



# BROOKLYN HEIGHTS ASSOCIATION, INC.

55 Pierrepont Street, Box 17D, Brooklyn, New York 11201 (718) 858-9193 Fax (718) 875-5607  
organized 1910

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June 4, 2008

Mr. Robert Orlin

Deputy Commissioner & General Counsel

NYC Department of Sanitation

125 Worth Street

New York, NY 10013

Re: Section 31-122 of Subchapter G of Chapter 31 of Title 16 of the Rules of NYC

Dear Deputy Commissioner Orlin:

The Brooklyn Heights Association is a civic association, founded in 1910, which represents approximately 1100 households in Brooklyn Heights.

One of the most complained about quality of life problems our organization has tried to resolve, on behalf of our members, is the unsolicited and unwelcome distribution of advertising materials of all types (menus, business cards, flyers, circular bundles, etc.) which are left at private property. One finds all forms of this advertising left on rowhouse steps or wedged in ironwork railings, dumped in quantity inside entrances to apartment buildings or stuffed through private letter openings. This is a practice that creates a private and public nuisance – by causing trip hazards when wet, and by announcing an owner's absence for weeks at a time during a holiday period. It also creates litter conditions which go unchecked when an owner is away.

In an effort to stop the flow, the Brooklyn Heights Association has made up small 3"x5" white (laminated signs) with red letters saying "No Ads/No Menus" which, when accompanied by repeated phone calls to a persistent distributor sometimes works with some distributors or local businesses. Generally, however, our self enforcement has not accomplished what we hope stiff monetary penalties by the NYC Sanitation Department could be expected to do.

It is with this history that we are reviewing the proposed rule to permit the NYC DOS to enforce the NYS law that prohibits distribution of unsolicited advertisement on private property without the authorization of the property owner. We note that in order for the DOS to enforce the prohibition provided by NYS General Business Law (Section 397-a), owners will be required to display a certain sign of a specified

size and wording and that owners will have to submit a notarized affidavit attesting to the unsolicited distribution.

We wish to submit several comments about the proposed rule:

- Enforcement by the NYC DOS against the unwanted advertisements is welcome.
- Distributors of unsolicited ads who ignore owners' expressed wishes, as indicated by visibly posted signs, should be penalized in sufficient amounts to deter the practice of distribution.
- Sanitation agents assigned to brownstone neighborhoods are well aware of the conditions I described above and they should be empowered to issue a summons to any business whose menus or cards or flyers are found on private property in the presence of a sign saying "No", regardless of whether they see the person dropping the advertisement or not.
- It would be unfair to assign most of the burden of enforcement to a private property owner who – according to the proposed rule – would be expected to save the materials left on their steps, go to a notary with multiple affidavits, and mail said documents to the DOS. Further, the private property owner would be required to take time off work to appear at an ECB hearing, in the event that the penalized distributor contests the enforcement. This is an unfair burden, one which the larger distribution companies will take advantage of in order to discourage complaints.
- Many owners will give up rather than devote so much time to the process of seeking relief from a burden, which shouldn't be theirs to bear in the first place.

Thank you for considering our comments.

Sincerely,



Judy Stanton  
Executive Director