreme Court on behalf of multiple plaintiffs who were unlawfully denied from working as lactation consultants because of an unconstitutional licensing law.* Previously, we convinced an Atlanta court to throw out a contract whereby the city turned over all vending spaces to a multibillion-dollar corporation.† And in your neighboring state of Florida, we successfully challenged a law that protected existing restaurants from competing food-truck vendors.‡

Mr. Forde’s business-license denial, and your statements accompanying it, concern us. Mr. Forde wishes to open his mobile flower shop, and the Forsyth County Planning & Zoning Commission should issue the licenses and permits he needs without delay. We will continue to remain in contact with Mr. Forde throughout this process and monitor the county’s actions closely.

Sincerely,

Daniel Rankin
Attorney, Institute for Justice

* See *Jackson, et al. v. Raffensperger*, 843 S.E.2d 576 (Ga. 2020); *Jackson, et al. v. Raffensperger*, [2018-CV-306952](#) (Sup. Ct. 2022).

† See *Miller, et al. v. City of Atlanta*, [2011-CV-203707](#) (Sup. Ct. 2011); [IJ's Press Release](#).

‡ [IJ's Press Release](#); Florida Circuit Court’s [preliminary injunction](#) and [final judgment](#).