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**City Room**

Blogging From the Five Boroughs

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## Two Roll-Your-Own-Cigarette Stores to Close

By *ANEMONA HARTOCOLLIS*

Two stores, on Staten Island and in Chinatown, have agreed to stop selling roll-your-own cigarettes after New York City accused them of [being fronts for evading cigarette taxes](#).

Seth Wenig/Associated Press  
A customer at Island Smokes in Chinatown put the finishing touches on a rolled cigarette last month.

The owners of the stores, both called [Island Smokes](#), agreed to close them by February as part of a consent decree filed in Federal District Court in Manhattan, according to the city's Law Department. They also agreed that no one associated with the businesses would operate a similar enterprise in New York City; stores had already been planned for the East Village and Bay Ridge, Brooklyn.

The stores, which sell loose tobacco and rolling papers and have machines to help customers make their cigarettes, had appeared to operate in a legal gray area. The owners had argued that because they sold loose tobacco, they should not be subject to full state and city cigarette taxes, which can nearly double the price of a pack of cigarettes.

But the city's lawyers contended that the businesses were set up to defy tax laws, which have pushed the price of cigarettes in the city to more than \$10 a pack. They noted that store employees would help customers assemble the tobacco into cigarettes, including filters, using the machines on the premises. The cigarettes, packaged in a small tin, cost \$6, or \$4.50 for a refill.

"The success of the lawsuit should serve as a reminder to others thinking of 'gimmicks' to skirt New York City's tough cigarette laws that the city will enforce those laws vigorously," Michael A. Cardozo, the city's corporation counsel, [said in a statement](#). Mr. Cardozo noted that the city had ordered other stores to comply with tax laws or face litigation.

Jonathan B. Behrins, a lawyer for the shop owners, said that though he thought [Island Smokes'](#) case was winnable, "a business decision" was made to close, rather than bear the cost of litigation.

"They researched the law through and through, and there's a gaping exception for pipe and loose tobacco," Mr. Behrins said. "These gentlemen saw the opportunity to make a niche out of it." He said the stores appealed to people who wanted additive-free, "more

organic” cigarettes, and just because customers used the machines in the stores, the city “put us in the same category with the Philip Morris of the world, and that’s not fair.”

Similar stores under other ownership have proliferated, including at least three on Staten Island, he said. He compared the litigation against his clients to the Bloomberg administration’s grading of restaurants for compliance with health rules, which has led to some grumbling that the administration is overzealous.

The Bloomberg administration has portrayed cigarette taxes as not just a revenue source but as a tool to improve public health by discouraging people from smoking.

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