

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

Notice is hereby given in accordance with section 1043(b) of the Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) proposes rules amendments to allow for digital recording of hearings before the TLC’s administrative tribunal.

These rules are proposed pursuant to sections 1043 and 2303(b)(11) and (c) of the Charter and section 19-503 of the Administrative Code of the City of New York. These proposed rules were not included in the TLC’s regulatory agenda for Fiscal Year 2006 because the need for such rules was not anticipated at the time the regulatory agenda was published.

A public hearing on these proposed rules will be held by the TLC at its offices at 40 Rector Street, 5th Floor, New York, New York 10006 on April 4, 2006, at 9:30 a.m. Persons wishing to testify at the hearing may notify the TLC in advance, either in writing or by telephone to the TLC’s Office of Legal Affairs at the address and telephone given below. Any request for a sign language interpreter or other form of reasonable accommodation for a disability at the hearing must be submitted to the Office of Legal Affairs in writing, by telephone, or by TTY/TDD no later than March 28, 2006.

Written comments in connection with these proposed rules should be submitted to the Office of Legal Affairs and must be received no later than March 31, 2006 to:

Charles R. Fraser
Deputy Commissioner for Legal Affairs/General Counsel
Taxi and Limousine Commission
40 Rector Street, 5th Floor
New York, New York 10006
Telephone: 212-676-1117
Fax: 212-676-1102
TTY/TDD: 212-341-9596

Written comments and a summary of all comments received at the hearing will be available for public inspection at that office.

Statement of Basis and Purpose of Proposed Rules

The proposed rule would allow for digital recording of hearings conducted in the administrative tribunal of the Taxi and Limousine Commission (“TLC”). At present, hearings are tape recorded, and section 8-13 of the TLC’s rules contains numerous references to tape recordings and cassette tapes. The TLC is upgrading from audiotape to digital recording of hearings, and the proposed rule change would make the appropriate technical changes in section 8-13.

Respondents who request copies of tape recordings are required under the current rule to supply blank cassette tapes with the requests. The proposed rule provides that a form to be prescribed by the TLC Chairperson will contain instructions on the submission of requests for copies of recordings. Those instructions will direct respondents to submit any blank recording medium that may be required. However, it is anticipated that in most cases copies of digital recordings of hearings will be e-mailed to respondents who request copies of such recordings. It is also anticipated that a respondent who is unable to receive e-mail may be required to submit a blank CD-ROM.

Section 1. Section 8-13 of chapter 8 of title 35 of the Rules of the City of New York is amended to read as follows:

[Material to be deleted appears in brackets.]

Material to be added is underscored.

§ 8-13 Procedures on Appeal.

(a) The respondent may appeal the decision of an ALJ as follows:

(i) An appeal must be addressed to the Deputy Commissioner for Legal Affairs/General Counsel and received within thirty (30) calendar days of the date of the decision to be appealed.

(ii) The appeal must be accompanied by a copy of the ALJ decision and proof that all fines imposed have been paid in full.

(iii) The respondent may request a [taped] copy of the recording of the hearing within seven (7) calendar days of the ALJ's determination. Such request must be made in writing [and accompanied by a blank cassette tape] on a form to be prescribed by the Chairperson. Such form shall be completed and submitted in accordance with instructions to be printed on the form. An appeal must be received by the Commission within twenty-one (21) days of the [mailing of the tape recorded] issuance of the requested copy by the Commission, whether by mailing or otherwise.

(b) If the ALJ's decision resulted in the suspension of a license, the Deputy Commissioner for

Legal Affairs/General Counsel or his designee may, in his discretion, issue a temporary license after an appeal has been filed which may remain in effect pending the determination of the appeal. In making the determination as to whether or not to issue a temporary license, the following factors may be considered: the respondent's record, the seriousness of the charges, the likelihood of the success of the appeal and the significance of the issues raised on appeal.

(c) The Commission may seek review of a determination by an Administrative Law Judge by filing an appeal with the Deputy Commissioner for Legal Affairs/General Counsel within thirty (30) calendar days of such determination. If a Commission appeal is filed, the respondent will be notified by mail. The appeal will include a written statement setting forth the basis for the appeal. The respondent may respond to the appeal within twenty-one (21) calendar days of the mailing of the appeal. The respondent may request a [taped] copy of the recording of the hearing within seven (7) calendar days of the notice of appeal. Such request must be in writing [to the Commission and must be accompanied by a blank cassette tape] on a form to be prescribed by the Chairperson. Such form shall be completed and submitted in accordance with instructions to be printed on the form. If a respondent requests [such a tape] a copy of the recording of the hearing, his or her time to respond to the notice of appeal is extended until twenty-one (21) calendar days after the [mailing of the tape recording] issuance of the requested copy by the Commission, whether by mailing or otherwise.

(d) Review of an ALJ's decision shall be limited to the issues of law raised in the appeal submitted. Upon appeal, the determination of the ALJ may be affirmed, reversed in whole or in part, or modified. In the event that a decision on appeal results in the reversal of a decision by an ALJ to dismiss a summons, the matter shall be remanded to the Commission Adjudications Tribunal for a new hearing. If a decision on appeal affirms a determination of guilt by an ALJ, but modifies a penalty which had been incorrectly imposed, the decision may correct the penalty, without remand for a new hearing.