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NEW YORK CITY
TAXI AND LIMOUSINE COMMISSION
SEPTEMBER 12, 2013

COMMISSION MEETING
and
PUBLIC HEARING

Held on September 12, 2013
33 Beaver Street
New York, New York
Time: 10:25 a.m.

Reported By:

Margaret Crane

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APPEARANCES:

FOR THE COMMISSION:

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

SPEAKERS:

- RAY SCANLON, Deputy Commissioner for Enforcement, TLC
- SHERRY COHEN, Assistant Commissioner for Enforcement, TLC
- CHRISTOPHER TORMEY, Director of Applicant Licensing, TLC
- OSMAN CHOWDHURY, United Taxi Driver Association
- BILL LINDAUER, NYCTA
- PETER MAZER, General Counsel, MTBOT
- GARY WEISS, Deputy Commissioner for Licensing

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CHAIRMAN YASSKY: All right,
good morning. Thank you very much
for joining us this morning,
September 12, 2013. I call this
meeting -- I think that mic might
be on -- I call the meeting to
order at 9:40 a.m. Present with us
today, Commissioners Marino,
Polanco, Weinshall, myself, Yassky,
Arout and Carone.

We have a modest agenda for
today, so, and I know Commissioners
who got to be out before too long.
I just have a couple of
announcements to begin with to just
update you on. We haven't been
together as a group, I guess, for a
few months.

First of all, our Street
Hail Livery Program, I am happy to
report, is actively underway.
Approximately 2400, 2,400 Street
Hail Livery permits have been
issued. Meaning, those are folks

2 that have come in and gotten the
3 permit to operate as Street Hail
4 Liveries.

5 I'm especially pleased to
6 tell you that of those, about
7 750 -- let's see, that's more than
8 25 percent, yes -- more than
9 25 percent somehow are for
10 accessible vehicles. And as you
11 know, there's a lot of concern
12 about whether we'd be able to make
13 sure that 20 percent of the Street
14 Hail Liveries would be wheelchair
15 accessible. I will admit to being
16 maybe overly concerned about it.
17 As some of you Commissioners
18 assured me, don't worry, it will
19 work out just fine, you were
20 absolutely right. So that's good
21 news, and you will probably start
22 to see these.

23 The next step for everybody
24 that gets a permit is to paint the
25 car, put in the required equipment,

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the meter, the credit card reader,
and then to begin legal operation.
That part then takes a while. So
of the 2400, about 120 have so far
done all those steps and are out on
the street operating. The other
2300 or so are in process.

And so let me point out, I
know we sent an industry notice to
this effect, but let me remind
people in the industry. We've
heard reports from some folks in
the industry that livery cars that
have not got the license have been
painting themselves green as a way
to be counterfeit, if you will,
borough taxis.

We have published, I think
we've already published -- I'm
sorry.

Meera, have we already
published the green rule? Have we
published the color rule for SHLs?

MS. JOSHI: I believe so,

1
2 yes.

3 CHAIRMAN YASSKY: We have
4 published and we will vote on next
5 month a rule that restricts that
6 green color only to legitimate
7 licensed Street Hail Livery
8 vehicles, just the way our
9 licensees cannot be taxi yellow
10 because we don't want people
11 counterfeiting as yellow taxis, we
12 don't want people counterfeiting as
13 borough taxis.

14 So for people in the
15 industry who might have had the
16 clever idea of just painting
17 yourself green, if you did, I
18 recommend you very quickly go and
19 change back, and if you haven't,
20 don't, because that will be against
21 our rules next month when we vote
22 on that.

23 Now that the program is
24 underway, I also want to remind
25 people in the industry, there's

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2 been a 40- or 50-year kind of
3 period of benign neglect toward
4 illegal street hails in the
5 boroughs when there was no
6 alternative for legal service. Now
7 that there is a legal alternative,
8 we expect everybody in the industry
9 to follow it and to play by the
10 rules. And what that means is we
11 will now start issuing tickets to
12 people who are doing illegal street
13 hails in the boroughs. If you are
14 a driver who makes your living that
15 way, it is very simple: Come into
16 Long Island City, get a license,
17 and do it legally.

18 And we recognize, you know,
19 to be clear, we recognize that
20 there's still a bit of a wait. Our
21 licensing facility has been
22 inundated with these applications,
23 so we're currently running it maybe
24 six weeks, seven weeks from when
25 you request a license to when you

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actually get it. So we have made provisions for people who, if you get a street hail ticket, when you come in, when you come in to get your license, that ticket will be dismissed if you are actually coming in to get a license. So we don't want to penalize people who are in the process of getting legal, but if you're not in the process of getting legal, you will now start to face enforcement. So I want to just make sure everybody's clear on that.

On our other big issue, the Taxi of Tomorrow, I report that we have now, kind of, our last official step was taken. We notified -- under our contract with Nissan, we had to formally approve the vehicle. I went down to Nashville to inspect it and, Commissioners, I could not be more pleased with the product and how it

1 has turned out. I think that when
2 passengers get into that car on the
3 street for the first time, they
4 will say, wow, this is much nicer
5 than the last taxi I was in. And
6 that's our job here, to continue to
7 improve the passenger experience.
8 I couldn't be more enthused for
9 October 28th.

11 Internally, Commissioners, I
12 just want to share with you that we
13 are having an Employee Recognition
14 Day this coming Monday. You are
15 all welcome. We are recognizing
16 145 of our TLC employees who have
17 served the city for 15 years or
18 more. We have a tremendous
19 workforce. I say this frequently
20 that when I started at the TLC, I
21 honestly didn't know what to
22 expect. And what I found was an
23 unbelievably professional,
24 competent and dedicated workforce
25 at every single level in our

1
2 Licensing Division, the inspection
3 garage, the Enforcement folks, the
4 administrative support here at 33
5 Beaver. Throughout the agency,
6 it's a daily pleasure for me to be
7 able to work with the folks here.
8 And so we're having a recognition
9 day and everyone is welcome.

10 Lastly, a formal note, since
11 we met, the Commission has denied
12 two petitions for rule-making,
13 which I want to put on the record.

14 One from the Greater New
15 York Taxi Association for a rule
16 requiring an interior sign warning
17 passengers that if they pay by
18 credit card using anything other
19 than the TPEP swipe, the driver is
20 liable for any overcharges. This
21 was denied because it conflicts
22 with our E-Hail pilot, which is
23 kind of like passengers being able
24 to pay through their smartphone.

25 The second petition was from

1 the New York Taxi Workers Alliance
2 for a specific rule to allow a
3 driver whose TLC suspension is
4 lifted to have immediate access to
5 TPEP once they show a TPEP vendor a
6 DMV abstract or a TLC printout
7 showing that the suspension has
8 been lifted. We denied this
9 specific rule because we are not
10 comfortable with the TPEP vendors
11 having that crucial role in
12 reviewing documents and changing,
13 in essence, driver status within
14 our own system.

15
16 Now before we do the agenda,
17 we're going to have just a brief
18 presentation from Ray Scanlon and
19 his team, Enforcement.

20 Ray, please just come up.

21 Commissioners, probably each
22 of you have at one time or another
23 in the last few months asked me
24 questions about our Enforcement,
25 what are we doing to enforce this,

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2 to enforce that. I want to just
3 get a presentation from Ray. I
4 think that in the last few years we
5 have traveled just miles and miles
6 and miles from a point where many
7 of our rules really were -- it was
8 kind of the honor system. And now
9 we have an enforcement capacity to
10 back up what you decide here.

11 When you change the rules,
12 that needs to mean something. And
13 it means something if Ray and his
14 extraordinary group of assistant
15 commissioners on the Enforcement
16 side, Jeff Hunt and Sherry Cohen,
17 it means something if their teams
18 are able to go out and issue a
19 summons when the rule is broken.

20 Candidly, we did not really
21 have that capacity a few years ago;
22 we do now. And I just want Ray to
23 walk you through a little bit of
24 what we've done.

25 MR. SCANLON: Sure.

1
2 CHAIRMAN YASSKY: And it's a
3 particularly appropriate time
4 because they just set a record.
5 You were probably going to mention
6 this, but last month, for the first
7 time ever, seized more than a
8 thousand illegal taxis in a single
9 month. One thousand illegal taxis
10 in a single month. Ray.

11 MR. SCANLON: Thank you for
12 that, Commissioner. And just
13 before I go forward, I'd like to
14 say that I can't say that I was out
15 there seizing the thousand, it's
16 the uniforms to my left and behind
17 me and their associates that are
18 the boots on the ground that are
19 making this happen. Myself and
20 Commissioner Hunter were up there
21 steering it, steering the
22 operations, but they're the folks
23 that deserve the praise. And we'll
24 continue to produce going forward
25 because we're very excited.

1 Now let me see if I can
2
3 operate this without being -- oh,
4 excellent.

5 So the first slide we have
6 here speaks for itself. It has to
7 do with Field Enforcement
8 Inspectors. So before you can even
9 seize a thousand cars or 500 cars,
10 you need to have boots on the
11 ground.

12 The baseline we used a
13 little over two years ago was back
14 in May of 2011 where we had roughly
15 60 inspectors. Now, these are just
16 inspectors, these are not
17 lieutenants, captains, chiefs, the
18 bosses, we call them. These are
19 the boots on the ground; these are
20 the inspectors that are out there
21 doing the work just like the folks
22 in this room.

23 Since then, we've had a
24 series of, a progressive of
25 graduations of hiring where we're

1 now at the point that when we
2 graduate this class October 19th, I
3 believe it is, we'll be up to 140
4 inspectors, plus the bosses, giving
5 us close to a head-count of close
6 to 200 enforcements. But 140 folks
7 out there come October to really
8 continue the mission, so to speak,
9 of enforcements. And even more
10 classes planned after that, I might
11 add.

12 So again, Field Enf -- the
13 Poaching Summons. Before I go
14 forward, let me explain. By
15 "poaching," we mean a couple
16 things. Poaching can be illegal
17 street hails, like the Commissioner
18 mentioned before, done by licensees
19 who are taking the street hails
20 illegally, and it could also entail
21 what we call the straight-plate
22 activity. By straight plates, we
23 mean regular passenger vehicles
24 that you and I drive, a family
25

1
2 vehicle, where people will take and
3 start to play taxi. That was where
4 the majority of our poaching, of
5 our -- when the Commissioner
6 mentioned a thousand seizures,
7 that's what we're after, the
8 straight plates; people out there
9 that are totally illegal, just
10 really sabotaging the industry,
11 sabotaging the legal players who
12 take the time and expense to
13 legitimize themselves.

14 So beginning somewhere
15 around, it was, I'd say, around
16 July 2011, we focused our poaching
17 primarily in what we would call the
18 Core Business District of
19 Manhattan, or it's also called the
20 Hail Exclusionary Zone. It has to
21 do with Manhattan up to, I believe
22 it was 110th Street on the West
23 Side and 96th Street on the East
24 Side. This number in yellow would
25 reflect the summonses that were

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issued in that zone, whereas the number above that in green would reflect the summonses that were issued in the outer boroughs.

It was very intense, as you see, in 2011-2012. 2013, calender-year-to-date, we're still there. We have sort of -- our poaching activity has been more focused on, again, the illegals, which we're finding in the outer boroughs as well as the airports. So that's where we're going right now. We're still in the Core Business District. We'll be there even more especially now that the SHLs are on the street. We've had units out last night and overnight and this morning cruising in the Upper West and Upper East Side in the 70s, 80s and 90s looking for any encroachments with the SHLs. I'm happy to report we haven't seen that yet. I mean, I've heard

1 anecdotally that it has happened.

2 If it happens and we catch it,
3 they'll be dealt with accordingly.

4 And one last thing.

5 Pursuant to this initiative, we've
6 been able to -- 300 driver's
7 licenses have been revoked for
8 poaching. That means they've been
9 caught three or more times in a
10 36-month period. This would be the
11 FHV drivers, licensed FHV drivers
12 we caught at least three times
13 leading to their license
14 revocation.

15 So again, next slide is sort
16 of an overview here of the Field of
17 Enforcement Seizures. Fiscal Year
18 2011, we ended with 1500; 2012,
19 3493; and Fiscal Year 2013, a
20 whopping 7,830. A real credit to
21 the folks in this room who are
22 doing this. I would just say
23 anecdotally that, it's not on this
24 slide, calendar-year-to-date being
25

1 Proceedings - September 12, 2013 19
2 July 1st to date this year, 2013,
3 we seized over 2,100 cars already,
4 which far exceeds what we did all
5 of Fiscal Year 2011. And we
6 continue to see that rise.

7 So before I go further, this
8 7,830 is a great benchmark. We aim
9 to increase that, but I'm reminded
10 of the, sort of an old investment
11 disclaimer where past performance
12 is no guarantee of future results,
13 but we'll do our best to do that.

14 What's been aiding us in
15 this endeavor is, one, the tow
16 pound that we just brought on.
17 March 29th, we signed a contract
18 with Knights Towing in Brooklyn.
19 We began in April in earnest with
20 our seizure efforts with Knights
21 who has basically almost limitless
22 capacity.

23 We have not been impinged in
24 any way in our seizure program by
25 any incapacity issues like we were

1 in the past. If you recall in the
 2 past, we were putting cars at
 3 Woodside at our inspection
 4 facility. We were lucky enough to
 5 get a lot donated to us by a
 6 gentleman in Queens on Cooper
 7 Avenue. We quickly filled that up,
 8 we kept it at capacity. We no
 9 longer have that issue anymore.
 10 Knights Towing, they're there at
 11 our side. They're taking --
 12 whatever car we seize, they take.

14 CHAIRMAN YASSKY: In the
 15 interim period, we squatted on the
 16 Parks Department.

17 MR. SCANLON: Yeah, we
 18 squatted on the parks -- at
 19 Randall's Island, that's true. I
 20 forgot about that one.

21 CHAIRMAN YASSKY: I hope
 22 they didn't notice, but thank
 23 goodness.

24 MR. SCANLON: Yeah. So, but
 25 that's all behind us now with

1 Proceedings - September 12, 2013 21
2 Knights Towing. And we've been
3 parking with them and we've had
4 great results. We continue to do
5 that.

6 Also, we have the Handheld
7 Program. All inspectors now have
8 been instructed on the handhelds.
9 If you've ever seen somebody
10 writing a parking ticket where they
11 had the hand contraption, it's sort
12 of analogous to that. All
13 inspectors are trained on that. It
14 makes issuance of the summonses
15 much quicker; it increases the
16 efficiencies of the inspector.
17 They no longer have to come back to
18 Woodside to handwrite the
19 summonses, they can write and issue
20 them right in the field. So we
21 continue to do that.

22 Before I go further, just a
23 couple other areas we're going to
24 talk about, the added
25 data-generated summonses, there's

1
2 the police cap initiatives and
3 there's the whole consumer process,
4 which I'm going to turn over to
5 Assistant Commissioner Cohen who is
6 responsible for basically
7 engineering that whole process,
8 taking a system that was, what I
9 call, broken and fixing it. But AC
10 Cohen will explain. Thank you.

11 CHAIRMAN YASSKY: Are you
12 going to cover the data generator
13 or just allude to it?

14 MS. COHEN: I'm going to
15 cover it.

16 CHAIRMAN YASSKY: Oh, Sherry
17 is. Okay, go ahead.

18 MS. COHEN: Thank you, Ray.

19 So in addition to having
20 inspectors' boots on the ground, as
21 Ray described, we also utilize data
22 in order to generate summonses.
23 Obviously we're not in every cab,
24 we can't be on every street, and
25 using business records both from

1
2 TLC and from DMV we're able to
3 issue summonses without having to
4 actually observe violations
5 physically. We're able to
6 determine that violations have
7 occurred or that drivers or owners
8 are no longer meeting licensing
9 requirements.

10 This is a list of just some
11 of the data-generated summonses
12 that we issue. DMV Critical
13 Driver. If the driver has ten or
14 more points on his DMV license and
15 continues to drive a taxicab, we're
16 going to revoke his license. If he
17 has six or more points, we're going
18 to suspend his license.

19 MS. MARINO: For how long?

20 MS. COHEN: The suspension
21 is for 30 days.

22 If a driver, if his license
23 is suspended for any reason, if his
24 TLC license is suspended and he
25 continues to drive a taxi, when he

1
2 logs into TPEP, we know. And we're
3 able then to compare our TLC
4 records, which shows the license is
5 suspended, with the TPEP data and
6 we're able to then hold drivers
7 accountable for driving while their
8 license is suspended.

9 If a driver is overcharging
10 passengers by using the wrong rate,
11 if they're using the out-of-town
12 rate instead of rate one, which
13 would be the regular rate, we can
14 see that in TPEP. We do get
15 passenger complaints regarding
16 that, but we're able to monitor all
17 trips to see if the correct rate is
18 being charged. And the same for
19 E-ZPass. If a driver goes through
20 a toll and does not charge the
21 discounted rate, we can see that in
22 the TPEP.

23 Any driver who is logged in
24 to be wheelchair accessible, the
25 medallion taxicab must have taken

1 the appropriate training. So we,
2 again, we monitor and analyze to
3 see if drivers have the appropriate
4 training and then issue summonses
5 if they don't have the appropriate
6 training. If a medallion is
7 suspended and continues to be
8 operated, again, TPEP gives us that
9 data and we issue summonses
10 accordingly.

12 Licensing along with DMV
13 monitors whether vehicles are
14 properly insured. If they're not
15 properly insured, we'll issue
16 summonses. And again, if a vehicle
17 is not inspected when it's
18 scheduled to be inspected, the
19 Safety Admissions Database will let
20 us know that they failed to be
21 inspected and we will issue
22 summonses.

23 We recently implemented a
24 dispatch program for
25 wheelchair-accessible vehicles.

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2 When a driver is assigned a
3 dispatch for a wheelchair trip,
4 they must, must pick up that
5 passenger. If they don't pick up
6 the passenger, then we issue a
7 summons. And we're able to use
8 data from the dispatch system to
9 determine whether or not a
10 passenger was picked up when they
11 were supposed to be.

12 All of these data-generated
13 summonses are -- the data analysis
14 is really headed up by Surge
15 Royter, who's here today, and his
16 team of data miners. And they do a
17 fantastic job.

18 CHAIRMAN YASSKY: Surge,
19 could you just raise your hand for
20 a second?

21 Commissioners, there's Surge
22 over there, because we don't often
23 get to see some of the superstars
24 here at the TLC who make just
25 unbelievable contributions.

1 program of issuing data-generated
2 summonses and issued about 359
3 summonses in Fiscal Year 2009. We
4 are now in Fiscal Year 2013 and
5 issued 21,902 summonses. You see
6 there's a bit of a spike from 2011
7 to 2012. Some of that has to do
8 with issuing different types of
9 summonses. So as our capacities to
10 mine the data increases, we're able
11 to issue summonses for different
12 types of violations. So, the
13 increase is not necessarily because
14 we have more summonses of a
15 particular type. In fact, for
16 summonses that we previously
17 issued, often we see a decrease in
18 the issuance of those summonses.
19 And we see that there really is a
20 deterrent effect to this type of
21 enforcement.
22

23 These cases are based on
24 business records and they're what I
25 call slam dunks. And I think the

1 industry knows that and the drivers
2 understand that they're going to be
3 held accountable. They're going to
4 walk into court and we're going to
5 have business records that are, for
6 the most part, irrefutable. And I
7 think we have seen a decrease.

8
9 E-ZPass is a perfect
10 example. Every month TLC takes the
11 data from TPEP and analyzes it to
12 determine if E-ZPass rates are
13 being charged on toll crossings.
14 And if a full --

15 MS. MARINO: Can I just get
16 some clarification on that? What
17 exactly is the discount for the
18 tolls? How does that work? Anyone
19 know?

20 CHAIRMAN YASSKY: Anybody?

21 MS. COHEN: So, I think it's
22 like 4 --

23 MS. MARINO: I didn't
24 know that. That's all.

25 MS. COHEN: It's about a

2 dollar's difference. I think it's,
3 if it's a 5.80-crossing, then it
4 goes down to 4 --

5 MR. ROYTER: Yeah, about
6 4.60.

7 MS. COHEN: -- 4.60.

8 MS. MARINO: But how does
9 that work, like a taxi driver gets
10 a special E-ZPass that --

11 MS. COHEN: No, everybody
12 who has E-ZPass.

13 MS. MARINO: Oh, it's --

14 CHAIRMAN YASSKY: Everybody.
15 E-ZPass on the cash rate.

16 MS. COHEN: E-ZPass is a
17 dis --

18 MS. MARINO: It's the
19 regular, okay. That's what I
20 didn't understand.

21 MS. COHEN: You get a
22 discount using E-ZPass. You do get
23 a discount. Anybody gets a
24 discount using E-ZPass. Obviously
25 it's faster to go through the tolls

1 and it costs less. Unfortunately,
2 drivers don't necessarily always
3 use E-ZPass and often even ask
4 passengers to pay cash for the
5 tolls. And we do get complaints
6 from passengers that they're being
7 charged the regular rate as opposed
8 to E-ZPass.

9 And rather than having to
10 rely on passengers coming forward,
11 we're able to look at the TPEP data
12 and see that there was a toll and
13 how much was charged. And if the
14 full rate is charged, then we can
15 issue a summons for overcharging.

16 MS. MARINO: Okay, thank
17 you.

18 MS. COHEN: When we first
19 started, we started issuing these
20 types of summonses in the Fiscal
21 Year 2010, we started regular
22 enforcement, we got to a high 591
23 drivers in 2012 who committed
24 E-ZPass violations, and we saw a
25

1 big drop in 2013, down to 242.

2 CHAIRMAN YASSKY: And I
3 confirm it. I confirm it
4 anecdotally. I hear people, kind
5 of drivers got the idea that now
6 this is something you can get
7 caught for and they're doing it a
8 lot less.

9 MS. COHEN: Right. So it's
10 a great case study. And we do see
11 this in other types of violations
12 as well. The true deterrent effect
13 in this type of enforcement.

14 The prosecution division
15 also oversees passenger complaints.
16 And just briefly, there's been an
17 evolution to the consumer complaint
18 process especially over the last
19 three years, and we've really
20 changed the way we do business.

21 In 2010, the process was
22 that when a passenger made a
23 complaint to 311, TLC would then
24 take that complaint, draw up a
25

1 letter, send a letter to the
2
3 passenger, which summarized the
4 complaint from the passenger, and
5 then ask that passenger to snail
6 mail, in the mail, the letter back
7 to TLC.

8 Understandably, only about
9 one-third of the passengers
10 actually returned those letters.

11 CHAIRMAN YASSKY: I actually
12 find it amazing that a third of
13 passengers did return that. They
14 got a letter saying, here's the
15 complaint you sent in, confirm to
16 me that you really believe that
17 this was the complaint, and send it
18 back to us in the mail. And
19 shockingly, actually a third did.

20 MS. COHEN: And we didn't
21 provide envelopes, so -- I think
22 that's a big deal, actually. I get
23 a bill and there's no envelope for
24 me to pay, there's no way to
25 automatically pay it, good luck to

1
2 my gardener.

3 In any event, so we decided,
4 or, really, the Commissioner, under
5 his leadership, thought that this
6 was not a good way to decide which
7 cases we should be investigating.
8 And in fact, some of the most
9 egregious complaints may very well
10 have fallen by the wayside because
11 the passengers simply didn't return
12 the letter.

13 Of the cases we did pursue,
14 the one-third of the cases that we
15 did pursue, we would issue
16 summonses. And 68 percent of those
17 summonses were actually dismissed
18 at the hearing. We only had a
19 32-percent conviction rate. And
20 there's several reasons for that.

21 One of them was that we
22 didn't contact the passenger until
23 the actual time of the hearing, if
24 we contacted them at all. And by
25 March of 2011, we had an 18-month

1
2 backlog, and that meant that
3 passengers would have their first
4 contact with a human being at TLC
5 18 months after they made their
6 complaint. So obviously their
7 memories and interest faded at that
8 point, making them very difficult
9 cases to win.

10 We didn't settle any cases.
11 We went to a hearing on every
12 single case. And overall, we
13 didn't actively prosecute the
14 cases, there was no one in the
15 courtroom necessarily standing up
16 on the case for the TLC. And
17 approximately 18 to 20,000
18 complaints that TLC receives a year
19 were being processed by exactly
20 three staff members. So, all in
21 all, this led to what Ray described
22 as a broken system.

23 So what are we doing now?
24 So passengers no longer have to
25 return a confirmation letter; we

1
2 investigate all complaints. The
3 passenger says I had a bad
4 experience and I'm willing to
5 participate in your process, we
6 investigate the complaint.

7 We contact the witness by
8 phone, typically a prosecutor will
9 reach out by phone to the witness
10 within two weeks of receiving the
11 complaint. And in that contact
12 with the witness, they are able to
13 get details of the complaint that
14 were not in the initial 311 report.
15 They're able to shore up any holes
16 in the case and even add charges
17 that we would not have otherwise
18 known about but for the
19 conversation that we had with the
20 passenger right up front at the
21 beginning of the case.

22 Once we receive this, once
23 we have this contact with the
24 witness, we issue a settlement
25 offer to the driver. The driver is

1
2 basically told a narrative of
3 what's been complained about, the
4 charges that the driver is facing,
5 and then offered a guilty plea to
6 an appropriate charge, a reduced
7 fine.

8 More than 50 percent of the
9 drivers accept the pre-summons
10 offer by mail. We provide them
11 with an envelope to send the
12 settlement offer back. And as a
13 result, we're able to process many,
14 many more cases in a much shorter
15 period of time.

16 For the cases that do go to
17 a hearing, we are doing much better
18 in the hearing room. But for the
19 cases where we actually issue the
20 settlement offer or issue a
21 summons, our conviction rate is
22 about 96 percent. We have 5,231
23 cases settled, 1,714 cases where it
24 was guilty at a hearing. In the
25 Fiscal Year 2013, only 295 cases

1
2 were actually dismissed after a
3 hearing.

4 CHAIRMAN YASSKY: In the
5 interest of time, I'm going to --
6 let's skip the internship part and
7 move right to the chart, two slides
8 from here.

9 It's sad that time is
10 forcing us to do this because one
11 of the amazing innovations that
12 Sherry has done is create a clinic
13 with New York Law School to
14 supplement our staffing. That's
15 what's enabled us to get that 96
16 percent conviction rate is now we
17 have the staffing to do that.

18 MS. COHEN: We have some of
19 the students here today.

20 CHAIRMAN YASSKY: This chart
21 really tells the whole story.

22 MS. COHEN: And it does.
23 And you can see that with the
24 number of complaints that TLC
25 receives, cutting to -- starting in

1
2 Fiscal Year 2009, you had 18,130
3 complaints and only 1,280 of those
4 were processed to the point where a
5 summons was issued.

6 CHAIRMAN YASSKY: And
7 further, really, I'm just --
8 Commissioners, I'll just ask you to
9 look at just the first column and
10 the last column. 2009, 18,000
11 complaints yields 731 kind of
12 sanctions against the driver. So
13 18,000 people called us with a
14 complaint, through a combination of
15 us throwing them in the circular
16 file and then not really having the
17 resources to deal with the ones
18 that we didn't throw away, 730 out
19 of 18,000. So effectively, there
20 was no consumer complaint, no
21 passenger-complaint process.
22 Really, in effect, zero.

23 Today, out of 17,000
24 complaints, 7,000 result in a
25 sanction, which is probably right.

1
2 Not everything -- you know, many
3 people call in and they're just
4 grouchy or they, what they
5 described as maybe a rude driver,
6 but not a violation of our rules,
7 but out of 17,000, 7,000 result in
8 a complaint. I think that's
9 probably right about where it
10 should be.

11 MS. COHEN: And we still
12 lose 50 percent of the passengers,
13 just lose interest.

14 CHAIRMAN YASSKY: And it's
15 just a real testament I think of
16 everything that's happened the last
17 few years. This is, to me, as
18 important as anything we've done in
19 ensuring that the passenger is
20 taken care of and feels taken care
21 of both by the industry and by the
22 TLC.

23 So I just want to give
24 Sherry an enormous amount of credit
25 for taking this unit from zero to

1
2 70 or 80 miles per hour.

3 Did you say there was some
4 of the students here?

5 MS. COHEN: Some of the
6 students are here, yeah.

7 CHAIRMAN YASSKY: All right.
8 Could you stand up? Because I want
9 to recognize them.

10 One thing you've done here
11 is a clinic with New York Law
12 School. So we used to not have
13 any -- when there was a hearing on
14 a passenger complaint, there was
15 nobody from TLC kind of
16 representing the interest of the
17 passenger. So that's why most of
18 the tickets got dismissed.

19 Now we have these student
20 prosecutors. For us, it's
21 staffing; for them, they're
22 actually arguing cases before a
23 real judge. I think they're
24 getting a better experience than
25 any other law school clinic out

1
2 there. So it's a win-win, and I
3 thank you, to the students, who
4 have been through this. Thank you.

5 MS. MARINO: (Inaudible.)

6 CHAIRMAN YASSKY: Yeah, see?
7 You wish you had that in law
8 school.

9 MS. MARINO: We had a clinic
10 similar.

11 CHAIRMAN YASSKY: But this
12 one's even better. No, I'm sure it
13 was --

14 MS. COHEN: They're in week
15 two and they've already done
16 hearings. They've already
17 presented their own hearings in
18 front of judges up against seasoned
19 attorneys, many of who are sitting
20 here. And so it's an incredible
21 experience. It is. And it
22 energizes us --

23 CHAIRMAN YASSKY: Okay.
24 Lease caps, and we're finished. I
25 know we got to --

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MS. COHEN: Lease caps and we're done.

Okay. So in March of 1996 lease cap rules regulating the lease of medallions and taxicabs by owners and their agents to licensed drivers were promulgated, but not necessarily enforced. We had gotten numerous driver complaints at the end of 2011 regarding overcharges and illegal leasing practices.

In February of 2012 we created the Lease Cap Enforcement Unit. We had one staff member. We established a dedicated hotline for driver complaints. Together with the Attorney General's Office, we conducted two days of driver interviews at our Woodside facility to learn more about leasing practices and give drivers an opportunity to tell us what's going on.

1 As a result of our efforts,
2
3 we have imposed, for violations of
4 lease cap rules, \$228,300 in fines,
5 we've ordered restitution to
6 drivers, over \$91,000. And one of
7 the ways that we're really able to
8 do this type of enforcement is that
9 when owners don't comply with our
10 directives, then we're able to
11 suspend the medallions until they
12 do comply. And we have suspended
13 77 medallions for not following our
14 directives.

15 We've recently added a
16 second attorney, Gia Chang
17 (phonetic), who's here today, who
18 handles driver complaints. And
19 that's it.

20 CHAIRMAN YASSKY: Thank you.

21 And this is the last slide,
22 Commissioners. I know several of
23 you have asked me, you know, again,
24 as we've dealt with the fair stuff
25 and the lease cap stuff and some of

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2 concur with you. I think this is
3 tremendous work, both
4 professionally and innovatively.
5 Both Sherry, Ray and the entire
6 Enforcement Unit deserve real
7 recognition for this incredibly
8 impressive presentation.

9 I think for all the
10 stakeholders, as well as the
11 success of Street Hail, really
12 depend upon it. Hopefully we could
13 increase the "boots on the ground,"
14 if you will, beyond 140 in the
15 future. If that's something that
16 could be done, that probably also
17 could just be -- just give you more
18 tools to continue the impressive
19 work. You guys really deserve
20 recognition for that.

21 CHAIRMAN YASSKY: Thank you
22 for saying so.

23 On that last point, we
24 continue to have authority, budget
25 authority to keep adding classes at

1 a gradual pace, which I think is
2 right. We've gone -- Ray showed
3 60, forget lieutenants/captains, 60
4 inspectors to 140 now, 20 more
5 coming in a few months. And we
6 have authority to continue to do
7 that, really, kind of as long as we
8 need to.

9 MS. POLANCO: What is it per
10 year? I mean, I concur with
11 everything Commissioner Carone
12 said. I couldn't have said it
13 better in terms of the work that
14 you guys have been doing. And I
15 also agree that Enforcement, the
16 unit itself, the amount of people,
17 that should be increased.

18 So I want to know, every
19 year, like, how many classes will
20 graduate? What's the issue in
21 terms of -- is it the budget? I
22 know that, I mean, everything's
23 connected with the city. I mean,
24 TLC generates a lot of revenue,
25

1
2 so -- and now with the Street Hail
3 and so forth, because I know they
4 mentioned that it will be, it
5 mostly concentrates on the
6 Exclusionary Zone, but I know that
7 there's going to be a lot of issues
8 now with the street hail in the
9 outer boroughs --

10 CHAIRMAN YASSKY: Ab-
11 solutely.

12 MS. POLANCO: -- because
13 I've seen a lot of -- you mentioned
14 the cars painted green and illegal
15 street hail, so.

16 CHAIRMAN YASSKY: Yes.
17 Okay. I'm glad you asked a
18 question. Let me just, so I don't
19 forget, last on the kind of
20 self-congratulatory part is Ray's
21 team. Ray has three extraordinary
22 assistant commissioners, Sherry,
23 who you just heard from who does
24 the consumers and the prosecution
25 and the administrative, and Jeff

1 Hunt -- Jeff, just raise your
2 hand -- Jeff Hunt, who runs the
3 Field Enforcement part. And that's
4 the part that Ray talked about at
5 the beginning, where the
6 productivity and the numbers have
7 been astonishing.

8 And then Martin Grindley,
9 who you really rarely get to see
10 here, but who runs the inspection
11 garage that 500 cars a day are
12 going through. And they go through
13 as speedily as you could ask for
14 and does, you know, as professional
15 a job as you could hope for. So it
16 really is terrific, Assistant
17 Commissioners.

18 Commissioner Polanco, in
19 terms of hiring, we like to do
20 classes of about 20 at a time. We
21 set out a couple years ago to say,
22 we need to double or triple the
23 size of Enforcement. We didn't
24 want to do that all at once because
25

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2 how do you integrate that many
3 people and keep the culture and
4 keep the quality control. And we
5 all thought, you know, 20 at a time
6 was the right number of people to
7 integrate. And I think that's
8 worked out very well. In other
9 words, as new people have come in,
10 they get assigned to work with
11 existing people and they can get
12 integrated pretty fast.

13 In addition, yeah, we have
14 to get budget, you know, to agree
15 to that. And it's every -- it's
16 true that while that the agency
17 generates a fair amount of revenue
18 in fines and fees, still, you know,
19 things don't even pay for
20 themselves. Just the reality of
21 the world is -- and it shouldn't be
22 asked to.

23 The reason we do the
24 enforcement is to protect the
25 passengers and to protect the

1 industry against unfair
2 competition. It's not to bring in
3 revenue.
4

5 So we've had to fight to
6 get, you know, that budget
7 authority that we've had, in part
8 because, probably in large part,
9 because the borough initiative,
10 City Hall and OMB, have understood
11 that if we're going to be enforcing
12 citywide, 60 isn't going to do it,
13 even 140 isn't going to do it. And
14 that's why we have the budget
15 authority to keep building up.

16 I'm not going to say
17 indefinitely, but certainly, you
18 know, as long as we can continue to
19 show a need out there, we can keep
20 adding people. We do 20 at a time,
21 one class, maybe every three
22 months, because it goes through a
23 three- or four-month training
24 process.

25 Okay. Thank you, again, Ray

2 and Jeff, Sherry, Martin
3 and (inaudible).

4 MS. MARINO: I do want to
5 say --

6 CHAIRMAN YASSKY: Yes.

7 MS. MARINO: -- I agree with
8 Frank's comments very much. It is
9 an extraordinary job and an
10 extraordinary change in statistics.

11 CHAIRMAN YASSKY: Thank you.

12 All right, thank you,
13 Commissioners, for your patience.
14 I know that your time is valuable,
15 but I wanted you to hear that
16 material.

17 Okay. Moving to business.
18 We failed at the beginning of this
19 meeting to adopt the minutes, but I
20 move now that we adopt the minutes
21 from the June 28th meeting which
22 are before you.

23 Any objection?

24 (No response.)

25 CHAIRMAN YASSKY: All in

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favor of adopting those June 28th
minutes, say aye.

(Chorus of Ayes.)

CHAIRMAN YASSKY: Opposed,
no.

(No response.)

CHAIRMAN YASSKY: Those
minutes are adopted.

We have base applications.
Chris.

MR. TORMEY: Good morning,
Commissioners. My name's Chris
Tormey, Director of Applicant
Licensing with the Taxi & Limousine
Commission.

Today we have 54 bases for
your consideration, and there was a
revision made to the list since it
was posted on the website. We
removed one base.

MS. MARINO: Why was that?

MR. TORMEY: They had
penalty points and we need to
reconsider their application.

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MS. MARINO: So they have to reapply?

MR. TORMEY: No. We're going to table it to the next Commission meeting.

Any questions?

CHAIRMAN YASSKY: All in favor of adopting Licensing's recommendations as to base renewals, say aye.

(Chorus of Ayes.)

CHAIRMAN YASSKY: And base renewals and new applications, say aye.

(Chorus of Ayes.)

CHAIRMAN YASSKY: All opposed, say no.

(No response.)

CHAIRMAN YASSKY: The vote is unanimous. Your recommendations are approved. Thank you, Chris.

MR. TORMEY: Thank you.

CHAIRMAN YASSKY: And Commissioner Marino, we don't have

1
2 to detour, but I know that you had
3 raised the question about one of
4 the bases that kind of hung over
5 from the summertime, something that
6 Commissioner Gonzales had also been
7 interested in drawing it to our
8 attention.

9 I want you to know that I've
10 worked with Gary at Licensing to
11 take a look at that our process
12 works very smoothly so that nothing
13 falls through the cracks. And I
14 think that outcome, that base was a
15 great outcome in particular, but it
16 did give us good occasion to look
17 at the base process, make sure that
18 it was, you know, working up to
19 par, and I'm confident that it is.

20 So, I thank you for bringing
21 that to our attention.

22 MS. MARINO: You're welcome.

23 CHAIRMAN YASSKY: Okay. The
24 next item is our Street Hail Livery
25 Rules Cleanup Package for both the

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hearing and for Commission action.

For the hearing, we have a few speakers. Well, the speakers are Peter Mazer from MTBOT -- whoops. I take it back. Wrong hearing.

The hearing is, the people signed up to speak, Bhairavi Desai, Bill Lindauer and Osman Chowdhury. Those are the only people signed up to speak.

Meera, do you want to describe this rule package while those speakers come up and prepare?

MR. FROMBERG: Bhairavi isn't here.

CHAIRMAN YASSKY: Okay.

MS. JOSHI: Today we'll take public testimony on proposed technical changes to TLC's rules governing Street Hail Livery Service. The rules were published in the City Record on June 14, 2013. Comment period ended on

1
2 July 15, 2013, and no comments were
3 received.

4 The proposed technical
5 changes to the rules reflect the
6 passage of time between the
7 Commission's approval of the rules
8 in April of 2012 and successful
9 resolution of the litigation
10 challenging the rules in June 2013.
11 Specifically, dates by which FHV
12 drivers are grandfathered in to
13 drive SHLs and the date on which
14 all accessible SHL drivers must
15 have wheelchair-assistance training
16 were updated. Unnecessary
17 definitions and phrases were
18 eliminated and penalty amounts were
19 updated to reflect recently enacted
20 local laws.

21 CHAIRMAN YASSKY: So of the
22 three people that signed up, Ms.
23 Desai, Mr. Lindauer and Mr.
24 Chowdhury, is anyone here to speak?
25 Mr. Lindauer.

1
2 MR. LINDAUER: Ms. Desai
3 just came back late last night from
4 a meeting of the AFLCIO in LA, so
5 she cannot be here today, but I am
6 proud to announce that she has been
7 elected to the executive counsel of
8 the AFLCIO, which means she's in
9 the inner circle. Feel free to
10 tremble.

11 CHAIRMAN YASSKY: Please
12 convey our congratulations to her.

13 MR. LINDAUER: Okay. I just
14 want to comment that, why can't you
15 give summonses now for cars that
16 are painted green, that don't have
17 their roof lights and all the other
18 stuff?

19 CHAIRMAN YASSKY: Well --

20 MR. LINDAUER: Why do you
21 have to wait to our vote next
22 month?

23 CHAIRMAN YASSKY: Well,
24 there's no rule that -- right now,
25 a car is not breaking any of our

1 rules simply by being painted
 2 green. To be clear, though, it is
 3 breaking our rules if it is picking
 4 up off the street illegally. So
 5 really, that's the issue.
 6

7 And now that the program is
 8 up and running and our enforcement
 9 is beginning, a car that is painted
 10 green but doesn't have the proper
 11 license will get ticketed for
 12 picking up illegally.

13 Over and above that, we want
 14 to prophylactically stop the green
 15 thing.

16 MR. LINDAUER: Okay.

17 CHAIRMAN YASSKY: So I think
 18 that that's really what you want.
 19 If a car is not allowed to pick up
 20 off the street, it gets a ticket.
 21 And that enforcement is now ready
 22 to begin.

23 MR. LINDAUER: And I want to
 24 comment that the 96 percent
 25 conviction rate makes me wonder if

1
2 it's truly due process. And of
3 course, as lawyers, you should be
4 very interested in due process and
5 it should be the basis of your
6 belief in the legal system.

7 CHAIRMAN YASSKY: Agreed.

8 MR. LINDAUER: But
9 96 percent, I mean, DAs don't have
10 anything near that.

11 CHAIRMAN YASSKY: On the
12 contrary. They do in cases that
13 they bring to trial or that plead
14 guilty, which most of ours do.

15 I think the relevant number
16 to me is 17,000 complaints, 7,000
17 penalties assessed. And that, I
18 think it says that we're doing a
19 good job of weeding out the
20 complaints that don't deserve to be
21 pursued. Right?

22 Again, a passenger calls up
23 and says the driver was rude to me.
24 Well, that doesn't rise to the
25 level of violation. Passenger

1
2 calls up and says, I want to go on
3 the FDR Drive and instead they took
4 me down through the Battery and up
5 the West Side Highway and it cost
6 me 10 bucks extra, that does
7 need -- so we're pursuing the ones
8 that should be, and not the ones
9 that aren't.

10 MS. MARINO: Can I ask a
11 question?

12 CHAIRMAN YASSKY: I think
13 that's what results in 96.

14 MS. MARINO: That's an
15 interesting point. What type of an
16 appeals process do these people
17 have? Suppose the driver really
18 thinks that they're being wrongly
19 accused or whatever, what's their
20 remedy?

21 CHAIRMAN YASSKY: A driver
22 who gets a ticket can contest it.
23 That goes before an independent
24 administrative law judge at OATH
25 now, since they were transferred.

1
2 It used to be an independent law
3 judge that worked for the TLC, but
4 it's the same thing, really.

5 At any rate, it goes before
6 an independent ALJ. They are
7 typically represented, I think bill
8 you too, not always, but generally,
9 and they make a case. The
10 passenger gives his or her side,
11 and there's now a TLC
12 representative, which helps, and
13 the ALJ decides.

14 MR. LINDAUER: But don't you
15 have the authority as Chairman to
16 overrule any ALJ decision?

17 CHAIRMAN YASSKY: Yes.
18 Although, I mean, I can't -- I
19 don't think that we've -- if what
20 you're suggesting is, you know, do
21 then they rule in favor of the
22 driver and we change that, I'm not
23 sure I can remember that happening.

24 MR. LINDAUER: Well, under
25 your despotic predecessor that had

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to go all the time.

CHAIRMAN YASSKY: I'll let that stand as your statement.

MR. LINDAUER: Another question. You levying these fines on these multi --

CHAIRMAN YASSKY: Yeah, I'm sorry. Bill, actually, you have two minutes, and let's keep the testimony to the rules.

MR. LINDAUER: Okay. But you're fining the multimillionaire brokers and garage owners \$228,000. Chump change to them. Are you referring any of these cases to the DA for criminal prosecution? It's like fining all these people on Wall Street. They have money up the wazoo. They don't care about the money.

CHAIRMAN YASSKY: All right, Mr. Lindauer. So, first of all, thank you. Do you have anything to say about the SHL rules? If not,

2 I'll ask you to sit down. But I'll
3 answer your question.

4 MR. LINDAUER: Okay.

5 CHAIRMAN YASSKY: Thank you.

6 You should know, and
7 frankly, we are currently working
8 with two different other law
9 enforcement agencies to whom we
10 have referred cases. And I have
11 every expectation that you'll see
12 announcements from each of them
13 that those referrals led to action.

14 So, absolutely, when
15 appropriate, we do make referrals.
16 I won't say more than that.

17 Okay. Is Mr. Chowdhury
18 here?

19 MR. CHOWDHURY: Yes, I'm
20 here.

21 CHAIRMAN YASSKY: Okay.
22 Just two minutes, and please limit
23 it to those rules before you.

24 MR. CHOWDHURY: Two minutes?
25 That's fine.

1 CHAIRMAN YASSKY: Yes.

2 MR. CHOWDHURY: Okay. Good
3
4 afternoon. My name's Osman
5 Chowdhury.

6 First of all, I have two
7 points here. TPEP system, they
8 said that many times overcharge,
9 but they can see TPEP system. But
10 when they (inaudible) \$120, they
11 like to go New Jersey --

12 MR. FROMBERG: Got to go
13 slow.

14 MR. CHOWDHURY: There's
15 two-minute time. That's why I
16 rush.

17 MR. FROMBERG: I know, but
18 go slow.

19 MR. CHOWDHURY: Okay.
20 (Inaudible) they pay out like \$120.
21 When the yellow cab go the normal
22 fair, like at \$80 (inaudible) --

23 MR. FROMBERG: Slow down.

24 MR. CHOWDHURY: -- New
25 Jersey, even 120. But when they

1 charge the 120, but the TPEP system
2 said, the New Jersey fare, the
3 yellow cab's \$80, they charge 120.
4 How give (inaudible) to the driver,
5 how we prove? The TPEP system just
6 said, automatically they're going
7 to see the overcharge on the TPEP
8 system. You pay a \$80-fare --

9
10 CHAIRMAN YASSKY: Mr.

11 Chowdhury, I don't think this is
12 speaking to those rules, but I
13 think that I follow the gist of
14 your concern. Can I ask you just
15 to kind of talk with Allan and
16 explain the specific concern about
17 how TPEP functions and see if we
18 can address it or if it's, perhaps,
19 not something that needs to be
20 addressed? But can I ask, can you
21 do that?

22 MR. CHOWDHURY: Okay. I
23 don't do it. I give another one.

24 CHAIRMAN YASSKY: Okay,
25 thank you.

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MR. CHOWDHURY: (Inaudible)
seven, another proposal, number
eight, (inaudible) propose on
things last Monday what happened.
I went to JFK Airport at 2:30 p.m.
I went give (inaudible) fellow
driver. And the
telephone (inaudible) taking the
camera working on the rooftop. He
came down and asking me, he don't
know English, you nasty guy. He
don't know (inaudible) paper and
throw it and pushing like that. I
stop him, it's not his business. I
give him the --

MR. FROMBERG: Osman, this
isn't the place for this.

MR. CHOWDHURY: Okay.

MR. FROMBERG: This is about
the SHL rules.

CHAIRMAN YASSKY: Yes. I'm
going -- Mr. Chowdhury, I'm going
to ask you --

MR. FROMBERG: I'll talk to

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you after.

CHAIRMAN YASSKY: Thank you very much for the testimony --

MR. CHOWDHURY: And then finally, we stop him. Don't hit the driver. He punched my eye. I call the 911. 911 said reporting they don't why they sent a taxi hurt. And then, they refuse, then I go to the dispatcher, the supervisor. Say, don't call 911. The authority department, the authority take care. And he called his boss, he said police not gonna come, have you got the police (inaudible).

MS. MARINO: Allan's going to help you.

CHAIRMAN YASSKY: Please, Mr. Chowdhury, please have a seat. I understand that you're raising an issue about an incident; it's not related to these rules. At any rate, this isn't the forum.

1 Please have a seat. Please.

2 Please, sir.

3 MR. FROMBERG: Let's go

4 talk.

5 MR. CHOWDHURY: Okay. I'm

6 leaving.

7 CHAIRMAN YASSKY: Thank you.

8 So now vote on the SHL Rules
9 Cleanup Package before you.

10 MS. POLANCO: Yeah, but I'm
11 a little confused. You mentioned
12 before about, there's no changes to
13 the rules themselves dealing with
14 the cars being painted green?

15 CHAIRPERSON YASSKY: No.
16 That is not before us today; that's
17 next month. We published that. It
18 hasn't had its 30 days'
19 notice-of-com period. This is
20 changing dates in the original
21 rules that were a year ago because
22 of the intervening year of
23 litigation. There's nothing
24 substantive in these rules.
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Okay. All in favor, say
aye.

(Chorus of Ayes.)

CHAIRMAN YASSKY: Opposed,
no.

(No response.)

Ms. JOSHI: The SHL Cleanup
Package is unanimously approved.

CHAIRMAN YASSKY: All right.
The next set is the rules on the
adjudication process.

Meera, will you describe
these?

The speakers are Peter
Mazer, Bhairavi Desai, Bill
Lindauer, and again Mr. Chowdhury
asked for the right to speak.

MS. JOSHI: Today we'll take
public testimony on proposed rules
relating to the adjudication of
summons and enforcement actions to
reflect the July 2011 transfer of
TLC's Administrative Tribunal to
OATH, pursuant to Mayoral Executive

1
2 Order 148.

3 Since transfer, TLC and OATH
4 have both operated under interim
5 rules. The proposed rules replace
6 these. OATH is simultaneously
7 promulgating counterpart rules.
8 The rules were published in the
9 City Record on August 8, 2013. The
10 comment period ended September 9,
11 2013. No comments were received
12 within the deadline. One set of
13 written testimony was received in
14 advance of today's hearing and was
15 shared with Commissioners.

16 The proposed rules before
17 the Commission, in general, update
18 terms to reflect the transfer of
19 the new tribunal; remove the
20 adjudicatory tribunal and hearing
21 procedure sections as a power and
22 duty of the TLC; remove provisions
23 governing jurisdiction over
24 licensee's representatives; create
25 a process by which the Chairperson

2 may review interpretations of TLC
3 rules and regulations made by the
4 Taxi and Limousine Tribunal at
5 OATH; update sections for vehicle
6 forfeitures to reflect current case
7 law that requires opportunity for a
8 preliminary hearing on the
9 continued retention of the vehicle
10 during the forfeiture process.

11 Based on staff
12 recommendations -- oh, no. Sorry.

13 So for today's hearing we
14 have four speakers. The first is
15 Peter Mazer.

16 MR. MAZER: Good morning,
17 Commissioners. My name is Peter
18 Mazer, general counsel,
19 Metropolitan Taxicab Board of
20 Trade.

21 You have in your packets
22 some written materials that I have
23 submitted prior to today's hearing,
24 and I'd ask you to look at that.

25 My comments address one very

1
2 specific issue that has come up in
3 connection with our rules, which is
4 the imposition of a summary
5 suspension by an administrative law
6 judge and the procedures to enable
7 that person to continue to operate
8 as a licensee while the appeal is
9 pending.

10 Under the rules as they
11 exist today, if an individual has
12 his license suspended at a
13 hearing -- and what I'm talking
14 about is a discretionary
15 suspension, which is a suspension
16 that an ALJ imposes at his
17 discretion, not one that is
18 mandated by rules, like a refusal
19 or an overcharge where there may be
20 mandatory revocation or a
21 suspension in so compliance. We're
22 only talking about the situation
23 where a judge chooses to impose a
24 suspension because the judge has
25 authority in the rules, but is not

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required to do so.

The respondent has 30 days to file an appeal. If the respondent files the appeal, the respondent has the right to petition the agency for the right to operate the medallion while the appeal is being decided. The problem exists that there is no procedure in place right now when a judge imposes a suspension at a hearing for a respondent to have the suspension stayed while he is preparing the appeal.

Respondent has the right to request the tape of the hearing, respondent has the right to adequately prepare his appeal documents, but a respondent under today's rules will be faced with a suspension and cannot operate.

Now, if a license is revoked, if there's a discretionary license revocation, there's a

1
2 different procedure. In that case,
3 the case goes before the Office of
4 Administrative Trials and Hearings
5 at 40 Rector Street. The judge can
6 only issue a recommendation, so the
7 respondent has an opportunity to
8 address the issue. And we've heard
9 that mentioned earlier, what
10 happens if a respondent is found
11 guilty at a hearing, is there a
12 right of appeal. And there are
13 very good of rights of appeals. We
14 have rights of appeal, we have
15 rights to petition to the
16 Chairperson, which is in the rules
17 and works wonderfully.

18 The problem is that there is
19 this gap for respondents who face
20 suspension of their license. There
21 is no procedure in place now other
22 than the discretion of the
23 Chairperson or the discretion of
24 the General Counsel for that person
25 to continue to operate while the

1
2 appeal -- while that person is
3 drafting the appeal.

4 And I urge you in my written
5 comments, I suggested some language
6 that could be adopted which would
7 enable a licensee to have the
8 opportunity to have the license
9 remain in effect at every step
10 while he is exhausting his
11 administrative rights to appeal.

12 Thank you.

13 CHAIRMAN YASSKY: Thank you.

14 MR. MAZER: I'll accept any
15 questions.

16 CHAIRMAN YASSKY: Mr.
17 Lindauer.

18 MS. MARINO: I think that's
19 a valid point.

20 CHAIRMAN YASSKY: Okay.
21 Well, why don't we hear all the
22 testimony and then we can have
23 discussion.

24 MR. MAZER: Just for the
25 reference, if you look, page 3 of

1
2 my comments is the proposed
3 language. In the middle of that
4 page. Thank you.

5 MR. LINDAUER: You may find
6 it shocking, but I agree with
7 Mr. Mazer. His arguments are fair
8 and reasonable and make good sense.
9 It doesn't involve anything
10 complicated or time-consuming. I
11 suggest that you take up this
12 matter and approve of what he said.
13 Okay? Thank you.

14 CHAIRMAN YASSKY: Thank you.

15 Okay, Commissioners, before
16 moving to a vote, if there are
17 comments to debate, I heard you,
18 Commissioner Marino, express some
19 interest in Mr. Mazer's suggestion.
20 I'm recommending that we adopt the
21 rules without the language that
22 Mr. Mazer suggested.

23 There is, as he explained,
24 already a process for appeal. And
25 when an appeal has been formally

1
2 initiated, any penalty imposed by
3 the administrative law judge is
4 automatically suspended.

5 So if a licensee is fined,
6 they can delay payment of that fine
7 by filing the appeal, as many do,
8 and we see this all the time. If a
9 licensee has been suspended, they
10 delay the imposition of suspension
11 by filing an appeal, which is fine
12 and appropriate.

13 What the suggestion is is
14 that there's an additional
15 procedural step between the ALJ
16 decision and filing of the appeal,
17 which is, ask the TLC to kind of
18 suspend the sentence to give time
19 to file the appeal. First of all,
20 that would create an entire new
21 administrative proceeding here at
22 the TLC that we'd have to have
23 standards for, when are you
24 entitled to it, when are you not
25 entitled to it, for an issue that

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arises, I would say, extremely infrequently. It's been, maybe, a couple of times since we've been here that people have contacted us with a concern about this.

And when it's entirely within the licensee's ability to have his or her or its penalty suspended by filing the appeal, and I recognize that you want -- that they may want time to kind of prepare proper papers and whatnot, but nonetheless, if they want to go in and do that work and go and file that appeal, they can do it. And right then and there, their suspension is lifted until the -- you know, during the pendency the appeal.

And lastly I would say that in the couple of times it's come to our attention that there is a material impact on a business that a pending suspension might cause,

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we've been able to work informally with that business to enable them to continue to operate until they can get their appeals papers filed without having to set up a formal administrative process to do that.

I just think given the volume of our business that if we now have in every single one of these, because so many people do appeal, a second step, a second pre-appeal step, it would be an enormous amount of process that is not justified by the value.

MS. MARINO: Maybe I'm not understanding something. It seemed that there is one situation where you do get that automatic stay and one where there's not? I'm not understanding this.

MR. MAZER: May I approach?

CHAIRMAN YASSKY: Go ahead, you can approach. But I will say, no, the stay is automatic in the

1 case of an appeal.

2 MR. MAZER: No. The rule
3 is, there is a right -- there is no
4 automatic stay of suspension.
5 There's an automatic right to not
6 pay the fine if an appeal is
7 pending. There is no automatic
8 right to a lifting of the
9 suspension.
10

11 There is a procedure in
12 place where the deputy commissioner
13 for Licensing can issue a temporary
14 license --

15 MS. MARINO: But you get a
16 stay if it's regarding a fine, but
17 not if there's a suspension?

18 MR. MAZER: Right. If a
19 driver or any respondent's found
20 guilty at a hearing today, the fine
21 is not due today; the fine is due
22 in 30 days. If during that 30-day
23 period the respondent files an
24 appeal, the fine is stayed until
25 the appeal is decided.

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MS. MARINO: Okay. As far as that --

MR. MAZER: If the judge imposes a suspension today, the suspension goes into effect today. If an appeal is filed, at the time the appeal is filed, the respondent can petition to the deputy commissioner for Licensing for a temporary license pending the outcome of the appeal.

MS. MARINO: And how long does that take?

MR. MAZER: It's on the spot, but it's not automatic. The deputy commissioner for Licensing has the right to grant and has the right to deny it.

What I'm asking for is the right to have that process moved from the day I filed the appeal to the day I have my hearing. So that I'm covered, so that the licensee is covered for the period of time

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until the appeal is filed.

Now the Chairman is absolutely right. Informally, every time I've requested such a temporary license pending the right to file an appeal, I have been given that right by the Chairperson, or by the General Counsel. It's rare, maybe three or four times a year, but it's discretionary --

MS. MARINO: It's not on the books.

MR. MAZER: It's not on the books and it can be denied. And when I've gone to Licensing to ask for temporary credentials, I'm told there's nothing in the rules that permits me to have that right, so I have to go either to the Chairperson directly and basically plead my case.

MS. POLANCO: And what is the process with revocation? You

1 mentioned something.

2 MR. MAZER: The process of a
3 discretionary revocation is
4 entirely different. The process --
5 the only way that the TLC can seek
6 discretionary revocation is by
7 going to the Office of
8 Administrative Trials and Hearings
9 at 40 Rector Street. The TLC
10 Tribunal has no right to impose
11 discretionary revocations.
12

13 When a discretionary
14 revocation penalty is imposed at
15 OATH, it's a recommendation to the
16 Chair. The respondent then has an
17 opportunity to address that
18 recommendation and the Chairperson
19 makes the final decision. And then
20 there's the right of appeal.
21 That's the appeal that you as
22 Commissioners sit periodically when
23 you hear appeals of revocation
24 cases as an appellate panel. Those
25 are appeals from the Chairperson --

1
2 MS. POLANCO: But at the
3 DMV, what happens normally? If you
4 go to a hearing and your license
5 gets suspended, I mean, it's
6 automatic. So in terms of -- I'm
7 trying to figure out the fact that
8 if within 30 days you have to
9 appeal a decision, I don't think
10 there's anything wrong with it. If
11 at the hearing the judge found that
12 based on the circumstances your
13 license had to be suspended, you
14 want, in the mean time, before you
15 have the right to appeal, the
16 license not get suspended and then
17 you have someone who may, you know,
18 have violated some law driving out
19 there?

20 MR. MAZER: Why is that
21 different from a rev -- if a
22 revocation -- I wouldn't -- no one
23 has imposed a discretionary
24 revocation at a hearing, no one is
25 forced to pay a fine at a hearing.

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2 But a suspension, it's different.

3 MS. MARINO: That's why I'm
4 not liking it. It's inconsistent.
5 It's inconsistent. It seems that
6 if we're having that middle step
7 for these other two situations, why
8 not have the middle step for all
9 three so everything's consistent?

10 MR. MAZER: And frankly, a
11 suspension of a license for 30 days
12 is as bad as a revocation.

13 MS. MARINO: I mean, that's
14 a financial hardship.

15 MR. CARONE: I happen to
16 agree with Commissioner Polanco.
17 Admittedly, Mr. Mazer, the two or
18 three times a year that it's
19 happened, so we're talking about a
20 small universe here to begin with,
21 to set up a whole unit to such a
22 small universe, especially when
23 that small universe is being dealt
24 with equitably by the Commission to
25 begin with. So it's not a real

1 problem that's not being addressed.
2
3 To put a whole unit together for
4 this window and create another step
5 seems cumbersome for not a real
6 problem.

7 MR. MAZER: It's not a unit.
8 It's just that the deputy
9 commissioner for Licensing would
10 look at the same standards that he
11 applies now when an appeal is filed
12 as he looks at when a decision
13 is --

14 MS. MARINO: I don't
15 understand the second -- what this
16 new step is. I mean, if we're
17 already doing it in these other two
18 situations, we're already doing it.
19 So why not just do it in all three.
20 I don't see what this new step or
21 new unit is. I'm not seeing the
22 need for that unless I'm missing
23 something.

24 CHAIRMAN YASSKY: Gary, do
25 you want to give your view as to

1
2 the appropriateness here?

3 MS. MARINO: And this is?

4 CHAIRMAN YASSKY: I'm sorry.
5 Gary Weiss is, of course, our
6 deputy commissioner for Licensing.
7 He runs the Licensing Center.

8 MR. WEISS: With respect to
9 the process, I'm going to actually
10 agree. I'm actually going to agree
11 with Commissioner Polanco.

12 If you're found guilty by an
13 ALJ and they impose a suspension,
14 the suspension is imposed at the
15 hearing and your license is
16 suspended. If you want to appeal
17 that decision, and request a
18 temporary license, you have
19 timeframes where you have an option
20 to do that or not do that.

21 I don't have an issue with
22 it. I just don't think the
23 licensure, the licensee should be
24 given the option to say, I'm going
25 to allow my license to stay current

1 until I decide to file an appeal.

2 If you want to file an
3 appeal after the suspension is
4 imposed, then do so. You can come
5 down to my office, it's a
6 single-page document, as Mr. Mazer
7 has indicated, it's on-the-spot.
8 We review your record very quickly.
9 If we don't see any major issues on
10 your record, we remove the
11 suspension, we issue a temporary
12 license while you're standing
13 there. We remove the temporary
14 suspension and issue you a
15 temporary 30-day license while
16 you're at the counter. You don't
17 walk away without one.

18 MS. MARINO: And Mr. Mazer,
19 you concur with that?

20 MR. MAZER: Absolutely.

21 MR. WEISS: It's a very
22 quick process. It's not a major
23 issue. And in my opinion, if an
24 ALJ has made a decision based upon
25

1
2 the facts that he or she has seen
3 put before them that your license
4 should be suspended, then you
5 should be suspended.

6 MS. MARINO: Well, judges
7 aren't flawless. They are humans,
8 you know.

9 MR. WEISS: I'm not going to
10 disagree with that.

11 CHAIRMAN YASSKY: And yet,
12 as you said, in suspension cases,
13 once the appeal is filed, they come
14 to you, they come to Licensing,
15 fill out one page, and if my
16 understanding is correct, most of
17 the time the suspension is lifted
18 in those cases.

19 MR. WEISS: That is correct,
20 it is.

21 CHAIRMAN YASSKY: But,
22 occasionally not because there's
23 something on the record that
24 indicates otherwise.

25 MR. WEISS: It's very rare

1 that somebody's denied.

2 MS. MARINO: And you concur
3 with that as well, Mr. Mazer, it's
4 very rare that somebody's denied?
5

6 MR. MAZER: I would say that
7 I personally have no knowledge of
8 any instances where I have
9 requested a temporary license
10 pending appeal that it was denied
11 by the deputy commissioner for
12 Licensing.

13 Again, my comments refer to
14 that period of time from the
15 imposition of the judge's
16 suspension determination until the
17 appeal is filed. That's all I'm
18 talking about.

19 MS. MARINO: Right. But
20 once -- if you get that suspension,
21 from what I'm understanding, you
22 can literally leave one room and
23 walk down --

24 MR. MAZER: Well, you still
25 have to file the appeal. And if

2 you want to listen to the tape,
3 you're not going to get the tape
4 for 30 days.

5 MS. MARINO: Oh, you have
6 to -- oh, I see.

7 MS. POLANCO: (Inaudible.)
8 I mean, I don't get it.

9 MS. MARINO: Because you may
10 have to order minutes, you may --
11 that's the issue.

12 MR. MAZER: Or you may want
13 to prepare an appeal.

14 MS. MARINO: And you can't
15 make that request until the appeal
16 is filed?

17 MR. MAZER: That's correct.
18 I cannot make that request until
19 the appeal is filed.

20 MS. MARINO: I see.

21 CHAIRMAN YASSKY: Com-
22 missioners, just in the interest of
23 time, I'm going to call the
24 question on the rule change before
25 us. This issue that Mr. Mazer has

1
2 raised can be addressed at any time
3 if upon -- it was brought to us, in
4 all fairness, you know, in comments
5 yesterday.

6 If Commissioners feel like
7 there's something that we do need
8 to address, I commit, we'll kind of
9 work, and if there's a majority
10 that want to go back and revisit
11 it, we can do that then. But I'm
12 going to call the question on the
13 rule before us.

14 All in favor of the
15 adjudication rule changes, say aye.

16 (Chorus of Ayes.)

17 CHAIRMAN YASSKY: Opposed,
18 no.

19 MS. MARINO: I'm just going
20 to say aye, but with a reservation.
21 I would like to re-address this
22 issue.

23 CHAIRMAN YASSKY: Under-
24 stood.

25 Okay. Please, go ahead.

1
2 MS. JOSHI: For the record,
3 the rules before you differ from
4 those that were published in the
5 City Record in two ways. Certain
6 terminology and certain process
7 provisions were revised to align
8 TLC's rules with OATH's proposed
9 rules. And at City Council's
10 request, an explicit provision is
11 added to make clear to licensees
12 that they have an affirmative right
13 to have their suspension lifted
14 once they have met all TLC
15 requirements.

16 CHAIRMAN YASSKY: Okay.
17 Thank you.

18 The last item of business is
19 a pilot program proposed by
20 VeriFone to allow rear-facing
21 advertising on certain taxicabs. I
22 know someone from VeriFone here
23 presented. Commissioners, our
24 rules do not require and it is not
25 our practice to have a public

1 hearing on pilot programs. It has
2 been our practice to have a
3 presentation from someone on it.
4

5 In the interest of time --
6 and I know that something was
7 distributed and talked about. If
8 any one of you feel that the
9 presentation is necessary, we'll go
10 forward with it. We talked about
11 it earlier this morning. But
12 otherwise, I'm going to recommend
13 that we dispense with the
14 presentation.

15 Does anybody feel the need?

16 MS. WEINSHALL: How long is
17 the pilot program?

18 CHAIRMAN YASSKY: It's a
19 one-year pilot program.

20 MS. WEINSHALL: Okay.

21 CHAIRMAN YASSKY: And
22 VeriFone is requesting, to be
23 clear, anybody who wishes to, could
24 do an ad structure that's permitted
25 under this pilot.

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MS. MARINO: And that's the rear?

CHAIRMAN YASSKY: Yes. It would be a triangular structure with advertising on three sides, kind of on two sides facing out and forward, and one side facing backwards.

MS. POLANCO: Where will, in terms of the rooftop panel in the new vehicle --

MS. WEINSHALL: There's a new picture here.

CHAIRMAN YASSKY: It will sit behind the rooftop window. That's where the impetus for this was, the rooftop window. Existing rooftop ad structures would cover up the window. So we worked with VeriFone and they were, you know, extremely cooperative and worked together with us to design a structure that would not obscure the rooftop window.

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MS. MARINO: It's going to go on the roof, but in the rear of the roof.

CHAIRMAN YASSKY: On the roof, in the rear. And it has enough square inches of ad space that the revenue -- that there's no revenue impact to the industry.

Okay. So that pilot program is before you. I would call a vote on moving that pilot. All in favor, say aye.

(Chorus of Ayes.)

CHAIRMAN YASSKY: Opposed, no.

(No response.)

CHAIRMAN YASSKY: The program is adopted.

That concludes our business for today. With that, the meeting is adjourned.

(Time noted: 11:42 a.m.)

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

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, MARGARET CRANE, a
Notary Public within and for the
State of New York, do hereby
certify:

I reported the proceedings
in the within-entitled matter, and
that the within transcript is a
true record of such proceedings.

I further certify that I am
not related to any of the parties
to this action by blood or marriage
and that I am in no way interested
in the outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 14th day
of September 2013.

MARGARET CRANE

Taxi & Limousine Commission Meeting/Public Hearing

September 12, 2013

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