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NYC TAXI AND LIMOUSINE COMMISSION
PUBLIC MEETING
held on Thursday, June 14, 2007
40 Rector Street
5th Floor
New York, New York

1 Public Meeting convened at 9:50 a.m:

2

P R E S E N T:

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4 MATTHEW W. DAUS, COMMISSIONER/CHAIR

5 ELIAS AROUT, COMMISSIONER

6 NOACH DEAR, COMMISSIONER

7 HARRY GIANNOULIS, COMMISSIONER

8 IRIS WEINSHALL, COMMISSIONER

9 HOWARD R. VARGAS, COMMISSIONER

10 EDWARD GONZALES, COMMISSIONER

11 LAUVIENSKA POLANCO, COMMISSIONER

12 CHARLES FRASER, GENERAL COUNSEL

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1 CHAIRMAN DAUS: Sorry to keep
2 everybody waiting. Could everybody please
3 take their seat and could we have some quiet.

4 Good morning, everyone. I would like
5 to proceed to Item 1 on the agenda, the
6 Chairman's Report.

7 The first item that I would like to
8 talk about is Plan YC. First of all, I would
9 like to thank all Commissioners for their
10 support of going green. How we get there is
11 another issue that we will be discussing some
12 of the details, but certainly it was nice to
13 see at the Mayor's announcement, several
14 Commissioners took time out of their busy
15 schedules to be there.

16 The Mayor, as many of you may have
17 heard, has announced an acceleration of a lot
18 of the plans that he had put in Plan YC that
19 he announced a month earlier. That would
20 include, of course, the total conversion
21 eventually, over time, of the fleets that the
22 TLC regulates, including the taxicab fleet.

23 We have many, many details to review
24 and many, many items to work on in the coming
25 months. At the next Commission meeting, it is

1 my plan to have staff make a detailed briefing
2 and presentation for the Commissioners as well
3 as for the public, so we will be going over
4 some of those details in terms where we go
5 with that plan at the July meeting, which is
6 July 12th.

7 The Taxi Tech Project, we have some
8 very, very good news. I want to congratulate
9 the staff as well as all of the vendors. They
10 are all out of the box now. All four vendors
11 since the last meeting have been approved to
12 start marketing their materials and to start
13 signing up potential Medallion owners as
14 clients.

15 The four companies are Taxi
16 Technology, Verifone Transportation Systems,
17 Digital Dispatch Systems, also known as DDS,
18 and also Creative Mobile Technologies. Just a
19 couple of reminders for the industry, per the
20 rules that the Commission had passed, as of
21 August 1st, that is the sign-up deadline,
22 meaning that every Medallion owner must, by
23 August 1st, have a contract signed with at
24 least one of these four vendors.

25 The second trigger point is October

1 1st. Starting October 1st, as we voted on
2 previously, the four-month inspection cycle
3 will begin. And if your car is regularly
4 scheduled for inspection starting October 1st
5 and thereafter, at that inspection you will be
6 required to have the equipment installed. And
7 there are various exemptions and so forth.
8 And all of that is detailed in a lot of the
9 industry memoranda that we have going out
10 there. We have copies of all of the approvals
11 for the audience.

12 I would strongly recommend that if
13 industry groups and industry members have not
14 already signed up for the TLC's list serve,
15 which can be done by taking two minutes of
16 your time and going on our website, you will
17 get automatically sent to your e-mail account
18 each and every one of these notices or news
19 items as soon as they come out. There is also
20 a special section of our website which has
21 up-to-date information about the tech project.

22 In terms of outreach, we have mailed
23 to every single Medallion owner the marketing
24 materials for two of the four vendors. The
25 other two will be going out shortly. So their

1 materials -- and they paid for the mailing --
2 will be going to each and every Medallion
3 owner so they can choose between the four
4 companies. In terms of additional outreach,
5 we have been continuing to go to the airports
6 and to do everything we can to make sure that
7 owners and drivers are aware of the cost, the
8 benefits, the issues surrounding this
9 equipment.

10 On June 25th, we are also going to be
11 holding a vendor expo at the Woodside facility
12 from 11:00 a.m. to 3:00 p.m. We encourage
13 everybody or their friends to attend if they
14 have any questions about the systems. It
15 might be a great opportunity to see all of
16 these systems live and make your choice then
17 and there. So we are going to continue our
18 outreach, but those are the upcoming events on
19 the project.

20 On the RFIs, if you remember we had
21 some Requests for Information that the
22 Commission approved over the last couple of
23 months. I just want to give you a quick
24 update on those. We have two of them where
25 the deadline has passed. June 1st was the

1 deadline for the RFI regarding mobility seats
2 for accessible vehicles as well as the RFI for
3 the Toyota Sienna accessible vehicle
4 retrofitting project. Those are the Bruno and
5 the Autovan initiated pilots respectively.

6 Those deadlines have passed and
7 nobody has responded, so we are proceeding
8 forward with the original pilot plan with the
9 people that presented them.

10 There is also a hearing enhancement
11 technology RFI that was issued. The due date
12 is June 29th. We have received some responses
13 from advocates and we are keeping the date
14 open and we are monitoring it closely. So,
15 hopefully, we will have some more information
16 from companies that are able to analyze and
17 give the cost of doing such a project.

18 Item 4, Accessible Vehicle
19 Demonstration Project. We had a presentation
20 at prior meetings. Since the last meeting a
21 notice was published in the City Record of
22 which I have given copies to Commissioners and
23 the public which sets forth the parameters of
24 the demonstration project and gives the
25 opportunity for, consistent with the

1 Procurement Policy Board Rules, other
2 interested vendors to come forward and
3 participate in the project if they would like
4 to. I believe John Aserno's group,
5 ExecuCharge, is the one company that is
6 interested in doing this now. They have had
7 prior experience in accessible vehicles and so
8 forth. But the door is open to anyone and
9 everyone who would like to come forward and
10 participate in the project as well. So that
11 was the purpose of that notice, consistent
12 with the City Rules, and we will keep
13 everybody posted on that.

14 By the way, the deadline for that
15 demonstration project submission is Monday,
16 June 25th at 3:00 p.m..

17 A couple of upcoming Commission
18 meeting notes. Our next scheduled Commission
19 meeting is July 12th. We do not have at this
20 time or probably will not have any proposed
21 rules on, but we will have some items on the
22 agenda. The next meeting after that is
23 Thursday, August 9, 2007. We are planning to
24 have Medallion Transfer and Escrow Rules and
25 Procedures on for public hearing. We are

1 going to be having a staff presentation about
2 that today, and we are hoping to get some
3 rules on for a public hearing that will
4 enhance the paratransit rules and the
5 paratransit industry.

6 We had a presentation about that I
7 believe at our last meeting, if I am not
8 mistaken, and we will have those rules on for
9 a public hearing.

10 Last, I would like to communicate
11 some sad news. Many of our Commissioners for
12 years may remember a gentleman who would come
13 here with the Taxi Alliance. His name is
14 Kevin Fitzpatrick. He has lost,
15 unfortunately, a long fight with cancer and he
16 passed away I believe last week, if I am not
17 mistaken, when I was away.

18 Kevin used to come here, you would
19 probably recognize him, he used to wear a
20 motorcycle jacket and he was very passionate.
21 We didn't always agree with Kevin on a lot of
22 the issues, but he was certainly always very,
23 very helpful in giving some insight and some
24 information on things. And somebody had told
25 me, I had received some information that he

1 had actually graduated Regis High School, Joe
2 had told me, which really didn't surprise me
3 because I always found him to be, even though
4 we disagreed with him a lot, a very, very
5 smart guy. And he certainly was very
6 passionate about the cause. He was one of the
7 organizing members of the Taxi Workers
8 Alliance.

9 We are going to miss him. He was
10 practically at every meeting for years as long
11 as I could remember. So I would like to ask
12 for a moment of silence in memory of Kevin.
13 We are certainly going to miss him.

14 (Moment of silence.)

15 CHAIRMAN DAUS: Thank you. And our
16 condolences to the Fitzpatrick family and all
17 the members of the TWA.

18 That concludes my report. Any
19 questions, comments, concerns from anybody?

20 Yes, Commissioner Dear?

21 COMM. DEAR: First of all, those who
22 were in attendance with the Mayor's
23 announcements with going green on cars, I
24 noticed the cars there, and we had this
25 conversation, and one of the things I did

1 notice, I just wanted clarification, I saw
2 there was a wrap-around, which I enjoyed. I
3 thought it was cool. It looked good and
4 everything else.

5 Are they staying on those cars the
6 way it is?

7 CHAIRMAN DAUS: No. I think that
8 violate our rules. I think that was just
9 really for the press conference.

10 COMM. DEAR: To me, if someone, a
11 company presents us and gives us a gift like
12 that, I think probably we should allow it. So
13 if there is a way that we, if we have to make
14 an exemption for it and if you want to raise
15 it at a hearing, I could bring it up
16 officially and we could talk about it for the
17 next meeting, but I would like to encourage
18 that we let them keep it.

19 I like the car. I thought it was
20 something different, it was unique and maybe
21 something that we could start looking at in
22 general with wrap-arounds, which I was always
23 advocating for, even going back to my Council
24 days. I remember fighting the prior Chair on
25 this issue.

1 CHAIRMAN DAUS: You are suggesting
2 it as part of a special event or a special
3 project, not as a main stay.

4 COMM. DEAR: We could try it out and
5 see where it goes. But here a company is
6 doing something that is a big issue now, a
7 growing issue that concerns our environment,
8 as well as it is a big issue with the Mayor,
9 it is a big issue with us as this Commission.
10 And they donated something like that. If you
11 look around, every building, or every
12 non-profit building where someone donates,
13 they put the name in big neon lights.

14 I think a company came forward,
15 because what is going to happen is you know
16 you will get other companies and this could
17 cause a chain reaction to others to come
18 forward and help us in this direction in
19 giving us the opportunity to go green even
20 quicker than we anticipated. So I would like
21 to propose, I don't know how you want me to do
22 it, but I would like to propose that we do
23 allow Yahoo to be able to use a wrap-around on
24 the cars that they are donating.

25 I don't know if you want it as a

1 motion and then we could hear it at the next
2 meeting?

3 CHAIRMAN DAUS: What I think is the
4 best way to go about this is to come up with,
5 if other Commissioners agree, to come up with
6 a firm policy on something like that, as
7 opposed to just doing it piecemeal.

8 We did have a debate on advertising
9 and I guess one of the items that comes to
10 mind, in light of your comments, is there
11 might be able to some type of provision in our
12 rules that the Commission could have the
13 discretion to maybe not have those types of
14 advertisements on the side, but then for
15 special events or special reasons. And it has
16 been done before, actually Yahoo had put Palm
17 Pilots in back of the cabs. If I remember
18 correctly, Old Navy had put some fleece covers
19 in the back of cabs as part of a PR event to
20 promote donation of coats to New York Cares.

21 So there may be certainly a valid
22 public reason, because everybody loves doing
23 stuff with cabs when it comes to PR because
24 they are so iconic. So I think it is
25 something that I am willing to consider for

1 myself. I don't know other the Commissioners,
2 but I think the best way to do it is not to
3 just do it piecemeal by Yahoo, which my
4 understanding is they are not requesting it at
5 this point. They basically were satisfied
6 with doing their press conference with the
7 Mayor and donating the vehicles.

8 But in the future, maybe there is
9 some way we can have a procedure for that. So
10 I would suggest that we bring the advertising
11 issue back and make that a part of it.

12 COMM. DEAR: I think we agree, but I
13 think we should take one piece, if we are
14 going to move forward in that direction, it
15 would be a nice thing, even though Yahoo
16 didn't request it. Maybe they figured that we
17 would deny it. So it would be a nice thing if
18 we could help them at whatever point we do
19 agree, that we should have it on the car.

20 I have to tell you, the way I saw it,
21 it was so interesting. It was done with
22 really good taste. I don't know, some of the
23 members were there. I was like, the cars look
24 really good. And I hope we can continue that
25 way. Then I realized it probably violates our

1 rules. That's why I wanted to raise that
2 question.

3 I didn't have any discussion with any
4 of these guys from Yahoo or anybody else.

5 CHAIRMAN DAUS: You know what we will
6 do, we will reach out to Yahoo after the
7 meeting and we will see if they are still
8 interested and we will report back at the next
9 meeting.

10 COMM. DEAR: I appreciate that.

11 And then, I know we talked about the
12 hybrid vehicles. And the problem is, again,
13 the cars itself. It is not a Ford and it is a
14 smaller car and everything else. One thing I
15 did notice, very interesting there and I know
16 I have problem with my car that I have, I have
17 an SUV, is that anyone that has any sort of
18 disability, just the slightest thing or
19 anybody who is a senior citizen, cannot get
20 into these cars, really. It is very hard to
21 get in and out.

22 CHAIRMAN DAUS: Because you have to
23 step up.

24 COMM. DEAR: Yes. And I know we are
25 moving in that direction. We have to be

1 careful, because I am not even talking about
2 accessibility of the car. I am talking about
3 plain passengers, ordinary passengers. Any
4 senior citizen could not get in and out. I
5 will tell you right now, I know my
6 mother-in-law can't get into my car. I need
7 to bring a step tool and everything else.

8 What I would like to suggest, and we
9 talked about this and I happen to mention it
10 to the Mayor at that time in City Hall, that
11 we as a Commission take this seriously, visit
12 some of the major companies GM, Ford, whoever
13 wants to listen to us, to try to convince them
14 come out with a car that could meet our
15 standards and will help part of the bigger
16 plan of going green in New York City.

17 So it is not only for our cars, but
18 it may help other people. As I was talking
19 to, I had a conversation with Andrew, and I
20 said, "Andrew, as I am driving and talking to
21 you, every block I was driving by there were
22 five minivans or SUVs on the block." So there
23 is a bigger market than just the taxicabs.
24 There is a bigger market and I really suggest
25 that we really make this effort together. So

1 I would like to see if we can make that push
2 because I am concerned that because we want to
3 go green, we are going to go with smaller cars
4 and it will be a total inconvenience for our
5 passengers.

6 COMM. WEINSHALL: Just a couple of
7 things. Number one, when Andrew came over to
8 TLC early on, we visited, as you know, a
9 number of the manufacturers. They came to see
10 us, we went to see them. And I think, Noach,
11 you raise a good point, but for them it is the
12 economies of scale. If they are going to
13 produce something, they have to make sure it
14 is not just for New York but that other cities
15 would be interested. They are not going to
16 put something on the production line that they
17 can only sell maybe a thousand cars.

18 The other thing that I sort of
19 respectfully disagree with my colleague here.
20 I drive around a lot now in my new job and I
21 think it is great, I see all these hybrid
22 vehicles, cabs, actually hybrid cabs on the
23 street. Many of them are Escapes. Many of
24 them, I am amazed to see the Toyota Highlander
25 on the road. And I think that the old Crown

1 Vics are still there and people have a choice.
2 Not everybody needs a big car, cab. If you
3 are one person getting into a cab, it may not
4 necessarily be a big one. So I think it's
5 good that there is an array of different cars
6 out there and people have a choice.

7 And I have to tell you, the other
8 thing is, because I drive around a lot, there
9 are a lot of cabs and one comes by and it
10 doesn't fit your need, you can be sure you can
11 hail another one. So I think it's great.

12 COMM. DEAR: But understand, the
13 plan is to get rid of those big cars, so
14 eventually we will be back to the small cars.

15 COMM. WEINSHALL: No. I have a brand
16 new Escape and it is not that small. I know
17 what you are saying about the stepping up, but
18 I think other cities have done this, other
19 cities have had populations that are aging or
20 that are have handicaps. And I just think
21 that as more and more cities develop a policy
22 of mandating hybrid vehicles, I think we will
23 see more and more vehicles in the mix.

24 CHAIRMAN DAUS: In fact, to
25 follow-up on that point, just yesterday San

1 Francisco, and Mayor, who had actually been
2 here earlier to visit us on some other issues,
3 just announced that they are going green, the
4 entire fleet, he put a proposal forward. So
5 certainly what the Mayor and the Commission
6 and the City have put forward as an idea to
7 start moving forward towards fully greening
8 the fleet has certainly picked up traction in
9 a number of cities including Seattle, Chicago,
10 and others, that are all responding, once
11 again, to New York City being the leader,
12 thankfully, in this area.

13 But on the issue, I think, Noach, you
14 raise a good point, but I tend to agree with
15 Iris. There is a lot of variety, even in the
16 hybrid market. Not all of the hybrid vehicles
17 are that high up. Many are close to the
18 ground.

19 On the issue of the meetings with
20 Ford and GM, I think the issue here is that
21 maybe the Commissioners aren't privy to every
22 single thing that we are doing every step of
23 the way. Peter and Andy and the staff have
24 been traveling and meeting with these
25 manufacturers. In fact, just this week they

1 had a meeting with top level executives at
2 Ford about this very issue that you raised and
3 GM. So maybe we can have a more detailed
4 briefing for all of you. Or if you would like
5 to join us at some of these meetings if you
6 are interested. We can't have more than five
7 Commissioners, but if you have a great
8 interest in joining in on some of these
9 meetings, you are more than welcome, in my
10 opinion.

11 Maybe what we should do by the next
12 meeting, because it is germane to the whole
13 plan, is include in that staff presentation an
14 update on every single meeting we have had and
15 what their response has been. Ford has, as of
16 late, been very responsive because of all the
17 other things that we have been doing.

18 Also when we went to the ITR
19 conference last year and presented all the
20 things we were doing with hybrids, a week
21 later Ford was calling us saying we want to do
22 an accessible vehicle that is clean-air fueled
23 as well. So I think a lot of what the City
24 and the Commission is doing is stirring the
25 pot. But despite what we are doing, I think

1 at the end of the day the market forces in the
2 automobile industry themselves are probably
3 going to go towards hybrids. And Americans
4 love big vehicles. Once they figure out a way
5 to make bigger SUVs with hybrid technology,
6 they are going to do that. They have, in
7 fact, told me that.

8 And I think that makes sense for a
9 company like Ford and GM, that are known for
10 their sales of big vehicles. The problem is
11 that they didn't have the patented technology
12 to do it. They have actually, from what I
13 understand, purchased some of the technology
14 patents from their competitors. So I think
15 it's an evolving issue, but it is evolving
16 very quickly, thanks to some, quite frankly,
17 the rising price of gas and market reality.
18 So I think this is all good news, though.

19 Commissioner Arout?

20 COMM. AROUT: I just want to say I
21 had the opportunity to be in Russia, and I
22 came back last week, and it is funny, we were
23 on a bus tour and one of the persons was
24 talking about hybrid vehicles in New York
25 City. And one gentleman said, "Gee, it was

1 great. New York City is going to have all
2 hybrid cars." I didn't discuss it with him,
3 he was doing all the talking. And it sounded
4 very, very good. Now, this is Moscow, so it
5 really gets around.

6 CHAIRMAN DAUS: Well, the Mayor took
7 a very bold leap and made international news
8 very quickly on this issue. And it is
9 probably the biggest thing the TLC has ever
10 done in the history of this agency in terms of
11 the impact that it will have on people's
12 lives, not just in the city.

13 COMM. GIANNOULIS: We haven't done
14 it yet.

15 CHAIRMAN DAUS: I know, but the
16 proposal. It is certainly the biggest and
17 boldest and farthest reaching initiative that
18 the TLC has ever had. You know, our ordinary
19 course of business is setting standards,
20 taking licenses away and issuing them, making
21 sure that the roads are safe and the cabs are
22 safe. And this is something where we can
23 enhance customer service, but at the same
24 time, help the environment and help kids who
25 have asthma and all sorts of other

1 environmental issues.

2 COMM. WEINSHALL: Mr. Chairman, just
3 one other thing. I know many members of the
4 industry are here, and I know this
5 announcement was made and I know I speak for
6 all the members of the Commission, we would be
7 very interested in what the other members of
8 the industry think about this proposal.

9 So I hope there will be an
10 opportunity to hear from the industry and get
11 their input as well.

12 CHAIRMAN DAUS: Absolutely. And
13 this is going to unfold over the next couple
14 of months and we will have a more detailed
15 presentation. We will also put together
16 appropriate committees working with the
17 industry to analyze the issue. And then, of
18 course, when we pass rules, we will have
19 public hearings and that whole CAPA process.

20 Any other questions?

21 (No response.)

22 CHAIRMAN DAUS: Okay, Item 2,
23 adoption of minutes from the May 10, 2007
24 Commission meeting.

25 Any questions, comments, concerns,

1 proposed changes?

2 MR. FRASER: I make a motion to
3 accept the minutes.

4 CHAIRMAN DAUS: Do we have a second?

5 COMM. WEINSHALL: Second.

6 CHAIRMAN DAUS: All in favor?

7 (Chorus of "Ayes.")

8 CHAIRMAN DAUS: Okay, it passes.

9 Items 3, base licensing application
10 review.

11 MS. STEELE-RADWAY: Good morning.
12 Before presenting the bases on the agenda, I
13 would just like to give an update on the bases
14 that were recommended for denial at the May
15 10th meeting.

16 There were three bases that were
17 recommended for denial. One of the three
18 bases, B02083, BKF Car Service Incorporated,
19 failed to meet the requirements that were set
20 by the Commission, the 30-day requirements.
21 So that application has been denied as a
22 renewal application.

23 Licensing would like to present
24 before the Commission now 41 bases with a
25 recommendation for approval.

1 CHAIRMAN DAUS: Any comments or
2 issues with those recommended approvals?

3 COMM. GONZALES: Just one general
4 comment, Mr. Chairman, about 612K2, the
5 dispatching of unlicensed vehicles. Generally
6 speaking, I am pretty encouraged that the
7 industry is addressing these violations sort
8 of explicitly in their business plans,
9 although a couple of business plans that I
10 reviewed, there are varying degrees of detail.

11 Drawing inferences from the few that
12 I did look at, it seems that we can break this
13 into two general categories, what I call
14 administrative versus non-administrative.
15 Administrative would be something along the
16 lines of just cross-referencing a driver
17 license versus a list of DMV or TLC
18 suspensions. And that information is out
19 there and we should, as an industry, be able
20 to reflect that to the bases directly and they
21 can look at that on a daily basis. And kind
22 reaching out to the industry to help us help
23 you. Tell us exactly what type of information
24 you would need, and then we should be able to
25 provide that information in a clean and

1 efficient manner.

2 And the other category which I will
3 call non-administrative, where the dispatch of
4 unlicensed drivers is either deliberate or
5 inadvertent. That's definitely more
6 challenging. I think that I am open for a
7 frank discussion, and encourage the industry
8 to come up an industry-led remedy, and then we
9 would assist them in putting that forward.
10 Overall, I think that we should all be proud
11 of the improvements in both delivery and
12 service and reputation that we have
13 experienced over the past two or three years.

14 And I want to seek to maintain that
15 level and even go maybe a little further, and
16 I think this is something that we should
17 address.

18 CHAIRMAN DAUS: I would tend to
19 agree with that. Commissioner Gonzalez has
20 taken an active interest in this issue, had
21 requested some sample business plans, which I
22 think maybe before the next meeting I would
23 like to get some of the sample business plans
24 to some of the other Commissioners so you can
25 also look at them.

1 I think it is worthwhile, now that we
2 have been through this process for a couple of
3 years now, to take a look at the business
4 plans that were submitted and the creative
5 solutions that we asked them come up with on
6 their own in terms of running their businesses
7 and being more accountable to us in their own
8 way, and judging ing that against their
9 performance in terms of their record since we
10 last approved them.

11 Because we basically gave them all a
12 chance to clean up their act and I think now
13 that is kind of wearing thing. And even
14 though there have been some improvements, if
15 you look at some of the records of some of the
16 bases that are there, there is still room for
17 much more improvement. And we have asked
18 staff to come up with a plan, which they did.
19 And part of that plan would include potential
20 revisions to our rules to provide more
21 standard operating procedures for bases, and
22 maybe there are some ideas that are in these
23 business plans that we can apply across the
24 board to everybody.

25 So as we go through that process, I

1 would suggest, if it's okay with you, that we
2 basically share those sample business plans,
3 and at the point in the future when licensing
4 staff reports back on the status of the
5 reforms and their actual recommendation of
6 rules any rules that we might want to have,
7 that we kind of basically put that out there
8 as a concept.

9 Maybe there are things that we can
10 put in our rules to have very clear standards.
11 And I will give you a perfect example. A
12 certain number of convictions for unlicensed
13 dispatch of drivers within a certain period of
14 time should lead to your suspension or
15 revocation as a base. If you have been put on
16 notice that you two or three or four
17 convictions and don't clean up your act or get
18 rid of those drivers, or all vehicle owners
19 that are affiliated with you that are doing
20 these dastardly deeds, then, quite frankly,
21 you are not being accountable as a base and
22 you should be put on notice and be
23 progressively disciplined.

24 I think this is a concept we spoke
25 about and, ultimately, I think that is where a

1 lot of this could potentially lead. I don't
2 know if that's something you agree with or my
3 colleagues agree or disagree with.

4 COMM. DEAR: I just want to make one
5 comment. If you look at some of these
6 violations, including the one from the Arecibo
7 Car Service on Fifth Avenue in Brooklyn --

8 COMM. AROUT: What number is that?

9 CHAIRMAN DAUS: It's the third
10 renewal.

11 COMM. DEAR: Right now it's a phase
12 and it is not a hundred years old, it is '06,
13 '05. And I think what is happening, I know we
14 are trying to make a difference, and I
15 mentioned at the last hearing talking about
16 going into a base station and looking at their
17 records to see how many times a car goes out,
18 then you know are they really working or not
19 working. If they don't have a certain amount
20 of trips, then you know something is going on.
21 You don't have go out and chase the cars, you
22 can see it from records over there.

23 So I think if we start stepping up
24 the information, the enforcement, by going in
25 when we review the base, not just going down

1 there and just looking at it and say, okay.
2 Everything looks fine, and let's move on. And
3 then continuously, if word gets out, this is
4 obviously their first renewal before us,
5 because basically now we didn't get to round
6 two yet, it is not coming back the second
7 renewal coming before us, and they are still
8 doing unlicensed vehicles, we caught them only
9 with three violations, how many are there
10 really there?

11 CHAIRMAN DAUS: And you should know,
12 Noach, that Pansy has with her troops been
13 visiting every base. The problem is that
14 Pansy doesn't have the teeth. We need to give
15 her the teeth. So she is just issuing more
16 and more violations that are not leading to
17 the suspension or revocation of licenses of
18 licensees that are bad licensees. There are
19 bad bases out there endangering the public.

20 COMM. DEAR: We have passed some
21 rules that supposedly makes it even easier for
22 her to prosecute, for Pansy to prosecute. And
23 she is doing a wonderful job. I think part of
24 it that we should be focused on is let's see
25 what she really needs. Not piecemeal. Let's

1 sit down and say what do you need from us as a
2 Commission to make this happen.

3 And, number two, I think also to
4 increase her force also, if we have to make a
5 plea for more inspectors, then the end result
6 will be money for the city and they will get a
7 safer and better vehicle.

8 CHAIRMAN DAUS: Right. I think the
9 remedy could be potentially not including
10 additional staff actually. I think that once
11 we pass tougher rules that make it clear that
12 these are the standards. You do this once,
13 twice, three times, you are out. We bring a
14 proceeding, we revoke a few bases, everybody
15 gets the message.

16 Right now, for legal reasons, until
17 we pass rules that make clear that this is the
18 ramifications, we are in legal quagmire. Now
19 if we went after one of these bases, they
20 would sue saying why didn't you go after the
21 other 20 or 30 that are in the same boat?

22 We need to put the standards in place
23 and my recommendation would be that we do that
24 first and then we will talk about increased
25 staffing. Pansy is out there getting it done.

1 She knows where they are. We are issuing the
2 summonses. Now it is taking the summonses
3 where the convictions were and going after the
4 base because the base hasn't done their due
5 diligence.

6 They write all these fancy wonderful
7 things in their business plan, but we are
8 looking at this pile of convictions. And I
9 think we have given them a first chance. I
10 think we should give them one more chance with
11 concrete standards and that's it. And I think
12 everybody will clean up their act. One
13 conviction for unlicensed dispatch of a driver
14 is too much.

15 Let's look at the yellow industry as
16 an example. The yellow industry doesn't do
17 this. I would love to look at the yellow cab
18 industry's convictions for dispatching an
19 unlicensed driver. It doesn't happen there.
20 But in the livery industry, it's a rampant
21 issue that we need to basically address.

22 COMM. DEAR: I always said it is an
23 target, the yellow industry. Going back to my
24 Council days when the police were giving out
25 ten summonses, one for bird droppings on the

1 hood and they never cleaned the car. You
2 know, when did the bird dropping happen? Go
3 prove it.

4 This is the problem we have had.
5 Yellows are an easy target because we put a
6 stop to them right away, we haul them in, we
7 can suspend them and everything else. And the
8 liveries, they just thumb their nose at us and
9 they laugh because they know they can
10 continue.

11 I just want you to know, I stopped
12 complaining. I go around and I see it and I
13 just say enough is enough. There is not, I
14 don't think, only a handful of places that are
15 operating legally. And I am sure my fellow
16 Commissioner Arout is steaming like I am. He
17 goes around Staten Island and he sees three
18 quarters of them are operating with half cars
19 that are not legal cars. You could shut them
20 down now if you want to.

21 Let's do the same effort we did for
22 yellows. Get off the yellows and let's focus
23 now on the liveries for six months.

24 CHAIRMAN DAUS: Let's try to get
25 this back on the July agenda. Let's have this

1 discussed at the next meeting.

2 COMM. GONZALES: Okay, one last
3 comment. I do share Commissioner Dear's
4 concern as well. I will say, and I want to
5 reiterate, I would encourage and open and
6 frank discussion with the industry.

7 I want to understand why is this
8 occurring, and then we can work through.
9 Again, what I would say, tackle the
10 administrative piece first. We can provide
11 you the information, now it is up to you, the
12 industry, to actually use that information and
13 let's call it the easy one.

14 The more challenging one is kind of
15 the one that we are all primarily concerned
16 with, and I am really looking for the industry
17 to -- I am encouraging them to provide us, to
18 tell us what it is going to take and we will
19 work through it.

20 COMM. DEAR: I just want to say
21 something. It's amazing. I know the real
22 good guys car service are here because I see
23 Gene and Artie and I know a few of them. They
24 are the ones that are suffering unfortunately.
25 And they are going to be by the wayside,

1 because after them, they will say why should i
2 continue being legal?

3 CHAIRMAN DAUS: In light of that, we
4 will distribute the materials before the next
5 meeting. We will see if staff can pull
6 together some more information, but I think we
7 had an item for consideration.

8 Do we have a motion on these bases,
9 to approve.

10 COMM. AROUT: I make a motion we
11 approve.

12 CHAIRMAN DAUS: Do we have a second?

13 COMM. WEINSHALL: Second.

14 CHAIRMAN DAUS: All in favor?

15 (Chorus of "Ayes.")

16 CHAIRMAN DAUS: And we had a few
17 denials, I believe.

18 MS. STEELE-RADWAY: There are two
19 bases that licensing is recommending for
20 denial with a request that the Commission
21 grant an additional 30 days so that they may
22 present the outstanding items.

23 CHAIRMAN DAUS: Do we have a motion?

24 COMM. DEAR: I will make a motion.

25 CHAIRMAN DAUS: Do we have a second?

1 COMM. WEINSHALL: Second.

2 CHAIRMAN DAUS: All in favor?

3 (Chorus of "Ayes.")

4 CHAIRMAN DAUS: As usual protocol,
5 all of those bases that were approved that
6 have one or more convictions for unlicensed
7 dispatch of drivers, that we treat them as we
8 have in the past, requiring business plans
9 subject to review:

10 COMM. DEAR: I just want to
11 compliment you, I know you are new at this and
12 your boss has trained you well. That division
13 now has come a long way with the new changes
14 in that department. And I applaud the work
15 that you are all doing there.

16 MS. STEELE-RADWAY: Thank you very
17 much.

18 COMM. AROUT: One more question.

19 Are we still working on the
20 assumption about these LA plates on Staten
21 Island especially? Have you heard anything?

22 MS. STEELE-RADWAY: Upon their
23 renewal, they should be phasing out.

24 COMM. AROUT: That's been quite a
25 long time now they are still running with LA

1 plates.

2 MS. STEELE-RADWAY: I will speak to
3 our Deputy Commissioner and we report back.

4 CHAIRMAN DAUS: Let's report back on
5 that because I think there have been some
6 stray sightings of LA plates in Staten Island.
7 LA plates affiliated with licensed car
8 services, which we need to look into. Pansy
9 and yourself and Gary.

10 MS. STEELE-RADWAY: I will look into
11 that.

12 CHAIRMAN DAUS: Thank you ver much.

13 In the interest of time, we may be
14 losing some Commissioners, but also we have
15 some folks here that are going to present that
16 need to leave, So I am going to go out of
17 order on the agenda. I am going to move up
18 Item 5A to do that next.

19 We have with us today Davin Stohl
20 (ph) from Smart Design. Will you join us, as
21 well as Samara and Peter Schenkman.

22 First, I would like to thank you on
23 behalf of the City and the TLC, for all of the
24 pro bono work that you have been doing as part
25 of Taxi '07 and these brandings and the

1 markings you are proposing for the cabs. This
2 has been done free of charge by Smart Design.
3 They have done a lot of work in close
4 conjunction with New York City & Company. I
5 just want to thank you personally. You have
6 been fantastic and your company has really done
7 well for the City. Welcome to the Commission.

8 MR. STOHL: Thank you, Mr. Chairman.

9 At the last Commission meeting, the
10 proposed markings were presented and a concern
11 was raised over the fare panel, that it was a
12 simplified fare panel. There was concern that
13 it may not give enough information for a
14 passenger to properly calculate or estimate
15 their fare. So that has been addressed with
16 the redesign of the panel, that it now
17 includes all of the information necessary to
18 calculate that fare. And it is presented as a
19 simple mathematical formula to make it easier
20 to understand how the various components add
21 up.

22 We have also heard concerns over ease
23 of application of markings and repair of the
24 markings if they have been damaged. We have
25 addressed that by fare panels now specify to

1 be a single panel so they can easily be
2 removed if the fare changes. And the other
3 markings, although they are produced as a
4 single unit and applied as a single unit, so
5 everything will be aligned properly, each
6 graphic element is an individual element, so
7 if it is damaged it can be replaced in the
8 field.

9 The same size graphics will fit on
10 all of the vehicles that are currently in
11 service. Here you can see it on an Escape,
12 which has actually the smallest area to apply
13 the markings to, and it fits on that. Here it
14 is on one of the larger vehicles, on the
15 Sienna.

16 The last picture is what New York
17 City will look like with the new markings on
18 all the taxis which we hope to see soon.

19 SAMARA: And we brought the full
20 size, so you can see how big they actually
21 are.

22 COMM. WEINSHALL: Can we go back to
23 the first slide, the one that shows all of the
24 charges?

25 I am just curious. I guess a number

1 of these, two of the items really don't --
2 aren't relevant unless you are in the cab
3 Monday to Friday from 4:00 to 8:00, and the 50
4 cent surcharge goes into effect at night from
5 8 p.m. to 6:00 a.m., right. So you would
6 think the plus would mean it is \$2.50 plus all
7 this other stuff each and every time. And I
8 am just curious, is that plus really necessary
9 on the left?

10 MR. STOHL: We believe that helps
11 the customer understand that that's an
12 additional charge for each of those
13 situations.

14 COMM. WEINSHALL: Right. But the
15 situations vary from day of the week and time
16 of the day. So it is not in the base, if you
17 know what I mean. I mean, I get what you are
18 saying, but, you know, just a thought.

19 CHAIRMAN DAUS: For me, when I look
20 at it, it is clarified when it says nights,
21 though, for me.

22 COMM. AROUT: It is plus.

23 COMM. WEINSHALL: It is plus, but it
24 is plus only certain times of the week and
25 certain times of the day. That's what I am

1 saying. It's not always plus. Do you get my
2 point?

3 The initial charge is always \$2.50,
4 it is always 40 cents stopping. But if I am
5 in a cab during the day on a Saturday, I don't
6 get hit with the dollar surcharge and I don't
7 get hit with the 50 cent surcharge. That's
8 my point. Plus it would sort of insinuate
9 that it's all those plus.

10 That's just my comment. I am not
11 making a big deal about it, that is just my
12 comment.

13 CHAIRMAN DAUS: Does anybody else
14 have any thoughts on it?

15 COMM. POLANCO: I don't have an
16 issue at all. Last time my only concern was
17 the fact that it was not detailed enough,
18 informing the customer of those additional
19 charges. And I think it is fine the way it is
20 now.

21 CHAIRMAN DAUS: Right. I understand
22 where Iris is coming from, but I think, we
23 made a decision to actually put more
24 information on it. Once you start doing that,
25 you have this potential scenario.

1 But for me, when I look at it, when
2 it says night, that makes it clear to me. But
3 in the interest of getting it done, I would
4 suggest that we finally just get this thing
5 out there. Unless you have any major
6 concerns?

7 COMM. WEINSHALL: No. I said my
8 comment. I gave my aesthetic viewpoint, but I
9 guess I am not the aesthetic expert.

10 COMM. AROUT: I would like to make a
11 motion to accept this proposal for this.

12 CHAIRMAN DAUS: Okay. Do we have a
13 second?

14 COMM. DEAR: Don't we have
15 testimony?

16 CHAIRMAN DAUS: This is a separate
17 item. This is just approval of the sticker.

18 COMM. DEAR: But if there is
19 testimony --

20 MR. FRASER: The public hearing is
21 on the rule to require stickers that are
22 approved by the Commission. This is the
23 approval of the stickers. In other words, the
24 rule as we have drafted it says that the
25 stickers are to be provided by the Commission.

1 This is the design that meets the rule.

2 This can be changed without a rule
3 making, in other words.

4 COMM. WEINSHALL: We finally have
5 something that doesn't need rule making and
6 you are trying to impose a rule.

7 COMM. DEAR: We are voting on it.

8 CHAIRMAN DAUS: We are going to vote
9 on the rules next. This is the agenda item.

10 COMM. DEAR: I understand, but I
11 thought there were two items. There is no one
12 testifying on this?

13 COMM. WEINSHALL: There is no public
14 hearing necessary.

15 CHAIRMAN DAUS: We have the
16 authority to approve stickers without public
17 hearings under our rules. That's what you
18 wanted, you didn't want me to do them on my
19 own, so the Commission does it now.

20 COMM. DEAR: But no one is
21 testifying to this?

22 COMM. WEINSHALL: You don't need a
23 public hearing.

24 CHAIRMAN DAUS: There is going to be
25 testimony on stickers in general next.

1 COMM. DEAR: I think if there is
2 public testimony, let's hear it. We don't
3 just vote, then why do we have people to
4 testify? No, I am not going to vote.

5 CHAIRMAN DAUS: We have a motion on
6 the floor.

7 All in favor?

8 (Chorus of "Ayes.")

9 CHAIRMAN DAUS: Are you abstaining?

10 COMM. DEAR: I am voting no.

11 CHAIRMAN DAUS: Okay, that is fine.
12 It passes. Thank you.

13 Harry?

14 COMM. GIANNOULIS: Matt, who are
15 they?

16 CHAIRMAN DAUS: Smart Design?

17 COMM. GIANNOULIS: Taxi '07. Smart
18 Design. I have no idea who these people are.

19 COMM. WEINSHALL: Then you haven't
20 been paying attention.

21 COMM. GIANNOULIS: I have been
22 paying attention.

23 COMM. WEINSHALL: No, you haven't
24 because Andy made a whole presentation on Taxi
25 '07.

1 COMM. GIANNOULIS: Just a quick
2 one-minute version.

3 COMM. WEINSHALL: Andy will come up
4 and give us a one-minute version but he can't
5 talk one minute about this. There is too much
6 to tell about it in one minute.

7 MR. SALKIN: I want to reiterate the
8 thanks that the Chairman gave to Smart Design.
9 Smart Design is a design firm here in New
10 York. Basically the way I view it is they are
11 bunch of people who ride in cabs who provided
12 pro bono work to not only come up with the
13 design, to make their own focus groups and do
14 research on this, and they went out and made
15 changes based on the Commission.

16 They are a design firm. They are
17 most known for products ergonomic kitchen
18 tools and they make printers, and I met them
19 about a year and a half ago. David came up to
20 me and said I have an office and I can put a
21 cab in it. I really want to be part of this.
22 They put a cab in their office and they have
23 been tinkering with stuff. In a lot of way
24 they are super users who come up with ideas.

25 COMM. GIANNOULIS: That's great.

1 Thank you.

2 CHAIRMAN DAUS: Thank you again to
3 Smart Design and to the Mayor's Office, Carol
4 Post and Jeff Kay, and all the people that we
5 work with day-in and day-out.

6 I would like to now go to what was
7 Item 4B on the agenda and do that next. It
8 makes sense, especially in light of Noach's
9 concerns, to go forward now with the public
10 hearing on proposed rules regarding all
11 taxicab exterior markings.

12 Chuck, do you have a preview?

13 No, okay. We have published. They
14 are pretty straightforward rules. I would
15 like now to go to the first preregistered
16 speaker which is Mr. Mark Altman?

17 AUDIENCE: He is not here.

18 CHAIRMAN DAUS: Okay. Joseph
19 Giannetto?

20 MR. GIANNETTO: Copies of my
21 testimony. Good morning, Commissioners. My
22 name is Joseph Giannetto, I represent the
23 Metropolitan Taxicab Board of Trade.

24 Obviously, as owners and operators of
25 taxicabs, we have a proprietary and a vested

1 interest in the appearance of our vehicles;
2 thus, we think it is cortically important that
3 we comment on today's rules.

4 Let me start off by saying that we
5 generally support the initiative of
6 modernizing the exterior graphics of New York
7 City's taxicabs, and while we have no
8 particular objection to the general design
9 concept that was presented, we do object to
10 the checkerboard decal, that stripe decal. We
11 also have some concerns with several specific
12 aspects of the design as it relates to
13 installation and maintenance as well as to the
14 policy of converting the entire fleet by a
15 date certain.

16 I was going to comment on the door
17 decals but it appears that the designers have
18 addressed our concerns over the fabrication of
19 the decal, so I am going to move to the
20 proposed placement of the Medallion number.
21 From a passenger perspective, the placement of
22 the Medallion number, depending on the type of
23 vehicle, whether it is on the rear quarter
24 panel of sedans or the rear-most portion of
25 the rear doors on other vehicles, forces

1 passengers to look at two different locations
2 for his or her important ride information,
3 which is, by the way, the rate of fare, and,
4 of course, the Medallion number on the taxi.
5 So, moreover, think about it, the Medallion
6 number gets lost with the checkerboard stripe
7 decal placed right next to it.

8 Even the language in the rules bears
9 out this point. It states that the decals
10 shall be applied such that the Medallion
11 number and the checkerboard are aligned to
12 appear as one stripe. So really, contrary to
13 the stated purpose of the proposed rules, the
14 proposed placement of the Medallion number
15 next to the checkerboard stripe decal is less
16 visible to the public.

17 We recommend that the Medallion
18 number be centered directly above the rate of
19 fare decal, that way the passenger only looks
20 at one location on the vehicle for all his or
21 her important ride information. And just as
22 importantly, centering the Medallion number
23 over the rate of fare decal makes its
24 placement consistent on all taxis, regardless
25 of the model of the taxi. This makes it

1 easier for the public to identify the taxicab,
2 especially if it's moving.

3 Now having said that, if you agree
4 with the suggestion that we should move the
5 Medallion number to the rear doors, the
6 trailing checkerboard stripe decal becomes
7 somewhat, with all due respect to the
8 designers, somewhat frivolous and unnecessary.
9 I personally feel it adds no significant
10 design value to the graphics, but it does
11 however add to the overall cost of the
12 proposal, both in installation, maintenance,
13 as well as material.

14 Now, it's a fact that after the
15 fenders, the quarter panels are the most
16 frequently damaged part of the taxi requiring
17 repairs. So if we could limit the application
18 of decals just to the two doors, that would be
19 good for us. So it's strongly recommended
20 that the trailing checkerboard decal be
21 omitted from the proposal. St one last
22 comment, Matt, if I can continue?

23 CHAIRMAN DAUS: Sure.

24 MR. GIANNETTO: Thank you.

25 Lastly, the application of any new

1 exterior graphic design should be limited to
2 new taxis as they are hacked up. Outfitting
3 new cabs as they are put into service poses no
4 logistical problem whatsoever and, in theory,
5 it would be cost neutral to the industry.

6 The cost of retrofitting existing
7 taxicabs, however, would be significant.
8 Please keep in mind that after removing the
9 existing decals from current vehicles, there
10 would be color shade variations in the newly
11 exposed paint compared to the rest of the
12 vehicle. It may require more preparation for
13 installation, and in some cases, it is going
14 to require a paint job. So not only would
15 there be material and installation costs,
16 there would also be the cost of a lost shift.

17 So, therefore, in the absence of any
18 overriding public or governmental interest,
19 it's strongly recommended that the application
20 of any new exterior graphic design be phased
21 in and limited only to new vehicles placed
22 into service.

23 That concludes my testimony. Thank
24 you.

25 CHAIRMAN DAUS: Thank you.

1 The next speaker is Mr. Dave Pollack.

2 MR. POLLACK: Good morning,
3 Commissioners, Mr. Chairman. I agree with
4 Commissioner Weinshall, I think the plus sign
5 shouldn't be there. Other Commissioners
6 stated that we know when there is a surcharge
7 at night and at certain times.

8 Joe Giannetto spoke very eloquently,
9 and the cost of retrofitting existing taxicabs
10 may be somewhat of a concern. I would just
11 like a clarification as to who will be paying
12 the cost of the decals, and if partial decals
13 need to be replaced, is there another fee?

14 I just need some more information. I
15 would like some more information. Thank you.

16 COMM. GIANNOULIS: How much do these
17 things cost that everybody is talking about?

18 CHAIRMAN DAUS: We have costed them
19 out. Peter or Samara, could you provide that
20 information, please?

21 SAMARA: We anticipate that the cost
22 of the stickers will be between 15 and \$20.
23 That is at the meter shops. We called around
24 to them. That doesn't include the labor,
25 which we think is also somewhere between 15

1 and \$20.

2 That being said, some of the larger
3 fleets can hire their own printers to do this
4 work. We are going to provide the art to
5 someone that signs an agreement with us that
6 they are going to use it to produce the work.

7 COMM. GIANNOULIS: Is that for a
8 full set?

9 SAMARA: For a full set, 15 to 20
10 for all eight stickers.

11 COMM. WEINSHALL: Are we going to
12 phase it in, or is it one day they have one
13 thing and one day they have to have another
14 thing?

15 SAMARA: I am not sure. What do we
16 have in the rules, Chuck?

17 MR. FRASER: The way the rule is
18 written, there is no phase in. The rule
19 becomes effective 30 days after it is
20 published, and on that day it has to be
21 complied with.

22 COMM. WEINSHALL: I have a problem
23 with that.

24 COMM. GIANNOULIS: Not to put work
25 on the staff that do inspections, but wouldn't

1 it make sense if we just charged them, as part
2 of the inspection process, or something 20
3 bucks, and just put the stickers. No
4 different than you put a registration sticker
5 on your car when you get an inspection.

6 CHAIRMAN DAUS: You mean do it as
7 part of the inspection?

8 COMM. GIANNOULIS: I don't know if
9 the industry would be against it, but it seems
10 to me that -- I mean, the fleet guys are going
11 to figure out a way to do it, they will buy it
12 in bulk. But the one guy or gal who is
13 driving around and they can't do it and they
14 don't know where to buy the sticker, I guess
15 they can figure it out, but then they to
16 scratch up their car.

17 I mean, if these are actual, official
18 stickers about rates, it seems that we should
19 be posting them.

20 MR. SCHENKMAN: As far as staffing
21 and being experts at applying it, my staff is
22 not. We are already pretty close to a full
23 day's work every day just putting on -- just
24 doing the inspections.

25 COMM. GIANNOULIS: I understand

1 that. I am sure you can put stickers on. I
2 am not trying to give you more work.

3 MR. SCHENKMAN: I am sure we could.
4 But I have spoken to different meter shops and
5 for the most part, a hack-up, and this is
6 strictly new cars, a hack-up is a set price,
7 it is a flat fee. And I have spoken to the
8 largest to one of the smallest, and they have
9 all indicated that it is not going to really
10 change the flat rate if it's \$1,000, if it's
11 \$1,200 to put a meter in and change the seat
12 covers and stuff, it's insignificant.

13 Now, cost does come in when it is a
14 used car and you have to replace the stickers.
15 What we are doing is, although it's a set date
16 that we want it done, our only deadline is
17 that it is done by the next inspection.

18 COMM. GIANNOULIS: I don't buy the
19 cost argument, with all due respect. I would
20 be interested in what the industry thinks
21 about this, but I've always thought why aren't
22 these -- they are our prices, I have never
23 understood why they don't get put on as part
24 of an inspection process. Maybe it's a lot of
25 work. I have no idea.

1 CHAIRMAN DAUS: I think it's a
2 little more work, because there is painting
3 involved.

4 MR. SALKIN: There are a couple of
5 things I want to clarify, two things.

6 One is while there is a date certain
7 that the vehicles, this is on the phase-in,
8 that the rule goes into effect, the
9 enforcement that we are doing will be done
10 upon the inspection that occurs after October
11 1st. So basically we have a four-month phase
12 in.

13 COMM. WEINSHALL: So it not one day
14 one thing, and one day another?

15 MR. SALKIN: No, it is four months.
16 The rule goes into effect on one day.

17 COMM. WEINSHALL: But you have a
18 four-month window to get it done?

19 MR. SALKIN: Yes.

20 CHAIRMAN DAUS: That's reasonable.

21 COMM. WEINSHALL: That's fine.

22 COMM. GIANNOULIS: Why wouldn't we
23 still do it for new cars?

24 MR. SALKIN: That's at your
25 inspection S&E.

1 CHAIRMAN DAUS: That will take
2 forever. It would take five years.

3 MR. SALKIN: You mean just roll it
4 out as people get new cars?

5 CHAIRMAN DAUS: Now that we
6 understand what the rule says, I think it is
7 pretty darn reasonable.

8 COMM. WEINSHALL: The other thing,
9 Harry, if it takes five years, the whole idea
10 is they are trying to have a unified look.
11 Actually, it would be the worst of all worlds,
12 we would have a mish-mosh out there over five
13 years. But four months, I am fine with.

14 COMM. POLANCO: I am trying to
15 understand something. I don't know whether
16 this is premature, but aren't we trying to
17 change the whole fleet, basically the vehicles
18 that are out there today. So why do we want
19 to even impose additional fees on the industry
20 trying to change the design, when we are
21 trying to change the whole fleet out there?

22 MR. SALKIN: That's a fair point.
23 The way we are looking at it is, the idea here
24 is we are trying to communicate with the
25 public, and the stickers that are currently

1 there have evolved over time without any
2 cohesive comprehensive thought to it. And I
3 know, I was intimately involved with designing
4 the last sticker. If you look at the current
5 sticker, the prices on the front panel, as
6 opposed to the back panel where the passengers
7 get in.

8 What we are looking to do is provide
9 a service to the passengers so that the cabs
10 are presenting a unified front of
11 transportation services, and that everybody
12 knows where to look and how to ride the cabs.
13 And that is something that happens every day.
14 And I think, quite frequently, the fee we are
15 offering to pay is much less than they pay to
16 have their meter changed when there is a fare
17 increase, and no one complains when we do
18 those.

19 CHAIRMAN DAUS: That is a very
20 telling point, actually.

21 MR. SALKIN: We weighed the concerns
22 about cost, but, generally speaking, to get a
23 whole new communication strategy put on the
24 cabs in a way to work with the public --

25 COMM. POLANCO: The only issue I

1 would have is I don't want basically something
2 to be approved, and then a year later, we have
3 to go over again, because now they have to
4 basically have to approve new vehicles, they
5 have to change the whole fleet by a certain
6 time and then an additional cost is imposed on
7 the industry.

8 MR. SALKIN: Again, when they get
9 new cars, they put new stickers and everything
10 on them anyway.

11 COMM. POLANCO: But I don't know if
12 this is premature. I don't have a problem
13 with the design itself, but maybe the
14 implementation of it. Maybe we should wait.

15 CHAIRMAN DAUS: I don't think,
16 Commissioner, that we necessarily have any
17 intention of changing it. One of the reasons
18 we spent a lot of time on it and getting your
19 feedback before we actually implemented it is
20 so we don't have to change it again. I can't
21 imagine once we have designed a new look that
22 is going to be how people view cabs from all
23 over the world, the new taxicab look, that we
24 would change that.

25 And I think we will seriously look if

1 we have some aesthetic issues that we want to
2 raise a year from now, I think we should
3 seriously look at who is going to pay for
4 that.

5 COMM. POLANCO: Basically, I don't
6 have a problem in terms of the issue of
7 aesthetics of it.

8 In terms of we are telling them to
9 place a sticker now or within four months, and
10 then a year or two years later, they have to
11 change their vehicle because we just approved
12 that they need to change to hybrid vehicles.
13 That's basically my only concern, I suppose.

14 MR. SALKIN: I want to make it
15 clear. The vehicles that will be replaced
16 down the road are being replaced on vehicles
17 that have to be retired. We are not going to
18 force anyone ever to get rid of a car that
19 still has useful life as defined by the
20 Commission.

21 CHAIRMAN DAUS: Right. By the way,
22 I think we have two more speakers left. Maybe
23 we could go to those speakers and then finish
24 our debate.

25 COMM. DEAR: I am just concerned,

1 people are raising concern of additional cost
2 to the cab drivers. We always look at the
3 fleets as the only guys in the industry.
4 There are at least 10,000 single owners, guys
5 who own their own little cab, mom and pop
6 guys. Every dollar means a lot to them. And
7 my concern here is you have NYC Taxi the old
8 way, right, how do they get rid of it?

9 I don't think it's put on by a
10 sticker. They have to paint it over, so it's
11 an additional cost, am I correct with that,
12 Andy? It's going to be an additional cost
13 more than just a plain sticker of 20 bucks
14 plus 20 for installation?

15 MR. SALKIN: No. I just want to put
16 it into perspective. The average cab does
17 about eight to 10,000 rides a year, actually
18 more. And we are talking about \$40. We are
19 talking about .4 cents per ride for cabs. The
20 average cab ride is between \$10, \$11, \$12.

21 Yes, it is an expense, but I think
22 over the lifetime of the vehicle, which can be
23 up to five years, so you figure .4 divided by
24 5 ends up being .02 percent of each ride of a
25 cent goes to the cost of the sticker. In

1 terms of the expenses that everyone has, this
2 is not a significant expense.

3 COMM. DEAR: First of all, you
4 didn't answer me. The expense is not just
5 taking off some prefab sticker that's there
6 now. They have to repaint that door, don't
7 they?

8 MR. SALKIN: No most vehicles --

9 CHAIRMAN DAUS: It's going to fit
10 over it, isn't it?

11 MR. SALKIN: Most of what you are
12 referring to in the back is stickers. Some
13 are stenciled with spray paint. Those
14 typically are fleets. But most of it in the
15 back are stickers, individual stickers that
16 are placed on.

17 So what you will see is a New York
18 City taxi is one sticker and you will see the
19 individual numbers are four separate stickers.

20 COMM. DEAR: I am talking about the
21 New York City taxi.

22 MR. SALKIN: In the back you will
23 see a sticker that will say New York City Taxi
24 and the number will be a sticker as well.

25 COMM. DEAR: That's now. I am

1 talking about what is going to be.

2 MR. SALKIN: I am saying now there
3 are stickers, predominantly stickers that used
4 to do that. Some do spray paint New York City
5 Taxi. Pretty much most of the Medallion
6 numbers are stickers.

7 COMM. DEAR: Andrew, I want to take
8 exception. Your comments about 10,000 rides,
9 and .4 and .2 cents. If we kept on adding .2
10 and .4, gas at \$4 a gallon, and you say you
11 gave them all the increases, but, still
12 everything is coming out of their pockets.

13 I am sick and tired. We have to
14 start thinking, the driver-owner, the guy who
15 pays that expense, and that's what we are here
16 for, to protect them. And I can't see myself
17 here, sitting and voting continuously to take
18 away their money from their pockets. I am a
19 working person. I know what it is. I know
20 what every dollars means. If we go around the
21 table --

22 CHAIRMAN DAUS: Commissioner, with
23 all due respect, we are not going to go around
24 the table nos. I think we need to finish the
25 public hearing. We are going to lose

1 Commissioners. We have two more speakers and
2 then we will go back to your point.

3 The next speaker is Mr. Bill Lindauer
4 and the then last speaker is Mr. Ed Sloam and
5 then we will --

6 MR. SAPONE: Excuse me, I am down on
7 the list. What about me?

8 CHAIRMAN DAUS: You are not on the
9 list, but --

10 MR. SAPONE: I called in. Amy took
11 the message.

12 CHAIRMAN DAUS: I apologize. You
13 were the first one, I missed the paper. You
14 can go next, and then Bill Lindauer and then
15 Ed Sloam. I apologize, Vin, I didn't see that
16 piece of paper.

17 MR. SAPONE: That's okay.

18 First of all, this is not on the
19 agenda, but I would like congratulate the
20 Chairman Daus and Andrew Salkin for working
21 diligently with City Hall about the soliciting
22 at the airports. It's a great step forward
23 and the taxi industry and the cab drivers
24 really appreciate what you guys are doing.

25 Now, if you could go after the hotel,

1 that will be even better. Anyway thank you
2 again, Mr. Chairman.

3 CHAIRMAN DAUS: You are welcome.

4 MR. SAPONE: When Joe Gianetto was
5 mentioning about the stickers, he brings up a
6 valid point on everything you are saying. As
7 far as the new stickers, as long as they are
8 one piece, I really don't have any problem
9 with them. I hope Mr. Schenkman don't tell my
10 guys, you have to repaint the hood, the door,
11 fender or the wheel.

12 I think it's sexy. I think it's
13 NASCAR looking. I think it's modern. But I
14 do have a little problem, really, my members
15 have a little problem and it is my fiduciary
16 responsibility to protect them and speak up
17 for them, as it is yours to protect them and
18 protect the passengers.

19 You know, the City has a \$4 billion
20 surplus. This agency makes hundreds of
21 millions of dollars for the city. I know you
22 guys don't keep this money, I know you are
23 working on a string. We are talking about
24 hundreds of million of dollars here. Maybe
25 people think what's the big deal, \$20?

1 But you know what, it is not only
2 \$20, it is \$20 more putting it on. It is time
3 getting there off duty. It is time being
4 there getting it on. So when you look at the
5 whole picture, it costs the owner-driver \$70.
6 And you know what, it may not be the end of
7 the world, but they are small business people,
8 they are getting chipped away at with certain
9 things that the city is putting on them,
10 certain demands. It is getting more
11 expensive. The raise is slowly disappearing.

12 I am not saying it's all gone, but
13 it's slowly, slowly disappearing. Why can't
14 City Hall, listen, we have a great Mayor, if
15 he ran for president, I will vote for him, no
16 question about it. But why can't City Hall,
17 instead of giving to this group and that
18 group, let's help the cab driver. It's \$40,
19 whatever it is, let's do something good.

20 We want this in, let's pay for it. I
21 don't understand what the problem is, okay.
22 Slowly but surely, we he are getting banged
23 over the head. And some people look at me and
24 say he is complaining over \$40 or \$50. But
25 you know what, it is \$40 or \$50 for 3,000

1 members, and they don't want to pay for it.
2 If they can get it for nothing, they will
3 accept it. Thank you, sir.

4 CHAIRMAN DAUS: Thank you, Mr.
5 Sapone. Next speaker is Mr. Bill Lindauer.

6 MR. LINDAUER: I just have a few
7 comments before my very short speech. Why are
8 the fare rate decals on the back door, rather
9 than on the front door as they are presently.

10 MR. SCHENKMAN: Because they get in
11 the back door, not the front door.

12 MR. LINDAUER: Why are they on the
13 front door now?

14 MR. SCHENKMAN: That is why we are
15 redesigning them.

16 MR. LINDAUER: I think the printing
17 is very small or should be in bolder type.
18 From the picture here, it looks like it will
19 be very hard to read unless you are up very
20 close.

21 SAMARA: This is actually the size
22 of the sticker.

23 MR. LINDAUER: Okay, it looks better
24 here. Thank you.

25 One comment about the Ford Escapes,

1 you do have to be a Cirque de Soleil acrobat
2 to get into them, but Osman, who you all know,
3 the Diamond Cabby, there is a running board on
4 his cab, you step on the running board first
5 and then you can get in. It is much easier
6 that way. I think maybe all Ford Escapes
7 should have running boards.

8 I have one question for the Chairman.
9 Why were the ten cabs from Yahoo given to one
10 garage?

11 CHAIRMAN DAUS: You have to ask
12 Yahoo. They came to us.

13 MR. LINDAUER: I mean, to give a
14 \$300,000 gift.

15 CHAIRMAN DAUS: It would be nice if
16 they gave it to other people, but they came to
17 us having already decided that they were
18 giving it to a fleet owner. I don't know what
19 happened before then. It would have been nice
20 if some of them were spread out with the
21 individual owners, but it is what it is.

22 MR. LINDAUER: I think the garage
23 should send Yahoo a nice Christmas card, to
24 say the least. \$300,000 gift, okay.

25 Well, here I am, again at the TLC,

1 where truth goes to die. Thanks for the
2 tribute to Kevin. He died of cancer, not that
3 much unlike the cancer being spread by the TLC
4 with GPS.

5 CHAIRMAN DAUS: That's a horrible
6 thing to say.

7 MR. LINDAUER: But GPS is a horror.

8 CHAIRMAN DAUS: This is a guy who
9 was your friend.

10 MR. LINDAUER: I love Kevin and I
11 will miss him, but I want to say at the last
12 hearing, your lunatic ravings were right out
13 of the classic snake pit. You made this
14 year's file hero, Captain Jack Sparrow and his
15 bloody cut throats seem like the very soul of
16 propriety.

17 COMM. DEAR: Mr. Chairman, I do want
18 to rule him out of order. Personal attacks
19 does not --

20 MR. LINDAUER: You gave us personal
21 attacks at the last hearing.

22 COMM. DEAR: Mr. Chairman, I make a
23 motion to rule him out of order.

24 CHAIRMAN DAUS: He makes a good
25 point. Please sum up on this rule -- well,

1 your time is up anyway.

2 MR. LINDAUER: One minute, please.

3 Aldus Huxley said, "Facts are the facts, even
4 if they are ignored." And, finally, as
5 Shakespeare said, probably foreseeing the TLC,
6 "What fools these mortals be."

7 CHAIRMAN DAUS: The next and last
8 speaker is Mr. Ed Sloam.

9 MR. SLOAM: Tough act to follow.
10 Here is a copy of my testimony.

11 I will be brief. My name is Ed
12 Sloam, I am president of Taxi Tech, one of the
13 four vendors approved to provide new
14 technology to Medallion taxicabs. As you
15 know, the technology vendors have spent three
16 years and millions of dollars earning the
17 right to provide our technology to taxicabs.

18 Given the competitive market
19 realities that we face now, we all plan to
20 provide many of our taxi customers our
21 equipment for free, which means that
22 collectively we will be investing some 30 to
23 \$40 million or more in the new technology, all
24 for the speculative hope of selling
25 advertising on the touch screens facing

1 passengers inside the cab and, ultimately,
2 becoming profitable.

3 I stand before you here today to
4 request that you allow us to place our logos
5 on the outside of the taxi vehicles that carry
6 our technology. Doing that will help you
7 build our brand, and it is just the right
8 thing to do. We are only asking for logos
9 about the size of what you will ultimately
10 allowed for the credit card brands.

11 Besides doing the right thing,
12 secondarily, there is also another policy
13 reason why this request would make sense. Our
14 logo on the outside of the vehicle would
15 enable passengers to identify which technology
16 they will find when they get inside the cab.
17 In some cases that will cause passengers to
18 look for taxis that have the technology that
19 they prefer. More passengers would mean more
20 advertising dollars, and that will cause the
21 vendors to continue to strive to provide the
22 best user interface possible for the
23 passengers.

24 But, again, the main basis for my
25 request is simply that in light of all that we

1 have done for the Taxi Technology Project and
2 that we will continue to do, we feel that we
3 have earned the right to build a brand by
4 displaying our logo on the outside of the
5 taxi.

6 CHAIRMAN DAUS: Mr. Sloam, those are
7 very interesting comments. Somewhat similar
8 to some of the issues that Commissioner Dear
9 was bringing up about other externals
10 markings. It is not germane to these rules
11 because it sounds like a separate issue. So
12 what we would like to do is get your ideas on
13 where you think these particular logos should
14 go and it is really a separate matter outside
15 of the scope of this hearing.

16 MR. SLOAM: I just wanted to note it
17 for the record.

18 CHAIRMAN DAUS: We thank you for it.
19 Actually if Ira and Andy, if you could sit
20 down with the vendors and see what their ideas
21 are on this and where they would like to place
22 it, we will consider it.

23 MR. SLOAM: Thank you.

24 CHAIRMAN DAUS: And I will bring
25 back some information to the Commissioners.

1 That concludes our public hearing.
2 Before I open it up for further discussion on
3 the vote, I would like to make a couple of
4 comments.

5 First of all, aesthetically, I am
6 very excited about this. I think this is
7 something where we have a lot of interest to
8 balance, but I think the interest we have at
9 heart primarily are the owners in the
10 industry. When it comes to the cost, I think
11 the cost, clearly, when you look at the big
12 picture are diminimus.

13 But I do agree with some of my
14 colleagues that we shouldn't just constantly
15 say little costs are okay, just approve them
16 without any debate. Sooner or later, they add
17 up and you start taking away fare increases
18 and other things that we have done in good
19 businesses. I just urge my colleagues to look
20 at the big picture here. We are looking at an
21 intangible, we are looking at taking a new
22 look and putting it out there.

23 It is hard in dollars and cents to
24 quantity that right now, but the good will,
25 the recognizability of the cabs, having them

1 look good, perception in life is everything
2 sometimes. You also have to look at the
3 substance of the service, the safety of the
4 service, but perception and the way something
5 looks is a very large part of a service. If
6 you a rickety looking vehicle or a hodgepodge
7 of vehicles when you go to a particular city
8 and you look at their taxicab services, it
9 doesn't promote uniformity, it doesn't
10 necessarily look beautiful. We are making all
11 sorts of efforts as an administration and a
12 city to make the city look more beautiful.

13 And I think, as Vinny Sapone had
14 pointed out in his testimony, it does look
15 sleek and inviting and nice. And I believe
16 that the good will that will go along with
17 tourists and visitors to our city seeing a
18 nice looking cab when they come that's uniform
19 goes a long way. Can we quantify it in
20 dollars and cents right now? No.

21 A lot of work was put into this.
22 Nobody had raised any of these concerns prior.
23 Basically we have been very responsive to the
24 Commissioners, we've made changes to the
25 design, we had the designers who are working

1 free of charge who could have charged a lot of
2 money doing it for free, pro bono. In my
3 opinion, while I understand the concerns that
4 are here, I would like to make a motion that
5 approve the stickers and the rules -- we
6 already approved the stickers.

7 I would like to make a motion that we
8 approve these rules as they are. It has a
9 four-month phase-in period, it is perfectly
10 reasonable, and basically I think it's a good
11 step forward.

12 Do I have a second?

13 COMM. WEINSHALL: Second.

14 COMM. VARGAS: Can I ask a question
15 before we take this vote?

16 CHAIRMAN DAUS: Yes.

17 COMM. VARGAS: Just so everyone is
18 clear, where in the rules is the four-month
19 grace period?

20 MR. FRASER: As I indicated, the
21 rules don't provide a phase-in period. What
22 Andy was saying is the way we would enforce
23 this rule is that it would be done at
24 inspections. So as a practical matter, there
25 won't be any enforcement of it done until the

1 car comes in for inspection.

2 COMM. VARGAS: Is it possible maybe
3 we need to add a sentence that says that?

4 MR. FRASER: No. Unfortunately, if
5 I have to change the rule to add an effective
6 date, I have to rewrite the rule to retain the
7 requirement pending that new effective, so I
8 can't do that right now. I can't do that on
9 the floor.

10 CHAIRMAN DAUS: But that's the way we
11 intended on enforcing it in the first place,
12 so I think we can state on the record that
13 that's the intent of what we will do and it's
14 clear that we are going to do that.

15 COMM. DEAR: Now you are asking me
16 as an attorney, I don't know, you are an
17 attorney, to vote on something that yes, we
18 will look away but technically takes effect in
19 30 days. It doesn't stop anyone from getting
20 a summons.

21 CHAIRMAN DAUS: I am telling you as
22 the Chairman responsible for enforcing the law
23 that we are not doing it. What else do you
24 want? If you don't want to vote for it, don't
25 wrote for it, but we have a motion on the

1 floor.

2 COMM. AROUT: I second the motion.

3 CHAIRMAN DAUS: It was seconded
4 already. You are a third vote.

5 COMM. DEAR: I want to make an
6 amendment to that in light of what was raised
7 about the cost and Commissioner Giannoulis
8 raised in the same way.

9 My amendment would be that we make,
10 that have the facilities put it on for us and
11 we just charge whatever it costs.

12 COMM. WEINSHALL: He said he can't do
13 it.

14 COMM. GIANNOULIS: We also don't
15 know, some people in the industry may have to
16 paint stuff. It was just an idea.

17 COMM. DEAR: For those who are single
18 operators and want to come in and get it on --

19 COMM. WEINSHALL: He said he doesn't
20 have the manpower to do it.

21 CHAIRMAN DAUS: With all due
22 respect, I am not making an amendment to my
23 motion. I have a motion on the floor, I have
24 a second, I have a third --

25 COMM. DEAR: Mr. Chairman, the way it

1 works, I didn't ask you to make an amendment.
2 I can make the amendment and you can shoot it
3 down. But there are rules as to how we apply
4 things. This is not a dictatorship here.

5 CHAIRMAN DAUS: I mean, that's a
6 very unfair comment. I am trying to apply the
7 procedures.

8 COMM. DEAR: Exactly. Robert's
9 Rules of Order if I make an amendment, we can
10 vote on it.

11 CHAIRMAN DAUS: Is that correct,
12 Chuck?

13 MR. FRASER: I don't know Robert's
14 Rules of Order. I think it's in your
15 discretion whether you want to hold a vote on
16 the amendment or consider it as a separate
17 motion.

18 COMM. DEAR: Hold on a second.
19 Where are you getting those rules,
20 Chuck? Like the rules you said before. Give
21 me a break. Quote me where there is a rule
22 that I am out of order.

23 MR. FRASER: I didn't say that you
24 were.

25 CHAIRMAN DAUS: Why don't we do

1 this, because there seems to be a disagreement
2 as to --

3 COMM. DEAR: I will withdraw my
4 amendment because it doesn't look like there
5 is support, but let me tell you something,
6 Chuck, when you speak, I would like you to
7 speak as an attorney and from knowledge of
8 law. Not just make it out of your hat because
9 you want to satisfy somebody.

10 CHAIRMAN DAUS: Okay, let's tone
11 this down a little bit.

12 Noach, what I would suggest that we
13 do, we have Commissioners that have to leave,
14 let's bring it to a vote. And then if you
15 want to bring a new motion to amend that, we
16 will do that. Because it's just going in the
17 wrong direction.

18 So I had a motion by myself, seconded
19 by Commissioner Weinshall and Commissioner
20 Arout voted for it. Can we have a show of
21 hands, anyone in favor?

22 (Show of hands.)

23 CHAIRMAN DAUS: Anyone opposed?

24 (Comm. Polanco raises hand.)

25 CHAIRMAN DAUS: Okay, one against.

1 So that passes.

2 Do any of the Commissioners want to
3 make any motions or amendments or further
4 motions?

5 COMM. DEAR: No. I said I withdraw
6 my motion.

7 COMM. VARGAS: Mr. Chairman, although
8 we cannot amend the rule that we just voted on
9 to include this four-month window, I would
10 like to have a separate resolution that says
11 based on these rules we just passed there is
12 going to be this four-month window and that
13 S&E is not going to issue any violations or
14 anything to that effect.

15 COMM. WEINSHALL: Howard, what if we
16 dealt with it administratively, would you be
17 okay with that? If instead of we did that,
18 the Commission dealt with it -- Andy, could
19 you deal with it administratively?

20 MR. SALKIN: As far as
21 administratively dealing with it and the
22 discretion for us to enforce certain rules and
23 not enforce certain rules, I think we have the
24 discretion we use all the time. Commissioner
25 Mullins is here, Commissioner Schenkman is

1 here. We hear what the Commissioners' desires
2 are and we got it.

3 I don't know about formally writing a
4 memo saying that we are overruling or choosing
5 to not acknowledge a law. I am not sure on
6 that.

7 MR. FRASER: As a general matter, we
8 have the legal discretion not to enforce a
9 rule. And basically what I think is being
10 asked is that we agree not to enforce the rule
11 for a four-month period, I take it.

12 CHAIRMAN DAUS: We do have some new
13 Commissioners here. The way we usually do
14 this, when the effective date goes into place,
15 what we will usually do is send out an
16 industry notice and then we will set forth the
17 parameters by which compliance needs to occur.
18 And basically this would result in an industry
19 notice which advises people that upon their
20 next scheduled inspection, they are required
21 to have the stickers when they come in.

22 That's how we are going to enforce
23 it. Whether you want to make a resolution, I
24 mean, I've said it three times already.

25 COMM. GIANNOULIS: So, Matt, where

1 does the four months come from then?

2 CHAIRMAN DAUS: They have to be
3 inspected three times a year. There is a
4 four-month inspection cycle where every cab
5 has to come into our Woodside facility. Maybe
6 I wasn't clear about that.

7 COMM. GIANNOULIS: But if somebody
8 is getting an inspection two days from now --

9 CHAIRMAN DAUS: Well, they will get
10 some lead-in time because after we vote on it,
11 we have to publish it in the City Record and
12 it doesn't become effective until a month
13 after that. So they are going to get plenty
14 of lead-in time.

15 COMM. GIANNOULIS: But if somebody's
16 inspection is out 32 days from now, they will
17 get fined?

18 CHAIRMAN DAUS: No.

19 COMM. GIANNOULIS: This four-month
20 thing doesn't make any sense.

21 CHAIRMAN DAUS: We are going to send
22 them a notice that says as of this date if you
23 have an inspection that comes in after that,
24 you have to have this on the vehicle. And we
25 are going to figure out a way to do that to

1 make sure that they have the proper
2 notification.

3 Is that accurate, Peter?

4 MR. SCHENKMAN: Yes.

5 COMM. GIANNOULIS: We are going to
6 send out a notice to everybody who owns a
7 Medallion that this rule starts on this date
8 and prior to this date this rule is not
9 enforced?

10 CHAIRMAN DAUS: That's what we
11 usually do.

12 Pansy, Andrew, do you have anything
13 to add to that.

14 COMM. MULLINS: We are just going to
15 add that when they come for inspection, we
16 will not issue a summons, we will issue them a
17 ten-day notice. So assuming they come up on
18 the date of inspection, we will give them a
19 ten-day notice so they will have ten
20 additional days to come back with the new
21 sticker, and that then will not be converted
22 to a summons unless they don't come back.

23 COMM. GIANNOULIS: That's good that
24 we are not fining them, but are we going to
25 say that -- you guys know this a lot better

1 than I, but in terms of people getting -- in
2 terms of Medallion owners getting the
3 information, and we certainly don't want them
4 coming back twice to you, right. So given
5 that we have had like a one-hour discussion
6 about this, this is pretty confusing.

7 COMM. MULLINS: What will happen is
8 as they are now coming for their inspections,
9 we will be giving them copies of the new
10 rules, explaining to them that when they come
11 up for inspection in the next cycle, they will
12 have to have the stickers.

13 COMM. GIANNOULIS: And for the other
14 people who may have just recently gotten an
15 inspection, got an inspection yesterday --

16 COMM. MULLINS: When they come,
17 assuming they haven't gotten any of these
18 notices, we will then, when they come up and
19 don't have the sticker, we will give them what
20 is called a notice and they have ten days to
21 comply. So they will have an additional ten
22 days.

23 COMM. GIANNOULIS: So this
24 four-month thing that we said isn't really
25 real?

1 CHAIRMAN DAUS: No, it is.

2 COMM. MULLINS: It is real for most
3 people.

4 COMM. GIANNOULIS: I understand
5 that, but identifying it as a four-month
6 implementation rule is not real. I mean, it
7 is not.

8 CHAIRMAN DAUS: For the whole
9 industry it is. Industry-wide when you look
10 when this will be on every cab, it will be
11 after the four-month inspection cycle is
12 complete. That is what I meant.

13 MR. SCHENKMAN: By December 31st.

14 COMM. GIANNOULIS: I understand that,
15 but I think there is some confusion. The
16 reason everybody keeps on calling for a
17 resolution to change is because there is this
18 implicit notion by what was said that there is
19 a four-month rule. There is not a four-month
20 rule. It is coincidental that there is a
21 three-month inspection process and that for
22 everybody who is coming up for inspection, we
23 are going to give them a ten-day pass.

24 But if somebody comes up for
25 inspection after the 30 days that this takes

1 to post, if they show up the next day, they
2 have ten days, correct?

3 COMM. MULLINS: Right.

4 COMM. GIANNOULIS: So that is not
5 four months.

6 CHAIRMAN DAUS: No, I think there is
7 a misunderstanding. When I was referring to
8 four months, I was referring to the total
9 compliance for the entire industry.

10 COMM. GIANNOULIS: Okay, that's
11 fine. I think there is a lot of confusion
12 about this.

13 CHAIRMAN DAUS: No. I think we
14 cleared it up.

15 COMM. GIANNOULIS: What we are
16 saying at the end of the day is that
17 discretionarily they are going to give a
18 ten-day notice to people who come for
19 inspections and have not changed the stickers.

20 CHAIRMAN DAUS: Which is our usual
21 protocol and I think it's very fair.

22 MR. SALKIN: Anything that is not
23 safety related, you get a notice to correct.

24 And, again, this will not take effect
25 until October 1st, so there is plenty of time

1 for people to become aware of this, so your
2 inspection starting October 1st is when you
3 would fall into this, and then there is a
4 four-month period in which we would see every
5 cab. There is not a cab that we won't see
6 during that four-month period.

7 COMM. GIANNOULIS: I understand that.

8 CHAIRMAN DAUS: Okay, we will go to
9 the next item. The next item now, what was
10 Item 4A, Proposed Rules for Public Hearing and
11 Commission Action Medallion Auction
12 Procedures. I will turn it over to Chuck.

13 MR. FRASER: These proposed rules
14 would modify existing rules governing auctions
15 of new taxicab Medallions to reflect our
16 experience with previous auctions, and
17 specifically to incorporate certain
18 anti-collusion provisions as recommended by
19 the Department of Investigation in order to
20 ensure that Medallion auctions are as fair and
21 competitive as possible.

22 The proposed rules will expressly
23 prohibit collusion between bidders, would
24 forbid disclosure of bid prices to other
25 bidders, and would prohibit brokers who advise

1 or assist clients in the preparation of
2 clients' bids from being bidders themselves.
3 The proposed rules require bidders to certify
4 their compliance with these anti-collusion
5 provisions on forms to be included in the bid
6 package.

7 In addition, the proposed rules
8 include several changes in auction procedures
9 as detailed in the Statement of Basis and
10 Purpose of the proposed rules. The proposed
11 rules were published for comment on May 10,
12 2007. One written comment was received. I
13 understand that copies of that comment have
14 been distributed to the Commissioners. Based
15 on that comment, the staff is recommending one
16 change in the proposed rules.

17 The proposed rules as published
18 provide in Section 13-03(n) that a bidder who
19 wins on more than one bid and then defaults on
20 any bid, must default first on that bidder's
21 lowest bid, and then, in ascending order of
22 bid prices. The staff is recommending the
23 addition of another sentence to Section
24 13-03(n), which would provide that a bidder
25 who wins on more than one bid, must close

1 first on the bidder's highest bid and then in
2 descending order of bid prices.

3 A revised version of the proposed
4 rule, including the addition recommended by
5 the staff, has been distributed to the
6 Commissioners and copies are available to the
7 public in the back of the room.

8 COMM. AROUT: We have one speaker,
9 Ethan Gerber.

10 MR. GERBER: Thank you,
11 Commissioners, for this opportunity to be
12 heard on this very important, vitally
13 important issue.

14 The proposed amendment to the auction
15 rules, as I will attempt to show, these rules
16 are, however well-intentioned, overly broad
17 and draconian and will create many dangerous
18 traps for the innocent.

19 First, after the last auction, the
20 bidders, some of whom are my clients, were
21 investigated thoroughly by the Department of
22 Investigation. No wrongdoing or violation of
23 rules was found under the existing definitions
24 of collusion for unfair bidding. These rules
25 now seek to set forth a new expansive

1 definition which will provide all kinds of
2 traps for the innocent.

3 Collusion is well-defined in the law.
4 It is generally considered an agreement
5 between two or more persons to defraud
6 another. In a classic city bid collusion
7 case, the conspirators agree to price fix a
8 number to cheat the city and drain its
9 coffers. In the last auction, exactly the
10 opposite occurred, record bids resulted and
11 the city increased its coffers. Quite
12 frankly, this is a remedy looking for a
13 problem.

14 The new rules take conduct completely
15 devoid of intent to deceive or defraud and
16 will result in the disqualification, monetary
17 penalization and criminal liability for
18 innocent conduct. Rule 13-03(a), the bidder
19 must certify that he or she has not disclosed
20 any bid price, either directly or indirectly,
21 to any other prospective bidder. A husband
22 and wife who intend to bid and have a
23 conversation about what they intend to bid
24 have now violated the law and can be
25 disqualified, can be sanctioned up to \$10,000

1 and, as I will show, can be put in jail.

2 As Commissioner Giannoulis said at
3 the last hearing when he asked the question:
4 Does this mean that two people who intend to
5 bid who have a conversation over a cup of
6 coffee could be in violation? The answer,
7 Commissioner Giannoulis, is absolutely yes.
8 Under these rules, if he files that
9 certification that they haven't disclosed
10 directly or indirectly, they have violated the
11 rules. They can be disqualified. They could
12 be penalized \$10,000. They could forfeit, if
13 they have closed, they could forfeit their
14 bids if they have a loan to equity of 80
15 percent on a million dollar lot, which is
16 currently under the going price, that's a
17 \$200,000 penalty. A penalty for a
18 conversation.

19 I have used the term "criminal" a few
20 times. I don't use this term lightly. I know
21 there are attorneys in this room and I know
22 there are criminal defense attorneys on the
23 Commission, and I myself have been both a
24 prosecutor and a criminal offense attorney.
25 And I point out that Penal Law Section 210.40

1 makes filing a false certification -- I ask
2 for a couple more minutes, Commissioner.

3 CHAIRMAN DAUS: Yes, go ahead. You
4 are the only speaker, that's fine.

5 MR. GERBER: Penal Law Section
6 210.40, filing a false certification, is an E
7 felony in this state. These are very, very
8 serious rules before this Commission.

9 I ask this Commission to take them
10 very seriously and examine them. And it is
11 not just the bidder, it is not just the
12 communication, the certification that you must
13 sign that two bidders have talked to each
14 other that is criminalized and sanctionable
15 and results in this forfeiture of what could
16 be \$200,000. It's if it is a prospective
17 bidder. The rule is it doesn't even have to
18 be a bidder, it could be a prospective bidder.

19 This opens the door to all kinds of
20 allegations, all kinds of accusations, perhaps
21 by losers of bids who are aggrieved by their
22 losing of the bids. Perhaps by competitors,
23 who merely have to suggest that they received
24 a communication or heard a conversation or
25 were told that a prospective bidder, and maybe

1 that they didn't bid because they heard the
2 conversation was going to be high. This would
3 open the door to an investigation.

4 I understand that is probably not the
5 intent of this organization. I am sure it is
6 not Chairman Daus's intent.

7 COMM. GIANNOULIS: Where in the rule
8 does it talk about a prospective bidder?

9 MR. GERBER: In 13-03(a) and then in
10 13-03(p), I believe, as well.

11 13-03(o) says bidder or prospective
12 bidder and it is also contained in 13-03(a).

13 COMM. GIANNOULIS: Okay, thanks.

14 MR. GERBER: Also in 13-03(a) -- and
15 as I was saying, I know this is not the
16 intent, but it should be recognized that these
17 rules are drafted directly as a result of the
18 last auction, where none of this language was
19 involved, and it still resulted in a DOI
20 investigation and still resulted in one of my
21 clients spending tens of thousands of dollars
22 on legal fees to just be found that he wasn't
23 in violation of any of the rules. Imagine
24 with the rules, and there, clearly, was no
25 intent because there were no rules to be in

1 violation of.

2 CHAIRMAN DAUS: Those are the main
3 points of your objections, 13-03(a)?

4 MR. GERBER: No, they are not.

5 CHAIRMAN DAUS: You have other
6 sections?

7 MR. GERBER: I do.

8 CHAIRMAN DAUS: Did you cover them
9 while I was out of the room, because I did
10 read your written comments. Are they covered
11 in your written comments?

12 MR. GERBER: Yes, but I would like
13 to continue.

14 CHAIRMAN DAUS: Sure, go ahead. I
15 didn't know if you covered them yet.

16 MR. GERBER: 13-03(a) also talks
17 about independent evaluator, that you must
18 certify that you received an independent
19 evaluation. It does not define the term
20 "independent," nor does it define the term
21 "evaluation."

22 I am not exactly sure how one comes
23 to a million dollar investment completely
24 independently, and I am not sure how you do
25 that, how you evaluate it without

1 communication to your peers or to your
2 professionals or to the city. And when I say
3 "to the city," 13-03(a) also says that I must
4 certify, the bidder must certify that he is
5 not relying on communication of the city
6 whatsoever. So, in other words, I can't
7 communicate, if I am a bidder, I cannot
8 communicate with my colleagues, with my peers
9 in the industry, as to what I think the fair
10 bid price should be. And I can't rely on the
11 city's representations of what the asset I am
12 attempting to bid will be.

13 After all, what we are talking about
14 in a lot, what you define here as a lot is
15 actually a taxicab license. It is a
16 transferable asset, but it is a license, and
17 the license ensures that you have the rights
18 to do certain things. The most valuable of
19 which is the exclusive right to pick up a
20 fare. Of course, we rely on that statement of
21 what the taxicab Medallion is before we invest
22 a million dollars into that investment.

23 Moreover, I believe this section of
24 the rule was not designed for the last
25 auction, but on the auctions that preceded it,

1 where bidders were not able to put cars on the
2 road for the handicapped accessible vehicle
3 rule. They attempted to do so, were unable to
4 find a vehicle that the TLC was willing to
5 hack-up at the time. The lawsuit that
6 resulted, an Article 78 resulted simply
7 because the owner, the bidders, the successful
8 bidders had relied on statements that there
9 will be vehicles available. There were not.

10 Under these rules, you can't even
11 allege that. You can't even come up and say,
12 yes, I thought the TLC had approved, the TLC
13 had made statements, the City of New York had
14 put its stamp of approval on this auction and
15 said there will be cars available. We are not
16 allowed to rely on those statements of the
17 City of New York here.

18 So we can't consult with our
19 colleagues as to what we think the fair price
20 is. We can't consult with the City of New
21 York as to what we think the asset we are
22 purchasing for. So certainly we could at
23 least go to our professionals. We could go to
24 our attorneys and we could go to our brokers
25 and find out from them. But maybe not,

1 because the rules here under 13-03(p) state
2 that a broker who has an employee or a broker
3 who has an agent -- I'm sorry, I don't think
4 it says the word "agent" -- that has an
5 employee, a shareholder or a member of that
6 brokerage, if any of them intend to bid in the
7 auction, or the broker himself intends to bid
8 on the auction, he may not act as a taxicab
9 broker for the other bidders.

10 It should be noted that some of the
11 most successful bidders and some of the most
12 successful owners in this industry are also
13 some of the most successful brokers in this
14 industry. And that the Commission may not
15 have realized that, but that goes well beyond
16 my clients. Many of the most successful
17 owners in this business also happen to be
18 brokers. If they are precluded from bidding,
19 they probably will choose not to offer their
20 services as brokers.

21 That also goes to the fact that it
22 doesn't matter in these rules whether the
23 broker is acting to give advice as to price or
24 not. It could be merely an administrative
25 function. It could be merely helping them

1 meet the envelope, the stamp, the requirements
2 necessary. If they just act in a purely
3 administrative function as a broker and
4 submit, they are not allowed to participate in
5 the auction, which is important, because these
6 rules also add many, many specific
7 requirements as to how the bid is received,
8 including the size of the envelope. So the
9 uneducated public is going to be further
10 precluded and maybe result in bids being
11 foreclosed.

12 13-03(e) addresses not a collusion
13 issue that occurred in the prior auction, but
14 is directly related to the Article 78 that
15 successfully resulted against this Commission,
16 I'm sorry to say. It has to do with the
17 inability to close on Medallions within 30
18 days. If I am a bidder and I am unable to
19 close on a bid within 30 days, under these new
20 changes which have nothing to do with
21 collusion, under these new changes, the only
22 way I can get an extension is to put up
23 another \$12,000 and show proof to the TLC that
24 I have already secured the purchase of a
25 vehicle eligible for hack-up.

1 Please note, Commissioners, that the
2 last time this was a problem it was
3 specifically a problem because there was no
4 vehicle available for hack-up in the first
5 place. So, in other words, if there was no
6 vehicle available for hack-up and I have to
7 close on my bids, the only way I can get an
8 extension is by showing that I have a vehicle
9 available for hack-up. This is a Catch-22. I
10 do not believe it's what this agency intended.
11 I see Mr. Fraser shaking his head, but I ask
12 you, Commissioner, please look at 13-03(e)

13 CHAIRMAN DAUS: Okay, is that it?

14 MR. GERBER: No. Like I said, you
15 are pushing forward a lot of rules today.
16 They all have very serious consequences and I
17 ask that you parse them and look at them very,
18 very carefully. We are talking about \$10,000
19 sanctions. We are talking about possible jail
20 time. We are talking about forfeiture of well
21 over \$200,000 per lot.

22 13-03(g) and (m), I believe Mr.
23 Fraser addressed one of my concerns in this in
24 what I understand is a recent amendment that I
25 haven't seen, but I understand there is a

1 recent amendment. So that if you forfeit on
2 one, you don't forfeit on the others.

3 MR. FRASER: That was never the case,
4 no. That was not the change that we just did.

5 MR. GERBER: It is never the case?

6 MR. FRASER: No. The rules provide
7 if you default on a bid, you default on that
8 bid. If you have eight winning bids, the
9 rules provide you default on the lowest bid.
10 Obviously, by saying that, implicitly it is
11 saying that you do not default on your other
12 seven.

13 MR. GERBER: Well, if I am
14 disqualified on one of the bids, then I am
15 disqualified on them all; is that true?

16 MR. FRASER: No, that's not correct.

17 MR. GERBER: Then I address your
18 attention, respectfully, to 13003(m), which
19 states when I am a bidder and I have to bid
20 individually under these rules, and when I go
21 to assign it to a corporation or an LLC, I
22 can't assign that right to an LLC or a
23 corporation in which a member is in previous
24 violation.

25 If that's the case, I simply can't

1 assign it to a corporation that I am a member
2 of.

3 MR. FRASER: I don't follow that. I
4 don't see how that gets you to how all your
5 bids are disqualified. I don't get it.

6 MR. GERBER: Because if I am
7 disqualified on one, when I go to transfer my
8 bids to an LLC or corporation, that's the
9 normal course of business, the normal course
10 of business is a bidder bids individually.

11 MR. FRASER: You understand that
12 13-03(m) is about reserve status. In other
13 words, if you default on a bid, all of your
14 reserve status bids are disqualified. The
15 reason for that is, you cannot default on a
16 higher bid and substitute a lower bid. That's
17 all that says. 13-03(m) is exclusively about
18 reserve status bids.

19 MR. GERBER: I'm sorry. I am
20 talking about 13-03(g).

21 CHAIRMAN DAUS: To prevent basically
22 somebody from getting a windfall that's a
23 result of a default. That's the intent.

24 MR. GERBER: I understand. I direct
25 your attention to 13-03(g), the rights of a

1 winning bidder are not assignable prior to
2 close of sale, except that such rights may be
3 assigned to a corporation. No winning bid may
4 be assigned to any corporation, Limited
5 Liability Company or partnership, or the
6 shareholders, members, partners, which include
7 any winning bidder for any lot which has
8 failed to comply with the requirements of
9 Subdivision E of this section.

10 Subdivision E of this -- I go back to
11 my original point. Now that I read it again,
12 I was correct. Subdivision E says if I fail
13 to close on one of the bids, I am in violation
14 of Subdivision E. If I fail to close on a
15 lot, I am in violation of Subdivision E.
16 Subdivision G says if I fail to close -- if a
17 member of any of the corporations that I am
18 assigning any of the other bids to, if any of
19 the other bids, then I can't assign it to a
20 corporation or LLC.

21 MR. FRASER: Again, I will direct you
22 to the very last clause of Paragraph G, "with
23 respect to such lot." Not with respect to all
24 bids, but with respect to the bid as to which
25 there was a default.

1 CHAIRMAN DAUS: That is what that
2 means.

3 MR. GERBER: You know what, even
4 13003(g) and 13-03(m), even if you were to
5 take out those sections, we are still involved
6 in a morass of dangerous issues here that
7 contain many, many forfeiture provisions,
8 criminal liabilities, \$10,000 sanctions,
9 forfeiture of \$200,000, and for many of it it
10 is from the result of a conversation. For
11 many of it, it's the result of a conversation.

12 CHAIRMAN DAUS: Does that conclude
13 your testimony?

14 MR. GERBER: In summary, the rules
15 must be carefully vetted and parsed. The
16 unintended consequences will increase the
17 competitiveness of the auction and ruin the
18 lives of investors of this city.

19 Thank you.

20 CHAIRMAN DAUS: Thank you.

21 Chuck, could you just address some of
22 the issues and then I have a couple of
23 comments and I would like to talk to the
24 Commissioners about it.

25 MR. FRASER: First, the independent

1 evaluation point that Mr. Gerber made, to the
2 extent that he referred to constraints on
3 consulting with peers and colleagues, that may
4 well be so. To the extent that the peers and
5 colleagues are bidders, yes, the bid prices
6 may not be discussed with other people who are
7 bidders or prospective bidders.

8 To the extent that Mr. Gerber's
9 concern was that the rule would preclude
10 consultation with professionals, the rule does
11 not do that. In fact, by disqualifying a
12 broker who is a bidder, it obviously assumes
13 that you can consult a broker. There would be
14 no reason for the rule to disqualify a broker
15 if a broker could not advise bidders on
16 formulation of their bids. So, obviously,
17 that was not intended by the rule and it is
18 not in the rule.

19 We didn't specify attorneys, but I
20 would suggest to you that the logic that I
21 just outlined would apply to attorneys and,
22 obviously, there would be constitutional
23 problems with precluding seeking of advice
24 from an attorney, and these rules do not do
25 that.

1 Now, however, if that attorney
2 advises and consults on the price of client's
3 bid, that attorney cannot obviously be a
4 bidder him or herself.

5 As to consulting with the City, the
6 text of the rule of this particular clause
7 actually comes straight out of a certification
8 form that, Mr. Gerber, your client signed the
9 last time around. It doesn't pertain to the
10 availability of a car. These rules have
11 nothing to do with any Article 78s or any
12 previous auctions, except the last one. These
13 rules are directed solely to the last auction
14 and not any prior litigation from any previous
15 auctions.

16 The intent of that clause is to
17 prohibit a bidder from subsequently saying "I
18 went to the TLC presentation and they told us
19 that winning price would be this," or
20 something like that. Because, of course, we
21 do publish average Medallion prices on a
22 monthly basis, and we don't want someone
23 coming to us later and saying, "It is your
24 fault that I bid what you said the average
25 price was." That's all that is intended to

1 do. That's all it did last time. That's all
2 the certification form says.

3 As to the concern about having to
4 have purchased a vehicle, I am not sure to
5 what extent you may have misunderstood that
6 this rule says "purchase a vehicle." It
7 doesn't say "have a vehicle." In other words,
8 you are absolutely correct, the extensions we
9 experienced last time were because the
10 vehicles were not available on a short-term
11 basis. They had to have long-term orders and
12 so on. But the order has to be put in, and
13 the point of that is we want people moving
14 with reasonable dispatch towards closing. And
15 if after 30 days, they haven't even ordered
16 the car, I think the view is that they haven't
17 proceeded with reasonable dispatch towards the
18 closing. So to go beyond 30 days, you do have
19 to put up an additional deposit and you do
20 have to show us that you have, in fact,
21 ordered the car.

22 I think the rule actually says bill
23 of sale or some other. It's clear that it
24 does not mean possession of the vehicle. It
25 means you have to have put in the order and

1 you have to show us you put in the order
2 because we don't want you waiting more than 30
3 days to order a car on a winning bid.

4 I don't know if I got all the
5 comments there, but those are the main ones I
6 wrote down.

7 CHAIRMAN DAUS: I am not sure if
8 agree with every single comment that was
9 raised by Mr. Gerber, but there are a couple
10 of items that I acknowledge from, my
11 standpoint, that have some unintended
12 consequences. I was just debating some of
13 these things with my staff. You know, DOI and
14 the Law Department have been very helpful and
15 have been working on these rules. And there
16 is no urgency for us to vote on them, but
17 there are two particular provisions, which I
18 think it would be helpful if we all maybe went
19 back and try to clarify further.

20 In particular, that is Sections
21 13-03(a) and (o). On the independent
22 evaluation piece, I understand what was
23 intended and I agree with it, but there may be
24 a way we can come up with some more clarity to
25 make sure that all of the bidders and the

1 members of the public and the rules lay the
2 groundwork so people don't get scared into not
3 bidding. That they know exactly what they can
4 and cannot do. I think we attempted to do
5 that in some memoranda that the Commissioners
6 have been considering at the advice of
7 counsel, but for purposes of public
8 dissemination, I think if the rules or the
9 statement of basis and purpose can make it
10 perfectly clear exactly what you can and
11 cannot do, I think that will be helpful.

12 And I will give you a perfect
13 example. There is a taxi driver who is
14 thinking about becoming a taxi owner hanging
15 out in the JFK holding lot. Talks to a fellow
16 driver standing next to him or her and says,
17 "What do you think about the prices of
18 Medallions? Are you thinking about bidding in
19 the auction?"

20 "I don't know. What do you think?"

21 He says, "Well, I think they are not
22 worth what they say they are worth, but I
23 would probably put in a bid for this amount if
24 I was going to bid."

25 They walk away. Another person

1 happens to hear that conversation. So Person
2 A and Person B go their separate ways, having
3 no idea whatsoever whether each of them are
4 going to place a bid. The person who started
5 the conversation places a bid, becomes a
6 winning bidder. Before putting the bid in,
7 has no conversation with this other person
8 whatsoever, signs a certification form that
9 they haven't consulted with anybody that they
10 believe is putting in a bid.

11 Lo and behold, the person that he had
12 the conversation with, without knowledge, puts
13 in their own bid. Person C comes forward,
14 makes a report to DOI and says, "I saw these
15 two guys talking and they conspired, they were
16 talking in the holding lot to one another."
17 And I think it is a very potential valid
18 unintended consequence of these rules that
19 that person, who had no knowledge of a casual
20 conversation, ended up putting in a bid,
21 signed a certification form and now can end up
22 facing criminal charges because somebody had
23 basically reported a communication between
24 them, which is evidence that there was
25 something going on.

1 And I don't think that that's what
2 any of us intended to happen. I think what we
3 intended is when people sit down in a room
4 with smoke and cigars saying, "How are we
5 going to figure out how to rig this auction,"
6 that's what it was intended to prevent, and
7 that is the concerns that we and DOI have.
8 Not the innocent bystander who, quite frankly,
9 has the right to solicit information from a
10 variety of sources.

11 Now, I don't know if I agree with the
12 broker thing. I think the broker issue, from
13 my standpoint, is very, very tenuous. When
14 you are a broker, your job is to give advice
15 on what to bid. And I think that's something
16 that we have to really think about. But I
17 would recommend that we at least table these
18 rules, from my standpoint, for the purpose of
19 looking at clarity with respect to 1303(a) and
20 (o). What do we mean by independent
21 evaluation, is there a way to further clarify
22 that?

23 And, number two, is there any way,
24 Chuck, that we could work on language to make
25 it clear that that innocent guy or gal in the

1 coffee shop or in the holding lot, doesn't get
2 caught up in this. And, furthermore, you know
3 how rumors spread in the industry, overnight
4 this could be distorted in a way where we had
5 a situation where there were 150 accessible
6 Medallions and we had problems getting people
7 to bid on them. Now if we are looking to
8 attract more buyers, because it's hard for lay
9 people to understand -- it is hard for lawyers
10 to even understand what we were just talking
11 about. So for somebody who is looking and
12 studying this issue, can't figure out what it
13 is, the guy in the street who is thinking
14 about bidding and talking to professionals
15 about it, hears rumors, you better not talk to
16 anybody. And that's the way things happens in
17 the real world. Who is even going to think
18 about putting in a bid. We may end up with no
19 bidders.

20 So I understand where you are coming
21 from. With all due recent, I wish we would
22 have had these comments a little bit earlier.
23 I would have been nice if we had them a couple
24 of days earlier, but be that as it may, there
25 is no urgent need in the time frame for us to

1 vote on these today. So I don't know how you
2 feel, but I have no problem tabling this to
3 see if we can come up with other language on
4 these provisions. And if anyone has any
5 comments about other things other than what I
6 have raised, or if you feel differently, just
7 let me know.

8 COMM. GIANNOULIS: I want to ask
9 Charles a few questions.

10 In the memo that we received from
11 Chris Wilson, he refers to Section 103-D of
12 the General Municipal Law. The issue of
13 prohibiting the disclosure of bid price
14 information, is it that simple in that law?

15 MR. FRASER: 103-D is fairly terse.
16 The reason we went beyond that is that we were
17 getting complaints that we had not given
18 adequate guidance as to what the 103 language,
19 which is very general and very broad, would
20 prohibit in practical, real world terms. And
21 so, we tried to be more expansive in the rule
22 about what was and was not permitted.

23 COMM. GIANNOULIS: How many folks
24 put in bids at the end of the day for
25 Medallions?

1 MR. FRASER: In the last auction, I
2 don't know those numbers.

3 COMM. GIANNOULIS: Can you give me a
4 range, 100, 400?

5 MR. FRASER: It would have been many
6 more than that.

7 CHAIRMAN DAUS: It was a healthy
8 number.

9 MR. SALKIN: It was more than twice
10 the actual number of Medallions sold.

11 COMM. GIANNOULIS: So what's the
12 number?

13 MR. SALKIN: If there were 300 bids
14 sold, it might have been over a thousand over
15 the course of the different auctions.

16 COMM. GIANNOULIS: Thank you.

17 I think it's an issue across the
18 board here, but I think it is particularly
19 issue with this bid price information.
20 Normally, and I have done a lot of this stuff,
21 normally an RFP or bids, there's four people
22 who respond to an RFP, or five. And everybody
23 knows who they are. It's the same five
24 people.

25 You know, the Taxi Technology bid,

1 you didn't have a thousand people come in,
2 right. You had how many, seven or 10,
3 whatever it was, but I am sure it wasn't a
4 thousand. So just the fact that we are
5 talking about a thousand parties that are at
6 risk, kind of becomes a difficulty when
7 looking at that Municipal Law. Because at the
8 end of the day, the classic kind of bid
9 rigging stuff, the stuff you hear about at the
10 Board of Education, the food contracts, it is
11 four guys and half of them are cousins. They
12 all kind of sit down and chop the thing up,
13 but everybody knows it's those four guys.

14 Here you are talking about a thousand
15 different people, so, the likelihood of
16 somebody giving out information without any
17 negative purpose is much greater when you are
18 just dealing with the numbers of people. So I
19 think we should be careful when we look at
20 other restrictions that are done in other
21 traditional RFPs and other bids, because you I
22 guarantee you, there are almost none that I
23 have ever heard of, whether it is franchises
24 or any kinds of bids that the city does, that
25 generates more than ten responses, as opposed

1 to a thousand.

2 CHAIRMAN DAUS: I agree with you.

3 COMM. GIANNOULIS: And ten
4 sophisticated people who know what they are
5 doing, as opposed to of the thousand people,
6 maybe 200 of those were done by large
7 businesses and the other 600 were done by
8 individual operators who don't have attorneys
9 all day long advising them what to do.

10 I don't know how you deal with that,
11 I am just throwing it out there.

12 CHAIRMAN DAUS: Harry, if I could
13 just point out that I think the intent of
14 applying those provisions is a pure and a good
15 one. The General Municipal Law that applies
16 to state and city contracts, anti-collusion
17 provisions, is a good one. I think that it's
18 a good standard to hold ourselves up to, but
19 there may be some differences in the way the
20 industry and these auctions operate.

21 My understanding is that that law
22 doesn't apply to us, we are using that as a
23 model, Chuck, language, and we have leeway to
24 kind of tailor it to the situation.

25 COMM. GIANNOULIS: My point is less

1 about the collusion then about the revealing
2 of prices. That's my point. In other words,
3 collusion is collusion. If an investigation
4 occurs, people could figure out whether
5 collusion occurred. Inevitably somebody has
6 to flip on somebody because if there is two
7 people in a room, either you have to have a
8 microphone or somebody has to say this is what
9 we did.

10 But revealing a price, when you have
11 a thousand people who have put in a price, is
12 much riskier than six competitive bidders who
13 bid against each other all day, who are never
14 going to tell. If you do like a federal, you
15 know, Boeing is competing against McDonald
16 Douglas, they know they are both competing so
17 they are not going to tell each other what
18 their bidding price is because they bid
19 against each other all day long, and it is the
20 same five companies.

21 Here you have a thousand people.
22 They literally don't know if the person they
23 are talking to is a bidder. So I think in
24 terms of the revealing the price, which I
25 understand why you want to not allow that to

1 be public, but I just think that is kind of a
2 sensitive one because I think the amount of
3 people that you are talking about and the
4 amount of conversation that occurs, that's
5 just one point.

6 This independent evaluation thing, I
7 don't see why you just can't delete it. I
8 don't know why you have to explain it. I am
9 not an attorney, but it all seems to be doing
10 is going to the collusion issue.

11 MR. FRASER: Well, it does add one
12 thing, which is the non-reliance on any
13 representation that may have been made by TLC.
14 We don't want to be sued, misconstruing
15 anything we might have said. Presumably, we
16 wouldn't say how much a winning bid would be,
17 but we do have these workshops where we sort
18 of take people through the process. And we
19 wouldn't want anyone later to come back and
20 say, "I understood from what you said this is
21 how much a Medallion is worth."

22 COMM. GIANNOULIS: Or maybe it's
23 more like I come to this at my own volition
24 kind of thing.

25 MR. FRASER: Right.

1 CHAIRMAN DAUS: Is this a potential
2 alternative, instead of having the independent
3 evaluation language as part of the form that
4 you sign, why can't it say something as simple
5 as: I hereby certify that I have not
6 colluded, consulted, communicated or agreed in
7 any way with any other bidder or prospective
8 bidder for the purpose of restricting
9 competition or inducing any other prospective
10 bidder to submit or to not submit a bid for
11 the purpose of restricting competition.

12 I guess what I am getting at, rather
13 than use the term "independent evaluation,"
14 which is a little broad, take the definition
15 of collusion, whatever we ultimately decide is
16 the appropriate definition, and just put that
17 at the end of the form. I don't know if
18 that's something that does the trick.

19 Would that do it, in term of just
20 resolving this today?

21 COMM. GIANNOULIS: No. I mean, the
22 other issue with prospective bidders, going
23 now to this term of prospective bidder, which
24 disconcerting to Ethan, it is not so much
25 about the prospective -- to me, all these

1 issues don't go to the issue of collusion.
2 They go to the issue of revealing your bid.

3 CHAIRMAN DAUS: Everyone is a
4 prospective bidder by definition, I guess.

5 COMM. GIANNOULIS: Right, which is
6 why if, at the end of the day, you do sign and
7 say -- I guess you are signing and saying --
8 it goes back again to revealing your bid
9 price. It is one thing if I have to sign a
10 piece of paper that says, whether I know all
11 the bidders or not. And I say, well, I did
12 not collude with either a bidder or a
13 prospective bidder. Well, if I colluded, then
14 I am signing the thing incorrectly anyway, so
15 it doesn't make a difference whether it is a
16 prospective bidder or a bidder. If I went and
17 tried to do a bid rigging scheme and then the
18 other guy didn't actually put in a bid, is not
19 relevant, right.

20 So the real issue is about revealing
21 the price. That's what the prospective
22 bidder thing comes down to. And I do agree,
23 how would you possibly know. Let's say you
24 were talking with somebody -- I guess you
25 could do this. Let's say you were talking

1 with somebody about going into business
2 together. And you were like, "How much do you
3 have?"

4 "I have 50 grand. How much do you
5 have?"

6 "I have 50 grand. What can we put
7 this thing in for?"

8 "500 grand."

9 And then you don't do business with
10 the person. You go off and you put a bid in
11 for 500 grand. The other guy says, "Hmm, I
12 decided not to go into business with him but
13 he probably putting for 500 grand."

14 Is that collusion? No, not under the
15 rules of collusion.

16 So then I go and I put in 450 grand,
17 or a larger number, whatever strategy one
18 would implement, right. Did I just do
19 something wrong? I guess I did, but I didn't
20 really. And I would submit that probably
21 happens, I don't know if it happens regularly,
22 but it probably happens, right.

23 Whereas, if I sat down with that same
24 person and said, "You put in the 500 grand and
25 I will put in 550," yes, then I broke the law.

1 But if we just had a conversation about the
2 price, it doesn't seem -- that seems like you
3 open a lot of kind of weird -- and I have to
4 be clear, I respect DOI and all that, but I
5 have been there personally, I have been there
6 with clients. It's very easy to get accused
7 of something, and Gerber should have charged a
8 lot more money than 30 grand. I mean, people
9 get wiped out paying attorneys.

10 So we do have to be careful. It is
11 not that DOI is going to go, but if they get a
12 complaint and there is some legitimacy, they
13 have to do their due diligence and they have
14 to do what they have to do. So I don't know
15 if it's about -- I understand, if you don't
16 put in the prohibition against revealing the
17 price maybe that takes the teeth out of it.
18 But it does that's seem to me that is where we
19 keep on getting into this risk.

20 One last thing was, I assume on the
21 brokers, are brokers allowed to still do other
22 things? In other words, if I am a broker and
23 somebody comes to me and says, "Well, I am
24 thinking about putting in a bid." If I have
25 either put in a bid myself or if I represent

1 somebody else, if I know that somebody else I
2 represent, I've advised them and I know that
3 they are going to put in a bid, I am supposed
4 to say, "I can't talk to you about that bid,"
5 correct?

6 MR. FRASER: No. A broker is
7 entitled to advise multiple bidders. They,
8 their employees and officers and so on cannot
9 bid if they are advising other bidders.

10 COMM. GIANNOULIS: So they are
11 allowed to get into price conversations with
12 multiple people?

13 MR. FRASER: Yes. I don't see any
14 way around that. If anyone else does --

15 COMM. GIANNOULIS: I actually
16 thought that this was preventing brokers from
17 doing that.

18 CHAIRMAN DAUS: Is there a provision
19 in our rules that prevents brokers from
20 disclosing to one potential bidder that comes
21 to them, the prices of other potential
22 bidders? If a broker has two clients and
23 Client A comes to the broker and says, "I am
24 thinking about bidding \$600,000 at the
25 auction," and then the broker goes to his

1 other client who he may have a personal family
2 relationship with or may like him or her
3 better, and goes, "You know what, I think
4 maybe you should bid \$601,000. That's my
5 advice to you."

6 What is there to prevent that from
7 happening?

8 COMM. POLANCO: They have duties and
9 then the person could go after the broker if
10 they disclose it.

11 CHAIRMAN DAUS: But are they defined
12 somewhere? I agree with you, I am just asking
13 the question.

14 COMM. DEAR: An attorney would have
15 rules because they have to abide by the
16 attorney-client privilege. But brokers,
17 probably not.

18 CHAIRMAN DAUS: That's not in our
19 rules now?

20 MR. FRASER: No. I would assume
21 without knowing this for sure, that brokers
22 have a fiduciary obligation to their clients.
23 That doesn't mean that they can't advise
24 multiple clients, obviously. But it does mean
25 there is a certain degree of confidentiality

1 between the broker and the client.

2 COMM. DEAR: They have no rules set
3 for confidentiality, where lawyers do.

4 MR. FRASER: That's correct, the
5 lawyers have a Code of Professional
6 Possibility. I am not aware of any such thing
7 for Medallion brokers.

8 COMM. DEAR: In line with what
9 Commissioner Giannoulis is talking about, and
10 I am glad you are talking about not voting on
11 it today because there is a lot of issues
12 here.

13 CHAIRMAN DAUS: Well, I don't think
14 we ever intended to.

15 COMM. DEAR: Okay. You talk about
16 no bidder should collude, consult,
17 communicate, agree in any way with any other
18 bidder or prospective bidder for the purpose
19 of restricting competition or inducing any
20 prospective bidder.

21 You have to understand, the way we
22 bid Medallions, you gave a very good example
23 before of people talking to each other and one
24 guy overheard. Technically, by that law, they
25 violated because they communicated. I don't

1 know what communication means. I heard it,
2 that's communication also. And if someone
3 wants to be -- we have seen it, Commissioner
4 Giannoulis has made reference to it, if you
5 want to go after somebody, it's very easy to
6 go after somebody. You have words here that
7 really could nail somebody if they want to.
8 My concern is that it is not clear, and you
9 start asking questions and all of a sudden
10 they hear, before you know it --

11 COMM. GIANNOULIS: Just on that
12 note, the difference is when you say collude,
13 consult, communicate in regard to restricting
14 competition or inducing, that's different. I
15 am okay with that. All you are doing is
16 outlining -- I don't think it's actually
17 necessary to say the word "communicate" in a
18 bid rigging situation, because you are
19 obviously communicating.

20 CHAIRMAN DAUS: I think my point was
21 really more to the independent evaluation
22 language.

23 COMM. GIANNOULIS: The issue really
24 is in terms of revealing price, I think, at
25 the end of the day.

1 COMM. DEAR: You are reading it. You
2 are becoming a Talmudic scholar here, and
3 that's the problem. Because you can go. You
4 are thinking this is protected, no problem.
5 If this third guy hears it on the street
6 between two people, he is safe, because he
7 didn't collude, consult, communicate for the
8 purpose of restricting competition and
9 inducing other purposes.

10 But someone on the other side says,
11 "You are. You eavesdropped on a conversation.
12 You wanted to protect yourself. You can do
13 anything you want." I have to tell you
14 something, we are dealing with something that
15 eventually, and Mr. Gerber made reference to
16 it, it is not just now, a reference that you
17 will forfeit someone's bid. You are talking
18 about criminal charges and things like that.
19 This is serious stuff.

20 Before we run and rush, I want to
21 make sure that we understand. And the whole
22 purpose, by the way, and Commissioner
23 Giannoulis said it so eloquently, that the
24 whole bidding issue is to make sure that the
25 city, the agency or anybody else, government

1 doesn't lose. When you collude, that means
2 government is going to be cut out of this.

3 This last auction, it went through
4 the roof. You see it now, Medallion going for
5 \$600,000. People stop in the street and say a
6 Medallion for \$600,000. You are right, it has
7 gone skyward. So what we have to make sure is
8 this is an industry where you have thousands
9 of people, and let's say you have a thousand
10 bids, you have another thousand people who are
11 thinking about bidding and talking to each
12 other.

13 So you have everybody intermingling
14 and talking to each other. What happens
15 according to Section (o), if someone calls his
16 friend, and says, "Are you bidding? How much
17 are you bidding on it?" They have a
18 conversation.

19 COMM. GIANNOULIS: Right, but I
20 would say, based on DOI's recommendation,
21 forgetting about the recent investigation that
22 nothing came out of it, I accept DOI's
23 recommendation that it is a good idea to do
24 this. I actually do think it is a good idea
25 to do this and I do think it is a good idea to

1 encourage people not to tell each other what
2 their bids are, because that does lead to
3 illegal activity. And sometimes people do
4 things illegally because they are stupid, not
5 because they are corrupt. In fact, that is
6 often the case.

7 But I think this is a good idea, but
8 just coming up with the wording is, I think,
9 the more difficult thing. But conceptually I
10 think --

11 COMM. DEAR: You make a very good
12 point. There is a difference when we are
13 bidding for taxicab technology. --

14 COMM. GIANNOULIS: That's a problem,
15 the taxi technology is a perfect example
16 because it is something that everybody here
17 knows. Those seven companies, they knew who
18 the other guys were, they weren't going to
19 talk to them.

20 CHAIRMAN DAUS: Actually, at a
21 certain legal point it makes sense for them to
22 talk to each other in a bid. In fact, from
23 what I recall from what I heard about the
24 process, what ends up happening is losing
25 bidders or people that are thinking about

1 putting in a bid, end up having business
2 discussions with people who are bidding and
3 partner with them.

4 COMM. GIANNOULIS: Our particular
5 RFP wasn't a competitive pricing thing, it was
6 more of a technology thing. But in the
7 traditional kind of RFP vetting process,
8 whether it is a franchise, you have must have
9 seen at the Council, it's the same three
10 people who have been bidding for like the last
11 ten years and they know not to talk to the
12 other guys. And if they are talking to the
13 other guys, chances are, they are colluding.

14 So we should just figure out a way
15 for the thousand, maybe thousands, because
16 there are thousands who look at this thing.

17 CHAIRMAN DAUS: That's a fair point,
18 and I think this is a good debate. In fact,
19 the original intent of the lawyers putting in
20 this language, and DOI recommending it, was
21 that we look to the General Municipal Law as a
22 model. Because this is language in Section
23 (o) that is right out of the General Municipal
24 Law.

25 I think the thing that has come to

1 light today is when you think more and more
2 about how the industry operates, and that we
3 want to have a successful auction, you don't
4 want to get people dissuaded from talking to
5 each other if it's an innocent discussion.
6 That we maybe look at language that will apply
7 more directly to our situation.

8 Harry brings up a good point, I think
9 the context where you have four, five or seven
10 people that always bid on the same city
11 contracts, is very distinguishable from an
12 agency that goes and purchases advertising on
13 TV and goes to the airports and holds seminars
14 and intentionally tries to get people to start
15 talking to each other. I think you are right
16 in that regard, but I think that there is a
17 middle ground.

18 I think now that we have a different
19 intent clarified for to what we think should
20 come out of this, I think counsel can get all
21 the best legal minds together --

22 COMM. GIANNOULIS: And you try to
23 get a lot of people bidding. Where in a
24 normal bid process, you really don't want a
25 thousand people bidding because you don't

1 really want to go through the paperwork.
2 Normally, you want the five or six people who
3 you know you want to pick one of them..

4 COMM. DEAR: What I would like to
5 recommend to get there, and I think this is
6 very serious, we have some good people in the
7 industry. We heard from Mr. Gerber, who sits
8 on some very important professional
9 committees, and we have the former speaker
10 that represents some of the industry. I think
11 some of the people if we can bring them in to
12 sit down with Chuck, I think it's important.
13 Just to enlighten us because they present the
14 other side.

15 I think there is nothing wrong in
16 hearing what is going on out there, because I
17 am concerned. You have the same thing with
18 the broker and the lawyer, which is also a big
19 issue. And, of course, that is something that
20 we want to stop, absolutely.

21 What happens is the report is very
22 important from DOI. It tells us something.
23 It gives us a vehicle. It sends us a message.
24 So we have to deal with it. But, again, I
25 don't want something that is going to come

1 back to haunt us. Not haunt us, but the
2 individual thousands of people that are out
3 there.

4 COMM. GIANNOULIS: Is it possible
5 that the traditional or the rules that are
6 used for procurement and stuff like that, is
7 there anything there that is used that might
8 be applicable here in terms of a little bit
9 more flexible? I.

10 Just don't know. Is there a way to
11 put restrictions out there without opening --
12 whether it's a period where people can't talk,
13 enough to scare people I guess is what I am
14 saying?

15 MR. FRASER: There are some
16 differences that are fundamental, so in the
17 procurement context, you don't have brokers
18 presumably advising people how to bid. So
19 that's just not an issue. But we started out
20 with the basic language of 103-D, but as I
21 said, it is very general, it is very broad.
22 It basically says you can't collude for
23 purposes of depressing bids or whatever.

24 And we basically got feedback that it
25 wasn't specific enough. People wanted more

1 guidance as to what they could and couldn't
2 do. And that's why we got into all these
3 provisions.

4 Now we are being told that we gave
5 too much guidance.

6 COMM. DEAR: After all of this when
7 we write this in legalese, remember, there are
8 thousands of people out there bidding. We
9 have to put it in English somehow, so they can
10 understand what it is all about.

11 CHAIRMAN DAUS: That can be
12 accomplished as part of the outreach plan,
13 yes, absolutely.

14 Any other comments on any of this?
15 Any other concerns?

16 (No response.)

17 CHAIRMAN DAUS: I think we have a
18 good record to work with. It was a good
19 debate. We will reconvene. Counsel will work
20 -- we will get more input from the brokers,
21 lenders, the industry. But at the same time,
22 even more importantly, is to work on some
23 language to take into consideration some of
24 the comments with the Law Department and with
25 the Department of Investigation, which has

1 offered to assist us.

2 I think DOI has done a great job and
3 they have a great suggestion. But actually
4 the devil is in the details when you start
5 working on the language. We don't want anyone
6 to get caught up in this who is innocent and
7 who is not doing anything.

8 COMM. GIANNOULIS: If I could ask
9 Charles one last thing?

10 CHAIRMAN DAUS: Yes.

11 COMM. GIANNOULIS: Maybe there is
12 some way to have some kind of blackout period
13 or something, where, I don't know what it is.

14 COMM. VARGAS: Like an embargo.

15 COMM. GIANNOULIS: Maybe this is
16 totally ridiculous, but maybe at some point
17 somebody registers that they are bidder. So
18 that way everybody knows I am a bidder. You
19 are on a list and pretty much when you are
20 bidder, you are told --

21 CHAIRMAN DAUS: An intent to bid
22 procedure maybe.

23 COMM. GIANNOULIS: Right.

24 CHAIRMAN DAUS: That's interesting.

25 COMM. GIANNOULIS: At that point,

1 people are told, just so you know, this is
2 what you can't do, you can't collude, you
3 should speak to people about your bid, you
4 shouldn't do this or that. I don't know if
5 that makes any sense.

6 CHAIRMAN DAUS: Interesting.

7 COMM. GIANNOULIS: That way people
8 know during this time you can chitchat before,
9 but once your name is on a piece of paper,
10 when that guy starts talking to you at the
11 coffee shop about what do you think the price
12 is going to be? You can say, "I am thinking
13 about bidding, I can't really talk about it."

14 CHAIRMAN DAUS: It also puts people
15 on notice as to who they are talking to that's
16 bidding.

17 One more comment?

18 COMM. DEAR: First of all, I want
19 compliment the Chair. I remember standing on
20 the other side, not even allowed to speak when
21 I was the chairman of a committee. You
22 weren't the Chairperson. And some member of
23 the audience tried telling me something.

24 CHAIRMAN DAUS: Coincidentally, I
25 think that day I was testifying alongside

1 Commissioner Weinshall when she was First
2 Deputy at DCAS.

3 COMM. DEAR: And a former
4 Commissioner made the motion to allow me to
5 speak. Your predecessor --

6 CHAIRMAN DAUS: Diane.

7 COMM. DEAR: No. Commissioner
8 Vargas' predecessor made the motion to allow
9 me to speak. That is what happened.

10 Anyhow, the bottom line is that we
11 have had many discussions on many issues. I
12 think this is very healthy and it is very good
13 and it is very important. And we have also
14 done a bigger outreach to people out there.
15 So I compliment you for doing this, and it's
16 just a breath of fresh air. Sometimes out of
17 frustration people scream. That's part of the
18 process.

19 Like Andy afterwards, every time we
20 have a heated debate, he will come over to us,
21 "Fantastic meeting." The more heated debate,
22 he likes it much better. Feels it is a freer
23 process and it represents democracy. So thank
24 you, Mr. Chairman.

25 But I also want, just like we reached

1 out to the Design Trust people that provided
2 us all kind of things and everything else, in
3 this case here, I would like to reach out, and
4 I made a suggestion, to the attorneys that are
5 out there. We have some very good talented
6 attorneys out there, representing the
7 industry. They are not charging us for their
8 input. They are getting paid whatever that
9 is, but the bottom line is we should reach
10 out, because this effects them and a lawyer is
11 a professional. And the guys who come in
12 here, I have to tell you something, we have
13 raised the bar on professionalism of the
14 people representing the industry.

15 So I encourage that we have some sort
16 of meeting. Thank you.

17 CHAIRMAN DAUS: Okay. We don't have
18 to make a motion for that. It's tabled.

19 We have a presentation. It's Item 6A
20 on the agenda, Medallion Transfer and Escrow
21 Procedures. These are the rules that we are
22 proposing for a hearing in August. Chris
23 Wilson is going to give a presentation.

24 MR. FRASER: If I may, just briefly,
25 Chris Wilson is an Assistant General Counsel

1 on my staff. The Commissioners have seen some
2 of his work before but have not met him, so I
3 would just briefly like to introduce him.

4 Mr. Wilson came to my office about a
5 year ago with 20 years legal experience,
6 including ten years at the firm of Weil
7 Gotschal. His expertise was in complex
8 commercial transactions and structured
9 financing. He also dealt with secured and
10 unsecured lending, bankruptcy, real estate
11 transfers, trusts, bonds and escrows, which I
12 think uniquely qualifies him to deal with the
13 subject he is about to talk about.

14 I wanted to emphasize this, because
15 we are quite fortunate at TLC to be able to
16 attract attorneys with this caliber of
17 experience to our General Counsel's office,
18 and I wanted the Commissioners to be aware of
19 the scope of his experience.

20 Chris?

21 MR. WILSON: I hope I can live up to
22 that billing, Chuck. Thank you.

23 Good afternoon, Commissioners. I am
24 here, as Chuck said, to give you a preview and
25 an overview of the Proposed Medallion Transfer

1 Rules, which we believe will be before the
2 Commission in a public hearing in August. The
3 reason that we are looking at the issue is
4 that we have received considerable
5 dissatisfaction from the current process from
6 the industry.

7 The reason for this is that
8 Medallions are, by law, transferable property,
9 but the transfer requirements are set forth in
10 a variety of places, including the
11 Administrative Code, certain provisions of
12 state law, certain provisions of our rules,
13 and in some cases some of our requirements
14 have just evolved as a matter process over the
15 years. So there is no one codified road map
16 to what you need to do to transfer a
17 Medallion.

18 As a result, there is a sense that --
19 there is a perception that the current process
20 is both complex and often inconsistent,
21 including on a couple of major fronts, the
22 establishment and valuation of tort claims
23 against Medallions, which under the Ad Code we
24 need to take care of before a Medallion is
25 transferred.

1 In addition, there are questions
2 about what happens when a Medallion owner dies
3 and we no longer have an approved owner of a
4 Medallion. And, finally, issues
5 come up regarding when the Commission will
6 permit a trust owner interest in a Medallion.

7 Because of all these questions, as I
8 said, the industry is frustrated because they
9 feel they don't know what needs to happen and
10 what all the answers are. And we fear that
11 over time that could impair the
12 transferability of Medallions. So what we
13 have done, we have, we are striving by rule
14 revision to obtain more clarity in the rules.

15 Specifically what we mean by that, we
16 want to achieve several goals. We want to
17 facilitate the ability to transfer Medallions.
18 We want to protect lenders to the industry, as
19 state law tells us we must. And we need to
20 protect accident victims, as required by
21 Section 19-512 of the Administrative Code.
22 And I will talk a little bit more about that
23 in a minute.

24 As we looked to clarifying the rules,
25 it became clear that we should work towards

1 several objectives so that all requirements
2 are known and can be determined easily. First
3 we wanted to clearly set forth and streamline
4 the process. We want people to be able to
5 look at our rules and know what they need to
6 do. Towards that end, we want to specify
7 documentation and other requirements. In
8 addition, we want to bring clarity to the tort
9 claim evaluation process and end perceptions
10 that the process is incomprehensible and
11 inconsistent.

12 Finally, we want to clarify the
13 process, what happens following the death or
14 incompetency of a Medallion owner, where
15 presently our rules provide little guidance at
16 all.

17 Let me say a few words now about the
18 process by which the draft rules you will see
19 were developed. Industry input was a major
20 factor and consideration in the process. We
21 formed an advisory committee including
22 brokers, lenders, counsel and owners and other
23 members of the industry. We had numerous
24 meetings, both before drafting the rules to
25 establish guidelines, discuss processes,

1 review our current practices. And once rules
2 were drafted, we had a number of sessions with
3 people to review the drafts, and both group
4 sessions and one-on-one sessions to receive
5 and react to comments.

6 This led to several drafts of the
7 rule, including development of the final rule,
8 which will be circulated to you at some point.
9 At this point, although we didn't reach
10 agreement with the industry on literally every
11 point that came up and every comment they
12 made, their input was extremely useful. And I
13 would like to take the opportunity to thank
14 those who participated, for their input, the
15 time they spent reviewing, the comments they
16 gave us. We feel they really improved the
17 rule and the strengthened the rule that we
18 will circulate.

19 In revising the rule, we are bound by
20 numerous Ad Code and state law requirements,
21 which provide, among other things, that we
22 must approve new owners of Medallions. The
23 Administrative Code also provides that bonds
24 must be filed to protect tort claimants, that
25 is, accident victims. And case law specifies

1 that we need to look not just at lawsuits for
2 this, but we need to look at all potential
3 claims that are asserted.

4 Under state law, foreclosures are
5 permitted, but as the Ad Code provides, the
6 state law provides, the TLC is still permitted
7 to go through the usual approval process for
8 owners and we are not required to approve any
9 buyer in a foreclosure sale. But we are
10 required to approve any other buyer who would
11 otherwise approve.

12 Lastly, all transfers, whether people
13 are transferring the stock in a corporation
14 which owns Medallions or whether people are
15 selling Medallions outright, are subject to
16 the same requirements. I am aware, in
17 particular, that people in the industry
18 disagree with us on this point. We feel that
19 the Ad Code places a clear burden on us to
20 protect accident victims and we feel that the
21 Ad Code is pretty clear and the only way we
22 can protect those people is by treating both
23 stock transfers and regular asset transfers
24 the same way.

25 In addition, what we propose here, by

1 the way, follows our existing practice.

2 In terms of the Medallion transfer
3 processes outlined in the proposed rule, it
4 will largely follow our existing practice. We
5 will require much of the same documentation,
6 some of which is set forth here including
7 background documentation, fingerprints will be
8 required, corporate and partnership
9 documentation will be required where
10 applicable. We will ask for source of funds
11 documentation and we will ask for
12 documentation to permit the completion of the
13 Ad Code required review of tort claims. That
14 will include statements from insurers, a
15 survey of court and lien records, and review
16 of TLC files for any claims that have been
17 asserted against the Medallion that have been
18 forwarded to us.

19 The claim review arises because of
20 the requirements, as I said, of Section 19-512
21 of the Ad Code. Section 19-512 of the Ad Code
22 requires that before a Medallion can be
23 transferred, the seller needs to post a bond
24 to satisfy all tort claimants. Case law,
25 which has looked at this, has said we need to

1 look at not only tort claims that are the
2 subject of ongoing or concluded litigation,
3 but also claims that are merely asserted. And
4 that we need to make some evaluation of what
5 those claims are worth in terms of posting a
6 bond.

7 Under the new process, which sort of
8 follows the existing process in this respect,
9 we are told that practically speaking, people
10 don't obtain bonds. They are not available.
11 Bonding companies won't bond these sorts of
12 things, but we will require the posting of an
13 escrow.

14 The new rule clearly sets forth the
15 TLC process for determining the amounts of the
16 escrows, which claims exist, and how much must
17 be reserved for. And it will use the Office
18 of Administrative Trials and Hearings to
19 assist in that process when it is not clear,
20 when the parties can't reach agreement as to
21 those amounts themselves.

22 In addition to the legal
23 requirements, the proposed rules also address
24 a number of specific policy and process
25 requirements including what happens in the

1 event of the death or incompetency of a
2 Medallion owner. It allows for continued
3 operation of a Medallion for a period of 120
4 days following the death or incompetency of an
5 owner, provided that the Medallion is also
6 operated under an agency contract with a TLC
7 licensed agent.

8 What we seek to do here is prevent an
9 open-ended period of operation of a Medallion
10 without an authorized owner operator.

11 It's important to note here, the
12 original draft proposed a 60-day period. We
13 heard the industry which felt that 60 days was
14 much too inadequate to permit any sort of
15 resolution as to who should attempt to qualify
16 to operate the Medallion, and we doubled that
17 to 120 days. Again, we are balancing here.
18 We don't want an open-ended period, but we do
19 think that to avoid hardship to families, a
20 certain amount of time in which a Medallion
21 can be operated, income can be obtained from
22 that, is probably sensible.

23 Another policy and process issue
24 which we looked at in connection with the
25 revision is our policy regarding trust

1 ownership of Medallions. The TLC policy has
2 always been that we want active owner
3 operators. We want people who are in the
4 business. We want people who are concerned
5 with the business. We want people who are
6 accountable. And, although we permit and we
7 currently permit and intend to continue to
8 permit trust owning interest in Medallions, we
9 restrict that to trust owning interests for
10 the benefit of minors who don't qualify under
11 our rules to own Medallions.

12 But the new rule clarifies that when
13 those minors reach the age of ownership, they
14 must assume outright ownership in the interest
15 of the Medallion and they must qualify under
16 our rules to own the Medallion. Again, I know
17 people in the industry felt that we should
18 allow wider trust ownership. People felt that
19 would facilitate to an even greater degree
20 estate planning or ways to take care of
21 children who may not have interest in the
22 business. We looked at it, and as we said,
23 the staff thought that we wanted active owner
24 operators.

25 And so, we came out with the idea, or

1 continued the idea that only in the limited
2 situation in which a minor has inherited an
3 interest, it would be a trust owned interest.
4 And that's only in stock in a corporation, so
5 the officers will continue to be accountable.

6 That concludes the presentation. I
7 thank you for your time, and if people have
8 any questions, I am happy to answer them.
9 It's a big, complicated subject.

10 CHAIRMAN DAUS: Any questions?

11 COMM. POLANCO: Not right now.

12 CHAIRMAN DAUS: Chris, we thank you
13 and Chuck for all your efforts on this.

14 If you thought the auction rules were
15 complicated, wait until you see these. We
16 will get them to you way in advance. This is
17 an area where, over the years a lot of efforts
18 were made to streamline the process to make it
19 better, but there are still ways we can make
20 it even better.

21 And out of respect and courtesy to
22 the industry, the right thing to do is to make
23 sure that five Mayor's from now, ten
24 Chairpersons from now, that every time a new
25 person is hired in the legal department or in

1 the agency, that the rules don't automatically
2 just change because there is a new person
3 there. And that's something, because a lot of
4 these administrative paperwork issues were not
5 codified in rules, policy changes would occur.
6 I think it is a good practice to put all the
7 papers that required, everything that you need
8 to do a transaction, and have a fair and equal
9 playing ground all set forth in the rules so
10 that brokers and people that do these
11 transactions can look to them and point to
12 them and deal with it in a very logical,
13 transparent way. So I think it's a good step
14 in the right direction. I think there are
15 some great ideas.

16 Certainly, we will be getting copies
17 of the rules and executive summaries and
18 matrixes to them, and possibly having
19 individual briefings, if we could, way in
20 advance of the August meeting. So we have
21 some time on this, so thank you.

22 MR. WILSON: Thank you.

23 CHAIRMAN DAUS: Also, even though
24 Chris has been with us for a while, he is
25 getting introduced publically and getting

1 involved. I also want to thank somebody who
2 has been working with the Commissioners and
3 the Commission for a while now. That is Amy
4 Bann, who is leaving us.

5 Amy, do you want to stand up. We
6 want to say good-bye to Amy. She is leaving
7 the state.

8 (Applause.)

9 CHAIRMAN DAUS: Are you going back
10 to Seattle?

11 MS. BANN: I am going to Seattle.

12 CHAIRMAN DAUS: She is going to
13 Seattle with her husband.

14 Amy is the person responsible for
15 digesting all the things that we say here
16 day-in and day-out, putting together the
17 minutes and certifying them, which, as you can
18 see today with a lot of debate, it is not an
19 easy task trying to boil all this down.

20 And she has helped the agency in a
21 lot of different ways, so we want to wish you
22 the best and thank you for your service, and
23 hope you will visit New York City often and
24 take cabs and liveries and limos whenever you
25 have a chance. Thank you.

1 So welcome, Chris. Good-bye, Amy.

2 And the last item is there is a
3 motion to adjourn the executive session to
4 consider appeal, TLC versus Mohammed
5 Elbstamey, License number 443681. This is the
6 second time it's on, and I consent to having
7 an adjournment. It's the second time it was
8 requested the day before by the attorney, but
9 I would propose that we basically mark this
10 final.

11 I think for the industry and the
12 people that are listening, I think it's very
13 unfair to our Commissioners to request
14 adjournments, as attorneys representing
15 respondents, the night before. I understand
16 if emergencies come up, but this is the second
17 time. Out of courtesy and respect, this is
18 the second time we have had to waste paper and
19 kill trees.

20 Number two, this is the second time,
21 this is a pretty lengthy document that each
22 and every one of these people, who do not get
23 paid, they are not salaried, take time out of
24 their night to read this thing and come in
25 expecting to have a debate, that the attorney

1 just decides that they have other cases, that
2 they are not going to come in.

3 So I will agree to it this time, but
4 I would like that it be marked final, and for
5 attorneys that are representing the industry,
6 and respondents, and also industry
7 representatives, it's just not right and it is
8 not courteous. And I would request you be
9 mindful of that when you request adjournments.
10 Next time it will not be granted.

11 COMM. AROUT: I think you should
12 close it out right now.

13 CHAIRMAN DAUS: I don't think we
14 have enough people.

15 But unless you have a problem, we
16 have already told her that we will do it one
17 more time and mark it final.

18 COMM. AROUT: Okay.

19 CHAIRMAN DAUS: But in the future, I
20 think it is important to send that message to
21 the industry.

22 I think one time, that's fine, maybe,
23 if the Commissioners agree to it. But then it
24 is going to be marked final, and unless there
25 is some type of extreme emergency, I think it

1 is wrong to put our unsalaried board members,
2 who spend a lot of time with us, more than
3 ever before, to have to go through that.

4 With that being said, I would like to
5 make a motion to close the meeting.

6 COMM. AROUT: Second.

7 CHAIRMAN DAUS: All in favor?

8 (Chorus of "Ayes.")

9 CHAIRMAN DAUS: Okay, thank you.

10 See you in July.

11 (Time noted: 12:30 p.m.)

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C E R T I F I C A T I O N

I, MARGARET EUSTACE, a Shorthand Reporter and a Notary Public, do hereby certify that the foregoing is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.

MARGARET EUSTACE,
Shorthand Reporter