



NEW YORK CITY LAW DEPARTMENT  
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Press Release

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*For Immediate Release*

**APPELLATE COURT UNANIMOUSLY UPHOLDS  
TAXI & LIMOUSINE COMMISSION'S AUTHORITY  
TO REQUIRE LIVERY CAB COMPANIES TO PROVIDE  
ON-DEMAND WHEELCHAIR ACCESSIBLE TRANSPORTATION  
FOR MEMBERS OF THE DISABLED COMMUNITY**

***RULING HELPS FILL A CRITICAL NEED FOR THOSE WHO ARE PHYSICALLY CHALLENGED***

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New York, Oct. 27, 2004 – The Appellate Division, First Department unanimously held yesterday in *Transportation Unlimited Car Service, Inc. v. New York City Taxi and Limousine Commission (TLC)* that the TLC has the authority to promulgate a wheelchair accessibility rule requiring all livery cab companies to provide on demand a wheelchair accessible vehicle in response to a call for transportation by a member of the disabled community.

According to the City's regulation, livery cab companies can meet this requirement by either owning such a vehicle or by arranging for another company to provide such service. The TLC passed the rule after solicited comments and public hearings disclosed that present transportation providers, including mass transit, did not adequately provide demand-responsive services to disabled persons. Although not required by the American with Disabilities Act of 1990, the Commission, after careful study, felt it was in the best interests of the public – in particular the disabled – to promulgate the rule. The Court agreed, writing in its 5-0 decision that, "The rule is rationally related to [the] defendant's interested in providing the disabled community with a viable transportation option."

"This unanimous ruling represents a clear victory for everyone who has and will benefit from our efforts to provide better transportation for persons with disabilities," said TLC Commissioner and Chair Matthew W. Daus. "While regulations like this have withstood several challenges, our confidence in their fairness and legality never wavered."

The New York Livery Base Owners and Drivers Association had challenged the rule on the ground that it violated livery base owners right to equal protection and violated the "Taking Clause" of the Fifth Amendment, which says that private property shall not be taken for public use without just compensation. However, the Appellate Division ruled that the wheelchair accessibility rule was proper "in effectuating a substantial public purpose" in providing transportation to members of the disabled community. The Court also found that the rule did not constitute an unconstitutional taking, as livery base owners retained their ability to continue to operate and have beneficial economic use of their for-hire livery base stations. The Court noted that livery base owners had failed to show how the rule interfered with their reasonable invest-backed expectations. The Court rejected the Associations' equal protection claim, finding that the rule was rationally related to TLC's interest in providing the disabled community with a viable transportation option.

“There is a critical need for this type of service in the disabled community,” said Julian Kalkstein, a Senior Counsel in the New York City Law Department’s Appeals Division and the City’s lead attorney on the appellate case. “We feel the Court weighed these important needs and rendered a thoughtful and clear-sighted decision.” The case was litigated successfully in the lower court by Sheryl Neufeld, an Assistant Corporation Counsel in the Law Department’s Administrative Law Division, with assistance from TLC General Counsel Peter Mazer.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 100,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at [www.nyc.gov](http://www.nyc.gov) or via direct link at [www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html).

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