NYC TAXI AND LIMOUSINE COMMISSION
PUBLIC MEETING
held on Thursday, June 14, 2007
40 Rector Street
5th Floor
New York, New York
Public Meeting convened at 9:50 a.m:

PRESENT:

MATTHEW W. DAUS, COMMISSIONER/CHAIR
ELIAS AROUT, COMMISSIONER
NOACH DEAR, COMMISSIONER
HARRY GIANNOULIS, COMMISSIONER
IRIS WEINSHALL, COMMISSIONER
HOWARD R. VARGAS, COMMISSIONER
EDWARD GONZALES, COMMISSIONER
LAUVIENSKA POLANCO, COMMISSIONER
CHARLES FRASER, GENERAL COUNSEL
CHAIRMAN DAUS: Sorry to keep everybody waiting. Could everybody please take their seat and could we have some quiet.

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

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

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

We have many, many details to review and many, many items to work on in the coming months. At the next Commission meeting, it is
my plan to have staff make a detailed briefing and presentation for the Commissioners as well as for the public, so we will be going over some of those details in terms where we go with that plan at the July meeting, which is July 12th.

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

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

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

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

In terms of outreach, we have mailed to every single Medallion owner the marketing materials for two of the four vendors. The other two will be going out shortly. So their
materials -- and they paid for the mailing --
will be going to each and every Medallion
owner so they can choose between the four
companies. In terms of additional outreach,
we have been continuing to go to the airports
and to do everything we can to make sure that
owners and drivers are aware of the cost, the
benefits, the issues surrounding this
equipment.

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

    On the RFIs, if you remember we had
some Requests for Information that the
Commission approved over the last couple of
months. I just want to give you a quick
update on those. We have two of them where
the deadline has passed. June 1st was the
deadline for the RFI regarding mobility seats for accessible vehicles as well as the RFI for the Toyota Sienna accessible vehicle retrofitting project. Those are the Bruno and the Autovan initiated pilots respectively. Those deadlines have passed and nobody has responded, so we are proceeding forward with the original pilot plan with the people that presented them.

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

Item 4, Accessible Vehicle Demonstration Project. We had a presentation at prior meetings. Since the last meeting a notice was published in the City Record of which I have given copies to Commissioners and the public which sets forth the parameters of the demonstration project and gives the opportunity for, consistent with the
Procurement Policy Board Rules, other interested vendors to come forward and participate in the project if they would like to. I believe John Aserno's group, ExecuCharge, is the one company that is interested in doing this now. They have had prior experience in accessible vehicles and so forth. But the door is open to anyone and everyone who would like to come forward and participate in the project as well. So that was the purpose of that notice, consistent with the City Rules, and we will keep everybody posted on that.

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

A couple of upcoming Commission meeting notes. Our next scheduled Commission meeting is July 12th. We do not have at this time or probably will not have any proposed rules on, but we will have some items on the agenda. The next meeting after that is Thursday, August 9, 2007. We are planning to have Medallion Transfer and Escrow Rules and Procedures on for public hearing. We are
going to be having a staff presentation about that today, and we are hoping to get some rules on for a public hearing that will enhance the paratransit rules and the paratransit industry.

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

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

Kevin used to come here, you would probably recognize him, he used to wear a motorcycle jacket and he was very passionate. We didn't always agree with Kevin on a lot of the issues, but he was certainly always very, very helpful in giving some insight and some information on things. And somebody had told me, I had received some information that he
had actually graduated Regis High School, Joe had told me, which really didn't surprise me because I always found him to be, even though we disagreed with him a lot, a very, very smart guy. And he certainly was very passionate about the cause. He was one of the organizing members of the Taxi Workers Alliance.

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

(Moment of silence.)

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

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

Yes, Commissioner Dear?

COMM. DEAR: First of all, those who were in attendance with the Mayor's announcements with going green on cars, I noticed the cars there, and we had this conversation, and one of the things I did
notice, I just wanted clarification, I saw there was a wrap-around, which I enjoyed. I thought it was cool. It looked good and everything else.

Are they staying on those cars the way it is?

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

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

I like the car. I thought it was something different, it was unique and maybe something that we could start looking at in general with wrap-arounds, which I was always advocating for, even going back to my Council days. I remember fighting the prior Chair on this issue.
CHAIRMAN DAUS: You are suggesting it as part of a special event or a special project, not as a main stay.

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

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

I don't know if you want it as a
motion and then we could hear it at the next meeting?

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

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

So there may be certainly a valid public reason, because everybody loves doing stuff with cabs when it comes to PR because they are so iconic. So I think it is something that I am willing to consider for
myself. I don't know other the Commissioners,
but I think the best way to do it is not to
just do it piecemeal by Yahoo, which my
understanding is they are not requesting it at
this point. They basically were satisfied
with doing their press conference with the
Mayor and donating the vehicles.

But in the future, maybe there is
some way we can have a procedure for that. So
I would suggest that we bring the advertising
issue back and make that a part of it.
COMM. DEAR: I think we agree, but I
think we should take one piece, if we are
going to move forward in that direction, it
would be a nice thing, even though Yahoo
didn't request it. Maybe they figured that we
would deny it. So it would be a nice thing if
we could help them at whatever point we do
agree, that we should have it on the car.

I have to tell you, the way I saw it,
it was so interesting. It was done with
really good taste. I don't know, some of the
members were there. I was like, the cars look
really good. And I hope we can continue that
way. Then I realized it probably violates our
rules. That's why I wanted to raise that question.

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

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

COMM. DEAR: I appreciate that.

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

CHAIRMAN DAUS: Because you have to step up.

COMM. DEAR: Yes. And I know we are moving in that direction. We have to be
careful, because I am not even talking about accessibility of the car. I am talking about plain passengers, ordinary passengers. Any senior citizen could not get in and out. I will tell you right now, I know my mother-in-law can't get into my car. I need to bring a step tool and everything else.

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

So it is not only for our cars, but it may help other people. As I was talking to, I had a conversation with Andrew, and I said, "Andrew, as I am driving and talking to you, every block I was driving by there were five minivans or SUVs on the block." So there is a bigger market than just the taxicabs. There is a bigger market and I really suggest that we really make this effort together. So
I would like to see if we can make that push because I am concerned that because we want to go green, we are going to go with smaller cars and it will be a total inconvenience for our passengers.

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

The other thing that I sort of respectfully disagree with my colleague here. I drive around a lot now in my new job and I think it is great, I see all these hybrid vehicles, cabs, actually hybrid cabs on the street. Many of them are Escapes. Many of them, I am amazed to see the Toyota Highlander on the road. And I think that the old Crown
Vics are still there and people have a choice. Not everybody needs a big car, cab. If you are one person getting into a cab, it may not necessarily be a big one. So I think it's good that there is an array of different cars out there and people have a choice.

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

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

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

CHAIRMAN DAUS: In fact, to follow-up on that point, just yesterday San
Francisco, and Mayor, who had actually been here earlier to visit us on some other issues, just announced that they are going green, the entire fleet, he put a proposal forward. So certainly what the Mayor and the Commission and the City have put forward as an idea to start moving forward towards fully greening the fleet has certainly picked up traction in a number of cities including Seattle, Chicago, and others, that are all responding, once again, to New York City being the leader, thankfully, in this area.

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

On the issue of the meetings with Ford and GM, I think the issue here is that maybe the Commissioners aren't privy to every single thing that we are doing every step of the way. Peter and Andy and the staff have been traveling and meeting with these manufacturers. In fact, just this week they
had a meeting with top level executives at Ford about this very issue that you raised and GM. So maybe we can have a more detailed briefing for all of you. Or if you would like to join us at some of these meetings if you are interested. We can’t have more than five Commissioners, but if you have a great interest in joining in on some of these meetings, you are more than welcome, in my opinion.

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

Also when we went to the ITR conference last year and presented all the things we were doing with hybrids, a week later Ford was calling us saying we want to do an accessible vehicle that is clean-air fueled as well. So I think a lot of what the City and the Commission is doing is stirring the pot. But despite what we are doing, I think
at the end of the day the market forces in the automobile industry themselves are probably going to go towards hybrids. And Americans love big vehicles. Once they figure out a way to make bigger SUVs with hybrid technology, they are going to do that. They have, in fact, told me that.

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

Commissioner Arout?

COMM. AROUT: I just want to say I had the opportunity to be in Russia, and I came back last week, and it is funny, we were on a bus tour and one of the persons was talking about hybrid vehicles in New York City. And one gentleman said, "Gee, it was
great. New York City is going to have all
hybrid cars." I didn't discuss it with him,
he was doing all the talking. And it sounded
very, very good. Now, this is Moscow, so it
really gets around.

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

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

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

COMM. WEINSHALL: Mr. Chairman, just one other thing. I know many members of the industry are here, and I know this announcement was made and I know I speak for all the members of the Commission, we would be very interested in what the other members of the industry think about this proposal. So I hope there will be an opportunity to hear from the industry and get their input as well.

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

(No response.)

CHAIRMAN DAUS: Okay, Item 2, adoption of minutes from the May 10, 2007 Commission meeting. Any questions, comments, concerns,
proposed changes?

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

CHAIRMAN DAUS: Do we have a second?

COMM. WEINSHALL: Second.

CHAIRMAN DAUS: All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: Okay, it passes.

Items 3, base licensing application review.

MS. STEELE-RADWAY: Good morning.

Before presenting the bases on the agenda, I would just like to give an update on the bases that were recommended for denial at the May 10th meeting.

There were three bases that were recommended for denial. One of the three bases, B02083, BKF Car Service Incorporated, failed to meet the requirements that were set by the Commission, the 30-day requirements.

So that application has been denied as a renewal application.

Licensing would like to present before the Commission now 41 bases with a recommendation for approval.
CHAIRMAN DAUS: Any comments or issues with those recommended approvals?

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

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

And the other category which I will call non-administrative, where the dispatch of unlicensed drivers is either deliberate or inadvertent. That's definitely more challenging. I think that I am open for a frank discussion, and encourage the industry to come up an industry-led remedy, and then we would assist them in putting that forward.

Overall, I think that we should all be proud of the improvements in both delivery and service and reputation that we have experienced over the past two or three years.

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

CHAIRMAN DAUS: I would tend to agree with that. Commissioner Gonzalez has taken an active interest in this issue, had requested some sample business plans, which I think maybe before the next meeting I would like to get some of the sample business plans to some of the other Commissioners so you can also look at them.
I think it is worthwhile, now that we have been through this process for a couple of years now, to take a look at the business plans that were submitted and the creative solutions that we asked them come up with on their own in terms of running their businesses and being more accountable to us in their own way, and judging that against their performance in terms of their record since we last approved them. Because we basically gave them all a chance to clean up their act and I think now that is kind of wearing thing. And even though there have been some improvements, if you look at some of the records of some of the bases that are there, there is still room for much more improvement. And we have asked staff to come up with a plan, which they did. And part of that plan would include potential revisions to our rules to provide more standard operating procedures for bases, and maybe there are some ideas that are in these business plans that we can apply across the board to everybody. So as we go through that process, I
would suggest, if it's okay with you, that we basically share those sample business plans, and at the point in the future when licensing staff reports back on the status of the reforms and their actual recommendation of rules any rules that we might want to have, that we kind of basically put that out there as a concept.

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

I think this is a concept we spoke about and, ultimately, I think that is where a
lot of this could potentially lead. I don't
know if that's something you agree with or my
colleagues agree or disagree with.

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

COMM. AROUT: What number is that?

CHAIRMAN DAUS: It's the third

renewal.

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

So I think if we start stepping up
the information, the enforcement, by going in
when we review the base, not just going down
there and just looking at it and say, okay.

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

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

COMM. DEAR: We have passed some rules that supposedly makes it even easier for her to prosecute, for Pansy to prosecute. And she is doing a wonderful job. I think part of it that we should be focused on is let's see what she really needs. Not piecemeal. Let's
sit down and say what do you need from us as a
Commission to make this happen.

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

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

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

We need to put the standards in place
and my recommendation would be that we do that
first and then we will talk about increased
staffing.  Pansy is out there getting it done.
She knows where they are. We are issuing the
summonses. Now it is taking the summonses
where the convictions were and going after the
base because the base hasn't done their due
diligence.

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

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

COMM. DEAR: I always said it is an
target, the yellow industry. Going back to my
Council days when the police were giving out
ten summonses, one for bird droppings on the
hood and they never cleaned the car. You know, when did the bird dropping happen? Go prove it.

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

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

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

CHAIRMAN DAUS: Let's try to get this back on the July agenda. Let's have this
discussed at the next meeting.

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

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

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

COMM. DEAR: I just want to say something. It's amazing. I know the real good guys car service are here because I see Gene and Artie and I know a few of them. They are the ones that are suffering unfortunately. And they are going to be by the wayside,
because after them, they will say why should i continue being legal?

CHAIRMAN DAUS: In light of that, we will distribute the materials before the next meeting. We will see if staff can pull together some more information, but I think we had an item for consideration. Do we have a motion on these bases, to approve.

COMM. AROUT: I make a motion we approve.

CHAIRMAN DAUS: Do we have a second?

COMM. WEINSHALL: Second.

CHAIRMAN DAUS: All in favor?

(Chorus of "Ayes.")

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

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

CHAIRMAN DAUS: Do we have a motion?

COMM. DEAR: I will make a motion.

CHAIRMAN DAUS: Do we have a second?
COMM. WEINSHALL: Second.

CHAIRMAN DAUS: All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: As usual protocol,

all of those bases that were approved that

have one or more convictions for unlicensed

dispatch of drivers, that we treat them as we

have in the past, requiring business plans

subject to review:

COMM. DEAR: I just want to

compliment you, I know you are new at this and

your boss has trained you well. That division

now has come a long way with the new changes

in that department. And I applaud the work

that you are all doing there.

MS. STEELE-RADWAY: Thank you very

much.

COMM. AROUT: One more question.

Are we still working on the

assumption about these LA plates on Staten

Island especially? Have you heard anything?

MS. STEELE-RADWAY: Upon their

renewal, they should be phasing out.

COMM. AROUT: That's been quite a

long time now they are still running with LA
MS. STEELE-RADWAY: I will speak to our Deputy Commissioner and we report back.

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

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

CHAIRMAN DAUS: Thank you ver much.

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

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

First, I would like to thank you on behalf of the City and the TLC, for all of the pro bono work that you have been doing as part of Taxi '07 and these brandings and the
markings you are proposing for the cabs. This has been done free of charge by Smart Design. They have done a lot of work in close conjunction with New York City & Company. I just want to thank you personally. You have been fantastic and you company has really done well for the City. Welcome to the Commission.

MR. STOHL: Thank you, Mr. Chairman.

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

We have also heard concerns over ease of application of markings and repair of the markings if they have been damaged. We have addressed that by fare panels now specify to
be a single panel so they can easily be
removed if the fare changes. And the other
markings, although they are produced as a
single unit and applied as a single unit, so
everything will be aligned properly, each
graphic element is an individual element, so
if it is damaged it can be replaced in the
field.

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

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

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

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

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

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

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

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

COMM. AROUT: It is plus.

COMM. WEINSHALL: It is plus, but it is plus only certain times of the week and certain times of the day. That's what I am
saying. It's not always plus. Do you get my
point?

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

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

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

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

CHAIRMAN DAUS: Right. I understand
where Iris is coming from, but I think, we
made a decision to actually put more
information on it. Once you start doing that,
you have this potential scenario.
But for me, when I look at it, when it says night, that makes it clear to me. But in the interest of getting it done, I would suggest that we finally just get this thing out there. Unless you have any major concerns?

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

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

CHAIRMAN DAUS: Okay. Do we have a second?

COMM. DEAR: Don't we have testimony?

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

COMM. DEAR: But if there is testimony --

MR. FRASER: The public hearing is on the rule to require stickers that are approved by the Commission. This is the approval of the stickers. In other words, the rule as we have drafted it says that the stickers are to be provided by the Commission.
This is the design that meets the rule.
This can be changed without a rule making, in other words.

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

COMM. DEAR: We are voting on it.

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

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

COMM. WEINSHALL: There is no public hearing necessary.

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

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

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

CHAIRMAN DAUS: There is going to be testimony on stickers in general next.
COMM. DEAR: I think if there is public testimony, let's hear it. We don't just vote, then why do we have people to testify? No, I am not going to vote.

CHAIRMAN DAUS: We have a motion on the floor.

All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: Are you abstaining?

COMM. DEAR: I am voting no.

CHAIRMAN DAUS: Okay, that is fine.

It passes. Thank you.

Harry?

COMM. GIANNOLIS: Matt, who are they?

CHAIRMAN DAUS: Smart Design?

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

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

COMM. GIANNOLIS: I have been paying attention.

COMM. WEINSHALL: No, you haven't because Andy made a whole presentation on Taxi '07.
COMM. GIANNOULIS: Just a quick one-minute version.

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

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

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

COMM. GIANNOULIS: That's great.
Thank you.

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

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

Chuck, do you have a preview?

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

AUDIENCE: He is not here.

CHAIRMAN DAUS: Okay. Joseph Giannetto?

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

Obviously, as owners and operators of taxicabs, we have a proprietary and a vested
interest in the appearance of our vehicles; thus, we think it is cortically important that we comment on today's rules.

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

I was going to comment on the door decals but it appears that the designers have addressed our concerns over the fabrication of the decal, so I am going to move to the proposed placement of the Medallion number. From a passenger perspective, the placement of the Medallion number, depending on the type of vehicle, whether it is on the rear quarter panel of sedans or the rear-most portion of the rear doors on other vehicles, forces
passengers to look at two different locations for his or her important ride information, which is, by the way, the rate of fare, and, of course, the Medallion number on the taxi. So, moreover, think about it, the Medallion number gets lost with the checkerboard stripe decal placed right next to it.

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

We recommend that the Medallion number be centered directly above the rate of fare decal, that way the passenger only looks at one location on the vehicle for all his or her important ride information. And just as importantly, centering the Medallion number over the rate of fare decal makes its placement consistent on all taxis, regardless of the model of the taxi. This makes it
easier for the public to identify the taxicab, especially if it's moving.

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

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

CHAIRMAN DAUS: Sure.

MR. GIANNETTO: Thank you.

Lastly, the application of any new
exterior graphic design should be limited to new taxis as they are hacked up. Outfitting new cabs as they are put into service poses no logistical problem whatsoever and, in theory, it would be cost neutral to the industry.

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

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

That concludes my testimony. Thank you.

CHAIRMAN DAUS: Thank you.
The next speaker is Mr. Dave Pollack.

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

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

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

COMM. GIANNOUSIS: How much do these things cost that everybody is talking about?

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

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

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

COMM. GIANNOULIS: Is that for a full set?

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

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

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

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

COMM. WEINSHALL: I have a problem with that.

COMM. GIANNOULIS: Not to put work on the staff that do inspections, but wouldn't
it make sense if we just charged them, as part of the inspection process, or something 20 bucks, and just put the stickers. No different than you put a registration sticker on your car when you get an inspection.

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

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

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

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

COMM. GIANNOUlis: I understand
that. I am sure you can put stickers on. I am not trying to give you more work.

MR. SCHENKMAN: I am sure we could.

But I have spoken to different meter shops and for the most part, a hack-up, and this is strictly new cars, a hack-up is a set price, it is a flat fee. And I have spoken to the largest to one of the smallest, and they have all indicated that it is not going to really change the flat rate if it's $1,000, if it's $1,200 to put a meter in and change the seat covers and stuff, it's insignificant.

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

COMM. GIANNELIS: I don't buy the cost argument, with all due respect. I would be interested in what the industry thinks about this, but I've always thought why aren't these -- they are our prices, I have never understood why they don't get put on as part of an inspection process. Maybe it's a lot of work. I have no idea.
CHAIRMAN DAUS: I think it's a little more work, because there is painting involved.

MR. SALKIN: There are a couple of things I want to clarify, two things. One is while there is a date certain that the vehicles, this is on the phase-in, that the rule goes into effect, the enforcement that we are doing will be done upon the inspection that occurs after October 1st. So basically we have a four-month phase in.

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

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

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

MR. SALKIN: Yes.

CHAIRMAN DAUS: That's reasonable.

COMM. WEINSHALL: That's fine.

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

MR. SALKIN: That's at your inspection S&E.
CHAIRMAN DAUS: That will take forever. It would take five years.

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

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

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

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

MR. SALKIN: That's a fair point.

The way we are looking at it is, the idea here is we are trying to communicate with the public, and the stickers that are currently
there have evolved over time without any cohesive comprehensive thought to it. And I know, I was intimately involved with designing the last sticker. If you look at the current sticker, the prices on the front panel, as opposed to the back panel where the passengers get in.

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

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

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

COMM. POLANCO: The only issue I
would have is I don't want basically something
to be approved, and then a year later, we have
to go over again, because now they have to
basically have to approve new vehicles, they
have to change the whole fleet by a certain
time and then an additional cost is imposed on
the industry.

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

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

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

And I think we will seriously look if
we have some aesthetic issues that we want to raise a year from now, I think we should seriously look at who is going to pay for that.

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

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

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

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

COMM. DEAR: I am just concerned,
people are raising concern of additional cost
to the cab drivers. We always look at the
fleets as the only guys in the industry.
There are at least 10,000 single owners, guys
who own their own little cab, mom and pop
guys. Every dollar means a lot to them. And
my concern here is you have NYC Taxi the old
way, right, how do they get rid of it?
I don't think it's put on by a
sticker. They have to paint it over, so it's
an additional cost, am I correct with that,
Andy? It's going to be an additional cost
more than just a plain sticker of 20 bucks
plus 20 for installation?
MR. SALKIN: No. I just want to put
it into perspective. The average cab does
about eight to 10,000 rides a year, actually
more. And we are talking about $40. We are
talking about .4 cents per ride for cabs. The
average cab ride is between $10, $11, $12.
Yes, it is an expense, but I think
over the lifetime of the vehicle, which can be
up to five years, so you figure .4 divided by
5 ends up being .02 percent of each ride of a
cent goes to the cost of the sticker. In
terms of the expenses that everyone has, this is not a significant expense.

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

MR. SALKIN: No most vehicles --

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

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

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

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

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

COMM. DEAR: That's now. I am
talking about what is going to be.

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

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

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

CHAIRMAN DAUS: Commissioner, with all due respect, we are not going to go around the table nos. I think we need to finish the public hearing. We are going to lose
Commissioners. We have two more speakers and then we will go back to your point.

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

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

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

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

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

MR. SAPONE: That's okay.

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

Now, if you could go after the hotel,
that will be even better. Anyway thank you again, Mr. Chairman.

CHAIRMAN DAUS: You are welcome.

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

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

You know, the City has a $4 billion surplus. This agency makes hundreds of millions of dollars for the city. I know you guys don't keep this money, I know you are working on a string. We are talking about hundreds of million of dollars here. Maybe people think what's the big deal, $20?
But you know what, it is not only $20, it is $20 more putting it on. It is time getting there off duty. It is time being there getting it on. So when you look at the whole picture, it costs the owner-driver $70. And you know what, it may not be the end of the world, but they are small business people, they are getting chipped away at with certain things that the city is putting on them, certain demands. It is getting more expensive. The raise is slowly disappearing. I am not saying it's all gone, but it's slowly, slowly disappearing. Why can't City Hall, listen, we have a great Mayor, if he ran for president, I will vote for him, no question about it. But why can't City Hall, instead of giving to this group and that group, let's help the cab driver. It's $40, whatever it is, let's do something good. We want this in, let's pay for it. I don't understand what the problem is, okay. Slowly but surely, we he are getting banged over the head. And some people look at me and say he is complaining over $40 or $50. But you know what, it is $40 or $50 for 3,000
members, and they don't want to pay for it. If they can get it for nothing, they will accept it. Thank you, sir.

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

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

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

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

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

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

SAMARA: This is actually the size of the sticker.

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

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

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

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

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

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

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

Well, here I am, again at the TLC,
where truth goes to die. Thanks for the
tribute to Kevin. He died of cancer, not that
much unlike the cancer being spread by the TLC
with GPS.

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

MR. LINDAUER: But GPS is a horror.

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

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

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

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

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

CHAIRMAN DAUS: He makes a good
point. Please sum up on this rule -- well,
your time is up anyway.

MR. LINDAUER: One minute, please.

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

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

MR. SLOAM: Tough act to follow.

Here is a copy of my testimony.

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

Given the competitive market realities that we face now, we all plan to provide many of our taxi customers our equipment for free, which means that collectively we will be investing some 30 to $40 million or more in the new technology, all for the speculative hope of selling advertising on the touch screens facing
passengers inside the cab and, ultimately,
becoming profitable.

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

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

But, again, the main basis for my request is simply that in light of all that we
have done for the Taxi Technology Project and
that we will continue to do, we feel that we
have earned the right to build a brand by
displaying our logo on the outside of the
taxi.

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

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

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

MR. SLOAM: Thank you.

CHAIRMAN DAUS: And I will bring
back some information to the Commissioners.
That concludes our public hearing.

Before I open it up for further discussion on the vote, I would like to make a couple of comments.

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

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

It is hard in dollars and cents to quantity that right now, but the good will, the recognizability of the cabs, having them
look good, perception in life is everything sometimes. You also have to look at the substance of the service, the safety of the service, but perception and the way something looks is a very large part of a service. If you a rickety looking vehicle or a hodgepodge of vehicles when you go to a particular city and you look at their taxicab services, it doesn't promote uniformity, it doesn't necessarily look beautiful. We are making all sorts of efforts as an administration and a city to make the city look more beautiful.

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

A lot of work was put into this. Nobody had raised any of these concerns prior. Basically we have been very responsive to the Commissioners, we've made changes to the design, we had the designers who are working
free of charge who could have charged a lot of
money doing it for free, pro bono. In my
opinion, while I understand the concerns that
are here, I would like to make a motion that
approve the stickers and the rules -- we
already approved the stickers.

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

Do I have a second?

COMM. WEINSHALL: Second.

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

CHAIRMAN DAUS: Yes.

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

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

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

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

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

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

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

COMM. AROUT: I second the motion.

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

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

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

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

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

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

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

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

COMM. DEAR: Mr. Chairman, the way it
works, I didn't ask you to make an amendment.
I can make the amendment and you can shoot it
down. But there are rules as to how we apply
things. This is not a dictatorship here.

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

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

CHAIRMAN DAUS: Is that correct,
Chuck?

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

COMM. DEAR: Hold on a second.

Where are you getting those rules,
Chuck? Like the rules you said before. Give
me a break. Quote me where there is a rule
that I am out of order.

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

CHAIRMAN DAUS: Why don't we do
this, because there seems to be a disagreement as to --

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

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

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

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

(Show of hands.)

CHAIRMAN DAUS: Anyone opposed?

(Comm. Polanco raises hand.)

CHAIRMAN DAUS: Okay, one against.
So that passes.

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

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

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

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

MR. SALKIN: As far as administratively dealing with it and the discretion for us to enforce certain rules and not enforce certain rules, I think we have the discretion we use all the time. Commissioner Mullins is here, Commissioner Schenkman is
here. We hear what the Commissioners' desires are and we got it.

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

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

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

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

COMM. GIANNOULIS: So, Matt, where
does the four months come from then?

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

COMM. GIANNOULIS: But if somebody
is getting an inspection two days from now --
CHAIRMAN DAUS: Well, they will get
some lead-in time because after we vote on it,
we have to publish it in the City Record and
it doesn't become effective until a month
after that. So they are going to get plenty
of lead-in time.

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

CHAIRMAN DAUS: No.

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

CHAIRMAN DAUS: We are going to send
them a notice that says as of this date if you
have an inspection that comes in after that,
you have to have this on the vehicle. And we
are going to figure out a way to do that to
make sure that they have the proper notification.

Is that accurate, Peter?

MR. SCHENKMAN: Yes.

COMM. GIANNOLIS: We are going to send out a notice to everybody who owns a Medallion that this rule starts on this date and prior to this date this rule is not enforced?

CHAIRMAN DAUS: That's what we usually do.

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

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

COMM. GIANNOLIS: That's good that we are not fining them, but are we going to say that -- you guys know this a lot better
than I, but in terms of people getting -- in terms of Medallion owners getting the information, and we certainly don't want them coming back twice to you, right. So given that we have had like a one-hour discussion about this, this is pretty confusing.

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

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

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

COMM. GIANNOULIS: So this four-month thing that we said isn't really real?
CHAIRMAN DAUS:  No, it is.

COMM. MULLINS:  It is real for most people.

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

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

MR. SCHENKMAN:  By December 31st.

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

But if somebody comes up for inspection after the 30 days that this takes
to post, if they show up the next day, they have ten days, correct?

COMM. MULLINS: Right.

COMM. GIANNOULIS: So that is not four months.

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

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

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

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

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

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

And, again, this will not take effect until October 1st, so there is plenty of time
for people to become aware of this, so your
inspection starting October 1st is when you
would fall into this, and then there is a
four-month period in which we would see every
cab. There is not a cab that we won't see
during that four-month period.

COMM. GIANNOLIS: I understand that.

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

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

The proposed rules will expressly
prohibit collusion between bidders, would
forbid disclosure of bid prices to other
bidders, and would prohibit brokers who advise
or assist clients in the preparation of clients' bids from being bidders themselves. The proposed rules require bidders to certify their compliance with these anti-collusion provisions on forms to be included in the bid package.

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

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

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

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

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

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

First, after the last auction, the
bidders, some of whom are my clients, were
investigated thoroughly by the Department of
Investigation. No wrongdoing or violation of
rules was found under the existing definitions
of collusion for unfair bidding. These rules
now seek to set forth a new expansive
definition which will provide all kinds of traps for the innocent.

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

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

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

I have used the term "criminal" a few times. I don't use this term lightly. I know there are attorneys in this room and I know there are criminal defense attorneys on the Commission, and I myself have been both a prosecutor and a criminal offense attorney. And I point out that Penal Law Section 210.40
makes filing a false certification -- I ask
for a couple more minutes, Commissioner.

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

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

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

    This opens the door to all kinds of
allegations, all kinds of accusations, perhaps
by losers of bids who are aggrieved by their
losing of the bids. Perhaps by competitors,
who merely have to suggest that they received
a communication or heard a conversation or
were told that a prospective bidder, and maybe
that they didn't bid because they heard the conversation was going to be high. This would open the door to an investigation.

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

COMM. GIANNONIUS: Where in the rule does it talk about a prospective bidder?

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

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

COMM. GIANNONIUS: Okay, thanks.

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

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

MR. GERBER: No, they are not.

CHAIRMAN DAUS: You have other sections?

MR. GERBER: I do.

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

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

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

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

I am not exactly sure how one comes to a million dollar investment completely independently, and I am not sure how you do that, how you evaluate it without
communication to your peers or to your professionals or to the city. And when I say "to the city," 13-03(a) also says that I must certify, the bidder must certify that he is not relying on communication of the city whatsoever. So, in other words, I can't communicate, if I am a bidder, I cannot communicate with my colleagues, with my peers in the industry, as to what I think the fair bid price should be. And I can't rely on the city's representations of what the asset I am attempting to bid will be.

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

Moreover, I believe this section of the rule was not designed for the last auction, but on the auctions that preceded it,
where bidders were not able to put cars on the road for the handicapped accessible vehicle rule. They attempted to do so, were unable to find a vehicle that the TLC was willing to hack-up at the time. The lawsuit that resulted, an Article 78 resulted simply because the owner, the bidders, the successful bidders had relied on statements that there will be vehicles available. There were not. Under these rules, you can't even allege that. You can't even come up and say, yes, I thought the TLC had approved, the TLC had made statements, the City of New York had put its stamp of approval on this auction and said there will be cars available. We are not allowed to rely on those statements of the City of New York here. So we can't consult with our colleagues as to what we think the fair price is. We can't consult with the City of New York as to what we think the asset we are purchasing for. So certainly we could at least go to our professionals. We could go to our attorneys and we could go to our brokers and find out from them. But maybe not,
because the rules here under 13-03(p) state
that a broker who has an employee or a broker
who has an agent -- I'm sorry, I don't think
it says the word "agent" -- that has an
employee, a shareholder or a member of that
brokerage, if any of them intend to bid in the
auction, or the broker himself intends to bid
on the auction, he may not act as a taxicab
broker for the other bidders.

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

That also goes to the fact that it
doesn't matter in these rules whether the
broker is acting to give advice as to price or
not. It could be merely an administrative
function. It could be merely helping them
meet the envelope, the stamp, the requirements necessary. If they just act in a purely administrative function as a broker and submit, they are not allowed to participate in the auction, which is important, because these rules also add many, many specific requirements as to how the bid is received, including the size of the envelope. So the uneducated public is going to be further precluded and maybe result in bids being foreclosed.

13-03(e) addresses not a collusion issue that occurred in the prior auction, but is directly related to the Article 78 that successfully resulted against this Commission, I'm sorry to say. It has to do with the inability to close on Medallions within 30 days. If I am a bidder and I am unable to close on a bid within 30 days, under these new changes which have nothing to do with collusion, under these new changes, the only way I can get an extension is to put up another $12,000 and show proof to the TLC that I have already secured the purchase of a vehicle eligible for hack-up.
Please note, Commissioners, that the last time this was a problem it was specifically a problem because there was no vehicle available for hack-up in the first place. So, in other words, if there was no vehicle available for hack-up and I have to close on my bids, the only way I can get an extension is by showing that I have a vehicle available for hack-up. This is a Catch-22. I do not believe it's what this agency intended. I see Mr. Fraser shaking his head, but I ask you, Commissioner, please look at 13-03(e).

CHAIRMAN DAUS: Okay, is that it?

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

13-03(g) and (m), I believe Mr. Fraser addressed one of my concerns in this in what I understand is a recent amendment that I haven't seen, but I understand there is a
recent amendment. So that if you forfeit on
one, you don't forfeit on the others.

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

MR. GERBER: It is never the case?

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

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

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

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

If that's the case, I simply can't
assign it to a corporation that I am a member of.

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

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

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

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

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

MR. GERBER: I understand. I direct your attention to 13-03(g), the rights of a
winning bidder are not assignable prior to close of sale, except that such rights may be assigned to a corporation. No winning bid may be assigned to any corporation, Limited Liability Company or partnership, or the shareholders, members, partners, which include any winning bidder for any lot which has failed to comply with the requirements of Subdivision E of this section.

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

MR. FRASER: Again, I will direct you to the very last clause of Paragraph G, "with respect to such lot." Not with respect to all bids, but with respect to the bid as to which there was a default.
CHAIRMAN DAUS: That is what that means.

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

CHAIRMAN DAUS: Does that conclude your testimony?

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

Thank you.

CHAIRMAN DAUS: Thank you.

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

MR. FRASER: First, the independent
evaluation point that Mr. Gerber made, to the extent that he referred to constraints on consulting with peers and colleagues, that may well be so. To the extent that the peers and colleagues are bidders, yes, the bid prices may not be discussed with other people who are bidders or prospective bidders.

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

   We didn't specify attorneys, but I would suggest to you that the logic that I just outlined would apply to attorneys and, obviously, there would be constitutional problems with precluding seeking of advice from an attorney, and these rules do not do that.
Now, however, if that attorney advises and consults on the price of client's bid, that attorney cannot obviously be a bidder him or herself.

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

The intent of that clause is to prohibit a bidder from subsequently saying "I went to the TLC presentation and they told us that winning price would be this," or something like that. Because, of course, we do publish average Medallion prices on a monthly basis, and we don't want someone coming to us later and saying, "It is your fault that I bid what you said the average price was." That's all that is intended to
do. That's all it did last time. That's all
the certification form says.

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

I think the rule actually says bill
of sale or some other. It's clear that it
does not mean possession of the vehicle. It
means you have to have put in the order and
you have to show us you put in the order
because we don't want you waiting more than 30
days to order a car on a winning bid.

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

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

In particular, that is Sections
13-03(a) and (o). On the independent
evaluation piece, I understand what was
intended and I agree with it, but there may be
a way we can come up with some more clarity to
make sure that all of the bidders and the
members of the public and the rules lay the groundwork so people don't get scared into not bidding. That they know exactly what they can and cannot do. I think we attempted to do that in some memoranda that the Commissioners have been considering at the advice of counsel, but for purposes of public dissemination, I think if the rules or the statement of basis and purpose can make it perfectly clear exactly what you can and cannot do, I think that will be helpful.

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

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

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

They walk away. Another person
happens to hear that conversation. So Person
A and Person B go their separate ways, having
no idea whatsoever whether each of them are
going to place a bid. The person who started
the conversation places a bid, becomes a
winning bidder. Before putting the bid in,
has no conversation with this other person
whatever, signs a certification form that
they haven't consulted with anybody that they
believe is putting in a bid.

Lo and behold, the person that he had
the conversation with, without knowledge, puts
in their own bid. Person C comes forward,
makes a report to DOI and says, "I saw these
two guys talking and they conspired, they were
talking in the holding lot to one another."
And I think it is a very potential valid
unintended consequence of these rules that
that person, who had no knowledge of a casual
conversation, ended up putting in a bid,
signed a certification form and now can end up
facing criminal charges because somebody had
basically reported a communication between
them, which is evidence that there was
something going on.
And I don't think that that's what any of us intended to happen. I think what we intended is when people sit down in a room with smoke and cigars saying, "How are we going to figure out how to rig this auction," that's what it was intended to prevent, and that is the concerns that we and DOI have. Not the innocent bystander who, quite frankly, has the right to solicit information from a variety of sources.

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

And, number two, is there any way, Chuck, that we could work on language to make it clear that that innocent guy or gal in the
coffee shop or in the holding lot, doesn't get caught up in this. And, furthermore, you know how rumors spread in the industry, overnight this could be distorted in a way where we had a situation where there were 150 accessible Medallions and we had problems getting people to bid on them. Now if we are looking to attract more buyers, because it's hard for lay people to understand -- it is hard for lawyers to even understand what we were just talking about. So for somebody who is looking and studying this issue, can't figure out what it is, the guy in the street who is thinking about bidding and talking to professionals about it, hears rumors, you better not talk to anybody. And that's the way things happens in the real world. Who is even going to think about putting in a bid. We may end up with no bidders.

So I understand where you are coming from. With all due recent, I wish we would have had these comments a little bit earlier. I would have been nice if we had them a couple of days earlier, but be that as it may, there is no urgent need in the time frame for us to
vote on these today. So I don't know how you
feel, but I have no problem tabling this to
see if we can come up with other language on
these provisions. And if anyone has any
comments about other things other than what I
have raised, or if you feel differently, just
let me know.

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

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

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

COMM. GIANNOULIS: How many folks
put in bids at the end of the day for
Medallions?
MR. FRASER: In the last auction, I don't know those numbers.

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

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

CHAIRMAN DAUS: It was a healthy number.

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

COMM. GIANNOULIS: So what's the number?

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

COMM. GIANNOULIS: Thank you.

I think it's an issue across the board here, but I think it is particularly issue with this bid price information.

Normally, and I have done a lot of this stuff, normally an RFP or bids, there's four people who respond to an RFP, or five. And everybody knows who they are. It's the same five people.

You know, the Taxi Technology bid,
you didn't have a thousand people come in, right. You had how many, seven or 10, whatever it was, but I am sure it wasn't a thousand. So just the fact that we are talking about a thousand parties that are at risk, kind of becomes a difficulty when looking at that Municipal Law. Because at the end of the day, the classic kind of bid rigging stuff, the stuff you hear about at the Board of Education, the food contracts, it is four guys and half of them are cousins. They all kind of sit down and chop the thing up, but everybody knows it's those four guys. Here you are talking about a thousand different people, so, the likelihood of somebody giving out information without any negative purpose is much greater when you are just dealing with the numbers of people. So I think we should be careful when we look at other restrictions that are done in other traditional RFPs and other bids, because you I guarantee you, there are almost none that I have ever heard of, whether it is franchises or any kinds of bids that the city does, that generates more than ten responses, as opposed
to a thousand.

CHAIRMAN DAUS: I agree with you.

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

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

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

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

COMM. GIANNOULIS: My point is less
about the collusion then about the revealing of prices. That's my point. In other words, collusion is collusion. If an investigation occurs, people could figure out whether collusion occurred. Inevitably somebody has to flip on somebody because if there is two people in a room, either you have to have a microphone or somebody has to say this is what we did.

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

Here you have a thousand people. They literally don't know if the person they are talking to is a bidder. So I think in terms of the revealing the price, which I understand why you want to not allow that to
be public, but I just think that is kind of a sensitive one because I think the amount of people that you are talking about and the amount of conversation that occurs, that's just one point.

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

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

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

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

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

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

COMM. GIANNOULIS: No. I mean, the other issue with prospective bidders, going now to this term of prospective bidder, which disconcerting to Ethan, it is not so much about the prospective -- to me, all these
issues don't go to the issue of collusion. They go to the issue of revealing your bid.

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

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

So the real issue is about revealing the price. That's what the prospective bidder thing comes down to. And I do agree, how would you possibly know. Let's say you were talking with somebody -- I guess you could do this. Let's say you were talking
with somebody about going into business
together. And you were like, "How much do you
have?"
"I have 50 grand. How much do you
have?"
"I have 50 grand. What can we put
this thing in for?"
"500 grand."
And then you don't do business with
the person. You go off and you put a bid in
for 500 grand. The other guy says, "Hmm, I
decided not to go into business with him but
he probably putting for 500 grand."
Is that collusion? No, not under the
rules of collusion.
So then I go and I put in 450 grand,
or a larger number, whatever strategy one
would implement, right. Did I just do
something wrong? I guess I did, but I didn't
really. And I would submit that probably
happens, I don't know if it happens regularly,
but it probably happens, right.
Whereas, if I sat down with that same
person and said, "You put in the 500 grand and
I will put in 550," yes, then I broke the law.
But if we just had a conversation about the price, it doesn't seem -- that seems like you open a lot of kind of weird -- and I have to be clear, I respect DOI and all that, but I have been there personally, I have been there with clients. It's very easy to get accused of something, and Gerber should have charged a lot more money than 30 grand. I mean, people get wiped out paying attorneys.

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

One last thing was, I assume on the brokers, are brokers allowed to still do other things? In other words, if I am a broker and somebody comes to me and says, "Well, I am thinking about putting in a bid." If I have either put in a bid myself or if I represent
somebody else, if I know that somebody else I represent, I've advised them and I know that they are going to put in a bid, I am supposed to say, "I can't talk to you about that bid," correct?

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

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

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

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

CHAIRMAN DAUS: Is there a provision in our rules that prevents brokers from disclosing to one potential bidder that comes to them, the prices of other potential bidders? If a broker has two clients and Client A comes to the broker and says, "I am thinking about bidding $600,000 at the auction," and then the broker goes to his
other client who he may have a personal family
relationship with or may like him or her
better, and goes, "You know what, I think
maybe you should bid $601,000. That's my
advice to you."

What is there to prevent that from
happening?

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

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

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

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

MR. FRASER: No. I would assume
without knowing this for sure, that brokers
have a fiduciary obligation to their clients.
That doesn't mean that they can't advise
multiple clients, obviously. But it does mean
there is a certain degree of confidentiality
between the broker and the client.

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

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

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

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

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

You have to understand, the way we bid Medallions, you gave a very good example before of people talking to each other and one guy overheard. Technically, by that law, they violated because they communicated. I don't
know what communication means. I heard it, that's communication also. And if someone wants to be -- we have seen it, Commissioner Giannoulis has made reference to it, if you want to go after somebody, it's very easy to go after somebody. You have words here that really could nail somebody if they want to. My concern is that it is not clear, and you start asking questions and all of a sudden they hear, before you know it --

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

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

COMM. GIANNOULIS: The issue really is in terms of revealing price, I think, at the end of the day.
COMM. DEAR: You are reading it. You are becoming a Talmudic scholar here, and that's the problem. Because you can go. You are thinking this is protected, no problem. If this third guy hears it on the street between two people, he is safe, because he didn't collude, consult, communicate for the purpose of restricting competition and inducing other purposes.

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

Before we run and rush, I want to make sure that we understand. And the whole purpose, by the way, and Commissioner Giannoulis said it so eloquently, that the whole bidding issue is to make sure that the city, the agency or anybody else, government
doesn't lose. When you collude, that means government is going to be cut out of this.

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

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

COMM. GIANNOULIS: Right, but I would say, based on DOI's recommendation, forgetting about the recent investigation that nothing came out of it, I accept DOI's recommendation that it is a good idea to do this. I actually do think it is a good idea to
encourage people not to tell each other what
their bids are, because that does lead to
illegal activity. And sometimes people do
things illegally because they are stupid, not
because they are corrupt. In fact, that is
often the case.

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

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

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

CHAIRMAN DAUS: Actually, at a
certain legal point it makes sense for them to
talk to each other in a bid. In fact, from
what I recall from what I heard about the
process, what ends up happening is losing
bidders or people that are thinking about
putting in a bid, end up having business
discussions with people who are bidding and
partner with them.

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

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

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

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

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

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

COMM. GIANNOUNIS: And you try to
get a lot of people bidding. Where in a
normal bid process, you really don't want a
thousand people bidding because you don't
really want to go through the paperwork.

 Normally, you want the five or six people who
you know you want to pick one of them...

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

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

What happens is the report is very
important from DOI. It tells us something.
It gives us a vehicle. It sends us a message.
So we have to deal with it. But, again, I
don't want something that is going to come
back to haunt us. Not haunt us, but the individual thousands of people that are out there.

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

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

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

And we basically got feedback that it wasn't specific enough. People wanted more
guidance as to what they could and couldn't do. And that's why we got into all these provisions.

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

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

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

Any other comments on any of this?

Any other concerns?

(No response.)

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

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

COMM. GIANNOLIS: If I could ask Charles one last thing?

CHAIRMAN DAUS: Yes.

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

COMM. VARGAS: Like an embargo.

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

CHAIRMAN DAUS: An intent to bid procedure maybe.

COMM. GIANNOLIS: Right.

CHAIRMAN DAUS: That's interesting.

COMM. GIANNOLIS: At that point,
people are told, just so you know, this is what you can't do, you can't collude, you should speak to people about your bid, you shouldn't do this or that. I don't know if that makes any sense.

CHAIRMAN DAUS: Interesting.

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

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

One more comment?

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

CHAIRMAN DAUS: Coincidentally, I think that day I was testifying alongside
Commissioner Weinshall when she was First
Deputy at DCAS.

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

CHAIRMAN DAUS: Diane.

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

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

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

But I also want, just like we reached
out to the Design Trust people that provided
us all kind of things and everything else, in
this case here, I would like to reach out, and
I made a suggestion, to the attorneys that are
out there. We have some very good talented
attorneys out there, representing the
industry. They are not charging us for their
input. They are getting paid whatever that
is, but the bottom line is we should reach
out, because this effects them and a lawyer is
a professional. And the guys who come in
here, I have to tell you something, we have
raised the bar on professionalism of the
people representing the industry.

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

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

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

MR. FRASER: If I may, just briefly,

Chris Wilson is an Assistant General Counsel
on my staff. The Commissioners have seen some
of his work before but have not met him, so I
would just briefly like to introduce him.

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

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

Chris?

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

Good afternoon, Commissioners. I am
here, as Chuck said, to give you a preview and
an overview of the Proposed Medallion Transfer
Rules, which we believe will be before the Commission in a public hearing in August. The reason that we are looking at the issue is that we have received considerable dissatisfaction from the current process from the industry.

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

As a result, there is a sense that -- there is a perception that the current process is both complex and often inconsistent, including on a couple of major fronts, the establishment and valuation of tort claims against Medallions, which under the Ad Code we need to take care of before a Medallion is transferred.
In addition, there are questions about what happens when a Medallion owner dies and we no longer have an approved owner of a Medallion. And, finally, issues come up regarding when the Commission will permit a trust owner interest in a Medallion.

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

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

As we looked to clarifying the rules, it became clear that we should work towards
several objectives so that all requirements are known and can be determined easily. First we wanted to clearly set forth and streamline the process. We want people to be able to look at our rules and know what they need to do. Towards that end, we want to specify documentation and other requirements. In addition, we want to bring clarity to the tort claim evaluation process and end perceptions that the process is incomprehensible and inconsistent.

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

Let me say a few words now about the process by which the draft rules you will see were developed. Industry input was a major factor and consideration in the process. We formed an advisory committee including brokers, lenders, counsel and owners and other members of the industry. We had numerous meetings, both before drafting the rules to establish guidelines, discuss processes,
review our current practices. And once rules were drafted, we had a number of sessions with people to review the drafts, and both group sessions and one-on-one sessions to receive and react to comments.

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

In revising the rule, we are bound by numerous Ad Code and state law requirements, which provide, among other things, that we most approve new owners of Medallions. The Administrative Code also provides that bonds must be filed to protect tort claimants, that is, accident victims. And case law specifies
that we need to look not just at lawsuits for
this, but we need to look at all potential
claims that are asserted.

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

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

In addition, what we propose here, by
the way, follows our existing practice.

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

The claim review arises because of the requirements, as I said, of Section 19-512 of the Ad Code. Section 19-512 of the Ad Code requires that before a Medallion can be transferred, the seller needs to post a bond to satisfy all tort claimants. Case law, which has looked at this, has said we need to
look at not only tort claims that are the
subject of ongoing or concluded litigation,
but also claims that are merely asserted. And
that we need to make some evaluation of what
those claims are worth in terms of posting a
bond.

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

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

In addition to the legal
requirements, the proposed rules also address
a number of specific policy and process
requirements including what happens in the
event of the death or incompetency of a
Medallion owner. It allows for continued
operation of a Medallion for a period of 120
days following the death or incompetency of an
owner, provided that the Medallion is also
operated under an agency contract with a TLC
licensed agent.

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

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

Another policy and process issue
which we looked at in connection with the
revision is our policy regarding trust
ownership of Medallions. The TLC policy has always been that we want active owner operators. We want people who are in the business. We want people who are concerned with the business. We want people who are accountable. And, although we permit and we currently permit and intend to continue to permit trust owning interest in Medallions, we restrict that to trust owning interests for the benefit of minors who don't qualify under our rules to own Medallions.

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

And so, we came out with the idea, or
continued the idea that only in the limited
situation in which a minor has inherited an
interest, it would be a trust owned interest.
And that's only in stock in a corporation, so
the officers will continue to be accountable.

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

CHAIRMAN DAUS: Any questions?
COMM. POLANCO: Not right now.
CHAIRMAN DAUS: Chris, we thank you
and Chuck for all your efforts on this.

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

And out of respect and courtesy to
the industry, the right thing to do is to make
sure that five Mayor's from now, ten
Chairpersons from now, that every time a new
person is hired in the legal department or in
the agency, that the rules don't automatically
just change because there is a new person
there. And that's something, because a lot of
these administrative paperwork issues were not
codified in rules, policy changes would occur.
I think it is a good practice to put all the
papers that required, everything that you need
to do a transaction, and have a fair and equal
playing ground all set forth in the rules so
that brokers and people that do these
transactions can look to them and point to
them and deal with it in a very logical,
transparent way. So I think it's a good step
in the right direction. I think there are
some great ideas.

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

MR. WILSON: Thank you.

CHAIRMAN DAUS: Also, even though
Chris has been with us for a while, he is
going introduced publically and getting
involved. I also want to thank somebody who has been working with the Commissioners and the Commission for a while now. That is Amy Bann, who is leaving us.

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

(Applause.)

CHAIRMAN DAUS: Are you going back to Seattle?

MS. BANN: I am going to Seattle.

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

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

And she has helped the agency in a lot of different ways, so we want to wish you the best and thank you for your service, and hope you will visit New York City often and take cabs and liveries and limos whenever you have a chance. Thank you.
So welcome, Chris. Good-bye, Amy.

And the last item is there is a

motion to adjourn the executive session to

consider appeal, TLC versus Mohammed

Elbstamey, License number 443681. This is the

second time it's on, and I consent to having

an adjournment. It's the second time it was

requested the day before by the attorney, but

I would propose that we basically mark this

final.

I think for the industry and the

people that are listening, I think it's very

unfair to our Commissioners to request

adjournments, as attorneys representing

respondents, the night before. I understand

if emergencies come up, but this is the second

time. Out of courtesy and respect, this is

the second time we have had to waste paper and

kill trees.

Number two, this is the second time,

this is a pretty lengthy document that each

and every one of these people, who do not get

paid, they are not salaried, take time out of

their night to read this thing and come in

expecting to have a debate, that the attorney
just decides that they have other cases, that
they are not going to come in.

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

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

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

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

COMM. AROUT: Okay.

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

I think one time, that's fine, maybe,
if the Commissioners agree to it. But then it
is going to be marked final, and unless there
is some type of extreme emergency, I think it
is wrong to put our unsalaried board members, who spend a lot of time with us, more than ever before, to have to go through that. With that being said, I would like to make a motion to close the meeting.

COMM. AROUT: Second.

CHAIRMAN DAUS: All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: Okay, thank you.

See you in July.

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

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