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NEW YORK CITY LIMOUSINE COMMISSION

PUBLIC HEARING

Held on Thursday, October 21, 2010

40 Rector Street

New York, New York.

Time: 10:15 a.m.

1 A P P E A R A N C E S :

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5 COMMISSIONERS:

- 6 DAVID YASSKY, Chairman
- LAUVIENSKA POLANCO, Commissioner
- 7 ED GONZALES, Commissioner
- IRIS WEINSHALL, Commissioner
- 8 ELIAS AROUT, Commissioner
- CHARLES FRASER, General Counsel

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SPEAKERS:

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- GEORGIA STEELE, Licensing Division
- 12 BILL CARTER, Limousine Association of New York
- Richard Thaler, Black Car Retirement
- 13 Bhairavi Desai

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2 MR. YASSKY: Good morning. We have only  
3 a relatively short agenda today, but we will  
4 get started. At least one of our  
5 commissioners is in traffic on the way here.  
6 We'll get started, I will give my report, we  
7 will have the hearing on the items before us.  
8 If we do it not have a quorum by that time,  
9 we can recess and return when there is a  
10 quorum.

11 First, Commissioners, I just want to  
12 give you a report on some initiatives  
13 underway at the TLC. First, is our Livery  
14 Stand Pilot Program. We are experimenting  
15 with a livery stand at the Staten Island  
16 Ferry Terminal to see if we can reduce the  
17 number of illegal street hails and provide a  
18 service that is in demand, namely, the  
19 ability to, in that case, get off the Staten  
20 Island Ferry and get a for-hire vehicle  
21 without prearrangement. And so far that is,  
22 I'm happy to report, quite successful.

23 The stand opened just after Labor Day at  
24 St. George, the Staten Island side of the  
25 ferry. It's been averaging about 275 rides

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2 per day; in other words, 275 people a day are  
3 getting off the ferry and just getting into a  
4 car and going where they want to go. We  
5 assume or we believe that most of those, if  
6 not, almost all of those, otherwise would  
7 have been illegal street hails. So, we think  
8 that's a significant reduction in that, and a  
9 success to date.

10 We are proceeding toward a similar pilot  
11 livery stand at Jamaica Station, the end of  
12 the E Train in Queens. That should be  
13 getting off the ground around Thanksgiving.

14 The next initiative is the group ride  
15 efforts we haven't undertaken both for yellow  
16 taxis in Manhattan and for group ride  
17 vehicles in Brooklyn and Queens. These are  
18 meeting with I would say mixed success. The  
19 Manhattan group ride stands at West 57th  
20 Street and Eighth Avenue, West 72nd Street  
21 and Columbus Avenue, and East 72nd Street and  
22 Third Avenue, the more-upper ones in  
23 Manhattan, simply have not worked, whether  
24 there's not enough common routes from there  
25 to work at all, or whether it is a kind of

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2 chicken-and-egg problem that passengers will  
3 only go there if there are taxis and taxis  
4 will only go there if there are passengers,  
5 but neither will act first. However we  
6 understand it, the reality is they are not  
7 functioning as group ride stands.

8 So, those have not been successful, but  
9 the one at the Port Authority Terminal has  
10 been. That is averaging in about 20 share-  
11 and-rides a day, which I think is enough to  
12 continue that, there I think the chicken/egg  
13 problem seems to have been avoided because  
14 you have a steady stream of passengers  
15 already coming out.

16 MS. WEINSHALL: Do you ever think of  
17 doing Penn Station?

18 MR. YASSKY: I don't recall if we did.  
19 I mean we must have looked at an analysis,  
20 TLC must have, but I don't recall myself ever  
21 looking at that. But I will get you data  
22 where people are going from Penn Station.

23 MS. WEINSHALL: There are long lines for  
24 people awaiting cabs.

25 MR. YASSKY: We'll see if that is

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2 comparable to the Port Authority. That is  
3 the Manhattan group ride stands.

4 In Brooklyn and Queens, the Commission  
5 approved a set of group ride vehicle routes  
6 to test out. This is kind of the livery  
7 equivalent maybe of the Manhattan taxis group  
8 ride stands, and those are slow to get off  
9 the ground, and I don't know yet whether they  
10 will succeed or not. We started with five,  
11 on three of them there is some amount of  
12 traffic, not enough to be self-sustaining at  
13 this point but enough for the operators to  
14 have a desire to hang in there and see if  
15 they will succeed.

16 On two of them, there has been very  
17 little ridership, not enough for them to  
18 justify the operators who want to hang in  
19 there. Even on the three, we have had spotty  
20 service, again you have kind of a  
21 chicken/egg. It is clear to me, that for the  
22 operators to succeed there, they are going to  
23 have to provide a consistency of service such  
24 that riders feel that they can rely upon it.  
25 And they really have not been doing that

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2 yet. We have been working with them and  
3 meeting with them to make it clear that if  
4 this is to succeed, they are going to provide  
5 consistency of service. So, I would say  
6 that's still in the kind of too-early-to-say  
7 stage, but we are kind of working on it.

8 Along with it, I will tell you, we have,  
9 as we had told you at the time, stepped up  
10 considerably against illegal commuter vans,  
11 which are in some ways kind of a competitor  
12 to this. Just over the last few weeks, we  
13 have seized -- and Deputy Commissioner  
14 Mullings and her team have been putting in  
15 extraordinary effort. We have seized 131  
16 vehicles. That is without question having an  
17 impact. We know this, because we are seeing  
18 people call the Licensing Division to inquire  
19 about how to get licensed as legal commuter  
20 vans. So, that enforcement effort is  
21 definitely paying off, and we are committed  
22 to keeping it up.

23 TPEP, two quick updates -- first, one  
24 more item for two other things. Many of you  
25 may remember an instance some months ago in

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2 which a taxi driver ejected two gay men from  
3 his cab. The TLC penalized the driver for  
4 refusal and fined him. We issued a summons  
5 and the summons was appealed, and the driver  
6 was fined. In addition, the TLC referred the  
7 matter on to the City Commission on Human  
8 Rights as a discrimination complaint. And  
9 the Human Rights Commission recently  
10 announced that it had obtained settlement of  
11 \$2,000 paid by the driver to the  
12 complainants. And I hope that this case will  
13 serve as a reminder to our licensees that  
14 everyone in New York City is entitled to  
15 service. There cannot be, there must not be  
16 any discrimination on the basis of race, on  
17 the basis of sexual orientation. No  
18 discrimination will be tolerated. And I  
19 think that this was a good outcome in this  
20 case.

21 So, two other kind of more significant  
22 business items, I just want to let you know  
23 where we are on them. First is, Taxi of  
24 Tomorrow, I have spoken with each of you here  
25 individually on this, and many of the

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2 stakeholders too in the industry. We are in  
3 the middle of the Taxi of Tomorrow process.  
4 I'm bringing this up now, because there have  
5 been some recent press reports. The Daily  
6 News reported -- well, the New York Post  
7 reported that one of the competitors, one of  
8 the entrance respondents for our request for  
9 proposal had claimed that it was selected as  
10 the winner. That report may be accurate in  
11 that perhaps the respondent said that, if so,  
12 the claim is flatly untrue.

13 And the Daily News reported just a  
14 couple days ago that there are two, in their  
15 words, "finalists" -- also not the case.

16 We are in the middle of the process, and  
17 we have gotten several responses, including  
18 from major car companies. They are  
19 promising, they are worthy of inquiring and  
20 of serious and extensive review of our  
21 technical scoring committee which is doing  
22 that. They have made preliminary evaluations  
23 as to strengths and weaknesses. They have  
24 gone back to respondents to get further  
25 information. We are in the middle of the

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2 process -- end of story.

3 You know, a little knowledge is a  
4 dangerous thing. One fact out of context can  
5 be very misleading. Sometimes, to take an  
6 example that I'm familiar with, you can watch  
7 election returns: And with 3 percent in,  
8 somebody is up 70/30, and by the end of the  
9 day, the one who was at 30 has won. So, it  
10 may true that it was 7/30 with 2 percent in,  
11 but that is utterly and completely misleading  
12 and really irrelevant.

13 So, we are in the middle of this  
14 process. The staff is working  
15 extraordinarily hard. We have each spoken  
16 individually. I will continue to keep you  
17 updated. And as soon as we have real  
18 information worthy of review, I will be back  
19 with you.

20 Last is TPEP -- you know, one of the  
21 real great successes of this agency and this  
22 Commission. Our contracts with the  
23 existing -- as you know, for the last few  
24 years, three providers, three private  
25 companies have provided the TPEP systems to

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2 taxi owners. And then Op Notch has provided  
3 them in the first place -- but even more  
4 important, operated them; processing the  
5 millions of credit card transactions every  
6 day. And credit card use, for your  
7 information, continues to grow and I think,  
8 you know, soon will really be the bulk of the  
9 way taxi fares are paid.

10 There have been three providers for the  
11 last few years. Our contracts with those  
12 three providers expired, or were set to  
13 expire at the end of September. We are  
14 seeking improvements. You know, there's  
15 always room for improvement. So, not to say  
16 the performance has been unsatisfactory, it's  
17 just that we see opportunities for  
18 improvement, as would you would expect, with  
19 a fairly new service.

20 So, we are seeking improvements in those  
21 contracts for the benefit of the riding  
22 public and the drivers; to the extent that  
23 cost can be brought down, or that revenue  
24 opportunities can benefit the drivers and the  
25 taxi owners, we want to make sure that they

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2 do; to the extent that service to the riding  
3 public can be enhanced, either through even  
4 greater consistency -- although it's been  
5 quite consistent; or through expansion of  
6 additional services that this technology  
7 makes possible; and service to the TLC, the  
8 data that has been provided to us, that we  
9 have, as you know, relied upon for important  
10 enforcement efforts. On all those fronts, we  
11 are seeking improvements in the contracts.

12 We were not able to reach a conclusion  
13 with any of the vendors by the date of the  
14 expiration at the end of September. What we  
15 did was extend two of the contracts for 45  
16 days until November 15th. So, those  
17 extensions expire November 15th.

18 With the third vendor, that is DDS, that  
19 contract is not being renewed. So, going  
20 forward, we expect that there will be two  
21 vendors, CMT and VTS. They have already of  
22 course been providing the bulk of the service  
23 to the industry. We believe going forward  
24 that they will provide the entirety of it.

25 Now, I should say, and I say to taxi

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2 owners who are listening or who are  
3 represented here, at this point, neither of  
4 those two companies have we reached a full  
5 renewal agreement with. So, for people who  
6 have been served and are currently under  
7 contract with DDS, they are going to be  
8 looking for a new provider. I would  
9 recommend that they wait and see. I cannot  
10 guarantee that both of the other two vendors,  
11 that we will reach renewal contracts with  
12 both of those two vendors. We are working  
13 closely and aggressively, and I expect that  
14 we will. But to be clear, until there's a  
15 renewal agreement with either or both of  
16 them, then there simply isn't.

17 So, I would -- you know, that some of  
18 the owners who have been with DDS are  
19 thinking, "I should sign up with one of the  
20 others." Until there is a full renewal  
21 contract, I think that will be premature.

22 MR. GONZALES: On the contracts that are  
23 expiring, there is still a service agreement  
24 beyond the expiration date?

25 MR. YASSKY: Yes. Most important is

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2 that the contract with DDS and the other two,  
3 if we don't we reach a renewal agreement,  
4 provides for a year-long period in which the  
5 vendor is required to continue to service the  
6 equipment, continue to service the taxis,  
7 continue to provide the credit card  
8 processing transaction. And that commitment  
9 is backed up by a significant bond. So, we  
10 have every expectation, and all our  
11 conversations with DDS have been friendly and  
12 productive, and they are committed to making  
13 sure that there is smooth transition. And we  
14 are extremely committed to making sure there  
15 is smooth transition.

16 And whatever we reach do or don't reach  
17 with the other vendors, we will not permit  
18 any interruption in service to the public and  
19 to the drivers, for that matter, of the  
20 credit card processing that has become  
21 crucial to the industry.

22 MS. WEINSHALL: Can you share with the  
23 Commission why DDS is not being renewed?

24 MR. YASSKY: Well, we did feel that  
25 their level of service was inferior to the

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2 other two by a significant extent. In terms  
3 of level of service, what I'm talking about  
4 is, you know, rate of success or failure in  
5 processing credit card transactions, the  
6 quality the data that was generated, and the  
7 level of reliability in the data that was  
8 provided when it was necessary for  
9 enforcement or lost property, of all of the  
10 other uses that we use that data for.

11 And as I say, we have had friendly and  
12 productive conversations about the  
13 transition. We certainly wish them well  
14 going forward.

15 And they expect to continue to compete  
16 in this marketplace elsewhere in the country,  
17 and I have no reason to think that they  
18 shouldn't be a successful competitor and  
19 perhaps in the future will return to the New  
20 York market.

21 But we just felt that we had a  
22 considerably higher degree of confidence, in  
23 the ability to perform, of the other two  
24 vendors over the next year or two years,  
25 which is the potential life of the renewal.

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2 MR. GONZALES: With the one competitor  
3 dropping out, is it going to be an impact on  
4 the industry as far as drivers on cost?

5 MR. YASSKY: You know, we took into  
6 account the impact on competition; a  
7 competitive marketplace is a good one. And  
8 we understood that one factor in this  
9 decision is the less competition may be the  
10 worse for the drivers or the owners that have  
11 to pay for that cost. The renewal contracts  
12 do provide -- or the original contract and  
13 presumably the renewal do provide for a cap  
14 on the amount that the taxi owners can be  
15 charged for the equipment. Still, the credit  
16 card processing fees, there have been, you  
17 know, from time to time, concerns raised  
18 primarily by drivers about the cost of the  
19 credit card processing that the existing  
20 vendors charge. And you know, you are right  
21 to say "Well, the more competition would  
22 lower that cost."

23 And in fact, one thing we're exploring  
24 the new contracts is opportunity to provide  
25 for competition for that particular service.

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2 But our paramount concern was: Somebody gets  
3 in a cab and swipes the card, the transaction  
4 has got to go through. And as I say, riders  
5 are coming to rely on that. If you go to  
6 other cities, you know, it is really hit or  
7 miss. Here in New York, we are able to say  
8 if you have \$2 in your pocket but a credit  
9 card, you can still get into a cab -- we want  
10 to make sure that people know that they can.  
11 We felt that going forward with two rather  
12 than three provided greater certainty.

13 Finally, last on my report, but you know  
14 by no means least in importance to the  
15 agency, is a personnel matter. To our great  
16 regret, although happiness for him, Ira  
17 Goldstein has decided to leave us for the  
18 private sector. Tomorrow is Ira's last day  
19 at the TLC, after which, he will serve as  
20 executive Director of the Black Car Workers'  
21 Compensation Fund.

22 Ira has been at the TLC since 2001. He  
23 started out as an ALJ in the adjudications  
24 division. He has held a number of other  
25 positions, including chief of staff,

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2 assistant commissioner for technology  
3 development, was the project manager for the  
4 TPEP project from its inception in 2004,  
5 brought the project from its drawing board  
6 to the taxi cab, despite the views of many  
7 onlookers that the project was, you know,  
8 like many government ideas, would never  
9 happen -- this did. And it worked, and it  
10 worked quite magnificently. So, that's just  
11 one of the many things I will tell you --  
12 that I'm not going to say it is  
13 irreplaceable, but, Ira's breadth of  
14 knowledge about both the industry and the  
15 agency are extraordinarily valuable here.

16 I wish him only the best, and I am truly  
17 and genuinely happy for him, because I think  
18 it's to his credit that he's taking on a new  
19 challenge. But he will be greatly missed  
20 here at the Commission.

21 (Applause)

22 MR. YASSKY: With that -- my promise of  
23 a short meeting quickly evaporating -- can we  
24 go to the business adoption of the minutes?

25 MR. AROUT: I make a move we accept the

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2 minutes.

3 MR. YASSKY: All in favor, Aye?

4 THE COMMISSIONER: (In unison) Aye.

5 MR. YASSKY: Opposed?

6 (No response)

7 MR. YASSKY: Without objection, the  
8 minutes of the September 16, 2010 Commission  
9 meeting are adopted.

10 Base applications -- this is our primary  
11 business here today. Is Georgia presenting  
12 them?

13 MS. STEELE: Good morning. Licensing  
14 would like to present before the Commission  
15 21 bases with a recommendation for approval.

16 MR. YASSKY: Is there a motion to  
17 approve them?

18 MS. WEINSHALL: So move.

19 MR. YASSKY: All in favor, say Aye.

20 THE COMMISSION: (In unison) Aye.

21 MR. YASSKY: Opposed?

22 (No response)

23 MR. YASSKY: Your recommendation is  
24 adopted, and 21 bases are approved.

25 And there is also recommendation for

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2 four denials?

3 MS. STEELE: Yes, with the request that  
4 the Commission grant an additional 30 days so  
5 that they may present the outstanding items.

6 MR. AROUT: Make a move to do that.

7 MR. YASSKY: Thank you. All in favor,  
8 say aye.

9 THE COMMISSION: (In unison) Aye.

10 MR. YASSKY: Opposed?

11 (No response)

12 MR. YASSKY: Without objection, then  
13 again those four items are recommended for  
14 denial with an additional 30 days to meet our  
15 requirements. Thank you, Georgia.

16 Now, we have a Commission public hearing  
17 on six rules changes. Our general counsel  
18 will describe these items.

19 MR. FRASER: All six proposed rules are  
20 changes to the rules that will become  
21 effective next year. None of them are  
22 changes to the rules that are currently in  
23 effect. Five of them are proposals that we  
24 have been calling "Phase 2 1/2 Proposals,"  
25 meaning relatively minor items that we

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2 identified in the course of doing the  
3 Comprehensive Rules Revision that needed to  
4 be fixed that we did not do because we were  
5 not doing substantive changes in the rules as  
6 part of that project, the sixth one being the  
7 Black Car Rules which are a change to the new  
8 rules to parallel a change that's been  
9 already approved to the existing rules after  
10 the approval of the new rules in July.

11 The first one is items that have to be  
12 in clear view of the passenger. Our existing  
13 rules require that certain items be present  
14 in the taxicab and in for-hire vehicles.  
15 This rule specifies which of them must be in  
16 clear view of the passenger, meaning visible  
17 and not blocked in any way by the driver or  
18 any other object in any way of the thing that  
19 is to be in the car.

20 We published these for comment, and I  
21 got no written comments. There is one  
22 witness who is signed up to speak today.

23 MR. YASSKY: Bill Carter from the  
24 Limousine Association of New York.

25 MR. CARTER: Good morning, Mr. Chairman,

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2 Commissioners. My name is Bill Carter. I'm  
3 the executive director of the Limousine  
4 Association of New York.

5 The Limousine Association of New York  
6 supports the Commission in its efforts to  
7 clarify and codify the rules that govern the  
8 various segments of the transportation  
9 industry under its agency.

10 We appreciate the opportunity that we  
11 have been given to helping correct the new  
12 for-hire vehicle rules. We hope to continue  
13 to be an integral part in any future changes  
14 that affect this industry and the way it  
15 operates.

16 However, it saddens us to note that one  
17 small bone of contention that we urge the  
18 Commission to change still has not been  
19 rectified. The luxury segment of this  
20 industry has asked the Commission to  
21 reconsider the language included in the rule  
22 requiring the display of credentials within  
23 the vehicle.

24 I call your attention to rule 6-12(j),  
25 which, over a series of intermit time

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2 periods, finally requires that four  
3 documents; the vehicle registration, the  
4 insurance card, the FHV driver's license, and  
5 the FHV vehicle permit, be kept in the car.

6 The first two may be kept, "at the  
7 visor, on top of the dashboard or in the  
8 glove compartment."

9 The other two items; the vehicle permit,  
10 and the FHV driver's license, are to be  
11 displayed behind the seat of the driver. The  
12 Commission granted, however, the following  
13 exemption: 6-12(j)(4), which says, "The  
14 driver's FHV license and vehicle permit, if  
15 not displayed behind the driver's seat in a  
16 holder, may be displayed in the vehicle in a  
17 way so as to be clearly visible from the  
18 passenger's seat and available for inspection  
19 by the passenger upon request."

20 The Limousine Association of New York  
21 was asked to conduct an informal survey of  
22 our passengers, and we found that in this  
23 segment of the industry, the customer does  
24 not want visual intrusion in the vehicle.  
25 This was further represented in letters

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2 forwarded to the Commission over a year ago.

3 As a category, luxury vehicles generate  
4 very few violations. While we welcome  
5 sensible regulations and enforcement, and we  
6 understand the need for identification of the  
7 vehicle, the driver, and the licensing status  
8 of a vehicle serving the riding public, we  
9 ask that the Commission not view us as part  
10 of that problem; we do not accept street  
11 hails, many of our drivers are chauffeurs or  
12 employees, our passengers are prearranged,  
13 and the company or base always knows who is  
14 driving the vehicle that is assigned to that  
15 job.

16 A passenger having a complaint about a  
17 driver will notify the company, not the TLC.  
18 And if the service does not meet their  
19 standards, they will take their business  
20 elsewhere. We ask that the Commission  
21 reconsider changing the language of the rule  
22 to allow all four required documents to be  
23 kept in the same place which would include  
24 the glove compartment in a luxury vehicle.  
25 Thank you.

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2 MR. YASSKY: Any discussion on this  
3 item?

4 (No response)

5 MR. YASSKY: I would only say -- thank  
6 you, Mr. Carter, for your testimony -- we  
7 have of course heard this issue raised from  
8 Mr. Carter and his colleagues. The rules do  
9 treat luxury limousines differently than our  
10 for-hire vehicles, in that the driver's  
11 license is not required to be displayed on  
12 the back of the driver's seat in a way that  
13 is kind of very immediately presented to the  
14 passenger. And that is in recognition of the  
15 fact that luxury limousines of course are not  
16 allowed to accept street hails, and don't  
17 serve -- serve the general public in a  
18 different way. It's largely by repeat-  
19 customers, and not as much by the one-off  
20 customers. So, perhaps the need to look out  
21 for the public in that way is slightly less.

22 And also that part of what that segment  
23 is offering is a luxury experience that, at  
24 least in the view of the industry, to which  
25 is entitled to respect, that luxury

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2 experience is disrupted somewhat by having  
3 the license displayed so prominently.

4 However, we do believe that it is  
5 important for passengers to be able to  
6 identify the driver by name, by license  
7 number. The rules now permit it to be on the  
8 visor, so, in a less obtrusive way but still  
9 visible way. And, that, this Commission  
10 staff feels and I feel, is an appropriate  
11 compromise between the aesthetic demand of  
12 the luxury field and the need to protect the  
13 public.

14 So, that was, Commissioner, just so you  
15 understand what our rationale was.

16 Is there a discussion on this item?

17 MR. GONZALES: I have a general comment  
18 on 423: The clear view for passengers, just  
19 with respect to the wording, and if it's  
20 taken literally, I don't think it's what our  
21 intention is. It says in the last three  
22 lines, "and must not block in any way a  
23 passenger's access to the medallion number on  
24 the taxicab identification raised lettering  
25 plaque or the taxicab identification brail

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2 plaque," with the word on there, if taken  
3 literally, seems to be you can block one or  
4 the other.

5 MR. FRASER: Well, no, that is certainly  
6 not what was intended. I think it means you  
7 can't block either one, is the way I would  
8 construe that. The point being that, for the  
9 raised lettering and the brail to work, the  
10 passenger has to be able to touch it. So, it  
11 isn't even the matter of the view, obviously,  
12 a blind person doesn't need to see it. They  
13 need to be able to touch it. So, that's why  
14 that is not cast in terms of blocking the  
15 view, it is blocking access to it so that it  
16 can be touched. And the point was not that  
17 you can block one or the other, the point was  
18 that you can't block either.

19 MR. YASSKY: I guess, Commissioner, what  
20 I would ask is, perhaps we can go over with  
21 you and grammarians whether it accomplishes  
22 that. You know, I think that by saying,  
23 "must not block this or this" prevents the  
24 blocking of either one, as opposed to saying,  
25 "passenger must have access to this or this,"

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2 which would allow the either/or. But if we  
3 could, we can go over that with you  
4 afterwards to see if an amendment is  
5 necessary.

6 MR. GONZALES: Yeah, anything along the  
7 lines of "The two plaques must not be  
8 blocked" I think would be appropriate.

9 MR. YASSKY: So, I hear the wording  
10 comment. Like I said, because I think that  
11 if we think about it, I do think this wording  
12 accomplishes what it's intended to. So, I  
13 guess what I would ask your indulgence is, we  
14 can go over that with you, and if you  
15 disagree, we can go back.

16 MR. GONZALES: Okay.

17 MR. AROUT: Make a motion we approve it.

18 MR. YASSKY: Okay, a motion to approve  
19 is on the table. All in favor, say aye.

20 THE COMMISSION: (In unison) Aye.

21 MR. YASSKY: Opposed?

22 (No response)

23 MR. YASSKY: By unanimous vote, this  
24 item is adopted.

25 Mr. Fraser?

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2 MR. FRASER: The next one is a proposed  
3 rule that will allow LLCs, limited liability  
4 companies, to be licensees for all of our  
5 license types except drivers. This is one  
6 that was generated by an inconsistency in our  
7 rules. Our rules currently allow LLCs to own  
8 medallions, but are not specified as a  
9 permissible owner or licensee of bases or  
10 other business licenses.

11 In fact, I understand LLCs are accepted  
12 by our licensing division. So, this is sort  
13 of a cleanup provision that will allow LLCs  
14 to be licensees of all types, except drivers  
15 obviously.

16 We published this rule for comment. We  
17 received no written comments, and no one has  
18 signed up today to testify.

19 MR. YASSKY: I think that is  
20 straightforward. Is there any discussion of  
21 this item?

22 (No response)

23 MR. YASSKY: Is there a motion to  
24 approve it?

25 MS. POLANCO: So move.

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2 MR. YASSKY: Thank you, Commissioner  
3 Polanco. All in favor, say aye.

4 THE COMMISSION: (In unison) Aye.

5 MR. YASSKY: All opposed?

6 (No response)

7 MR. YASSKY: By 6-to-nothing -- or 5-to-  
8 nothing I suppose, the item is adopted.

9 Mr. Fraser?

10 MR. FRASER: The next one is the Black  
11 Car Retirement rules and Clean Car Incentive.  
12 This rule was promulgated by the Commission a  
13 couple months ago as an amendment to our  
14 existing rules. What this proposal does is  
15 it recodifies it as an amendment to the rules  
16 that will become effective next year, with  
17 no change from what has already been  
18 promulgated.

19 We published this for comment and  
20 received on written comment, which has been  
21 distributed to the Commissioners, and that  
22 commenter has signed up to testify today.

23 MR. YASSKY: Mr. Thaler, you have asked  
24 to testify?

25 (No response)

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2 MR. YASSKY: Okay, very good. Again,  
3 Commissioners, this really is I think a  
4 purely technical amendment. We are  
5 continuing to the TATC rules what we have  
6 already adopted for existing rules.

7 So, is there a motion to approve?

8 MR. AROUT: Move the adoption.

9 MR. YASSKY: Thank you. All in favor,  
10 say aye?

11 THE COMMISSION: (In unison) Aye.

12 MR. YASSKY: Opposed?

13 (No response)

14 MR. YASSKY: Mr. Thaler, if you would  
15 like, please go ahead. And I appreciate your  
16 brevity. We have received your written  
17 comment and it has been distributed.

18 MR. THALER: Thank you, Chair Yassky and  
19 Commissioners. The two-year retirement extension  
20 for wheelchair accessible vehicles applicable to  
21 non-fleet operated medallion taxis is not permitted  
22 in this proposed Black Car Retirement rule. So,  
23 would the Commission consider adding this  
24 provision? It would provide an important incentive  
25 to increase the number of wheelchair accessible

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2 FHV's as the MTA continues to explore the  
3 opportunity to increase the participation of FHV's  
4 for Access-a-Ride service, and also to support  
5 perhaps the increase in a latent unknown demand  
6 from the disabled community.

7 MR. YASSKY: Thank you. This was a  
8 helpful comment. Your written comment was  
9 quite helpful, and your oral testimony is  
10 helpful as well.

11 In our discussion with the industry,  
12 there was some interest in taking advantage  
13 of a retirement-age incentive for fuel  
14 efficient vehicles. So, that is why this was  
15 included in the rule. Also, because it was a  
16 revision of a strict requirement, as you  
17 know.

18 We did not have similar interest in  
19 accessible vehicles. Nonetheless, we ought  
20 to look at it. So, we don't want to put into  
21 loss something that was meaningless, but  
22 we'll take a look at it. And I appreciate  
23 your comment. Thank you.

24 So, we were, I believe in the middle of  
25 voting. We'll just do it again.

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2 All in favor, say aye.

3 THE COMMISSION: (In unison) Aye.

4 MR. YASSKY: Opposed?

5 (No response)

6 MR. YASSKY: By unanimous vote, Item 4C  
7 is adopted.

8 Mr. Fraser?

9 MR. FRASER: Next is the Distracted  
10 Driver revisions. This changes our existing  
11 rules in two respects: One, it eliminates  
12 the need for a directive that a driver take a  
13 refresher course after the driver is found  
14 guilty of one distracted driver violation.  
15 The way the rules read now, if the driver is  
16 found guilty, a directive must be issued, and  
17 then the driver has to take the course, it is  
18 obligatory upon being found guilty. So, what  
19 this rule does is it eliminates the extra  
20 step of having to issue the directive: You  
21 are found guilty, you have to take the  
22 course; you don't sit and wait until you get  
23 the directive to get the course.

24 The other change that this rule makes is  
25 it eliminates the counting of DMV violations

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2 for distracted driver, essentially cell  
3 phones, while also other electronic devices.  
4 It eliminates counting those towards your  
5 three-strikes-and-you're-out. And the theory  
6 there is that your personal driving should  
7 not be counted against you for this purpose.

8 So, those are the two changes that this  
9 proposal would make. We published this for  
10 comment. No written comments were received,  
11 and one speaker has signed up to testify  
12 today.

13 MR. YASSKY: Ms. Desai, you signed up to  
14 speak.

15 MS. DESAI: Good morning. Actually, may  
16 I also comment on two other rules? I know  
17 that's normally been the procedure.

18 MR. YASSKY: Go ahead.

19 MS. DESAI: Thank you. Well, first, we  
20 certainly welcome the change in the rule to  
21 eliminate counting points from, you know, DMV  
22 summonses, toward the three-strikes-and-  
23 you're-out provision. What I would want to  
24 say is that I think that the new language in  
25 the penalty in this rule is actually very

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2 confusing. By what Mr. Fraser has just said,  
3 I would assume that your goal is to have the  
4 penalty read that it is the \$200-fine, plus  
5 having to take the course which is  
6 mandatory. But I think upon a very quick  
7 glance, it gives the impression that it is  
8 \$200 plus a suspension. And I understand  
9 that the rest of the rule continues to  
10 clarify to say that the suspension is  
11 deferred for 60 days, but I do think it is  
12 confusing, and I think especially if someone  
13 who is representing themselves pro se gets a  
14 disposition -- I, just think it is going to  
15 lead to a lot of confusion at Queens  
16 Boulevard. So, you might just consider  
17 rewording that paragraph.

18 The other two that I wanted to comment  
19 on was a rule in terms of proposed amendments  
20 to items which must be in clear view of  
21 passengers for taxis and for-hire vehicles.  
22 In as much as that rule now includes the  
23 passenger information monitor, my one concern  
24 would be that drivers -- one, the signal is  
25 out for the credit cards, and in some cases

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2 where the monitor itself is out, and  
3 especially when there is a system-wide  
4 failure or a prolonged failure throughout a  
5 shift, instead of getting into an argument  
6 with every single passenger that get's in,  
7 drivers very reasonably will post up a sign.  
8 And I think it is really to communicate with  
9 the rider, to actually ease any  
10 miscommunication or misunderstanding as to  
11 why their transaction is not going through.  
12 So, I do think that there should be some sort  
13 of exception, that if the reader is out, the  
14 driver should be allowed to post some sort of  
15 a sign to alert the passenger even before  
16 they get into the back seat. And since the  
17 monitor seems like the ideal location for  
18 that kind of a handwritten sign, my concern  
19 would be that with the new proposed  
20 amendment, that a driver would not be able to  
21 do that without facing the consequence of a  
22 penalty when they are pulled by a TLC  
23 inspector when they might have such a sign  
24 up. So, that is something that I think  
25 should be considered.

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2 Lastly, in terms of the proposed  
3 accident rules, I would just ask that some  
4 sort of an industry notice immediately and in  
5 the future some sort of a regulation be  
6 issued -- and we have testified to this many  
7 times in the past -- which would require both  
8 garages and agents to provide information to  
9 all drivers on the procedure in case of an  
10 accident. Of course, drivers are aware that  
11 they have to inform the owner or the agent,  
12 but particularly if you are a DOV operator,  
13 you don't have the title of that vehicle, and  
14 it's not made clear in the so-called  
15 contract, there is a lot of confusion,  
16 especially after hours or over the weekend as  
17 to exactly what procedure the agent requires  
18 in case of an accident.

19 I do think that if the TLC will regulate  
20 what the driver is required to do, then  
21 similarly, you should regulate what an agent  
22 or owners are required to do in those  
23 situations. Thank you.

24 MR. YASSKY: Well, thank you. Before  
25 discussion, just a couple of things. First

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2 of all, Ms. Desai referred to a point-bearing  
3 violation for cell phone use. Just to be  
4 clear, and part of what drives this force is  
5 that tha doesn't carry DMV points, cell phone  
6 violation does not. And if it did carry the  
7 DMV points, then of course under our Critical  
8 Driver Rules, DMV points do accumulate  
9 towards a TLC sanction. These do not, I just  
10 want to make sure people are clear on that.

11 On the language, you know, my just quick  
12 reading of the penalty language, I think it  
13 does accomplish again what we're looking to  
14 accomplish. I believe that's what the  
15 general counsel's opinion is as well.

16 I would just to say this to our kind of  
17 regular customers: If we have a rule that we  
18 have circulated for comment, and you see an  
19 issue with it, bring it to our attention.  
20 Don't wait until the day of the vote.

21 There is another item that was planned  
22 to be on the agenda for today that our  
23 colleagues at the League of Mutual Taxi  
24 Owners brought some genuine substantive  
25 issues to us recently, we want to explore

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2 them. I think in the end, you know, we will  
3 still want to go forward with that item, but  
4 it needed to be looked at.

5 But what I would ask is, rather than a  
6 few days before or on the day of, if you  
7 bring it to us, then we can address the  
8 issue. And I say, I believe that this  
9 language is fine.

10 And the same would go for the sign  
11 point. We do want -- I can understand why  
12 you would say put something there on the  
13 monitors, a place you know people are  
14 looking. I would want to think that through,  
15 have the Commission staff kind of think that  
16 through before presenting that to the  
17 Commissioners.

18 So, thank you for your comments. Is  
19 there a discussion on -- we're back on the  
20 Distracted Driver item. I know, Commissioner  
21 Weinshall, you were interested in this.

22 MS. WEINSHALL: I'm fine.

23 MR. YASSKY: You understood, okay. So,  
24 is there a motion to approve this?

25 MR. AROUT: Motion to approve.

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2 MR. YASSKY: Thank you. All in favor,  
3 say aye.

4 THE COMMISSION: (In unison) Aye.

5 MR. YASSKY: Opposed?

6 (No response)

7 MR. YASSKY: Item 4-D is adopted.

8 Mr. Fraser, we have two more items, and  
9 again, I think these are both short ones.

10 MR. FRASER: This one proposes the  
11 remarkable innovation that when you have a  
12 camera in your car, it has to actually work.  
13 The rules currently require -- believe it or  
14 not -- that under certain circumstances you  
15 must have one, they do not require that it be  
16 functional. And so we have had some  
17 instances where the camera was there, didn't  
18 work, and our judges dismissed the  
19 violation. Some judges have dismissed  
20 charges where the camera was present but not  
21 operational. So, this fixes that problem.

22 We published this for comment, got none,  
23 and have no one signed up to testify today.

24 MR. YASSKY: Is there a motion to  
25 approve?

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2 MS. WEINSHALL: So move.

3 MR. YASSKY: All in favor, say aye?

4 THE COMMISSION: Aye.

5 MR. YASSKY: All opposed?

6 (No response)

7 MR. YASSKY: By a vote of 5-to-nothing,  
8 Item 4-E is adopted.

9 MR. FRASER: The last one is a rule that  
10 would clarify and standardize the  
11 requirements that drivers in all four of our  
12 regulated industries have to meet after an  
13 accident. We have rules in our existing  
14 rules that apply only to taxi drivers, and we  
15 didn't really have rules in the other three  
16 industries that governs what happens after an  
17 accident, this specifies the exchange of  
18 insurance information and so on. It expands  
19 it, because the current rules talked about  
20 exchanging insurance information with other  
21 drivers, but obviously, injured passengers  
22 need to have insurance information as well.  
23 So, this covers them.

24 I do want to note two corrections that  
25 we need to make in the proposed rule as

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2 published, in our zeal to have all four  
3 exactly the same wording, we include  
4 persistent violator points in the Para  
5 Transit chapter and the Commuter Van chapter,  
6 and para transits and commuter vans don't  
7 have persistent violator rules, so, those  
8 references and those two rules, 614(c) (2) and  
9 714(c) (2), to three points, need to come  
10 out.

11 Other than that, we are recommending  
12 that it be passed as published. We published  
13 for comment, there were no written comments,  
14 and no one has signed up to speak today.

15 MR. YASSKY: Just to be clear, we are  
16 voting now to adopt the rule as circulated,  
17 but without the reference to persistent  
18 violator points in para transit and commuter  
19 sections?

20 MR. FRASER: That's right.

21 MS. POLANCO: So, that will be what?  
22 Section 714(c) (2)?

23 MR. FRASER: 714(c) (2), and 614(c) (2)  
24 for para transit, right.

25 MS. POLANCO: What about regards to

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2 513(6), Payment Of Traffic Judgments? It  
3 says, "The holder or driver's license issued  
4 under this chapter must satisfy any  
5 outstanding judgment in paying the Civil  
6 Penalty 04 Traffic Violation for qualified  
7 jurisdiction."

8 MR. FRASER: Yeah, that's the existing  
9 rule. The only reason that it's in the  
10 proposed rule is because the changes we are  
11 making require that that be renumbered from  
12 whatever it used to be -- 5 probably, to 6.  
13 But that's not new and it's not being  
14 changed. This is solely about exchanging  
15 information at an accident.

16 MS. POLANCO: Okay.

17 MR. YASSKY: Is there a motion to  
18 approve?

19 MS. POLANCO: So move.

20 MR. YASSKY: A motion is on the table.  
21 All in favor, say aye.

22 THE COMMISSION: (In unison) Aye.

23 MR. YASSKY: Opposed?

24 (No response)

25 MR. YASSKY: Okay. Well, thank you.

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2 And so, Commissioners, these were worth  
3 doing. None of these rules really changed  
4 Commission practice, they kind of codify  
5 what's already been happening or technical  
6 changes. So, I appreciate your coming in.  
7 It nonetheless needed to be done. I  
8 appreciate your coming here today.

9 Next month, we will have some  
10 substantive and I think important rules on  
11 the agenda that will tighten up the rules  
12 regarding when an adjournment is available.  
13 We have had a repeated problem with  
14 respondents, defendants, people who have been  
15 issued summonses adjourning cases repeatedly,  
16 to the frustration of passengers who have  
17 made complaints, or where it's the result of  
18 field summonses. It means that the events  
19 are now months in the past, and memories are  
20 not as good as they were when the events were  
21 fresh. An adjournment, you know, should be  
22 available when necessary, but it should not  
23 be a matter of course for someone to postpone  
24 the hearing -- a day of reckoning if you  
25 will -- again and again. We are tightening

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2 that up.

3 We are also tightening up the rules on  
4 reinstatement of a case after a default  
5 judgment. This is in response to a problem  
6 that we have seen where defendants don't show  
7 up, the judge issues a default judgment  
8 finding of course guilty, and then walks in,  
9 you know, maybe sometimes a month later, and  
10 says, "Well, now, I want to have my hearing."

11 And if there's a legitimate reason and  
12 it's a real reason, there needs to be a  
13 safety belt for that I understand, but that  
14 can't be a matter of course that you ignore  
15 the summons and come in a year later and  
16 reopen it.

17 But those are substantive. Those are  
18 real. I think that you will find them to be  
19 good changes to the rules. But those will be  
20 on for November, so I am giving you some  
21 advanced notice.

22 I had said I thought we would finish by  
23 11:00, we're not too far off. Commissioners,  
24 I appreciate your indulgence for the extra  
25 five minutes. And of course, members of the

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2 public, thank you for joining us this  
3 morning. With that, the hearing is  
4 adjourned.

5 (TIME NOTED: 11:10 a.m.)

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

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

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

10 THAT this is a true and accurate  
11 transcription of the Taxi and Limousine Commission  
12 Public Hearing held on October 21, 2010.

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

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

18 IN WITNESS WHEREOF, I have hereunto set my  
19 hand this 21st day of October 2010.

20

21

\_\_\_\_\_  
CASEY MARTIN

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