

# Berkeley Haas Case Series

Haas School of Business  
University of California Berkeley

**B5939**

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**MOLLY TURNER**

## Cooks First or Rules First? Josephine.com's Regulatory Struggles in the Shared Economy (A)

*There's no taste like home!*

—JOSEPHINE.COM, 2015

The first letter arrived on October 27, 2015. Matt Jorgensen knew he'd get a letter like this one day, but he didn't expect it would happen so soon.

Over the past year, Josephine, the company he was co-CEO of, had raised a \$400,000 angel round, hired its fifth full-time employee, and grown sales by 600% through the first 11 months of 2015. Josephine was a peer-to-peer platform for home-cooked meals. Anyone wishing to purchase one of the many home-cooked meals offered through its site would simply peruse options offered by home cooks in their neighborhood (see **Exhibit 1**), order, and pick up at the cook's house at a scheduled day and time. The company now had 60 cooks across San Francisco, Oakland, and Berkeley in the Bay Area. Things were just starting to take off.

Matt wasn't sure what the letter would say, but he didn't want his team to see his reaction when he read it. He walked out of their office into the common area of their co-working space in downtown Oakland. He sat down on a couch and carefully opened the envelope, with a pit forming in his stomach. The letter read:

*From: Health, Housing & Community Services Department, Environmental Health Division, City of Berkeley  
Date: October 27, 2015*

*The City of Berkeley's Environmental Health Division has received information about the internet site known as Josephine.com, which advertises and facilitates the sale of "home cooked meals."*

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Lecturer Molly Turner prepared this case, with assistance from case writer Dickson L. Louie, as the basis for class discussion rather than to illustrate either effective or ineffective handling of an administrative situation.

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*...It is our understanding that your website is a third-party marketplace that allows private individuals ("Cooks") to sell food on-line which they have prepared in their homes. It appears these Cooks are operating within the City of Berkeley, without obtaining the required permit from the City's Environmental Health Division. The operation of a food facility without a permit violates the California Retail Food Code (California Health and Safety Code §113700 et seq). The law recognizes that "the public health interest requires that there be uniform statewide health and sanitations standards for retail food facilities to assure the people of this state that the food will be pure, safe, and unadulterated."...*

*We would like to meet with you to discuss the apparent violations of state law...At this meeting, you will have an opportunity to learn the nature of our concerns and offer any information that may bear on the nature of the action we take. Attorneys from the Berkeley City Attorney's Office and Office of the County Counsel will be present at the meeting. You may bring an attorney if you wish...*

*Additionally, in line with your published privacy policy, please consider this letter a formal regulatory request for the names and contact information (including the street address from which home meals are served, email and phone number) for all cooks within the City of Berkeley who have offered food for sale through the Josephine.com website.*

*Sincerely, Manuel Ramirez  
Manager, Environmental Health Division City of Berkeley*

*(See Exhibit 2 for the full letter)*

As co-CEO, Matt was responsible for leading the company's policy work. He'd have to come up with a recommendation for his co-CEO and the others on the leadership team. He wondered what they should do next.

## Dinners with Josephine

Josephine Miller was the Environmental Analyst for the City of Santa Monica. She also happened to be a really good cook. She would host her son's friends for dinner at her Santa Monica home regularly. Two friends, Charley Wang and Tal Safran, were some of her favorite guests because they loved to talk about food.

Charley and Tal were both children of immigrants (Charley's parents were from China and Tal's from Israel), and home cooking was a huge part of their family lives. They had both moved to Los Angeles from New York and missed the sense of community that their families had built around dining room tables—until they met Josephine. They would have long conversations with her about the emotional and physical health benefits of home cooking, and how they might preserve it as their Millennial peers moved towards fast casual restaurants and on-demand takeout.

"It doesn't matter whether you are rich or poor, you can benefit from eating locally farmed and raised foods," Josephine said in a Huff Post article about her community-building work.<sup>1</sup>

Over Josephine's dinner table, Charley and Tal started to come up with a new business idea.

"The truth is, when we first set out in April 2014, we had no business model, no mission in place, other than we knew that there was a huge opportunity in figuring out how to make home cooking accessible for Millennials and working professionals," Charley recalled. "We didn't start with a solution, or even a problem—we started with a group of people we wanted to help. Ultimately it was the relationships that we built with our neighborhood cooks that gave us the conviction to start a proper business. The roadmap was incredibly simple—it was just whatever our cooks were telling us after we asked 'how can we help?'"

## Moving to Oakland

Charley and Tal were so excited about this new endeavor that they quit their jobs in business development and software engineering, respectively, and decided to commit to it full-time. The first thing they had to figure out—before even the business model—was where to live. They needed to find a city they could afford to live in as entrepreneurs that would also make a good testing ground for their home-cooked food ideas. So, they looked at three cities: Los Angeles, Portland, and Oakland.

"LA had a super trendy, Instagram-fueled, consumer-oriented food scene that we thought would muddy the waters when explaining the value proposition of home cooking. Portland was more oriented to restaurateurs. But we felt that Oakland was in the middle of a three circle venn diagram, (see **Exhibit 3**) in the sense that it was very centric to the health and wellness movements (not just organic green movement born in Berkeley, but also the more holistic emotional spiritual definition of health and wellness). It was also close to Silicon Valley, and we'd have access to a lot of expertise on marketplaces and tech challenges we'd face. And thirdly in the legal realm, we knew that a few organizations based in Oakland had worked on the California cottage food bill, and we wanted to learn from their expertise."

They moved from Los Angeles to Oakland into an apartment with a big kitchen and started experimenting. The first week they cooked a meal, knocked on neighbors' doors, and invited them over for dinner as "unsuspecting guinea pigs in our research," Charley noted. The second week, they experimented with whether people would pay to eat dinner in their home. And the third week, they experimented with whether people would pay to pick up their home-cooked food to-go.

Charley noticed some differences in demographics during those rounds of experiments: "When we started off with a social dining experience (which a lot of other companies were doing), we got a lot of young people, like us. But as soon as we switched to pick up, the first week was a bust. None of our friends came. But then we started to get the word out on other channels, like NextDoor and local neighborhood email lists. All of a sudden we started seeing a lot of busy

<sup>1</sup> Ruffin, Monique. "Moms change the world: Josephine Miller". Huff Post. May 17, 2013.

mothers with kids in tow. And that was our first divergence from business models that revolved around our own needs and priorities.”

While other food startups of the time were focusing on standardizing food offerings from professional chefs that could be either delivered on demand or eaten in a chef’s high-end kitchen, Charley and Tal were fixated on building a business model that would encourage differentiation. Instead of looking toward platforms like Uber and Craigslist, they looked toward platforms like Etsy, Kickstarter, and Patreon—marketplaces that promoted the human touch and variation of their providers.

As Charley and Tal continued experimenting with the business model, they met Matt Jorgensen, a former management consultant and clothing apparel entrepreneur who had recently moved to the Bay Area looking for something more meaningful. He was particularly interested in the labor justice possibilities of the sharing economy. He resonated with their vision and immediately joined as a member of the founding team to help make it reality. Other founding team members Sika Gasinu and Emily Gustafson joined around the same time as well. Both had just finished their Masters of Public Health in Nutrition and were excited to work on a food access-related project.

The team started recruiting cooks in San Francisco, Oakland, Berkeley, and throughout the East Bay. Willing cooks were not hard to find. Indeed, one of the reasons Charley and Tal had chosen Oakland was because much of the country’s existing cottage food and urban homesteading movements were located there. They posted Craigslist ads like: “Love to cook in bulk and share your culture through food? Contact Josephine!” The cooks that responded shared many traits: They were all passionate about food and skilled in the kitchen, but had been excluded from formal entrepreneurial opportunities in the food world.

Helping people excluded from the food industry was a big motivator for Matt: “Most food work is either totally uncompensated or under-compensated. And so my focus was on the fact that even though there’s a ton of money being made in this industry, the people that are powering it are not seeing much of it. And so how can shifting ownership and control in this sector change that dynamic?”

Josephine let cooks advertise their meals for free, took a straight 10 percent fee on each transaction, and paid its cooks the remaining balance. This revenue-share percentage was more generous than peer-to-peer platforms, such as Uber or Lyft, where vendors would take home only 75 to 80 percent of total revenue after a 25 to 30 percent service fee. It was in line with Amazon Marketplace, Etsy, and Airbnb, where the service fees for providers were often 15 percent or less. “We decided to charge a transaction fee to cooks because we saw ourselves as providing tools to help cooks run their own businesses. As a supply-first marketplace, we wanted to make sure we were demonstrating value to cooks first and foremost,” Matt explained.

The team saw Josephine as a tool to empower underserved food entrepreneurs. When faced with difficult prioritizations, they turned to their internal company mantra, “We serve the cooks.” Matt explained, “The very beginning of it was essentially coaching for folks who had existing informal food businesses. A lot of our cooks had a lot of experience cooking and serving food to their friends and neighbors, but didn’t have any experience thinking about themselves as entrepreneurs. Our founding team members, Emily and Sika, developed an entire cook-focused curriculum and

training program that ranged from food safety and bulk cooking guidelines to marketing, sales, and customer relationship management. The ‘Cook Operations’ team helped cooks think through questions like: ‘How do you price your food accurately so that it captures your ingredient costs and your labor intensity so that you know you’re making enough money per hour?’[and], ‘How do you think about inviting friends and your broader network to buy your food?’

Josephine was tapping into an ecosystem that existed for years in the Bay Area, and particularly in Oakland, but had been buried underground. And for good reason.

## **Food Justice...and the Health Code**

Until 2012, home cooks in California who wanted to sell their food had to abide by the same food safety laws as commercial restaurants and bakeries. That meant they had to prepare all of their food in commercial kitchens. The cost of renting all or part of a commercial kitchen is very expensive. Nonprofit organizations, like La Cocina in San Francisco, emerged to provide low-income cooks with access to free or low-cost commercial kitchen space, as well as providing support in starting their food enterprises. But most cooks were left with two options: get a low-paying, high-intensity job in a restaurant kitchen or start their own business underground.

Then in 2012, after sustained advocacy from food justice groups (many located in Oakland and Berkeley), the California State Legislature passed the Homemade Food Act to allow home cooks to run “cottage food operations” and sell “low-risk” food from their home kitchens. This law was a “Cottage Food Law” similar to those in most other U.S. states in that it was limited to “non-potentially hazardous foods” (mostly non-perishable or vegan). The list of foods that qualified was short—mostly granolas, jams, and the like, and excluded dairy and meat. (See the list of approved foods in **Exhibit 4**).

The Homemade Food Act also relaxed zoning restrictions for home cooks so they would be allowed to operate their businesses in residential zones. Yet, it still required cooks to apply for a permit from the County Department of Health, a burdensome process that required cooks to complete a food processor training course, produce compliant labels, and operate within a gross annual sales limit of \$50,000 (as of 2015). (See the registration requirements in **Exhibit 5**).

In other words, anyone cooking lasagna or tamales for sale at home was still violating state law, risking criminal penalties and operating without the benefit of safety guidelines or access to education and shared resources.

The Josephine team was aware of this from day one. Charley noted: “Before moving to LA, I had already read up on the history and journey of the cottage food bill. We already knew that we’d be changing and fighting a regulatory model at some point in the business. That was a really exciting opportunity to us—we knew that removing the regulatory barrier for home cook entrepreneurs would further our mission on a much larger scale than the business itself would.”

Several developments in the regulatory sphere made the Josephine team optimistic about their situation:

1. “Sharing economy” companies like Airbnb had already helped consumers develop trust in transaction with complete strangers and had demonstrated to regulators that peer-to-peer business models could flourish safely.
2. The cottage food movement of selling homemade foods directly to consumers had grown rapidly across the country. Over the past decade 42 states adopted a cottage food law. There was a strong support for home-cooked food.
3. Legalizing home cooking straddled increasingly relevant issues such as immigrant security, gentrification, and local economic resiliency. Public awareness of these issues was also increasing and starting to influence consumer purchasing behaviors, especially in markets Josephine had targeted.

In addition to their optimism in the regulatory context, they also thought their business model could address the food safety concerns facing home-cooks. Matt explained:

“Over the past 100 years, the U.S. food laws were shaped in reaction to the industrialization of food business. As the size of food businesses increased and we became more disconnected from the sources of our food, new public health protections were needed. Unfortunately, the laws were written for and often by industrial food producers so cottage businesses and small independent food producers were pushed to the margins. Oftentimes new commercial food regulations didn't even contemplate the fact that people might still be selling or producing food for sale at home. And our argument has always been that risk correlates with scale. A lot of these very onerous regulations are a result of the profit-oriented, margin-squeezing incentives of big food business. There's a reason why invisible back-of-house restaurant workers churning out food for customers they will never meet don't feel the same level of accountability. So we end up with lopsided regulations that over-correct for commercial business failings.”

Matt believed that Josephine’s cooks already followed food-handling best practices. Charley, Emily, and Sika created a proprietary inspection process of cooks’ kitchens to ensure that his belief was a reality.

“At first there was actually an in-person taste test and kitchen inspection that we would do,” Matt added. “So, once we found them, we would ask them to cook us a sample meal and we'd go over to their house. And then while we were there we had a checklist (see **Exhibit 6**) where we basically took the Alameda County health inspection that's used for food trucks and restaurants, and we adapted it to a private home. So, we would taste the food and then we would say, ‘Okay, can you show me the thermometer in your refrigerator? Can you show me that you have a closed trash receptacle?’ It was like a 30 bullet point lists. If they passed, then we would sign them up with a very simple profile on our website where they could then list meals.”

And that system seemed to work. Over 50,000 portions had been sold since the company’s inception and Josephine never had any food safety issues. Furthermore, all of the local advocacy groups and government officials they talked to in Oakland thought their approach was pretty great: Josephine was empowering low-income cooks who were typically women, immigrants, and people of color to become entrepreneurs, and was providing more neighborhoods access to healthy food.

A host from Emeryville, California recalls her experience discovering Josephine: “I grew up in Saigon, Vietnam, cooking in the restaurant my grandmother ran for over 60 years. When I moved to the United States, I missed cooking these foods and wanted to share Vietnamese cuisine with my new community. While my husband and I explored small business development programs and received lots of great advice about starting a business, the prohibitive cost of operating out of a commercial kitchen or a brick-and-mortar restaurant led us to start cooking out of our home.”<sup>2</sup>

Matt shared the pitch they would give to regulators: “We’re helping to do workforce development and develop good jobs and pathways to ownership in the food economy for people that haven’t had them.” He added, “Our customers were overwhelmingly families in residential neighborhoods. And it was actually particularly successful in food deserts and places where there weren’t a lot of commercial food businesses. Healthy food access was part of the pitch to regulators because even though we didn’t really make much of an effort to ensure that it was ‘healthy food,’ the overwhelming consensus is that home cooking is healthier than fast food and the other options that are usually available in food deserts.”

It helped that Josephine customers raved about the experiences: “I walked into Terry’s home last night and the smells, warmth, laughter and chatter transported me ‘home.’ Conversation about teenage children struck a chord with several of us and we were consoling each other about the angst of it all. I left with dinner, a much lighter heart and a smile. My family and I enjoyed a delicious Irish meal and there was harmony. Thank you, Josephine. Terry, whatcha cookin’ next week?”<sup>3</sup>

## An Appetite for Risk

Josephine’s investors weren’t worried about the regulatory context either. Many of them had been investors in Uber or Airbnb, or had watched those companies deal with regulatory issues over the previous few years. Both companies had managed to operate “under the radar” for several years and grow their businesses exponentially before engaging with regulators.

Matt recalled the early conversations with investors: “Our early investors were not very concerned. I think they felt like we were going to have at least the same amount of time that Airbnb had had to deal with some of the regulatory issues and probably a lot longer because the sharing economy was already getting normalized and there’d be less fear.”

Indeed, Josephine’s first investor, Josh Miller, wrote in an email to the Josephine team: “We’ll eventually have to lead a movement and campaign around food policy and why it is outdated and needs to change—much like Uber and Airbnb have done.”<sup>4</sup>

Plus, Silicon Valley investors have a huge appetite for risk. Matt explains: “There’s very much a mentality of disrupt first and figure out the regulatory context later.”

<sup>2</sup> Hai, Emeryville, CA, 2018.

<sup>3</sup> Customer review. Josephine website. 2015.

<sup>4</sup> Stolzoff, Simone. “Should startups ask for permission or beg for forgiveness?” Quartz. September 6, 2018.

As Matt and Charley pitched investors for their seed round in early 2015, they told investors that they knew there would be regulatory hurdles, but that they wouldn't have to address them until Josephine got to Series A scale or beyond. It was exactly what the investors wanted to hear at the time. Charley remembered the responses:

“Our investors were telling us to ask for forgiveness before asking for permission, and they were citing Airbnb and Uber. And many of them felt like they had a clear idea of what that would look like. We heard the term ‘war chest’ many times: ‘You don’t have the war chest you need to go head to head with regulators.’”

Although most investors encouraged Matt and Charley to be aggressive, there were a few that wondered whether Josephine’s business model should be more compliant with state and local laws. That would have changed the entire investment opportunity though, as Charley explained: “The market and demand for pantry items and baked goods was significantly smaller—both in the context of investor returns, as well as financial impact for cooks.”

Despite this advice from some of the brightest minds in Silicon Valley, Josephine was contacted by regulators within less than a year of launching.

## Begging for Forgiveness

The letter from the City of Berkeley Environmental Health Department was only the beginning. Soon Alameda County (which included the cities of Berkeley, Oakland, Emeryville, and many more) sent a letter as well. Charley recalled: “It marked an unprecedented, aggressive and coordinated sting operation from Alameda Environmental Health.” The enforcement team only had four full-time employees that checked restaurants for compliance throughout the county. For two full weeks, it appeared that the entire enforcement team made house calls delivering cease and desist letters to Josephine cooks. Charley added: “It was very much a thought out, physically intimidating message. We were in shock because up until that point we had this tech bias thinking, ‘How could people think we’re this evil or this big of a threat?’ and we were still very small at that point, we had barely two dozen active cooks.”

Renee McGhee, a 61-year-old retired baker, used Josephine to support herself while she was looking after her grandson at home. She recalled in disbelief, “I don’t understand why I can’t do what I love for people who love what I do.”<sup>5</sup>

Cooks, investors, Matt and Charley were all caught off guard. They had underestimated the County’s interest in food safety—and its tolerance for tech startups. “It became pretty apparent there was an anti-tech sentiment, particularly in the East Bay,” Charley remembered. “It’s funny, the same cultural reasons we moved to Oakland, are the opposite side of that same coin. The very same areas that embodied progressive politics in the form of holistic health, buying local, and celebrating diversity also tended to have strong anti-corporate, anti-tech sentiments.”

Local governments in the Bay Area had been caught unprepared by Uber and Airbnb, and they wanted to get ahead of the next “disruptive” startup. Charley empathized with their point of view:

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<sup>5</sup> Stolzoff, Simone. “Should startups ask for permission or beg for forgiveness?” Quartz. September 6, 2018.

“They felt our operations were blatant and therefore arrogant. Their trust in tech companies had already been eroded, and they assumed we had intentions to mislead consumers and discredit their agency. This made things rather personal for some of the environmental health folks—it struck an emotional chord beyond the typical day in, day out of their jobs.”

Matt and Charley decided it was time to finally meet with the regulators. They hired Airbnb’s local lobbyist and appointed Matt to lead Josephine’s government relations strategy. He prepared reams of talking points and data about how Josephine was addressing food safety issues, bringing underground cooks into the light, supporting low-income entrepreneurs, and providing healthy food access. But the City of Berkeley and Alameda County regulators could not be swayed.

“They kept referencing things like the Chipotle incident,” Matt noted “and there was a lot of fear on their part that they would be a famous national case if they didn’t take action on something that was now very public.”

In those meetings Matt learned one very important government relations lesson: The regulators enforced laws; they didn’t change them. “They were like referees and they saw us as a threat to them missing a call that they should be making,” Matt added. “And so very quickly in the end of 2015, we realized our strategy needed to focus on asking elected officials to slow down. It was also becoming apparent that we might need to potentially change the law at the state level because they just kept saying, ‘You know, our job is to just enforce the state law and our read is that what you’re doing isn’t compliant with state law.’”

## Matt’s Options

It was clear that business as usual had come to an end for Josephine in California. Matt and Charley could no longer plead ignorance about the regulatory context. They had begged for forgiveness and hadn’t received it. But their run-in with regulators prompted Matt to begin reaching out to other government officials in the economic, workforce development, city council, and mayor’s offices. Matt remembered: “Those folks were overwhelmingly concerned with helping the folks that we were working with and loved the model. They tended to either not even understand that it was a legal gray area or believe that that was not going to be a huge problem given the impact. The reaction of elected officials was always very, very positive and with a ‘I can’t believe this isn’t already legal!’ reaction.”

The law couldn’t be changed by the cities, though—it had to be changed at the state level by the California legislature. Matt knew that complex and novel bills often took years to pass in California. The 2012 Homemade Food Act had faced significant public health opposition even though dozens of states had already passed similar laws without apparent downside. It would take at least a year or two to amend or pass a new state law, and that was an optimistic assessment.

Yet Matt and Charley were optimists. They had seen their business grow exponentially over the past year. They knew the business model worked. More importantly, they saw the impact it was having on their cooks’ lives (see **Exhibit 7** for Josephine’s impacts). They had also received incredibly positive press from national outlets like *The Atlantic*.<sup>6</sup>

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<sup>6</sup> <https://www.theatlantic.com/technology/archive/2015/11/the-food-delivery-start-up-you-havent-heard-of/414540/>

They had raised a lot of money, too. Undeterred by the initial interactions with City of Berkeley and Alameda County Regulators, and impressed by Josephine's growth numbers, investors put in an additional \$2 million in seed funding. That allowed them to double the size of their team, hire lobbyists, and invest in new marketing initiatives, product updates, and cook education. Matt and Charley figured they had about 12-18 months of runway to work with before they'd need to raise funds again. And they hoped they'd be able to show exponential revenue growth and sustainable unit economics (cost of acquisition, cook/customer lifetime value, retention), which would be required to raise a Series A. Benchmarks from comparable marketplaces suggested a million dollars in annual take (which meant multiple millions of dollars in platform revenue) would be required.

As Matt contemplated his government relations strategy for the next 12-18 months, he considered a few options:

1. **Change operations in CA while lobbying for a new state law.** Josephine could alter its business model in California to comply with state law, by allowing only food compliant with the Homemade Food Act to be sold on the platform. In the meantime, they could hire a team of lobbyists and sponsor legislation in the California State Legislature that would legalize their business model.
  
2. **Launch in new markets.** Before the City of Berkeley and Alameda County enforcement actions, Matt and Charley were planning to expand to new markets. In fact, that was the intended use of much of the capital they had raised.

Hundreds of potential cooks in Portland, OR and Seattle, WA had already emailed Josephine asking them to launch in their cities. And, like the Bay Area, those two markets seemed well-primed for Josephine. They had booming food scenes, with extensive underground chef communities that weren't being actively regulated. Elected officials in both cities were progressive and wanted to help underserved communities access economic opportunities.

Matt knew that Seattle would present some of the same challenges as the Bay Area had, as the State of Washington had strict health regulations and strong enforcement. But they'd received twice as much interest from cooks in Seattle than Portland.

On the other hand, Portland was attractive to Matt because, "it was more libertarian at the state level, so the regulatory agencies were less hawkish. Looking across the country, it tends to be the case that the redder states that don't like regulation were actually a little bit more favorable to our model from a regulatory perspective, even though progressive places really liked the economic and community impacts. Wyoming and North Dakota are the two states where this actually would have been mostly legal because they have what's called 'Food Freedom Laws' mostly intended for agriculture where folks can sell anything other than red meat directly to consumers without any regulation."

3. **Go deeper underground.** While Matt contemplated the various government relations strategies, he and Charley asked their investors for advice: “Some wanted us to go even deeper underground,” Charley recalled. “Make it impossible for anyone to find the addresses of our cooks and grow as fast as we could, until we got to a level where we could fight back better.”

Josephine had 12-18 months of runway, a team of 12 full-time employees, over 100 cooks still operating in California, and a strong belief in their mission to bring home-cooking to the masses.

What should Matt do next?

## **Case Discussion Questions**

1. What strategies are available to Matt and which would you choose?
2. What characteristics should Matt look for in a new market?
3. Should he ask for regulatory permission or forgiveness in new markets?
4. What could he have done differently in California, that he would do elsewhere?

**Exhibit 1** Josephine.com web site



**Remember your childhood kitchen?** The memory of being cooked for by a parent, a grandparent, a friend? When food is cooked by a person, not a corporation, it *feels* different.  
Home cooking feeds more than just our appetites.  
**Food brings people together.**

We believe in the cooks.



The givers, the mothers, the fathers, the nourishers for whom giving boldly is the default. Josephine cooks earn a living by sharing what they love.

[Learn More About Cooking](#)



San Francisco Chronicle

*the Atlantic*

npr

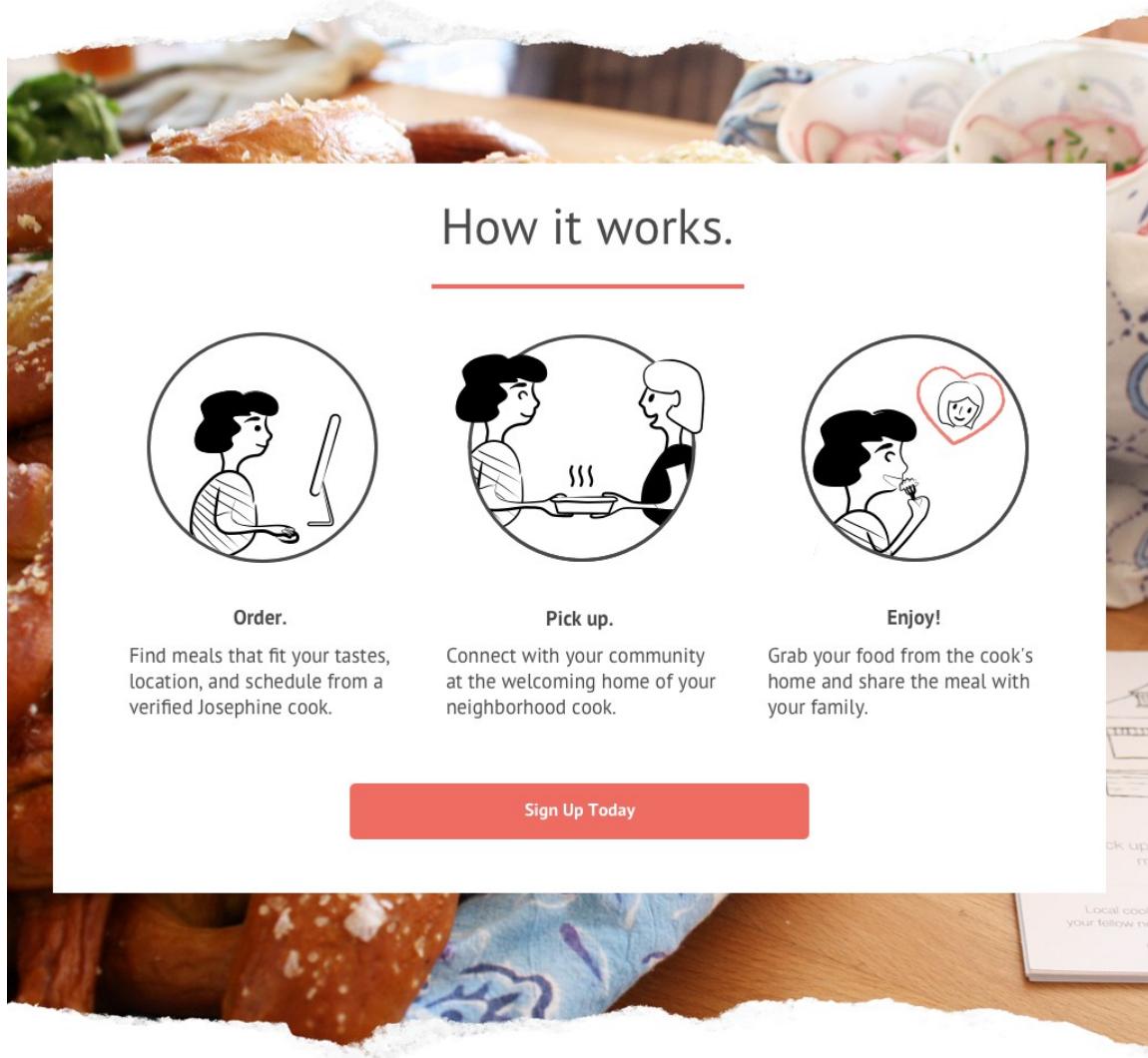
WIRED

VICE

THE  
HUFFINGTON  
POST

FAST COMPANY

Source: Josephine.com.

**Exhibit 1** Josephine.com web site (continued)

Source: Josephine.com.

## Exhibit 1 Josephine.com web site (continued)

**The Josephine solution**

**How it works for Customers:**

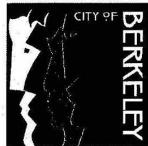
- Browse meals nearby
- Purchase online, in advance
- Pick up to-go

**How it works for Cooks:**

- Use tools to plan, process, and track sales
- Learn from extensive knowledge-base
- Engage with cook community for support
- Benefit from Cook Perks:
  - \$1m liability insurance coverage
  - Memberships to services like Thrive Market, Imperfect Produce, and local CSAs
  - Provider-stock-options issued based on engagement

Source: Josephine.com.

## Exhibit 2 City of Berkeley Enforcement Letter



Health, Housing &  
Community Services Department  
Environmental Health Division

October 27, 2015

Tal Safran and Charley Wang  
[REDACTED]

***Re: Food sales from private homes via Josephine.com***

Dear Messrs. Safran and Wang:

The City of Berkeley's Environmental Health Division has received information about the internet site known as Josephine.com, which advertises and facilitates the sale of "home cooked meals." Alameda County Department of Environmental Health has jurisdiction over all food facilities within the County of Alameda, except within the City of Berkeley. The City of Berkeley's Environmental Health Division has jurisdiction over food facilities located within the City of Berkeley.

It is our understanding that your website is a third-party marketplace that allows private individuals ("Cooks") to sell food on-line which they have prepared in their homes. It appears that these Cooks are operating within the City of Berkeley, without obtaining the required permit from the City's Environmental Health Division.

The operation of a food facility without a permit violates the California Retail Food Code (California Health and Safety Code §113700 *et seq*). The law recognizes that "the public health interest requires that there be uniform statewide health and sanitation standards for retail food facilities to assure the people of this state that the food will be pure, safe, and unadulterated." (Health and Safety Code, §113705).

Other relevant sections of the law include:

### **§114381. Permit requirements**

- (a) A FOOD FACILITY shall not be open for business without a valid PERMIT.
- (b) A permit shall be issued by the enforcement agency when investigation has determined that the proposed facility and its method of operation meets the specifications of the approved plans or conforms to the requirements of this part.

### **§114387. Permits required; penalties**

Any PERSON who operates a FOOD FACILITY shall obtain all necessary PERMITS to conduct business, including, but not limited to, a PERMIT issued by the ENFORCEMENT AGENCY. In  
[REDACTED]

*Source: Josephine.com.*

## Exhibit 2 City of Berkeley Enforcement Letter (continued)

Josephine, Inc.

October 27, 2015

Page 2

addition to the penalties under Article 2 (commencing with Section 114390), violators who operate without the necessary PERMITs shall be subject to closure of the FOOD FACILITY and a penalty not to exceed three times the cost of the PERMIT.

### **§ 114285. Private homes and rooms used as living or sleeping quarters**

- (a) Except as specified in subdivision (b), a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters shall not be used for conducting food facility operations.
- (b)(1) Nonperishable, prepackaged food may be given away, sold, or handled from a private home. No food that has exceeded the labeled shelf life date recommended by the manufacturer shall be deemed to be nonperishable food.
- (2) For purposes of this subdivision, "nonperishable food" means a food that is not a potentially hazardous food, and that does not show signs of spoiling, becoming rancid, or developing objectionable odors during storage at ambient temperatures.
- (c) Restricted food service facilities are exempt from subdivision (a) provided that no sleeping accommodations shall be allowed in any area where food is prepared or stored.

We would like to meet with you to discuss the apparent violations of state law. We have scheduled time for both enforcement agencies (City of Berkeley and Alameda County) to meet with you on Wednesday, November 4, 2015 at 9:00 a.m., at the [REDACTED]

[REDACTED] At this meeting, you will have an opportunity to learn the nature of our concerns and offer any information that may bear on the nature of the action we take. Attorneys from the Berkeley City Attorney's Office and Office of the County Counsel will be present at the meeting. You may bring an attorney if you wish.

Please contact my office at [REDACTED] if you have any questions or need to reschedule this appointment.

Additionally, in line with your published privacy policy, please consider this letter a formal regulatory request for the names and contact information (including the street address from which home meals are served, email and phone number) for all cooks within the City of Berkeley who have offered food for sale through the Josephine.com website. We understand from your published terms of service that you collect this information from all cooks through an application and inspection process. Please provide this information to my attention no later than end of business Monday, November 2, 2015.

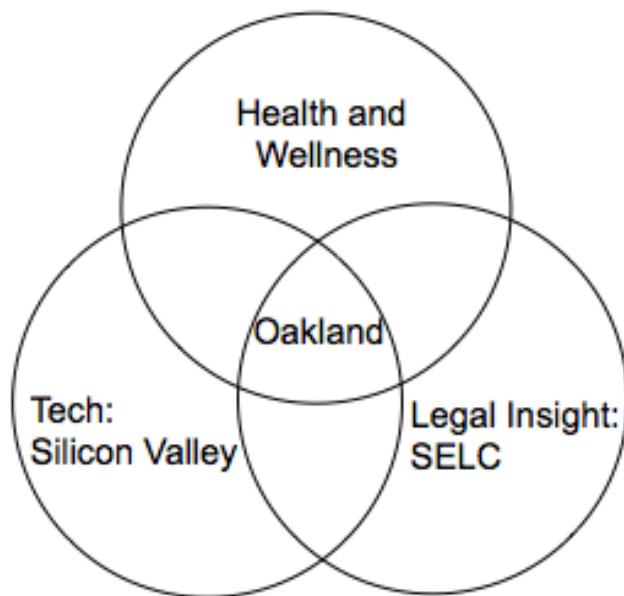
Sincerely,

[REDACTED]  
Manuel Ramirez  
Manager, Environmental Health Division  
City of Berkeley

cc: Kristy van Herick, Deputy City Attorney, City of Berkeley  
Alameda County Department of Environmental Health, Environmental Protection Division

Source: Josephine.com.

**Exhibit 3** Venn diagram



*Source: Charley Wang.*

## Exhibit 4 Approved Cottage Foods



Cottage food operations are allowed to produce certain non-potentially hazardous foods. These are foods that do not support the rapid growth of bacteria that would make people sick when held outside of refrigeration temperatures. The list of approved cottage food categories and their ethnic variations, which cottage food operations are allowed to produce, are listed below. The list will be maintained and updated by the California Department of Public Health (CDPH) on its Internet website as necessary. CDPH may add to or delete food products from the approved products list. Notice of any change, reason for the change, the authority for the change, and the nature of the change to the approved food products list will be posted on the CDPH website and shall become effective thirty (30) days after the notice is posted.

### Approved Food Products List (July 1, 2018):

- (1) Baked goods, without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
- (2) Candy, such as brittle and toffee.
- (3) Chocolate-covered nonperishable foods, such as nuts and dried fruits.
- (4) Dried fruit.
- (5) Dried pasta.
- (6) Dry baking mixes.
- (7) Fruit pies, fruit empanadas, and fruit tamales.
- (8) Granola, cereals, and trail mixes.
- (9) Herb blends and dried mole paste.
- (10) Honey and sweet sorghum syrup.
- (11) Jams, jellies, preserves, and fruit butter that comply with the standard described in [Part 150 of Title 21 of the Code of Federal Regulations](#). \* See Below
- (12) Nut mixes and nut butters.
- (13) Popcorn.
- (14) Vinegar and mustard.
- (15) Roasted coffee and dried tea.
- (16) Waffle cones and pizelles.
- (17) Cotton candy.
- (18) Candied apples.
- (19) Confections such as salted caramel, fudge, marshmallow bars, chocolate covered marshmallow, nuts, and hard candy, or any combination thereof.
- (20) Buttercream frosting, buttercream icing, buttercream fondant, and gum paste that do not contain eggs, cream, or cream cheese.
- (21) Dried or Dehydrated vegetables.
- (22) Dried vegetarian-based soup mixes.
- (23) Vegetable and potato chips.
- (24) Ground chocolate.
- (25) Seasoning salt.
- (26) Flat icing.

California Department of Public Health • Food and Drug Branch • (916) 650-6500 • [fdbinfo@cdph.ca.gov](mailto:fdbinfo@cdph.ca.gov)

Revised: 7/1/2018

*Source: California Department of Public Health. (Public Domain)*

**Exhibit 4** Approved Cottage Foods (continued)

- (27) Marshmallows that do not contain eggs.
- (28) Popcorn balls.
- (29) Dried grain mixes.
- (30) Fried or baked donuts and waffles.
- (31) Dried hot chocolate (dried powdered mixes or molded hardened cocoa pieces).
- (32) Fruit infused vinegar (*containing only high-acid fruits such as apple, crabapple, nectarine, peach, plum, quince, blackberry, blueberry, cherry, cranberry, grape, huckleberry, gooseberry, loganberry, pomegranate, pineapple, raspberry, strawberry, tomatillo, youngberry, grapefruit, kumquat, lemon, lime, orange*).
- (33) Dried fruit powders.
- (34) Dried spiced sugars.

**\*Jams, jellies, preserves, and fruit butter:** Cottage food operations which produce jams, jellies, preserves, and other related products must be sure that their products meet the legal established standards of identity requirements for those products as set forth in [21 CFR Part 150](#). The purpose of the regulation is to maintain the integrity of the food product to ensure consumers consistently get what they expect. The product name and ingredients listed on the label must be factual and comply with the legal definitions and standards of identity or the product may be considered misbranded. Products made with other ingredients that are not defined in 21 CFR 150 cannot be produced by cottage food operations. Addition of other ingredients or alteration of ingredient profiles changes the chemistry of the food, which can allow the growth of various bacteria and toxins under the right conditions. For example, addition of peppers (i.e. jalapeno pepper) to make pepper jelly is not supported by 21 CFR 150 and the addition of this low acid ingredient could cause the formation of botulism toxin in the product if the proper controls are not used.

## Exhibit 5 Registration and Permit Requirements for Class A and B Cottage Food Operations



### Registration and Permit Requirements for "Class A" and "Class B" Cottage Food Operations:

#### General Requirements

All cottage food operations must be registered or permitted by the local environmental health agency before starting business. The issued registration or permit is non-transferable and is only valid for the person, location, type of food sales, and distribution activity specified by the issued registration or permit.

A cottage food operation is operated by a cottage food operator and has not more than one full-time equivalent cottage food operator, which does not include a family member or household member of the cottage food operator. A cottage food operation is located within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or both direct and indirect sale to consumers.

- A cottage food operator must meet the following requirements:
- Meet the registration or permitting requirements for either "Class A" or "Class B" cottage food operations.
  - Complete the food processor training course for cottage food operators.
  - Prepare only foods on the approved cottage food product list.
  - Meet the food preparation and sanitation requirements for cottage food operations.
  - Label cottage food products in accordance with state and federal regulations.
  - Not exceed the gross annual sales amount.

Cottage food operations may only prepare for sale foods that are listed on the approved food list for cottage food operations. The list of categories of approved foods for cottage food operations are posted on the California Department of Public Health (CDPH) website, which will be updated as necessary.

Cottage food operations may not exceed the gross annual sales amounts specified in California Health and Safety Code Section 113758(a).

- In 2013, the operation shall not have more than thirty-five thousand dollars (\$35,000) in gross annual sales in the calendar year.
- In 2014, the operation shall not have more than forty-five thousand dollars (\$45,000) in gross annual sales in the calendar year.
- Commencing in 2015 and each subsequent year thereafter, the operation shall not have more than fifty thousand dollars (\$50,000) in gross annual sales in the calendar year.

#### "Class A" Cottage Food Operations:

"Class A" cottage food operations may engage only in direct sales of cottage food products. A direct sale means a transaction between a cottage food operator and a consumer, where

Cottage Food Registration and Permit Requirements

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The consumer purchases the cottage food product directly from the cottage food operation within the state. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, at farm stands, at certified farmers' markets, or through community-supported agriculture subscriptions, and also occurring in person at the cottage food operation location.

Before opening for business, a "Class A" cottage food operation must become registered by the local environmental health agency and renew their registration annually. Additionally, a self-certification check list must be submitted as part of the registration process. Additionally, a self-certification check list will demonstrate that the cottage food operation conforms to the statutory requirements for Cottage Food Operations as set forth in California Health and Safety Code 114365 et seq., which includes the following requirements:

- (a) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.
- (b) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.
- (c) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.
- (d) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.
- (e) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.
- (f) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

"Class A" Cottage Food Operations must also comply with the provisions set forth under California Health and Safety Code 114365.2, which specifies mandatory compliance with Sections 113953.3, 113967, 113973, 113980, 114259.5, 114285, 114286, 114405, 114407, 114409, 114411 and 114413.

Additionally, operators must ensure that:

- (a) A person with a contagious illness refrains from working in the registered area of the cottage food operation.
- (b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.
- (c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, or in accordance with the local regulatory authority, except that a cottage food operation shall not be required to have an

Cottage Food Registration and Permit Requirements

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indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

- (1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.
- (2) The washing, sanitizing, and drying of hands and arms.
- (3) Water used as an ingredient.
- (d) A person who prepares or packages cottage food products shall complete a food processor course approved by CDPH to protect the public health within three months of becoming registered and every three years during operation. The course shall not exceed four hours in length. CDPH shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

- (e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.) in addition to state specific labeling requirements.

"Please contact your local environmental health agency to obtain more information

#### "Class B" Cottage Food Operations:

"Class B" cottage food operations may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from offsite events, or from a third-party retail food facility such as restaurants and markets within the jurisdiction of their local environmental health agency. "Class B" operations may also engage in indirect sales in counties outside their home permitted county, if the Environmental Health Director in that outside local environmental health agency jurisdiction permits the operator to conduct indirect sales within their jurisdiction.

After an initial inspection and before a "Class B" cottage food operation opens for business, they must first obtain a permit from the local environmental health agency to engage in the indirect, or direct and indirect, sale of cottage food products.

"Class B" operations must conform with the statutory requirements for Cottage Food Operations as set forth in California Health and Safety Code 114365 et seq., which includes the following requirements:

- (a) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.
- (b) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.
- (c) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

"Class B" Cottage Food Operations must also comply with the provisions set forth under California Health and Safety Code 114365.2, which specifies mandatory compliance with Sections 113953.3, 113967, 113973, 113980, 114259.5, 114285, 114286, 114405, 114407, 114409, 114411 and 114413.

Additionally, operators must ensure that:

- (a) A person with a contagious illness refrains from preparing or packaging cottage food products in the permitted area of the cottage food operation.

- (b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

- (c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, except that a cottage food operation shall not be required for an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

- (1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.

- (2) The washing, sanitizing, and drying of hands and arms.

- (3) Water used as an ingredient.

- (d) A person who prepares or packages cottage food products shall complete a food processor course approved by CDPH to protect the public health within three months of becoming registered and every three years during operation. The course shall not exceed four hours in length. CDPH shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

- (e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.) in addition to state specific labeling requirements.

"Please contact your local environmental health agency to obtain more information

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*Source: State of California. (Public Domain)*

## Exhibit 6 Josephine.com inspection checklist



### Josephine Kitchen Inspection

Kitchen inspections take place during the Home Tour video call with potential cooks. Josephine kitchen inspections follow the same methodology that public health departments use when inspecting retail food facilities.

We look for the most significant factors that contribute to foodborne illness as identified by the Centers for Disease Control and Prevention (CDC). These factors include **improper holding temperatures, inadequate cooking, poor personal hygiene, contaminated equipment, and food from unsafe sources.**

Notes from the inspection will be emailed after the video call. The report may include corrective actions that need to take place before the first meal and recommendations for making those corrections. The Josephine team will follow up on the corrections as needed.

#### Points of kitchen inspection:

##### Food

- All food is stored 6 inches above the floor
- Food is stored in a manner to protect from contamination
- Josephine containers are stored in a manner to protect them from contamination

##### Temperature Control

- Potentially hazardous foods are held below 41°F (cold foods) and above 140°F (warm foods)
- Meat thermometer available for use
- Thermometer available for refrigerator

##### Personal Hygiene

- Cooks wash their hands with soap and hot water (100° F) for the following reasons:
  - before starting work
  - immediately after using the restroom
  - any time needed to prevent food contamination
- Cook has no open sores and is not sick
- Cook is wearing clean outer garments
- Tongs or other implements are used for serving food
- Cook's hair is properly tied

*Source: Josephine.com.*

## **Exhibit 6 Josephine.com inspection checklist (continued)**

- Cook does not smoke or use tobacco products within the cooking area

### Water and sewage

- Sink is fully operable with both hot and cold water
- Sink drains properly

### Equipment and Utensils

- All equipment and utensils are well maintained
- Food surfaces are properly cleaned
- Utensils are not damaged in a way that would cause contamination

### Floors, walls and ceilings

- Floors, walls and ceilings are clean and in good repair

### Pest control

- Cook's kitchen is free from infestations or sources that would cause infestation

### Pets

- Pets are kept out of the food preparation areas during food preparation and serving

### Operations

- Trash containers are covered and do not leak
- Cleaning products and equipment, and soiled laundry are stored properly
- Cleaning products are clearly labeled

The following conditions are serious and are cause for immediate suspension from the Josephine platform until corrected:

- Overflowing sewage inside the home
- No potable water
- No hot water
- No electricity
- No operating refrigeration equipment
- Vermin infestation
- A cook serving food with a communicable disease
- Unsanitary conditions

*Source: Josephine.com.*

## Exhibit 7 Josephine's Impacts

# Josephine Introduction

Josephine economically empowers people who have been excluded from, or exploited by, the professional food industry. We help cooks make money by sharing home cooked food with friends, neighbors, and communities.

### Josephine Serves Cooks

Josephine supports food entrepreneurs, many of whom have existing informal food businesses, in doing their work more safely and accountably. Josephine cooks are:

**84%**

Women

**48%**

African, Hispanic, or  
Multiracial Descent

**36%**

Household income  
under \$45K

#### JOSEPHINE PROVIDES:

- **Platform tools:** Payment processing, order management, meal publishing & marketing tools, CRM, P&L tools, and feedback and customer service tools
- **Education & Training:** Business training, extensive safety & food preparation training, educational workshops
- **Community Support & Benefits:** Offline cook events & skillshares, online forums, and access to bulk buying
- **Reduced Risk:** Food safety training & remediation, sponsorship for Food Handler training, and \$1M Insurance.

*Source: Josephine.com.*