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Hates, hates, hates food carts

Dan Biederman insists midtown monstrosities are hurting others' biz.

By Lisa Fickenscher
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Local BID chief Dan Biederman says the size and scope of sidewalk carts are "out of control." *Photo: Buck Ennis*

The sidewalks around Macy's and Bryant Park are home to dozens of food carts with large umbrellas, flashing LED signs and loud generators, whose vendors sell a variety of consumables, from hot dogs and pretzels to Halal cuisine.

Their presence is giving Dan Biederman indigestion.

The longtime president of the 34th Street Partnership and Bryant Park Management Corp., two business improvement districts, described the carts as eyesores in the neighborhoods he has spent the better part of three decades beautifying. He said his districts are a magnet for the vendors.

After chasing drug dealers and graffiti artists out of Bryant Park and helping to turn it into a city treasure, Mr. Biederman is on a crusade to curb street vendors there and around Herald Square. He is appealing to the highest echelons of power for help. During the summer, he met with New York City Police Commissioner Bill Bratton, whom he described as having "listened carefully to our case."

He's even offered design solutions for the carts that, he has claimed, have become gargantuan, taking up too much real estate on the sidewalks for pedestrians to navigate around.

The problem as he sees it—and he represents some large stakeholders, including Vornado, Madison Square Garden and Macy's—is the growing numbers of carts clogging up the sidewalks, particularly during evening rush hours. He said they create an unattractive environment.

What's more, he added, they don't have to play by the same rules as many of his constituents. "We think it's unbelievably unfair for the brick-and-mortar restaurants, that pay taxes and employ tons of people, to get [letter grades from the Department of Health] and for the carts to get away scot-free," Mr. Biederman said.

His obsession with the vendors, however, has earned harsh criticism from advocates such as Sean Basinski of the Street Vendor Project, which is part of the Urban Justice Center. The vendors are largely minorities or immigrants, earning low wages.

"We believe Dan Biederman hates vendors and is a racist against [them]," Mr. Basinski said.

"There is no racism here," Mr. Biederman said. He insisted that his desire to reduce the vendor population in his districts is to make it easier for pedestrians to walk on the sidewalks and to improve the overall streetscape appearance.

"This problem is out of control. The carts are bigger, uglier, and some of them extend to as high as 20 feet."

While Mr. Biederman maintains that the vendors have proliferated around West 34th Street and Bryant Park, the city's Health Department, which issues the food-handling licenses and food-vending permits, said there has been no rise in their numbers citywide.

Offering a redesign



Food carts from a simpler past. *Photo: Getty Images*

According to the agency, there are 5,100 truck and cart permits, a number that is capped by the city's administrative codes and has not increased for several years. There are approximately 18,000 licensed vendors—who prepare and sell the food on the streets—and that number is similarly unchanged since 2010. But violations have increased to 11,268 in fiscal year 2014 from 9,897 the previous year.

In 2011, the 34th Street Partnership tried to launch a program to help vendors redesign their carts and add healthier menu items. Mr. Biederman argued that making the carts more attractive would increase sales. One vendor agreed to be the first in the program and to split with the partnership the \$3,000 tab for the upgrades. His cart got new signage and a smaller umbrella, and he began selling fruit and vegetable smoothies. But in the end, he never paid his portion of the bill, and he has since left the Penn Station neighborhood. He's been spotted near the High Line.

"He was the best of them, and it just didn't work out," said Mr. Biederman.

The "unfair competition" argument has not earned broad support in the City Council, which would have to sign off on legislation requiring mobile vendors to get letter grades—though council member Daniel Garodnick said he plans to reintroduce his bill to put letter grades on food carts. But most people, including the vendors, agree that the rules governing vending in the city are byzantine, inconsistent and need to be rewritten.

There are streets, for example, that do not allow vending, and some that allow it only after 6 p.m. or 7 p.m. and on the weekends. Other streets have no restrictions at all. Disabled-veteran vendors are given special privileges, including priority over others to sell on any block. And there are different rules that apply to vendors who sell books, magazines and calendars. In general, vendors are required to set up on sidewalks that are at least 12 feet wide.

Mr. Biederman is not alone in his frustration. Other business districts say that vending is a problem. Most notably, the Metropolitan Museum of Art has attracted up to 20 hot-dog and pretzel carts outside its brand-new \$65 million plaza. Museum officials are upset and are hoping the city will address their concerns, which include safety hazards.

Food trucks a bigger problem

Others are focused on aesthetics.

"The carts are very unattractive," concurred Tom Cusick, president of the Fifth Avenue BID. "They have blaring music, and technically there are limits on the [cart] size, but some vendors violate the limits."

He added that his district does not have as many vendors as the 34th Street BID.

On a rainy Nov. 13 evening, 54 vendors, 49 of which were selling food, clustered between West 31st and West 35th streets, from Eighth Avenue to Fifth Avenue, according to the partnership.

None of the major business districts in the city said they are experiencing a surge in vending, with the exception of food trucks.

"We are seeing a growth in food-truck activity," said Marc Wurzel, general counsel for the Grand Central Partnership. It reported 321 incidents in which its public-safety officers responded to a vendor problem during its previous fiscal year, which ended in June 2014. But there have already been 190 complaints in the first four months of the fiscal year.

"If the incidents continue at that pace, we could be looking at 570 by the end of the [this] fiscal year," Mr. Wurzel said, adding, "Anecdotally, most of the chatter is about food trucks."

For now, food trucks appear to be attracting the most scrutiny, as affirmed by the New York City Food Truck Association. On Oct. 14, it surveyed its members, finding that 54% of them had been ticketed during the prior day, and 85% had received a ticket within the previous week.

But near Penn Station, most of the talk is about carts.

"The biggest complaint by far from landlords and tenants [in my districts] is vending," Mr. Biederman said.

"The second is about taxes."

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