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## “Food Deserts” – Health Crisis or Mere Inconvenience?

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Oklahoma’s two biggest cities have, in effect, declared a state of emergency regarding their residents’ access to adequate perishable nutrition. Both have pursued harsh measures to equalize access to nutrition across their geographic bounds. Are their concerns justified? And are their solutions aimed at the right targets? Are there solutions that would be both more fruitful and less punitive towards the poor?

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### Nutritional Disparity

There is a general consensus that the quality of nutrition consumed by high income households is significantly better than that consumed by low-income households. Likely for the first time in history, obesity rates are higher among those with lower incomes. Low income individuals are more likely to eat high-calorie, low-cost fats and sweets, while those of means are more likely to eat healthy whole grains, lean meats, and produce.<sup>1</sup> Policymakers have latched onto the idea that this nutritional disparity is, in many cases, due to a lack of access to grocers who sell fresh meat and produce.

While there is no precise, universally accepted definition, the term “food desert” is used to describe an area with insufficient access to fresh groceries, especially if it has a high proportion of lower-income residents. The US Department of Agriculture studies urban census tracts where 33 percent of the population is 1 mile from a full-line grocer, and rural areas where 33 percent of the population is at least 10 miles from a full-line grocer. The same study overlays these areas with low income tracts to get a broad picture of where access to fresh foods might be problematic.<sup>2</sup> As of 2015, 669,514 residents, 17.9 percent of Oklahoma’s population, live in a census tract that is both low income and low access.

Oklahoma policy responses thus far have focused on attempting to increase access to fresh, nutritious, perishable, foods, with both Oklahoma City and Tulsa *restricting* the supply of small box discount stores in the hopes of enticing full-line grocery stores to fill the void. The success of these programs depends on several factors:

- Are residents of poorer neighborhoods really unable to access nutritious foods?
- Does restricting small box discount stores really make a neighborhood more inviting to full-line grocery stores?
- Are perishable foods more nutritious than non-perishable?
- To what extent does access to perishable foods account for the nutritional disparity?

### Is Access an Issue? Transportation Access

Are Oklahomans really unable to get to a grocery store? Or is it a minor hassle? In 2015, only six percent of Oklahoma City households were without access to a car. In 2016 (the last year for which data is available) that number fell to 5.7 percent. In Tulsa, those numbers are larger, but also following a downward trend: 9.3 percent in 2015 and falling to 8.8 percent in 2016. The national average in 2016 was 8.7 percent.<sup>3</sup> So while Oklahoma City residents have considerably more access to cars than the national average, Tulsa is slightly behind the rest of the state. However, cars are not the only way to get across town.

Lugging groceries on a bus may not be ideal; however, it can certainly be done. Access to public transit in Oklahoma’s two largest cities does lag somewhat behind cities of similar population size. This may be attributable, at least in part, to the heavy car access and relatively low population density. Public transit lacks the critical mass of ridership to make financial sense for Oklahoma cities, which is true most everywhere.<sup>4</sup> Still, the average household in Tulsa can access 406 public transit trips per week

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along three different routes within one-half mile of their home, while Oklahoma City residents have access to, on average, 294 trips per week along two transit routes.<sup>5</sup>

Most enlightening on the question of access, are a number of studies that suggest 91 percent of high-income and 87 percent of low-income households spend the vast majority of their grocery dollars at full-line grocery stores.<sup>6</sup> People of all income levels, using all modes of transportation, frequently bypass the nearest grocery store to shop at a preferred location.<sup>7</sup> And a USDA report found that SNAP recipients are influenced more by price than location, meaning that those with particularly low incomes are willing to travel farther to find lower prices.<sup>8</sup>

### **Delivery Access**

Many full line grocery stores offer delivery service. For instance, Wal-Marts in 15 Oklahoma cities offer home delivery. For \$13 per month or \$98 per year, consumers can receive home delivery without a per-order fee. The service confirms delivers to a house near the former Smart Saver on 23rd and Martin Luther King (the closing of which seemed to set off Oklahoma City's fervor to cure its "food desert" problem).

### **Perishable versus Nonperishable**

A common concern surrounding "food deserts" is the lack of fresh meat and produce. While fresh foods may taste better, the evidence suggests that they are not more nutritious than their frozen or canned counterparts.<sup>9</sup> In fact, certain kinds of nutrients may actually be better preserved in nonperishable foods. The little nutrition lost during the preservation process is less than what the fresh food loses naturally during its shelf life.

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Policy responses that ignore nonperishable options - which have the added benefit of not spoiling, an important consideration for those living paycheck to paycheck - are incomplete at best, and counterproductive at worst. In fact, for those who do have a difficult time getting to the grocery store, stocking up on nonperishable fruits and vegetables is the best course of action.

### **Zoning Restrictions - A New Oklahoma Standard?**

Oklahoma City and Tulsa have both created onerous zoning laws that are likely to hurt the people they are intended to help. Both cities have created a Healthy Neighborhood Zoning Overlay, which limits the opening of new "Small Box Discount Stores" in specified neighborhoods. The ordinance defines a small box discount store as "A store with the primary purpose of retail sales of a combination of sundry goods, products for personal grooming or personal health, and food or beverages for off-premise consumption, and which has a floor area of less than 12,000 square feet and a majority of items for sale at a price of less than \$10.00 per item." Tulsa's definition is less specific but

amounts to the same thing. Within the new zoning overlay, stores may not open within a one mile radius of an existing small box discount store. There are exemptions for stores that sell gasoline or diesel, offer at least 500 square feet of fresh produce and fresh meat, or contain a pharmacy.<sup>10</sup>

The stated goal of these zoning measures is to create a welcoming environment for grocery stores selling fresh meat and produce. But they attempt to accomplish this goal by giving existing small box discount stores a monopoly. The exemption for stores selling fresh produce, but not for those selling canned or frozen produce, is particularly troubling, ignoring as it does the nutritional and shelf-stable value of such foods. The 500 square feet requirement to get such an exemption is also arbitrary. Tightly-packed, 300 square feet may contain more fresh food than a sparsely-shelved 500 square feet. Indeed a visitor to a small box discount store can generally find a good range of fresh produce and meat, just not as wide as in a full line store and without the more expensive items - hearts of romaine, but no white asparagus; hamburger but not filet mignon.

The neighborhoods were previously contestable markets: small box discount stores chose low prices because the mere potential of competition kept them honest. If they charged monopoly prices, a competitor would have entered the neighborhood, causing them to lower prices again.<sup>11</sup>

The Zoning Overlays reduce this incentive to keeping prices low. New stores are not allowed to open within one mile of an existing store, so there is little to stop the existing stores from acting like oligopolists (a few providers acting almost monopolistically). It would not be a surprise to see stores that were once in vigorous competition raise their prices in unison with one another (effecting monopoly pricing without an illegal conspiracy), under the protection of the Zoning Overlay. While the cities hope the policy stems the tide of small box discount store expansion, the State of Oklahoma uses a remarkably similar policy explicitly limiting competition among new car dealers at the expense of consumers.<sup>12</sup>

Perhaps the policy's true intent is to act as something akin to a sin tax - using higher prices as a disincentive to buying certain products, or in this case, buying products from certain kinds of retailers. The difference is that a traditional sin tax directs the proceeds to the public coffers, for some worthy project to offset the sin. Here, the proceeds of the "tax" will go to the purveyors of the so-called sin, as they have the potential power to reap unearned profits from their customers.

The Zoning Overlays cover relatively small geographic areas. Of course, the initial cause for concern was for residents with limited mobility. They will be the ones who have the most trouble leaving the overlay to avoid monopolistic behavior. The Overlay is likely to do the most harm to the very people it is supposed to help.

Whether and when the small box discount stores will exploit their new privileged position remains to be seen. But for the people who are most hampered by low-mobility, even the modest food offerings of the small box discount store may prove better than having to trek to a grocery store. Now they must give up hope of one opening closer to them.

If grocers cannot survive in a neighborhood, the imperfect oasis offered by small box discount stores may be preferable to a complete "food desert." Limiting new small box discount stores in these low access neighborhoods to attract grocers is akin to filling

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### The Role of Consumer Choice

Research suggests that access to the most nutritious foods is NOT the deciding factor, or even a major factor, in explaining nutritional disparity. In fact, one expansive study of the topic concluded that consumer choice, not access, is the primary cause of the disparity. The study considered the buying patterns of thousands of households across the nation. Among other comparisons, it tracked purchases made by households before and after moves into “food deserts,” as well as households before and after moves out of “food deserts.” These moves did little to change the buying habits of the moving households. The study also looked at household buying patterns within low access neighborhoods before and after new supermarket entry, where buying patterns also tended to remain static. The entry of a new grocer often changed where consumers bought their food, but had little impact on what they bought.<sup>13</sup>

The overall conclusion of the study was that no more than nine percent of the nutritional disparity can be accounted for by supermarket access. The remaining 91 percent is attributable to consumer demand. That is, low income households, by and large, tend to prefer less healthy foods. If free choice accounts for almost the entirety of the nutritional disparity, why are policymakers so focused on access?

### Barriers to Market Solutions

#### Mobile Solutions

If policymakers want to increase access to perishable foods among certain neighborhoods, they should implement deregulatory solutions. Multiple licenses are required for both fixed food sellers (e.g. grocery stores) and mobile food sellers (e.g. farmers market booths, roadside produce stands, and food trucks selling groceries).<sup>14</sup> This includes a food license, which costs \$850 for the first year and \$335 each year thereafter.<sup>15</sup> In Tulsa, an additional license is required, at a cost of \$155 plus a five dollar processing fee.<sup>16</sup> In Oklahoma City, there is a complicated web of activities that require different licenses.<sup>17</sup> A full year Retail Mobile License is \$350 for the first year and \$250 each year thereafter. There is an exemption for farmers market stands selling “only whole, uncut and unprocessed fresh fruits, melons, vegetables and legumes and/or whole uncracked and unprocessed nuts.”<sup>18</sup> Reducing the cost and redundancy of these licenses, or eliminating them altogether, may help increase the supply of food sellers across the state.

### Zoning

Zoning affects both fixed and mobile grocers. According to Oklahoma City: “Some vendors may be denied licensure by the city because the area they wish to sell at [sic] is not zoned for such use. The vendor is responsible for checking with the city zoning office, concerning the location(s) where they intend to sell.”<sup>19</sup> If cities recognize underserved communities within their borders, they should consider exempting grocery stores and mobile food retailers wishing to serve those neighborhoods from zoning requirements.

City or state-wide exemptions from any zoning regulation for every retail food seller might also merit consideration, with an exception for specific areas that are likely to contaminate food. The case against any municipal zoning regulations is already strong.<sup>20</sup> To the extent these regulations hinder consumer access to healthy food, they should be repealed or at least circumscribed.

### Specific Solutions

#### Bringing Food to the “Desert”

Rather than creating more regulation, likely with unintended consequences, policymakers should reduce barriers for entrepreneurs, both for-profit and non-profit, to enter the market. State and local officials could waive some or all of the litany of fees and reduce restrictions for both fixed and mobile retail food stores.<sup>21</sup> This could be accompanied by a voluntary certification of cleanliness standards, either through privately certified inspections through the department of health.

For grocers wishing to rehabilitate dilapidated land, cities might consider tax credits for the cost of bringing the land back to useful condition. This would be especially equitable in situations where a grocer is choosing between an area on the outskirts of town where the city would have an obligation to run new utilities out to the edges of its borders, and could instead incentivize a grocer to make use of utilities already in place where the population is also denser.

Community Gardens, currently prohibited by some localities, have the potential to provide another source of locally-grown food. Bans and other barriers to their entry should be eliminated.

There are also third-party shoppers like Instacart who, for not much more than the cost of a round trip bus fare, will buy and deliver groceries.<sup>22</sup> As new sectors of labor, these services may well be the targets of legislation aimed at protecting the old ways. Policymakers must resist the urge to interfere in the market.

#### Bringing “Desert” Inhabitants to Food

Community shuttle services already operate within Oklahoma City.<sup>23</sup> An enterprising grocer wishing to attract more customers could set up a free or low-cost shuttle to underserved areas. This would ensure them a large market share among those with inadequate grocery store access.

Ride-sharing could be a viable option for some to get to a grocer - the cost of a trip from the former Smart Saver on 23rd and Martin Luther King to the Homeland on 18th and Classen is about eight dollars one way.

### Conclusion

Most of the nutritional disparity between high and low income households comes down to consumer choice. Government cannot, or certainly should not, force its people to eat their

vegetables, in spite of paternalistic predilections on the part of some. Browbeating the poor with monopoly prices on the goods they have expressed a preference for is un-American.

The legislature should prohibit the kind of anti-competitive zoning Tulsa and Oklahoma City have inflicted on their citizens. It should consider passing statewide zoning exemptions for grocers and other food retailers. It should consider statewide preemption of all zoning laws, meaning that only essential zoning (e.g. no fuel refineries next to daycare centers, no food processing plants upwind of the sewage treatment facility, etc.) is allowed. At the very least, local zoning measures that target one kind of retailer for disfavored (or favored) status should be eliminated across the state.

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“Food deserts” are not a crisis. At most, they are an inconvenience. Government overreaction could unintentionally create a crisis where none exists. Getting government out of the way of innovation and entrepreneurship may be the best advice.

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