NYC TAXI AND LIMOUSINE COMMISSION

Thursday, November 17, 2011
Commencing at 9:21 a.m.

MEETING AGENDA:
PUBLIC HEARING, STENOGRAPHIC
COMMISSION ACTION, TRANSCRIPT OF
STAFF PRESENTATION, PROCEEDINGS

BEFORE:
DAVID YASSKY, CHAIRMAN
COMMISSIONERS:
MARK GJONAJ
NORA CONSTANCE MARINO
LAUVIENSKA POLANCO
EDWARD GONZALES
IRIS WEINSHALL
ELIAS AROUT
FRANK CARONE
LASHANN DEARCY (ABSENT)
MEERA JOSHI, ESQ., GENERAL COUNSEL
A P P E A R A N C E S:

New York City Taxi and Limousine Commission

presentation:
CHRISTOPER TORMEY
Council Member Domenic M. Recchia
Jasmine Leveaux
Julie Tattoni
Jeff Rose
Guy Palumbo
David Pollack
Bhainavi Desai
Ira Goldstein
Beresford Simmons
Fidel F. Del Valle
MR. CHAIRMAN: So commissioners, good morning. The meeting of the taxi limousine commission is convened for today.

We are meeting right at this moment solely for the purpose of considering a motion I'm about to make to go into executive session. Commissioners, as we have discussed, guided by some excellent advice by our new general counsel, we are trying out a practice that the ccRB uses of regular executive sessions prior to their meetings but requires, of course, a public meeting and a public session and vote to do that.

So I move that we now recess this meeting and meet in executive session and reconvene at 10:00 o'clock.

All in favor say aye.

(The commissioners say aye.)

MR. CHAIRMAN: The motion is adopted. The meeting is recessed until 10:00 o'clock.

(executive session recess until 10:00 o'clock.)

MR. CHAIRMAN: Good morning, And thank you for your patience not for a 10:15 start because I know it is difficult to travel in lower Manhattan this morning.

Thank you for making the effort.

I will, in the interest of time, I will skip much of the kind of update part of the meeting. I will
mention just a couple of things.

I want to just again thank our partners in the value world and particularly in the TPEP provider world. We launched a new opportunity for vehicles, both for passengers and taxis, both a section stream of content on the taxi TV but also a passenger survey that for the first time in 15 years is generating hard numbers, data, about the population and riding practices of the passengers. It is proving -- we are getting about 900 responses a day. So statistically significant on day one but amounting into a really extraordinary collection of data that is really useful to our policy makers and I just want to again thank the tea-tep providers for their assistance there.

Second, I just mentioned, commissioners, there was some discussion a couple of meetings ago we know we adopted on the rooftop advertising.

At that time, there was one of the testifiers spoke about four-sided rooftop advertising.

I'm informing you pursuant to the rules we did subsequently receive a petition from the astro media group requesting the rules for site rooftop advertising. The TLC considered this issue when considering the rooftop rule. We have reviewed that request and have decided to deny that petition. I will inform the
commissioners.

I will mention again just we have had terrific participation from the industry of the pilot program for fully electric vehicles. We approved at the last meeting, we have had I think two, maybe more information sessions since then.

They have been tremendously well attended, Meaning there is a lot of interest in participation. So I have no doubt that we will be able to execute that and get those vehicles on the road and learn whether and how fully electric vehicles can be assimilated into the taxi duty cycle. I will leave it at that so we can get to work.

First, I want to move that we adopt the minutes of the October 20, 2011 commission meeting. Commissioners, those minutes are before you. I move that we adopt the minutes. All in favor, aye?

>> MS. MARINO: It states that I was present at that meeting. I was not.

>> MS. WEINSHALL: I was present. she was absent.

We will have that corrected in the formal minutes. I move that with the amendment that the minutes shall reflect that commissioner Marino was absent and commissioner Weinshall was present. That the minutes be adopted. All in favor say aye.
(THE BOARD SAYS aye.)


MR. TORMEY: Good morning. licensing would like to present a few speakers, Five bases with recommendation for approval. There are one, there is one base. My name is Chris TORMEY, Director of licensing for the TLC.

Licensing would like to present five base recommendation for approval. There is one base licensing recommending for denial for the requested commission grant an additional 30 days so that they may present their outstanding items.

>> MR. CHAIRMAN: I move that we adopt the recommendations of the licensing division on the renewals and denials. And all in favor say aye.

(The board says aye.)

MR. CHAIRMAN: Opposed? The motion is adopted.

Thank you.

For the licensing division, It goes without saying that the brief appearance we get from licensing every meeting is the teeny tiny tippy top of the iceberg about a huge range of work they do day in and day out. I want to make sure they know how much it is appreciated.

We have two rules on the agenda today for public hearing and commissioner action.
The first rule involves our standards for approving stretch vehicles as FHVs. Our general counsel will describe this.

MS JOSHI: Good morning. before the commissioners today is a proposed rule that will permit the TLC to license a broader range of modified for-hire vehicles. The current rules only permit the licensing of vehicles with original vehicle manufacture certified modifications.

The proposed rules will allow for-hire modified vehicles that meet New York State department of transportation safety standards or for-hire modified vehicles that are exempt from DOT safety inspections to also be licensed by TLC as long as they meet the insurance requirements set forth in the proposed rules.

The proposed rules would published in the city record. the comment period ended on November 14th. No written comments were received.

We are now going to move to public testimony on the proposed rules and I just request that you state your full name, and if you are affiliated with a particular entity that you name that entity.

>> MR. CHAIRMAN: Yes, I know we have here -- is there a list, I'm sorry. I know the list of people to sign up to testify I don't have in front of me. Can you
bring that?
While we are doing that, I know the one we have here council member Domenic Recchia I will call him to testify. Right up front.

Council member Recchia really brought this issue to the attention of the commission. He pointed out to us that there is real potential in our current rules for New York City bases to be in a competitive disadvantage and that was council member Recchia.

>> MR. RECCHIA: Good morning, Mr. chairman, David Yassky. Thank you for giving me the opportunity to say a few words this morning to all the commissioners.

I'm here to discuss the amendment to the New York City taxi and limousine commission rules regulating after market modification to for-hire vehicles.

A most important note, we are going to detail our focus on how this amendment affects limousine stretching on a greater level and how it is costing the City of New York thousands of dollars.

I want to first acknowledge that restrictions against limousines stretching are put in place in order to ensure the quality and safety for for-hire vehicles. To this end, I want to make clear that new provision amendments will include a point dedicated to vehicle quality.
The quality and safety of these vehicles could be secured by requiring the after market modified vehicles insured by the stretching company be bonded. They have warranties and right now there is basically only two companies that this rule allows stretching limos, that is, Lincolns and Cadillacs because they are done by the actual manufacturer.

All the other stretch limos that you see are not probably on the New York city streets and it is not just fair. We should let these bases have these limos, register them properly with the taxi and limousine commission and not be at a disadvantage because right now in order to be legally on our streets they have to be affiliated with a base in Westchester, in New Jersey, Long Island or New York City. And we can have them affiliated with bases here in New York City and we can bring in income, which the city needs.

This is at a great disadvantage because many bases have other vehicles and it is just not fair that only Lincolns and Cadillacs are accepted by the taxi and limousine commission.

So I ask for you to support me on this issue so we can move forward because there are many bases throughout New York City, and this is brought to my attention, we started investigating this. There are many bases that
have problems like this and they would love for this to be resolved.

In addition to that, I saw in the rules a five million dollar insurance requirement. I think that's a little bit excessive. I think that could hurt the bases.

Buses, big coach buses, are required to have five million dollars of insurance, and now we are requiring stretch limos to have the same things as buses that carry close to 60, 65 passengers. So I would ask that you reconsider that part of the rule.

In addition, I sent a letter, also, another point that I pointed out was that these bases are required to have ten limos or more in order to get registered by the taxi and limousine commission and I would ask that you really consider lowering that requirement.

We are here to promote small business. We are here to help small businesses prosper. Someone who wants to start a small business with a limo business goes out and purchases one vehicle, sees that he is doing well, has some money to purchase another one but he really can't start his own business because you need ten vehicles or more to have your own business. And we are really putting them in a position that is not fair.

And we believe in helping small businesses. We
want to see them prosper, so I ask that you really lower
the level to maybe two or three, if you want, but we
really have to not put them at a disadvantage.

So I think I've covered everything I wanted to
cover. We really need to arrest this. I request
permission really in amending these rules.

>> MR. CHAIRMAN: Thank you very much, council
member, and, as I'm sure you know, commissioners,
council member RECCHIA chairs the finance committee of
the city council. He's been quite instrumental to the
TLC in making sure that our issues brought to us are
considered, but, in particular, he's been quite focused
on the need for revenue to make sure we can support the
city government without going to the taxpayers Again and
again.

And so in this connection I understand why you
would bring this forward to us. I do think when you say
there are revenue implications here it makes sense to
me. I want to say I probably know you left -- it is a
busy day over at city hall.

Two things, first of all, I believe the insurance
issue that you raised, and we have some other comments,
too, from the industry about the level, the appropriate
level of insurance, just two things I wanted to make
clear, commissioners, and folks in the industry that are
here, the proposed rule speaks only about the insurance that would be required of these stretched vehicles. In other words, it does not mention limos.

We had some concerns and questions that came in on the last day or two that from the way the questions were asked we could tell that the people thought that it meant we were raising insurance requirements overall for the industry. That's not what this rule would do.

This rule only speaks to this rule allowing stretch vehicles beyond what is allowed today and sets insurance requirements for those stretch vehicles only. So we want to make sure you understand that.

But, second, some of the questions that have been raised about the level of insurance appropriate for these vehicles I think does require us to consider, and it is going to be my intention to table this so we can take another month and consider yet the next meeting but I want you to know --

MS. MARINO: Mr. Chairman, I think the underlying idea of expanding options available to bases is a good one. I intend to support it. I can't speak for the other commissioners.

MR. RECCHIA: One thing I just want to bring up dealing with INSURANCE WHEN these limos are stretched, it is only a few companies, they give warranties,
okay. So if you want to require that they have to file a copy of the warranty with the TLC not to raise that insurance level so high, They do warranty them.

>> MR. CHAIRMAN: Thank you for that suggestion and, I'm sorry. If there are questions but before commissioner, I also just wanted to say council member RECCHIA raised a question of this, it is the case that in our rules, as you know, bases, meaning livery bases, and also black car, for luxury limousine bases are required to have at least ten vehicles affiliated.

There have been persistent questions raised about whether that does choke off some small businesses that could function just fine with three or four affiliated vehicles.

But I would say council member that that is found in the local law, and I consulted with our general counsel. It is in our rules, too, but our rules simply repeat what's in the local law. In other words, we repealed our rule that ten vehicles requirement would still remain in effect due to the administrative code.

So that would have to require a legislation from the City counsel.

MR. RECCHIA: I will address that. Thank you for bringing that to my attention, Mr. Chairman.

>> MR. CARONE: Welcome council member RECCHIA. I
know the good work you do for the city. That was my comment, chairman, that the last paragraph of the council member's letter amending the rule requiring ten vehicles I was going to ask him if we could count on city counsel to work on amending the administrative code.

I would ask that the staff and the commission inasmuch as tabling this rule for today, to consider as part of that revised, to the extent we may revise it, revised rule, incorporate an amendment to our section 59B-15 with the understanding that it would not be fully in effect unless the administrative code also was changed.

But in anticipation of that rather than to come back and do it again, I would ask that you consider doing that preemptively.

MR. RECCHIA: I will address that at the city COUNCIL. Thank you very much. Any other further questions?

>> MS. MARINO: What do you think an appropriate amount of insurance would be? And I understand what you said about the warranty.

The problem I have with the warranty if you have a car with ten kids going to the prom and it snaps in half and they are injured a warranty is not going to help
them at that point. Insurance is going to help them at
that point.

MR. RECCHIA: I understand that and that is
something that I think we should sit down with the
insurance industry, sit down with the base owners, some
of them and have open discussion about this and have an
open dialogue to see but a bus has five million
insurance. So I think that is way too much.

>> MS. MARINO: Okay. I think it is something we
would need to think about.

MR. RECCHIA: Because we don't want to put these
companies out of business and we don't want to force
them to go to westchester or Long Island or New Jersey.
So we have to keep them here.

>> MS. MARINO: Do you have any idea what the
insurance requirements are in those counties?

MR. RECCHIA: no, I don't.

MR. CARONE: It is a good question.

>> MR. CHAIRMAN: Thank you very much. We have
three other people signed up to speak, Jasmine Leveaux
From Windels marX followed by Julie tattone It says also
from Windels marX. Maybe perhaps it would be possible
for the two of you to consolidate?

MS. LEVEAUX: We will. I'm speaking on behalf of
COTA, the coalition of transportation associations. So.
Mr. chairman: I SEE. Go ahead.

>> A SPEAKER: Good morning, commissioners. My name IS Jasmine LEVEAUX and I'm affiliated with the law firm WINDELS marX. I'm in the transportation practice group. I'm appearing on behalf of the newly formed coalition of transportation associations, also known as COTA And it is chairman Matthew Daus that IS unavailable to attend today.

COTA is a coalition of all the limousines and black cars trade associations in the New York Metropolitan area, which include LUXURY base operators association, the LBOA; the black car assistance corporation, THE BCAC; the limousine association of New York, LANY; the Long Island LIMOUSINE association, LILA, and the limousine ASSOCIATION of New Jersey, LANJ.

Our law firm is also general counsel to the LBAO and the LANJ.

The commission of COTA is working together to support the economic integrity and sustainability of the for hire ground transportation and to propose safety, a higher quality customer service and to support reasonable sound government regulations to further those purposes.

We applaud the efforts of chairman David Yassky, TLC's board of commissioners and counsel member Dom
Recchia to address the ability of certain super stretch limousines to become licensed and subject to additional safety standards.

However, there are some key stakeholders who have not been a part of the process which we feel the agency would benefit from hearing theirs knowledge and expertise in this area.

Most of the members of the LANJ the LBAo and the LILA just learned of the proposed rules within the last 40 to 72 hours. And they are the majority of the small business owners that are both directly and indirectly affected by these rules.

While the rules set forth a framework for accountability and regulations, since most of the key members of COTA were not part of the outreach and rule making process they have numerous questions about the regulations and their implementation.

For example, the largest insurance, insurer of limousine and black car vehicles in the industry, Lancer insurance company, only learned of the new regulations to significantly enhance insurance coverage within the last 24 hours.

Lancer has indicated it has concerns about the ability to provide such coverage at the additional premiums that all black car and limousine companies
would wear as well as the additional costs for such insurance that may be passed on to the riding public.

There are also concerns and questions about the rigors and standards that will be enforced for manufacturer approved retrofitters and the licensing prosper coach builders.

The scope of the TLC visual inspections and the objective standards by which such inspection will be conducted, the role interplay and overlapping jurisdiction between the New York City State Department of transportation, the TLC and the New York State department of motor vehicles, the potential legal implication under the New York City reciprocity law between New York City and Nassau county taxi and limousine commission licensees, and the unidentified additional cost ands expenses that will be borne by the small businesses in the Metropolitan area.

We support reasonable regulations and the goals and purposes of these proposed regulations; However, we are simply requesting that the board of commissioners not vote on those proposed rules but rather digest the public testimony and allow key stakeholders who are not a part of the process to meet with TLC staff to have their questions answered.

MR. CHAIRMAN: thank you.
MS. LEVEAUX: THANK YOU.

MR. CHAIRMAN: Jeff Rose from the limousine association of New York.

MR. GJONAJ: I have a question.

MR. CHAIRMAN: Commissioner.

MR. GJONAJ: Why is there an issue with Lancer, the largest insurance company provider, of not being aware of the changes to the description in the limousines? How did this --

MR. CHAIRMAN: As always our rules are published 30 plus days in advance. I don't know how many days this one but at least 30, And we send them out to all of the trade associations with whom we deal regularly Including the limousine association you will hear from in a moment.

So these are published in the ordinary course.

MR. GJONAJ: As far as you know, you have reached out to Lancer as well as anyone else?

MR. CHAIRMAN: They are not a company that we have had prior experience with And I gather that they are active with our licensees. Thank you.

MR. AROUT: Just to be clear, the fact that Lancer has not learned of the new proposed regulations is their own responsibility. We have -- the regulations were posted in the 30 days as required?
MR. CHAIRMAN: We posted publish see 30 days as required. But we would like to go above and beyond what is required under law and affirmatively reach out to all the stakeholders that we have dealt with in the past, whether they might be interested in this or not. And we will continue to redouble and intensify our efforts to understand the full breadth of the stakeholder community and make sure that everyone is notified of things as quickly as we possibly can. Thank you.

Jeff Rose from the limousine association of New York.

MS. TATTONI: Mr. Chairman, if I may address you. I'm Julie Tattoni.

>> MR. CHAIRMAN: You are signed up. We will see how the times goes.

>> MR. ROSE: Again, my name is Jeff Rose and when I'm speaking on behalf of the limousine association of New York.

We feel that the TLC's proposals for modified vehicles are a step in the right direction. Market based solutions that allow maximum flexibility to best serve consumer demand while maintaining public safety are preferable to one size fits all regulatory solution. However, there is a broad consensus among the members of the coalition of transportation associations that the
current solution can be significantly improved upon.

We are eager to bring together all of the necessary players, the regulators, the various elements of the for hire vehicle community and the insurance industry to fashion the best possible solution to meet the growing needs of the riding public.

MR. CHAIRMAN: Jeff, I'm sorry. Just so I can understand, is it a concern or the improvements on the insurance level, are there issues beyond that that we need to focus on?

>> MR. ROSE: Well, we would suggest that there's, for one thing, there is the issue of what the rates of insurance are. Some vehicles are requiring $20 million. The chairman of the finance committee referenced the $5 million. So there is an issue of addressing what the proper level of insurance is.

>> MR. CHAIRMAN: Are there issues beyond that?

>> MR. ROSE: Well, for one thing, currently it is a question as to whether there are even available policies being offered by the companies that right livery insurance.

There is some question as to whether there is a 10 million-dollar policy available to the livery industry.

>> MR. CHAIRMAN: I'm asking because we are going
to be increasingly pressed for time as the day goes on. But I just want to make sure I understand what our work is over the next month.

One is definitely to figure out what is the proposed level, Whether there should be additional insurance required for these vehicles beyond whatever limo is required to carry and, if so, how high?

Are there any other questions we need to understand and support?

MR. ROSE: I would add that one of the issues THAT needs to be addressed further is coordination between the various agencies, just not at the city level but the state and federal level as well. I didn't want to take up too much of the commissioners time. I can see you have a busy agenda.

I would say some of the elements of this proposed rule are somewhat redundant with things that are being done by the state as to treatment of buses that are now falling upon different vehicles that have traditionally been in the for hire vehicle categories such as ten passenger vans and such. So there are many issues. I didn't feel that this was the necessary forum but I'm happy to answer your question.

>> MR. CHAIRMAN: I'm glad you did. What I'm going to do ask, and I would ask the other witnesses,
including miss leveaux, who spoke just a moment ago, what I would appreciate and I think would make this productive would be since it is a proposed rule, please get us in the next week your line edits of the Proposed rule so that we can understand what the changes are that people think are necessary.

So for people that are proposing changes, I'd ask within a week or so a line edit of the proposed rule. That will focus our attention. Thank you, jeff. I appreciate it.

MR. ROSEN: Any questions other than the chairman's? Thank you very much.

>> MR. CHAIRMAN: Guy palumbo representing delivery round table.

>> MR. PALUMBO: Good morning, mr. chairman, members of the commission. I am guy Palumbo, executive director of the livery round table.

We would like to thank, first of all, commissioner Yassky for reaching out to the livery round table for allowing some input on this issue with the exception of the line of concern about the level of insurance, insurance required, which does seem to be a little bit high, and as you've heard the other people are much more expertise in that area, we find no problem with supporting the intent of the TLC with these new rules.
We feel that allowing for diversification and how stretch limos can be modified will add to the spice and of the people of New York and their experiencing throughout New York City. We commend the TLC for going further in its work concerning the safety of these vehicles. We do not object and we do support these proposed rules.

>> MR. CHAIRMAN: Thank you, Mr. Palumbo, and I appreciate very much your testimony. We are always looking to add more spice to the mix. So I appreciate your recommendation on that.

Ms. Tattoni, I know you have a letter on behalf of Lancer insurance. What I would ask is if we can take that and make that part of the record. We are going to table this for today and what I would ask you, as I said, in addition to the letter that you've forward, if you have edits, in other words, changes to the bill that is proposed, that would be most use if you recall. If you submit that.

>> MS. TATTONI: Thank you very much.

>> MR. CHAIRMAN: Commissioners, I move that we table the proposed rule on the FHV stretch modification until next morning. Aye?

(the board says aye).

MR. CHAIRMAN: Adopted. Our next item is a
proposed rule Governing the drivers bill of rights.

MS. JOSHI: Before the commission this morning are proposed rules that will require conspicuous posting of a taxi cab fleet driver bill of rights. A summary of already established rules governing the rights of taxi cab drivers for lease vehicles and or medallion and taxi cab fleets or agents. The proposed rule specifies the text, the form matter of the sign and the posting. a template of the sign will be available on the TLC web site.

Proposed rules were published in the city record and the comment period ended on November 14. The one comment was received and we viewed by the commission and no changes have been made to the proposed rules as they appeared in the city record.

MR. CHAIRMAN: Thank you and we will ask that a number of people sign you had to speak. Two things, one we will make it a two minute per witness time limit, please. First will be Richard thaler followed by David pollack.

While you are coming up, Please, I will also note there are a number of people signing up listing their affiliation of New York taxi workers alliance. I appreciate your strength and interest among taxi alliance members in this topic.
If it becomes clear that additional testimony is largely duplicative, I'd ask you to consider consolidating some or all of those witnesses.

Mr. Thaler.

>> MR. THALER: Thank you, commissioners. The proposed rule listed seven rights as bullet points and I see for the first time the actual text, the detail of the text is being displayed, I would like to add three.

First, the rights and responsibilities to operate medallion taxi owned by a DOV operator. A medallion lessee operator should be granted all of the rights and responsibilities of taxi medallion operation in New York for the taxi owned by the DOV operator.

Under the administrative code title 19, chapter 5, "transportation of passengers for hire by motor vehicles," the rights and responsibilities of medallion taxi operation are restricted solely to the taxi owned by the taxi medallion license holder. Currently medallion lessees are in violation of the administrative code. This violation should be remedied by granting a sub license right to the medallion owner to transfer the rights and responsibilities of medallion taxi operation to the taxis owned by the DOV operator. The sublicense would carry a permit right which is no way related to the medallion license value. The DOV operator would
then be responsible for obtaining liability insurance
with the taxi medallion owner insured, the costs
liability insurance coverage for the operation of the
DOV would then be subtracted from the current medallion
lease cab, which would just represent the value of using
a medallion sublicense permit.

Depending on the previous exposure of the
medallion owner to tort claims, the medallion owner may
choose to continue or obtain additional medallion owner
insurance at their costs.

Second, the right to be the merchant of record for
credit and debit card fare payment. The federal
research board and the master card/visa corporate rules
for branded cards govern credit and debit card payment
and protect the rights of merchants and cardholders
except for the safety and security of card processing
hardware amounting in the taxi, the TLC does not have
the right to become the federal banking regulator and a
self-appointed sheriff over the credit card and debit
card payment regulation which preempts federal law and
master card/visa a corporate rules.

Under master card/visa rules the driver is
required to be the merchant of record. All fare revenue
is the property of each license medallion taxi driver as
independent contractor and it is the driver who is
present in the taxi point of card presentment to ensure compliance with --

MR. CHAIRMAN: Mr. thaler, I apologize. I saw the red light. Why don't you sum up.

>> MR. THALER: To ensure compliance why master card/visa standards for card acceptance. As the merchant of record, each driver has the right to select their payment gateway and merchant acquirer processor in an open and unrestricted market.

And the last is the merchant rights to debit credit card payment must be enforced in compliance with the federal reserve rules required by the Durbin amendment to the dodd-frank consumer protection Wall Street reform act.

And what that says is that the merchant has the right to select the transaction network which is provided by the card issuer for either signature debit or pin debit, And right now that rule is being violated.

MR. CHAIRMAN: Thank you, Mr. Thaler. While Mr. pollack is coming up, I will just say I appreciate the spirit of those suggestions. We may have made effort to find this proper balance between getting everything important and having something pithy enough that it would not look like one of my memos.

So we try to strike that balance on the credit
cards, in particular. I do understand your point and share your concern that drivers be able to get the best deal possible, which is in essential send.

>> MR. THALER: Under the law.

>> MR. CHAIRMAN: Under law. So I just want to say that but thank you very much. David pollack is the next witness. I did see David pollack earlier. I do not see him at the moment. I saw Michael keto. Does he want to speak? He's passing I'm told.

The remaining witnesses. There are --

>> MS. MARINO: Can I interrupt, Mr. Chairman.

I'm not seeing in our booklet what Mr. Thaler was referring to?

>> MR. CHAIRMAN: He was proposing a whole host of conditional items. Should be included on the bill rights, and commissioners, to be clear, right, what we are doing in this, what we are proposed to do in this rule, is not create or alter the existing rules in any way but rather to make sure that both drivers and medallion owners are aware of existing rules by means of publishing a drivers bill of rights.

So what mr. Thaler was referring to are other rights and credit cards rules that are in place but he was saying they are not sufficiently understood. So it should be added to the bill of rights so people see them
and know about them.

And I'm just saying that this kind of balance between we don't want to reprint our entire rule book, as you noted commissioner Marino, it is on the lengthy side. So this is an effort to kind of condense the rule book into few enough things that they can fit on a poster.

>> MS. MARINO: From what's in front of me the only thing that refers to the credit card the no more than five percent.

>> MR. CHAIRMAN: That's right. He was proposing we add, I forget how many are on here now, that's how many are there now? Six or seven, Right? that we add additional items to the list. Dave pollack has waived his testimony.

I'd ask that bhainavi desai she is the next listed speaker, but as I say there may be 20 additional speakers all identified as members of the taxi workers alliance.

Miss desai, would you consider perhaps having everyone join you and stand with you while you testify. Would that be appropriate? Sure. You can speak on behalf of the entire group. Can you identify yourself?

MS. DESAI: BHAinavi DeSAI, Executive director of the New York taxi workers alliance.
Good morning, commissioners. I have to first say that most of the gentlemen standing behind me are actually night shift drivers. The majority of them worked until two, three in the morning and then made their way down to this hearing, and I hope that really, really gives you a strong indication of how important this bill of rights is to us.

So we appreciate this opportunity to comment. First of all, chairman Yassky, we would like to thank you for even putting this on the agenda.

For years we have seen a bill of rights on the back for passengers bill of rights. We know that the relationship between drivers and the rest of the industry is one that's based on an immaterial balance of power, and for us what a bill of rights would do is simply, simple language and plain view express what rights already exist in the rule book pertaining to taxi drivers.

What should be noted is that the majority of these rules are actually are in the owners rule book. They are not, of course, they are not in the driver's rule book, and so, therefore, and of course, they are in legalese, so they are not items that we have easy access to.

And to us what a bill of rights would do is, first
of all, it is a symbol that we as drivers as a work force have some semblance of rights in this industry. That a work force that labors over 60 hour weeks, servings over half a million people every single day, that the taxi and limousine commission is making it clear that you value the labor of the men and women who make this industry run.

Secondly, what the bill of rights would do is allow a work force that is overworked, does not have access to all of the rule books and certainly all the legalese within the rule books is simple poster that would make it known what our rights are, day-to-day, and things like the right to a receipt, the right to a contract, the right to not be overcharged on the lease, these are fundamental economic rights.

And we have seen violations of them through the years. The fact that the TLC passed rule in 200 nine that if a driver files a complaint in good faith, the garage owner or the broker is not allowed to retaliate against the drivers. These are things that we want to see plainly stated for every driver to be aware of because these are rights that you have already passed through these years.

And so we strongly urge you to pass the bill of rights without any hesitation. We would only ask that
the written form that you allow us it us a little bit of time.

Mr. Chairman, for the written form we do believe it should be more simplified, the language of it, and to be in a more of an empowering language that's similar to the passenger bill of rights, which would state you have the right to, to make that clear. Because, otherwise, if we are just kind of copying the legal language, it is already in the rule books, it is not going to make the difference that we believe is really intended with this regulation.

So with that, again, we urge all of you commissioners to please pass a unanimous vote. It is long overdue that for the hard working taxi drivers of this city have a bill of rights, as you see there has been no opposition expressed by the industry, and to us we can't imagine this not being a unanimous vote. We urge you to cast that vote. Thank you.

>> MR. CHAIRMAN: Thank you. First of all, thank you very much miss desai and thank you to all the drivers, particularly night shift folks asleep getting some much needed rest. I sincerely appreciate very much your presence here this morning.

Miss desai, I think, we, I think as you know the way the rule is written it allows the commission staff
to determine the specific language of the bill of rights over time. Think that we can vote on this rule today and still take your feedback and incorporate it as it goes forward. Because we would just assume move forward on the agenda.

I will just say to the commissioners, I do think there is real value here. We published this proposed bill of rights a month ago and put the text out there and just recently got for the first time since I have been in this position, a complaint about a driver said doesn't get a receipt, doesn't have a contract, Which our rules require, and my guess is that that may not be the only such violation out there.

But if people are unaware, that's the rule, then they don't report it we issued a summons and I suspect that particular operator will change their practice and give drivers receipts for their payments because they are required to under the rules.

So I just site that as an example of I think there is real value in making sure people understand what the rules are so they can bring forward violations and we are in a position to enforce them.

Are there any questions?

>> MS. MARINO: I would agree with Ms. Desai, every bill of rights in every industry when it is
attorney/client bill of rights, parents bill of rights, they do say the right to. I think that is kind of, it defeats the purpose not to have that language.

>> MR. CHAIRMAN: I hear that, and bureaucrats rather than word smiths. So I think the input will be very helpful. Are there further questions? If not, thank you so much. Miss Desai and everyone who came here today, and to folks who did come, I hope you and I'm sure you made an effort to come here and particularly travel conditions are a little difficult today. I mean no disrespect to ask you to testify as a group. It is really in the interest of time and it is kind of a challenging day at the TLC.

Apart from this, so your voice has been heard by testifying collectively as a group, I think just as much as if each one of you had approached the podium. So i thank you very much for coming today.

Commissioners, that I move that we adopt the rule as proposed on the drivers bill of rights.

>> MR. AROUT: Second.

MR. CHAIRMAN: All in favor say aye.

(THE BOARD SAYS AYE.)

>> MR. CHAIRMAN: Opposed? No. I will record. Let the record note I'm following up on miss Desai's comments that the vote was in fact unanimous.
Miss Desai, thank you for that testimony. So, commissioners, the remaining item on our agenda is not an issue that is before us today for a vote.

As you know, we have been engaged in a year long really process of trying to make sure that the industries that we regulate, both the taxi industry and the for hire vehicle industry, are accessible to people who use wheel chairs, and I cannot state firmly enough that this is a fundamental commitment of the taxi and limousine commission. It is a fundamental commitment of mayor bloomberg and his administration that this core New York City industry must be accessible to people who use wheelchairs.

We have before us, not today, but soon, rules that will implement a program to allow wheelchairs users to call 311 and to have either a taxi or a livery vehicle dispatched to serve them.

We, myself and the staff, do believe that what we are putting forward reflects the best balance that we can between the practical needs of the industry and the very legitimate needs of wheelchair users to have access of transportation.

This is a complex issue, and so it is not one that I think we can hear testimony and vote two minutes later. This requires some extended consideration as all
of you know.

So for that reason, today what we have scheduled, we are not voting today. What we have scheduled is a presentation, a staff presentation by deputy commissioner for policy and planning Ashwini Chhabra, followed by we have asked, and I'm sure that there may well be people who wish to participate who cannot make it hear this morning, we asked any members of the interested public, industry and wheelchair using passengers alike, and any member of the public that wishes, to testify here so that you can have their input at this early stage.

It is my hope, commissioners, that we will be in a position to vote at least in part on this by next meeting. And I recognize that there really are two systems that we are talking about here. There is the DO taxi system and the livery system, and they are each complex on their own but they are complexities are different.

My hope, because I believe that the need to get service to people in wheelchairs on the yellow side is urgent. My hope is that we will be in a position to consider that formally and vote at our next meeting. And so I say commissioners, please let's now start our series engagement with this so that today and over the
next month we can think it through fully.

I ask members of the public, if you have something
to say and commissioner, John, you raised before the
need for outreach, we have communicated to our industry
partners if you have something to say on this, not that
you will be heard over time, but please and come say it
today so we can get all the ideas out on the table so we
can be in a position to agents at least on the DO side
next month.

So with that, deputy commissioner Chhabra, would
you please give your presentation. Commissioners, we
discussed I must with regrets excuse myself.

At this time, I want the members of the public to
know commissioner Chhabra but most of our senior staff
here to hear the full public presentation But It just
cannot be avoided at this moment.

I'm going to ask commissioner Gonzalez if he would
take the chair for the rest of the meeting. Thank you.
So commissioner aroute has an excellent suggestion on
the bill of rights there and again, commissioners, we
can work on the language going forward.

>> MS. MARINO: What was the suggestion?

>> MR. CHAIRMAN: We will move on.

>> MR. GONZALES: Deputy commissioner Chhabra, you
are ready.
MR. CHHABRA: Good morning, commissioners. I'm here up to date you on our progress to develop a citywide dispatch system which will allow wheelchair users to call 311 and have a wheelchair accessible taxi or vehicle for hire to pick them up.

In addition to the draft rules before you, we are in the process of negotiating contracts with the two selected respondents to the RFP we have issued. Some of the particulars of the program are still not finalized but I plan to present as complete a picture as possible.

It is worth noting these rules are not being voted on today, as chairman Yassky mentioned, but rather at the next commission meeting in December. But given the significance of this issue, we wanted to brief you well in advance of the vote and to invite public comments on the rule likewise in advance of the Vote so that you're able to give this issue well deliberation.

As you know, the accessible dispatch program we are proposing today has its beginnings in the pilot program which the TLC implemented from July 2008 to June of last year. That pilot program was an effort to explore how to most effectively connect wheelchair users with 231 plus wheelchair accessible taxis.

The results of pilot program were incredibly informative and helped in crafting the contours of the
permanent dispatch system. I will return to the results of the program the pilot program shortly.

But following the completion of the pilot program, TLC staff put out a report in December of 2010 on the state of wheelchair accessibility in the taxi fleet and in the FHV sector, and we proposed the creation of a permanent, centralized dispatch program which will address the deficiencies of the pilot program and would extend the concept of accessible dispatch program to the FHV sector as well. Also, at this time, we issued a request for information to solicit feedback from the industry stakeholders and accessibility advocates to best structure this program.

Based on input received from the request for information, the TLC in April of this year put out two parallel requests for proposals, one for the creation of an accessible dispatch program and a medallion taxi cab segment, which would respond to trips originating in manhattan and one for the FHV segment which would respond to the four other boroughs.

We received several responses to both these RFPs. Seven responses to the medallion dispatch RFP and four responses to the FHV dispatch and the TLC scoring committee made the final selections among these in early September.
As I mentioned, in addition to promulgating the rules giving effect to the dispatch program and establishing the funding mechanisms that will sustain the program, we are engaged in contract negotiations with the two selective respondents and we anticipate finalizing these agreements by December.

The program once adopted would then commence operation by March of 2012.

A word on the pilot program results As well as I would like to also discuss the current rules that govern wheelchair accessibility to the fhv segment.

Over the course of the two year dispatch pilot program we saw relatively low usage of the service, an average of eight trips a day. We believe this is a result of a combination of several factors: Driver reluctance to do these trips coupled with the drive participation led to less than prompt service, The low demand for the service especially when users had the option of using the MTA's subsidized access-a-ride program and insufficient outreach.

The average wait time, which is the time from the call to the pick up for on demand trips was 44 minutes. And if it was a scheduled trip, these are trips that were scheduled 30 minutes or more in advance, the average wait time was for 23 minutes. We believe these
were unacceptably high wait times.

High wait times were the function of the voluntary nature of driver participation in the program. Drivers were affirmatively required to log in whenever they entered the pick up zone.

In practice many drivers simply neglected to log in, thereby exempting themselves from these trips and often, when they did log in, drivers were permitted to decline two trips in each shift Further lengthening the time to find another available driver in that zone who would accept the trip or failing that, throwing the trip over to all available drivers.

The decision to not compensate drivers for the deadhead portion of the trip - this is the portion of the trip when the drivers accepts the trip to the actual pick up - this resulted in significant driver reluctance in participation in the pilot program as well especially when those trips where the driver was required to leave Manhattan for a pick up.

And that happened in about seven percent of the instances That they would leave the central business visit and the data bearing this out, the vast majority of drivers of accessible taxis simply didn't provide dispatch trips. 97 percent of all dispatched trips during the pilot program were done by 28 percent of
accessible medallion taxis and 68 percent of all the
dispatch trips were done by just 18 individuals.

These are all the deficiencies of the pilot
program which have formed the structure of the permanent
dispatch program.

I would like to look briefly now at the TLC rule
59B-17C. This is commonly referred to as rule 6-07F per
the numbering from our old rule book. This rule
mandates that for-hire vehicles bases must provide
wheelchair accessible vehicles to passengers in
wheelchairs by either sending their own wheelchair
accessible vehicle or contracting with a contractor of
wheelchair accessible vehicles.

Service provided must be equivalent to service
provided to non-wheelchair users. A base cannot charge
a wheelchair user more for a trip or requiring a longer
wait time or requiring an appointment if one is not
required for non wheelchair accessible service.

In practice there has been very low compliance
with this rule. The cost on FHV bases to comply is high
given the demand most of these bases have seen for
wheelchair accessible trips, they have not deemed it
economical to provide this service themselves. instead
they have contracted with a handful of other TLC bases
that have wheelchair accessible vehicles to outsource
Fhv bases pay an annual affiliation fee between 300 to 600 annually for the service, as well as a per ride fee which exceeds the amount charged for a comparable non-wheelchair accessible trip. And because the fhv bases cannot pass this cost on to the passenger who pay the same amount for a comparable non-wheelchair accessible trip, this becomes an unprofitable venture for Fhv bases and there is no limit on the number of Fhv bases that can contract in this way.

There are approximately 23 wheelchair accessible vehicles, 17 of which are paratransit vehicles, that are servicing the department for 760 FHV bases. This amounts to one wheelchair accessible vehicle being shared by approximately 33 bases.

The current solution doesn't replace any real accountability on the providers of the service and doesn't create any economy of scale in the form of a centralized Fhv solution, for example, thereby resulting in an inefficient solution which really doesn't provide equivalent service anyway.

For that reason, we believe a centralized dispatch system for the FHV segment with direct accountability on the dispatcher for this service is necessary.

So based on the lessons learned from the pilot
dispatch program and with the understanding of the
failings of section 59b-17(c), we are now requiring a
permanent accessible dispatch program which will address
the limitation on both of these two systems.

With the proposed permanent dispatch system,
passengers in wheelchairs will be able to call 311 and
request a pick up anywhere in the five boroughs. From
the end user's perspective, there is a single interface
311.

Depending on where the pick up is, 311 will then
forward the trip request to the appropriate dispatcher,
the medallion taxi dispatcher for manhattan pickups And
the FHV dispatcher for pickups anywhere else in the
city.

The medallion dispatcher will make use of the
existing fleets of 231 plus wheelchair accessible taxis
to service these requests, as well as any additional
taxi's that join the fleet.

If the pending five borough taxi legislation is
signed into law, that would bring the number of
accessible taxis providing dispatch up to 800 and
possibly more. Passengers using these taxis will pay no
more for this service than if they hailed a taxi on the
street even though they would be getting a premium
pick-up service.
The additional cost of staffing this dispatch service and of compensating drivers for the pickup portion of the trip, which I will elaborate on shortly, will be borne by the medallion industry in the form of an annual fee payable by medallion owners.

We estimate this fee will be $98 in the first year and drop to $54 in the second year of the program even though we estimate there will be more trips in the second year. This fee will be reassessed after six months to ensure it appropriately reflects the cost to provide this service.

The fhv dispatcher will employ their own fleet of wheelchair accessible vehicles which will be provided full-time to this service and directly employ its own drivers to employ the service. Likewise, passengers using this service will continue to pay the same as they would pay for non-wheelchair accessible service, and the cost of dispatcher operation will be borne by the FHV industry in the form of an annual fee payable by FHV bases in the amount of $57 per affiliate vehicle in the first year and an estimated $51 or possibly less in the second year.

And though the primary initial interface for users of both services will be 311, we expect that as users become accustomed to the service, they will prefer
to call the dispatchers direct or make use of the
dispatchers websites, or in the case of the medallion
dispatcher, even request trips through a smart phone
app.

Next I would like to discuss in some further
detail some of the specific features of the medallion
dispatch program.

First and foremost, in order to reduce wait times,
we know we must eliminate driver noncompliance. The
single most effective way of doing that is to eliminate
any economic differential between accessible dispatch
trip and the standard street hail-tripped. Drivers
should not be penalized for providing service to
wheelchair users. We will accomplish this by paying
drivers from the fund raised by the medallion industry
for the deadhead portion of the trip.

Basically, this is between when the driver accepts
the trip to when the wheelchair passenger is seated in
the taxi and the meter is engaged Including any tolls
incurred in the pick-up section of the trip. The amount
of deadhead payment will be $6 per pick-up trips of less
than a half mile; $10 for picks ups between one half and
one mile and $15 for trips over one mile.

Drivers will similarly be compensated an
additional $5 for no-shows to eliminate any disincentive
not to provide the service.

To underscore this, these deadhead fees would not be borne by passengers. Passengers simply pay the amount that is on the meter.

In addition to compensating drivers for these trips, we will make the service mandatory. No longer will drivers of accessible taxis need to log in in order to be available to receive dispatches. As long as the vehicle's meter is on and doesn't have a current fare, the dispatcher will be able to see that taxi as available for dispatch and that driver will be required to accept any trip request from the dispatcher.

Employing GPS and traffic and distance calculations, the dispatcher will determine which taxi will provide the fastest pickup.

Drivers will also not have the option to decline any dispatches. Any refusal to pick up a dispatch will be treated like any refusal under our rules. The dispatcher will be mandated to report any refusals to the TLC for enforcement purposes.

Now, as I mentioned previously, the dispatcher will manage the entire current fleet of 231 plus accessible taxis, as well as any future accessible taxis whether pursuant to accessible medallions or otherwise.

As with the pilot program, all drivers of
accessible taxis will be required to have sensitivity
training for working with wheelchair passengers and will
be required to be trained in the use of the
dispatch equipment.

In the long term, however, as the TLC revises its
new drivers curriculum, all drivers, not just those
driving accessible vehicles, will receive the
sensitivity training as part of the taxi school.

The proposed rule requires the drivers must assist
wheelchair users in entering and exiting the taxicab,
must assist with their packages and must secure them in
the vehicle all before the engaging the meter.

As part of the vendor contract, we will be
requiring the dispatcher to meet certain response time
criteria related to these trips. This includes response
times for answering calls, for contacting drivers, for
sending trip confirmations and for system maintenance
and repair.

In addition, the TLC will be requiring the vendor
to provide a battery of metrics to help us ensure that
they are performing as required.

The dispatcher will have to provide 24/7/365
service. They will have a physical presence in New York
City so they can provide support services to
participating medallion owners, including driver
training and equipment installation, and they must allow TLC to request dispatches in event of emergency.

The recent experience with tropical storm Irene, yes, underscores for us the importance of being able to access the accessible taxi as needed.

Finally, given the importance of advertising and outreach in ensuring that there is sufficient awareness of and demand for the service, the dispatcher is committed to expending over $500,000 over the course of two years on advertising this solution and collecting user feedback.

In addition, they will regularly collect customer complaints and provide these to the TLC for any necessary enforcement action.

Now I want to discuss the features that will be mandated on the for-hire vehicle dispatcher.

As I mentioned previously, the FHV will own their own vehicles and these vehicles will be dedicated full-time to the dispatch program and will be strategically located throughout the boroughs outside Manhattan. Similarly, the drivers of these vehicles will be employees of the dispatcher, meaning they will be available at all times throughout the boroughs outside Manhattan to provide this service.

We will require that at least 50 percent of
pick-ups result in a pickup within 15 minutes of the request. At least 75 percent of pick-ups within 30 minutes and all trips within 40, 45 minutes.

In practice, this will mean that most passengers will be picked up within 15 of 30 minutes of their request for service, and if the request is done in advance, the dispatcher will require service to ensure pick-up at the requested time.

As with the medallion dispatch provider, the fhv dispatcher must provide 24/7/365 service, they are based in New York City, and they must allow TLC to request dispatchers in the event of emergency, and, finally, the dispatcher has committed to expending $200,000 over the course of two years on advertising their solution and collecting user feedback.

We believe most trip requests to the fhv dispatcher will be through fhv bases so the marketing will be more targeted for this system.

Thank you for your time on the issue and with that I'm hope to take any questions on this topic Or testimony.

MS. POLANCO: I have some questions.

>> MR. GONZALES: Commissioner Polanco.

MS. Polanco: I'm just a little bit confused and I hope you will help me.
Basically, as of today, the, for example, the livery basis, they pay a fee to a contractor to basically have the accessible vehicle pick up a passenger. That's the way it works now?

MR. CHHABRA: What we were told there is an annual fee and they pay a per trip fee as well. So anywhere between 300 and $600 a year annual fee and then each trip that requires the accessible vehicle to be sent is an additional fee, which usually exceeds what bases are getting from the passenger.

>> MS. POLANCO: But what is proposed now, because that is what I don't understand. It says here the dispatcher will own the vehicle.

MR. CHHABRA: The centralized dispatch service will own the vehicle and employ their drivers.

If you are in base today, you pay an annual fee and per trip fee and if there is any shortfall in the service provided, you are OPEN to the possibilities of A Summons.

MS. POLANCO: What is proposed is that most bases will no longer pay any fee. So, basically, it will be the responsibility of the dispatcher.

MR. CHHABRA: Those bases will pay into this fund that will fund the centralized dispatch but that's where the obligation of the base would end. There is no
607(F) fine on a base if they are not, if the pick up
isn't happening on an equivalent basis.
That liability and that obligation now would
reside on the centralized dispatcher.

MS. POLANCO: So all bases will be IN this
dispatcher fund. The fee has not been determined,
right?

MR. CHHABRA: The fee has been estimated as we
described in the presentation. That was the $57 per
affiliated vehicle in year one, 51 in the following
years.

>> MS. POLANCO: I thought it was just medallions.
So now in terms of the dispatcher, is it a number
of vendors that we are dealing with or is it just one?

MR. Chhabra: One centralized dispatch.

>> MS. POLANCO: And do we determine how many
vehicles they have to have? Because how will we know
that they service for the outer boroughs?

MR. CHHABRA: We set response time requirements.
That was 15 percent within five minutes, 75 within a
half hour and 100 percent within 45 minutes.

If the dispatcher is able to do it with this
number of vehicles, that's great. If they have to go
out and acquire more vehicles in order to meet those
response times, we didn't want to dictate how they do
it. We simply want the outcome of meeting those response times.

MS. POLANCO: We have to have an idea. Is there one dispatcher for all other counties, like Bronx, Brooklyn and queens, only one dispatcher?

MR. CHHABRA: It is a citywide dispatch system. The vehicles will be located throughout the four boroughs outside Manhattan.

>> MS. POLANCO: And we are in that selection process?

MR. CHHABRA: We have selected the vendor. We are in the contract negotiation process.

MS. POLANCO: Who is that vendor?

MR. CHHABRA: We can discuss this off line. We are not necessarily disclosing the names of the selected respondents because --

MS. POLANCO: We are already passed that stage.

MR. CHHABRA: We would select the respondents and not publish the Announcement.

>> MS. POLANCO: The same would go with the yellow? And they are different?

MR. CHHABRA: They are. There is one dispatcher and this was, actually, I described the request for information stage from December of last year through March of this year, we solicited a lot of feedback from
industry stakeholders for folks in the livery sector
from folks in the yellow sector, as well as disabilities
advocates.

If we are going to do a permanent dispatch
program, we want your feedback. One thing we heard you
need to have a separate system from the medallion and a
separate system for the for-hire.

MS. POLANCO: I remember last time when there was
a pilot program, at the end when there was the
presentation, as you pointed out, it was failure, the
pilot program when it was run.

So how do we ensure that it doesn't repeat itself?

MR. CHHABRA: Well, I mean, it was, that's the way
are which of pilot programs. You run them. You do it
for an abbreviated period of time. You see what works
and what doesn't work.

What the lessons that we learned from the pilot
program are the very things that we are looking to
address here in the permanent program, the driver
reluctance, some of the technical hurdles. I think that
pilot program went from attempting to use Blackberries
to then having a system where drivers had to log into a
particular zone.

That we heard loud and clear that that just didn't
work and that's why the solution now is going to be, it
is going to be linked to the GPS and the TPEP that is already in the vehicles and it is going to be mandatory, and we are going to compensate drivers.

We should not expect that we tell drivers to go do a pick up and they are going to be excited about doing it if what we are saying you have to eat the cost of going there and eat the cost of the wait time and you should be enthused about doing this.

>> MS. POLANCO: Again, it goes back to the men because I think that was the issue with the pilot program. I think the criticism was that it was not publicized.

MR. CHHABRA: That's exactly why one of the core portions of the RFP selection was what is the respondent going to do in terms of outreach and marketing? Well, we heard again from disability advocates this was not sufficiently well advertised. It is a pilot program. It is limited in that zone, but what we want to make sure here is that both providers are doing their utmost to make the service known.

We are going to do a 311 but we need to get the word out more broadly so people know you can call 311 and go to this web site and get this service, and we feel that is going to be a crucial component of the success of the program.
And we do think that the, I mean, I said there were eight trips a day in the pilot program. It is a tricky thing. I don't think that is real demand for this service. It is something greater than that. We don't know what that is.

If the program is run well, advertised well, if people have faith that it will work, I think you will see that demand being over that.

>> MS. POLANCO: Thank you.

MR. GONZALES: Thank you, commissioner. Any other questions? Thank you very much. We will have one speaker, IRA Goldstein from the black car fund.

MR. GOLDSTEIN: I good morning, commissioners. My names is IRA Goldstein. I'm the executive director of the New York black car fund.

I welcome the opportunity to testify before the board on the proposed rule regarding the FHV three program of the wheelchair accessible dispatch program.

The black core fund acknowledges it is important to supply sufficient service to people with disabilities, in particular, members of the public who are confined to a wheelchair.

Historically, the black car industry has always provided quality to its wheelchair bound clients and will continue to do so regardless of any rules the TLC
might promulgate.

The reason I can state that with such authority is because the black car industry is a contract carrier, not a common carrier, like the livery industry. A contract carrier does not undertake to transport the general public but it transports under special or individualized contracts or agreements with its clients.

In other words, you can't just go and call a black car base off the cuff right now and say pick me up at the airport. You need to have a contract in place ahead of time.

In contrast, livery cab bases are common carriers, can make a public offer of transportation services at a fixed fare to all. Liveries hold themselves out to the public that is ready and willing to carry differently for all persons.

It is clear that historically livery ands black cars have been treated differently based on this common carrier versus contract carrier distinction.

For example, this distinction is recognized in TLC rules which require safety equipment such as partitions, cameras, and emergency lights for liveries that service the general public and exempt the black cars from the installation of such equipment in recognition that black cars do not operate in the public sphere.
There are also numerous instances where liveries and black cars are different legislatively with more economic burdens being placed upon the black car. First and foremost black car bases must charge its clients sales tax on every ride. This equates to approximately eight and a quarter percent that gets paid to the state and respective counties. Liveries do not have to charge sales tax on any of their rides whether paying cashing on account or by credit card. This put black cars at a significant disadvantage when a livery base competes with a black car base for corporate clients.

Second, understate law black car bases must charge its clients an additional two percent, which is remitted to the black car fund. This surcharge provides black car drivers with full workers compensation costs of benefits at no cost to the base of the driver.

I think it is important to reemphasize that black car drivers have full workers' compensation coverage unlike livery drivers who do not. The black car industry also pays its drivers $300 to take the TLC mandated defensive driving course annually so they do not have to miss a day's pay.

TLC rules in general require a mandatory vehicle retirement of black cars that the car must be retired
when it is approximately, when it is five years old.

There is no mandatory vehicle retirement in the livery industry.

By requiring black car bases to contribute monetarily to a wheelchair base accessible service that it already provides to its contract clients will simply add another economic burden to conduct of the black car industry without in any way providing a needed service for the customers of the black car industry.

It is mandatory financial burden on black car bases and their customers, the black car fund faces the risk of there being a diminished numbers of black car drivers and the accompanying risks of such decrease poses to the financial liability of the fund.

In conclusion, the distinction between black cars and livery is clearly established. It has been used several times in recent years to place onerous laws and regulation on the black car industry.

Black car bases and its drivers cannot continue to absorb these inequities in treatment and survive as a viable industry.

Thank you for the opportunity to testify before you on these rules. I would be happy to answer any questions you may have at this time or at any other time.
MR. GONZALES: Do the commissioners have any questions?

MS. POLANCO: So, basically, unlike yellow cabs, there are specific medallion, disability medallions that will be participating in the program under the FHV dispatch all FHV vehicles have to contribute including black cars although you were not real, as you pointed out, that is not something that you would, you are not even involved in at all?

MR. GOLDSTEIN: The way the rule is written all the FHVS and black car bases would have to on a black car basis to that fund.

MS. POLANCO: Okay.

MR. GONZALES: I have a couple of questions. I would like to thank IRA for bringing that up. I have a couple of questions.

MR. GOLDSTEIN: I'm sorry.

MR. GONZALES: Given that, thank you for mentioning the distinction between contract and required vehicle. I appreciate that.

For your arguments, Also, I guess I would like to, if possible, have some opinions on a couple of things with respect to accessible vehicles in the black car industry, like, first of all, just trying to gauge something along the line of demand in the black car
industry, roughly how many trips per year does the
industry services and what's like the most common trip?
>> MR. GOLDSTEIN: In terms of with the, where
there is a wheelchair bound client?
>> MR. GONZALES: Yes.
>> MR. GOLDSTEIN: It is so low that it is
significantly, it is statistically insignificant. I
could just mention to you our largest operator is here,
and they do over, I think, a million and a half trips a
year and last year they had 50 customers that were
wheelchair bound.
Out of those 50, 48 of them were in wheelchairs
that were able to be collapsible that they were able to
accommodate the client. The other two, they had a
contract with a TLC base that provides that service.
When there are situations where a client in the
black car industry needs a wheelchair accessible
vehicle, they are going to take care of it and they are
going to get it done, because if not, they lose that
client, and very often it is a big corporate client and
they are going to go to another base.
So in the unusual circumstances where there is
that request, it gets taken care of.
>> MR. GONZALES: Do you know what the most common
trip is as far as to Manhattan, to the airports?
MR. GOLDSTEIN: I do not know. I would think that it is just a situation where it is someone going to work would be something possibly from the outer boroughs to Manhattan or within Manhattan.

MR. GONZALES: One last question, with respect to the cost of delivering the service to the customer, as we continue to explore dispatch program here, what do you think, what would you suggest would be things that we should look out for to make sure the costs could be possibly mitigated?

What from the experience in the black car industry experience can you pass on to us as we are trying to do something like this?

MR. GOLDSTEIN: Well, like I said, from the black car perspective, it's such an extremely small portion of our business that it is just, it is handled really on a case by case basis.

MS. MARINO: Mr. Chairman, I think --

MR. GOLDSTEIN: Rides within the black car industry, the clients are paying the premium for that service. The public is not going to can you tell a black car base and want to pay the rates that they have to be able to get a wheelchair accessible vehicle. There is no reason they would do that.

When they could get that at a lower rate through
an FHV base. There is no reason to call, and you would have to have a contract. You would have to have it set up beforehand. They wouldn't just take the car, not because you are in a wheelchair, if that's the case, but yourself or anyone, we just can't call up and request a ride. You need to have a contract in place, an agreement beforehand.

>> MR. GONZALES: I guess is there anything we might have missed from our pilot program that you may think would be something as we proceed further just given the experience of your client.

>> MR. GOLDSTEIN: Commissioner, if I may, I know that mark hem meaning way is here. And they operate the pilot program. He has some written testimony and I believe would like to testify and he could really get into some of the specifics of that. Of course, they were the company that operated that pilot program that I'm sure he would be happy to share those experiences with you.

Commissioner Marino, did you have a question or comment?

>> MS. MARINO: It seems the position of the black car somebody exempt, completely omitted from this requirement.

>> MR. GOLDSTEIN: Yes.
Because the nature of your business as opposed to the livery?

Based on the history there are other financial burdens. The industry has been treated differently from FHVs in the past and we should be --

Okay. Any other questions or comments? Thanks again, IRA.

Thank you. Good to see you.

Mr. Gonzales: Mr. Hemingway.

Good morning. My name is Mark Hemingway. I'm with the executive transportation group. Thank you forgiving us the opportunity to speak today.

We have seen the rules. We have been bound to the rules and would like to make some comment.

The Need for comparable transportation options for those who are wheelchair bound is obviously a worthy cause to address. Historically, both in hard facts and anecdotally wheelchair bound customers have been underserved for both speed and response and sometimes overall costs. As you are well aware, there have been wide ranging discussions over historical issues and possible options.

The proposed rules outline two dispatch programs, one for taxis and one for FHVs. As owners of FHV bases, we have focused our comments to the portions of the
rules which will govern the FHV bases.

To give you some background, our companies own and
manage a number of FHVs bases. At this time, we have
1500 vehicles providing service to our customers.

Our customers are almost 100 percent contract
corporate clients. Less than one percent are not
covered by a corporate contract.

We don't advertise at all, And there is not a
single person in the room who knows our phone number and
you can't get it from the yellow pages. Consequently,
we don't have much call to provide accessible
transportation.

Last year out of a little over 1.2 million trips,
we performed fewer than 50 trips to individuals who are
wheelchair bound.

Of those, only two had motorized wheelchairs. And
for those two individuals, we provided service through
vega transportation, who was a contract carrier for when
we need a lift. Other than that, we can take
collapsible wheelchairs in our vehicles.

Black car bases contract almost all of their work
from corporate customers. We pay sales tax to the
boroughs and to the states and we have a complete
workers compensation package for our affiliated drivers,
which is a different business model than livery, which
hold themselves out to the public. To a large degree, we should be termed contract carriers as our customers agree to terms and services and contracts with us and we don't generally hold ourselves out to the public at all.

We are different enough in our business model and tax structure and company base to request whether such a nonpublic entity should be assessed at all under this program.

The proposed FHV rules outline a centralized dispatcher to manage the borough, I'm sorry, the outer borough volume. The cost of this program being funded on a per allocation per vehicle allocation for livery, black car and limo bases. We have some thoughts we would like to share with you.

The FHV program contemplates allowing costs of 2.1 million in the first year and 1.9 million in the second year.

About ten years ago we built a company in partnership with Easter seals called symphony, that we put together that was fully accessible. Unfortunately, it failed due to lack of demand.

From the business perspective, to make the expense base two million dollars self-supporting, in other words, what revenue would it take to drive that, it
would take a revenue of somewhere around 20 million-dollars for about three hundred thousands trips in the outer boroughs in order to cover that cost. We think that is pretty ambitious.

As you may or may not be aware, we helped with the prior pilot program. We helped the dispatcher, so we are aware of where things are.

Speaking from experience, we can tell you historically the majority of accessible picks ups have occurred in Manhattan for both our symphony program as well as the other accessible taxi dispatch pilot programs.

The rules and proposals contemplate an allocation for all FHV base owners of the accessibility fee. The accessibility fee is based on costs divided by the number of total vehicles.

In the example, it is utilizing 38,000 FHV vehicles to allocate this cost. outright now it is currently fewer than 37,000. With our base of vehicles, about 1500, this allocation will be more than $89,000 a year.

Prior, there was no discussion about how much does it cost to contract out to those providers of currently exist? That cost is $3750 right now. For all of our bases, plus we paid for two rides last year above and
beyond the cost, Which is fine. That's what we intended
to, But 89,000 seems like an awful lot of money.

>> MR. GONZALES: Just in terms of time, I'm sure
there are other people that want to speak as well.
Anything else, highlights you would like to make?

>> MR. HEMINGWAY: Sure, we have some other ideas.
What we would like to do is we would like to get
back together with Adrian and the whole group and put
some of that together. We have some ideas to eliminate
some costs and will be helpful with the whole program.

One thing that IRA didn't say, when you look at
black cars and you look at things how we are regulated
and how we are looked at, as you look at the outer
borough taxi program and the medallions/licensing
program to do dispatching out there and in street hills,
realize that black cars aren't a part of that either.
It is a completely different business model being
discussed here.

So we wanted to come up to the plate and have
those comments.

MR. GONZALES: We appreciate your comments and we
look forward to discussing them. We are going to do
something a little different here, open Mike at the TLC
Mike on this subject.

We would like to limit the comments to two minutes
to the degree that there are groups that have a cohesive
to have that group represented by one person.

And, okay. Let's go with taxi alliance first and,
sir, you are next.

MS. DESAI: Good morning again. I'm taking the
time but I just want to say very briefly we are in
support of the rules and we particularly appreciate the
fact that the big lesson learned from the last pilot
program where the drivers were not compensated were, in
fact, they were economically punished for participating,
because the majority of the drivers would lease from a
garage and even though those garages were able to buy
mad at a reduced rate, that reduction was not passed
down to the driver in the form of the lease.

Now, even though this current proposal also does
not address the economic issue in that way, instead it
is proposing some sort of a compensation for the driver,
we think that there is no question that this is
necessary and we appreciate the fact that it is already
been, it is in the currently published rules. I'm just
going to turn it over to beresford simmons who operates
an accessible taxi.

MR. SIMMONS: Good morning, commissioners. My
name is beresford simmons and I'm a member of the taxi
world alliance and I'm one of the first wheelchair accessible drivers and I'm also involved in the industry for over 40 years And also the black car industry. I'm a franchise owner in the minute men car service. So I swing in and out of both industries. No one should be exempt from this program. The taxi and limousine commission for proposing the benefits the drivers will get, because from what I understand, and when the first program began, we were, like she said, we were supposed to be compensated. We never got anything. We paid the same Amount of money. I'm what you call a dov driver, a driver owned vehicle, and two vehicles I have already paid for and I have not been compensated. So it is quite good the TLC is looking out for the drivers, and, like I said, there are many people coming back into this country wheelchair accessible, from Iraq, Afghanistan, young people.

New York City is the hub Where everybody comes and have things accessible. I have had people from Italy, France, Canada, Germany who I'm not supposed to make arrangements with because they did not know there is a program. So no one should be exempt from this program and I appreciate everything the TLC is doing for us as wheelchair accessible driver.
If this program is not economically feasible for the drivers, personally speaking, I will back out of it. I love working. I have developed a few friends in the accessible industry. So I'm pleased of what the TLC is doing for us as cab drivers. It is about time. Thank you very much.

>> MR. GONZALES: Thanks so much for your testimony. For the speakers that are approaching the microphone, please state your name and your business affiliation.

MR. DEL VALLE: It is still morning?

>> MR. GONZALES: Yes.

MR. DEL VALLE: Good morning, mr. chairman. Fidel del valle. I am speaking here on behalf of the greater New York City taxi association, And I'm a former chairman of the TLC.

I want to preface my comments by saying that the public notice for the hearing on this issue was set for next month. So pardon me if I sound a little extemporaneous.

When the taxi medallions that are not wheelchair accessible were originally auctioned off from the City, they were auctioned as taxi cabs that were capable of taking wheelchair bound passengers. These rules changed that somewhat.
I'm glad to have heard commissioner Ashwini's presentation where he adopted a lot of the recommendations we had given the TLC with regard to the pilot program that that failed.

For we had told TLC that program was doomed to fail when they original had designed it. The fact that we operated approximately 200 accessible taxi cabs apparently wasn't enough of an experience for them to think that our recommendations were valid.

The rules that were published are somewhat at variance with the presentation that was just made, which is why I am a little confused as to what is the final version going to be.

We had developed at our expense of $40,000 of software to alter the tea P system so accessible cabs could be dispatched through the at the P system but the rules published still seem to be addressing the old Blackberry system, which is to say the least, dangerous and it is not legal understate law.

But be that as it may, we still have approximately 230 accessible cabs out of 13,000 some odd taxi cabs and according to TLC's web site last night there are 4,810,027 taxi drivers in New York City. Also according to TLC's web site there are exactly zero taxi drivers who are qualified to drive accessible taxi cab under
MR. DEL VALLE: Our issue is the program as it still exists although it does mitigate some of the problems that existed in the pilot program, still has a huge amount of disincentives to drivers to want to drive these limited number of taxi cabs.

>> MR. GONZALEZ: What incentives do you think would be most credit critical?

MR. DEL VALLE: Most critical one is obviously the training. Drives have to take time off from work to get this additional training. The training should be incorporated in the taxi school, both segments of the training.

Drivers today are trained to operate a taxi meter. Trained how to operate it, T-pep system for dispatch of the Taxi drivers including in the trainings could be the sensitivity training.

But drivers also would be volunteering to subject themselves to higher fines and penalties if they became, if they leased an accessible cab.

Under the previous program, that problem existed when the driver got a three hundred summons because of a dispatch issue. Under these rules, he has to respond within one minute, which is kind of tough when you are
driving through the Brooklyn battery tunnel and now it
can be a one thousand dollar fine and you can lose your
license.

MR. GONZALES: Again, we are trying to get as many
comments as we can. Your comments are really very valid
and should be addressed to the degree you haven't
already put it in writing, submit it to the TLC, we
appreciate that.

MR. DEL VALLE: They will be submitted in more
detail by the deadline of next month.

MR. GONZALES: Thank you very much. Once again
state your name.

MR. PALUMBO: Guy PALUMBO. I think I was
originally scheduled. The commissioners have testimony
before you. I BELIEVE it may have been distributed
early.

If you have a copy, we would like to withdraw
that. If you have that public term that was printed, I
ask counsel in particular to withdraw that and I will
update our comment based on that.

The reason why I'm asking for the comments to be
withdrawn, we are a little bit surprised at some of the
testimony we heard here today because previously to this
there was a joint letter, there was a consolidated
meeting and there was a presentation before the TLC,
which included all segments of the for-hire industry, and what we are here FOR TODAY, that included black car and luxury also, and some of the comments we here today seem to run counter TO WHAT was PREVIOUSLY agreed to and I believe a joint letter was signed, I having to pull it out of my files, which was sent to the TLC on this very issue.

Demand no matter how low it is should not be a basis of exemption for any segment of the industry. We held together, that is an important point, We held together the RFI in particular that swaney fee had put out and TLC had put out of the livery round table to respond to that RFI and we were very pleased to say that many of our suggestions and comments were, in fact, incorporated into this final RFP that went out to the public.

Our livery round table did not participate the in the RFP but we did provide input based upon collective input from everybody. That's why we are so much surprised what we hear here today.

The livery, the black car owner luxury industry, I would like to clarify one thing, obviously, not having as much experience as IRA or the other people from the BCAC, the black car fund and even limousine association of New York and lbao but having previously been with
lbao and with a luxury base I can tell you that that
SEGMENT of the industry does, in fact, advertise.

Look in the yellow pages. They do, in fact,
solicit bases from the general public and an idea of a
contract is not always a contract in writing. You can
pick up the phone today and call any luxury base and
virtually any black car base, make a reservation and
with your credit card, that's the contract. It is not
always a written contract with any of these Wall Street
firms or Citibank or any of the other. That is the
extent of a contract. The contract is give me your
credit card and we will send a car for you.

So don't discount that aspect. That's quite large
in the industry. All segments of the industry.

>> MR. GONZALES: We are getting pressed for time
here.

>> MR. PALUMBO: What I would like to be able to do
is I will submit a revised statement of testimony and I
ask that the, for counsel purposes, what is in front of
you I will resubmit and I will provide it accordingly.
I'm available for any questions that you may have.

Thank you.

>> MR. GONZALES: Thank you.

>> MR. GJONAJ: I have to excuse me.

>> MR. CARONE: Me, too.
MR. GONZALES: We are going to lose commissioners here. We only have time for let's say two more speakers and limit it to two minutes.

MR. THALER: Richard Thaler, Awmen gateway, LLC.

The agenda today listed only a staff report with the December agenda listing a comment period. So I was unaware of this opportunity but, very briefly, in the interest of full disclosure, I was, my company was a technical advertiser and advisor and technological advisor to one of the seven responders to one LLC and one of the four responders that I learned today from the FHV RFP.

I substantially disagree with the assumptions heard today and what was posted for the December hearing, substantially disagree with many of the assumptions leading to the operating structure of this dispatch system.

MR. GONZALES: What are the two things you disagree with?

>> MR. THALER: Let me go back to the very, very basic assumption that the FHV and outer boroughs and yellow medallions have to be separated very briefly because I'm aware of limited time.

Let's assume that a wheelchair user was picked up in the Bronx and dropped off in Manhattan and somebody
calls from Manhattan and that just happens, because you must use a location base system. And, by the way, using a location base system may make it more efficient in terms of limiting yellow cab cruising. I don't see the need for an incentive, in fact.

But let's assume now the livery vehicle drops you have a passenger within two or three blocks for somebody that is calling for a yellow cab in Manhattan. Why shouldn't the livery be able to take the yellow cab customers. The two systems have to be integrated in one, which was the basis of the proposal with all of the technology to support that.

So in the interest time, there are many, many, many more objections I have to the operation, to the costs. It is just absurd And I would like the opportunity to continue to explore this. Okay.

>> MR. GONZALES: Thank you for your testimony. Any other speakers? Okay. I call for a motion to adjourn?

Mr. CARONE: So moved.

MR. GONZALES: The meeting is adjourned. Thank you everybody.
CERTIFICATE

I, MICHAEL WILLIAMS, a Notary Public and CART Reporter of the State of New York, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

MICHAEL WILLIAMS