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**Statement of Council Member Daniel R. Garodnick
On Proposed Revision of Secs. 1-02 and 1-05(b) of Title 56 of the Official
Compilation of the Rules of the City of New York
April 23, 2010**

Thank you for the opportunity to testify on the Department of Parks & Recreation proposed rule change regarding vendors of expressive matter.

Let me preface my remarks by saying that within my own Council District (which includes Central Park South, as well as the east side of Fifth Avenue directly across from Central Park, from 59th to 97th Street), I have consistently spoken up for the regulation of vending activity and enforcement of the existing laws that is both fair and consistent, with a particular focus on maintaining a safe and unencumbered pedestrian right of way. The scope of these efforts has included vending operations outside the Metropolitan Museum of Art and other locations throughout the Upper East Side.

I firmly believe that the City of New York has the power and the right to set appropriate limits on vending, including the vending of expressive matter (commonly referred to as "First Amendment vending"), as long as expressive matter restrictions are limited to time, place and manner. As I believe that the proposed regulations are firmly within the Parks Department's authority, I applaud you for seeking to propose measured rules to protect the public's enjoyable access to our open spaces.

As I have made clear before, the City must rethink its approach to addressing vending and pedestrian right of way. Too frequently in New York City, it is the vendors themselves who appear to be making, or openly flouting, the rules. Police Officers find the rules too cumbersome and confusing, making enforcement difficult. As I noted in my objection to the surge of food vendors outside the Met last summer, the relationship between vendors and the City is like the "tail wagging the dog."

Nevertheless, I have a number of unanswered questions and unresolved concerns regarding the proposed rules as written.

First, the Parks Department has proposed a specific number of expressive matter vendors in various locations around the City. The basis for the specific prescribed numbers is

unclear to me, however, and I ask whether the reduction in the number of vendors is proportional to the existing problems of access.

My second concern is about the first-come, first serve procedure for claiming a legal vending space. I believe that this may result in physical altercations, vendors occupying a space 24 hours a day so as not to relinquish it, and a "survival of the fittest" system that works against senior citizen and disabled vendors.

Finally, a number of vendors have expressed concern to me that the proposed limits on expressive matter vending are a precursor to an increase in the number of vending concessions. Without making a distinction on which type of vending is more appropriate, I would caution you to stay true to your stated goal of regulating vending in order to optimize public access to park space.

The sale of art and other expressive matter contributes to the charm of Central Park and is closely linked with the identity of Union Square Park. New York City has a proud and thriving heritage as a center of visual arts and political and literary expression. We must strike a careful balance between these activities and the free enjoyment of our public spaces. I believe this balance will be better struck by giving consideration to the concerns I have raised this morning, and I encourage the Parks Department to continue honing its proposal accordingly.

Thank you for the opportunity to offer testimony this morning.