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NEW YORK CITY LIMOUSINE COMMISSION

PUBLIC HEARING

Held on Thursday, July 15, 2010

40 Rector Street

New York, New York.

Time: 10:00 a.m.

1 A P P E A R A N C E S :

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4 DAVID YASSKY, Chairman  
5 HARRY GIANNOULIS, Commissioner  
6 LAUVIENSKA POLANCO, Commissioner  
7 ED GONZALES, Commissioner  
8 IRIS WEINSHALL, Commissioner  
9 ELIAS AROUT, Commissioner  
10 CHARLES FRASER, General Counsel

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2 MR. YASSKY: Good morning. Before we  
3 begin the meeting, I will just give a brief  
4 report on some of the items that we have been  
5 working on.

6 First, to follow-up on last month's  
7 meeting, which we the Commission approved a  
8 new group ride stand on York Avenue between  
9 70th and 71st for service in the morning from  
10 the Upper East Side to World Financial  
11 Center, I want to thank and credit  
12 Commissioner Weinshall for her caution about  
13 the local geography of that neighborhood. It  
14 has proved a challenge to figure out a place  
15 to where taxis can congregate. There is a  
16 lot of traffic, as you pointed out,  
17 Commissioner, from the hospital, you know, on  
18 ambulettes and vehicles that need to get to  
19 the hospital. So, we're continuing to work  
20 and trying to figure out a good space for it,  
21 but the truth is, it hasn't really taken  
22 off. It's very busy, and so the staff is  
23 looking at a way to reconfigure. The initial  
24 location just proved really not workable.

25 And it is interesting, I mean, we also

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2 this week -- really last week now that I  
3 think about it -- started to test service at  
4 some of the locations that you approved  
5 earlier, both the Port Authority Bus Terminal  
6 on the west side of Manhattan, and one  
7 location at La Guardia Airport but a taxi  
8 stand that feeds from two terminals, takes  
9 passengers from two terminals. I will tell  
10 you, I thought, well, the La Guardia one is a  
11 natural; steady stream of people, they can  
12 really be saving \$10, \$15 on their trip. The  
13 Port Authority one seemed to me less likely  
14 to take off. But the practice so far, it is  
15 early, and we'll see, I think these things  
16 take a while to really determine whether they  
17 really work or not.

18 The Port Authority one is workable right  
19 from the start; getting plenty of passengers,  
20 they want the group rides. That's working  
21 just as hoped for. The La Guardia one, much  
22 less demand. You know, tourists who have a  
23 cab full of passengers already, or business  
24 people who don't care about saving the 10  
25 bucks because they're not paying for it.

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2 Maybe the point is to have humility about our  
3 ability to predict what will work and what  
4 won't work. And in my view, that's why we do  
5 these pilot programs. I think that should be  
6 more encouragement to try new ideas, because  
7 we really can't say for sure what will work  
8 and what won't work, just do our best to  
9 predict. So, that's on the group ride  
10 stands.

11 I also want to report some legislation  
12 of interest. The City Council passed and the  
13 Mayor signed four bills relating to the  
14 Commission and our regulated industries, so,  
15 I just want to make sure you know about it.

16 One, amended the requirements for Taxi  
17 Cab's Passenger's Bill of Rights, adding a  
18 provision informing passengers that they are  
19 entitled to the payment of tolls by EZ-Pass.  
20 This you may recall, you might have seen in  
21 the paper, there was some reporting a month  
22 or so back about why. What the paper found  
23 by just watching the toll plaza were more  
24 cabs than one would hope for using the cash  
25 lane rather than the E-ZPass lane. Our

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2 rules, as you know, require taxis to have an  
3 E-ZPass and to use it when they are going  
4 through toll plazas; first of all, it is  
5 faster, and second of all, it saves the  
6 passengers money. Even assuming that they go  
7 through the cash lane and reimbursed at that  
8 same price, it saves the driver, the  
9 passenger money. So, this is something that  
10 we take seriously. It is a rule that we want  
11 to make sure is enforced. I will tell the  
12 members of the industry that are out there  
13 that we have been working with our TPEP Data  
14 to identify vehicles that seem to routinely  
15 use the cash lane rather than the E-ZPass  
16 lane, and we will be sending out summonses,  
17 just as with other rules where that the data  
18 we have now enables enforcement that was not  
19 practical before. We have an additional  
20 enforcement tool at our disposal and those  
21 summonses will be going out once we have  
22 completed the data analysis work necessary to  
23 do that. So, that was one piece of  
24 legislation.

25 Second, enhances the Taxi and Limousine

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2 Commission's public reporting, requiring the  
3 TLC provide detailed reporting of public  
4 complaints and TLC enforcement actions. I  
5 think that is a good thing, certainly  
6 something we would want to do anyway, but  
7 this is kind of a prod to upgrade our website  
8 and make sure there is full disclosure of  
9 public complaints and the outcomes that  
10 result therefrom.

11 The third piece of legislation requires  
12 the TPEP vendors to provide specified fare  
13 information to TLC in a timely fashion.

14 The fourth piece of legislation  
15 authorizes the TLC to impose fees up to \$50  
16 for reinspection of taxicabs that fail their  
17 first inspections.

18 And this last one will require rule-  
19 making to implement. We discussed this at  
20 our last meeting. I believe it was discussed  
21 at the meeting in June, if not, maybe it was  
22 the one before, but I believe it was the June  
23 one. We will have a proposed rule on this  
24 ready for Commission action in September.  
25 That proposal will propose a reinspection fee

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2 of \$35. I want to be brief, but again, it  
3 has been, not just our practice, but the rule  
4 that the first inspection there is a fee for,  
5 but the second one not. You know, what we  
6 want to do is encourage vehicle owners to  
7 maintain the cars so that it passes the first  
8 inspection and they don't have to come back  
9 for a second inspection.

10 In addition to these four laws, the  
11 Council on June 29th passed a home rule  
12 message calling on the State Legislature to  
13 enact a bill that would expand the  
14 Commission's ability to docket unpaid fines  
15 as judgments of the Civil Court. This is a  
16 critical enforcement tool to enable us to  
17 collect some of the unpaid fines that the  
18 Commission has levied, increasing the  
19 effectiveness of our enforcement programs.  
20 The State bill unanimously passed the State  
21 Senate -- so, how many can say that, right --  
22 and is pending in the Assembly which we hope  
23 will pass the bill at the next opportunity.

24 Looking ahead to our September meeting,  
25 we will have a proposed rule revising our



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2 Black Car Retirement Rules. I want to again  
3 let you know about this in advance, because  
4 the Commission originally passed rules in  
5 April 2008 imposing vehicle retirement  
6 schedule on black cars for the first time.  
7 The intention at that time was that the TLC  
8 would put together a financing package to  
9 assist black car owners with the purchase of  
10 newer, more fuel-efficient cars. However,  
11 the burden of the financial crisis that began  
12 later in 2008 fell especially hard on the  
13 black car industry and also impaired our  
14 ability to arrange the financing we had hoped  
15 for. Therefore, we have reviewed the Black  
16 Car Retirement Rules and have decided on a  
17 different approach, which I will put before  
18 the Commission at our September meeting. The  
19 proposed rules will have revised the existing  
20 vehicle retirement schedule, allowing a  
21 longer vehicle life for cleaner, more fuel-  
22 efficient vehicles as an incentive similar to  
23 the incentive the taxicabs already have under  
24 the Administrative Code.

25 Finally, a couple of staff items.

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2 First, I just want to recognize that the TLC,  
3 but in the person of Ira Goldstein who is in  
4 the back there, was honored last month by the  
5 New York Association of Broadcasters. The  
6 specific achievement that was noted by the  
7 Association of Broadcasters was that we are  
8 using TPEP to put AMBER alerts, to distribute  
9 AMBER alerts to taxi drivers, kind of speaks  
10 more generally to the truly wonderful  
11 opportunities for service improvement that  
12 TPEP has created, and Ira of course was this  
13 person here at the Commission who is most  
14 identified with the TPEP Program. So, I just  
15 want to congratulate him on that award.

16 (Applause)

17 MR. YASSKY: Second and last, second on  
18 the personnel and last on these items, I  
19 would like to introduce a new deputy  
20 commissioner that we have here at the TLC. I  
21 think that my most important responsibility  
22 as Commissioner is to ensure that the agency  
23 is staffed with the most talented, dedicated,  
24 energetic people that we can possibly find,  
25 and I think we have succeeded handsomely in

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2 this particular appointment. Conan Freud is  
3 our new Deputy Commissioner for Finance  
4 Administration. Conan comes to the TLC with  
5 exceptional governmental experience at Hunter  
6 College, the Department of Transportation,  
7 and the Office of Management and Budget. In  
8 just his first few weeks on the job, Conan  
9 has energetically taken on the task of  
10 reorganizing the agency's infrastructure to  
11 help the TLC meet the regulatory challenges  
12 we face despite the tough economic and  
13 budgetary times. Translated, that means he  
14 has been jawboning OMB and giving us a little  
15 bit more of the resources that we need.  
16 That's just one piece of it, but he has been  
17 remarkably effective, even in that short  
18 period of time. I just want to introduce  
19 Conan Freud to the Commissioners and the  
20 assembled multitudes.

21 The next item on our agenda is the  
22 adoption of minutes.

23 MR. AROUT: Make a movement we adopt.

24 MR. YASSKY: I appreciate that, and I  
25 consulted though, I tell you, with General

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2 Counsel Fraser to ask whether seconds are  
3 necessary under our rules, they are not, if  
4 you want to speed things up. Okay, good. I  
5 see no objection, so, we'll proceed on that  
6 basis from this point forward.

7 A motion is on the table to adopt the  
8 minutes. All in favor say Aye.

9 THE COMMISSION: (In unison) Aye.

10 MR. YASSKY: Opposed?

11 (No response.)

12 MR. YASSKY: By unanimous vote, the  
13 minutes of the June 22, 2010 Commission  
14 meeting are adopted.

15 The next item on the agenda is base  
16 applications. Georgia, will you just come up  
17 very briefly? Another kind of matter of  
18 practice here, if there is no change, I'm not  
19 sure if it's necessary to have these  
20 presented in person, but Georgia will be here  
21 always to answer questions. Today there is a  
22 change on the list here, but Georgia will  
23 please present.

24 MS. STEELE: Licensing is asking that  
25 the Commission approves B01616 as a renewal

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2 and relocation and not solely as a renewal as  
3 listed on the agenda.

4 MR. YASSKY: Okay, so, there are four  
5 new base applications as listed in the  
6 materials. I guess it's nineteen renewals,  
7 and now two renewal and relocations; am I  
8 correct?

9 MS. STEELE: Correct.

10 MR. YASSKY: One relocation, three  
11 renewal and ownership changes, and one  
12 ownership change.

13 Along with that, the staff is  
14 recommending that two bases -- am I right,  
15 Georgia?

16 MS. STEELE: Yes.

17 MR. YASSKY: They are recommending that  
18 two base applications be denied unless the  
19 base can meet TLC requirements within thirty  
20 days.

21 I'll entertain a motion to adopt the  
22 staff recommendations.

23 MR. GONZALEZ. So moved.

24 MR. YASSKY: Thank you. All in favor?

25 THE BOARD: (In unison) Aye.

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2 MR. YASSKY: Opposed?

3 (No response.)

4 MR. YASSKY: By unanimous vote, the  
5 staff recommendations are adopted. Thank  
6 you, Georgia.

7 We have three rules changes before us  
8 for public hearing. I'll ask Chuck Fraser to  
9 present the first of the three.

10 MR. FRASER: The first of the three is a  
11 rule to implement a recently enacted local  
12 law requiring that we promulgate a commuter  
13 van Passenger's Bill of Rights. So, what  
14 this rule does is it conforms our rules to  
15 the requirements of the Bill of Rights. So,  
16 for instance, we did not previously have a  
17 rule requiring that commuter vans adjust the  
18 air conditioning at the request of  
19 passengers. That was in the legislative  
20 requirement for the Bill of Rights, so, now  
21 we are putting in our rule, and in addition  
22 of course we are requiring that the Bill of  
23 Rights be posted in compliance with the law.

24 We published the proposed rule for  
25 comment for the required thirty-day period.

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2 We received no comments either in writing or  
3 at the hearing, and therefore, the staff is  
4 recommending that the rules be passed as  
5 proposed.

6 MR. YASSKY: Does any wish to speak on  
7 this matter?

8 (No response)

9 MR. YASSKY: Very well. Are there any  
10 questions?

11 MR. AROUT: Make a movement we adopt.

12 MR. YASSKY: Very well. All in favor  
13 say aye.

14 THE BOARD: (In unison) Aye.

15 MR. YASSKY: Opposed?

16 (No response)

17 MR. YASSKY: By unanimous vote, the  
18 Commuter Van Bill of Rights Rule is adopted.

19 Let's skip to Item C, the third item  
20 under the rules. The second is Livery  
21 Workers' Comp Rules that I know that there  
22 are people here to speak on. And I've talked  
23 with a couple of the commissioners over the  
24 last couple of days, it had been my intention  
25 to present this for a vote today, I know that

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2 at least a couple of you Commissioners have  
3 questions that you want to make sure are  
4 answered and make sure you understand fully  
5 the implications of what we're doing and also  
6 hear the public comment. I have also heard  
7 quite a bit from industry folks in the last  
8 couple of days. I think that the concerns  
9 that they have expressed to me at least are,  
10 you know, they are answerable, and they  
11 don't, you know, in my mind argue against  
12 adopting the proposed rule here. But I do  
13 want to make sure that what we're proposing  
14 is fully understood in the industry and  
15 doesn't cause undue confusion or concern  
16 among industry members. So, I think that  
17 more time to do that outreach would be  
18 certainly worthwhile. So, it is not my  
19 intention to present that one for a vote  
20 today. I do think we should hear the public  
21 comment on it and we'll hear a presentation.

22 But let's first do Item C, just because  
23 I think that's a lot shorter, and then we can  
24 go to Item B.

25 Chuck, would you present the transfer



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2 fee rules.

3 MR. FRASER: This rule would remedy an  
4 unclarity in our rules that we discovered  
5 which pertains to transfer fees. This rule  
6 would specify that it would cover three  
7 different types of transfers: Transfer of a  
8 vehicle license from one vehicle to another;  
9 transfer of a vehicle from affiliation with  
10 one base to another; and transfer of a  
11 license plate from one vehicle to another.  
12 And it would make it clear that a \$25  
13 transfer fee applies to each of those  
14 transfers.

15 We published this rule for the required  
16 thirty-day comment period and received no  
17 written or testimonial comments. We do have  
18 one preregistered speaker for today.

19 MR. YASSKY: Ethan Gerber, you wish to  
20 speak on the transfer fee rule.

21 MR. GERBER: Thank you, Mr. Chairman.  
22 And first I want thank you for having the  
23 ability to speak to you today, and I want to  
24 congratulate you on your testimony yesterday.  
25 You testified in front of the New York State

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2 Assembly for Committees, you did an  
3 outstanding job I thought.

4 MR. YASSKY: Very gracious of you to  
5 say. So, thank you.

6 MR. GERBER: In that committee hearing,  
7 there were numerous assemblymen who asked you  
8 very difficult questions, and you handled  
9 that with grace and I think it squashed a lot  
10 of the fears.

11 Unfortunately, I fear that this may be  
12 the last time that the Commissioners are  
13 allowed to address the industry reps or the  
14 stakeholders because of Item 6 on today's  
15 agenda.

16 MR. YASSKY: I don't want to interrupt,  
17 but if that's the burden of your comments, I  
18 think that you will feel comfortable with  
19 what we're doing later.

20 Do you want to speak about the transfer  
21 fee rules, or about the --

22 MR. GERBER: Can I have a clue what  
23 we're going to do later? Because I think  
24 this is very important.

25 MR. YASSKY: Yes. We will discuss that.

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2 How about this: When we get to that item,  
3 which you have an opportunity to speak on  
4 that if you would like; fair enough?

5 MR. GERBER: Yes.

6 MR. YASSKY: That makes sense. Are  
7 there any other people wishing to speak on  
8 the transfer fee rule?

9 (No response)

10 MR. YASSKY: Do any Commissioners have  
11 questions?

12 (No response)

13 MR. YASSKY: Seeing none, is there a  
14 motion to adopt this rule?

15 MS. POLANCO: Move.

16 MR. YASSKY: So moved. All in favor say  
17 aye.

18 THE COMMISSION: (In unison) Aye.

19 MR. YASSKY: Opposed, no?

20 (No response)

21 MR. YASSKY: The motion is adopted on  
22 the transfer fee rules.

23 So, now we are returning to Item B, the  
24 Workers' Comp Rules. As I said a moment ago,  
25 I think that what the Commission is proposing

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2 here makes sense to do, but I want to make  
3 sure that the industry fully understands it,  
4 and that any confusion that's out there is  
5 cleared up. So, what I would like to do  
6 today is to have the staff very briefly  
7 present this rule, proposal. I know that  
8 this was discussed in March, but that was  
9 some time ago, and at that time, it was a  
10 presentation on the Livery Workers' Comp Fund  
11 Law in general that the State had passed.  
12 And it didn't present sharply for us the kind  
13 of choices for the Commission itself to make,  
14 so, I think it makes sense to have the staff  
15 take us through that now. Also, I know that  
16 there are members of the industry who wish to  
17 speak on that. So, we'll do that, then  
18 Commissioners can digest those comments and  
19 we'll consider this in September.

20 Chris Wilson is going to present the  
21 rule from the Commission staff.

22 MR. WILSON: Good morning,  
23 Commissioners. Yes, I'm here this morning,  
24 as Commissioner Yassky said, to take you back  
25 through the rules regarding the Independent

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2 Livery Driver Benefit Fund.

3 I did a presentation on this subject  
4 back in March, and at the time, that  
5 presentation which I believe was given to you  
6 again this morning, talked about the rules  
7 and the sort of legislative background about  
8 the problems with providing Workers'  
9 Compensation benefits to livery drivers and  
10 the statutory scheme that was enacted by the  
11 legislature to make sure that those benefits  
12 are provided.

13 One of the things that I discussed at  
14 the time was that the statute contains both  
15 mandatory and optional enforcement  
16 provisions.

17 The mandatory provisions require the TLC  
18 to deny licensure to any applicant, any  
19 livery-based applicant which is not either a  
20 member of the Independent Livery Benefit Fund  
21 or does not provide Workers' Compensation  
22 Insurance coverage for the drivers it  
23 dispatches. The staff is actually already  
24 enforcing this provision of the law, and I  
25 think the rule provisions as to this are not

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2 really controversial.

3 As to the optional enforcement  
4 provisions, the staff recommended that the  
5 TLC enforce certain base duties, as it was  
6 permitted to under the statute, including  
7 base failure to pay assessments to the Fund,  
8 misrepresentations about the numbers of  
9 affiliated vehicles on which the bases'  
10 essentially premiums would be based,  
11 misrepresentations to the Fund generally,  
12 base attempts to coerce drivers and vehicle  
13 owners to assist them with misrepresentations  
14 to the Fund.

15 In addition, the statute provides, and  
16 the staff recommended, that the TLC have the  
17 ability to audit bases for their compliance  
18 with the statute.

19 We drafted the rule in accordance with  
20 our recommendations. We published it. We  
21 received a number of comments, and we have  
22 had a number of meetings with industry  
23 representatives who had some concerns about  
24 our rule as drafted.

25 Accordingly, the rule that we place

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2 before you today for consideration actually  
3 contained a number of modifications. As a  
4 result of the industry feedback, we amended  
5 the rules so that as to a couple of the  
6 optional enforcement provisions, the TLC  
7 would only take action at the request of  
8 either the Livery Fund itself or the Workers'  
9 Compensation Board. Those particular actions  
10 were particular bases' failure to pay,  
11 misrepresentations about the numbers of  
12 vehicles, misrepresentations to the Fund.  
13 And our provisions in the rules track the  
14 penalty provisions in the statute.

15 We proposed retaining the draft rule  
16 reflects the right to audit and to take  
17 action upon the coercion of the driver or  
18 vehicle owner if such is reported to us. And  
19 again for the coercion issue, we drafted  
20 penalties that are sort of in line with what  
21 the statute permits: The Livery Workers'  
22 Comp Fund or the WCB to impose.

23 In addition, the rule provides a couple  
24 of other things consistent with the mandate  
25 that if people need to have Workers' Comp

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2 Insurance when they are licensed, they should  
3 be required to maintain coverage for the  
4 benefit of their drivers.

5 The rule provides that all livery bases  
6 must do one of two things at all times: They  
7 need to be members of the Fund to ensure  
8 coverage that way, or they need to provide  
9 actual Workers' Compensation coverage to  
10 their drivers.

11 Among the objections we've had to some  
12 of these provisions are that penalties for  
13 the bases are too high. The penalty provided  
14 for failure to maintain coverage is a penalty  
15 of \$25 per day and either suspension until  
16 compliance, or revocation.

17 I would just like to point out that we  
18 actually have existing rules today requiring  
19 general compliance with the Workers'  
20 Compensation Law, and those penalties are  
21 identical. So, we actually have the ability  
22 under current rules, the rule that's being  
23 replaced, to assess fines of \$25 per day for  
24 people who don't provide coverage and to  
25 suspend their licenses or revoke them if



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2 warranted. That's current Rule 604(i).

3 In addition, among the objections we  
4 have received is that our rule as drafted  
5 doesn't provide a mechanism for compliance,  
6 and in fact, the staff disagrees with that  
7 objection; we believe that the rule requires  
8 all operating bases to do one or the other  
9 thing: That is be a member of the Fund or  
10 maintain insurance.

11 And what penalty applies? If you don't  
12 have either thing, it's a fine of \$25 a day,  
13 or suspension until compliance. If you have  
14 either thing, there are no penalties  
15 applicable.

16 Objections continue to our enforcing  
17 aspects of a base coercing a driver. The  
18 staff believes that both bases and drivers  
19 are our licensees, and we have an independent  
20 regulatory interest in making sure that the  
21 law is complied with. We don't believe that  
22 the statute preempts the TLC from taking  
23 action against bases who try to get their  
24 drivers to violate the law, and although the  
25 objection is made that this could result in

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2 double penalties if the Independent Livery  
3 Driver Benefit Fund pursues a base for the  
4 same reason as well, that is we might assess  
5 a penalty and the Fund might assess a  
6 penalty. In fact, many of our rules in other  
7 aspects also can lead to double penalties.  
8 That doesn't really take away our ability to  
9 enforce against our licensees.

10 For example, drivers can get summonses  
11 from the DMV which may also lead to summonses  
12 from the TLC out of the same incident. I  
13 think nobody thinks that it is inappropriate  
14 that we can't take action against our drivers  
15 as well as the DMV to give just one example.

16 The objections seem to suggest that the  
17 TLC really should do nothing else other than  
18 deny licensure for people who don't provide  
19 coverage. The staff thinks that these  
20 objections contradict the clear language of  
21 the statute which provide that the local TLC  
22 may take action, for example, in the event of  
23 driver coercion.

24 The objections also we think ignore our  
25 ability to enforce items in our regulatory

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2 interest and our regulatory interest in the  
3 matters here. This is about providing  
4 Workers' Compensation coverage to drivers,  
5 and we think that base licenses who violate  
6 the law in terms of providing this coverage  
7 which they are required by statute to do, we  
8 think it is within our regulatory interest  
9 and ability to take action against them.

10 So, we don't believe the statute  
11 preempts our ability to take action beyond  
12 what the statute provides, and, as I said, we  
13 are not persuaded by the arguments that a  
14 base which violates the law might also in  
15 certain circumstances in the event of the  
16 driver coercion get a separate penalty from  
17 us; we think if they violated the law, they  
18 should be answerable to us for it, because we  
19 do regulate them, and we expect them to  
20 comply with the law.

21 So, we recommend that the rules be  
22 approved as they are on your desks.

23 MR. YASSKY: Thank you, Chris. Let me  
24 just make one framing comment before we go to  
25 questions and any other speakers. You know,

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2 Chris, in his presentation, refers to bases  
3 violating the law, and I want to be clear  
4 about this: We are not proposing this  
5 because we see why it's spread noncompliance  
6 at this point, we absolutely don't. This is  
7 a new law, it is our assumption that the  
8 industry will comply, you know, just because  
9 they are good folks, and that's what you do,  
10 and we expect people will follow the law.  
11 Our experience with the black car Workers'  
12 Comp Fund has been, you know, overwhelming  
13 compliance, but of course occasional  
14 noncompliance too, because out of any large  
15 group, there will be noncompliance here or  
16 there. So, that's my expectation of what we  
17 will see here.

18 But there's not a situation where there  
19 is an existing compliance problem that we see  
20 and we have to propose this. It is being  
21 done now because the State passed this law  
22 and it presented the TLC with the option of  
23 adopting our own enforcement rules or not.  
24 The proposal is to adopt them in the way it's  
25 been described.

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2 We have other speakers from the  
3 industry. If people have questions of Chris,  
4 they can ask them now, but he will also be  
5 here if you want to hear the other speakers  
6 and ask questions after, but if you want to  
7 ask them now, please go ahead.

8 MR. GONZALEZ. Just in general, at least  
9 the way I see it, this enhances, you know,  
10 the driver's safety and also helps them in  
11 the case of being on the job in a more  
12 efficient manner versus what is currently  
13 being done.

14 On the one slide, we have additional  
15 rule provisions, and I can't quite think of a  
16 an example where this would be the case, but  
17 you have all livery bases must have either  
18 Fund membership or Workers' Comp coverage.  
19 Is it mutually exclusive, either membership  
20 in the Fund or Workers Comp coverage from  
21 somewhere else, or can you have a blend of  
22 the two?

23 MR. WILSON: The statute contemplates  
24 one or the other, so bases that are members  
25 of the Fund, their drivers will be

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2 automatically qualified, covered. And if  
3 they are not members of the Fund they are  
4 automatically supposed to provide Workers'  
5 Compensation Insurance.

6 So, the statutory scheme doesn't  
7 contemplate that membership in the Fund would  
8 only cover half the drivers if a base is in  
9 the Fund, all of that base's drivers are  
10 covered.

11 If base doesn't wish to be in the Fund,  
12 then it must provide coverage for all of it's  
13 drivers by the other way, which is having the  
14 Worker's Comp Insurance.

15 MR. YASSKY: This statute and the Fund  
16 of course speaks to coverage for drivers.  
17 So, I don't know if this is what you were  
18 asking, but just in case it was, other  
19 employees of a base, you know, the  
20 dispatcher, the clerical employees who work  
21 at the base and are not drivers, they are not  
22 covered by the Fund.

23 MR. WILSON: And regular Workers' Comp  
24 rules would apply.

25 MR. YASSKY: And the base has to have

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2 regular Workers' Comp for them anyway, if  
3 that's what you're asking.

4 But with respect to the group of  
5 drivers, I haven't thought about your  
6 question, but as I hear Chris saying it, you  
7 either have all your drivers covered by the  
8 Fund or all of them covered otherwise, and I  
9 guess it doesn't contemplate.

10 MR. GIANNOULIS: I met with some of the  
11 advocates on this issue. So, I'm just trying  
12 to put together what I got from. It seems  
13 that you are saying that a lot of what you  
14 are looking to get out of this new rule, you  
15 already have in terms of the State  
16 authority?

17 MR. WILSON: The State authority right  
18 now under the law we are required to turn  
19 down applications if people don't have one or  
20 the other coverage, and that we are already  
21 doing.

22 Where our rule would go beyond what our  
23 current practice is, is to be able to take  
24 action against bases which do not maintain  
25 insurance. So, for example, we would grant a

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2 license to somebody who comes in to renew  
3 their license if they show us when they come  
4 in that they are a member of the Fund. If  
5 they drop their Fund membership two months  
6 later, we want the ability to say, "Well, you  
7 either have to go back into the Fund, or you  
8 need to cover the drivers with Workers'  
9 Comp."

10 MR. GIANNOULIS: Don't you have that  
11 ability already?

12 MR. WILSON: No, we don't.

13 MR. GIANNOULIS: Explain that to me. I  
14 don't understand. Do we have the ability to  
15 take action if somebody doesn't have Workers'  
16 Comp Insurance?

17 MR. WILSON: We do actually under the  
18 existing rule, but the existing rule wouldn't  
19 really cover people who are not in the Fund.

20 MR. FRASER: The existing rule was  
21 written at a time before the Fund existed.

22 MR. GIANNOULIS: Not our existing rules,  
23 as the State rule was written.

24 MR. FRASER: Yes, at a point of  
25 licensure, the State law mandates we must



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2 determine they have coverage.

3 MS. WEINSHALL: And the next day they  
4 could drop it.

5 MR. GIANNOULIS:: So, what we're saying  
6 is, that unless this rule is passed, if  
7 somebody went through licensing three weeks  
8 ago, and I came to you and said, "I know for  
9 a fact that they have canceled their Workers'  
10 Comp Insurance," you believe that under the  
11 State Law you cannot do anything?

12 MR. FRASER: No. The State law permits  
13 us to do something, it doesn't mandate it.  
14 And whenever State law is permissive and not  
15 mandatory, we have to implement it with a  
16 rule. If it's mandatory, we don't need a  
17 rule legally to act. But as to this, it is  
18 permissive, it's not mandatory. So, we must  
19 have a rule to act.

20 MR. GIANNOULIS: It does?

21 MS. WEINSHALL: Makes sense.

22 MR. GIANNOULIS: So, in other words,  
23 what you are saying is that, again, if I  
24 notified you that a base does not have  
25 Workers' Comp Insurance, you believe that you

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2 could not act today?

3 MR. FRASER: Well, when you say Workers'  
4 Comp, I assume you mean membership in the  
5 Fund.

6 MR. GIANNOULIS: Or not in the Fund.

7 MR. FRASER: Well, if they're required  
8 to have Workers' Comp Insurance, we have a  
9 rule that covers that. So, yes, we can  
10 proceed on that now. But if they had  
11 membership in the Fund and they dropped their  
12 membership in the Fund, then it's not so  
13 clear, because they are not required to have  
14 Workers' Comp Insurance if they are in the  
15 Fund. So, the point is, this rule now says  
16 that if you drop out of the Fund, we are  
17 going to do the same thing to you that we  
18 would have done to you in the old days under  
19 the old rule if you dropped out of Workers'  
20 Comp Insurance.

21 MR. GIANNOULIS: So, I'm confused about  
22 something you said. We have two buckets: We  
23 have people who are in the Fund, people who  
24 are not in the Fund. My understanding is  
25 that a large amount of the industry is in the

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2 Fund, correct?

3 MR. WILSON: Probably almost all of it.

4 MR. GIANNOULIS: So, you are saying that  
5 you believe under our rules and or Workers'  
6 Comp statutes, State law, if they are not in  
7 the Fund, if they are simply getting outside  
8 Workers' Comp Insurance, you believe that you  
9 could act?

10 MR. WILSON: If they drop that  
11 insurance, correct.

12 MR. GIANNOULIS: If they drop that  
13 insurance you believe that you could act  
14 right now?

15 MR. WILSON: Correct.

16 MR. GIANNOULIS: But you do not believe  
17 you could act if they do the same thing and  
18 they are a member of the Fund?

19 MR. FRASER: I'm not sure if we can, and  
20 I don't particularly want to take any  
21 chances.

22 MR. GIANNOULIS: So, that's the point of  
23 this rule?

24 MR. FRASER: That part of the rule, yes.  
25 There's four components, and that's one of

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2 them. By the way, that's one that is limited  
3 to -- am I correct? That's one that is  
4 limited to a request by the Fund or the  
5 Board.

6 MR. WILSON: No. That's maintaining  
7 coverage, which goes to our own interest in  
8 having coverage at all times. But the  
9 penalty in that tracks the existing penalty  
10 for failure to have Workers' Comp coverage.  
11 So, they're mirrored.

12 MR. GIANNOULIS: They're mirrored in  
13 terms of the TLC rules in terms of penalties  
14 for people who have Workers' Comp that are  
15 not members of the Fund?

16 MR. WILSON: No, people who don't have  
17 anything at all.

18 MR. GIANNOULIS: Even though I  
19 understand, and maybe the distinction is not  
20 really relevant since most of the people are  
21 a member of the Fund, is there a disparity  
22 between being a member of the Fund and not  
23 being a member of the Fund and simply getting  
24 Workers' Comp Insurance?

25 My understanding is that one supposedly

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2 it's cheaper, but one of the issues would be  
3 if a driver thinks that they are more at risk  
4 for getting revoked, or a base I should say,  
5 because they don't pay their fees --

6 MR. WILSON: If the base elects not to  
7 be in the Fund and secures Workers'  
8 Compensation Insurance, they have no problem  
9 with us.

10 MR. GIANNOULIS: I understand that.  
11 What I'm saying is --

12 MR. WILSON: Our concern is only if they  
13 do neither.

14 MR. GIANNOULIS: I understand that, but  
15 you're asking for authority to be able to  
16 actively audit and pursue members of the  
17 Fund, correct? And be able to revoke base  
18 licenses if there is a lapse in coverage,  
19 correct?

20 MR. WILSON: Or suspend.

21 MR. GIANNOULIS: So my question is, for  
22 people who are not in the Fund, for people  
23 who get private Workers' Comp Insurance --  
24 forget about -- I understand -- obviously it  
25 would be people who don't have that Workers'

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2 Comp Insurance, that's what we're talking  
3 about?

4 MR. WILSON: Right.

5 MR. GIANNOULIS: You have the same  
6 ability to pursue the same revocations within  
7 the same time period?

8 MR. WILSON: Correct.

9 MR. GIANNOULIS: Now, for the rest of  
10 the world, could you tell me, a private  
11 company, how lapses in Workers' Comp  
12 Insurance are treated kind of relative to  
13 what we are talking about here?

14 One question for example is, there's a  
15 lapse in Workers' Comp Insurance, does  
16 somebody else pick up that insurance?

17 MR. WILSON: I don't think so. In the  
18 private sector, sometimes when employers fail  
19 to pay, comply with their Workers' Comp  
20 obligations, it is one of the things that I  
21 think the corporate veil can be pierced so  
22 that the officers and shareholders can be  
23 responsible.

24 MR. FRASER: The Workers' Comp Board  
25 will go after an employer who should have but

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2 failed to make premium payments, and there  
3 are heavy-duty penalties that go with that.

4 MR. GIANNOULIS: I believe that actually  
5 employees are covered during that time  
6 period.

7 MR. FRASER: That's right. If that will  
8 cover them, and then go after the person who  
9 was supposed to pay the premiums, and as I  
10 say, with heavy penalties.

11 MR. GIANNOULIS:: Penalties aren't that  
12 heavy.

13 MR. FRASER: I think it is three times  
14 the premium.

15 MR. GIANNOULIS: For that time period.  
16 So, if you lapse for a month, and your  
17 premium is \$400 a year --

18 MR. FRASER: Well, okay.

19 MR. GIANNOULIS: It has happened to me.  
20 I guess my point is this: That this is  
21 relevant, because if we're saying that we  
22 need this authority because we are trying to  
23 protect the drivers. Well, if the drivers  
24 actually have coverage during that lapsed  
25 period anyway --

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2 MR. FRASER: No, they would not have  
3 Workers' Comp coverage, because I think the  
4 whole reason the State passed this law is  
5 that very, very few drivers are considered to  
6 be employees of the bases, very few,  
7 practically none. My understanding is that  
8 there are three or four bases in Staten  
9 Island that actually employ their drivers.  
10 All the rest are independent contractors, so  
11 they are not covered by Workers' Comp.

12 MR. GIANNOULIS: So, they're not covered  
13 by Workers' Comp until they're in the Fund,  
14 and they once they're out of the Fund they  
15 are definitely not covered. They don't  
16 somehow get some kind of --

17 MR. FRASER: That would be my  
18 expectation.

19 MR. YASSKY: That is an interesting  
20 question. We should make sure that that's  
21 the WCB's understanding of that, because I do  
22 see, I understand the question that you're  
23 asking.

24 MR. GIANNOULIS: Not that that would  
25 materially change what we're doing, but it



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2 would certainly make -- I mean, if the reason  
3 we are doing it is because we want to make  
4 sure everybody is insured in lapsed periods,  
5 well, if they're insured anyway, then  
6 somebody is paying a penalty. I don't know  
7 who it would be in that case, because how are  
8 they employees?

9 MR. YASSKY: Even though this is a  
10 unique mechanism for Workers' Comp, and how  
11 it treats a lapse period is worth being  
12 certain of, I agree with you.

13 MR. FRASER: The caution I would add to  
14 that though is that when we've met with the  
15 Workers' Comp Board on this subject, they've  
16 told us that the fund by which they pay  
17 people who are not otherwise covered is  
18 chronically under-funded or zeroed. The  
19 point being that they guy may be covered, but  
20 it might take him years to get the money.

21 MR. GIANNOULIS: I'm not advocating that  
22 we have a system that encourages this. I'm  
23 simply saying we shouldn't say we have to do  
24 this because we have to protect people; we  
25 should at least know if that they should know

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2 if they are protected or not.

3 MR. YASSKY: That's a relevant question.

4 MR. GIANNOULIS: If the Workers' Comp  
5 Board could actually have an answer for us,  
6 who is actually paying since they are not  
7 treated as employees, I don't know that they  
8 don't fall into the State Insurance Fund or  
9 some kind of strange situation. I just don't  
10 know, and I would like to have an answer  
11 before we vote on this.

12 So, one of the reasons I say this is  
13 because -- and again, it's a similar -- it  
14 goes to the same issue -- in the private  
15 sector, if you lapse on Workers' Comp  
16 Insurance as an employer, which I understand  
17 that these bases are not being considered  
18 employers, but they are the people who are  
19 insuring the drivers, there is a pretty  
20 normal notification period, "your money is  
21 due," "you have missed this time period," you  
22 are actually getting a letter from the  
23 Workers' Comp Board as an employer that says,  
24 "Your insurance has lapsed. You are going to  
25 be paying X. Go and reinstate it."

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2 Is any of that going to really be  
3 occurring here? Or if we're taking that  
4 responsibility on I guess, it seems to me is  
5 what we're talking about?

6 MR. WILSON: Well, I think actually  
7 primarily the Fund is taking that  
8 responsibility on, and this is just if the  
9 Fund is unable to do so, or, you know, so  
10 that we can also make sure that our bases  
11 comply.

12 I would like to point out that for the  
13 taxi industry, we do require all medallion  
14 owners to provide Workers' Comp Insurance to  
15 their drivers today. That seems to actually  
16 work, and conceptually in our view this is  
17 just doing the same thing. Today we have  
18 rules requiring coverage. Today we have  
19 penalties if people don't maintain coverage.

20 MR. YASSKY: Also, I mean, the even  
21 closer analogy might be with the black car  
22 industry where our rules provide for  
23 penalties for noncompliance. However, it is  
24 our practice, it it's not written into the  
25 rules, but when the licensing division

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2 becomes aware of a black car base that is not  
3 maintaining Workers' Comp Insurance, they  
4 direct them to, they give them the  
5 opportunity to cure, and the penalty is only  
6 there in case of, you know, non-inadvertent  
7 non-compliance. That's not written into the  
8 rule, but that is the practice for what it's  
9 worth.

10 MR. GIANNOULIS: So, I know this is the  
11 third rail of this industry, so, if we  
12 require the medallions to provide that  
13 insurance to the drivers, they don't have a  
14 similar fund setup, correct?

15 MR. FRASER: Right.

16 MR. GIANNOULIS: And they are not  
17 treated as employees, correct?

18 MR. WILSON: No. The medallion owners  
19 are treated for purposes of insurance as the  
20 employer.

21 MR. GIANNOULIS: In the Livery Fund, is  
22 there some unique thing, or are they treated  
23 as employee/employer relation as well?

24 MR. WILSON: In the Livery Fund it's a  
25 little bit different because of the historic

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2 finding that livery drivers were not  
3 employees of their bases for purposes of  
4 Workers' Comp. Bases that are in the Fund,  
5 for purposes of Workers' Comp, their drivers  
6 are considered employees of the Fund.

7 MR. GIANNOULIS: So, in terms of the  
8 medallion industry, do we know similarly what  
9 is the kind of time clock on lapses,  
10 terminations, who is covered, who is not  
11 covered? I mean, we are having a kind of big  
12 example I guess of how it works, no?

13 MR. WILSON: I believe every medallion  
14 maintains Workers' Comp Insurance for their  
15 drivers.

16 MR. GIANNOULIS: Let's say they don't  
17 pay their bill, let's say they lapse. I  
18 guarantee you 50 percent of the people in  
19 this room have lapsed on their insurance at  
20 some point on something. I guarantee it.  
21 I'm not trying to like excuse people, I'm  
22 just trying to figure out what the mechanism  
23 is.

24 MR. YASSKY: I'll take an opportunity to  
25 say, only because I know we have an extensive

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2 rest of the agenda, I don't want to short-  
3 circuit public discussion, and I absolutely  
4 don't want to prevent all your questions from  
5 being answered. Would you be comfortable  
6 with a follow-up conversation on these  
7 questions?

8 MR. GIANNOULIS: Sure. This is why I  
9 like to have public hearings before I vote on  
10 something.

11 MR. YASSKY: Yes, I can see that. I can  
12 see why.

13 (Applause)

14 MR. YASSKY: So, okay. I know there are  
15 other speakers. I would like the  
16 Commissioners to hear briefly if possible  
17 from the other folks who have signed up to  
18 speak on this.

19 MR. WILSON: Thank you.

20 MR. YASSKY: That I think will enable  
21 Commissioners to digest all of the  
22 information and be in a position to vote in  
23 September.

24 So, there are five people who requested  
25 the opportunity to speak. Avik Kabessa, you

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2 are first on this list.

3 MR. KABESSA: Thank you, Commissioner.  
4 Thank you for allowing me to testify before  
5 you today.

6 My name is Avik Kabessa and I am the  
7 Chairman of the New York State Independent  
8 Livery Driver Benefit Fund, also known as the  
9 Livery Fund, otherwise it is a mouthful. I  
10 was appointed by the Governor and voted by  
11 the Board to be the Chairman.

12 The Livery Fund well-represented a  
13 solution to a problem that existed for the  
14 last thirty years. In the past, the Workers'  
15 Compensation system had many gray areas  
16 associated with the law regarding the livery  
17 industry. For example, when the livery  
18 drivers are injured, it was often difficult  
19 to assess whether their claim for  
20 compensation falls under No-fault Insurance  
21 or whether they were eligible for coverage  
22 under Workers' Compensation Law, and the  
23 process could take years.

24 In addition, livery bases have no way of  
25 knowing in advance whether their affiliated

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2 drivers are deemed an employee or independent  
3 contractor. This resulted in no one getting  
4 paid except lawyers. And if the base was  
5 found to be the employer of the driver, the  
6 Workers' Compensation Board would place heavy  
7 penalties and assessment on the bases.

8 It should be noted however, that only  
9 one out of five cases where the base was  
10 found to be the employer. However, through  
11 the years, a debt of \$28 million was  
12 accumulated from the livery bases owed the  
13 Workers' Compensation Board. When nobody was  
14 talking about the law, they decided to place  
15 the responsibility for the fund on the bases,  
16 not because the bases' proven responsibility,  
17 but rather because it was the easiest way to  
18 administer the fund. Now, meeting with the  
19 Governor, the Governor's staff, we agreed to  
20 take on this task and help implementation of  
21 the Fund.

22 The most important thing to note here is  
23 that a livery base has an option, it is not a  
24 must, it is an option of buying Workers'  
25 Compensation for the drivers either by



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2 joining the Fund or buying it from another  
3 commercial carrier.

4 The Fund started it's operation on  
5 January 1, 2010, and I'm very proud to report  
6 here that 99 percent of the bases are  
7 participating, and that we were able to  
8 settle the \$28 million debt with complete  
9 satisfaction.

10 In the last six months, eighty cases  
11 were presented out of which close to sixty  
12 drivers have been already paid either by  
13 No-fault or by the Fund, and in most cases  
14 within weeks versus years. So, the goal of  
15 the Fund was to cover the driver.

16 The Livery Fund and the way the livery  
17 industry took on the bull by the horn  
18 represented a new era, one that I would like  
19 TLC under your new chair to recognize. TLC  
20 proposed rules regarding the Fund needs a bit  
21 more work, and I'm here to ask, well, I  
22 understand your postponing, which I am very,  
23 very grateful. I actually want to distribute  
24 to the Commissioners a legal memorandum  
25 outlining the three areas which I believe can

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2 be collaborated with the law, not interfering  
3 with the goals of the TLC, zero public safety  
4 effect, and would benefit and make the livery  
5 industry -- I just want to say, the livery  
6 industry has been doing very well with the  
7 Fund, and we want to reward the livery not by  
8 applying more and more penalties, but just by  
9 saying, "Hey, if there's no problem, it's not  
10 broken, there is no need to fix it."

11 MR. YASSKY: Mr. Kabessa, thank you very  
12 much. First of all, thank you for respecting  
13 the time period, and I ask all the speakers  
14 to do that because we're under a tight  
15 schedule here.

16 I will say this: When I said before  
17 that we have no record of noncompliance that  
18 we're working with here, maybe that sounded  
19 like damning with faint praise. I should  
20 have been much clearer. The accomplishment  
21 of the Fund today is very impressive and  
22 speaks very well about the industry and its  
23 commitment to its workers or its independent  
24 contractors. I think the accomplishment of  
25 the Fund is a real thing, and the TLC

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2 position is not critical or not here saying  
3 that there is a terrible problem that we need  
4 to address. I want to be absolutely clear  
5 about that.

6 I remain thinking that it's worthwhile  
7 to have this enforcement ability as a  
8 backstop. We'll agree again, take that up  
9 again in September. But I really want to be  
10 very clear about the message behind it. It's  
11 not one that we think this industry needs to  
12 be cleaned up. You have cleaned up what had  
13 been a problem, and I commend you for it.

14 MR. KABESSA: With your permission, I  
15 also want to be clear that I'm grateful for  
16 your ample time you gave us to speak to you  
17 about it, and I am confident that together  
18 we'll make it, do the right thing.

19 MR. YASSKY: Thank you.

20 The second speaker is Tarek Mallah  
21 representing Dial 7.

22 MR.MALLAH: Good morning. Dr. Kabessa,  
23 as the Chairman of the Independent Livery  
24 Fund has given us a complete analysis of  
25 where we are and what we need to do. Today

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2 I'm representing the Livery Roundtable which  
3 is an organization that represents the  
4 majority if not most of the livery bases in  
5 New York, the community service livery  
6 bases.

7 The thirty years that Avik spoke about  
8 followed by two years of incredible learning  
9 skill that culminated in the establishment of  
10 the Independent Livery Fund, some good things  
11 come from bad. We have pulled together and  
12 pulled in a group of eight affiliations, and  
13 set a roundtable to be able to bring up  
14 never-to-be-called-again "gypsies."

15 All my point is, do not drive -- and I  
16 know it is not your intention, but do not  
17 drive by over-regulating an industry from  
18 legitimate, fees-paying, compliant, eager to  
19 comply, into becoming a gypsy again.

20 The ten years followed by one year, all  
21 we are asking is, give us opportunity. And  
22 that's going to come up I believe before  
23 September, is that if I elect to or fail to  
24 be a member for my business model, for my  
25 choice, or for whatever decision to become a

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2 full Workers' Comp benefit, do not give me a  
3 summons, allow me to show you proof that I  
4 have complied.

5 And the second thing is, let's not  
6 forget the purpose. The real purpose of the  
7 Fund was to break up two things: A, provide  
8 protection for the drivers; B, protection for  
9 the riding public, to be in a legitimate,  
10 safe and content driver.

11 Third, is to establish the gray area  
12 between what is an incident to be covered by  
13 No-fault, and what is to be covered by the  
14 Fund which is a Workers' Comp type of  
15 coverage, keeping in mind that the driver is  
16 always covered, no matter what the vehicle  
17 is, now, instead of months as Avik said, or  
18 years, now, it's a matter of a week.

19 So, I think we are all winning. Let's  
20 just make sure that we keep it on track  
21 without suspending or revoking a license for  
22 a technical or a choice to be made. Thank  
23 you.

24 MR. YASSKY: The third speaker on this  
25 list here, Moses Gonzales?

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2 (No response)

3 MR. YASSKY: Jose Rodriguez?

4 (No response)

5 MR. YASSKY: Richard Thaler.

6 MR. THALER: Chairman Yassky and  
7 Commissioners, good morning. Richard Thaler  
8 of Omni Media Network.

9 If you want to take a look at these  
10 (handing.) First, I would like to say that  
11 the previous answer about when the coverage  
12 was was incorrect. If a livery base, up to  
13 the limit of ownership of vehicles, such as a  
14 wheelchair accessible vehicle, if they own a  
15 vehicle and they happen to hire a driver as  
16 an employee to drive that vehicle, I believe  
17 that under Article 6-G, they would be  
18 required to buy standard Workers' Comp for  
19 those employees. Presumably the rest -- but  
20 they would still be a member of the ILDBF,  
21 and obviously the rest of the independent  
22 affiliated drivers would be covered.

23 Just very briefly a couple of comments.  
24 By the way, I believe under the law, it's a  
25 requirement of the Fund to notify the TLC if

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2 a livery base is out of compliance. And so,  
3 we're talking about audits before,  
4 presumably, they are the first to know and  
5 then you would be the second to know.

6 Under Article 6-G of the New York State  
7 Executive Law, the Independent Livery Driver  
8 Benefit Fund provides benefits to affiliated  
9 drivers of member livery bases for injuries  
10 due to criminal assaults and certain other  
11 defined medical decisions suffered only while  
12 performing covered services.

13 It is therefore necessary to require  
14 affiliated drivers of livery bases in the  
15 amended rules to maintain covered services  
16 records, including accurate electronic time  
17 stamps for the time period of dispatch and  
18 dropoff events as defined in Article 6-G, and  
19 police reports to support claim validation  
20 for Livery Fund benefits.

21 Also as a second matter, the time seems  
22 to be rapidly approaching for the need to  
23 require a livery driver authentication and  
24 validation for approval to receive livery  
25 dispatch offers from licensed livery base

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2 members from members of the NYS Independent  
3 Livery Driver Benefit Fund. For instance,  
4 the District of Columbia now, the District of  
5 Columbia Taxi Commission, intends to require  
6 biometric personal identification validation  
7 interoperable cards for this purpose. In  
8 compliance with Federal Information  
9 Processing Standards 201, this included this  
10 biometric card feature and its proposed  
11 wheelchair accessible, livery and taxi pilot  
12 proposal, that's the EFHV proposal that was  
13 submitted to the TLC and the MTANYCT.

14 I would also like to suggest that on the  
15 TLC website under Industry Information, that,  
16 I think under the law, in 75 days after the  
17 board of the ILDBF was appointed, they are  
18 required to submit a Plan of Operation, and I  
19 think it would be nice if the Plan of  
20 Operation could be posted in the industry  
21 information link.

22 MR. YASSKY: Thank you.

23 MR. THALER: Thank you.

24 MR. YASSKY: As I said, we will table  
25 this item for now and return to it at our



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2 next meeting in September.

3 Item 5 on our list, on our agenda, is  
4 the Rules Revision Project. David Klahr is  
5 here to just briefly -- and Commissioners, I  
6 know at least one commissioner is going to  
7 have to leave by noon if not others, so,  
8 we're going to finish up by then. David, if  
9 you could work within that, thank you.

10 Please, go ahead.

11 MR. KLAHR: Good morning. For more than  
12 a year now, Commissioners, you have voted  
13 every month on a portion of the updated rule  
14 set that we generated from the Rules Revision  
15 Project which we started nearly 40 years ago  
16 including the procurement process of it.  
17 This is the culmination today, the vote you  
18 are going to take today is the end of a very  
19 long very big process. We have done  
20 something at this agency really that no other  
21 agency has done. It is always gratifying to  
22 be able to get up here and to say something  
23 like that. Other agencies have revised their  
24 rules. Other agencies have made their rules  
25 easier to understand, but we're the only

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2 agency that's done it for an audience of  
3 nonprofessionals. And I don't mean to say  
4 that people in this industry are not  
5 professional, they certainly are, but when  
6 the Buildings Department revises their rules,  
7 it is generally for attorneys, for engineers,  
8 for a very specialized group of people. Here  
9 at the TLC, what we have done is revise our  
10 rules for everyone; for everyone in the  
11 industry, for passengers, for anyone who is  
12 visiting New York to understand how it is  
13 that these industries are supposed to  
14 function, and for the people within the  
15 industries, with varying degrees of  
16 experience with our rules, with varying  
17 degrees of length of time in New York to  
18 understand what it is, how things are  
19 supposed to work, and what's expected of  
20 them.

21 One thing we have kind of used as a  
22 mantra throughout the rules process is, how  
23 can you expect people to follow the rules if  
24 they don't understand the rules? So, what we  
25 are doing is getting people engaged with the

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2 rules, and the easiest way to get people  
3 engaged with the rules is to make the rules  
4 comprehensible. And that's what we have done  
5 over the last couple of years.

6 I can tell you just from my own personal  
7 experience working with the project, from  
8 other staff experience working with the  
9 project, and from the feedback I've heard  
10 from people working in the industry is that  
11 people are now better engaged with the rules  
12 than they've ever been before. We have had  
13 public hearings, not necessarily here at this  
14 Commission meeting, but other times where we  
15 have had various members of the industry come  
16 in, and we've seen people come into those  
17 meetings who have never attended a public  
18 hearing of the TLC before. We've had  
19 commuter van drivers come in. This is a  
20 group of people that often does not engage in  
21 with what we do here, but they were  
22 interested enough in the idea that we're  
23 making the rules more comprehensible to come  
24 in and give their two cents worth. We have  
25 adapted many, many, many industry comments

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2 over the years. Many of the people who have  
3 been kind of frequent contributors are  
4 sitting behind me here -- david Buyer, Ethan  
5 Gerber, Peter Mazer, Joe Gianetto -- are very  
6 frequent contributors to the rules  
7 revisions. We didn't adopt all of their  
8 suggestions but we adopted many of their  
9 suggestions. We have made a tremendous  
10 effort and a tremendous commitment over the  
11 course of this project to not make  
12 substantial changes to the rules without  
13 industry input, and not until we have had a  
14 complete rule set in plain language. And I'm  
15 very proud and very happy to report that we  
16 kept that commitment, we made it a long time  
17 ago. We've had numerous staff changes since  
18 then, we have had numerous project changes  
19 since then, but we kept that threat alive  
20 throughout the whole project.

21 I can say having read all of the new  
22 rules, they are definitely easier to use.  
23 They are definitely easier to find things in  
24 the new rules. They are definitely easier to  
25 understand. They are plain language. We

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2 have had other agencies approach us and ask  
3 us how we did it, "How do you make these  
4 rules plain language?"

5 It is not easy.

6 And there is a big difference now in how  
7 we present other materials to the public.  
8 This project has changed the agency for the  
9 better. It made us much more responsive to  
10 industry questions about the rules. It has  
11 made the discussions about policy largely  
12 centered about the rules, and it's given us a  
13 real agency-wide commitment to plain  
14 language.

15 So, there is a few people before the  
16 vote that I want to thank specifically.  
17 First of all, thank you all, Commissioners,  
18 for being so incredibly patient through this  
19 process. This has gone on for a very long  
20 time. And every month, sometimes you don't  
21 have questions for me, sometimes you have  
22 extensive questions for me. You have kind of  
23 routinely gone through this process, and I  
24 know that's a big thing to look through every  
25 month. So, I appreciate it.

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2 I would like to thank our contractors  
3 for this project, specifically Ken Murray and  
4 Mark Olsen from Management Partners, Trent  
5 Kittleman who is the re-drafter of pretty  
6 much the whole rule set, he did an incredible  
7 job slogging through a very large body of  
8 material.

9 Chris Wilson from the legal staff also  
10 did a tremendous job going through all those  
11 different rules, and it's a little weird to  
12 be done with the process.

13 And finally there is someone else I want  
14 to recognize, Andrew Sulkin, our former First  
15 Deputy Commissioner. Without him, we really  
16 wouldn't be doing this project at all. He  
17 had the real vision and the real push to get  
18 this done. It was a very big lift to do it  
19 in the first place, and his vision and his  
20 commitment to what this would look like at  
21 the end is really informed what we've done  
22 throughout this process. So, these people  
23 were all very key in getting to where we are  
24 today.

25 I also want to thank just the industry

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2 in general for being very patient and  
3 believing in us as we went through this  
4 process. I remember when we first started,  
5 we did our initial outreach, there was a  
6 tremendous amount of skepticism on part of  
7 the industry advocates and people in the  
8 industry. And as we've gone through the  
9 process, we've been able to show them that we  
10 can be true to our word, that we promised  
11 them we'd do things in a certain way and we  
12 kept our promise, and we did do things a  
13 certain way. Everyone has had a real  
14 opportunity to look at the rules multiple  
15 times before we passed it. We had additional  
16 hearing upon additional hearing. We had one  
17 final wrap-up hearing today. And now, today  
18 there is one more vote before the final  
19 implementation.

20 And as I promised, I will keep it  
21 short. And is that is all I have to say.

22 MR. YASSKY: Thank you. Chuck, do you  
23 have a word on the process?

24 MR. FRASER: Just quickly, all of the  
25 chapters that you had before you today were

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2          conditionally approved over the last eighteen  
3          months, they were republished -- even though  
4          that was not probably legally required. We  
5          republished them for an additional public  
6          hearing. Eight people at that additional  
7          public hearing submitted written or oral  
8          comments, copies of which have been forwarded  
9          to the Commissioners. Based on our review of  
10         those comments, we are recommending six  
11         technical drafting changes to the proposed  
12         rules but no subjective changes. If  
13         approved, the proposed rules will take effect  
14         and replace the existing rules on January 1,  
15         2011.

16                  And finally, I just want to note that  
17         although the Commissioners all conditionally  
18         approved nineteen chapters, there are only  
19         eighteen in the package today because one of  
20         the chapters pertained to the Accessible  
21         Dispatch Chapter, obviously no longer needed  
22         since that program expired on June 30th.

23                  So, the staff is recommending that the  
24         eighteen chapters be finally approved today  
25         for effectiveness January 1, 2011.



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2 MR. YASSKY: Do I hear a motion to  
3 accept that recommendation and approve them?

4 MS. WEINSHALL: So move.

5 MR. YASSKY: I think this one merits a  
6 second. I second that.

7 All in favor say aye.

8 THE COMMISSION: (In unison) Aye.

9 MR. YASSKY: Opposed?

10 (No response)

11 MR. YASSKY: The ayes of have it. The  
12 motion is adopted. And the eighteen chapters  
13 are --

14 MS. POLANCO: Were there any comments on  
15 this on this Item 5 or 6?

16 MR. YASSKY: Item 6, which is going to  
17 be a very brief item.

18 I just want to echo what David said and  
19 thank first of all, him, who spearheaded this  
20 project along with Chuck Fraser and the legal  
21 staff, and you know of course involved dozens  
22 of people throughout the agency, all the  
23 Deputy Commissioners and their staffs.

24 And Mr. Klahr deserves the gratitude of  
25 this Commission for putting heart and soul

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2 and hours and hours into it, and I appreciate  
3 it. I'm glad you recognized the  
4 contributions of Andy Sulkin.

5 And of course Commissioner Daus in  
6 putting the agency on this path and leading  
7 it through it. I'll just say I can tell you  
8 that it is absolutely true what David said  
9 about the culture of the agency, and I think  
10 that this project must be the reason why, you  
11 know, a real sensitivity to respecting the  
12 rules as they apply to our licensees -- even  
13 where we think, you know, maybe you would  
14 want to bend them for a good thing, but no,  
15 the rules must be respected -- and to make  
16 sure that people understand them and that  
17 that is really the culture. So, I just want  
18 to thank David for spearheading this.

19 I will tell you that what Chuck said,  
20 referred to the effective date of January  
21 1st, there is enormous work now to be done at  
22 the agency to make sure all our forms use the  
23 correct rule numbers that the enforcement  
24 officers that, you know, who speak in terms  
25 of Rule "five-0-this," will now have to speak

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2 in terms of Rule "two-O-that." They need to  
3 be retrained, many of the staff. The  
4 licensing counters will need to be trained in  
5 this. And a number of the computer systems  
6 that have rule numbers written into the  
7 software have to be redone. So, there is a  
8 fair bit of work to do now, and that's why  
9 the effective date is January 1st to make  
10 sure there is time to do that work, even  
11 though the staff has told me that that's not  
12 enough time to do that work, but it will just  
13 have to be. So, thank, you, Commissioners.

14 I will say that last, looking now to  
15 September, this project also has of course  
16 surfaced literally dozens of opportunities  
17 and necessities to address substantive  
18 issues. And what David said about keeping to  
19 the commitment, that this was a plain  
20 language transformation of the rules, is  
21 correct. Now we have to undertake the task  
22 of cleaning up the substantive issues that  
23 have surfaced as a result. The staff has  
24 organized those changes or those proposals  
25 for changes into three categories: Category

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2 1 is changes that are substantive but should  
3 be uncontroversial. For example, where the  
4 rules are not clear about how to handle  
5 bounced checks; we have been doing it in  
6 practice, but really the rule needs to  
7 reflect what the practice is. That is  
8 substantive, it is not technical, but I don't  
9 think it will prove controversial.  
10 Standardized late fees. Late fees differ for  
11 different kinds of lateness; they should be  
12 standardized. Again, I don't think it should  
13 be controversial, but it is, like I say, it  
14 has no substantive content. That's category  
15 1.

16 Category 2 are changes that are not  
17 wholly uncontroversial that one could  
18 discuss, but I thought were important enough  
19 to merit speedy action as opposed to delayed  
20 action. For example, the rule governing  
21 hearing adjournments, I'm not sure if it's  
22 been discussed here, but just an  
23 extraordinary portion of the hearings that  
24 Adjudications Division handles are adjourned.  
25 Often it is drivers who, you know, who I

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2 think would like to delay the hearing of the  
3 case against them. So, we need to tighten up  
4 that rule and provide that adjournments are  
5 available only where genuinely merited and  
6 not simply for the sake of delaying  
7 adjudication. Not that that has substantive  
8 content, but it seems to be important enough  
9 to push forward. So, that's Category 2.

10 Category 3 are things that are  
11 substantive and not as urgent as the others,  
12 so, we don't have to deal with them all at  
13 once.

14 My ambition is to handle Categories 1  
15 and 2, noncontroversial and controversial-  
16 but-important in September, and Category 3 in  
17 October through December. That is a lot of  
18 work for the staff and the Commissioners.  
19 Categories 1 and 2 between them seem to be  
20 about fourteen rule changes at this point.  
21 So, that's fourteen presentations of a kind  
22 that Chuck made today, and opportunities for  
23 comment and so forth. So, I will consult  
24 with each of you as to whether you feel that  
25 that's an appropriate amount of work for a

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2 single meeting or not. Maybe you can decide  
3 that after you see the substance of the rule  
4 changes, and maybe we'll have to kind of pare  
5 it down further and space it out over time.  
6 I just wanted to tell you that's what it is  
7 coming up for September. It's good stuff,  
8 worth doing, and in some cases necessary to  
9 do. But you know, a fair amount of work --  
10 fair amount of work and a fair amount of  
11 fun.

12 MS. POLANCO: You didn't give an example  
13 of controversial.

14 MR. YASSKY: Well, controversial might  
15 be the adjournment rule, that's important and  
16 it's controversial but important enough to do  
17 right away. Category 3, substantive and not  
18 as urgent, make uniform the rules about  
19 vehicle seizures; again, I think important to  
20 do but not such a direct impact on practice  
21 that I feel like we have to jam it into an  
22 already crazy, crowded September meeting for  
23 example. Require that all licensees  
24 provide -- actually I think that one is  
25 important -- provide an email address to us,

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2 which right now we have just no way to  
3 contact the bulk of our driver licensees, and  
4 that proves in practice to hamper our  
5 efforts.

6 So, okay. That's coming down the pipe,  
7 but I will get to you the list of what we  
8 plan to do in September kind of early enough  
9 in advance that we can talk about whether  
10 that's too much to do. Fair enough? Good.

11 Item 6. We are going to do this really,  
12 really fast. Chuck, can you explain what  
13 this is?

14 And Mr. Gerber, I understand that  
15 there's something that you wanted to talk  
16 about before.

17 MR. FRASER: What this is, is as I  
18 mentioned, the rules revision that you just  
19 approved is effective January 1, 2011,  
20 because of the long lead time that's  
21 necessary to do the computer programming,  
22 forms revision, staff training and so on.  
23 However, there is certain rules that we have  
24 to pass that are effective before January 1st  
25 for a variety of reasons: You just passed

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2 two of them. Commuter Van Bill of Rights  
3 rules there is a statutory deadline, and the  
4 transfer fee rules, we needed to get that in  
5 place because the rules are not clear now,  
6 and we needed to get that clear.

7 So, those rules that you just passed are  
8 rules to the existing rules, those 4A and C,  
9 Commuter Van Bill of Rights rules and the  
10 transfer fee rules, those are amendments to  
11 our existing rules. Those are not amendments  
12 to the Rules Revision Project. So, unless we  
13 do something else, January 1st comes along,  
14 those rules disappear. So, we need to repass  
15 them a second time as revisions to the  
16 comprehensive rules revision we just passed.

17 All I'm asking -- and if you don't want  
18 to do this, I'm not pushing it, I'm just  
19 trying to save an unnecessary expenditure of  
20 your time. All I'm asking is that you  
21 delegate to the staff the public hearing on  
22 the rules revision version of the Commuter  
23 Van Bill of Rights rules and the transfer fee  
24 rules that you just passed after having had  
25 no public comment on either rule.



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2 MR. YASSKY: This is really a one-time-  
3 only kind of technical matter that doesn't  
4 affect our way in which we hold hearings  
5 going forward. Just for these two rules  
6 since we couldn't change both this and -- you  
7 know, maybe it could have been folded into  
8 the big rules change, but we want to stick to  
9 the premise that nothing substantive was done  
10 in that. So, this is to void a second public  
11 hearing before the Commissioners on these  
12 specific rules. Are you comfortable with  
13 that, Commissioners?

14 (No response)

15 MR. YASSKY: So, a motion to approve  
16 that?

17 MR. AROUT: Motion to approve.

18 MR. YASSKY: All in favor, aye.

19 THE COMMISSION: Aye.

20 MR. YASSKY: All opposed, no?

21 (No response)

22 MR. YASSKY: Okay, the motion carries.

23 We are on track time wise.

24 MS. POLANCO: Wasn't there a comment?

25 MR. YASSKY: Do you wish to speak on

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2 that?

3 MR. GERBER: Thank you for stating that  
4 it would be a one-time-only project, a  
5 one-time-only situation. I do think it is  
6 very important to note that it was presented  
7 to us that these rule changes, that this  
8 entire project that David just spoke about  
9 was a one-time-only project and that it would  
10 only be about getting away with legal ease.  
11 That proved not necessarily to be the case,  
12 and even in the minutes that were approved  
13 today, you make note that few of the changes  
14 were substantive, which means that some were.

15 Early on in the proceedings, I had  
16 brought to the attention, by the route we  
17 were supposed to take of emailing and sending  
18 in comments, that some of the changes were  
19 indeed substantive, and that as an attorney,  
20 I sometimes get offended by there term "legal  
21 ease," as if specific language doesn't mean  
22 things, it does mean things. And you know,  
23 there are very sharp minds on this  
24 Commission. As the comments by Commissioner  
25 Giannoulis proved earlier today, there are

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2 very bright, sharp minds that could hear  
3 things and see things that may not  
4 necessarily be available at first plush.

5 For example, very early on, one of the  
6 very first rules, there was a change of the  
7 word "financial responsibility," "financial  
8 stability." Okay, those of us familiar with  
9 the term understand that the word  
10 "responsibility" wasn't chosen at random, it  
11 was chosen directly out of the Vehicle and  
12 Traffic Law which has to do with insurance  
13 coverage. "Financial stability" means  
14 something completely different. Although,  
15 David said, we're just changing it into legal  
16 ease, one change is the burden of this  
17 Commission may be drastically into actually  
18 looking at what they consider a stable fund  
19 of a livery base or a yellow car industry,  
20 it's a completely different matter.

21 But we didn't have the chance to address  
22 these issues as they came up rule by rule in  
23 front of the Commission, all we did have the  
24 opportunity to do was make comments to the  
25 staff. Sometimes Mr. Fraser was present, the

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2 last one he was not. A staff attorney sits  
3 there, sometimes they ask us questions, often  
4 there are no questions. They sit stoically,  
5 and we do our best in a very limited amount  
6 of time. This project cost a tremendous  
7 amount of money, and there were very good  
8 minds here at the TLC and on the Commission  
9 working very hard on this. We were given a  
10 few days to comment and a few days to make  
11 our points known, and then we didn't have the  
12 chance to have any oral discussion or  
13 persuasion. I think this is a very important  
14 problem, and I think if you service the  
15 powers of the Commissioners to ask  
16 intelligent questions of those people who are  
17 directly affected by this, whether they are  
18 the riders, the drivers, the livery car  
19 operators or the medallion operators.

20 I respect you very much, Commissioner  
21 Yassky, as you know, and I take you at your  
22 word when you say that this is a one-time-  
23 only, but this is a trend that recently  
24 started in the TLC. It only started before  
25 this particular rules project, and I beg that

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2 the Commission doesn't allow this to become a  
3 permanent trend.

4 MR. YASSKY: Thank you. And we  
5 theorized at one time, what I mean is, this  
6 is the particular situation where we're  
7 changing the entire rule book come January  
8 1st, and here we have two rules that would  
9 then otherwise would have to be adopted  
10 twice. This kind of allows us to avoid that  
11 formality. That is the one-time-only.

12 MR. GERBER: And I thank you for your  
13 time.

14 MR. YASSKY: Item 7 on the agenda is a  
15 pilot program for livery group rides that  
16 Director of Policy Emily Gallo will present.

17 MS. GALLO: Good morning. Today we  
18 proposed a pilot, a new class of service that  
19 would allow point-to-point shared ride  
20 service among specified pickup and dropoff  
21 locations. The pilot would initially focus  
22 on areas where the MTA has recently reduced  
23 or eliminated bus service. We anticipate  
24 that passengers will pay a flat fare of \$2.  
25 Participating vehicles will have clear

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2 markings so that passengers can easily  
3 identify them as legal participants from the  
4 pilot. Pickup locations and dropoff  
5 locations will be marked with a sign.

6 Now, while pickups will only be  
7 permitted at designated stops, dropoffs can  
8 occur both as fixed stops as well as at other  
9 locations as negotiated between passenger and  
10 the driver.

11 Why pilot the service? The MTA has  
12 eliminated bus routes throughout the City  
13 leaving thousands of New Yorkers,  
14 particularly those in Brooklyn and Queens  
15 with fewer transit options. Passengers with  
16 these eliminated routes now must use  
17 alternatives that could add transfers and  
18 increase their travel time. This pilot will  
19 help us determine how TLC-regulated  
20 industries can best fill gaps in the mass  
21 transit network to improve mobility.

22 We selected five initial service areas  
23 for this pilot. The first area is in  
24 Brooklyn, the former B23 bus route through  
25 Borough Park, Kensington and Flatbush. The

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2 elimination of this route affected over 1,500  
3 weekday costumers adding approximately  
4 fifteen minutes to their daily commute.

5 The second is the area served by the  
6 former B71 running through Park Slope,  
7 Carroll Gardens, Prospect Heights, with over  
8 1000 weekday customers affected.

9 Third, the former B39 which ran between  
10 Williamsburg and Lower East Side, served over  
11 1,100 weekday customers. With this pilot,  
12 there is an opportunity here to offer  
13 additional service that can run along the  
14 Williamsburg Waterfront to the Lower East  
15 Side and Union Square.

16 In Queens, we propose offering this  
17 service in the area formerly served by the  
18 Q74 that ran between Kew Gardens and Queens  
19 College. 2,100 weekday customers used to  
20 ride the Q74, and it's elimination adds  
21 approximately eleven minutes to each trip.

22 Another area in Queens that has few  
23 other transportation alternatives is along  
24 the former Q79, serving Little Neck, Glen  
25 Oaks and Bellarose. While the loss of this

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2 bus affects less commuters at 650 weekday  
3 customers, it adds approximately thirty  
4 minutes to their commute as they search for  
5 alternatives.

6 We believe that these areas could  
7 potentially benefit from an alternative group  
8 ride service. Within each area, we  
9 envisioned selecting between five and eight  
10 designated pickup and dropoff locations.  
11 Enforcement will be critical to this pilot's  
12 success. We have been working with NYPD on a  
13 plan to provide targeted enforcement in these  
14 piloted areas, and we will also work with  
15 community boards and licensed operators. We  
16 have already begun to increase the  
17 enforcement efforts against illegal commuter  
18 van activity, and our highest priority is to  
19 ensure passenger safety.

20 To participate in this pilot, bases, van  
21 authorities, and other businesses who are  
22 capable of providing this service would have  
23 to respond to a Notice of Solicitation, which  
24 will be released pending your approval of the  
25 pilot today. The pilot will be limited to



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2 vehicles that can hold between six and twenty  
3 passengers. Participating vehicles, drivers,  
4 bases, or van authorities would be required  
5 to apply for a new license specific to the  
6 piloted services. Insurance and licensing  
7 requirements for this new license will be  
8 similar to existing requirements for livery  
9 and van operators today. After reviewing the  
10 proposals, the TLC will select operators and  
11 enter into a formal agreement with each one.

12 We've been working with interested  
13 members of the public to determine the service  
14 areas and the fixed stops, and we have begun  
15 reaching out to elected officials. In fact,  
16 Speaker Quinn and Council Member Williams  
17 were present at the Mayor's announcement of  
18 this initiative last month.

19 Additionally we plan to work with the  
20 Mayor's Office of Community Affairs to reach  
21 out to neighborhood groups in the areas where  
22 the new service would be piloted.

23 At this time, I'm happy to answer any  
24 questions.

25 MS. WEINSHALL: I think this is a great

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2 option for those New Yorkers who have lost  
3 their mass transit options. I have a couple  
4 of questions. Is this just weekdays, is it  
5 24/7, how long will this run?

6 MS. GALLO: I have looked up the bus  
7 routes that have been eliminated and we know  
8 the span of service that was currently  
9 offered by those bus routes. We will give  
10 preference to operators who can propose to  
11 offer the most amount of service. We are  
12 looking for ones that can offer at least a  
13 span of thirty minutes between the hours of  
14 6:00 a.m. and 10:00 a.m., as that was  
15 basically covered by the eliminated routes.

16 MS. WEINSHALL: So, the vans will just  
17 run from 6:00 a.m. to 10:00 a.m.?

18 MS. GALLO: It will be up to the  
19 operators to determine what level of service  
20 that they will be able to provide.

21 MR. YASSKY: So, we're not saying that  
22 we won't approve an operator.

23 MS. WEINSHALL: But you are saying the  
24 minimum has to be from 6:00 a.m. to  
25 10:00 a.m.?

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2 MR. YASSKY: Correct.

3 MS. GALLO: Well, we are saying that we  
4 can give preference to those who can offer  
5 service between those hours.

6 MR. YASSKY: If the only thing we get  
7 for a particular route is someone proposing  
8 to do half the day, we'll entertain that, and  
9 indeed I expect we would approve it.

10 I don't want to rule out approving  
11 someone who only offers rush hour service,  
12 but we are hopeful that we will get proposals  
13 from people who are willing to operate  
14 certainly at least both rush hours, and  
15 ideally if not all 24 hours but throughout  
16 the day.

17 MS. WEINSHALL: How will you let the  
18 public know? I mean, normally a person goes  
19 to a bus stop and assumes at some point an  
20 MTA bus is going to show up. This is a more  
21 defined period of time, so, how are you going  
22 to let the public know that, "Oh, on this  
23 route, we're only offering it from 6:00 a.m.  
24 to like 11:00 a.m.?" Are you going to post a  
25 notice? How is the public supposed to know?

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2 MS. GALLO: So, we are working with DOT  
3 right now on developing the language for the  
4 signs, I don't know what the final language  
5 is going to be yet. But we're hoping to kind  
6 of get the word out through the community  
7 boards, the Mayor's Office of Community  
8 Affairs, elected officials and others who can  
9 communicate with the residents there.

10 MS. WEINSHALL: My second question is,  
11 so, you are selecting the operators who will  
12 go on these routes. What type of policing  
13 are you going to have that won't stop Joe  
14 Blow who didn't win the route from just  
15 having his or her vans go on that route?

16 MS. GALLO: So, TLC enforcement officers  
17 as well as NYPD will be offering enforcement  
18 in the areas that will be in the piloted  
19 service areas, and we will have clear  
20 markings on the vehicles that will designate  
21 them as having been approved to participate  
22 in the pilot, and the enforcement will help  
23 to keep illegal operators out.

24 MR. YASSKY: And to expand on that, we  
25 fully understand the point you just raised

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2 about the need for enforcement as a key  
3 component of this initiative. To put it in  
4 the bigger context. Today, there is a huge  
5 amount of unlicensed activity by commuter van  
6 operators. There is some 300 vehicles  
7 licensed to operate as commuter vans. You  
8 know, we don't have the data to back up how  
9 many there are, because they are not  
10 licensed, but it's my belief that there are  
11 several times that in unlicensed vehicles.

12 Our commitment is that on the routes  
13 that we are identifying, that we will put in  
14 the enforcement resources necessary to ensure  
15 that they are run by the licensed operators  
16 only. We have begun talking with the police  
17 department. I have met with Commissioner  
18 Kelly on this at the very outset, and with  
19 Deputy Chief Teller who runs the Traffic  
20 Enforcement Division, they appreciate that  
21 this is a commitment of the Administration,  
22 and we will be working together to achieve  
23 that goal. I don't want to say it is  
24 something that can be done with the snap of  
25 the fingers, because it's a real enforcement

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2 thing out there, but we intend to devote the  
3 resources.

4 MS. WEINSHALL: The only point I want  
5 to stress again is whatever the hours of  
6 operations is, you really got to make that --  
7 you can't create this expectation out there  
8 and then not live up to it. People cannot be  
9 waiting on a bus route assuming a van is  
10 going to come and it's not going to come. I  
11 don't know, maybe you use the City's website  
12 www.NYC, 311, working with maybe senior  
13 citizen centers, schools, whatever. Because  
14 the worse thing that could happen I think  
15 from the public's viewpoint is to have this  
16 expectation and then not have it fulfilled.

17 MR. YASSKY: To be sure. Thank you very  
18 much.

19 MR. GONZALEZ: First off, having grown  
20 up in Southeast Queens, which in some cases  
21 is the birthplace of the dollar van, I can  
22 tell you firsthand that this does help the  
23 commuter get to the destination in a lot more  
24 efficient, timely manner. I think there is a  
25 bigger picture here though that we also want

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2 to make sure is on the table: The route of  
3 this is that there is a public sector  
4 challenge. The MTA just eliminated these bus  
5 routes because it's unable to service these  
6 customers anymore. And what we're doing is  
7 we're helping to facilitate a private sector  
8 solution, both in terms of searching the  
9 community, and also in particular, serving  
10 commuters and getting them to their  
11 destination in a more efficient manner. In a  
12 more efficient manner means that you increase  
13 the probability of workers being more  
14 productive which means regionally we can get  
15 this economy to get the local economy up and  
16 going. I just want to reiterate or just  
17 state my strong support for this pilot  
18 program, and also to, you know, continue  
19 monitoring other communities where there is  
20 underserved, and that things like this can  
21 help fill that void.

22 MR. YASSKY: Thank you very much. And  
23 two points: One is that the resolution as  
24 you know authorizes the TLC to do this in up  
25 to ten locations, up to ten routes. These

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2 are the five that we have identified working  
3 with the Department of Transportation and  
4 NYPD, and we focused on places where the bus  
5 service has been eliminated. There are  
6 places in the City that didn't just now  
7 experience a bus service reduction, but  
8 nonetheless are not well enough served by  
9 mass transit. And so, the next step is to  
10 really dig in with the DOT transportation  
11 planners, which they have and we do not, to  
12 identify places in the City apart from the  
13 recent reductions where this can be of use.  
14 So, that's Step 2, and we are embarking on  
15 that already. So, I just wanted to assure  
16 you that we're doing that.

17 MR. GIANNOULIS: Resolution 7 and 9 I  
18 think have a typo.

19 MR. FRASER: Where is that?

20 MR. GIANNOULIS: 7 and 9.

21 MR. FRASER: 7 and 9? I'm not sure what  
22 you mean.

23 MR. GIANNOULIS: Looking at the  
24 resolution, there is numbers 1 to 9, there is  
25 some question marks in there that need to be



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2 filled in.

3 MR. FRASER: You must be referring to  
4 the draft that was sent to you earlier this  
5 week. Yes, there is a final version that you  
6 should have on your desk in front of you.

7 MR. GIANNOULIS: I apologize.

8 MR. FRASER: It has no question marks, I  
9 promise.

10 MR. YASSKY: I will entertain a  
11 motion --

12 MS. WEINSHALL: So moved.

13 MR. YASSKY: Thank you. All in favor to  
14 approve the resolution distributed on your  
15 desk for a pilot program for livery group  
16 rides, the motion is before us, all in favor  
17 say aye.

18 THE COMMISSION: Aye.

19 MR. YASSKY: Opposed?

20 (No response)

21 MR. YASSKY: The motion carries.

22 Before we go, a final three minutes of  
23 comments. One is to just thank the staff,  
24 and I said before that the mission is to, you  
25 know, have the talented and dedicated staff.

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1  
2 This idea surfaced within the TLC less than  
3 two months ago. The Mayor formally publicly  
4 called on us to do this I think less than a  
5 month ago, and this is a big deal. And you  
6 know, sometimes haste makes waste. Here, the  
7 staff worked at just extraordinary speed, and  
8 I want to single out in particular the Policy  
9 Director Emily Gallo who you just heard from  
10 and the Director of External Affairs Phillips  
11 who has been working with the agency, and  
12 this is vetted, to vet something like this  
13 with stakeholders and communities and  
14 electeds who care would ordinarily take  
15 months, but it was accomplished with really  
16 great speed, and of course the Deputy  
17 Commissioners with whom you are familiar,  
18 Gary Weiss, Pansy Mullings, Ray Scanlon, and  
19 the General Counsel Chuck Fraser, all of  
20 their operations had to adjust to this, and  
21 they have done it at real lightning speed, and  
22 I just want to thank the staff for their hard  
23 work.

24 Finally, before we go, I want to note  
25 for Commissioners, I see here in the audience

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1  
2 a gentleman Frank Carun (ph,) who I know that  
3 the Council has identified to individuals  
4 that they intend to propose as commissioners,  
5 I think they plan to act on that fairly soon,  
6 and you know, Mr. Carun came here and was  
7 briefed on the operations of the TLC. He was  
8 here for the last meeting and for this one.  
9 So, I just wanted to point them out to you  
10 before we left. I am eagerly looking forward  
11 as you are I know as well to having  
12 additional members join us and share in the  
13 fun.

14 So, with that, I thank you very much for  
15 indulging in a not overly long but longer-  
16 than-last-one meeting, with that, the meeting  
17 of the Commission is adjourned.

18 (Time noted: 11:52 a.m.)

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1 C E R T I F I C A T I O N

2

3 STATE OF NEW YORK )  
: SS.:  
4 COUNTY OF NEW YORK )

5

6

7 I, CASEY MARTIN, a Stenotype Reporter and  
8 Notary Public for the State of New York, do hereby  
9 certify:

10 THAT this is a true and accurate  
11 transcription of the Taxi and Limousine Commission  
12 Public Hearing held on July 15, 2010.

13 I further certify that I am not related  
14 either by blood or marriage to any of the parties  
15 in this matter; and

16 I am not in any way interested in the  
17 outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set my  
19 hand this 15th day of July 2010.

20

21

\_\_\_\_\_  
CASEY MARTIN

22

23

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