

**TESTIMONY OF PETER M. MAZER**

*General Counsel*

**METROPOLITAN TAXICAB BOARD OF TRADE**

**November 28, 2018**

**Proposed Congestion Surcharge Rules**

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Good morning, Commissioner Joshi and Members of the TLC Board. My name is Peter Mazer, and I am General Counsel to the Metropolitan Taxicab Board of Trade. We represent the owners and operators of more than 5,000 licensed medallion taxicabs. We also operate a full service drivers' resource center and have provided free legal and other services to thousands of drivers of our affiliated members' taxicabs. I am before you today to comment on these proposed rules, but also to urge this Commission to consider taking emergency action to address a crisis every licensed taxicab and for-hire driver will face on January 1, 2019 when the new congestion surcharge that necessitated these rules takes effect.

On January 1<sup>st</sup>, a state-imposed congestion surcharge will make every trip that is, in whole or in part, below 96<sup>th</sup> Street in Manhattan at least \$2.50 more expensive. A passenger entering a cab anywhere below 96<sup>th</sup> Street in Manhattan will see at least \$5.80 on the meter before the cab even moves. State law mandates that this surcharge be collected from passengers

and separately reported on any receipt. In taxicabs, the surcharge will be on the meter and added to the TLC-regulated rate of fare. State law and these proposed rules require it.

But action is urgently needed to counteract the most significant flaw in the imposition of this surcharge. In theory, a passenger in a livery or black car should also see an additional surcharge of \$2.75, as the law requires. But in reality, nothing prevents the large black car companies and other liveries from simply lowering their fares by an equivalent amount of the surcharge so passengers end up paying the same. After all, their fares are not regulated. This will place the burden of the surcharge squarely on their drivers who will earn less as tens of millions of their hard earned dollars get redirected to the MTA. Taxicabs will become proportionately more expensive since the surcharge must be added to the metered rate of fare. Other services can lower their fares so the passenger pays the same. Drivers will be the big losers irrespective of what type of service they drive: yellow cabs will be more expensive and drivers will lose rides; black car drivers will lose fare revenue. This is an emergency situation that every segment of your regulated industries will face on January 1<sup>st</sup>. But fortunately, the Commission has the power to address this crisis, and there is a means to do so.

Since 1971, this Commission has had the power in the City Charter to regulate fares not only in taxicabs, but also in liveries and black cars. The TLC can now enact rulemaking to ensure that black cars cannot lower their fares below that which is set by the Commission for a taxicab or SHL for an equivalent ride. Such a mandatory minimum fare in for-hire vehicles will protect drivers from income erosion which would occur if predatory pricing is allowed to continue. We will see a race to the bottom for all drivers' incomes.

I therefore urge the Commission to introduce emergency rulemaking, effective as of January 1<sup>st</sup> that would ensure that at least high-volume for-hire services not charge less than taxicabs or SHL's for a trip of an equivalent time or distance. This would help preserve all drivers' incomes (whether they drive yellow, green, black or livery cars) and would make certain that all segments are in compliance with the intent of the state law. It will make all segments treated in an equivalent manner. The City Council recently passed legislation requesting that the TLC consider minimum fares in high-volume for-hire services after the completion of a study on vehicle utilization. But this law does not limit the TLC's City Charter authority to regulate fares at any time as the need exists. This need will never be greater than on January 1<sup>st</sup>, when price

reductions by some livery and black car services to offset the surcharge may become a reality. While the surcharge is not within your control, you can take action to limit the damage this surcharge will cause to all drivers through emergency rulemaking.

In closing, I wish to point out a few other problems with these proposed rules. Since there is no meter or technology system in liveries or black cars to independently monitor rides or fares, these industries will be able to self-report the number of trips and remit to the state an amount that each base determines is appropriate. Unlike taxicabs and SHL's, where every trip is fully documented using technology outside the control of the owner, in the black car and livery industries, the base owners will decide how many trips are subject to the surcharge and how much they want to pay. Furthermore, liveries and black cars can essentially declare virtually any trip a group ride trip and pay a surcharge of only seventy five cents per passenger, even if there is only one passenger in the vehicle. The passenger need only have the "understanding" that he or she is willing to share a ride, even if no ridesharing actually occurs. State emergency tax regulations provide that consideration of a "pool trip" will be made on a case-by-case basis, and the passenger must know that the vehicle may be simultaneously used for the transport of other passengers. Furthermore, there is no mechanism in place, other than the good will of various base owners, to determine how many passengers are actually in a vehicle at any given time so that the correct surcharge can be imposed.

Thank you for the opportunity to speak today. I will be happy to answer any questions you may have.