NEW YORK CITY LIMOUSINE COMMISSION

PUBLIC HEARING

Held on Thursday, July 15, 2010

40 Rector Street

New York, New York.

Time: 10:00 a.m.
APPEARANCES:

DAVID YASSKY, Chairman
HARRY GIANNULIS, Commissioner
LAUVIENSKA POLANCO, Commissioner
ED GONZALES, Commissioner
IRIS WEINSHALL, Commissioner
ELIAS AROUT, Commissioner
CHARLES FRASER, General Counsel
MR. YASSKY: Good morning. Before we begin the meeting, I will just give a brief report on some of the items that we have been working on.

First, to follow-up on last month's meeting, which we the Commission approved a new group ride stand on York Avenue between 70th and 71st for service in the morning from the Upper East Side to World Financial Center, I want to thank and credit Commissioner Weinshall for her caution about the local geography of that neighborhood. It has proved a challenge to figure out a place to where taxis can congregate. There is a lot of traffic, as you pointed out, Commissioner, from the hospital, you know, on ambulettes and vehicles that need to get to the hospital. So, we're continuing to work and trying to figure out a good space for it, but the truth is, it hasn't really taken off. It's very busy, and so the staff is looking at a way to reconfigure. The initial location just proved really not workable.

And it is interesting, I mean, we also
this week -- really last week now that I think about it -- started to test service at some of the locations that you approved earlier, both the Port Authority Bus Terminal on the west side of Manhattan, and one location at La Guardia Airport but a taxi stand that feeds from two terminals, takes passengers from two terminals. I will tell you, I thought, well, the La Guardia one is a natural; steady stream of people, they can really be saving $10, $15 on their trip. The Port Authority one seemed to me less likely to take off. But the practice so far, it is early, and we'll see, I think these things take a while to really determine whether they really work or not. The Port Authority one is workable right from the start; getting plenty of passengers, they want the group rides. That's working just as hoped for. The La Guardia one, much less demand. You know, tourists who have a cab full of passengers already, or business people who don't care about saving the 10 bucks because they're not paying for it.
Maybe the point is to have humility about our ability to predict what will work and what won't work. And in my view, that's why we do these pilot programs. I think that should be more encouragement to try new ideas, because we really can't say for sure what will work and what won't work, just do our best to predict. So, that's on the group ride stands.

I also want to report some legislation of interest. The City Council passed and the Mayor signed four bills relating to the Commission and our regulated industries, so, I just want to make sure you know about it.

One, amended the requirements for Taxi Cab's Passenger's Bill of Rights, adding a provision informing passengers that they are entitled to the payment of tolls by EZ-Pass. This you may recall, you might have seen in the paper, there was some reporting a month or so back about why. What the paper found by just watching the toll plaza were more cabs than one would hope for using the cash lane rather than the E-ZPass lane. Our
rules, as you know, require taxis to have an E-ZPass and to use it when they are going through toll plazas; first of all, it is faster, and second of all, it saves the passengers money. Even assuming that they go through the cash lane and reimbursed at that same price, it saves the driver, the passenger money. So, this is something that we take seriously. It is a rule that we want to make sure is enforced. I will tell the members of the industry that are out there that we have been working with our TPEP Data to identify vehicles that seem to routinely use the cash lane rather than the E-ZPass lane, and we will be sending out summonses, just as with other rules where that the data we have now enables enforcement that was not practical before. We have an additional enforcement tool at our disposal and those summonses will be going out once we have completed the data analysis work necessary to do that. So, that was one piece of legislation.

Second, enhances the Taxi and Limousine
Commission's public reporting, requiring the TLC provide detailed reporting of public complaints and TLC enforcement actions. I think that is a good thing, certainly something we would want to do anyway, but this is kind of a prod to upgrade our website and make sure there is full disclosure of public complaints and the outcomes that result therefrom.

The third piece of legislation requires the TPEP vendors to provide specified fare information to TLC in a timely fashion.

The fourth piece of legislation authorizes the TLC to impose fees up to $50 for reinspection of taxicabs that fail their first inspections.

And this last one will require rule-making to implement. We discussed this at our last meeting. I believe it was discussed at the meeting in June, if not, maybe it was the one before, but I believe it was the June one. We will have a proposed rule on this ready for Commission action in September. That proposal will propose a reinspection fee
of $35. I want to be brief, but again, it has been, not just our practice, but the rule that the first inspection there is a fee for, but the second one not. You know, what we want to do is encourage vehicle owners to maintain the cars so that it passes the first inspection and they don't have to come back for a second inspection.

In addition to these four laws, the Council on June 29th passed a home rule message calling on the State Legislature to enact a bill that would expand the Commission's ability to docket unpaid fines as judgments of the Civil Court. This is a critical enforcement tool to enable us to collect some of the unpaid fines that the Commission has levied, increasing the effectiveness of our enforcement programs. The State bill unanimously passed the State Senate -- so, how many can say that, right -- and is pending in the Assembly which we hope will pass the bill at the next opportunity.

Looking ahead to our September meeting, we will have a proposed rule revising our
Black Car Retirement Rules. I want to again let you know about this in advance, because the Commission originally passed rules in April 2008 imposing vehicle retirement schedule on black cars for the first time. The intention at that time was that the TLC would put together a financing package to assist black car owners with the purchase of newer, more fuel-efficient cars. However, the burden of the financial crisis that began later in 2008 fell especially hard on the black car industry and also impaired our ability to arrange the financing we had hoped for. Therefore, we have reviewed the Black Car Retirement Rules and have decided on a different approach, which I will put before the Commission at our September meeting. The proposed rules will have revised the existing vehicle retirement schedule, allowing a longer vehicle life for cleaner, more fuel-efficient vehicles as an incentive similar to the incentive the taxicabs already have under the Administrative Code.

Finally, a couple of staff items.
First, I just want to recognize that the TLC, but in the person of Ira Goldstein who is in the back there, was honored last month by the New York Association of Broadcasters. The specific achievement that was noted by the Association of Broadcasters was that we are using TPEP to put AMBER alerts, to distribute AMBER alerts to taxi drivers, kind of speaks more generally to the truly wonderful opportunities for service improvement that TPEP has created, and Ira of course was this person here at the Commission who is most identified with the TPEP Program. So, I just want to congratulate him on that award.

(Applause)

MR. YASSKY: Second and last, second on the personnel and last on these items, I would like to introduce a new deputy commissioner that we have here at the TLC. I think that my most important responsibility as Commissioner is to ensure that the agency is staffed with the most talented, dedicated, energetic people that we can possibly find, and I think we have succeeded handsomely in
this particular appointment. Conan Freud is our new Deputy Commissioner for Finance Administration. Conan comes to the TLC with exceptional governmental experience at Hunter College, the Department of Transportation, and the Office of Management and Budget. In just his first few weeks on the job, Conan has energetically taken on the task of reorganizing the agency's infrastructure to help the TLC meet the regulatory challenges we face despite the tough economic and budgetary times. Translated, that means he has been jawboning OMB and giving us a little bit more of the resources that we need. That's just one piece of it, but he has been remarkably effective, even in that short period of time. I just want to introduce Conan Freud to the Commissioners and the assembled multitudes.

The next item on our agenda is the adoption of minutes.

MR. AROUT: Make a movement we adopt.

MR. YASSKY: I appreciate that, and I consulted though, I tell you, with General
Counsel Fraser to ask whether seconds are necessary under our rules, they are not, if you want to speed things up. Okay, good. I see no objection, so, we'll proceed on that basis from this point forward.

A motion is on the table to adopt the minutes. All in favor say Aye.

THE COMMISSION: (In unison) Aye.

MR. YASSKY: Opposed?

(No response.)

MR. YASSKY: By unanimous vote, the minutes of the June 22, 2010 Commission meeting are adopted.

The next item on the agenda is base applications. Georgia, will you just come up very briefly? Another kind of matter of practice here, if there is no change, I'm not sure if it's necessary to have these presented in person, but Georgia will be here always to answer questions. Today there is a change on the list here, but Georgia will please present.

MS. STEELE: Licensing is asking that the Commission approves B01616 as a renewal
and relocation and not solely as a renewal as listed on the agenda.

MR. YASSKY: Okay, so, there are four new base applications as listed in the materials. I guess it's nineteen renewals, and now two renewal and relocations; am I correct?

MS. STEELE: Correct.

MR. YASSKY: One relocation, three renewal and ownership changes, and one ownership change.

Along with that, the staff is recommending that two bases -- am I right, Georgia?

MS. STEELE: Yes.

MR. YASSKY: They are recommending that two base applications be denied unless the base can meet TLC requirements within thirty days.

I'll entertain a motion to adopt the staff recommendations.

MR. GONZALEZ. So moved.

MR. YASSKY: Thank you. All in favor?

THE BOARD: (In unison) Aye.
MR. YASSKY: Opposed?

(No response.)

MR. YASSKY: By unanimous vote, the staff recommendations are adopted. Thank you, Georgia.

We have three rules changes before us for public hearing. I'll ask Chuck Fraser to present the first of the three.

MR. FRASER: The first of the three is a rule to implement a recently enacted local law requiring that we promulgate a commuter van Passenger's Bill of Rights. So, what this rule does is it conforms our rules to the requirements of the Bill of Rights. So, for instance, we did not previously have a rule requiring that commuter vans adjust the air conditioning at the request of passengers. That was in the legislative requirement for the Bill of Rights, so, now we are putting it in our rule, and in addition of course we are requiring that the Bill of Rights be posted in compliance with the law.

We published the proposed rule for comment for the required thirty-day period.
We received no comments either in writing or at the hearing, and therefore, the staff is recommending that the rules be passed as proposed.

MR. YASSKY: Does any wish to speak on this matter?

(No response)

MR. YASSKY: Very well. Are there any questions?

MR. AROUT: Make a movement we adopt.

MR. YASSKY: Very well. All in favor say aye.

THE BOARD: (In unison) Aye.

MR. YASSKY: Opposed?

(No response)

MR. YASSKY: By unanimous vote, the Commuter Van Bill of Rights Rule is adopted.

Let's skip to Item C, the third item under the rules. The second is Livery Workers' Comp Rules that I know that there are people here to speak on. And I've talked with a couple of the commissioners over the last couple of days, it had been my intention to present this for a vote today, I know that
at least a couple of you Commissioners have
questions that you want to make sure are
answered and make sure you understand fully
the implications of what we're doing and also
hear the public comment. I have also heard
quite a bit from industry folks in the last
couple of days. I think that the concerns
that they have expressed to me at least are,
you know, they are answerable, and they
don't, you know, in my mind argue against
adopting the proposed rule here. But I do
want to make sure that what we're proposing
is fully understood in the industry and
doesn't cause undue confusion or concern
among industry members. So, I think that
more time to do that outreach would be
certainly worthwhile. So, it is not my
intention to present that one for a vote
today. I do think we should hear the public
comment on it and we'll hear a presentation.

But let's first do Item C, just because
I think that's a lot shorter, and then we can
go to Item B.

Chuck, would you present the transfer
fee rules.

MR. FRASER: This rule would remedy an unclarity in our rules that we discovered which pertains to transfer fees. This rule would specify that it would cover three different types of transfers: Transfer of a vehicle license from one vehicle to another; transfer of a vehicle from affiliation with one base to another; and transfer of a license plate from one vehicle to another. And it would make it clear that a $25 transfer fee applies to each of those transfers.

We published this rule for the required thirty-day comment period and received no written or testimonial comments. We do have one preregistered speaker for today.

MR. YASSKY: Ethan Gerber, you wish to speak on the transfer fee rule.

MR. GERBER: Thank you, Mr. Chairman. And first I want thank you for having the ability to speak to you today, and I want to congratulate you on your testimony yesterday. You testified in front of the New York State
Assembly for Committees, you did an outstanding job I thought.

MR. YASSKY: Very gracious of you to say. So, thank you.

MR. GERBER: In that committee hearing, there were numerous assemblymen who asked you very difficult questions, and you handled that with grace and I think it squashed a lot of the fears.

Unfortunately, I fear that this may be the last time that the Commissioners are allowed to address the industry reps or the stakeholders because of Item 6 on today's agenda.

MR. YASSKY: I don't want to interrupt, but if that's the burden of your comments, I think that you will feel comfortable with what we're doing later.

Do you want to speak about the transfer fee rules, or about the --

MR. GERBER: Can I have a clue what we're going to do later? Because I think this is very important.

MR. YASSKY: Yes. We will discuss that.
How about this: When we get to that item, which you have an opportunity to speak on that if you would like; fair enough?

MR. GERBER: Yes.

MR. YASSKY: That makes sense. Are there any other people wishing to speak on the transfer fee rule?

(No response)

MR. YASSKY: Do any Commissioners have questions?

(No response)

MR. YASSKY: Seeing none, is there a motion to adopt this rule?

MS. POLANCO: Move.

MR. YASSKY: So moved. All in favor say aye.

THE COMMISSION: (In unison) Aye.

MR. YASSKY: Opposed, no?

(No response)

MR. YASSKY: The motion is adopted on the transfer fee rules.

So, now we are returning to Item B, the Workers' Comp Rules. As I said a moment ago, I think that what the Commission is proposing
here makes sense to do, but I want to make
sure that the industry fully understands it,
and that any confusion that's out there is
cleared up. So, what I would like to do
today is to have the staff very briefly
present this rule, proposal. I know that
this was discussed in March, but that was
some time ago, and at that time, it was a
presentation on the Livery Workers' Comp Fund
Law in general that the State had passed.
And it didn't present sharply for us the kind
of choices for the Commission itself to make,
so, I think it makes sense to have the staff
take us through that now. Also, I know that
there are members of the industry who wish to
speak on that. So, we'll do that, then
Commissioners can digest those comments and
we'll consider this in September.

Chris Wilson is going to present the
rule from the Commission staff.

MR. WILSON: Good morning,
Commissioners. Yes, I'm here this morning,
as Commissioner Yassky said, to take you back
through the rules regarding the Independent
Livery Driver Benefit Fund.

I did a presentation on this subject back in March, and at the time, that presentation which I believe was given to you again this morning, talked about the rules and the sort of legislative background about the problems with providing Workers' Compensation benefits to livery drivers and the statutory scheme that was enacted by the legislature to make sure that those benefits are provided.

One of the things that I discussed at the time was that the statute contains both mandatory and optional enforcement provisions.

The mandatory provisions require the TLC to deny licensure to any applicant, any livery-based applicant which is not either a member of the Independent Livery Benefit Fund or does not provide Workers' Compensation Insurance coverage for the drivers it dispatches. The staff is actually already enforcing this provision of the law, and I think the rule provisions as to this are not
As to the optional enforcement provisions, the staff recommended that the TLC enforce certain base duties, as it was permitted to under the statute, including base failure to pay assessments to the Fund, misrepresentations about the numbers of affiliated vehicles on which the bases' essentially premiums would be based, misrepresentations to the Fund generally, base attempts to coerce drivers and vehicle owners to assist them with misrepresentations to the Fund.

In addition, the statute provides, and the staff recommended, that the TLC have the ability to audit bases for their compliance with the statute.

We drafted the rule in accordance with our recommendations. We published it. We received a number of comments, and we have had a number of meetings with industry representatives who had some concerns about our rule as drafted.

Accordingly, the rule that we place
before you today for consideration actually contained a number of modifications. As a result of the industry feedback, we amended the rules so that as to a couple of the optional enforcement provisions, the TLC would only take action at the request of either the Livery Fund itself or the Workers' Compensation Board. Those particular actions were particular bases' failure to pay, misrepresentations about the numbers of vehicles, misrepresentations to the Fund. And our provisions in the rules track the penalty provisions in the statute.

We proposed retaining the draft rule reflects the right to audit and to take action upon the coercion of the driver or vehicle owner if such is reported to us. And again for the coercion issue, we drafted penalties that are sort of in line with what the statute permits: The Livery Workers' Comp Fund or the WCB to impose.

In addition, the rule provides a couple of other things consistent with the mandate that if people need to have Workers' Comp
Insurance when they are licensed, they should be required to maintain coverage for the benefit of their drivers.

The rule provides that all livery bases must do one of two things at all times: They need to be members of the Fund to ensure coverage that way, or they need to provide actual Workers' Compensation coverage to their drivers.

Among the objections we've had to some of these provisions are that penalties for the bases are too high. The penalty provided for failure to maintain coverage is a penalty of $25 per day and either suspension until compliance, or revocation.

I would just like to point out that we actually have existing rules today requiring general compliance with the Workers' Compensation Law, and those penalties are identical. So, we actually have the ability under current rules, the rule that's being replaced, to assess fines of $25 per day for people who don't provide coverage and to suspend their licenses or revoke them if
warranted. That's current Rule 604(i).

In addition, among the objections we have received is that our rule as drafted doesn't provide a mechanism for compliance, and in fact, the staff disagrees with that objection; we believe that the rule requires all operating bases to do one or the other thing: That is be a member of the Fund or maintain insurance.

And what penalty applies? If you don't have either thing, it's a fine of $25 a day, or suspension until compliance. If you have either thing, there are no penalties applicable.

Objections continue to our enforcing aspects of a base coercing a driver. The staff believes that both bases and drivers are our licensees, and we have an independent regulatory interest in making sure that the law is complied with. We don't believe that the statute preempts the TLC from taking action against bases who try to get their drivers to violate the law, and although the objection is made that this could result in
double penalties if the Independent Livery Driver Benefit Fund pursues a base for the same reason as well, that is we might assess a penalty and the Fund might assess a penalty. In fact, many of our rules in other aspects also can lead to double penalties. That doesn't really take away our ability to enforce against our licensees.

For example, drivers can get summonses from the DMV which may also lead to summonses from the TLC out of the same incident. I think nobody thinks that it is inappropriate that we can't take action against our drivers as well as the DMV to give just one example.

The objections seem to suggest that the TLC really should do nothing else other than deny licensure for people who don't provide coverage. The staff thinks that these objections contradict the clear language of the statute which provide that the local TLC may take action, for example, in the event of driver coercion.

The objections also we think ignore our ability to enforce items in our regulatory
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interest and our regulatory interest in the matters here. This is about providing Workers' Compensation coverage to drivers, and we think that base licenses who violate the law in terms of providing this coverage which they are required by statute to do, we think it is within our regulatory interest and ability to take action against them.

So, we don't believe the statute preempts our ability to take action beyond what the statute provides, and, as I said, we are not persuaded by the arguments that a base which violates the law might also in certain circumstances in the event of the driver coercion get a separate penalty from us; we think if they violated the law, they should be answerable to us for it, because we do regulate them, and we expect them to comply with the law.

So, we recommend that the rules be approved as they are on your desks.

MR. YASSKY: Thank you, Chris. Let me just make one framing comment before we go to questions and any other speakers. You know,
Chris, in his presentation, refers to bases violating the law, and I want to be clear about this: We are not proposing this because we see why it's spread noncompliance at this point, we absolutely don't. This is a new law, it is our assumption that the industry will comply, you know, just because they are good folks, and that's what you do, and we expect people will follow the law.

Our experience with the black car Workers' Comp Fund has been, you know, overwhelming compliance, but of course occasional noncompliance too, because out of any large group, there will be noncompliance here or there. So, that's my expectation of what we will see here.

But there's not a situation where there is an existing compliance problem that we see and we have to propose this. It is being done now because the State passed this law and it presented the TLC with the option of adopting our own enforcement rules or not. The proposal is to adopt them in the way it's been described.
We have other speakers from the industry. If people have questions of Chris, they can ask them now, but he will also be here if you want to hear the other speakers and ask questions after, but if you want to ask them now, please go ahead.

MR. GONZALEZ. Just in general, at least the way I see it, this enhances, you know, the driver's safety and also helps them in the case of being on the job in a more efficient manner versus what is currently being done.

On the one slide, we have additional rule provisions, and I can't quite think of an example where this would be the case, but you have all livery bases must have either Fund membership or Workers' Comp coverage. Is it mutually exclusive, either membership in the Fund or Workers Comp coverage from somewhere else, or can you have a blend of the two?

MR. WILSON: The statute contemplates one or the other, so bases that are members of the Fund, their drivers will be
automatically qualified, covered. And if they are not members of the Fund they are automatically supposed to provide Workers' Compensation Insurance.

So, the statutory scheme doesn't contemplate that membership in the Fund would only cover half the drivers if a base is in the Fund, all of that base's drivers are covered.

If base doesn't wish to be in the Fund, then it must provide coverage for all of it's drivers by the other way, which is having the Worker's Comp Insurance.

MR. YASSKY: This statute and the Fund of course speaks to coverage for drivers. So, I don't know if this is what you were asking, but just in case it was, other employees of a base, you know, the dispatcher, the clerical employees who work at the base and are not drivers, they are not covered by the Fund.

MR. WILSON: And regular Workers' Comp rules would apply.

MR. YASSKY: And the base has to have
regular Workers' Comp for them anyway, if
that's what you're asking.

But with respect to the group of
drivers, I haven't thought about your
question, but as I hear Chris saying it, you
either have all your drivers covered by the
Fund or all of them covered otherwise, and I
guess it doesn't contemplate.

MR. GIANNOULIS: I met with some of the
advocates on this issue. So, I'm just trying
to put together what I got from. It seems
that you are saying that a lot of what you
are looking to get out of this new rule, you
already have in terms of the State
authority?

MR. WILSON: The State authority right
now under the law we are required to turn
down applications if people don't have one or
the other coverage, and that we are already
doing.

Where our rule would go beyond what our
current practice is, is to be able to take
action against bases which do not maintain
insurance. So, for example, we would grant a
license to somebody who comes in to renew
their license if they show us when they come
in that they are a member of the Fund. If
they drop their Fund membership two months
later, we want the ability to say, "Well, you
either have to go back into the Fund, or you
need to cover the drivers with Workers'
Comp."

MR. GIANNOULIS: Don't you have that
ability already?

MR. WILSON: No, we don't.

MR. GIANNOULIS: Explain that to me. I
don't understand. Do we have the ability to
take action if somebody doesn't have Workers'
Comp Insurance?

MR. WILSON: We do actually under the
existing rule, but the existing rule wouldn't
really cover people who are not in the Fund.

MR. FRASER: The existing rule was
written at a time before the Fund existed.

MR. GIANNOULIS: Not our existing rules,
as the State rule was written.

MR. FRASER: Yes, at a point of
licensure, the State law mandates we must
determine they have coverage.

MS. WEINSHALL: And the next day they could drop it.

MR. GIANNOLIS:: So, what we're saying is, that unless this rule is passed, if somebody went through licensing three weeks ago, and I came to you and said, "I know for a fact that they have canceled their Workers' Comp Insurance," you believe that under the State Law you cannot do anything?

MR. FRASER: No. The State law permits us to do something, it doesn't mandate it. And whenever State law is permissive and not mandatory, we have to implement it with a rule. If it's mandatory, we don't need a rule legally to act. But as to this, it is permissive, it's not mandatory. So, we must have a rule to act.

MR. GIANNOLIS: It does?

MS. WEINSHALL: Makes sense.

MR. GIANNOLIS: So, in other words, what you are saying is that, again, if I notified you that a base does not have Workers' Comp Insurance, you believe that you
could not act today?

MR. FRASER: Well, when you say Workers' Comp, I assume you mean membership in the Fund.

MR. GIANNOULIS: Or not in the Fund.

MR. FRASER: Well, if they're required to have Workers' Comp Insurance, we have a rule that covers that. So, yes, we can proceed on that now. But if they had membership in the Fund and they dropped their membership in the Fund, then it's not so clear, because they are not required to have Workers' Comp Insurance if they are in the Fund. So, the point is, this rule now says that if you drop out of the Fund, we are going to do the same thing to you that we would have done to you in the old days under the old rule if you dropped out of Workers' Comp Insurance.

MR. GIANNOULIS: So, I'm confused about something you said. We have two buckets: We have people who are in the Fund, people who are not in the Fund. My understanding is that a large amount of the industry is in the
Fund, correct?

MR. WILSON: Probably almost all of it.

MR. GIANNOULIS: So, you are saying that you believe under our rules and or Workers' Comp statutes, State law, if they are not in the Fund, if they are simply getting outside Workers' Comp Insurance, you believe that you could act?

MR. WILSON: If they drop that insurance, correct.

MR. GIANNOULIS: If they drop that insurance you believe that you could act right now?

MR. WILSON: Correct.

MR. GIANNOULIS: But you do not believe you could act if they do the same thing and they are a member of the Fund?

MR. FRASER: I'm not sure if we can, and I don't particularly want to take any chances.

MR. GIANNOULIS: So, that's the point of this rule?

MR. FRASER: That part of the rule, yes. There's four components, and that's one of
them. By the way, that's one that is limited to -- am I correct? That's one that is limited to a request by the Fund or the Board.

MR. WILSON: No. That's maintaining coverage, which goes to our own interest in having coverage at all times. But the penalty in that tracks the existing penalty for failure to have Workers' Comp coverage. So, they're mirrored.

MR. GIANNOULIS: They're mirrored in terms of the TLC rules in terms of penalties for people who have Workers' Comp that are not members of the Fund?

MR. WILSON: No, people who don't have anything at all.

MR. GIANNOULIS: Even though I understand, and maybe the distinction is not really relevant since most of the people are a member of the Fund, is there a disparity between being a member of the Fund and not being a member of the Fund and simply getting Workers' Comp Insurance?

My understanding is that one supposedly
it's cheaper, but one of the issues would be if a driver thinks that they are more at risk for getting revoked, or a base I should say, because they don't pay their fees --

MR. WILSON: If the base elects not to be in the Fund and secures Workers' Compensation Insurance, they have no problem with us.

MR. GIANNoulis: I understand that. What I'm saying is --

MR. WILSON: Our concern is only if they do neither.

MR. GIANNoulis: I understand that, but you're asking for authority to be able to actively audit and pursue members of the Fund, correct? And be able to revoke base licenses if there is a lapse in coverage, correct?

MR. WILSON: Or suspend.

MR. GIANNoulis: So my question is, for people who are not in the Fund, for people who get private Workers' Comp Insurance -- forget about -- I understand -- obviously it would be people who don't have that Workers'
Comp Insurance, that's what we're talking about?

MR. WILSON: Right.

MR. GIANNOULIS: You have the same ability to pursue the same revocations within the same time period?

MR. WILSON: Correct.

MR. GIANNOULIS: Now, for the rest of the world, could you tell me, a private company, how lapses in Workers' Comp Insurance are treated kind of relative to what we are talking about here?

One question for example is, there's a lapse in Workers' Comp Insurance, does somebody else pick up that insurance?

MR. WILSON: I don't think so. In the private sector, sometimes when employers fail to pay, comply with their Workers' Comp obligations, it is one of the things that I think the corporate veil can be pierced so that the officers and shareholders can be responsible.

MR. FRASER: The Workers' Comp Board will go after an employer who should have but
failed to make premium payments, and there
are heavy-duty penalties that go with that.

MR. GIANNOLIS: I believe that actually
employees are covered during that time
period.

MR. FRASER: That's right. If that will
cover them, and then go after the person who
was supposed to pay the premiums, and as I
say, with heavy penalties.

MR. GIANNOLIS: Penalties aren't that
heavy.

MR. FRASER: I think it is three times
the premium.

MR. GIANNOLIS: For that time period.
So, if you lapse for a month, and your
premium is $400 a year --

MR. FRASER: Well, okay.

MR. GIANNOLIS: It has happened to me.
I guess my point is this: That this is
relevant, because if we're saying that we
need this authority because we are trying to
protect the drivers. Well, if the drivers
actually have coverage during that lapsed
period anyway --
MR. FRASER: No, they would not have Workers' Comp coverage, because I think the whole reason the State passed this law is that very, very few drivers are considered to be employees of the bases, very few, practically none. My understanding is that there are three or four bases in Staten Island that actually employ their drivers. All the rest are independent contractors, so they are not covered by Workers' Comp.

MR. GIANNOULIS: So, they're not covered by Workers' Comp until they're in the Fund, and they once they're out of the Fund they are definitely not covered. They don't somehow get some kind of --

MR. FRASER: That would be my expectation.

MR. YASSKY: That is an interesting question. We should make sure that that's the WCB's understanding of that, because I do see, I understand the question that you're asking.

MR. GIANNOULIS: Not that that would materially change what we're doing, but it
would certainly make -- I mean, if the reason we are doing it is because we want to make sure everybody is insured in lapsed periods, well, if they're insured anyway, then somebody is paying a penalty. I don't know who it would be in that case, because how are they employees?

MR. YASSKY: Even though this is a unique mechanism for Workers' Comp, and how it treats a lapse period is worth being certain of, I agree with you.

MR. FRASER: The caution I would add to that though is that when we've met with the Workers' Comp Board on this subject, they've told us that the fund by which they pay people who are not otherwise covered is chronically under-funded or zeroed. The point being that they guy may be covered, but it might take him years to get the money.

MR. GIANNOULIS: I'm not advocating that we have a system that encourages this. I'm simply saying we shouldn't say we have to do this because we have to protect people; we should at least know if that they should know
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if they are protected or not.

MR. YASSKY: That's a relevant question.

MR. GIANNOULIS: If the Workers' Comp Board could actually have an answer for us, who is actually paying since they are not treated as employees, I don't know that they don't fall into the State Insurance Fund or some kind of strange situation. I just don't know, and I would like to have an answer before we vote on this.

So, one of the reasons I say this is because -- and again, it's a similar -- it goes to the same issue -- in the private sector, if you lapse on Workers' Comp Insurance as an employer, which I understand that these bases are not being considered employers, but they are the people who are insuring the drivers, there is a pretty normal notification period, "your money is due," "you have missed this time period," you are actually getting a letter from the Workers' Comp Board as an employer that says, "Your insurance has lapsed. You are going to be paying X. Go and reinstate it."
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Is any of that going to really be occurring here? Or if we're taking that responsibility on I guess, it seems to me is what we're talking about?

MR. WILSON: Well, I think actually primarily the Fund is taking that responsibility on, and this is just if the Fund is unable to do so, or, you know, so that we can also make sure that our bases comply.

I would like to point out that for the taxi industry, we do require all medallion owners to provide Workers' Comp Insurance to their drivers today. That seems to actually work, and conceptually in our view this is just doing the same thing. Today we have rules requiring coverage. Today we have penalties if people don't maintain coverage.

MR. YASSKY: Also, I mean, the even closer analogy might be with the black car industry where our rules provide for penalties for noncompliance. However, it is our practice, it it's not written into the rules, but when the licensing division
becomes aware of a black car base that is not maintaining Workers' Comp Insurance, they direct them to, they give them the opportunity to cure, and the penalty is only there in case of, you know, non-inadvertent non-compliance. That's not written into the rule, but that is the practice for what it's worth.

MR. GIANNIOULIS: So, I know this is the third rail of this industry, so, if we require the medallions to provide that insurance to the drivers, they don't have a similar fund setup, correct?

MR. FRASER: Right.

MR. GIANNIOULIS: And they are not treated as employees, correct?

MR. WILSON: No. The medallion owners are treated for purposes of insurance as the employer.

MR. GIANNIOULIS: In the Livery Fund, is there some unique thing, or are they treated as employee/employer relation as well?

MR. WILSON: In the Livery Fund it's a little bit different because of the historic
finding that livery drivers were not employees of their bases for purposes of Workers' Comp. Bases that are in the Fund, for purposes of Workers' Comp, their drivers are considered employees of the Fund.

MR. GIANNOULIS: So, in terms of the medallion industry, do we know similarly what is the kind of time clock on lapses, terminations, who is covered, who is not covered? I mean, we are having a kind of big example I guess of how it works, no?

MR. WILSON: I believe every medallion maintains Workers' Comp Insurance for their drivers.

MR. GIANNOULIS: Let's say they don't pay their bill, let's say they lapse. I guarantee you 50 percent of the people in this room have lapsed on their insurance at some point on something. I guarantee it. I'm not trying to like excuse people, I'm just trying to figure out what the mechanism is.

MR. YASSKY: I'll take an opportunity to say, only because I know we have an extensive
rest of the agenda, I don't want to short-circuit public discussion, and I absolutely don't want to prevent all your questions from being answered. Would you be comfortable with a follow-up conversation on these questions?

MR. GIANNOLIS: Sure. This is why I like to have public hearings before I vote on something.

MR. YASSKY: Yes, I can see that. I can see why.

(Appause)

MR. YASSKY: So, okay. I know there are other speakers. I would like the Commissioners to hear briefly if possible from the other folks who have signed up to speak on this.

MR. WILSON: Thank you.

MR. YASSKY: That I think will enable Commissioners to digest all of the information and be in a position to vote in September.

So, there are five people who requested the opportunity to speak. Avik Kabessa, you
MR. KABESSA: Thank you, Commissioner.

Thank you for allowing me to testify before you today.

My name is Avik Kabessa and I am the Chairman of the New York State Independent Livery Driver Benefit Fund, also known as the Livery Fund, otherwise it is a mouthful. I was appointed by the Governor and voted by the Board to be the Chairman.

The Livery Fund well-represented a solution to a problem that existed for the last thirty years. In the past, the Workers' Compensation system had many gray areas associated with the law regarding the livery industry. For example, when the livery drivers are injured, it was often difficult to assess whether their claim for compensation falls under No-fault Insurance or whether they were eligible for coverage under Workers' Compensation Law, and the process could take years.

In addition, livery bases have no way of knowing in advance whether their affiliated
drivers are deemed an employee or independent contractor. This resulted in no one getting paid except lawyers. And if the base was found to be the employer of the driver, the Workers' Compensation Board would place heavy penalties and assessment on the bases.

It should be noted however, that only one out of five cases where the base was found to be the employer. However, through the years, a debt of $28 million was accumulated from the livery bases owed the Workers' Compensation Board. When nobody was talking about the law, they decided to place the responsibility for the fund on the bases, not because the bases' proven responsibility, but rather because it was the easiest way to administer the fund. Now, meeting with the Governor, the Governor's staff, we agreed to take on this task and help implementation of the Fund.

The most important thing to note here is that a livery base has an option, it is not a must, it is an option of buying Workers' Compensation for the drivers either by
joining the Fund or buying it from another commercial carrier.

The Fund started its operation on January 1, 2010, and I'm very proud to report here that 99 percent of the bases are participating, and that we were able to settle the $28 million debt with complete satisfaction.

In the last six months, eighty cases were presented out of which close to sixty drivers have been already paid either by No-fault or by the Fund, and in most cases within weeks versus years. So, the goal of the Fund was to cover the driver.

The Livery Fund and the way the livery industry took on the bull by the horn represented a new era, one that I would like TLC under your new chair to recognize. TLC proposed rules regarding the Fund needs a bit more work, and I'm here to ask, well, I understand your postponing, which I am very, very grateful. I actually want to distribute to the Commissioners a legal memorandum outlining the three areas which I believe can
be collaborated with the law, not interfering
with the goals of the TLC, zero public safety
effect, and would benefit and make the livery
industry -- I just want to say, the livery
industry has been doing very well with the
Fund, and we want to reward the livery not by
applying more and more penalties, but just by
saying, "Hey, if there's no problem, it's not
broken, there is no need to fix it."

MR. YASSKY: Mr. Kabessa, thank you very
much. First of all, thank you for respecting
the time period, and I ask all the speakers
to do that because we're under a tight
schedule here.

I will say this: When I said before
that we have no record of noncompliance that
we're working with here, maybe that sounded
like damning with faint praise. I should
have been much clearer. The accomplishment
of the Fund today is very impressive and
speaks very well about the industry and its
commitment to its workers or its independent
contractors. I think the accomplishment of
the Fund is a real thing, and the TLC
position is not critical or not here saying
that there is a terrible problem that we need
to address. I want to be absolutely clear
about that.

I remain thinking that it's worthwhile
to have this enforcement ability as a
backstop. We'll agree again, take that up
again in September. But I really want to be
very clear about the message behind it. It's
not one that we think this industry needs to
be cleaned up. You have cleaned up what had
been a problem, and I commend you for it.

MR. KABESSA: With your permission, I
also want to be clear that I'm grateful for
your ample time you gave us to speak to you
about it, and I am confident that together
we'll make it, do the right thing.

MR. YASSKY: Thank you.

The second speaker is Tarek Mallah
representing Dial 7.

MR. MALLAH: Good morning. Dr. Kabessa,
as the Chairman of the Independent Livery
Fund has given us a complete analysis of
where we are and what we need to do. Today
I'm representing the Livery Roundtable which is an organization that represents the majority if not most of the livery bases in New York, the community service livery bases.

The thirty years that Avik spoke about followed by two years of incredible learning skill that culminated in the establishment of the Independent Livery Fund, some good things come from bad. We have pulled together and pulled in a group of eight affiliations, and set a roundtable to be able to bring up never-to-be-called-again "gypsies."

All my point is, do not drive -- and I know it is not your intention, but do not drive by over-regulating an industry from legitimate, fees-paying, compliant, eager to comply, into becoming a gypsy again.

The ten years followed by one year, all we are asking is, give us opportunity. And that's going to come up I believe before September, is that if I elect to or fail to be a member for my business model, for my choice, or for whatever decision to become a
full Workers' Comp benefit, do not give me a summons, allow me to show you proof that I have complied.

And the second thing is, let's not forget the purpose. The real purpose of the Fund was to break up two things: A, provide protection for the drivers; B, protection for the riding public, to be in a legitimate, safe and content driver.

Third, is to establish the gray area between what is an incident to be covered by No-fault, and what is to be covered by the Fund which is a Workers' Comp type of coverage, keeping in mind that the driver is always covered, no matter what the vehicle is, now, instead of months as Avik said, or years, now, it's a matter of a week.

So, I think we are all winning. Let's just make sure that we keep it on track without suspending or revoking a license for a technical or a choice to be made. Thank you.

MR. YASSKY: The third speaker on this list here, Moses Gonzales?
MR. THALER: Chairman Yassky and Commissioners, good morning. Richard Thaler of Omni Media Network.

If you want to take a look at these (handing.) First, I would like to say that the previous answer about when the coverage was was incorrect. If a livery base, up to the limit of ownership of vehicles, such as a wheelchair accessible vehicle, if they own a vehicle and they happen to hire a driver as an employee to drive that vehicle, I believe that under Article 6-G, they would be required to buy standard Workers' Comp for those employees. Presumably the rest -- but they would still be a member of the ILDBF, and obviously the rest of the independent affiliated drivers would be covered.

Just very briefly a couple of comments. By the way, I believe under the law, it's a requirement of the Fund to notify the TLC if...
a livery base is out of compliance. And so, we're talking about audits before, presumably, they are the first to know and then you would be the second to know.

Under Article 6-G of the New York State Executive Law, the Independent Livery Driver Benefit Fund provides benefits to affiliated drivers of member livery bases for injuries due to criminal assaults and certain other defined medical decisions suffered only while performing covered services.

It is therefore necessary to require affiliated drivers of livery bases in the amended rules to maintain covered services records, including accurate electronic time stamps for the time period of dispatch and dropoff events as defined in Article 6-G, and police reports to support claim validation for Livery Fund benefits.

Also as a second matter, the time seems to be rapidly approaching for the need to require a livery driver authentication and validation for approval to receive livery dispatch offers from licensed livery base
members from members of the NYS Independent Livery Driver Benefit Fund. For instance, the District of Columbia now, the District of Columbia Taxi Commission, intends to require biometric personal identification validation interoperable cards for this purpose. In compliance with Federal Information Processing Standards 201, this included this biometric card feature and its proposed wheelchair accessible, livery and taxi pilot proposal, that's the EFHV proposal that was submitted to the TLC and the MTANYCT.

I would also like to suggest that on the TLC website under Industry Information, that, I think under the law, in 75 days after the board of the ILDBF was appointed, they are required to submit a Plan of Operation, and I think it would be nice if the Plan of Operation could be posted in the industry information link.

MR. YASSKY: Thank you.

MR. THALER: Thank you.

MR. YASSKY: As I said, we will table this item for now and return to it at our
next meeting in September.

Item 5 on our list, on our agenda, is the Rules Revision Project. David Klahr is here to just briefly -- and Commissioners, I know at least one commissioner is going to have to leave by noon if not others, so, we're going to finish up by then. David, if you could work within that, thank you.

Please, go ahead.

MR. KLAHR: Good morning. For more than a year now, Commissioners, you have voted every month on a portion of the updated rule set that we generated from the Rules Revision Project which we started nearly 40 years ago including the procurement process of it. This is the culmination today, the vote you are going to take today is the end of a very long very big process. We have done something at this agency really that no other agency has done. It is always gratifying to be able to get up here and to say something like that. Other agencies have revised their rules. Other agencies have made their rules easier to understand, but we're the only
agency that's done it for an audience of nonprofessionals. And I don't mean to say that people in this industry are not professional, they certainly are, but when the Buildings Department revises their rules, it is generally for attorneys, for engineers, for a very specialized group of people. Here at the TLC, what we have done is revise our rules for everyone; for everyone in the industry, for passengers, for anyone who is visiting New York to understand how it is that these industries are supposed to function, and for the people within the industries, with varying degrees of experience with our rules, with varying degrees of length of time in New York to understand what it is, how things are supposed to work, and what's expected of them.

One thing we have kind of used as a mantra throughout the rules process is, how can you expect people to follow the rules if they don't understand the rules? So, what we are doing is getting people engaged with the
rules, and the easiest way to get people engaged with the rules is to make the rules comprehensible. And that's what we have done over the last couple of years.

I can tell you just from my own personal experience working with the project, from other staff experience working with the project, and from the feedback I've heard from people working in the industry is that people are now better engaged with the rules than they've ever been before. We have had public hearings, not necessarily here at this Commission meeting, but other times where we have had various members of the industry come in, and we've seen people come into those meetings who have never attended a public hearing of the TLC before. We've had commuter van drivers come in. This is a group of people that often does not engage in with what we do here, but they were interested enough in the idea that we're making the rules more comprehensible to come in and give their two cents worth. We have adapted many, many, many industry comments
over the years. Many of the people who have been kind of frequent contributors are sitting behind me here -- david Buyer, Ethan Gerber, Peter Mazer, Joe Gianetto -- are very frequent contributors to the rules revisions. We didn't adopt all of their suggestions but we adopted many of their suggestions. We have made a tremendous effort and a tremendous commitment over the course of this project to not make substantial changes to the rules without industry input, and not until we have had a complete rule set in plain language. And I'm very proud and very happy to report that we kept that commitment, we made it a long time ago. We've had numerous staff changes since then, we have had numerous project changes since then, but we kept that threat alive throughout the whole project.

I can say having read all of the new rules, they are definitely easier to use. They are definitely easier to find things in the new rules. They are definitely easier to understand. They are plain language. We
have had other agencies approach us and ask us how we did it, "How do you make these rules plain language?"

It is not easy.

And there is a big difference now in how we present other materials to the public. This project has changed the agency for the better. It made us much more responsive to industry questions about the rules. It has made the discussions about policy largely centered about the rules, and it's given us a real agency-wide commitment to plain language.

So, there is a few people before the vote that I want to thank specifically. First of all, thank you all, Commissioners, for being so incredibly patient through this process. This has gone on for a very long time. And every month, sometimes you don't have questions for me, sometimes you have extensive questions for me. You have kind of routinely gone through this process, and I know that's a big thing to look through every month. So, I appreciate it.
I would like to thank our contractors for this project, specifically Ken Murray and Mark Olsen from Management Partners, Trent Kittleman who is the re-drafter of pretty much the whole rule set, he did an incredible job slogging through a very large body of material.

Chris Wilson from the legal staff also did a tremendous job going through all those different rules, and it's a little weird to be done with the process.

And finally there is someone else I want to recognize, Andrew Sulkin, our former First Deputy Commissioner. Without him, we really wouldn't be doing this project at all. He had the real vision and the real push to get this done. It was a very big lift to do it in the first place, and his vision and his commitment to what this would look like at the end is really informed what we've done throughout this process. So, these people were all very key in getting to where we are today.

I also want to thank just the industry
in general for being very patient and believing in us as we went through this process. I remember when we first started, we did our initial outreach, there was a tremendous amount of skepticism on part of the industry advocates and people in the industry. And as we've gone through the process, we've been able to show them that we can be true to our word, that we promised them we'd do things in a certain way and we kept our promise, and we did do things a certain way. Everyone has had a real opportunity to look at the rules multiple times before we passed it. We had additional hearing upon additional hearing. We had one final wrap-up hearing today. And now, today there is one more vote before the final implementation.

And as I promised, I will keep it short. And is that is all I have to say.

MR. YASSKY: Thank you. Chuck, do you have a word on the process?

MR. FRASER: Just quickly, all of the chapters that you had before you today were
conditionally approved over the last eighteen months, they were republished -- even though that was not probably legally required. We republished them for an additional public hearing. Eight people at that additional public hearing submitted written or oral comments, copies of which have been forwarded to the Commissioners. Based on our review of those comments, we are recommending six technical drafting changes to the proposed rules but no subjective changes. If approved, the proposed rules will take effect and replace the existing rules on January 1, 2011.

And finally, I just want to note that although the Commissioners all conditionally approved nineteen chapters, there are only eighteen in the package today because one of the chapters pertained to the Accessible Dispatch Chapter, obviously no longer needed since that program expired on June 30th. So, the staff is recommending that the eighteen chapters be finally approved today for effectiveness January 1, 2011.
MR. YASSKY: Do I hear a motion to accept that recommendation and approve them?

MS. WEINSHALL: So move.

MR. YASSKY: I think this one merits a second. I second that.

All in favor say aye.

THE COMMISSION: (In unison) Aye.

MR. YASSKY: Opposed?

(No response)

MR. YASSKY: The ayes of have it. The motion is adopted. And the eighteen chapters are --

MS. POLANCO: Were there any comments on this on this Item 5 or 6?

MR. YASSKY: Item 6, which is going to be a very brief item.

I just want to echo what David said and thank first of all, him, who spearheaded this project along with Chuck Fraser and the legal staff, and you know of course involved dozens of people throughout the agency, all the Deputy Commissioners and their staffs.

And Mr. Klahr deserves the gratitude of this Commission for putting heart and soul
and hours and hours into it, and I appreciate it. I'm glad you recognized the contributions of Andy Sulkin.

And of course Commissioner Daus in putting the agency on this path and leading it through it. I'll just say I can tell you that it is absolutely true what David said about the culture of the agency, and I think that this project must be the reason why, you know, a real sensitivity to respecting the rules as they apply to our licensees -- even where we think, you know, maybe you would want to bend them for a good thing, but no, the rules must be respected -- and to make sure that people understand them and that that is really the culture. So, I just want to thank David for spearheading this.

I will tell you that what Chuck said, referred to the effective date of January 1st, there is enormous work now to be done at the agency to make sure all our forms use the correct rule numbers that the enforcement officers that, you know, who speak in terms of Rule "five-O-this," will now have to speak
in terms of Rule "two-O-that." They need to be retrained, many of the staff. The licensing counters will need to be trained in this. And a number of the computer systems that have rule numbers written into the software have to be redone. So, there is a fair bit of work to do now, and that's why the effective date is January 1st to make sure there is time to do that work, even though the staff has told me that that's not enough time to do that work, but it will just have to be. So, thank, you, Commissioners. I will say that last, looking now to September, this project also has of course surfaced literally dozens of opportunities and necessities to address substantive issues. And what David said about keeping to the commitment, that this was a plain language transformation of the rules, is correct. Now we have to undertake the task of cleaning up the substantive issues that have surfaced as a result. The staff has organized those changes or those proposals for changes into three categories: Category
1 is changes that are substantive but should be uncontroversial. For example, where the rules are not clear about how to handle bounced checks; we have been doing it in practice, but really the rule needs to reflect what the practice is. That is substantive, it is not technical, but I don't think it will prove controversial.

Standardized late fees. Late fees differ for different kinds of lateness; they should be standardized. Again, I don't think it should be controversial, but it is, like I say, it has no substantive content. That's category 1.

Category 2 are changes that are not wholly uncontroversial that one could discuss, but I thought were important enough to merit speedy action as opposed to delayed action. For example, the rule governing hearing adjournments, I'm not sure if it's been discussed here, but just an extraordinary portion of the hearings that Adjudications Division handles are adjourned. Often it is drivers who, you know, who I
think would like to delay the hearing of the case against them. So, we need to tighten up that rule and provide that adjournments are available only where genuinely merited and not simply for the sake of delaying adjudication. Not that that has substantive content, but it seems to be important enough to push forward. So, that's Category 2.

Category 3 are things that are substantive and not as urgent as the others, so, we don't have to deal with them all at once.

My ambition is to handle Categories 1 and 2, noncontroversial and controversial—but-important in September, and Category 3 in October through December. That is a lot of work for the staff and the Commissioners. Categories 1 and 2 between them seem to be about fourteen rule changes at this point. So, that's fourteen presentations of a kind that Chuck made today, and opportunities for comment and so forth. So, I will consult with each of you as to whether you feel that that's an appropriate amount of work for a
single meeting or not. Maybe you can decide
that after you see the substance of the rule
changes, and maybe we'll have to kind of pare
it down further and space it out over time.
I just wanted to tell you that's what it is
coming up for September. It's good stuff,
worth doing, and in some cases necessary to
do. But you know, a fair amount of work --
fair amount of work and a fair amount of
fun.

MS. POLANCO: You didn't give an example
of controversial.

MR. YASSKY: Well, controversial might
be the adjournment rule, that's important and
it's controversial but important enough to do
right away. Category 3, substantive and not
as urgent, make uniform the rules about
vehicle seizures; again, I think important to
do but not such a direct impact on practice
that I feel like we have to jam it into an
already crazy, crowded September meeting for
example. Require that all licensees
provide -- actually I think that one is
important -- provide an email address to us,
which right now we have just no way to contact the bulk of our driver licensees, and that proves in practice to hamper our efforts.

So, okay. That's coming down the pipe, but I will get to you the list of what we plan to do in September kind of early enough in advance that we can talk about whether that's too much to do. Fair enough? Good.

Item 6. We are going to do this really, really fast. Chuck, can you explain what this is?

And Mr. Gerber, I understand that there's something that you wanted to talk about before.

MR. FRASER: What this is, is as I mentioned, the rules revision that you just approved is effective January 1, 2011, because of the long lead time that's necessary to do the computer programming, forms revision, staff training and so on. However, there is certain rules that we have to pass that are effective before January 1st for a variety of reasons: You just passed
two of them. Commuter Van Bill of Rights
rules there is a statutory deadline, and the
transfer fee rules, we needed to get that in
place because the rules are not clear now,
and we needed to get that clear.

So, those rules that you just passed are
rules to the existing rules, those 4A and C,
Commuter Van Bill of Rights rules and the
transfer fee rules, those are amendments to
our existing rules. Those are not amendments
to the Rules Revision Project. So, unless we
do something else, January 1st comes along,
those rules disappear. So, we need to repass
them a second time as revisions to the
comprehensive rules revision we just passed.

All I'm asking -- and if you don't want
to do this, I'm not pushing it, I'm just
trying to save an unnecessary expenditure of
your time. All I'm asking is that you
delegate to the staff the public hearing on
the rules revision version of the Commuter
Van Bill of Rights rules and the transfer fee
rules that you just passed after having had
no public comment on either rule.
MR. YASSKY: This is really a one-time-only kind of technical matter that doesn't affect our way in which we hold hearings going forward. Just for these two rules since we couldn't change both this and -- you know, maybe it could have been folded into the big rules change, but we want to stick to the premise that nothing substantive was done in that. So, this is to void a second public hearing before the Commissioners on these specific rules. Are you comfortable with that, Commissioners?

(No response)

MR. YASSKY: So, a motion to approve that?

MR. AROUT: Motion to approve.

MR. YASSKY: All in favor, aye.

THE COMMISSION: Aye.

MR. YASSKY: All opposed, no?

(No response)

MR. YASSKY: Okay, the motion carries.

We are on track time wise.

MS. POLANCO: Wasn't there a comment?

MR. YASSKY: Do you wish to speak on
that?

MR. GERBER: Thank you for stating that it would be a one-time-only project, a one-time-only situation. I do think it is very important to note that it was presented to us that these rule changes, that this entire project that David just spoke about was a one-time-only project and that it would only be about getting away with legal ease. That proved not necessarily to be the case, and even in the minutes that were approved today, you make note that few of the changes were substantive, which means that some were.

Early on in the proceedings, I had brought to the attention, by the route we were supposed to take of emailing and sending in comments, that some of the changes were indeed substantive, and that as an attorney, I sometimes get offended by there term "legal ease," as if specific language doesn't mean things, it does mean things. And you know, there are very sharp minds on this Commission. As the comments by Commissioner Giannoulis proved earlier today, there are
very bright, sharp minds that could hear things and see things that may not necessarily be available at first blush.

For example, very early on, one of the very first rules, there was a change of the word "financial responsibility," "financial stability." Okay, those of us familiar with the term understand that the word "responsibility" wasn't chosen at random, it was chosen directly out of the Vehicle and Traffic Law which has to do with insurance coverage. "Financial stability" means something completely different. Although, David said, we're just changing it into legal ease, one change is the burden of this Commission may be drastically into actually looking at what they consider a stable fund of a livery base or a yellow car industry, it's a completely different matter.

But we didn't have the chance to address these issues as they came up rule by rule in front of the Commission, all we did have the opportunity to do was make comments to the staff. Sometimes Mr. Fraser was present, the
last one he was not. A staff attorney sits there, sometimes they ask us questions, often there are no questions. They sit stoically, and we do our best in a very limited amount of time. This project cost a tremendous amount of money, and there were very good minds here at the TLC and on the Commission working very hard on this. We were given a few days to comment and a few days to make our points known, and then we didn't have the chance to have any oral discussion or persuasion. I think this is a very important problem, and I think if you service the powers of the Commissioners to ask intelligent questions of those people who are directly affected by this, whether they are the riders, the drivers, the livery car operators or the medallion operators.

I respect you very much, Commissioner Yassky, as you know, and I take you at your word when you say that this is a one-time-only, but this is a trend that recently started in the TLC. It only started before this particular rules project, and I beg that
the Commission doesn't allow this to become a permanent trend.

MR. YASSKY: Thank you. And we theorized at one time, what I mean is, this is the particular situation where we're changing the entire rule book come January 1st, and here we have two rules that would then otherwise would have to be adopted twice. This kind of allows us to avoid that formality. That is the one-time-only.

MR. GERBER: And I thank you for your time.

MR. YASSKY: Item 7 on the agenda is a pilot program for livery group rides that Director of Policy Emily Gallo will present.

MS. GALLO: Good morning. Today we proposed a pilot, a new class of service that would allow point-to-point shared ride service among specified pickup and dropoff locations. The pilot would initially focus on areas where the MTA has recently reduced or eliminated bus service. We anticipate that passengers will pay a flat fare of $2. Participating vehicles will have clear
markings so that passengers can easily identify them as legal participants from the pilot. Pickup locations and dropoff locations will be marked with a sign.

Now, while pickups will only be permitted at designated stops, dropoffs can occur both as fixed stops as well as at other locations as negotiated between passenger and the driver.

Why pilot the service? The MTA has eliminated bus routes throughout the City leaving thousands of New Yorkers, particularly those in Brooklyn and Queens with fewer transit options. Passengers with these eliminated routes now must use alternatives that could add transfers and increase their travel time. This pilot will help us determine how TLC-regulated industries can best fill gaps in the mass transit network to improve mobility.

We selected five initial service areas for this pilot. The first area is in Brooklyn, the former B23 bus route through Borough Park, Kensington and Flatbush. The
elimination of this route affected over 1,500 weekday customers adding approximately fifteen minutes to their daily commute.

The second is the area served by the former B71 running through Park Slope, Carroll Gardens, Prospect Heights, with over 1000 weekday customers affected.

Third, the former B39 which ran between Williamsburg and Lower East Side, served over 1,100 weekday customers. With this pilot, there is an opportunity here to offer additional service that can run along the Williamsburg Waterfront to the Lower East Side and Union Square.

In Queens, we propose offering this service in the area formerly served by the Q74 that ran between Kew Gardens and Queens College. 2,100 weekday customers used to ride the Q74, and it's elimination adds approximately eleven minutes to each trip.

Another area in Queens that has few other transportation alternatives is along the former Q79, serving Little Neck, Glen Oaks and Bellarose. While the loss of this
bus affects less commuters at 650 weekday customers, it adds approximately thirty minutes to their commute as they search for alternatives.

We believe that these areas could potentially benefit from an alternative group ride service. Within each area, we envisioned selecting between five and eight designated pickup and dropoff locations. Enforcement will be critical to this pilot's success. We have been working with NYPD on a plan to provide targeted enforcement in these piloted areas, and we will also work with community boards and licensed operators. We have already begun to increase the enforcement efforts against illegal commuter van activity, and our highest priority is to ensure passenger safety.

To participate in this pilot, bases, van authorities, and other businesses who are capable of providing this service would have to respond to a Notice of Solicitation, which will be released pending your approval of the pilot today. The pilot will be limited to
vehicles that can hold between six and twenty passengers. Participating vehicles, drivers, bases, or van authorities would be required to apply for a new license specific to the piloted services. Insurance and licensing requirements for this new license will be similar to existing requirements for livery and van operators today. After reviewing the proposals, the TLC will select operators and enter into a formal agreement with each one.

We've been working with interested members of the public to determine the service areas and the fixed stops, and we have begun reaching out to elected officials. In fact, Speaker Quinn and Council Member Williams were present at the Mayor's announcement of this initiative last month.

Additionally we plan to work with the Mayor's Office of Community Affairs to reach out to neighborhood groups in the areas where the new service would be piloted.

At this time, I'm happy to answer any questions.

MS. WEINSHALL: I think this is a great
option for those New Yorkers who have lost their mass transit options. I have a couple of questions. Is this just weekdays, is it 24/7, how long will this run?

MS. GALLO: I have looked up the bus routes that have been eliminated and we know the span of service that was currently offered by those bus routes. We will give preference to operators who can propose to offer the most amount of service. We are looking for ones that can offer at least a span of thirty minutes between the hours of 6:00 a.m. and 10:00 a.m., as that was basically covered by the eliminated routes.

MS. WEINSHALL: So, the vans will just run from 6:00 a.m. to 10:00 a.m.?

MS. GALLO: It will be up to the operators to determine what level of service that they will be able to provide.

MR. YASSKY: So, we're not saying that we won't approve an operator.

MS. WEINSHALL: But you are saying the minimum has to be from 6:00 a.m. to 10:00 a.m.?
MR. YASSKY: Correct.

MS. GALLO: Well, we are saying that we can give preference to those who can offer service between those hours.

MR. YASSKY: If the only thing we get for a particular route is someone proposing to do half the day, we'll entertain that, and indeed I expect we would approve it.

I don't want to rule out approving someone who only offers rush hour service, but we are hopeful that we will get proposals from people who are willing to operate certainly at least both rush hours, and ideally if not all 24 hours but throughout the day.

MS. WEINSHALL: How will you let the public know? I mean, normally a person goes to a bus stop and assumes at some point an MTA bus is going to show up. This is a more defined period of time, so, how are you going to let the public know that, "Oh, on this route, we're only offering it from 6:00 a.m. to like 11:00 a.m." Are you going to post a notice? How is the public supposed to know?
MS. GALLO: So, we are working with DOT right now on developing the language for the signs, I don't know what the final language is going to be yet. But we're hoping to kind of get the word out through the community boards, the Mayor's Office of Community Affairs, elected officials and others who can communicate with the residents there.

MS. WEINSHALL: My second question is, so, you are selecting the operators who will go on these routes. What type of policing are you going to have that won't stop Joe Blow who didn't win the route from just having his or her vans go on that route?

MS. GALLO: So, TLC enforcement officers as well as NYPD will be offering enforcement in the areas that will be in the piloted service areas, and we will have clear markings on the vehicles that will designate them as having been approved to participate in the pilot, and the enforcement will help to keep illegal operators out.

MR. YASSKY: And to expand on that, we fully understand the point you just raised
about the need for enforcement as a key component of this initiative. To put it in the bigger context. Today, there is a huge amount of unlicensed activity by commuter van operators. There is some 300 vehicles licensed to operate as commuter vans. You know, we don't have the data to back up how many there are, because they are not licensed, but it's my belief that there are several times that in unlicensed vehicles.

Our commitment is that on the routes that we are identifying, that we will put in the enforcement resources necessary to ensure that they are run by the licensed operators only. We have begun talking with the police department. I have met with Commissioner Kelly on this at the very outset, and with Deputy Chief Teller who runs the Traffic Enforcement Division, they appreciate that this is a commitment of the Administration, and we will be working together to achieve that goal. I don't want to say it is something that can be done with the snap of the fingers, because it's a real enforcement
thing out there, but we intend to devote the
resources.

MS. WEINSHALL: The only point I want
to stress again is whatever the hours of
operations is, you really got to make that --
you can't create this expectation out there
and then not live up to it. People cannot be
waiting on a bus route assuming a van is
going to come and it's not going to come. I
don't know, maybe you use the City's website
www.NYC, 311, working with maybe senior
citizen centers, schools, whatever. Because
the worse thing that could happen I think
from the public's viewpoint is to have this
expectation and then not have it fulfilled.

MR. YASSKY: To be sure. Thank you very
much.

MR. GONZALEZ: First off, having grown
up in Southeast Queens, which in some cases
is the birthplace of the dollar van, I can
tell you firsthand that this does help the
commuter get to the destination in a lot more
efficient, timely manner. I think there is a
bigger picture here though that we also want
to make sure is on the table: The route of this is that there is a public sector challenge. The MTA just eliminated these bus routes because it's unable to service these customers anymore. And what we're doing is we're helping to facilitate a private sector solution, both in terms of searching the community, and also in particular, serving commuters and getting them to their destination in a more efficient manner. In a more efficient manner means that you increase the probability of workers being more productive which means regionally we can get this economy to get the local economy up and going. I just want to reiterate or just state my strong support for this pilot program, and also to, you know, continue monitoring other communities where there is underserved, and that things like this can help fill that void.

MR. YASSKY: Thank you very much. And two points: One is that the resolution as you know authorizes the TLC to do this in up to ten locations, up to ten routes. These
are the five that we have identified working with the Department of Transportation and NYPD, and we focused on places where the bus service has been eliminated. There are places in the City that didn't just now experience a bus service reduction, but nonetheless are not well enough served by mass transit. And so, the next step is to really dig in with the DOT transportation planners, which they have and we do not, to identify places in the City apart from the recent reductions where this can be of use. So, that's Step 2, and we are embarking on that already. So, I just wanted to assure you that we're doing that.

MR. GIANNOLIS: Resolution 7 and 9 I think have a typo.

MR. FRASER: Where is that?

MR. GIANNOLIS: 7 and 9.

MR. FRASER: 7 and 9? I'm not sure what you mean.

MR. GIANNOLIS: Looking at the resolution, there is numbers 1 to 9, there is some question marks in there that need to be
MR. FRASER: You must be referring to the draft that was sent to you earlier this week. Yes, there is a final version that you should have on your desk in front of you.

MR. GIANNOULIS: I apologize.

MR. FRASER: It has no question marks, I promise.

MR. YASSKY: I will entertain a motion --

MS. WEINSHALL: So moved.

MR. YASSKY: Thank you. All in favor to approve the resolution distributed on your desk for a pilot program for livery group rides, the motion is before us, all in favor say aye.

THE COMMISSION: Aye.

MR. YASSKY: Opposed?

(No response)

MR. YASSKY: The motion carries.

Before we go, a final three minutes of comments. One is to just thank the staff, and I said before that the mission is to, you know, have the talented and dedicated staff.
This idea surfaced within the TLC less than two months ago. The Mayor formally publicly called on us to do this I think less than a month ago, and this is a big deal. And you know, sometimes haste makes waste. Here, the staff worked at just extraordinary speed, and I want to single out in particular the Policy Director Emily Gallo who you just heard from and the Director of External Affairs Phillips who has been working with the agency, and this is vetted, to vet something like this with stakeholders and communities and electeds who care would ordinarily take months, but it was accomplished with really great speed, and of course the Deputy Commissioners with whom you are familiar, Gary Weiss, Pansy Mullings, Ray Scanlon, and the General Counsel Chuck Fraser, all of their operations had to adjust to this, and they have done it at real lighting speed, and I just want to thank the staff for their hard work.

Finally, before we go, I want to note for Commissioners, I see here in the audience
a gentleman Frank Carun (ph,) who I know that
the Council has identified to individuals
that they intend to propose as commissioners,
I think they plan to act on that fairly soon,
and you know, Mr. Carun came here and was
briefed on the operations of the TLC. He was
here for the last meeting and for this one.
So, I just wanted to point them out to you
before we left. I am eagerly looking forward
as you are I know as well to having
additional members join us and share in the
fun.

So, with that, I thank you very much for
indulging in a not overly long but longer-
than-last-one meeting, with that, the meeting
of the Commission is adjourned.

(Time noted: 11:52 a.m.)
CERTIFICATION

STATE OF NEW YORK )
COUNTY OF NEW YORK ) : SS.: 

I, CASEY MARTIN, a Stenotype Reporter and Notary Public for the State of New York, do hereby certify:

THAT this is a true and accurate transcription of the Taxi and Limousine Commission Public Hearing held on July 15, 2010.

I further certify that I am not related either by blood or marriage to any of the parties in this matter; and

I am not in any way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of July 2010.

_____________________
CASEY MARTIN