

**Taxi and Limousine Commission Meeting  
December 19, 2013**

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NEW YORK CITY  
TAXI AND LIMOUSINE COMMISSION  
DECEMBER 19, 2013

PROPOSED SPECIFICATIONS REQUIRING  
PARTITION CRASH TESTING AND AIR CONDITIONING  
AND  
E-HAIL RULES  
PUBLIC HEARING

Held on December 19, 2013  
33 Beaver Street  
New York, New York  
Time: 9:45 a.m.

Reported By:  
Margaret Crane

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APPEARANCES:

FOR THE COMMISSION:

- DAVID YASSKY, Commissioner
- FRANK CARONE, Commissioner
- ELIAS AROUT, Commissioner
- LASHANN DEARCY, Commissioner
- IRIS WEINSHALL, Commissioner
- EDWARD GONZALES, Commissioner
- LAUVIENSKA POLANCO, Commissioner
- NORA CONSTANCE MARINO, Commissioner
- MEERA JOSHI, General Counsel

SPEAKERS:

- CHRIS TORMEY, Applicant Licensing, TLC
- ERHAN TUNCEL, LOMTO
- RICHARD THALER
- ETHAN GERBER, GNYTA
- DR. ERNEST CHIODO
- DAVID POLLACK
- OSMAN CHOWDHURY
- DAVID BARNES
- MICHAEL WOLOZ, MTBOT

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SPEAKERS CONTINUED:

PAUL HERZAN

IRA GOLDSTIEN, Black Car Fund

ANDREW FRANK, Queens resident

KEVIN HATFIELD, HAILO

MICHAEL KEOGH, HAILO

WASEEM IQBAL, Taxi driver

AVIK KABESSA

BHAIRAVI DESAI, NYTWA

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CHAIRMAN YASSKY: Good morning. Thank you for joining us this morning. We are beginning this meeting of the Taxi and Limousine Commission at 9:45 a.m. Present are Commissioners Marino Gonzales, Weinshall, myself, Yassky, Arout and Carone. Just a couple of things I want to run through before we get down to business this morning.

First, as you all know, we're pleased to announce that the first tranche of our medallion sale went off not just smoothly, but I think very successfully, both, presumably, for the purchasers, some of whom have already closed on their medallions and are out on the street working, and for the city. The average price of that auction was in the neighborhood of \$1.1 million per medallion, and I hope and trust that those groups be

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good value for the purchasers.

I can also report today that 168 accessible independent medallions will be auctioned in lots of one on February 26th, 2014. Sealed bids will be accepted in person on February 20th, 21st, 24th and 25th, 2014, from 9 o'clock a.m. through 12, noon, at the TLC's offices at 33 Beaver Street, 19th floor, it says here, New York, New York 1004, but it's in person. So, come here.

MS. WEINSHALL: What's that date again?

CHAIRMAN YASSKY: The auction will be on February 26th. That's when bids will be opened. Sealed bids are accepted prior to that on February 20th, 21st, 24th and 25th, so the four business days prior, 168 accessible independent medallions.

MS. WEINSHALL: What does

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that mean?

CHAIRMAN YASSKY: They're independent medallions, so they must be owner driven, and they're accessible, meaning that they must be used with a wheelchair accessible car.

MS. WEINSHALL: Mind telling me what we purchased last time?

CHAIRMAN YASSKY: Well, the last auction was 200 mini-fleet medallions. Also, under the state law that authorizes any medallions we sell, really, from here on in, every medallion must be wheelchair accessible, new medallion, where we split them 60/40, roughly, between mini fleet and independent or owner driver. The mini-fleet medallions last summer were 200, that's what we started with, and this time it will be 168, maintaining that 60/40 ratio, independents.

MS. WEINSHALL: Is that it,

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you're not selling any more?

CHAIRMAN YASSKY: Those are -- you know, and Commissioners, our thinking -- and I should preface this by noting, of course, this is my last meeting as Chair of this Commission, so, many policy decisions -- I feel maybe even that I shouldn't speculate too much about how policy decisions will be made going forward.

I can say that what our thinking was to date was we would take -- the state law authorizes 2,000 medallions. It's true that the budget plans on the sale of those over the next few years, or those assumptions are incorporated into the budget in a prudent way, in other words, not overestimating the results. But our thinking here has been that we would take information into account as we get it. So the first medallion sale

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demand was quite strong. That led us to -- we knew we would always do the second because you have to do the mini fleet and the owner driver in parity, you know, to keep that ratio. I would say that the demand for that first auction was quite strong. So that should encourage people to continue and do more of the 2,000.

On the other hand, there are many factors that the next leadership team will no doubt take into account. We wanted to, we always intended to. And the TLC certainly will, going forward, you know, monitor our TPEP data to see if it appears to be affecting earnings and if there's any risk that the market has gotten somehow too many taxicabs. I think that's extremely unlikely, given that we know the existing number's well below demand.

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But, at any rate, I just want to give you a full answer to that. We were careful not to kind of commit to any fixed schedule knowing that information may come in that would cause you to adjust what you think.

MS. WEINSHALL: When do you think you'll close on the 200 that you --

CHAIRMAN YASSKY: So the first 200, I was overly pessimistic. Last meeting, somebody asked that and I said I thought it would be a couple of months.

MS. WEINSHALL: I think it was me.

CHAIRMAN YASSKY: Then I'm doubly apologetic for my missed estimation.

MS. WEINSHALL: That's all right.

CHAIRMAN YASSKY: I thought

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it would be a couple months because of the backlog in converting vehicles for accessibility. I underestimated the fact that when you have a bulk purchaser, a big fleet, they can get things done pretty quickly. So the first, you know, I'm going to look out, four or six maybe have closed, and there are additional closings scheduled over the next several weeks. So apparently, some of the purchasers are -- nobody wants to close and pay us the money until they have a car they can put on the street, right. So apparently the cars are being up-fitted on a faster schedule than I expected. So that's good news.

Okay. Accessibility, as all of you know, the TLC and the city entered into a settlement agreement with plaintiffs in disability litigation. I couldn't be more

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thrilled by this. I believe that the issue of wheelchair accessibility was one that we had not, or, "we," the TLC, kind of had not dealt with satisfactorily during my time here. And prior to that as well, but certainly during my time, which I bear responsibility for. And I'm pleased that we've put together a framework that I do think will yield not just kind of a fair outcome and reasonable and a compromised sort of outcome, but one that does achieve the -- this really is a matter of justice for people who need government to make sure that they get a fair deal. And it was structured in a way that allows for the transition. We will be publishing a rule, if not tomorrow, I guess not tomorrow because that's the end of this week, but next week then, and that

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will be voted on then after the new year.

And, you know, I just want to particularly note again, I did at the time, but our colleague, Frank Carone, who, from his first days or weeks on the Commission, raised with me his belief that what we had done to date was inadequate, pushed, in his polite and thoughtful but firm way, for the TLC to do the right thing. And I do think that he deserves a great deal of the credit or have the respect for this settlement and this path going forward. So I just wanted him to get acknowledged for that.

MR. CARONE: I want to thank you for those remarks. And before I forget, you mentioned earlier this would be your last Commission hearing. And before you conclude your remarks, I just want to say,

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we didn't always agree on every single policy, principle/policy parameter that you put forth, but I know that you believed in everything did; you did it with your heart. You served the city very, very well, from my perspective, and I want to congratulate you for a job well done and wish you the best. And wherever your life takes you I'm sure you will do very well.

CHAIRMAN YASSKY: Thank you very much, Frank. I appreciate your saying that.

I'll conclude very briefly with some thoughts on that, but first, the last thing before that, I just want to make an announcement this morning, although apparently it's already in the Daily News. But, Commissioners, you will recall, we've spoken about lease caps, the driver protection rules

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that the TLC has had in place for decades and that really had not been enforced. And there's reasons for everything, but we formed here a Lease Cap Enforcement Unit a couple of years ago. A few months ago, when it became clear to me that the scope of the problem was not trivial, but rather was of magnitude, I signed a memorandum of understanding with the Attorney General creating a joint prosecution, or joint enforcement task force.

The Attorney General's Office, of course, the Labor Division, specializes in worker protection. And while our staff at the TLC is enormously capable and enormously dedicated, it is also enormously small. Does that make sense? It is also small. And quite honestly, we have not had, even though people have done

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exceptional work here, as I will say in a moment, we have not developed decades of expertise on this. So partnering with the Attorney General has given us the capability to protect the workers in this industry who work unbelievably hard, long hours at a very hard job.

That joint enforcement task force has borne fruit. Today, or yesterday, we concluded a settlement with what I believe is the largest fleet operator in the city. It's a collection of four fleets that have common ownership, 28th Street Management, Downtown Taxi Management, Tunnel Taxi Management and Woodside Management. They operate approximately 900 medallions; the common owner, Evegny Friedman. They will pay a \$1.2 million settlement to settle a pattern of pervasive cheating of

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taxi drivers. \$700,000 of that will be in restitution that will go directly to drivers for the earnings that they have been deprived of, an additional \$500,000 fine will be paid to the City of New York.

In context, one could look at that and curse to me and say, \$1.2 million is one single of those 900 medallions, but still, I do believe that this will send a strong message to people in the industry.

I do want to be clear. It's my belief and certainly my hope that the bulk of fleet owners absolutely respect the rules and play by the rules and do the right thing, or do what the rules dictate. That's my assumption, that's my hope. But to make sure, we all know that if the government isn't vigilant, you can't count on

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that. And this joint enforcement task force will ensure, I believe, that the industry does follow the rules and play by the rules, particularly as they relate to the most vulnerable people in the industry, the drivers.

As much, really, as anything we've done here, this is something that I feel deeply proud that the TLC has taken this step and is achieving this measure of economic justice for our working drivers.

On our side, and I'll leave it to the Attorney General's side to discuss themselves, but on our side, Meera Joshi, our general counsel, our remarkably capable general counsel, did a tremendous amount of work. And the folks in the Enforcement Division, Ray Scanlon, our deputy commissioner for USB, Sherry Cohen, our assistant commissioner for

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enforcement, and David Ross and Jason Gonzales. By the way, those two individuals make up the entirety of our Lease Cap Enforcement Unit. We doubled it in size a few months ago from one person to two people.

So, this is by far the largest. They have concluded several other investigations with much smaller amounts at stake, in the aggregate somewhere in a little over a \$100,000 in fines, and maybe about \$200,000 in restitution in the other investigations combined. So this one is by far the largest. But there are others that are ongoing, and their work has been excellent. And I just want to thank them and credit them.

Last, I will note that as of yesterday, or two days ago, the days are beginning to blur a little bit, we have now completed our

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online initiative. You can apply for a new license online, you can renew your license online, you can pay your fines online. And that is really Gary Weiss and Jeff Grunfeld. They have put a ton of time and effort into this.

As difficult as major technology projects always are in the context of a giant government where -- and we're partnering with DoITT, and DoITT has been very helpful with this -- but we have to respect everybody else's security concerns, and it makes it extra hard. So Gary and Jeff really deserve a lot of credit, which leads me, I guess, to the last thing.

As this is, Frank, my final meeting as your Chair, I just want to first say what a joy, really, it has been. I mean, it's been hard work and conflict and this and

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that, and maybe not every single day, but most days, by a long shot, I just love coming to work here and working with an extraordinary team at the TLC. That's something I hope everyone in this room appreciates.

I can't imagine that you would find, pound for pound, a better group of public servants. And in every part of the agency, the people at Licensing who have brought down wait times by a third over the last few years, and the online thing should drive it down even further as people don't have to come into Long Island City to conduct their business; and the folks at Woodside, both in the inspection garage, who are ever looking for a way to speed things up.

I was just talking to Martin Grindley yesterday, who runs the

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garage with, you know, I will say this, private sector efficiency, about how he's figured out a way to shave another half minute off one of the tests that they run, which is something that they've never stopped looking for ways to do business better. And the folks who work those lanes, and sometimes, by the way, because all the doors are open, so in the winter time it gets really cold, and in the summer time it gets really hot, they just pound it out day in day out, and I have great respect and affection.

The folks in the Enforcement side, who, as we've grown, have kept up their productivity. You would think, a lot of entities, if you double or grow by 150 percent in size, all of a sudden nothing works anymore. They work even better now than when they were smaller.

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I have some numbers here that -- Allen, thank you for them -- I'm not going to read through them all, but I think everybody knows that they're taking cars, illegal cars off the street and summoning cars who are not what they're supposed to be doing at unprecedented rates. And it is absolutely making a difference. And I know that folks in the industry will routinely call and tell me, well, I saw a black car pick up on 67th Street and -- of course, it has not gotten rid of rule-breaking entirely or even close, but it has made a difference. I don't doubt that for a second and I don't doubt that it will continue to make a difference and more and more over time.

And then all the support functions which let the operating people do their thing. Everything

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from personnel to the budget staff who had just kept the money coming to hire all these new inspectors. To Meera's legal team, to the court's unit under Sherry which makes sure that all the summonses that are given out stick, to the consumer folks who've revolutionized, or transformed, I guess, the capability that we have to deal with customer complaints, which kind of was broken and now is one of the best functioning parts of the agency. It's just been a pleasure to work with every single part of this entity.

And finally, Colleagues, to work with you. And, of course, there's been disagreement, you know. We --

MS. MARINO: Really?

CHAIRMAN YASSKY: -- I'm not going to say pushed the envelope, but pushed -- I believe that we

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have done what people are put in public service to do, which is to address the hard issues, not duck them, not push them away for another day, but address them. And they wouldn't be hard issues if there were easy answers, and they wouldn't be hard issues if it was all gain and no downside. They're hard issues because they call on us to make judgements. And working together with each of you to make the collective judgements that we've made has been a very satisfying experience, and I am grateful for the relationships that we've developed, each of us individually and as a group.

So, at any rate, I made that, you know, no tearing, no nothing. I'm proud of that. Small achievements.

So with that, let's get to business for today. The first item

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on our agenda is the Chair's report. I think we've knocked that out.

The adoption of minutes. We have the minutes before you, Colleagues, of the November 21st, 2013 meeting. I move that we adopt those minutes as they are before you. All in favor say aye.

(Chorus of Ayes.)

CHAIRMAN YASSKY: Opposed, no.

(No response.)

CHAIRMAN YASSKY: That motion is adopted.

We have base applications. Director Tormey is here.

MR. TORMEY: Good morning. My name is Chris Tormey, director of Applicant Licensing with the Taxi & Limousine Commission. This month, we have 13 bases for your approval.

CHAIRMAN YASSKY: I move

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that we adopt the recommendations of the Licensing Division and approve the bases that are before us and deny the three bases that are before us for denial.

All in favor say aye.

(Chorus of Ayes.)

CHAIRMAN YASSKY: Opposed,  
no.

(No response.)

CHAIRMAN YASSKY: A  
unanimous vote that recommendations adopted. Thank you, Chris.

MR. TORMEY: Thank you.

CHAIRMAN YASSKY: We have two rules on the agenda for today. The first is our proposed specifications requiring petition crash testing and air conditioning. This is here for public hearing and vote. The first speaker -- oh, Meera, do you describe this or not?  
Okay, we can go to the first speaker. First speaker is Erhan

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Tuncel, representing the League of Mutual Taxi Owners. The second speaker is Richard Thaler. We have two rules, folks, so I will ask you to stick to the three-minute limit because I know there are speakers on both, multiple speakers.

MR. TUNCEL: Good morning, Commissioners. My name is -- Chairman Yassky.

CHAIRMAN YASSKY: Good morning.

MR. TUNCEL: My name is Ehran Tuncel, managing director of the League of Mutual Taxi Owners. Thank you for allowing me to testify today.

The rules you're considering today are nothing less than an effort to circumvent the New York State's supreme court ruling. It will accomplish exactly what the Bloomberg Administration has been trying to accomplish for years.

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That is, they are forced to accept -- it will force us to accept a concept which is not applied in any other city in the U.S., probably not anywhere else in the world. That concept is a single-vehicle concept for the entire fleet of New York City taxis. It is wrong, it is risky and it is not necessary.

About six, seven years ago, our Commissioner, David Yassky, was a New York City council member and he had a dream. That dream was to make every New York City taxi a hybrid. Taxi industry was against the idea, I was against the idea because, at that time, the hybrid industry was a new and unapproved industry. I didn't want to be forced into buying a vehicle that wasn't tested and proven. Yes, I was skeptical then, but look at me now. Today I'm driving a hybrid.

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The hybrid vehicles passed the industry's test and made a believer out of me and thousands of other owners. Approximately 75 percent of the medallion taxis are now hybrids.

Commissioner Yassky, your mission of a more green taxi fleet has been accomplished. It is accomplished not by your mandating it, but hybrid vehicles' success on the road.

The point I'm trying to make is that the Nissan MV 200 is probably a good vehicle. It's been approved by the Commission, and rightfully so. It deserves to be on the road and put to the test. But in the interest of our members, being in the competition is a much healthier way for any vehicle to prove itself to the taxi industry, the riding public, and you, our regulators. With all due respect

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to all of you, it doesn't need to be shoved down our throat.

The drastic measures you're considering today will not make the taxi ride any safer than it already is; yet, they will eliminate all vehicles but the Nissan MV 200 as a choice for the taxi industry.

Injuries involved in the partitions in taxis are easily avoidable by simply buckling up. I don't wish it upon anybody, but when your taxi driver must come to a short stop, the partition of a Nissan MV 200 is going to hurt just as much if you're not wearing your seat belt.

I encourage you to join hands with the industry to find ways to promote seat belts, seat belt use in taxis to put an end to partition-related injuries instead of making up rules that appear to have only one purpose, which is to

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eliminate competition.

I urge you to vote no to proposed rules. Thank you for your time.

CHAIRMAN YASSKY: Yes. The next speaker is Richard Thaler, to be followed by Ethan Gerber of the Greater New York Taxi Association.

MR. THALER: Good morning, Chair Yassky and Commissioners.

Any measure which potentially may reduce passenger and driver injuries is beneficial, but the cost benefit must also be considered together with the likely chance as to whether the measure would actually reduce or prevent injury. In this case, for the need for the proposed partition crash testing, there have been no anecdotal or reported cases of injuries due to partition design or mounting failure, which could have been identified or prevented by

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crash testing. Therefore, crash testing would have played no role in the injury prevention.

In any event, the taxi and livery crashes reported each year, for example, the 9,128 crashes in 2004 provide extensive information and experience regarding partition safety design compared to the National Highway Traffic Safety/FMVSS laboratory crash test simulation, where in fact, the TLC should understand that the purpose of NHTSA/FMVSS crash test is to determine the safety of new, untested vehicle designs not yet in public use. A case can only be made for the proposed partition crash test rule for new taxi models with substantially different body and chassis structures to determine potential FMVSS crash intrusions of a partition.

The comments provided by

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Mr. Sander and other medical professionals in the previous public hearing failed to disclose that the injuries cited were due to passengers' failure to use seat and shoulder belts and not related to partition failure. While steps for the prevention of passenger and driver injuries in the event of an accident should not be overlooked, the unintended risk of increased taxi vehicle cost and market withdrawal of an important OEM Taxi provider must be considered as a result of the proposed partition crash test rule.

Is it the intention of the rule to require an approved Taxi OEM to provide the partition as standard equipment under 67-04(b) or could the crash tested partition be manufactured and installed in the "after market," which would require publication of the

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partition specifications? If more than one after-market partition could be eligible for approval for each taxi model, each partition would need to be crash tested separately by the OEM.

But of greater importance, the TLC should not continue to ignore the more important requirement for either Taxi OEM-provided Collision Avoidance Systems or for requiring the after-market installation of Real Time Accident/Collision Avoidance Systems for drivers and passenger protection and enabling a reduction in Industry and Property Damage Liability Insurance premiums if the systems are not yet available as standard equipment from an approved Taxi OEM.

Thank you for your consideration.

CHAIRMAN YASSKY: Thank you,

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Mr. Thaler.

Mr. Gerber, to be followed  
by Dr. Ernest Chiodo.

MR. GERBER: Good morning,  
Commissioners.

There's an old saying that  
those who ignore history are  
condemned to repeat it. A few  
years ago, a Federal Court U.S.  
District Judge, Paul Crotty, told  
the TLC that it can not mandate  
that all taxi vehicles be hybrids  
because the TLC had exceeded its  
legal authority. He should know,  
he was also the former Corporation  
Counsel of the city.

The TLC, which always knows  
better than the courts, always  
knows better than the judges, tried  
to circumvent the court by  
manipulating the lease rules in  
order to do exactly what the court  
said was illegal. The court  
rebuked the attempt. The federal

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court saw it for what it was, a transparent attempt to bypass its order.

Then you did it again. This time, the New York State supreme court, by Justice Peter Moulton, said that the TLC could not mandate the Nissan Van 200 as the exclusive taxi because the TLC was ignoring city laws designed to encourage hybrids. The court also noted that it appeared that the TLC was exceeding its authority in the first place. Again, you ignored the clear language and guidance of the court, tinkered at the edges and tried to circumvent Judge Moulton's clear decision.

Despite the warning of the court, you passed rules again overtly designed to force the Nissan 200 upon unwilling buyers and drivers. This time another justice, Justice Shlomo Hagler, saw

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through this transparent  
circumvention and struck it down  
again. The court made it clear  
that you're acting beyond your  
authority in this misguided attempt  
to force the Nissan down our  
throats.

Now we are here again,  
another day, in another last-ditch  
effort to save a failed program, a  
program despised by the owners, by  
the drivers who have to pay more  
for gas, by the disabled community  
and by the people who are concerned  
about clean air. It has been  
condemned by the City Comptroller  
and, most importantly, by the  
mayor-elect who will take office  
12 days from today.

Make no mistake, this is not  
about safety. The Nissan Van 200  
is a top-heavy vehicle that is more  
prone to tipping. It has no rear  
crumple zone. It has a glass roof

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that can spread debris on the heads of passengers in a crash. It has no posted ratings on the National Highway and Safety Administration website. None. It is more prone to serious injury in a high-velocity crash. Corporation Counsel's own papers in our current lawsuits say that it is not clear if side air bags would deploy at all in the event of a crash because of the partition. The sliding doors create no safety barrier in a crash, and the seats near the rear door are more vulnerable to rear-end collisions. Not surprising because this vehicle was always, always, always intended to be a cargo van and not a passenger car.

These rules are designed for one purpose and one purpose only, to save the Nissan Van 200. A Mayor Bloomberg vanity project.

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This vote is not just disrespectful to the industry, it is disrespectful to the court; it is disrespectful to the City Charter; it is disrespectful to the new mayor; and it is disrespectful to the rule of law. If you care about safety, vote no or vote to postpone this vote. Let the new administration come in and design specifications meant to support the public and not meant to support Nissan Corporation. Thank you.

CHAIRMAN YASSKY: Thank you, Mr. Gerber.

I just, we can have time later, if we wish, but I just want to make sure that people understand because the first couple of speakers have focused on the MV 200. And I understand the point that they are making, that they believe that this would lead to more MV 200s, but I want to be

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clear about what the rule actually does. It simply says that any vehicle would have to meet crash test specifications. It does not mandate MV 200s. It does not mandate any other car. It simply says that any taxi that we're going to put on the streets should meet federal safety crash test specifications with the partition installed; in other words, as it is functioning as a taxicab.

And any manufacturer would be not just free but would be encouraged to do whatever they need to do to meet those specifications and put their vehicle on the road. So I just want to be clear about what is within the four corners of this rule. The fate of the MV 200 and that project will be decided by the courts.

Commissioners, I know, you know, we send you updates and

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whatnot, but just, of course, as Mr. Gerber describes, the supreme court has enjoined the rules mandating the MV 200. That's correct. That decision is on appeal and that appeal will be heard in January. And the fate of that project rests in the hands of the courts.

MS. MARINO: Can I just clarify though, isn't it true that the only car that does meet those specifications at this time is the Nissan?

CHAIRMAN YASSKY: That is the only car where the manufacturer has demonstrated that to us. I want to give you my lawyerly answer, which is, that's what I know. I do not believe that other cars do. If this becomes a --

MS. MARINO: Isn't it kind of a coincidence, though?

CHAIRMAN YASSKY: I wouldn't

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call it a coincidence. What I would say is that in the six-year effort that was the Taxi of Tomorrow project, the agency thought through what do we want out of a vehicle, what do we want out of a taxicab that's on the streets. Some things are obvious, you want enough legroom for people taller than me, people of Mr. Gerber's height, to be able to sit comfortably in the car.

And, by the way, I got my first e-mail, I've had several e-mails from friends about the borough ones, but I got my first e-mail now from a friend who said, Hey, just rode one of those new cabs. It said, "It's so big!" Not big on the outside, you know, it's actually shorter than a Crown Vic in length, but inside, because it's designed to be a taxicab -- anyway. We thought through what we wanted

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out of a taxi. Some things you can  
debate, some things are frills.  
You know, chargers, I think, nice.  
Is that fundamental? No.

Safety, to me, is not a  
frill; that is a fundamental. And  
in things for what we want out of a  
vehicle, it surfaced a  
long-standing thing that people in  
the agency had been talking about,  
but I don't know if it ever kind of  
had got into the leadership level,  
of the fact that the existing cabs  
on the road don't have to meet  
crash test standards. And once  
that kind of was thought about, to  
me, it was crystal clear it's what  
you want to do.

So the purpose of this rule  
today is whatever happens with the  
MV 200, court upholds it, court  
throws it out, that piece of the  
agenda should certainly survive.  
That would, at least, be my view.

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Each of you will have to form your own views. That would be my view.

I don't want to delay Dr. Chiodo.

I'll note that we've been joined by Commissioner DeArcy, who, I am happy to say, she's not always happy to say --

MS. MARINO: I don't think we noted, also, Commissioner Polanco's presence.

CHAIRMAN YASSKY: You know, you're absolutely right. I note that we're joined by Commissioners Polanco and DeArcy.

And I would also just let colleagues know that Commissioner DeArcy was elected this morning, or at least it was announced this morning, that she has joined the partnership of Morrison and Foerster. So congratulations to you.

MS. DEARCY: Thank you.

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CHAIRMAN YASSKY: I won't make the obvious joke that, you know, that lunch is on you, but I do think that that means that Commissioner DeArcy, with her enhanced status, should be entitled to two votes at the Commission meetings.

MS. WEINSHALL: She can have mine.

CHAIRMAN YASSKY: All right. Well, we'll leave that up to the next chair to decide.

So, at any rate, congratulations, LaShann. That's quite an accomplishment.

MS. DEARCY: Thank you.

CHAIRMAN YASSKY: So the next speaker is Dr. Chiodo and then David Pollack. And we're going to stay on schedule. So, please, Dr. Chiodo and David Pollock, to be followed by Osman Chowdhury.

DR. CHIODO: Yes, sir.

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Thank you, Commission, for having me here.

I'm a physician, a public health physician, also a vehicular-impact biomechanic, as well as a former senior public health official. In fact, I used to be the medical director, the chief physician in charge of all public health and medical services for the City of Detroit, the Motor City.

I have been asked to comment about the safety issues concerning the use of a vehicle like the Nissan MV 200. In essence, it's a van. That design for the use as a cab presents two fundamental problems from a safety standpoint. Problem number one, it's a van. It does not have a trunk like a conventional taxi or taxi car; as a result, you do not have crumple zones in the back that protect

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rear-seat occupants from intrusion from the rear-ending vehicle. That's a safety issue.

Second is that that big, roomy seat in back. I agree with you, I like a lot of legroom also. The problem is if you have a non-restrained passenger, that long legroom allows the passenger with a sudden stop to essentially dive headfirst into the partition, not unlike diving into a shallow swimming pool. And, as a result, the injuries that one would expect are called a Jefferson fracture, a fracture of the top cervical vertebra, the atlas.

In this case, when the atlas shrugs, the individual will end up, either a sudden fatality or a permanent ventilator-dependent quadriplegic. That is a safety issue that's presented by this vehicle that would not be presented

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by conventional taxis with less legroom.

In addition, there are two fundamental public health concerns that are not considered. First public health concern, when the person dives into the partition and ends up fracturing their atlas, their first cervical vertebra, that individual's going to need sudden, if they do survive, is going to need mouth-to-mouth resuscitation. Bystanders are going to have to be called upon to provide mouth-to-mouth resuscitation with risk of exposure to bloodborne pathogens, Hepatitis, AIDS. That's a public health concern. That's something that could happen to a bystander just being a Good Samaritan.

The second issue is the following: If in fact the taxi fleet here in New York is driven to

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utilize one vehicle, it is not unlike what happened to the Irish with the Potato Famine. If there's a problem with that vehicle and you lose all your taxis because of a recall or some serious unanticipated problem with that one vehicle, you're going to lose taxi service suddenly at the same time throughout New York. And that presents a public health risk because people need taxis to get to hospitals.

Thank you very much. I appreciate the time that you've given me.

MS. JOSHI: Our next speaker is David Pollack.

MR. POLLACK: Good morning, Commissioners. I'm David Pollack, executive director of the Committee for Taxi Safety.

Congratulations, Commissioner DeArcy. And if anyone

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deserves two votes, it should be Elias Arout, who, at the end of this year, this is the last meeting for the year, I think you've done 25 years as a commissioner. So, congratulations. And we certainly wish you well, Mr. Chairman, in your future endeavors.

CHAIRMAN YASSKY: Thank you, David.

MR. POLLACK: The proposed regulation would require all New York City taxi vehicles with the stated exception of accessible vehicles and hybrid vehicles and an unstated exception for street hail livery vehicles to undergo crash testing with a partition installed. By this regulation, the city and the TLC is blatantly seeking to do an end-around the judicial decisions that have struck down ill-advised Taxi of Tomorrow regulations, which would have

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mandated the use of a single  
vehicle, the Nissan MV 200.

Those regulations have  
already been held invalid by the  
courts of this state twice,  
notwithstanding the prior judicial  
decisions. Knowing that the only  
approved taxi vehicle that has been  
crash tested with a partition is  
the Nissan MV 200, the TLC, under  
the rationale of passenger safety  
and comfort, have now tried once  
again to mandate the single  
vehicle.

If the true interest of the  
city and the TLC were passenger  
safety, we ask the obvious question  
as to why the proposed TLC  
regulation specifically exempts  
from the regulation accessible  
vehicles, hybrid vehicles, and by  
other regulations, the new SHL,  
green street hail liveries.

Although we applaud the goal

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of trying to make the partition safer, crash testing is not the methodology to achieve that goal; rather, the partition should be redesigned. TLC refers to Dr. John Sherman who testified that there'd been hundreds of injuries to passengers throughout the years. Of course, and without any way making light of the serious nature of those injuries and the pain and suffering they caused, the TLC leaves out exactly how many hundreds of injuries or over how many years those injuries have occurred.

Interestingly enough, our attorney, David Beyer met Dr. John Sherman and had a discussion with him. And his suggestion concerning the partition industries was not to crash test the vehicle but rather to use technology to make the partition itself safer.

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Rather than approving the proposed regulation, we suggest the TLC and the city speak to the vehicle manufacturers and the partition manufacturers and try to make the partitions and the vehicles in which they are installed safer for the benefit of all the passengers for all the for-hire ground industries, not just some of them.

We ask the TLC Commissioners to allow sufficient time for other vehicle manufacturers to crash test their vehicles with the partition installed.

CHAIRMAN YASSKY: That's a fair point.

MR. POLLACK: And finally, we ask that the Commissioners do not exceed this vindictive and transparent proposal to disregard the courts of this state and achieve by any means a policy goal

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that was misguided from the start.  
Thank you.

CHAIRMAN YASSKY: All right.  
Thank you, Mr. Pollack.

Okay. Osman Chowdhury is  
the next speaker, followed by David  
Barnes and then Michael Woloz. And  
those are the only people who are  
signed up at this point.

MR. CHOWDHURY: Hi. Good  
afternoon, everybody. My name is  
Osman Chowdhury.

I'm talking about just the  
MV 200. This car, this is so big,  
and need it not to rush. Make a  
pilot program, then we can see  
what's happening, the problem  
particularly, because that, after  
on the road, all the cars is going  
to have problems. It's a big mess.

And also I have the previous  
experience, the Chevy Minivan.  
Under six months on the road to get  
out far away. That's why you need

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to make a pilot program. The MV 200 needs a pilot program, then we can see what realistic. We driver, we know what's a problem. We have testing.

Another thing is, MV 200s, another problem is, like I say, expensive car. (Inaudible) take the lease car, medallion lease, three years. Afterward, the car's very expensive. What's going to happen? The driver, they spend a lot of money, \$40,000, \$50,000 to put in the investment. After three years, the medallion lease can expire. What can happen, put the car in a museum? This car, they're expensive.

That's what I'm saying.

Thank you very much.

CHAIRMAN YASSKY: Thank you.

Mr. Barnes and Mr. Woloz.

MR. BARNES: Good morning,  
Chairman Yassky, Commissioners. My

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name is David Barnes. I'm working for Ricardo. Ricardo Engineering is being retained by the Taxi and Limousine Commission since about late 2007 to advise them on automotive aspects and all aspects and stuff related to taxis in general, particularly how a vehicle design can be improved.

I've been working in the automotive industry for about 25 years now doing principally passenger car design, so I've touched most parts of the vehicle during that time frame.

I'd like to address a couple of points that have been made by some of your previous speakers. The first --

CHAIRMAN YASSKY: Summarily, if you please.

MR. BARNES: Yes. First is related to the presence or lack thereof of a crumple zone in the

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vehicle. The vehicle is actually fitted with a zone that is designed to deform during a rear impact. That zone is designed to mitigate and reduce the amount of energy transmitted to the occupants in the event of an impact. The vehicle, as delivered, meets all of the federal crash test requirements for front and rear impact, so I think we have to assume that there is, indeed, a crumple zone in the vehicle.

The second point I would like to make relates to the value in actually carrying out crash tests on vehicles with partitions. There are a number of benefits to this that we see. The first is, you know, front impact, where you want to ensure that the partition remains correctly attached to the vehicle, does not move forward and impact the driver. The second is

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in a rear impact, again, it remains attached to the vehicle and does not move backwards. In both of those situations, there is an additional benefit to crash testing related to the retention of TPEP components. You want to make sure that the TPEP components stay attached to the partition and don't start to fly around in the cabin. The third point is related to side impact where the crash testing really confirms that the air bag is able to deploy correctly.

In all three of these tests, the crash test itself is the validation and the verification that a change or a new partition design is actually effective. You can design it all you like. Until you actually test it, you won't know whether it worked.

Thank you very much.

CHAIRMAN YASSKY: Thank you.

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MS. MARINO: I have a question. You're saying that it has a crumple zone in the back. I just think it's common sense, I would rather have a trunk separating me and the front end of a car than not a trunk.

MR. BARNES: How do you see that the trunk is different from the --

MS. MARINO: It's a big space of metal.

CHAIRMAN YASSKY: Correct, but it's also --

MS. MARINO: I mean, it's common sense to me. I just think a passenger is going to be safer with a trunk behind them.

MS. DEARCY: Can I -- I'm sorry. My problem with us making this trunk versus not a trunk issue, and I'm certainly not an engineer, but is it -- you know, we have just made strides with respect

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to wheelchair accessible vehicles.  
Are there wheelchair accessible  
vehicles that have a trunk? I  
don't think that we should suppose  
that just because there's no trunk  
that we are creating a danger to  
our passengers. I think the  
wheelchair accessible vehicles  
don't have the traditional trunk  
that we are accustomed to seeing in  
terms of a four-door vehicle.

MS. MARINO: That may or may  
not be true, and I can't comment  
either way, but my common sense  
just tells me that, I mean, if I  
had a child in the car, I'd rather  
have that trunk separating me from  
a rear-end collision.

MS. WEINSHALL: That's not  
the issue we're talking about.

CHAIRMAN YASSKY: Under-  
stood.

MR. BARNES: If I may --

MS. MARINO: I mean, it's a

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safety issue.

CHAIRMAN YASSKY: Mr. Barnes, do you want to address that?

MR. BARNES: Yes.

CHAIRMAN YASSKY: Again, summarily, if you can.

MR. BARNES: The crash test requirements for passenger cars do not differ from minivans or other vehicles whether they have a trunk or a hatchback. They all have to meet exactly the same standard. So there is no practical difference as far as the FMVSS is concerned as to whether it has a trunk or it doesn't have a trunk.

CHAIRMAN YASSKY: Thank you very much, Mr. Barnes.

Mr. Woloz, and then Paul Herzan, is, I believe, the final speaker.

MR. WOLOZ: Good morning, Mr. Chair, Commissioners. I'd just

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like to read an excerpt from a letter that Ron Sherman from Metropolitan Taxicab Board of Trade distributed two days ago on this rule, and then I'd like to come up and discuss the other rule. I'd like to stress that MTBOT is urging a no vote on both rules, but let's get to the crash testing rule first.

The crash testing rule is a third attempt to mandate the Taxi of Tomorrow and should be voted down. A rule to mandate that all taxis except hybrids have factory-installed, rear-seat air conditioning and undergo separate crash testing with certain after-market alterations, a mandatory factory-installed partition, but not others, an accessibility retrofit, for example, is arbitrary, capricious and unsupported by a law or federal

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1 regulations.

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3           The proposed rule is a third  
4 attempt to mandate the so-called  
5 Taxi of Tomorrow, and is designed  
6 as an end runaround of the supreme  
7 court's October 8th, 2013 decision  
8 striking down the TLC's second  
9 attempt to mandate the Taxi of  
10 Tomorrow. The TLC's appealed this  
11 decision but the decision is not  
12 likely before February 1, 2014.

13           The TLC has touted the Taxi  
14 of Tomorrow, the Nissan MV 200, as  
15 the first one purportedly crash  
16 tested with a partition. In  
17 response to repeated requests, the  
18 TLC finally provided MTBOT with a  
19 letter from Nissan, dated Friday,  
20 December 13, 2013, certifying that  
21 certain tests were completed. But  
22 the supporting documentation fails  
23 to specify how the MV 200 fared in  
24 the tests.

25           More significantly, there is

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currently no other vehicle on the market that would be able to meet the tailor-made requirements in the proposed rules, and manufacturers are unlikely to spend the millions of dollars necessary or absorbed the considerable liability costs and risks for the limited New York City market.

This rule is not about public safety. If it were, there would be no exemptions for certain taxicabs, such as hybrids. This proposal is a blatant attempt to resurrect the TOT through the back door.

In any event, even if the vehicle were crash tested with the manufacturer-installed partition, it would not be crash tested after it is retrofitted for accessibility. Not the Nissan, nor any other car on the market. Accessibility retrofitting is

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likely to invalidate any prior crash testing results. The Commission should not be placed in a position to pick and choose when to care about passenger safety.

The proposed rules should not approved. There is nothing urgent about proposing this rule right now. If this rule is seen at a later date, nothing happens. This is a last-ditch effort to salvage the TOT which has already been invalidated by the courts twice.

I urge you to vote no on this rule, and I also urge you to vote no on the next rule, which I'll explain later, and that's a rule that would benefit MTBOT. But what we're saying here today is don't pass any rules that you're just going to just jam through the Commission on the last hearing of the year because you can because

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it's not the right thing to do, not for this rule and not for the next rule. Thank you.

CHAIRMAN YASSKY: Thank you, Mr. Woloz.

Mr. Herzan.

MR. HERZAN: Good morning.

CHAIRMAN YASSKY: Good morning.

MR. HERZAN: Good morning, Commissioners. My name is Paul Herzan, and I'm speaking today as a passenger, a concerned citizen and a frequent taxi rider. I'm here to read a statement that is joined by the following people and organizations. Thank you for the opportunity to share our opinion with the TLC and its commissioners.

The people and organizations are as follows: Dan Biederman, President, 34th Street Partnership and Bryant Park's Restoration Corporation; Lee Sander, Chairman,

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Regional Plan Association, former  
TLC commissioner and former MTA  
executive director; Dr. John  
Sherman, Clinical Assistant  
Professor, Cornell University  
Medical College; the Manhattan  
Chamber of Commerce; Transportation  
Alternatives; Lily Auchincloss  
Foundation; Global Gateway  
Alliance; Design Trust for Public  
Space; Smart Design; and Sarah  
Holloway, a passenger who was in a  
critical accident with her  
daughter.

We wholeheartedly support  
the proposed rule requiring taxis  
to undergo crash testing with a  
partition installed. New York City  
has arguably the most innovative  
public transit system in the world.  
When New Yorkers ride the subway,  
the bus, commuter trains or even in  
their personal cars, they assume  
that significant investment in

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2 rigorous vehicle engineering and  
3 safety validation has been  
4 completed. Yet, in all likelihood,  
5 only a handful of the daily 650,000  
6 yellow cab users are aware that the  
7 partitions looming in front of them  
8 are not approved for use by any  
9 vehicle manufacturer. The truth is  
10 the taxi partitions have not been  
11 designed or installed by any car  
12 manufacturer. The partitions have  
13 never been tested to determine  
14 their effect on public safety.

15 By introducing a nonfixed  
16 partition into any taxicab, the  
17 manufacturer's rigidity  
18 specifications may be undermined.  
19 The partition affects the vehicle's  
20 intended design to protect  
21 passengers when an impact occurs.  
22 This may cause a change in the  
23 deployment of the timing of the air  
24 bags.

25 The most cost-effective

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solution is for the vehicle manufacturer to provide the partition design and the air-bag design. As a matter of public safety, all partition designs should be validated by the vehicle manufacturer in order to ensure that the factory-tested crash safety parameters are not compromised.

Opponents of the rule have suggested that in lieu of mandating crash tested partitions, partitions should just be redesigned. But the only way to know whether a partition is safe, whether redesigned or not, is to crash test it.

Under the proposed rule a redesigned partition would be permissible. It would merely have to pass a crash test.

Today we're discussing the first major safety innovation

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specifically designed for the New York City taxi rider. It's a safety innovation that is a long time coming. We support this challenge by the TLC to insist that the auto industry consider the health and safety needs and interest of New York City passengers and drivers. We applaud Nissan for rising to the challenge. All TLC stakeholders should support the Commission's goals today. All other vehicle manufacturers should as well.

Today's rule says to any vehicle manufacturer that will not commit to passenger safety, there is no place for their unsafe vehicles in the New York City taxi fleet.

CHAIRMAN YASSKY: Thank you. I'm sorry, if you want to conclude, Mr. Herzan.

MR. HERZAN: As regulators

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of the taxi industry, public safety is priority number one of the TLC. The riding public shouldn't have to think twice about getting into the backseat of a vehicle that is not fully validated by crash test data. New York City passengers should not be treated as the industry's crash test dummies. Thank you.

CHAIRMAN YASSKY: Thank you.

I gather that Ira Goldstein would like to be heard; is that right?

MR. GOLDSTEIN: Yes.

CHAIRMAN YASSKY: Okay.

While you're coming up, I'll just thank -- I mean, Ira, of course, is the former chief of staff here at the TLC, and over his many years of service, he contributed to the realization of this important safety initiative. So, again, I thank you, Ira, for all your service.

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MR. GOLDSTEIN: Thank you,  
Commissioner.

As most of you on the Board know, this isn't really my issue, being a representative of the black car industry, but just hearing the testimony and what was going on, I just felt compelled to just briefly give my opinion.

The Commission should be commended for bringing this issue to the forefront, and that is something that needs to be tackled; however, I don't think that there is this urgent need to pass this in the late hours of an administration that's now coming to a conclusion.

I think it's important that the upcoming administration be given a chance to look at all issues with a fresh perspective, look at things in a cohesive manner, globally, at everything that's before it. And I think that

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if the Commission has resolved to get this done, it will get done in a future time. It just appears to be very political, it appears to be a back doorway of bringing in the Taxi of Tomorrow, and I just feel that it would be proper for it to be adjourned at this point. Thank you.

CHAIRMAN YASSKY: Thank you, Mr. Goldstein.

Commissioner Polanco, you have a motion?

MS. POLANCO: Yes, yes.

CHAIRMAN YASSKY: I'm sorry. First, Meera needs to just make some comments for the record. Please.

MS. JOSHI: Just to summarize, what we just had was the public hearing pursuant to CAPA on a proposed rule to amend taxicab specifications to require crash testing with partition installed

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and rear-passenger-controlled air conditioning. The rules appeared in the city record on November 15, 2013, and there was a comment deadline of December 18, 2013. Thirty comments were received and four were related to the commissioners.

CHAIRMAN YASSKY: Thank you.  
Commissioner Polanco?

MS. POLANCO: Thank you. I know we just had a hearing about the crash test rule, and I think we all realize the importance of having this rule, which, the intention is, quote/unquote, to exclusively deal with the safety of passengers. But based on what we have heard and the controversy surrounding the rule and the potential for, yet again, another lawsuit, I will move to postpone this rule for next year to give an opportunity even for the new

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administration to even have a say  
on this.

I will also move to postpone  
the hearing and the vote of the  
E-Hail rules for the same reason,  
but most importantly because the  
pilot program has not run its  
course. My understanding is that  
the program ends in April 2014, at  
which time, I believe, that we  
should revisit the rules  
themselves.

So I basically move to  
postpone the vote on the crash test  
rule and the hearing and vote on  
the E-Hail rule.

MS. MARINO: I second.

MS. DEARCY: Wait, are  
they -- I'm sorry, forgive me. Are  
these separate? Because we may  
have an inconsistent --

CHAIRMAN YASSKY: Let me  
make a -- it's my intention not to  
bring the E-Hail rule forward for a

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vote today. I've heard from a number of Commissioners in a particular light, Commissioner Arout has spoken powerfully. I understand your view, Commissioner Polanco. And in light of fact that that pilot is ongoing, so there's no -- as far as the public's concern, one month is the same as the next.

MS. POLANCO: So I withdraw then the second motion. I'll just stay with the first motion.

CHAIRMAN YASSKY: I will just say, because I know you spoke about the hearing as well, Commissioners, it's, with everyone's -- you know, unless there's an objection to this, we'll have the hearing so people's views can be heard. But there will be no vote, so --

MS. POLANCO: No, then I basically bring back my second

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motion. For me, it doesn't make a point to have a hearing at this point.

MS. WEINSHALL: But people came here to be heard.

MR. GONZALES: People came here.

MR. KEOGH: We're here though. We're here to talk to you. We're all here to vote.

CHAIRMAN YASSKY: In all honesty, Commissioner, then let us make it two separate votes then, because people may feel differently about one versus the other.

MS. POLANCO: I understand, but the program has not run its course, and I --

CHAIRMAN YASSKY: No, I -- I'm sorry, I don't want to stop you, in other words --

MS. DEARCY: Commissioner Polanco, I agree with you. I share your sentiment that we need to

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allow the program to run its course. I think that what we're saying is there are people who took time out of their schedules to come and be heard. And I think as a courtesy to them, I think it would be, it would be, for us, this courtesy to them to not allow them to have their say even if we don't take action on it.

MS. POLANCO: I agree with you, but I just want -- my point is that I don't want this to come back and not have other people to have an opportunity after the program has run its course to basically have an opinion on it because things could change. Once hearings are done and concluded, you cannot come back and reargue the same issues. That's my point.

MS. DEARCY: We can do that. It's up to us.

CHAIRMAN YASSKY: Correct.

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MR. CARONE: Mr. Chairman,  
perhaps the compromise is keeping  
the hearing open, don't close it  
after today and just don't  
conclude. Start the hearing, keep  
it open --

CHAIRMAN YASSKY: Excellent.  
There is a mechanism for that.  
Thank you for that, Commissioner  
Carone.

MS. POLANCO: Very good  
point.

CHAIRMAN YASSKY: So we'll  
keep the hearing record open so  
that it may continue to the next  
meeting.

So I don't want to put  
words, but just want to clarify,  
the motion is to --

MS. POLANCO: Just a motion.

CHAIRMAN YASSKY: -- to  
table the --

MS. POLANCO: Crash test  
vote.

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CHAIRMAN YASSKY: -- the  
crash test vote. Okay. Very good.

MS. MARINO: And I seconded  
that motion.

CHAIRMAN YASSKY: Very good.  
All in favor of tabling --

MR. CARONE: Before we vote  
there, I just want to make a  
comment. I join in Commissioner  
Polanco's motion. I do want to say  
that I think it's inarguable that a  
rule, a rule on public safety is  
not an appropriate one for the  
Commission. I think it is  
completely our responsibility to be  
voting and passing rules on safety.

I don't believe this  
particular rule accomplishes that,  
and we'll get to that in a moment,  
but I do think the motion is  
appropriate. Now, I don't think  
the objective is compromised if we  
hear and discuss this more and vote  
in January.

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MR. GONZALES: I'd like to make a statement as well. I'm uncomfortable with waiting to take action on issues that involve driver and passenger safety, which, in my opinion, are just out and out nonnegotiable.

There were a couple items that did come up in the hearing that I think are important. And I think the mindset, and I want to say collectively we will agree with this, I hope, but one of the speakers suggested we continue to promote and encourage, strongly encourage seat belt use, which probably is even better than crash test, as far as keeping passengers from being injured, and also about as well as doing I guess more extensive study, from what I gather, on partition design.

But then I kind of come back to, well, what's wrong with having

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all three? I mean, we can have, you know, increased use of seat belts as far as strongly encouraging that, we can also encourage better partition design. But again, you really don't know what happens until it's in a vehicle and crash tested.

So I don't quite see this as either/or, I'm not for this particular motion, I'm prepared to vote today, and I see all three elements as necessary to address driver and passenger safety.

MS. MARINO: I'd like to make a statement as well. I'm going to ask my colleagues to join in Commissioner Polanco's motion for a couple of reasons.

Number one, we do have a new administration coming in in 12 days. I mean, this is not an urgent issue, in my opinion, especially in light of a lot of the

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comments today and that the specifications are limited to the Nissan. I find that quite the coincidence, and it makes this rule suspect to me.

I also think we should show some respect to the new administration and let them deal with this issue the way they feel appropriate. We're at the last hearing of a 12-year administration that's on its way out now. And I think out of respect to the new administration, we should not hold this or any vote today.

And with respect to Mr. Herzan's comment that Nissan has risen to the level of safety, it's more like the TLC has risen to the level of Nissan by designing these rules to fit only that vehicle. If this is truly about safety, why aren't we addressing green cars. People in the outer

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boroughs, don't they deserve  
safety?

I mean, it's not making  
sense to me. And I think safety is  
an issue, but we need to approach  
it on a global, practical, logical  
level, and I don't think this is  
it.

CHAIRMAN YASSKY: So let's  
vote on the motion to table.

All in favor of tabling the  
crash testing with partition rule,  
please raise your hand now and say  
aye.

MS. MARINO: Aye.

MS. POLANCO: Aye.

MR. CARONE: Aye.

CHAIRMAN YASSKY: I count  
three ayes, Commissioners Marino,  
Polanco and Carone.

All opposed to the motion  
tabled, raise your hand.

I count five, Commissioners  
Arout, DeArcy, myself, Weinshall

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and Gonzales.

Motion to table fails.

MS. DEARCY: Can --

CHAIRMAN YASSKY: Yes,  
please.

MS. DEARCY: I'm sorry, I  
didn't mean to interrupt you.

CHAIRMAN YASSKY: No, go  
ahead.

MS. DEARCY: I think by the  
fact that I just voted not to table  
the vote on the crash testing  
perhaps gives some indication that  
I am in favor of it.

We've heard a lot of  
compelling testimony. I have  
personally received phone calls,  
which has never happened since I  
joined the Commission, from  
passengers who have urged me to  
vote in favor of the crash testing.  
It's interesting to me because a  
lot of people have bantered about  
the word "political." And none of

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those individuals called me as people who sit in the back of the taxi has considered this to be a political issue at all. They considered it to be one only about safety. And I suspect that the urges for us to delay this because of politics is kind of dumbfounding to them. And I don't consider this to be political.

But what I will say is that I believe that the proposed rule is in need of amendment. I think that we need to have a grace period. We've heard some testimony today --

CHAIRMAN YASSKY: We have.

MS. DEARCY: -- we've heard, I think all of us have gotten some comments and some phone calls that there are manufacturers who don't have the ability right now to comply with the rule as it's been drafted.

I would urge the Commission,

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and I've said this to you all individually, I think it's important that I say this publicly.

CHAIRMAN YASSKY: Yes.

MS. DEARCY: And I'm not certain how you all came out in terms of that, but I think we need to have a grace period to allow certain manufacturers the ability to comply with the rules. I think, and I've said to you, that six months, in my mind, would be reasonable.

The other point that I want to make that I think is significant is I'm not clear why we are tying the crash testing, which I think is important, which I think is timely, to the other change related to air conditioning. I like air conditioning like the next person, I'm not certain what's immediate about it. It seems to me like a luxury. And it also seems to me

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that the basis for why I want to vote for this, which is that safety is important, does not tie the same way to air conditioning. And so I would urge that we amend the rule so that we separate the two.

CHAIRMAN YASSKY: I agree with that. I'm sorry.  
Commissioner Carone.

MR. CARONE: Thank you,  
Commissioner DeArcy.

I happen to agree conceptually with your points. I think luxury items are best kept in the marketplace, and I don't think it's appropriate for us to regulate luxury items. And I deem air conditioning in the backseat, front seat, wherever, a luxury item.

I also confine myself to support crash testing, but the grace period of six months I think is a little short to give manufacturers the time to do the

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crash testing and actually report on the findings, analyze the findings from a passenger point of view, not from a vehicle integrity point of view, meaning, how does the vehicle holdup in a crash testing. So I would ask for a year rather than six months.

CHAIRMAN YASSKY: Well, thank you for that contribution, Commissioner.

So, Commissioner DeArcy, I agree completely. I just want to say, first, I understand your concern. I think both parts of the concern, to me, are well-founded.

And, there was discussion about grace period. You know, one thing that happens when all the discussion is on the threshold issue of yes or no, there's often not enough discussion about the real meat and potatoes of it. I think the rule as drafted was

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deficient in not taking into account a grace period because it is not for one vehicle because we do want any taxi that's competing on the market. And it's true, there's -- speakers raised that there's an exemption for hybrids. That's because the City Council -- the Administrative Code would not admit of that. So that's why there's an exception.

I would think that every taxi that goes on the road should be crash tested, but we have to respect the Council -- the Administrative Code. So I believe there should be a grace period. Let me address in a second the length.

On the air conditioning, I just want to explain to you, Commissioner DeArcy, why that seemed to make sense. If the manufacturer's designing the

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partition in the first place, then the added kind of burden of incorporating air conditioning to that seemed, to the staff, a minimal thing. However, on reflection, and certainly with your inputs, I do understand that that is a bridge too far, and certainly I think the Commission as a whole would be a bridge too far.

So Meera has prepared a version that incorporates those two changes. I believe the grace period in the version before that is here and it's for June 30th. In other words, until June 30th.

What, Commissioner Carone, I would suggest --

MS. DEARCY: That's the six months that I had previously suggested.

CHAIRMAN YASSKY: That was the six months that you had suggested.

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MS. DEARCY: Okay.

CHAIRMAN YASSKY: I would suggest that that be made October or, let's say, November 1st of 2014 to give enough time for a model year to come out. In other words, here's why --

MS. DEARCY: So, 11 months.

CHAIRMAN YASSKY: All right. I take your point. I take your point. I didn't mean -- I wasn't looking to haggle.

MR. CARONE: (Inaudible.)

CHAIRMAN YASSKY: I was just trying to think of a natural stopping point.

So let's make that the end of 2014; is that correct?

MR. CARONE: Yes.

MS. DEARCY: That's fine with me.

CHAIRMAN YASSKY: So without objection, then I would like to amend the rule that's before us.

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And I think, close to being realistic, there would not be majority support for a rule, the rule as published.

So I would like to move without objection that we amend the rule to incorporate the changes that LaShann has described with the grace period being until December 31st, 2014.

MS. WEINSHALL: (Inaudible.)

CHAIRMAN YASSKY: Without air conditioning. No requirement of air conditioning.

MS. WEINSHALL: Got it.  
Okay.

CHAIRMAN YASSKY: No requirement of air conditioning, end of 2014 grace period.

MS. POLANCO: Quick comment.

CHAIRMAN YASSKY: Is there objection? Yes.

MS. POLANCO: No objection, I just have a quick comment.

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Is it realistic that in 11 months manufacturers and other vehicles are basically going to assemble to do --

CHAIRMAN YASSKY: Absolutely. That's when the next model year comes out.

MS. DEARCY: That's what they do. That's their business.

MS. POLANCO: Okay.

CHAIRMAN YASSKY: All right. Then --

MS. JOSHI: (Inaudible.)

CHAIRMAN YASSKY: Yes, if you can do that in a brief way.

MS. JOSHI: So before the Commission are the rules, the amendments to taxicab specifications as were published with the following two changes: the references to rear air conditioning requirement have been deleted, and in addition to Section 1, the -- Section 2, the following

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phrase is added to 67-04(b):

"Taxicab models approved prior to the effective date of this section must meet all requirements of this section by December 31st, 2014 to remain an approved taxicab model in accordance with this chapter. Any taxicab vehicle hacked up prior to December 31, 2014 can remain in service."

CHAIRMAN YASSKY: Okay. So then I would like to call for a vote on that. By a show of hands, all in favor of adopting the rule as amended, please raise your hand to signify an "aye" vote.

I count one, two, three, four, five, six votes, Commissioners Gonzales, Weinshall, myself, DeArcy, Arout and Carone.

All opposed, signify by raising your hand to vote no.

I count one vote, Commissioner Marino.

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And all abstentions.

I count one vote,  
Commissioner Polanco.

So by a vote of six in  
favor, one in the negative and one  
abstention, the crash test rule is  
adopted.

So, Commissioners,  
consistent with our earlier  
discussion, we will now proceed to  
a hearing on the E-Hail rule.

That is it for votes today.  
And I understand, I know,  
Commissioner Arout, you have  
pressing business in Staten Island.

MR. AROUT: I'd just like to  
say something for the record.

CHAIRMAN YASSKY: Oh,  
please. Please do.

MR. AROUT: I want to thank  
everyone for being here. And I'm  
sure you don't want to hear me  
repeat everything that you've  
heard, and, believe me, I've gotten

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plenty of phone calls, plenty of letters, but I had to come to a decision, and I came this way.

And some people are not going to like it, but, please, I'm still your friend, you don't have to be my friend, but I had to do what I had to do, and I'm sorry about that. But I think it would be a great idea if it really gets into operation.

So again, thank you very much for being so patient, and I certainly want to thank the Chairman for doing a great job over the years. And I hope to have the new administration come on board and maybe we can do a better job.

I apologize. Some people don't like the way I voted, but, again, I have to vote my conscience. So thank you very much.

CHAIRMAN YASSKY: Can I just

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say before you leave, and I believe that, Commissioner Arou, and I know that you probably already are going to be late for your --

MR. AROUT: Excuse me. It's just that I have a very important meeting this morning, and I told my wife I won't be long --

CHAIRMAN YASSKY: Say no more.

MR. AROUT: -- but I'm running a fair in Staten Island and I have my vice chairman to do my work now. I said hopefully by 12 o'clock I'll pick you up. And you know how it is when your wife says you have to be there on time. So I apologize.

CHAIRMAN YASSKY: Well, I certainly know how it is not to be there on time.

But just when I talked before about the fact that holding a position of responsibility means

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making a decision on things where there are people on both sides, I think a lot of people doing that for even a few years, it kind of wears on them. To be able to do that for 25 years takes a really special kind of commitment. And I just want to salute you and tip my hat to you for that.

MR. AROUT: Thank you very much.

CHAIRMAN YASSKY: Thank you, Commissioner.

MR. AROUT: Have a happy holidays, everybody.

CHAIRMAN YASSKY: So, the final item is a hearing --

MS. MARINO: Before we move on, I'm sorry, and I'm going to make this really quick, I just want to point out, I did read Judge Hagler's decision from start to finish, and I really think -- I have a big problem with this rule

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because of that as well. I think we're completely violating his clear intent in that decision.

CHAIRMAN YASSKY: The record has now been established.

MS. MARINO: I just think we're inviting another lawsuit. And there was just an article in the Post the other day about another lawsuit about the health care fund. I just think we need to be more careful with our rulemaking because, frankly, there's been so many lawsuits and the plaintiffs can create a track record.

CHAIRMAN YASSKY: Absolutely.

So, Commissioners, the remaining business for today is a public hearing on the E-Hail rule. Again, I will not be bringing that forward for a vote, so I think it's worth hearing people's views. I understand people have busy

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schedules. Let's now move forward with that hearing.

And I guess I will say to people that are here, if you are, if you will, our kind of regular customers, so you will be at the next meeting regardless, you can consider speaking then instead, if you wish.

MS. DEARCY: (Inaudible.)

CHAIRMAN YASSKY: Yes. Especially if your purpose is to delay the vote. I can assure you we will do that.

So with that, the first two are Erhan Tuncel from League of Mutual Taxi Owners and Richard Thaler.

MR. TUNCEL: I have no comment at this time.

CHAIRMAN YASSKY: Okay. Thank you, Mr. Tuncel.

Mr. Thaler.

MR. THALER: Chairman

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Yassky, Commissioners. There are three items. In the zone E-Hail Application restrictions, under 78-21d(1), they should not apply to E-Payment. In particular, there are zone restrictions at the airports. That's for either discovering a car through a broadcast system or through direct contact, but I don't see any reason why E-Payment should be restricted. So I think a correction should be applied there.

Item two. If a TPEP integration rule waiver is granted to an E-Hail Application provider under 78-21b(4), then the E-Hail Application provider should not be required to pay any fee to a TPEP vendor installed in a taxi where a lease driver users the E-Hail Application provider's E-Payment for credit and debit card fare payment.

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Item three. The amended Lease Cap Rules 58-21 C (1, 2, 3, 4) and A, B, C should explicitly state that lease drivers have the option to pay all credit and debit card fare payment transaction processing fees at the TLC-specified rate and pay the lower lease cap rate which does not include transaction fees. It doesn't explicitly say that.

This will protect drivers using E-Payment to be charged twice for the same transaction if the E-Hail Application provider processes the fare payment transaction through their payment gateway, as the rule allows, independent of the TPEP vendor's payment gateway. Thank you.

CHAIRMAN YASSKY: Okay.  
Next is Mr. Ethan Gerber and Andrew Frank.

MR. GERBER: You know, it

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seems that in the last 12 years the  
TLC has felt the compulsion to  
radically change the business model  
of the taxi industry almost on a  
monthly basis. Rules have become a  
thicket to issue violations. This  
year, the TLC bragged in the Daily  
News that violations against  
drivers went up 7,200 percent.

CHAIRMAN YASSKY: I'm --

MR. GERBER: Not  
surprising -- I'll get there, Mr.  
Yassky. Don't worry.

CHAIRMAN YASSKY: You're  
right.

MR. GERBER: Not surprising,  
the rules have grown long and  
complex. The drivers' rules, which  
I brought here today, from 1993  
were 18 pages; the drivers' rules  
today are 70 pages. The owners'  
rules have more than five times  
that amount totaling hundreds of  
pages with the base licenses as

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well -- with the agent licenses as well -- agent rules as well.

You've had 12 years to reinvent the industry, and, as a lawyer and a bar leader, I thank you for making it critical that teams of lawyers are employed just to get through this industry and advise the owners and the drivers.

Now, in your last 12 days, you're doing your best to continue the trend. Four months ago, the TLC initiated what was supposed to be a yearlong pilot project on the use of smartphone apps to request yellow taxicabs. Rather than wait for the data to come in and analyze it impartially, you rushed it ahead despite only four months of testing of data -- four months of testing, which, by the way, if anything, supported a change in the program.

Your last TLC presentation was remarkable. Per your own

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presentation, the TLC reported that only 24 percent of the customers using the apps were satisfied with the service. The TLC reported that there was a larger portion of apps requesting street hail for taxis in the outer boroughs than in Manhattan, exactly where you were discouraging yellow service by flooding the areas with green cars.

According to your own numbers, the FHV fares have declined. In an answer to that, Mr. Yassky, you said that you didn't trust your own data, that your own reports were not scientific, your analysis was flawed and your own surveys were poor. Remarkable, because when that same survey approach supports your positions, you tout it. You also reported that the people who used apps were people who would have otherwise used mass transit.

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So these apps take people of mass transit and put them in cars. This is contrary to public policy that you stated in the past.

The Commission has done its best to support Nissan, now it's doing its best to support Hailo. Let's have the new administration and the riding public analyze the data after one year fairly, just, impartially, and analyze it.

Finally, Mr. Yassky, and to all the Commissioners and all the people in the room, I want to wish you a Happy New Year. You won't be seeing everybody. I hope everyone here a very happy and healthy New Year. And happiness spreads in many ways. As Oscar Wilde once said, There are those who spread happiness wherever they go, and those who spread happiness whenever they go. I hope everyone a Happy New Year.

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CHAIRMAN YASSKY: That was  
characteristically elegant,  
Mr. Gerber, and I take the wish of  
for happy holidays on its face.

And I will say, just very  
quickly while -- I'm sorry, Andrew  
Frank is next and then Kevin  
Hatfield.

While Mr. Frank is coming  
up, I'll just point out, no need  
for extended discussion here, just  
on the issue of number of  
summonses. I am proud that so many  
more summonses have been issued  
this year than last year. I want  
people to understand what those  
summonses are, what the increase  
is, are both illegal taxis, people  
that are not licensed by us at all  
poaching on the legitimate business  
of our licensees, and cars that are  
licensed only to do prearranged  
service but are doing street hails.  
That is where the increase has been

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over the last couple of years in the summonses we've issued. I'm proud of that record. I think those are exactly -- those summonses need to be issued.

On the E-Hail part, I want to just recognize, this one, I think there's very legitimate room for debate. To me, I felt that there were facts enough out there for people to form their opinions. I wouldn't go as far as to say that any reasonable person would conclude it's good, but I think there are facts enough out there for people to form their judgements. That's why I thought it was worth doing.

However, I absolutely recognize people's belief and understandable belief that some more time will generate more useful information, and there's no harm to doing that. So, as I say, we do

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not need to proceed to a vote.

And just on the, you know,  
on the good-year part. I do want  
to say, not just the -- we talked  
before about the Commissioners, but  
to our partners and colleagues in  
the industry who I've worked with  
now for four years, and on many  
things, to be sure, you know,  
disagreed. I do think that, and I  
want to thank you for the fact that  
I've, with rare exceptions, I feel  
that we've been able to disagree  
agreeably and to have reasonable  
conversation back and forth. And  
I'm sure that that will continue  
with the next Commission.

MS. DEARCY: Can I say  
something?

CHAIRMAN YASSKY: Yes.

MS. DEARCY: I disagreed  
with the proposal to have the  
E-Hail vote now and I think some of  
the other ones, but it does

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disappoint me when we cannot disagree politely and courteously. I'm not certain why we need to resort to the personal attacks. They may be funny, but I think they're unfair.

You know, we're all adults and you certainly can proceed as you wish, but I think it's an unnecessary dig and it disappoints me that that's what we would resort to.

I don't think that you should have to, on your last day, as you have served this Commission to the best of your ability, whether people agree with everything that Chairman Yassky has done, he has served to the best of his ability. And I think it's unfair that on this day that you should have to defend yourself. And I apologize to you that you have to.

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CHAIRMAN YASSKY: (In-  
audible), so please have a box of  
tissues at the ready.

Thank you for your comments,  
LaShann.

Mr. Frank, I take it, and to  
be followed by Kevin Hatfield.

MR. FRANK: Yes. Thanks for  
having me today. I am a resident  
of Astoria, Queens and I'm an  
entrepreneur. I have an energy  
efficiency startup, I have an  
office in Manhattan. And living in  
western Queens and being an  
entrepreneur, E-Hailing is really  
key for two reasons. Number one,  
it's hard to get yellow cabs out  
where I live; and number two, I'm  
really poor. I mean, I could use,  
you know, black cabs and use some  
of the unregulated stuff, but  
frankly it could be just too  
expensive.

I'm also a really big

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believer in government innovation.  
And, frankly, when I heard about  
this issue on E-Hailing, it kind of  
seemed like a no-brainer to me. I  
couldn't actually believe that  
anybody would not make that  
available.

Someone earlier talked about  
letting the market decide with the  
crash test stuff you guys were  
talking about, and it sort of seems  
like the market should decide for  
this. You know, if you have  
E-Hailing, it just makes sense to  
do it. I can pay via my phone, I  
can get something. You know, I'm  
going to the airport and I need to  
make a business meeting, I don't --  
it's hard for me to go out there  
and basically play roulette on  
whether I'm going to catch a cab.

So, I don't know if there's  
any -- I mean, I don't know as much  
about this as probably you guys do,

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obviously, but I don't really know any legitimate reason why you wouldn't just do this. If it doesn't work, it doesn't work. Private capital isn't going to put money into applications and marketing if no one's going to do it.

So it seems to me, I mean, I know you're not voting on it today, but it seems to me like it's a no-brainer. And as a citizen and a voter of New York, I would really, really like to see this be made permanent so that my life can be enhanced. Thank you.

CHAIRMAN YASSKY: Thank you for taking your time.

MS. MARINO: Can I address that?

CHAIRMAN YASSKY: Please, go right ahead.

MS. MARINO: I understand what you're saying, I think it's

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inevitable. Just to answer your question, I think the reason why we have to take this slow is because New York City has a very unique livery/taxi structure that was born in the 1980s with street hails and prearranged cars that other cities don't have. So that's why we need to really kind of figure this out where it works for all industries because we're a unique city in that respect.

MR. FRANK: Well, I guess, why do you care about the industry more than you care about the normal people that are E-Hailing?

MS. MARINO: We care about everybody.

MR. FRANK: Sure, but, okay. I guess I just don't understand why you would care more about the livery industry than my ability to get a cab.

MS. MARINO: It's not

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"more." It's not "more." No one's saying "more," but everything has to be taken into consideration. You know, these people have families and college funds and you can't just rip the rug out of an entire industry.

MR. FRANK: I understand, but I'm paying more for livery cabs.

MS. MARINO: Well, we're working on it.

MR. FRANK: Okay, thank you.

CHAIRMAN YASSKY: Thank you, again, sir. And as the earlier speaker talked about the number of rules, I actually do see this one as reducing restrictions. Why do you tell people how to run their business when customers could choose some more -- what makes more sense for them. But I appreciate your being here.

Mr. Hatfield and then

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Michael Keogh.

MR. HATFIELD: Hi. Kevin Hatfield from Hailo. In the interest of the time, we will simply submit -- and do it at the postponement, but we'll simply submit our testimony.

I do want to just say that we think that the E-Hail program is going very well. We believe that New Yorkers are very much in support of the program. In particular, we get very regular constant feedback from the underserved, from disabled, et cetera. I think you'll hear from a few of those folks today. Thank you.

CHAIRMAN YASSKY: Thank you. And I appreciate your brevity. Kevin Malcolm. I mean, no, sincerely. I appreciate your taking that into account and everyone's interest. Thank you.

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Mr. Keogh, followed by Kevin Malcolm, representing VeriFone.

MR. KEOGH: Hi. My name's Michael Keogh. I represent Hailo. I don't usually talk at public hearings, and I'm going to be very brief because, to be perfectly honest, the pilot program is speaking for itself. And that guy just said it better than I could. It really is going to help people. And you said it that it's inevitable, so why wait for the inevitability, tomorrow is here.

Having said that, because I just want to use the balance of my time to say this, you have been an adversary and a collaborator, you have you been somebody who has infuriated and inspired a lot of the people in this room to do things that they never thought were possible before. I have had many heated discussions with you and I

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have had many calm, rational discussions with you. I enjoyed those much better.

CHAIRMAN YASSKY: Me too.

MR. KEOGH: Because I usually won on those. So I just wanted to say that there may be people who have disagreed with you and I've disagreed with policy objectives that you've had, and I've disagreed about methods that you have used, but I have never doubted for one minute your desire to serve here in this capacity and get results.

So you should be proud of the book of accomplishments that you walk out the door with, and I, as Ethan pointed out, all of us who get to represent and advise about all of the litigation out there, we could not thank you more.

CHAIRMAN YASSKY: I think we can agree that that's an

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appropriately judicious use of  
humor, but a heartfelt thank you  
for those comments, Michael. Thank  
you.

Mr. Malcolm?

MALE SPEAKER: (Inaudible.)

CHAIRMAN YASSKY: Thank you.  
VeriFone.

The final two are then Ira  
Goldstein and Bhairavi Desai.

MR. GOLDSTEIN: Thank you.  
First, I just want to --

CHAIRMAN YASSKY: I'm sorry.  
There was an additional speaker.  
Michael Woloz also signed up for  
this. I apologize. Oh, and Avik  
Kabessa. You know what? Got it.  
There we go.

MR. GOLDSTEIN: Okay. I too  
will keep it brief. I think  
that -- just, I applaud the Board  
for putting off the vote. I'm not  
here to tell you I'm against it,  
I'm here to tell you that, just, it

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hasn't run its course yet. It's clearly the largest, far-reaching pilot that the agency has ever done, and I think it's inconclusive. There's some positives, I think there's some negatives.

Myself as the Black Car Assistance Corp. and the Livery Roundtable, we submitted a couple of rounds of questions which haven't been answered. I think most of them were relevant. A couple, maybe, we were trying to harass you guys, but for the most part they were relevant, and we haven't gotten any answers on that yet. So I think it's appropriate just to put that vote off for now.

And I just want to say, from having been on both sides of the fence, I think I like that side a little better at times.

CHAIRMAN YASSKY: They each

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have their pros and cons, like  
everything.

MR. GOLDSTEIN: Yeah. The  
money's better over here, though.

CHAIRMAN YASSKY: Tell me  
about it.

MR. GOLDSTEIN: But, anyway,  
I just want to say that overall,  
since it's probably the last one of  
this administration, again, I too  
have been on opposite sides of the  
fence on a few things, but I  
enjoyed working with everyone, the  
Commission. I found you to be a  
very refreshing bunch, open-minded.

And Commissioner Yassky,  
again, we were on different sides  
of some things, but I, too, I don't  
doubt your intentions even if we  
didn't agree. Thanks.

CHAIRMAN YASSKY: I  
appreciate you saying that.

MR. GONZALES: I --

CHAIRMAN YASSKY: I just --

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if I can, Ed --

MR. GONZALES: Sure.

CHAIRMAN YASSKY: I just wanted to say, when you came up earlier, I was reminded of my first few weeks and months here. And I said it at the time, but I don't think I've said it since in the last few years, that without your tutelage and -- tutelage, I guess, in helping me understand the place, it would have been a much slower start for sure. And I don't think I would have had as, to the extent it's been a successful period, would not have been. Which, don't let anybody -- don't hold that against Ira, anybody out there, please.

But I say, sincerely, once again, thank you for your enormous help when I started here. Thank you, again.

MR. GOLDSTEIN: Thank you.

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In the end, everything worked out right for everybody here.

CHAIRMAN YASSKY: There you go.

MR. GONZALES: I'd like to also say, you know, in addition to echoing Chairman Yassky's comments to you, Ira, in particular, we couldn't have been here talking about technology and things like that without your direct and timeless effort to get us to this point, and I'm forever grateful for that.

CHAIRMAN YASSKY: In the interest of time, Commissioners, at the beginning of the meeting, I did not -- we prepared -- you should take a bow -- we prepared a set of slides that reviewed the accomplishments of the agency during the Bloomberg Era. Not just the last four years, but the entire 12. I skipped those -- yes, you're

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welcome, Nora -- in the interest of the time. But one of the key slides was about TPEP and credit cards and everything that has -- which was before my time. But, Ira and Matt Daus, who is here, I know, they're a particular legacy.

And I won't go on, but it's just impressive how much that has helped the industry. And I really do think that all of the stuff that we do, if it makes a better service for passengers, it helps the industry in the end. That's my core belief.

But, at any rate, had you seen those slides you'd all be even more appreciative of Ira.

MS. MARINO: I'm unclear where I came into that.

CHAIRMAN YASSKY: Yeah, I don't know. I know you want to get to the point.

So, I'm sorry, I've been now

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-- I was looking at the wrong list when I read the speakers before. The next is Waseem Iqbal, to be followed by Ira Goldstein, but he's already -- so, Waseem Iqbal, to be followed by Osman Chowdhury.

MR. IQBAL: Good morning, Commission. Thank you very much for giving me a chance to speak here. My name is Waseem Iqbal, I'm a taxi driver for over 10 years. My father was a driver for over 22 years. I'm here to speak in support of E-Hail program and I would really like you to make it permanent.

Before E-Hail, taxi drivers spent hours, empty, cruising down the road looking for the next fare. With the help of E-Hail, not only is it easier for passengers to get a cab, a close-by taxi, but also for a driver to catch the next fare.

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Now, with the -- sorry. My point is for past year and half, I've been working with the Hailo to interact with drivers explaining them how to use the app, and I had a chance to work with the -- I mean, speak with many, many drivers who love the service and actually wanting to continue with this. It is connecting drivers and passengers like it was never possible before.

Lastly, please let me just be the voice of hundreds of drivers that I interacted with and make this program permanent because not only it's helping the drivers, taxi industry, but also connecting the passengers with one cab. So, please. Thank you.

CHAIRMAN YASSKY: Thank you, and thank you for taking your time. We talked before about pay, pay scales in various places. It's the

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drivers, folks like you, who are working the hardest, so thank you again.

MR. IQBAL: You're welcome.

CHAIRMAN YASSKY: Next, Mr. Chowdhury, to be followed by Avik Kabessa.

MR. CHOWDHURY: Hi. Good afternoon. My name is Osman Chowdhury. I would like to support the E-Hail program --

CHAIRMAN YASSKY: I'm just going to say this at the outset and this applies to everybody. I kind of would ask that since we were going to do this and we were going to continue the hearing next time, if people speak at this hearing, I'd ask that you consider not speaking at the next one. It's one big record. So, thank you. I mean, on this issue, of course.

Mr. Chowdhury. Please.

MR. CHOWDHURY: The things

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that the E-Hail, because in New York City, we get this hybrid car, and we get the GPS, we get the credit cards. Ultimately the E-Hail taxi and driver benefitting this decision because I have a 12-hour shift I work, and after that I go to make a line in garage to make my payment, but I don't want. I go directly -- through the E-Hail system, that account goes to my account. I don't go back to garage right after work. It's easy for us.

Another thing, we'd like to extend the rules to any device and phone in (inaudible). If the tax -- or TLC inspector or NYPD see the mobile phones in front of us, they issue the summonses. But that's why we need (inaudible), because we like this E-Hail program things. Benefit drivers and passengers. Thank you.

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CHAIRMAN YASSKY: Thank you.  
Thank you very much.

Mr. Kabessa, followed by  
Michael Woloz.

MR. KABESSA: Good morning.  
I was hoping that you would  
postpone the votes so I actually  
made two testimonies.

CHAIRMAN YASSKY: Okay.

MR. KABESSA: And so, my  
name is Avik Kabessa. I am the CEO  
of Carmel and a member of Livery  
Roundtable. First, I would like to  
say that I'm not here to testify in  
support or against of the future of  
the E-Prearrangement, or the  
E-Hail, as you call it. I'm only  
here to commend you on not  
prematurely taking the step of  
converting the pilot program into a  
permanent rule. Accordingly, my  
testimony centers on the currently  
available taxi data, the very  
limited for-hire industry data, and

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how collection and information may be improved upon.

So let's examine the two major components of the data published by the TLC. The first one, and I'm quoting from the presentation itself, is that "E-Hail success rate was 23 percent." I suppose the agency's statement is in line with the concept of never leading with your chin. Another way, and more useful, to interpret the data is that so far "E-Hail failure rate was 77 percent." So the data needs to be further collected and evaluated to better understand the impact of the high failure rate on the public.

On the data collected from the for-hire industry, the picture is much starker, but, again, needs to be clarified through improved collection and evaluation of the

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data. And here, I have to disagree with you, Commissioner Yassky, that you have held this data as valuable. And let me explain.

The TLC collected data from only 29 percent of the industry on a voluntary basis. This is critical; i.e., the data does not hold to any sample standard values. You cannot use it as a sample standard value.

Non-sampling data of 29 percent over three months, or six months, is equal to the third of this period. So, bringing here, which you didn't do, thank God, bringing here to a vote something that's based on one, or, the best case scenario, two months, is not the proper way to do it. And, therefore, the first thing to do for the second three months, the reporting period, is to establish sample standards and make it

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mandatory for the bases selected.  
It goes by base size, vehicles per  
base, locations per borough, that's  
a standard. If you want to do 29  
percent, you do that standard and  
then you can do multiplication.

So once the standard would  
be applied and verified, it should  
be followed the same way for the  
remaining two, two or three months  
period to allow accurate  
measurement.

CHAIRMAN YASSKY: I just  
want to make sure I understand.  
You're suggesting a mandatory  
requirement on the businesses of  
reporting data to us?

MR. KABESSA: You select a  
certain standard, base size,  
location, type of the trips, et  
cetera. Then from that standard,  
you collect sample. And that  
participation --

CHAIRMAN YASSKY: Okay, I

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got it. I just wanted to make sure  
I got it.

MR. KABESSA: -- because our  
industry has so much seasonability  
and variation within the industry,  
that you will never, you know, you  
can never use this data.

CHAIRMAN YASSKY: Now that  
you're saying it, it's registering  
that sometimes voluntary compl --  
isn't going to get you the useful  
thing, and you need something  
that's a mandatory requirement to  
get there. I take your point.

MR. KABESSA: The TLC should  
probably consider, then, if we  
establish this, revisiting the  
numbers it compiled for the first  
three months report as based on the  
collection methodology they may --  
that actually are useless.

So in my previous  
profession, for those of you who do  
not know, I was a veterinarian.

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And as such, I was required to engage in research. In research, like in the pilot, establishing a sample by following certain standards is a must. I would be more than happy to work with the TLC on establishing such sample standards and help with the data collection.

Just for illustration, when you flip a coin ten times, you will rarely have the coin land five times on heads or five times on tails. Rather, you need to flip it a thousand times in order to come up with the 50/50 statistical probability. The same is true here when it comes to such an important decision. Our for-hire industry has so many variation and seasonability differences that only carefully acquired, substantial and substantiated data will provide -- I'm finishing -- will provide a

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proper statistical forecast for  
converting the pilot program.

In summary, proper data  
collection is crucial. While I'm  
dubious about the pilot program,  
when the time comes to make the  
final decision on it, you should do  
it based on an understanding  
deriving from carefully acquired  
and, therefore, more solid data.  
And if the pilot will eventually  
become a rule after it ran its  
course and the data shows no harm  
to the for-hire industry, it will  
be as close to the probable outcome  
as possible. Thank you.

CHAIRMAN YASSKY: Thank you.  
I want you to know, I appreciate --  
again, this is my last meeting as  
Chair, so, but as the -- I think it  
would be useful very much to have,  
you know, for the agency going  
forward to have your assistance  
with the data collection, both with

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the conceptualizing of the data,  
analysis and collection. And,  
indeed, I know that Carmel has an  
app, and data from that would  
probably provide a very useful  
standard as well, or at least  
factors taken into account. So I  
appreciate the offer of assistance  
on data.

And just on the last part  
about it, just to clarify, folks,  
about the pilot, your testimony  
speaks of no harm to the for-hire.  
One of the standards in the pilot  
is assessing the impact on other  
industries. I didn't want to  
misread your statement to say that  
if any harm is shown anywhere, it  
means the pilot chose -- won't  
continue. The agency will  
obviously have to balance all the  
various impacts and ultimately,  
presumably, one hopes, make a  
decision on what's best for the

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passenger.

MR. KABESSA: Thank you.

The interpretation of the data I will have to leave to the Commissioners, of course, but at least it's a solid data.

But what I will urge you and your staff is to never use the excuse you actually used to show that there's no harm. That's literally saying that the decline of the for-hire industry started before the pilot started; i.e., if the for-hire bleeds, let it bleed anyway. It doesn't matter. There's no connection with the E-Hail.

I urge you to investigate. There should be a writing on the wall for us to dig deeper and see how much of this contribution to the E-Hail.

CHAIRMAN YASSKY: I

understand. I don't want to take

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people's time. You know, I started out as a revenue forecaster for the city, and that kind of analysis of, you know, regression analysis to identify which independent variable has the most impact or what their various impacts are, I appreciate your point that that's often enormously complicated.

I'd also note that it is not always -- one is not always able to do that to perfection. I try and follow the Colin Powell 80/20 rule. If you want to make a decision when you feel like you've gotten 80 percent of the information you could get, because if you wait till you have 100 percent, you'll never make a decision. If you do it based on 10 percent, probably uninformed.

But, anyway, again, thank you for your testimony.

MR. KABESSA: I just want to

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say --

CHAIRMAN YASSKY: You can  
have the last word.

MR. KABESSA: -- the data  
was wrong, in my opinion, so that's  
why the interpretation came wrong.

CHAIRMAN YASSKY: Got it.  
Okay. Thank you, sir.

Tariq is passing. Thank you  
so much.

Mike Woloz is the next  
speaker, followed, and I believe  
the last person -- yes. Yes, got  
it.

MR. WOLOZ: Am I the last  
speaker?

CHAIRMAN YASSKY: No.  
There's one additional. There's  
Ms. Desai.

MR. WOLOZ: That would have  
been poetic.

CHAIRMAN YASSKY: And we  
have taken your advice and delayed  
the vote. So, thank you,

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Mr. Woloz.

MR. WOLOZ: Thank you. And I just wanted to say a few words on that. I want to thank the Commissioners for delaying this vote, and I want to explain where Metropolitan Taxicab Board of Trade is coming from on this because I think it's very important to note.

MTBOT represents the owners of nearly 5500 yellow medallion taxicabs. MTBOT successfully fought alongside Chairman Yassky and the Bloomberg Administration for this E-Hail pilot program, both in court and in public. And MTBOT members would benefit from seeing such a rule pass today. However, despite this fact and that the E-Hail rule has great merit and its principle tenets are deserving of passage at a later date, it is our strong opinion that no rule, including this one, should go

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forward today. It's the right and respectful thing to do.

MTBOT believes that the E-Hail rules have fundamental merit, but it is premature to vote on this now and we thank you for postponing this even though we would benefit from this.

E-Hails belong in yellow taxis. We fought for the right of our yellow taxi passengers to use E-Hail apps as long as the apps were used for immediate travel and went through safe, secure and regulated TPEP systems.

MTBOT believes strongly that the yellow cab industry must not be shut out of new technologies that can benefit our passengers now and in the future, and our drivers. And indeed, we believe that so far the pilot program has accomplished this without harming our friends in the livery and black car

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industries.

The TLC did the right thing by passing the one-year pilot program. The TLC is doing the right thing now by postponing this until the program has the ability to move forward closer towards its completion date. And we say this out of respect to our friends in the livery and black car industries who we certainly don't want to see harmed in any way. We wouldn't like it if there was a pilot program that was putting us at a disadvantage that we couldn't have the full benefit of the full-year program, and we don't think that that should be imposed on another industry.

And I would just finally like to say that this should be a more inclusive process of all of the stakeholders. I want to thank every Commissioner here for all

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their hard work. I know and my colleagues at MTBOT know how hard you work and how you weigh decisions and how you make decisions based on the piles of opposition papers and support papers, and it's not an easy thing to do. We recognize that, and we thank you for all of your service, and we hope to see many of you continue.

And what we would like to hope for is an inclusive TLC, an industry altogether, that we're not always battling in court, that we're not always battling in public, and I think the only way to achieve that is through honest communication and dialogue. And we look forward to doing that in the future. Thank you very much.

CHAIRMAN YASSKY: Thank you.  
Ms. Desai.

MS. DESAI: Good morning.

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On the proposed rule, I'd like to say that I actually agree with a lot of what Mr. Woloz has just said. It's indeed a poetic morning.

CHAIRMAN YASSKY: Stars are aligned.

MS. DESAI: We are in support of the E-Hail program. I understand why you have elected to postpone the vote. And I do also want to assure that people in this room from the black car and livery industry that we have always said -- I mean, when the outer-borough plan was first introduced, we have said from the get-go that we believe that all of us have rights in this industry, and we have to learn to work as partners across all of these different sectors. And so while the E-Hail issue is being discussed, I want to assure them

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that we hold on to that same principle.

So I'm going to reserve more of my comments for the next hearing that comes up, but in ending, I would really like to say to you, Commissioner Yassky, I have been in this industry for 17 and a half years. I have made a lot of enemies, a lot of people in this room. But I have to tell you that I wear that badge with a lot of pride, and so should you.

A lot of the criticism that you've gotten is simply because you stood up for drivers. You championed a fare raise that, for the first time in history, went to the workers in this industry. You didn't put a lease cap on the table that would have gutted those incomes. You championed a vote on a historic health care and disability fund that will give a

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workforce of predominately  
immigrant workers, many who have  
labored in blue collar professions  
for 15, 20, 30 years in this  
country without a day of benefits  
on the job, and thanks to your  
leadership, for thousands and  
thousands and thousands of lives,  
that is now going to change.

You put in practice a Lease  
Cap Enforcement Prosecution Unit  
that has given this generation of  
taxi drivers a first sense of  
economic protection as the  
settlement that was announced this  
morning has shown. And, you know,  
the fact that the industry player  
that is beholden to that settlement  
I think showed a lot of, you know,  
great courage to agree to sign on  
to that settlement. And I'm sure  
much of that had to do with the  
relationship that you have been  
able to build with people, whether

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they have agreed with you or whether they have been adversaries with you, throughout your tenure.

So, really, on behalf of the drivers in this industry, I want to say to you that for decades we were never included, the doors were never opened, we never got to see the table that others got a seat at. But those days have finally changed in the Taxi and Limousine Commission and that is because of your leadership, and thanks to the leadership of the Commissioners.

Those of you who also have supported the rights of taxi drivers and whether you agreed with us or you disagreed with us, you stated in public whatever you said to us in private, unlike other commissioners who may have said one thing in private and said another in public.

So, I want to thank you for

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your courage and I want to thank you for your dedication to the taxi drivers. Thank you.

CHAIRMAN YASSKY: Thank you. So, really not much to add to that. Your statement, Ms. Desai, means an enormous amount to me, and I just want to thank you for those words.

Like, I think, most probably all of my colleagues here on the Commission, what drew me to public service in the first place was the belief that there's a role for government in helping to stand up for folks who have less power outside of government. And there's a lot of things that we do in government, there's a lot of business, there's a lot of ordinary kind of, just trying to make the trains run on time. But fundamentally, what makes work in government different from working in other places is you have a

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chance once in a while to strike a little bit of a blow for justice. And I do think we've done some of that, and that's with your help. And that's why your statement means so much to me. Thank you.

MS. MARINO: Mr. Chairman, I just want to make a remark, being that this is your last day. I don't know if you've noticed, but we haven't always agreed on things, and I do want to wish you very well in your new endeavors.

And despite our differences, it has been an absolute pleasure this past -- I've been on this Commission for two and a half years, and this past year, 2013, as the other one and a half years, it's really been a challenge and a pleasure.

And one thing I will say about all my colleagues is that everyone is very bright and

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dedicated, and it's -- and I really wish you well.

CHAIRMAN YASSKY: Thank you. Well, with that --

MS. POLANCO: No, I want to say something.

CHAIRMAN YASSKY: Yes. What I meant was, I recognize Commissioner Polanco.

MS. POLANCO: (Inaudible) everyone make a speech or anything. But I also want to echo what everyone has said, like their sentiments.

I work with you directly with the Boro Taxi, so that's what I will talk a little bit about because that was something so major that the previous administration, I mean, mayors and so forth, have tried to, but really no one could. And basically, I remember from the beginning the way that it was shaping up to be and then it

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changed completely, and now we have what we have, and it's working perfectly -- well, I wouldn't use the word "perfectly," but it's working. So I want to thank you for your courage during that time.

CHAIRMAN YASSKY: Thank you.

MS. POLANCO: And it's been a pleasure to work with you and always with the phone calls and so forth, I really appreciate it.

CHAIRMAN YASSKY: At all hours, you know. But you never know, sometimes I fear people are most relaxed around midnight and it's a perfect time to chat.

Well, thank you. You know, just on that, thank you for saying that, Lauvy (phonetic), and for your friendship and collegiality.

And on the theme of economic justice, just because it is something that's kind of, to me, at the heart of everything, there was

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an article that just came out yesterday profiling one of the Boro Taxi drivers whose income has gone from 700 bucks a week, working just prearranged, to 1100 because now he can fill that interstitial time when he is waiting for a prearranged call, essentially, with work. And it's work that's in the outer boroughs, so it wouldn't be coming from the yellows.

I mean, that's the difference between a driver that every week has to worry about making the rent and the driver that can put some Christmas gifts under the tree. It's just, I think -- well, fundamentally, it was for the passengers, but that aspect of it, I think is just wonderful. So, thank you.

MR. GONZALES: Yeah, I'd also like to say thank you, David, for all your leadership at your

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time here.

And also, previously with Matt Daus, with respect to one of the things that I've noticed, and it's been very helpful for me as far as trying to disseminate the myriad of materials and what have you, is that the level of data, level of objectivity that we're now able to arrive at conclusions where I believe are in the most balanced manner, which we probably did not have prior to the previous two, but I do thank you for ushering that forward for us.

CHAIRMAN YASSKY: Thank you, Ed. And you're reminding me, somewhat embarrassedly, that in talking about all the staff earlier, I didn't single out specifically the policy and external affairs staff which does work extraordinarily hard and kind of astounds me daily, or -- but

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astounds me weekly or biweekly with the stuff that they produce. You know, maps, because I didn't know you could do this kind of thing, but maps that make crystal clear to you at a glance what actually is going on out in the world. And I am super proud that we've built that capacity here.

And it's peopled by really bright folks who could probably not sell their service, but probably be employed in the private sector earning a fair bit more because they have the kind of skills that are valued in industries like yours. And the fact that they're working here is great, and I really hope that the agency can keep that. Thank you, Ed.

With that, the meeting is adjourned even before noon. How about that. Meeting is adjourned.

(Time noted: 11:48 a.m.)



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