

Summary: Small Business Large Impact: Expanding Opportunity for Manhattan Storefronters

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Intro:

- Small business provides Manhattan's largest expanding job market. They have historically been a gateway to a middle class lifestyle, especially for new immigrants and various ethnic enclaves.
- They are an important source of revenue for the city because small businesses hire locally, contract out services locally, make local purchases, and give New York City streets their character.
- **The focus of this report is on storefronters.** They are the backbone of the New York City character.
- **High rents, corporate competition, and real estate development deals are creating challenges over and above the ones small businesses typically face.** Activists have cited the speed with which commercial landlords move to evict small businesses.
- Empty storefronts persist for weeks, months, years, as higher rent incentivises landlords to wait for the highest bidder.

The MBPO recommends 4 steps to help small businesses in Manhattan:

- (1) help small businesses cope in the current real estate market**
- (2) improve government interaction with small businesses**
- (3) reform the city's Commercial Rent Tax**
- (4) maximize resources among government agencies.**

(1) Help small businesses cope in the current real estate market.

- Firms with fewer than five employees constituted the bulk of growth in new businesses in New York City between 2000 and 2013, providing a net gain of 31,421 jobs.
- Firms with fewer than 20 employees constitute over 90% of the businesses in the New York metropolitan area.
- In a booming commercial real estate market, chain stores don't need to be profitable to afford their lease, because the street-level location may be more useful as an advertisement than as a means to profitably move merchandise.

- Storefronters, on the other hand, struggle mightily to pay \$65.14 per square foot—the average Manhattan asking rent in the fourth quarter of 2014.
- When small businesses are replaced with chain banks or chain drugstores, the market fails both the business owners and New Yorkers who prefer unique and specialized services.

(2) Improve government interaction with small businesses.

Rising commercial rent and changing clientele:

- It has always been tough to open a unique storefront in NYC. Recently, however, New Yorkers have seen something different happening: *t*
- As more ultra-high-income individuals move into New York City, property values and rents escalate, and owners of ground-floor retail spaces search for the new market ceiling. Many are avoiding locking themselves into 10- or 15-year leases at a price per square foot that may turn out to be below that of neighboring buildings. Instead, they are keeping their stores vacant until they land a tenant who accepts a higher rate, which establishes a new market norm.

Ill-informed management decisions

- Not carrying enough insurance: Bare minimum insurance can crush a small business..
- Delaying tax payments: Small businesses usually elect to pay their sales tax annually instead of quarterly. the state may not contact the business about unpaid sales tax until the second or third year, whereupon the owner might not have properly accounted for the sales tax revenues and is unable to pay.*he closing of businesses that have stood the test of time and enjoy healthy patronage from the neighborhood and surrounding city. The reason: large-scale increases in commercial rents.*
- Not budgeting for utilities: New small business owners are often unaware that utilities treat business customers differently from residential customers.

Lack of Readiness to change or Expand

- Communities can change a lot over the course of a 15-year lease.
- Some small business owners may fear change, especially if they have been running their business the same way for a long time.
- These businesses would benefit from an organization that could help them identify the new market and make any needed adjustments to their strategy.
- Changing consumer tastes might force business owners to carry more expensive products that would require taking out a loan. A lot of small businesses may not have the experience or credit to take out a traditional loan.

- SBS and ESDC both have loan programs from small businesses in NYC. Independent microloan organizations like Accion and Grameen America serve needs that are too small for traditional banks and credit unions.

Business-inhibiting laws and policies

- Although city, state, and federal governments all have agencies that respond to the needs of small businesses, government can also restrict business.

These include:

Rigid zoning codes.

- Rigid descriptions in zoning codes do not leave much room for interpretation, and store fronters need room to innovate. Real estate development is an incredible opportunity to add ground-floor commercial units to the market and increase Manhattan's overall supply. Unfortunately, many new commercial spaces are built out in large dimensions that please investors but not storefronters.

Uncooperative agency inspectors.

- Various New York City agencies interface with small businesses to ensure that they comply with regulations—the Department of Consumer Affairs (DCA), the Department of Sanitation (DSNY), the Department of Transportation (DOT), and the Department of Health and Mental Hygiene (DOHMH).
- For many of the small business owners we interviewed, DCA inspectors were perceived as taking a guilty-until-proven innocent approach, viewing business owners as willfully negligent or perhaps even as scam artists. Also, every agency has their own detailed checklist and it can be difficult for a small business to know exactly how to comply constantly updated and complex details within these lists.
- If the owner is discovered to have unknowingly violated a regulation, he or she should be given the opportunity to learn from this mistake and be fined only if the situation is not corrected.

Changing the Commercial Rent Tax

A tax on businesses below 96th street that pay more than 250,000 in gross annual rent.

- Gross rent takes other costs into account, such as property taxes. Many commercial leases have pass-through clauses that make a lessee pay any increase in property taxes for their space. So if their landlord's property taxes increase, the tenant will have to pay the difference; what the tenants pay in property taxes is included in what is considered gross annual rent.
- This tax-on-a-tax punishes successful business owners for improving their neighborhoods.

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Gaps in Government Support

SBS and other government agencies provide useful resources for small businesses, however, sometimes gaps in services can occur.

- While SBS offers impressive services for those preparing to establish a business that conforms to current laws and regulations, the same types of services are not available for street vendors who may or may not hold a license but want to expand into a brick-and-mortar location.
- This SBS service could assist them in launching informal-sector businesses or helping legitimate micro-businesses as they grow to stay in compliance with laws and regulations that previously did not apply to them.
- SBS is best situated to provide small businesses with individualized assistance. Entrepreneurs would be better served if SBS coordinated its services with those of other agencies, making referrals to clients and tracking when this is done.

Food Vendors

- Opportunities and challenges for street vendors Should be a very low cost way to begin a business with no commercial lease and very little risk. This isn't the case in NYC necessarily, because of necessary storage space, transportation, and limited licenses make the demand for food carts much higher than the supply.
- Supply hasn't increased since a 1979 cap.
- It is really hard for food vendors to contract private carting services to get rid of their business waste.

Business improvement Districts

- Many BIDs, like that in Washington Heights, provide an expansive slate of services to small businesses by conducting market research and lobbying on their behalf.
- Because BIDs are primarily funded by an assessment on real properties within the district's boundaries, many of our interviewees expressed dismay that the funding mechanism makes BIDs beholden to property owners over all other constituents. It makes sense that BIDs seek to improve property values for the entities that dominate their boards and from which they garner most of their budgets. But the city needs to empower BIDs to provide more services that benefit store-fronters in their catchment areas.

Recommendations:

Different recommendations to help alleviate above issues.

Negotiate/Mediate Lease Renewals

- Help small businesses cope in the current real estate market To take some of the pressure off of lease renewals, we recommend institution of a mandatory negotiation and mediation period, with the option of a short-term lease extension. As a long-term commercial lease draws to a close, these policies will aid both small business owners and property owners alike by ensuring a frank, informed conversation takes place while maintaining protection and flexibility for both parties.
- Unlike commercial rent control, this plan leaves the question of how much a tenant will pay for the duration of their lease to the negotiation between tenant and landlord.

Expand the Supply of Retail Space

- We also recommend an increase in the supply of ground-floor retail space to provide more competition between building owners and more competitive leases for small businesses. More commercial space in the neighborhood can also give a business that is forced to move out of its current space a way to secure a more favorable lease in the same neighborhood.

Don't allow ground-floor retail to expire.

- Many ground-floor commercial units have been functioning as a nonconforming use but were grandfathered as an existing use under the 1961 zoning. When these spaces lay vacant for two or more years, they were required to conform with the permitted use, which meant an end to the continuation of that space as retail.

Create an Urban Neighborhoods Fund

- The New York State Association for Affordable Housing has found that current subsidy programs do not adequately support the creation of ground-floor retail. To ensure that such space is built whenever possible, it proposes an Urban Neighborhoods Fund for the city's affordable housing developments.

Expand retail opportunities by expanding commercial overlay districts

- It's critical that the city allow for additional commercial retail density in places where upzonings occur and create opportunities for commercial activity in surrounding areas. The Department of City Planning (DCP) should match the expansion of commercial overlay districts with additional zoning provisions requiring new buildings with a certain amount of commercial frontage to have a minimum number of storefront establishments.

Create commercial opportunities for storefronts within public housing complexes.

- Commercial overlays should be added to the existing residential zones to permit retail activity. The New York City Housing Authority (NYCHA) could then remodel the bases of some of its buildings to allow for ground-floor commercial units to replace underutilized the supply of retail space storage or workshop space.
- Would also help the NYCHA with funding and create safer public housing by adding commercial traffic directly within public housing.

Make it Easier to Buy the Building

- Separate local and commercial units into condominiums, making it cheaper to purchase. The SBA's 504 Loan allows businesses to purchase properties valued at up to \$5 million if they can provide at least 10% of the purchase amount and if 51% of the building is used as part of the business.¹⁷ A program that promotes "condo-ization" for compliance would make the purchase of ground-floor retail space possible for storefronters. A procedure with New York State's Real Estate Finance Bureau would allow building owners to easily separate the uses if the split has no effect on residential tenants.¹⁸ Once the commercial units are legally separate, the commercial tenant is far more likely to use 51% of the condominium

Maximize City Inspector Efficiencies

- The judgement of city inspectors is crucial in maintaining a small business. Agencies with complementary goals can combine efforts to provide more comprehensive oversight.
- We should also transform inspectors into educators. Inspectors have the potential to become the city's greatest asset for connecting with storefronters. While inspecting retail establishments is important for consumer protection, DCA should reform and expand this position to make it a Small Business Education Specialist to assist small businesses in achieving compliance.
- Provide language services for Cure Law participants. The 2013 Cure Law—which the MBP co-sponsored as a City Council Member¹⁹—listed 84 DCA violations that can be corrected by submitting certification that the condition has been fixed. It also allows businesses to avoid DCA fines by expanding the list to include over 100 types of violations that can be corrected. We need to make sure that all business have the fluency to both comply with current agency inspections, but also to be able to utilize laws such as the Cure Law.

Empower Street Vendors

- Create a ladder of entrepreneurship. SBS can strengthen the pipeline to fill brick-and-mortar retail spaces by helping fledgling entrepreneurs learn stronger business practices

- Raise the cap on vendor licenses and permits. The current limit has not been raised since 1981. Allow new entrepreneurs to go into business for themselves. (Bill 1303)
- Issue temporary license papers to replace lost or stolen licenses. DCA does not currently issue temporary cards for vendors to use until their replacement card arrives. So if a street vendor loses his or her license card for any reason, he or she is unable to work until receipt of a replacement, which can take up to a month.

Reform CRT

- City government should improve how the Commercial Rent Tax deals with store-fronters. In particular, the base gross annual rent should be raised from \$250,000 to exclude the majority of storefronters from qualifying for the tax. All retail tenants should also be allowed to ignore any property tax pass-throughs when calculating gross annual rent.

Leverage BID Resources

- Partner with SBS to identify and help struggling businesses. BIDs can help identify store-fronters who need SBS assistance and refer them to the closest center.
- Develop the capacity to provide microloans. Once the local BID has identified ways to strengthen a business, the owner may need a small loan to begin selling a new line of products or update a sign. SBS should start a pilot program to give BIDs with a large share of storefronters the ability to provide micro-loans of less than \$25,000.

Encourage Government Innovation

- Create a New York State commercial insurance exchange platform. Commercial insurance comes in many forms. Depending on the nature of a business and where it is located, it could have at least four types of commercial insurance. A commercial insurance exchange would allow them to input important aspects of their business— such as risk factors, size of shop, and approximate value of capital investment—and then allow them to shop between the various plans according to monthly cost or payout. This would be a huge improvement than the bare minimum that in the end, can close a business.
- Launch an annual SBS competition for small business apps. Small businesses have a great deal to gain from the proliferation of smartphones. Well-written apps can help them work together and build their own scale without having to be part of a chain.