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Gale A. Brewer, Borough President

April 26, 2016

Robert Messner, Esq.
Assistant Commissioner
NYPD Civil Enforcement Unit
2 Lafayette Street, 5th Floor
New York, NY 10007

Dear Assistant Commissioner Messner:

This past Sunday I was shocked by detailed *Daily News* and ProPublica reporting on the apparent misapplication of the city's nuisance abatement law by the Police Department (*Daily News*, Apr. 22, "NYPD targets immigrant shops with nuisance cases, threatening yearlong closures over minor offenses").

The nuisance abatement law provides the city government with legal tools to pursue businesses and properties that are harbors for persistent lawbreaking. But the *Daily News* and ProPublica's reporting forces even the most skeptical reader to wonder if the Police Department is using this law to harass small business owners.

In addition to all of the risks and dangers of starting and operating a small business in Manhattan, storefronters are burdened with managing how the public uses their business. Unlike office buildings that employ security personnel, small businesses deal with customers that come right off the street without any screening.

So, for example, if an employee is duped into selling alcohol to someone who should not be buying it, education on common tricks that minors use to fool store employees should be our first response. Unless the NYPD can demonstrate a business owner or employee is an intentional and persistent violator, using the nuisance law is a disproportionate response to the occasional accidental sale of alcohol to a minor.

By the same token, as a small storefront business owner or employee, often it is safest to avoid confrontations when visitors engage in illicit activity within their store. As such, using the nuisance abatement law against a business simply because third parties buy or sell stolen property in or around that business's premises is unfair and a misapplication of the law.

The nuisance abatement law may be better suited to the fight against K2, or for breaking up rings of untaxed cigarette vendors, rather than threatening the local bodega or laundromat

with closure and steep fines. In any event, this law was certainly not intended as a cudgel to force small businesses into agreeing to provide the NYPD with warrantless surveillance.

By reply letter, I'd appreciate an outline of your unit's current caseload of nuisance abatement actions affecting storefront businesses and an explanation of any guidelines, principles, or formal regulations your unit uses to determine which cases are appropriate for nuisance abatement actions and which are not.

If you have any questions please feel free to contact me. Thank you for your attention to this issue.

Sincerely,


Gale A. Brewer

cc: Police Commissioner William Bratton