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Restaurant Action Alliance NYC, Small Business and Restaurant Owners, Recyclers and Manufacturers File Suit Against Mayor Bill de Blasio and DSNY Over Foam Ban

New York, NY – The Restaurant Action Alliance of New York City and a coalition of restaurant owners today joined foam manufacturers, recyclers and foodservice industry leaders to announce the filing of a lawsuit against the de Blasio Administration that seeks to block the City’s second attempt to ban polystyrene foam.

The lawsuit completely debunks the City’s false claims that polystyrene foam is not recyclable. In fact, post-consumer foam is being recycled in hundreds of cities and municipalities across the globe. The complaint further charges that the City cherry-picked critical information to suit their narrative in crafting the latest Department of Sanitation Determination issued May 12th, and flouted a previous directive from the New York State Supreme Court.

“Once again, Mayor de Blasio and his Sanitation Commissioner have ignored the facts confirmed by environmental scientists, food-service manufacturers, recycling industry participants and independent experts that prove expanded polystyrene foam is recyclable – facts already found by a New York court but ignored by City officials,” said Randy Mastro, the lead attorney for the Coalition’s lawsuit. “The de Blasio Administration should comply with the Court’s directive, drop its latest misguided attempt to ban soft foam, and implement the comprehensive recycling program proposed and financially supported by industry participants. Indeed, a comprehensive program recycling all polystyrene will be more environmentally effective and economically feasible than a limited soft foam ban alone, saving the City millions of dollars in landfill costs, and

protecting the many smaller restaurant businesses that depend upon cost-effective soft foam food-service items to survive.”

Mastro said the Coalition is prepared to defend vigorously its suit against the City.

The lawsuit, which was filed in State Supreme Court, urges the City to forego its misguided plans to ban foam in early November, and instead establish a post-consumer recycling program that would be consistent with the Court’s previous findings.

In September 2015, the Supreme Court ruled that foam is, indeed, recyclable, and halted the de Blasio Administration’s previous attempt to ban foam products. The Court also directed the City to reissue a determination consistent with its findings.

According to a study by the independent Berkeley Research Group the cost of foam alternatives for businesses and consumers is over \$51 million annually. Foam alternatives have added environmental costs too: for example, popular foam cup alternatives emit double the amount of greenhouse gas and create almost five times the amount of solid waste as foam cups.

“Foam containers are essential to the operations of Caribbean, Asian and other ethnic restaurants. In fact, for many of us, 40-60% of our business model relies on takeout orders. If the City moves forward with this ban, it will surely increase our costs of doing business – at a time when many small restaurant owners are fighting for survival. We urge the Mayor to reconsider his foam ban,” said Akisha Freeman, President of the Restaurant Action Alliance NYC, which is a coalition of minority restaurant owners, managers and workers.

Ms. Freeman stated that the RAANYC strongly supports Intro 1480 - legislation in the City Council that would establish a curbside program to recycle polystyrene foam across the City, and urged concerned citizens to call on their Council members to support the bill.

Alan Shaw, President of Plastics Recycling, Inc., said: “Once again, New York City is ignoring the facts that prove polystyrene foam can be recycled – a denial that is costing the City a significant economic windfall through a combination of recycling revenue and landfill avoidance. We urge Mayor de Blasio to consider the facts of foam recycling.”

A proposed ban would adversely impact New York City’s finances by \$11.2 million annually in added procurement costs for plastic foam substitutes while continuing the

City's costs to landfill foam. The proposed ban only covers a little more than 20% of polystyrene waste, which means nearly 80% will continue to be shipped and landfilled.

Conversely, moving to a 100% recycling program such as the one proposed by Dart Container Corporation, would save millions of dollars in avoided landfill costs and generate millions of dollars in revenue, annually.

In addition, a convenient, curbside polystyrene foam recycling program would help achieve the Mayor's OneNYC goals for Zero Waste and Greenhouse Gas Reduction.

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