

Spoiled!

How relentless enforcement and \$1,000 tickets are ruining Chinatown's largest fruit & vegetable market



New York City is in the midst of a health crisis. Fifty-eight percent of New Yorkers are overweight or obese, and more than half-a-million city residents have been diagnosed with diabetes.¹ In recent years, social scientists and public health officials have linked many health problems geographically to “food deserts” – neighborhoods where access to fresh and healthy food is limited. Studies have shown that food deserts are found almost exclusively in low-income neighborhoods of color.²

In recent years, New York City government officials have taken bold steps to address this problem. For example, in 2008, the City created the FRESH program to promote the establishment of grocery stores in low-income neighborhoods through the use of zoning and financial incentives. The same year, the Mayor's new “food policy coordinator” spearheaded an innovative program to allow 1,000 new fruit and vegetable carts to open in neighborhoods deemed food deserts.

Finally, over the last four years, through the leadership of Speaker Christine Quinn, City Council has provided more than \$1 million of funding to make Electronic Benefit Transfer (EBT) machines available to food stamp recipients at city farmers' markets.

Yet, on Forsyth Street in Chinatown, in what is certainly the busiest fruit and vegetable market in any low-income New York neighborhood, the city's police and health departments are undermining access to healthy food through strict enforcement of vending regulations and near-daily sweeps, resulting in ticketing, arrests, and the confiscation and destruction of fresh produce and vending equipment.

Data recently released by the Environmental Control Board (ECB) reveal that 949 ECB summonses were issued to fruit and vegetable vendors at the street market on Forsyth Street between Canal and Division Streets in 2009 and 2010, an average of 1.3 tickets per day. When criminal court, parking and sanitation summonses are added in, we estimate Forsyth Street Market vendors have received more than 2,000 total tickets over the past two years.



Photo © Nathan Smith

Our three-month investigation reveals that this aggressive enforcement has driven vendors out of business, diminished the market, and curbed access to healthy food for Chinatown residents.

The Forsyth Street Market started in 2005, when a group of vendors were relocated from Division Street to the then-desolate, curved block along the base of the Manhattan Bridge. The vendors had gained popularity for their exceptionally low prices, which catered to “elderly people and poor workers” in the neighborhood.⁴ However, their presence had also drawn complaints from the managers of Confucius Plaza, the large housing complex nearby. After coaxing from the Mayor's office – and, finally, the construction of bollards that blocked their access to the curb – the vendors moved to Forsyth Street.

“At first, there was nobody here. It was a public toilet,” said Paul Valentino, 75, the market's elder salesman. “We cleaned it up.” Gradually, with more space than on Division Street, the market grew. Currently, about twenty vending stands sell nearly every kind of fruit and vegetable imaginable, including Chinatown favorites like bok choy, bitter melon, and bitter squash. With each stand employing an average of three workers to manage the brisk stocking and selling, about 60 people are employed at Forsyth Street, all immigrants from countries as diverse as China, Korea, Bangladesh, Vietnam, Malaysia, Honduras, Mexico, and Ecuador.

The vendors' low-margin, high-volume model has proven popular to customers, 94% of whom are Asian-American, mostly from the immediate neighborhood and also Flushing and Sunset Park, both of which have nearby service via commuter van.⁵ Many local restaurants buy wholesale at the market each morning. All this activity has helped cause a resurgence on Forsyth Street. Foot traffic is up and new restaurants have opened.

Over time, however, the Forsyth Street Market also became a favored place for police and health inspectors, who visited the market and wrote tickets on 231 separate days - an average of once every three days - during 2009 and 2010. Indeed, the 949 ECB tickets given out on that single city block represent more than 2% of all summonses issued to mobile food vendors citywide during that period. These 949 tickets, by comparison, were also 19% more tickets than the 795 tickets issued during the same period at the city's four wholesale public markets *combined*.⁵

In fact, 470 of the 949 ECB tickets, or 50%, were written for a single violation - §17-315(c) of the New York City Administrative Code, which states that “no items... shall be placed upon any public space adjacent to a vending vehicle or pushcart.” This rule, which requires that vendors store all their produce on a regulation-size, six foot pushcart, is often flouted on bustling Forsyth Street, which resembles a busy marketplace more than a row of sidewalk fruit stands. “To sell at these prices, we need more than six feet of space” said vendor Ali Mohammed.

The second most common ticket written was for §17-311, or failing to display a license. This ticket, which vendors receive when they keep their license in their pocket, or when it is obstructed by heavy winter clothing, was cited 50% more often than not having a license and not having a permit combined.

Just as they are concentrated among a few regulations, tickets written to Forsyth Street Market vendors were written by a fairly small group of police officers. In fact, six officers from the 5th Precinct — officers Murdocco, Zhang, Dunbar, Valitutto, Hamlin and Center — wrote 362 tickets, or nearly 40% of the total ECB tickets written on Forsyth Street in 2009 and 2010.

1. See Council Speaker Christine Quinn Food-Works Presentation, December 7, 2009.
2. See Micheael Bader et. al. “Disparities in Neighborhood Food Environments: Implications of Measurement Strategies.” *Economic Geography* 86(4):409-430, 2010.
3. According to the 2000 Census, 31% of all Chinatown households live below the federal poverty level, compared to 21% of all NYC households.
4. Denny Lee, Chinatown: At a Street Market, Bruised Fruit, Summonses, and Rats, *NY Times*, March 10, 2002.
5. According to an SVP survey conducted July 8, 2011.
6. See NYC Mayor's Management Report, FY 2010, page 176.
7. See <http://www.Boweryboogie.com/2011/06/manhattan-bridge-produce-vendors-on-the-outs/>
8. See World Journal, <http://www.ourchinatown.org/2011/06/29/the-daily-five-june-29-2/>



We work 7 days a week. And we are trying. We try to follow the law. But still we get tickets. I think they are trying to ruin our business.

-Ida, 43
former medical worker



I used to carry 10-15 items, and now I only have five. With only six feet of space, you can't get enough business. The customers are not shopping any more.

- Ali, 21
young entrepreneur



Customers line up for produce



The Department of Health comes and takes away my pushcart, about every two months. The fruit, the vegetables, everything. They throw them in the garbage. And each time, I lose a week of work.

- Mohammed, 39
supports wife & three children



Low prices draw customers from around the neighborhood and across the region



94% of customers are Asian-American



Forsyth Street Fruit and Vegetable Market



Before, it was very busy here. Now its very slow. The customers are scared to come. Its hard to be in business. I don't know what to do.

- Phin, 45
in U.S. for 20 years



Abdul Mannan with a \$2,000 decision for two tickets



Each month, I get 7 or 8 tickets for criminal court from the police. But the health tickets are the biggest problem - they cost \$1,000. How can I pay this? We are not making a million dollars.

- Andy, 29
new father

Forsyth Street ECB tickets 2009 & 2010

items not in or under cart	470	50%
failed to display license	120	13%
no license / permit	80	8%
cart not abutting curb	67	7%
improper stand	34	4%
cart touching structure	17	2%
other	<u>161</u>	17%
total	949	



June 13, 2011 2:12 pm



June 24, 2011 6:40 pm



July 13, 2011 6:19 pm



July 4, 2011 6:24 pm

A Tale of Two Markets

Established in 1976, the Union Square Greenmarket has grown, over the last 35 years, to become perhaps the most famous and successful open-air farmers' market in the country.

The market has earned primary credit for turning a neglected and drug-strewn urban park into a mecca for tourists and food-loving New Yorkers. Thousands of visitors shop there each market day, including celebrity chefs like Anita Lo and Danny Meyer. They and others have opened nearby restaurants devoted to fresh, seasonal food, helping to turn Union Square into a chic neighborhood.

Less than two miles away, another fruit and vegetable market also revitalized a once-dangerous and crime-ridden area. This market also serves as a destination for thousands of local residents and restaurant owners each day, who also appreciate the variety of produce, low prices, and friendly atmosphere.

But city regulations and city authorities treat the immigrant vendors on Forsyth Street in Chinatown very differently from their Union Square counterparts, most of whom are white farmers from upstate New York and New Jersey.

Due to legal loopholes, the Union Square vendors are exempt from the dozens of rules and regulations that apply to mobile food vendors in New York City. As a result, the same practices that result in \$1,000 tickets on Forsyth Street are completely legal at Union Square.

For example, the Union Square vendors are not required to have city vending licenses or permits, the latter of which are impossible to obtain legally (in any event) without spending years on the waiting list. The Union Square vendors are also not subject to cart placement regulations like in §17-315 of the Administrative Code, which made up 74% of the tickets written at Forsyth Street in the last two years.

Indeed, neither the NYPD nor the NYC Department of Health inspect or patrol at the Union Square market. According to spokeswoman Jessica Ziehm, that job is left to the New York State Department of Agriculture and Markets, which regulates vendors of more hazardous foods, like meats and cheeses, at Union Square, but not those who sell whole fresh fruits and vegetables.

The result? While an estimated 2,000 tickets were written to Forsyth Street vendors in the last two years, no more than a handful, if any, were written at Union Square, a market of roughly comparable size with similar vending practices.

Union Square

Forsyth Street



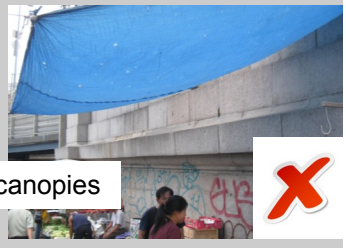
Vending from crates



Vending from tables



Parking accommodated



Tents or canopies

In addition to ECB tickets, Forsyth Street vendors frequently receive criminal court tickets - pink summonses that look similar but require an in-person (and frequently all-day) appearance at New York City Criminal Court at 346 Broadway. What's more, the vendors also regularly receive parking tickets and - although each pays for private garbage hauling - tickets from the Sanitation Department.

Because vending penalties increase for each prior offense, Forsyth Street Market vendors quickly reach the mandatory \$1,000 per-ticket fine. Some Forsyth Street vendors reported owing as much as \$20,000, an amount which is unlikely to be paid, but very likely to prevent the vendor from renewing his license upon expiration. Vendor Md S. Uddin, for example, sold food for 11 years after arriving from Bangladesh with his family in 1999. He now sits at home, according to his daughter Shavana. Owing nearly \$7,000 from tickets he received on Forsyth Street, and unable to renew his license, his family has gone on public assistance. "My dad doesn't speak any English. He didn't even understand the rules," she said.

Apart from ticketing, the police use other tactics. On June 20, 2011, responding to complaints that vendors were parking illegally overnight, the 5th Precinct towed two vending trucks and placed metal barricades and "No Parking" signs along the curb.⁷ The following week, they arrested one vendor and confiscated 450 boxes of produce.⁸ While some vendors now park in lots nearby, about half the vendors left the market - and along with them, many customers. "Business is down at least 40%" since the barricades went up, said Paul. Customers have taken notice. "Now it's nothing compared to what it was," said Garret Linn, who lives nearby. "We can't get what we want."

Complaints from the vendors, to the 5th Precinct and the Mayor's office, have fallen on deaf ears. Luckily, there are signs that some city agencies have a long-term vision for the market. In 2009, the Department of Transportation announced plans to create a public plaza on Forsyth Street, widening the sidewalk and creating more space for the vendors. Designs have not yet been finalized. Construction is expected to begin in mid- to late-2012.

Until then, the New York City government should ask itself what its aggressive enforcement at the Forsyth Street Market is accomplishing. Apart from the clear harm done to the vendors, the City is undeniably undermining its other praiseworthy efforts to increase access to fresh fruits and vegetables in low-income neighborhoods like Chinatown.