

September 21, 2023

Joe Press, Chief Operating Officer
Ashkenazy Acquisition Corporation
600 Madison Avenue, 15th Fl.
New York, NY 10022

Re: Cease and Desist Letter Concerning the Unfair Treatment of Minority-Owned Businesses at Faneuil Hall Marketplace

Dear Mr. Press:

Lawyers for Civil Rights (“LCR”) is working with three individuals of color who have contracted with AAC Fan Hall Realty (“AAC”) to operate push cart shops at Boston’s Faneuil Hall Marketplace: Guangyi Xiang, Xin Claire Li, and Fuad Mukarker (the “shopkeepers of color” or the “shopkeepers”). The shopkeepers of color have alerted us to an egregious pattern of unfair and deceptive conduct by AAC—including calling the police in an effort to criminalize the shopkeepers without justification. This pattern of misconduct has harmed the shopkeepers of color financially and raises serious legal concerns over whether AAC has targeted them for discrimination and criminalization based on their race or ethnicity. This letter constitutes a formal request that AAC cease and desist from further misconduct.

The shopkeepers of color are interested in an amicable and expeditious resolution of all outstanding business and legal issues. To this end, we are listing a series of steps below that AAC must take. LCR expects a formal response within 30 business days. We are also requesting an emergency meeting to discuss this matter in greater detail.

I. Background

As you know, Faneuil Hall Marketplace is a shopping center in Boston that has restaurants, stores, and space for push cart shops both indoors and outdoors. All three shopkeepers of color are immigrants who have worked tirelessly to establish their businesses:

- **Guangyi Xiang** is a Chinese-American immigrant who has been operating an indoor push cart at the Marketplace for about five years. Her push cart business, Orient Express, has been operating at Faneuil Hall for approximately forty years and sells Asian inspired gifts, jewelry, handbags, chopsticks, and more.
- **Xin Claire Li** is a Chinese-Canadian immigrant who has been doing the same since August 1, 2022. She closed her business in Canada and re-located her entire family to Boston after AAC invited her business during an open house. Claire’s push cart, Forever Leaf, sells one-of-a-kind pieces of leaf carving artwork that Claire makes herself.

- **Fuad Mukarker** is a Palestinian-American immigrant who has been operating two push carts at the Marketplace since April 2022. His push cart businesses, Holy Land and Fun for All, respectively sell handmade wooden religious items and plush toys for children.

These hardworking individuals strive every day to achieve two goals: (1) make enough sales to provide for their family; and (2) help Boston's visitors have a good experience at Faneuil Hall. AAC is actively undercutting their ability to do both of these things.

The shopkeepers all operate under license agreements with AAC, which allow them to sell goods from assigned locations in the Marketplace. As small business owners of color, the shopkeepers face a substantial power imbalance in their dealings with AAC. They have considerably fewer resources and depend on AAC's commercial space for their livelihoods.

II. Unfair and Deceptive Acts

According to the shopkeepers of color, AAC has repeatedly abused its power imbalance over them in ways that are extremely legally problematic. All of these abusive practices, which are described below, must cease and desist immediately.

A. Intimidation Tactics: Penalizing and Criminalizing The Shopkeepers of Color

As an initial matter, AAC has responded with extreme hostility to the shopkeepers' attempts to air basic grievances. AAC often threatens to "tear up" the licenses of the shopkeepers of color when they try to bring up workplace issues like long bathroom lines.

Most alarmingly, AAC has even imperiled the shopkeepers of color by calling the police on them without justification. On June 8, 2023, the shopkeepers of color went to the management office to request a meeting to discuss concerns about their recent treatment by AAC. However, in a treacherous attempt to avoid the shopkeepers of color, AAC retaliated by calling the police without any justification whatsoever. The responding officers quickly determined that this wasn't a police matter, but the stunt had the intended effect of intimidating the shopkeepers of color. AAC attempted to penalize and criminalize these vulnerable small business owners without cause. The shopkeepers no longer feel safe and reasonably believe that any attempt to resolve differences with AAC will be met with dangerous and unwarranted escalation.

B. Unreasonable and Deceptive Cart Location Decisions

AAC has also undermined the shopkeepers of color by consigning their carts to poor sales locations through various forms of deception, and coercion. When Fuad began at the Marketplace in April 2022, he had one cart outside in a prime location near a Starbucks and one cart inside in a poor sales area with low foot traffic. As outside carts can only operate from April to October, Fuad had to move his outside cart to the inside location on October 15, 2022.

Due to the low foot traffic and sales at the inside location, Fuad lobbied AAC for a relocation during that winter. AAC declined those requests and represented to Fuad that he could move one of his carts back to the Starbucks location in the Spring if he stayed where he was until then.

Relying on that promise, Fuad stayed put and endured months of low sales. He eventually signed a license agreement with AAC in March 2023 that, to his understanding, assigned his Holy Land cart to the Starbucks location until October 15, 2023.

However, in April 2023, AAC declined to uphold its verbal and written commitments. Not only did it give another vendor the Starbucks location without warning, but also it split up Fuad's carts between two lower foot traffic locations. These actions have crushed Fuad's sales by exposing his carts to fewer customers overall. AAC has declined Fuad's requests to rectify this and, instead, has initiated an unwarranted and retaliatory eviction against him.

Similarly, in April 2023, AAC misled Claire into moving her cart to a lower rent location by promising her that nearby foot traffic would increase substantially in the Summer. Claire, as a relative newcomer to the Marketplace, relied on that representation. But the promised increase never came, tanking Claire's profits. AAC then compounded Claire's harm by denying her requests to return to her old location, which was vacant for months. Instead of agreeing to this solution—and with full knowledge that Claire moved her family to this country to sell at Faneuil Hall—AAC has repeatedly told Claire that if she doesn't like her location she can leave.

AAC ultimately forced Guangyi into Claire's old location in June 2023. Based solely on an unfounded complaint from another vendor, which it chose not to meaningfully investigate, AAC threatened to end Guangyi's license if she failed to move. Guangyi felt she had no choice but to acquiesce. This unwarranted decision by AAC has harmed Guangyi's business. Not only does she get fewer customers, but AAC still charges the high rent only agreed to for her old location. This type of conduct smacks of unjust enrichment.

As the constellation of patterns and practices outlined above demonstrate, AAC has deliberately interfered with the shopkeepers' business operations. The racial and ethnic dynamics at play also raise the specter of unlawful discrimination.

C. Refusal to Share Legal Documents

At the most basic level, AAC has repeatedly declined the shopkeepers' requests that it provide them with the fully executed copies of the license agreements to which they are entitled. This ploy keeps the shopkeepers' legal status in the marketplace in doubt and impedes their ability to advocate for their interests. Deviations from standard business practices place AAC in active breach of fundamental legal and contractual obligations. In this manner, AAC continuously strips the shopkeepers of color of their basic rights and dignity.

III. Action Steps and Requested Relief

AAC's treatment of these minority-owned businesses is unacceptable and implicates Massachusetts' anti-discrimination and unfair trade practice laws. Nevertheless, the shopkeepers of color remain interested in building a mutually beneficial business relationship with AAC and finding a path forward. The shopkeepers are open to meeting with AAC and, as a starting point, the following are steps they feel AAC must take as part of any resolution:

- Immediately cease and desist from all unfair and deceptive treatment of the shopkeepers;
- Provide the shopkeepers with fully executed copies of their license agreements;
- Relocate Fuad's carts to an agreed upon indoor location;
- Return both Claire and Guangyi to their previous cart locations;
- Offer one-year license renewals to each shopkeeper for the agreed upon locations;
- Compensate Fuad, Claire, and Guangyi for their lost profits and emotional distress;
- Establish new policies for handling grievances at Boston's Faneuil Hall Marketplace, including the robust investigation of vendor-related complaints;
- Agree that AAC cannot unilaterally compel relocation going forward; and
- Pay reasonable attorney's fees for undersigned counsel.

In light of the scale and scope of the misconduct at issue here, the shopkeepers of color believe these are all reasonable steps to ameliorate the harm that AAC's unfair and deceptive practices have caused them. Although the shopkeepers would prefer to reach an amicable resolution, they will consider all available legal options—including seeking relief under M.G.L. c. 93A and M.G.L. c. 151b—if AAC is unwilling to work with them to do so.

We look forward to hearing from you within 30 business days. To facilitate a meeting in the interim, please contact LCR by email at jlove@lawyersforcivilrights.org.

Sincerely,

Jacob M. Love, Staff Attorney
Sophia L. Hall, Deputy Litigation Director
Lawyers for Civil Rights

CC:

Ben Ashkenazy, CEO of AAC
Mayor Michelle Wu
City Councilor Ed Flynn
James Arthur Jemison, BPDA Chief of Planning