

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON TRANSPORTATION

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December 4, 2008
Start: 10:13am
Recess: 12:05pm

HELD AT: Council Chambers
City Hall

B E F O R E:
JOHN C. LIU
Chairperson

COUNCIL MEMBERS:
Joseph P. Addabbo, Jr.
Simcha Felder
Daniel R. Garodnick
Vincent Ignizio
G. Oliver Koppell
Jessica S. Lappin
John C. Liu
Miguel Martinez
Michael E. McMahon
Darlene Mealy
Diana Reyna
Larry Seabrook
David Yassky

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

Matthew Daus
Commissioner/Chair
Taxi and Limousine Commission

Chuck Frasier
General Counsel and Deputy Commissioner
Legal Affairs

Ron Sherman
President
Metropolitan Taxicab Board of Trade

Ethan Gerber
Executive Director
Greater New York Taxi Association

Vincent Sapone
Managing Director
League of Mutual Taxi Owners

Frances Loughlin
Cab Driver

Erhan Tuncel
Owner/Driver, Member
League of Mutual Taxi Owners

Bhairavi Desai
Executive Director
New York Taxi Workers Alliance

Bill Lindauer
Member
Taxi Workers Alliance

Osman Choudhury
Member
Taxi Workers Alliance

Victor Salazar
Owner/Operator, Member
Taxi Workers Alliance

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

Beresford Simmons

Member

Taxi Workers Alliance

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2 CHAIRPERSON LIU: Welcome to
3 today's hearing on the City Council's Committee on
4 Transportation. My name is John Liu and I have
5 the privilege of chairing this committee. Today
6 we have called this oversight hearing for the
7 purpose of examining the mileage mandate on taxis
8 and for looking at Intro 876 which would reduce
9 the replacement cycle for taxicabs that are not
10 hybrid or wheelchair accessible.

11 On June 3rd and September 10th of
12 this year this committee conducted hearings on the
13 city's miles per gallon requirements for taxis and
14 black cars. Many in the taxi industry raised
15 safety and availability issues about the hybrid
16 cars that were to become taxicabs. Some
17 disability rights advocates have also stated
18 concerns that the miles per gallon mandates would
19 be an obstacle to their goal of 100% accessible
20 vehicle fleet because there are currently no
21 accessible hybrid vehicles. These disability
22 rights advocates have also argued that clean air
23 and accessibility are two goals that the TLC
24 should address in tandem and not separately.

25 In September of this year, the taxi

1 industry filed a law suite in federal court
2 arguing that the city's miles per gallon
3 requirements were invalid under federal law among
4 other things. The federal court granted the taxi
5 industry plaintiffs a preliminary injunction
6 preventing the city from enforcing these miles per
7 gallon requirements. After this setback, the city
8 went to a back up plan to green the taxi fleet,
9 announcing a plan that would create incentives as
10 well as disincentives by raising the lease cap for
11 hybrids and reducing the lease cap for non-hybrid
12 vehicles. The city also announced that it would
13 no longer pursue this miles per gallon mandate.
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15 We'll examine the city's new plan
16 and also hear testimony on Intro 876, a bill
17 introduced by Council Member David Yassky who I
18 believe is going to join us shortly. His bill
19 would reduce the replacement cycle for non-hybrid
20 vehicles used as taxicabs. Currently these non-
21 hybrid taxicabs have a replacement cycle of three
22 years if it is in a fleet and five years if it is
23 operated by an owner/driver. Councilman Yassky's
24 bill would reduce the replacement cycle for these
25 vehicles to one and a half years.

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2 Council Member Yassky's bill would
3 also repeal a section of the administrative code
4 that allowed the TLC to automatically retire a
5 hybrid taxicab if it fails an inspection during
6 the extended replacement cycle that was granted to
7 hybrid taxicabs under a law adopted earlier by the
8 City Council.

9 There are a lot of issues that we
10 can address today. I don't anticipate this
11 hearing going on into the afternoon. I think we
12 can get all the points out in a succinct period.
13 I will start by saying that when the Mayor
14 announced the miles per gallon mandate, 25 miles
15 per gallon this year and 30 miles per gallon for
16 all taxicabs next year in his August 2007 speech.
17 We thought it was a laudable goal that we wanted
18 to clean our air as quickly as possible. And
19 that, given a timeframe of basically a year and a
20 half to go at that time, that a year and a half
21 between the April 22, 2007 mandate and the October
22 2008 implementation date. That was a reasonable
23 period to achieve a laudable goal.

24 As that date approached and as
25 concerns raised by industry grew louder because

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2 there appeared to be ongoing accessibility safety
3 and availability issues, that we started then
4 holding hearings a year after the Mayor's
5 announcement. We started holding these hearings
6 in June of this year, about 14 months after the
7 announcement by the Mayor, thinking that at that
8 point there should have been enough time, enough
9 progress given that time had elapsed.

10 Unfortunately the progress in June
11 of this year clearly had not been reached. In
12 September we held another hearing as the October
13 deadline was eminent. At that point it appeared
14 that not enough progress had been reached at that
15 point. And so unfortunately there had to be legal
16 proceedings in court to the point where we now are
17 at a point where I believe we should have been at
18 six months ago, with the administration and the
19 industry working together to put together a
20 solution that makes sense for the most important
21 people in this process, which is the general
22 public and the people who rely on taxicabs.

23 So let's get to it. Let's put some
24 of the issues out there and see what we're going
25 to do as a city to move forward and to keep the

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2 interests of the riding public. As well as to
3 make sure that the concerns of the drivers
4 involved in this, the tens of thousands of drivers
5 and ultimately the people who invest in the
6 taxicabs, which would be the industry itself. All
7 of their concerns are met and addressed.

8 We had been joined by Council
9 Member Ignizio from Staten Island and Council
10 Member Felder from Brooklyn and Council Member
11 Miguel Martinez from Manhattan. We have a Land
12 Use hearing going on concurrently next door where
13 I will have to, I guess sooner rather than later,
14 go next door momentarily to cast my vote. Let me
15 turn the floor to Council Member Yassky, the prime
16 sponsor of Intro 876. And while he makes his
17 comments I will briefly step out next door to cast
18 my vote. Council Member Yassky.

19 COUNCIL MEMBER YASSKY: Thank you
20 very much. As you know Chairman Daus and TLC
21 folks, I thought that you took a huge step forward
22 for the city and really beyond. Because what the
23 city does is they model for the rest of the
24 country, really the rest of the world by seeking
25 to green our taxi fleet. I think that Chairman

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2 Liu when he said unfortunate litigation, I think
3 it was deeply unfortunate that some of the folks
4 in the industry are seeking to halt a progress
5 toward a cleaner, greener taxi fleet that you set
6 in motion.

7 I commend you for reacting quickly
8 to the judge's decision by outlining some steps.
9 As you know I joined you and the Mayor a couple of
10 weeks ago to announce and call for quick action to
11 put the city back on course toward a cleaner,
12 greener taxi fleet. I commend you for announcing
13 that. All I want to do today is urge you to move
14 forward with not just all deliberate speed by all
15 possible speed towards putting those steps in
16 place. Because this is our environmental problems
17 even though they're not on the front page now
18 because of the economic crisis but they get more
19 urgent with each passing day. So I urge you to
20 act speedily on the steps that you outlined at the
21 Mayor's press conference and I look forward to
22 your testimony here.

23 CHAIRPERSON LIU: Thank you Council
24 Member Yassky. I want to thank the staff of the
25 committee for their hard work in putting this

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2 hearing together, Phil Hom our Legislative Counsel
3 and Chima Obichere our Finance Analyst and Joseph
4 Mancino our Policy Analyst. With that, we're
5 delighted to be joined by officials from the Taxi
6 and Limousine Commission including Chairperson
7 Matt Daus and his compatriots. Matt would you
8 like to proceed.

9 MATTHEW DAUS: Good morning, thank
10 you Mr. Chairman. I will introduce my
11 compatriots. The one on my right is Andy Solkin
12 our First Deputy Commissioner, on my immediate
13 left is Peter Shankman Assistant Commissioner for
14 Safety and Emissions and on my far left is Chuck
15 Frasier is General Counsel and Deputy Commissioner
16 for Legal Affairs. Good morning again Chairman
17 Liu, members of the Transportation Committee.
18 Thank you for the opportunity to speak to you
19 today about Intro 876 and for its proposed changes
20 to the administrative code.

21 Council Member Yassky as well as
22 other council members have been outspoken leaders
23 in promoting a safe and clean taxi service. The
24 TLC shares the Council's goals and continues
25 working to ensure the for hire taxi and limousine

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2 industry meets the higher standards for drivers
3 and passengers. The TLC strict vehicle standards
4 including vehicle retirement requirements are an
5 integral part to ensuring a safe and clean fleet
6 of taxicabs.

7 The TLC is committed to Mayor
8 Bloomberg's sustainability vision as outlined in
9 PlaNYC. As part of PlaNYC we have been working
10 with the taxi industry and the City Council to
11 develop policies and standards that help us to
12 achieve a cleaner and more fuel efficient for hire
13 transportation system available to all New
14 Yorkers.

15 Before commenting specifically on
16 Intro 876, I would like to provide some background
17 on the work of the TLC in this area. The TLC has
18 been at the forefront of both the use of clean
19 vehicles and requiring the higher safety
20 standards. Since the early 1990s the TLC has
21 operated its own inspection facility, which is a
22 licensed New York State Department of Motor
23 Vehicles facility inspecting on average 60,000
24 vehicles each year in compliance with DMV safety
25 and emissions criteria. As well as TLC inspection

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standards of which there are several.

Every four months each taxicab must pass over 250 component inspections that cover safety, performance, emissions and TLC standards in order to continue to operate as a TLC licensed vehicle that serves the public. In 1996 the TLC took the unprecedented step of instituting a taxicab retirement age of three years for fleet vehicles and five years for all other vehicles. Along with the retirement requirement, TLC also required that only new vehicles with less than 500 miles on the odometer are eligible to be placed into service as taxicabs.

These new regulations changed what was an old vehicle fleet with an average age of over eight years to a fleet with an average vehicle age of 2.3 years. The TLC standards are the highest in the country and resulted in the removal of old, less efficient and dirty vehicles from city streets while improving the safety and emissions of taxicab vehicles. Each new vehicle placed on the road must comply with the latest safety and emission standards set by the federal government.

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2 In November 2005 with guidance from
3 the Mayor and the Council, the TLC approved
4 specifications for the use of hybrid electric
5 vehicles as taxicabs. Since then more than 1,600
6 of these cleaner, more fuel efficient vehicles
7 have been placed into service. I think the
8 current number is 1,639 to be exact. The
9 overwhelming majority of these hybrids are being
10 operated voluntary on unrestricted or standard
11 medallions. These vehicles continue to meet and
12 in some cases exceed the highest safety standards
13 and are cleaner and pass inspections at a rate
14 comparable to or better than the standard vehicle
15 types.

16 To date, a conservative estimate
17 shows these vehicles have traveled over 100
18 million miles, helping to reduce the city's carbon
19 footprint with the ultimate goal of improving air
20 quality, reducing respiratory disease as well as
21 reducing our need for imported oil. In addition,
22 fuel efficient cars have saved drivers millions of
23 dollars in operating expenses because they use
24 less gas.

25 In December of 2007 the TLC

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2 unanimously passed rules requiring new taxicabs to
3 achieve a minimum of 25 miles per gallon beginning
4 on October 1 of this year. An industry group sued
5 the city shortly before the rule was to take
6 effect. And a federal judge issued a preliminary
7 injunction, finding it likely that the city was
8 pre-empted from setting fuel economy standards for
9 taxis under the Federal Energy Policy and
10 Conservation Act.

11 Rather than appeal the ruling, the
12 TLC has been working closely with the Mayor to
13 create a package of financial incentives and
14 disincentives to encourage the use of fuel
15 efficient vehicles. The TLC is exploring raising
16 the fee or lease cap drivers pay to medallion
17 owners who purchase cleaner vehicles. The TLC is
18 also considering lowering the lease cap on less
19 fuel efficient vehicles so that medallion owners
20 who choose to purchase them bear the financial
21 burden for the higher cost of gas, not the driver.

22 We hope that changing the lease
23 caps will have significant impact on the medallion
24 owner's purchasing decisions while also holding
25 drivers harmless. The next step will be for the

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2 TLC to commence its public review process and
3 develop rulemaking proposals this month at the
4 Commission meeting which is scheduled for December
5 18th. Where TLC staff and the Board of
6 Commissioners will discuss these changes followed
7 by a public hearing in early 2009.

8 As to Intro 876 specifically, this
9 intro proposed reducing the retirement age for
10 non-hybrid or accessible vehicles to one and a
11 half years for both fleet and non-fleet vehicles.
12 The TLC is open to exploring modifications to our
13 vehicle retirement rules to create additional
14 incentives to increase the number of hybrid
15 vehicles on the road in addition to the proposed
16 lease cap changes as announced by Mayor Bloomberg.

17 As the Commission considers these
18 lease cap changes, we would like the opportunity
19 to further analyze and discuss retirement
20 incentive options with our Board of Commissioners
21 through the TLC rulemaking prior to enacting or
22 rendering a final opinion on this propose
23 legislation. It is important to weigh both
24 proposed incentives together as they are both
25 related to the same goal of promoting hybrids.

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2 This review would include
3 addressing related issues such as whether to
4 continue the current retirement age differential
5 between fleet and non-fleet vehicles if TLC were
6 to retire non-hybrid vehicles sooner. And also
7 ensuring that TLC inspection procedures to allow
8 hybrid cabs to remain on the road longer than non-
9 hybrid taxicabs are reasonable and appropriate.

10 For the reasons I have stated, in
11 conclusion I would ask the Council to defer
12 consideration of Intro 876 for the moment to allow
13 for proper analysis of lease changes proposed by
14 the Mayor to first be considered, passed and
15 implemented by the Commission. To this end TLC
16 welcomes the opportunity to update and involve the
17 council members on the impact of these changes as
18 the Commission considers them.

19 Again, the TLC would like to thank
20 the leadership of the Council for working with the
21 Bloomberg administration to accomplish many
22 important changes that improve the city's taxicab
23 fleet over the years. We look forward to working
24 with the members including Council Member Yassky.
25 We thank you for your kind words earlier as well

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2 as Chairman Liu, to build upon the progress that
3 we have made by continuing to implement
4 progressive rules and sound policies. Thank you
5 fro the opportunity to testify and I would be
6 happy to answer any questions that you might have.

7 CHAIRPERSON LIU: Thank you very
8 much Commissioner Daus. We have been joined by
9 also members of this committee, Council Member Joe
10 Addabbo from Queens, Council Member Oliver Koppell
11 from the Bronx and Council Member Michael McMahon
12 from Staten Island. We're going to hold on to
13 Mike McMahon and Council Member Addabbo for as
14 long as we can. We have a couple more hearings
15 where we'll be joined by them before they move on
16 to their respective state and federal positions.
17 Congratulations. We are also joined by, and I
18 certainly would never have forgotten him, Council
19 Member Larry Seabrook of the Bronx.

20 I want to thank you Commissioner
21 Daus for your statement. I just want to, in the
22 spirit of cooperation, just make sure we're all on
23 the same wavelength, on the same page. Let me
24 just say that in November 2005, I guess you could
25 call it guidance; we call it a legislative

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mandate.

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In November 2005 the TLC finally took action after the City Council had for a long time, implored the TLC to approve a hybrid electric vehicle that could be used in connection with the medallions that were restricted for use on clean air vehicles. We're glad that the TLC after a prolonged and protracted process, finally approved clean air vehicles for use as taxicabs, after we had to legislate a time frame because it took so darned long.

Since November 2005 we're very happy that in addition to being able to use those vehicles on those special medallions in the market place that many participants in the car industry here in New York City have taken it upon themselves to buy hybrid vehicles. To buy clean air vehicles so that they can help keep our air safe as well so we thank the TLC for finally approving a vehicle after a long discussion and some battle in November 2005, to approve those clean air vehicles.

In December 2007 the TLC certainly did unanimously pass rules requiring new taxis to

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2 achieve 25 miles per gallon beginning October 1,
3 Commissioner. That's, I guess in some ways
4 correct. But I think more accurately from the
5 point of view from this Committee, we will remind
6 you once again that in April 2007 where the Mayor
7 stated explicitly that he'd like to have the 25
8 miles per gallon mandate by October 2008, greatly
9 accelerating an original time frame of 2012.

10 That raised some concerns at the
11 time because it seemed to greatly accelerate a
12 time frame that everybody was already working
13 towards. But this Committee gave the TLC and the
14 administration plenty of leeway because it had
15 still time, in April 2007, a year and a half to go
16 before the October 2008 mandate was put in place.
17 I just want to make sure we're all on the same
18 page here.

19 The TLC is now no longer going by
20 the Mayor's April 2007 mandate? That all the
21 vehicles adhere to the 25 miles per gallon
22 requirement by October 2008, is that correct?

23 COMMISSIONER DAUS: A very long
24 question, I'm trying to follow it. I think based
25 upon your initial comments, Mr. Chairman, I don't

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2 know if we're on the same page. We're certainly
3 in the same book but we're not on the same page.
4 I do take a little bit of issue with the way we
5 clarified and explained the history behind this.
6 Again, I do believe it was certainly guidance that
7 we took from the Council.

8 We testified for a numerous number
9 of years going back as you mentioned even to mid
10 to late 2005. But hybrids were around and
11 available then and we hadn't tested them. That
12 whole time frame was exercising due caution and
13 prudence to test them. Thankfully they have
14 performed well, to the point where it looks like
15 it's really the future. Right now as we speak, as
16 this hearing is taking place in Washington the
17 CEOs of the Big Three are driving up in hybrids
18 and electric cars. If that isn't a statement unto
19 itself that it is the future... And it is the
20 future at the TLC as well.

21 I think to answer your question it
22 would be October 1 has come and gone. There's a
23 law suit that has a preliminary injunction that
24 was decided against the city. We're working on
25 other measures that we believe can achieve our

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2 mutual and shared goals, which I think we both
3 share, of moving as fast as we can to a cleaner
4 fleet. So it's not going into effect.

5 There are some details that we will
6 be sharing with the industry in the coming weeks
7 with negotiated discussions that are taking place
8 involving the law suit as to what vehicle owners
9 are expected to do and not to do. Because
10 apparently there are very few, if any, Crown Vics
11 available right now for people to put on the road.
12 We're negotiating and its active negotiations and
13 I really can't go into it.

14 CHAIRPERSON LIU: Right. We've
15 been joined by Council Members Dan Garodnick from
16 Manhattan and Jessica Lappin from Manhattan.
17 That's great. We do share the goal of cleaning
18 our air as quickly as possible but just to make it
19 perfectly clear. This has been a series of
20 hearings so I need to make sure there is
21 continuity from one hearing to the next. In June
22 and again in September when we held the previous
23 hearings, this committee had asked the TLC to
24 reconsider what seemed to be an arbitrary deadline
25 of October 1.

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2 The TLC testified that it would
3 not. That it would go ahead with that original
4 mandated time frame. The TLC has now abandoned
5 that time frame, as you said. It's come and gone.

6 COMMISSIONER DAUS: Not
7 voluntarily, we were ordered to by the judge in
8 federal court.

9 CHAIRPERSON LIU: Okay. So--

10 COMMISSIONER DAUS: [interposing]
11 We lost a motion for preliminary injunction. It
12 was a preliminary injunction basically against us--
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14 CHAIRPERSON LIU: [interposing]
15 Right. I believe there's public record that TLC
16 was going to appeal that decision and you are now
17 stating for the record you are not going to appeal
18 that.

19 COMMISSIONER DAUS: No, the Mayor
20 had announced that we're not appealing the
21 preliminary injunction decision. The law suit is
22 still currently pending. It hasn't been
23 dismissed. I'd been advised not to go into the
24 details. I don't know all the details and
25 discussions that have taken place. I know a

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2 stipulation was signed and had been submitted to
3 the judge about where we go next in the law suit.
4 The long and the short of it is, I wasn't at the
5 last two hearings. I did watch and read the
6 testimony. I'm sure that you probably cautioned
7 against the date and I'm sure we probably said
8 we're moving forward. The court had stopped this,
9 it wasn't a voluntary decision. We were ready,
10 willing, able. We believe the industry was
11 considering the high number of voluntary hybrids
12 that just make practical economic sense that are
13 being put on the road despite our loss, which is
14 now 1,639, 12%.

15 CHAIRPERSON LIU: There is a
16 preliminary injunction, that doesn't necessarily
17 dismiss the law suit.

18 COMMISSIONER DAUS: Right.

19 CHAIRPERSON LIU: The
20 administration has now decided that it is not
21 going to appeal that preliminary injunction.

22 COMMISSIONER DAUS: Correct, that
23 ruling.

24 CHAIRPERSON LIU: But obviously at
25 this point, and maybe it is too obvious that you

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2 don't feel like you have to say it. But the
3 administration is no longer going on that 25 mile
4 per gallon mandate.

5 COMMISSIONER DAUS: Yes, we're
6 prohibited from doing so right now.

7 CHAIRPERSON LIU: No, the court
8 hasn't ruled anything so you're not prohibited
9 from doing anything.

10 COMMISSIONER DAUS: Yes, it has.
11 My counsel would like to clarify and back me up.

12 CHUCK FRASIER: The fact that a
13 preliminary injunction is not a final disposition
14 does not make it any less binding. We could not
15 enforce that mandate except to be in contempt of
16 court. It's not an option.

17 CHAIRPERSON LIU: Okay. So you're
18 saying that you're taking the preliminary
19 injunction to be a final decision.

20 MR. FRASIER: No, it's a decision
21 pending the outcome of litigation. But while that
22 litigation is pending, which it still is, we have
23 no legal option but to comply with the injunction.

24 CHAIRPERSON LIU: Okay. But you're
25 not pursuing it any further so you're basically

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2 letting it drop.

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MR. FRASIER: The law suit remains pending. We're not appealing, we're not taking an interlocutory appeal of the preliminary injunction but the law suit remains pending.

CHAIRPERSON LIU: Got it.

COMMISSIONER DAUS: So basically Judge Carrody ruled there is a likelihood of success that our adversaries will have on the merits. For those who are lawyers on the committee, they understand what that means. For the public, what that means basically is it is a binding court order as Mr. Frasier had mentioned. We are prevented because of that court order from moving forward now. But the law suit hasn't been dismissed yet. The Mayor and on advise of counsel as well, had basically made a decision not to appeal just that preliminary order from the judge that basically stops us now. Does that make more sense?

CHAIRPERSON LIU: It makes perfect sense despite the semantics and the wording. The bottom line is that the TLC arbitrary mandate of October 1 has failed. It's not that this

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2 committee doesn't share your goals, really. This
3 has always been an issue of accountability because
4 the TLC has flip flopped back and forth on the
5 hybrid and the clean air vehicle issue over the
6 years that this committee has been under my
7 leadership.

8 We just want to make sure that when
9 the TLC takes actions, that they are accountable
10 for them and that it doesn't cause unnecessary
11 havoc in the industry and for the public. As we
12 cautioned in this committee in September and June,
13 after giving it plenty of time to make progress.
14 We waited patiently. We didn't call hearings in
15 2007, we didn't call hearings earlier. We only
16 called hearings when the time frame became
17 eminent. We said are you sure this is going to go
18 well for the industry and ultimately for our
19 constituents. And ultimately it played out to be
20 completely not the case.

21 Let's move forward from here. You
22 call them your adversaries. Hopefully for now
23 your partners in trying to craft a strategy to
24 have a practical approach to get clean air
25 vehicles quickly out on the roads. So now there

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2 is this change in the lease cap. Did you want to
3 respond to anything I've said so far? You're
4 certainly welcome to do so.

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6 COMMISSIONER DAUS: Sure. There
7 was a lot that was said. There wasn't a question
8 but first of all it wasn't arbitrary. It was
9 obviously well thought out and--

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10 CHAIRPERSON LIU: [interposing]
11 What was the basis behind October 2008?

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12 COMMISSIONER DAUS: Vehicle
13 production, high prices of gas, more vehicles
14 being manufactured. For the first couple of years
15 as I have testified many times, we wanted to make
16 sure that the vehicles were road worthy, that they
17 would work, that they would hold up well and they
18 have. We've looked at inspections over the years.
19 I think you know what the public record is on
20 that. It's been flushed out in prior hearings.

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21 But then there did come a point
22 that things, that the future sped up and it
23 started going at light speed. To the point where
24 over a year or so, hybrids became very popular
25 because of the high price of gas, more became
available and I believe it was very prudent. It

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was not an arbitrary deadline.

We believe if we were not ordered by the judge to stop this program due to an antiquated provision, which is an unfair one in our view of the federal law in the Clean Air Act. Which essential tells us you can't have cleaner air as a state or city. Which we take issue with and Congressman Nather is going to be introducing legislation to try to fix that, that we've been prevented from moving forward.

Again, with all due respect, I only referred to the MTBOT as adversaries in the context of the law suit. They are our partners. They are stakeholders who we're actively in negotiations and discussions with them as well as the rest of the industry. We're going to be holding public hearings in the new year to explore some of the comments and issues that they may have with the lease cap incentives and disincentives which we believe are the next best thing that we can do to further clean air. That's basically my response. I think for the record you and I may have a disagreement as to what happened over these couple of years but that's my explanation.

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2 CHAIRPERSON LIU: All right. Thank
3 you. We'll let it go at that. Let me turn it
4 over to my colleagues for some questions and I'll
5 have questions at the end if they haven't asked
6 them already. Council Member Miguel Martinez.

7 COUNCIL MEMBER MARTINEZ: Thank you
8 Mr. Chair. And I want to just tell you upfront
9 that I want to excuse myself after questioning
10 because we also have budget negotiation meeting
11 going on downstairs. I want to thank you for the
12 opportunity to be able to ask several questions.

13 Commissioner, the Chairman made a
14 statement in terms of our responsibility to ensure
15 that any public policy either by the
16 administration, one of the city agencies or even
17 ourselves when presenting legislation. It's
18 always our responsibility to make sure it's in the
19 best interest of our constituents. I have issues
20 when you mention the fact that the hybrids, the
21 production of these vehicles were more. It's true
22 that they're popular but you're forgetting a
23 statement which is these vehicles were not
24 produced nor, unless you tell me otherwise, any of
25 the manufacturers coming out publicly saying that

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2 these vehicles are being produced for commercial
3 purposes.

4 As a matter of fact last time we
5 had this hearing one of the most popular ones,
6 which is Toyota went out publicly to say they
7 wouldn't guarantee their vehicle for commercial
8 uses. Having said that, has that changed. Last
9 time we had this hearing we went over the amount
10 of production. In fact, my understanding was that
11 these manufacturers couldn't keep up with the
12 demand not only by private citizens but yet alone
13 to meet the demand of the commercial industry,
14 which is taxi limousine. Which none of them were
15 giving you a guarantee that they were going to
16 produce X amount exclusively for New York City
17 TLC. Has that changed?

18 COMMISSIONER DAUS: The first
19 comment that you made may have been true years ago
20 when they first started coming out with the
21 vehicles. But we stood with the Mayor a few
22 months ago over the summer with three of the top
23 auto manufacturers that are standing by some of
24 the vehicles, commercially supported, fully
25 warrantied for use as taxicabs. And I'm sorry,

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the second part of your question was?

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COUNCIL MEMBER MARTINEZ: So they gave that in writing to TLC that they would...

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COMMISSIONER DAUS: Yes.

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COUNCIL MEMBER MARTINEZ: ...stand behind their vehicle.

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COMMISSIONER DAUS: Yes, they stood with us. Yes.

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COUNCIL MEMBER MARTINEZ: Would you share that with the Committee for the Committee's records?

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COMMISSIONER DAUS: Yes, it's a matter of public record. I'd be happy to give it to you.

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COUNCIL MEMBER MARTINEZ: Thank you. The second question I have for you is when you mentioned the incentives. The Chair started making reference to that in terms of the lease caps. What is substantial evidence? What do you have to prove either to raise the lease cap or lower the lease cap? You say you need substantial evidence. What substantial evidence does one have?

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COMMISSIONER DAUS: I believe that

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2 in the current rules, those terms may be used with
3 respect to owner and driver earnings. We're going
4 to be changing those rules - it's within our
5 authority -to have slightly different standards
6 because we're using the lease cap to further
7 policy initiatives. First of all raising the
8 lease cap \$3 as proposed is in direct response to
9 evidence that was submitted by the MTBOT during
10 the law suit where they estimated that about
11 \$6,000 per cost per vehicle during its lifetime
12 would be required if they were to go from Crown
13 Victorias to hybrids.

14 So we're relying on their data when
15 coming up with the amount of additional expenses
16 that hybrid owners should be compensated for since
17 they have not had a lease cap increase since 2004
18 when we did our last across the board increase.
19 And number two, the disincentive proposal which is
20 to lower the lease cap \$12 is intended as a policy
21 matter to help drivers to hold them harmless.

22 There are many drivers in the
23 industry that basically go from fleet to fleet on
24 a 12-hour shift basis that don't have a choice of
25 what vehicle to buy. So their friends and their

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2 colleagues are renting from fleets that have the
3 hybrid vehicles and they are making much more
4 money. On average they're saving about \$15 per
5 shift as a result of the gas savings. What we
6 want to do is kind of equalize and balance and
7 bring the earnings closer together.

8 We want to hold the drivers
9 harmless. Just because they happen to go into a
10 fleet who stubbornly refuses to go to clean air
11 vehicles, they should not have to suffer the
12 economic consequences when their colleagues are
13 going to other owners who have the hybrids
14 available and their making more money. Those are
15 the two policy reasons.

16 As I had mentioned in my prior
17 testimony today, we are going to talk about what
18 the Commission these vehicle retirement incentives
19 that we're supposed to be talking about here
20 today, that Council Member Yassky proposed with
21 this bill. We'll talk about that at the
22 Commission as well because they're all considered
23 to be a combination of incentives and
24 disincentives.

25 COUNCIL MEMBER MARTINEZ: But these

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incentives are only applying to the fleet owners.
Any plans for non-fleet? Am I right?

COMMISSIONER DAUS: No, they're
going to apply to every medallion owner.

COUNCIL MEMBER MARTINEZ: I thought
the rules that TLC is now contemplating serves
lease cap reductions for non-hybrids seen only to
fleet. Is that right?

COMMISSIONER DAUS: It will
primarily impact them only because most of the
fleet owners use Crown Victorias. But no, by
definition we're contemplating looking at all
medallion owners that lease cars to drivers. That
would include some individual owner/operators,
that would include not driver owned vehicles but
people who get weekly leases there are rules to
lease both the medallion and the vehicle. So it's
going to effect a significant part of our
industry.

COUNCIL MEMBER MARTINEZ: Let me go
back to my first question. With that statement or
acknowledgement of the industry of producing or
manufacturing these vehicles for commercial
purposes for TLC, have you had conversations with

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2 them about the type of manufacturing in terms of
3 making them roomier for passenger space? The same
4 is true in terms of driver safety and so forth.
5 Because one of the issues that has come up and we
6 discussed is in terms of the space of these
7 vehicles.

8 COMMISSIONER DAUS: I think I
9 probably testified. If you look up press
10 articles, I've said over the years is of course
11 our goal is to have as much space in the back as
12 possible. In fact, years ago I had asked that the
13 Crown Victoria be stretched along with the former
14 Chair, Diane McChekney and Ford did it. Of
15 course, publicly, I would love to see the hybrids
16 made bigger. I did have a conversation with Henry
17 Ford, Jr. a couple of years ago when he announced
18 that he was making For Escapes available for the
19 industry.

20 I think what we did after that was
21 we realized that clean air comes first, that's the
22 most important thing. Not to use a pun, but it
23 has to take a back seat. The lack of leg room has
24 to take a back seat to clean air. In terms of
25 recent discussions, I haven't had any more recent

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2 discussions. Maybe Assistant Commissioner
3 Shankman has--

4 COUNCIL MEMBER MARTINEZ:

5 [interposing] But Commissioner, in your statement
6 am I hearing that clean air comes first before
7 safety?

8 COMMISSIONER DAUS: No, clean air
9 comes before leg room so you can stretch out.
10 Safety comes before all of that.

11 COUNCIL MEMBER MARTINEZ: I
12 understand that but looking at evidence of hybrid
13 vehicles that have been involved in accidents and
14 looking at a passenger in the back of the seat,
15 safety is a big issue. If a car is hit by the
16 back, some of the pictures that we've seen--
17 actually the last hearing we had after your
18 testimony, some of the industry. You weren't
19 here.

20 COMMISSIONER DAUS: I didn't
21 testify but I watched it on T.V.

22 COUNCIL MEMBER MARTINEZ: How?

23 COMMISSIONER DAUS: NYC TV.

24 COUNCIL MEMBER MARTINEZ: Oh, you
25 watch T.V.

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2 COMMISSIONER DAUS: That's probably
3 all I watch.

4 [Laughter]

5 COUNCIL MEMBER MARTINEZ: The point
6 is that we were presented with several pictures of
7 hybrid vehicles involved in accidents, evidence
8 where it shows that the potential for serious
9 injuries for a passenger sitting in the back of a
10 vehicle. With the lack of space because of the
11 closeness of the knees to the partition because
12 you know the partition has that steel metal but
13 even the driver himself, also, because of the lack
14 of room in these vehicles. I think these are
15 important issues that need to be considered as we
16 consider clean air also. I think safety is a big
17 component.

18 I think that one of the reasons,
19 also, the Crown Victorias is such a popular
20 vehicle in the industry is not only so much
21 because of the leg room, it's also because of the
22 endurance of these vehicles and also how strong
23 the body of these vehicles are also. Am I
24 mistaken by that?

25 COMMISSIONER DAUS: With all due

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2 respect, I think I disagree on that. First of
3 all, in terms of evidence that they're not safe,
4 there is no credible evidence that we've seen. It
5 was testified previously that there are many
6 different layers of safety that go into play with
7 these vehicles before they even get to us. So
8 we're not concerned with that because we haven't
9 seen any evidence that suggest that they're
10 problematic. All the evidence we're seeing with
11 respect to hybrids indicate that they're if not as
12 safe as Crown Victoria, it could be safer.

13 The only thing that's really
14 changed since the last hearing that you held is
15 the Ford Escape by the Insurance Institute by
16 Highway Safety did its own independent crash
17 testing of all the vehicles and found that it was
18 one of the top five safest vehicles, two levels of
19 higher ratings higher than the Crown Victoria.
20 This isn't who's best, who is better. We have a
21 bottom line for safety. We want to make sure that
22 all federal motor vehicle safety standards are
23 met, that we inspect them four times a year which
24 is more than twice as much as every other vehicle
25 on the road.

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2 I think they are safe. I will sit
3 here and tell you we have not seen any credible
4 evidence whatsoever to suggest that hybrids are
5 unsafe or that any increased leg room makes a
6 difference if you wear your seatbelt. I think
7 Assistant Commissioner Shankman and my First
8 Deputy Andy Solkin testified last time that there
9 are, if you wear your seatbelt, significantly
10 reduced chances that you're going to be hurt with
11 or without a partition, regardless of the leg
12 room.

13 Because it has a certain amount of
14 leeway, if you are wearing a seatbelt with the
15 shoulder restraint you're only going to go a
16 certain couple of inches forward. It's irrelevant
17 whether it's a two or three inches closer or six
18 inches less leg room because you're just not going
19 to propel outwards if you're wearing a seat belt.
20 So you are significantly reducing your chance of
21 getting injured.

22 When you brought up leg room
23 Council Member Martinez I thought you were talking
24 about the comfort and convenience. If you had to
25 go through a hierarchy of what's important, it's

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2 safety, clean air and last but not least customer
3 convenience and comfort. We'd love to see the
4 hybrids made bigger. That would be great and some
5 of them are. I think the Toyota Highlander is
6 made a little bit bigger in the last two years.
7 So that's basically my response.

8 They're safe, unequivocally. We
9 have not seen any evidence to the contrary. I
10 think we explored this in tremendous detail not
11 just in the law suit where evidence was submitted
12 but the judge didn't rule or address safety. But
13 also at the last hearing where I think there was
14 extensive testimony from all parties including
15 Ford by the way.

16 COUNCIL MEMBER MARTINEZ: Thank
17 you, Commissioner. Thank you, Mr. Chair. I have
18 to excuse myself. But we all share the same goal,
19 which is our environment. But at the same time
20 the issue of safety and practicability in terms of
21 making sure these vehicles are available and that
22 we have the right information is crucial. Thank
23 you Mr. Chair.

24 CHAIRPERSON LIU: Thank you Council
25 Member Martinez. Questions from Council Member

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2 Yassky.

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4 COUNCIL MEMBER YASSKY: Thank you
5 very much Mr. Chair. History here is important
6 and useful, although--and it's true that for the
7 early part of the administration I know that TLC
8 had some questions about whether we were ready for
9 a hybrid mandate. Ultimately, though, you went
10 ahead and pushed for one and imposed one. I think
11 that was the right decision, as I said before.
12 Now just to kind of cut to the chase, a court has
13 said the mandate is invalid. Rightly or wrongly
14 they've said that so we have to figure out where
15 to go from here. Am I right? Is that the essence
16 of where we are?

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18 COMMISSIONER DAUS: Well they said
19 we have a likelihood of success.

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20 COUNCIL MEMBER YASSKY: They said
21 it's invalid at the moment. There are further
22 proceedings, maybe the court will change it. I
23 hope they will. I believe it was wrong, the court
24 was wrong. At the moment and we have to kind of
25 proceed where we are, it's invalid. So we have to
figure out how to move forward. Do you believe in
the adage, if at first you don't succeed, try, try

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2 again? Mr. Chair can I ask do you believe in that
3 adage as I do?

4 CHAIRPERSON LIU: Absolutely. It's
5 right up there with the Golden Rule.

6 COUNCIL MEMBER YASSKY: Exactly.
7 Treat others as you would wish to be treated.
8 Reduce your carbon footprint as you would wish for
9 others to reduce their carbon footprint upon you.
10 Is that correct?

11 CHAIRPERSON LIU: It's up there.

12 COUNCIL MEMBER YASSKY: I believe
13 that's somewhere in the Pentatuch, I believe. As
14 I understood the Mayor's proposal, which was I
15 think extraordinarily sensible was to recognize
16 that from the point of view of the driver there is
17 a real difference between leasing a fuel efficient
18 car and leasing a non-fuel efficient car in terms
19 of cost that they are bearing. The proposal is to
20 have the lease cap rates reflect that cost.
21 That's not a regulation of mileage. It has
22 nothing to do with the Clean Air Act.

23 I believe one consequence would be
24 that the fleets would then move towards hybrids or
25 towards fuel efficient cars. It's simply a

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2 proposal to have the lease cap rates reflect the
3 driver cost. Is that right?

4 COMMISSIONER DAUS: Yes. But also
5 to create incentives and disincentives and to hold
6 drivers harmless. What you're getting at
7 certainly is that I think we've been advised by
8 counsel at all levels that it's obviously
9 something that--

10 COUNCIL MEMBER YASSKY:
11 [interposing] Obviously consistent with the courts
12 ruling

13 COMMISSIONER DAUS: Legal and
14 advisable.

15 COUNCIL MEMBER YASSKY: Do you
16 expect that the TLC will move forward in
17 considering that? Obviously the Commissioners
18 then have to look at it. They will debate it.
19 They will choose whether to embrace that proposal
20 or not. But as Chair you set the agenda. You
21 intend to bring that proposal before the
22 Commission for it's discussion?

23 COMMISSIONER DAUS: Yes.

24 COUNCIL MEMBER YASSKY: Soon?

25 COMMISSIONER DAUS: With lightning

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2 speed.

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COUNCIL MEMBER YASSKY: With lightning speed, thank you.

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COMMISSIONER DAUS: December 18 is a presentation, discussion and then we'll be holding a hearing in early 2009. There are requirements under the administrative procedure.

I think you have to publish the proposals so there's at least a month or so to put it out to the public. But we're engaging in discussions and would have received feedback before then from the industry as to the expenses and the issues and how they feel about it. Work with them, not against them.

COUNCIL MEMBER YASSKY: Very good. On the big issue, those were the only questions that I have. I do have another question I want to ask you about related to this. In the original mandate, as you know--even before the mandate when the Council and the Chairman's leadership provided for some hybrid only medallions and then further provided that the TLC should make the hybrid option available to fleets and individual owners.

The TLC also then put in place a

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2 provision that imposed an additional, the way I
3 would put it: imposed an additional inspection
4 requirement on the fuel efficient cars as they
5 approach their extended period. As you know, fuel
6 efficient cars have a longer life cycle than the
7 non-fuel efficient as far as the TLC regulations
8 go. The way it is now the fuel efficient cars, if
9 I understand it, if they fail two inspections
10 prior to going to their extension period then they
11 can't go into the extension period. And when
12 they're in the extension period, if they fail an
13 inspection at all they must be retired immediately
14 as opposed to ordinary vehicles where when they
15 fail an inspection, they can repair it, fix it and
16 go back on the road.

17 I have to tell you I think that's
18 unfair to the hybrid owners and the owners of the
19 fuel efficient cars. I'd like to know what your
20 views are on changing that.

21 COMMISSIONER DAUS: Sure. First,
22 if I could have just a moment of privilege to just
23 thank you, Council Member Yassky for your
24 leadership and Chairman Liu. Going back in time
25 on extended discussions which seem to have taken a

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2 360 in terms of you asking us and then us moving
3 too fast for--

4 CHAIRPERSON LIU: [interposing]
5 From our point of view it's a 180.

6 COMMISSIONER DAUS: 180. You would
7 know.

8 COUNCIL MEMBER YASSKY: 275. I'm
9 making that up.

10 COMMISSIONER DAUS: We applaud your
11 passage along with the Speaker of that law because
12 I do believe it played, in addition to the obvious
13 of more hybrids being available. And also the
14 high price of gas factored into all these
15 voluntary hybrids which now number 1,639 which is
16 about 12% or more of our entire fleet. We're
17 seeing our first vehicles that have been on the
18 road for many, many miles now enter into that
19 extension period that you so graciously offered to
20 them. I think it is one of the things that owners
21 look at when they decide to buy a hybrid or a non-
22 hybrid.

23 I think in addition to the price of
24 fuel they're looking at the extra age that they
25 have on the car. So I think now we have about 18

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2 of our 1,639 hybrids have already entered into
3 that phase. I do believe in regards to prior
4 discussions I've had with the council member on
5 the inspection requirement, the law that you did
6 pass gave the TLC specifically the option to have
7 additional inspection requirements beyond the
8 three times per year in our rules. We did pass
9 those options that you gave us in the legislation.
10 It said may and we took the may as good advice and
11 a good signal and we passed rules that require
12 that.

13 I still think it's important as we
14 are seeing for the first time, even though the
15 hybrid is doing very well, entering into those
16 later years of use, beyond three years, four,
17 five, six, seven years of service. We want to
18 maintain the option that if cars tend to break
19 down and fail inspection for critical items that
20 our Assistant Commissioner has the ability to take
21 them off the road.

22 I think your point is, which I
23 totally agree with you on, even though it's
24 important that you not have a broken headlight, if
25 you fail for a broken headlight as you enter into

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2 your extension period, you should not have to buy
3 a new vehicle. You should be able to come back,
4 of course be taken off the road. You should be
5 able to come back.

6 We would have to do rulemaking to
7 fix that. We will look into that, as I have
8 promised you and that will be part of our
9 discussions in the coming months. I do agree with
10 you on that.

11 COUNCIL MEMBER YASSKY: Okay. Well
12 thank you. I won't belabor it. As you say, we
13 have discussed this informally. Whatever. I will
14 formally ask you to consider that.

15 COMMISSIONER DAUS: We will.

16 COUNCIL MEMBER YASSKY: And not
17 just consider it but to do it because I really do
18 think...that's my position. I really do believe
19 that it's just unfair. Especially to the folks
20 who did take a chance as we kind of wanted them
21 to, go out, do something a little new, a little
22 different and invest in the hybrid cars. When we
23 did that we said there's going to be a longer life
24 cycle, I think we owe it to those folks to give
25 them the benefit of that longer life cycle. Thank

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2 you and Mr. Chair thank you for your indulgence.

3 CHAIRPERSON LIU: Thank you Council
4 Member Yassky. Thank you for spearheading that
5 legislation that then provided the guidance that
6 the TLC to do the right thing. All right. That's
7 it. My last question for you is that you've
8 talked about lowering the lease caps for certain
9 vehicles that are already in widespread use. Our
10 understanding is that, and I think Council Member
11 Martinez eluded to this but I just wanted to make
12 it more clear. That there is some rule that says
13 that the TLC can not lower these lease caps unless
14 there is substantial evidence.

15 COMMISSIONER DAUS: Right.

16 CHAIRPERSON LIU: So you did
17 mention a few things, is that the substantial
18 evidence that the TLC will offer?

19 COMMISSIONER DAUS: Well there's
20 definitely substantial evidence but we're going to
21 change that rule probably anyway. Those are rules
22 that we wrote, standards that we put into the law
23 and we have the authority. If we need to change
24 it to make it more clear moving forward for other
25 policy reasons like holding drivers harmless, we

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will.

CHAIRPERSON LIU: So you're going to change the rule that prohibits you from changing something so that you can change that thing. It's kind of like the term limits thing.

COMMISSIONER DAUS: We believe it's consistent with the rules as they are now but we're going to be re-writing the whole rule anyway. There is substantial evidence that drivers who are driving Crown Victorias are making much less money and that's not fair. They're making at least \$2 per hour less than hybrid drivers who are getting a windfall now, not only by driving a hybrid with increased gas savings but also with drastically reduced prices of gas. We want all our drivers to have equal earnings because that's fair. I believe that is somewhat consistent with the rule and certainly it's well consistent.

The substantial evidence that we're relying on is affidavits that the MTBOT put into evidence showing that it costs them \$6,000 per vehicle per year more to operate a hybrid. When you do the math that ends up being about \$3 more

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2 per shift. And that's what we're proposing,
3 exactly what they had given us the evidence for.
4 That, sir, is the substantial evidence. Though of
5 course we exercise our option to take a fresh look
6 at that rule as well as the vehicle retirement
7 rules which I promise, Council Member Yassky, we
8 will look at.

9 CHAIRPERSON LIU: Okay. I did not
10 actually read the entire sentence. I stopped at
11 substantial evidence but given your comments about
12 how we want drivers to be able to make as much
13 money. Certainly we want drivers to make as much
14 money as possible. It's not always been a stated
15 policy of the TLC to ensure that that happens,
16 that that is the case. But I want to read the
17 rest of the sentence that this rule says.

18 Include substantial evidence of
19 reduced operating expenses of the affected
20 medallion owners. It's not my rule, I'm just
21 trying to follow the rules here. It doesn't
22 really say anything about the drivers. We're not
23 opposed to drivers making more money but there are
24 rules in place. If you're going to change the
25 rule that's fine. But right now this is what the

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2 rule says substantial evidence of reduced
3 operating expenses of the affected medallion
4 owners.

5 COMMISSIONER DAUS: Right. With
6 all due respect Mr. Chairman, the Council this
7 year, every day changes standards, passes laws to
8 change things that were done that they believe
9 were unfair, may have been sound policy years ago.
10 We believe that this is a--I understand what
11 you're saying that there's something in those
12 rules that say, when they were drafted many years
13 ago, over ten years ago, you need substantial
14 evidence of reduced operating cost to lower it.
15 We're going to change that, yes. Because we have
16 another policy agenda here which is to create a
17 disincentive, a policy reason to change the law
18 just as the Council does every year, change laws
19 to put different standards in place.

20 CHAIRPERSON LIU: Right. But that
21 basically says that you're going to change that
22 rule.

23 COMMISSIONER DAUS: Yes.

24 CHAIRPERSON LIU: Because in fact
25 there is not really that substantial evidence.

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2 COMMISSIONER DAUS: No, the
3 substantial evidence is--

4 CHAIRPERSON LIU: [interposing] If
5 there was substantial evidence, why do you have to
6 change the rule?

7 COMMISSIONER DAUS: The substantial
8 evidence that drivers are earning less money,
9 they're hurting. The ones that are--

10 CHAIRPERSON LIU: [interposing]
11 Okay, but that's not the substantial evidence
12 called for by this rule.

13 COMMISSIONER DAUS: Drivers who are
14 driving Crown Victorias--I understand what you're
15 saying but we're changing that rule. That was my
16 answer to the question.

17 CHAIRPERSON LIU: Right. And
18 you're changing the rule because you can't comply
19 with that rule.

20 COMMISSIONER DAUS: No, we're
21 changing it because we have other policy reasons
22 to protect our environment, to protect our kids,
23 to reduce pollution and to hold the drivers
24 harmless, to make sure that they have equal pay.
25 And that the Crown Victoria drivers who have no

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2 choice as to what vehicle because there aren't as
3 many hybrids out there right now can make more
4 money in this tough economy.

5 CHAIRPERSON LIU: I just want to
6 get everything out in the open...

7 COMMISSIONER DAUS: It's out there.

8 CHAIRPERSON LIU: ...so we can
9 avoid having another hearing about this. Council
10 Member Yassky.

11 COUNCIL MEMBER YASSKY: I guess
12 this really came out in the last back and forth.
13 I understood the point that the Chairman was
14 making, I just wanted to be crystal clear and I
15 think you really just said this, Chair Daus that
16 the previous standard, the standard that's now in
17 place looks at only one factor, the operating
18 costs to the medallion owner. What you are saying
19 is that there are many factors that should come
20 into play when setting lease cap rates including
21 the impact on the drivers and possibly even the
22 impact on New York City citizens who are air
23 breathers. Yes, it's a change in the standard
24 because there are other factors that are very,
25 very legitimately should be taken into account. I

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2 just wanted to make sure I understood that
3 correctly.

4 COMMISSIONER DAUS: Yes. You're
5 absolutely correct on interpreting my answers.

6 CHAIRPERSON LIU: Thank you Council
7 Member Yassky and thank you Chairman Daus.

8 COMMISSIONER DAUS: Thank you.
9 Happy holidays.

10 COUNCIL MEMBER YASSKY: Happy
11 holidays, see you soon.

12 CHAIRPERSON LIU: Okay. We have
13 our next panel consisting of Ron Sherman and Ethan
14 Gerber, they'll be followed by a panel consisting
15 of Vincent Sapone, Frances Loughlin and Erhan
16 Tuncel. Gentlemen please proceed.

17 RON SHERMAN: Good morning Chairman
18 Liu and distinguished council members. I'm Ron
19 Sherman, President of the Metropolitan Taxicab
20 Board of Trade, which represents 28 yellow taxi
21 fleets and approximately 3,500 medallion taxicabs
22 as well as thousands of drivers, mechanics and
23 others who rely on 24/7 yellow taxi business.

24 We strongly support a green taxi
25 fleet. Nobody has done more to push automakers to

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2 build a green purpose built taxi than MTBOT and
3 our colleagues. The issue has never been about
4 whether or not to go green, the issue has been
5 about when we can go green without compromising
6 safety, comfort and service. The issue has even
7 been about whether hybrid taxi is right for the
8 taxi industry. One day it may be.

9 Our concern is that none of today's
10 small hybrids provide enough rear occupant space
11 to safely transport passengers when outfitted with
12 partitions. And none of today's hybrids were
13 designed to be 24/7 commercial taxi cabs. These
14 findings were presented in an engineer's report by
15 Bruce Gambadel; Hybrid Taxi Safety Report that was
16 distributed to the Committee in September.

17 We agreed with the spirit of the
18 Mayor's well thought out PlaNYC 30 proposal that
19 would begin greening the fleet in 2012, allowing
20 time for safe, purpose built green taxis to
21 replace the existing ones. We later agreed that
22 based on assurances from the auto industry, we
23 could start that process three years earlier, in
24 2009. But the city insisted on an accelerated
25 2008 plan.

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2 Recently we brought a successful
3 federal law suit against the city, stopping the
4 mandate because we could not sit idle and watch
5 what we knew would be a disastrous policy.
6 Engineers, automotive safety experts, even
7 automakers themselves confirmed that non-
8 commercial hybrid passenger cars and rollover
9 prone hybrid SUVs were unfit for rigorous 24/7
10 taxi use.

11 We were supported in our law suit
12 by two previous TLC commissioners who called the
13 mandate ill-conceived. Every driver group whose
14 members stood to directly benefit from gas savings
15 opposed the mandate. All the major taxi
16 associations opposed the mandate. And owners of
17 more than 200 hybrid taxis who stood to
18 financially benefit from a hybrid mandate due to
19 the increase in the value of the alternative fuel
20 restriction medallions opposed the mandate. These
21 owners sited poor performance, high operating
22 costs and limited availability amongst other
23 issues.

24 We remain hopeful that together
25 with the city, we could move forward as an

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2 industry and finally provide taxi passengers with
3 the greenest, safest, most comfortable and most
4 accessible purpose built taxicabs. But the
5 punitive measure recently announced by City Hall
6 are counter-productive to this goal. Intro 876 is
7 one of these measures.

8 A detailed analysis of this bill
9 has been provided to your committee. In 2005
10 Councilman Yassky proposed a similar bill, Intro
11 734. It was opposed by the TLC and the taxi
12 industry and did not pass. Now after a court
13 ruling that held that only the federal government
14 can set environmental standards for privately
15 owned taxicabs. The bill attempts to circumvent
16 that ruling by setting the same standards through
17 rewards and excessive punishments that will
18 coheres taxicab owners to purchase hybrids.

19 This will not withstand legal
20 challenge. More importantly there are reducing
21 the retirement cycles of vehicles of Crown
22 Victorias and other vehicles from three years to
23 an impossible 18 months. This bill places
24 environmental standards above safety standards.
25 In an industry that moves 240 million human lives

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2 every year, safety must always be the highest
3 priority.

4 Let's take the greenest car on the
5 road, the Toyota Prius which is an improved
6 taxicab. Toyota, the largest manufacturer of
7 hybrids in the world has publicly warned against
8 using the Prius or any of its hybrids as New York
9 City taxicabs because they are not intended for
10 commercial use. And like hybrids, the Prius has
11 never been crash tested with the bullet proof TLC
12 mandated partition. Yet owners of the purpose
13 built Crown Victoria with across the board five
14 star safety ratings and a proven track record as a
15 safe New York City taxicab, would be punished for
16 choosing the safe manufacturer supported vehicle.
17 That doesn't make sense.

18 According to Intro 876, any hybrid
19 electric taxicab, even a Saturn Vue hybrid which
20 has an EPA rating of 6 would get a full retirement
21 cycle. But most gasoline powered vehicles like
22 the Toyota Sienna, which also has an EPA rating of
23 6 would have its retirement cycle cut in half. We
24 do not believe the Crown Victoria will be around
25 forever nor should it. But hybrid taxis are not,

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at least currently, the answer.

We should concentrate on developing the next generation of safe, comfortable, purpose built green taxis. We are pleased to report that despite the current economic turmoil, Ford is still planning to roll out its highly anticipated, purpose built, fuel efficient, ultra clean emissions, transit connect to New York City taxi market this summer. As committed to improving its fuel efficiency and emissions in future model years.

In the meantime, it is wrong to punish taxi owners who are committed to driver and passenger safety. MTBOT opposes Intro 876 as well as any attempt to arbitrarily punish owners who choose to operate safe, proven vehicles. Thank you very much.

CHAIRPERSON LIU: Thank you Mr. Sherman. Mr. Gerber.

ETHAN GERBER: Thank you Chairman Liu. Good morning Chairman Liu, good morning Councilman Yassky, good morning members of the Council. My name is Ethan Gerber, I'm the Executive Director of the Greater New York Taxi

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2 Association. GNYTA is a progressive group
3 representing approximately 1,500 medallion taxis.

4 We are fully invested in the
5 advancement of clean air fuel efficient vehicles.
6 Indeed the majority of the vehicles in our
7 organization are either hybrid or wheelchair
8 accessible cars. I am a medallion owner myself
9 and I successfully bid in the first auction of
10 hybrid taxi medallions. Like our group's largest
11 member, my personal automobile is a hybrid.

12 Years ago we anticipated that the
13 future of the auto industry in general and the
14 taxi industry in particular would be driven by
15 fuel efficient green technology. We invested in
16 these vehicles even before the TLC found it fit to
17 approve these vehicles. Our motives for investing
18 in this technology were not mere altruism or good
19 citizenship. It was smart business.

20 In an age of depleting resources
21 where oil and gas are under control of countries
22 hostile to the U.S., where emissions are polluting
23 the air our families breathe, it was clear to
24 those who looked that automobiles including taxis
25 would some day soon be cleaner, greener and more

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2 efficient. We believe that it made sense to be on
3 the forefront of that trend rather than rushing to
4 play catch up later on.

5 The decision to invest in dual
6 efficient clean air vehicles was not, however,
7 without cost or without risk. The vehicles were,
8 especially at first, difficult to acquire,
9 expensive and costly to repair. They were also an
10 unknown commodity; no one knew how they would hold
11 up in the wear and tear of driving on the toughest
12 streets in America. Especially when compared to
13 the tried and proven war horse of the taxi
14 industry, the Ford Crown Victoria. It is for this
15 reason that many of the other owners held back.
16 From these owners perspective the risks and costs
17 outweigh the benefit of being among the first to
18 innovate.

19 We've had some experience with
20 these vehicles and we have found, especially
21 during the recent exorbitant spike in gasoline
22 prices that drivers must prefer hybrids. They
23 seek these cars out and prefer them over Crown
24 Vics. With gas prices over \$4 per gallon last
25 summer, drivers had to pick up many fares just to

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2 pay for the fuel in their tanks. These cars save
3 the drivers money on each shift and every trip.
4 Drivers lined up to drive them. Even now that the
5 cost of gas has returned to becoming just slightly
6 over outrageous, the savings to the drivers are
7 still significant.

8 These savings, however are not
9 passed on to the owners. The legislation before
10 you today seeks to encourage owners to place fuel
11 efficient vehicles on the road. It does so in
12 part by eliminating a portion of a prior
13 legislation that on it's face granted an extension
14 to the retirement age of clean air taxis. But
15 through the mangled, sausage making quality of
16 legislation, it gave the TLC the power to
17 eviscerate that incentive. To that end we applaud
18 your efforts.

19 The intro seeks to unnecessarily
20 punish those who purchase a Crown Victoria,
21 however. GNYTA believes that the market will
22 punish people enough when drivers flock to others
23 who lease hybrids. Market forces will eventually
24 overwhelm them just as they have overwhelmed the
25 short sided Detroit automakers. The second part

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2 of the legislation is a transparently mean spirit.
3 It is unbecoming to the dignity of this body to
4 see to the furor of an administration that
5 eventually will get what it seeks. There is no
6 critical need to needlessly punish individuals who
7 make the mistake of purchasing gas guzzlers; the
8 market will take care of that.

9 The original legislation that this
10 intro seeks to change was intended as an incentive
11 to owner to purchase hybrid taxis. 19-535 of the
12 administrative code of the City of New York, on
13 it's face extended the retirement age of alternate
14 fuel vehicles from the current three years to four
15 years. You may recall that the TLC originally
16 opposed the legislation. As a compromise the
17 legislation included paragraph three that gave the
18 TLC broad powers to implement the Council's
19 mandate. The TLC then used those powers in that
20 paragraph to impose virtually insurmountable
21 conditions to qualifying the incentives.

22 In short, the legislation together
23 with the TLC rules enacted under the legislation's
24 authority took away the extension if a vehicle
25 failed a single TLC inspection during its

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2 extension. It should be noted that medallion
3 taxis inspected three times a year often fail the
4 extremely thorough 250 point TLC inspection that
5 Chairman Daus talked about a few moments ago.
6 They are given opportunities to correct whatever
7 the TLC deems inadequate. If the purpose of the
8 bill was to give an incentive, then paragraph
9 three stripped that incentive. It seemed that the
10 TLC preferred the stick to the carrot.

11 Today the Council on the one hand
12 proposes to set the TLC straight on the intent of
13 the law by removing the TLC's authority to create
14 unreasonable conditions as obstructions to vehicle
15 extension incentives. On the other hand, the
16 proposal also capitulates to the pension for using
17 a stick to beat people into going along with ideas
18 by reducing the time a non-clean air vehicle can
19 be on the road to a mere 18 months.

20 In an age where businesses across
21 America are failing, this extremely punitive and
22 hostile act to New York business is extremely
23 short sided. Had the Council passed true
24 incentives the last time around, and not the
25 transparently flawed version, which took with one

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2 hand what gave to the other. This may be a non-
3 issue.

4 The error of malicious government
5 is ending. President Elect Obama has vowed to
6 package bail outs of Detroit with conditions of
7 advancing green, clean air vehicles. He has not,
8 and will not punish businesses for failing to be
9 innovative. He has vowed to reward businesses
10 that are innovate. Good government awards the
11 innovators. It does not punish the timid. It
12 knows that market forces will eventually force the
13 cautious to swim or sink with the tide.

14 Members of the Council, reconsider
15 the intro. Enact the first part which will
16 finally give the incentives you intended to give
17 two years ago. I thank Councilman Yassky for
18 addressing the unfair requirements of the
19 extension. But do not enact the second mean
20 spirited portion which is intended to inflict
21 harm. You are better than that. Thank you.

22 CHAIRPERSON LIU: Thank you. We
23 have questions from Council Member Yassky.

24 COUNCIL MEMBER YASSKY: Thank you.
25 I want to get to the issue about the incentives

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2 and the difference in life span. But just on the
3 question of the inspections that I discussed with
4 Chairman Daus before and that you addressed, Mr.
5 Gerber, in your testimony. I just want to be
6 clear. We had earlier spoken about this and you
7 had expressed a concern that the bill as drafted
8 would get rid of the entire extension of time for
9 fuel efficient vehicles. I take it from your
10 testimony you now agree that as drafted what it
11 does is it cures the inspection problem and puts
12 in place--

13 Ger: [interposing] I do Council
14 Member and I thank you. I spoke to your Council
15 about that as well. I do agree and I think that
16 it cures the defect from the last legislation.
17 Thank you.

18 COUNCIL MEMBER YASSKY: Okay. I
19 just want to make sure. On the incentives,
20 truthfully and I'm not sure if it's semantic or
21 not. I'm not sure if I understand where there's a
22 difference between incentive, award or a kind of
23 punishment, disincentive. But do you agree, and
24 I'm just curious about both of you, that there
25 should be a difference in life span or retirement

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2 cycle between fuel efficient and non-fuel
3 efficient? Do you support that concept or do you
4 not support that concept?

5): You want to take it first?

6 Ger: I agree that those who thrust
7 themselves into the market, who took the risk and
8 assumed the risk should get the benefit. I do
9 want to point out that there hasn't been on the
10 extensions and on the lease caps, there hasn't
11 been a grant of an additional lease cap in over
12 four years, despite serious market conditions
13 changing. The cost to the fleet owners have gone
14 up and to lower the lease cap is just simply a
15 punishment and, like I said, it's a mean spirited
16 punishment. I think it's unnecessary.

17 I think that the extension of time
18 is an incentive to put more expensive vehicles on
19 the road. There is no question that the vehicles
20 are more expensive. It's no question that the
21 vehicles are more expensive to repair. The parts
22 of the hybrid vehicles are significantly more
23 expensive. For example, there is a battery
24 section in a door. So a door to a hybrid is
25 dramatically more expensive than the door of a

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Crown Vic.

Taking these risks and increasing these costs should be rewarded and that's what good government does. It puts incentives to go beyond what normal businesses would do.

COUNCIL MEMBER YASSKY: But, no, I think I agree with possibly all of that. Just so I'm clear. You're saying you think it's a good idea to have a difference in life cycle between fuel efficient and not fuel efficient or that's not a good idea?

Ger: I think it's a good idea to increase the lifestyle from three years to four years or five years, depending on the type of classification as you originally intended to. I do not think it's a good idea to decrease the life cycle of the Crown Victoria or the other vehicles.

COUNCIL MEMBER YASSKY: And Mr. Sherman.

): MTBOT's position has always been the same as far as wanting to work with this Council, work with the city and green our fleet with a commercial purpose built vehicle that can achieve everything. We think that's right around

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the corner.

Ger: I do, too.

): We are really the only ones pushing that along with our colleagues to get that done. In getting there, it would be very nice if we could get the support of this Council and the support of this city which we are talking to at this point in trying to work out the details of this. What were trying to achieve is we have no problem with incentives for people to green their fleet and that is something that we would actually encourage and would really like to work with this body and the administration to work towards that. All the disincentives that were announced in a press conference, which we haven't seen the rules that have been drafted or trying to be drafted to change. According to our counsel and our professionals, would all be challengeable.

What we would really like to do is get away from wasting time and money and fighting disincentives. And actually go towards working and using the power of this Council, once again, and the power of the Mayor's office to work with manufacturers like the Taxi of the Future project,

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2 to come up with green, purpose built vehicles that
3 solve both.

4 COUNCIL MEMBER YASSKY: Here, here.
5 I agree with you on the not wasting time part,
6 certainly. In terms of the pushing for a green,
7 purpose built vehicle, I applaud your efforts
8 100%. I offer whatever service and assistance I
9 can provide. I would be shocked if everybody in
10 the Council didn't agree with me on that point,
11 that whatever we can do to assist you in your
12 efforts to push for a green purpose built vehicle,
13 I would love to do. So please do just let me know
14 what I can do to be of use in that effort. And I
15 stand ready to do that.

16): The number one thing that can
17 be done is stop the disincentives and stop the--

18 COUNCIL MEMBER YASSKY:

19 [interposing] Yes, that connection--

20): [interposing] Let's get to the
21 carrot and let's work together to get this
22 accomplish.

23 COUNCIL MEMBER YASSKY: I really
24 don't want to waste the Chairman's time and I say
25 sincerely Mr. Chairman you cut me off at any

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2 point. Because I'm not sure I get the connection
3 between rules that do candidly, yes, push, force,
4 whatever the industry to in the meantime, before
5 there is a purpose built vehicle, push toward the
6 more fuel efficient as opposed to less fuel
7 efficient among those that are available now.

8 I'm trying to understand the
9 connection between those rules and getting Detroit
10 to do a purpose built green vehicle. Maybe you
11 can tell me why you think that the disincen--

12): [interposing] It's quite clear
13 to me as I testified numerous times in front of
14 this Council and I said what MTBOT wanted from the
15 get go is we endorse the 2012 implementation. We
16 sat on the Taxi of the Future project. We even
17 said that we feel that we could get there with the
18 automobile manufacturers in 2009. But by going
19 through this whole process that we're involved in
20 and all the litigation, it has brought us away
21 from--

22 COUNCIL MEMBER YASSKY:

23 [interposing] It's really distracted Detroit.
24 It's distracted the Big Three from developing that
25 purpose built vehicle.

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2) : At this point the mandate has
3 been withdrawn and as a taxi operator, Ford
4 because of the litigation and because of the
5 threats have stopped producing the Crown Vic,
6 which they are now putting back on to their line.
7 So we can not get a vehicle until late January,
8 early February to move the process forward.

9 We look at the Crown Vic and
10 choices with incentives on hybrids today to work
11 towards the Taxi of the Future. So what I'm
12 saying is instead of going in all these different
13 directions that involve us challenging each other.
14 If we work together, we can put pressure on
15 Detroit and other manufacturers to get what we
16 want. The technology is around the corner and
17 they're looking to build that vehicle.

18 COUNCIL MEMBER YASSKY: I won't
19 take--

20) : [interposing] And it's very
21 soon.

22 COUNCIL MEMBER YASSKY: I won't
23 take any more of the committee's time, Mr. Chair.
24 The best way and this has been proven true again
25 and again and again, the best way to force Detroit

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2 and push Detroit toward a purpose built vehicle
3 would be to say, the only vehicle they could sell
4 in New York as of some date would be one that
5 meets the following standards. The courts have
6 thrown up a question as to whether we could do
7 that or not. But if you did that you're right, if
8 we said the only vehicle you could sell to New
9 York taxi owners--

10): [interposing] I thought that's
11 what the Taxi of the Future project was.

12 COUNCIL MEMBER YASSKY: If we said
13 the only vehicle you can sell is one that's 25
14 miles per gallon, yes, that would absolutely push
15 them toward a greener vehicle. If we said the
16 only vehicle you could sell is one that's 30 miles
17 a gallon, that's what you could do. That's what
18 of course the Mayor's rules did. That's what you
19 succeeded in invalidating with your law suit. So
20 it is crystal clear to me that the only thing that
21 has stood in the way of this city aggressively
22 pushing Detroit toward greener taxi fleet, towards
23 producing greener cars that can be used as taxis
24 is the law suit that you instituted.

25 The only question I would like you

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2 to answer is do you, and I just still haven't
3 heard. Do you agree with the--

4): [interposing] Because the
5 mandate was illegal.

6 COUNCIL MEMBER YASSKY: Yeah. Do
7 you agree with the concept of having a different
8 life cycle for fuel efficient versus non-fuel
9 efficient cars? Could you just give a yes or a
10 no? Are there any circumstances where you think
11 that's a good idea?

12): I can't give a yes or a no on
13 that.

14 COUNCIL MEMBER YASSKY: Very good.
15 Okay.

16): I'd be happy to explain it.

17 COUNCIL MEMBER YASSKY: I think I
18 understand your position. Thank you Mr. Chair.
19 Thank you.

20 CHAIRPERSON LIU: Thank you very
21 much gentlemen. We now call the next panel. We
22 have been joined by Council Member Diana Reyna
23 from Brooklyn and Queens and also Council Member
24 Darlene Mealy. We now call Vincent Sapone,
25 Frances Loughlin and Erhan Tuncel and that will be

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2 followed by a panel led by Bhairavi Desai of the
3 New York Taxi Workers Alliance and several other
4 members of the Taxi Workers Alliance, who I'll
5 leave the order up to the Alliance itself, Osman
6 Choudhury, Bill Lindauer, Victor Salazar,
7 Beresford Simmons and Cliff Adler. Gentlemen
8 please proceed when you're ready.

9 VINCENT SAPONE: Good morning Mr.
10 Chair.

11 CHAIRPERSON LIU: Good morning.

12 VINCENT SAPONE: Distinguished
13 Councilman, thank you for giving me this
14 opportunity to speak. My name is Vincent Sapone.
15 I'm the Managing Director of the League of Mutual
16 Taxi Owners. We have over 3,000 members, 90% of
17 them are owner/drivers.

18 I have a few things to say but I'm
19 going to keep it short today. First of all, I
20 heard a lot of talk about worries about cab
21 drivers. If everybody was so worried about cab
22 drivers they should give us an increase because
23 it's long enough and expenses are up, not just gas
24 is up. Our mortgages are up, our rents are up,
25 our food is up, our health insurance is up;

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2 everything is up. So if anyone really cared they
3 would push the TLC or the Mayor and give us some
4 sort of an increase. We're the only ones that
5 have to wait eight years against the conductor or
6 the token collector getting an increase every
7 year, not working half as hard as us.

8 I want you to know something. I
9 have grandchildren. One was a preemie. I have
10 certain problems myself. We're not against clean
11 air, not at all. We want clean air, more maybe
12 than a lot of people that spoke here today because
13 I come from a family that has breathing problems.
14 But you know what? The cars you want to give us
15 to use will destroy my organization's drivers.
16 They can't afford to be in those cars. They are
17 much more expensive, they don't hold up, they're
18 too tight to be in there six, seven days a week,
19 12 hours a day.

20 No one here or at the TLC ever
21 drove a cab. I'll challenge anyone to get behind
22 the wheel of a taxi for three months. Go behind
23 the Ford Escape and tell me. You know what? I'll
24 give you my salary every week to do that and tell
25 me what you feel, how it is. Everyone thinks life

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2 is beautiful. Life is not beautiful. I'm willing
3 to work with the City Council and the TLC in
4 getting the right car, a clean air car. This deal
5 was shoved down our throats.

6 I'm on the Taxi of the Future
7 board. I think it's been flushed down the toilet
8 by now because nothing's happening. We were right
9 on the right track. We had the Sierra club there.
10 We had design trust there. We had fleets there.
11 We had drivers there, working on a project to get
12 the right car. All of a sudden out of City Hall
13 comes an announcement we want 25 and 30 miles a
14 gallon of gas.

15 First of all, it was mentioned by
16 the TLC the Highlander does not get 25 miles to
17 the gallon and that car is \$55,000. Everybody
18 wants us to do but no one thinks about our cost
19 and how we're going to be comfortable and secure
20 in a car that's not really the car made for a
21 taxi. It's okay to go to church with or to temple
22 or the railroad station. But to be on the
23 road...there are certain people that probably will
24 testify about how nice it is. But I don't believe
25 it for a minute.

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The only thing I think is good is maybe saving the gas, yeah. And there are people where \$10 a day means a lot or \$15. Maybe not to me because I'm passed that point. I drove for 35 years. My father drove for 30 years. City Hall should have come to the taxi industry and say this is what I want to do, what do you think? If this can not work, let's work on something that will make it work. Not just say you got to do this. That's not fair.

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Let me read you something. I also have--I don't have but we have a federal credit union that deals with the transportation industry. Last year some time people from the Mayor's office came to the federal credit union talking about financing these hybrids. They were asked a question and this is no lie. This is according to the Mayor's office. They said if every medallion taxi and every black car were hybrid the carbon footprint in New York City would be reduced by .05% and they added 80% of the carbon footprint comes from heating systems and buildings. So how many lives are we going to save if we put this on hold until we get the right car? I want to know.

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What are we saving here?

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Is it only for people's names to be in lights on Broadway? I did this and I did that.

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But I screwed 4,000 people. I'm sorry, I

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shouldn't use that word. Well I hurt 4,000 small

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business people. It's enough with this business.

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They're driving me nuts. But cab drivers need a

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steady increase just like everybody else and it's

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time City Council forced the TLC to do that.

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Thank you.

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CHAIRPERSON LIU: Thank you.

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[Applause]

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CHAIRPERSON LIU: Guys please

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proceed.

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FRANCES LOUGHLIN: Good afternoon

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Mr. Chairman and council members. I thank you for

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the honor to speak here with you today. I've been

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a medallion owner since 1994. I would like to

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help the environment by using a clean air taxi but

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the choices we have today, the Ford Escape, the

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Prius, the Camry are small cars. I have sat in

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all three and had a hard time getting in and

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getting out of these vehicles. They are not meant

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to be taxis. The leg room in the back of these

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cars is very little.

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I work 12 hours a day, 6 days a week and feel more comfortable in a Crown Victoria. When you work 12 hours a day you need to be comfortable. When passengers get in my car, they tell me what a nice car, comfortable and roomy car I have. I think we should wait to see if Detroit could get together to come up with a good, clean burning car that could be used as a taxicab. Thank you.

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CHAIRPERSON LIU: Thank you and could you identify yourself for the record.

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MR. LOUGHLIN: Frances Loughlin.

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CHAIRPERSON LIU: Thank you. Mr. Erhan. Identify yourself first, please.

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ERHMAN TUNCEL: My name is Erhan Tuncel. I'm an owner/driver and a LOMTO member. Good morning Chair, council members. It's an unfair practice for any politician to try to paint medallion owners as irresponsible and uncaring for our environment. We care simply because we live and work in New York City. We are raising our family, our children in New York City.

25

The bill that you're about to vote

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2 on is a direct result of Mayor Bloomberg's and the
3 TLC's unwillingness to listen to industry's
4 concerns about the hybrid vehicles currently in
5 the market. These hybrid vehicles being used as
6 taxis are simply an abolishment of our country
7 leading standards on taxi safety and comfort,
8 which has taken years to accomplish.

9 I would like to read you a
10 paragraph from one of TLC's press releases
11 coinciding with Ford Motor Company stretching
12 Crown Victorias. "We are especially grateful that
13 the Ford Motor Company has been so responsive to
14 our request for a bigger, more consumer friendly
15 taxicab. These taxicabs are bigger and better and
16 will offer the riding public more value for their
17 premium fare and that's always been a goal of
18 TLC." Of course they're talking about the stretch
19 Crown Victorias.

20 A couple of months ago TLC
21 rightfully so, did away with the requirement to
22 have vinyl covers on the front seats of the newer
23 vehicles just because a car manufacturer put out a
24 warning. TLC was warned that these pose
25 manufactured vinyl covers may, and I say again

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2 may, interfere with the deployment of the front
3 and side airbags. Well, all the hybrid car
4 manufacturers are refusing to stand by their
5 vehicles when used as a taxi. They all have made
6 statements to that fact.

7 In my humble opinion they're saying
8 this, what we and medallion owners have been
9 saying for years, "hybrid vehicles fitted with
10 partitions and/or tampered with and altered to
11 comply with TLC regulations are not safe to use as
12 a passenger vehicle." Having said all that, I
13 strongly believe we can have our cake and eat it
14 too. I'm confident that a safe and comfortable
15 and environmentally friendly taxi is on its way.
16 It will just take a year or two at most.

17 You do not have to punish the
18 owners who are insensitive to our environmental
19 needs while trying to continue with our exemplary
20 standards on taxi safety and comfort for both
21 drivers and the riding public. I'm asking you to
22 strike down the part of the Intro 876, which
23 reduces the life span of non-hybrid vehicles.
24 Thank you very much.

25 CHAIRPERSON LIU: Thank you very

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2 much, gentlemen. We now call upon the members of
3 the New York Taxi Workers Alliance. Bhairavi
4 Desai and any assortment of the five additional
5 people who have signed in. Ms. Desai please
6 proceed when you are ready.

7 BHAIRAVI DESAI: Good morning. I'm
8 Bhairavi Desai, Executive Director of the New York
9 Taxi Workers Alliance. At the outset, let me say
10 after hearing the Chairman's testimony I don't
11 even know if we need to be in existence since he
12 seems to be the new union for taxi drivers. When
13 gas prices were close to \$4.50 people were working
14 on the streets over 12 hours a day. We were
15 essentially crying. We had every single argument.
16 Every other industry in the transport business got
17 a surcharge except us.

18 Even the ownership was actually
19 supporting the surcharge at that point in time.
20 The TLC turned around and said to us, well gas
21 prices will come down don't worry about it. Now
22 all of a sudden they want equity among driver
23 incomes. I believe equity in an industry is
24 equality between the ownership and the workers not
25 among classes of drivers. But putting that aside,

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2 we have a fundamental problem with the so-called
3 incentive program, which is about raising the
4 leases of the hybrid vehicles.

5 First of all, the administration
6 has greatly exaggerated the amount that drivers
7 save per year through hybrids. The number they've
8 thrown around is \$5,000 a year in gas savings.

9 Now the savings are proportional to the price of
10 gas. So for example, when the price of gas was
11 \$4.38 over the summer the savings between a hybrid
12 and a Crown Vic would have been about \$17 per
13 shift. But when the price of gas is what it is
14 today, the savings between a hybrid and a Crown
15 Vic is about \$9 per shift.

16 Now if you assume the TLC's theory
17 and gas prices have indeed stabilized, let's take
18 the current price of gas a look at what the
19 savings would be at the end of the year. With a
20 hybrid the drivers would end up paying about
21 \$6,600 towards the gas. With the Crown Vic for
22 the same mileage per shift, at the end of the year
23 they would pay about \$8,400. That is a difference
24 of about \$1,800 in the gas savings between the
25 hybrid and the Crown Vic at the end of the year.

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2 With the proposal on increasing the
3 leases they essentially are looking to wipe out
4 those savings. So all I can see in this quite
5 duplicitous--I hear in the publishing world that
6 the next dictionary that comes out with the word
7 duplicity it's going to have a link to the TLC web
8 site on it. I've never seen an agency that is
9 more underhanded and changes rules at their own
10 will when it serves their own political purposes.
11 As the Chairman himself said, they are policy
12 initiatives.

13 I don't mean to digress, it's just
14 you listen to them testify and you can't help but
15 to feel enraged when they're claiming to do this
16 on behalf of drivers. We all know that every
17 single issue that has affected drivers, they not
18 only stand silent but they actually support from
19 the background.

20 So the savings that they're talking
21 about, again, would be wiped out with the new
22 higher leases. In essence what the administration
23 because they lost the law suit which drivers are
24 not part of. What they're now looking to do is
25 essentially use the workers to subsidize the

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2 industry. This is completely unfair and it's
3 really the--

4 [Applause]

5 The saddest part of this whole
6 program is it is so typical of the TLC. I don't
7 want to digress but when you look at their current
8 credit card program, in any other industry it's
9 used to generate revenue. Well the way that TLC
10 has implemented in our industry, drivers lose 5%
11 on every fare. It's similar to their approach on
12 hybrids. What could essentially be a savings is
13 now being turned into a wage cut. It is immoral.
14 It's unethical. It is completely duplicitous and
15 it is going to be at the heart of it, practically
16 speaking, incredibly counter productive.

17 We need an alternative to the
18 current approach that the administration has
19 taken. That alternative should be to encourage
20 and increase the opportunities for individual
21 drivers to become vehicle owners. That's who you
22 see purchasing wheelchair accessible and hybrids.
23 But the current plan that the TLC has put forth
24 does the very opposite. Again, it is counter
25 productive and it is punitive not only to the

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owners but at the heart of it to the drivers themselves.

CHAIRPERSON LIU: Thank you. You gentlemen want to try to add to that.

BILL LINDAUER: Bhairavi is a very tough act to follow but indeed the TLC does not care about drivers incomes. Drivers are constantly teetering--

CHAIRPERSON LIU: [interposing]
Bill can you identify yourself.

MR. LINDAUER: I'm Bill Lindauer from the Taxi Workers Alliance. Drivers are always teetering on the precipitous of poverty. All these multi-millionaire fleet owners are always crying; we worry about our downfall and they worry about getting a windfall in profits. This measure will hurt drivers. You want to encourage people to own their own cabs, to buy medallion and own their own cabs. This is a great disincentive for that. Who can keep paying car payments when they have to retire their car after a year and a half?

Already individual medallion owners are finding it extremely hard to meet their

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2 payments. I'm sure many of them are near
3 foreclosure on their medallion payments because
4 the cost of the medallion itself is so high. This
5 is a rush job, this proposal. I think it requires
6 greater thinking. A year and a half is
7 preposterous for everybody, whether it's a fleet
8 cab or an individual owner.

9 Try to keep the drivers in mind.
10 We are not making a decent income thanks to the
11 misguided policies of the TLC and the mayor.

12 CHAIRPERSON LIU: Thank you.
13 Osman. Identify yourself please.

14 OSMAN CHOUDHURY: My name is Osman
15 Choudhury, I'm a member of the Taxi Workers
16 Alliance. I have been driving for the last 12
17 years. I started driving a Crown Victoria. And
18 nine years I drove the Crown Victoria, after that
19 I got a serious back pain because the lower seat.
20 Even when the car goes through inspection, they
21 never checks out the driver's seat. They don't
22 care about the driver's seat. They only take care
23 of the seat for back passengers.

24 That's a lot of problems to drive a
25 12 hour shift and stay in the lower seat, they

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2 have serious back pain, kidney problems. This is
3 since I started. Then soon as I quit my job
4 somebody gave me the advice to go drive a
5 different car like a higher car. That I found a
6 hybrid because I'm driving. The Altima, I started
7 the hybrid car, driving. I don't have any
8 physical problems.

9 I also have two things I get on
10 benefits. I save on the gas and another thing is
11 the environment it's very nice. In several years,
12 like three years in the hybrid on the street, when
13 the gas price gets maybe higher at that time--our
14 real friend given the jump start to our economy.
15 Because I drive 12 hour shift and when I drive my
16 friends drive the Crown Victoria. They can drive
17 12 hours. They can not drive because slow time
18 they're scared about the \$4 gallon for gas. They
19 a little bit work, then they go home.

20 But when I drive the hybrid on
21 anybody that drive the 12 hour in the city that's
22 cruising, that's why I prefer the hybrid cars.
23 Also I hear here the hybrid cars, they mentioned
24 the \$6,000. I don't agree with that because I've
25 been driving for three years in the hybrid car,

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2 the - - Garage. They have it car. You can go
3 there, how much the expenditure there. The \$6,000
4 is a lie. You can go there and they have their
5 doings there. They have their invoices there, how
6 much for particular maintenance things.

7 Other things I hear somebody say,
8 they need to increase the lease. But I don't want
9 to do the increase the lease, \$2 for the increase
10 of the lease. The measurable benefit is the
11 garage owners. We don't get the lease, some
12 garages are charging daily prices, like over \$850
13 they're charging for regular cars. The hybrids
14 are at least \$900 they're getting. If you drive
15 the lease all the 667, the \$200 extra getting
16 money there. How are they losing money?

17 I have a lot of friends that buy
18 their car and lease their medallion. They pay the
19 lease for 800 something and buy their car, two and
20 a half years the Crown Victoria car they pay it
21 off. But what they said that they're losing
22 money. Work in the garage, they don't lose. We
23 work seven this week; we're suffering. But what
24 are they losing the money and they said that new
25 things are going to increase the lease. They're

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2 messed up the driver doors are working in the
3 garage, they can not stay in the street, people
4 don't take the cab, all the time that's happening.
5 Okay, thank you.

6 CHAIRPERSON LIU: Thank you very
7 much.

8 VICTOR SALAZAR: Hi, my name is
9 Victor Salazar. I'm an owner/operator in New York
10 City. I purchased the medallion at one of the
11 previous auctions. I'm having a very difficult
12 times paying the mortgage and on top of that with
13 the high insurance. More or less, buying the
14 hybrid now to me represents a big investment at
15 the moment. The most important thing that I would
16 like to tell the Council, we taxi drivers are
17 really suffering with the situation of the prices.
18 Still even though they actually went down, we're
19 still having a lot of problems.

20 I, myself, end up getting a second
21 loan on my medallion due to the fact that the
22 rigorous maintenance that the TLC imposes on us
23 creates an extra expense for us owners. Because
24 of the economic crisis, we're sustaining very
25 difficult moments. I ended up getting a second

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2 loan on my medallion in order to pay my credit
3 card bills. I was using those credit cards in
4 order to cover the charges on maintenance and all
5 the high expenses that come along here in the City
6 of New York. That's one point. On the fact of
7 how we're managing right now our lives here in New
8 York City.

9 Another part is that the TLC is
10 saying their most concerned about the safety for
11 the driver and not for the owners. But actually
12 forcing us to get into the smaller cabs is
13 definitely not a safety issue at all. The TLC is
14 bragging a lot about the Ford Escape. But most of
15 Ford Escapes they are forced to have the L-shaped
16 partition, all my friends who drive these taxis
17 with the L-shaped partition are having a lot of
18 difficulties and it creates a lot of problems and
19 division and everything. So definitely is a
20 safety hazard.

21 Another problem obviously is that
22 we owner drivers, operators and my other brothers
23 who drive their cars and lease the medallions, we
24 use them also for our personal purposes. For us,
25 safety is one of the most concerns because we deal

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2 also with our relatives. Basically that's the
3 most important thing that I have to say.
4 Everything else has already been said very
5 clearly. So I really hope that the members here
6 today will consider all the facts that we are
7 expressing as taxi drivers. That's basically what
8 I have to say.

9 CHAIRPERSON LIU: Thank you Mr.
10 Salazar.

11 MR. SALAZAR: Thank you.

12 CHAIRPERSON LIU: Your points are
13 well taken. I guess I was a little bit easy on
14 the TLC for all of a sudden standing up for
15 workers' rights. Thank you. Do we still have Mr.
16 Simmons and Mr. Adler? Cliff Adler. Mr. Simmons
17 please proceed.

18 BERESFORD SIMMONS: Good afternoon
19 council members, ladies and gentlemen. I thank
20 you to be here. I thank for you guys to be
21 listening to what we the drivers have to say
22 today. My name is Beresford Simmons and I'm a
23 member of the Taxi Workers Alliance. I've been
24 driving a taxi in New York City for over 35 years
25 and still driving. I'm one of the guys who are

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out there with the drivers and hearing the complaints every day.

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What we have here today is a war between the million year brokers and the Taxi and Limousine Commission and we are the small guys in between. I have nothing against the hybrid but it's not tested for being a cab in New York City. It's small and there are a lot of complaints. Very small cars, a lot of complaints, you have an accident the guys get trapped in the car with the L-shaped partition; there's no way out.

The Taxi and Limousine Commission have a policy where when you go for inspections, even if you have a brand new car, that car can fail the inspection. Me, as an individual driver, I'm what you call a dove driver who buys the car and leases the medallion. If I go for inspection this morning and I fail the inspection, whether it's a brand new car or not, I do not get a sticker on the window. They take my sticker off and I have to go and find a mechanic to fix this car immediately. If not, I won't be working until this car is fixed.

There is not enough mechanics out

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2 there for these hybrid cars. The fleet owners,
3 yes, they have great mechanics in their shop but
4 as an individual owner I have to go and find a
5 mechanic. Where can I find a mechanic that will
6 work on my car immediately? So most likely I will
7 be off the road for two, three or four days or
8 maybe more. My broker is not going to wait for me
9 to get any money from anywhere next two weeks to
10 pay him. He wants his money right away as these
11 guys know. I'm not going to be long.

12 I drive a wheelchair accessible car
13 and the wheelchair car has a lot of space in the
14 back. My passengers love the car so any
15 consideration about these hybrid cars, consider a
16 car with a lot of space. Until they can do that
17 for the passenger--I'm very concerned about the
18 passenger. As I said I've been driving for quite
19 a while and I thank you very much.

20 CHAIRPERSON LIU: Thank you very
21 much Mr. Simmons. With that, we see that we are
22 being joined by a large number of members of the
23 public for the purpose of participating in the
24 next City Council's hearing with the Committee on
25 Aging. So sit tight and there being no other

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2 testimony for this hearing of the Committee on
3 Transportation, the Transportation Committee
4 hearing is adjourned.

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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 Amber Gibson

Date February 18, 2009