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## **New Legal Finding Indicates NYC Has Authority to Implement Its Own Congestion Pricing Plan Without the Governor or Albany**

### **Proposed “Home-Rule” Plan Would Reduce Traffic and Raise \$1 Billion a Year for Road, Bridge and Transit Improvements**

(New York, NY) The civic organization Move NY today unveiled a “home rule” version of its toll reform plan that the New York City can enact without approval from Albany.

As outlined in testimony before the New York City Council’s Transportation Committee by Move NY campaign director **Alex Matthiessen**, the plan features a congestion charge of \$2.75 to drive into and out of Manhattan’s Central Business District – via the four East River bridges and across 60<sup>th</sup> Street. The charge is designed to match the cost of a subway or bus ride.

Under the Home Rule plan, for-hire vehicles (FHV: yellow and green cabs, Ubers and Lyfts, and on-call “black cars”) are exempt from the CBD tolls; instead, they pay a congestion surcharge based on travel time and distance within the Manhattan taxi exclusion zone (up to 110<sup>th</sup> Street on the west side, 96<sup>th</sup> Street on the east side).

The surcharge – which has been endorsed by Uber, the Metrotaxi Board of Trade, Black Car Fund and others who support Move NY’s toll reform efforts – is designed to keep FHV from flooding midtown and downtown and also ensure that the largest share of total revenue raised is paid by Manhattan residents.

After expenses, the Home Rule congestion pricing plan generates over \$1 billion annually, which the City can use to better maintain the East River bridges and City-owned roads, work with the MTA to expand the City’s bus system (among other transit improvements), and pay for the “Fair Fare” proposal to discount the cost of Metrocards for low-income households. Under our plan, legislation implementing the plan would include a lockbox provision to ensure that 100% of the revenues are spent on transportation infrastructure and transit improvements.

After Matthiessen outlined the new plan at City Hall, **Roderick Hills, Jr.**, the William T. Comfort, III Professor of Law at NYU Law School, explained why he and a group of esteemed legal experts believe that New York City has the legal authority to toll its roads and bridges. Hills’ research, overturning the standard view that congestion pricing must pass through Albany, has been vetted and endorsed by legal luminaries including former New York City corporation counsel **Frederick (“Fritz”) A.O. Schwarz, Jr.**, Columbia University law professor **Richard Briffault** and Dean of Hofstra School of Law **Eric Lane**.

“Over the past half-century, received wisdom has held that approval by the state legislature and the governor is required to institute and collect tolls on roads and bridges within the city limits,” Hills said. “Yet in 1957 the legislature and governor amended the state vehicle and traffic law to expressly bestow that authority on municipalities of one million or more persons,” Hills noted. “Approval by Albany is not required; a City Council majority vote and mayoral signature will suffice.”

Matthiessen made clear that while the City has the authority to pass its own “Home Rule” congestion pricing plan, the Move NY coalition’s strong preference is for Albany to pass the Move NY Fair Plan, which would price the new tolls at \$5.76 and cut tolls by more than 40 percent on all seven MTA bridges. The \$1.5 billion raised annually would not only maintain the East River bridges and other roadways but also finance a \$15-\$20 billion investment in the MTA’s faltering subway system.

“We prefer the Albany version of the plan because it raises more revenue, reduces more traffic and, most importantly, directs most of the money allocated for transit to the subways, which are in an acute state of crisis,” said **Matthiessen**. “But if Governor Cuomo, who controls the MTA, and the State Legislature are not prepared to get behind the state version of the Move NY plan, the City should adopt a common sense alternative – that will help fix our roads and bridges, reduce traffic and improve our bus network – and thereby reap the rewards that will come from controlling \$1 billion in revenue and improving the lives of New Yorkers.”

“**Gridlock**” **Sam Schwartz**, the lead architect of the Move NY Fair Plan, added, “While Move NY’s full-price congestion charge with a ‘toll swap’ remains the ideal solution, the home-rule version of our plan will go far to cure gridlock and improve transit on which our city depends.”

**Carol Kellermann**, president of Citizens Budget Commission, said, “This proposal deserves serious consideration by City leaders, and should include a requirement that funds are distributed based on a data-driven assessment and prioritization of road and transit needs.”

"A more rational toll plan that reduces congestion and raises revenue for vital public transit needs is even more necessary as subways delays rise and bus ridership declines," said **Tom Wright**, President of Regional Plan Association. "If the State refuses act, the City should move immediately to implement its own plan."

"If Governor Cuomo won't take the leadership to tackle NY's transportation woes, we ask Mayor de Blasio to take a close look at this fair and well-crafted proposal to move New York," said **Gene Russianoff**, director of the Straphangers Campaign. "Yet, all in all, it would better for the subways if Move NY could go the Albany route."

"Yellow taxis pick up more fares per vehicle, more frequently, than any non-MTA vehicle on the road and we have provided the MTA with hundreds of millions of dollars through a 50 cent per fare surcharge," said **Ron Sherman**, President of the Metropolitan Taxicab Board of Trade. “Still we are severely hindered in our daily ability to pick up street hails because of ever-worsening traffic conditions. We were proud to have been among the very first transportation advocates to endorse Move NY and we support city efforts to improve our decaying infrastructure and ease our congested streets."

**Rich Schrader**, NRDC’s Northeast Legislative and Political Director, said, “While the Move NY plan has a lot of explicit and quiet support in Albany, it’s not currently enough to get this great plan over the finish line, at least at the state level. Yet, the City has an opportunity to adopt a congestion pricing plan of its own – and solve a lot of transportation related problems in the process.”

**Paul Steely White**, executive director of Transportation Alternatives, said, “The Mayor and City Council must act swiftly before our roads and transit service deteriorate further. Traffic and transit will both get way better if we just get this done!”

*Note: Copies of Professor Hill’s Legal Memo and Letter to the Committee Chair are available upon request.*