



HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHELLE GOLDBERG-CAHN
Chief
Administrative Law & Regulatory Litigation Division
phone: (212) 356-2199
email: migoldbe@law.nyc.gov

May 21, 2024

VIA ECF

Honorable George B. Daniels
United States District Judge
United States District Court Southern District of New York
500 Pearl Street, Courtroom 11A
New York, New York 10007

Re: Taxis for All Campaign, Inc., et al. v. New York City Taxi and Limousine Commission, et al. Civ. Action No.: 11 Civ. 0237 (GBD)

Your Honor:

We are attorneys in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and represent defendants in the above-entitled action. Pursuant to this Court's directive dated May 7, 2024, defendants write to provide the Court with the relevant data regarding the New York City Taxi and Limousine Commission's ("TLC's") efforts to meet the requirement that 50% of all Active and Authorized Medallions¹ be attached to a wheelchair accessible vehicle by a date certain.

Vehicle Retirement Dates

All of the City's medallion taxis on the streets are owned by private individuals who are required to affiliate their medallion with a vehicle to provide taxi service in accordance with a host of requirements enacted by TLC. As this Court is aware, TLC does not provide the taxi service, rather, it is private medallion owners and drivers who decide to purchase medallions and operate vehicles as taxis. Pursuant to TLC's current rules, all vehicles hacked up as new taxicab vehicles (whether accessible or non-accessible) must be retired from taxicab service and replaced every seven years. See Title 35 of the Rules of the City of New York ("RCNY") § 67-18(a). In an effort to assist the private medallion owners with the increased costs associated with wheelchair accessible vehicles, TLC recently proposed new rules that would completely eliminate the

¹ "Active Medallions" means all issued medallions that are currently affixed to taxicab vehicles by medallion owners and operators and that are not placed into storage with TLC. "Authorized Medallions" means all medallions issued by TLC, which is the total number of active and inactive medallions. See Amended Class Settlement Stipulation II(D); (E).

retirement dates for accessible vehicles so long as they continue to pass regularly scheduled safety inspections.² If adopted, this rule change would allow accessible vehicle owners to keep their wheelchair accessible vehicles on the road and in service indefinitely (provided they pass the requisite inspections), thus minimizing the frequency with which owners are required to incur the cost of purchasing new accessible vehicles.

Additionally, TLC offers vehicle retirement extensions to private vehicle owners who demonstrate economic or personal hardship. Vehicle owners can receive extensions of up to 12 months from their scheduled retirement date. See 35 RCNY § 67-19 (a). In recent years, the number of extension requests has significantly increased due to the long lasting effects of the COVID-19 pandemic and the economic hardship surrounding owners' inability to make loan payments. For example, in 2022, there were 1266 vehicle retirement extension requests, and 1091 were granted. Similarly, in 2023, 1485 requests were made to TLC, and 1301 were granted. In recent months, TLC has denied a larger proportion of extension requests – between January and April 2024, 334 requests were submitted and 178 were granted.

General Costs of Accessible Vehicles

For many drivers, purchasing and hacking up a wheelchair-accessible vehicle has become prohibitively expensive, despite the monies collected from the Taxicab Improvement Fund (“TIF”) that have been used to help medallion owners defray such costs.³ On average, the total cost is almost twice that of a non-accessible vehicle. The manufacturer’s suggested retail price (“MSRP”) for several of the most popular wheelchair accessible vehicles ranges anywhere from \$79,468.00 for a Ford Transit Connect Accessible to \$99,029.00 for a Toyota Sienna Hybrid Accessible. In contrast, the MSRP for the most popular non-accessible taxi vehicles ranges from \$40,345.00 for a Toyota Camry Hybrid to \$50,778.00 for a Ford Escape Hybrid. This vast price differential has become cost-prohibitive for many private vehicle owners ultimately forcing them to permanently take their vehicles out of service after retirement or risk declaring bankruptcy.⁴

² TLC held a public hearing on these proposed rules on May 8, 2024.

³ Under TLC’s current rules, a \$14,000.00 incentive is provided to private owners to assist with the purchase of a new wheelchair-accessible vehicle along with an additional \$4,000.00 per year for four years to cover projected increased maintenance and fuel costs. In total, \$30,000.00 is currently paid to each medallion owner purchasing a wheelchair-accessible vehicle. See 35 RCNY § 58-50(j). Under TLC’s newly proposed rules, medallion owners will receive a total of \$41,000.00. Drivers will be provided with a \$20,000.00 incentive to assist with the purchase of a new wheelchair accessible vehicle and an additional \$3,000.00 per year for a maximum of seven years to cover operational and maintenance costs. It is unclear whether the TIF can adequately fund an increased number of wheelchair accessible vehicles at an accelerated rate, or whether the TIF will run out before another fare increase is required to assist in funding additional accessibility requirements.

⁴ In addition to the many applications for vehicle retirement extensions received by TLC, TLC is continually hearing from medallion owners who are struggling to cover their costs due to industry conditions (including their medallion loans, which are not part of the Medallion Relief Program)

Rulemaking Process

Prior to implementation of any change to requirements for owners of taxi medallions, TLC is required to promulgate rules for such change. Rulemaking is governed by the City's Administrative Procedure Act ("CAPA"), codified at New York City Charter § 1043. The CAPA process requires notice of any proposed rulemaking, along with a public comment period, and public hearing, prior to adoption of a final rule. All proposed rules must be reviewed by the New York City Law Department and Mayor's Office of Operations and certified prior to publication. See City Charter § 1043(c)-(d)(1)-(2). CAPA requires that proposed rules be published for at least 30 days prior to a public hearing on the proposed rule. See City Charter § 1043(b). Once a public hearing is held and comments are considered, an agency may publish a final rule. The rule is not effective until 30 days after initial publication. See City Charter § 1043(f)(1)(c). Thus, the CAPA process, takes, at a minimum of 60 days, and typically longer as comments are being considered and possible revisions to the final rule made.

TLC Projections

Based on available data, TLC has developed projections forecasting when 50% accessibility will be reached for both Active Medallions and Authorized Medallions. TLC based its predictions on two scenarios: (1) requiring 50% of all new vehicles affiliated with an unrestricted medallion to hack up with an accessible vehicle (the current rules); and (2) requiring 100% of all new vehicles affiliated with an unrestricted medallion to hack up with an accessible vehicle. It is significant to note that these projections assume that every vehicle that has reached its retirement date will be replaced with a new vehicle and that those medallion owners will keep their vehicles on the road. As defendants have previously explained in their submissions to the Court, that has not been the experience in the past several years, even before the pandemic, with medallion owners placing their vehicles into storage in record numbers and further deciding not to affix their medallion with a replacement vehicle upon reaching retirement dates. In addition, these numbers do not take into account medallion licenses that are suspended, revoked, or expired. Thus, it is important to note that these projections are mere predictions and may not come to fruition.

A. Schedule of Vehicles to Retire and Come into Service Under TLC's Current Rules

Pursuant to 35 RCNY § 58-50, 50% of all new vehicles affiliated with an unrestricted medallion⁵ are currently required to hack up with a wheelchair accessible vehicle. This rule was enacted immediately upon the finalization of the initial Class Action Settlement in 2014 and the requirement began on January 1, 2016 (to coincide with the "Start Date" in the initial Settlement Stipulation). Should TLC continue enforcing this rule as it has been since 2014, TLC predicts that it will achieve 50% accessibility of all Active Medallions by the end of 2030. TLC cannot definitively say when it will achieve 50% accessibility of all Authorized Medallions.

and increased operational costs associated with purchasing accessible vehicles. Several of these owners have indicated they are about to declare bankruptcy.

⁵ Most medallions were sold as unrestricted medallions, meaning they were not required to have any particular type of vehicle associated with it; however, 231 medallions were issued as restricted to wheelchair accessible medallions and there are 272 alternative fuel medallions.

However, projections demonstrate that it will not be within the next seven years. As vehicles are currently on seven year retirement cycles, TLC can only project out for the period of time including the seven year cycle.⁶ To that end, below is a chart reflecting for each calendar year, the number of new wheelchair accessible vehicles anticipated to come onto the road and the number of existing accessible vehicles, for a total predicted number of wheelchair accessible vehicles.

| Year | No. of New WAVs Projected to Come on the Road ⁷ | Existing WAVs | Total WAVs (new accumulative plus existing 3776) |
|------|--|---------------|--|
| 2024 | 238 | 3776 | 4014 |
| 2025 | 241 | 4014 | 4255 |
| 2026 | 200 | 4255 | 4455 |
| 2027 | 30 | 4455 | 4485 |
| 2028 | 33 | 4485 | 4518 |
| 2029 | 82 | 4518 | 4600 |
| 2030 | 251 | 4600 | 4851 |
| 2031 | 114 | 4851 | 4965 |

B. Requirement that 100% of New Vehicles be Wheelchair Accessible Until 50% Goal is Reached

As a possible way to reach the goals of the Amended Settlement Stipulation, the Court suggested that TLC could amend its rules to require that 100% of all new vehicles coming into service be wheelchair accessible until 50% of the total number of Active Medallions and 50% of the total number of Authorized Medallions are attached to a wheelchair accessible vehicle. Should the Court require TLC to amend its rules as such, TLC predicts that it would achieve 50% accessibility of all Active Medallions by the end of 2024 and 50% of accessibility of all Authorized Medallions by the end of 2028.⁸ These projections, however, do not come without their own unique caveats.

⁶ Under TLC's current rule requiring 50% of all new vehicles be wheelchair accessible, such vehicles need to remain in service for a minimum of four years. See 35 RCNY § 58-50(f). While current vehicle retirement dates are at seven years, the rule was enacted when wheelchair accessible vehicles retirement dates were required at four years (at that time non-accessible vehicles had shorter retirement dates).

⁷ Wheelchair accessible vehicles are defined as "WAVs."

⁸ Defendants continue to strongly urge the Court to relieve them of the obligation to make 50% of the Authorized Medallion wheelchair accessible by a date certain, as the number of Authorized Medallions – 13,587 – is nowhere near the number of Active Medallions today (which is 9274) or anywhere near the number of Active Medallions on the road even in mid-2019, before the pandemic (approximately 11,000). While there is always the hope that the number of Active

First and importantly, as explained above, these projections assume that for every vehicle currently on the road providing service, the medallion owner elects to put a new vehicle on the road and that the new vehicle, remains on the road providing service (remaining an “Active Medallion” – meaning, not in storage). Second, these projections are based on the number of Active Medallions as of January 2024, as reported in the Declaration of James DiGiovanni, dated March 6, 2024, which was 9274. Third, this projection includes 371 medallions that already passed their retirement date prior to the first quarter of 2024 that have not yet re-hacked a new vehicle associated with those medallions. Fourth, as explained above, these projections do not account for vehicle retirement extension applications that meet the standard for substantial hardship. Finally, it should be noted that any new requirement imposed on medallion owners and drivers could be challenged in a lawsuit and may be enjoined, further delaying implementation. As such, while the projections indicate that reaching 50% of the Active Medallions may be reached by the end of this calendar year, it is imperative to note that this projection is only accurate if every single vehicle that is scheduled to retire places a new vehicle into service.

With all of those caveats, below is a schedule of projections for the number of wheelchair accessible vehicles with a requirement that all new taxi vehicles to be placed on the road be wheelchair accessible.

| Years | No. of New WAVs Projected to Come on the Road | Existing WAVs | Total WAVs (new accumulative plus existing 3776) |
|--------------|--|----------------------|---|
| 2024 | 1036 | 3776 | 4812 |
| 2025 | 580 | 4812 | 5392 |
| 2026 | 714 | 5392 | 6106 |
| 2027 | 219 | 6106 | 6325 |
| 2028 | 498 | 6325 | 6823 |
| 2029 | 954 | 6823 | 7777 |
| 2030 | 1173 | 7777 | 8950 |
| 2031 | 359 | 8950 | 9309 |

Conclusion

As set forth above, TLC is able to project out plans for incoming wheelchair accessible vehicles based on the current seven year retirement cycles. However, it remains unclear whether all or only some of the private medallion owners will decide to place a new accessible vehicle into service when it is their turn to next purchase a new vehicle, and whether and for how long they will continue to provide taxi service (as opposed to placing their vehicles in storage). As TLC lacks the authority to require a private medallion owner to make the investment of purchasing a new vehicle and continuing to keep it in service, all of TLC’s projections are mere predictions and cannot provide any certainty as to the timing of meeting the 50% accessibility goal. In the event that the Court decides to require TLC to adopt a more aggressive schedule to require private

Medallions will increase, it is not anticipated that the number of Active Medallions will reach the total authorized 13,587 anytime in the near future.

medallion owners to expedite placing wheelchair accessible vehicles into service, defendants respectfully request that any such requirement provide for flexibility on the timing of achieving the goal as TLC would first have to go through the rulemaking process and ultimately cannot control the decisions and actions of the private medallion owners.

Respectfully submitted,

/s/

Michelle Goldberg-Cahn

Samantha Schonfeld

Assistant Corporation Counsels