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NEW YORK CITY TAXI and LIMOUSINE COMMISSION

MEETING

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33 Beaver Street

New York, New York

Thursday, May 31, 2012

9:05 a.m.

B E F O R E:

DAVID YASSKY, Chairman
MEERA JOSHI, General Counsel

COMMISSIONERS:

LASHANN DeARCY, Commissioner
ELIAS AROUT, Commissioner
FRANK CARONE, Commissioner
MARK GJONAJ, Commissioner
IRIS WEINSHALL, Commissioner - Absent
EDWARD GONZALES, Commissioner
LAUVIENSKA POLANCO, Commissioner
NORA CONSTANCE MARINO, Commissioner

SPEAKERS:
Placida Robinson
Cliff Adler - LOMTO
Ethan Gerber - Greater NY Taxi Association
Bhairavi Desai - NYTWA
Peter Mazer, MTBOT
David Pollack, CTS
Richard Thaler - OMN Gateway
Ethan Gerber - Greater NY Taxi Association
Vincent Sapone - LOMTO
Cliff Adler - LOMTO
Erhan Tuncel - LOMTO
Gene Chery - LOMTO
Uppkar Thind - LOMTO
Hussein Elsherbiny - LOMTO
Jawaid Toppa - LOMTO
Moe Morrone - LOMTO
Bernard Mhando
Mohammed Guernah
Mahmoud Elkosiry
Shehi Ismail
Beresford Simmers
Marie Dugonquan
Osman Chowdhury - United Taxi Driver Assc.

SPEAKERS (Continued)

Michael Ford - Cab Driver

Charbel Sfeir

Mohan Singh - NYTWA

Bill Lindauer - NYTWA

Rafael Espinal

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CHAIRMAN YASSKY: It is 9:05 and we're going to get started. Welcome to the New York City Taxi and Limousine Commission Meeting. We are now going to go into Executive Session.

(Whereupon, the Committee went into Executive Session.)

(Time noted: 9:07 a.m.)

(Time noted: 10:39 a.m.)

CHAIRMAN YASSKY: Good morning. Our public meeting for May 31st is reconvening now at 10:40.

We have present at the moment Commissioners Marino, Gonzalez, myself, DeArcy, Carone and we have a couple of other commissioners who are in the building and joining us shortly. We'll get to business promptly. Just a couple of points at the outset.

One is, I want to remind medallion owners that your medallion renewal is due today, but I think it may have been-- it might have been already due, it says here due today, but to avoid risk of suspension, really do get this in by June 11th, that is the deadline after which you are at risk of suspension, so please really do send those in.

I am pleased to report that we have to welcome another class of New York's proudest, our enforcement inspectors, our uniformed inspectors another 22 joined. They joined our payroll a couple of months ago but, of course, they were in their peace officer training, our internal training and hit the streets earlier this month bringing our enforcement strength to levels we have not had in a couple of decades.

They have been extraordinarily productive already. This month alone, I can tell you, in May, we have seized already 505 illegal livery vehicles. So we were doing a thousand a year a couple of years ago and now we're doing 500 per month. So that is really tremendous. I just want to give our men and women in uniform a thank you.

(Applaud.)

CHAIRMAN YASSKY: On behalf of the public and of course on behalf of our licensees who have earned the right to provide full hard service, whether it is a taxi or license livery, it is our job to keep people who do not play by the rules off the road and I am just proud of the work uniformed services folks are doing.

We are also joined by Commissioner Gjonaj and Commissioner Arout and we are almost at full strength for today.

Just on the topic of accessibility, an issue, as you know, the Commission has worked on over a period of time. We had the first the Commission approved MV1 as a taxi, another option for taxi owners for the 231 who were required to use wheelchair accessible, or for any other taxi owner who wishes. The access vehicle is available.

The first that actually hit the streets a couple of weeks ago is now in service as a taxicab which I was delighted to see. I just want to read an e-mail I got last night that, to me, underscores why we have to run on this so quickly. I got an e-mail from a gentleman that runs a large non-profit in the city that deals with veterans. It's been fleet week, as you know. He writes at 11:48 p.m., "David, quick question, here with double amputee U.S. Army here in NYC and he's having difficulty getting a cab. Are the wheelchair accessibles out soon?"

We cannot have a city where a veteran or not a veteran, who is in a wheelchair cannot access the jewel of the -- one of the jewels of the City, our taxicab system. That is why we have moved forward aggressively.

I know there are medallion owners here and representatives of medallion owners and you got the bill recently for $98 for dispatch service. I've had owners ask me what's with the new charge, what's it for and as you know, what it's for is to enable someone to call 311 -- there are cabs on the street, but they are of no use to this man, no use to this veteran, unless he can get one of these cabs where he is and where he needs it.

We are now about a month away, thanks to the fees that you are paying, to enabling 311 to do that. We have, I think, a terrific partner in Metro Taxi, who we have high hopes for, to actually do the work of the dispatching and I just want to renew my plea, my request, to particularly the owners who do own, and the drivers who do drive accessible taxis that we really do need to make this one work so that people can get the service that they are entitled to. We'll do our part in terms of the regulation and in terms of the structuring of it and I know that you will do your part too, both through the fee, but also particularly for the drivers and owners who have accessible cabs to making the system work well in practice, not just in theory.

Now, that's not enough. We know we're going to put another at least 2,000 accessible cabs on the street over the next couple of years. I think that we have got to bring everybody together and figure out how we, as the regulators with you, as the industry and with the community of people with disabilities and people who are passionate about that issue, so all of us together figure out a long-term plan that will make sure we can be as proud of that facet of the service of the industry as we are of all the other facets.

Commissioner Frank Carone has graciously volunteered to spearhead that effort. We will be putting together a working group and I will be reaching out to the industry leadership, you folks that are here today, to help us form a working group that can productively tackle the issue.

I know there is -- it's an issue with different sides and different interests, but what we need is for the people to get into the room and be willing to reach out and work together and find a common ground.

So I'll be asking you for folks who are willing to do that, we'll be asking the disability advocates for people who are willing to do that and we will see certainly who will participate and Commissioner Carone will spearhead it. With that said, let's move to our substantive agenda for today.

First we have the minutes of the April 19, 2012 meeting. I move that we adopt the minutes. All in favor say aye.

THE COMMISSIONERS: Aye.

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CHAIRMAN YASSKY: Opposed no.

(No response.)

CHAIRMAN YASSKY: The minutes from the April 19, 2012 meeting are now adopted.

Base applications. Is Chris here? Who is here in terms of licensing today in presenting the base applications? I saw Asst. Commissioner Georgia Steele was here earlier. It says Commissioner Georgia Steele.

COMMISSIONER STEELE: My apologies. I was working on something.

CHAIRMAN YASSKY: I'm sorry, please continue, Commissioner.

COMMISSIONER STEELE: Good morning, Commissioners. I am Assistant Commissioner Georgia Steele. The Licensing and Standards would like to present before the Commission nine bases with a recommendation for approval.

CHAIRMAN YASSKY: I move we accept the recommendation of the License and Standards Division and approve the bases. All in favor say aye.

THE COMMISSIONERS: All aye.

CHAIRMAN YASSKY: All opposed, no.

(No response.)

CHAIRMAN YASSKY: Thank you, Commissioner.

COMMISSIONER STEELE: Thank you. My apologies.

CHAIRMAN YASSKY: No, no, not a problem.

Folks, so people know what to expect here. We have five items for commission action. We will do those expeditiously. We do not require a great deal of discussion, but we will consider them and have a vote on them. Then we have a brief staff presentation on the roof light and then we have a hearing on the topic of fare and lease caps.

As you know, our rules provide for a biannual public hearing on the topic of lease caps and the taxi fare. We have before us two petitions and we'll hear it when we hear it. Folks, we'll first do the five items that are for action today.

Commissioners, these are vote items. Then we'll have the public hearing on lease cap fare. There is, of course, no vote today. So that is what the agenda is. Assistant General Counsel, Chris Wilson, is here.

Do you want to describe the first item?

MR. WILSON: Sure. Before the Commission this morning is a resolution from our Pilot Program to allow for-hire vehicles especially in our Staten Island bases to report to the TLC Staten Island facility for their biannual TLC DMV inspection.

Due to space constraints, this inspection will be visual only through a strict compliance of TLC rules. Full DMV inspections will be performed by the vendor who currently performs inspections for city-owned vehicles.

This will save Staten Island vehicle owners and drivers the time it takes to travel to the TLC's Woodside inspection facility.

CHAIRMAN YASSKY: Thank you, Commissioner. Of course, this is a pilot program. There is no public hearing on this. This, as you know, has been a real passion of Commissioner Arout. I actually want to thank you, Commissioner, for your persistent and energetic focus on this and making sure that we on the staff, you know, did not lose sight of this priority.

Commissioner, do you wish to be heard?

MR. AROUT: I'd like to thank you very much, Chairman, for giving us the opportunity to speak with you and with all the parties. I'd like to thank all the bases on Staten Island for helping us. It's a very important issue.

I know it'll take a little awhile to get actually in the process, four or

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five months to get all the facilities running. I will be going to the Chairman every week to see the progress and put a little fire under them to get this thing moving to do the best he can. But, again, thank you very much for this opportunity and I know it'll be much easier for Staten Island bases to go to Staten Island for inspection instead of Woodside, saving time and saving money.

CHAIRMAN YASSKY: I don't think it'll take four months, but I appreciate your point and I certainly appreciate the fire.

We do have a little bit of computer system work to do with our Systech systems, that's what records in the inspection data, but we're already working with that contractor to get that done.

Assuming that the commission adopts it for folks in the industry, we will then get out industry notice to advise you of the date of which it's effective. We certainly expect doing that as speedily as possible.

Are there other comments? If not, I move that we adopt the Pilot Program. All in favor say aye.

THE COMMISSIONERS: All aye.

CHAIRMAN YASSKY: Opposed, no.

(No response.)

CHAIRMAN YASSKY: It's been adopted.

We have some of the leadership of Staten Island. This is an issue you've raised repeatedly over time and I say that admiringly in a very good way. It's an issue for you and your colleagues. I appreciate your ensuring the commission folks are on that. Chris.

MR. WILSON: Next up for public hearing and vote are the proposed security standards for the Livery Passenger Enhancement Program or L-PEP equipment.

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Those of you who were with us last month remember that in the past we were requiring this equipment in all the new liveries. The proposed new rules will establish security standards -- security confidentiality and emergency considered management. These rules were published in the City of record on April 30th. The comment period ended yesterday. We received and evaluated one public written comment.

CHAIRMAN YASSKY: There is a public hearing on this item. First is Richard Thaler and then Ethan Gerber, United Taxi Drivers Association. Those are the only two people who signed up to speak.

MR. THALER: Thank you. Hello, Richard Thaler, OMN Gateway. Good morning, Chair Yassky and Commissioners.

Elimination of L-PEP passenger cardholder and trip record data security risk at the lowest processing cost requires that both cardholder and trip record data fall within the scope of the data environment of the payment card industry data security standards for level 1 payment gateways.

I'd like to summarize these comments rather than taking up the Commissioner's time in reading them because you have them in writing.

Prior to T-PEP, prior to the Taxi Technology Program, drivers hand wrote their own trip records. Now with advancement in mobile technology, what's been developed is an app called E-taxi trips which provides or enables a driver to maintain their own trip records.

So a driver now can record and file their trip records. If that process is consolidated with the processing with a payment gateway level 1 certified, that would provide the highest level of security at the lowest cost.

What I am proposing now is that in

order to be a vendor, an L-PEP vendor, that vendor should be a certified payment gateway level 1 and if that's the case, the highest level of security will be obtained and the TLC doesn't have to invent or recreate a new class of vendor as proposed in this particular Chapter 84.

If that's the case, I think you will avoid a tremendous potential for increased security risks by opening up a wide range of what the payment card industry calls CVEs, common vulnerable exposures.

If that's done, it's a tremendous benefit and opportunity because then, as a companion app, a passenger can get into a cab and use E-taxi wallet. Now E-taxi wallet can protect, at the best possible level of security, the passenger's credit and debit cards because they're stored as a token on the passenger's cellphone.

If that's the case, at the end of

the ride, the passenger, at the lowest possible cost to the driver to prevent the driver from becoming a cash cow for people reaching into their pockets as is previously done, the E-taxi wallet will deliver a cash fare payment to the driver through the ATM cash network. So if you have the opportunity to look this over, I hope you'll give this consideration.

CHAIRMAN YASSKY: Thank you. Let's hear from the other witness and then we'll have questions. Ethan Gerber.

MR. GERBER: I pass.

CHAIRMAN YASSKY: You're passing, okay.

Again, just to be clear to summarize this, with T-PEP the security payments are built into the contract that we have with the providers, but for the credit card payment systems for the borough taxis or we'll call L-PEP for livery instead of taxi for the livery side, rather than contracting with one or two companies, what we have done here is allowed anybody, including taxi -- I'm sorry, whatever the vendor name there is you're referring to, to offer the service to the vehicle owner provided that they meet the standards, performance standards, that was spelled out in the rules we adopted in April and security standards.

We deferred the security standards until now because we were working with the Department of Information Technology and Telecommunications, the City's IT experts, to make sure we had it right. What they do is simply duplicate the security standards that are in the existing T-PEP contracts which, of course, have worked really well.

So are there any further questions?

COMMISSIONER POLANCO: Yes. The question that I have is the L-PEP vendors that we have, or T-PEP vendors we have now, they automatically will be available for the L-PEP or is the RFP process going to start now?

CHAIRMAN YASSKY: It's not an RFP process. It's a license. In other words, if you want to sell credit card processing to borough taxi owner, you have to come to us, demonstrate your product does what it's supposed to do --

COMMISSIONER POLANCO: But then the yellow --

CHAIRMAN YASSKY: Bear with me. Then we will license you, in other words, you will then be an authorized vendor of credit card processing to the livery.

The two taxi vendors, Creative Mobile Technology and VeriFone have both told us they intend to apply for this license. They may have filed license already, I don't know. They both brought in their devices. We tested them and confirmed they do what they're supposed to do. No surprise it's the same device in the taxis today.

To get this, you have to bring it, your device, show it at Woodside, make sure it works. Certainly those two vendors will get the license and offer and others may as well. The whole benefit of doing it by license rather by RFP, if somebody else wants to enter into the market, as long as they come to us and show they can do it, then they can do it.

COMMISSIONER POLANCO: So I could understand that with the yellow there's exclusivity. With those two vendors, or three. Then based on the licenses basically they don't have to go through that problem?

CHAIRMAN YASSKY: That's correct.

MR. THALER: May I make a follow-up remark?

CHAIRMAN YASSKY: Please do, but we have a big agenda.

MR. THALER: Quickly because you

just made a remark about the maintenance and security.

The TLC has failed to address the security breach by Global Payments. Global Payments, if used by a current vendor, put cardholder cards at security risk. Global Payments has been delisted by Visa as being in compliance with their security standards and that's not been addressed, so I challenge the remark you made.

CHAIRMAN YASSKY: Just so the Commissioners understand what he's referring to. He's running a company that does back end credit card processing, not one of our two vendors, but after they get the credit card information from the passenger, they use other people in the industry to do further processing.

One of the largest in the industry, a processor that handles credit card payments from restaurants and department stores and drug stores and everything including taxis, had a security breach some roughly a year ago, it was in the newspaper and probably taxi customers information may have been compromised along with drug store customers, restaurant customers, every other customer. That's not something we deal with here.

We only make sure that the company that gets the credit card information from the passenger in the taxi is secure.

Are there further questions? Okay, then I move that we adopt the proposed rules on L-PEP standards. All in favor say aye.

THE COMMISSIONERS: All Aye.

CHAIRMAN YASSKY: All opposed, no.

(No response.)

CHAIRMAN YASSKY: The rules are adopted.

We have three more rules for vote today; medallion sale rules, of course,

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a modification of the vehicle standards relating to horsepower and commercial motor vehicle taxis. I think we can motor through these.

Chris, will you describe the first one?

MR. WILSON: The next proposed rule is a modification to the commission for the existing medallion sales rule.

It will have three effects for people who are bidding in the upcoming medallion auction. For those of you who are bidding on mini-fleet medallions, it will increase the deposit required for those medallions from $4,000 per medallion to $10,000 for a lot -- excuse me, for increasing the pro medallion deposit to $5,000. People who are bidding for independent medallions will continue to need to deposit $2,000.

Secondly, the proposed rule increased the time for closing following the auction from 30 days to

90 days.

And finally, the rule will provide that bids of losing bidders which we are unsuccessful in returning after several tries, can be retained by the City. But otherwise, the procedures that were in effect for the last medallion sales remain unchanged.

These were published for record on March 19th. Comments were due by April 23rd and no public comments were received.

CHAIRMAN YASSKY: We have no one signed up to testify. These were reviewed by our investigation which reviews any kind of big sale procedures, not that there were any particular problem, but they incur slight modifications. We thought they made sense.

Are there any comments or questions? I see someone raising their hands. I'm going to ask speakers if you want to testify, we'll collect somebody's name.

Marceline, she's going to go out there and if you would like to speak on any of these issues, please give her your name.

Ma'am, you can come up and speak, but very briefly.

MS. ROBINSON: Good morning. My name is Placida Robinson. I'm a New York City taxi medallion owner of a restricted hybrid medallion. I wanted to speak on this particular issue.

Did I just hear that you're increasing the bid on a mini fleet to $10,000 and you intend to retain that $10,000 payment should the bid fail?

CHAIRMAN YASSKY: No. Increasing the deposit for mini fleet, meaning $5,000 for each of the two and the retention clarifies something that wasn't really addressed in our rules. What happens if we get a deposit, the bid fails and after repeated efforts we are unable to locate the depositor.

This happened in a few instances in the last couple of auctions and the money was retained by the City because it hadn't -- nobody could figure out what else to do with it. It was felt there should be a rule that reflects that.

MS. ROBINSON: Okay. I will return to speak on the issue that I did sign up for, which is the Lexus hybrid.

CHAIRMAN YASSKY: Thank you, Ms. Robinson.

COMMISSIONER MARINO: Chairman, how often does that happen? Who is going to walk away from it?

MR. WILSON: Well, we actually had four or five checks. Nobody came to claim them and our attempts to return them by certified mail were unsuccessful.

CHAIRMAN YASSKY: It caused some consternation. Last time around there was no rule to handle the situation.

COMMISSIONER MARINO: Is there something in the rule now that says if the money is deposited with the County Clerk or city official and that person appears a year from now or two years from now, it can be returned? There should be some way to return that money.

MR. WILSON: The proposed rule doesn't provide that it requires us to --

CHAIRMAN YASSKY: Is there a time period?

MR. WILSON: There is not a time period, but we have to make efforts to return at least twice.

COMMISSIONER MARINO: I think there should be something in there that it can be returned if they do appear at any time. I mean that's their money.

CHAIRMAN YASSKY: Well, as I say, last time this happened, the staff was confronted with the question of what should I do with some checks that we had and after a great diligence, we could not find the person whom the money does properly belong to, I think really the only option is to retain it.

There is nothing else to do, but we feel that there should be some rule that handles that.

GJONAJ: Chairman, are those checks deposited or are they held?

MR. WILSON: They're held.

GJONAJ: So what's the difference?

CHAIRMAN YASSKY: They're certified checks. It's not a question of going back to the depositor. They're certified checks.

COMMISSIONER DEARCY: I think Commissioner Marino's question is assuming we diligently made efforts to locate the owner, those efforts fail, we deposit the money. Six months later the owner appears, is there anything that precludes us from then giving the money back?

CHAIRMAN YASSKY: I'm just going to speak to that. We have a refund process, that's happened from time to time, even licensing makes mistakes. I mean I know you would think not. Where there's an overpayment that we erroneously accept, we have a refund process. Would that -- could that process be used here?

MR. FREUD: Yeah, absolutely. There's two processes. If someone came back and showed us it was their check, we could refund the money. If it was something -- or the other option, the person could file a claim with the Comptroller's Office. They don't need to do that in this case. They would just come back to us.

We had more than one instance that was in limbo. There was nothing on the books about what we could or couldn't do. So we needed to have a rule so we need to know what the process was. If someone came back and showed us this is me, this is my bank account, we would obviously refund them the money. We couldn't do that now because we can't take the money.

CHAIRMAN YASSKY: Department of Investigations feels, as we do too, where there's money involved, there should be rules for what we're doing and it's not discretionary option. I think we should have a rule that addresses this. I think the refund option addresses the concern.

COMMISSIONER MARINO: I don't think the person should have to file a claim, though. That's really --

MR. FREUD: I didn't say that.

COMMISSIONER MARINO: I know. The chair had mentioned it.

CHAIRMAN YASSKY: It should come back to us. We have a refund process. You call it a claim. Not call it a claim, it works quite well. There may have been people here who got refunds from licensing.

COMMISSIONER MARINO: As long as the money -- if that person says, I had a sick relative in Europe, I've been in

Europe, I want my money back, they should have that option.

MR. FREUD: They will.

CHAIRMAN YASSKY: With that, I move we adopt the rule on medallion sales rule amendments. All I favor say aye.

THE COMMISSIONERS: Aye.

CHAIRMAN YASSKY: The rules are adopted. Chris, will you describe the next proposal?

MR. WILSON: Next for the commission and for public hearing to vote is the rule to increase the authorized horsepower from alternative fueled vehicles from 290 to 295.

This has the effect of increasing vehicle options for taxi owners. I think it would permit us to approve a Lexus vehicle as a taxicab. These rules were published for City record on April 9th. The comment period ended on May 10th and no written comments were submitted.

CHAIRMAN YASSKY: We have Placida

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Robinson and then Cliff Adler.

MS. ROBINSON: Good morning, again, Commissioner.

CHAIRMAN YASSKY: Good morning.

MS. ROBINSON: Placida Robinson and I am a hybrid medallion owner since 2006, since the City hybrid policy was initiated.

I have a letter to David Yassky and I also have copies for the commissioners. May I hand them out now?

CHAIRMAN YASSKY: Yes.

MS. ROBINSON: I would like to specifically address on your attempt to adopt the Lexus now as the latest hybrid vehicle.

Specifically, the hybrid, in my research on edmunds.com and various websites, I already see that the hybrid, the Lexus hybrid, is subject to the same type of hybrid mechanical failures that my vehicles have been subject to and scores of other hybrid medallion owners have been experiencing.

Let me just say, first of all, that with respect to my particular hybrid medallion ownership, last Friday I just hacked up my third hybrid vehicle in five and a half years at a catastrophic cost to me, cash equity $156,000. That includes the purchase of three vehicles. That includes extensive and significant repairs to the hybrid vehicle system. Including continuous replacement of hybrid parts in those vehicles and it includes the operational down time on those vehicles when the vehicles are down for two, three four weeks --

CHAIRMAN YASSKY: Ms. Robinson, let me just ask, are you speaking in opposition to or in favor of the proposed rule change or are you asking us to address other issues in our vehicle specs?

MS. ROBINSON: Well, what I'm

describing speaks to my understandable opposition to adopting yet another hybrid and I'm describing the circumstances behind which these vehicles -- any more vehicles should not be adopted.

CHAIRMAN YASSKY: You're aware, obviously, the specs would allow a taxi owner to purchase this vehicle, but would not require it, yes?

MS. ROBINSON: It may not require it, but a lot of vehicle owners who haven't even been required to purchase hybrid vehicles are still experiencing the same catastrophic financial failure that the commission seems to be unaware of.

CHAIRMAN YASSKY: Okay, I'm sorry. Please wrap up.

MS. ROBINSON: With respect to the hybrid itself, here on the website it indicates with respect to at least to the 2007 Lexus hybrid, the vehicle would stall after engine start up.

The vehicle was sold to the dealer with the advisor contract that the failure could have been possibly caused by battery failure. This is a pernicious problem in hybrid vehicles. It's a public safety issue and I have to -- I think it's worth repeating here, that it's an even more expensive vehicle that the commission is proposing that vehicle owners go out there and purchase.

It's an even more expensive vehicle to maintain and repair with respect to the hybrids. With my case, specifically, at $156,000 in failed hybrid vehicles having to replace them this is not a good policy at all.

CHAIRMAN YASSKY: Okay, thank you, Ms. Robinson. Mr. Adler.

MR. ADLER: Mr. Chairman, ladies and gentlemen, I don't know what kind of vehicle this lady has been operating-- I'm sorry, my name is Cliff Adler.

I don't know what kind of vehicle she's talking about. She keeps saying her vehicle, her vehicle. I don't know what her vehicle is and I don't care. There are currently, to my knowledge, at least six Lexus hybrids on the road. Mine has been on the road for just over six years now.

As for catastrophic failure, I don't know. I had a hybrid problem which was not the batteries, which I had to pay for a couple of years ago and six months later Lexus came up, they corrected the problem and they refunded my money six months later.

I know the other five people who have their Lexuses and to my knowledge no one has had any other major problems whatsoever. Mine gets 24 to 27 miles per gal right now and the new models, which is in front of the chairman today, get approximately 30 miles per gallon in town, which for a vehicle which passengers love is excellent.

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As for any other kind of problems they're talking about, all you have to do is look at the records I have with the record.

CHAIRMAN YASSKY: Thank you, Mr. Adler. The genesis here is when we cleaned up our vehicle specs six months or eight months ago we, to be honest, inadvertently eliminated the Lexus which had been -- the specs had permitted Lexus as one of the vehicles. The new specs, due to horsepower change, excluded the Lexus.

It's an expensive vehicle, so you don't see a ton of people -- there are six, as Mr. Adler says, six owner drivers who have chosen to purchase them. We had a couple of them reach out to us. Their vehicles are about to expire, about to be retired between now and as of tomorrow, so they asked us if we would consider revising the specs so they could buy another Lexus rather than the alternative hybrids available on the market.

We thought that they were happy customers. They like what they have now. We saw no reason not to permit them to continue it and Mr. Adler is exemplifying that.

Are there any questions?

COMMISSIONER DEARCY: I just want to be clear. We're simply allowing people to purchase a car they want to purchase. We're not proposing they purchase a car. We're not requiring they purchase a car. It simply makes it eligible if they want to purchase that.

CHAIRMAN YASSKY: I see other hands raised. Do people want to speak germane to this?

MR. SFEIR: Good morning. My name is Charbel Sfeir. I do own a Toyota Camry 2008. A lot of people don't know about the problem with the hybrid. First of all, it's very expensive to repair --

CHAIRMAN YASSKY: Are you saying we should not permit the Lexus to be used because that is the only issue before us? If you wish, take 30 seconds to make your point, but just 30 seconds.

MR. SFEIR: When I sit in major traffic and my AC is on max, and the battery goes all the way down, it has no power. It's very dangerous.

CHAIRMAN YASSKY: Thank you, sir. If there are no other speakers -- is it germane to this topic?

SAMUEL: Hi, Commissioners. My name is Samuel. I am one of the guys who drives the Lexus. The Lexus is spectacular. I'm one of the two who were the pioneers of it. Somebody might not like it, I do. It's a very good car.

Whatever happened with the Lexus, Lexus was willing to fix it and they fix it and give it to us and refunded our money.

CHAIRMAN YASSKY: At that price

they should.

SAMUEL: All the people in the City that drive the Lexus, they say commissioners have done a good job. So keep on going.

CHAIRMAN YASSKY: Thank you, sir. If there are no further questions or comments, I move that we adopt the horsepower allowance rule. All in favor say aye.

THE COMMISSIONERS: All aye.

CHAIRMAN YASSKY: Opposed no.

(No response.)

CHAIRMAN YASSKY: Our final item for action today, Chris.

MR. WILSON: Before the commission finally a proposed rule implementing legislation to transfer from the Department of Finance to the TLC authority to collect Commercial Motor Vehicle tax from certain motor vehicle owners.

Based on past comments and based on further discussions with DOV, the rule, which originally had provided that the TLC would collect commercial motor vehicle tax from taxicab owners, has been modified so that the provisions for payments for taxicab owners will continue as they are and not be paid through the TLC.

So the proposed rule before the Commission would do two things: First, for taxicab owners, it would require all payments of Commercial Motor Vehicle Tax through the DOV, not through TLC as a condition of licensure.

Secondly, for other vehicle licensees who do not currently pay their Commercial Motor Vehicle Tax to the Department of Motor Vehicles, they will now pay their Commercial Motor Vehicle Tax to the TLC.

They'll do it in a period that is equivalent to their license cycle of two years for a total amount of $800 for the two-year period. Vehicle licensees who currently pay through the DMV, current legislation process are unaffected by this rule. So this rule really affects a very small sliver of people paying those who we believe are not paying to anybody today.

CHAIRMAN YASSKY: Thank you.

Ethan Gerber from Greater New York Taxi Association and Bhairavi Desai from Taxi Workers Alliance decided to come up to speak. As they're coming up, Commissioners, as you may have seen, there is some public discussion about this.

The history is, as part of the last budget option, the City Council transferred authority Commercial Motor Vehicle Taxes today paid by taxi owners, medallion owners and livery vehicle owners. It's been collected by the Department of Finance for some time.

The City Council adopted legislation transferring that

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collection authority from the Department of Finance to the TLC. The only rationale for this was the Department of Finance had not, in practice, been collecting from livery vehicle owners whose vehicles are registered out of state. Even though they owed the tax, for years it had not been built into the collection process.

So recognizing that we already bill those folks, I thought it was going to be more efficient for us to bill the Commercial Motor Vehicle Tax along with our license fees.

However, our billing schedule differs from the Department of Finance schedule. A number of medallion owners were a bit concerned about that. Our payment schedule is more front loaded and they deferred the Department of Finance payment schedule which is spread out over time. Recognizing cash flow is an issue for any small business, including taxi owners, we

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worked with the Department of Finance. We agreed with them that they will continue collecting from medallion owners so their payment schedule will remain what it has been.

We will take the livery part of that. That way we make sure we get all liveries, including the ones that are out of state. That's the purpose for this bill.

I'm sorry, Mr. Gerber and Ms. Desai, you were signed up to speak. Do you wish to? Mr. Gerber passes and Ms. Desai passes as well. I think it's fair to say that both Ms. Desai and Mr. Gerber, part of the medallion sector, welcome the change that the Department of Finance will stick with their schedule.

Are there questions or comments?

COMMISSIONER MARINO: It doesn't really affect -- it's just who you write the check out to?

CHAIRMAN YASSKY: Correct. I move

that we adopt the Commercial Motor Vehicle Tax Rule. All in favor say aye.

THE COMMISSION: All aye.

CHAIRMAN YASSKY: All opposed.

(No response.)

CHAIRMAN YASSKY: That rule is adopted as well.

(Applause.)

CHAIRMAN YASSKY: That was applause for the absence of change which, in this case, is a good thing. People are happy to stay with things as they are, including the Department of Finance bill. That concludes, Commissioners, the vote portion of our meeting.

Now, we'll have a very brief staff presentation on a roof light proposal. Has this been published?

Ms. Miller is going to describe a proposed change. It has been published in the last few weeks, not on the agenda for voting today keeping with anything out of the ordinary, let's have a staff presentation on it. We'll schedule it for action at a later date.

Ms. Miller, go ahead and then we'll get to the fare and lease cap hearing. Again, there are no more votes, Commissioners.

MS. MILLER: Good morning. My name is Dawn Miller. I'm the Director of Research and Evaluation here at TLC.

Today I'm going to give a brief presentation on the proposed change for the rules surrounding taxi roof lights.

I'll begin with an overview of the current messaging passengers get with the passenger roof light and then I'll move on to the problems with the current roof light.

After that, I'll describe the proposal for new roof light messaging system that would be implemented if the commission approves this rule.

For those interested in the schedule for this rule, the proposed

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rules were published on Friday, May 18th. The official comment period goes through Monday, June 18th. On June 21st, we'll hear public testimony on the proposal and we anticipate that the proposed rules will be brought to a vote on that date.

As you know, there are currently two lights on the top of a taxi; the medallion number light and the off-duty light. These lights are used in four combinations to signal four different statuses of taxis.

When the medallion number light is on and the off-duty lights are off, the taxi is on duty and available for a cab. When both the medallion number light and the off duty light are off, the taxi is on duty, but is unavailable for a hail because it already has a passenger inside.

When both the medallion number light and the duty light are on, the taxi is off duty, but it may be available to take you on what's called a "going-my-way-trip".

A "going-my-way-trip" occurs when at the end of a shift, a taxi looks for a final passenger who is on his way home or back to the fleet garage. In this unique circumstance, an off duty driver is committed to pick up his final fare and turn down passengers who are not headed his way.

Finally, a taxi whose medallion number light is off, but his off duty light is on is off duty and unavailable. This is because either the driver is on break or the taxi is occupied with a passenger on a going my way trip. Currently the meter controls the medallion number light, but the light is controlled by a manual switch.

There are a couple of problems with the current roof light. First, many passengers are confused by it. It's frustrating for passengers when they see a taxi in the street that looks available because they see a light on at the top, but when they hail it, it passes them by because it was the off-duty light rather than the medallion light that was on.

A lot of people, and these Facebook and twitter posts demonstrate from residents and visitors of New York City, are confused by the current light system or just don't know what it means.

CHAIRMAN YASSKY: Commissioners, you might find interesting, as I do, I think you can adjust twitter so that they tell you when Taxi Limousine Commissioner is mentioned.

It's pretty interesting way of seeing what's on people's minds, their complaints about drivers, people want to tell their taxi story, I had a great driver, blah, blah, blah, but recurring, I mean, you'll see one a week, tweet, if you will, on the top what's with all the off-duty lights?

What does this mean? I hate this. Here are some good examples. I'm sorry. Thank you, Ms. Miller.

MS. MILLER: The second problem with the current roof light is that some drivers use it as a tool to cherry pick passengers.

As you know, on duty taxi drivers are required to take passengers to any requested location in the five boroughs and Newark Airport, Nassau or Westchester County. Even when they're working or looking for passengers, they think it's easier to turn down passengers who are headed for the Bronx or Queens. When they turn off the light, it creates a situation where the passenger feels refused and often has, in fact, been unfairly refused, but because the off-duty light is on, the situation is more ambiguous and the drivers are more likely to get away with it. Although many drivers use the off-duty light appropriately, others use it as a tool to refuse certain passengers.

To help solve the problems of the current roof light system, the proposed rules call for a single light roof light. This is a system employed in other cities, including London, whose taxi is displayed on the slide. In simpler systems, when the light is on, the passenger knows it's available for hail. When it's off, passengers don't need to know the reason it is or is not available. They just need to know whether they should hail it.

The proposed single light roof light would eliminate the separate manual switch that currently controls the off-duty light. Instead, the single roof light would be controlled automatically by the T-PEP or the L-PEP. Like today, when the meter is engaged, the medallion number light will automatically turn off, and when the trip is over, the light will turn back off.

When the driver wants to go off duty for any reason, he simply enters into the T-PEP or the L-PEP, which automatically turns off the roof light and locks the meter.

Before developing this proposal, TLC staff sent out an industry notice for listening in on the industry on the proposed new roof light. We reviewed these responses carefully and crafted the proposed rule to address some industry concerns.

First, some drivers were concerned that changing the roof light would eliminate the ability to do going my way trips. Under these rules, drivers can still use going my way trips.

Second, some drivers were concerned that this would somehow impact their ability to go on break. It does not, and drivers can continue to take as many breaks as they like whenever they like.

Finally, some drivers were concerned that without an off-duty light, passengers would think they're being refused when a driver without a passenger tells them he is not available. We think the passengers would learn the new system, understanding that a taxi without its roof light on is unavailable, either because it has a passenger or because the driver is on break. If a driver is accused of refusal, TLC can check his T-PEP or L-PEP records and dismiss the case if the accusation is unfounded.

Passengers appear to favor the program of the single roof light. Even as though the industry notice was primary for receiving information from the industry, passengers also weighed in. Eighty-five percent of the passengers who gave feedback to TLC favored the change to a single light system.

The roof light's purpose is to

primarily signal the taxi's availability to passengers. Customers really care about availability, not the reason why the taxi is available or not available.

If the Commission passes these proposed rules, each taxi would have to change over by the next scheduled inspection after the rules go into effect. This would mean the change would be phased in between September 2012 and December 2012.

The expense of converting would be minimum. Taxi owners do not need to purchase a new roof light. What they would need to do is get a software upgrade for their meter, disable or remove the manual switch that currently controls off-duty lights and remove the off-duty portion of their existing roof light.

TLC staff believes that converting to a single light system will increase passengers due to hailing of taxis by reducing confusion and reducing the prevalence of cherry picking and we strongly recommend your approval of these rules when they're considered for a vote on June 21st.

CHAIRMAN YASSKY: Thank you, Ms. Miller.

So, Commissioners, we've had the staff presentation. We're not having a public hearing today mostly because we have another issue, the fare lease cap issue, which I know we will need extensive hearing about. This is not up for vote today.

I want to introduce this issue to you and to the industry. We've done that in the industry notice. I want people to hear it, to see what's been proposed. I see this as part of our -- one of our public facing initiatives.

The off-duty business has been one of those things, facts of life about the taxi system that I think the New Yorkers have decided they're a lovable announce or not so lovable announce.

My favorite e-mail after some public discussion about this, I got an e-mail from a high school friend where he said. Please don't do this. It's one of the few advantages we have as native New Yorkers. He can decipher the off duty systems and that gives me an edge over the newcomers.

I understood where he was coming from, but I didn't feel like that was a strong reason for retaining it. I know we have questions. We can do questions. We'll return to this topic. It's been around for awhile. I figured there'd be discussion.

I wanted to get started. If you have a question, go ahead and we can do that today and then we'll do the fare lease cap.

COMMISSIONER DEARCY: First, I want to commend the proposal. It will eliminate confusion. I do have a question with respect to eliminating availability to cherry pick passengers and how we could follow up to confirm and deny. I have taxis all the time. Most of the time I have great service. I live 145th Street.

There are times when people don't want to take me there. I don't find that it is the case that the driver also has the off-duty lights off, rather it gets switched off if you're not an attractive passenger. Sometimes it gets switched on.

Does this do anything to address that particular occurrence or only those drivers that would drive around with the off-duty light on continually?

MS. MILLER: It doesn't kind of completely eliminate the cherry picking issue. An important element of off duty behavior will be recorded in the T-PEP system. Whereas now there's no recording.

CHAIRMAN YASSKY: If I can interrupt. I would say it's already bad behavior of passing by which was described in one of those tweets. See a passenger, switch on the off duty light as you drive by.

In truth, even though it is common enough that we hear about and people twitter about it, you just described it, that has no legal impact. A driver who does that is not protecting himself or herself against a refusal violation at all.

If a passenger were to call in that refusal claim or if one of our testers were to see it, which we now have, I should tell people, I'm thrilled about this, since we started the testers about a year ago, a diverse group of young people trying to flag down cabs and when they do ask to go to Brooklyn or Queens, they were getting a refusal rate of 50 percent, now it's 25 percent, which is either really good progress or still pretty bad depending on -- anyway, the driver who does just that is guilty of refusal. If you called in, they get a ticket.

If it goes in ALJ, I have every expectation -- unless they say I'm going off duty and what T-PEP shows they actually went off duty. If T-PEP shows they picked up somebody four minutes later, which it generally does, it's a refusal violation.

I think this does help because drivers seem to feel like that and I think a lot of passengers give in to that. They see the off-duty light and they think, oh, well, that was off duty. No, that was a decision not to pick you up.

MS. MILLER: I've had this happen to me as well. I had a driver bypass me and I kind of suspected he was not truly off duty, so I still filed the complaint and when we looked at his T-PEP records, it demonstrated he continued to pick up a passenger a minute later, or 20 minutes later.

I think some passengers, when they see the off-duty lights, they don't feel as empowered to file a complaint. They think, somehow, maybe he didn't have to pick me up. Whereas now any record of that would be in the T-PEP. It wouldn't be this flicking on and off.

CHAIRMAN YASSKY: I guess the main purpose of it would be a condition of clarity for the customer. It would be more difficult when you turn off the roof light, it will turn off the T-PEP system and restarting that takes a couple of minutes.

If you're going on break, you turn it off, then you restart it when you come off break. It will discourage continuing switching on and off.

Going to off-duty status, meaning your light's off because you then would not be able to drive over and pick up a passenger easily. Okay. I see hands raised.

For folks in the industry, there will be another opportunity for public discussion of this. We have enough on our agenda today.

MS. MILLER: June 21st.

CHAIRMAN YASSKY: June 21st.

SPEAKER: It's difficult to change minds at the time of voting. You need to discuss this between now and then. You need to work with us on this. You need to work with us on this so we can do this together for the good of the public and for the good of the driver.

CHAIRMAN YASSKY: Thank you. Understood.

Now we have our biannual hearing on lease caps and fares. I have no particular formal presentation here. We have three really petitions. We have two formal petitions, one by the Metropolitan New York Taxi Workers Alliance. Committee For Taxi Safety also kind of has weighed in on this topic with a written letter that we can treat as a petition as well. They will be the first three speakers.

We'll first hear from Peter Mazer representing Metropolitan Taxicab Board of Trade. Then from David at the Committee For Taxi Safety. Then there's a fairly lengthy list of people who signed up to speak on the issue of fare and lease caps.

I won't anticipate, Commissioners, as we've discussed, we will have this hearing. The staff will digest it, recommend the evidence brought forward and I expect we will have a recommendation.

I think it is time to address the fare. The last time was six years ago, so this is the start of our process. I, personally, do think that it is appropriate at this point to revise the fare. It's time to move upwards.

The questions for me are what is the appropriate magnitude. We know the drivers are taking home less today than they were six years ago. Not just inflation, but literally taking home less because of the high gas prices that the drivers pay, but the question even the passengers are on the other side of the equation, we have to be fair to everybody.

So for me questions are what's the magnitude. I think there are also -- I hope that we can use this as an opportunity to address some persistent issues that we've had here. One is gas prices and whether there's a way to handle gas prices that shields the drivers better from the really severe fluctuation in prices that affects their take home pay.

For a driver, 50 cents change in gas price, which is not uncommon over a period of a month, could be $50 less take home for that month, which might mean you can't pay your rent, you can't put food on the table.

Given the variability in that

price, whether there's structures that shields drivers from that fluctuation I think are some issues for discussion. I do think we also need to take a hard look at an issue raised repeatedly by the DOV sector of the industry. That is the disparity between the lease cap for DOV leasing and the lease cap for shift leasing.

The point is made, and it's made in the taxi safety letter, that the current level of disparity in those lease caps means the DOV operation is not economical for medallion owner. That is the claim that's been made.

I think we should explore that claim because I'm concerned that if that's the case, that we would endanger the DOV sector if we don't address it. I think that's to me one of the things I would like. And I would tell the industry folks one thing. What I would like to get from this hearing is what is the appropriate difference between the fleet lease cap and the DOV lease cap.

Now, it's a total of 14 shifts, it's $1,570 weekly medallion only rates $800. That almost 2 to 1 disparity, that 750 some odd dollar disparity I do worry will ultimately mean the death of the DOV sector unless we deal with it.

And then the third is the issue of the credit cards. The credit card processing fee of 5 percent, I think, while credit cards have been a boom to passengers and have helped to keep the industry, the fare box level during the worse of the recession and helped it grow more than economic data would suggest as we came out of the recession, that 5 percent number, number one continues to discourage -- we continue to see some resistance among individual drivers who try and persuade passengers to use cash instead of credit cards.

As a whole, it's a pretty big bite

for the industry. If there's a structure that helps us bring that down, bring that cost concern down, I think we should pursue that.

So those are the issues I would like to see explored. I know we have speakers lined up, so first is Peter Mazer.

MR. CARONE: Mr. Chairman, before we get to speakers, I would like to make a comment.

CHAIRMAN YASSKY: Commissioners, if people wish to be heard, at this point this is a good time for that. Let's do that.

I'll note that we are going to allot 15 minutes to the petitioners. That's a long time, Commissioners, but this is an important topic. The three petitioners, or two petitioners for Taxi Safety will submit material that we can use. We will allot 15 minutes to each of them to present their case, but speakers after that will be limited

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to three minutes and we're going to be firm about that.

Commissioner Carone.

MR. CARONE: Thank you, Mr. Chairman. I want to make a few points which would be helpful for our analysis. I'd ask the speakers to take these points into consideration. Obviously, this issue everyone has different opinions on them. Whether there should be a fare increase and if so, how to do that.

I want everybody, one, to be mindful we are governed by a set of rules. Specifically, Section 5204 which sets forth how and which criteria the Commissioner is to evaluate when deciding whether to advise the change in fare increases.

In Section 5204 there are nine criteria -- it covers cost of expenses, cost of operations, income of drivers, distance of travel and it's up to us to look at those nine criteria in light of the ultimate goal how that would impact the riding public, will the passenger public have a greater riding experience in terms of service.

So please be mindful of those criteria when you speak to us so you will be governed by those criteria as we deliberate. Thank you.

CHAIRMAN YASSKY: Thank you, Commissioner. Mr. Mazer.

MR. MAZER: Good morning. I've handed out to each of the commissioners a copy of my presentation along with the charts.

We have larger charts that I will put out here that will be mainly for the commissioners. In the back of the presentation you will see a series of seven charts that I have here.

Good morning, Chairman Yassky. My name is Peter Mazer. I am General Counsel to the Metropolitan Taxicab Board of Trade, a 59-year-old organization of 34 taxi leasing organizations including double-shifted fleets and lease managers that are comprised of more than 5,000 medallions -- more than 60 percent of all corporate medallions.

Thank you for the opportunity today to discuss the MTBOT rule making petition. As you are aware, in April of 2010, MTBOT filed a petition to increase the taxicab fares, and to adjust maximum lease rates set by the TLC. The petition also proposed amendments to the rules governing the methodology by which lease rate changes would be considered in the future.

By way of background, as some of you may be aware, I served the TLC from 1987 through 2004, under seven Chairs and four Mayors, as an Administrative Law Judge, Chief Judge, Deputy General Counsel and General Counsel. I was at the TLC prior to leasing regulations, when leasing was first regulated in 1996, and during the period from 2001

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through 2004 when petitions to raise fares and adjust lease caps were under consideration.

In 1996, the Commission first established maximum lease rates, replacing a decades-old system where owners and drivers split the fare proportionately, usually, 50/50. At the time, the TLC passed rules establishing maximum lease rates and a mechanism to provide for periodic review of lease rates.

The TLC also adopted rules that prohibited maximum lease rates from being lowered without substantial evidence of lowered owners' operating costs.

Since 1996, and notwithstanding the increase expenses associated with running a taxicab leasing operation, owners have received one very modest 8 percent increase to those lease caps -- that was in 2004. One small increase in 16 years.

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According to the statement of basis and purpose published with the 2004 rules, this increase was enacted to insure that owners would be compensated for additional expenses incurred between 1996 and 2004.

Also, in 2004, in response to a petition submitted by MTBOT, the TLC approved 26 percent increase in the metered rate of fare that went to the drivers. Owners received about 15 percent of revenue of the overall fare increase while drivers received about 85 percent.

Then, in 2006, the drivers received 100 percent of a fare increase that increased waiting time on the meter to $24 an hour. Owners received no increase in 2006, or 2005, '07, '08, '09, 2011 or thus far in 2012.

Throughout this period, according to TLC data, ridership and fare revenue has significantly increased largely due to the acceptance of credit and debit cards fares. And also according to TLC data, driver tips now average about 20 percent ---

AUDIENCE: Lies, lies, lies.

CHAIRMAN YASSKY: Hold on here. We are going to have an orderly hearing. We're going to have a full and thorough airing of all of the facts and all of the views people hold on this issue.

I understand that this is an issue that people are passionate about and for many of the people in this room, it is an issue of your direct livelihood and I understand that. I understand you would feel strongly about this.

That is understandable and appropriate. But we are not going to have outbursts. We're not going to have speakers being interrupted. We will remove people if that continues. Everyone will have a right to be heard.

Your view will be heard and you will have an opportunity too. It will have to be done in the right way. So please respect each of the speakers. Thank you.

MR. MAZER: Thank you, Mr. Chair. As I stated in the presentation, that's according to TLC data.

These are the facts. There are many with narrow interests that may not want you to recognize them as facts, but these are the facts.

Similarly, some may want you to believe that fleets and taxi leasing operations are immune to the bottom line economic impact of increased operating costs over a sustained period of time. Some may want you to believe taxi garages, many of which employ more than 50 people and that enable thousands of drivers to lease taxis and medallions with little or no responsibility or liability and zero capital costs, can operate in a different universe than other businesses -- one where costs rise and businesses sit helplessly hoping for the best.

And some will have you believe the value of the medallions in particular make taxi operations immune to increased operating costs -- that somehow all operating costs associated with operating a taxi business is offset by the asset value of the corporation.

Is that economic model replicated anywhere in the real world? Of course not.

Expecting any business to absorb 16 years of rising costs -- 8 years without any relief whatsoever -- without any offset would seem by, any standard, to be unfair. Would a landlord choose to freeze rents for 8 years even though taxes, the price of heating oil, labor and capital repairs have gone up?

Would a manufacturing firm charge the same rates to customers that they charged eight years ago despite increased materials and transportation charges? The answer, of course, is no.

The difference is that most private companies can increase its charges in response to increases in costs, while highly regulated businesses, such as rent regulated apartment buildings and taxi leasing companies in New York City can do no such things without government approval. And while landlords or rent stabilized buildings receive annual increases to help meet costs through a statutory process with established criteria, this is not the case in the taxi industry.

Metered fare increases and lease cap increases are not popular -- but they are necessary. Back in 1971, the TLC was created in part to take the consideration of taxicab fares out of the political arena and have them considered objectively by an impartial board. It's up to you, the members of the Taxi and Limousine Commission to be fair in your judgments.

As I will demonstrate in my testimony, and as MTBOT demonstrated in our original petition letters into the Chair and all Commissioners on Tuesday May 29th, the hard reality is, if our businesses are not provided with the tools to upwardly adjust taxi lease rates, many of our operations, which provide economic opportunities to more than 20,000 drivers within MTBOT alone, will be forced to radically change or close many of their operations.

And what good will that do for the drivers and the riding public? How will drivers benefit when there are fewer opportunities to lease taxis per shift? How will riders benefit if there are fewer taxis 24/7?

Similarly and precisely because rate increases are not popular, these decisions should not be political -- they should be based on the facts. They should be sensible and not arbitrary. They should also anticipate cost increases that are expected to occur in the near term as a result of TLC or other mandates.

There are mandates coming down the road such as the Taxi of Tomorrow, a more expensive vehicle whose purchase, maintenance and repair cost will be borne by taxicab owners.

Further, fare and lease adjustments are serious policy considerations that affect millions of people and a multi-billion dollar taxi industry. These decisions should not be used to retaliate against one group or reward another group for positions they have taken in the past -- that would be unethical, unlawful and antithetical to the charter-mandated mission of the Taxi and Limousine Commission -- an institution which I was proud to work for for 17 years.

I say this because the other petitioners, Taxi Workers Alliance, has

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boasted of several deals, aimed against taxi leasing operations, which it has claimed to have negotiated with Chairman Yassky in exchange for its support of the Livery Street Hail Plan which would place 18,000 liveries in direct competition with yellow cabs and to flood Midtown Manhattan with another 2,000 yellow taxicabs -- would have a far greater impact on driver incomes than a lease rate increase or any plan put forth by the TLC in decades.

That is the reason why MTBOT and others are litigating this plan, which as we speak is being heard today in the State Supreme Court.

The courts have spoken, given considerable insight into the method by which petitions for increases in rates of fare and lease rates are to be analyzed including a 2011 decision by the New York State Court of Appeals that stated "If the Commission had before it data showing that a proposed

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lease rate would not bring owners a fair return, it would not be free to ignore such data: That would raise constitutional problems."

That is from the opinion of the Court repealed the TLC's lowering of lease rates by misleading drivers into thinking that somehow they were not responsible for paying sales tax, just like any other consumer in New York State.

As a result of the TLC's misguided rule, that was determined to be unlawful, taxi leasing operators that complied with the sales tax rule cost the owners millions of dollars they have not been able to recover.

In addition, in a separate case, a federal judge also stated that cost analysis is always a component of rule making.

In addition to the fare increase and lease cap petition filed by MTBOT, a request was made for amendments to the rules governing the methodology under how lease cap adjustments are to be considered to make it clear that any such analysis must comply with the mandates of both the federal and state courts, and include consideration of costs, and other factors in the City Charter which already empowers the TLC to increase fares and lease caps and to factor in owner and driver costs among other criteria.

The public policy in 1996 and reiterated since that time has been as follows: Whenever the rate of fare is increased, drivers and owners should share proportionately in the increased revenue. That public policy declaration is as relevant today as ever before.

Now for the summary of the MTBOT petition.

First of all, we have a rate of fare increase. Rate of fare is composed of three elements; the initial charge, the mileage charge and time charge. There's also the 50 cents surcharge that goes directly to the MTA to subsidize a competing form of transportation that benefits neither driver nor owner.

There are also evenings and night surcharges which are not considered as part of this analysis. No request is made by MTBOT to change any of these surcharges as part of our petition. They don't apply at all times. We'd like to see the MTA surcharge eliminated, but that's a State issue.

New York City right now has one of the lowest taxicab fares of any major city. We have a chart which I'll put up. And I guess this chart is a lie too.

COMMISSIONER MARINO: Which chart?

MR. MAZER: The chart that I have here shows the average taxi fares in major U.S. cities. What it shows is that New York City taxi fares are among the lowest. The average trip selected is trip of five miles in length, two minute waiting time. The Chart shows fares in 2010 and where there's been an increase since then in 2012. Several cities, such as Houston and San Francisco, approved significant fare increases and have fares significantly higher than New York.

Effective this week, Philadelphia will be adding a $1.15 per trip fuel surcharge to fares. Their average fare is already $2.00 higher than New York's, even without the surcharge. This Chart does not include special surcharges. For example, even though Chicago's fare is slightly lower than New York's, there is a surcharge for additional passengers. Even with fare increase proposed by MTBOT, New York City taxicabs will remain a bargain and will still be among the lower in major cities.

MTBOT proposes a 50 cent increase

in the initial drop, and an increase in the mileage charge from $2 to $2.40 per mile. We did not propose increase in waiting time since the waiting time charge of $24.00 per hour is already higher than a lot of major cities. The drop is consistent with other cities, while New York City taxi fares tend to be disproportionately lower in the mileage charge.

While our proposal would raise an average fare from $12.90 to $15.40, an increase of 19.37 percent, on an average trip, some slightly more, some less. A shorter trip in heavy traffic the increase would be slightly lower because we were not proposing increase in waiting time. Longer trips a little bit higher. This might encourage trips to the outer boroughs as well as to the airports.

Since 1996, the TLC has approved two fare increases. There was a general increase in 2004 and an increase in waiting time in 2006. But these increases have not enabled drivers to keep up with the cost of living.

This chart, number 2, which you have in your presentation compares taxicab fares since 1996 -- the cost of living is in red -- with current taxi fares. You can see that fares are well below the cost of living. From the end of 1996 to the present, the Consumer Price Index increased by 46.65 percent while fares increased by 34.35 percent. Since the last fare adjustment in 2006, the cost of living has gone up another 14 percent. While the CPI depicts aggregate increases in the cost of living, you can look at significant increases that have affected either taxicab drivers and owners in other compartments.

This one, the next chart, shows the price of gasoline. It shows gasoline prices have fluctuated widely since

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2003. There have been peaks and there have been valleys. Many cities deal with these fluctuations by imposing a gasoline surcharge. Like I mentioned, Philadelphia is putting one in.

Many have implemented a gasoline surcharge when gasoline prices are raised, which is taken away when gasoline prices fall. Current gas price is $3.87 per gallon, down from a peak of about $4.15 a few weeks ago.

Gasoline has moved up considerably since we have filed our petition in 2008, but well above the $3.08 average when MTBOT submitted its petition. As recently as 2008, gas prices were well over $4.00, but then fell approximately in half by year end. In 2008 the TLC considered, but rejected, a gasoline surcharge.

At the time the MTBOT filed its fare increase petition, we estimated that a driver's average fuel cost per shift was $28. We base that on TLC's

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data from 2006 industry analysis, adjusted for a decline in gasoline prices between 2006 and 2010. That would put the gasoline prices at that time at 3.08 a gal to $3.87 per gallon. This would raise fuel costs by about $6 per shift to about $34. This is an increase of about 25 cents since the last fare increase.

Using TLC data from 2006, MTBOT determined average driver income by assuming that drivers generate about $315 in fare revenue per shift. Based upon what happened in the last fare increase in 2004 by the Environmental Impact Statement concludes there was a 4 percent decline in trips after the fare increase was implemented.

So adjusting proposed fare increase it would be about $48 a shift. If we take off the amount for the increase, that would net out about $42 per shift that we're proposing an increased revenue to drivers. That does not include night surcharges, rush hour surcharge, does not include tips.

For a driver that has both, an owner driver that has a medallion and vehicle, other expenses have remained unchanged since the last fare increase.

There are drivers who only lease a medallion. Expenses associated with acquisition of a taxicab have to be considered, as well as maintenance. We will look at that and address the DOV issue that the Chair has asked to be addressed.

For owners, other than owner driver, their income is determined almost exclusively by the lease fees that are charged. Generally, there are three forms that lease fees can take. A per shift fee, there is a weekly, daily and 24 hour lease.

MTBOT has proposed that all these fees be increased by the same percentage than our original percentage.

This chart shows the changes in the CPI as compared with the maximum lease rates approved by the TLC. As you can see, the lease rates have not even begun to keep up with the cost of living. This shows what has happened to the cost of living versus the lease cap since the last fare increase.

When we use the lease cap, the blue line down here, that will be for whether it's a DOV, single shift or double shift --

CHAIRMAN YASSKY: Mr. Mazer, I'll note that your 15 minutes has expired. How much more do you have here?

MR. MAZER: Five minutes may I have?

CHAIRMAN YASSKY: No. Why don't you just take a minute and sum up.

MR. MAZER: Well, I want to at least -- well, we lost a few minutes because of the outbursts.

CHAIRMAN YASSKY: Why don't you take another minute.

MR. MAZER: The lease cap you see from here this line shows the cost of living. This line shows the increase in lease cap. Some specific items of cost. Average liability insurance premiums have increased proportionately with the cost of living for named drivers, but actually higher for unspecified drivers. Increase of work compensation premium for the last four years has increased 81 percent.

Then finally, I'll use my final minute -- since you have the data you can go through it and look at what we proposed -- and we talked about in there, just back to the DOV operation just to break even to return to the DOV operation, the $800 figure would have to be increased to $923 a week just to break even. Just to break even.

Then add to that all of the fleet and vehicular purchase, maintenance, other expenses that have to go on top of that on a daily operation.

But the final thing that I want to cover in my last moment is I wanted to simply address that some cities regulate lease caps, some cities don't. This chart, the last one that's in your book has maximum lease rates in a number of cities. New York, Chicago, San Francisco, Seattle and Boston are among the Cities that regulate lease caps.

Now, Taxi Workers Alliance has a website and on the website it has the driver's average earnings and what one would expect is that drivers would do well in cities that they have a lease cap and very poorly in cities that don't have a lease cap.

What the Taxi Workers Alliance show in a city like Honolulu, which has no regulation of lease rate, that's where drivers do the best. Where did drivers do the worst? Chicago. Chicago has the lowest lease cap of any major city. $59 a shift. 275 a week. Their driver income was estimated to be $4.38 an hour. Many cities don't have maximum lease caps. Houston, LA, Honolulu has considered and rejected the idea of lease cap.

What other place doesn't have a lease cap? New York City. Because New York City has no maximum lease rates for for hire vehicles, no maximum lease rates proposed for the borough taxicabs, borough taxicabs with metered rates of fare. Markings the same indicia of being a taxicab except not being able to go below 96th Street or 110th street in New York City, but no lease cap. Regulated rate of fare, no protection for the drivers there.

CHAIRMAN YASSKY: Thank you, Mr. Mazer.

MR. MAZER: I would be happy to answer any questions.

COMMISSIONER DEARCY: First thank you. This is a really thorough presentation. I have a couple of questions with respect to some of the issues on page 10 of the presentation. You'll forgive me I didn't major in math, but I can't seem to get the numbers that you've included here to add up in a way in my mind that makes sense.

In the second full paragraph you have a total operating cost at $71,000 per year. I'm not seeing how, at least in that paragraph, I'm not getting to the $71,000 per year. Then with respect to the daily revenues per car, are you including the monies received from advertising per car? Are you including monies that you receive with respect to credit card fees and if you are not including that, can you tell me why it shouldn't be included? Why are you not including it?

And now I've forgotten my third one-- oh, I would like for you to please, somehow explain to me, I don't get it as a logical extension how eliminating or elevating a lease cap somehow results in greater income towards a driver.

I understand you have a chart that outlines what may be the case in these cities, but what I don't understand is whether or not there's definitely a link that says it's because there is no lease cap that there is higher revenue to the driver because they're paying the leases to you, so it seems to decrease their money.

MR. MAZER: I will take them in reverse order if I may. This chart is not saying that there is necessarily a correlation between regulating lease rates and driver income.

What we are saying is at least lease cap is not a panacea to insure driver income. When the TLC first adapted the lease cap in 1996, the reason it did so was at the time the statement purpose states the commission was concerned there was an increasing number of drivers chasing after a fixed number of taxicabs so as the pool of drivers increased. At the time the total number 11,787 was fixed and these drivers were kind of competing against each other and pricing themselves out of the market.

So the commission decided to put a lease cap to kind of make things go forward with the status quo. At the time they authorized, I believe, a 14 percent increase in general lease rates and set up a system where it would be periodic review based on cost and other factors.

What has happened since then, cost have gone up. We've also had an increase in the number of medallions, over a thousand additional medallions added as well. There are periods of time we don't have to go back to that time, 7 or 8 years ago, there was a driver shortage. Lease caps, they are not set rates. They are maximum rates.

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We can always charge lower. Seven or eight years --

COMMISSIONER DEARCY: I don't mean to interrupt you. I want to make sure you stay on point with the questions I asked so the answer in reverse order to my question, there is no specific correlation between eliminating or raising a lease cap and increased money?

MR. MAZER: No. We're not saying that if we eliminate the lease cap drivers -- I'm not advocating eliminating the lease cap. It's not -- our petition is to have it raised, not eliminated.

One of the things we put in our petition as an alternative proposal to the daily lease rate was what we call aggregate lease rate which would say garage can only charge certain amount a week for a shift driver and what it would enable the garage to do is to charge a little bit more on peak shift and lower if it's offset by lowering the lease cap on other shifts.

That might have a benefit, because it would enable drivers -- more closely match lease rates to revenues. As we talk way back to before we had --

COMMISSIONER DEARCY: I'm sorry, that's an excellent point that you just raised. Can you answer my other two questions?

MR. MAZER: Okay. That's enough of that one. The middle question.

Taxicab, the first one was credit card fees which was 5 percent, 5 percent that an owner is able to deduct from the driver's revenue pretty much as follows. Three and a half percent goes to credit card processing fees. There's no income to the owner for that. The other one and a half percent is designed to compensate the owner for the administrative expenses of administrating the credit card program and also because the TLC rules mandate that every driver in the shift operation be paid in cash at the end of the shift that is because the owner has to advance the driver's money --

COMMISSIONER DEARCY: Is the money that you received -- I'm sorry, I don't want to monopolize your time. I want to know -- I understand why you need to charge it.

Is that money included as well as advertising included in the figure that you have put forth as the daily revenue per car?

MR. MAZER: For the owner or for the driver? That's not revenue to the driver -- revenue per car, no. The $210 fee did not include credit card transaction fees. Like it didn't include surcharge. Does not include advertising revenue. That is not across the board.

Some owners have chosen to have advertising revenue. Some do not. Advertising revenue would probably add more than a dollar or so per day.

COMMISSIONER DEARCY: Okay. So in the figures that you've provided for us, where you have articulated for us or laid out for us what the costs are and what you're receiving, you didn't include credit card --

MR. MAZER: We did in our petition. I didn't include in my presentation today. But in the petition we filed in 2010, we did.

Now back to question one, how we get to the $71,000 figure. Paragraph 3, page 10, all of those expenses are the same. Whether you are fleet operation that owns the car, maintains the car and dispatches the car on a daily basis, you start with the same cost of the medallion. The vehicle is the same. The medallion is the same.

The rate of return we applied for corporate medallion, I took from draft environmental impact statement TLC took this past week. They did an economic

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impact study on the effect of the additional medallions and they made an assumption proper rate of return for a corporate medallion is 3.2 percent. On current prices that would be $32,000 a year.

After that I factored in the amortization of the cost of the car. If the car was on the road for 3 years or 5 years. A Taxi of Tomorrow would be $30,000. Over three years it's $10,000 a year. Factored in over five years, it's $6,000 a year. Then added to the cost, the liability insurance which we had that chart there, which for a typical double shifted vehicle runs about $11,000 a year right now.

Then we have Workers Compensation insurance which right now is $2,000 a year. That total 32, the 12, the 2 and 12 brings us to 48. Then we add in on the bottom the cost of the vehicle.

If you're a DOV, you don't have the cost of the vehicle. That cost is borne by the driver. That's $10,000 a year in fleet case. And based upon data, we have the cost of everything else, a garage cost, maintenance of a car, repairs, administrative expense, the cost of keeping up a garage.

So if you start with that return development on medallion, liability insurance, Workers Compensation insurance at 48, the bottom half, you get 20 bringing to 71.

CHAIRMAN YASSKY: This has been actually quite illuminating because now I think that I understand what the difference has been, and I think that maybe it's a math difference. I think we may be double counting.

In other words, you're saying part of your cost structure is the $32,000 in rate of return to the medallion. So what you're saying is if I own the medallion and I operate it in a fleet fashion, my profit is that $32,000 plus the $5,000 down at the bottom for a

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total of $37,000.

So using that million dollar evaluation, that would be a rate of return of 3.7 percent which is probably actually competitive with other investments like T bills and S&P 500.

I now realize -- I have been at a loss to understand what is the claim, how is it that saying well, I'm willing to pay a million dollars for a medallion, but it doesn't profit anything. It profits 32,000 a year or 37 which is a decent rate of return.

MR. MAZER: Put it this way. That would be a rate of return if somebody brought a medallion maybe 20, 30 years ago and you own it outright.

Now, if you buy it today, that rate of return is in the form of a check that you pay out to your credit union. In our petition we show average cost of financing a medallion loan today. You brought your medallion --

CHAIRMAN YASSKY: When you say --

see at the bottom you say rate of return of $5,000 for a return of .5 percent. That assumes the million dollar of equity. You can't have it both ways.

If your investment in a medallion is $100,000, then a $5,000 profit would be a 5 percent rate of return.

MR. MAZER: No.

CHAIRMAN YASSKY: Well, I think that math you can't argue with. If your investment is a million dollars, you have to count the entire profit which is $37,000 by your calculation or 3.7 percent, again a healthy rate of return.

MR. MAZER: The difference is you're combining two things that cannot always be combined. One is the rate of return on a medallion investment.

So a million dollar medallion yields a rate of return of 3.2 percent if it yields to the owner $32,000 a year. I don't know if it's a right number or wrong number. It appeared a week ago in your draft environmental impact studies, so the economic analysis done by the consultant used that as an appropriate rate of return. The $5,000 or the half a percent of rate of return is rate of return on operation which is not necessarily tied to the medallion owner.

In many operations, as you're well aware, a medallion owner leases the medallion out to an agent. If a medallion owner leases medallion out, a fair rate of return would be $32,000 a year. That's about what, right now, is a going rate for monthly lease of a medallion.

So if an agent wanted to lease from an owner in Florida, they pay $32,000 a year or about $2,600 a month. That's a fair rate of return for a medallion, now --

CHAIRMAN YASSKY: So you're saying your cost analysis is based -- the biggest part of that $32,000 number is not the actual cost to a fleet, but is an imputed cost taken from an environmental impact statement.

MR. MAZER: When an agent writes a check every month for $2,500 to $3,000 that's not an imputed cost, that's real money coming out of his pocket. That money has to come from somewhere. If the city wants to buy up all the medallions for 11 billion dollars --

CHAIRMAN YASSKY: I understand that is the case. The current market rate-- fleet rents a medallion from a passive investor, retired driver whatever, is paying maybe 3,000 a month?

MR. MAZER: 25 to 3, that would be the $32,000.

CHAIRMAN YASSKY: Why does the fleet do that?

MR. MAZER: That's the fair rate.

CHAIRMAN YASSKY: Is it profitable?

MR. MAZER: That's the numbers here.

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CHAIRMAN YASSKY: I'm asking you in the real world.

MR. MAZER: I think these numbers are very close to the real world. $32,000 is a real number. That's what the fleet pays.

CHAIRMAN YASSKY: You're saying fleet managers turn a profit of 5,000 per year per car?

MR. MAZER: Based on these numbers.

CHAIRMAN YASSKY: There's no cap on that?

COMMISSIONER DEARCY: Is it possible -- I am certainly -- absolutely sympathetic to the notion there have been increased costs that have been borne by the drivers and for me right now, what I need for you to do for me is to explain to me the increased cost borne by the owner, and I have to be honest with you, I am not yet there with you.

So perhaps, what you can do, at least for me, I don't know about the other commissioners, if you can give me some information that supports these numbers so that I can then dig into these numbers and get it. We're talking about how it is that we're going to -- if there's going to be an increase, how it is that we are going to divide that increase equitably. And the only way for it to be equitable in my mind is by increasing the lease cap, which would take some money from the drivers.

If I could really understand what's going behind these numbers, because right now I just am not getting it.

MR. MAZER: Some of that was in the part of the presentation that I had to cut. What you have is real numbers. Liability insurance which is the last fare increase borne by the medallion owner --

COMMISSIONER DEARCY: You've given me some numbers here. Is there some data you can provide that --

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MR. MAZER: Those are the numbers that have increased since -- we start with the premise in 1996 when commission established lease rates. That there had to be some basis for that. Maximum lease rates. These maximum lease rates were adjusted in 2004 upwardly adjusted.

CHAIRMAN YASSKY: What's happened since then, since 2004 last adjustment. What cost increases are there?

MR. MAZER: Well, that's some of the material that I had we cut out. We started with liability insurance which basically doubled. We showed that since the last, even going back to -- forget about the 1996 to 2004. Even if we make an assumption that we reset the clock and we're now at a level playing field since 2004, that the increase in lease rate compensated owners from '96 to 2004.

If you start at 2004 as a baseline, you've had a cost of living increase

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during that period of 20 percent which is consistent with what we're asking for in the lease cap adjustment.

If you're saying maybe individual expenses to the owners are a little bit different, what you have to look at would be liability insurance which have gone up as much, if not higher, than the cost of living.

Workers Compensation insurance which has gone up or is higher than the cost of living. The cost of vehicle purchase, which has gone up by about a third and will go up even more a year from now when the Taxi of Tomorrow is introduced by about two to $3,000 more than any other car that's currently on the road except the Lexus or some high end cars.

Those are real numbers. Saying, well, the cost of living has gone up 20 percent, but are the elements that go into the taxi rate of fare and the elements that go into taxicab owner's expenses, did they go up proportionately different or not and the major items of cost which are the cost of vehicle purchase, insuring the vehicle and the cost of vehicle repair went up at least as much as the cost of living, if not more, in the period of 2004 to the present. That's an eight year period where we see cost of living go up 20 percent or more. Cost of vehicles go up 20 percent or more. Cost of insurance go up 20 percent or more. Cost of compensation almost double.

Other expenses, like the fact that the owners have to pay the MTA surcharge, they have to collect and remit that expense administratively go into all of these things and it is an expense. Collecting money and paying it out, it is an expense to the garage, to the passenger.

Am I going to say the fare increase is simply justified by a fare increase in administrative cost, not necessarily. But certainly when you factor in the cost of the insurances --

CHAIRMAN YASSKY: Are there further questions from other Commissioners?

MR. CARONE: One question, Mr. Mazer. You're rattling off many different costs. I'll be asking you for follow-up written submissions.

I just have a question. Since 2004, has the garages and fleet operation have increased new payroll costs to run such garages?

MR. MAZER: Well, in a perfect world that would be an increase where garage staff is going to be an area they would cut. They have to make ends meet. They don't have enough income. They can't get insurance. They can't cut the purchase of the car. What you cut is your garage staff. You go from five dispatchers to four. You lay off a dispatcher. You cut dispatcher's salary. The mechanics have to work longer hours for less.

Those are the people that are suffering. Those are the people that are bearing the burden of the lack of a lease cap. It's not the insurance company. Insurance company is getting its money whether you raise lease caps or not. The Workers Comp has to be paid. It's the inside people. The man at the window --

CHAIRMAN YASSKY: Mr. Mazer, I'm sorry, I feel like -- am I right somehow no increase in personal costs because the fleet has had to economize.

MR. MAZER: I think that's fair to say.

CHAIRMAN YASSKY: As everybody else because of the economy, we've all had to do more with less. Very quickly, do you have a view as to the appropriate difference between the fleet lease rate and the DOV lease rate and if you don't have it now, I would ask you to submit it in the next few days.

The question is if the sum of the shift lease rates for per week is 1,570, what costs are there that a fleet has that a DOV owner does not have, DOV medallion owner/agent that justify a $750 difference. How big a difference should that be, 750, 650, 550 and why?

MR. MAZER: In the petition, I said based upon current, it would be a breakeven point --

CHAIRMAN YASSKY: You would keep the disparity where it is in the petition. Can you explain that? What does a fleet do that DOV doesn't do that adds up to $35,000 a year?

MR. MAZER: Everything connected with the car. The fleet owner bears the cost of the car, cost of repair on the car, cost of all accidents on the car and repair work. The cost of collision and comprehensive additional expense of dispatcher --

CHAIRMAN YASSKY: You think that

adds up to some $40,000 per year per car even though that's 200 vehicle fleet might have 10, 15 mechanics that's spread over the whole fleet?

MR. MAZER: You have to add a few things. You're assuming, first of all, that the fleet gets the maximum lease rate for every shift and every car that goes out 100 percent of the time. There's a loss --

CHAIRMAN YASSKY: That seven percent, that's one element. I got that.

MR. MAZER: One element is the cost of the car which we're estimating is $10,000 per year. Second element is the cost of care and maintenance of the car which we estimate is $13,000 per year per car brings us to $23,000. We lose approximately $10 off the maximum lease rate per shift, which would bring you down $7,300 because you don't get every car out on every shift. Then you have all of your additional interior staff. You go to a DOV operation --

CHAIRMAN YASSKY: I guess what I'm going to ask, would you be willing to submit something that addresses specifically that question that is in writing itemizing the fleet costs in excess of the DOV costs to itemize that disparity?

MR. MAZER: It's in our petition and certainly we can update it --

CHAIRMAN YASSKY: If you want to rest on the petition --

MR. MAZER: No, because things have changed in the two years.

CHAIRMAN YASSKY: Well, then rather than take the time now. Commissioner Gjonaj.

COMMISSIONER GJONAJ: Since you're submitting additional information in writing, can you please also address 2004 as a base year showing us exactly what the increases have been since then as it pertains to you?

MR. MAZER: As it pertains to us,

since our petition is not just for fleets it's also for DOV and lease managers, it would include everything for justifying both increases in the weekly DOV or medallion only rate as well as the increase in daily rate. I will do that.

CHAIRMAN YASSKY: Thank you. Commissioner Marino, do you have a question?

COMMISSIONER MARINO: I don't think so. I'd like to see the further submissions.

CHAIRMAN YASSKY: Mr. Mazer, if you wouldn't mind, will you stay around for a while because if we have time to return to you, there's a lot I would like to explore. I just don't want to hold up the meeting anymore.

Whatever submission you make, please do make in the next few days. We're eager to move forward on this topic. Thank you.

CHAIRMAN YASSKY: Why don't we hear

the next speakers and next we'll hear from Bhairavi Desai from the New York Taxi Alliance.

MS. DESAI: Good morning. We have a number of speakers from the Taxi Workers Alliance, so in the interest of time, we thought, at least for the presentation, that three of us could come up to together.

Along with me is Mohan Singh and Beresford Simmers both organizers and committee members and long time drivers as well from the Taxi Workers Alliance.

Oh, boy where to begin. It's hard to know where to begin. Let's begin with the harsh reality. Since 2006 up until today, taxi drivers have seen a loss of income in 25 percent when you adjust for inflation. Twenty-five percent loss of income for a working person is a serious, serious obstacle for your quality of life. It has meant people that have had to move. People have come into our offices with eviction notices.

I cannot tell you the number of people we've had to refer over to Legal Aid Society for services. People who had their kids choose whether or not to go to college next year or what kind of a college to go to in light of that economic reality. People that continue to work even when they're sick or they are deadly exhausted.

It has meant families that have literally sent their wives and their children back home because they cannot afford to keep an apartment for an entire family, so instead drivers will stay here, earn the income and have roommates with strangers, rather than having that comfort to live here with their families.

I'm not saying this to be rhetorical. I'm saying this because this is the goddamn truth. We see this day in and day out in our office. We see within a week over 200 drivers who come in our office for service.

Sajad Mockton (sic) was a driver for 17 years in this industry. I'm sure you're all aware of his case. Jerry Dunfey was kind enough to visit in the hospital. Sajad, he pulled over for a passenger in midtown. He saw her taking some time. He got out, he said excuse me, miss, that's my job. He put the luggage into the trunk. As he was loading it, a drunk driver operating an SUV at high speed rammed into him from behind. His legs were pinned between the two cars. His left leg was amputated.

He was in a medically induced coma for several days. His right leg has a massive brace because they're not sure if they'll be able to keep it straight and he is going to be at the rehabilitation center for months and months and months. He's already had over a dozen surgeries.

His wife and his kids had just been

moved to Bangladesh a few months before this incident because they could no longer afford to be here. His wife got the call. She came back to the country with her two young children. They didn't have a place to stay because he had moved out to live with roommates. They've been basically depending on the kindness of a few family members and mostly friends in order to get through this time.

All he has available to him is a measly pathetic Workers Compensation payment of less than $200 a week while he's in that rehabilitation center and trying to figure out how his wife, and his two kids, including a newborn, are going to survive.

So excuse me if I don't give a damn that a fleet operator is seeing a net return on their operation less than what they have expected.

I remember Kevin Fitzpatrick. A veteran driver over 30 years. When

Kevin was diagnosed with lung cancer, it was heartbreaking for us to watch him go from a hospital chemotherapy room back to the road because he had no savings after being on this job for three decades of his precious life. Up until his last day on earth that man had to work.

I remember when Enois Malbranche was shot in the Bronx at 7:00 in the morning in Brooklyn. They first robbed him and then as a joke they then shot that man. A few months before he was shot, his wife had just died from cancer.

I remember talking to his kids who didn't know if they were going to have to bury a second parent within a couple of months and all he could ask me was how do I continue to survive? I don't have any savings. There is no other insurance. I have nothing coming in.

These are men and women -- I remember when Vivian Borgess (sic) was pregnant and she was leaving from Kings, Brooklyn. She was diagnosed with diabetes at that stage of her pregnancy. She was into something like her seventh month. She kept that car cleaner than anything I've ever seen in this industry and they still took that medallion off that car, left her with nothing.

The woman was seven months pregnant. Where was she going to go to get another job? We see these incidents day in and day out.

Now, I'm not saying this to demonize every single garage owner or every single agent. My point of this story is actually not them. My point of the story is the drivers and their families.

When you are not able to earn a decent living, you have no savings to fall back on and so when there is a crisis, you go from working poverty to desperate poverty and people don't know what to do.

I can't tell you what it's like to have grown men with teenage kids come to your office and you see them tearing up because if they lose their license for 30 days, they don't know how they're going to make ends meet.

It is absolutely unacceptable to run an industry where men and women are laboring 12 hour shifts, 60 to 70 hours a week. Serving close to a half a million people. Making sure that they get home safely. They get to their work, their place of business.

They allow for so many industries from airlines, to retail, to finance, to the social services, to the education sector. All of these individuals depend on the priceless labor of taxi drivers. It is unacceptable that we have an industry where we say that these men and women can see their incomes drop by 25 percent in just a six-year period and that we want to debate how much a fleet owner should still get.

I'm sorry, but I can't -- I really try to be composed. I've been doing this for 16 years. Most of you know I come up here composed, but when I hear these statements, it is beyond me to understand why don't we have a more humane industry?

Why is the medallion the only thing that has any value in this industry? What about the men and women who, with the blood and sweat and tears, brings that medallion equity.

I'm sorry, when I hear about the fleet owners that own two polo clubs and yachts and have so much real estate and then the drivers who are debating how they're going to go from a two bedroom apartment to a one bedroom I mean, my God, don't you see that injustice? We cannot allow that to continue. We need this raise. It's not rhetoric.

We don't have political action committees. We don't have lobbyists that are going to come knocking on your doors, that are going to insinuate, you know, campaign money or talk to the people that make the appointment.

All we have to bare in front of you is our heart and soul and that's what we're doing today.

The drastic reality is the drivers need to earn -- they deserve a decent living. The fare should be raised. Our proposal is a modest proposal of just 10 cents more on mileage, 10 cents more on the waiting time. We're talking about $1.80, $1.50, up to $2 more for the average ride. You don't punish the ones for the small trips. You don't have them subsidizing for the longer trips. It is a fair proposal in all the connotations of the word fair.

Because of the 5 percent, it has been a major cash flow, you know, imbalance for the drivers. The

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majority of drivers are still weekly drivers. Yes, they get charged the daily rate.

Before 2004, I remember all the garages -- and many of those owners happen to be in this room -- they still gave you, you know, charged you at the weekly rate. After 2004, even though you were still working six to seven shifts during the week, they still started charging you by the daily rate.

You go to Yakwell today, you go in the beginning of the week, you have steady car, steady partner, you might change shift here, you might change shift elsewhere. It doesn't matter. They give you seven different receipts. You see, this is for Sunday, this is for Monday, Tuesday, Wednesday, Thursday, Friday, Saturday. Look at the date of the receipt. It's all the same date because you paid it all up front. You're a weekly driver. You should be charged the weekly rate.

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You are making a sacrifice by working the entire work. You are making sure that the fleet has steady revenue. You're making sure the City has steady service. You should be given the respect of a weekly rate and not be charged at the daily rate.

For the DOVs, listen, if medallion owners, the private owners are now demanding or getting between 2,500 to 3,000, who created that scenario? They weren't out there lobbying for it. That scenario got created because the fleets were looking to take the private owners away from the agents and so they could use that medallion and run it as a fleet operation and charge it as a daily rate compared to that owner getting their money from an agent.

Who took the hit from that driver? When Ronart made that conversion a couple of years ago, they took the medallion off of all these cars. Drivers had paid thousands and thousands of dollars in investments to buy their vehicles. The medallion got removed. The car was worth nothing. Then they said to the drivers, we can sell it in Chicago if the mileage is good enough or you can come back to me tomorrow and you can start working here as a garage driver.

Checkers is now saying that to the drivers today. We have no control. You know, the games get played between these two massive interests within the market and it's the drivers that pay the price and get squeezed in the middle. There has to be an equity where if you are -- where the rules have to be abided by everybody in this industry.

There are such aggressive regulations of the drivers, but when the agent started charging the additional -- first there was, you know, for the technology and then the tax stamp. Both of these are medallion costs that got passed down to the drivers, additional driver fees.

When all these started out, drivers had to keep paying more. There was never any relief given to them. When the fleet started charging daily rate, even though you were weekly, there was no relief ever given to the driver.

When they say to you there has been no lease cap increase, that's pure words. The reality is that they have managed to increase the cost on drivers by hook or by crook. It doesn't matter what's gone on paper. The reality is that they have increased what they are charging to the drivers and that is one of the reasons that drivers are earning 25 percent less today than they did even six years ago.

As it is the credit card, 5 percent. If drivers were allowed to be the merchant on record, they would be paid half of that. Within a year it adds up to 2,000 to $3,000 in income.

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That is significant. That on top of the 25 percent less than you're earning, otherwise these are significant losses for people that, simply put, cannot afford it. We need a raise. We need the lease caps to be frozen. We need the overcharges to be stopped.

We need a genuine lease cap enforcement unit that would make sure going forward this overcharge abuse is not continued. We need a health and wellness fund so when you put 17 years of your life since you're a kid in your 20s you put 17 years of your life into serving the public, that at the end when something goes wrong, you have something to show for it.

That the very industry whose wealth and vitality your labor and sacrifice are creating, that that industry will say to you, we don't just care for you when you're sitting behind the wheel and earning our money, we just as much care for you when you have been hit by a crisis and you're either in a hospital bed or you're at home recovering from any kind of an illness or an injury.

We need this industry to show that drivers have a right to a living with some sense of dignity and that at the bottom line means a livable income and health and benefits. Thank you.

(Applause.)

CHAIRMAN YASSKY: Commissioner Marino.

COMMISSIONER MARINO: Other than the credit card charge, what are these other abusive charges you're referring to?

MS. DESAI: You got the steady car, the steady partner, you know, you're returning -- it doesn't matter, you could be returning to the fleet to do your shift change or you could be meeting elsewhere to do the shift change, you're paying upfront for the entire week, so they have their revenue and you're providing steady business.

COMMISSIONER MARINO: What's the overcharge?

MS. DESAI: The overcharge is we have a weekly lease cap of $666 for the week. You ask any driver, you know, they won't be charged that weekly rate. Instead what the fleets will do, they take each day of the week -- so let's say for the standard vehicle, day shift it's $105. Instead of charging you $666 they'll charge you over $700 because they'll take 105 and multiply it by 7 which is $735.

CHAIRMAN YASSKY: If I can interrupt for a second. Our lease cap rules have a number of -- it's not one simple number. There is a rate for each 14 shifts, Monday morning, Monday evening, Tuesday morning, Tuesday evening, so forth. Lease caps also contemplate a fleet may wish to lease for a driver for a week's worth for 7 morning or 7 evenings. So the morning rates are all $105. The weekly rate for 7 morning shifts is $666.

The practice that she is describing, if that occurs, would be that somebody would give you the car for all 7 mornings $105 times or 7 for $735.

Our rules expect that if a fleet leases to the same person all seven days, they won't be charged for seven individual shifts. They would be charged that $666.

COMMISSIONER MARINO: That sounds more like an enforcement issue though.

MS. DESAI: It is definitely an enforcement issue. The second version of overcharge would be for the DOV model where, you know, you enter a contract, the car is financed to you, you're leasing the medallion.

What we have seen -- and the medallion cap is $800 if it's standard or it's $842 if it's a hybrid. We can show you a number of contracts and receipts where instead the driver would be charged, you know, an extra $23 and they now call it a vehicle expense, but a few years ago when it was started, it was called the tax stamp.

A tax stamp, it's a medallion tax what you voted on earlier that it would stay with the Department of Finance. That is paid by the medallion owner. The fleet with DOVs, the agents have been charging it to the driver instead of including it as part of the medallion lease, which it should be.

Also they've also been charging something called an additional driving fee. It used to be for years, for 15 years that I knew of, two drivers would go in together to the specific agent, they would want to buy a car. Both of them would be on the contract. They share the contract, share the expenses, what have you.

About a year or so ago, the agent

started saying we're only going to contract one person at a time. So you can't be the only driver 24 hours, seven days. You're going to have a partner, somebody else working with you. So for that second person, they charge what is called an additional driver fee. They say it's for the insurance, but from everything that we have seen, the insurance policy is going to cover more than that one person. That's the second thing.

Absolutely these are enforcement issues, but I wanted to bring it up in the context of this discussion to say that, you know, if you further increase the lease caps, all it will do is increase these higher leases that drivers are already paying.

In addition to this rule making where fare goes up and the lease caps are frozen, we need a redefinition so the rules become more clear and effective immediately stop these overcharges.

CHAIRMAN YASSKY: Commissioner, do you have anything further?

COMMISSIONER MARINO: That's it for now.

CHAIRMAN YASSKY: I just want to make sure I -- is your testimony that the reason that medallion values have gone up so much and doubled since the last fare increase in 2006, are you saying that's in part because fleets and owners -- even though lease cap rate has stayed the same, by figuring out things by like using daily rate instead of weekly rate, additional driver fee, vehicle sale price that has a built-in surplus to it, that the owner is, in fact, collecting more even though the stated lease cap has stayed the same?

MS. DESAI: Yes, they are absolutely collecting more on the lease.

Secondly, on the 5 percent there is

a percentage of that that they turn over to the vendor. Come on, even on 1.5 there is a fact built into that. They cannot say that there isn't. There's other -- besides the advertising revenue, you know, I believe --

CHAIRMAN YASSKY: I'm sorry, Ms. Desai. Commissioner Marino, I do want to say you are correct. It is an enforcement issue.

I think it's a scenario where we at the TLC do need to do better. The truth is since the lease caps were created, there had not been any enforcement action, any summonses issued for lease cap violations, presumably that's not -- because there were never any violations, but because we didn't really have the resources to tackle that.

Even given our very limited means, we have now assigned one of our attorneys full-time employment to

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handling lease cap enforcement that has begun to bear some fruit.

We have issued the first sets of summonses for overcharges for things that include the contractual overcharges that Ms. Desai was describing and also some more garden variety, for example, saying that drivers were late returning when they weren't really late. We felt comfortable issuing a summons for that.

After reviewing records for that, we see that every single driver was charged a late fee and it didn't seem plausible that every single driver was charged a late fee. I agree.

Commissioners, that's something as we might have a briefing specific on that, by the staff. Commissioner Polanco.

COMMISSIONER POLANCO: Thank you. One question that I have because I was reviewing the petition. This was submitted two years ago as well?

MS. DESAI: One year ago.

COMMISSIONER POLANCO: Because I know you mentioned the drivers lost 25 percent income. I'm trying to figure out where the 25 percent is coming from. Is it for the credit card fee as you mentioned, that 5 percent? Is that 25 percent encompassing that? Is it encompassing the fuel cost? I want to know where that 25 percent income you mentioned is coming from.

MS. DESAI: One is absolutely fuel. We pay for that a hundred percent. At the time of our last overall fare, which was actually eight years ago, it was a $1.80. From '06 to now, fuel has gone up. Again drivers bear that cost out of their own pocket.

Secondly, on the leases, there is so much more. Since December 2011, a fleet driver is now paying an extra $4.77 per shift on the sales tax. While the TLC had regulated to include that as part of the lease in 2009,

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there was litigation which overturned that regulation and so now drivers are paying that $4.77 on top of the lease.

Absolutely on the 5 percent -- and in -- just in terms of the overcharges like how much people are paying in lease. How much of a large debt they are beginning in -- in every single shift. Then there are other factors.

I think Mr. Charbel was just talking about traffic. You know, in many ways, drivers now have less road space to operate in given the number of bike lanes and bus lanes that are out there. We're supposed to be able to pick up and drop off at bus lanes, but you still get summonses for it.

All the illegal pickups -- I'm glad to see that the enforcer has picked up on it, but we know that driver income has absolutely been affected by that over the past several years. And the fact that through this recession, you always call recession of the fleet's

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market.

While they are able to get maximum dispatching on all of their vehicles, on the flip side of that coin drivers are facing more competition.

I've seen some TLC data when you look at the overall number of trips that are being completed by the industry, while the overall number might stay the same collectively, the number of fares are being split among a greater number of drivers in a vehicle. So per driver you're actually booking less trips.

COMMISSIONER POLANCO: So then relating that 25 percent basically the sales tax and the -- well, you mentioned the overcharges by the garages and the 5 percent credit card fee.

Those are the three items that you mentioned that are clearly associated with the leasing, and all the others are cost of living, fuel costs, recession, summonses, they are outside of their control, I suppose. I just wanted to have that breakdown in my head.

MS. DESAI: Yes, thank you. One other thing I hear people saying, the MTA tax when that started in November of 2009, you know, people did see that it affected the amount of tips that they were earning and it became a cash flow issue because every day the amount that you are turning over becomes greater.

I know for owner operators when they turn that in on a quarterly basis, this is one of the reason we've gone to Chairman Yassky saying please keep it with the Department of Finance where it's still $500 every six months instead of $2,000 every two years, because the cash flow -- there's the daily income, the weekly income, the monthly income and then the annual income, how all of those numbers add up and driver income fluctuates with the season of work as well as, of course, with the prices of gas.

But the other issue is, therefore, because of the fluctuation, your cash flow is volatile. It's going up and down, up and down. So if you get hit with a major expense when you're on the downward spiral; I mean, that's when people end up going into their own credit cards to pay their bills or taking out loans. That's whether you're a lease driver from a fleet boss or an agent.

CHAIRMAN YASSKY: Commissioner DeArcy.

COMMISSIONER DEARCY: Let me start by saying I am proponent of the fare in my mind it is how -- but looking at page 7 of your proposal in your chart, you say the request was for 15 percent increase.

My question for you is, if I am a passenger that is traveling at 7:00 in the morning, have you calculated where there's going to be wait time? If we were to enact each component of your proposal, is the cost of that ride only increase of 15 percent, or is it 15 percent plus an additional $1 for the rush hour surcharge and then an additional 15 percent per mile assuming an average trip?

If it's not just 15 percent, how much then is the increase, if we were to adopt this proposal as is?

MS. DESAI: Sure. We have a number of scenarios. We are looking at the mileage and the time or the length of the trip depending on the time of day how much the increase would be.

I don't have all the numbers in front of me, but we can definitely get that to you. The total would be between 15 to 20 percent depending on the time of the day --

COMMISSIONER DEARCY: So 15 percent is the floor of what your proposal is.

It's not really the proposal?

MS. DESAI: Yeah. We don't claim that it is. I cite this in the petition because we're looking at the most common typical trip for the most common time of the day. That's why this scenario is in the petition.

As we expressed to Chairman Yassky, depending on the time of day, it would be between 15 to 20, but we can get those scenarios to you.

CHAIRMAN YASSKY: I'd appreciate that.

MS. DESAI: Sure.

CHAIRMAN YASSKY: Commissioner Gjonaj.

COMMISSIONER GJONAJ: First of all, I see a major flaw in the TLC. It is a disaster when it comes to the enforcement.

The explanation by the Chairman that we have an attorney looking into it is not an answer. Chairman, an attorney does not resolve the issues that were just brought up as far as enforcement goes.

CHAIRMAN YASSKY: I see that. I do see the need for strengthening our capacity to enforce the lease caps. We have many parties and we have increased our field enforcement quite substantially. I would like to work with you on implementing that.

COMMISSIONER GJONAJ: I think there's no doubt or any question in anyone's mind but we have to clarify exactly what charges are permitted and what's not and where the infractions occur. And I don't think this has occurred at every single level at every single garage --

MS. DESAI: There's no garage that is charging a weekly rate. They're all charging you the daily rate. No agent is sticking to the contract or sticking to the medallion only lease cap. We've seen this to be systematic across the board.

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COMMISSIONER GJONAJ: My last comment is, I'd really like a much clearer breakdown of this 25 percent loss in income using the 2006 model as well, that's the base year. And my last question to you is, how is it that we can wait six years for a fare increase? There is a fundamental flaw --

(Applause.)

COMMISSIONER GJONAJ: By the sound of applause, maybe it is too politicized for us. It's not helpful for the entire industry top down or bottom up -- what would you suggest be a better means of addressing any increase in cost of living, whether it be through fuel or other, what kind?

MS. DESAI: So, I mean, this process is certainly part of that solution. Just to go back to your first point, and other commissioners had also asked about the 25 percent breakdown, I do just want to add to that.

It's not just about the number of 25 percent and where it comes from. It's really much more about the amount of money that it leaves drivers with and how, on certain shifts, you really are earning less than minimum wage and bearing in mind for a taxi driver every single shift is overtime.

For us this is an opportunity not just to bridge that 25 percent, but more importantly to bring driver's incomes to a livable income standard where people can enjoy a dignified quality of life, given the hours of work that they labor and service they provide.

In terms -- I think you're absolutely right. We need to have a real solution where we look at the impact of the cost of living on driver income, you know, on a regular basis. And we would say that, just like lease caps, there has to be a hearing on lease caps every two years. I would actually say it should be every year. As part of that, you look at are drivers earning a livable income. There are so many things you cannot quantify even when you say 25 percent livable income. Like the impact on a person's health.

In the City, in the administrative color grid where it lays out all the guidelines Commissioner Carone mentioned earlier, it doesn't quantify the amount of back pain people feel. It doesn't quantify the number of times you need to call out sick but not able to because of your expenses and you're not earning enough.

We need to have a system that, first of all, recognizes a working person's right to a quality of life is a policy matter. And it's policy matter that fundamentally must be centralized by the TLC as a regulatory agency.

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Secondly, that it must be done in a timely manner, where I would say at a minimum of once a year where we look at the totality, not only the fare and the lease and the impact and things like the 5 percent.

You know, the MTA, the State came down and said we had to collect the MTA tax, right, and the TLC enacted rule making to allow for that collection, but we never had a hearing to talk about the impact of that on driver incomes. I think the State should be told what that impact is if they're going to be making those decisions.

I think in looking at broader issues of traffic, how much the traffic that there are so many turn restrictions now being imposed on taxi drivers that did not exist even a few years ago. That has meant it takes longer to finish your trip. We're able to serve less passengers.

Not only does it affect the

driver's bottom line, but it even affects the riding public. It's a DOT matter, but the TLC is actually much more situated to have a thoughtful feuding about the impact of traffic on driver's livelihood as well as on the quality of service that we're able to provide to the public.

COMMISSIONER GJONAJ: When you do submit your response, please put in that yearly review. I'd like to hear more about it and anything you have to say on it.

MS. DESAI: Thank you.

CHAIRMAN YASSKY: Thank you, Ms. Desai. Thank you very much for your testimony.

We're going to take a half hour recess and we will reconvene at 1:45. We have about 25 speakers that have signed up to be heard.

(Whereupon, a luncheon recess was taken from 1:11 to 1:56.)

CHAIRMAN YASSKY: Next speaker on

our list is David Pollack representing the Committee for Taxi Safety.

MR. POLLACK: Good afternoon, Commissioners. As you all know, I'm the Executive Commissioner for the Committee for Taxi Safety. As Mayor Bloomberg stated: "If you think about it, people who work in the taxi industry have to make a living." We agree.

It's been eight years since the agents have received a lease cap increase, and eight years prior to that for a lease cap increase. The lease cap is an artificial restraint on just one segment of the taxi industry.

Drivers can work the number of days and hours they wish, thereby earning more money, while owners can demand from leasing agents as much as the market will bear.

In contrast, leasing agents are the one and only segment of the industry which is limited as to what it can earn

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due to the TLC imposition of a ceiling, a maximum amount that the agents are allowed to charge the drivers for leasing a medallion and vehicle.

Any time you impose an artificial economic restraint on just one segment of a multi-segment relationship, there will be distortions in the marketplace which is exactly what happened here.

That distortion is evident in various ways, with perhaps the most apparent example being the difference in the lease caps for fleets, the DOV segment of the industry.

DOV agents and fleets provide substantially similar services to the taxi drivers and to the public. We both provide for vehicle purchase, vehicle financing, vehicle hack up costs, medallion financing, compliance with TLC mandates, third-party liability insurance, Workers Comp insurance, administration of EZ pass, Parking Violations Bureau red light summonses and by providing collision service contracts, the cost of vehicle repair.

The primary difference between fleets and DOV agents is that the fleets maintain garages to repair the vehicles that are part of their fleets.

In contrast, DOV agents do not maintain garages or mechanics -- I do have one that maintains a garage -- however, in response to driver demand, most DOV agents offer collision service contracts pursuant to which drivers pay a deductible per accident and the agent is then responsible to repair the vehicle.

In the DOV operation, if the driver is able to keep the car on the road for five or six years, that driver does not pay for his vehicle during the last three or four years of its allowable usage allowing DOV drivers to dramatically increase earnings and giving them much greater opportunity to save enough to purchase their own medallions.

Because of the driver's ownership interest in the vehicle, both the TLC and the independent studies by both Schaller Consulting and by the Design Trust for Public Space have found that DOV drivers are safer and better drivers than shift or short-term drivers. DOV drivers have better safety and they have less than 22 violations.

In its 2006 report, on the state of the Taxi Industry, Schaller Consulting found that, quote, "The biggest gap in summons rates, a difference of 280 percent, is between relatively new part-time drivers and the most experienced full-time drivers. The clear implication from this data is the more experience, the more dedicated driver working force would better serve the public," end of quote.

The findings in the Taxi 07 Master

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Plan Design Trust For Public Space found the same, quote, "Owner driven cabs are also safer; they have 43 percent fewer crashes per mile driven, compared to vehicles that are leased by the shift," end of quote.

Accordingly, the benefit of the DOV segment of the market to the public is beyond challenge. But that is not the only advantage. The DOV segment of the market also provides numerous advantages to the drivers.

As the TLC has found in its own studies, the driver has substantially more income driving long term than by shift. Under long-term leasing, the driver has always had its choice of vehicle as opposed to being given a vehicle that the fleet chose for him. Under the long-term leasing, the driver can choose the days and hours they wish to drive, as the TLC acknowledges in its own reports.

In essence, the DOV model has

largely replaced the owner-operator, an avenue of upward mobility for taxi drivers. Additionally, with long-term leasing, drivers can contract directly with second and third drivers and earn substantial amounts of money by having second and or third drivers driving different hours than they drive. That income is the driver's income, not the agent's.

There is also a very active market for the sale of taxi vehicles by DOV drivers to other drivers who wish to drive for that purpose. Drivers often sell vehicles for $10,000 or more. Drivers can only achieve all of this above if they are long-term drivers, not shift drivers.

The success and need of the DOV model is indicated by the simple fact set forth in the Taxicab Fact Book that 44 percent of taxicabs are leased to drivers on a long-term basis. That is nearly half of all the drivers leasing, but as important as the DOV segment of the taxi industry is, that is being priced out of existence.

Agents manage medallions generally owned by third-party owners. As the owner of asset will do, the owner seeks to maximize his or her return and will contract with a licensed agent which can pay it the most.

Due to the difference in the lease caps, fleets have been able to offer substantially more money to owners than DOV agents because they are allowed to charge the driver's more. It is truly a very simple concept: If you can collect more, you can pay more.

If you can, more owners seek to maximize their return, will contract with fleets rather than to contract with someone who can pay them less.

Although we readily acknowledge there are differences in some costs between agents that have long-term leasing operations and agents that

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lease by shift, that operational difference does not level the playing field in terms of income, with the proof being that the fleets, those leasing by shifts, are able to do and do offer substantially high management fees to owners, thereby placing the DOV segment of the industry in jeopardy.

The TLC has held lease caps constant for the last eight years and during that period we have seen some fleets offer record amounts of monthly management fees to medallion owners. Such amounts being much higher than long-term leasing agents can offer.

This disparity in what the agents can offer owners has resulted in the fleets having an unfair advantage over the long-term leasing agents, enabling the fleets to maintain obtain medallions to manage from the DOV segment to the industry.

Accordingly, we are seeking that either the lease cap be one number for the entire industry with market forces determining what can be charged, or that the lease cap disparity be made much smaller.

It is important to emphasize that the lease cap number is a ceiling. Market forces will always determine how much an agent will be able to charge. If the price becomes too high, drivers will leave the DOV/long-term leasing or that particular agent and begin to lease by shifts or from another agent.

In equalizing the lease cap, we are seeking that the lease cap be set at an amount higher than presently needed or charged. A higher lease cap gives us the ability to adjust based upon market conditions, such as increase on expenses.

In a memorandum authored by Ashwini Chhabra and Michael DelBene at the TLC, it was found that there was a lease cap differential $532 per week per car. That memorandum set forth a $532 per

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week differential, totaling more than $27,600 per year. Does seem larger than necessary to compensate fleet owners for the costs of vehicle purchase, maintenance and insurance, and it does seem plausible that the differential established was too great and should be reevaluated based on empirical data.

We agree. We are simply asking that the lease cap disparity be closed so that the DOV segment of the industry can survive. In doing so, we urge the TLC to acknowledge its role to regulate the industry and not to interfere with and control the business aspects of the industry.

Thank you for this opportunity to comment on the lease caps. And we are available to meet with any and all Commissioners to discuss this testimony and more.

Before questions, I would like to introduce Dr. John Tepper Marlin at this time, and I do have some things to hand out. I want to handout my testimony. Doctor.

DR. MARLIN: My name is John Tepper Marlin. Chairman Yassky and Commissioners, good afternoon. I was chief economist for three New York City Comptrollers and more recently was senior economist for the Joint Economic Committee of Congress. I just have seven points I'd like to make and most of them are short.

First, the job recovery in New York City means that there is a growing number of people who are finding work who were previously available to be drivers. And we have more tourists and that creates more demands. We had 50 million visitors last year. We have two percent increase which is a very high increase given the previous few years when we didn't have very many people getting jobs.

As alternative jobs become more

plentiful, some feel legitimately that the supply of drivers may not be so reliable for future years. Driving a cab has been seen as an alternative and as jobs pick up, fewer drivers may show up.

Point number two, DOV agents enable drivers to make cab driving a full-time business and experienced drivers have 1/5 the likelihood of violating rules and as Dave Pollack has said, they have a much better record on accidents and on complaints.

I'll go right to my third point which is that DOV and weekly lease agents provide an essential bridge from driving a taxicab. I have a chart here three types -- I don't think it's clear to many people how the DOV system works. Counts 2 and 3 are the situation of the driver owns the vehicle and the third column is the negotiation that the driver who owns the vehicle has with other drivers who will fill in the other shifts. They are not tied to specific shifts the way they are in the fleets and that's very good when you have shift changes because DOV drivers don't necessarily go by the same hours.

Number four, DOV agents undertake significant risks and provide services to the driver that make the transition from work for hire to entrepreneurial status much easier.

One of the risks that needs to be understood is an economic risk. One reason medallion prices are so high right now is that interest rates are low. These low rates cannot continue forever, although they have defied many economists who believe that they should have gone up already.

If interest rates do go up, two things will happen. The iron prices will drop and those who have purchased medallions will see a decline in their asset value. If they have borrowed against their medallions, they will get caught on a call for early repayment.

At the same time, if interest rates rise, the cost of services medallions will also rise. The higher service cost may seriously impair the ability for DOV agents to lease medallions or their drivers.

Point number five, the industry has-- I looked at the CPI for the New York area and it has gone up 52 percent since the year 1996. The DOV agents have had one increase in that period in 2004 and that increase was 8 percent.

So that ceiling that was imposed in 1996 has gone up 8 percent while the CPI for the New York City area has gone up 52 percent. That is striking and the fleets, by the way, got a much better deal in 2004. So there's a disparity which is my sixth point.

The disparity is -- that's the other chart. The disparity it is -- the figures are right here.

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CHAIRMAN YASSKY: What's the right number there?

MR. POLLACK: 787.

CHAIRMAN YASSKY: What's the appropriate disparity?

MR. POLLACK: Oh, what's the correct number? I see. That would require a study that I haven't done. It would require somebody taking a look at exactly what all the services are that the fleets provide and what they're worth.

CHAIRMAN YASSKY: I see, so you're say the disparity is too great. I just don't know by how much.

DR. MARLIN: Well, I didn't come here to speak to that point. I think one could --

CHAIRMAN YASSKY: I don't want to belabor it. I actually think that the core point that you're inclined or appear to be making happens to be that the disparity between the fleet rate and the DOV rate is too great. Too great meaning it creates -- that if it was actually enforced and people lived by, which they don't, then you would not see anybody leasing in the DOV fashion. Everybody would lease in the medallion and fleet fashion.

Our task is to figure out how to reset that so the disparity is correct. I would have appreciated some help with that, but I heard what you said.

COMMISSIONER DEARCY: Can you explain the rationale behind the disparity?

CHAIRMAN YASSKY: So the proposal that you put forward of having a commission for taxi safety put forward is make them the same --

COMMISSIONER DEARCY: Why did we have a disparity in the first place?

CHAIRMAN YASSKY: Because the fleet is performing more functions for the driver than the DOV agent is, and therefore, if they weren't able to earn more revenue, they wouldn't undertake to do that and every medallion would go to DOV.

So if our goal is to allow both models to survive, if we said you could lease your medallion for the same $1,570 a week that a fleet can collect, you don't have to give them a car, you don't have to give them repair service, you don't have to do any of that, well, any medallion owner would be a fool not to lease their medallion out that way.

The problem is, where we are now, the medallion owner would be kind of a fool not to get the $1,570 if the only alternative is the $800 that is the stated rate for a medallion only for week. The industry is kind of --

MR. POLLACK: With all due respect, can Dr. Marlin finish his testimony?

CHAIRMAN YASSKY: Yes, please. Why don't you finish, Dr. Marlin? We'll take it from there.

DR. MARLIN: The idea that DOV agents will lose out to the fleets is not a remote fear. Two large leasing agents have, within the last few days, has joined the Metropolitan Taxicab Board of Trade expanding its memberships by 30 percent. But both of those agents have repeatedly spoken out about converting to fleet status because of the leasing cap disparity relative to the fleet leasing caps. You have an example of --

CHAIRMAN YASSKY: That's in dispute. Go ahead.

DR. MARLIN: As leases expire, taxicabs to which DOV agents can't pay their amounts to could become stranded. Their investments could become stranded.

I'm personally familiar with this situation having testified as an expert witness in three utility rate hearings where the Fifth Amendment had been revoked to claim compensation for strand investments because of the actions of regulators. Meanwhile, the latter for drivers has been weakened and could be destroyed.

In conclusion, number seven, the DOV model has many positive contributions. It is now endangered by the long 16 year delay in reviewing the cap, which has only been raised by 8 percent. And the resulting disparity between the fleet cap and the DOV agent cap is unjustified.

The TLC must address this and your question about what the right cap should be is an excellent one, but I'm not prepared to give you that today.

CHAIRMAN YASSKY: Understood. Yes. Commissioners, do you have questions?

COMMISSIONER MARINO: Is your testimony in writing for us?

MR. POLLACK: We'll be getting copies to everybody.

COMMISSIONER POLANCO: So is your testimony today that, basically, there's the MTBOT is asking for lease cap increase, but you're here today to say if there's any increase or if there is no increase, you just want some type of -- there shouldn't be a disparity between the DOV and the fleet owners?

MR. POLLACK: Let me make this very clear. Yes.

CHAIRMAN YASSKY: Let me ask just a quick question. Mr. Pollack, I am sympathetic to much of the argument that you have made that an $800 weekly lease cap is inadequate in the context of a series of shift lease caps that add up to $1,570 per week.

Your argument, as I take it, is if I'm a medallion owner, I will lease out on a shift basis and get $1,570 revenue per week rather than lease it to a DOV driver for $800 a week; is that the essence of the argument and that if we don't address that, nobody will rent in the DOV fashion anymore?

MR. POLLACK: Well, the owner doesn't collect that. The agent, whether it's a 12 hour daily shift operation or a long-term leasing agent collects it and gives a certain amount of money --

CHAIRMAN YASSKY: So what is the appropriate difference there? As commissioner asked, why would there be a difference? Just as we don't want to price the DOV model out of the market, I, at least, think we don't want to price the fleet model out of the market or to put it another way, have a disguised lease cap increase by allowing fleets to call what they're doing, DOV operations.

So if fleet could lease a medallion to a driver for $1,570 a week, you don't have to provide a car, don't have to provide any repair services, plainly they would do that and then there would be no shift leasing any longer.

So there needs to be some disparity between the two to make both of them economically viable. Do you have an estimate as to what that appropriate disparity is and why?

MR. POLLACK: First of all, I don't agree fleets would turn around and say here's a medallion, go get a car, do everything that agents do.

CHAIRMAN YASSKY: Really? If I have a medallion and I lease it to you for $1,570 a week and I don't have to give you a car, I don't have to do anything to keep that car in good shape, why would I not do that?

Why would I then say, I'll take the $1,570 but in addition to the medallion, I'll give you the car, I'll keep it in good shape, I'll wash it and all that stuff. People are rational actors.

MR. POLLACK: I do understand your point, but I don't agree with the premise. We have situations, there's a medallion only lease, when you became the chairman, the medallion only lease somehow became the medallion only. When Andrew Salkin was --

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CHAIRMAN YASSKY: You're saying when I became chairman, the medallion only lease became the medallion only lease?

MR. POLLACK: Well, yeah, because the prior chairman and the prior first deputy commissioner knew that there were additional expenses added onto that; insurance, tax stamps, fees and profit and four years ago we sat down with Andrew Salkin and he provided -- he investigated and he provided and took great detail and great knowledge in both parts of the industry seeing what the $800 is and seeing what the deal is. So now --

CHAIRMAN YASSKY: You're saying now a medallion only lease is more than $800?

MR. POLLACK: What I'm saying is there are other expenses involved. If somebody has a medallion only lease -- you can't just put a medallion on a car and not pay a tax stamp, and not pay insurance. Where does that money come from?

CHAIRMAN YASSKY: You and I both know that the reality in the industry is that agents who are leasing on a DOV model don't simply charge $800 a month. They charge maybe $1,300 a month, rather.

The piece of paper that you handed out has all the ads for transactions. Here's one, 2012 Ford Transit Connect for sale just one month old, leases $1,375. Will be paid off in two years. After being paid off, lease will be a thousand dollars. Recognizing that is not egregious in current market conditions, but the broker is charging $1,375 for the car, plus the medallion. It's not a medallion only lease.

MR. POLLACK: There were leases for the medallion and there were leases for the car. We never denied that and we stayed within the realms of the law and the realms of the rules.

CHAIRMAN YASSKY: I'm saying if this was a DOV situation, it would be an $800 a week lease not a $1,375 a week --

MR. POLLACK: You know, I think the commission needs to understand that there are many different types of drivers.

Maybe there are some drivers who are here today who are DOV drivers or who were DOV drivers. The DOV driver, as I said before, leases the medallion. He then hires, or may hire, a second driver which can pay him up to $800 a week and he may hire a weekend driver which may pay him another $300 a week. It's a pretty good small business --

COMMISSIONER DEARCY: I'm sorry, just so that I'm clear and I'm following what you're saying.

You're saying that a driver is going to lease from a leasing agent, but he's going to pay $842, but someone else is going to lease from him at a higher rate than that.

Why won't they just go to the leasing agent? I don't understand --

MR. POLLACK: Well, I'm sorry to hear that you don't understand. It is a little confusing. We have fleet drivers. We have weekend drivers. There are the drivers who actually lease the medallion and that model is the most sought after by the drivers.

All the members of the committee stopped keeping lists over a year ago because drivers realized that by getting another driver to help them offset the cost of their lease and getting a third driver, what they're really paying for is to pay off the vehicle within two years and now they save money to purchase a medallion.

CHAIRMAN YASSKY: Here's another one, new car medallion for lease 1,235 for 135 lease that's for the medallion of the car. Then 925 --

MR. POLLACK: I think at the top

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you'll see --

CHAIRMAN YASSKY: Not the $800, not 840.

MR. POLLACK: I think at the top you'll see a vehicle there for 325,000 miles on it for an awful lot of money and that money goes to the driver. It doesn't go to the agent.

CHAIRMAN YASSKY: Mr. Pollack, I don't want to argue. I wish you could be kind of upfront about it and we could do it on the facts which is that today DOV agents charge more than 800 per week because they have to, otherwise they couldn't sustain it and what we have to do is figure out what that appropriate number is, is it 900, is it 1,000, is it 950. I would like some help in figuring out what should be. We can do that on our own, but the more input we get from you, I think the better job we will do.

MR. POLLACK: I have to get the figures back to you, but we're estimating in the area of $125 per week as a difference.

CHAIRMAN YASSKY: That would be between fleet and medallion only or fleet and -- that's my other question. Should a DOV lease be just for a medallion or should it include all the other, the car and the repair as well?

MR. POLLACK: The TLC had no jurisdiction over the vehicles, only the medallion, and as it turned out as time went on, you know, the other expenses had to be paid in some manner.

So we were actually told by TLC Deputy Commissioner we'll transfer the monies for the tax stamp and the medallion renewal and issuance to the vehicle because you'll be okay because that's the right thing to do to comply with the rules, so that's what we did.

All of these measurements are an effort to try to keep up with the amount of money being offered to the medallion owners to keep our medallions.

CHAIRMAN YASSKY: So you're saying the lease should be for kind of providing the car, the tax, all of the costs involved should be included in that lease payment; is that what you're saying?

MR. POLLACK: Well, if the Commission wants all-in costs for vehicle and for medallion, okay, with the expenses that I stated, then, yes, that's what I'm stating.

CHAIRMAN YASSKY: How do we figure out what the right -- is there such a thing as a medallion only lease? Can there be? And what should that number be? I would like -- maybe, I'm romantic -- I would like to think maybe that could exist because everything you said about the DOV model as an avenue of upward mobility for drivers I think should be true and if there's a way we can make that true, I would like to do so.

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The driver can own his own car, just rent the medallion and be somewhere between a shift driver and an owner driver. I think that would be great. But then we need a number for that medallion only leases and what the principle is behind it.

MR. POLLACK: As you can tell, I don't have that answer today, but we can get it together and submit it to you.

There are other things to be taken into consideration also. Anybody who purchased an individual medallion in the last 22 years I assume the TLC has done some individual medallion transfers during that time, if that medallion owner wants to lease the medallion, there's $500 penalty that has to be paid to the -- $5,000.

I don't know if that's been included in the TLC'S figures what they're thinking. And also there were things stated here how much medallion owners are getting. At $3,000 it's tough and there were fleets out there who were trying to enlist our medallions offering the owners substantially more.

CHAIRMAN YASSKY: I just want to tell you what I have in mind or what I kind of the ideas that are kind of taking shape here and your thoughts on it, it seems to me for a medallion only lease to be viable both for the driver and to create the avenue of upward mobility that you're talking about and for the agent, it has to be a lease that is genuine medallion only where the agent isn't providing any other services. Because otherwise, we're going to be in the business as enforcement of deciding whether those other service provision arrangements include disguised payments.

So, for example, if I leased you my medallion for $800 a week and I also come and cut the lawn in your house and

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charge you $200 a week for that, then we would have to decide are you really charging $200 a week for the lawn cutting or is that just a way of making it $1,000 a week?

I think that would make it both disruptive for your industry because you wouldn't understand fully what the rules are and it would require a great deal of enforcement rules by us.

So what I would like to discuss is a medallion only lease that's truly medallion only and has a number for that, and then if DOV agents wish to continue, as they have been, providing the cars, providing repairs and all the services, we can call it all-in DOV lease models. I really think what we need are two numbers, the difference between the fleet and the all-in DOV lease and then the difference between the all-in DOV lease and the medallion DOV lease.

Then whatever kind of principles

you can give that would explain what those can be would be helpful.

MR. POLLACK: I guess the short answer is I'd have to get back to you with the information you're requesting. There's no lawn cutting involved, but there may be other factors not included in your estimate.

CHAIRMAN YASSKY: Are you saying today agents charge for other services? They're simply charging their own costs for providing service?

MR. POLLACK: The whole point is they have to stay in business.

CHAIRMAN YASSKY: The $800 a week isn't enough for that. We can agree on that.

MR. POLLACK: The $800 certainly is not enough, absolutely.

CHAIRMAN YASSKY: Okay, thank you. Are there any other questions?

The next speaker is Ethan Gerber from Greater New York Taxi Association, then Vincent Sapone from LOMTO, then

Richard Thaler from OMN Gateway.

MR. GERBER: Thank you, Mr. Chairman. Ethan Gerber from Greater New York Taxi Association. So thank you to the Commission.

This commission was formed so that common sense can be appealed to and that bureaucrats would not be given blanket authority. Every one of you brings your own real life experiences to this table. You have former police officers, real estate managers, university chancellors, bankers, attorneys in private practice or running court parts.

Many of you know what it takes to run a business. No one can tell you that expenses have stayed the same or gone down over the last eight years. Every year your expenses, rent, real estate taxes, water, labor continue to rise. Even the chairman before us can see the cost of running an agency increase since the last lease rate cap has increased. You know they have. It's not a mystery.

You don't need a special report to tell you what every day experience tells you. Hertz and Penske and U-Haul are all in the business of renting vehicles for business use. Every one of them has raised their rates. Even the chairman's secretary is paid significantly more than she was paid eight years ago.

Subway fares have gone up, postage has gone up, Con Edison has gone up. Even water has gone up 78 percent in the last five years. Real estate taxes were increased 2 percent by this Mayor.

The Mayor is telling the public that owners-operators of small businesses that have garages, equipment, mechanics, dispatchers have no added costs or even that they have no cost. Based on what? Who gives yearly decreases to their employees, especially good ones you want to keep?

Who pays the office staff, the mechanics, the dispatchers and how and where do they get their ratings?

Three chairmen before the current chair created a lease cap that was not intended to be a lease rate. The cap was set well above what was the market condition 17 years ago when costs were a quarter of what we see today.

It was still expected that the market would establish reasonable rate. The cap was to be the upper limit of what was then conceivable. No one reached the leased -- near the cap in those days. But as time passed, the cost changed.

The TLC mandated -- unfunded the political will to maintain differential sale and the cap became status fixed. So we are left with leases that are no longer controlled by the market and the lease has become the de facto lease rate. That expenses has gone up is common knowledge. That rates have to

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go up is common sense.

Does it surprise you that the taxi workers are lined up against any lease cap increase? When would they ever stand here and say now is the time? Have they ever? It would be unnatural and it would never happen no matter what the facts and no matter what the circumstances.

The value of the medallion is like the value of your house, the value of your car, the value of your business, has no bearings on the day-to-day operations. And no bearing on what it costs to keep it going.

The TLC posted a list of about 8 items. They left out about 46 items of expense. I'll provide you that list, the cost of liability insurance, vehicles which was not negligent, the cost of Workers Compensation insurance for employees, the cost of Workers Compensation insurance to a non-employee drivers mandated. The cost of maintenance for garage equipment. The cost repairing damage to vehicles. The cost of dispatcher. The cost of managers. The cost of mechanics. The cost of accountants. The cost of office support staff. The cost of rent. The cost of electricity, cleaning, building fuel, real estate taxes, water and city sewer faxes. The cost of Workers Compensation for employees. The cost of social security contribution for employees. The cost of banking fees. Cost of telephone and internet access. The cost of security. The cost of the IT. And the list goes on and on and on.

CHAIRMAN YASSKY: Thank you --

MR. GERBER: Next year the --

CHAIRMAN YASSKY: I'm going to have to stop you.

MR. GERBER: Do we have 15 minutes?

CHAIRMAN YASSKY: No. The three petitioners had 15 minutes. If every speaker had 15 minutes, we would never leave here.

MR. GERBER: Except the two speakers that had a half hour.

Only this administration would think that cost have not gone up at all and that no cost -- no increase should go to the owners. Everything has gone up. You all know it's gone up. As the Mayor has. Or the cost of running business which employs 70,000 people and has hundreds of facilities. To say otherwise is just nonsense.

COMMISSIONER MARINO: Is your testimony in writing?

MR. GERBER: It is. I will e-mail it to you.

COMMISSIONER DEARCY: I do have a question. I'm trying, from the very first speaker, I'm trying to understand exactly what the costs are.

I know you're going to give us something in writing, but it would be helpful for me because at least when you were listing various costs, I am assuming costs that are going to be allocated across a number of cars.

So I would like to get some color to peel the onion back on those costs so I can get a better understanding on what it is and not debating whether there are costs, but what the costs actually are with information to put color on it.

MR. GERBER: I fully appreciate that. This was a response by a petition. There was only 7 days to respond. The list of items that was just 46 items that was just naturally there.

Each one of those costs have gone up across the board. Some specific to the car, some are fleet operation of just running any business.

COMMISSIONER DEARCY: The amount of costs. I just don't think that what we're getting is that there's any consistency. I respect the last speaker didn't represent the fleet, but they had the monthly profit of 2,500 or $30,000 per year per car. We had a $30,000 number earlier. I would like for someone to give me something --

MR. GERBER: We're trying to get those together.

CHAIRMAN YASSKY: Just so the logic is clear. The cost items that we specifically sought input on are costs that fleet bear that DOV agents don't because we really have to figure out what that difference should be between the fleet lease cap and the DOV lease cap.

Why we didn't ask about electricity --

MR. GERBER: For example, I appreciate that, but you also asked -- specifically the only insurance question you asked was the cost of collision insurance. You didn't ask the cost of liability or collision insurance.

CHAIRMAN YASSKY: The reason there

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would be that a medallion only lessor would not be providing collision insurance for a vehicle whereas a fleet does bear the cost of collision insurance --

MR. GERBER: I think we may be misusing the term "collision insurance". I think that may be the problem.

CHAIRMAN YASSKY: That might very well be. The goal is what the cost a fleet has that a DOV agent does not have.

MR. GERBER: I think your term was more limited than you might have intended it to be.

CHAIRMAN YASSKY: Very likely. I'd ask you what we asked Mr. Pollack, because just as it's important for agents, I think it's important for fleets that that disparity be correct, otherwise you would see only fleet models not economical. Any estimate you have of what that appropriate

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disparity should be.

MR. GERBER: Part of the problem this is what happens when the government artificially deflates the amount of value. It goes below free market value to the extent you're pushing and pulling in different directions. Should there be a disparity? Yes. Both are too low.

COMMISSIONER DEARCY: In addition to the information with respect to cost, I am also particularly interested in increased revenue as a result of the increased use in credit card in the 1.5 percent. I believe that's the figure you all make from the credit card because there is a fixed cost as I understand with administering the credit card.

As I also understand, the use of credit card has gone up so if you could address the revenue increase with respect to credit card --

MR. GERBER: On the 1.5 percent

over the eight years, of course.

COMMISSIONER DEARCY: I think if we're going to analyze cost inputs, we need to equally analyze increased revenue and the two I can think of are advertising and credit card. If there are additional revenue inputs, I'd appreciate it too.

MR. GERBER: I think you'll find that's negligible compared to the leases.

CHAIRMAN YASSKY: Mr. Sapone followed by Richard Thaler and then Cliff Adler.

MR. SAPONE: Good afternoon, I salute you commissioners for still being here. By the way, where are the other four commissioners, appointment somewhere?

CHAIRMAN YASSKY: Please proceed.

MR. SAPONE: First I'd like to thank the Mayor and thank you and thank the Commission for thinking about a fare increase and these drivers, all drivers, really need a fare increase.

Everything is going sky high. It's hard to live. Expenses are up and my complaint is, my problem, for years I've been talking to deaf ears to the TLC before your time. To the City Council. Why does a driver have to wait eight or nine years to get some kind of an increase? Why? Are we animals? What's the story here?

Anybody working in a private industry or even for the City would not stay on a job if they had to wait eight or nine years to get some kind of an increase. I don't understand. No disrespect, you guys want to sell 2,000 medallions, 18,000 licenses now all of a sudden we got to maybe get a fare increase.

Why does it have to do with that? We should be able -- Chairman Yassky, you before -- maybe you go somewhere else, you City Council should implement something where the taxi drivers should get an increase every four or five years. You shouldn't have to wait ten years or until you're carrying us in a casket to get some kind of increase.

And as far as what kind of increase, I think my men who are going to talk better than me because they drive every day. I haven't drove since 1980. I want you to know LOMTO's been around for 77 years. We're not a fly by night. We represent guys who own their medallion and drive it themselves. We do have a few fleet guys, but not many. That's what we do.

We try to protect our members and, really when I speak for fare increase, I'm speaking for everybody, not just for one group or one person. It's a shame. It's disgusting. It's deplorable that a driver has to wait nine years to get an increase. Have a nice day.

CHAIRMAN YASSKY: Mr. Thaler followed by Cliff Adler. Let me say there are another eight signed up. It says LOMTO next to their names. I would ask if all the LOMTO individuals can speak as a group. Please go ahead. I'm sorry.

MR. THALER: Commissioner, that's hard to follow, but I'll try. My comments unexpectedly would address some of the issues for the DOV lease.

For the DOV lease you have to understand the benefits for all parties. You've got to understand and rationalize a convoluted DOV lease process. Understanding the convoluted DOV lease process, you got to go back to what the owner is. If you go back to Administrative Code Chapter 5, Title 19502, Section I, definition of the vehicle owner.

Just about every possible relationship between the individual through an agreement with the vehicle is an owner. Even, for instance, a conditional sales agreement. When you go into the real world, if you are the title owner, you have the title to the car, you are the registrar. Going back to the administrative code, no matter what you are under the traditional sales agreement, you're still the owner.

If you're the owner, you don't -- you are not the registrant now, but when you become the registrant, then you're required under state law to be the purchaser of the insurance.

Once you're the purchaser of the insurance, you can go back and look at your relationship under the medallion only lease agreement.

When you look at that lease agreement, the rights and responsibilities for medallion ownership should be separate from the rights and responsibilities for operation. If you can make that separation -- I always make the analogy to a gun permit.

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If you own a gun with a permit and somebody buys a gun and they come to you and say can I lease your permit, I don't have a permit.

The medallion license is a license to operate a vehicle that that medallion license owns in the City. There should be some sort of sublicense arrangement where the owner can sublicense the right to operate that medallion to the DOV. Now, once they do that, then the DOV operator becomes the registrant, buys the insurance, meeting the TLC requirements and meeting their own requirements so the medallion owner is off the hook for insurance and frankly everything else except for the requirements of ownership. And that, I think, may be the answer to your suggestion that there should be a medallion only lease.

Then you have to medallion now that the value, the use of the medallion is naked because you're taking the insurance and some of the other expenses out of it. What is the value of the medallion to a medallion owner? Then you might have to go back to a financial benchmark or a treasury owner for a term of like five years, but you can go back and try to make it competitive in the market so the medallion owner is satisfied, the operator is satisfied and everybody is happy.

CHAIRMAN YASSKY: I understand the essential point is for the medallion only lease the driver, the lessee there, should be the registered owner of the vehicle, the title owner of the vehicle.

MR. THALER: But the medallion owner is still covered by previous insurance, so he's off the hook.

CHAIRMAN YASSKY: Sir, I think that's -- I think your analysis got right to the heart. I think that's an excellent suggestion.

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MR. THALER: This is the first time we're in agreement.

CHAIRMAN YASSKY: I frequently say that about the points you make. The following people, Cliff Adler, Erhan Tuncel, Gene Chery, Uppkar Thind, Hussein Elsherbiny, Jawaid Toppa, Mazher Hussain, Joe Morrone I guess if all of those folks could come up, it would be good to have you all testify as a group.

MR. ADLER: Mr. Chairman, ladies and gentlemen, my name is Cliff Adler. First of all, I'd like to thank you for reapproving the issue this morning.

Second, we're talking about -- you've hear from everybody else what we need. I have no idea what we need, but we can't wait 8 or 9 years to get another fare increase. That's ridiculous. Somewhere along those lines, you did a lot of talking about credit card. Other cities and other countries charge just like here in the states.

We charge with gas stations and stuff you pay cash, you pay one fee. You pay credit cards, you pay another fee. This would take all the grief out of it for the drivers when people are using credit cards and make life a lot more equitable for us because we're paying 5 percent commission on the 50 cents going to the MTA and upstate road repair on any bridges and tunnel. We're paying $5 from the airports, $13 if you're going to Staten Island, $25 if you're going to Newark. It all adds up, 5 percent here, 5 percent there.

Go down like you do in England where it's 5, 6, 7 percent. Go on the continent 6 or 7 percent. Australia 10 percent. You use credit cards, this is the surcharge, period. End of story.

Other things I'd like to say, but I know we don't have time, so I'd just thank you for your attention.

MR. TUNCEL: Good afternoon. My

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name is Ehran Tuncel and I am individual owner driver and member of LOMTO.

There's been a lot of talk and numbers about industry related expenses. What I'm going to throw out there is to put everything in perspective as far as cost of living increases and I got these numbers directly from the Department of Labor Statistics.

Since the last fare hike, this first one is from my personal experience, rents have gone up about 28 percent since the last fare hike and according to the Department of Labor Statistics, we were paying 25 percent more for gas, 54 percent more for bread, 50 percent more for eggs, 50 percent more for orange juice, 52 more for chopped meat and for those of us who are trying to keep a healthier diet, 40 percent more for chicken. Milk came last with a modest increase of 17 percent.

I personally find the suggested 20 percent top low for a minimal of 25 percent. I mention that because I've been in the business for 15 years and I have been given two fare hikes and those fare hikes have kept me just above water.

You are giving this to us not as an increase for us to make money. We need this to keep our head above water with all the expenses that are going on. Never mind the 2000 medallions you're about to sell. That's 15 percent increase to the number of medallions. That means 15 percent less business out there for me, no matter how you cut it.

Now fare hike you are giving us just the amount of medallions you're giving us is taking care of the fare hike. And never mind TLC, Mayor you are taking the borough business away from us. That's another 10, 12 percent cut in our business. I am saying this and I am right and everybody knows.

I was the one who testified in 2004 for the -- I was the only one as far as the drivers who testified for the T-PEP system and for the -- you weren't there Commissioner Yassky, but you can look at my testimony. And I said it would increase our business 10 to 12 percent. Take my word for it when I give those numbers. I'm right again.

CHAIRMAN YASSKY: Thank you, sir.

MR. CHERY: Commissioner brothers and sisters, my name Gene Chery. It's a pleasure for me this afternoon to be here in front of you. I'm drive taxi for 29 years and I can say besides the LOMTO, I can be out of business now if I don't have those voice.

When they're talking, they're talking for us. Mr. Chairman, I'm happy you can listen to us. The commissioner, I'm so happy you listen to us. Because when your father listen to you, even he don't say yes, but you

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have a feeling he going to do something.

I have my daughter now. It's when she's come to me say dad, you know, I got old lady when I'm take care her, she say you nice. I say my daughter please do it for us. Do it for God because when you do that for that old lady, you not do it only for her, you do it for me too.

And I'm so happy she do it like that and I will say thank you. I drive taxi for 29 years and I'm so happy I got something for it.

MR. THIND: Good afternoon. My name Jawaid Toppa. I'm a New York City cab driver, driving for 23 years and I have four kids. You know the cost of living has gone through the roof in the last eight years. Rent, food, electricity, water. Subway fares have gone up about three times already and our salaries have remained the same.

I'd like to ask all the

commissioners on the board here, when was the last time you guys got a raise in the last two, four, six or eight years? You know our salaries have remained the same. A flat rate from JFK is $45, should be $55. For eight years we have been charging the same.

There should be also a rush hour surcharge from 7 to 10 a.m. because since Mayor Bloomberg has taken over, he has put over 250 new regulations in New York City and in the outer boroughs due to the bike lanes.

When I started driving 23 years ago, there was only one restriction on 42nd Street you could not turn there 24 hours a day. Now there's only 250 intersections in Manhattan. There are 14th Street, 23rd Street, 34th Street, 42nd Street, 57th Street. You cannot turn left or right.

When you get a passenger, how do you expect us to drop off our passengers? We have to wheel you there, not fly you there. Okay.

On top of that, the new additional expenses have gone through the roof. The CMT charges the wheelchair we have to send $100 every year, the cost of car registrations, insurance, the drug so on and so on.

I'll ask the commissioners, we're human beings. We work from day to night. We transfer over 1 million passengers to get them to their destination. We deserve a decent raise. Thank you for giving me this opportunity.

MR. MORRONE: Thank you, Commissioners, for giving me this opportunity. My name is Joe Morrone. I'm an owner driver.

I had my hack license 40 years in New York City, one of the world's most expensive cities to live in. We have one of the lowest taxi rates. Business travel, foreign and domestic, are always telling me how low New York's cab fare is.

To the best of my knowledge, a fare increase request was submitted two years ago which means, as always, we'll still be playing catch up. The last regular fare increase was in 2004. While in 2006 there was a so-called adjustment to the waiting time aspect to the fare. Before that, the waiting time had remained unchanged for an unconscionable 16 years.

I hope the initial drop part of the fare structure is not kept artificially low just so MTA surcharges can keep being added to it.

I think the equipment in our vehicles now will bear out the fact that we get an inordinate amount of fares in the 4 to 7 dollar range. I feel I'm subsidizing millionaires.

People on Park Avenue, up to four people for $4 and $5, New York City. This is like insane. What makes this scenario frustrating to me is the fact that Manhattan has become a much wealthier place than say 20 years ago.

In place of rent controlled walk-up apartments are expensive 30 and 40 story co-ops and condos. It's because of this that black cars are able to charge $20 minimum fares and street hustlers are able to ask and often get $20 for what might normally be a 7 or 8 dollar cab ride.

While $11 might be the average fare, I think statistics would show that the mean fare would probably be around $8. Gypsy cabs have signs in their window that state $8 minimum.

Some in the industry may say that history -- that low rates are what make the taxi industry recession proof, and they may have a point. Perhaps what is necessary is what Jack Lusk, former TLC Commissioner, proposed 25 years ago.

Mr. Lusk was no friend of the taxi industry. To his credit, though, he actually drove a taxi while commissioner and recommended morning and evening rush hour surcharges for 50 cents at that time.

I feel if they were enacted at that time, we would not have the current chaos, which exists now. I think we have to raise the evening rush hour charge an additional one dollar and institute a 7 to 10 a.m. morning rush hour surcharge of $2.

Let me conclude by reiterating what I said at LOMTO Association General Membership meeting with Cameron Dallas in attendance just before the evening surcharge was enacted in 2004, a $5 fare is okay, when there are three vacant cabs and one passenger at a stop light. It's not okay when there are three passengers and one empty cab.

CHAIRMAN YASSKY: Thank you. Bernard Mhando, Mohammed Guernah and Mahmoud Elkosiry.

If people have testimony and you feel like it's been said already, I would encourage you to just say what I was here to say has already been expressed. We will recognize that.

MR. GUERNAH: Mohammed Guernah. I drive cabs for 17 years. I got tired then I want a new cab. He give me like 2011 shady cab broke down. I wait hour two. Then when I went to DOV model improved. I have two models. One for five days, one for four days.

CHAIRMAN YASSKY: You own your own vehicle?

MR. GUERNAH: Yes.

CHAIRMAN YASSKY: You pay just to lease the medallion?

MR. GUERNAH: I pay for insurance.

CHAIRMAN YASSKY: What are you paying weekly or monthly?

MR. GUERNAH: 920.

CHAIRMAN YASSKY: That includes the medallion and insurance?

MR. GUERNAH: And inspection fees, yeah.

CHAIRMAN YASSKY: Thank you.

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MR. GUERNAH: That's what I'm saying, it's greater model, better than fleet.

CHAIRMAN YASSKY: Essentially medallion only. That's very good. That's very helpful.

COMMISSIONER DEARCY: How much is he making?

COMMISSIONER MARINO: Who owns the car?

MR. GUERNAH: I own the car and the medallion.

COMMISSIONER DEARCY: This goes back to Mr. Pollack's point. You said you lease this, you lease the medallion, but then you sublease it again?

MR. GUERNAH: I can't work seven days. They work with me. I get tired.

COMMISSIONER DEARCY: They work with you. How much do they pay you?

MR. GUERNAH: Same amount, like 80, 90, 100 every shift.

CHAIRMAN YASSKY: So you charge, in

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other words, less than the lease.

MR. GUERNAH: Yeah, that's why they stay with me three or four years. The car is in good condition. Never get complaints.

COMMISSIONER DEARCY: How much per month would you say you get in supplemental income from leasing it to the other driver if you had to put it?

MR. GUERNAH: I could give for a week for my pocket extra 3 or 400 extra.

COMMISSIONER MARINO: That's the time when the car would be sitting in your driveway, you can't work 24 hours a day, 7 days a week, so instead of it sitting in your driveway, it's earning money?

MR. GUERNAH: Yeah. Two drivers. They make me more money than people who work seven days, they're telling me.

COMMISSIONER POLANCO: It's fine because basically unlike a DOV agent, he went to a DOV agent, he's able to get the driver himself.

COMMISSIONER DEARCY: I understand. I'm just trying to understand, Mr. Pollack was trying to make a point with respect to a subleasing system and he was trying to explain to me, perhaps not very kindly, that they themselves the drivers were subleasing.

MR. GUERNAH: Because people want to work seven days. It's really hard work. Some people want a second job, they come to me.

COMMISSIONER DEARCY: I'm not taking any fault. I'm saying the information you're providing is very useful. It's helpful.

MR. GUERNAH: It's fact.

COMMISSIONER MARINO: With the fleet it's a 105 a day?

CHAIRMAN YASSKY: Fleet shifts range from $105 to $129 depending on Friday night.

MR. ELKOSIRY: If you had this, it will be more. My name is Mahmoud

Elkosiry. I'm a DOV model. I'm here representing myself between like DOV model and the fleet.

The DOV model really works for me. I'm saving money on this. Also I have a driver work for me, so he saves money too, charging less than the fleet, okay, and it really works better for drivers. How -- I don't know how they go into the garage paying a lot more when they can get their own and it cost less, much less than the fleet.

So even after two years I pay just for the medallion lease, it will go lower at least 3 or $400. I'm still saving this money on my pocket even if I'm doing my own maintenance, I'm still saving money.

CHAIRMAN YASSKY: I'm not sure we want to do this with everybody. But just for the specifics, you lease just the medallion?

MR. ELKOSIRY: Yes.

CHAIRMAN YASSKY: What do you pay

for that?

MR. ELKOSIRY: I still have a payment for car.

CHAIRMAN YASSKY: You have pay for the car and the medallion?

MR. ELKOSIRY: Yes.

CHAIRMAN YASSKY: What is it?

MR. ELKOSIRY: I'm paying two and a half years for the car. After two and a half years I pay just for the medallion.

CHAIRMAN YASSKY: What do you pay?

MR. ELKOSIRY: About 1,300.

COMMISSIONER MARINO: The car and the medallion are two separate payments?

MR. ELKOSIRY: If you include everything, it goes to about 1,300.

COMMISSIONER MARINO: You own the car?

MR. ELKOSIRY: Right, but I'm still making payments.

CHAIRMAN YASSKY: What do you pay just for the medallion?

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MR. ELKOSIRY: The medallion, if you go to the broker, of course every broker you don't have -- so I don't pay him.

CHAIRMAN YASSKY: So you pay what for the medallion?

MR. ELKOSIRY: 842.

CHAIRMAN YASSKY: You pay what for the car?

MR. ELKOSIRY: Other charges it goes up to like 90. Also there is good thing about this it's not really insurance. But they call it a service. They provide service for a car. I just pay for the parts and they install it for free.

If I have to do any maintenance in the car, they provide the service for free if I have to change any parts.

CHAIRMAN YASSKY: The total is, you say 1,350?

MR. ELKOSIRY: Yeah, about.

CHAIRMAN YASSKY: Again, I think that that sounds good. I'm not saying

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anything is the matter with that.

MR. ELKOSIRY: That's true. That's the reality I'm saving than the fleet--

CHAIRMAN YASSKY: Sir, I just want to make sure I understand. 1,350, 842 for the medallion, that's $500 a week for the car and the repairs essentially; is that right?

MR. ELKOSIRY: The car for payments.

CHAIRMAN YASSKY: For how many weeks is that?

MR. ELKOSIRY: Two and a half years.

CHAIRMAN YASSKY: I just wanted to see if I understand it. That total over the two and a half years is about $65,000. I'm not saying you're not making a good living, that doesn't work for you. It does work for you and it's all fine. I just want to make sure I understand it.

If you're paying $65,000 over the course of two for the car and service for keeping the car in good repair, I guess I would suggest that you are paying more than the market value for that car. That's fine that works for you.

MR. ELKOSIRY: The car is financed.

CHAIRMAN YASSKY: No doubt. It's an Escape? Ford Escape?

MR. ELKOSIRY: Yes.

CHAIRMAN YASSKY: If you lease a Ford Escape from Ford brand new, you wouldn't pay $65,000 brand new over two and a half years.

COMMISSIONER MARINO: Maybe I'm confused. It's his car.

CHAIRMAN YASSKY: He's paying the agent to lease the car.

MR. ELKOSIRY: He financed the car for me.

COMMISSIONER MARINO: Whose name is the car in? Who is the registered owner of the car?

MR. ELKOSIRY: In my name.

CHAIRMAN YASSKY: The car is

registered in your name?

MR. ELKOSIRY: It's actually the agent until I pay it off. The car is not paid off yet.

CHAIRMAN YASSKY: The car is registered in the name of the agent.

COMMISSIONER POLANCO: Why don't we just, you know, after the meeting, we take their information and we could ask them more questions.

CHAIRMAN YASSKY: Yes, that's a good idea. Thank you very much.

MR. ISMAIL: Good afternoon. I sent up my name yesterday, but I didn't have -- I am long term Shehi Ismail. I'm going to --

CHAIRMAN YASSKY: I'm going to ask you're not on the list of people who signed up, you can wait until the end. Bernard Mhando I called who is not here. Next is Shehi Ismail.

MR. ISMAIL: Yes, that's my name.

CHAIRMAN YASSKY: I apologize to you, sir.

MR. ISMAIL: That's all right. I'm long term DOV driver. I was working in fleet then I decided to became a DOV so I feel I'm saving some money between the fleet and working and having my own car.

So I'm saving the difference between the fleet and the agent. The DOV agent is the big difference between the driver. If I'm driving and I work as the DOV, I will save more money because if I work in the fleet, they're charging me day by day. That's what I'm trying to say. So I'm trying to say so I'm saving some money working as a DOV like having my own vehicle, buying my own vehicle.

CHAIRMAN YASSKY: Thank you.

COMMISSIONER POLANCO: If Mr. Pollack is going to submit any further documents or testimony, I would like to know because I've been hearing the last three drivers they're doing so well with the model there is now why should there be a change at all unless the agent is not doing well?

MR. POLLACK: Commissioner, that's exactly the point.

COMMISSIONER POLANCO: I mean the DOV.

MR. POLLACK: They may be doing well, but the other drivers are not doing well.

CHAIRMAN YASSKY: We'll have plenty of deliberation here. What I am kind of hearing, the weekly rate is 842. That's what it says in our rule book. In practice, the agent is charging maybe 950 for medallion only and 1,350 for car and medallion and that's an arrangement where cars are working and doing fine.

I don't know if Mr. Pollack would say the agent, if that's the sustainable for the agent or not, although they're doing it today, so presumably it is. I guess that's what I'm hearing from the testimony.

COMMISSIONER DEARCY: If I can ask a question. You were asking that we change the disparity. If disparity was offset by reducing the lease cap, would you reduce the rate you're charging for the car leases? It seems as if you shifted some of the fees. You shifted fees in order to make up for the fact that the lease cap is artificially low or too low.

If you were given some relief with respect to the lease cap, would you provide relief with respect to the car lease? It seems the justification for having the increased car leases or other costs wouldn't be there anymore.

MR. POLLACK: If the figures warranted it, as long as we're playing on a level field with people who wanted to take those owner medallions and lease them out in a different way.

CHAIRMAN YASSKY: Very good. Elizabeth Osci and James Weisman. Then there's a handwritten name. You are

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not next. You are after Mr. Simmers. Mr. Simmers.

MR. SIMMERS: Good afternoon. My name is Beresford Simmers. I am a DOV driver. I am a wheelchair accessible driver too, one of the first drivers.

These three gentlemen were here not giving you the full story about their drivers and how much their drivers paying them and leasing companies charging them. I don't know who they're covering up for.

Today I owe my broker over $13,000 just for repairs to maintain my car. This is my second wheelchair accessible car I'm driving and I'm about to get another one because of the maintenance of these cars. I'm in debt up to my neck and I'm the only driver.

I can't afford another driver. I'd have to pay additional money to my broker to have a second driver, so I drive by myself, which is even better for me because I can get up and go to work whenever I feel like it.

When my wife get on my nerves, I just get up and drive. If you want to hear good testimony for where's the money, why you out there all day all night you must have another family out there. No, the broker and lease companies are taking all our money. We're working like dogs and not making no money. I'm broke, okay. And thank God for the Taxi Workers Alliance.

As you see, you know how big I was before I was in the hospital for quite awhile and I'm still working today after 40 years. I don't know who these guys are covering up for. I thank you very much for listening. We need a raise desperately. Please keep a cap on the leasing. All of these brokers are millionaires. I don't know any cab drivers out there who are millionaires.

COMMISSIONER POLANCO: Can you tell us how much the lease cap, the number -- the three gentleman gave numbers which you disagreed with. Can you give us your numbers and how much? Is it a weekly payment that you make, is it a monthly?

MR. SIMMERS: I pay up to $1,500 a week and this is my second car and I pay up to I would say 35 to 40 percent interest on the car that I drive and I have to complain to the Taxi Commission about this.

They should have never made the Dodge Caravan a taxi because it's built too low to the ground. Every time I go for inspection, it cost me $2,000 before I can get my car inspected. Every time I go for inspection, I'm guaranteed to pay $2,000.

COMMISSIONER MARINO: From what?

MR. SIMMERS: It's good car for elderly people and --

CHAIRMAN YASSKY: It must be modified to be wheelchair accessible?

MR. SIMMERS: Right.

CHAIRMAN YASSKY: The conversion

process leaves you with a car that's sub standard.

MR. SIMMERS: And I'm getting another car today, which we are having a problem passing the TLC, which is the new Ford.

COMMISSIONER POLANCO: So the car that you're driving is your car. Why are you responsible for repair?

MR. SIMMERS: No, no, I'm DOV driver. I pay for the car. I've already paid for the car, but I owe in repairs for the car just the maintenance of the car. So it's very expensive to maintain wheelchair accessible car. I thank you very much for hearing what we have to say.

COMMISSIONER DEARCY: I have one question, sir. How much, if you wanted to add an additional driver, how much would the leasing agent charge you?

MR. SIMMERS: They would charge you $100 extra for adding another driver per week. Thank you so much and thank you so much, Mr. Chairman.

CHAIRMAN YASSKY: Thank you, Mr. Simmers.

No Chowdhury again.

CHAIRMAN YASSKY: Again if there are two or three people making the same point. Say again your name.

MS. DUGONQUAN: Marie Dugonquan. I start 1980 when there was only one women, two women, three women. I'm very happy for increase. I hope increase is for the drivers, not for the fleet.

Every time we get increase, it's always for the fleet, Commissioner. Also I have a little problem with the charge the credit card. Take a customer $3.50 charge $3.50. When you go to a store or a restaurant they say minimum is $10. So for $3.50 the lady gives me the charge. It's impossible. We should put a little paper nicely to be nice always respect to put at least $10, but $3.50 is terrible. The problem with the charge people try the machine and the machine works, but the card doesn't respond, so you lose.

They say goodbye. No, you got to pay me. It's $12. They say no, no, I don't pay you. That's your problem. You know, I have a lot of problems, Mr. Chairman.

CHAIRMAN YASSKY: Thank you.

MS. DUGONQUAN: You said we're going to raise it to $54 to Kennedy. I think it should be $60 plus the tolls. That's what I'm saying, you know, $45 is very, very, little with all this traffic, you know. I hope we can do something like that and this charge, this charge is terrible. They walk out. They don't pay you.

COMMISSIONER MARINO: As far as the minimum goes, my understanding of the law, you can't charge a minimum. If a restaurant or store is telling you that, they're in violation.

MR. ADLER: The law changed.

Consumer protection changed that you can charge a minimum.

CHAIRMAN YASSKY: I thank you for the testimony. Before we get off on a tangent. Osman Chowdhury followed by Michael Ford.

MR. CHOWDHURY: I give a handout with my testimony. True evidence those are DOV drivers. Pay the $65,000 yearly. They have to hybrid car $10,000 to $12,000 initially. Then you add how much the payment then you can get the easy what I know this thing here what they say.

United Taxi Drivers Association NYC, Inc.:

"Dear Sir, on behalf of United Taxi Drivers Association (NYC), Inc., quite respectfully, I would like to put forth the following to New York City Taxi and Limousine Commission:

With a view to benefiting New York City Yellow Taxi Drivers, The Taxi and Limousine Commission in 2004 increased taxi fare by 26 percent and fixed weekly lease caps at $666.00.

"But the question is: Did it truly benefit New York City Yellow Taxi Drivers? Did it really serve the purpose? Here is the analysis:

Before 2004 fare hike, the maximum weekly lease cap for day and night was $1,100.00 for both shifts. With the new weekly lease cap at $1,332.00 for both shifts caused on average a NYC Yellow Taxi Drivers an extra expense at $116.00 per week that rounds up as $6,032.00 in a year.

"The lease $666.00 per week means $95.14 per day. But the garage owner started charging on a daily basis and thus pocketing extra $219.61 in addition to the lease cap of $666.00. (Breakdown: Sunday, Monday, Tuesday at $119.77 totaling $359.31, on Wednesday, Thursday, Friday and Saturday the plan is up $133.77, totaling 401.31 and altogether $885.39).

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"The fare was based on fuel price at $1.80 per gallon. In reality, on average, the price was $2.30 per gallon that is a NYC Yellow Taxi Driver was running on an extra expense of $0.50 per gallon. And the gas fare was increasing mercilessly.

"The fare hike, in reality, then cumulatively caused approximately an aggregate of close to $10,000.00 annually as extra expense per taxi driver. Also issuance of extra medallions made the market very competitive and the drivers were burning more gas and getting comparatively less passengers. To cover for these expenses, NYC Taxi drivers had to let go any breaks that they were once taking and was very much needed for a stressful job. Health wise, they suffered back pain for being behind the wheel all the time. The quality of life dropped for the taxi drivers, whereas quite preposterously, garage and medallion owners were ripping profits at the taxi drivers' expense.

"There is another fare hike and issuance of 2,000 more medallions likely by the TLC. Also about 10,000 rental hikes will be there in July. Therefore, instead of getting excited about fare hike, we are apprehensive because of past experience. The situation is further worsened by illegal picking up of passengers by livery cabs (black cabs and cabs from other states). The way it is going, NYC Yellow Taxi Drivers feel that their backs are pressed against the wall very hard.

"I, therefore, would like to urge New York City Taxi and Limousine Commission this:

"If TLC's intention is good and to benefit the New York City Yellow Taxi Drivers, then the TLC must adopt certain preventive measures so as not to let the garage owners and medallion owners rip undue profits at the expenses of New York City Yellow Taxi Drivers. Thank you."

CHAIRMAN YASSKY: I wanted to thank you because I know you testified in the past. Having the written testimony I think is helpful and appreciate you did that. It lays it out. I think your point about health care, which others have made as well, is an important one and we need to think through and your point about the gas prices.

Anyway, I thank you. Thank you very much for your testimony.

Babul Achariee followed by Michael Ford. Followed by Charbel Sfeir. If not, John McDonagh.

MR. FORD: Good afternoon. My name is Michael Ford. I don't intend to duplicate what the rest of the speakers have said, but I'd like to touch on this point and that is we all want a fare raise, but I hope it doesn't occur during the summer. That would be very detrimental to the drivers.

The last time we had a fare increase the weather was cool. It was in the spring and I remember a lot of people walking all the way from the east side Second Avenue, First Avenue to Penn Station and I mean the street was crowded and they did not attempt to take any taxi and a lot of the drivers they made considerable less money during that time. It was not a permanent situation. It was more like a protest, so I would suggest that you would consider while planning to increase the fare, to do it more like in the fall and not in the summertime.

In addition to that, there are some other things about to happen during the summertime. The increase of thousands of bicycles. I don't know what time frame it is. But the additional 2,000 medallions proposed what time they'll become active on the street. Also, the other boroughs cabs that have been proposed, I understand there's a general time frame, around about the summertime the public is finicky.

They resent being charged more for cab fare, so the time that this is instituted is very important. Not that you're trying to deny us. We need it today, but we have to use common sense about it.

CHAIRMAN YASSKY: Fair enough. Thank you for the point. Thank you, sir.

Charbel Sfeir, I believe. That's not here. John McDonough. Robert Kirk. If you wish to speak, you can. If you feel like your point has been made that's fair too.

MR. KIRK: I've been a driver for 43 years. That makes me the old fart in the room. If you would look at my resume, you would find that I did other work in the taxi industry.

As a result, I have to kind of look

at things in the most balanced way I can. My problem is that I come from a different kind of family than I'm accustomed to hearing what I did today. I have a different definition of truth and it follows the lineage of Martin Luther King, Mahatma Gandhi.

Not part of the Taxi Workers Alliance, although I have been. I'm not part of the LOMTO, although I have been. Not part of the Taxi Commission, although I have been.

The reason I'm speaking today is that from my heart. Although I understand that my salary has dropped, when I think in terms of my passengers who are my family. I love them. I really do. I have very little trouble from my passengers. The thought of taking more money upsets me even though my salary has dropped for a lot of different reasons.

The main thing I want to speak about is something that is terrifying in the taxi industry and people speak about crime, being shot, being beaten up. We don't speak about or haven't heard speak yet about the 50 or 100 people who were working pretty much exclusively for the DMV, Department of Motor Vehicles and what they've been doing to the taxi drivers.

What I've been experiencing and shockingly been told in the back by driver who had to come because he got six points when I was working for the Taxi Commission, it was six tickets and they would have to come to my classes. I would have to analyze their records and we were told to give them back their licenses. Six tickets, not six points.

What I'm watching go on in the NYPD, and I'm only talking about 50 or 100 officers as well the judges on Rector Street, I correlate to government sponsored terrorism.

I mean that sincerely by the real

terrorism, not meaning killing or maiming or blowing up business. I need your help on this, that's why I came down.

CHAIRMAN YASSKY: I appreciate the sincerity especially with respect to the passengers. I think you can be sure the commissioners share the feeling. You don't want to ask the passengers to pay more unless it's a real strong justification, but I take your point and I appreciate your testimony. Thank you.

MR. KIRK: You cut me off concerning the NYPD.

CHAIRMAN YASSKY: I think your use of the word of terrorism is overstated.

MR. KIRK: Drivers are terrified. I talk to them all the time, sir. What I just heard Michael Bloomberg said he needs a billion dollars because the taxi driver --

CHAIRMAN YASSKY: Singh, you spoke before? The next Mohan Singh, Bill

Lindauer and Salim Sardsi and Raphael Espinol.

MR. SINGH: I just want to only one point that when we are taking someone in JFK, when you are fixing the price for the fares, what they do, if they want to go to midtown, we go Grand Central. There are few who want to get Belt Parkway. If we don't take them that way and they charge the TLC give us how much that you are going the other way. The thing is when the fare is fixed, you want to use the shortest way, not the way they want.

CHAIRMAN YASSKY: I understand the point, okay. George Laszlo.

MR. LASZLO: Thanks all of you for hanging in there, by the way. I'm exhausted. I don't know about you.

Good afternoon, my name is George Laszlo. I am here as a resident of New York. Let me emphasize I don't represent anyone and have not been asked to promote anyone's agenda.

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My own agenda is twofold: First, I'm here to support taxi drivers. Second, I want to make sure that as a resident of New York City, I'm kept safe and I want a quality ride, and I think many of the things we heard today are leading in that direction.

I want to thank you for being as open minded as I've heard from all of you in trying to do something that's fair.

When the proposal to increase rates came out, I was immediately in support of it under the seemingly naive assumption that this would improve the financial well being of every driver.

Imagine my surprise when many informal discussions with drivers showed only mixed support for the increase. Instead of clear support, I heard skepticism, sarcasm and/or derision. Actually, let me correct that; only those drivers with their own medallions were in favor of the rate increase. They knew that the additional increase would flow directly to their bottom line.

As we all know, the vast majority of drivers lease their vehicles on a daily or weekly basis. For a large percentage of them, any increase looks like a double-edged sword. Here is what they fear:

The number of fares will decrease since the economy is hurting everyone. The last statement about implementing it not in the summer attests to that. The number of short trips would decrease. People will get on the subway or walk. The garages will just wait a few months and then increase the lease rates.

So in short, the absolute revenues will drop and the expenses will go up, that's what I'm hearing from the taxi drivers. I don't think that these are your objectives. I hope it's no one's objectives. My own conclusions and objectives are as follows:

First, the TLC should look at the issues holistically. It does not make sense, for example, to separate the lease cap issue from the rate increase issue. I think that you are doing that. I certainly hope that you are.

A method should be found to create a win-win situation for the drivers, the owners, the TLC and the riding public. For example, how will you prevent the garages from taking part or all of the fare increases away from the drivers? Despite your lease caps, garages always seem to find a way to extract more from the drivers.

Second, you have expressed the need for better data to support your deliberations and decisions. This need for more data should move from a desire to an obligation. Specifically, the TLC should require every medallion lessor to submit in a standardized digital format, in as near realtime as practicable, all of the leasing information related to the transactions between them and the lessee. This must include data on each and every fee passed on to or charged to the lessee.

This is the only way you can truly know how the industry is behaving and give it the ability to close loopholes and stop the abuses. Drivers deserve as much consideration as medallion owners.

Third, your own data show that the number of fares is roughly only constant between 8 a.m. and 10 p.m. If this is true, then how can the current set of surcharges be defended? I would suggest it's time to revisit this component of the taxi fares.

Fourth, as the TWA has suggested, the rate increase should only be reflected in the additional mileage category; in other words, none of it should included in the meter drop.

Fifth, it is also a fact of life

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that garages lease medallions 24/7. It is also obvious that no driver can work for 12 hours a day, 7 days a week. Thus the TLC should forbid weekly leases exceeding six days. Since the number of drivers significantly exceeds the number of cabs --

CHAIRMAN YASSKY: You came to that idea on your own?

MR. LASZLO: Well, I'm thinking out of the box since I have no vested interest.

CHAIRMAN YASSKY: What do you do for a living?

MR. LASZLO: I'm currently retired, but I'm an IT management consultant. That's why my emphasis is on the data part of things.

You're not getting all the data you need to make informed decisions. You keep asking for them, and people are providing it, but you need to systematically cross everything.

CHAIRMAN YASSKY: What about the

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lease payments?

MR. LASZLO: Since the number of drivers exceeds the number of cabs, there should be no adverse effect of this move on taxi availability.

In addition, the rates charged for a third driver should be controlled just like lease caps. If you're leasing a cab for 12 or 24 hours, it should not matter how many drivers are in the driver's seat so long as they have a valid license.

Sixth, the driver should only be charged a credit card processing fee on revenues that go directly to them. Why, for example, should they pay 5 percent of the 50 cents MTA charge? Or, consider that of the flat $45 JFK run, $2.25 literally flies out the window in credit card fees.

Seventh, while speaking of credit cards, the TLC has a great opportunity to allow multiple systems to be used for fare collection. So, I applaud

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your current pilot program with Square. I would urge, however, that while the TLC should test and approve the systems that can be used, the actual selection and use of the system should be left in the hands of the driver. I know that this approach may be foreign to you, but I'd like to encourage you to give it serious thought.

I'm going to skip one point here but in closing, I'd like to ask that you not vote on lease caps or fare increases until these and other issues have been adequately understood.

The drivers have waited for at least six years for an increase, consider a few more months won't make much of a difference, but can be used wisely to formulate a better and more equitable plan.

I thank you for your time and urge you to pay more attention to the drivers who have no choice but to lease their means of livelihood. Thank you.

CHAIRMAN YASSKY: I may not agree with every single one of the proposals, but, really thank you. I just want to -- I think we do try to note, our fellow and sister commissioners remember that ultimately it is the public that we report to and the ridership that we are here to represent, but to have somebody personify that is quite helpful, and I appreciate you taking the time out of your day to be here.

MR. LASZLO: Thank you. That's why I hope I'm not the last one to come to one of these meetings.

By the way, if you'd like to take advantage, I'd be happy to help on the data side since that was my area of expertise.

COMMISSIONER DEARCY: Before you sit down, I want to echo the sentiment of the Chair and thank you for taking the time to come here and to be so prepared to speak on an industry that is not your own. I said to you in the hall that I would ask you questions, but your presentation was so thorough that I have none.

COMMISSIONER MARINO: I concur.

MR. LINDAUER: Mr. Laszlo is not one in a million. He's one in 8 million.

Good afternoon. My name is Bill Lindauer, proud member of the AFC-CIOs National Taxi Workers Alliance. We are the 99 percent. Mr. Mazer, Mr. Pollack and Mr. Gerber, they represent the one percent. They are multimillionaires. Don't be bamboozled by their bogus figures.

The Taxi Board of Trade has more sets of books than the Library of Congress. If the TLC and the IRS -- I'm sure they're a laugh riot. They don't have any credibility because they come from fantasy land. Under their thinking, the drivers make more than they do. I'd gladly exchange their yearly income for mine.

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Back in 2004, just before the fare hike, I had to file bankruptcy and probably many other fellow brothers and sisters had to do the same because we couldn't make it. We couldn't survive in this city. Today, drivers are still suffering. Their families are all too familiar with the poverty level of life. I mean I hold the City, the City is partially guilty for this because they set up the policies.

It's up to them to make sure the drivers have a decent income, that their kids can go to school or go to college and have decent food on the table and have an apartment adequate to their needs. They shouldn't have to have their families back in Bangladesh or wherever.

I must applaud the Commissioners and Chairman Yassky. I feel there's a new enlightened leadership here at the TLC. I know not many commissioners are here right now. I strongly urge the commissioners to support Chairman Yassky's carefully considered recommendations.

Don't be fooled by the furious friends of the mendacious tycoons. These are efforts for exploitations and gladiators for greed. Thank you.

CHAIRMAN YASSKY: Okay, Salim Sarsi and then final is Rafael Espinal.

MR. ESPINAL: Good afternoon, Commissioners. My name is Raphael Espinal. I just come to give more credibility of my representative Bhairavi Desai. About the charges to us.

I own my car. I lease the medallion for now it's two years, almost three years. My lease is $800. They charging me $75 for extra driver. They are charging me $1,269 for tax time per year, which I believe is only $1,000. The gas prices, everything is up. I can't make it up.

So I just want to see, you know, if

we can get the fare increase even that I know it's tough for everybody, but we need to make it up on the street because every penny we make, it got to go to the garage and brokers. I not going to take any more time. Thank you.

CHAIRMAN YASSKY: Thank you. All right. Thank you.

COMMISSIONER MARINO: David, you said there was one person who could speak at the end.

CHAIRMAN YASSKY: That was true. You can come up. Just introduce yourself for the court reporter.

MR. MOHAMMED: Hi, Commissioners. My name is Mohammed. I'm a DOV operator. The only point I wanted to make what David Pollack was trying to say we subcontract with a third driver, no, we don't. We share the cost.

We are two drivers working on one car and we share the cost of the lease and the repairs. I cannot have him on the contract because they only sign the contract only with one driver because then they cannot charge -- if we are two on the contract, then they cannot charge the additional driver fee for the second driver. So, I mean, there is no sublease with the second driver.

CHAIRMAN YASSKY: All right, thank you. That's helpful. Thank you.

I want to thank the members of the industry and the public who participated. I think this has been very enlightening. As I said before, I do think this is an issue that is difficult. We should not wait another two years, three years. I think it is appropriate now to do it now.

Commissioners DeArcy and Marino, thank you very much for your participation. Also, we will give this a very thorough deliberation.

My goal, for folks in the industry, I think that we have enough information to move forward. We will be developing a proposal that we will publish as a rule making. The goal will be to make that out in fairly short order. So if there is additional information, please do send it in and then we'll have a subsequent hearing of course.

I just want to thank the court reporter. I know this was an unusually long and the lunch break was a little abbreviated and I do appreciate your generosity in letting us move forward in that way. Thank you. With that, the hearing is adjourned. Thank you.

(TIME NOTED: 3:51 p.m.)

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C E R T I F I C A T E

I, MICHAEL MCINTOSH, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is hereinbefore set forth was duly sworn by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

MICHAEL MCINTOSH

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ME THIS___DAY OF ________, 20__

NOTARY PUBLIC   MY COMMISSION EXPIRES________