

Public Comment

Title: Street Vending / Special
Sidewalk Vending
District Program

Council File: 13-1493

1 SHAYLA R. MYERS (SBN 264054)
 2 MATTHEW G. CLARK (SBN 233736)
 3 CLAUDIA MENJIVAR (SBN 291981)
LEGAL AID FOUNDATION OF LOS ANGELES
 4 7000 S. Broadway
 Los Angeles, CA 90003
 5 Tel: 213 640-3831
 Fax: 213 640-3988
 6 E: smyers@lafla.org
 7 E: mclark@lafla.org
 8 E: cmenjivar@lafla.org

9 *Counsel for Plaintiff Unión Popular de Vendedores Ambulantes*
 10 (Additional counsel listed on following page)

11
 12 UNITED STATES DISTRICT COURT
 13 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

14 AURELIANO SANTIAGO, an individual;
 15 and UNIÓN POPULAR DE
 16 VENDEDORES AMBULANTES, an
 unincorporated association,
 17 Plaintiffs,
 18
 19 vs.
 20 CITY OF LOS ANGELES, FASHION
 21 DISTRICT BUSINESS IMPROVEMENT
 22 DISTRICT, DOWNTOWN LOS
 ANGELES PROPERTY OWNERS
 23 ASSOCIATION, INC., OFFICER
 LINTON in her individual and official
 24 capacity; OFFICER OWEN, in her
 25 individual and official capacity; DOES 1-
 26 10,
 27 Defendants.

} Case No.
 } **COMPLAINT: CIVIL RIGHTS**
 } **42 U.S.C. § 1983 AND FOURTH, FIFTH**
 } **AND FOURTEENTH AMENDMENTS**
 } **CALIFORNIA CONSTITUTION**
 } **ARTICLE I, §§ 7 AND 13**
 } **CALIFORNIA CIVIL CODE §§ 52, 52.1**

1 MICHAEL KAUFMAN (SBN 254575)
2 JENNIFER L. PASQUARELLA (SBN 263241)
3 PETER BIBRING (SBN 223981)

4 **ACLU FOUNDATION OF SOUTHERN CALIFORNIA**

5 1313 West 8th Street
6 Los Angeles, California 90017
7 Telephone: (213) 977-5232
8 Facsimile: (213) 417-2232
9 E: mkaufman@aclusocal.org
10 E: jpasquarella@aclusocal.org
11 E: pbibring@aclusocal.org

12 CAROL A. SOBEL (SBN 84483)

13 COLLEEN M. MULLEN (SBN 299058)

14 **NATIONAL LAWYERS GUILD – LA**

15 3110 Main Street, Suite 210
16 Santa Monica, CA 90405
17 Tel: 310 393 3055
18 Fax: 310 451-3858
19 E: carolsobel@aol.com
20 E. mullen.colleen1@gmail.com

21 CYNTHIA ANDERSON-BARKER (SBN 175764)

22 **NATIONAL LAWYERS GUILD – LA**

23 3435 Wilshire Blvd # 2910
24 Los Angeles, CA 90010
25 Tel: 213 381-3246
26 Fax: 213 252-0091
27 E: cablaw@hotmail.com

28 PAUL L. HOFFMAN (SBN 71244)

CATHERINE SWEETSER (SBN 271142)

SCHONBRUN, SEPLOW, HARRIS & HOFFMAN

723 Ocean Front Walk
Venice, California 90291
Tel: 310 396-0731
Fax: 310 399-7040
E. hoffpaul@aol.com
E. catherine.sdshhh@gmail.com

JURISDICTION AND VENUE

1
2 1. This is an action for injunctive relief and damages pursuant to 42 U.S.C.
3 § 1983, based upon ongoing violations by the defendants of the rights secured to
4 plaintiffs by the Fourth, Fifth and Fourteenth Amendments of the United States
5 Constitution. Jurisdiction exists based on 28 U.S.C. §§ 1331 and 1343 in that this
6 case is brought pursuant to 42 U.S.C. § 1983 and raises questions of federal
7 constitutional law under the Fourth, Fifth, and Fourteenth Amendments. The court
8 has supplemental jurisdiction over plaintiffs' state law claims pursuant to 28 U.S.C. §
9 1367.

10 2. Venue is proper in the Central District in that the events and conduct
11 complained of in this action occurred in the Central District.

PRELIMINARY STATEMENT

12
13 3. Plaintiffs, an individual street vendor and an organization representing
14 the interests of street vendors, bring this action against the City of Los Angeles
15 (City), individual officers in the Los Angeles Police Department (LAPD), and the
16 Fashion District Business Improvement District (BID) to enjoin the City and BID
17 from illegally seizing and destroying their property.

18 4. The LAPD and the Fashion District BID, working together, have a
19 policy, custom, and practice of seizing and destroying the property of street vendors
20 who sell food and other items to the thousands of people that frequent the streets of
21 the Fashion District in Downtown Los Angeles. The City has been on notice for
22 more than a year that this was occurring and failed to take action to end the unlawful
23 practice. The challenged practice is so widespread in the LAPD's Central Division
24 that the City cannot deny knowledge of the practice.

25 5. These officers, operating together under color of law and with complete
26 disregard for the constitutional rights of the vendors, seize their property, including
27 not only perishable goods like fruit and ice cream, but also shopping carts, dollies,
28 coolers, umbrellas, utensils cutting boards, and sometimes the personal property that

1 is with the vendors' goods. While the vendors are forced to stand aside, often under
2 threat of citations or arrest, these officers summarily throw the vendors' property into
3 the back of a BID trash truck and haul it away, giving the vendors no opportunity to
4 get the items back, and leaving them no recourse against them.

5 6. The officers who seize and destroy the vendors' property do so with no
6 warrant or legal justification, and without affording the vendors any pre- or post-
7 deprivation due process at all. The seizure and destruction of the vendors' property
8 serves no legitimate government purpose and is patently unreasonable. Instead of
9 affording the vendors rights or following established protocols, the officers seize and
10 destroy the property as a sort of extrajudicial street punishment, meted out against the
11 vendors as the officers see fit. The LAPD and BID act with no judicial oversight and
12 without affording the vendors any way to challenge this punishment or seek the
13 return of their unlawfully seized property before it is discarded or destroyed.

14 7. Because of the officers' complete disregard for the vendors' rights, the
15 individual and organizational plaintiffs have no choice but to bring this fight into the
16 Courtroom, and to seek this Court's assistance to put an end to these illegal practices.

17 **PLAINTIFFS**

18 8. Plaintiff Unión Popular de Vendedores Ambulantes ("Unión") is a
19 member-based unincorporated organization in Los Angeles that fights to protect
20 street vendors, organizes them to advocate for legalization of street vending, and
21 educates them on the laws and rules that affect them. Unión was founded in 2013
22 and has two branches that work with street vendors in the Fashion District and
23 MacArthur Park neighborhoods of Los Angeles. LAPD and BID officers have
24 illegally seized and destroyed the property of Unión's members, without due process,
25 and consistent with LAPD and BID custom, policies and practices. Unión has had to
26 divert limited organizational resources to help members who have been subjected to
27 these illegal practices, including by assisting vendors to seek the return of their
28 confiscated property and by meeting with police and City and County officials to

1 advocate for a cessation of these enforcement practices. As a result of these ongoing
2 practices, Unión is forced to spend time and resources on confiscations that could
3 have been dedicated to its other organizational missions, such as the legalization
4 campaign. Unión brings this action on behalf of itself and its members.

5 9. Plaintiff Aureliano Santiago is a street vendor who sells ice cream on the
6 streets in Los Angeles. He has been cited for street vending and had his property
7 confiscated on five or six occasions in the Fashion District. Each time his property is
8 confiscated, it creates a financial hardship for him and his family, who depend on Mr.
9 Santiago to provide for them, pay rent and bills, and contribute to his daughter's
10 college tuition. Mr. Santiago is an active member of Unión. He has participated in
11 meetings with representatives of the LAPD, the Mayor's office, and other public
12 officials, all to advocate for an end to these unlawful seizures.

13 **DEFENDANTS**

14 10. Defendant the City of Los Angeles (City) is a municipal entity organized
15 under the laws of the State of California. The City is a legal entity with the capacity
16 to sue and be sued. The departments of the City of Los Angeles include the LAPD,
17 employees of which engage in the acts constituting the violations of plaintiffs' rights
18 alleged in this action. The City also created the Fashion District BID and has
19 authorized and/or ratified all of the actions of the Fashion District BID alleged herein.

20 11. Defendant Fashion District BID is a Business Improvement District
21 initially created by the City of Los Angeles in 1998, pursuant to California Streets
22 and Highways Code Section 36600 *et seq*, and last renewed in 2013. *See* Los
23 Angeles Municipal Ords. 172180, 182651. The Fashion District BID is funded by the
24 City of Los Angeles through an assessment on property owners located within the
25 BID, and the purpose of the BID, as outlined in the current Management District
26 Plan, is to provide increased municipal services to those properties, including
27 primarily safety and maintenance services.

28

1 12. Defendant Downtown Los Angeles Property Owners Association, Inc.,
2 (“the Owner’s Association”) is a 501(c)(6) not-for-profit business corporation
3 contracted by the City of Los Angeles to manage the Fashion District BID. The
4 Owner’s Association maintains offices in the City of Los Angeles. The Fashion
5 District BID and the Owner’s Association act as agents of the City and have
6 conspired with the City to violate plaintiffs’ rights.

7 13. Officer Linton is an officer with LAPD and is sued in her official and
8 individual capacities. She was and continues to be an officer in the Central Division
9 of LAPD at all relevant times in this complaint.

10 14. Officer Owen is an officer with LAPD and is sued in her official and
11 individual capacities. She was and continues to be an officer in the Central Division
12 of LAPD at all relevant times in this complaint.

13 15. The identities and capacities of defendants DOES 1 through 10 are
14 unknown to plaintiffs. Plaintiffs, therefore, sue these defendants by fictitious names.
15 As to all defendants sued by fictitious names, plaintiffs will give notice of this
16 Complaint and their true names and capacities when ascertained. Plaintiffs are
17 informed, believe, and thereon allege that DOES 1 through 10 are, and were at all
18 times relevant herein, other corporate or business entities, agents, successors in
19 interest, assigns, representatives, principals and/or employees of the defendants and
20 are responsible for the acts and omissions resulting in the violations alleged in this
21 complaint. Defendants DOES 1 through 10 are sued in both their official and
22 individual capacities.

23 16. Each of the defendants acted as joint actors with joint obligations, and
24 each defendant was and is responsible for the conduct and injuries herein alleged.

25 17. Each of the defendants acted, alone or together jointly, under color of
26 law. The City has delegated traditional municipal functions, including additional
27 sanitation and security services, to the Fashion District BID, through the adoption of
28

1 ordinances and pursuant to state law as well as through the direct delegation to BID
2 officers in the course of performing their duties. The Owner's Association, acting as
3 an agent of the Fashion District BID, performs those municipal functions at the
4 direction and behest of the City and with the presence and authority of the LAPD.

5 **ALLEGATIONS**

6 18. In Downtown Los Angeles, a series of Business Improvement Districts
7 (BIDs) cover seven districts that correspond roughly to neighborhoods downtown:
8 the Arts District, Bunker Hill (Downtown Center), the Historic Core, Skid Row (Los
9 Angeles Downtown Industrial District), South Park, Little Tokyo, and the Fashion
10 District.

11 19. The Fashion District BID was the first BID created in Los Angeles. It
12 covers the area known as the Fashion District because of the large number of
13 wholesale clothing stores, garment factories, and fabric retailers in the area.

14 20. The Fashion District BID consists of approximately 90 blocks in the
15 southern central area of downtown Los Angeles bounded on the west by Main Street,
16 Broadway and Spring Street; on the North by 8th Street, 7th Street, 6th Street and 9th
17 Street; on the east by San Pedro Street, Towne Avenue, Stanford Avenue, Griffith
18 Street and Paloma Street; and on the south by 17th Street and 18th Street. The BID
19 also covers Santee Alley, known for its bargain shopping and bazaar-like atmosphere.

20 21. Like all of the BIDs in Downtown Los Angeles and throughout the City,
21 the Fashion District BID is created and overseen by the City of Los Angeles pursuant
22 to state and municipal law and is funded by assessments levied on property owners in
23 the district. The Fashion District BID employs a team of maintenance and safety
24 officers to provide services that ordinarily would be provided by the Bureau of
25 Sanitation and the LAPD. The Fashion District officers wear yellow shirts to
26
27
28

1 distinguish them from other BID officers in other districts and are known colloquially
2 as “yellow shirts.”¹

3 22. The Fashion District BID officers support and work in concert with, and
4 at the direction of, the LAPD to extend the reach of the LAPD in the Fashion District.
5 They supplement ongoing police patrol efforts within the District. They maintain
6 communication with the LAPD area patrols, and work with the LAPD to deter and
7 conduct enforcement actions against street vendors.

8 23. In performing these tasks, LAPD and BID officers have a custom and
9 practice of violating the constitutional rights of vendors. Working together, LAPD
10 and BID officers seize and destroy the personal property of individuals who they
11 suspect are selling merchandise and food on the streets of the Fashion District. They
12 do so with no warrant or other legal justification for the seizures, and the vendors are
13 afforded absolutely no due process before or after the seizures and no notice before
14 the property is destroyed or sold. The taking of the vendors’ property is done with
15 total disregard for the vendors’ Fourth, Fifth and Fourteenth Amendment rights.

16 24. On information and belief, when LAPD happens upon a street vendor in
17 the Fashion District, officers contact the Fashion District BID, who in turn dispatch
18 members of its safety and clean teams to seize and destroy the vendor’s property.

19 25. After LAPD contacts the Fashion District BID, BID officers arrive on
20 the scene prepared to dispose of the property. The Fashion District BID employs a
21 fleet of trucks used to carry away trash and seized property.

22 26. In other instances, the BID officers first come across street vendors and
23 contact the LAPD, which will dispatch its own officers to the scene. The LAPD
24 officers sometimes cite and arrest vendors while the BID officers seize and dispose of
25

26 ¹ Other BIDs are known by the color of their shirts: Los Angeles Downtown
27 Industrial District officers are known as “red shirts,” Downtown Center are “purple
28 shirts,” Arts District are “blue shirts.” BID officers in the Historic Core and South
Park wear green shirts.

1 the vendors' personal property. At other times, LAPD officers will threaten vendors
2 with citation or arrest if they do not allow the property to be confiscated. LAPD
3 officers stand by while the BID officers seize and dispose of the vendors' property.

4 27. LAPD and BID officers also routinely verbally harass the street vendors
5 and insult them, and, on occasion, threaten them with deportation if the vendors
6 protest the seizure of their property.

7 28. Regardless of whether LAPD calls the BID officers or the BID officers
8 contact LAPD, and irrespective of whether the vendor is cited, arrested, or merely
9 threatened with citation or arrest, BID officers take and dispose of the property, and
10 they do so at the instruction or with the support of LAPD officers.

11 29. When the BID officers seize the vendors' property, the vendors are
12 given no opportunity to retrieve it after it is taken. They are not informed that they
13 can contest the seizure, or that their property will be stored. They are not given a
14 receipt for the property that is taken. They are not told where the property is being
15 taken and how they can reclaim it. When the vendors are detained by LAPD, they
16 must stand aside and watch their property be taken and destroyed. If they are not
17 detained, the presence of law enforcement and the threat of criminal prosecution
18 ensures that the vendors not interfere while their property is seized.

19 30. The property is not seized pursuant to a warrant, nor is it being seized for
20 safekeeping. The property is seized and destroyed even if the vendors are not
21 arrested and booked into custody, and even if there are individuals present whom the
22 owner could authorize to take possession of their property.

23 31. The property is not seized as evidence of a crime: it is not inventoried or
24 booked into evidence as required by LAPD policy, nor is it used as evidence against
25 the vendor, who may be charged with violations of the Los Angeles Municipal Code
26 and subsequently prosecuted for those violations. Instead, the property is summarily
27 thrown into the back of the BID trash truck and, then thrown away or disposed of.
28

1 32. The seizures are not consistent with an LAPD Special Order, issued in
2 2006 by the then-Commanding Officer of the Risk Management Group, Commander
3 Stuart Maislin, and the then-Commanding Officer of the Consent Decree Bureau,
4 Gerald Chaleff, and given to all members of the LAPD. The order requires that all
5 seizures of property must comply with LAPD Department Manual Section 5/510.10
6 (“Manual”), which mandates that seized non-perishable property be booked and
7 inventoried on a Property Report Form.

8 33. The 2006 notice emphasizes that the requirement to book and inventory
9 seized property, including non-evidence property, applies not only when an
10 individual is arrested, but also to situations in which an individual is detained. In
11 those instances, personal property must be returned immediately after the detention
12 ends. Despite the clear directives in the 2006 notice and the Manual, Defendant City
13 and the individual defendant officers have subverted their legal obligations by
14 directing and authorizing the seizure and immediate destruction of the vendors’
15 property by the BID officers, facilitating this unlawful process by threatening
16 citations or arrest if the vendors attempt to save their property.

17 34. The property seizures are inconsistent with well-established
18 constitutional principles. Defendants have long been on notice that these actions are
19 illegal and that they may not seize property and destroy property without legal
20 justification, and without providing pre- and post-deprivation notice and an
21 opportunity to reclaim ownership of lawfully-confiscated property. The violation of
22 Plaintiffs’ rights is all the more offensive in this instance in light of an existing
23 injunction issued against Defendant City for such actions in *Lavan v. City of Los*
24 *Angeles*, 11-cv- 11-02874 PSG (AJWx). *Lavan* is only the most recent injunction
25 issued against Defendant City for the unlawful seizure and destruction of the
26 personal property of low-income individuals with first providing pre- and post-
27 deprivation notice and an opportunity protect such personal property.

28

RECENT INCIDENTS

1
2 35. On or about the afternoon of September 12, 2015, Plaintiff Aureliano
3 Santiago, other members of Unión, and other vendors were on Maple Street between
4 11th and 12th Street when BID officers descended on the group. The officers arrived
5 on bike and foot and surrounded a number of vendors, including Mr. Santiago. The
6 BID officers positioned their bikes to prevent the vendors, including Mr. Santiago,
7 from accessing their property or removing it from the area. On information and
8 belief, the BID officers contacted the LAPD. Officer Linton and another officer
9 arrived shortly thereafter.

10 36. Working together, the LAPD officers blocked the vendors from
11 accessing their property and threatened them with arrest while the BID officers seized
12 their carts, dollies, umbrellas, utensils, coolers and perishable items and dumped their
13 property into the back of the Fashion District BID's trash truck and pickup truck.

14 37. None of the vendors were given receipts for their property. No efforts
15 were made to identify to whom the property belonged. None of the vendors were told
16 where the property was being taken or how they could reclaim it.

17 38. The experiences of the vendors on September 12 are not isolated.
18 Numerous other vendors and members of Unión have faced similar unlawful
19 confiscations.

20 39. On or about August 21 2015, near 12th Street and Maple Street in the
21 Fashion District, vendor and Unión member Maria del Rosario Caal was selling fruit
22 from her cart. At approximately 12:30 p.m., Officer Linton approached Ms. Caal and
23 informed her that selling fruit there was not permitted and that all of her property
24 would be thrown away. Ms. Caal asked the officer if she could leave, but Officer
25 Linton informed her that she could not, and that she was going to be given a ticket for
26 illegal street vending. Ms. Caal asked that she be able to keep her property, but the
27 officer refused and repeated that it would all be thrown away.

28

1 40. While Officer Linton was writing the citation, she made a phone call; on
2 information and belief, the call was to the Fashion District BID. Approximately five
3 minutes later, about five BID officers in yellow shirts arrived at the scene. LAPD
4 Officer Linton instructed the BID officers to seize and dispose of Ms. Caal's
5 property, including not only the fruit, but also her cart, her utensils, gloves, and other
6 items. The BID officers threw Ms. Caal's property in the back of their truck.

7 41. Ms. Caal was detained while Officer Linton wrote a citation and her
8 property was trashed. After she was given the citation, Ms. Caal was permitted to
9 leave the scene. She was not given a receipt for the property that was taken or
10 informed in writing or orally of the location to which her property was being taken or
11 a process to retrieve any of her property.

12 42. On or about September 25, 2015, vendor and Unión member Juana
13 Rodriguez and her husband, Gregorio Pablo Gomez Velasquez, were selling shaved
14 fruit ice near the intersection of Maple Avenue and 11th St. That afternoon, Ms.
15 Rodriguez stepped away to shop for a pair of shoes for her daughter and left her
16 husband with the cart. While she was in the store, she heard a commotion and left the
17 store in time to see an LAPD officer placing her husband under arrest.

18 43. After her husband was arrested, the officers remained at the scene until
19 BID officers in yellow shirts arrived on bicycles. They were followed quickly by
20 other BID officers arriving with the BID truck.

21 44. Ms. Rodriguez then went over to her cart, but it was surrounded by
22 approximately five BID officers. She asked if she could have her cart back. A BID
23 officer told her that she could not and that LAPD instructed the BID officers to
24 confiscate it. The BID officers then placed the cart and all of her equipment,
25 including an ice shaver, cups, utensils, and supplies into the back of their truck and
26 drove away. Neither she nor her husband were given a receipt for their property.
27 They were never informed where the property was taken or that they could get their
28 property, including their equipment and cart, back from either the BID or the LAPD.

1 48. Plaintiffs have a vested interest in their property pursuant to state
2 constitutional and statutory law. Defendants violated plaintiffs' Fourth Amendment
3 right to be free from unreasonable seizure of their property by seizing and then
4 discarding plaintiffs' property without a warrant and without any legal justification
5 to do so.

6 49. Defendants' unlawful actions, through the conduct of their employees,
7 were done with the specific intent to deprive plaintiffs of their constitutional rights to
8 be secure in their property. None of the property seized from plaintiffs was
9 contraband or otherwise unlawful to possess.

10 50. Plaintiffs are informed and believe that Defendants' employees and
11 agents were intentional in failing to protect and preserve their property, and that, at a
12 minimum, the City was deliberately indifferent to the likely consequence that the
13 property would be seized and destroyed unlawfully, based on the past circumstances
14 of similar constitutional and statutory violations.

15 51. As a direct and proximate consequence of the acts of defendants' agents
16 and employees, plaintiff Aureliano Santiago has suffered and continues to suffer
17 injury and loss. Mr. Santiago is entitled to compensatory damages for the loss of and
18 damage to property and other injuries to his person that resulted from the violation of
19 his Fourth Amendment and analogous state constitutional rights.

20 52. Plaintiffs are also entitled to injunctive relief prohibiting defendants
21 from unreasonably seizing and destroying their property in the future. Plaintiffs are
22 informed and believe that unless restrained from doing so, defendants will continue
23 to engage in said wrongful conduct for which plaintiffs have no adequate remedy at
24 law. Unión's mission is still frustrated by these policies and practices, and they
25 continue to divert resources as a result of these policies and practices. Unión's
26 members, who continue to vend in the Fashion District BID, are still harmed by
27 these practices. The practices detailed in the preceding paragraphs will continue to
28 violate their constitutional rights.

1 have no adequate remedy at law. Unión's mission is still frustrated by these policies
2 and practices, and they continue to divert resources as a result of these policies and
3 practices. Unión's members, who continue to vend in the Fashion District, are still
4 harmed by these practices. The practices detailed in the preceding paragraphs will
5 continue to violate their constitutional rights.

6
7 **THIRD CAUSE OF ACTION**
8 **Violation of Civil Rights: Interference By Threat, Intimidation or Coercion**
9 **California Civil Code § 52.1**

10 59. Plaintiffs reallege and incorporate the allegations set forth in paragraphs
11 1 through 46 as though fully set forth herein.

12 60. Defendants' agents and employees have used threats of arrest and
13 intimidation to interfere with plaintiffs' rights secured by the Constitution of the
14 United States, the Constitution of the State of California, and the statutory laws of the
15 State of California.

16 61. Plaintiffs are entitled to an injunction pursuant to California Civil Code §
17 52.1. Plaintiffs are informed and believe that unless restrained from doing so,
18 defendants will continue to engage in said wrongful conduct for which plaintiffs have
19 no adequate remedy at law. Plaintiffs are also entitled to damages pursuant to Civil
20 Code §§ 52 and 52.1.

21 **WHEREFORE**, plaintiffs pray as follows:

22 1. For a temporary restraining order, a preliminary injunction and a permanent
23 injunction, enjoining and restraining defendants from engaging in the policies,
24 practices and conduct complained of herein;

25 2. For a declaratory judgment that defendants' policies, practices and conduct
26 as alleged herein violate plaintiffs' rights under the United States Constitution, the
27 California Constitution and the laws of California;

Street vendors sue LAPD, alleging carts seized and destroyed

By Fred Shuster
City News Service

About 200 street vendors filed a federal civil rights lawsuit against the Los Angeles Police Department and a business improvement district Thursday for allegedly seizing and destroying vendors' carts, dollies and other personal belongings.

The complaint, brought on the vendors' behalf by the Legal Aid Foundation of Los Angeles and other organizations, alleges that the LAPD's sidewalk enforcement practice is unconstitutional and violates their Fourth Amendment right to be free from unreasonable seizures and 14th Amendment right to due process.

"Every day in Los Angeles, street vendors have their hard-earned property illegally confiscated and destroyed," Cynthia Anderson-Barker, an attorney with the National Lawyers Guild, said at a news conference in front of the LAPD's downtown headquarters.

"They are penalized as they struggle to support their families," she said. "This lawsuit targets unjust law enforcement practices that push these productive members of our community further into poverty."

Street vending is illegal in Los Angeles, but city leaders are currently weighing whether to legalize and regulate the sidewalk trade.

LAPD spokesman Drake Madison said the department had no immediate comment. A City Attorney's Office representative did not immediately respond to a request for comment.

Kent Smith, executive director of the Fashion District Business Improvement District, said his organization's primary purpose is to keep the area clean and safe.

"We simply dispose of perishable, contaminated and abandoned property that would otherwise be left in our district without the BID's assistance," Smith said. "Our policy is not to confiscate or unlawfully take property from any individual. We do not want to unlawfully seize the property of anyone, including unpermitted vendors."

However, Smith acknowledged "there can be misunderstandings between reasonable individuals about the process of disposing of trash in the Fashion District."

The plaintiffs include an ice-cream vendor and the

200-member Union Popular de Vendedores Ambulantes, which organizes street vendors in Los Angeles. They allege that they are repeatedly stopped by the LAPD, sometimes cited and threatened with arrest, and have their property confiscated and destroyed without notice.

"All we ask is that police and security guards stop confiscating our property," said named plaintiff Aureliano Santiago, the downtown ice-cream vendor. "We are workers, not criminals."

The plaintiffs also contend that the LAPD is directing and authorizing employees of the Fashion District BID -- which was created and funded in 1996 by the City of Los Angeles -- to seize the property and destroy it.

The business improvement group provides maintenance and safety officers who perform public functions that would otherwise be carried out by the city Bureau of Sanitation and the LAPD.

The district's security guards "are supposed to protect the security of the area -- not take our property away," said Santiago, 62.

The vendor estimated that the cart and goods that have been seized each time are worth roughly \$300 -- enough to cover bills and other expenses for his family.

"They don't have value for them -- but for me, they have a lot of value," he said.

Hundreds of unlicensed vendors crowd the nearly 90-block Fashion District on weekends, selling clothing, food, sometimes counterfeit products and other goods, local business owners say.

Police and many of the area's store and property owners contend the vendors are creating a hazard for pedestrians and leave litter and food waste on the streets.

Along with having to pay for cleaning the streets, the Fashion District BID says local shops are losing customers and revenues to the unlicensed vendors, who they say pay no taxes.

Last year, police handed out nearly 900 illegal vending citations city-wide, which can result in fines of up to \$1,000 each.

The lawsuit comes three years after the city was sued over destroying the belongings of homeless people who allegedly left their items unattended on sidewalks -- a practice ruled unconstitutional by a federal appeals court.

LOS ANGELES
DAILY NEWS

OCTOBER 29, 2015

FIRST & SPRING

A sharp divide over sidewalk sales

Contention between neighborhoods and vendors brews as city reviews vending laws.

DAVID ZAHNISER

For months, Boyle Heights community activist Fanny Ortiz has put her heart into the effort to repeal L.A.'s law against vending on sidewalks.

Ortiz, 41, has repeatedly shown up at meetings and rallies to support the vendors who sell bracelets, flavored ices and other items. Racism, she argues, is behind the effort to keep those mobile entrepreneurs, most of them people of color, from setting up in other parts of town.

"There should be no exceptions," said Ortiz, who is treasurer of her local neighborhood council. "Legalizing street vendors should be throughout the

city of L.A."

At the opposite end of the city, neighborhood advocate Mark Ryavec has a different take. Vending, he says, is already out of control on the Venice boardwalk, creating noise and blight. If the city's law is changed, sidewalk sales should only be allowed in places where a majority of property owners have signed off on the idea, said Ryavec, president of the nonprofit Venice Stakeholders Assn.

"I think there should be a very high hurdle before you give public property" over to commercial operations, he said. "It's a public burden. You have cleanup, you have food waste, you have blockage of pedestrian right-of-way."

L.A.'s political leaders are slowly moving to craft rules that would govern the outdoor sale of merchandise and foods well-known to many Angelenos — slices of mango spiked with lime

juice, hot dogs wrapped in bacon, corn slathered with condiments. But they are being confronted with sharply diverging messages on where, if any place, the vendors should be allowed to operate.

City Councilman Curren Price, looking to reconcile those opposing views, began pushing last week for a system that would legalize vending citywide while allowing some spots to be designated as "no vending zones." But how those zones would work, how large they might be and whether such a move would undermine the entire system are far from clear.

Officials with Anschutz Entertainment Group — which runs Staples Center and L.A. Live, both in Price's district — have made clear they want customers to have "unencumbered access" to the sidewalks outside their venues. Business leaders in Hollywood and Westchester say they don't

want outdoor vending at all. And Councilman Paul Koretz, who represents affluent communities stretching from the Westside to Encino, said he cannot think of a single place in his district — which has roughly 250,000 residents — where sidewalk vending makes sense.

"I would hope [council members] will provide the flexibility to allow my council district to opt out," he said.

Sidewalk vendors have promised a vigorous fight against such restrictions, saying they need to make a living in all parts of the city. Civil rights lawyer Cynthia Anderson-Barker, who represents some vendors, says bias is driving the effort to limit the places street sales can occur.

"It's racially based, racially motivated and it will further demarcate racial boundaries in our communities," Anderson-Barker told council members last week.

Sidewalks have become hotly contested political terrain in Los Angeles in recent years. Advocates for the disabled have sued over the city's failure to maintain its walkways, securing a promise of nearly \$1.4 billion in repairs from city leaders. Groups that represent the indigent have filed lawsuits over the city's efforts to remove homeless encampments, saying people's personal belongings have been wrongly seized from sidewalks.

Vendors and their allies filed a separate lawsuit Thursday, saying their carts and wares also have been illegally confiscated by police.

Meanwhile, the ban on sidewalk vending remains a misdemeanor, carrying a fine of up to \$1,000. City officials have the discretion to treat such violations as an infraction — meaning jail time is not a possibility — and seek a maximum fine of \$100, said Frank Mateljan,

spokesman for City Atty. Mike Feuer.

The Los Angeles Street Vendor Coalition, a collection of nonprofit and community groups, has been pushing for more than a year to repeal those laws and impose a new package of regulations to govern sidewalk sales. The group's proposal calls for vendors to preserve five feet of space for pedestrians and wheelchair users.

Those rules would be undermined if they did not apply in every section of the city, said Rudy Espinoza, executive director of the Leadership for Urban Renewal Network, which belongs to the coalition.

"We shouldn't have a city of patchwork policies, where everybody chooses whether or not they want to participate," he said. "Creating a process for opting in or opting out, that process is cumbersome. Who decides? How do you decide who is at the table?"

PAGE 2 OF 2

Neighborhood councils remain sharply divided on how to proceed. In west San Fernando Valley, the Northridge East Neighborhood Council opposed legalization. Yet a mile to the south, the Lake Balboa Neighborhood Council voted to support city lawmakers as they develop new vending rules, according to city records.

In South Los Angeles, the Central Alameda Neighborhood Council voted unanimously to decriminalize sidewalk vending. Farther west, the neighborhood council for Arlington Heights rejected the idea, saying its members had no confidence that new regulations would be enforced.

Councilman Mike Bonin, who represents coastal neighborhoods, issued a letter last week saying he favors legalization. Yet he also opposes efforts to impose a blanket citywide policy. L.A.'s diverse neighborhoods have different "quality-of-life aspirations," he said, so each neighborhood should have the power to decide whether to set up special vending districts.

"This process for establishing sidewalk vending in Los Angeles should be community driven, not city driven," he wrote.

Price, who is spearheading the legalization drive, said he recognizes there are "strong feelings on both sides." And he acknowledged that some of his colleagues may want to pull their entire districts from a sidewalk vending system.

"I wouldn't like that, but that's sort of the reality," he said.

david.zahniser
@latimes.com

Settling L.A.'s street-vendor controversy

What to do about L.A.'s street vendors is a question wrapped in broader issues, none of them as savory as the bacon featured in these mobile entrepreneurs' signature hot dogs.

Depending on which side of the debate you're on, it may be a stand-in for arguments about how the city treats its businesses, or how the police enforce laws here, or friction related to immigration and cultural diversity.

There should be a way for Los Angeles City Council members to sort it all out, but this will require their sticking to the issue at hand and answering the many questions raised by the latest proposals.

On Tuesday, the council's Economic Development Committee met to consider three proposals to follow the lead of some other big cities and legalize — and regulate — the street vending that has proliferated in some parts of L.A.

One proposal would legalize such sidewalk vending everywhere in the city, another would allow it in certain areas, and a "hybrid" would allow it citywide but allow communities to opt out.

The committee chaired by Councilman Curren Prince voted to keep alive all three proposals.

The topic has been up for official discussion at City Hall since last year — or, off and on, for more than two decades, since before L.A. set up its first, limited, abortive "sidewalk vending district" at MacArthur Park.

Now there's plenty of discussion still to be had.

Council members should follow with these principles:

- The status quo is not an option. Street vending must be allowed to some extent, and subject to health and safety laws similar to those applied to other businesses. It's now punishable by a \$1,000 fine or jail time. This hasn't stopped it; an

estimated 50,000 people sell from carts in L.A., 10,000 selling food. It isn't practical for the police to spend time and resources uprooting vendors.

- Brick-and-mortar restaurant owners' worry about competition from cheaper-to-operate sidewalk carts is legitimate. So is restaurant customers' hope that fair competition will keep prices down.

- Street-vending laws aren't the way to fight or help undocumented immigrants, or promote or discourage multiculturalism. Enforcing, or changing, immigration laws is a separate matter. But to the extent sidewalk carts sell "ethnic" food, think of this as enhancing Southern California's rich food culture. In its "search for America's best food cities," The Washington Post writes, "To get a sense of the Los Angeles food scene, hit the streets ..."

Now, questions:

Is a cap on the number of street businesses enforceable? Is any regulation of this kind another slide down the bureaucratic rabbit hole? Without effective enforcement, can other small businesses be protected from unfair competition? If adjacent businesses can require permission for vendors to set up, or whole communities can keep them out, how exactly will this work? Is the forecast for \$43 million a year in tax revenue from vendors realistic? Would black-market vendors continue to evade the law?

More, open debate is needed.

The City Council won't please everybody, and may satisfy nobody, with any compromise. But somewhere in the current proposals are the ingredients of a palatable, healthy solution.