

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON TRANSPORTATION

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April 30, 2009

Start: 1:16pm

Recess: 3:39pm

HELD AT: Council Chambers
City Hall

B E F O R E:

JOHN C. LIU
Chairperson

COUNCIL MEMBERS:

Council Member Rivera
Council Member Foster
Council Member Sears
Council Member Stewart
Council Member Vann
Council Member Arroyo
Council Member Dickens
Council Member Mendez
Council Member Eugene
Council Member Mitchell
Council Member Gioia

A P P E A R A N C E S (CONTINUED)

Samara Epstein
Assistant Commissioner for Constituent Affairs
New York City Taxi and Limousine Commission

Charles Frasier
General Counsel
New York City Taxi and Limousine Commission

Sara Myers
Assistant Commissioner
New York City Taxi and Limousine Commission

Tariq Mala

Felix Dominicana
New York Coalition of Base Owners

Avik Cabeza
New York Coalition of Base Owners

David Diaz

Sergio Sanchez
Luxury Based Operators Association

Victor Dieselgoff
Executive Director
Black Car Assistance Corporation

Guy Pulumbo
Secretary Treasurer
Luxury Base Operators Association

Franchie Munez
Executive Director
New York State Federation of Taxi Drivers

Abnon Oberlander

Richard Pearlman

Lloyd Taylor

A P P E A R A N C E S (CONTINUED)

Robert Marquel
Metropolitan Leasing

Jose Rodriguez
Phoenix Car Service

James Berello
Barino's Car Service

Isabel Guzman
CR Radio Dispatch

Fernando Garcia

Darlene Sanchez
United as One TLC Bases Association

Moises Vallos
Driver
Diamond Car Service

Rafael Rosario
Driver
Dominicana Car Service

Marina Maracella
Mariachi's Car Service

CHAIRPERSON LIU: Welcome to today's hearing of the City Council's Committee on Transportation. My name is John Liu and I have the privilege of chairing this committee. Today we've convened for the purposes of examining the recently released regulations governing the for hire vehicle industry. They were approved two weeks ago on April 16th by the New York City Taxi and Limousine Commission. Before and immediately after the TLC passed these new regulations, there have been a multitude of concerns and objections and questions raised by the industry, by drivers and the general public alike. And that is why we have convened today's oversight hearing, for the purpose of examining the justifications, the rationale and the implementation of these rules.

We have many witnesses today who wish to share their opinions. And we will be on a time limit when it's time to hear from the witnesses. We will not impose a time limit on the Taxi and Limousine Commission officials. I think they probably would prefer to have a time limit. But in any event, we are delighted to be joined by representatives of the Taxi and Limousine

Commission, Samara Epstein, Sara Myers, Charles Frasier and Gary Weiss. At this point I would invite our officials to please speak your word.

SAMARA EPSTEIN: Good afternoon Chairman Liu and members of the Transportation Committee. I am Samara Epstein, Assistant Commissioner for Constituent Affairs at the New York City Taxi and Limousine Commission. I'm joined today by TLC's general counsel Charles Frasier, our Assistant Commissioner for Licensing, Sara Myers and our Deputy Commissioner for Licensing, Gary Weiss.

Thank you for this opportunity to speak to you today about the proposed changes to our rules governing the for hire vehicle industry and the potential impact of these reforms. As an agency that licenses and regulates 50,000 vehicles and 100,000 drivers, the TLC strives to ensure all TLC regulated industries provide service that is safe, legal, accessible, courteous and reliable. Passenger safety is essential. These service goals can only be met when the TLC works with the riding public and its regulated industries to make sure that TLC policies and rules protect the

public, ensure quality service and respect existing business practices regardless of their regulated industry.

The last major review of the FHV rules occurred in 1998. Since then the industry has matured and grown to meet the evolving demands of riders throughout the city. You and other members of City Council recently acknowledged the need to address some of these changes with the passage of the Livery Passenger Bill of Rights. We agree about the need to improve communication with FHV passengers and many of our rules are essential to ensuring that the enforcement of those rights can take place and are meaningful.

We are all here today because the FHV industry plays a vitally important role in New York City's public transportation network. This industry is comprised of 488 livery or community car services that operate throughout all five boroughs, 75 black car bases that provide service to private businesses within the central business districts and 173 luxury limousine bases that offer premium services for special occasions.

With over 500,000 rides per day,

1
2 the livery industry alone provides dispatch
3 transportation to places like supermarkets, malls,
4 local train stations, hospitals, airports, ferry
5 terminals, business districts and other
6 destinations throughout New York City. These
7 services are especially important in areas that
8 are not as well served by other forms of public
9 transportation.

10 While most of the time these
11 services are pre-arranged between the customer and
12 the local base and the customer is picked up by a
13 TLC licensed driver in a TLC licensed vehicle. A
14 continuing concern of the TLC is the existence of
15 illegal activity, including street hails,
16 unlicensed drivers in vehicles that are
17 unlicensed, low quality or have not been
18 inspected.

19 The public expects to get into
20 vehicles that are safe and reliable and it is
21 TLC's responsibility as a regulator to ensure
22 those expectations are met. Through work with
23 community boards, Council Members, industry
24 members and members of the riding public, TLC
25 recognized a need for increased accountability in

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2 the FHV industry. Furthermore TLC's Board of
3 Commissioners has repeatedly requested greater FHV
4 industry accountability at public meetings. As
5 you know, when base stations apply for a new
6 license or renew one they already have, TLC Board
7 votes to grant or deny the application.

8 In the last few years TLC
9 Commissioners expressed their growing desire for a
10 systematic way to deal with bases with histories
11 of bad business practices including numerous and
12 serious violations such as dispatching unlicensed
13 vehicles or unlicensed drivers. The Commissioners
14 asked TLC staff to develop an objective standard
15 that bases and vehicle owners will be held to.
16 These new rules are the response to that request
17 and enable TLC to take action against bases with
18 bad business practices that result in a legal,
19 unsafe or poor service.

20 They also respond to concerns that
21 have been voiced by members of the community
22 boards, the Council, TLC's regulated industries
23 and the public. Specifically, TLC found that FHV
24 driver and vehicle owner accountability to the
25 base station must be enhanced. The FHV industry

as a whole must be more accountable to the riding public and the TLC. As a response to concerns that were raised TLC began to look at ways to revise our rules to increase accountability.

By strengthening relationships between passengers and drivers, drivers and vehicle owners, vehicle owners and base stations and base stations and passengers, we will decrease illegal for hire activity through better education and communication with passengers. Passenger awareness will hold all FHV industry members more accountable for the service they provide. This will make it much more difficult for a legal or unsafe operators to stay in business. In turn, this will enhance passenger safety and restore a competitive edge to legal, for hire operators by increasing the value of FHV industry licenses and businesses.

The rules packages a comprehensive set of reforms that create stronger safety standards, strengthen incentives for higher standards of business operations and address the concerns and challenges of illegal for hire activity. The new rules package common sense

1 reform that recognizes industry practices. It
2 clearly sets out the responsibilities of the
3 driver, the vehicle owner and the base. It
4 provides for stiffer penalties for illegal
5 activities. It also advances vehicle safety
6 standards by ensuring all FHV's are inspected at
7 TLC state of the art inspection facility at least
8 once during their license term.
9

10 Most importantly these rules create
11 a more effective means to communicate license
12 information to the riding public through new
13 exterior livery vehicle markings, through interior
14 display of the driver's TLC license and the livery
15 passenger bill of rights. The strength of the
16 rules rest in the fact that they reflect more than
17 two years of extensive discussion with the riding
18 public, the industry, analysis of enforcement
19 statistics, field operations and extensive TLC
20 Commission and staff time working together to
21 develop a comprehensive set of needed regulatory
22 reform.

23 Starting in the summer of 2006, TLC
24 staffed an extensive survey with community car
25 service drivers to gain further insight into how

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2 this part of the industry operates. Nearly 6,000
3 surveys were sent out across the industry and the
4 results of this survey demonstrated how hard TLC
5 licensed drivers work to make a living, how the
6 service provided varies depending on the base
7 station's location and clientele and how licensed
8 drivers must compete with illegal drivers and
9 vehicles.

10 Suppression of illegal or pirate
11 activity, as many FHV business owners refer to it,
12 is of great importance to TLC regulated
13 industries. Conversations with the riding public
14 including representatives from Council Member
15 offices and community boards confirm the need for
16 TLC to help the public differentiate between legal
17 and illegal cars and drivers and set some basic
18 and clear standards for for hire vehicles. This
19 initiative will standardize service across the
20 five boroughs through clear identification of
21 licensed vehicles and drivers as well as mandatory
22 TLC inspections for all FHV's so as to ensure
23 vehicle quality and safety.

24 In January 2007 TLC staff made the
25 first of three formal presentations about FHV

1 reforms at a TLC public meeting. A portion of
2 these rules were proposed at a public hearing in
3 March 2007 when TLC staff made a second
4 presentation on this subject. At least 15
5 testified at the hearing including representatives
6 of the NYPD who voiced its support for these rules
7 and their importance for ensuring passenger
8 safety. They spoke about the difficulty for
9 preventing crimes and apprehending perpetrators
10 because of the lack of a clear identity for FHV's,
11 making it difficult to track down vehicles that
12 were used during or after a crime. NYPD testified
13 again two weeks ago when they re-emphasized the
14 importance of passing these rules.
15

16 In July 2007 TLC staff made a third
17 public presentation on these issues. The
18 presentation introduced ideas for improving FHV
19 base and vehicle accountability. The
20 Commissioners agreed on the ideas that were
21 brought up at this time; increasing penalties for
22 serious violations, revoking base licenses for
23 repeatedly violating TLC rules regarding licensure
24 including operating while on suspension, holding
25 vehicle owners accountable for illegal conduct by

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2 drivers and cars and requiring that bases and
3 vehicle owners know the status of drivers' DMV and
4 TLC licenses.

5 In sum, TLC staff has been
6 discussing many aspects of these proposed rules
7 since 2006. We had been working with drafts of
8 the current rule package since this fall. We
9 reached out to industry representatives, FHV
10 passengers, community boards and spoke with
11 approximately 250 base owners. TLC staff
12 developed guides to the rules to make sure all
13 stakeholders could gain a quick understanding of
14 what was being proposed. English and Spanish
15 version of the guides were posted on the web site
16 along with the proposed rules and were emailed to
17 everyone on TLC's list serve, which includes more
18 than 2,000 people.

19 TLC staff had more than 30 meetings
20 with TLC industry members including numerous
21 follow up calls and emails to respond to all
22 questions. Some of the groups we met with are the
23 New York State Federation of Taxi Drivers, Black
24 Car and Limousine Assistance Group, Luxury Base
25 Operators Association, New York Limousine

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2 Association, Limousine Association of New Jersey,
3 the Limousine Association of New York, United as
4 One Base Association, the New York City Fleet
5 Owners Association and the New York City For Hire
6 Base Group. We received letters of support
7 regarding the FHV rules from almost all of these
8 groups before the April 16th hearing.

9 In addition, community boards 4 and
10 10 in Queens submitted comments expressing their
11 support for the rules. Industry members spent a
12 lot of time and energy working closely with TLC
13 staff to express their concerns. The primary
14 concern expressed by bases is about the penalty
15 point system so I would like to give you a
16 detailed version of the penalty point provisions.

17 The point system is critical to the
18 rule's purpose of FHV accountability. These rules
19 introduce a system of penalty points that is
20 similar to the way persistent and critical
21 violator points already work for TLC drivers.
22 When a base or vehicle accumulates too many points
23 its license is revoked. Base licenses may be
24 revoked if they get six points during the three
25 year period of their licenses. Vehicle licenses

can be revoked if the vehicle get four points during the two year period of its licenses. When the base or vehicle license is renewed, they start their new license term with zero points for the new license period.

A vehicle receives a point for picking up passengers without a TLC license or if it is suspended or expired. Doing service without registration or if the registration is suspended or expired. Not meeting inspection requirements, allowing the car to be operated by a driver that does not have a current and valid DMV license and allowing the car to be operated by a driver who does not have the current and valid TLC license.

A base receives a point for dispatching a vehicle that is unlicensed or suspended, an affiliated vehicle having its license revoked for accruing four points, operating while its base license is suspended or expired, TLC needing to draw on its bond because the base did not pay fines and operating from an unlicensed location or moving without TLC's approval.

Due to industry concerns, TLC

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2 raised the maximum number of penalty points
3 vehicle and basses can occur before their licenses
4 are revoked. This addressed concerns that bases
5 and vehicles have no way to reduce points they
6 receive. The TLC also responded by specifically
7 asking about training courses that will allow for
8 vehicles and bases to reduce their points in a
9 request for information we released this week that
10 seeks input on education for TLC licensees. With
11 direct input from FHV business owners, TLC made
12 sure the rules would allow for good businesses to
13 thrive while giving TLC more ability to take
14 action against businesses that endanger the
15 public.

16 There were over 16 amendments made
17 to the rules. Other changes included postponing
18 the effective date of penalty points to give the
19 industry time to implement policies and
20 procedures. I have heard personally from industry
21 members who felt we really listened to their
22 concerns. They thanked the industry for listening
23 to them and making the changes they requested.

24 Through this extensive feedback
25 process, TLC has worked to develop standards that

1
2 make sense for our regulated industries while
3 attaining our goal of ensuring passenger safety by
4 requiring enhanced accountability among the TLC
5 driver, vehicle owner and base or business owner.
6 From a passenger's perspective, it is difficult to
7 know whether the car you are getting in to is
8 licensed properly, operated by a licensed driver
9 and is actually the dispatched vehicle you have
10 pre-arranged.

11 The new rules will require that all
12 vehicles have three required TLC permit stickers,
13 one on the windshield and one on each of the rear
14 corridor windows to show that the vehicle is
15 licensed by TLC to provide service. If it is a
16 community car service or livery vehicle, it will
17 also be required to have exterior markings with
18 the base station name, license number and phone
19 number on both sides of the vehicle or on the back
20 of the car. In addition, all FHV drivers will
21 need to display their TLC driver's license and
22 vehicle licenses inside the car for passengers to
23 see along with the new passenger bill of rights in
24 livery vehicles.

25 Taken together these changes

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2 empower the passenger to make good decisions so
3 they are able to get into a car that is safe,
4 works with the base he or she called for service
5 and has a driver authorized to provide service to
6 the public. These markings tell the passenger,
7 this is a TLC licensed vehicle with a TLC licensed
8 driver. This vehicle has been inspected by TLC,
9 is affiliated with a base and licensed to provide
10 transportation. Other proposed rules that further
11 enhance this accountability include rules
12 requiring bases and vehicle owner to know the DMV
13 and TLC license status of drivers in vehicles they
14 dispatch and create new penalties which can impact
15 the vehicle and base owner for unlicensed
16 operation.

17 In support of this effort, the TLC
18 is undertaking its own efforts to make sure that
19 license status information is readily available on
20 its web site every day. All base owners will
21 continue to be required to provide correct and up
22 to date contact information, maintain a record of
23 all vehicle dispatches and make sure that all
24 vehicles and drivers affiliated with the base have
25 current and valid DMV and TLC licenses.

To encourage compliance, the TLC has made arrangements with the DMV to allow for DMV and TLC licensing information to be available on line so that business owners can have instant free access to the most recent licensing status of their drivers to protect against unlicensed drivers doing business. The proposed rules package is extensive and will mean significant change to the industry. In response, the TLC has worked hard to develop a reasonable time line for implementation as well as the bilingual educational campaign for both the industry and the riding public so that changes can be implemented, understood and successfully complied with.

The TLC looks forward to the Council's continued support and the work you do with your constituents to make this reform package successful. Passenger safety has to be the first priority for this vital part of our transportation network. This must be coupled with support for our for hire business that look to provide legal, reliable transportation. All New Yorkers deserve safe and dependable transportation. The TLC believes that the proposed for hire vehicle

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2 industry accountability rules package will
3 accomplish these goals. Thank you very much for
4 your time this afternoon. I would be happy to
5 answer any questions you might have.

6 CHAIRPERSON LIU: Thank you very
7 much Ms. Epstein. You really breezed through
8 that. I'm tired just having listened to you but
9 great job. We've been joined by Council Members
10 Oliver Koppell from the Bronx, Miguel Martinez
11 from Manhattan and Julissa Ferreras from Queens
12 and also Council Member Vincent Ignizio from
13 Staten Island who is voting momentarily next door
14 and will join us shortly.

15 There are a number of questions and
16 that's precisely why--absolutely. Excuse me.

17 [Long pause]. Thank you Council Member Martinez.

18 Council Member Martinez notes that have the
19 Sergeant at Arms and also as had Council Member
20 Ferreras that there are dozens of people lined
21 outside the city on gates waiting to come into
22 this hearing. So at some point the hearing next
23 door in the Council chambers is running a little
24 bit late so as soon as they are finished, if they
25 get finished soon we probably will move this

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2 hearing in to the Council chambers where we can
3 accommodate more people. There are, I believe, in
4 addition to everybody in this room about 30 people
5 who are waiting to come into this hearing next
6 door and then, of course, several dozen people
7 still outside on Broadway outside the City Hall
8 gates. So we will try to accommodate as many
9 people as possible. The presence only indicates
10 the seriousness of the issues for which we have
11 convened today's hearing.

12 I guess I have a number of
13 questions and so do my colleagues so I'll just
14 kick it off by asking, what is the timing? What's
15 the magic behind the timing for these rules to be
16 enacted right now?

17 MS. EPSTEIN: Are you asking about
18 the effective date?

19 CHAIRPERSON LIU: I'm asking about
20 what the time frame is, why is it that the people
21 were given relatively short notice and then all of
22 a sudden there was a vote called for on April
23 16th, during a major holiday. What's the timing
24 for this? Had this been planned for years.
25 Because we've been waiting for a long time for

some rules to be implemented.

And in fact, we waited for the Taxi and Limousine Commission to ask for several years and then finally some of us got fed up and we decided that we needed to pass a passengers bill of rights for riders in for hire vehicles, which we did a couple of months ago. Now all of a sudden the TLC is promulgating these rules. What is the rationale behind the timing of these rules?

MS. EPSTEIN: As I mentioned in the testimony, this is something we've been working on for years. We've been speaking with members of the industry and people that represent the public, Council Member offices, community boards, about these rules for a long time. This fall we started working with active drafts of that. Then in terms of the notice for the meeting, as most of you probably know Commission hearings are usually held on the second Thursday of every month.

Acknowledging the conflict with the start of Passover, which it was April 9th, we moved the hearing to April 16th and we made this date public on March 11th.

We were not aware of any conflicts

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2 with this new date until we got a letter from some
3 members of Council. That letter was sent on April
4 8th, which was also the start of Passover so we
5 had a number of staff that were out at that time.
6 The rules were posted on March 11th and sent to a
7 list serve available on our web site. The comment
8 period ended April 10th. Due to Capa we always
9 have that 30 day comment period, leaving plenty of
10 time for written comments prior to the holiday.

11 TLC continued to accept comments
12 passed that date. At the hearing two people
13 testified on behalf of others who couldn't be
14 there because they were observing the holiday.
15 But turnout at the hearing was extremely high. In
16 addition, 23 people testified, which is a really
17 high number for us as TLC. We did get a letter
18 from some of the members of Council and we took
19 into account. Because of that our Commissioners
20 determined that TLC will take comments for an
21 additional two weeks to make sure that all those
22 who are interested in commenting had the
23 opportunity to do so.

24 CHAIRPERSON LIU: Well, just for
25 the record many of the Commissioners actually

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2 stated that they in fact had not been informed of
3 Council Members request to delay the vote for a
4 couple of weeks, perhaps a month. It didn't have
5 to be two weeks. It could have been the regular
6 TLC meeting in the month of May. So it is
7 certainly our opinion that the vote was rushed and
8 unnecessarily rushed given the magnitude of the
9 impact of these rules.

10 The idea that the Taxi and
11 Limousine Commission kept the comment period open
12 for an extra couple of weeks after the vote had
13 been taken already, surely you must understand how
14 that sounds. I should say how ridiculous that
15 sounds to people who have a comment. What do you
16 think would be the actual consequence or impact of
17 keeping the comment period open for an extra
18 couple of weeks? What does that do?

19 CHARLES FRASIER: The Commission's
20 vote was to approve the rules but to direct--

21 CHAIRPERSON LIU: [interposing] Mr.
22 Frasier, could you identify yourself?

23 MR. FRASIER: Yes, I'm Charles
24 Frasier, I'm the General Counsel to the Taxi and
25 Limousine Commission. The Commission's direction

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2 thus was to hold the comment period open for an
3 additional period of time to allow anyone who had
4 not been able to comment due to the Passover
5 holiday to do so. In addition to that, of course,
6 we undertook to talk to anyone else who might be
7 interested in further commenting. The direction
8 to us from the Commission was not to publish the
9 rules. The rules don't become effective upon the
10 vote of the Commission, they become effective upon
11 their publication in the city record plus the
12 passage of 30 days.

13 We have not submitted them to
14 publication in the city record at the instruction
15 of the Commission because we are instructed to
16 evaluate the additional commentary that we get and
17 determine whether we think that any changes need
18 to be made. Obviously if they do, we need to go
19 back for an additional Commission vote.

20 CHAIRPERSON LIU: So in other words
21 the Taxi and Limousine Commission, the Commission
22 itself could actually vote on rules and the staff
23 could decide that well maybe the rules need to be
24 changed and so the rules don't actually go into
25 effect. Is that what you're saying.

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2 MR. FRASIER: The Commission
3 directed us not to put them into effect. The
4 Commission directed us to take additional
5 information and report back.

6 CHAIRPERSON LIU: So the Commission
7 voted to implement the rules.

8 MR. FRASIER: No, they approved the
9 rules subject to further discussion.

10 CHAIRPERSON LIU: So that means
11 it's not finally approved.

12 MR. FRASIER: That is correct.

13 CHAIRPERSON LIU: So that means
14 there is no time frame for the rules to be
15 implemented?

16 MR. FRASIER: There is no definite
17 time frame as of now, that's right. There hasn't
18 been--

19 CHAIRPERSON LIU: [interposing]
20 Does it require another vote by the Commission?

21 MR. FRASIER: If the staff
22 determined that the additional commentary suggests
23 that additional changes should be made, additional
24 changes must be approved by a Commission vote.

25 CHAIRPERSON LIU: I don't know what

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2 kind of process the Taxi and Limousine Commission
3 is following here but you're testifying that well
4 the Commission, then they voted conditionally upon
5 staff review.

6 MR. FRASIER: It is a conditional
7 vote.

8 CHAIRPERSON LIU: Staff review
9 necessary because the Commission acknowledges that
10 because of a major holiday significant numbers of
11 people could not show up and provide their input
12 during the hearing?

13 MR. FRASIER: No, I don't know the
14 Commission is suggesting that at all.

15 CHAIRPERSON LIU: You just said
16 that before.

17 MR. FRASIER: I did not. I said--

18 CHAIRPERSON LIU: [interposing] You
19 said that the comment period, it was extended for
20 a couple of weeks due to the recognition that
21 there are people that could not make the hearing
22 because of the holidays.

23 MR. FRASIER: There was a claim
24 made that people couldn't make the hearing. I
25 have to tell you in the two weeks since then, we

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2 have heard from nobody who was unable to be at the
3 hearing.

4 CHAIRPERSON LIU: Because the
5 perception is that the Commission already took the
6 vote. Why would anybody waste their time? These
7 are not people who are sitting around watching TV
8 at home. They have jobs; they have businesses to
9 run. This is so contradictory. The process
10 itself just raises so many red flags.

11 MR. FRASIER: I don't know what
12 else we can do to convince you or anybody else of
13 the good faith of our staff review. As
14 Commissioner Epstein testify, we conducted three
15 years worth of discussions with the industry, we
16 made literally dozens of changes to this rule
17 based on industry input. I don't know what the
18 view of the staff is that leads to the conclusion
19 that comment to us makes no difference. I can
20 assure you, categorically, top to bottom, hand on
21 the Bible, that is absolutely not the case.

22 CHAIRPERSON LIU: Mr. Frasier
23 you're testifying that the Commission voted and
24 now I don't think it was clear to the general
25 public. It's certainly not clear to I would

1
2 gather the vast majority of the people in this
3 room that that vote was conditional, that it was
4 subject to revision. I think most people in this
5 city understood it that that was a vote an that
6 the rules were going to be implemented. Now
7 you're stating--go ahead.

8 MR. FRASIER: I'm sorry. I can't
9 say obviously what other people perceived it would
10 be not a good thing, it was not our intention that
11 anyone didn't understand that. Hopefully after
12 our colloquy here today that is clearly
13 understood. People have eight more days to submit
14 comments and they should do so.

15 MS. EPSTEIN: And just one thing I
16 wanted to add too is I personally followed up with
17 every single group that I spoke with to make sure
18 that they did understand that we're continuing to
19 take comments and what had happened at the
20 meeting. I may not have been able to get to every
21 single person that was interested because our
22 industries our huge. But I certainly did reach
23 out to a lot of people to make sure they knew
24 that.

25 CHAIRPERSON LIU: Okay, but again I

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2 will state the obvious. We have been joined by
3 Council Member Darlene Mealy of Brooklyn. I will
4 again state the obvious. The Commission took a
5 vote that day. That vote was widely reported for
6 representatives, to now sit in front of the City
7 Council saying that oh well they're still subject
8 to change and it wasn't perhaps a totally final
9 vote. It's somewhat ridiculous.

10 And in fact, that's precisely why
11 we sent the letter, many of us signed it, asking
12 the TLC just give people another two weeks or hold
13 the vote, delay the vote for another two weeks.
14 Or maybe just put it at the next regular monthly
15 meeting so that people could actually take part in
16 the process instead of the TLC in hindsight
17 understanding that because it was a major holiday
18 lots of people could not show up to the hearing
19 and therefore I have to say disingenuously
20 extending the comment period for another two
21 weeks. That's just the process; let's get to the
22 substance.

23 The substance is I think there are
24 significant objections and I don't have a feeling
25 one way or another on this issue before I hear the

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2 TLC's testimony. The issue is the point system
3 and how there are many participants in the
4 industry that feel that the point system that the
5 TLC is imposing is unduly burdensome to them and
6 that it puts them at great risk in terms of having
7 to shut down. Based on my understanding I think
8 that is some truth to that.

9 Let me state from the outset that
10 Taxi and Limousine Commission's job is very
11 difficult. It's not easy regulating tens of
12 thousands of vehicles, drivers, owners, bases.
13 You have a difficult time and you have to make
14 sure people are safe. But the point system seems
15 to appear that the Taxi and Limousine Commission
16 in many ways covers itself by shifting a great
17 deal of the responsibility and the risk to base
18 station owners. That may work for the TLC's point
19 of view but it may not necessarily be to the
20 benefit of, certainly not the industry, but it may
21 not be to the benefit of the riding public and the
22 general public.

23 Also, who came up with this point
24 system? And is this the only way to regulate the
25 for hire vehicle industry in New York City?

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2 MS. EPSTEIN: The reason that we're
3 all sitting at this table today is because we are
4 the people, in addition to other staff of course,
5 that worked on the point system. As someone who
6 takes liveries myself, as a passenger whose loved
7 ones take liveries, I feel pretty strongly that
8 right now you just don't know what you're getting
9 in to.

10 The base that I use all the time, I
11 ask for a legal vehicles and they consistently try
12 to send me wrong vehicles and I have to send them
13 away all the time. So I am very concerned that
14 people that don't know the rules as well as me
15 can't get in to a legal car sometimes, even when
16 they're trying. When it's dark it's hard to tell
17 too; you don't know necessarily what to look for
18 so that's really where this comes from is a
19 concern for passenger safety. The penalty points,
20 as I mentioned in the testimony, it comes from a
21 lot of conversations that we've over the years
22 with the Commissions and other people that were
23 involved in our industry, other stakeholders that
24 really asked for us to have some sort of objective
25 standard so we can kick out persistent violators.

1
2 Because we already have this for
3 drivers and we think that it works pretty well.
4 That's where the idea came from.

5 CHAIRPERSON LIU: That's fine. I
6 can understand that you may have some of these
7 personal experiences. I have known constituents
8 to make similar complaints also. What kind of
9 study did the Taxi and Limousine Commission
10 conduct to determine the pervasiveness of, for
11 example in your case, base stations sending out
12 illegal cars.

13 MS. EPSTEIN: I don't know. Do you
14 guys want to jump in because you also worked a lot
15 on the rules? Maybe you can check that? I'll
16 just start with is really, at least my involvement
17 started in 2006 when we started talking to a lot
18 of drivers. Every time I meet with base owners,
19 they consistently have the major concern about
20 other bases that are dispatching illegal cars and
21 illegal drivers. They feel it's not fair to have
22 to compete with people that really aren't abiding
23 by these rules. That's where a lot of this came
24 from; it was driven by the industry as well as
25 when I go to community board meetings and speak

1
2 with members from some of your offices and the
3 concerns that we get from constituents.

4 Do you want to talk about the
5 development of the points?

6 SARA MYERS: Also, I work in
7 licensing--

8 CHAIRPERSON LIU: [interposing] I'm
9 sorry.

10 SARA MYERS: Sara Myers, I'm the
11 Assistant Commissioner in Licensing. We work a
12 lot with enforcement so a lot of these ideas also
13 came from routine enforcement. And also, it came
14 a lot through speaking with the Commissioners who
15 really wanted to focus on safety. The rules that
16 we analyzed, a lot of the persistent violations
17 that we analyzed had to do with unlicensed
18 activity and how that a connected to the safety
19 and the safety of passengers.

20 As I'm sure you're aware, thousands
21 of TLC rules for both base owners and vehicle
22 owners. We only chose a select view for the point
23 system because we felt that those were the most
24 critical in regards to passenger safety.

25 CHAIRPERSON LIU: Well thank you

1
2 very much. We've been joined by Council Member
3 Eric Ulrich of Queens and Council Member Jessica
4 Lappin of Manhattan. And we are always in full
5 agreement with regard to the TLC's efforts to keep
6 people safe; no objection, no disagreement from
7 us. But I think there's a problem when so many
8 participants in the industry are so infuriated not
9 only by the process but by the substance. I think
10 the people here, I dare say, these are probably
11 the most legal operators in the industry and they
12 are upset at the rules. So you're saying that
13 while it is legal operators, operators who
14 complained about illegal operations that spurred
15 the TLC to adopt these rules.

16 Of course the TLC wants to keep the
17 rules safe. But the system that you've arrived
18 at, this point system, is causing a great deal of
19 anxiety if not outright frustration on the part of
20 the most legal operators in this industry.
21 Something is awry here. The reason, I think, is
22 because the point system is so leveraged that you
23 could and we've gone through examples of this, you
24 could have entire base stations shut down, a
25 couple of hundred people put out of drive when you

1
2 have a reckless couple of individuals that really
3 should not be driving. You will be succeeding in
4 ruling those couple of people out but at the same
5 time throwing a couple of hundred people out of
6 work and closing down large base stations.

7 So this is something--I know that
8 it has taken a long time to come up with this
9 system but you have to stand back for a second and
10 ponder why it is that so many people who really
11 would be the most legal operators. Because people
12 who run illegal base stations generally don't show
13 up at City Hall for hearings. You have to
14 question what it is about the rules that maybe
15 does need to be revised, does need to actually be
16 re-examined.

17 Perhaps some of these rules
18 actually will have the effect of driving more of
19 the industry into the unregulated, unlicensed
20 realm, which we know exists. It's a tough job
21 that you have to try to regulate these car
22 services, some of them just choose not to be
23 regulated. In this scenario, the TLC may actually
24 accomplish that, to shift more of the regulated
25 industry into an unregulated no man's land.

[Applause]

No, no. I don't want applause and I don't want booing. Aren't any of the Commissioners questioning why is it that there would be so much of a pushback? Are the Commissioners just simply dismissing the concerns of all these operators? I have to say in nearly eight years of running this committee, this is one of the largest turnouts that I've had from the industry. I don't think people are taking time off from their jobs just out of fun, just because they want to sit in on this hearing.

I think there is a legitimate set of concerns here that have to be addressed. But is all this concern just not valid?

MS. EPSTEIN: I guess all I can do is repeat that there are a lot of people in this room that I've met with repeatedly. These are the first time that we've done any comprehensive FHV rules package. At least since 1998 and those focused on driver rules only. I would be shocked if our bases did not care what was happening. That being said, some of the scenarios you described I played out with many base owners. The

1
2 idea that they could be shut down because of
3 something that busses do in a day. If you're
4 interested, I'm happy to play out how that would
5 really work because what we've seen is it's very
6 difficult with the points that exist and remain
7 for that to happen. I don't know if you want me
8 to give you an example but that's just been our
9 experience; we talk through it.

10 CHAIRPERSON LIU: Sure, let's just
11 take a moment to play out an example and then I'm
12 going to turn it over to my colleagues. You
13 talked about the rules. Actually a lot of the
14 rules do make sense and I applaud the TLC for
15 making those rule changes. And in fact, many
16 participants and representatives of the industry
17 are very complimentary of the rules. Even though
18 it makes life a little bit more difficult for
19 them, at least everybody is on a more level
20 playing field and they can do their business
21 honestly and follow the rules.

22 In fact, the rules that you laid
23 out here generally do make sense. All the points
24 make sense. But it's typically just the bullet
25 points that have to do with the point system that

1
2 people are very much up in arms about. So let's
3 go over a system where you have a base with 200
4 vehicles and 400 drivers. Could you consider that
5 to be a typical example, one base, 200 vehicles,
6 400 drivers?

7 MS. EPSTEIN: That's a large base.
8 The average size of bases is about 40 cars, that's
9 the average, 4-0. But there are a number of large
10 bases that I've spoken with so let's just use a
11 large base. Let's say a base with 200 or 300 cars
12 for a point of example. All right?

13 CHAIRPERSON LIU: Okay.

14 MS. EPSTEIN: So you want to say
15 that--

16 CHAIRPERSON LIU: [interposing] So
17 200 cars on the base, can we say that would be
18 about 400 drivers?

19 MS. EPSTEIN: It depends. We found
20 from our research that not that many of these cars
21 are double shifted but it can depend on the base
22 and how it works.

23 CHAIRPERSON LIU: You know what?
24 Let's make it conservative then. Let's say 100
25 cars, 150 drivers.

MS. EPSTEIN: Okay, sure.

CHAIRPERSON LIU: How fast could that base be shut down if a couple of drivers just did not follow the rules?

MS. EPSTEIN: I think I kind of serve a specific example. I can tell you that one of the things that we took off that was a point through conversations with a base owner was the idea of the vehicle owner getting a point for their driver doing a street hail. That was something that the bases felt very strongly they shouldn't be responsible for. If you look at our list of penalty points that still exist, really it's when the bases are dispatching a car that's illegal, dispatches that car, they get a point. And I think a passenger is expecting when they call base that they're going to have a legal car and a legal driver show up.

CHAIRPERSON LIU: When was that adjustment to the rules made? Was that on April 16th that that rule was revised?

MS. EPSTEIN: No, I think it was the week before that. We did on our web site when we changed them with the proposed rules, we showed

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2 the tracked changes of what we had changed. So we
3 changed probably about 13 different parts of the
4 rules that were posted on the web site.

5 CHAIRPERSON LIU: But is that the
6 only case that the base gets a point, the base
7 sending out an illegal car?

8 MS. EPSTEIN: If they're operating
9 while they are suspended or expired, they get a
10 point.

11 CHAIRPERSON LIU: If the driver is
12 operating the--

13 MS. EPSTEIN: [interposing] No, the
14 base. The base operates while they are suspended
15 or expired. I think what you're hearing, I'm
16 guessing from what you're saying from the bases is
17 some of the vehicle points. So when a vehicle
18 gets four points if it is affiliated with the
19 base, then that's when the base risks getting a
20 point from that vehicle's activity.

21 CHAIRPERSON LIU: And how many
22 points before the base gets closed down?

23 MS. EPSTEIN: Six.

24 CHAIRPERSON LIU: Six. Okay. And-

25 -

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2 MR. FRASIER: [interposing] If I
3 may add something, you asked about how long it
4 would take. If you think about the mechanics of
5 how the sums works also. So we catch a vehicle
6 operating without a license, suspended license.
7 We issue a summons, the summons is adjudicated.
8 The vehicle owner is found guilty, a point is
9 awarded. The base gets notice of the point. The
10 base now knows I have a vehicle with one point.
11 It happens a second time, same process, another
12 point is awarded, base gets another notice. I
13 have a vehicle with two points.

14 It seems to me at this point the
15 base ought to call in the vehicle owner and say
16 what are you doing out there? Third point
17 happens, third summons happens, another
18 adjudication, another point. That vehicle is
19 awarded a third point. At that point the base
20 says all right, we're disaffiliating you. We're
21 not going to have anything to do with you; you
22 don't know how to run a vehicle legally. They
23 don't get the four points - ever. So that base
24 will never get a point for that vehicle no matter
25 what that vehicle does thereafter.

CHAIRPERSON LIU: Okay. If a specific vehicle has three points already, they get kicked out of base A. And they somehow wind up with base B and then they get that fourth point. Do they get to reset from zero?

MR. FRASIER: No, the points will be on our web site so if base B affiliates that vehicle that already has three points I would suggest that's not that wise. We will be looking for that vehicle after it is disaffiliated by base A because if they're doing street work without being affiliated obviously that's illegal. If we find it, we seize it. We take it away and that will pretty much end that.

CHAIRPERSON LIU: So base stations will have full access to how many points each vehicle. Is it easy to identify each vehicle? Is it just their plate number?

MR. FRASIER: I guess we would have plate numbers or VINs I'm not sure.

CHAIRPERSON LIU: VINs.

MS. EPSTEIN: Plates, VINs or even our vehicle license number.

CHAIRPERSON LIU: Where does the

responsibility of the driver fall with regard to the vehicle owner?

MS. EPSTEIN: That was, I think apart from the penalty point system the other major change that these rules really do is holding the vehicle owner responsible for what that driver is doing. The base has a relationship formally with the vehicle owner, not with the driver so we feel that that vehicle owner should be accountable for what the driver is doing. The vehicle owner is responsible for making sure that that vehicle is operated by a licensed driver who is in good standing with the DMV and TLC.

CHAIRPERSON LIU: Is there any point system associated with the drivers that then get shifted over to the vehicle owner?

MS. EPSTEIN: It doesn't get shifted over but the driver is already going to be responsible for their points. They can have their licenses revoked as well but it doesn't get shifted to the vehicle owner.

CHAIRPERSON LIU: We have questions from Council Member Martinez. We have also been joined by Council Member Diana Reyna of Brooklyn

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2 and Queens.

3 COUNCIL MEMBER MARTINEZ: Thank you
4 Mr. Chair. I want to go back to your original
5 line of questioning because I, myself, went and
6 testified on the 16th and also signed on to the
7 letter that was sent out asking TLC to postpone
8 the vote, at least the vote not the hearing. I
9 was told by the Commissioner at that hearing
10 publicly that there wasn't going to be a vote.
11 There was no determination for a vote to take
12 place when I asked. So it was much to my surprise
13 that an actual vote took place.

14 Then later learning and now hearing
15 that a vote took place but the rules are not going
16 into effect. Now I'm confused, does the TLC need
17 to go back and vote a yes to implement the
18 hearings?

19 MR. FRASIER: The direction that
20 the Commission gave us in their vote was that if
21 the staff in evaluating the additional comments
22 that we might get during this additional time
23 feels that changes need to be made then we should
24 bring those back to the Commission. Obviously we
25 can't change the rules; only the Commission can do

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2 that. Otherwise our direction was we were to go
3 ahead and publish them in the city record, which
4 begins the process of promulgation.

5 COUNCIL MEMBER MARTINEZ: But when
6 do you do that? In other words, the vote was a
7 yes conditional but we won't make it public, which
8 means it will not go into effect, correct?

9 MR. FRASIER: No, it was public.
10 I'm not sure what you mean by that.

11 COUNCIL MEMBER MARTINEZ: The
12 rules.

13 MR. FRASIER: The rules are public;
14 they're on our web site. They were handed out at
15 the Commission hearing including all of the
16 changes. We did not publish them in the city
17 record because that's the thing you do that begins
18 the process of actually making them--

19 COUNCIL MEMBER MARTINEZ:
20 [interposing] That's what I meant, publishing it.

21 MR. FRASIER: Yes, they directed us
22 not to do that.

23 COUNCIL MEMBER MARTINEZ: So do
24 they have to convene again to vote on publishing
25 it.

MR. FRASIER: Not if the staff is not recommending additional changes.

COUNCIL MEMBER MARTINEZ: Do you have a deadline for it to be published?

MR. FRASIER: There's not a deadline for it to be published. There's a deadline of May 8th that was for the additional comments to be received.

COUNCIL MEMBER MARTINEZ: So when the Commission votes on rules, how long after the vote are those rules implemented by rule?

MR. FRASIER: Well it depends how--

COUNCIL MEMBER MARTINEZ:
[interposing] In other words, let me go back. What are the rules? What are the rules? Commission votes on rules, when do those rules go into effect after the vote?

MR. FRASIER: It's not a stated period of time. I have to explain the process. After the Commission votes, after the rules are approved, they then go to the law department for the statutory approval. Obviously how long that takes varies. Then they come back to us and we arrange for publication in the city record, that

time frame also varies depending on how backed up the city record is. Once they go in the city record, 30 days later they become effective.

Now, there's one other point that I need to make. Regardless of that process the rules have written into them a variety of effective dates. Since the big issue is the point system, the point system becomes effective I believe on August 1, 2009, assuming we go ahead and do it. In other words we deliberately set it up so there would be plenty of advance time for bases to set up processes, whatever they need to do. We're working with them to do it so that they can not accrue points, at least not by not knowing.

COUNCIL MEMBER MARTINEZ: Let me ask you in terms of process because you're doing an overhaul of the for hire vehicle rules, correct?

MR. FRASIER: It's a significant revision, yes.

COUNCIL MEMBER MARTINEZ: My understanding is also that the TLC has hired an outside consulting firm to work on this also,

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correct?

MR. FRASIER: No, that's actually a different project.

COUNCIL MEMBER MARTINEZ: Does it have to do with the for hire vehicles?

MR. FRASIER: No, it has nothing to do with this. That's a review of our rules. It's sort of a moving target. They've done them chapter by chapter and I think we've done six chapters so far. They actually were putting off the for hire vehicle chapter because we knew we were working on this substantive revision. Now-- well quite now, but as we are approaching finishing that they will then begin to take that up as part of that other rules revision. But no, the rules are not related.

COUNCIL MEMBER MARTINEZ: So you're saying now that this is done.

MR. FRASIER: Almost.

COUNCIL MEMBER MARTINEZ: Almost. Then the consulting firm will start working with this.

MR. FRASIER: This will become, then part of the rules that they're reworking,

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2 reorganizing and so on. Just for example, the FHV
3 rules unlike our taxi rules, have all the parts in
4 one chapter. It makes it very difficult, very
5 lengthy, very cumbersome to read. They are going
6 to be pulling out a separate chapter on drivers
7 and another chapter on vehicles and bases as they
8 have done in the other areas.

9 COUNCIL MEMBER MARTINEZ: So when
10 they get to this point, if they determine that
11 there needs to be changes on these rules that you
12 just approved, then we have to go back to the
13 drawing table.

14 MR. FRASIER: They are rewriting
15 the rules. Their expertise is plain language,
16 simple presentation and so on. So those rules
17 revisions will have to go before the Commission
18 even if they are not proposing any substantive
19 changes. This phase of the rules revision is
20 intended not to be substantive. We will be coming
21 back to the rules where substantive changes have
22 to be made but that, I have to say, is some months
23 in the future.

24 COUNCIL MEMBER MARTINEZ: Did TLC
25 have any deadline for which they had to vote on

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the 16th on these rules?

MR. FRASIER: There's no deadline, no. I did promise you when I came to talk you about the livery bill of rights bill that we were on the verge of promulgated rules that would include that. So we had made the commitment to move this ahead. We had actually made the commitment to our Commissioners to do it by January and we obviously didn't make that. So there was no legal deadline in that sense but this was important. We wanted to move it.

COUNCIL MEMBER MARTINEZ: By the way, I just want to say this for the record. In my meetings with members of the industry both from the for hire, the luxury, the limousines, black cars and so forth. There is one common denominator in each representative of the industry. And that is that they all, every single one of them from the base in Queens to the base in Brooklyn to the one in Washington Heights and the one in the Bronx, whether they are luxury or not, whether they are big or small, is that they want to abide by the rules. No one wants an industry that's not regulated and no one wants illegal

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2 vehicles in the street. No one is calling for
3 illegal hails, street hails, which usually is the
4 centerpiece to pin one industry against the other.
5 That's not the issue here.

6 The issue is establishing rules
7 that are fair, and that these times and in this
8 economy this is an industry that may be the only
9 option from professionals that are losing jobs to
10 non-professionals or newly arrived immigrants to
11 the City of New York. This may be the vehicle for
12 them to earn a living. The same is true that
13 whether you are a driver or you are a member of
14 owner, part owner base, everybody wants to make
15 sure that the industry is regulated. So I just
16 wanted to say that for the record.

17 However, I want to go and talk
18 about the point system, which already you said
19 that the base will not be getting a point for a
20 driver that's caught doing an illegal hail.
21 Correct, street hail?

22 MS. EPSTEIN: That's correct.

23 COUNCIL MEMBER MARTINEZ: However
24 the point system continues that if a driver
25 violates--first of all if the registration on the

1
2 vehicle expires, how is the base notified? In
3 other words, I'm a base owner, your DMV
4 registration expired, that's subject for a point,
5 right, if you're caught in the street driving.
6 Is that right?

7 MS. EPSTEIN: The vehicle can get a
8 point for picking up passengers if that vehicle
9 doesn't have proper registration, the vehicle.

10 COUNCIL MEMBER MARTINEZ: Yes, I
11 know, I'm following you, the vehicle. But how is
12 the base notified that that vehicle's registration
13 has expired? In other words using your example
14 that a driver is out there with an expired
15 registration, the base should call him in and say
16 hey, I'm not going to allow him to continue to
17 drive in my base because yours is expired. How
18 does the base know that his or her vehicle
19 registration has expired?

20 MS. EPSTEIN: They check the status
21 of that vehicle, which they'll be able to do on
22 our web site. Right now they can check already
23 all the TLC status and we're going to add the DMV
24 information to that.

25 MR. FRASIER: One of the changes we

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2 made in the rules is we added a provision that if
3 the license information on our web site is
4 inaccurate or delayed or incomplete, that is a
5 defense to the charge of dispatching an unlicensed
6 driver or vehicle, including we're going to--

7 COUNCIL MEMBER MARTINEZ:

8 [interposing] Hold on, you're giving me partial
9 information.

10 MR. FRASIER: I'm sorry.

11 COUNCIL MEMBER MARTINEZ: In other
12 words, TLC on their web site that the bases have
13 access to, will list the vehicles that
14 registration are expired or current, correct?

15 MR. FRASIER: Actually it's the
16 other way around. We already do list the ones
17 that are current. What we're going to be adding
18 is we're talking to DMV about downloading their
19 information and putting it on the web site. If
20 for any reason that doesn't work, obviously that
21 defense will always apply. In other words no one
22 will ever get a point for dispatching a--

23 COUNCIL MEMBER MARTINEZ:

24 [interposing] So in other words if DMV's
25 information is not current--

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2 MR. FRASIER: [interposing] On our
3 web site.

4 COUNCIL MEMBER MARTINEZ: On your
5 web site, that's a defense for the base to fight
6 not getting that point?

7 MR. FRASIER: I should refine it
8 just a little bit. In other words if that car is
9 shown up and that car is not valid and we nail you
10 for being not valid, the fact that it was wrong on
11 our web site will be a defense. That's right.

12 COUNCIL MEMBER MARTINEZ: Correct.
13 So that clears that out. Going back to the
14 vehicle accumulating, after four points is when
15 the base gets a point.

16 MS. EPSTEIN: Correct.

17 COUNCIL MEMBER MARTINEZ: Correct.
18 What's the protection for base against a virus?

19 MS. EPSTEIN: I'm sorry I don't
20 understand that. What do you mean?

21 COUNCIL MEMBER MARTINEZ: Let's say
22 I have a base that has about 300 cars or 200 cars.
23 In that 300 drivers, there are four drivers who
24 are consistent violators. In a month a base could
25 be shut down if they each get four points

MS. EPSTEIN: The way that it would play out, so say--

COUNCIL MEMBER MARTINEZ:
[interposing] Is that a possibility?

MS. EPSTEIN: I don't believe so because--

COUNCIL MEMBER MARTINEZ:
[interposing] Why not?

MR. FRASIER: You must, I guess, have been out of the room when I explained this. You have to factor in the adjudications process to this. In other words, one violation happens, one summons is issued, on adjudication occurs, violation sustained, point issued. Base gets notification of the point. Now, I have a vehicle with one point. Second time same process, another notice. As I said before I think at that point the base owner calls the vehicle owner in and says you're having a problem. I need you to deal with this.

The third time it happens the base, I think, calls the vehicle owner in and says I'm disaffiliating you. You can't run a league car.

COUNCIL MEMBER MARTINEZ: At all

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times the base will be notified...

MR. FRASIER: Every time.

COUNCIL MEMBER MARTINEZ: ...as
soon as the summons is issued?

MR. FRASIER: Absolutely. No, no,
no, not when the summons is issued, when the point
is awarded. I don't think we notify when the
summons is issued. I think it's when the point is
awarded against the vehicle. Obviously the base
is notified when a summons is issued against the
base but not when a summons is issued against the
vehicle owner.

COUNCIL MEMBER MARTINEZ: I thought
the summons was issued as soon as he--the point is
issued as soon as the driver is found guilty of
the violation?

MR. FRASIER: When you say the
driver, it's really the vehicle owner.

COUNCIL MEMBER MARTINEZ: The
vehicle, the driver, yes.

MR. FRASIER: When they're found
guilty, right.

COUNCIL MEMBER MARTINEZ: It's
difficult for me because a car doesn't drive

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MR. FRASIER: Right but the summons is issued to the vehicle owner because if the driver is issued a summons I don't believe the vehicle owner gets points. Right?

MS. EPSTEIN: Let me just say that in the industry there are a couple of different scenarios. There's the owner operator and then there's also the vehicle owner corporation which leases out the cars to a licensed driver.

COUNCIL MEMBER MARTINEZ: No, I understand that. Just--

MS. EPSTEIN: [interposing] So the summons is going to the vehicle owner you may or may not be the driver.

COUNCIL MEMBER MARTINEZ: I'm trying to understand when and what takes into effect. I'm pulled over by enforcement. Enforcement issues a summons.

MS. EPSTEIN: To the vehicle owner.

COUNCIL MEMBER MARTINEZ: To the vehicle owner, which then the vehicle owner goes into the--

MS. EPSTEIN: [interposing] To

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court.

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COUNCIL MEMBER MARTINEZ: To court.

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When that person is found guilty in that court...

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MS. EPSTEIN: There is one point

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issued.

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COUNCIL MEMBER MARTINEZ: That's

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when the point is issued.

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MS. EPSTEIN: Yes, if there's a

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guilty finding.

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COUNCIL MEMBER MARTINEZ: No, the

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vehicle.

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MS. EPSTEIN: Vehicle owner.

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COUNCIL MEMBER MARTINEZ: The

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vehicle gets a point.

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MS. EPSTEIN: The vehicle gets a

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point.

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MR. FRASIER: Correct, the vehicle

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gets the point.

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COUNCIL MEMBER MARTINEZ: The

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vehicle gets a point.

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MS. EPSTEIN: Only the vehicle

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points are the ones that affect the base.

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COUNCIL MEMBER MARTINEZ: Then at

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that point when the vehicle gets the point is when

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the base is notified.

MS. EPSTEIN: Yes, the base is notified.

COUNCIL MEMBER MARTINEZ: Vehicle X, VIN number X.

MS. EPSTEIN: License number X, yes.

COUNCIL MEMBER MARTINEZ: Was issued a point.

MS. EPSTEIN: Yes.

COUNCIL MEMBER MARTINEZ: Second time same thing. Vehicle X.

MS. EPSTEIN: It has to be the same vehicle.

COUNCIL MEMBER MARTINEZ: Same vehicle. Vehicle X, VIN number, second point issued to the base. So you're saying then it's the base's responsibility to pull that guy out and disaffiliate. Were there any changes to--

MS. EPSTEIN: [interposing] It's also the vehicle owner's responsibility because if the vehicle owner is not the driver, the vehicle owner is leasing that car to a driver. The vehicle owner knows as soon as that summons

happens and they should speak with the driver as well.

COUNCIL MEMBER MARTINEZ: So you'll be notifying the owner of the corporation if it's a corporation.

MS. EPSTEIN: Well, they're the ones that have to appear in court.

COUNCIL MEMBER MARTINEZ: That's right, not the driver. Wait, let's go back to that. So then what is the accountability for the driver?

MS. EPSTEIN: The driver would be written summons for the driver violations.

COUNCIL MEMBER MARTINEZ: So then you will have two--

MS. EPSTEIN: [interposing] These rules don't deal with that, that's why it hasn't come up. But if you're talking about a vehicle expired registration, is that what you?

COUNCIL MEMBER MARTINEZ: No, no, no. You're going to have two individuals in court. You're going to have the vehicle owner and the driver?

MS. EPSTEIN: It depends on the

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violation.

MR. FRASIER: On point violations,
that's correct.

COUNCIL MEMBER MARTINEZ: What's
correct, what she said or what I said?

MR. FRASIER: What you said. If
the driver does something that is also a point
violation.

COUNCIL MEMBER MARTINEZ: A point
violation, yes.

MR. FRASIER: A summons would be
issued to the driver for what the driver did and a
summons would be issued to the vehicle owner for
the point.

COUNCIL MEMBER MARTINEZ: Correct
because if you're driving with an expired
registration, the driver is going to get a
summons, right?

MR. FRASIER: Right. Apparently
that's not right. The driver doesn't get a
summons. It's the vehicle owner who is obligated
for registration.

MS. EPSTEIN: We're not sure.

MR. FRASIER: If on the other hand

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2 you're talking about an expired drivers license
3 then the driver would get a summons and the
4 vehicle owner would get the point.

5 COUNCIL MEMBER MARTINEZ: What I'm
6 getting at, at what point do you hold the violator
7 accountable? In other words, and I don't know if
8 you were referring to what I just said you're not
9 dealing with that now. But if you have a driver
10 behind the wheel, who is the guy driving an
11 expired. It doesn't matter, for example, if the
12 police stops you, I'll give you an example and
13 your registration is expired. You're going to get
14 a summons whether you're the owner of the vehicle
15 or not. Now if TLC stops a driver with an expired
16 registration does the driver get a summons?

17 MR. FRASIER: I don't know the
18 answer to that and it hasn't changed in these
19 rules. These rules don't affect that.

20 COUNCIL MEMBER MARTINEZ: That
21 doesn't deal with that.

22 MR. FRASIER: No, not at all.
23 Whatever the answer was before is still the
24 answer. I can tell you this, if the driver does
25 not have a driver's license he is arrested.

COUNCIL MEMBER MARTINEZ: Correct.

MR. FRASIER: So the accountability of the driver is pre-existing. We did not do anything to decrease or increase the accountability of the driver. What we're doing in these rules is accountability to vehicle owners and bases. Now there are some exceptions to that--

COUNCIL MEMBER MARTINEZ:

[interposing] So when you speak about increasing the fines, you're increasing the fine to whom?

MS. EPSTEIN: For the vehicle owner and the base owner, it depends on the violations. All the rules have different fines that can be associated with them.

COUNCIL MEMBER MARTINEZ: In terms of when you want to get someone out of your base, you want to disaffiliate them. What are the rules on that? Do you still have to continue to do--I believe the rules talked about certified mail and notification of the driver? What's the rule?

MS. EPSTEIN: There are two ways that the base can de-affiliate the vehicle. They can either get that vehicle owner to sign a form

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2 acknowledging that they understand they are being
3 de-affiliated. Both the base owner and the
4 vehicle owner sign that. They can send certified
5 mail a letter to the vehicle owner they are de-
6 affiliated and that goes into effect immediately.

7 COUNCIL MEMBER MARTINEZ: You don't
8 have to wait for a response to the driver to
9 disaffiliate?

10 MS. EPSTEIN: No.

11 COUNCIL MEMBER MARTINEZ: My other
12 question and I'll turn it over, so what happens to
13 another industry that's being impacted by this?
14 Which is I'm leasing a vehicle and I'm going to
15 pay a lease or the financing, I'm going to pay for
16 it. Particularly in the black car, which are
17 luxury vehicles, you're leasing the vehicle and is
18 the VIN number that's being, the vehicle that's
19 being taken out of circulation. When they come to
20 the point where they can not continue, which is
21 four, five?

22 MS. EPSTEIN: Four.

23 COUNCIL MEMBER MARTINEZ: Four for
24 the vehicle, what happens to that vehicle then?
25 In other words, there was a driver of a vehicle in

1
2 X base that reached four points, if that industry
3 takes that vehicle back and resells the vehicle to
4 another driver, would that vehicle be allowed to
5 come back in?

6 MS. EPSTEIN: Yes, but if that
7 vehicle when it reapplies for a license, if any of
8 the new owners were a partner or shareholder in
9 that old license, they're going to be called in
10 for a fitness hearing. TLC will just ask do you
11 understand what this car is going to be doing,
12 what the rules and regulations are, that kind of
13 thing.

14 COUNCIL MEMBER MARTINEZ: I didn't
15 know that answer. Finally you tell me you may say
16 the same thing, you're not dealing with that now.
17 But a driver that is a consistent violator because
18 the objective is to get these violators off the
19 street. A driver who is a consistent violator,
20 how do you prevent him from going to base X to
21 base B?

22 MS. EPSTEIN: Persistent Violator
23 Program so drivers already get points for certain
24 violations and when they get too many points their
25 license get revoked. So it doesn't matter--

COUNCIL MEMBER MARTINEZ:

[interposing] So you're going to track drivers also?

MS. EPSTEIN: We do track drivers. That already exists.

COUNCIL MEMBER MARTINEZ: I'm going to stop then and I'll come back later on. Thank you.

CHAIRPERSON LIU: Thank you very much. Okay, we have questions from Council Member Reyna. We've been joined by Council Member Dan Garodnick of Manhattan and also before Council Member Gale Brewer of Manhattan. Because Council Member Garodnick has arrived, a member of this committee we are going to move this hearing into the City Council chambers.

The hearing room was full. The hearing that was taking place in this Council chambers before ran a little bit late. I know that a lot of people have been waiting patiently to take part in today's hearing so thank you very much for your patience. My name is John Liu I have the privilege of chairing the Transportation Committee of the City Council. We have convened

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2 today's hearing for the purpose of examining the
3 new for hire vehicle rules as promulgated by the
4 Taxi and Limousine Commission a couple of weeks
5 ago on April 16th.

6 We are just trying to move this
7 hearing along as quickly as possible. We have
8 questions now from Council Member Reyna, Diana
9 Reyna of Brooklyn and Queens.

10 COUNCIL MEMBER REYNA: Thank you
11 Mr. Chair. I just wanted to take an opportunity
12 to just understand. After these rules are going
13 to be promulgated and made public into the city
14 record, there's going to be a handout eventually?

15 MS. EPSTEIN: I think what you
16 might be referring to is the outreach that we have
17 planned when and if the rules are finalized and
18 published. My office is coordinating a really
19 large outreach plan with a number of people that
20 are here today that represent the industry. We'll
21 be wanting to work with your offices and community
22 boards and make sure that the passengers
23 understand what's coming, the drivers under what's
24 coming, the vehicles understand and the bases as
25 well.

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2 There are a variety of dates that
3 we've proposed as effective dates. There are
4 different effective dates for different parts of
5 the rules. So we want to make sure everyone knows
6 what's coming. My office has envisions putting
7 together a very brief handout which hits upon what
8 we think are going to be the most important things
9 to industry members and members of the public.
10 Yes.

11 COUNCIL MEMBER REYNA: Okay, so
12 there's something that we're going to be able to
13 reference. Because it's the fine print, just in
14 the testimony alone to try to follow each category
15 as far as whether it's the base versus the driver
16 versus the vehicle owner. We still have three
17 different distinct categories that we have to keep
18 up with. Amongst each category there's fine
19 print, a system that will mesh with the new point
20 system in place that you hope to enforce.

21 Currently you mentioned there are
22 summons that are issued by TLC inspectors. And
23 you said there were points that are associated to
24 that driver or vehicle owner but the base had
25 never received a point, correct?

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2 MS. EPSTEIN: The point system for
3 both vehicle owners and bases is new. There is
4 already a point system in place for drivers.

5 COUNCIL MEMBER REYNA: So currently
6 there is only point system in effect for drivers
7 only.

8 MS. EPSTEIN: Right now, yes.

9 COUNCIL MEMBER REYNA: And the need
10 for a point system for vehicle owner and the base
11 is to achieve what?

12 MS. EPSTEIN: It's to hold
13 persistent violators accountable and the penalty
14 points are received for the most serious
15 violations, like operating an illegal vehicle, a
16 driver being illegal, not having a license. It's
17 really for the points that we feel endanger the
18 public and we want to keep the public safe.

19 COUNCIL MEMBER REYNA: And you
20 don't feel you're keeping the public safe
21 currently with the system you have now?

22 MS. EPSTEIN: I mentioned earlier
23 that as a passenger who lives in Brooklyn and a
24 lot of my friends and family takes these cars. I
25 don't think passengers know when a vehicle is

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2 legal or illegal. I know and my base knows that I
3 work for TLC. Some of the base owners here are
4 going to laugh because I told them this story and
5 we get into arguments all the time because they
6 try to send me illegal cars. If they're sending
7 me illegal cars, I have to believe they are
8 sending everyone illegal cars and that really
9 concerns me.

10 COUNCIL MEMBER REYNA: What is the
11 attempt to catch the illegal cars if the system
12 that's currently not working, what is it that's
13 not working now that's not catching these illegal
14 cars?

15 MS. EPSTEIN: I would say the
16 biggest thing is that passengers are getting in to
17 whatever car shows up. So passengers are smart,
18 given the option to choose between something they
19 know is legal and they know is not legal; if they
20 have the option of getting into either one,
21 they're always going to choose the legal car. So
22 what these rules really lay out is a way for
23 passengers to recognize what is legal and illegal
24 in a very obvious way.

25 COUNCIL MEMBER REYNA: How does a

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2 point system recognize that? What is it that
3 we're changing with the new rules to make that
4 customer friendly, viable identification of
5 entering or exiting a vehicle that is registered,
6 that has a licensed driver, both drivers license
7 DMV as well as for hire vehicle?

8 MS. EPSTEIN: It gives the TLC
9 really the teeth to get those people out of the
10 system. For example, if the vehicle--the points
11 is the TLC's answer to someone that gets illegal
12 service. But for a passenger they're going to be
13 looking for a few things that are in these rules.
14 There will be three decals, one is on the
15 windshield where the cars currently have a diamond
16 sticker and there will be two more decals in each
17 rear corridor window on either sides. So the
18 passenger when they open that door they will see a
19 sticker that says this vehicle is licensed by TLC.

20 COUNCIL MEMBER REYNA: And you
21 don't have that right now?

22 MS. EPSTEIN: We don't have that
23 now.

24 COUNCIL MEMBER REYNA: Why would
25 you need a point system if the attempt is to

1
2 encourage more passenger safety and the integrity
3 of the bases to remain intact as well as those
4 vehicles registered to provide a service? But in
5 fact the point system is more an additional layer
6 to penalize small business as opposed to encourage
7 public safety.

8 MS. EPSTEIN: There are other
9 things that we want passengers to recognize, like
10 the posting of a drivers license--

11 COUNCIL MEMBER REYNA:
12 [interposing] Just one second, as far as the
13 decals are concerned that do not exist right now.
14 How much is this going to cost each, whether
15 that's the vehicle owner or is it a cost on the
16 vehicle base or is it a cost on both the driver
17 and the vehicle owner--

18 MS. EPSTEIN: [interposing]
19 Nothing.

20 COUNCIL MEMBER REYNA: Nothing so
21 TLC at no cost--

22 MS. EPSTEIN: [interposing] TLC
23 will pay for those decals.

24 COUNCIL MEMBER REYNA: And those
25 are three decals per vehicle.

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2 MS. EPSTEIN: Yes. In terms of the
3 question about the penalty points, there are bases
4 that consistently send illegal cars and illegal
5 drivers to pick up passengers that call for
6 service. These penalty points enable us to get
7 rid of those bases, that those bases are gone and
8 the bases that are good bases that only dispatch
9 cars that are in good standing and that are
10 licensed--

11 COUNCIL MEMBER REYNA:
12 [interposing] Stay right there because it's my
13 understanding that at each base there is supposed
14 to be a log of each call.

15 MS. EPSTEIN: Yes.

16 COUNCIL MEMBER REYNA: Wasn't that
17 system created to catch where there is a call to
18 make sure that there are no illegal runs as far as
19 dispatched calls or call ins that are dispatching
20 illegal cars?

21 MS. EPSTEIN: The bases have to
22 keep those logs but having to keep that log alone
23 doesn't give the TLC the ability to say when that
24 base renews, their dispatch logs were not good.
25 We're not going to renew their license. These--

COUNCIL MEMBER REYNA:

[interposing] So there's no need for a long
anymore?

MS. EPSTEIN: No, no, there is. We
haven't changed that rule. Those are going to
continue. The points deal with a little bit of a
different issue which is that our Commissioners
for a number of years now have been concerned and
expressed concern to staff and to people that come
to our public meetings that they don't have an
objective standard for bases. I've heard this
from some representatives of Council Member's
office too. You guys get notified when a base is
renewing their license. If that base has
consistently sent illegal cars or illegal drivers,
that still does not in the current set up of our
rules, give us the ability or our Commissioners
the ability to say we don't want this base
anymore. It--

COUNCIL MEMBER REYNA:

[interposing] That's because you haven't been able
to identify those chronic situations?

MS. EPSTEIN: No, if they fill out
their applications properly and they get the

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2 approvals that they need, they continue to be
3 licensed.

4 COUNCIL MEMBER REYNA: No, but I'm
5 referring to the chronic violators that you have
6 identified, Commissioners are expressing to TLC.
7 Where in the system do they exist so that they
8 continue to be identified and associated to a
9 particular base? But that particular driver, if
10 they're the chronic violator, can jump from one
11 base to the next. So this point system is going
12 to assist you to identify this chronic violator or
13 is this chronic violator a person that you have
14 not been able to identify consistently? So that
15 the base is not going to suffer the consequences
16 but only the driver.

17 MS. EPSTEIN: The driver is not
18 affected in terms of his violations and his
19 penalties. These rules don't change the driver
20 standard. Right now the driver already has a
21 system of points that govern the behavior. If
22 they violate our rules and get too many points or
23 too many DMV points, their license can be revoked.
24 These rules and the penalty points apply to the
25 vehicle owner and the base owner. So if the

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2 vehicle owner has illegal drivers or if the
3 vehicle don't get inspected of that vehicle
4 doesn't have a TLC license and is picking up the
5 public on the street, they can get points for
6 that. The base, if the base is dispatching a
7 vehicle that is doing those behaviors can also get
8 points.

9 So this is a response to our
10 Commissioners and many other members of the public
11 and the industry at large that said there are
12 these bases that continually do these illegal
13 things and I have to compete with them. How am I
14 supposed to do that when I'm trying to comply with
15 all your rules and regulations. Now we can say to
16 a base, you're not paying attention, you clearly
17 don't care, you have these points, you're out.
18 That means that they won't be showing up that they
19 won't be able to renew their license.

20 COUNCIL MEMBER REYNA: Explain to
21 me right now there is nothing to identify those
22 chronic violators as far as the base is concerned-
23 -

24 MS. EPSTEIN: [interposing] We
25 could do a run. For example say there's a base

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2 that's up for renewal and this base, our licensing
3 staff does a print out every time that they bring
4 a base station renewal in front of the
5 Commissioners to decide if they're going to accept
6 or deny that application. When they see all the
7 violations, even if they see a lot of the same
8 violations over and over and over again, there is
9 no objective standard. So Commissioners can not
10 say, well we think that this base has sketchy
11 business practices, we want to get rid of them.

12 If they have done all of their
13 application requirements and gotten the approvals
14 that they need, that base moves forward. This
15 will now give the Commissioners the ability to say
16 this base had six points, they're out.

17 COUNCIL MEMBER REYNA: But it's a
18 weighted system of points that's reflecting three
19 different categories. Currently the
20 responsibility, the ownness of good practice of
21 the industry is falling on the driver is what you
22 are expressing to me, only. And we want to now
23 hold, as a TLC administrative governing body over
24 the industry, to hold all three categories
25 responsible.

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2 MS. EPSTEIN: Yes, I think it's
3 fair to say that TLC believes that the drivers,
4 the vehicles and the bases are all accountable for
5 providing safe service to the public.

6 COUNCIL MEMBER REYNA: But they're
7 providing safe service now with the exception of
8 chronic violators who are those identified through
9 enforcement.

10 MR. FRASIER: I think if I
11 understand your question correctly I think the
12 answer is yes. Most of the bases do, in fact,
13 provide safe service. I think in fact just to
14 address one point that has been raised at
15 different times. There is some concern that the
16 large bases because they have so many vehicles and
17 so many drivers will be especially at risk.
18 That's not our experience. Our experience is that
19 the large bases--

20 COUNCIL MEMBER REYNA:
21 [interposing] Wait, how can you have experience if
22 you don't have a system right now.

23 MR. FRASIER: We don't have a point
24 system

25 COUNCIL MEMBER REYNA: That gives

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2 you the ability to identify who is violating and
3 who is not.

4 MR. FRASIER: You're not allowed
5 today to drive without a license. It's just the
6 base doesn't get points for it.

7 COUNCIL MEMBER REYNA: The license
8 concerning a driver.

9 MR. FRASIER: Driver, vehicle
10 registration, DMV drivers license, TLC drivers
11 license, DMV vehicle registration, TLC vehicle
12 registration. But if I may finish my thought--

13 COUNCIL MEMBER REYNA:
14 [interposing] Those are the standards that you
15 have amongst--

16 MR. FRASIER: [interposing] If I
17 may finish my thought, we have done a computer run
18 that compiles the number of violations that would
19 have been accrued by vehicle owners and bases if
20 this system had been in place. We found that
21 without fail, none of the large bases were in it.
22 None of the 100 largest bases, not a one of them
23 was in it. In other words our experience is that
24 the large bases are well run. It's the smaller,
25 if I may say, fly by night bases that are going to

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have problems and that's the point.

COUNCIL MEMBER REYNA: So the smaller bases have been identified as being the chronic violators.

MS. EPSTEIN: Some of them, yes. There is a small number of them but yes, they are.

COUNCIL MEMBER REYNA: So if there's a small number and you already know who they are, why are you not just holding, within the current system, them accountable? Just not renewing their--

MR. FRASIER: [interposing] That's exactly why we need these rules. We don't have rules to permit that.

COUNCIL MEMBER REYNA: But you do have rules.

MR. FRASIER: We have rules that make it a violation for the driver to drive without a license. We do not have rules allowing us to revoke a base because the base chronically allows drivers who are unlicensed, that's the reason we need these rules.

COUNCIL MEMBER REYNA: That's what I'm leading in to. My colleagues to the left and

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2 right of me are just commenting how we vote on
3 these licenses so we could turn them down. You
4 ask us and you send us, you communicate through
5 message that these are the bases looking for
6 renewal license. I know I, in particular, call my
7 precinct as well as my community board to find out
8 if there are any complaints within their records
9 concerning any base looking for a renewal.

10 MR. FRASIER: Right and these
11 rules--

12 COUNCIL MEMBER REYNA:
13 [interposing] The one agency I don't hear or
14 submit any type of complaints registered through
15 your department is TLC's. You don't submit any
16 supporting document of any violators or any
17 chronic violators. It would be helpful if you did
18 because if you are claiming there are and they do
19 exist then communicate not just the name and
20 address and Council district but also the
21 supporting documentation that we have a problem
22 with a particular--

23 MR. FRASIER: [interposing] I'll
24 certainly pass that along/

25 COUNCIL MEMBER REYNA: We can stop

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2 those particular chronic violators today, right
3 now, at every stated meeting, if that's the
4 problem. We don't need a point system to do that.

5 MR. FRASIER: Our concern from our
6 point of view, obviously we don't make your
7 determination, we make ours. Our concern from our
8 point of view is we don't have rules that would
9 objectively create a standard for rejection based
10 on past violations. That's the reason for these
11 rules. It's precisely out of that process of
12 approving base licenses and forwarding them on to
13 you for your further approval that began four
14 years ago last January that led to these rules.
15 That's exactly how these develop.

16 COUNCIL MEMBER REYNA: These rules
17 exist already.

18 MR. FRASIER: No, no, these rules
19 are new.

20 COUNCIL MEMBER REYNA: The rules of
21 having a license for a base is new?

22 MR. FRASIER: No.

23 COUNCIL MEMBER REYNA: For hire
24 vehicle license is new?

25 MR. FRASIER: No, but there is no

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2 rule that says based on a bad record we can deny
3 you a renewal. And that rule by itself just
4 wouldn't be sufficient anyway, it would have to
5 quantify and objectify what constitutes a bad
6 record. That's what these rules do, that's the
7 point of these rules.

8 COUNCIL MEMBER REYNA: If I may,
9 because we could go on and on about this
10 particular point. Was there ever a conversation
11 concerning a tier system? You mention and
12 recognize large versus small. How will you
13 quantify a point system that's not going to regard
14 numbers of vehicles within a base and number of
15 drivers in to tiers so that at least six points
16 accumulated and you're going to suspend your base
17 license to operate is equal to a 20 car base as
18 well as equal to a 1,000 car base.

19 MS. EPSTEIN: We did talk about
20 this extensively. I just want to make one
21 clarification about the points for the bases.
22 With the one exception, bases accrue points
23 regarding base specific activity. So it's about
24 bases operating while suspended or expired, that
25 has nothing to do with the number of vehicles that

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they have--

COUNCIL MEMBER REYNA:

[interposing] If you could just stay there, that's what I'm trying. That's currently a rule.

MS. EPSTEIN: It's a rule but they don't get a point. Now while we--

COUNCIL MEMBER REYNA:

[interposing] It's still a rule, right?

MS. EPSTEIN: Certainly it's a rule however myself and Commissioner Weiss we run the licensing division. We oversee all licenses, renewal licenses. We oversee the base unit which puts together the packages, which go to the Commission, which subsequently come to the Council. Right now it's currently very difficult for the staff without any threshold or baseline to determine a recommendation to the Commission or to the Council as to whether or not they would approve or deny a renewal application for a base.

As general counsel Frasier pointed out, we started in 2005 this discussion and this process. I was at the beginning of that discussion. A lot of the points, well there's not even that many points but several of them are in

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2 regards to solely the base activity and it's not
3 about the vehicles but I can discuss the vehicles
4 as well.

5 COUNCIL MEMBER REYNA: But you have
6 to appreciate the factor of probability. If you
7 have 100 cars in a base versus 10 cars in a
8 different base, where is the higher probability
9 that there are going to be accumulated points.

10 MR. FRASIER: I understand the
11 theory if it's random selection but it's not and
12 that's what we discussed--

13 COUNCIL MEMBER REYNA:
14 [interposing] But you enforce--

15 MR. FRASIER: [interposing] If I
16 may answer your question, we had that comment from
17 a number of people, large bases were concerned
18 they would be especially at risk. We took that
19 very seriously. We did a computer run to
20 determine if these points had been in place for
21 the last three years how many bases would have had
22 trouble. As I said we found, without exception,
23 they were not the largest bases. The reason is
24 very simple, the large bases is the reason they
25 got large is they are competitively successful.

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2 They are good businesses. They are--

3 COUNCIL MEMBER REYNA:

4 [interposing] General counsel, let me just--
5 presenting your argument, we'll then have an
6 additional question that I would have to ask.
7 That's based on a run of bases that were equally
8 enforced.

9 MR. FRASIER: Yes, we don't go out
10 looking for cars that are from particular bases.

11 COUNCIL MEMBER REYNA: You want me
12 to accept the answer of we did a run. But if none
13 of the large bases were based on one visit of
14 enforcement from TLC inspectors. And I'm just
15 speculating here. Versus a smaller base that has
16 been visited perhaps ten times in one year.

17 MR. FRASIER: The points wouldn't
18 occur from base visits, they would occur from
19 stops of vehicles in the field that are driving
20 without licenses and so on. We do visit bases but
21 that would not be how points would be accrued.

22 COUNCIL MEMBER REYNA: Currently
23 would not be.

24 MR. FRASIER: Under these rules.

25 COUNCIL MEMBER REYNA: Right,

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2 currently because you don't have rules that exist.
3 The old system did not exist--

4 MR. FRASIER: [interposing] There
5 were no points for bases under the old system,
6 yes.

7 COUNCIL MEMBER REYNA: Correct.

8 MR. FRASIER: But even under this
9 system.

10 COUNCIL MEMBER REYNA: But now
11 there is.

12 MR. FRASIER: The points accrued to
13 bases by events that don't happen, we do not
14 detect by visiting the base.

15 COUNCIL MEMBER REYNA: It's going
16 to be accrued by enforcing drivers and the
17 vehicles they're operating.

18 MR. FRASIER: The vehicle
19 operations are detected in the field, that's
20 right.

21 COUNCIL MEMBER REYNA: And so the
22 use of a vehicle out there, if it's running 24
23 hours, 7 days a week, the higher probability.

24 MS. EPSTEIN: Only if they're doing
25 illegal activity. I'm sorry. I just want to say

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2 only if they're doing illegal activity. If
3 they're following all the rules, they will be
4 fine.

5 COUNCIL MEMBER REYNA: But that's
6 the case now.

7 MS. EPSTEIN: They're not all
8 following the rules and that's why we're proposing
9 this.

10 COUNCIL MEMBER REYNA: Your system
11 as far as public safety to ensure they are
12 following. What rule doesn't exist right now that
13 measures up to what you're describing?

14 MS. EPSTEIN: The vehicle owner
15 accountability rules that are the new rules, those
16 do not already exist in all of our rules. And the
17 base owner rules, many of them already exist but
18 the penalties for some of the rules that we feel
19 are most important and affect passenger safety are
20 higher. And of course, the penalty point system
21 is new for both. So we do feel that that will
22 enable us as an agency to hold bases and vehicle
23 owners more accountable.

24 COUNCIL MEMBER REYNA: To hold
25 agencies and vehicles more accountable.

MS. EPSTEIN: Vehicles and bases.

COUNCIL MEMBER REYNA: Vehicles and bases more accountable.

MR. FRASIER: If I may put it in a different way, fines have proved to be inadequate. So therefore a point system that in an extreme case runs up to revocation is what these set of rules would do.

COUNCIL MEMBER REYNA: Based on what?

MR. FRASIER: Based on the fact that fines have been inadequate. We have unacceptable levels of illegal activity. I don't know that anyone disputes that. Obviously therefore the fines that we have in place have not resolved that.

COUNCIL MEMBER REYNA: The fines have not resolved it and the points will but based on what?

MR. FRASIER: I'm not sure on what you mean.

COUNCIL MEMBER REYNA: Did you study this? Did you pilot it? What are you--

MR. FRASIER: [interposing] No, we

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did not pilot it.

COUNCIL MEMBER REYNA: What are you basing your presumption that the point system is going to work better than fines?

MR. FRASIER: I can tell you actually anecdotally that even just proposing the rules has resulted in bases paying more attention than they did before to the license status of their vehicles and drivers.

COUNCIL MEMBER REYNA: Sure, they're going to go out of business is what they're fearing.

MR. FRASIER: That's the point. We want them to pay attention to who they are dispatching. And if they don't they should lose their licenses. Again, perhaps we disagree about that but that's our position. If a base or a vehicle owner can't--

COUNCIL MEMBER REYNA:
[interposing] But no one wants to harbor an illegal driver or an illegal vehicle.

MR. FRASIER: Unfortunately that's not the case. I'm sure everyone in the audience today, as Chairman Liu said, it's the law abiding

ones that come to the hearings. Unfortunately they're not the ones we're dealing with.

MS. EPSTEIN: And I just would like to add that a lot of the base owners that are here today who are law abiding for years and years. I've been at the TLC almost four years have been complaining to me that they have a very hard time competing with bases that consistently break our rules because it costs them more to run their businesses legally. So we want to even out the playing field and get those bad businesses off the street so that these bases can compete fairly.

COUNCIL MEMBER REYNA: And yet you continue to issue licenses to these chronic violators?

MS. EPSTEIN: Because we have no way to get them out, that's why we've proposed these rules.

COUNCIL MEMBER REYNA: Thank you Mr. Chair.

CHAIRPERSON LIU: Thank you Council Member Reyna. A quick follow up question, what ha--

COUNCIL MEMBER REYNA:

1 [interposing] I'm sorry, John.

2 CHAIRPERSON LIU: Yes.

3 COUNCIL MEMBER REYNA: I apologize
4 Mr. Chair. The one question I just wanted to
5 clarify after asking the tier question. Obviously
6 there is no tier system that you've created
7 because you want one grouping of a six point base
8 suspension. If you receive six points against the
9 base, you're shut down. Now is that just for the
10 license period and then will then that base
11 reopen?
12

13 MS. EPSTEIN: If their base gets
14 shut down, they can apply for a new license. If
15 it's somebody that has held a license in the past
16 and their license was revoked, the TLC will call
17 them in for a fitness hearing to make sure they
18 are fit to hold the license and they will make a
19 better effort to abide by our rules and
20 regulations the second time around.

21 MR. FRASIER: We should not be
22 unclear about this. If a base is revoked and then
23 immediately applies for a new license, their
24 prospects of getting one is not good.

25 COUNCIL MEMBER REYNA: I'm glad you

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2 mentioned that because then I was going to follow
3 that with what's the point then of having this
4 whole point system and holding a base accountable
5 if we're going to reissue a license that we're
6 right now you're letting us know is flawed because
7 we have no way of holding them accountable. So
8 once you lose and your license is suspended, the
9 unlikelihood is higher to get it renewed

10 MR. FRASIER: Yes, what I would
11 expect to happen is the base owners might sell the
12 base to new owners who would then come in when
13 they apply for a license and be subjected to a
14 fitness hearing. They would then presumably say
15 we are new people, we understand the rules. They
16 would then have a much more reasonable prospect of
17 getting a license. But the people who ran the
18 base badly would not and I think should not have a
19 good chance of getting a license quickly, in the
20 short run.

21 COUNCIL MEMBER REYNA: You would be
22 able to detect because you have all these points
23 associated to each category, whether that's a
24 base, a vehicle owner or a driver, whether it's a
25 different name or not. Identify who the base is

1
2 affiliated with.

3 MR. FRASIER: That's right, it
4 isn't the corporate name that controls. It's the
5 shareholders, the officers, the principals and so
6 on behind the corporation.

7 COUNCIL MEMBER REYNA: And the
8 vehicle identification number to those associated
9 with the vehicles.

10 MR. FRASIER: As far as the
11 vehicles, that's right. Yes.

12 COUNCIL MEMBER REYNA: Thank you.

13 CHAIRPERSON LIU: Thank you Council
14 Member Reyna. The one overriding question still--
15 I'm sorry we have questions from Council Member
16 Ignizio.

17 COUNCIL MEMBER IGNIZIO: Thank you.
18 I'll be very brief. As I'm proudly representing
19 the borough of Staten Island on the committee, the
20 concerns that I had heard from some of my base
21 owners is the inspection time to bring the cars
22 all the way to Woodside and all the way back.
23 Maybe if you're in Queens or Manhattan, a faster
24 way of getting to and fro is readily accessible.
25 But from 35 or 40 miles away, it becomes somewhat

difficult.

Is there a way or a discussion potentially underway for licensing centers in outer boroughs. This could be incorporated as well. Every minute, hour off getting paid for these vehicles is a hit to the bottom line. So if they can stop off somewhere in the borough, a borough based system rather than one centralized in, I think, it's Woodside. That would go a long way in support of this measure.

MS. EPSTEIN: Well certainly we held a number of meetings with some Staten Island base owners including our Commissioner from Staten Island and they expressed similar concerns. After a lot of discussions, they submitted a letter of support for these rules which included the inspections. Because the inspection is only once every two years so at the end of the day they seemed to be okay with that. We're very concerned with applying a different standard for any one part of New York City.

COUNCIL MEMBER IGNIZIO: I mean the borough based system meaning that which you have licensing support in--

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2 MS. EPSTEIN: [interposing] And
3 they'll still be able to do all their licensing
4 activity in our Staten Island office like they do
5 now. So really the only difference is having to
6 come once a year for that inspection.

7 COUNCIL MEMBER IGNIZIO: Once every
8 two years.

9 MS. EPSTEIN: Every two years,
10 excuse me, for that inspection which also counts
11 as a DMV inspection. And they came to visit our
12 inspection facility and that was one of the things
13 that I think helped them a lot because it's a
14 state of the art facility. They were pretty
15 impressed with it.

16 COUNCIL MEMBER IGNIZIO: Yes ma'am.
17 These are concerns that were made to me and I'm
18 happy to carry them to you. So to the overall
19 enforcement staff of TLC, I think some of the
20 concerns not to mention regarding base stations is
21 they're saying we're a very highly regulated
22 industry. We're doing the best we can. Those
23 that are not in compliance and those that are
24 running illegal cars

25 I support and applaud you for

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2 trying to get those off the road because those
3 were the dangers and deaths and whatever else
4 comes from on our roads. Those that completely
5 ignore the rules of the TLC. They buy a car, they
6 sit there and they drive around. They look to
7 pick up people for a dollar, two dollars, five
8 dollars for a trip and have nothing to do with the
9 whole process. No 100 300, no partitions, they
10 don't care about anything. Those are the people
11 that are putting people like this out of business,
12 not the base stations and what not.

13 I think the only way to answer that
14 is with stepped up enforcement from your staff.
15 My understanding is the enforcement budget has
16 declined in terms of the cars and numbers of
17 inspections that you have available because of the
18 budget situation. Is that accurate?

19 MR. FRASIER: I'm not well versed
20 in the budget but I have heard the statement from
21 the Chairman that although the budget was reduced,
22 it was vacant positions. In other words we lost
23 no head count. We're not stepping down
24 enforcement. That is for sure. And in fact with
25 increased database availability to us, we're able

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2 to off flow a lot of our enforcement from our
3 inspector staff to administrative staff such that
4 inspectors can spend more time in the field. So
5 I'm hopeful that that will help enforcement.

6 One other point, though, now it's
7 very difficult for people to see the difference
8 between the car you describe, totally unlicensed,
9 as we call it straight plates, no license from
10 anybody, no insurance from anybody and a
11 legitimately licensed one. There is one decal up
12 on the front and that may be the only difference.
13 These rules will require significant markings to
14 be on legal liveries and that, we are hoping, will
15 help both the public who hail these cars on the
16 street and enforcement personnel, both ours and
17 the police department.

18 COUNCIL MEMBER IGNIZIO: I hope it
19 helps your enforcement. I tend to agree with you
20 that the person will get in a car that's standing
21 right in front of them. If they walk out of the
22 Staten Island Mall and there's a car. Where you
23 going? Five bucks, okay. I have bags, I have
24 kids at home, I have to get Johnny out of school
25 and what not so they are getting in the car.

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2 I think the issue and the answer to
3 the woes that some of the legal base stations in
4 my community are concerned about is to get those
5 guys, put them out of business. Get them off the
6 street and then allow people who are doing it
7 legally in a highly regulated business to
8 flourish.

9 For whatever it's worth, if I could
10 be helpful in the budgetary process. I proudly
11 sit on Finance and the Budget Negotiating
12 committee. I'd like to hear about what the head
13 count is. A vacant position is one that was there
14 and then ultimately never was filled and then done
15 away with so I have a concern about that.

16 On a parochial level, I want to
17 convey to you all you're not the Commission. I am
18 a friend of Matt Daus, I have been but I still
19 maintain my opposition to the AA car service,
20 which has a pending permit for my district. I
21 don't think it's a right fit so I'm just convey
22 that to you all since you're in front of me and
23 have conveyed it to my Commissioner on Staten
24 Island. Thank you very much Mr. Chairman and I
25 yield the rest of my time.

CHAIRPERSON LIU: Thank you Council Member Ignizio. A follow up from Council Member Martinez.

COUNCIL MEMBER MARTINEZ: Thank you. I want to go back. First of all I'm just a little shocked that there is nothing in the current rules that would allow you to revoke or not to renew a license. Because I know that if a driver is stopped by the police and is arrested, even though he's not guilty of what the cop is stopping him for his license is suspended immediately.

MR. FRASIER: That depends on what the charge is but that can happen, yes.

COUNCIL MEMBER MARTINEZ: Even if he's not guilty of those charges.

MR. FRASIER: Well at the time of arrest of course that's--

COUNCIL MEMBER MARTINEZ:
[interposing] At the time of arrest he's automatically revoked license.

MR. FRASIER: No, no, not revoked just suspended.

COUNCIL MEMBER MARTINEZ:

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2 Suspended.

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MR. FRASIER: Yes.

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5 COUNCIL MEMBER MARTINEZ: It's just
6 shocking to me to learn that currently the TLC, if
7 you know you have a bad base, you know who you
8 have as a violator that you can't suspend or
9 revoke that base license.

10

11 MR. FRASIER: We obviously agree.
12 We have rules that describe the summary
13 suspension.

14

15 COUNCIL MEMBER MARTINEZ: You just
16 finished saying there's nothing in the rules.
17 It's shocking to me that there is nothing in the
18 rules. I want to go back. From the time of when
19 a summons is issued because you told me that in
20 the system, it's almost practical that a base is
21 going to shut down with the system. But if I have
22 100 drivers, again, right? Let's take one driver,
23 the virus. I want to go back to the virus, the
24 conspiracy theory. You have a virus. I go into
25 777-7777, he's back there.

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27 MS. EPSTEIN: I wonder who brought
28 this point up?

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COUNCIL MEMBER MARTINEZ: Let's say

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2 I go into one of the largest bases and I'm a
3 virus. I get a summons. What's the time period
4 from the time I get the summons to when I go to
5 court when the point is awarded? Because that's
6 when the base is notified, correct?

7 MR. FRASIER: Yes. I think it's
8 typically probably two to three weeks. I'm not
9 responsible for adjudication so I could be off.

10 MS. EPSTEIN: One thing I would
11 like to point out is I think I see where you're
12 going with this. We can play this out but I do
13 just want to mention that if that driver is
14 suspended or that vehicle gets suspended, that is
15 going to be that information will be on our web
16 site. So a big operation like Dial 7, who is
17 checking that status every morning, which I know
18 that they do, is going to find in that first day
19 that there's a problem with the license, that
20 there's something wrong because the driver and the
21 vehicle is not showing up on TLC's list. They're
22 going to probably call in that vehicle or driver
23 and say what is going on.

24 COUNCIL MEMBER MARTINEZ: Can we
25 continue in this dialogue?

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MS. EPSTEIN: Sure.

COUNCIL MEMBER MARTINEZ: Because that's where I wanted to go. Dial 7 finds out that this driver, let's say in two weeks that driver got two points. This guy is a potential threat to my business.

MS. EPSTEIN: You mean the vehicle, right?

COUNCIL MEMBER MARTINEZ: The vehicle, I keep saying driver, the vehicle.

MS. EPSTEIN: It's okay.

COUNCIL MEMBER MARTINEZ: The vehicle is a potential threat to me. So obviously when I bring in the vehicle I'm bringing in the driver/owner. A lot of these guys are driver/owners, that's why we have to put that on the record also. Most of the drivers are owners, there are some corporations but a lot of them are owner drivers. So you bring in the driver/owner vehicle and you tell them, hey, I can't keep you in my corporation. The guy still has a good license, it's not revoked, still has all TLC permits. Isn't the base liable now that this guy could sue him for discrimination?

MR. FRASIER: I think that's a legal question and I think the answer is no.

COUNCIL MEMBER MARTINEZ: It's a very important legal question.

MR. FRASIER: I'm not sure what the discrimination would be. If you're gaining points then it's discrimination based on being a bad vehicle owner I think it's not going to be a legal discrimination.

COUNCIL MEMBER MARTINEZ: So why then doesn't TLC become the authority to tell this driver you can no longer drive. Why does it have to be the base?

[Applause]

MS. EPSTEIN: We do but I just want to say as a passenger and because it doesn't appear there are any passengers to testify today I'm going to use their voice. I'm calling a base and I am expecting that base to send me a licensed car and a licensed vehicle. TLC--

COUNCIL MEMBER MARTINEZ:
[interposing] But I can't allow you to continue--

MS. EPSTEIN: [interposing] I'm not calling TLC to send me that vehicle.

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2 COUNCIL MEMBER MARTINEZ: You're
3 here as a TLC representative and I'm asking a
4 question of a TLC representative. Now if you want
5 to sit back down and come back down as a
6 passenger, that's a different story. But right
7 now you are a TLC representative.

8 [Applause]

9 So the question is why can't TLC be
10 the entity to take these vehicles out? You're
11 basically putting the burden on the bases and
12 opening up a can of worms. When you have bases
13 telling vehicles you can't continue.

14 MR. FRASIER: It is definitely true
15 we are putting a burden on vehicle owners and
16 bases. We are not putting the burden on them.
17 The entire burden that we have bourn to date, we
18 continue to bear. And we can and do revoke
19 vehicle licenses. Obviously if that worked
20 completely we wouldn't have a problem but we do
21 have a problem. So we need to do something else
22 and this is what we've proposed.

23 COUNCIL MEMBER MARTINEZ: And
24 again, we can continue playing all these scenarios
25 back and forth but it's just mind boggling. One,

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2 that there is no system currently now. If we know
3 where the bad apples are at, we know that because
4 you mentioned that you call a base and they send
5 bad drivers. You work for TLC why haven't you got
6 on the phone and gotten these guys penalized. I'm
7 just using an example.

8 MS. EPSTEIN: I make complaints.

9 COUNCIL MEMBER MARTINEZ: And that
10 there's nothing that could be done now to take
11 these bad apples out of the circulation. The same
12 is true that it's difficult to understand how this
13 system has been operating and yet, and yet the
14 majority of the incidents that we read in the
15 papers either someone being violated, these are
16 not vehicles affiliated to a base. We found that
17 they've been illegal, not licensed vehicles in the
18 street.

19 So it's just mind boggling how this
20 system--and it shows the responsibility that these
21 guys have and how serious they take this industry.
22 That most of these incidents that we've read in
23 the papers, either rape, someone being robbed,
24 whatever, violated, has not been identified to
25 either 77 nor Riverside nor Seaman nor Brooklyn

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2 nor any other vehicles. So it's mind boggling how
3 this system has operated and it's all to the
4 credit of the operators here.

5 MS. EPSTEIN: Can I just say one
6 thing to that? In regards to those vehicles that
7 aren't connected to a licensed TLC base, while
8 that is the case it doesn't mean that licensed TLC
9 bases aren't dispatching vehicles that don't have
10 Taxi and Limousine plates. That's what
11 Commissioner Epstein was speaking to and that's
12 clearly what's happened to me on several
13 occasions, if I want to speak as a passenger. I
14 call a TLC licensed base which is current, active
15 and licensed but they send me a car that doesn't
16 have TLC plates or a diamond so--

17 COUNCIL MEMBER MARTINEZ:
18 [interposing] We're in agreement.

19 MS. EPSTEIN: I'm saying that those
20 cars that are doing illegal activity are the same
21 cars that are being dispatched. So they're paying
22 the bases fees to be dispatched but they're not
23 being licensed.

24 COUNCIL MEMBER MARTINEZ: We could
25 sit here back in debate because I used to be a

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2 driver. You know what? I used to work for
3 Riverside Car Service and many times I would get a
4 call and I would find that there was another
5 vehicle there responding to that call because
6 somebody has a walkie-talkie or something and
7 broke into the system. We can go back and
8 forwards in terms of scenarios so I just want to
9 put that out there for the record also. Thank you
10 Mr. Chair.

11 CHAIRPERSON LIU: Thank you very
12 much, Council Member Martinez.

13 [Applause]

14 CHAIRPERSON LIU: You guys love it
15 when I use this. I know that's what you want to
16 do. That last comment from Council Member
17 Martinez says it right there, it's about that you
18 have created a system that in theory on the books
19 and on paper seems to work. But the practice of
20 it could result in a lot of abuses and a lot of
21 due process issues. I suspect that's a reason why
22 you have so many of the good operators here today
23 because they're concerned that they're going to
24 be--even though they do want a reform of the
25 system that will help them compete better or not

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2 have to compete at all with unlicensed or illegal
3 operations. That they're going to get burdened
4 and penalized by this.

5 I have another question about the
6 nature of the relationship between the bases and
7 the vehicle owners. I think that relates to what
8 Council Member Martinez says. How do you know for
9 sure that a base deserves a point when an illegal
10 vehicle gets out there and picks up a ride?

11 MS. EPSTEIN: I think that the
12 clearest way is the penalty point is for a base
13 for dispatching an unlicensed vehicle. So that
14 means that they actually dispatched that car.

15 CHAIRPERSON LIU: Okay. And so I
16 guess the TLC, the base station relies on the TLC
17 to provide the information about whether or not
18 that vehicle or that vehicle owner is no longer
19 licensed or has been suspended?

20 MS. EPSTEIN: Yes, we post it on
21 our website.

22 CHAIRPERSON LIU: That's fine. I
23 think the final question that I have for you. I
24 don't think it has been covered fully but I think
25 Council Member Ignizio started to elude to it.

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2 All of this doesn't appear that any of this
3 actually increases or improves the enforcement
4 against illegal operators. People who are
5 operating illegally, it doesn't seem like any of
6 these changes actually bolster enforcement against
7 illegal operators or am I missing something?

8 [Applause]

9 MR. FRASIER: As I said to Council
10 Member Ignizio, we did raise the fine on illegal
11 street hails, we raised a couple of the fines
12 against drivers for what drivers do as part of
13 this. But the main effect I think we're hoping
14 for is that by clearing marking, this has nothing
15 to do with the points, but by clearly marking
16 liveries for the first time we will enable both
17 the public and law enforcement to distinguish
18 between a legal an illegal car much more readily.
19 We're hoping that this will help us deter and
20 catch the completely illegal operator.

21 CHAIRPERSON LIU: I'll remind you
22 Mr. Frasier that when I was advocating for clearly
23 marked commuter vans that I think Commissioner
24 Daus had testified that requiring stickers only
25 results in the production of souvenir replica

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stickers.

MR. FRASIER: The stickers we're creating are actually fairly elaborate. They have all kinds of security components to them that, obviously, we expect not to be easily forged.

CHAIRPERSON LIU: So they're fancy stickers?

MR. FRASIER: I guess that's a good--yeah.

CHAIRPERSON LIU: We hope those stickers work.

MR. FRASIER: We do too.

CHAIRPERSON LIU: I don't think all the ducks are in a row, I don't think all the T's are crossed and the I's are dotted because it seems unusual the level of concern about these rules and the level of concern is coming from the very same people that you testified were a part of instigating these rule changes. So something is awry; we're going to have to keep looking at this. To the extent some of the rules or changes could be timed, I would implore you to look at that.

The drivers as well as the base owners and the vehicle owners, they have somehow

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2 gotten together and there is a set of
3 recommendations, changes that they would like all
4 of us to consider seriously. I think it behooves
5 all of us to really take a look at that. Council
6 Member Martinez.

7 COUNCIL MEMBER MARTINEZ: I'm sorry
8 Mr. Chair, this is really brief. Who is going to
9 be responsible for drafting? Is it going to be a
10 standard size, sort of like the yellow cabs where
11 they have the passengers bill of rights? Is TLC
12 going to produce them and give them to the bases?

13 MR. FRASIER: You're talking about
14 the stickers?

15 COUNCIL MEMBER MARTINEZ: No, no,
16 the bill of rights.

17 MR. FRASIER: The bill of rights,
18 yes, we're printing it and we're distributing it
19 directly, yes.

20 COUNCIL MEMBER MARTINEZ: Is there
21 going to be--

22 MR. FRASIER: No, we're not. I'm
23 sorry it's been changed.

24 MS. EPSTEIN: It's going to be
25 similar to how we do the taxi stickers, the taxi

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2 logos. We produce the art work, we copyright the
3 art work an any printer that wants to just signs a
4 memorandum of understanding with us--

5 COUNCIL MEMBER MARTINEZ:

6 [interposing] But it's a standard?

7 MS. EPSTEIN: It will be a standard
8 design. It will be the same for all of them.
9 They can get them printed by whoever they want who
10 is a certified printer. To get a certified
11 printer you just come to us and say you want to do
12 it and sign a memorandum of understanding that
13 that's what you're going to use them form.

14 COUNCIL MEMBER MARTINEZ: Thank
15 you.

16 CHAIRPERSON LIU: Thank you Council
17 Member Martinez and I want to thank all the
18 members of the Taxi and Limousine Commission for
19 joining us today. Thank you.

20 MS. EPSTEIN: Thank you.

21 CHAIRPERSON LIU: I'd like to call
22 up the next panel of witnesses consisting of David
23 Diaz, Felix Dominicana, Tariq Mala and Avik
24 Cabeza. After we hear the testimony of this
25 particular panel we're hear from another panel

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2 that I'm giving a heads up to at this point,
3 Victor Dieselgoff, Sergio Sanchez, Guy Pulumbo and
4 Franchie Munez. Gentlemen we have a large number
5 of people to hear from. We are already two hours
6 into the hearing. I ask you to limit your
7 testimony to two minutes and whatever written
8 testimony there is will certainly be entered in
9 for the record. But please summarize the most
10 relevant points of your testimony. Thank you.
11 Please proceed.

12 TARIQ MALA: Good afternoon. Dear
13 Honorable City Council members, my name is Tariq
14 Mala. I would like to thank you for the
15 initiatives you have taken and also for the
16 oversight hearing with the impact of these new for
17 hire vehicles rules on the riders, drivers and the
18 industry. The TLC refusal to postpone the voting
19 on the rules, the rush approach to a gigantic
20 rules change and to disregards of the Jewish
21 holiday left many in the for hire industry with a
22 high level of frustration.

23 Furthermore, although many positive
24 changes were made and Commissioner Daus in the
25 press conference called them common sense changes

1
2 these changes were made at the last minute, as
3 little as 48 hours before the vote rendering the
4 proposed rules as a work in progress with many
5 other issues to correct. Instead it was rushed to
6 be voted and became a law to the industry.

7 The industry will have a difficult
8 time to comply with. Therefore we are very
9 grateful to the Transportation Committee for its
10 initiative and we would like to take this
11 opportunity to correct that which still requires
12 correction, to take action that will prevent such
13 rushed process from recurring and help to set some
14 ground rules to any corporation for the TLC Phase
15 Three. I'm going to skip to point two just to
16 save some time. I understand you have it in
17 writing.

18 Rule 6-29C, which provides that
19 that bases receives a point when a vehicle
20 receives four points, which results in the
21 revocation of the vehicle license. The industry--
22 is it out?

23 CHAIRPERSON LIU: There are a lot
24 of points in this and we've received this in full
25 already so you don't have to go over the points

1
2 because we can read them ourselves. Some of these
3 we've already discussed in our meetings. I think
4 the main point you've made so far is that they
5 should not have made those proposed changes within
6 48 hours of the vote. Is there another point that
7 you would like to make?

8 MR. MALA: Also there are a lot of
9 recommendations and points that were made as
10 substitute solutions to actually make these rules
11 work that we submitted recommendations for that we
12 didn't feel have been considered or actually
13 studied as an alternative to effectively make the
14 regulations work.

15 CHAIRPERSON LIU: Okay, thank you.
16 I will be happy to discuss, have another meeting.

17 MR. MALA: Thank you.

18 CHAIRPERSON LIU: I'm sure Council
19 Members Martinez and Reyna will help put that
20 together as well, another meeting to go over this
21 in detail. But this is probably not the forum
22 that we can go over it in such detail. Mr. Diaz
23 or anybody.

24 FELIX DOMINICANA: I'm Felix. I'm
25 going to yield my minutes to Tariq but we're all

1
2 on the same note as livery base coalition owners.
3 Since you're going to review it and let us know
4 about a future meeting, we'll be waiting for that,
5 with all due respect. Thanks.

6 CHAIRPERSON LIU: Thank you.

7 AVIQ CABEZA: Dear Mr. Chairman my
8 name is Avik Cabeza, I'm a member of the New York
9 Coalition of Base Owners in New York State for
10 direction of taxi drivers and a proud owner of
11 Carmel Car Service which is 666 not 77. I'm in
12 complete support of the priority list that was
13 submitted to you. Instead of repeating this and
14 go into this, I would like to approach it from a
15 different angle.

16 The events of the last six weeks
17 have left me puzzled and concerned. Concerned
18 that the TLC process of designing a regulatory
19 framework to the livery industry was initially
20 entered into without the input of those most
21 affected by it. The TLC over the past six weeks
22 is not the TLC I know. For the past seven years I
23 have worked closely with the TLC, Commission Daus
24 and his staff. I worked with the TLC on the 311
25 pilot program, I worked on the inbound hustling

1 [phonetic] in Albany. I worked with the
2 wheelchair accessible or tried to solve the
3 problem of wheelchair accessibility in the outer
4 boroughs. For this reason I'm puzzled that the
5 TLC has been working on the proposed rules in
6 secrecy for the last two years.

7
8 The industry was in a serious
9 threat to its existence and unless we know what
10 happened it can happen again. It should be noted
11 that once the rules were published, four weeks
12 before the voting on them both Commissioner Daus
13 and his staff made himself available to the
14 industry above and beyond anything I saw before.
15 Nevertheless, we're all, the various legal for
16 hire associations told the TLC the devastating
17 effect of those rules, they disregarded it. Of
18 course, it's strange and complete disregard of the
19 Jewish holiday.

20 So I ask why. Why did this rule
21 making process have to be confrontational ? Why
22 did it take the involvement of City Council
23 Members such as you before the TLC made changes
24 the Commissioner himself called common sense?
25 Where was this commons sense before? I would like

1
2 to state on record that I value Commissioner Daus
3 and his staff very much, Ms. Samara Epstein is a
4 hard working public service. The TLC over the
5 last seven years is the best TLC I've ever dealt
6 with in my 25 years in the industry but this time
7 they were wrong and they were big time wrong.

8 If I could give four quick wish
9 list that are not included in your list. I think
10 we should create a for hire advisory board, that
11 such a list would not be for two years in process
12 we're not involved in. Legislative laws that
13 prohibits voting on rules in one public hearing.
14 Limit the amount of rules that can be changed or
15 amended per proposal; we had 33 pages. No meeting
16 was ever sufficient. And finally of course to fix
17 the issue of the priority list we submitted, the
18 open item.

19 The industry should be busy
20 generating jobs and revenues for this city by
21 paying taxes not fines. The industry should not
22 constantly be concerned that the government will
23 regulate them out of existence.

24 CHAIRPERSON LIU: Thank you Mr.
25 Cabeza. That's it? All right. Wonderful. Next

1
2 panel, Victor Dieselgoff, David Diaz, why don't
3 you just come on up. Victor Dieselgoff, Sergio
4 Sanchez, Guy Pulumbo and Franchie Munez. Heads up
5 to the next panel, Abnon Oberlander, Richard
6 Pearlman, Lloyd Taylor and Robert Marquel. Mr.
7 Diaz, please proceed.

8 DAVID DIAZ: I have a grievance
9 claim. Very simple, six points. New York City
10 Taxi and Limousine Commission had a hearing the
11 hearing was named Notice of Public Hearing and
12 Opportunity to comment on Proposed Rules. There
13 was no mention of voting that should have taken
14 place on April 16th. Number two, Commissioner
15 Edward Gonzalez made a motion to vote on proposed
16 rules but never specified which rules because
17 there were at least two sets of rules. I ask you
18 to please consider voiding their vote on these
19 rules because there was no specific mention to
20 which ones.

21 The cover sheet stated that written
22 comments in connection with these proposed rules
23 should be submitted to Office of Legal Affairs,
24 Commissioner Charles Frasier by April 10th. On
25 April 14th a meeting at Commissioner Martinez'

1
2 office, his office gave me a copy of the second
3 amended rules. So how can I respond by April 10th
4 if April 14th we received a new copy?

5 There is a conflict of interest
6 since most of the propose rules do not reflect
7 drivers' inputs. Effectively this means that
8 livery and independent drivers were denied
9 representation. A board of owners, drivers and
10 representatives should have been in place to take
11 care of such decisions.

12 The timing of the hearing, Easter
13 week/Passover limited the ability of some people
14 to participate. This is unfortunate for what was
15 portrayed to be a public hearing and an
16 opportunity to comment. Of about 35 people and
17 three Council persons who commented on proposed
18 rules, only two were in favor of the proposed
19 rules. A total of 110 petitions, it should have
20 been 150, 110 were presented to postpone voting
21 and TLC denied, completely denied 110 petitions.
22 No petitions were presented in favor of TLC's
23 ruling.

24 The last thing here is in reference
25 to the New York State Vehicle and Traffic Law,

1
2 number 121 the definition of livery, every motor
3 vehicle other than a taxicab or a bus used in
4 business of transporting passengers for
5 compensation. However it shall not include
6 vehicles which are rented or leased without a
7 driver. Everyone's is going to be pushed to rent
8 the vehicle and not own their vehicle. That's a
9 big burden.

10 CHAIRPERSON LIU: Thank you Mr.
11 Diaz. Thank you.

12 SERGIO SANCHEZ: Good morning
13 Chairman. Excuse me, good afternoon now. My name
14 is Sergio Sanchez, I represent the Luxury Based
15 Operators Association, LBOA. I have a quick
16 question before I start my testimony as to my
17 understanding as to the rules that were passed.
18 It was noted by the TLC that they were
19 conditional. I thought they were passed and they
20 were rules. Maybe if you can clarify that whole
21 conditional thing for me because I'm not--

22 CHAIRPERSON LIU: [interposing] I'm
23 not well versed in TLC twilight zone. You will
24 have to ask them that and we certainly will ask
25 them what that really means.

1
2 MR. SANCHEZ: At some point I would
3 imagine that the appointed officials, all the
4 Commissioners as well as the Chair, Matt Daus,
5 would say that not staffers would necessarily make
6 that a conditional thing. I wondered if I could
7 press upon the Council at this time to clarify who
8 actually makes these rules as rules or conditional
9 if they see fit.

10 With that being said, I'll just
11 read. My name is Sergio Sanchez, president of
12 Luxury Based Operators Association. I'm please to
13 have this opportunity to express our members
14 comments about the TLC rules. We were caught a
15 little off guard with these rules, having to
16 respond very quickly, which is our first concern.

17 As we understand the proposed rules
18 were published in the city record but is not a
19 routine function of a base operator to check the
20 city record. Because of the timing of these rules
21 it became known to us at the last minute.

22 Multiple industry meetings and discussions were
23 held resulted in an excess amount of wasted time,
24 money and effort. We met with many of the
25 Association to developing an initial position

1
2 paper which you have attached to my testimony.

3 We were fortunate to meet with the
4 TLC staff and about eight different associations
5 but nothing of substance came of it. Later we
6 were called in for individual separate association
7 hearings to discuss and negotiate many of the
8 rules. In any negotiation, both sides never are
9 100% satisfied but we felt that we were able to
10 obtain significant benefits for our luxury segment
11 of the industry. We then offered our support for
12 the passage of the rules.

13 We want to point out that we
14 support the recommendations being made today about
15 specific rules and we'll let the other
16 organizations mention those. Our specific
17 concerns suggests as they apply to luxury based
18 operators are immediate recommendation; whenever
19 the working within the rule state either luxury,
20 limousine or just limousine that the word base be
21 added to avoid any confusion. Long term
22 recommendations; rules changes definitions need to
23 be changed to eliminate any references to a
24 particular type of vehicle and luxury license
25 bases be labeled as luxury base with the

1
2 elimination of word limousine. The diamond should
3 be either color coded, annotated--

4 CHAIRPERSON LIU: [interposing] Mr.
5 Sanchez, I need you to wrap up. We have all the
6 points here.

7 MR. SANCHEZ: Okay, good enough.
8 With that being said, I would like a strong
9 suggestion that maybe Council query the TLC in
10 reference to this conditional ruling or not
11 conditional.

12 CHAIRPERSON LIU: We already have
13 on the record and we expect a response from them.

14 MR. SANCHEZ: Thank you.

15 CHAIRPERSON LIU: Thank you. Mr.
16 Dieselgoff.

17 VICTOR DIESELGOFF: Good afternoon
18 Chairman Liu, members of the Transportation
19 Committee. I've been known to speak extensively
20 but I won't do it at this hearing. I've come only
21 prepared to express the views of the Black Car
22 Assistance Corporation for which I am the
23 Executive Director and to say that on behalf of
24 the association. We've met with the TLC a number
25 of times prior to the passage of the rules.

1
2 Unfortunately I wasn't able to be present at the
3 hearing and I expressed that to the Commission at
4 a meeting two days prior to that because I'm a
5 member of the Jewish faith and I observe the
6 holiday.

7 It was therefore, I thought it was
8 inconsiderate of them to hold that hearing on that
9 particular day. However they did and the rules
10 were passed. We did have a number of meetings
11 with the TLC where we, I think as the previous
12 speaker mentioned, we went to a hearing not
13 expecting to come out with everything we go in
14 requesting but coming out with certain things that
15 we were able to achieve and certain things that we
16 couldn't achieve that we understood.

17 The only thing that I would ask is
18 that it be conveyed to the TLC from this committee
19 that really the only way to properly enforce these
20 rules is to have enforcement out on the street
21 where true enforcement of the rules, whether it be
22 these rules or the rules that are currently in
23 place at the TLC. Be dealt with. And if it's
24 within the purview of this committee to go to the
25 full City Council to ensure that in the budget

1
2 there are funds available for additional
3 enforcement agents at the TLC we would request
4 that.

5 CHAIRPERSON LIU: Thank you Mr.
6 Dieselgoff.

7 GUY PULUMBO: Mr. Chairman, members
8 of the City Council, my name is Guy Pulumbo, I'm
9 the Secretary Treasurer of the LBOA, Luxury Base
10 Operators Association. I'm not going to repeat
11 what we handed out to you. But based on what
12 transpired today and what we had suggested, I got
13 involved more with the development of these rules
14 and regulations. A couple of comments were made,
15 33 pages worth of rules is unheard of by anybody
16 and nobody can get that done in just a short
17 period of time.

18 The strongest recommendation is TLC
19 should have a council or a industry group or
20 something of that nature that should meet with
21 them on a regular basis. There needs to be an
22 exchange of information and if the TLC people have
23 personal experiences as passengers and they
24 haven't closed down those bases, that's really
25 showing that they're not listening to the

1
2 industry; they're reacting to maybe perhaps some
3 of their own feelings or their own circumstances.
4 And we understand that.

5 We do support the rules because
6 they do work for the industry. But the way and
7 the manner in which this was handled is really
8 something that's got to be corrected.

9 CHAIRPERSON LIU: Thank you very
10 much. Why don't I excuse these gentlemen and then
11 we'll have Mr. Munez. I want to thank you for
12 testifying today. Please proceed Mr. Munez.

13 FRANCHIE MUNEZ: First we would
14 like to thank Chairman John Liu, City Council
15 Member Martinez and the rest of the members of the
16 Transportation Committee for inviting us here
17 today. My name is Franchie Munez, Executive
18 Director of the New York State Federation. The
19 New York State Federation as you know has worked
20 very closely with the Transportation Committee and
21 we are happy that the City Council is working so
22 closely with the for hire vehicle industry. We
23 are glad that once again the current City Council
24 Members that are part of the Transportation
25 Committee care enough about the for hire industry

1
2 to have us here again.

3 The New York State Federation of
4 Taxi Drivers advocates and works not only for the
5 rights to defend its members but also works with
6 city and state officials in bringing about rules
7 and regulations that are fair. Making sure that
8 our members can comply with and not face
9 unnecessary hardship. We have worked very hard
10 with the Transportation Committee for the benefits
11 of drivers and other industry stakeholders.

12 Some of these past legislations
13 include Intro 178 in 2003 in relation to the
14 defective trouble lights. Giving the drivers the
15 opportunity to carry extra light bulbs and correct
16 the problem instead of facing summons sponsored by
17 Council Member Reyna. Another one sponsored by
18 City Council Member Martinez, Intro 256 in
19 relation to the administrative terminals of the
20 TLC, affording more due process for drivers and
21 owners. Let us not forget that we must also
22 protect the riding public. They made us very
23 proud to take part with the committee and
24 especially Council Member Garodnick, the main
25 sponsor of the for hire vehicle passenger bill of

1
2 rights. Finally, yet importantly, we want to
3 commend and thank Council Member Dickens for
4 helping us, the Federation, and taking the
5 initiative in bringing about a plan of
6 introduction of the drivers bill of rights,
7 affording the drivers at last some peace of mind.

8 For the past two and a half years
9 we have been working with the Taxi and Limousine
10 Commission to bring about changes to the for hire
11 industry, hoping to eliminate illegal activities
12 and private vehicles and operators taking
13 advantage of the hard working legitimate drivers
14 and owners. In the last month and a half the
15 Taxi and Limousine Commission published a set of
16 new rules to make the vehicles and base owners
17 more accountable for compliance.

18 These rules, we became concerned
19 with some of the rules that apparently were going
20 to be proposed. We let the TLC know our concerns
21 and we had meetings with our members, continuing
22 to our efforts, we met with other industry
23 representatives and formulated a working document
24 to present to the Taxi and Limousine Commission.
25 At the numerous meetings--

CHAIRPERSON LIU: [interposing] Mr. Munez, please wrap up.

MR. MUNEZ: At the numerous negotiations we were able to accomplish 95% of those. While some of the changes, there are additional ones that were revised as well. We ask now that they create laws for TLC to go after private bases and other private plates vehicles. Thank you.

CHAIRPERSON LIU: Thank you very much. Thanks for your testimony. Our next panel consists of Abnon Oberlander, Richard Pearlman, Lloyd Taylor and Robert Marquel. Please join us at the witness table. They will be followed by a panel consisting of Jose Rodriguez, James Berello, Isabel Guzman, and Slyvio Tajada. Once again I want to thank everybody for joining us today in this afternoon's hearing. I apologize that we have to limit the testimony to two minutes. This is so that we can hear from everybody and we still have a large number of people can hear from. So that everybody can at least get some of their input in. We did take a lot of time with the TLC but I will remind everybody that the TLC probably

wanted to have their two minutes and leave also. I don't think they wanted to be here that long but nonetheless we needed to ask them the questions that we required with them. We will certainly set up any follow up meetings that will be necessary so that we can see the fruition of the effort to look at these changes. Thank you. Mr. Oberlander, please proceed.

ABNON OBERLANDER: Mr. Chairman,
Mr. Martinez, good afternoon. Initially I wanted
to talk about Rule 629C, which I believe you have
it and the second page which is the setting of the
guidelines for Phase Three of the TLC. But since
these issues were already raised and since these
issues you already have in writing I will not
repeat them again. I don't want to waste your
time and everybody else's time.

I just want to bring two issues that nobody talked today about them before. It seems like the TLC doesn't understand this business, plain English. The TLC doesn't understand that when they suspend the base, they can not renew it. When they can not renew it the base will lose all its customers and will lose all

these drivers. That's a death to the base. It looks like they failed to understand that and they are still failing to understand that.

Second issue is that they can not, and I don't know if it's legal to impose penalties and points on whoever is not the violator. I believe you have everything on the Phase Three of the TLC. That's basically what I wanted to bring to your attention that they don't understand that when they close a base, the base can not re-open ever again because within a few days the base will lose its drivers and the base will lose its customers.

This will create a situation where if you have a base which you have 200 drivers, 50 drivers or 400 drivers, these drivers might lose their livelihood. They will lose their livelihood, which will create horribly, will increase the unemployment in New York City. On behalf of most of the people that's sitting over here and thousands of thousands of individuals, base owners, drivers, vehicle owners, I'm asking you, as a matter of fact I'm begging you, you are the body that can help us the most not to let the

1
2 TLC do whatever they intend to do. You are the
3 body that will help us not to let them put us in a
4 danger of losing our livelihood. Please. Thank
5 you.

6 CHAIRPERSON LIU: Thank you.

7 RICHARD PEARLMAN: Hi, my name is
8 Richard Pearlman. Thank you both to Chairman Liu
9 and to the committee. I'm just going to address
10 quickly two points that have to do with two other
11 rules. The new for hire rules add another
12 dimension to the inspection process for our
13 vehicles.

14 Inspecting a vehicle that is not a
15 new medallion vehicle can become a more
16 complicated process than just attaching the
17 vehicle to a scanner. There are times when a
18 battery has been changed or a sensor is out and
19 the monitors come up with what's called not ready.
20 At this point mileage needs to be put on vehicles
21 to re-teach the monitors when in fact there is
22 nothing wrong with the vehicle. This records as a
23 failed respects. There is no way to determine how
24 much mileage to put on the vehicle in order to
25 reset the monitors.

1
2 We're also upset that the drivers
3 must display their original licenses on the back
4 of the drivers seats now as opposed to a copy. We
5 believe that the location in the front of the
6 vehicle might be a better choice. And we would
7 appreciate consideration and a revision of these
8 rules. Thank you.

9 COUNCIL MEMBER MARTINEZ: Is this
10 the TLC license or their drivers license?

11 MR. PEARLMAN: Both.

12 CHAIRPERSON LIU: Vehicle license
13 and the drivers license.

14 MR. PEARLMAN: They want to suspend
15 it over the driver's seat where a passenger if
16 they get in, if somebody is inebriated or just a
17 volatile passenger they can just rip it off. So
18 it should be in the front, that's what we're, with
19 a copy.

20 COUNCIL MEMBER MARTINEZ: Thanks.

21 LLOYD TAYLOR: Hello, my name is
22 Lloyd Taylor. Thank you Council Members of the
23 Transportation Committee. I want to start by
24 saying most emphatically that I am part of no
25 consensus as far as the agreement on these rules

1
2 are concerned. We are totally against the penalty
3 point system. I would also like to recommend that
4 the Council Members seek to amend Charter 65 of
5 the City Council rules to ensure that the Taxi and
6 Limousine Commission pays special attention to the
7 viability and the profitability of for hire
8 vehicle business when it considers rule changes.
9 I think that's extremely important.

10 The other thing I would like to
11 point out to Council Members is the fact that 319
12 for hire vehicle bases among the liveries own
13 between 10 to 30 vehicles. These are the bases
14 that Charles Frasier is talking about when he says
15 that they are going to be the bases that lead to
16 the problems in the industry. The problem,
17 Council Members, is that we can not continue to
18 address the issues of the for hire vehicle
19 industry without candor and frankness and without
20 coming to terms with the facts of this industry.

21 These small firms are basically
22 unviable. And all you need is a slight weight on
23 them for them to collapse. These rules are going
24 to do that. Thank you very much.

25 ROBERT MARQUEL: My name is Robert

1
2 Marquel and I represent Metropolitan Leasing,
3 which may be the only financial entity that
4 finances all those vehicles that work with those
5 bases. The owner rules apply both to title and
6 registration of vehicles which are two separate
7 issues. A vehicle can not be punished for the
8 action of the driver therefore it would be a major
9 consideration to pull out from this industry and
10 not enable hundreds of individuals to make a
11 living in this industry.

12 Vehicles can not be punished. A
13 vehicle that has been disqualified based on the
14 point system will basically have to be shipped out
15 of state to be sold. If I, as the president of a
16 company has to go for a fitness hearing I might as
17 well as reside in the TLC offices adjudication
18 system. And maybe Ford Motor Credit will send the
19 president of Ford to sit at the TLC fitness
20 hearing every time that a vehicle has been
21 disqualified and needs to be re-registered under a
22 different name or different corporation.

23 The bottom line is that the TLC
24 shot before asking questions. So the shot was
25 done already and only this Council can revise it.

This is a death sentence to this industry.

The threat of the illegal aspirations that the TLC is terrified from is from private cars that have regular plates, regular insurance. They roam the street and take street hails away from the bases and the yellow cabs in the boroughs. It is not about the bases, it is not about the licensed vehicle. It is about the private vehicle that they get away. We might as well, us as a financial institution will start leasing to private individual to take street hails and not be suspended. At that point the police can maybe seize the car but the car belongs to the owner and that can be recycled again and again and again without being licensed by the TLC. The TLC will be taken out of business because they have no jurisdiction on private vehicles.

This is something that was no thought put into it altogether. This Council is the only way to eliminate it and rethink the whole process.

CHAIRPERSON LIU: Thank you. Thank
you gentlemen for your testimony.

COUNCIL MEMBER MARTINEZ: Jose

Rodriguez, James Berello, Isabel Guzman, Jill
Tajada. Sylvia or Jilvio Tajada?

JOSE RODRIGUEZ: Members of the
Council, thank you for your time. We believe that
the Taxi and Limousine Commission has to work with
the industry not only--

COUNCIL MEMBER MARTINEZ:
[interposing] Could you just identify yourself for
the record?

MR. RODRIGUEZ: I'm sorry. My
name is Jose Rodriguez representing Phoenix Car
Service. We believe that work made by the Taxi
and Limousine Commission in this point system is
against the bases and the drivers. The important
part that we found here is that's not a final vote
that was done on the 16th of April, which means
they can be changed. This is important because
the industry has to be part of these changes.
They can not penalize an industry because they are
penalize a vehicle.

A vehicle does not drive by itself;
it needs a driver. If a drivers are not penalized
by the vehicles then the drivers will go to
different bases and work and do the same thing.

1
2 But the vehicles or the persons or owners of the
3 vehicles will have a problem plus the base will
4 have the points. We believe that this is not a
5 positive law against the illegal drivers.

6 But worse enough when Taxi and
7 Limousine Commission indicates that they're going
8 against those drivers that they don't have any
9 licensing, how can they go against the base if
10 they are going after a driver that is not
11 registered with TLC, is not registered with the
12 base. How are they going to penalize our bases?
13 We believe that it has to be a better argument and
14 it has to be given the authority to the bases and
15 also all the industry to present what would be
16 better for the industry. Thank you.

17 JAMES BERELLO: Thank you Council
18 Member Martinez. I've been listening to everybody
19 and a lot of situations here--

20 COUNCIL MEMBER MARTINEZ:
21 [interposing] Identify yourself for the record.

22 MR. BERELLO: I'm James Berello and
23 I work with Barino's Car Service in Queens. I
24 don't agree 100% with what everybody here on this
25 panel has been saying but I have three concerns.

1
2 One of these were mentioned by one of the fellows
3 that was here that TLC has no jurisdiction of
4 private cars. People have no license from TLC and
5 those are the targets, those are the people who
6 put our business in difficult situations.

7 Always I listen from the TLC people
8 that they have no jurisdiction over Port Authority
9 and they can't enforce operations on Port
10 Authority jurisdiction. As well as when we ask
11 why we've been penalized because to me, to
12 Barino's, it's being penalized with the parking
13 regulations. They say we can't do anything about
14 it because that's City Council law. Over here
15 they blame City Council, City Council blames TLC,
16 TLC blames Port Authority, Port Authority blames
17 City Council. Everybody is--

18 COUNCIL MEMBER MARTINEZ:

19 [interposing] Wait, I'm trying to understand what
20 you're saying. What does the Port Authority have
21 to do with the rules.

22 MR. BERILLO: We complain to TLC
23 that there is a bunch of guys that do illegal work
24 at the airports at New York City. But TLC has no
25 jurisdiction over those because that's Port

1
2 Authority. Port Authority washed their hands and
3 say they have no problem with that. When we
4 complain we say those are unfair competition
5 because those drivers, they don't have the proper
6 insurance, they don't have the legal paperwork and
7 nothing is done.

8 When we complain to TLC about our
9 problem with the parking regulations for base
10 owners, that they must have 50% of the spots for
11 parking, they say we can't do anything about it
12 because that comes from you guys, from City
13 Council. That means here we see that every office
14 is operating on its own. I don't know its
15 interests or what but something is going on
16 because TLC doesn't work closely with Port
17 Authority, Port Authority doesn't work closely
18 with City Council but we are affected. As base
19 owners we are affected by all these offenses.
20 Thank you.

21 COUNCIL MEMBER MARTINEZ: But you
22 know that the parking regulation has nothing to do
23 with Port Authority.

24 MR. BERILLO: I know but TLC is
25 trying to enforce. Actually, they dropped that

1
2 part of the rules. In the rules--

3 COUNCIL MEMBER MARTINEZ:

4 [interposing] I just want to make it clear that
5 the enforcement in the Port Authority is the Port
6 Authority, not even the police department of New
7 York City. The Port Authority has their own
8 police, they have their own jurisdiction, their
9 own authority. The parking issue is different.

10 MR. BERILLO: I know.

11 COUNCIL MEMBER MARTINEZ: That is
12 something that the Coalition of Drivers is already
13 picking up and a discussion that we're going to
14 have but that's for another forum. The city law
15 dealing with the parking issue and the for hire
16 vehicle.

17 MR. BERILLO: But if you allow me
18 Council Member Martinez, when Council Member Reyna
19 said how come we approve bases that are repeated
20 violators, they have no clue how the process
21 works. When we complain to TLC that we can be out
22 of business if they enforce that parking
23 regulation because they want contracts of
24 exclusivity and nobody can afford that - nobody.
25 They say listen gentlemen, this is City Council

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2 that means it's not up to us. When I mention Port
3 Authority I mention something where most of the
4 illegal activity is being conducted.

5 COUNCIL MEMBER MARTINEZ: At the
6 next meeting we're having to discuss issues, that
7 is one of the issues we're going to discuss so
8 we'll do it there.

9 MR. BERILLO: Thank you.

10 ISABEL GUZMAN: I'm Isabel Guzman,
11 I'm representing CR Radio Dispatch. Our main
12 concern is I see that in the new rules they
13 mention where drivers are not going to be able to
14 pick up passengers from personal calls from their
15 cell phones. How does that hold the base
16 responsible? We don't have control on the cell
17 phones of the drivers. Those are their personal
18 phones. Our concern is how could we be monitoring
19 them, what calls they are picking up or not? Is
20 TLC going to enforce the GPS system on all the
21 bases? Are they looking in to that? [Long pause]

22 COUNCIL MEMBER MARTINEZ: That's
23 something in the rules we have to clarify because
24 what you are describing is something that the
25 driver is doing on his own, correct?

MS. GUZMAN: Yes.

COUNCIL MEMBER MARTINEZ: Not something that the base is dispatching?

MS. GUZMAN: No because in this industry we give them the calls. But there are a lot of drivers that give their personal numbers and they pick up. Let's say I call a personal cab driver on their cell phones. I see TLC is trying to control that. How could the bases control that? We don't know who is calling who on whose cell phone.

COUNCIL MEMBER MARTINEZ: Okay, that's part of what we just discussed, part of the rule that we have to get clarity on. Because that's not a call that's being dispatched by the base.

MS. GUZMAN: Exactly.

COUNCIL MEMBER MARTINEZ: That's an individual person to person call.

MS. GUZMAN: Exactly, how could we take control of that.

COUNCIL MEMBER MARTINEZ: All right. Thank you madam and gentlemen. Darlene Sanchez, Arthur Grover and Fernando Garcia.

Fernando Garcia, Arthur Grover and Darlene Sanchez.

FERNANDO GARCIA: Buenos tardes los representativos de la concilio. Buenos tardes todo los representativos [Testimony in Spanish] Gracias.

DARLENE SANCHEZ: Hi, my name is Darlene Sanchez. I represent United as One TLC Bases Association. United as One is a member of the Coalition of Bases of New York City. Thank you for having me here today and thank you City Council committee, thank you for the base owners that are here representing today.

This is a law that is dealing with a lot of changes that are being enforced. We've been sitting down with the Taxi and Limousine Commission for about two years, a lot of recommendations, a lot of changes being done. This has been drastic. We are happy with some of the changes being done to this rule, with the markings on the cars because in reality there are a lot of cars outside. That's not good for the industry. We are not in favor of these cars as base owners. It's hurting us.

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2 However the system of the points is
3 something that as base owners, is getting us
4 nervous. It's our concern that a lot of the small
5 bases or even big bases will be out of the
6 business and the economy right now, for people to
7 lose their jobs. When we're thinking about bases,
8 we're thinking about just drivers and dispatchers
9 but we're wrong because we have the secretary, we
10 have the rest of us around, we have the people
11 that do the printing, the propaganda, they read
12 the stations, the newspapers, the cleaning people.
13 It's a lot of people. When one base goes out of
14 business, a lot of people lose their jobs. We
15 need to think about this when we close a base.

16 Not only that, some people when
17 they close the bases we're talking about some
18 people decide to go illegal.

19 Another point I want to talk about
20 is when we talk about the system of the points,
21 sometimes these drivers get the point but then
22 they appeal the case and sometimes the case gets
23 dismissed later off. What happened with the base
24 that got closed and rejected but later off they
25 got rejected and closed for a driver that later

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2 off the case got back and dismissed. Does this
3 base get opened again? No, it's closed already.
4 I can not get back their license. So we have to
5 consider that. There's no where in there, a gray
6 area to see if this case is going to be back in.

7 Remember these people have--I'm a
8 rep also licensed by TLC so I know you have 30
9 days to appeal your case. In that 30 days the
10 case can come back and the case can get dismissed
11 and the points get deleted but this base already
12 get closed. So that is one thing to consider
13 before also. That's nowhere in these rules when
14 it comes to the points. So I'm asking as a person
15 that goes to court and face these hearings day by
16 day, something to take into consideration when it
17 comes to the points.

18 COUNCIL MEMBER MARTINEZ: That's a
19 good point. We're going to look into that.

20 MS. SANCHEZ: I will bring another
21 point is the amount of summons. When an illegal
22 car gets stopped sometimes if a person and a base
23 comes, one of the TLC is that and the summons they
24 wrote car was dispatched to the point. Just
25 because the car was dispatched to the same address

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2 that's enough proof. The testimony of the
3 inspector is enough proof to say that that car was
4 dispatched from that base. But sometimes the FCC
5 is the only one who can control the radios. For a
6 base that dispatched an illegal car. Let's say I
7 have a ca and--

8 COUNCIL MEMBER MARTINEZ:

9 [interposing] That's the example I put--

10 MS. SANCHEZ: That's the example
11 you said earlier. That's another way that the
12 base is going to get a lot of points because now
13 I'm going to be disaffiliating cars because I'm
14 scared of this new system of points. I don't know
15 if it was taken into consideration.

16 COUNCIL MEMBER MARTINEZ: Thank
17 you. Marina Marianne Maracella, Tony Bendiconi,
18 Moises Vallos, Rafael Rosario. Moises Vallos,
19 Rafael Rosario.

20 MOISES VALLOS: The Taxi Driver
21 Association, the Independent Taxi Driver
22 Association and also I'm a driver with Diamond Car
23 Service in outer Manhattan. I only have two
24 questions to ask. They've been tailing about
25 closing the bases but they don't talk nothing

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2 about our families.

3 How many families are going to be
4 without income when they close the bases? They're
5 only thinking about how most of these people are
6 going to be without a job. And our families are
7 the one who pay the consequences. That's one
8 point and it's important.

9 But there's another point, too.
10 TLC is changing the rules; every day we have
11 different rules. But we have people who are
12 coming out of jail who they sentenced five years
13 up. When they are coming out they deny the
14 license. How are these people going to reinstall
15 to society if they don't give them the opportunity
16 to have a license and work? That's the point that
17 I have. Thank you very much.

18 RAFAEL ROSARIO: Good afternoon
19 member of the Council, my name is Rafael Rosario.
20 I work for Dominicana Car Service. I wanted to
21 talk about the reason why I think that for hire
22 vehicles or black car vehicles should be allowed
23 to pick up people in the street, in some streets
24 of the neighborhoods. Because the people of New
25 York should be treated equal no matter where they

live. The yellow cabs are the only ones with the right to accept street hails. These cars never go to poor neighborhoods. They operate mainly in Manhattan, airports and other points of interest. It is impossible to find a yellow car service in the poor areas of Queens, Bronx, Brooklyn, etc. I understand them because they pay too much money for the medallions and they can only make enough money serving the rich people. But what about the poor people? These people should also have the right to catch a cab in case of an emergency if they can't arrange previously the ride.

It is unacceptable that in less than five minutes you can get a cab in Manhattan while in the poor neighborhoods you can't find one. Your arm will fall off first before a yellow cab will stop for you. They will never stop for you in a poor neighborhood if they pass. Mainly they don't pass over. The solution to this problem is allow for hire vehicle or black car to cover these areas that yellow cars don't. That was what I had to say.

According to the point system, I definitely think it's unacceptable. I have to

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2 take a look at the Constitution of the United
3 States. We all know that this is the supreme law
4 of the land and no other law, no other association
5 can be above the Constitution. Blaming somebody
6 for other people's mistakes, I think that's
7 against the Constitution. The bases should never
8 be penalized for the driver's mistakes. That's
9 all I have to say.

10 COUNCIL MEMBER MARTINEZ: Thank
11 you. Ma'am?

12 MARINA MARACELLA: Buenos tardes.
13 Mi nombre es Marina Maracella representa
14 Mariacchi's Car Service. [Testimony in Spanish]--

15 COUNCIL MEMBER MARTINEZ:
16 [interposing] [In Spanish informs witness that
17 testimony can not be in Spanish] They've been
18 misinformed. Having no more witnesses, I want to
19 thank you for coming and I would just say that
20 from a driver's perspective. As you heard the
21 TLC, the next stage is driver's rules which means
22 we have to organize. I will welcome everyone to
23 the next discussion and meeting. Thank you for
24 coming. At this point having no further witnesses
25 or testimony, the meeting is adjourned.

C E R T I F I C A T E

I, Amber Gibson, certify that the foregoing transcript is a true and accurate record of the 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.

Signature 

Date May 20, 2009 _____