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Transcript of the Meeting of the
TAXI AND LIMOUSINE COMMISSION

Held on Wednesday, April 4, 2006

40 RECTOR STREET
Borough of Manhattan

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1 Meeting convened at 9:45 a.m.

2 P R E S E N T

3 MATTHEW W. DAUS
Chairman

4 HARRY GIANNOULIS
5 Commissioner

6 NOACH DEAR
Commissioner

7 IRIS WEINSHALL
8 Commissioner

9 ED GONZALES
Commissioner

10 HOWARD R. VARGAS
11 Commissioner

12 CHARLES FRASER
13 General Counsel

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1 P R O C E E D I N G S

2 CHAIRMAN DAUS: Good morning, everyone.

3 We're about to get started. We're going to be going off

4 a revised agenda, it was revised on March 30th at

5 4:30 p.m. There are a lot of copies in the back. We

6 just changed the order of the agenda.

7 The first item is the Chairman's report,

8 which I'll go to right now. For those folks that are

9 following the reciprocity situation between the various

10 counties and municipalities, I'm pleased to report that

11 we've had two separate meetings which went very well.

12 One with Westchester County's TLC Commissioner and the

13 other with Nassau County's TLC staff. We discussed the

14 possibility of legislation that would seek to solve some

15 of the issues, and we had good positive discussions and

16 I'll keep the industry posted on how we progress on that

17 front.

18 There was also a hearing on commuter vans at

19 the City Council on April 29th. I was asked to testify

20 before the Transportation Committee. I just want to let

21 everybody know that the Council is seriously considering

22 changing some of the laws as it pertains to the commuter
23 van industry. As many of you may know, the commuter van
24 industry is highly regulated in local law. There are a
25 lot of different requirements and they're kicking around

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1 some different ideas.

2 Meanwhile, if there are any specific bills
3 or legislation that comes of some of the oversight
4 endeavors of the Council, I will let the Commissioners
5 know right away and we will discuss them publicly.

6 Some of you may have read in the news that
7 our taxi technology project has been delayed. That is
8 true. Information was presented to the New York City
9 Comptroller. Based on that information, the matter was
10 referred to the Department of Investigation and it's
11 currently under review. If there's anything that I can
12 report and any information that comes into our hands
13 that the industry needs to know, I'll let you know about
14 it right away.

15 We're gearing up for the next medallion
16 sale. We're going to hold it, as I stated previously,
17 in June of this year. We're going to discuss some rules
18 today that will make some minor modifications to the
19 procedures. This is our final sale based on the

20 authorization we received a few years ago under State
21 and local law, a total of 900 medallions. This next
22 auction will sell the remaining 308 medallions. We'll
23 be offering them for sale. The breakdown is as follows:
24 Of the 108, 62 will be alternative fuel vehicles, 54
25 will be accessible vehicles and the remainder will be

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1 unredistributed, 192.

2 We have, and this is evident from the rules,
3 we'd like to hold like we did last time three separate
4 auctions. There will be three separate auction dates.
5 They'll be done in the following order: We'll be doing
6 restricted medallions first, accessible medallions and
7 alternative fuel medallions and then we will hold an
8 individual sale and then a corporate sale on separate
9 dates, all within the month of June, hopefully.

10 In terms of market value for medallions, I
11 continue to be shocked and impressed at the same time
12 with the rising values over the last year, practically
13 every month a new all-time record has been set for both
14 individual and corporate sales prices, meaning the
15 voluntary transfer on the open market. Just to give you
16 an example, at the end of March of this year we broke
17 more records. On the individual medallion side the

18 average sales price was \$359,000. And that was based
19 upon 23 transfers that took place. On the corporate
20 side there were four transfers and the average sale
21 price was \$450,000 per medallion, or 900,000 per mini
22 fleet.

23 In terms of what the public needs to know,
24 we're going to start our outreach efforts in the next
25 few weeks, but for now, if you're interested in

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1 purchasing a medallion or learning more about it, you
2 can always call 311 and get on our mailing list so that
3 when we have the materials available we can send them
4 out to you. Also we'll be doing a dedicated portion of
5 our website devoted to the medallion sale like we did
6 last time, which was very, very successful.

7 In terms of upcoming Commission meetings,
8 the date of the next Commission meeting is tentatively
9 scheduled for Thursday, May 11th. We're looking at
10 three potential rule changes. Number one, Commissioner
11 Dear had suggested that we take a look at situations
12 where people are out of the country and have to do
13 certain things in order to get their licenses renewed
14 and is there some type of method by which we can
15 accommodate those people in advance, whether it be a

16 drug test or some other type of requirement so they can
17 show us they're leaving the country or they have some
18 kind of medical or other situation so they can come back
19 and renew their license beyond the expiration date.

20 That and other rules are going to be
21 proposed. Chuck and his team are working on it right
22 now. We'll be bringing it for a hearing in May.

23 We'll also be voting on accessible vehicle
24 presentations. We had an excellent presentation by
25 Peter Schenkman at our last meeting where we discussed

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1 some of the issues with accessible vehicles. Lo and
2 behold, we're putting together what we believe are the
3 best specifications so there are vehicles available for
4 the medallion auction that can be used that we have
5 faith and confidence in.

6 Last, but not least, we're going to have to
7 make some changes to our rules on curtain air bags. The
8 federal government is going to be requiring there be
9 curtain air bags that come down from the top of the
10 vehicles. Obviously, that presents a concern about
11 partitions, is the partition going to impede the curtain
12 air bag from going down. We'd like to propose some
13 amendments to our rules to look at some other options in

14 May.

15 We haven't set our tentative agenda for
16 June, but the June meeting is tentatively scheduled for
17 June 8th.

18 I'm pleased to report that we have another
19 hybrid that hit the road the other day. This one is a
20 Lexus. I was surprised to see that as the most
21 expensive model. I think that brings us to 23 hybrid
22 electrics on the road right now.

23 Last, but certainly not least, last week we
24 held a driver recognition ceremony, which was for me,
25 anyway, personally it's probably one of the greatest

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1 things that we have ever done at the TLC, in my opinion.
2 We've done some really great initiatives and cleaned up
3 the industry and done a lot of good things, but when
4 you're able to see the smiles on the faces of these
5 drivers who felt so appreciated and just the day
6 revolving around them in a way that has never been done
7 before, I think it was a tremendous experience and a
8 heartwarming experience for everybody who was there.

9 We held the ceremony at the Top of the Rock,
10 which is at the top of Rockefeller Center with
11 extraordinary views of all the city. It was a crystal

12 clear, perfect, beautiful day. We had catering by
13 Cipriani, so I want to thank Top of the Rock and Tishman
14 Spire Properties for hosting the event. I want to thank
15 all the industry people who contributed, and most of
16 all, TLC staff who worked day in and day out for many,
17 many months. We had to cancel the driver ceremony due
18 to the illegal transit strike last year. It was very
19 discouraging. We had some operational issues, but we
20 finally got it off the ground and did it right.
21 We had several awards for drivers who go
22 above and beyond. The driver of the year is Hosam
23 Abdullah, an individual who returned close to a million
24 dollars worth of jewelry that he found. We basically
25 had a very, very good time. It's important as a

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1 regulator to not only take action of a punitive nature
2 against the few people that are doing the wrong thing,
3 it's also very, very important I think to spend time
4 honoring the vast majority of people who do the right
5 thing day in and day out. A slap on the back is
6 something that I think helps and it's good for morale
7 and the drivers really, really felt appreciated.
8 I thank everybody who participated,
9 especially the staff. Jen Palmer did an extraordinary

10 job, Alan Fromberg, the whole customer service team, and

11 I thank the industry for their willingness to help and

12 all they had done to support the event.

13 One of the most significant things of the

14 event also is we received a message from Deputy Mayor

15 Doctoroff's office and the Mayor delivered a

16 proclamation, which I'd like to read, so everybody can

17 try to experience the moment.

18 This is written by the Mayor: "New York may

19 be the only American city where so many residents do not

20 possess a driver's license. Why do so many New Yorkers

21 forego their right to drive? Our subways and buses make

22 it easier to get around, of course, but when New Yorkers

23 need to get from uptown to downtown or borough to

24 borough in a hurry, they rely on our city's outstanding

25 professional taxi and for-hire vehicle drivers to get

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1 the job done. Throughout the Big Apple we depend upon

2 these dedicated drivers to take us all over the city for

3 work, errands and fun. The New York City TLC is

4 honoring the exemplary work of more than 70 of the

5 City's most outstanding drivers at the annual driver

6 recognition ceremony. Drivers will be recognized in

7 such categories as integrity, professionalism and

8 customer care and one person will be honored as driver
9 of the year. The event is an excellent opportunity that
10 rewards those drivers that go above and beyond their
11 duty to help New Yorkers and tourists enjoy our city.
12 24 hours a day, 7 days a week. Taxi and for-hire
13 drivers are available to drive us home, to the airport,
14 to the matinee or anywhere we have to go. Today we
15 honor our taxicab and livery drivers who enable us to
16 keep up with the hectic pace of our City. They truly
17 make New York City the city that never sleeps.

18 "Now, therefore, Michael Bloomberg, the
19 Mayor of the City of New York, recognizes all our City's
20 taxicab and for-hire drivers and proclaims Wednesday,
21 March 29th, in the City as taxi driver recognition day."

22 So we thank the Mayor, Mayor Bloomberg, for
23 your support and let's see if we can hold the event next
24 year on the same day at the beginning of spring, and I
25 thank everybody.

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1 That concludes my report. Does anybody have
2 any questions about the items? Commissioner Dear.

3 COMM. DEAR: I want to know if there's any
4 followup with our Nassau County situation, if there's
5 anything to report on that?

6 CHAIRMAN DAUS: I had at the beginning of
7 the report mentioned we had two meetings. One with
8 Westchester County in Westchester, we went to their
9 turf. They came to our offices first, and we also had a
10 followup meeting with Nassau County. This is since the
11 last Commission meeting when I reported on it.

12 There were positive discussions about some
13 draft legislation, and the next step is we need to
14 finalize the draft and take action.

15 COMM. DEAR: As a result, Nassau County has
16 not suspended enforcement at this point? They have a
17 moratorium?

18 CHAIRMAN DAUS: I don't know if they have an
19 official moratorium. We can try to get a clarification
20 from them. They seem to have a willingness and a desire
21 to work with us, there's no question about that, and
22 we're very pleased -- I think we're getting some
23 feedback. It might reach critical mass.

24 COMM. DEAR: Something is wrong with the
25 microphones.

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1 (Pause.)

2 CHAIRMAN DAUS: Does that answer your
3 questions?

4 COMM. DEAR: Yes.

5 One other issue I want to raise, we raised
6 it at the last meeting, now as we see gas prices going
7 up, and looks like the forecast that it's not going
8 down, something has to be done and something we should
9 talk about, either it's a fare increase or some sort of
10 fuel surcharge, whatever it may be, if we can -- I know
11 the time is now for a discussion about a fare increase,
12 so I'd like to know if there is a timetable set for
13 that.

14 CHAIRMAN DAUS: Well, what we can do is I
15 would recommend that we have staff update us on the gas
16 prices at our next meeting and have a discussion about
17 it.

18 COMM. DEAR: Okay.

19 CHAIRMAN DAUS: Okay? Any other questions?
20 By the way, I want to thank Commissioner Vargas for
21 joining us at the drivers' ceremony. I know everybody
22 has a busy schedule, we couldn't get all our
23 Commissioners there, but Howard spent some time with us.
24 I hope you enjoyed the fun and the food and thanks for
25 presenting some awards on our behalf. I appreciate it.

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1 That concludes item one. Item two is

2 adoption of the minutes of the March 9th meeting. Any

3 questions, comments, changes to the minutes?

4 Could I have a motion to adopt?

5 COMM. DEAR: Make a motion.

6 CHAIRMAN DAUS: Second? All in favor.

7 (Chorus of "Ayes.")

8 CHAIRMAN DAUS: Okay, it passes unanimously.

9 Item 3, base license application review.

10 Bill, good morning.

11 MR. CARTER: Good morning,

12 Mr. Commissioners. I'd like to point out there are two

13 small errors in the agenda. For the new applications,

14 the items I'm presenting today are not new applications,

15 they're renewal applications and there are 17, not 18.

16 The following bases are being recommended

17 for approval by the licensing division: 11th Street Car

18 Service, Caprice Car Service Corp., City Line Car

19 Service, Inc., Deonarine Boodram, doing business as

20 Royal Car & Limo Service, Moisha Express, Inc., Munkacs

21 Car Service, Ltd., New Ridgewood Car Services Inc.,

22 Omega Car Service Inc., Phasal Tajudeen, doing business

23 as Clifton Car Service, Phasal Tajudeen, doing business

24 as Foxhill Car Service, Portal Car Service Corp., Queens

25 Village, Inc., Quick Ride Corp., RCS Transportation

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1 Corp. doing business as Remsen Car Service, Target
2 Transportation Corp., T-D Maintenance Corp., doing
3 business as Four Ones Car Service; Wakefield Leasing and
4 Maintenance Corp.

5 We also have one combination, Nymex Uno
6 Executive Sedan Inc., doing business as Nymex Car
7 Service is doing a renewal as well as a relocation.

8 CHAIRMAN DAUS: Any questions or comments
9 that the Commissioners have about these bases? Do I
10 have a motion to approve?

11 COMM. DEAR: Make a motion to approve them.

12 CHAIRMAN DAUS: Okay, do we have a second?

13 COMM. VARGAS: Second.

14 CHAIRMAN DAUS: Commissioner Vargas. All in
15 favor.

16 (Chorus of "Ayes.")

17 CHAIRMAN DAUS: I'd just like to note for
18 the record, Bill, we had this discussion before, but
19 rather than make a motion on it, there are a few bases
20 on your list which I'd like to make a note of having one
21 or more convictions for unlicensed activity, whether
22 it's dispatching an unlicensed vehicle or whatnot.

23 Caprice Car Service, City Line Car Service,
24 Deonarine Boodram d/b/a Royal Car & Limo Service, Phasal
25 Tajudeen, d/b/a Foxhill, Wakefield Leasing & Maintenance

1 Corp. and I would just ask that licensing keep track of
2 those bases and make sure they adhere to their business
3 plan and that we make a note for the record that two
4 years from now if they're up for renewal if they haven't
5 corrected those problems we consider taking some
6 remedial action.

7 MR. CARTER: Yes.

8 CHAIRMAN DAUS: Okay, thank you.

9 Item 4, proposed rules for public hearing
10 and Commission action. Item A is medallion auction.
11 I'd like to turn it over to our counsel, Chuck Fraser.

12 MR. FRASER: This proposed rule would modify
13 existing rules governing auctions of new taxicab
14 medallions. The modifications relate mostly to
15 procedural matters and are detailed in the statement of
16 basis and purpose of the proposed rules, which was
17 published in the City Record, published on the
18 Commission's website and distributed to the
19 Commissioners.

20 We received one written comment on this
21 proposed rule during the 30-day comment period. Based
22 on that comment, the staff recommends a change in the
23 proposed rule to eliminate the provision that the second
24 deposit for \$25,000 per medallion be forfeited in the
25 event that the winning bidder does not meet the

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1 deadlines in the rules.

2 The staff recommends that the provision for
3 forfeiture of the first deposit for \$2,000 per medallion
4 be maintained. The purpose of the forfeiture provision
5 is to ensure that winning bidders proceed expeditiously
6 to close on their purchasers and put their medallions
7 into service. However the staff believes that the
8 forfeiture of the \$2,000 of that deposit is efficient
9 for that end and forfeiture of the \$25,000 deposit would
10 be unduly harsh. In addition, based on internal
11 consideration of the proposed rule, the staff recommends
12 clarification of the proposed rule. The proposed rule
13 did not make entirely clear the mechanism by which the
14 entire ratio of independent medallions to mini fleet
15 medallions will be maintained. The staff's proposal is
16 to conduct the auction for restricted medallions first,
17 followed by the auction for unrestricted medallions.

18 The staff recommends that redistributed
19 medallions be sold to the highest bidders without regard
20 for whether the bids are for independent or mini fleet
21 medallions. The ratio of independent and mini fleet
22 medallions will then be adjusted and the subsequent
23 auction of unrestricted medallions in order to maintain

24 the statutorily required ratio independent and mini
25 fleet medallions outstanding. The staff's recommended

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1 revisions to the proposed rules have been distributed to
2 the Commissioners and are available to the public in the
3 back of the room.

4 I would be glad to read them into the record
5 if the Commissioner so desires.

6 CHAIRMAN DAUS: Okay, ready to start the
7 hearing.

8 The first speaker, Eugene Pero. I guess
9 you're interested in getting involved in the medallion
10 business, Gene?

11 MR. PERO: No, I'm interested in the LA
12 plate issue.

13 CHAIRMAN DAUS: Okay, it was a mistake,
14 then. You wanted to testify regarding TC plates?

15 MR. PERO: Correct.

16 CHAIRMAN DAUS: Would you mind coming back
17 in like ten minutes?

18 MR. PERO: No problem at all.

19 CHAIRMAN DAUS: And I assume the same goes
20 for you, Artie?

21 MR. GROVER: Yes.

22 CHAIRMAN DAUS: That explains everything,

23 thanks. I was getting a little worried.

24 COMM. DEAR: What's wrong with Gene? He can

25 do a good job there.

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1 CHAIRMAN DAUS: All right, first speaker,

2 Kevin Fitzpatrick.

3 MR. FITZPATRICK: Hello, my name is Kevin

4 Fitzpatrick. By the way, Commissioner, point of

5 information. You were saying the last medallion sales

6 the individuals went for 359,000?

7 CHAIRMAN DAUS: No, I didn't say that.

8 MR. FITZPATRICK: No, on the open market,

9 they went for 359, the last 23 sale, and the last fleet

10 medallions for 450,000?

11 CHAIRMAN DAUS: That's correct.

12 MR. FITZPATRICK: Oh, okay. Now, we're

13 issuing 300 more medallions. I think for the statistics

14 you gave, we could see that maybe the individual

15 medallion owners are having a problem. You know, I

16 remember in the '70s individual owner medallions were

17 worth more than fleet medallions. Now, this is the

18 largest, you know, differential between these I've ever

19 seen, \$91,000, and the fact that 23 individual

20 medallions were sold and only 4 fleet medallions were
21 sold, that seems to indicate that a lot of individual
22 owners are trying to get out of the business for
23 whatever reasons.
24 Now, of course it's only one month, but
25 that's a bad trend, I think. As you know, NYTWA is

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1 against the sale, we were against the first 300, the
2 second 300 and the third 300 medallions.
3 Now, one of the problems I think is that we
4 issue medallions, we don't see this thing as a
5 transportation industry. The fact is we have a problem
6 at 4:00 in the morning, rather, 4:00 in the afternoon,
7 getting cars on the road. Now, you know, we've all
8 heard the things of some yuppie that he had to wait 15
9 minutes at 23rd and Park to get a cab. Why he didn't
10 jump into the subway, I don't know. Well, the fact of
11 the matter is we use our equipment badly. Think about
12 it. At the height of the rush hour, most of the cabs
13 are going in. The 600 more cabs, all that's meant is
14 that we have 600 more cabs off duty at 4:00 in the
15 afternoon. You know, the idea of the dollar surcharge,
16 you know, it seemed like a good idea, it works to a
17 certain degree, but with a fleet there's no incentive to

18 change, there's no incentive to change the way they
19 dispatch cabs.

20 CHAIRMAN DAUS: Mr. Fitzpatrick, do you have
21 any specific suggestions on the procedures, the changes
22 we're proposing for the procedures for the auction?

23 MR. FITZPATRICK: No. Actually, I think the
24 thing about the 2,000 is a good idea. Losing 25,000
25 smackers is a lot of money, you know, I think that's a

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1 good thing, but other than that, that's -- you know, I
2 think we're going to have to consider how we use our
3 equipment.

4 Now, I tell you, now, I drive in the
5 mornings mostly, and last Friday, two Fridays ago, I
6 drove from 7:00 a.m. in the morning to 8:00 a.m. in the
7 morning without picking anybody up, so -- and I know
8 where to go to pick people up. It's, you know, the fact
9 of the matter, and night drivers will tell you after
10 midnight there's no work. You go an hour and a half and
11 you pick up a \$4 fare.

12 This is a political issue. How many cars
13 are you going to put on the road? There's always going
14 to be a shortage on a Friday afternoon, there's always
15 going to be too many cars at 12:00 at night. Okay, take

16 care.

17 CHAIRMAN DAUS: Thank you. Next speaker is

18 Mr. Bill Lindauer.

19 MR. LINDAUER: Good morning. And I'd like

20 to thank Mr. Dear for raising the fuel price issue, it's

21 very important to all cab drivers.

22 No, I'm not going to speak about the GPS,

23 the genuinely pointless system, also known as high tech

24 dreck. I'm talking about medallions and beef. My beef

25 is there's absolutely no need for them. I call for an

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1 independent study. It should not cost anywhere near the

2 laughable \$200,000 whitewash before. Remember Bruce

3 Shaller's finding that we were empty 35 percent of the

4 time and that was before 500 new medallions? Any new

5 medallions, also, if there were to be a sale, should be

6 offered to drivers more than the endlessly deep pocket

7 companies like Medallion Funding, which hogs the

8 medallions. But there's another important issue, it's

9 congestion. I notice Ms. Weinshall is not here, it's

10 too bad.

11 CHAIRMAN DAUS: She has an official function

12 with the Mayor, otherwise she would be here. She has a

13 perfect attendance record.

14 MR. LINDAUER: I'm only saying. Moreover,
15 New York does not need more vehicles in midtown.
16 Shaller states that 13,500 cars daily are in Manhattan
17 every year. The New York Times on March 26th said the
18 city is choking in traffic. The statement you read by
19 the Mayor for taxi driver recognition day said we count
20 on taxis to take us when we're in a hurry. Frankly
21 speaking, there are many times in the day or night when
22 a subway will get you there faster. If we cannot bring
23 people to their destinations in a hurry, then we're not
24 doing something right.

25 CHAIRMAN DAUS: Mr. Lindauer, do you have

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1 specific comments on the procedures for the medallion
2 auctions?

3 MR. LINDAUER: The procedures --

4 CHAIRMAN DAUS: That's what the hearing is
5 about.

6 MR. LINDAUER: The taxi industry supply way
7 outstrips demand 90 percent of the time. Should we spew
8 out medallions like Niagara Falls spews out water?
9 Remember, waiting time hasn't been raised since Jurassic
10 period.

11 And I wish everybody happy Pesach, happy

12 Easter and happy Greek Easter.

13 COMM. GIANNOULIS: Thank you.

14 CHAIRMAN DAUS: Okay. Ms. Bhairavi Desai?

15 MS. DESAI: Good morning.

16 CHAIRMAN DAUS: Good morning.

17 MS. DESAI: Well, as the two previous
18 speakers have already said, the Taxi Workers Alliance
19 has been against the medallion auction, but I am going
20 to limit my comments to the specific procedures that are
21 being proposed.

22 CHAIRMAN DAUS: Thank you.

23 MS. DESAI: I would agree with the staff's
24 recommendation that the 25,000 should not be forfeited.
25 I think that's a good recommendation, and it should be

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1 approved by the Commission. But what I'd like to add to
2 that is that in terms of the restricted medallions, I do
3 think that the mini fleet and the individual auctions
4 should be kept separate.

5 Now, I understand that as an incentive to
6 get more mini fleet owners to bid on the restricted
7 medallions, you're waiving the two-medallion requirement
8 for the mini fleet, but I think that overall, what the
9 procedures don't allow for is more fairness for the

10 individual medallion bidder. And by that specifically I
11 mean that the \$25,000 deposit for either a mini fleet or
12 an individual, I think that's unfair. I think that for
13 the individual, the deposit should not be up to 25,000,
14 it should be closer to \$10,000 as the minimum
15 requirement, it should not be more than that.

16 Secondly, individuals should be given a
17 longer period of time to complete the hack-up rather
18 than the 30 days and the 60 days that are there, both
19 for the individuals and the mini fleets. Again, I think
20 you need to differentiate between the two types of
21 medallion owners and the individual should be given more
22 time, closer to 45 days and then up to 90 days for full
23 completion.

24 And then last -- again, I want to reiterate
25 that for the restricted medallions, you should keep them

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1 separate. I think there's enough of an incentive out
2 there for owners to bid on the restricted medallion,
3 whether they be wheelchair accessible or the CNG's or
4 the hybrids, but you should not reduce the requirement
5 to only one medallion bid for the mini fleets. If you
6 are going to reduce it to just the one medallion bid for
7 the mini fleets, then you need to differentiate between

8 the deposits that mini fleets are required to make
9 versus what individuals are required to make and again,
10 the amount of hack-up time for individuals versus the
11 mini fleets.

12 Thank you.

13 CHAIRMAN DAUS: Thank you.

14 Mel Miller.

15 MR. MILLER: I'll do it briefly. First, I
16 want to thank the Commission, I want to thank Mr. Fraser
17 on the \$25,000 forfeiture. We had a long discussion on
18 that last Thursday and I want to thank him for his
19 response.

20 There are just a couple of issues I would
21 like to raise. One is the question of the five day
22 hack-up after closing. That is a very, very small
23 restricted period, and especially certain vehicles, such
24 as your accessible vehicle which hack-up times are much
25 longer, my understanding is that five days may not be

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1 practical and you're measuring closing and hack-up in
2 two distinct periods, closing within 60 days, hack-up
3 five days after closing and that may be very, very tight
4 because there are issues of availability and especially
5 I think in this auction about a third are going to be

6 special restricted, Mr. Fraser, am I correct, about a
7 third of them, because we missed the alternative fuel
8 and wheelchair accessible --

9 MR. FRASER: The numbers were stated by the
10 Chairman at the beginning of the meeting. It's not a
11 third.

12 CHAIRMAN DAUS: 62 alt fuel, 54 accessible,
13 192 unrestricted.

14 MR. MILLER: That's, a third of three
15 hundred is a hundred. I'm pretty good at budget, bad at
16 everything else.

17 There are a couple of other issues that have
18 been raised on a technical nature. I don't know when we
19 did the written comments if we were able to take, deal
20 with them and I'd just like to, the issue of, and a very
21 important issue of the exclusive right to hail, okay?
22 There is the word "entitled" used in the Rule 13-102E.
23 We ask for removal of the word "entitled" and it should
24 be replaced with "the owner of such medallion have the
25 exclusive right to accept hails." I think that's

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1 important and that's basic to the medallion industry.

2 When we go to Rule 13-02F, we're asking the
3 wording of "accessible medallions" be changed to

4 "wheelchair accessible medallions" because the word
5 "accessible" could mean anything, and what does the word
6 "accessible" mean standing alone without the modifier of
7 wheelchairs?

8 The area of -- we need to be able to assign
9 to a limited liability company. You restrict it to a
10 corporation. In rule 13-03G. I can give you this
11 specifically if you want it, because we do have some
12 further comments that were not available when we sent
13 you the original comments.

14 And again, going back to the availability.
15 Now, also the rule, and I think somewhat misunderstood,
16 it is \$25,000 per medallion, am I not correct, it isn't
17 25,000 per bid, so if you're bidding for a mini fleet
18 and you can't schedule your closing immediately, as I
19 read the rule, the deposit would be \$50,000 for a mini
20 fleet, not \$25,000.

21 CHAIRMAN DAUS: That's correct.

22 MR. MILLER: So the mini fleet deposit is
23 actually twice and the old forfeiture provisions were
24 actually \$25,000 forfeiture for medallion, not 25
25 forfeiture per bid, so, again, I wanted to thank

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1 Mr. Fraser for listening and being very, very

2 responsive. I'll give you these additional technical
3 comments in writing. I don't think they were in our
4 original thing.

5 So that's the comments. Just to reiterate
6 at the end, the one real concern, at least for those who
7 are going to bid at the auction, is the ability to
8 timely close and to hack up within the market
9 availability of medallions. Even a Ford, sometime
10 availability lags, a car could fall off a truck coming
11 down from Detroit, it's not available in 60 days, you
12 don't know when a replacement car is available. We need
13 to have a little bit of flexibility on those.

14 CHAIRMAN DAUS: What do you suggest as an
15 acceptable time frame?

16 MR. MILLER: It's hard to come up. You
17 really need a rule of reason on a hack-up or a closing
18 day. The rule as presently drafted gives the
19 Commission, gives you the ability to delay a closing, a
20 reasonable delay of closing, that's how the rule is
21 presently written. Knowing you as a reasonable person,
22 I'm sure you'll be reasonable, unless told otherwise.
23 However -- but there is no rule of reason on hack-up,
24 Matt, so you could close, something happens during the
25 period of hack-up --

1 CHAIRMAN DAUS: You're recommending that we
2 keep the five days and put a reasonable extension in
3 there.

4 MR. MILLER: I think you should have a
5 reasonable extension for hack-up, especially where you
6 have hack-up problems. I think Mr. Fraser's answer
7 would be you measure your hack-up and your closing dates
8 and you don't close until you know you could hack-up.

9 CHAIRMAN DAUS: It did work well, we
10 didn't -- I understand when you look at the rules
11 themselves it presents that issue. Just for the record,
12 we didn't really have that issue across the board last
13 time, it wasn't a major problem for us, but --

14 MR. MILLER: Yes, it was, it was a very
15 major problem. We ended up in a lawsuit. I call these
16 the Freedman-Miller rules.

17 CHAIRMAN DAUS: If you put that alternative
18 fuel lawsuit aside, though, we really didn't have any
19 issues with it. I'm not saying we disagree with your
20 other suggestions about the language, I'm not saying
21 they're really right or wrong, there may be better ways
22 to word these things, but the two comments you made
23 about 1302-E and the other section about wheelchair
24 accessible, counsel is advised, we basically just track
25 the language in the local law the way it was written

1 many, many years ago.

2 MR. MILLER: The drafters at the Council are
3 not always perfect. I expect you to be more perfect.

4 CHAIRMAN DAUS: I don't know if we can be
5 more perfect than the Council.

6 MR. FRASER: If you check the definition
7 section, the definition of accessible medallion shall
8 mean a taxicab valid for use only with a vehicle
9 accessible to a passenger using a wheelchair. We used
10 the statutory language and gave a definition to amplify
11 it.

12 Same thing with "entitles." I don't think
13 you really want to say that the people who buy
14 medallions have the exclusive right to do street hails,
15 because that means the other 12,000 that are out there
16 already can't do street hails.

17 MR. MILLER: If you read it "exclusive," if
18 you put the term in, but in terms of tracking language,
19 I think the underlying Charter language gives them the
20 exclusive right.

21 MR. FRASER: That's correct.

22 MR. MILLER: So, therefore, you cannot
23 overrule the Charter in the auction rules. And I think
24 the issue of exclusive right, as you know, has been the

25 most important right and that's what keeps the price the

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1 price it is.

2 CHAIRMAN DAUS: I understand the sensitivity

3 to it.

4 MR. MILLER: We're very sensitive.

5 CHAIRMAN DAUS: For the record, it was

6 absolutely, positively, undeniably no intention on my

7 part or I believe anybody else's part to change the

8 exclusive right for yellow cabs to pick up street hails.

9 MR. MILLER: All right. Thank you for

10 putting up with me.

11 CHAIRMAN DAUS: Noach?

12 COMM. DEAR: A point that Mel brings up with

13 regard to the hack-up time, which he suggested, again,

14 to add the language that you have for the closing where

15 you have a right under reasonable grounds to extend the

16 time. I don't have an issue with that language.

17 CHAIRMAN DAUS: I don't have an issue with

18 it. We're not done with the public hearing. Let's see

19 if anybody else has any comments on it.

20 Dave Pollack?

21 MR. POLLACK: Good morning, Mr. Chairman,

22 Commissioners. Once again, I'd like to thank you for

23 amending the forfeiture rule as our comments requested,
24 so I thank you, and making some other changes. Mel
25 Miller didn't say so, but Mel Miller was speaking on

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1 behalf of the Committee for Taxi Safety which I think
2 recently the Committee for Taxi Safety has been speaking
3 for a large segment of the taxi industry. My name is
4 Dave Pollack, the executive director of the Committee
5 and I think you know the history of the Committee For
6 Taxi Safety.

7 Mel hit on a lot of major points that we
8 discussed with TLC counsel and amongst ourselves as
9 well. A couple of minor points were neglected, however.
10 13-03A really should be changed to state that a letter
11 of commitment should include all lenders previously
12 recognized and approved by the Taxi and Limousine
13 Commission.

14 There are certain entities over the years
15 that have lent in addition to state and federal credit
16 unions and in addition to State-chartered banks that
17 certainly should warrant approval by the Taxi and
18 Limousine Commission, since you've been approving
19 closings for them for years as is.

20 Another point I would like to make is 13-02C

21 subjects independent medallions to the owner-driver
22 rules. Present counsel is not aware of this, but the
23 Committee For Taxi Safety has been proposing to change
24 this rule so after a five-year period independent
25 medallion owners have the opportunity to lease their

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1 medallions as opposed to either increasing debt by
2 purchasing the taxi or selling and getting out of
3 business, so that's something for discussion for the
4 future.

5 Another minor point is, 13-03D, I believe
6 the detailed explanation regarding the drawing procedure
7 in the event of a tie bid, would be practical simply for
8 information purposes, so we know how we're going to draw
9 the winners of that. There's really no procedures set
10 forth in that, and other than that, I have no additional
11 comment.

12 I'll just say everything he said before me.

13 CHAIRMAN DAUS: Okay. We'll take a look at
14 that second issue that you raised.

15 MR. POLLACK: Can I just leave some comments
16 for the Commissioners?

17 CHAIRMAN DAUS: Thank you. I see you have
18 comments on other rules, also.

19 Our next speaker is Mr. Joe Giannetto.

20 MR. GIANNETTO: Good morning Mr. Chairman,
21 Commission. On behalf of MCBOT we're seeking
22 clarification on Section 13-03A regarding the issuance
23 on the letter of commitment. As David mentioned, we
24 wanted to see clarification on whether or not the TLC
25 will continue to practice recognizing other TLC lenders

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1 other than those mentioned in this rule as being able to
2 issue letters of commitment, such as licensed brokers.
3 That would be our only concern with this rule as it's
4 proposed.

5 CHAIRMAN DAUS: Okay. That's it?

6 MR. GIANNETTO: That's it.

7 CHAIRMAN DAUS: Thanks. The last speaker is
8 Osman Chowdhy. Mr. Chowdhy?

9 MS. DESAI: He's deferring his time.

10 CHAIRMAN DAUS: Thank you, we appreciate
11 that. That concludes the public hearing. Any questions
12 or comments from the Commissioners?

13 COMM. DEAR: Call for a vote. Just make the
14 change if you want to make the change.

15 CHAIRMAN DAUS: The suggestion that
16 Commissioner Dear has is to take the language, I think

17 it's in Section 13-03H, "all sales shall close no later
18 than 60 days after bid opening, unless extended by the
19 Chair for reasonable cause," to take the reasonable
20 cause language and apply that to the hackup provisions,
21 which I believe are in a separate section. Chuck?

22 MR. FRASER: I think what we can do here is
23 at the end of the last sentence of 13-03K, we would add
24 the following phrase: "Comma, unless extended by the
25 Chairperson for reasonable cause shown," just insert

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1 that at the end of 13-03K.

2 CHAIRMAN DAUS: The motion would be to
3 approve the revised sections that Chuck referenced at
4 the beginning of the public hearing, plus that language
5 and vote on the rules in their entirety.

6 COMM. GIANNOULIS: I have a question before
7 we do that. Two people brought up the 13-03A issue that
8 certain lenders are left out of this. Could you clarify
9 that for me, Charles?

10 MR. FRASER: This is not a change in the
11 rule. The rule remains the same in this respect from
12 the previous two auctions and the rule requires that the
13 lender for purposes -- that the person, that the entity
14 from whom the letter of commitment comes be a bank or

15 credit union licensed to do business in the State of New
16 York or other lender licensed by the State of New York
17 or federal government. As I said, this is not a new
18 requirement. This has been in the auction rules.

19 COMM. GIANNOULIS: If you just explain for
20 me, because I didn't ask then, what the issue is that
21 they're raising.

22 MR. FRASER: My understanding is and I was
23 not aware of this, but my understanding is that some
24 people want to do lending who are not licensed, and this
25 has been --

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1 MR. CHIPKIN: Could I speak?

2 COMM. GIANNOULIS: Joe, could you come up?

3 CHAIRMAN DAUS: And Mr. Chipman also, he
4 engaged in this practice.

5 MR. GIANNETTO: If Rich could come up, it's
6 been our understanding that other entities recognized by
7 the TLC to provide lending to prospective medallion
8 bidders were recognized in the past and in fact did lend
9 and issue letters of commitments in the previous
10 auctions. So there was some indication that we received
11 that they would no longer, that the TLC would no longer
12 accept those letters of commitment issued by those

13 entities and that's why we brought it up today, to seek
14 a clarification.

15 CHAIRMAN DAUS: Maybe, Richard, this has
16 become a practice, correct me if I'm wrong, in the
17 lending industry, where it's not just brokers that are
18 lending the money, but it's a combination of big banks
19 plus brokers. As you had explained to me in the past.
20 I guess the question is, if the commitment letter that
21 you and a particular bank are grouping together and
22 loaning money to a particular owner who is looking to
23 purchase a medallion, what is the nature of the business
24 relationship you have with the bank and where is the
25 commitment coming from?

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1 MR. CHIPKIN: In the past it came from me as
2 a lender and my arrangement with the bank is my
3 arrangement with the bank. In the past we needed the
4 bank to issue a commitment letter for the 80 percent.
5 Most of the time the banks weren't lending the
6 80 percent and we were going over it, so at all the 400
7 medallions that were auctioned off years ago, in the
8 last 600 medallions that were auctioned off recently,
9 I've always issued my commitment letters. I've closed
10 the loans in my name and the loans have always gone

11 through and the TLC got paid, and that's the same with
12 myself and a couple of the other brokers who really
13 accounted for most of the sales of all the medallions at
14 these auctions.

15 COMM. GIANNOULIS: Why don't you fit into
16 this category of lender licensed by the State of New
17 York or federal government?

18 MR. CHIPKIN: Because I'm not licensed. I'm
19 a private lender, I'm not licensed by the State of New
20 York.

21 CHAIRMAN DAUS: You're not required to be
22 licensed?

23 MR. CHIPKIN: I'm not required to be
24 licensed and I'm a recognized lender of the TLC for the
25 past ten or fifteen years I've been issuing commitment

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1 letters.

2 COMM. GIANNOULIS: You're like a broker of a
3 mortgage almost.

4 MR. CHIPKIN: No, I'm a lender, but I'm a
5 private lender. I don't need to be licensed by any
6 banking department.

7 COMM. DEAR: So if there's no problems with
8 that --

9 CHAIRMAN DAUS: Commissioner Gonzalez had a
10 question. This is his field of expertise, actually.

11 COMM. GONZALES: I have a question. What's
12 the typical financing structure as far as the loan to
13 value with your customer?

14 MR. CHIPKIN: At the last auctions we almost
15 loaned 100 percent.

16 COMM. GONZALES: So the medallion owner has
17 zero equity?

18 MR. CHIPKIN: That's not true. They still
19 have to put up a sizable amount of money, but there's a
20 lot of other closing costs.

21 COMM. GONZALES: What's that percentage,
22 typically?

23 MR. CHIPKIN: It's not a percentage, it's a
24 dollar amount.

25 COMM. GONZALES: Let's assume the medallion

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1 goes for \$300,000. What would be the typical --

2 CHAIRMAN DAUS: I think it was between 1 and
3 5 percent, 10 percent, very low.

4 MR. CHIPKIN: We were lending 90 percent,
5 95 percent, sometimes almost 100 percent financing. We
6 were letting guys in with a very low down payment so we

7 could attract buyers to buy the medallion.

8 COMM. GONZALES: What's the typical loan
9 term?

10 MR. CHIPKIN: Well, as the prices of the
11 medallion have skyrocketed where we used to do ten year
12 financing, the last auction might have been twelve year
13 and fifteen year financing. Some lenders do go 25
14 years. It's all up to the lender's discretion how long
15 they want to go. You want to put a guy into business
16 who is going to afford to make the payments.

17 COMM. GONZALES: Are these rates usually
18 floating rate or fixed rate?

19 MR. CHIPKIN: They're fixed for a period of
20 time.

21 COMM. GONZALES: Fixed then they go
22 floating?

23 MR. CHIPKIN: They change, you have to
24 refinance. It's a balloon payment, you have to
25 refinance them.

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1 COMM. GONZALES: They have something like a
2 fixed payment, like a 25 year, with a balloon?

3 MR. CHIPKIN: 25 year balloon. What we do,
4 we make it so the driver or the owner could afford to

5 pay it. If we want to put the guy into business, we

6 want him to pay us.

7 COMM. GONZALES: I'm trying to understand
8 how the whole thing works, both from the medallion
9 perspective as well as your perspective. Now, your loan
10 that's coming in from the bank, is that an 80 percent
11 type LTV?

12 MR. CHIPKIN: The bank gives me a flat
13 amount of money per deal and everything else I need to
14 come up with on my own to make the deal work.

15 COMM. GONZALES: If for some reason the
16 medallion owner is not able to make his commitments, who
17 is on the hook? You're the first person on the hook?

18 MR. CHIPKIN: I'm on the hook. The bank is
19 lending very small percentage loan to value as opposed
20 to what I'm lending. And the bank is in the senior
21 participation.

22 COMM. GONZALES: You're in a subordinate
23 position?

24 MR. CHIPKIN: Correct.

25 COMM. GONZALES: Is your subordinate

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1 position more of an equity stake? Is your subordination

2 position equity-related or permanently debt-related?

3 MR. CHIPKIN: It's just debt.

4 COMM. DEAR: Mr. Chairman, if that's the
5 case, if we could have language that we could include
6 the licensed brokers, knowing if the Law Department or
7 if pre-empted by the State it of course goes by the
8 wayside.

9 CHAIRMAN DAUS: I think we all, unless you
10 disagree, I don't have a conceptual philosophical
11 problem with people who we have the authority to control
12 like licensed brokers engaging in this process. My only
13 concern, as we had discussed, is whether it's
14 permissible by the State and I don't know how we can
15 address this, Chuck.

16 MR. CHIPKIN: I'm also a licensed broker who
17 has been doing this for --

18 CHAIRMAN DAUS: I think the distinction to
19 be drawn is brokers that are licensed are accountable to
20 us as opposed to getting a commitment letter from
21 somebody we've never seen before, has no license
22 anywhere off the street. It creates a little bit of a
23 challenging situation. Can we rely on this for purposes
24 going forward, that type of thing? We're basically
25 asking you, you don't have to pony up your 25 grand if

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1 you get a commitment letter.

2 MR. CHIPKIN: Matt, you know me and you know
3 at all the auctions I've -- my commitment letter, I've
4 closed on every loan faster than any other broker.

5 CHAIRMAN DAUS: Right, and we have no issues
6 with you, but you are a licensed broker.

7 MR. CHIPKIN: But I'm also the lender.

8 CHAIRMAN DAUS: This would satisfy the issue
9 for the vast majority of the people that are raising it,
10 right? If language was put in there, as Commissioner
11 Dear suggested, about adding to New York or federal
12 government approved lenders, any TLC licensed brokers,
13 that would do it for you?

14 MR. CHIPKIN: TLC licensed brokers or
15 approved lenders.

16 CHAIRMAN DAUS: Could we do that, Chuck?

17 MR. FRASER: Yes, my suggestion would be in
18 13-03A after little ii would be, after the words
19 "federal government" insert, "comma, or by a taxicab
20 broker licensed pursuant to Chapter 5 of this title."

21 MR. CHIPKIN: That's fine with me, but if it
22 could be also an approved lender, because -- any way you
23 want to do it is fine. If you put licensed broker that
24 would be fine, but if you could put an approved lender
25 by the TLC. I mean, you guys in your last packages have

1 always put out a list of all the lenders who will
2 finance the medallions and --

3 CHAIRMAN DAUS: Is that really necessary in
4 light of what we just discussed? Would the taxicab
5 broker do it?

6 MR. POLLACK: My only comment is, that
7 taxicab brokers have been doing this in the past. The
8 commitment letter doesn't come from the taxicab broker,
9 it will come from the federal credit union, state credit
10 union or it will come from a bank or it will come from
11 NAA lenders --

12 MR. CHIPKIN: Our Rapid Funding --

13 MR. POLLACK: BLS. You have a number of
14 lenders who deal under different names for the lending
15 part of their brokerage.

16 MR. CHIPKIN: For the auction purpose, for
17 the auction purpose, if you will accept --

18 CHAIRMAN DAUS: What's the relationship
19 between these lenders and the broker? Is there some
20 type of affiliation?

21 MR. CHIPKIN: In my situation, I own Westway
22 Medallion Sales by myself and I also own Medallion
23 Funding by myself. For the purpose of accepting the
24 bid, I could put a letter in from Westway Medallion
25 because under your rules, you'll accept it from Westway

1 Medallion Sales, but when I'm closing the loan at the
2 TLC I might close it, not I might, I will probably close
3 it under my Rapid Funding. So for the purpose of
4 accepting it for the bid, Westway Medallion Sales is
5 fine.

6 COMM. GIANNOULIS: Could I ask you a
7 question; what's the difference between the two
8 companies?

9 MR. CHIPKIN: Westway Medallion Sales is a
10 broker that buys and sells medallion taxicabs. Rapid
11 Funding is a company that just finances medallions.

12 COMM. GIANNOULIS: Maybe Commissioner
13 Gonzalez, maybe you know what we should be looking at
14 here in terms of --

15 COMM. GONZALES: I don't have enough
16 information to make a clean assessment here. It's
17 probably, I understand that having two separate
18 businesses, I would say would have to be convinced that
19 there's not an overlap or conflict with the two sides of
20 the business.

21 MR. POLLACK: He doesn't want to lose his
22 broker's license or bond.

23 CHAIRMAN DAUS: Would anybody have a problem
24 if we drafted language to include a commitment letter

25 must come from the broker on behalf of any other lender?

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1 MR. CHIPKIN: That's fine. Westway could
2 issue a commitment letter saying Rapid Funding approved
3 the loan.

4 CHAIRMAN DAUS: The purpose of the
5 commitment letter is to make sure we have a guarantee
6 you have some type of license to do this, and you're
7 standing by your track record of providing lending. You
8 could be federal credit union that submits one, a
9 licensed bank or financial institution or a licensed
10 broker on behalf of yourself as a broker or anybody else
11 that you would represent whether that be another entity.
12 Would that work?

13 MR. MILLER: Or a previously approved, since
14 you have a track record already, you could just
15 incorporate --

16 MR. FRASER: I don't know by what criteria
17 we're approving lenders and what process would be
18 involved.

19 MR. CHIPKIN: Years ago we had to submit
20 financial statements and bank statements when we first
21 were approved to issue commitment letters at the TLC.
22 Fingerprints.

23 MR. KAUFMAN: May I speak?

24 CHAIRMAN DAUS: Could you identify yourself

25 for the record?

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1 MR. KAUFMAN: I'm Alan Kaufman, CEO of

2 Melrose Credit Union, largest lender in the industry.

3 These guys brought up some points that I think kind of

4 opened up a can of worms.

5 What has happened in the past -- I'm not

6 saying Mr. Chipman has done this, but in the past

7 lenders have loaned too much money, which you alluded to

8 and the sole purpose of lending that amount of money was

9 knowing that the person would not pay, putting hefty

10 fees on to that individual and then foreclosing on that

11 individual.

12 I'm not -- I can't comment on that you can

13 even allow non-licensed lenders to lend in this

14 industry, you may or may not be able to do that, that's

15 something you might want to look into, but putting that

16 aside, there is a danger, and I'm not saying it's

17 happened with the lenders that you have approved, but

18 there are several instances where if a person comes in

19 without enough money down, he is putting himself in

20 jeopardy, and this case, especially now with prices

21 where they are, and cash flows and I can show you the
22 cash flows right now are not where they should be to
23 support these prices, that issue can come up more and
24 more, especially with this coming auction.

25 CHAIRMAN DAUS: I'm not saying we disagree

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1 with you. In terms of drafting the rules, though, I
2 mean, what I'm suggesting as a possible compromise here
3 to allow the industry to continue to function the way
4 they had, quite frankly, these people did lend last time
5 and it was a successful auction and things went smoothly
6 and, well, that there is accountability.

7 If we limit it to making the broker who has
8 a license with us, that can be revoked, quite frankly,
9 if there's something wrong that's going on. If they're
10 holding any financial institutions, I'm sorry, any
11 lenders that aren't financial institutions licensed by
12 the state but are otherwise allowed to operate and lend
13 money the way they have within various corporate
14 structures, if they're being held accountable for that,
15 I don't see what the harm for that is. In fact,
16 allowing such an amendment encourages competition in
17 terms of lending for individual owners and corporate
18 owners.

19 You have a better chance of getting a better
20 deal with better financing if there's more competition
21 as opposed to less. So this would open the door --

22 MR. KAUFMAN: It's not an issue of
23 competition, Matt.

24 CHAIRMAN DAUS: It would be. Because you're
25 telling Mr. Chipman he wouldn't be able to compete.

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1 MR. KAUFMAN: I'm not telling him anything
2 like that.

3 CHAIRMAN DAUS: That's his concern here.

4 MR. KAUFMAN: There's two points here. One
5 is can unlicensed lenders in general lend at all,
6 whether in this industry or anywhere else, legally. I
7 mean, a shylock can come in off the street and give
8 somebody money. You have to be careful, and what that
9 leads to is the second point, where too much money is
10 being lent with not enough equity position, and it's not
11 being done for the benefit of this industry, it's not.

12 COMM. GIANNOULIS: If I could just ask a
13 question, I'm surely not a banking person, but at the
14 end of the day, this isn't about me, Harry Giannoulis,
15 making an \$800,000 commitment to somebody that I'm
16 backing up, because that's completely worthless and

17 meaningless? Isn't that correct? At the end of the
18 day, what does this letter do in terms of the auction?
19 Does it serve as a bond? What does it serve as, in
20 reality? That's my question. Is it a guarantee through
21 sale? What is this letter, effectively?

22 MR. FRASER: This is an operational question
23 that I would ask --

24 MR. KAUFMAN: A commitment letter? A
25 commitment letter means a bank has approved somebody.

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1 COMM. GIANNOULIS: Agreed X amount they will
2 lend that money?

3 MR. KAUFMAN: Absolutely.

4 COMM. GONZALES: As long as the borrower
5 meets the terms of the commitment, the lender has stated
6 I will lend this money with this rate, this term, so on
7 and so forth.

8 COMM. GIANNOULIS: So we would surely be
9 interested, it seems to me that whoever is making that
10 commitment letter we know in the first place can
11 actually loan the money. I mean, I could give somebody
12 a commitment letter, but what does that mean at the end
13 of the day? Why would you be able to go to sale
14 thinking that I could actually then actually loan that

15 money?

16 I guess I'm going back to if we want to
17 narrow this down, it should be I assume some sort of
18 licensed broker, some sort of authorized person, because
19 otherwise -- I don't understand why otherwise some guy
20 doesn't come in with a letter from Uncle Joe. Uncle Joe
21 says I have a million dollars and I'm going to give him
22 the money.

23 CHAIRMAN DAUS: One way to take this off
24 this plate is to remove the commitment letter and ask
25 that they pony up the 25 grand.

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1 COMM. GIANNOULIS: I think we brought in the
2 commitment letter, because we allowed for a much lower
3 down payment, is that correct?

4 CHAIRMAN DAUS: I think the down payment was
5 exactly the same, wasn't it, Chuck?

6 MR. FRASER: Yes. This aspect of the rule
7 is the same from at least the last auction I'd have to
8 check and see if it was the same from the first auction.

9 COMM. GIANNOULIS: Prior to the last two
10 auctions is what I'm referring to. There was a change
11 made because we wanted to be more flexible in letting
12 people purchase, so we allowed people to put less money

13 down, from what I remember. We allowed people to borrow
14 more as a percentage. I believe that's the case, maybe
15 I'm wrong.

16 CHAIRMAN DAUS: I just don't recall that.
17 Did you have any concerns, Commissioner Gonzalez, about
18 what's being proposed with the licensed brokers?

19 COMM. GONZALES: I think overall we probably
20 just need to make sure that this is consistent with just
21 general lending in the state for similar type
22 arrangements. I would say that there's a better degree
23 of confidence if the broker is licensed by New York
24 State. I'm still not sure if the broker is not licensed
25 or the lender is not licensed by New York State, what

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1 the implications are for us as a Commission, do we have
2 a stake if something blows up.

3 CHAIRMAN DAUS: Chuck, if we were to pass a
4 rule to this effect allowing this to happen and the
5 State the Law Department would subsequently state that
6 it's incorrect, they're not permitted to do what they
7 would like to do or have done.

8 MR. FRASER: I cannot tell you that this
9 rule would be legally valid, because it just came up
10 this morning, and obviously there's some possibility and

11 I have no idea what possibility that is, that the Law
12 Department or the state banking department would tell us
13 this would be invalid.

14 COMM. WEINSHALL: Mr. Chairman, I'm sorry, I
15 just came in late, I was on Staten Island. I think that
16 clearly there aren't enough Commissioners here, number
17 one, and number two, I'm sort of unclear about what's
18 being suggested here, and I think to make a wholesale
19 change like this at this point I would feel very
20 uncomfortable. Harry, I don't know about you, but I
21 would feel very uncomfortable at this point.

22 COMM. GIANNOULIS: I'm open to coming back
23 at this once you get some more information. I would be
24 concerned that some people in the audience are saying,
25 which, I mean, again, strikes me as a little strange,

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1 that anybody could come in and loan anybody money and
2 that letter of commitment we would have to accept it.
3 Maybe that's the case, but they seem to think that. I'm
4 fine with what Commissioner Weinshall, if she wants to
5 table this with a commitment that we come back.

6 COMM. WEINSHALL: I think Mr. Fraser needs
7 to go look at it a little more and consult with people,
8 am I right, Charles?

9 MR. FRASER: Yes.

10 COMM. WEINSHALL: With the Law Department
11 and the Banking Division. So I'm uncomfortable sort of
12 ramming this through at this point.

13 CHAIRMAN DAUS: That's fine. The other
14 option is, we do have the ability, as a point of order,
15 to vote on this and then to add an amendment.

16 COMM. WEINSHALL: I don't think we should
17 vote on anything. I think we need to step back, let
18 Charles go to the Law Department. We need to vote on
19 the rule, but not changing the rule.

20 COMM. GIANNOULIS: When is the first
21 auction?

22 CHAIRMAN DAUS: It's in June.

23 COMM. WEINSHALL: First and last auction.

24 CHAIRMAN DAUS: Well, the first of the three
25 subauctions. It's scheduled for June. Would this push

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1 us back on our time line?

2 COMM. WEINSHALL: We're going to vote on the
3 rules.

4 COMM. GIANNOULIS: All I'm asking, is there
5 a meeting before then?

6 CHAIRMAN DAUS: May 11 we have a meeting.

7 COMM. WEINSHALL: You have to do publishing,

8 don't you, Andy?

9 DEP. COMM. SALKIN: Yes.

10 COMM. WEINSHALL: You have other things to

11 do for the sale, that's why the rule is before you then.

12 CHAIRMAN DAUS: Are you suggesting that we

13 vote on it now and then add on the issue about the

14 commitment letters? Does anybody have an issue with

15 that? This way it gives Chuck ability to research with

16 the Law Department, as opposed to making a decision on

17 the fly. Okay, I like that. So we have a motion to

18 adopt all that was stated?

19 COMM. WEINSHALL: Yes.

20 CHAIRMAN DAUS: I second that motion. All

21 in favor?

22 (Chorus of "Ayes.")

23 CHAIRMAN DAUS: All right, it's unanimous.

24 So we're taking your comments seriously. We can without

25 further public notice, I understand, Chuck, make an

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1 amendment if we find out this is the right way to go and

2 it's legal.

3 MR. FRASER: No, we need to do additional

4 notice.

5 CHAIRMAN DAUS: We need to do additional
6 notice and deal with it at a future public hearing, but
7 it appears we would be able to do that in time for the
8 next auction by the time the commitment letters would be
9 due.

10 COMM. GIANNOULIS: Either way, I think folks
11 should get together or on their own and send a letter to
12 the Chair clarifying what the actual request is, because
13 I'm, like, confused at this point.

14 MR. CHIPMAN: Just for the record, of all
15 the medallions from the auctions that we financed, I
16 haven't had and I don't know of anybody who has had any
17 foreclosures on them and here we were, helping people
18 and bringing buyers in who had \$20,000 who weren't able
19 to buy a medallion through --

20 MR. KAUFMAN: Matt, how much did the
21 value --

22 CHAIRMAN DAUS: It's hard to have this
23 discussion with the reporter, with all due respect.
24 We'll talk about this later, if you want, we'll meet
25 with the lenders and go over this.

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1 COMM. GONZALES: I want to make one last
2 comment, just to say we don't have any issues with this

3 individual the way he conducts his business. I want to
4 get his attention.

5 CHAIRMAN DAUS: Can we get your attention?

6 COMM. GONZALES: I just want your attention.

7 I'm saying we have no issue with you as far as the
8 service you provided to the drivers and medallion sales
9 and things like that. The whole issue right now is to
10 make sure that folks who may not be necessarily on the
11 up and up as your business is, that they aren't in a
12 position to finance things inappropriately to the
13 drivers.

14 MR. CHIPMAN: Okay.

15 COMM. GONZALES: I want to make sure you're
16 clear with that.

17 MR. CHIPMAN: Okay.

18 CHAIRMAN DAUS: The next item on the agenda,
19 4B, action on the TC plate rule.

20 MR. FRASER: This rule would require that a
21 licensed for-hire vehicle that is registered in New York
22 State must have license plates showing the legend T&LC
23 embossed below the license numbers. The requirements
24 would apply to for-hire vehicles referred to as Tier 1,
25 including livery, black cars and luxury limousines.

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1 Tier 1 for-hire vehicles would no longer be able to have
2 LA plates that are embossed with the legend "livery."
3 As a result, TLC inspectors, as well as the riding
4 public, will more easily be able to distinguish between
5 Tier 1 and Tier 2 vehicles.

6 No written comments were received about this
7 proposal during the 30-day comment period.

8 CHAIRMAN DAUS: We have two speakers for
9 this public hearing. The first is Eugene Pero.

10 COMM. GIANNOULIS: Could I ask a question,
11 just from my own ignorance? What are LA plates? I have
12 a vision of people coming from Los Angeles.

13 MR. FRASER: LA plates are plates that first
14 have the livery legend underneath it, it begins with the
15 letter L and ends with the letter A and it's a statewide
16 plate that's used for for-hire vehicles.

17 MR. PERO: Good morning, Mr. Chairman,
18 members of the Taxi and Limousine Commission. My name
19 is Eugene Pero, a member of the Livery Owners Coalition,
20 an association representing small businessmen and women
21 who own and operate many of the neighborhood car service
22 and livery services in the City.

23 This morning I'd like to speak on the
24 proposed TLC rules that mandate that livery and for-hire
25 vehicles licensed by the TLC bear T&LC plates. I've

1 addressed this issue in the past, noting there's been a
2 proliferation of vehicles operating for hire in this
3 city bearing LA plates. I raised the issues concerning
4 whether these vehicles are properly licensed and
5 insured.

6 I am pleased the TLC will be addressing this
7 issue by prohibiting vehicles holding TLC Tier 1
8 licenses from registering new vehicles with LA plates.
9 While Livery Owners Coalition supports this proposed
10 rule making, we believe that the regulation alone will
11 not stop the underlying problem that vehicles not
12 licensed by the TLC and not meeting the insurance
13 requirements of the TLC are continuing to transport
14 passengers for hire throughout New York City. You can
15 virtually go to any transportation hub in the city,
16 whether it's Staten Island Ferry terminal, Kings Plaza
17 mall in Brooklyn, Sutphin Boulevard in Jamaica or Van
18 Cortlandt Park in the Bronx, and you will find for-hire
19 vehicles accepting street hails and transporting
20 passengers point-to-point in the city without a TLC
21 license, in violation of the Administrative Code and TLC
22 rules. You will see little or no enforcement at these
23 locations.

24 Many of these vehicles engage in illegal
25 activity bearing LA plates. Most, if not all, do not

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1 have a TLC Tier 1 license and will be unaffected by the
2 proposed regulation. Some of these vehicle hold Tier 2
3 permits issued by the city. This authorizes them to
4 accept prearranged pickups in the city for destination
5 outside of the city. These vehicles have TLC Tier 2
6 decals and may appear to be members of the public to be
7 licensed from point-to-point within the city, but they
8 are not.

9 Other vehicles bearing LA plates are
10 Westchester and Nassau Counties. These are also not
11 authorized to accept street hails or engage in
12 point-to-point transportation within the city.
13 Furthermore vehicles holding Tier 2, Westchester, Nassau
14 permits are not required to have the 100-300,000
15 insurance or the \$300,000 PIP required by the TLC Tier 1
16 licensed holders. They're not required to be inspected
17 three times a year and in some cases the drivers are not
18 subject to the same stringent regulations as we are.

19 So, then, what is the solution? First and
20 foremost, there needs to be enhanced enforcement of the
21 existing TLC rules and Administrative Code provisions
22 prohibiting hails and accepting passengers by
23 non-licensed vehicles.

24 Second, there must be a clear way for the
25 TLC vehicle to be distinguishable from a vehicle

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1 licensed by Nassau or Westchester or from Tier 2
2 vehicles. A Tier 2 permit should be completely
3 different in appearance from a Tier 1. Tier 1 license
4 holders should be required to have a base name on the
5 side of their door in a manner clearly visible to the
6 public. In this way the public and enforcement officers
7 will know the name of their responsible base. Tier 2
8 permit should state clearly that the permit is not valid
9 for point-to-point to travel within the city and
10 finally, the TLC should revisit the insurance
11 requirement of for-hire vehicles which places a
12 prohibitive and largely unnecessary burden upon
13 licensees, and places them in distinct competition and a
14 disadvantage with those operating outside the city.

15 It is the high cost of the insurance and the
16 high limits of insurance which may drive legitimate
17 operators in the city to reregister their cars elsewhere
18 and operate outside the law. While I support the
19 efforts of the Commission today to eliminate LA plates,
20 this is an important first step, but not a solution to
21 the problem which is widespread throughout the city,

22 which compromises public safety. I urge the Commission

23 to look closely at this problem and seriously consider

24 some of the recommendations I have made.

25 If you have any questions I'd be glad to

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1 answer them. If you want a copy of this, I have a copy.

2 CHAIRMAN DAUS: Thank you.

3 MR. PERO: I see the whole meeting is

4 taxicabs today.

5 CHAIRMAN DAUS: This is an issue that we

6 thank you for bringing it to our attention. It was you

7 and your organization and the members, Artie and Joe,

8 that really advocated for us looking into this and we

9 did and we had I think several presentations and

10 discussions about this over the last couple of

11 Commission meetings. In fact, we did a staff

12 presentation prior to getting to these rules and it is a

13 problem, there's no question about it, but we feel that

14 the rules and the discussions that we've had with DMV

15 and State Insurance approving of these rules will help

16 to solve the problem once and for all.

17 MR. PERO: It's not only the for-hire

18 industry as far as limited to livery vehicles. If you

19 even drive in the city you see the ambulette industry,

20 paratransit, all LA plates.

21 CHAIRMAN DAUS: Black cars.

22 MR. PERO: Black cars. It's a cancer in the
23 industry.

24 CHAIRMAN DAUS: Thank you for your efforts
25 on behalf of the industry.

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1 MR. GROVER: Artie Grover, vice president of
2 Staten Island Livery Association.

3 Just a couple of comments. The biggest
4 problem that we have right now is competition and when
5 you cannot compete against the cars that are running LA
6 plates, for the Commissioners that don't understand the
7 situation between LA and TLC plates, we cannot compete,
8 they do not pay the state tax, they are running
9 basically 25 and 50, their expenses are so much lower
10 than ours that it has caused a big problem with the
11 fleet industry in the City of New York.

12 Anything we could do to get this taken care
13 of efficiently, but it has to be done. We just can't
14 pass a rule and say okay, the rule is in. It has to be
15 jumped on and taken care of, and we would appreciate any
16 help we could get. Thank you.

17 CHAIRMAN DAUS: Thank you. That's our final

18 speaker. Any questions from the Commissioners?

19 Okay, I want to thank you, TLC staff, for
20 working on this.

21 I'd like to vote that we adopt the TC plate
22 rule.

23 COMM. DEAR: One question. The suggestion
24 about the names on the sides of the car, that's required
25 now, isn't that a requirement now?

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1 CHAIRMAN DAUS: It doesn't necessarily have
2 to be painted on the car, it has to be displayed. There
3 is an existing requirement in our rules that the name of
4 the base be displayed. I don't think it has to be
5 painted.

6 COMM. DEAR: Does it have to be displayed on
7 the window or the side of the cars?

8 CHAIRMAN DAUS: There is something in the
9 rules about it.

10 MR. PERO: There is something in the rules.
11 We're going to submit a rule change pertaining to the
12 signs on the vehicle.

13 COMM. DEAR: When a commercial vehicle has a
14 licensed commercial license plate, in order to be valid
15 there has to have a sign painted on the side of the door

16 of the vehicle that's commercial, as a commercial
17 vehicle and if it's just tagged on, to use some home
18 made thing, they can technically give a ticket.
19 We had this discussion once where I've seen
20 an agent give -- didn't have painted on the side, it was
21 a truck, he had it on the truck panel but not on the
22 side of the car, but automatically because he was parked
23 in a place where the commercial deliveries was allowed,
24 his plate was nullified, in a sense. We can think of
25 taking those laws that they have in the DOT, think about

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1 applying it to the vehicle. It would, first of all,
2 give incentive for enforcement, as well as they'll also
3 take away the people that are not really properly
4 licensed, don't belong to a base, they run around, one
5 day this base, one day that base, no base at all. I
6 think it's very helpful for the enforcement part.
7 CHAIRMAN DAUS: I think it's a great idea
8 and I think in the next couple of weeks we'll take a
9 look at whether the size and placement and any
10 uniformity in terms of where you put the name about the
11 base is warranted.
12 But for now, I would like to make a motion
13 to vote on the TC plate rules so we can start enforcing.

14 COMM. DEAR: I second the motion.

15 CHAIRMAN DAUS: All in favor?

16 (Chorus of "Ayes.")

17 CHAIRMAN DAUS: It's unanimous.

18 Next item, 4C, digital recording of

19 hearings. Chuck.

20 MR. FRASER: This proposed rule would remove

21 references to tape recordings and cassette tapes from

22 the Commission rules governing adjudication. The

23 amendment is necessary because the adjudication division

24 is in the process of converting from audio tape

25 recordings of hearings to digital recordings of

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1 hearings. Digital recording will provide a higher
2 quality record of our hearings, and in addition, copies
3 of digital recordings can be transmitted electronically
4 to the parties to the hearing and to our transcription
5 contractors and FOIL requesters.

6 No comments were received on these proposed
7 rules during the 30-day comment period.

8 CHAIRMAN DAUS: Any question on this one?

9 Purely ministerial. Like to make a motion to adopt it.

10 COMM. DEAR: So moved.

11 CHAIRMAN DAUS: All in favor.

12 (Chorus of "Ayes.")

13 CHAIRMAN DAUS: Unanimous.

14 Item 4D, suspension procedures.

15 MR. FRASER: This proposed rule completes

16 the rule-making process the Commission began last

17 November, with adoption of rules providing a new

18 procedure for drivers who fail to submit to required

19 drug testing. Before this change, Commission rules

20 required that we proceed to revoke any license that had

21 been summarily suspended. In November, the Commission

22 adopted rules that allowed the more equitable procedure

23 suspending a license pending compliance, instead of

24 suspending the license pending revocation, where a

25 licensee failed to submit to required annual drug

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1 testing.

2 The instant rules would complete this

3 process by allowing the Commission staff to respond to

4 specified rules violations by suspending a license

5 pending compliance instead of pending revocation.

6 Consistent with due process requirements the proposed

7 rules afford the licensee an opportunity to contest the

8 suspension promptly after it is imposed. Some examples

9 of violations for which the proposed rule would allow

10 suspension pending compliance are failure to commit a
11 taxicab to a required safety inspection, failing an
12 inspection due to a condition that makes the taxicab
13 unsafe or unfit for operation, operation of a licensed
14 vehicle without a valid DMV driver's license or without
15 a valid DMV vehicle registration.

16 By contrast, some examples of violations for
17 which punitive suspensions would still be imposed are
18 assault on a member of the public, overcharge of a
19 passenger, submission of false documents to the
20 Commission. One final example may best illustrate the
21 different purposes of suspension pending compliance and
22 suspension pending revocation. The driver who does not
23 submit to required drug testing will not be allowed to
24 drive until the drug test is taken, whereas a driver who
25 fails a drug test will be suspended pending revocation

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1 of the driver's license.

2 It bears emphasis that the proposed rule
3 does not add any grounds for suspension to existing
4 practice. Instead the proposed rules simply allows
5 suspension pending compliance, in some cases where the
6 rules previously required suspension pending revocation.

7 CHAIRMAN DAUS: Actually, I just want to

8 make a statement and a recommendation. We received
9 comments after the due date on this, which I think are
10 substantive and interesting comments, and we've been
11 talking internally. I don't think that these rules are
12 fully understood by members of the public. I don't
13 think that there's any exigency that we vote on them as
14 there is with the auction rules because we have a
15 process in place.

16 If it's okay with my colleagues, I think I'd
17 like to at the outset let everybody know that I feel we
18 should take a little more time, maybe extend the comment
19 period for another five or ten days or whatnot, let some
20 more comments come in even after the hearing and we can
21 come back in May or thereafter to discuss it then.

22 COMM. WEINSHALL: There's no urgency here.

23 CHAIRMAN DAUS: There's no urgency. There's
24 some thoughtful comments and they came in after the
25 deadline and there's nothing that prohibits us, correct

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1 me, Chuck, from extending that deadline.

2 MR. FRASER: We scheduled the public hearing
3 for today, but there's no requirement we take a vote
4 today.

5 CHAIRMAN DAUS: I offer that. I don't know

6 if anybody feels differently. Okay, so if we could
7 extend the comment period ten more days from today and
8 we'll accept any written comments after your testimony,
9 but we will go forward with the public hearing even if
10 we don't offer it for a vote.

11 Okay. The first speaker is Joe Giannetto.

12 MR. GIANNETTO: Good morning, everybody, and
13 again my name is Joseph Giannetto here representing
14 Metropolitan Taxi Board Of Trade. I'm just going to
15 offer written comments. Thank you for the extension,
16 Mr. Chairman, much appreciated.

17 We have significant concerns I guess with
18 the way these rules are currently drafted. Now, the
19 proposed rules relating to summary suspension procedures
20 as written, are overly broad and subject to different
21 interpretations. Now, according to the statement of
22 basis and purpose, the proposed rules create procedures
23 for suspending licenses pending compliance across as
24 stated in the rule, the broad spectrum of rule
25 violations involving prehearing suspensions. Now,

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1 however, the proposed rules as currently written can be
2 interpreted to apply to almost any instance of
3 non-compliance to any rule.

4 Now, specifically, proposed Section 817B1
5 states that if the Chairperson or his designee
6 determines that a licensee is not in compliance with the
7 rules in this title or applicable statutory regulation,
8 which in and of itself is broad, such licensees, TLC-
9 issued license may be summarily suspended until
10 compliance.

11 Absent any reference to specific rules, the
12 proposed rule establishes authority to summarily suspend
13 for any violation. If the TLC's intent was to limit the
14 application of this authority to certain rules, then the
15 language of the rule should be clear and list those
16 violations to which summary suspension will apply just
17 like it did when it promulgated rule 817A1.

18 Now, similarly, in a proposed rule change to
19 Section 817A1, the TLC is proposing to revise this
20 recently promulgated rule to replace language that
21 refers to driver's license with TLC-issued license.
22 Now, if the TLC is simply attempting to differentiate
23 between a DMV driver's license and a TLC driver's
24 license, as staff has indicated, then the rule should
25 reference a TLC-issued drivers license, but as written

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1 the proposed revision could be interpreted that if an

2 individual medallion owner fails to take a drug test,
3 for example, not only will his driver's license be
4 suspended, but his medallion as well, thus expanding the
5 scope of this rule to any other license that a TLC
6 driver may hold.

7 So regarding the driver's license, we also
8 have an issue with the proposed rules that appears to
9 change the term of a new driver's license from two years
10 to one year. However, the description of the amendment
11 and the statement of basis of purpose seems to suggest
12 otherwise. Obviously, if we're going to a one-year
13 license it's a \$60 fee as opposed to a \$120 fee for a
14 two-year license. We need some clarity on that. The
15 rules as currently drafted are overly broad and subject
16 to different interpretations. They should be clarified
17 and we're glad to see that a little bit more time will
18 be given so that we can review some of these revisions
19 and take appropriate action in the future as is
20 necessary.

21 I just have some following logistical
22 concerns I'd like to bring to the Commission's
23 attention.

24 In 817B2, summary suspension takes effect
25 immediately if notice is made by personal service or

1 five days after the date of mailing of such notice. I'd
2 just like to ask how is the date of the mailing
3 determined? Is it the postmark? Is it the date of the
4 letter that's in the envelope? I just would like to
5 clarify that, because we are aware of some problems in
6 the past.

7 817B3, regarding the prompt scheduling of a
8 hearing. Now, I may read this wrong, but if an ALJ is
9 given the authority to adjourn the case for good cause,
10 aren't we actually defeating the intent of a prompt
11 hearing?

12 817B4, now, the proposed rule allows for the
13 continued suspension of a license up to 60 days in the
14 event no decision is rendered by an ALJ after a hearing.
15 Now, many of the rules that are impacted by this
16 proposed legislation, as I interpret them, anyway,
17 presently carry a maximum suspension penalty of 30 days,
18 so this would kind of conflict with those stated
19 penalties, assuming that the Respondent is guilty.

20 Lastly, 817B8, a licensee is required to pay
21 any fine, comply with the underlying Commission rule or
22 Administrative Code section and furnish proof of
23 compliance to the satisfaction of the Commission in
24 order to have the suspension lifted, but can a licensee
25 still have a hearing on the matter if he or she feels

1 that the suspension was unwarranted or by taking that
2 action and getting the suspension lifted is the
3 opportunity to be heard waived?

4 These are some of our concerns and I'm just
5 glad to see the review period will be extended, so thank
6 you.

7 CHAIRMAN DAUS: Okay. Thank you, Joe.

8 Next speaker is Mr. Kevin Fitzpatrick.

9 COMM. GIANNOULIS: Could I ask a question?

10 CHAIRMAN DAUS: Sure.

11 COMM. GIANNOULIS: Is there anywhere in the
12 book there's a copy of the City rules or the Charter
13 that talks about summary suspension?

14 MR. FRASER: I'm sorry, you want a copy of
15 the statutory authorization? I don't have it with me,
16 but I could get you that.

17 COMM. GIANNOULIS: Do you know what it says?
18 Because it's a little hard to kind of pay attention to
19 changing the rules if I don't actually know what the
20 original rule says. In terms of, is it listed in terms
21 of saying that, this health or well-being, whatever the
22 phrase I'm seeing here constantly, how is that outlined?

23 MR. FRASER: The statute refers to health
24 and safety.

25 COMM. GIANNOULIS: Do we know what else it

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1 says?

2 MR. FRASER: The standard for when you can
3 summarily suspend is a threat to health and safety.

4 CHAIRMAN DAUS: It's in the local law.

5 Maybe we could provide copies --

6 MR. MILLER: It's repeated in the rules.

7 It's repeated in the rules. I can find it for you.

8 CHAIRMAN DAUS: In addition, when we get our
9 final comments over the next few days -- we can provide
10 copies of the Charter, the local law and an explanation
11 of how that impacts upon the comments we're receiving,
12 just so everybody has all the materials.

13 That's a good point. Okay, sir.

14 MR. FITZPATRICK: We actually think there's
15 a lot of good things in these rules, although
16 Mr. Giannetto is right, it's partly vague. We'll give
17 you written comments. One thing we would like to be
18 changed on revocation, instead of executive session, we
19 believe an open session. As you know, we believe in
20 open courts and with revocation, everybody should be
21 there. Thank you.

22 CHAIRMAN DAUS: Thank you. Bhairavi Desai.

23 MS. DESAI: Good morning, again. I also

24 would like to thank you for extending the time period.

25 This is a lot to get through and we will be submitting a

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1 final comment in writing.

2 In addition to I think the points that
3 Mr. Giannetto has already raised, because we also had a
4 lot of concerns with the same set of rules, particularly
5 8-17B1, but also I think in 8-16C, that the term
6 "relevant" needs to be defined. That in terms of
7 suspending licenses of drivers who have been, if you've
8 been arrested, I think in terms of the relevance of the
9 arrest to your abilities to perform your duties, again,
10 that term needs to be more clearly defined.

11 Also, there need to be guidelines specified
12 in terms of fitness hearings. I've seen a lot of cases
13 where, for example, if you're reapplying, if you've been
14 revoked and you're reapplying for the license after the
15 twelve-month period, it really varies from judge to
16 judge as to what guidelines are being used to determine
17 whether or not you're fit to receive your license again.
18 So I do think there needs to be more clear rule-making
19 around that issue.

20 And lastly, around investigators and
21 investigations, I know it's not reflected in the

22 sections that we're looking at, but I would suggest to
23 the TLC that there needs to be some rule making as to
24 the scope of investigations and what investigators are
25 able to do.

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1 For example, we've seen many incidents where
2 an investigator from the legal department will contact a
3 driver by phone and say, you know, there's been a
4 complaint made against you, such and such nature, and
5 will ask the driver to come in and meet with them,
6 either at 40 Rector, at Queens Boulevard or at Woodside
7 and the driver is not informed as to the nature, why
8 they're being called in, who is calling them in to meet
9 with them, are they able to bring in an attorney. I
10 think these things need to be clarified.

11 I've seen incidents where the driver will be
12 sent a letter, but I've also seen many incidents where
13 the driver is not followed up with the letter or where
14 I've seen the letter being sent, it's usually, you call,
15 let's say on a Monday, make an appointment for Thursday
16 and the letter is sent out the same day, so you may get
17 the letter on the very day of the meeting itself. So I
18 think there needs to be more clarity and more openness
19 around the role of the investigators, because I think it

20 does pertain overall to the adjudication system.

21 Thank you.

22 CHAIRMAN DAUS: Thank you. Mr. Mel Miller.

23 MR. MILLER: My name is Mel Miller and I

24 represent the Committee For Taxi Safety. I want to join

25 in Joe Giannetto's testimony because he's raised what I

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1 think are almost all the relevant points. I would like

2 to thank Charles Fraser because we had a discussion on

3 many of the points that Joe raised on Thursday and we

4 walked through the statute and lawyers don't always

5 agree on what language means, but I think there are two

6 very important considerations when you're talking about

7 a summary suspension.

8 Summary suspension means suspension without

9 a trial, and it really goes against our basic beliefs in

10 this country, that you are innocent until you're proven

11 guilty and there are times and there are periods of time

12 where you have to do summary suspension and the rules

13 really are very clear. If the Chairperson finds an

14 emergency action is required to insure public health,

15 safety or welfare, which is Rule 8-16 subdivision A, you

16 have a right to order a summary suspension. Obviously,

17 it makes a lot of sense if there is a threat at that

18 level.

19 But then we're going, these rules, however,
20 go to the next level, and if you go to the proposal that
21 has been sort of the debate that myself and Mr. Fraser
22 had on the telephone, which is, what is the
23 interpretation on page 13 of the rules of the proposed
24 changes of Section B1, that 817B1, which provides,
25 essentially applies the summary suspension rule to the

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1 entire title. Now, in terms of -- if the rule stated,
2 if B1 would have stated that these summary suspension
3 rules apply to the amendments to the title, then I would
4 say that then it's very clear, but it doesn't say it
5 applies only to those amendments to Title 35. The rule
6 actually states as written it applies to Title 35, so
7 notwithstanding intention, I think the language and the
8 intentions are not the same.

9 One other comment, and something that we
10 haven't spoken about, are applicable statutory
11 regulations. Essentially, what you're doing here is
12 including by reference statutes that are not even set
13 forth in proposal B1. Now, the normal statutory rule in
14 New York State is that you don't include statutes by
15 reference. It's been standard statutory construction,

16 and if you are attempting and sometimes you do it for
17 federal legislation, you normally state those sections
18 of federal law you're including. Since this does not
19 state what statutes are being included under B1, it
20 could be any statute that the City Council has ever
21 passed that applies to taxis.

22 And the raising about criminal charges and
23 one thing that was omitted in the testimony, if you go
24 to rule 816C, that during the pendency of the criminal
25 matter, assuming Matt determines that the charges impair

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1 your ability to be a taxi driver, you have no right to
2 challenge that finding until the disposition of the
3 criminal matter under the rule, which means, and you
4 know criminal matters could take a year or two or three
5 and at the end he may plead to a very, very minor charge
6 or no charge or be acquitted. During that whole period
7 of time that license will be revoked, even if we want to
8 challenge, or the fact that the criminal, what they're
9 being accused of has no effect on their rights.

10 So let's assume somebody is charged with an
11 A misdemeanor, petty theft of \$50, I don't know what the
12 statutory level is anymore, and you determine that will
13 impact his ability to drive a taxi. He has no right to

14 challenge that revocation until the disposition of the
15 criminal case, which could be, essentially you're taking
16 away somebody's right to make a living. We're not
17 talking about murder or rape or something
18 extraordinary --

19 CHAIRMAN DAUS: You mean administratively,
20 Mel. You still have the right to go into court.

21 MR. MILLER: But you have no right to come
22 here and ask for a revocation hearing.

23 CHAIRMAN DAUS: When you say he has no right
24 to a challenge, you're talking about administrative
25 procedure.

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1 MR. MILLER: I'm talking about here, you can
2 go into Court, assuming you could afford a lawyer and
3 bring an action to stay the Commission's revocation.
4 You know what your chance of winning in Court or how
5 much it would cost to do. I think it's overly harsh and
6 it applies to misdemeanors as well. So at least if you
7 want to cut the baby in half, maybe it should apply to
8 felony charges, but to misdemeanor charges, there are
9 broad numbers of misdemeanor charges, it seems to me
10 overly harsh type of revocation.

11 COMM. GIANNOULIS: Could I ask you a

12 question? You read the Padberg case, I assume? The
13 reason we're dealing with this?

14 MR. MILLER: The settlement. Remember,
15 there's no finding, the City settled the case so in
16 truth there is no law.

17 COMM. GIANNOULIS: My question to you was
18 going to be did anything come out of that that we should
19 be looking at.

20 MR. MILLER: Obviously, I would guess that
21 the procedural, that part of why you're doing this is to
22 put into effect a procedure so there's a written and
23 clear procedure and there's also clarity on when you can
24 do a suspension and I think that's part of the reason
25 for the rule. I think what we're questioning here is

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1 the apparent broadness. Nobody wants a vehicle running
2 around if their brakes fail when they go through
3 inspection, we don't want somebody jumping into the car
4 and driving the car when the brakes fail, we want
5 compliance and that car should be taken off the road.

6 That's not where the disagreement lies. The
7 disagreement here lies in two factors. One, the
8 procedure, which may be too long, but more importantly,
9 in the breadth of the language which I read differently

10 than Mr. Fraser reads. He reads it as restricted to the
11 changes or to those violations of Title 35 that are
12 included in the amendment, and if so drafted, I would
13 read it the same way. My reading of this is the old
14 trip ticket. Joe would remember, because I think he
15 worked for the TLC at the time, when a broker's license
16 was suspended because when they went and asked for a
17 trip ticket there was none on the premises, which is a
18 violation of the rules, it's a violation of Title 35,
19 because all the rules are in Title 35 and he was
20 suspended, ultimately it was resolved with the threat of
21 a federal lawsuit, but the fact is, that's not,
22 Mr. Fraser told me, that was not the intention of this
23 rule and I'm saying the way the rule reads, you could
24 actually do it.

25 I'm not saying you would do it, Matt, but

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1 you're not going to be there for the rest of your life,
2 I don't think. So all I'm saying is, with some
3 redrafting, I think we can take care of most of the
4 problems.
5 Again, the one caution I leave you with,
6 just remember when you're doing something peremptorily
7 without a hearing, you're essentially convicting

8 somebody without a trial and that should be done with
9 the greatest degree of care. Obviously, society gambles
10 sometimes, but this is our kind of society where
11 sometimes you gamble to make sure that you're protecting
12 everybody's rights.

13 Thank you.

14 CHAIRMAN DAUS: Thank you.

15 COMM. DEAR: Chuck, the issue about being
16 arrested, other than relating to TLC issues, outside of
17 TLC driving, is that necessarily true what they're
18 saying or you're saying it's limited to the --

19 MR. FRASER: We would summarily suspend a
20 license, for instance, for a felony on the ground of
21 moral fitness, basically, for an arrest for something
22 that involved fraud, dishonesty. Obviously, we need to
23 be able to rely on the submissions and statements, so
24 on, of our licensees. Something that involved risk to
25 the public, a serious assault crime.

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1 COMM. DEAR: Other than that, it didn't
2 happen in a taxi, the two of them got into a fight --

3 MR. FRASER: Correct.

4 COMM. DEAR: They went out, did whatever it
5 is, got into a fight with somebody and got arrested.

6 MR. FRASER: Right.

7 COMM. DEAR: You get wind of it -- is he

8 required to let us know?

9 MR. FRASER: He is required to let us know,

10 but the fingerprints on BGS, assuming it's in New York

11 State, produces a report of the arrest.

12 COMM. DEAR: And the Chair would have a

13 right to suspend the license.

14 MR. FRASER: To review the charges and

15 determine to suspend.

16 COMM. GIANNOULIS: Can I ask a question? In

17 terms of tabling this today, is there an intent to come

18 back with something immediately?

19 CHAIRMAN DAUS: I don't see why we can't

20 before the next meeting come back with something to make

21 it clear to the public.

22 COMM. GIANNOULIS: I'm working my way

23 through this. I'm confused. I understand through the

24 court case, I'm not a lawyer nor have I read the court

25 case, it seems we should have a clear process in terms

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1 of what happens when there's a suspension process. I

2 think everybody is fine with that, some would disagree,

3 and clearly there's interest in doing that. We've now

4 gone from there, it seems to me, to some degree -- I
5 don't mean to be insulting, but randomly kind of coming
6 up with new stuff that you're going to get summarily
7 suspended for, and, like, I just don't understand why we
8 wouldn't attempt to first deal with the process issue
9 and then kind of take a look at all of this, because I
10 mean, it seems like -- I certainly haven't heard from
11 staff the rhyme or reason for any of this.

12 I'll tell you right now I won't vote for it.
13 I can't understand why this is in, something else is
14 out. We've made decisions to outline, in particular, I
15 agree with what speaker Miller said, and it's obvious
16 that it's written in the rule that you say you could
17 summarily suspend for any violation within the rules.
18 Well, you could already do that. You already have that
19 power if it's for health, safety, et cetera.

20 On top of that, it seems now we've gone into
21 sections and said for this particular thing we want to
22 make it clear that we could have a summary suspension,
23 which is clearly not the intention of the actual rule.
24 So we are talking about some pretty dramatic changes
25 here. I haven't heard anything about a presentation in

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1 terms of why we're looking at this over that. We're

2 going to be able to summarily suspend because somebody's
3 meter is -- I mean, I'm just -- I just don't understand
4 what the rationale is. We haven't heard any
5 presentation. I'd have a hard time supporting this.

6 MR. FRASER: First of all, the Padberg case
7 is not about suspensions pending compliance, it's about
8 suspension pending revocation and this rule revision is
9 not motivation by anything related to Padberg. This
10 rule revision creates a new procedure, suspension
11 pending compliance. The point being, if someone is not
12 in compliance with a particular rule, under existing
13 rules we would have no choice. If we summarily
14 suspended them, we would be required to proceed to
15 revocation.

16 We don't necessarily want to do that. We
17 want to bring them into compliance, rather than revoke
18 their license. This rule-making is intended to create
19 that alternative procedure. In terms of the specific
20 questions you raised, those were obviously the subject
21 of a lot of comments and those will be the subject of
22 the discussions we'll have following this meeting and
23 with the Law Department and so on. So I don't
24 necessarily want to talk about the particulars, because
25 I think those are going to be substantially revised.

1 In terms of the general concern that 817B1
2 sort of casts this broad net, that was not our
3 intention. I do, of course, respectfully disagree with
4 the interpretation of it, but I also told Mr. Miller
5 when we spoke about it that we will be redrafting that
6 provision to clarify that intention.

7 CHAIRMAN DAUS: The whole point of this, I
8 think, was to make it more fair, more clear. I think
9 there were some valid concerns that maybe we need to
10 make it more clear. It may lend itself, because I think
11 this is an area where the procedures overlap with the
12 substance.

13 COMM. GIANNOULIS: I don't necessarily want
14 to clarify the procedure, I'm trying to get at why did
15 we decide to look at some policy decisions as to where
16 and which violations we're going to have summary with in
17 terms of compliance. That's what I'm getting at.

18 CHAIRMAN DAUS: The purpose of this starting
19 this whole process, was our attempt to clean up the
20 rules and make them more clear. It wasn't an intention
21 to have wholesale sweeping changes in the way we do
22 business. It was to make them more clear.

23 There are some valid points being raised,
24 because even though it is done on a case-by-case
25 discretionary basis for fitness hearings, maybe there

1 are some criteria we can make clear to the judges.

2 I think these are valid points and I think
3 it might lend itself to a presentation before we could
4 propose more language or rules.

5 COMM. GIANNOULIS: I don't want to give
6 staff any more work.

7 CHAIRMAN DAUS: They've done a lot of work
8 already.

9 COMM. GIANNOULIS: It's hard to see what
10 you're trying to do here by just looking at this, quite
11 honestly. It's unclear.

12 CHAIRMAN DAUS: There's got to be a better
13 way to package it. We'll work on it, no question about
14 it.

15 Okay, any more questions? We actually
16 have -- I'm sorry, Vinnie, we had another speaker before
17 you.

18 MR. SAPONE: I'll make it fast.

19 CHAIRMAN DAUS: Dave Pollack, he's before
20 you.

21 MR. SAPONE: He can wait.

22 Good morning. I didn't come prepared today,
23 I've been out of commission, certain problems. But I
24 want to tell you that LOMTO stands by the Committee for

25 Taxi Safety, Metropolitan and Bhairavi Desai's comments

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1 on these suspensions.

2 I don't know how this all starts, how you
3 put this together, if you talk to the industry, I
4 understand Mel Miller was there, I think maybe when you
5 come up with these important things, especially
6 suspensions, when you're talking about suspensions and
7 revocations, you're talking about maybe a man that's
8 driving ten years losing a job, losing a business. You
9 know, that's tough. You know, listen, if the guy is a
10 killer or rapist or whatever he is, he don't deserve to
11 be doing anything, but the bottom line is, to take away
12 a man's job and to lose his business, that's a real
13 terrible thing, very terrible. I don't know if anyone
14 here experienced a job loss with a family or a business
15 loss. Maybe some of you have done, you have, but it's a
16 real harsh thing.

17 I think when you come up with these
18 important rules, maybe you should have cab drivers
19 there, the industry there and the Commissioners there,
20 you know, and discuss it before we go up here and spend
21 hours and hours and have to come back again and put it
22 on the table for ten days to get answers, you know? I

23 mean, it doesn't take Einstein to figure this out there

24 might be other ways to come up with these solutions.

25 Thank you. Have a nice day.

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1 MR. POLLACK: Good morning, again,
2 Commissioners. Just to reiterate on the summary
3 suspensions. First of all, thank you for extending the
4 deadline, the comment period for the ten days and
5 suspending voting on these rules today. Many of the
6 amended rules may have a TLC licensed driver in mind,
7 yet as written, TLC licensee, we feel, technically
8 includes licensed agents, licensed fleets, brokers,
9 meter shops, anyone who is licensed, and in reality any
10 owner or agent or fleet or driver who is out of business
11 for even one day, if they're summarily suspended, they
12 are out of business.

13 A driver should be entitled to an immediate
14 hearing if their license is suspended. The driver's
15 livelihood is at stake and consequences of suspensions
16 to business people in this industry or to drivers are
17 drastic, and the summary suspension rule should not be
18 taken lightly.

19 This includes violations as nonetheless
20 stated, Title 35, where the violation does not include

21 suspension nor is there statutory regulations defined.
22 As Mel stated and Joe Giannetto stated, the Chairman can
23 summarily suspend a license or licensee if he finds that
24 emergency action is required to insure public health,
25 safety and welfare. Therefore, we fail to see any need

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1 for broader powers, which may include every rule.
2 What we do recommend, though, is before
3 significant rule changes are enacted, a meeting, as
4 Vinny Sapone stated, with industry associations, could
5 prevent this. It's hard trying to react at a public
6 hearing when you're listening and ready to vote on
7 something and that's why I thank you for postponing the
8 vote. You know, if you were under the gun to get it
9 passed today, what would we do. The industry, the
10 Committee For Taxi Safety has almost embraced working
11 together with the TLC to insure and maintain rules,
12 whereby the public and industry are protected, but the
13 industry provides invaluable practical insights --
14 CHAIRMAN DAUS: Dave, I have to interrupt
15 you and address this. Let me just say, I think that's
16 not a fair statement to make, I just really do.
17 MR. POLLACK: Which part?
18 CHAIRMAN DAUS: This is the most open

19 Commission and staff we've ever had. We have advisory
20 boards, of which some of the people you're talking about
21 vet these issues with us before they're out there. We
22 have staff presentations at Commission meetings. We go
23 through issues now like two, three, four times before we
24 vote on it, so I really think that's not an accurate
25 statement, with all due respect. And I think you have

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1 to agree that, you know, it's not done the way it was
2 many, many years ago.

3 COMM. GIANNOULIS: We're also suspending two
4 votes today, based on concerns, so --

5 CHAIRMAN DAUS: I have to tell it like it
6 is, like Vinny would say. I'm telling it like it is.

7 MR. POLLACK: You have to understand, this
8 was written prior to knowing that you were going to say
9 let's hold off on the vote today, so I just wanted to --
10 you asked for comments. This a public hearing.

11 CHAIRMAN DAUS: I just have to disagree with
12 the way you're phrasing it.

13 MR. POLLACK: Some of the staff
14 presentations were a direct result of them meeting with
15 industry associations and representatives. You have to
16 gather information from somewhere, so in those cases it

17 works. But in some cases where you have rules that are
18 proposed and introduced, I'm just saying if you meet
19 with the industry, maybe logically and practical items
20 that you may not have thought of can come up. That's
21 all we're saying.

22 Specific logistical concerns. You have my
23 comments and I'll just say I'm glad that Charles Fraser
24 stated that the particulars will be amended and
25 hopefully the industry will get together with the TLC

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1 and work on a new summary suspension rule.

2 Thank you.

3 CHAIRMAN DAUS: Thank you.

4 Anybody else? Okay, that concludes the
5 hearing. Do I have a motion to adjourn the meeting?

6 COMM. DEAR: Make a motion to adjourn.

7 CHAIRMAN DAUS: I second it. All in favor?

8 (Chorus of "Ayes.")

9 CHAIRMAN DAUS: Thank you, everybody.

10 (Time noted: 11:38 a.m.)

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I, LINDA FISHER, a Certified Shorthand
Reporter and notary public within and for the State of
New York, do hereby certify that I reported the
proceedings of the TAXI AND LIMOUSINE COMMISSION on
April 4, 2006, and that this is an accurate
transcription of what transpired at that time and place.

Linda Fisher,

Transcript -- 4-4-06 Meeting.txt
Certified Shorthand Reporter

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