

Documents submitted for the hearing on September 1, 2021

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
GEORGE HORBAL,)
Appellant(s))
vs.)
SAN FRANCISCO MUNICIPAL TRANSPORTATION)
AGENCY (SFMTA),)
Respondent

Appeal No. **21-064**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on July 14, 2021, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the REVOCATION on July 9, 2021, of a Taxi Medallion (George Horbal does not have a current California Driver's license and is not eligible to possess an A-Card. Without these licenses the taxi medallion can be revoked pursuant to the Transportation Code. The SFMTA Taxi Services' Notice of Nonrenewal is upheld).

MEDALLION NO. 1303

FOR HEARING ON September 1, 2021

Address of Appellant(s):

Address of Other Parties:

George Horbal, Appellant(s) c/o Carl Macmurdo, Agent for Appellant(s) 431 Frederick Street, Apt. #1 San Francisco, CA 94117	N/A
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Date Filed: July 14, 2021

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 21-064

I / We, **George Horbal**, hereby appeal the following departmental action: **Decision on Reconsideration: SFMTA v. George Horbal (Taxi Medallion No. 1303)** which was issued by the **SFMTA Hearing Section** on **July 9, 2021**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **August 12, 2021, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, Philip.cranna@sfmta.com and jim.emery@sfcityatty.org.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **August 26, 2021, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, cmac906@gmail.com and georgehenrygh73@gmail.com.

The Board's physical office is closed to the public and hard copies of the brief do NOT need to be submitted.

Only photographs and drawings may be submitted by the parties at the hearing.

Hearing Date: **Wednesday, September 1, 2021, 5:00 p.m.**, via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

Filed electronically by Carl Macmurdo, agent for appellant.

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
SFMTA HEARING SECTION

**SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY,**

vs.

DECISION ON RECONSIDERATION

GEORGE HORBAL,
Respondent

I. INTRODUCTION

This case came on for administrative hearing pursuant to a Complaint by the San Francisco Municipal Transportation Agency (“SFMTA”) after the Complaint was sent to respondent George Horbal on or about October 26, 2020. The SFMTA Complaint alleges that Mr. Horbal had not taken the necessary measures to renew his status as a qualified taxi medallion holder, and on that basis the SFMTA’s Taxi Services had notified Mr. Horbal on or about September 28, 2020, that his right to remain a medallion holder was being contested by Taxi Services.

Following that notice and the subsequent Complaint, a video-conference hearing was scheduled for Mr. Horbal by this Hearing Section for April 27, 2021, under the provisions of Article 1100 of the SFMTA’s Transportation Code. That Article governs the rights granted to taxi medallion holders in San Francisco, as well as how hearings related to those rights are administered.

On April 27, 2021, Mr. Horbal appeared via telephone at the time of this hearing, and the Taxi Services manager, Philip Cranna, and its witness, analyst Danny Yeung, appeared by video, along with the undersigned administrative hearing officer, and at that time testimony from each of the parties was received into evidence.

II. THE COMPLAINT

In its Complaint the SFMTA’s Taxi Services alleges that based upon “Post-K” provisions adopted by the Transportation Code (“TC”), taxi medallion holders are subject to a full-time driving requirement and must hold an active A-Card in order to retain their legal status as medallion holders. Additionally, the Transportation Code also requires that for an A-Card permit to be granted, a full-time driver must also have a valid California driver’s license.

In terms of Mr. Horbal, the Complaint stated that because he no longer had a current California driver's license, he could not qualify for an A-Card, and as a result the renewal of medallion #1303 could not be authorized under the relevant provisions of the Code.

III. APPLICABLE LAW

Under the provisions of Article 1100 of the Transportation Code, the following statutory authority forms the relevant basis for this decision, including the Transportation Code's definitions of "A-Card," "Medallion Holder," "Notice of Nonrenewal," and "Permit Holder."

Also relevant to this case are these Article 1100 provisions:

- TC §1103(c)(2)(C), regarding driver qualifications
- TC §1103(c)(3), regarding the lapse of active permit status;
- TC §1105(a)(1), regarding permits required;
- TC §1105(a)(3), regarding permits as privilege, not property of the driver;
- TC §1105(a)(5)(A), regarding the duration of permits;
- TC §1105(a)(6), involving compliance with laws and regulations;
- TC §1109(a)(1), re required affiliation with Color Scheme;
- TC §1109(c)(1), regarding the full-time driving requirement;
- TC §1109(e)(1)(A), involving various aspects of medallion operation;
- TC §1116, covering surrender of medallions for consideration.

IV. TESTIMONY

A. SFMTA Testimony and Evidence Presented: Danny Yeung:

Danny Yeung, an administrative analyst in the SFMTA's Taxi Services, testified to the origin and reliability of the exhibits offered by Taxi Services at the hearing. The exhibits included a driver profile of Mr. Horbal (Exh. A), the Division's Notice of Nonrenewal (Exh. B), and the written statement of George Horbal dated October 19, 2020 (Exh. C). Mr. Yeung confirmed that the evidence of record established that Mr. Horbal had not had a current California driver's license for at least the previous two years, and that his A-Card had expired in approximately December of 2017, and had never been renewed since that time.

B. George Horbal:

Mr. Horbal testified that he is a resident in the state of California, and that he has not been physically capable of driving for a living due to his physical health currently wheelchair-bound due to renal failure and a cancerous condition involving one of his legs.

Mr. Horbal testified that he understands that his medallion (#1303) had been used by Yellow Cab Company, as a basis for other taxi drivers to drive legally within the city, pursuant to the provisions of the Transportation Code that allow this sort of operational transfer to a Color

Scheme from the original medallion holder. He wants to retain his medallion as source of retirement income.

Mr. Horbal confirmed that he currently does not have a California driver's license and that his A-Card has not been renewed since 2017. Essentially, Mr. Horbal acknowledges that the legal provisions that apply to taxi drivers in San Francisco apparently establish that due to his current status, his medallion may not be renewed, and he understands that it may have already been confiscated.

In this respect Mr. Horbal does not seriously dispute the Taxi Division's testimony or evidence, or the features of the Transportation Code that appear to require medallion confiscation (i.e. "nonrenewal") under some circumstances. However, Mr. Horbal believes that Federal ADA law protects a medallion holder's rights where a taxi driver can no longer drive due to a permanent disability, and that ADA law applies under his own circumstances to protect his right to retain his medallion.

Mr. Horbal stated that he satisfied the requirement of an *intention* to drive until his health conditions would not allow him to drive anymore. He believes that the medallion is a business license and is separate from the A-card, which he describes as a work permit. He maintains that there should be a residual monetary value to medallion #1303, which could have been paid to him in exchange for the surrender of this permit, and that there should be current circumstances in San Francisco which would allow him to sell or transfer his medallion to a third party for a current market value, just as other drivers have done in the past as holders of their own medallions.

C. Carl Macmurdo

Mr. Macmurdo testified that he has been a taxi driver for over 30 years, that he is a Prop-K medallion holder, and is the president of the Medallion Holders Association. He testified that the medallion is equivalent to a business license, and is separate from the A-card requirement and the requirement to drive full-time. He referred to Prop-K and Quentin Kopp's writing of the law, and specifically that the applicant for a taxi medallion had to swear only to *intend* to be a full-time driver. He argued that the taxi medallion holder's sworn intent to drive on a full-time basis was the only requirement, and that a driver's intent to drive has since been misconstrued by the SFMTA's interpretations of Article 1100 of the Transportation Code.

Because of the current health pandemic, Mr. Macmurdo stated that Mr. George Horbal does not need to have a current or active A-card in order to be a medallion holder, because the full-time requirement driving requirement is currently suspended. On that basis he testified that Mr. Horbal's medallion should not be confiscated by the SFMTA.

D. Dennis Korkos

Mr. Korkos testified that he has been a taxi driver for four decades, and has been a medallion holder for two decades. He echoed the statements of both George Horbal and Carl Macmurdo regarding their understanding of a driver's sworn *intent* to drive—as opposed to having an actual ability to drive on a full-time basis. He stated that one's sworn intent to drive does not mean that medallion holders are required to drive for one's entire life span. He equated the medallion to a business license, using the analogy of a bar owner holding the license and having the ability to hire bartenders for part-time work. He questioned whether Mr. Horbal had been given proper advance notification by the SFMTA's Taxi Services concerning its effort to revoke his medallion

The following documents offered by Respondent Horbal were admitted in the record:

- Memorandum, Thomas Owen to Mariann Costello, 4/25/2000
- *SF Taxi Permitholders, et al. v. City and County of San Francisco*, CA Court of Appeals, 1st District, Unpublished Decision, 7/11/2002
- Proposed Resolution, Taxi Commission, 10/08/2002
- SF Chronicle, Article regarding 11th & Market St Accident, 3/26/2003
- SFMTA Board Resolution No. 09-138 (Re *Slone v. Taxi Commission*), 9/9/2009
- *Sloane v. Taxi Commission*, U.S.C.A., 9th Cir., Motion to Dismiss Appeal, Case No. 08-16726, 8/10/2010
- Written statement to SFMTA Director Tumlin re elimination of TC § 1109(c), 5/7/2020
- Medallion Holders Assn. (MHA), Medallion Revocation Hearing Arguments, 6/7/2021
- 1978 Voter Pamphlet Summary of Proposition K (no date)
- Text of Proposition K Provisions (no date)
- Prop-A of 2007: Taxi Commission Authority Transfer to SFMTA (no date)
- SF Taxi Commission, Medallion Holders by Date of Birth (no date)

V. PROCEDURAL HISTORY

On June 9, 2021, the undersigned denied Taxi Service's Notice of Nonrenewal as to Mr. Horbal's medallion. The decision was based upon certain equitable considerations (as noted below), which relied upon the medallion surrender provisions of TC §1116, which were found to be unfairly sidelined by the apparently overriding requirements of the Transportation Code for Post-K medallion holders to renew and maintain current A-Cards.

On June 22, 2021, Deputy City Attorney James Emery sent correspondence to the undersigned requesting reconsideration of the Statement of Decision in the Horbal case. On the basis of arguments presented at that time, on June 22, 2021, the undersigned filed a Notice of Withdrawal of Decision, which was sent to the parties.

On that same date, correspondence was sent to George Horbal, advising that our office had received a request for reconsideration. Mr. Horbal was further advised at that time that he would be given until July 1, 2021, to respond or otherwise comment upon the City Attorney's request. On June 27, 2021, Mr. Horbal advised the parties that he intends to appeal this decision and his case to the San Francisco Board of Appeals.

VI. FINDINGS

1. Respondent Without California Driver's License and A-Card

Based upon the testimony adduced at the hearing and upon the evidence of record, I find that the respondent George Horbal does not have a current California driver's license, and as a result no longer is eligible to possess a current A-Card as that driver's permit is defined by the SFMTA's Taxi Division.

By his own admission, Mr. Horbal can no longer drive a taxi or any vehicle on a regular basis. Because Mr. Horbal cannot drive, his A-Card cannot be renewed pursuant to the provisions of TC §§1103 and 1105, as noted above. Without a current California driver's license, an A-Card cannot be maintained, and without a current A-Card, a taxi driver's entitlement to a holding a taxi medallion here is or may be relinquished. On that basis the nonrenewal of Mr. Horbal's medallion is now appropriate under the circumstances.

VII. EQUITABLE CIRCUMSTANCES RELATING TO DECISION

While current conditions nullify any monetary transfer value of any held medallions in the City, that situation may change in 2021, and it remains possible for the orderly transfer of taxi medallions to resume here. If medallion transfers resume, it may be possible for some medallion holders to enjoy a surrender value of their medallions when the moratorium on transfers no longer obtains.

Currently, and at least since 2016, there has been no market for medallions in San Francisco, largely due to the influx of TNC operations, and due to the litigation between the San Francisco Federal Credit Union and SFMTA. That litigation has resulted in a moratorium in the sale and transfer of taxi medallions based upon an established fixed price of medallion surrender as set forth in TC §1116(b)—which greatly exceeds the current market price of a local taxi medallion. As long as the litigation continues, the medallion surrender price remains at \$200,000, based upon the price of a medallion to a new transferee of \$250,000. At this fixed price, medallion transfers are not expected to recur here until such time as conditions dramatically change following the conclusion of the current litigation.

Until the medallion surrender program is ended or otherwise amended by the Board of Directors, the existing provisions of TC §1116(a)(1)(A) provide an ongoing “eligibility” for the surrender of their medallions to any drivers with disabilities that prevent the full-time driving requirement for both “Pre-K” and “Post-K” medallion holders, as mandated by TC §1116(c)(1). TC section 1116 also extends this ongoing eligibility to drivers who have turned 60—although it is apparent that this age eligibility section of the Transportation Code does not extend to “Pre-K” medallion holders.

On the basis of this uncertainty in expectations on the part of medallion holders for some eventual surrender value in their medallions, our Hearing Section officers would have preferred to continue these cases, or to otherwise defer their decisions until the SFMTA Board might have had the opportunity to definitively decide the issues of medallion surrender—or until the current litigation between the Federal Credit Union and the SFMTA is resolved, which would presumably allow medallion transfers to resume.

But inasmuch as our Hearing Section does not have the inherent authority to ignore the express renewal provisions of Article 1100 the Transportation Code, or to postpone these hearings, and because there is no current transfer value in any taxi medallion in this jurisdiction (and none on the near horizon), our hearing officers will continue to decide these nonrenewal cases on a case-by-case basis but, in general, may have no recourse other than to follow the existing Transportation Code provisions in cases involving Notices of Nonrenewal, regardless of the equitable considerations that have been outlined here.

VIII. ORDER

By reason of the Findings stated above, the Taxi Services Notice of Nonrenewal is upheld, and medallion # 1303 is hereby revoked by operation of the provisions of the Transportation Code.

Dated this 9th day of July 2021



Rudy J. Sebastian
Neutral Hearing Officer
Supervisor
SFMTA Hearing Section

RIGHT OF REVIEW

Under the provisions of the San Francisco Transportation Code, a decision of a hearing officer is a final administrative decision. Any party or entity adversely affected by this decision may seek review of the decision by filing an Appeal in accordance with the provisions and the 15-day timeline set forth in the rules provided by the San Francisco Board of Appeals.

BRIEF SUBMITTED BY THE APPELLANT(S)

BOA Appellant Brief for George Horbal, taxi medallion # 1303

Introduction

Appellant George Horbal and career taxi driver/medallion holder colleague, Carl Macmurdo, jointly submit this brief. Mr. Horbal drove taxi in San Francisco for 43 years before disabilities set in. He has survived episodes of cancer and renal failure and now is confined to a wheelchair.

Case History

1. On September 28, 2020, SFMTA (“the Agency”) sent Mr. Horbal a letter which reads in part,

“NOTICE OF NONRENEWAL OF PERMIT is hereby given due to the following reason(s):

1105(a)(5): Your post-K Medallion cannot be renewed because you do not have a valid A-Card. A Medallion Holder who is subject to the Full-Time Driving Requirement must have a valid A-Card.”

The above statement may summarize an Agency policy interpretation, but it does not reflect the actual language in Transportation Code (Tr. Code) section 1105(a)(5). Regardless, as argued later in our brief, **we believe Mr. Horbal is no longer actually subject to a driving requirement.** He drove taxi for 43 years but now is disabled from **driving**--- but not from **operating a business license.**

2. Mr. Horbal was granted an administrative hearing in the matter on April 27, 2021.

3. In his attached ruling dated June 10, 2021 (**attached as: “G. Horbal Statement of Decision.”**), Hearing Officer, Rudy Sebastian, **denies** the Agency’s nonrenewal of Horbal’s permit.

4. Shortly thereafter, the assigned deputy city attorney for the Agency contacted the SFMTA Hearing Officer section, apparently suggesting the need to withdraw and reconsider the Horbal Decision (**attached as: “Emery to Sebastian email.”**)

5. Mr. Sebastian withdrew his original Decision. On June 22, 2021, the Hearings section advised Horbal he had until July 9 to dispute the withdrawal action. On July 8, we submitted a six-page response. To avoid repetition, we will articulate our arguments later in this brief rather than attach our response letter.

6. On July 9, Mr. Sebastian issued his “Decision on Reconsideration” in which he **upholds** the Agency’s revocation of Horbal’s medallion (**attached as: “Horbal 1303 Decision on Reconsideration.”**) This is the same “**Determination**” --- a document already copied to your Board --- which we herein appeal. The Determination letter erroneously specifies July 1 --- rather than July 9 --- as the deadline set for Mr. Horbal to have disputed the withdrawal decision. It is clear our response was never considered. We see this as an honest oversight by the Hearing Officer. We especially commend Mr. Sebastian for his courage, circumspection, and compassion throughout the entire process.

We are including a portion of Tr. Code section 1120 (**attached as: “Tr. Code sec. 1120.”**) We believe section 1120(e)(2) mandates that a Hearing Officer’s ruling be effective on the date it is issued, subject only to an elective appeal to your Board by the non-prevailing party. Also, section 1120(f), (“*Ex Parte Communications*”), generally disallows a party from having unilateral contact with the Hearing Officer, and we feel the Agency likely violated this provision.

As such, in the instant case the Agency --- rather than Mr. Horbal --- should have been the Appellant, and thereby the party needing a super-majority vote by your Board to overturn the underlying Determination. Notably, a successful appeal by Mr. Horbal will moot this point.

Medallion Definition and History

The **medallion** is a valuable **business license** whose owner/holder must provide the public with continuous access to an associated taxicab. San Francisco holds periodic Public Convenience and Necessity (PC&N) hearings designed to properly balance the public need for adequate service against the need for taxi drivers and other stakeholders to earn a reasonable profit.

After the 1929 Great Depression, many thousands of New York City residents began using their personal cars as *de facto* taxis to generate income. A vast over-supply of on-demand, for-hire vehicles caused drivers to under-price one another in a race to the bottom. Unsafe, chaotic conditions prevailed. In response, New York State legislators passed the 1937 Haas Act, which limited the number of licensed taxis and also defined rates of fare. Such was the genesis of the taxi medallion system. Unfortunately, in NYC, San Francisco, and elsewhere

the proliferation of Transportation Network Company (TNC) vehicles such as Uber and Lyft has replicated the pre-Haas Act conditions from ninety years ago. Medallion value has tanked for now.

San Francisco Medallion History

Prior to 1978, San Francisco medallions were bought and sold. Medallion owners/holders were not required to personally drive. These are known as “**pre-K medallions.**”

In 1976, Westgate Corporation --- which owned San Francisco Yellow Cab and its hundreds of medallions --- went bankrupt. The Bankruptcy Court seized the permits, thus taking hundreds of taxis off city streets overnight. This caught city Supervisors completely off guard. To prevent future recurrence, Supervisor Quentin Kopp authored Proposition K in 1978, and the voters passed it into law. Prop. K phased out corporate medallion ownership. Prop. K also eliminated the buy-sell business model, leading to unintended consequences including lack of medallion holder entry opportunity and exit strategy.

Prop. K, medallion applicants pledged an intention to drive taxi full-time and paid an application fee. Thousands of applicants signed onto a waiting list, and the typical wait time was about 13 years. Medallions were issued for nominal processing fees. These permits are called either “**Prop. K**” or “**post-K medallions.**”

In 2010, the medallion buy-sell model resumed. Proposition A of 2007 assigned a new taxi regulator (SFMTA) with the authority to make this change. The sales price was set at \$250,000 , although the 200 applicants highest on the waiting list could purchase at \$125,000. Permits bought under this Medallion Sales Program are generally referred to as purchased, or “**P medallions.**” Initially, there were many more willing buyers than sellers. Within a few years, however, tens of thousands of TNC vehicles began flooding the streets -- able to under-price taxi rates due to billions of dollars in venture capital subsidies --- and medallion value plummeted. Since about 2016, the Medallion Sales Program has been entirely dormant.

Summary of Litigation Regarding the “Prop. K Full-Time Driving Requirement”

A brief historical summary follows describing litigation resultant from the city's regulatory interpretation that Prop. K medallion holders (MHs) have a never-ending, mandatory full-time driving requirement. We provide more details in the later "**ARGUMENTS**" section.

1. In November 2000, the Permit Holders and Drivers Association (PDA, later renamed MHA), filed a lawsuit against the City (CCSF) challenging its "never-ending driving requirement" policy. Superior Court Judge, David Garcia, ruled in CCSF's favor based on its Demurrer. On appeal, the Appellate Court **reversed** the decision (**attached as "PDA (MHA) v. CCSF court register."**) In its murky ruling, the Court ordered some degree of disability protection for Prop. K MHs. We never received clear policy details, although the then-regulator Taxi Commission did begin accepting and approving some requests for temporary, limited exemptions from the "driving requirement" for disabled MHs.

2. Around 2003, the taxi commission revoked four medallions based on the inability of career taxi drivers//MHs to drive any longer **because** they had become disabled. Your Board unanimously overruled the Agency revocation action in all four cases (Edmund Jung, Mia Rivera, Mark Hollander, Joel Hollander.)

3. Around 2007, the taxi commission readied to resume revocations against disabled MHs. Rather than preparing once more for multiple BOA hearings, National Cab Company --- which operated medallions for many disabled MHs --- instead filed a Federal Court lawsuit alleging CCSF violations of the year 1990 Americans with Disabilities Act (ADA). National Cab entered MHs William Slone and Michael Merrithew as its named plaintiffs.

District Court Judge, Jeffrey White, granted CCSF's Motion for Summary Judgment. Plaintiffs appealed to the Ninth Circuit Court of Appeals. After numerous briefings, the parties agreed to mediation around September 2009. In 2010 the parties signed a stipulated settlement agreement ("**Slone Agreement.**") A key *Slone* Agreement aspect is to provide disabled MHs with financial compensation as they exit the industry, rather than summarily revoking their permits. During this same time frame, the Agency developed policies for its new Medallion Sales Pilot Program (MSPP.) The SFMTA Board approved the MSPP in 2010 and voted for a permanent Medallion Sales Program two or three years later.

4. In 2020, the Agency once again embarked on an effort to revoke the permits of disabled MHs, leading to the current Horbal appeal. Multiple other MHs similarly situated as Mr. Horbal are also being processed through their administrative hearings, and your Board likely will soon be hearing additional appeals on the same basic issues presented herein.

ARGUMENTS

Argument 1: Due to a year 1988 miscodification, the Transportation Code mandates a “never-ending, mandatory driving requirement.” This provision contravenes Prop. K’s explicit language.

Section 2(b) in Prop. K requires that a medallion applicant take an *oath-of-intention* (**attached as: “Prop. K of 1978.”**) By dictionary definition, “intention” refers to a person’s “goal” or “aim” or “purpose.” Accordingly, the Agency cannot revoke a medallion holder’s permit based on non-driving without first considering extenuating circumstances and mitigating factors. **A case-by-case analysis is required.** Prop. K language does not even remotely suggest there is an “endless driving requirement.”

In 1988, the Board of Supervisors --- which had taxi jurisdiction at the time, with direct oversight assigned to the Police Commission --- codified Prop. K into the Municipal Police Code (MPC) with nearly fifty pages of amendments effective March 1989. In a clear-cut case of **miscodification**, MPC sec. 1090 **mandates** an adverse action against a MH who “has ceased to be a full-time driver.” It explicitly disallows consideration of any extenuating circumstances (**attached as “MPC sec. 1090.”**) **This egregious miscodification contravenes Prop. K by substantively and illegally altering that law.**

On March 1, 2009, SFMTA took over taxi jurisdiction. Many MPC entries were folded into the Transportation Code. The contrived “never-ending, mandatory driving requirement” is now incorporated as Tr. Code sec. 1109(c)(1), which reads: “Every Medallion Holder who is a natural person and who acquired his or her Medallion between June 6, 1978 and March 27, 2010 shall be a Full-Time driver.”

Later, we detail how this “driving requirement” interpretation is inhumane to MHs, extremely dangerous to the public, and in violation of disability law. Until and unless the Agency is forced to amend this code section,

many cases similar to Mr. Horbal's likely will end up before your Board. **Please consider opining on this specific argument in your ruling.**

Argument 2: Current Agency policy violates the year 1990 Americans with Disabilities Act (ADA.)

Although technically a business license itself, the A-card is more of a **work permit** authorizing the permittee to drive a taxi. By contrast, a medallion clearly is a **business license**. The medallion holder ensures compliance with a slew of regulatory requirements --- vehicle purchase and repair, insurance, hiring drivers and shift-scheduling, radio dispatch, etc. --- while *operating a business*. The Agency's interpretation of an endless MH "driving requirement," however, transubstantiates the medallion into mostly just another work permit.

In April 2000, a deputy city attorney sought to bolster the Agency's "driving requirement" interpretation. In a memo sent to the taxi commission president (**attached as: "Owen to Costello ltr."**), Mr. Owen misleads the taxi commissioners into believing Prop. K specifies a **mandatory driving requirement** rather than an **applicant's "pledge** to drive full-time. He then suggests the commission might designate full-time driving as an **"Essential Eligibility Requirement"** (EER) for Prop. K medallion holders.

An EER is a program element so vital that ADA protections are waived. For example, because firefighters must race up stairs during fires, **"extreme physical fitness"** is a **valid EER** for that job. Wheelchair users cannot apply. However, assigning the same fitness criterion to a Public Information Officer position in a city fire department, wherein the job duties are entirely sedentary in nature, creates a **bogus EER** which unlawfully discriminates against disabled persons.

In October 2002, the taxi commission approved the **spurious EER** Mr. Owen had suggested (**attached as: "EER."**) The EER document is replete with ambiguous language. For unclear reasons, a term never before used in the taxi industry --- **"Continuous Driving"** (rather than "Full-Time Driving") --- is designated as the EER.

The Ballot Simplification Committee analysis in the 1978 Voter Pamphlet puts the lie to this phony EER (**attached as: "BSC 1978 Prop. K analysis."**) Prop. K's purposes are succinctly stated: to disallow medallion

sales and to phase out company permit ownership. Requiring elderly or disabled MHs to drive is not mentioned.

In Prop. K itself, the term “full-time driving” appears only in the section titled, “The Application For a Permit.”

Pressuring elderly and feeble MHs to drive beyond their safe capacity is inhumane and also very dangerous to the public. Only five months after the EER Resolution was passed, an elderly MH lost control of his taxi on a rainy night. The taxi slid onto the sidewalk and crushed two people at an ATM machine. The horrific accident is described in a newspaper article (**attached as: “accident, 11th & Market St.”**) Aside from the victims’ tragedy, Yellow Cab Co-op had to sign over its property in a \$14,000,000 settlement, eventually filing for bankruptcy in 2016 without ever fully recovering financially. Upon memory and belief, the feeble MH drove that night against his will and beyond a reasonably safe capacity solely to retain his permit by complying with the “driving requirement.” Now, the Agency has resumed enforcing its spurious EER. **We ask your Board to help end this malfeasant policy.** Otherwise, scores of feeble, elderly MHs not yet fully disabled will be put in the same awful situation faced in 2003 by the MH who caused the horrible accident.

The Agency has devised a connect-the-dots method which cross-references various Tr. Code sections to allow itself the means and ability to confiscate permits from disabled MHs. Through its often arbitrary and capricious Tr. Code entries, the Agency asserts not only that a MH cannot renew a medallion annually without having a valid A-card, but also that a MH first needs a current California Driver’s License (CDL) to qualify for an A-card. Typically, however, persons with major disabilities do not qualify for a CDL. **Via this ploy, the Agency has incorporated or institutionalized discrimination against disabled MHs.**

By way of hypothetical example, the Agency policy requires revocation in the case of a MH who in the act of driving a taxi is rear-ended and paralyzed by a drunk driver. Agency policy egregiously violates ADA. Also, **nothing in Prop. K suggests that a disabled MH needs a CDL to operate a business license.**

Enclosed is a taxi commission data chart dated 2004 in the lower left corner. It shows the age at which Prop. K medallion applicants received their permits (**attached as: “MH age upon receipt.”**) Virtually all permittees listed are already senior citizens upon finally receiving a medallion. Mr. Tognotti is age 78. We point this out because an Agency representative at recent administrative hearings has asserted that Prop. K MHs, “understood they had to turn in their medallions when they were unable to drive any more.”

During the past three years or so, the Agency has constantly emphasized that ADA accommodations are allowed for **temporary** disabilities but not for **permanent** ones. ADA law does not support this contention. Additionally, the line differentiating temporary and permanent disabilities often is blurry.

Interestingly, in 2017 the Agency's Taxi Services unit designed an explanatory chart for an SFMTA Board presentation (**attached as: "SFMTA Medallion Definition and Count."**) The relevant entry refers to a compensation program described below as the "**Surrender Program.**" It states that Prop. K MHs can participate "... if the medallion holder is at least 60 years old or has a **permanent disability**" (our emphasis.) The chart shows 494 MHs as being signed onto the Surrender Program waiting list.

Finally, we note that eighteen years ago your Board unanimously overturned all four Agency medallion revocations against disabled MHs. Those cases involved the same basic issue before you now in Mr. Horbal's appeal. We have enclosed a partial transcript from a year 2003 hearing (**attached as: "M. Rivera 2003 BOA Hearing excerpts."**)

Argument 3: The *Slone* Agreement applies to Mr. Horbal and all other similarly situated MHs.

As noted earlier, after Judge White granted CCSF's Motion for Summary Judgment in the Federal ADA lawsuit, National Cab appealed to the Ninth Circuit on behalf of named plaintiffs Slone and Merrithew. After numerous briefings, the parties agreed to mediation in September 2009.

In August 2010, the parties signed a stipulated Settlement agreement ("***Slone Agreement***," **attached as: "*Slone v. Taxi.*"**) In exchange for National Cab withdrawing its ADA litigation, Merrithew was allowed to sell his medallion under the developing MSPP. Mr. Slone, instead, would apply to the new "**Surrender Program**" waiting list (see below.). Mr. Slone simultaneously would avail himself of a newly-revised policy which greatly expanded disability-related exemptions from the Agency's mandated driving requirements (**attached as: "Resolution No. 09-138."**) **Upon belief and information, the parties understood that a large number of future carbon copy cases would arise and be handled in the same manner.**

Related to the *Slone* Agreement, the Agency created a policy to allow disabled MHs to gracefully exit the industry with compensation. Because Prop. K medallions technically are *non-transferable*, the Agency needed to structure a process in which it functioned as an intermediary. After identifying a buyer, the Agency would pay the outgoing MH \$200,000 under a “surrender-for-consideration” policy now commonly referred to as the “**Surrender Program**.” The Agency next would promptly sell the permit for \$250,000.

As of 2010 --- when the MSPP began --- willing buyers greatly outnumbered sellers. Within a few years, however, widespread TNC operations crushed medallion value and completely reversed the buyers-to-sellers ratio. We attach excerpts from Tr. Code section 1116 describing the Surrender Program (**attached as: “Tr. Code sec. 1116, partial.”**) In 2009, the Agency expanded MH disability relief by issuing Resolution No. 09-138, in part to help the forthcoming Surrender Program succeed. Upon belief, a purpose of Resolution No. 09-138 is to allow disabled MHs a chance to recover and possibly resume driving, meanwhile retaining the permit for at least three years --- at which time the Agency might require a compensated permit “surrender.”

On at least two occasions, MHs with disabilities asked Mr. Macmurdo to join their advice appointments with Paige Standfield --- the Agency’s permit compliance manager at the time. The germane entry in Resolution 09-138 is item number six, which allows three years of driving requirement relief **for the same condition** (our emphasis.) Ms. Standfield advised that MHs could “string together” different qualifying maladies in order to keep the permit beyond a three-year limit while awaiting their turn to participate in the Surrender Program. For example, a MH with an enlarged prostate gland, a deteriorating hip, and high blood pressure might qualify for nine years of relief. We applaud Ms. Standfield for her compassion in trying to help disabled MHs retain their permits until such time that the Medallion Sales Program might once again become active.

Also at issue is the lack of proper notification made by the Agency to affected MHs. For example, Mr. Horbal was unaware of Resolution 09-138 until Mr. Macmurdo asked him three months ago whether he had ever filed for relief under that policy. The Agency never sent a letter advising MHs of the expanded disability relief defined in Resolution 09-138. Also, no mention of that Resolution is contained or footnoted in the Tr. Code. Under the circumstances, if you were to rule against Mr. Horbal on his appeal, he wants to apply for the relief allowed by Resolution 09-138.

Mr. Macmurdo has participated in three administrative hearings so far and believes that the Agency personnel who initiated the current wave of revocation attempts against disabled MHs were unaware of the *Slone* Agreement until he brought it to their attention during one of those hearings. The city's *Slone* Agreement signatory is Vince Chhabria, now a Federal Judge. **We assert that the revocation of Mr. Horbal's permit violates the intent of the *Slone* agreement and ask that you overrule the Agency.**

Argument 4: Many MHs allowed their A-cards to lapse based on specific advisement from Taxi Services staff that A-card renewal was unnecessary for disabled MHs.

Numerous disabled MHs assert that the Agency's permit compliance manager, Ms. Standfield, had advised them it was unnecessary to renew their A-card. Others heard about that policy advice through word-of-mouth.

The Agency unnecessarily treats disabled career driver-MHs with **lapsed** A-cards as though they were first-time applicants --- who actually *do* need a CDL to drive taxi. There is no logical reason, however, to require a disabled MH to have a CDL. Many or most may not qualify for a CDL due to their disability, anyway.

One MH had Ms. Standfield document her advice in writing (**attached as: "Paige S. advisory to CR."**) Many MHs have allowed their A-card to lapse based on that advice. Numerous MHs have relocated to more affordable cities based upon that advice and are unlikely to qualify for a CDL in the future.

Miscellaneous arguments and information

1. **Argument:** The Agency's case against Mr. Horbal relates directly to his failure to comply with an ostensibly sacrosanct, "never-ending driving requirement." However, the Agency suspended the "driving requirement" for year 2020 for **all** MHs.. Yet, 2020 is the very year in which Mr. Horbal is being charged with "driving requirement" non-compliance. The hiatus is due to the shelter-in-place order from the city's Health Officer associated with the Covid-19 pandemic (**attached as: "Temporary Suspension of the Post-K driving requirement due to COVID-19."**) We argue that **the Agency cannot revoke Mr. Horbal's permit based on its stated rationale, given that its case is integrally related to his non-driving in 2020.**

2. Two taxi industry groups --- San Francisco Taxi Coalition and Medallion Holders Association --- jointly signed a request letter in May 2020, asking the SFMTA Board either to eliminate or amend its Tr. Code sec. 1109(c) “driving requirement” policy (**attached as: “Request ltr., SFMTA Board, 2020.”**) The final paragraph summarizes the letter. The SFMTA Board never responded.

3. We believe the Agency’s actual motivation in revoking Prop. K medallions right now is **financial**. The proverbial “elephant in the room” here is a 2018 Superior Court lawsuit filed by the San Francisco Federal Credit Union against the City (*SFFCU v. SFMTA*, case No. CGC-18-565325.) The lawsuit alleges bad faith and breach of contract by the City, while seeking damages which SFFCU claims as now exceeding \$150 million. The credit union provided hundreds of millions of dollars in loans to medallion purchasers, many of whom are now in default, unable to make payments. The SFFCU suit argues in part that the city took inadequate action to prevent Uber and Lyft from destroying medallion value.

Jury trial is set for August 30, 2021. City Attorney, Dennis Herrera, has failed in four separate legal attempts to quash the lawsuit (Demurrer, Motion for Summary Judgment, *Writ of Mandamus*, Motion for Judgment on the Pleadings.)

The Agency in the past three years or so has engaged in various short-sighted policies designed to steer income away from pre-K and Prop. K MHs --- and towards “P” MHs --- in order to limit loan forfeitures and thereby reduce its own potential liability as defendant in the credit union litigation. For example, **“P” Medallion Holder taxis are the only ones currently allowed to pick up fares at SFO.** This myopic policy is materially unfair to the other MHs, many of whom can no longer rent out their taxis because lease drivers generally need access to airport pickups in order to be successful. By reducing overall taxi supply --- both at SFO and in the city --- the Agency has managed to marginally increase “P” MH income, but it comes at the expense of other MHs . By reducing taxi availability, the Agency’s SFO pickup restrictions harm overall public service and very likely are negatively affecting tourism as well.

Many observers believe the TNC business model is not ultimately sustainable and that meaningful taxi medallion value will return at some point. By confiscating permits from disabled MHs including Mr. Horbal, the Agency --- rather than the deserving MHs who themselves were career drivers but are now disabled --- will

extract future medallion value by leasing or selling the permits. Hearing Officer Sebastian makes reference in both of his Horbal Decisions to the perceived likelihood that the outcome of the credit union lawsuit may change the landscape to allow for medallion transfers at market price, rather than the current \$250,000 set price at which there is no sales activity. We ask that you disallow the Agency's attempt to confiscate Mr. Horbal's medallion.

Summary

The taxi medallion is a **business license**, although Agency interpretations render it mostly as a **work permit** requiring a MH to drive full-time until death. Such policy is Draconian, inhumane, and a major threat to public safety. **The applicant pledge in Prop. K was incorrectly codified in 1988 as a never-ending requirement to drive full-time.** Agency policy egregiously violates ADA. In the instant case, the Agency cites its own often arbitrary Tr. Code provisions to justify the Horbal revocation action, However, many of the Tr. code entries **directly violate and contravene superseding laws such as ADA and Prop. K.**

The *Slone* Agreement applies to Mr. Horbal. The Agency's former permit compliance manager correctly and compassionately advised that disabled MHs do not need an A-card --- or by extension, a CDL --- **to operate a taxi business license.** We believe the Agency's own financial self-interest is the actual motivation for its current wave of revocations on permits held by disabled Prop. K MHs. Mr. Horbal's case is virtually identical to the Agency's taxi permit revocations in 2003 which your prior Board Commissioners overruled on appeal.

Request

Please overrule the Agency's revocation of Mr. Horbal's permit. Thank you for your consideration and especially for your patience and diligence in wading through our lengthy, detailed brief.

George Horbal,
(Appellant)

Carl Macmurdo
(Agent)

from: SF Chronicle
Wed, March 26, 2003

type still op... It is lesser known than the... bridge, which is a block away and... other span their des... ceived, the Golden Gate Bridge. Before making his name with

2 S.F. men hit by cab at Market Street ATM

By Jim Herron Zamora
CHRONICLE STAFF WRITER

Two San Francisco men were badly injured when a taxicab veered out of control on Market Street and pinned them both against an ATM, police said.

One victim, a 57-year-old man, lost both his legs after the Yellow Cab jumped the curb and slammed into him as he stood by the Bank of America ATM at 11th and Market streets Tuesday night. He remained in critical condition Wednesday.

The second man, who is 27, suffered a crushed pelvis and other injuries and was in fair condition at San Francisco General Hospital. Authorities would not release the victims' names.

Police said the cabdriver had

crossed into oncoming traffic as he was driving west on Market around 10 p.m. and had run onto the sidewalk outside the bank.

Investigators said the driver was 73 years old and a veteran of Yellow Cab but did not give his name. Although they released him after interviewing him, they said he still could face charges.

The driver told police his brakes had failed. Officers said there was no evidence of brake problems and no skid marks. Witnesses told police the driver had not been speeding.

Yellow Cab Cooperative management did not return phone calls, and a company dispatcher declined to comment.

E-mail Jim Herron Zamora at jzamora@sfchronicle.com.



REGULATION OF TAXICABS

1978
Voter
Pamphlet
Summary

EXH. 10

PROPOSITION K

Shall taxicab permits be issued only to individual cab operators and shall the private sale of rights in taxicab permits be prohibited?

Analysis

By Ballot Simplification Committee

THE WAY IT IS NOW: New taxicab permits are only issued when the Police Commission says they are needed. The fee to the city for a new permit is \$7500. Permits may also be freely sold from one person or company to another for whatever price they agree upon. Today permits sell privately for over \$10,000 apiece because over 700 permits are out and no new permits are being issued. If one party buys a taxicab permit from another party, a transfer fee of \$1000 must be paid to the city.

have to exchange their permits within 60 days. No permits could be bought or sold privately. They would belong to the City and County. Preference for completely new permits would go to anyone who has been a taxicab driver for one straight year within the past three years. Once present permit holders have exchanged their permits, new permits would only be issued to individuals, not to companies. The permit could be revoked if more than 10 percent of a taxi company's stock is sold or transferred. Owners would also be required to keep specific financial records.

THE PROPOSAL: Proposition "K" would change the way taxicab permits are issued and prevent them from being transferred from one party to another. The Police Commission would set the amount of permit fees and hold hearings on applications for permits. New permits would be required for all taxicabs, including those now being operated under the old permits. Present owners would have preference for new permits, but they would

A YES VOTE MEANS: If you vote yes, you do not want taxicab permits to be sold on the open market and you want to phase out ownership by companies.

A NO VOTE MEANS: If you vote no, you either want the taxicab permit rules to stay the way they are now, or you want to change them in some other way.

Controller's Statement on "K"

City Controller John C. Farrell has issued the following statement on the fiscal impact of Proposition K:

Should the proposed ballot proposition be adopted, in my opinion, there would be an increase in the cost of government. However, this increase in cost would be offset by the fees to be established by the Police Commission.

How Proposition K Got On The Ballot

Proposition K was placed on the ballot by a City Charter provision which allows four or more individual members of the Board of Supervisors to place an Ordinance or Declaration of Policy on the ballot.

On January 8th the Registrar received a request from 5 supervisors asking that the question of taxicab regulation be placed on the ballot. The request was signed by Supervisors Dianne Feinstein, Quentin Kopp, Ronald Pelosi, John Barbagelata and Al Nelder.

Propositions J and K are of the same general purpose. In the event that both measures are approved by the voters, the one receiving the highest affirmative vote will prevail and the other will fail of passage.

THE TEXT OF PROPOSITION K APPEARS ON PAGE 53

Passed by TC on 10-08-02

2nd EER Proposal

CONTINUOUS DRIVING AS AN ESSENTIAL ELIGIBILITY REQUIREMENT OF THE CITY'S TAXI PERMITTING PROGRAM.

EXH. 9

[Proposed Resolution – October 8, 2002 Taxi Commission Meeting]

WHEREAS, the text of Proposition K indicates the importance that measure places on permitholders driving on a continuous basis, by

- requiring every applicant for a motor vehicle for hire permit to declare under penalty of perjury that he or she intends actively and personally to engage full-time as permittee-driver under any permit issued to him or her;
- defining full-time driving with considerable specificity; and
- requiring the Taxi Commission, in determining whether or not public convenience and necessity exist for the issuance of a permit, to find that the applicant will be a full-time driver; and

WHEREAS, This Commission has recognized that a basic principle central to Proposition K is that permitholders be full-time drivers rather than absentees, and the California Court of Appeal has likewise recognized that Proposition K embraces a strong policy favoring full-time, or continuous, driving by permitholders;

WHEREAS, Proposition K had as a main purpose to shift the City's taxi permitting process from a system that allowed corporations and nondrivers to hold permits, to a system in which only bona fide drivers would hold permits; and this central purpose will be compromised if nondrivers are allowed to hold permits, because in every such case, the nondriver would hold the permit at the expense of an actual driver who otherwise would be issued the permit;

WHEREAS, the requirement that permitholders drive on a continuous basis serves the public interest in a number of ways, including that

- it tends to promote stability in the driving work force, because if permits can be held by absentees, there will be fewer opportunities for nonpermitholding drivers to obtain permits, and thus less incentive for drivers to stay in the industry for lengthy periods of time;
- it tends to promote experience in the driving work force, because it ensures that for a significant part of the time a permitted vehicle is driven, the driver must be someone who drives frequently;
- it tends to promote a sense of equity among the driving work force, because it requires that persons doing the day-to-day work of driving receive the rewards of being a permitholder;
- it tends to promote greater cleanliness, comfort, and safety of vehicles, because the permitholder must drive the permitted vehicle frequently and thus has a personal incentive to ensure that the vehicle is clean, comfortable, and safe; and
- it provides an entrepreneurial opportunity and a degree of upward mobility for drivers; and

WHEREAS, Federal and state disability laws do not require the City to waive essential eligibility requirements of its taxi permitting programs, but do require the City to make reasonable accommodations to aid disabled permitholders in complying with essential eligibility requirements; and

WHEREAS, the California Court of Appeal has stated that the City, in defining continuous driving, need not strictly adhere to the specific quantitative formula in Proposition K for measuring full-time driving, but may make some limited allowance for disabled permitholders by employing an alternative definition, provided that the alternative definition complies with Proposition K's mandate that permitholders drive on a continuous basis; now, therefore,

BE IT RESOLVED, That continuous driving is an essential eligibility requirement of the City's programs for the permitting of motor vehicles for hire, and that exempting a permitholder from that requirement would fundamentally alter the nature of those programs; and

BE IT FURTHER RESOLVED, That this resolution is not intended to restrict the Commission's discretion in devising alternative definitions of continuous driving to accommodate disabled permitholders whose disability precludes them from complying with the specific quantitative formula in Proposition K for measuring full-time driving, provided that any alternative definition satisfies the continuous driving requirement mandated by Proposition K; and

BE IT FURTHER RESOLVED, That this resolution is not intended to restrict the Commission's discretion in determining what sanction or sanctions may be appropriate to impose on a disabled permitholder who does not meet Proposition K's continuous driving requirement.

Subject: Jim Emery email to Rudy Sebastian

----- Forwarded message -----

From: Emery, Jim (CAT) <Jim.Emery@sfcityatty.org>

Date: Tue, Jun 22, 2021, 10:57 AM

Subject: SFMTA v. Horbal (Medallion # 1303)

To: Sebastian, Rudy (MTA) <Rudy.Sebastian@sfmta.com>

Cc: georgehenrygh73@gmail.com <georgehenrygh73@gmail.com>, HearingsGeneral@sfmta.com <HearingsGeneral@sfmta.com>, Givner, Jon (CAT) <Jon.Givner@sfcityatty.org>, Cranna, Philip (MTA) <Philip.Cranna@sfmta.com>

Dear Mr. Sebastian,

I am advising the Taxi Division in the recently adjudicated medallion non-renewal cases. Below is the email I received on June 15 from your colleague Mr. Doyle, advising me that the SFMTA hearing officers "have come to accept the need to reconsider our decisions in each of these medallion [non-renewal] cases that have already been adjudicated. Those decisions on reconsideration will be forthcoming later this week or early next." Please confirm you will withdraw or reconsider your June 9 decision in Mr. Horbal's case before June 24, 2021, to avoid the need for the taxi division to file a protective appeal.

Thank you,



Jim Emery

Deputy City Attorney

Office of City Attorney Dennis Herrera

(415) 554-4628 Direct

www.sfcityattorney.org

7/31/2021

From: Doyle, James <James.Doyle@sfmta.com>
Sent: Tuesday, June 15, 2021 5:32 PM
To: Emery, Jim (CAT) <Jim.Emery@sfcityatty.org>
Subject: Taxi Medallion Decisions

Hello Mr. Embry:

After some extensive discussion with our hearing officers, we have come to accept the need to reconsider our decisions in each of these medallion revocation cases that have already been adjudicated. Those decisions on reconsideration will be forthcoming later this week or early next. The SFMTA need not appeal. Thanks, James

James Doyle

Manager (Acting)

SFMTA Hearing Section

SFMTA HEARING SECTION

**SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY,**

vs.

STATEMENT OF DECISION

GEORGE HORBAL,
Respondent

I. INTRODUCTION

This case came on for administrative hearing pursuant to a Complaint by the San Francisco Municipal Transportation Agency ("SFMTA") after the Complaint was sent to respondent George Horbal on or about October 26, 2020. The SFMTA Complaint alleges that Mr. Horbal had not taken the necessary measures to renew his status as a qualified taxi medallion holder, and on that basis the SFMTA's Taxi Services had notified Mr. Horbal on or about September 28, 2020, that his right to remain a medallion holder was being contested by Taxi Services.

Following that notice and the subsequent Complaint, a video-conference hearing was scheduled for Mr. Horbal by this Hearing Section for April 27, 2021, under the provisions of Article 1100 of the SFMTA's Transportation Code. That Article governs the rights granted to taxi medallion holders in San Francisco, as well as how hearings related to those rights are administered.

On April 27, 2021, Mr. Horbal appeared via telephone at the time of this hearing, and the Taxi Services and its witness, analyst Danny Yeung, appeared by video, along with the undersigned administrative hearing officer, and at that time testimony from each of the parties was received into evidence.

II. THE COMPLAINT

In its Complaint the SFMTA's Taxi Services alleges that based upon "Post-K" provisions adopted by the Transportation Code ("TC"), taxi medallion holders are subject to a full-time driving requirement and must hold an active A-Card in order to retain their legal status as medallion holders. Additionally, the Transportation Code also requires that for an A-Card permit to be granted, a full-time driver must also have a valid California driver's license.

In terms of Mr. Horbal, the Complaint stated that because he no longer had a current California driver's license, he could not qualify for an A-Card, and as a result the renewal of medallion

#1303 could not be authorized under the relevant provisions of the Code.
#1303 could not be authorized under the ~~relevant~~ provisions of the Code.
relevant

III. APPLICABLE LAW

Under the provisions of Article 1100 of the Transportation Code, the following statutory authority forms the relevant basis for this decision, including the Transportation Code's definitions of "A-Card," "Medallion Holder," "Notice of Nonrenewal," and "Permit Holder."

Also relevant to this case are these Article 1100 provisions:

- TC §1103(c)(2)(C), regarding driver qualifications
- TC §1103(c)(3), regarding the lapse of active permit status;
- TC §1105(a)(1), regarding permits required;
- TC §1105(a)(3), regarding permits as privilege, not property of the driver;
- TC §1105(a)(5)(A), regarding the duration of permits;
- TC §1105(a)(6), involving compliance with laws and regulations;
- TC §1109(a)(1), re required affiliation with Color Scheme;
- TC §1109(c)(1), regarding the full-time driving requirement;
- TC §1109(e)(1)(A), involving various aspects of medallion operation;
- TC §1116, covering surrender of medallions for consideration.

IV. TESTIMONY

A. SFMTA Testimony and Evidence Presented: Danny Yeung:

Danny Yeung, an administrative analyst in the SFMTA's Taxi Services, testified to the origin and reliability of the exhibits offered by Taxi Services at the hearing. The exhibits included a driver profile of Mr. Horbal (Exh. A), the Division's Notice of Nonrenewal (Exh. B), and the written statement of George Horbal dated October 19, 2020 (Exh. C). Mr. Yeung confirmed that the evidence of record established that Mr. Horbal had not had a current California driver's license for at least the previous two years, and that his A-Card had expired in approximately December of 2017 and had never been renewed since that time.

B. George Horbal:

Mr. Horbal testified that he is a resident in the state of California, and that he has not been physically capable of driving for a living due to his physical health currently wheelchair-bound due to renal failure (3 kidney operations) and cancer (an operation to remove a cancerous growth from his leg).

Mr. Horbal testified that he understands that his medallion (#1303) had been used by Yellow Cab Company, as a basis for other taxi drivers to drive legally within the city, pursuant to the provisions of the Transportation Code that allow this sort of operational transfer to a Color Scheme from the original medallion holder. He wants to retain his medallion as source of retirement income.

Mr. Horbal confirmed that he does not have a current California Driver's License and that his A-Card has not been renewed since 2017. Essentially, Mr. Horbal acknowledges that the legal provisions that apply to taxi drivers in San Francisco apparently establish that due to his current status, his medallion will not be renewed, and understands that it may have already been confiscated.

In this respect Mr. Horbal does not seriously dispute the Taxi Division's testimony or evidence, or the features of the Transportation Code that appear to require medallion confiscation (i.e. "nonrenewal") under some circumstances. However, Mr. Horbal believes that Federal ADA law protects a medallion holder rights where a taxi driver can no longer drive due to a permanent disability, and that ADA law applies under his own circumstances to protect his right to retain his medallion.

Mr. Horbal stated that he satisfied the requirement of an intention to drive until his health conditions would not allow him to drive anymore. He believes that the medallion is a business license and separate from the A-card, which he describes as a work permit. He maintains that there should be a residual monetary value to medallion #1303, which could have been paid to him in exchange for the surrender of this permit, and that there should be current circumstances in San Francisco which would allow him to sell or transfer his medallion to a third party for a current market value, just as other drivers have done in the past as holders of their own medallions.

C. Carl Macmurdo

Mr. Macmurdo testified that he has been a taxi driver for over 30 years, that he is a Prop-K medallion holder, and is the president of the Medallion Holders Association. He testified that the medallion is equivalent to a business license and is separate from the A-card requirement and the requirement to drive full-time. He referred to Prop-K and Quentin Kopp's writing of the law, and specifically that the applicant for a taxi medallion had to swear only to *intend* to be a full-time driver. He argued that the taxi medallion holder's sworn intent to drive on a full-time basis was the only requirement, and that a driver's intent to drive has since been misconstrued by the SFMTA's interpretations of Article 1100 of the Transportation Code.

Because of the current health pandemic, Mr. Macmurdo stated that Mr. George Horbal does not need to have a current or active A-card in order to be a medallion holder, because the full-requirement driving requirement is currently suspended. On that basis Mr. Horbal's medallion should not be confiscated by the SFMTA.

D. Dennis Korkos

Mr. Korkos testified that he has been a taxi driver for four decades and has been a medallion holder for two decades. He echoed the statements of both George Horbal and Carl Macmurdo regarding their understanding of a driver's sworn intent to drive—as opposed to having an actual ability to drive on a full-time basis. He stated that one's sworn intent to drive does not mean that medallion holders are required to drive for one's entire life span. He equated the medallion to a

business license using the analogy of a bar ~~owner~~ holding the license and having the ability to hire bartenders for part-time work. He questioned whether Mr. Horbal had been given proper advance notification by the SFMTA's Taxi Services.

The following documents offered by Respondent Horbal were admitted in the record:

- Memorandum, Thomas Owen to Mariann Costello, 4/25/2000
- *SF Taxi Permitholders, et al. v. City and County of San Francisco*, CA Court of Appeals, 1st District, Unpublished Decision, 7/11/2002
- Proposed Resolution, Taxi Commission, 10/08/2002
- SF Chronicle, Article regarding 11th & Market St Accident, 3/26/2003
- SFMTA Board Resolution No. 09-138 (Re *Slone v. Taxi Commission*), 9/9/2009
- *Sloane v. Taxi Commission*, U.S.C.A., 9th Cir., Motion to Dismiss Appeal, Case No. 08-16726, 8/10/2010
- Written statement to SFMTA Director Tumlin re elimination of TC § 1109(c), 5/7/2020
- Medallion Holders Assn. (MHA), Medallion Revocation Hearing Arguments, 6/7/2021
- 1978 Voter Pamphlet Summary of Proposition K (no date)
- Text of Proposition K Provisions (no date)
- Prop-A of 2007: Taxi Commission Authority Transfer to SFMTA (no date)
- SF Taxi Commission, Medallion Holders by Date of Birth (no date)

V. FINDINGS

1. Respondent Without California Driver's License and A-Card

Based upon the testimony adduced at the hearing and upon the evidence of record, I find that the respondent George Horbal does not have a current California driver's license, and as a result no longer is eligible to possess a current A-Card as that driver's permit is defined by the SFMTA's Taxi Division.

By his own admission, Mr. Horbal can no longer drive a taxi or any vehicle. Because Mr. Horbal cannot drive, his A-Card cannot be renewed pursuant to the provisions of TC §§1103 and 1105, as noted above. Without a current California driver's license, an A-Card cannot be maintained, and without a current A-Card, a taxi driver's entitlement to a holding a taxi medallion here is or may be relinquished. That medallion relinquishment would be appropriate here under normal circumstances.

2. Circumstances of Transfer Moratorium Preclude Normal Renewal Policies

However, the present circumstances involving the interest associated with medallions in San Francisco are not normal. At the present time, and at least since 2016, there has been no market for medallions in San Francisco, largely due to the influx of TNC operations and the litigation between the San Francisco Federal Credit Union and the San Francisco Municipal Transportation Agency. That litigation has resulted in a moratorium in the sale and transfer of taxi medallions due to the fixed and established price of medallion surrender as set forth in TC §1116(b)—which

significantly exceeds the current market price of a local taxi medallion. As long as the litigation continues, the medallion surrender price remains at \$200,000, based upon the price of a medallion to a new transferee of \$250,000.

At the present time, there is no indication that the surrender and transferring of medallions will dramatically change in the near future. While the SFMTA Board of Directors may change the surrender price of medallions and may even decide at any time to end the surrender program under the provisions of TC §1116(a)(5), that has not happened. And it is possible that the MTAB may continue to preserve a medallion holder's right to surrender their medallion for consideration.

Until such time as the surrender program is ended, TC §1116(a)(1)(A) provides "eligibility" for the surrender of their medallions to any drivers with disabilities that prevents the full-time driving requirement for Post-K medallion holders, as mandated by TC §1116(c)(1).

Respondent George Horbal, who is 74, and by his own admission unable to drive a taxi, continues to be an eligible candidate under the current provisions of TC §1116 to surrender his medallion for monetary consideration. That there is no current market for medallion transfer in San Francisco is a condition artificially influenced by the aforementioned litigation, and under most scenarios the resulting transfer moratorium is not expected to continue indefinitely.

Once the underlying reason for the moratorium is resolved by the parties to the litigation, it is the belief of the undersigned that a market for the transfer of taxi medallions will be restored. In light of the affect upon the taxi industry by the operation of the TNC operations, it is nearly certain that the market value of medallions will never approach the transferee price of \$250,000, which was established in 2010. When the current litigations is finally concluded, some lesser value will be established based upon a then-current market-based valuation for medallions, and those medallion holders who still have their medallions at that time will be in line to receive some consideration for their surrendered medallions—as least under current provisions of the Transportation Code.

3. Comparative Risks and Liabilities Strongly Favor Respondent

As against this future expectation interest in the surrender of his medallion, the SFMTA has an interest in reclaiming medallions that are no longer being actively used. There seems, however, little urgency in reclaiming this particular medallion at this particular time. The Agency can re-file its Notice of Nonrenewal at any time and given the current scheduled trial date for the Credit Union/Agency litigation, some normalization of the medallion transfer program could occur by the end of this year. Based upon the intention of the SFMTA's Taxi Services, as I have understood them, medallion transfers will certainly continue to occur in San Francisco—meaning that some residual market rates for those transfers will emerge.

The virtual moratorium on medallion transfers arose after the SFMTA's decision to charge a quarter of a million dollars for each medallion transfer, and the appearance of the TNC operations which considerably reduced the earnings of taxi drivers across the board. This loss of income directly lead to the loan foreclosures by the SF Federal Credit Union, which resulted in

the current Credit Union SFMTA litigation. If any ~~persons~~ party should be affected by the Agency's decision to sell its medallions, it should be the SFMTA itself, and certainly not the taxi drivers themselves who have been caught in the middle.

4. SFMTA Hearing Section Policy

It is the policy of this Hearing Section to tread conservatively in consideration of the inadequately defined surrender rights of our elderly taxi drivers. Post-K drivers had to work for years in the taxi industry before being entitled to medallions, and they have labored under the reasonable expectation that their medallions would eventually provide some monetary benefit to them at time of transfer.

On the basis of all of these considerations, I find that the SFMTA has not established, by a preponderance of the evidence, that Mr. Horbal's medallion (#1303) is in a posture *at the present time* to be revoked by the operation of the various permit renewal provisions of the Transportation Code, as noted above.

Should circumstances change such that the medallion program is ended at some point, and/or if and when the monetary consideration for medallions remains at zero, SFMTA's Taxi Services can certainly refile a Notice of Nonrenewal at that time, and the current impediments against the justification for these Notices will no longer be in effect.

5. Date of Decision

As noted above this case was heard on April 27, 2021, and ordinarily under TC §1120(e)(1) a decision would be due 30 days after the date of the hearing. However, additional evidence was submitted following the April 27 hearing, specifically the May 12, 2021 brief from Taxi Services that involves case common issues relevant to the Horbal case. On that basis this decision is due to be filed and published on or before June 12, 2021.

VI. ORDER

By reason of the Findings stated above, the Taxi Service's Notice of Nonrenewal in this matter is denied, and medallion #1303 may not now be revoked.

Dated this 10th day of June 2021

RJ Sebastian

Rudy J. Sebastian
Neutral Hearing Officer
Supervisor
SFMTA Hearing Section

6

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
SFMTA HEARING SECTION

**SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY,**

vs.

DECISION ON RECONSIDERATION

GEORGE HORBAL,
Respondent

I. INTRODUCTION

This case came on for administrative hearing pursuant to a Complaint by the San Francisco Municipal Transportation Agency (“SFMTA”) after the Complaint was sent to respondent George Horbal on or about October 26, 2020. The SFMTA Complaint alleges that Mr. Horbal had not taken the necessary measures to renew his status as a qualified taxi medallion holder, and on that basis the SFMTA’s Taxi Services had notified Mr. Horbal on or about September 28, 2020, that his right to remain a medallion holder was being contested by Taxi Services.

Following that notice and the subsequent Complaint, a video-conference hearing was scheduled for Mr. Horbal by this Hearing Section for April 27, 2021, under the provisions of Article 1100 of the SFMTA’s Transportation Code. That Article governs the rights granted to taxi medallion holders in San Francisco, as well as how hearings related to those rights are administered.

On April 27, 2021, Mr. Horbal appeared via telephone at the time of this hearing, and the Taxi Services manager, Philip Cranna, and its witness, analyst Danny Yeung, appeared by video, along with the undersigned administrative hearing officer, and at that time testimony from each of the parties was received into evidence.

II. THE COMPLAINT

In its Complaint the SFMTA’s Taxi Services alleges that based upon “Post-K” provisions adopted by the Transportation Code (“TC”), taxi medallion holders are subject to a full-time driving requirement and must hold an active A-Card in order to retain their legal status as medallion holders. Additionally, the Transportation Code also requires that for an A-Card permit to be granted, a full-time driver must also have a valid California driver’s license.

In terms of Mr. Horbal, the Complaint stated that because he no longer had a current California driver's license, he could not qualify for an A-Card, and as a result the renewal of medallion #1303 could not be authorized under the relevant provisions of the Code.

III. APPLICABLE LAW

Under the provisions of Article 1100 of the Transportation Code, the following statutory authority forms the relevant basis for this decision, including the Transportation Code's definitions of "A-Card," "Medallion Holder," "Notice of Nonrenewal," and "Permit Holder."

Also relevant to this case are these Article 1100 provisions:

- TC §1103(c)(2)(C), regarding driver qualifications
- TC §1103(c)(3), regarding the lapse of active permit status;
- TC §1105(a)(1), regarding permits required;
- TC §1105(a)(3), regarding permits as privilege, not property of the driver;
- TC §1105(a)(5)(A), regarding the duration of permits;
- TC §1105(a)(6), involving compliance with laws and regulations;
- TC §1109(a)(1), re required affiliation with Color Scheme;
- TC §1109(c)(1), regarding the full-time driving requirement;
- TC §1109(e)(1)(A), involving various aspects of medallion operation;
- TC §1116, covering surrender of medallions for consideration.

IV. TESTIMONY

A. SFMTA Testimony and Evidence Presented: Danny Yeung:

Danny Yeung, an administrative analyst in the SFMTA's Taxi Services, testified to the origin and reliability of the exhibits offered by Taxi Services at the hearing. The exhibits included a driver profile of Mr. Horbal (Exh. A), the Division's Notice of Nonrenewal (Exh. B), and the written statement of George Horbal dated October 19, 2020 (Exh. C). Mr. Yeung confirmed that the evidence of record established that Mr. Horbal had not had a current California driver's license for at least the previous two years, and that his A-Card had expired in approximately December of 2017, and had never been renewed since that time.

B. George Horbal:

Mr. Horbal testified that he is a resident in the state of California, and that he has not been physically capable of driving for a living due to his physical health currently wheelchair-bound due to renal failure and a cancerous condition involving one of his legs.

Mr. Horbal testified that he understands that his medallion (#1303) had been used by Yellow Cab Company, as a basis for other taxi drivers to drive legally within the city, pursuant to the provisions of the Transportation Code that allow this sort of operational transfer to a Color

Scheme from the original medallion holder. He wants to retain his medallion as source of retirement income.

Mr. Horbal confirmed that he currently does not have a California driver's license and that his A-Card has not been renewed since 2017. Essentially, Mr. Horbal acknowledges that the legal provisions that apply to taxi drivers in San Francisco apparently establish that due to his current status, his medallion may not be renewed, and he understands that it may have already been confiscated.

In this respect Mr. Horbal does not seriously dispute the Taxi Division's testimony or evidence, or the features of the Transportation Code that appear to require medallion confiscation (i.e. "nonrenewal") under some circumstances. However, Mr. Horbal believes that Federal ADA law protects a medallion holder's rights where a taxi driver can no longer drive due to a permanent disability, and that ADA law applies under his own circumstances to protect his right to retain his medallion.

Mr. Horbal stated that he satisfied the requirement of an *intention* to drive until his health conditions would not allow him to drive anymore. He believes that the medallion is a business license and is separate from the A-card, which he describes as a work permit. He maintains that there should be a residual monetary value to medallion #1303, which could have been paid to him in exchange for the surrender of this permit, and that there should be current circumstances in San Francisco which would allow him to sell or transfer his medallion to a third party for a current market value, just as other drivers have done in the past as holders of their own medallions.

C. Carl Macmurdo

Mr. Macmurdo testified that he has been a taxi driver for over 30 years, that he is a Prop-K medallion holder, and is the president of the Medallion Holders Association. He testified that the medallion is equivalent to a business license, and is separate from the A-card requirement and the requirement to drive full-time. He referred to Prop-K and Quentin Kopp's writing of the law, and specifically that the applicant for a taxi medallion had to swear only to *intend* to be a full-time driver. He argued that the taxi medallion holder's sworn intent to drive on a full-time basis was the only requirement, and that a driver's intent to drive has since been misconstrued by the SFMTA's interpretations of Article 1100 of the Transportation Code.

Because of the current health pandemic, Mr. Macmurdo stated that Mr. George Horbal does not need to have a current or active A-card in order to be a medallion holder, because the full-time requirement driving requirement is currently suspended. On that basis he testified that Mr. Horbal's medallion should not be confiscated by the SFMTA.

D. Dennis Korkos

Mr. Korkos testified that he has been a taxi driver for four decades, and has been a medallion holder for two decades. He echoed the statements of both George Horbal and Carl Macmurdo regarding their understanding of a driver's sworn *intent* to drive—as opposed to having an actual ability to drive on a full-time basis. He stated that one's sworn intent to drive does not mean that medallion holders are required to drive for one's entire life span. He equated the medallion to a business license, using the analogy of a bar owner holding the license and having the ability to hire bartenders for part-time work. He questioned whether Mr. Horbal had been given proper advance notification by the SFMTA's Taxi Services concerning its effort to revoke his medallion

The following documents offered by Respondent Horbal were admitted in the record:

- Memorandum, Thomas Owen to Mariann Costello, 4/25/2000
- *SF Taxi Permitholders, et al. v. City and County of San Francisco*, CA Court of Appeals, 1st District, Unpublished Decision, 7/11/2002
- Proposed Resolution, Taxi Commission, 10/08/2002
- SF Chronicle, Article regarding 11th & Market St Accident, 3/26/2003
- SFMTA Board Resolution No. 09-138 (Re *Slone v. Taxi Commission*), 9/9/2009
- *Sloane v. Taxi Commission*, U.S.C.A., 9th Cir., Motion to Dismiss Appeal, Case No. 08-16726, 8/10/2010
- Written statement to SFMTA Director Tumlin re elimination of TC § 1109(c), 5/7/2020
- Medallion Holders Assn. (MHA), Medallion Revocation Hearing Arguments, 6/7/2021
- 1978 Voter Pamphlet Summary of Proposition K (no date)
- Text of Proposition K Provisions (no date)
- Prop-A of 2007: Taxi Commission Authority Transfer to SFMTA (no date)
- SF Taxi Commission, Medallion Holders by Date of Birth (no date)

V. PROCEDURAL HISTORY

On June 9, 2021, the undersigned denied Taxi Service's Notice of Nonrenewal as to Mr. Horbal's medallion. The decision was based upon certain equitable considerations (as noted below), which relied upon the medallion surrender provisions of TC §1116, which were found to be unfairly sidelined by the apparently overriding requirements of the Transportation Code for Post-K medallion holders to renew and maintain current A-Cards.

On June 22, 2021, Deputy City Attorney James Emery sent correspondence to the undersigned requesting reconsideration of the Statement of Decision in the Horbal case. On the basis of arguments presented at that time, on June 22, 2021, the undersigned filed a Notice of Withdrawal of Decision, which was sent to the parties.

On that same date, correspondence was sent to George Horbal, advising that our office had received a request for reconsideration. Mr. Horbal was further advised at that time that he would be given until July 1, 2021, to respond or otherwise comment upon the City Attorney's request. On June 27, 2021, Mr. Horbal advised the parties that he intends to appeal this decision and his case to the San Francisco Board of Appeals.

VI. FINDINGS

1. Respondent Without California Driver's License and A-Card

Based upon the testimony adduced at the hearing and upon the evidence of record, I find that the respondent George Horbal does not have a current California driver's license, and as a result no longer is eligible to possess a current A-Card as that driver's permit is defined by the SFMTA's Taxi Division.

By his own admission, Mr. Horbal can no longer drive a taxi or any vehicle on a regular basis. Because Mr. Horbal cannot drive, his A-Card cannot be renewed pursuant to the provisions of TC §§1103 and 1105, as noted above. Without a current California driver's license, an A-Card cannot be maintained, and without a current A-Card, a taxi driver's entitlement to a holding a taxi medallion here is or may be relinquished. On that basis the nonrenewal of Mr. Horbal's medallion is now appropriate under the circumstances.

VII. EQUITABLE CIRCUMSTANCES RELATING TO DECISION

While current conditions nullify any monetary transfer value of any held medallions in the City, that situation may change in 2021, and it remains possible for the orderly transfer of taxi medallions to resume here. If medallion transfers resume, it may be possible for some medallion holders to enjoy a surrender value of their medallions when the moratorium on transfers no longer obtains.

Currently, and at least since 2016, there has been no market for medallions in San Francisco, largely due to the influx of TNC operations, and due to the litigation between the San Francisco Federal Credit Union and SFMTA. That litigation has resulted in a moratorium in the sale and transfer of taxi medallions based upon an established fixed price of medallion surrender as set forth in TC §1116(b)—which greatly exceeds the current market price of a local taxi medallion. As long as the litigation continues, the medallion surrender price remains at \$200,000, based upon the price of a medallion to a new transferee of \$250,000. At this fixed price, medallion transfers are not expected to recur here until such time as conditions dramatically change following the conclusion of the current litigation.

Until the medallion surrender program is ended or otherwise amended by the Board of Directors, the existing provisions of TC §1116(a)(1)(A) provide an ongoing “eligibility” for the surrender of their medallions to any drivers with disabilities that prevent the full-time driving requirement for both “Pre-K” and “Post-K” medallion holders, as mandated by TC §1116(c)(1). TC section 1116 also extends this ongoing eligibility to drivers who have turned 60—although it is apparent that this age eligibility section of the Transportation Code does not extend to “Pre-K” medallion holders.

On the basis of this uncertainty in expectations on the part of medallion holders for some eventual surrender value in their medallions, our Hearing Section officers would have preferred to continue these cases, or to otherwise defer their decisions until the SFMTA Board might have had the opportunity to definitively decide the issues of medallion surrender—or until the current litigation between the Federal Credit Union and the SFMTA is resolved, which would presumably allow medallion transfers to resume.

But inasmuch as our Hearing Section does not have the inherent authority to ignore the express renewal provisions of Article 1100 the Transportation Code, or to postpone these hearings, and because there is no current transfer value in any taxi medallion in this jurisdiction (and none on the near horizon), our hearing officers will continue to decide these nonrenewal cases on a case-by-case basis but, in general, may have no recourse other than to follow the existing Transportation Code provisions in cases involving Notices of Nonrenewal, regardless of the equitable considerations that have been outlined here.

VIII. ORDER

By reason of the Findings stated above, the Taxi Services Notice of Nonrenewal is upheld, and medallion # 1303 is hereby revoked by operation of the provisions of the Transportation Code.

Dated this 9th day of July 2021



Rudy J. Sebastian
Neutral Hearing Officer
Supervisor
SFMTA Hearing Section

RIGHT OF REVIEW

Under the provisions of the San Francisco Transportation Code, a decision of a hearing officer is a final administrative decision. Any party or entity adversely affected by this decision may seek review of the decision by filing an Appeal in accordance with the provisions and the 15-day timeline set forth in the rules provided by the San Francisco Board of Appeals.

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BEFORE THE BOARD OF APPEALS
CITY AND COUNTY OF SAN FRANCISCO
PRESIDENT Y. K. ARNOLD CHIN, PRESIDING

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QUERIDA MIA RIVERA,

APPELLANT

VS.

APPEAL NO. 3-025

THE TAXI COMMISSION,

RESPONDENT.

WEDNESDAY, JUNE 11, 2003

ADDENDUM ITEM 4

Reported by: Claudine Woeber,
CSR #4094 (California)

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A P P E A R A N C E S

PRESIDENT ARNOLD Y. K. CHIN
VICE PRESIDENT KATHLEEN HARRINGTON
COMMISSIONER SABRINA N. SAUNDERS
COMMISSIONER DOUGLAS SHOEMAKER
COMMISSIONER HISASHI B. SUGAYA
CITY ATTORNEY THOMAS J. OWEN, ESQ. (Recused on Item 4)
CITY ATTORNEY PAUL JESSON, ESQ.

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FOR APPELLANT:
ROBERT MOORE, ESQ.
FOR THE TAXI COMMISSION:
NAOMI LITTLE, EXECUTIVE DIRECTOR

PUBLIC SPEAKERS:
FOR THE COMMISSION:
MARK GRUBERG 14
RUA GRUFFIS 16
MARK KAZINSKI 18

PUBLIC SPEAKERS:
FOR THE APPELLANT RIVERA:
BROOKS DYER 20
ROBERT CESANA 24
CARL MACMURDO 26
ANNE MCVEIGH 29

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REBUTTAL:
BY MS. LITTLE 33
BY MR. MOORE 35

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1 VICE PRESIDENT HARRINGTON: I'll go next. I
2 have to say that this is a case that pulls my
3 heartstrings, because I think it's one where equity
4 sometimes is more important than law, and as Samuel
5 Johnson said "sometimes law is an ass."

6 And I certainly believe in this particular
7 circumstance that Ms. Rivera deserves to get some
8 special consideration. Let's kind of put everything in
9 perspective. Prop K was passed in 1978. ADA was
10 passed in 1991. A Federal law that has really
11 overturned and taken precedence over all kinds of state
12 and local laws because there was a decision at the
13 Federal level that people with disabilities deserved
14 certain accommodation.

15 It has been acknowledged that the efforts at
16 accommodating people with permanent disabilities is
17 still on the desk of our very able executive director
18 of the Taxi Commission who has only been on the job a
19 couple of years.

20 Nobody is disputing that there were, you know,
21 waybills falsified, etc. But the point is, is it
22 equitable to punish Ms. Rivera? Can she wait until the
23 Taxi Commission figures out what to do with people with
24 permanent disabilities? I think not. So I think the
25 equity in this particular case requires that we allow

1 her to keep her Medallion.

2 My other comment is that like many other permit
3 holders, Ms. Rivera relied on a system that was flawed,
4 perhaps. Probably there's no disagreement there. But
5 for nearly twenty years, this is the kind of system
6 that was in existence. The fact that the system has
7 now changed and is being perfected, and perhaps, will
8 improve in the future, is a whole different issue.

9 But to go back in time and penalize somebody
10 like Ms. Rivera, it's not something that I can do. I
11 can't do it. So I'm going to vote to override the Taxi
12 Commission and uphold Ms. Rivera's permit. Because I
13 think equity requires it, I think ADA requires it, I
14 think detrimental reliance on how the City operated
15 requires it. So those are my views. Thank you.

1 MR. FELDMAN: Shall I call the role?

2 PRESIDENT CHIN: I'd like to ask for a friendly
3 amendment. I think what we have is, we have an
4 admission and a stipulation by all parties and also
5 members of the public that there was some conduct that
6 went on with regard to those waybills, and I would like
7 to see if you could go along with overturning the
8 Commission but impose at least a two-month suspension.

9 VICE PRESIDENT CHIN: If that's what it takes to
10 get your vote, President Chin, I will go along with
11 that friendly amendment.

12 MR. FELDMAN: So it will over overruling and
13 changing the revocation into --

14 PRESIDENT CHIN: -- suspension for two months.

15 MR. FELDMAN: -- two-month suspension. Okay.
16 We have a motion then from Vice President Harrington to
17 overrule and change the revocation to a two-month
18 suspension.

19 On that motion, President Chin?

20 PRESIDENT CHIN: Aye.

21 MR. FELDMAN: Commissioner Shoemaker?

22 COMMISSIONER SHOEMAKER: Aye.

23 MR. FELDMAN: Commissioner Sugaya?

24 COMMISSIONER SUGAYA: I'm going to vote "aye,"
25 but I think it sends the wrong message to people who

1 are out there violating the law.

2 MR. FELDMAN: Commissioner Saunders?

3 COMMISSIONER SAUNDERS: Aye.

4 MR. FELDMAN: "Aye." So it's five to zero to
5 overrule and change the revocation to a two-month
6 suspension. Thank you.

7 Ms. Little is going now to the budget meeting,
8 and Sergeant Simpson is here for her.

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11 (Whereupon, this hearing was concluded.)

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SAN FRANCISCO TAXI COMMISSION
MEDALLION HOLDERS
by DATE OF BIRTH

K

year

Medallion #	Color Scheme	Granted Date	Last Name	First Name	K	Birth Year
722	National	86/08/21	Ong	Sum <i>88-90</i>	K	16
269	Luxor	84/08/02	Moy	William <i>85 87</i>	K	19
662	Luxor	89/05/10	Kelly	John W.	K	20
744	Town	84/05/10	Tong	George	K	20
750	Yellow	84/05/10	Prenovitz	Simon	K	20
753	Royal	84/05/10	Wootton (Deceased 10/28/02)	Joseph	K	20
52	National	81/10/21	Rivera	Querida	K	23
200	United	97/05/01	Lorinez	Michael	K	23
167	United	95/08/09	Palat	Illan	K	24
243	National	91/01/09	Lym	Neil	K	24
1105	Town	99/02/10	Loo	Taft	K	24
585	Luxor <i>2003</i>	03/04/08	Tognotti	Frank <i>awarded @ 79 years</i>	K	25
718	Veterans	84/05/10	DeCausemaker	Richard	K	25
721	Yellow	84/06/14	Correll	William J.	K	25
728	National	84/05/10	Kelley	J. Howard	K	25
786	Regents	88/02/23	Whipple	George	K	25
805	Yellow	88/02/18	Stockfleth	Walter	K	25
832	Bay	94/12/21	Wong	Guey Mon	K	25
491	Yellow	89/01/04	Ramsey	Willie	K	26
232	Luxor	81/12/16	Quigley	Richard	K	27
794	Luxor	88/02/23	Hom	Ying	K	27
231	Yellow	92/08/19	Gee	Kwing Hung	K	28
320	Yellow	82/10/27	Cardona	Miguel	K	28
336	National	89/03/09	Angeli	Clement V.	K	28
435	Luxor	96/03/16	Brunt	Warren H.	K	28
798	Bay	88/03/03	Wong	Winston	K	28
914	United	97/02/26	McClure	Gerald G.	K	28
199	Luxor	93/03/03	DeLiege	Rene C.	K	29
206	SF Taxi	81/10/28	Trad	George	K	29
352	American	84/01/11	Bartholomew	John	K	29
376	Yellow	90/01/17	Matheson - Deceased	James A.	K	29
537	DeSoto	92/12/02	Johnson	William S.	K	29
1035	Luxor	98/12/16	Bingham	Lucius Tom	K	29
1095	Bay	99/01/06	Le	Tri Quang <i>75-79</i>	K	29
195	Arrow	93/02/04	Crittendon	Vernell M.	K	30
198	Veterans	93/01/13	Williams	Ralph <i>4-76-75</i>	K	30
329	Town	81/12/16	Woon	Victor	K	30
736	Yellow	84/05/10	Mar	Henry Kwong Poy	K	30
741	Town	84/05/10	Shair-Ali	Romeo	K	30
764	Regents	88/02/18	Anton	Bruie Hernandez	K	30
826	Metro	94/11/10	Low	Al	K	30
842	National	95/01/11	Jung	Edmund L.	K	30
1183	Royal	99/01/06	Ruggeiro	John	K	30
84	Luxor	92/01/22	Heywood, Jr.	Newell W.	K	31
355	Yellow	95/06/21	Broussard	Wilson	K	31
1073	DeSoto	98/12/16	Ward	Phillip	K	31
149	Regents	96/12/11	Ruiz	Joaquin	K	32
208	Luxor	81/10/28	Maldonado	John J.	K	32
219	Luxor	91/04/24	Palter	Noel	K	32
381	DeSoto	92/06/10	Davis	Curtis C.	K	32
762	Big Dog	87/12/03	McGee	Marguerite	K	32
781	Luxor	88/02/23	Craig	Robert	K	32
795	Yellow	88/02/23	Dorestant	Rene	K	32
800	National	88/02/23	Lee	Authur	K	32

NEW MUNICIPAL POLICE CODE
SECTION, EFFECTIVE ON MARCH 1, 1989

Amendment of the Whole 12/5/88
As amended in Board 12/12/88

ORDINANCE NO. 562-88

15-88-2

FILE NO.

[Regulations for Motor Vehicles for Hire]

AMENDING PART II, CHAPTER VIII OF THE SAN FRANCISCO MUNICIPAL CODE
(POLICE CODE), BY REPEALING ARTICLE 16 OF SAID CHAPTER (REGULATIONS
FOR MOTOR VEHICLES FOR HIRE) AND ENACTING A NEW ARTICLE 16; AND
AMENDING ARTICLE 1, SECTIONS 51.1 AND 53 OF SAID CHAPTER TO CONFORM
CROSS-REFERENCES THEREIN; THIS ORDINANCE TO TAKE EFFECT ON MARCH 1,
1989.

Be it ordained by the people of the City and County of San Francisco:

Section 1. Chapter VIII, Part II, Article 16, of the
San Francisco Municipal Code (Police Code) ("Regulations for Motor
Vehicles for Hire") is hereby repealed.

Section 2. Chapter VIII, Part II, of the San Francisco
Municipal Code (Police Code) is hereby amended by adding a new
Article 16 ("Regulations for Motor Vehicles for Hire") thereto,
reading as follows:

ARTICLE 16

REGULATIONS FOR MOTOR VEHICLES FOR HIRE

DIVISION 1 - PROVISIONS GOVERNING ALL VEHICLES

SEC. 1075. DECLARATION OF POLICY. The Board of Supervisors
of the City and County of San Francisco hereby declare it shall be
the policy of the City and County of San Francisco that:

(a) All motor vehicle for hire permits issued by the City and
County of San Francisco are the property of the people of the City

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DOCUMENTS DEPT.

JAN 17 1989

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SEC. 1090. REVOCATION OF PERMITS. (a) **Revocation for Cause.** Any permit issued under this Article may be suspended or revoked by the Police Commission for good cause after a noticed hearing. "Good cause" hereunder shall include, but shall not be limited to, the following:

- (i) The permittee ceased to be a full-time driver.
- (ii) The permittee failed to pay a permit fee after notice of nonpayment.
- (iii) The permittee or the lessee of the permittee's permit operated without the insurance required by this Article.
- (iv) The permittee or an agent of the permittee knowingly made false statements to or concealed information from the Police Commission, the Chief of Police or the Police Department.
- (v) The permittee has been convicted of any crime involving moral turpitude.
- (vi) The permittee has failed to satisfy any judgment for damages arising from unlawful or negligent operation under any permit issued under this Article.
- (vii) The permittee has been convicted of a misdemeanor under Section 1185 of this Article.
- (viii) The permittee violated the Traffic Code of the City and County of San Francisco or the Vehicle Code or related laws of the State of California.
- (ix) The permittee violated any applicable statute, ordinance, rule or regulation pertaining to the operation or licensing of the vehicles and services regulated by this Article, including any rules and regulations enacted by the Chief of Police pursuant to this Article.

Upon a showing of good cause, the Police Commission shall have discretion to suspend or revoke a permit as set forth above, except that a suspension and/or revocation shall be mandatory in the circumstances described in Subparts (i) through (vi) above.

(b) **Revocation of More Than One Permit.** Where a person violating this Article holds more than one permit to operate a motor vehicle for hire in the City and County of San Francisco, the Police Commission may revoke or suspend all such permits.

(c) **Suspension by Chief of Police.** The Chief of Police may suspend summarily any permit issued under this Article pending a disciplinary hearing before the Police Commission when in the opinion of said Chief of Police the public health or safety requires such summary suspension. Any affected permittee shall be given notice of such summary suspension in writing delivered to said permittee in person or by registered letter. (Added by Ord. 562-88, App. 12/27/88)



LOUISE H. RENNE
City Attorney

THOMAS J. OWEN
Deputy City Attorney

Doc # 8

page 1 of four

DIRECT DIAL: (415) 554-4652
E-MAIL: thomas_owen@ci.sf.ca.us

MEMORANDUM

TO: Hon. Mariann Costello
President, Taxi Commission *ego*

FROM: Thomas J. Owen
Deputy City Attorney

DATE: April 25, 2000

RE: Advice Request

You have asked this office to respond to a series of questions submitted by industry members. Here are our answers to some of those questions; our responses to the remaining questions will follow:

"2. Disability and other kinds of leave for permit holders.

"a. Without amending Prop. K, could the city by modification of the Municipal Code allow a disabled permit holder exemption from the driving requirement for an extended period of time? If the permit holder was permanently disabled, could the exemption also be permanent?

"b. Without amending Prop. K, could the city by ordinance allow for a suspension of the permit for reasons of disability, or for any other reason (or no reason at all?)

"c. Should the Municipal Code be amended to reflect the requirements of the Americans with Disabilities Act (ADA)? If so, how should it be amended?"

Proposition K requires that a permit-holder "actively and personally . . . engage as permittee-driver under any permit issued to him or her for at least four hours during any 24 hour period on at least 75 percent of the business days during the calendar year." (Proposition K, § 2(b).) This provision is commonly referred to as the "full-time

J: Hon. Mariann Costello
President, Taxi Commission
DATE: April 25, 2000
PAGE: 2
RE: Advice Request

driving" requirement. Because Proposition K was adopted by the voters, it may only be amended by the voters. (Charter § 14.101.) Therefore, the Board of Supervisors may not amend the Municipal Code to allow permit-holders a temporary or long-term exemption from or suspension of the driving requirement, for reasons of disability or any other reason.

The City does have the separate and independent obligation to comply with the Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*) and any other superseding state or federal statute. Compliance may mean disregarding or not enforcing all or part of a voter-approved initiative ordinance.

The City, acting here through its Taxi Commission, is responsible for ensuring that qualified individuals with disabilities are not "excluded from participation in or . . . denied the benefits of the services, programs, or activities" provided or offered by the City. (42 U.S.C. § 12132.) The Commission should consider whether reasonable modifications of its rules, policies or practices would allow otherwise qualified individuals with disabilities to meet the "essential eligibility requirements" for participation in the program, if those modifications did not fundamentally alter the nature of those requirements or of the program. (42 U.S.C. § 12131.)

We emphasize that no determination has been made at this point that the enforcement of the driving requirement for permit-holders conflicts with the ADA. The Commission may decide that being a full-time driver is an essential eligibility requirement for permit-holders under Proposition K and that full or partial waiver of the requirement would fundamentally alter the program. Those determinations will have to be made as the Taxi Commission develops its ADA policies and identifies what modifications of the driving requirement, if any, would be a reasonable accommodation for particular disabled individuals.

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/ / /

Subject: RE: requested info re: historical medallion issuance

From: "Standfield, Paige" <Paige.Standfield@sfmta.com>

Date: 03/27/2017 11:36 AM

To: Charles Rathbone <charles.rathbone@sonic.net>

X-Account-Key: account19

X-UIDL: 1490640127.2650_0.a.spam,S=11698

X-Mozilla-Status: 0013

X-Mozilla-Status2: 00000000

X-Mozilla-Keys: sfmta medallions

Return-Path: <Paige.Standfield@sfmta.com>

Received: from l.mx.sonic.net (a.spam-proxy.sonic.net [69.12.221.245]) by (8.14.4/8.14.4) with ESMTMP id v2RIg6UR002644 (version=TLSv1/SSLv3 cipher=GCM-SHA256 bits=128 verify=NOT) for <charles.rathbone@lds.sonic.net>; -0700

Received: from 5pmail.ess.barracuda.com (5pmail.ess.barracuda.com [64.l.mx.sonic.net (8.14.9/8.14.9) with ESMTMP id v2RIftdB012009 (version=TLS RSA-AES128-GCM-SHA256 bits=128 verify=NOT) for <charles.rathbone@11:42:04 -0700

Received: from mail.sfmta.com (mail.sfmta.com [75.10.230.1]) by mx1403. (version=TLSv1 cipher=AES128-SHA bits=128 verify=NO); Mon, 27 Mar 2017

Received: from SV6EX10MBX1.muni.sfgov.org ([fe80::79a1:35c7:bc:df7]) by SV6EX10CASHUB1.muni.sfgov.org (:::1) with mapi id 14.03.0195.001; Mon

Thread-Topic: requested info re: historical medallion issuance

Thread-Index: AQHSo0a8J5yxbJULJEOi3tis16lfvaGjAqmwgAHtdYD//5PZ//pFsg

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<e1d41532-4754-5120-40c4-cbd901418562@sonic.net>

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<b34a-8cbf-502f-fa61958fb41b@sonic.net>

In-Reply-To: <f2378d6c-b34a-8cbf-502f-fa61958fb41b@sonic.net>

Accept-Language: en-US

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x-originating-ip: [10.36.31.109]

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X-BESS-Apparent-Source-IP: 75.10.230.1
X-BESS-Outbound-Spam-Score: 0.00
X-BESS-Outbound-Spam-Report: Code version 3.2, rules version 3.2.2.1
 pts rule name description ----- 0.00
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 tests=HTML_MESSAGE, BSF_BESS_OUTBOUND
X-BESS-BRTS-Status: 1
X-Orthrus: tar=1 grey=no co=US os=//6 spf=none dkim=none

Hi Charles,

No, if you're not driving you don't have to renew. Would you like me to put a new form in the mail to you?

From: Charles Rathbone [mailto:charles.rathbone@sonic.net]
Sent: Monday, March 27, 2017 10:04 AM
To: Standfield, Paige <Paige.Standfield@sfmta.com>
Subject: Re: requested info re: historical medallion issuance

Yes, the info is very helpful.

An unrelated question: I anticipate that my doctor will again recommend that I not drive when my current medical modification expires this summer. In the meantime, do I need to maintain an active A-card as a condition of holding a taxicab permit?

Best wishes,

--
 Charles Rathbone
charles.rathbone@sonic.net

On 03/27/2017 08:51 AM, Standfield, Paige wrote:

No problem. Hope it helps!

-----Original Message-----

From: Charles Rathbone [mailto:charles.rathbone@sonic.net]
Sent: Friday, March 24, 2017 4:51 PM
To: Standfield, Paige <Paige.Standfield@sfmta.com>

Subject: Re: requested info re: historical medallion issuance

Hi again Paige,

Many thanks for the thorough response in such short order.

Best wishes,

--

Charles Rathbone charles.rathbone@sonic.net

Appellate Courts Case Information

CALIFORNIA COURTS
THE JUDICIAL BRANCH OF CALIFORNIA

1st Appellate District

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Court data last updated: 07/08/2020 11:33 AM

Disposition

San Francisco Taxi Permitholders et al. v. City and County of San Francisco et al.

Division 1

Case Number A095858

Description:	Reversed & remanded to trial court w/directions
Date:	07/11/2002
Disposition Type:	Final
Publication Status:	Signed Unpublished
Author:	Swager, Douglas E.
Participants:	Margulies, Sandra Lynn (Concur) Marchiano, James J. (Concur)
Case Citation:	none

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THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

Case Number: CGC00316993
Title: SF TAXI PERMIT & DRIVERS ASSOC. VS CCSF
Cause of Action: OTHER NON EXEMPT COMPLAINTS
Generated: 2020-07-08 12:44 pm

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2001-01-19	NTC OF HEARING OF DEFTS' DEMURRER TO COMPLT, CALENDAR MOTION: DEMURRER HEARING SET FOR FEB-14-2001 AT 09:30 AM IN DEPT 301		
2000-12-05	SUMMONS ISSUED		
2000-11-28	CIVIL COVER SHEET RECEIVED		
2000-11-28	PLAN I STATUS CONFERENCE DATE: HEARING SET FOR MAY-04-2001 AT 09:00 AM IN DEPT 212		
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THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

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2001-03-09	DEFTS' OBJECTION TO PLTFS' OVERLONG MEMO OF P&A FILED IN OPPOSITION TO DEMURRER		
2001-03-09	REPLY BRIEF IN SUPP OF DEFTS' DEMURRER		
2001-03-09	MEMO OF P&A IN OPPOSITION TO DEMURRER TO COMPLAINT		
2001-02-14	PROCEEDINGS REPORTED BY JOE VICKSTEIN #4780 (301)		
2001-02-14	DEFTS CCSF AND TAX COMMISSION OF CCSF DEMR TO COMPLT-CONTD 3/14/01 PER AGREEMENT OF COUNSEL-COURT SETS BRIEFING SCHEDULE (301)		
2001-01-19	REQUEST FOR JUDICIAL NTC IN SUPPORT OF DEFTS' DEMURRER TO COMPLT		
2001-01-19	DECLARATION OF CARA E LANKFORD IN SUPPORT OF DEFT CCSF'S MTN FOR PARTIAL JUDGMENT ON THE PLEADINGS		
2001-01-19	DEMURRER OF CCSF & TAXI COMMISSIONER OF CCSF TO COMPLT		

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THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

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2001-06-25	NOTICE OF CHANGE OF ADDRESS, PERRY & ASSOCIATES, ATTY FOR PLAINTIFFS		
2001-06-25	ORDER SUSTAINING DEFTS' DEMURRER TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF		
2001-06-15	STATUS CONFERENCE CONTINUED. (PTR1) HEARING SET FOR JUL-27-2001 AT 09:00 AM IN DEPT 212		
2001-06-01	ORDER CONTINUING STATUS CONFERENCE (MAILING) FROM 06/15/01 X-1 09:00 AM FOR 07/27/01 X-1 09:00 AM		
2001-05-14	ORDER SUSTAINING DEFTS' DEMURRER TO COMPLT		
2001-05-04	STATUS CONFERENCE CONTINUED. (PTR1) HEARING SET FOR JUN-15-2001 AT 09:00 AM IN DEPT 212		
2001-04-18	ORDER CONTINUING STATUS CONFERENCE (MAILING) FROM 05/04/01 X-1 09:00 AM FOR 06/15/01 X-1 09:00 AM		
2001-03-14	PROCEEDINGS REPORTED BY JOE VICKSTEIN, CSR #4780 (301)		
2001-03-14	DEFTS CCSF & TAX COMMISSION OF CCSF-TENTATIVE ADOPTED-SUSTAINED WITHOUT LEAVE TO AMEND. ORDER SIGNED IN OPEN COURT (301)		

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THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

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Date	Proceedings	Document	Fee
2005-10-06	DISMISSAL WITHOUT PREJUDICE AS TO COMPLAINT AND ENTIRE ACTION	View	
2005-10-06	SUBSTITUTION OF ATTORNEY: ROTWEIN, GEOFFREY SUBSTITUTED FOR PERRY & ASSOCIATES AS ATTORNEY FOR SAN FRANCISCO TAXI PERMITHOLDERS AND DRIVERS ASSOC		
2002-09-19	REMITTITUR PARTIAL	View	
2001-09-07	PTR1, ST/CF 9-7-01 @ 9:00 AM, OFF CALENDAR: JUDGMENT,		
2001-08-23	CERTIFIED RECORD TO COURT OF APPEALS AO95858#1(5.1)		
2001-08-02	NOTIFICATION OF FILING OF NOTICE OF APPEAL FILED		
2001-08-01	\$100 NOTICE OF APPEAL PD BY FAX & FILE # 10560		
2001-08-01	NOTICE OF APPEAL FILED BY PLAINTIFFS, SAN FRANCISCO TAXI > PERMITHOLDERS AND DRIVERS ASSOCIATION, ET AL		
2001-07-27	STATUS CONFERENCE CONTINUED: (PTR1) HEARING SET FOR SEP-07-2001 AT 09:00 AM IN DEPT 212		
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REGULATIONS FOR TAXICABS AND OTHER MOTOR VEHICLES FOR HIRE

BE IT ORDAINED BY THE PEOPLE OF THE CITY AND COUNTY OF SAN FRANCISCO:

Section 1. The qualified electors of the City and County of San Francisco hereby declare it shall be the law of the City and County of San Francisco that:

(a) All taxicab permits and other vehicle for hire permits issued by the City and County of San Francisco are the property of the people of the City and County of San Francisco and shall not be sold, assigned or transferred; and

(b) The Chief of Police of the City and County of San Francisco shall have the responsibility of establishing regulations to assure prompt, courteous and honest service to the riding public; and

(c) The taxicab business shall operate under the principles of free enterprise and that taxicab operators may charge less than the maximum rate of fare set by law, as set forth below.

(d) The Police Commission shall issue a sufficient number of permits to assure adequate taxicab service throughout the City and County of San Francisco.

Section 2. The Application For A Permit.

(a) Any applicant for a permit to operate a taxicab or other vehicle for hire shall apply to the Police Commission for its declaration of public convenience and necessity on blanks to be furnished by the Secretary of the Police Commission, and within fifteen (15) days of the filing of such an application the Secretary of the Police Commission shall have a notice published in the official newspaper of the City and County of San Francisco. The notice shall state that an application has been filed for a license or permit to operate a taxicab or other motor vehicle for hire or motor vehicle for hire business, the name of the applicant, the kind of equipment, and the number of taxicabs or other vehicles for hire which the applicant desires to operate. The notice shall be published for three successive days.

The applicant shall pay to the City and County of San Francisco a sum to cover the costs of advertising and investigating and processing the application for each permit, such sum to be determined periodically as appropriate by the Police Commission.

Protests against the issuing of a permit may be filed with the Police Commission. The Police Commission shall consider all protests and in conducting its hearing shall

have the right to call such witnesses as it desires. In all such hearings the burden of proof shall be upon the applicant to establish by clear and convincing evidence, which shall satisfy the Police Commission, that public convenience and necessity require the operation of the vehicle or vehicles for which permit application has been made, and that such application in all other respects should be granted.

(b) No permit shall be issued unless the person applying for the permit shall declare under penalty of perjury his or her intention actively and personally to engage as permittee-driver under any permit issued to him or her for at least four (4) hours during any twenty-four (24) hour period on at least seventy-five (75%) of the business days during the calendar year. No more than one permit shall be issued to any one person.

(c) For two (2) years from the effective date of this Ordinance, a preference in the issuance of any permit shall be given to any person who has driven a taxicab or other motor vehicle for hire in the City and County of San Francisco for at least one consecutive twelve (12) month period during any of the three (3) calendar years immediately prior to the filing of an application for issuance of such permit.

(d) No permit shall be issued except to a natural person and in no case to any business, firm, partnership or corporation.

(e) Subject to any other preference created in this Ordinance, all applications for a permit to operate a taxicab or other motor vehicle for hire shall be processed and considered in the order of their receipt by the Police Commission.

(f) No part of this Section 2 shall apply to any permit holder described in subparagraph (b) of Section 4 of this Ordinance.

Section 3. Facts to be Considered by Police Commission. The Police Commission, in determining whether or not public convenience and necessity exist for the issuance of a permit, may consider such facts as it deems pertinent, but must consider whether:

(a) The applicant is financially responsible and will maintain proper financial records.

(b) The public will not be adequately or properly served unless the application is granted.

(c) The applicant has complied with all provisions of the Municipal Code, including pertinent motor vehicle laws.

(d) The applicant will be a full-time driver, within the meaning of Section 2(b) of this Ordinance, of the taxicab

(Continued on next page)

CONTINUATION OF TEXT OF PROPOSITION K

or other motor vehicle for hire.

Section 4. Continuous Operation

(a) All permittees within the purview of Section 1075 of Chapter VIII, Part II of the San Francisco Municipal Code (Police Code) shall regularly and daily operate their taxicab or other motor vehicle for hire business during each day of the year to the extent reasonably necessary to meet the public demand for such taxicab or motor vehicle for hire service.

Upon abandonment of such business for a period of ten (10) consecutive days by a permittee or operator, the Police Commission shall, after five (5) days' written notice to the permittee or operator, revoke the permit or permits of such permittee or operator; provided, however, that the Chief of Police, subject to the approval of the Police Commission and only after a thorough investigation, may on written application grant to the holder of any permit hereunder permission to suspend operation pursuant to such permit for a period not to exceed ninety (90) calendar days in any one twelve (12) month period in case of sickness, death, or other similar hardship.

No permit issued under this Ordinance shall be transferable or assignable, either expressly or by operation of law. All such permits and all rights granted under them may be rescinded and ordered revoked by the Police Commission for good cause.

(b) All persons, businesses, firms, partnerships, corporation or other entities who possess outstanding permits to operate a motor vehicle for hire on the effective date of this section must surrender and exchange any such permits for new permits within sixty (60) days of the effective date of this section. The new permits shall be non-transferrable and non-assignable either expressly or by operation of law. Any such surrender and exchange shall be without fee to the permit holder. From and after the sixty-first (61st) day after the effective date of this section, all permits not surrendered for new permits shall be void and continuance of operation under any such void permits shall be punishable by a \$500.00 fine and thirty (30) days incarceration in the county jail for each such void permit so used.

Section 5. Corporate Permittees.

(a) If any permittee is a corporation, any sale or other transfer of ten percent (10%) or more of the stock ownership or assets of the permittee, resulting from any transaction or series of transactions and computed on a cumulative basis, will be deemed to be a sale or transfer and the permit therefore shall be null and void, unless approved by the Police Commission in conformity with the requirements of this Ordinance.

(b) Any corporation holding a permit hereunder shall maintain a stock register at the principal office of the corporation in San Francisco and the stock register shall be available to the Police Department for inspection. Such corporation shall report to the department, in writing, any of the following:

(i) Issuance or transfer of any shares of stock to any person where the issuance or transfer results in the person owning 10 percent (10%) or more of the corporate stock.

(ii) Change in any of the corporate officers which are required by Section 821 of the California Corporations Code.

(iii) Change of any members of its board of directors.

(c) Any report required pursuant to subparagraph (b) hereof shall be filed with the Police Department within ten (10) days of the change, sale or transfer to be reported.

Section 6. Maintaining Financial and Accounting Records.

The Controller of the City and County of San Francisco shall have the responsibility of establishing regulations for the keeping and filing of financial statements and accounting books and records by every holder of a taxicab permit or other type of permit under this Ordinance. The purpose of such regulations is to provide information to the Board of Supervisors for ordinances respecting maximum rates of fares or other charges and to the Police Commission for the performance of its duties under the law. Failure of any permit holder to comply with the Controller's regulations may be cause for revocation of all rights granted to a permit holder to operate a taxicab or other vehicle for hire.

Section 7. Rates for Taxicabs

Notwithstanding any provision of the San Francisco Municipal Code, any person, firm or corporation operating a taxicab or taxicabs may set a rate of fare lower than the maximum rate which may be set from time to time by appropriate ordinance; provided, however, that any such lower rate shall be filed with the Board of Supervisors in writing prior to June 1st of any year, and, if approved by the Board, shall remain in effect until September 1st of the following year.

Section 8. Sections 1076, 1077, 1079 and 1135(B) of Chapter VIII, Part II of the San Francisco Municipal Code (Police Code) are hereby repealed.

Section 9. Sections 128.1, 128.2 and 128.3 of Part III, Article 2 of the San Francisco Municipal Code, are hereby repealed.

Section 10. **Severability.** If any section, sub-section, sub-division, paragraph, sentence, clause or phrase in this Ordinance or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The qualified electors of the City and County of San Francisco hereby declare that they would have passed each section, sub-section, sub-division, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sub-division, paragraphs, sentence, clause or phrases be declared unconstitutional, invalid or ineffective.

- [Temporary Suspension of the Post-K driving requirement due to COVID-19.pdf](#)



San Francisco Municipal Transportation Agency | One South Van Ness Avenue, San Francisco, CA 94103-5417

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May 7, 2020

To: Transportation Director Jeff Tumlin; SFMTA Board
From: Medallion Holders Association (MHA); San Francisco Taxi Coalition (SFTC)
Re: Please eliminate Transportation Code section 1109(c)

This letter requests that you eliminate Transportation Code section 1109(c): "Full-Time Driving Requirement" in its entirety. Due to COVID-19, medical facilities are discouraging non-essential visits, yet aging and disabled Proposition K medallion holders (MHs) who fail to process medical paperwork annually to document their inability to drive taxi full-time, if at all, are subject to permit revocation.

History of this topic

To direct medallions towards actual taxi drivers, Proposition K of 1978 had applicants swear their "intention" to drive taxi full-time. **Regulators have transubstantiated this "intention oath" into a never-ending "driving requirement" and miscodified it as such.** In 1990 the Americans with Disabilities Act (ADA) became law. Logically, ADA protects the permit of a MH who is rear-ended and paralyzed while driving a taxi, e.g.

Around 2000, however, the Taxi Commission began revoking medallions *because* some MHs had become disabled and could no longer drive taxi full-time. MHA filed a State Court lawsuit, alleging ADA violation. The city's Board of Appeals stayed all such revocations for the duration of the litigation. A Superior Court Judge granted summary judgment for the City, whereas the State Appeals Court later issued a murky, partial reversal which resulted in the current annual medical variance paperwork policy.

We provide two attachments above as evidence why you should eliminate the code section. The year 2004 Taxi Commission chart reveals that even then, new medallion holders often were already senior citizens. The 2003 *SF Chronicle* news article describes a horrific accident which occurred on a rainy night. A feeble senior MH who had pleaded unsuccessfully to be relieved of driving duties lost control of his taxi, crushing the bodies of two bystanders on the sidewalk. Yellow Cab Co-op paid a \$14 million dollar settlement, never fully recovered financially, and filed for bankruptcy in 2016.

Medical and taxi staff are better served by ending this policy, which diverts their resources from more important matters. Some MHs have repeatedly gone through this process, which also entails vehicle trips to and from a physician appointment, a medical facility to retrieve the completed forms, and the SFMTA office to turn in the documents.

In summary, reasons for eliminating the entire "driving requirement" code section include **public safety**, humaneness, common sense, and ADA compliance. Alternatively, the Board might choose to amend the code by removing driving requirements for all MHs past a certain age. We request this item be included on a Board meeting agenda at the earliest possible date. Thank you for your consideration.

Carl Macmurdo, MHA President

Bernard Dethiers, SFTC President

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 09-138

WHEREAS, Administrative Code Appendix 6, Sections 2 and 3, and Transportation Code, Division II, Section 1109(c) require all taxi and ramp taxi medallion holders to be Full-Time Drivers; and

WHEREAS, The terms "Full-Time Driving" and "Full-Time Driver" are defined in Transportation Code, Division II, Section 1102(l) as any driver actually engaged in, or the activity comprised of (respectively) the mechanical operation and physical charge and custody of a taxi or ramp taxi which is available for hire or actually hired for at least 156 four-hour shifts or 800 hours, whichever shall come first; and,

WHEREAS, Pursuant to Transportation Code Division II, Section 1120(a)(1), failure to meet the Full-Time Driving requirement is grounds for revocation of a taxi or ramp taxi medallion; and

WHEREAS, A medallion holder should be relieved of the Full-Time Driving requirement for limited periods of time during which the medallion holder is temporarily rendered physically incapable of driving; and,

WHEREAS, By contrast, a medallion holder who is permanently physically incapable of meeting the Full-Time Driving requirement and will not be able to return to Full-Time Driving should not be entitled to such relief, and may properly be required to relinquish his or her medallion to the SFMTA; and,

WHEREAS, The SFMTA Board wishes to adopt a policy to be uniformly applied to medallion holders who request a temporary suspension or temporary reduction of the Full-Time Driving requirement for reasons of temporary physical incapacity; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors establishes the following policy for medallion holders who request temporary suspension or temporary reduction of the Full-Time Driving requirement for reasons of temporary physical incapacity:

1. That applications for temporary suspension or temporary reduction of the Full-Time Driving requirement be submitted to the SFMTA Division of Taxis and Accessible Services on a form approved by and containing all information required by the SFMTA; and
2. That all requests for temporary suspension or temporary reduction of the Full-Time Driving requirement be substantiated by written documentation of a physician who has actually examined the applicant for the condition that is claimed as the basis for the request; and
3. That documentation of the physical condition that prevents Full-Time Driving that is prepared by the physician shall include a recommended modification, such as a limitation of

number of hours of driving per day, week or month and/or an assessment of the amount of time that it would take the medallion holder to recover from the condition and resume Full-Time Driving; and

4. That any request is subject to investigation by SFMTA staff for verification purposes, which may include but are not limited to a physical assessment of the medallion holder or seeking additional medical opinions of the medallion holder's condition; and

5. That any temporary suspension or reduction of the Full-Time Driving requirement for physical incapacity must be requested and approved on an annual basis; and

6. That no suspensions or reductions of the Full-Time Driving requirement pursuant to this temporary leave policy may cumulatively exceed three calendar years for the same condition.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of AUG 04 2009.

R. Boomer

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

Medallion Type	Definition	Total Authorized	Total In Service	Total on List to Surrender	Total on List to Re Transfer
Corporate	Prior to Prop-K (1978) medallions could be owned by a corporation. The corporation could not change ownership by more than 10% or the medallion would revert to the city. These medallions cannot be transferred at this time	92	92	N/A	N/A
Pre-K	Prior to Prop-K (1978) medallions could be owned by anyone and could be held by more than one person. There is not a driving requirement by the owner of the medallion. Currently these medallions can be transferred if the medallion holder is at least 60 years old or has a permanent disability	196	196	97	N/A
Post-K Earned	These medallions were offered after 1978. It was limited to 1 per taxi driver and could only be owned by an individual. There is also a driving requirement (800 hours or 156 4-hour shifts) per year. Currently these medallions can be transferred if the medallion holder is at least 60 years old or has a permanent disability	605	605	494	N/A
Transferable Discount	These medallions were transferred (purchased) under the Medallion Sales Pilot Program that started 2010 and the Medallion Transfer Program that replaced the Medallion Sales Pilot Program in 2012. Any person who purchased a medallion under either program may surrender their purchased permit for sale at any time with no restriction on age or disability. There is a driving requirement (800 hours or 156 4-hour shifts) per year for these permits.	200	156	N/A	93
Transferable Full Price	These medallions were transferred (purchased) under the Medallion Sales Pilot Program that started 2010 and the Medallion Transfer Program that replaced the Medallion Sales Pilot Program in 2012. Any person who purchased a medallion under either program may surrender their purchased permit for sale at any time with no restriction on age or disability. There is a driving requirement (800 hours or 156 4-hour shifts) per year for these permits.	642	544	N/A	276
Ramp	Accessible services medallions. The medallions operate in ramp vehicle only to accommodate passengers with wheelchair needs. Currently medallions are operated by taxi drivers. However, the medallions will be leased to the company in the future. Medallions cannot be transferred	100	42		N/A
8000 – series	Medallions that are leased to the taxi companies. Each medallion are leased for \$1000 with \$100 going towards the driver fund. These medallions cannot be transferred	100	44	N/A	N/A
S - series	Based on taxi driver seniority. These medallions were given to individuals that weren't on the waitlist, never owned a medallion. The medallion is issued based upon the year the applicant obtained their A-card permit. The permit is issued for 4 years. These permits are restricted to no more than 90 hours per week.	140	129	N/A	N/A
As of 3/24/17		2,075	1,808	591	369

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Attorneys for Plaintiffs and Appellants
WILLIAM SLONE and MICHAEL MERRITHEW

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

WILLIAM SLONE and MICHAEL
MERRITHEW,

Plaintiffs,

v.

TAXI COMMISSION, CITY AND
COUNTY OF SAN FRANCISCO,
ET AL.

Case No. 08-16726

DC No. 07-cv-03335-JSW
(N.D.Cal., San Francisco)

MOTION TO DISMISS APPEAL

[FRAP 42(b)]

Plaintiffs and Appellants WILLIAM SLONE and MICHAEL MERRITHEW hereby move this Court for an order dismissing the above-captioned appeal on the conditions set forth in the supporting Stipulation in Support of Motion to Dismiss Appeal (the "Stipulation").

For the reasons explained in the Stipulation, the circumstances out of which this litigation arose have substantially changed since the District Court entered judgment below on June 30, 2008. Those changes likely mean that a decision by this Court resolving the merits of this appeal would be deprived of practical significance, rendering it more or less purely academic. Accordingly, the parties have agreed that their interests would not be served by further prosecution of this appeal and its dismissal would promote the interests of judicial economy and efficiency.

Pursuant to and in accordance with Rule 42(b) of the Federal Rules of Appellate Procedure, Plaintiff and Appellant MICHAEL SLONE voluntarily consents to the dismissal of his appeal. Plaintiff and Appellant MICHAEL MERRITHEW moves the Court to dismiss his appeal subject to it being reinstated under the circumstances described in the Stipulation.

The parties have each agreed to bear their own costs, including attorneys' fees. There are no outstanding costs herein that remain unpaid.

DATED: August 10, 2010

HASSARD BONNINGTON LLP

By /s/ Philip S. Ward
Philip S. Ward

Attorneys for Appellants William Slone and
Michael Merrithew

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DC No. 07-cv-03335-JSW
(N.D.Cal., San Francisco)

STIPULATION IN SUPPORT OF
MOTION TO DISMISS APPEAL

[FRAP 42(b)]

IT IS HEREBY STIPULATED by and between the above-
captioned parties, through their attorneys of record, as follows:

1. When this action was commenced in the District Court,
municipal authority for regulating motor vehicle for hire permits (herein "taxi

medallions”) rested with the respondent Taxi Commission of the City and County of San Francisco. The Taxi Commission’s regulatory authority was exercised, in significant part, pursuant to and in accordance with a 1978 initiative ordinance commonly referred to as Proposition K [EOR 174-177] which contained a so-called “full-time driving requirement” [EOR 175, Section 4];

2. In their complaint below, Appellants contended that the Taxi Commission’s policy of granting only limited relief from the “full-time driving requirement” to holders of taxi medallions claiming physical disabilities that prevented them from safely driving a motor vehicle violated the Americans With Disabilities Act, 42 U.S.C. sections 12132, *et seq.* (“ADA”). In the judgment challenged by Appellants in this appeal, the District Court held that the Taxi Commission’s interpretation and application of the “full-time driving requirement” was consistent with and not in violation of the ADA [EOR 2-10];

3. After judgment was entered by the District Court on June 30, 2008 [EOR 1], the San Francisco Board of Supervisors exercised the authority granted to it by a November, 2007 amendment to the San Francisco Charter to abolish the Taxi Commission and transfer its regulatory authority over taxicabs to the San Francisco Municipal Transportation Agency (“MTA”);

4. In August, 2009, the MTA revoked the previously-adopted policy of the Taxi Commission granting limited relief from the “full-time driving

requirement” for holders of taxi medallions claiming to be physically disabled. In its place, the MTA expanded the relief policy beyond the limits that existed when the District Court entered judgment (“the 2009 policy”);¹

5. Earlier this year, the MTA announced a new initiative whereby certain holders of taxi medallions claiming disabled status could enroll in a “pilot program” which would allow the medallion holder to sell his or her medallion to an authorized purchaser, an option which did not exist when the District Court entered judgment in 2008;

6. Appellant Michael Merrithew has filed with the MTA a request to participate in the “pilot program.” If he is allowed to consummate a sale of his taxi medallion, it will have the effect of mooted his appeal because he will no longer be a medallion holder subject to the “full-time driving requirement”;

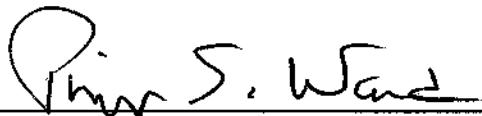
7. Appellant William Slone has elected not to participate in the “pilot program” but instead subject himself to the MTA’s 2009 policy. In view of the regulatory changes that have occurred since the District Court entered judgment in 2008, however, Appellant Slone has authorized his counsel of record to represent to the Court that he no longer wishes to prosecute the instant appeal and instead consents to its dismissal pursuant to FRAP 42(b);

¹ See September 9, 2009 letter to the Clerk of the Court from the San Francisco City Attorney, and specifically Exhibit A thereto.

8. The parties further stipulate and agree that the dismissal of Appellant Merrithew's appeal shall be without prejudice to its reinstatement in the event that: (a) before his medallion is sold and transferred, the MTA abandons or is otherwise prevented from implementing the "pilot program" authorizing the transfer and sale of taxi medallions by disabled permit holders or (b) for any other reason, the MTA does not allow him to consummate a transfer and sale of his medallion;

9. The parties further stipulate and agree that they shall each bear their own costs in this appeal, including their own attorneys' fees, and that no costs herein remain unpaid.

DATED: August 6, 2010 HASSARD BONNINGTON LLP

By 
Philip S. Ward

Attorneys for Appellants William Slone and Michael Merrithew

DATED: August 4, 2010 DENNIS J. HERRERA, CITY ATTORNEY

By 
Vince Chhabria, Deputy City Attorney

Attorneys for Respondents Taxi Commission, City and County of San Francisco; Heidi Machen, Executive Director; City and County of San Francisco

9th Circuit Case Number(s) 08-16726

NOTE: To secure your input, you should print the filled-in form to PDF (File > Print > PDF Printer/Creator).

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) [] .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) [Aug 10, 2010] .

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Joseph M. Breall, Esq. BREALL & BREALL, LLP 1255 Post St., Suite 1800 San Francisco, CA 94109	Carl Macmurdo 431 Frederick Street, #1 San Francisco, CA 94117
--	--

Signature (use "s/" format)

/s/ Philip S. Ward

(e) **Notice of Decision.**

(1) The Hearing Officer shall issue a written Notice of Decision within 30 days of the date of the hearing upholding or overturning the Citation, Notice of Nonrenewal under Section 1105(a)(5)(B), Notice of Denial under Section 1117(c), Notice of Inactive Status under Section 1103(b)(4), or Notice of Summary Suspension under Section 1121. The Notice of Decision shall be based upon the criteria set forth in this Article 1100, include findings, and shall set forth evidence in support of each finding. No later than three business days following issuance of the Hearing Officer's Notice of Decision, the SFMTA shall post the results of any disciplinary case against a Permit Holder in accordance with Section 1123, referenced by the date of hearing, the name of the Respondent, the type of permit, and the action taken. The Hearing Officer shall serve the full text of the Notice of Decision on Respondent in accordance with Section 1120(i) no later than the business day following the issuance of the Notice of Decision. The deadline for the issuance of a decision may be extended if the Hearing Officer requests additional evidence from the parties subsequent to the hearing. If additional evidence is submitted, then the decision will be issued within 30 days of the last submittal.

(2) The Hearing Officer's decision shall take effect on the date that the Notice of Decision is served on the Respondent in accordance with Section 1120(i). In the case of a Notice of Denial, if the Hearing Officer determines that a permit applicant is qualified for the permit, the SFMTA shall issue the permit or modification within 15 business days of the Notice of Decision.

(f) **Ex Parte Communications.**

(1) No person or agency may communicate directly or indirectly with a Hearing Officer at any time while a case is pending unless there is notice and an opportunity for the other party to participate.

(2) Any correspondence regarding the substance of a case directed to or received by any Hearing Officer shall become part of the case record file and shall be copied to both parties within 48 hours of the communication. If the communication received is oral, the Hearing Officer shall prepare a memorandum for the record stating the substance and the date of the communication, any response made, and the identity of the person from whom the communication was received. If a communication is received within 48 hours of a scheduled hearing, the Hearing Officer must immediately provide copies of the communication to the parties.

(3) Except as permitted by these procedures and any applicable laws and regulations, there shall be no contact between the SFMTA and the Hearing Officer with respect to any pending case. This prohibition does not preclude communications about administrative or procedural matters, or policy matters that do not involve any pending case regarding any individual permit or permit application.

SEC. 1116. TAXI MEDALLION TRANSFER PROGRAM.

(a) **Surrender for Consideration.**

(1) The following natural persons are eligible to surrender their Medallions to the SFMTA for consideration in accordance with this Section:

(A) Any Medallion Holder, except a Ramp Taxi Medallion Holder or a Single Operator Part-time Taxi Medallion Holder, who has demonstrated to the satisfaction of the SFMTA that he or she has a bona fide disability that permanently prevents him or her from satisfying the Full-Time Driving requirement, whether or not he or she is subject to the Full-Time Driving Requirement, or

(B) Any Post-K Medallion Holder who has attained the age of 60.

(b) **Medallion Surrender Payment.** As consideration for surrender of a Medallion in accordance with this Section, the SFMTA shall make a Medallion Surrender Payment in the amount of \$200,000 to the Medallion Holder, when a Transferee has been identified to which the surrendered Medallion will be initially transferred and a properly executed Transfer Agreement has been received from the identified Transferee.

(c) **Qualified Medallion Transferees.** Upon surrender, the SFMTA may transfer the Surrendered Medallion under the Taxi Medallion Transfer Program to a Transferee who acknowledges and agrees that the Transferable Medallion is subject to the provisions of this Section. The SFMTA shall make offers of Initial Transfer to such Transferees in chronological order by the date that each complete Medallion Application was received from a qualified applicant.

8/7/2021

Longaway, Alec (BOA)

From: SFMTA Municipal Transportation Agency <sfmta@public.govdelivery.com>
Sent: Friday, July 31, 2020 5:21 PM
To: cmac906@yahoo.com
Subject: Temporary Suspension of the Post-K driving requirement due to COVID-19



July 31, 2020

TO: Post-K Medallion Holders

Re: Temporary Suspension of the Post-K driving requirement due to COVID-19

Pursuant to Transportation Code, Division II, Section 1109(c), all Post-K medallion holders are required to operate their medallion full time.

(c) Full-Time Driving Requirement.

(1) Every Medallion Holder who is a natural person and who acquired his or her Medallion between June 6, 1978 and March 27, 2010 shall be a Full-Time Driver.

"Full-Time Driver" or **"Full-Time Driving"** shall mean any Driver actually engaged in, or the activity comprised of (respectively) the mechanical operation and physical charge and custody of a Taxi or Ramp Taxi which is available for hire or actually hired for at least 156 four-hour shifts or 800 hours during a calendar year.

On February 25, 2020, the Mayor declared a local emergency in response to the COVID-19 pandemic, issuing a Proclamation of the Mayor Declaring the Existence of a Local Emergency (COVID-19 Emergency). On March 16, 2020, San Francisco's Health Officer issued a Public Health Order in response to the COVID-19 Emergency, requiring that residents remain in place, with the only exception being for essential needs (Shelter in Place Order or SIP). For the duration of the Shelter in Place Order, which may be updated periodically, the Full-Time driving requirement for Post-K medallion holders will be suspended.

During any year in which operation of a Post-K medallion was temporarily suspended in accordance with this memo, the number of driving hours required to meet the Full-Time Driving Requirement shall be reduced by the same proportion as the ratio of the Permit Holder's excused driving hours to the hours remaining in the year.

BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 JAMES M. EMERY, State Bar #153630
RONALD H. LEE, State Bar #238720
3 JAIME M. HULING DELAYE, State Bar #270784
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Facsimile: (415) 554-4757
7 E-Mail: jim.emery@sfcityatty.org

8 Attorneys for Respondent
SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

9
10 SAN FRANCISCO BOARD OF APPEALS

11
12 GEORGE HORBAL,
13 Appellant,
14
15 vs.

16 SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY,
17 Respondent.

Appeal No. 21-064

Medallion Permit No. 1303

SFMTA TAXI DIVISION'S ANSWERING BRIEF

Hearing Date: Wednesday, September 1, 2021
Time: 5:00 p.m.
Place: City Hall, Room 416
[Zoom Remote Platform]

[Exemption from File Fees per Cal. Gov. Code §§
6103(a)-(b)]

1 **INTRODUCTION**

2 Mr. Horbal challenges the decision of the Hearing Officer upholding the SFMTA Taxi
3 Division’s decision not to renew Mr. Horbal’s taxi medallion. Mr. Horbal acknowledges the
4 Transportation Code requires him to comply with a full-time driving requirement as a condition for
5 renewing his medallion, and that he is unable to comply. Mr. Horbal’s appeal asks this Board of
6 Appeals to disregard and rewrite the Transportation Code. The Hearing Officer, on reconsideration,
7 recognized it was improper to rely on “equitable considerations” to create an uncodified “unusual
8 circumstances” exception to the Transportation Code’s requirements for medallion renewal. For the
9 same reasons, this Board of Appeals should apply the Transportation Code and affirm the Hearing
10 Officer’s decision.

11 **BACKGROUND**

12 The evidence before the Hearing Officer is undisputed, and Mr. Horbal does not contest the
13 Hearing Officer’s findings. Mr. Horbal was issued a post-K taxi medallion. When they passed
14 Proposition K in 1978, San Francisco voters reformed the City’s taxi medallion system. Post-K
15 medallions were issued for free to active drivers, and each driver was limited to a single medallion.
16 Proposition K imposed a full-time driving requirement on medallion holders. A driver received his or
17 her post-K medallion off a waiting list. When a post-K medallion holder stops driving, Proposition K
18 contemplated that the driver would return the medallion to SFMTA, so the SFMTA could issue the
19 medallion to a new driver who had been waiting for it. Proposition K did not contemplate that drivers
20 would continue to hold their post-K medallions when they could no longer drive safely and
21 responsibly.

22 A taxi medallion is a permit, authorizing its holder to operate a taxi on San Francisco streets.
23 An A-card is a permit that authorizes its holder to drive a taxi. To be eligible to drive a taxi in San
24 Francisco, the driver must hold an A-card, whether or not the driver also has a medallion.

25 A medallion holder has no property interest in a medallion or an A-card. The Transportation
26 Code informs the public that “Permits granted pursuant to this Article [including A-cards and taxi
27

1 medallions] constitute a privilege and are not the property of the Permit Holder.” (S.F Transp. Code
2 § 1105(a)(3).)

3 At the hearing, Mr. Horbal confirmed he does not have a California driver’s license, and his A-
4 card expired in 2017 and he has never renewed it. Mr. Horbal testified he is not physically capable of
5 driving, and he is wheelchair-bound.

6 ARGUMENT

7 San Francisco’s Transportation Code establishes that a Hearing Officer decision reviewing a
8 notice of nonrenewal must be “based upon the criteria set forth in this Article 1100, include findings,
9 and shall set forth evidence in support of each finding.” (S.F Transp. Code § 1120(e)(1).)
10 Enforcement discretion rests with the Taxi Division, not with the Hearing Officer.¹

11 Mr. Horbal acknowledges he lacks an A-card, he is unable to comply with a full-time driving
12 requirement, and his disability is permanent. Mr. Horbal makes a single substantive argument. Mr.
13 Horbal asserts he is not subject to a driving requirement or the A-card requirement as a condition for
14 maintaining his medallion.

15 **I. Mr. Horbal’s Argument #1: SFMTA had authority to enact Section 1109(c)(1) of the** 16 **Transportation Code, and the Board of Appeal Cannot “Force” the SFMTA to Amend** **the Transportation Code.**

17 Mr. Horbal acknowledges Section 1109(c)(1) of the Transportation Code imposes a full-time
18 driver requirement on him as a post-K medallion holder. Section 1109(c)(1) provides: “Every
19 Medallion Holder who is a natural person and who acquired his or her medallion between June 6, 1978
20 and March 27, 2010 shall be a Full-Time Driver.” Mr. Horbal argues the text of Proposition K
21 approved by voters in 1978 only required post-K medallion holders to state their intention to be full-
22 time drivers. Mr. Horbal argues Proposition K did not actually require medallion holders to drive full

23 ¹ Mr. Horbal makes a procedural argument that the Hearing Office lacked jurisdiction to
24 reconsider his decision. (Horbal Appeal Br. at p 2.) .Section 1120(e)(2), specifying the effective date
25 of a Hearing Officer decision, does not limit the Hearing Officer’s continuing jurisdiction after issuing
26 a decision. Until an appeal has been filed, or the time to appeal has expired, the Hearing Officer
retains jurisdiction to correct mistakes in his Decision. A contrary rule prohibiting Hearing Officers
from correcting their own mistakes would result in an unnecessary and unfortunate proliferation of
appeals to this Board of Appeals.

27 Mr. Horbal’s suspicion of improper ex parte communications (see Horbal Appeal Br. at p 2) is
28 baseless.

1 time, and that Section 1109(c)(1) therefore imposes a requirement that Proposition K did not
2 authorize. (Horbil Appeal Br., at pp 5-6.)

3 Article 1100 of the Transportation Code, however, expressly imposes the full-time driver
4 requirement, and Section 1120(e)(1) expressly requires the Hearing Officer to base his decision “upon
5 the criteria set forth in this Article 1100.” The Hearing Officer, therefore, was bound to apply the
6 express terms of Section 1109(c)(1).

7 The courts that have considered this question recognize Proposition K itself imposed a full-
8 time driving requirement on medallion holders. Contrary to Mr. Horbil’s description of the case, the
9 Court of Appeal in its 2002 decision in the *San Francisco Taxi Permitholders* case, upheld the full-
10 time driving requirement for post-K medallion holders and rejected any “changed circumstances”
11 exception that would exempt an individual medallion holder from the driving requirement. (Submitted
12 herewith as Exh. A.)² Likewise, the federal district court in *Slone v. Taxi Commission* (N.D. Cal. Case
13 No. C 07-03335 JSW June 30 2008) 2008 WL 2632101, held that Proposition K imposed a full-time
14 driving requirement. (Submitted herewith as Exh. B.).

15 In any event, 2007’s Proposition A superseded 1978’s Proposition K. By enacting Proposition
16 A in 2007, San Francisco voters amended San Francisco’s Charter to authorize SFMTA to enact new
17 taxi regulations. Furthermore, “[o]nce adopted, Agency regulations shall thereafter supersede all
18 previously-adopted ordinances governing motor vehicles for hire that conflict with or duplicate such
19 regulations.” (S.F. Charter §8A.101(b).) Accordingly, Proposition A moots the question whether
20 Proposition K authorized Section 1109(c)(1).

21 For these reasons, Section 1109(c)(1)’s full-time driving requirement must govern the decision
22 in this case.

23 **II. Mr. Horbil’s Argument #2: The Driving Requirement is Consistent with the ADA.**

24 Mr. Horbil presents a policy argument that “feeble, elderly” medallion holders should be
25 allowed to keep their post-K medallions when they are no longer able to drive safely. (Horbil Appeal
26

27 ² The Court of Appeal decision is unpublished, and under Court rules cannot be cited as legal
28 authority.

1 Br., at pp 6-8.) Mr. Horbal complains the Transportation Code provisions imposing the full-time
2 driving requirement are “arbitrary and capricious,” discriminate against disabled medallion holders,
3 and violate the Americans with Disabilities Act (“ADA”). (*Ibid.*)

4 The courts disagree. In the *Slone* case, the federal district court granted summary judgment to
5 the City, rejecting the identical argument that Mr. Horbal presents here – that the full-time driving
6 requirement violates the ADA. The district court in *Slone* held the full-time driving requirement
7 complies fully with the ADA. *Slone*’s and Merrithew’s stipulation dismissing their appeal did nothing
8 to undermine the correctness of the district court’s decision in that case. To the contrary, *Slone* simply
9 abandoned his appeal.³ Merrithew conditioned his dismissal on his ability to participate in the
10 SFMTA’s pilot program and receive consideration in exchange for his medallion. According to the
11 terms of the stipulation, if Merrithew were prevented from exchanging his medallion for consideration,
12 he would be able to reinstate his appeal and the litigation would resume.

13 **III. Mr. Horbal’s Argument #3: The *Slone* Agreement Fully Supports Nonrenewal in this**
14 **Case.**

15 Mr. Horbal argues that Merrithew’s expectation of consideration in exchange for his medallion
16 somehow confers on Mr. Horbal a right to compensation for his medallion. (Horbal Appeal Br., at pp
17 8-10.) The Transportation Code forecloses Mr. Horbal’s argument. Specifically addressing medallion
18 surrenders, section 1116(a)(4) of the Transportation Code provides that the Medallion Transfer
19 Program “does not confer on a Medallion Holder a vested right, or other legal entitlement, to surrender
20 a Medallion for consideration.” (Transp. Code § 1116(a)(4).) In any event, the *Slone* agreement itself
21 did not guarantee Merrithew compensation for his medallion. If he were unable to complete his
22 medallion transfer for any reason, he would be entitled only to resume the litigation he had already lost
23 in the district court.

24 Mr. Horbal also relies on SFMTA Resolution 09-138, which is also referenced in the *Slone*
25 stipulation. Resolution 09-138 provides a three-year exemption from the full-time driving requirement
26 for drivers with a temporary disability. Resolution 09-138 does not help Mr. Horbal. Mr. Horbal has

27 ³ Mr. Horbal’s contrary description of the *Slone* stipulation is not accurate.
28

1 a permanent disability, not a temporary disability. Resolution 09-138 expressly provides: “a
2 Medallion Holder who is permanently physically incapable of meeting the Full-Time Driving
3 requirement and will not be able to return to Full-Time Driving should not be entitled to such relief,
4 and may properly be required to relinquish his or her medallion to the SFMTA.” Mr. Horbal’s
5 permanent disability makes him ineligible to invoke Resolution 09-138’s temporary exemption from
6 the driver requirement. Furthermore, Resolution 09-138 temporarily exempts a driver from the driving
7 requirement, not from the separate requirement that the medallion holder also maintain an A-card.

8 **IV. Mr. Horbal’s Argument #4: Enforcement Decisions by SFMTA Staff in Other Cases
9 Have No Bearing on Mr. Horbal’s Eligibility for Renewal.**

10 Mr. Horbal asserts that at least once, an SFMTA staff member, Ms. Paige Standfield, a taxi
11 investigator, told a medallion holder he did not need to renew his A-card during the period he was
12 disabled and not driving. (Horbal Appeal Br. at p 10.) But Ms. Standfield’s communications with Mr.
13 Rathbone do not affect Mr. Horbal or change the requirements of the Transportation Code. There is
14 no information whether Mr. Rathbone’s situation was comparable to Mr. Horbal’s. The Taxi Division
15 may properly exercise enforcement discretion. Mr. Horbal does not assert he relied on any advice he
16 received from SFMTA. And in any event, equitable estoppel applies against a government entity only
17 under narrow circumstances, and Mr. Horbal has not even attempted to establish those circumstances.

18 The elements of equitable estoppel are: “(1) the party to be estopped must be apprised of the
19 facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the
20 estoppel has a right to believe it was so intended; (3) the other party must be ignorant of the true state
21 of facts; and (4) he must rely upon the conduct to his injury.” (*Alameda County Deputy Sheriff’s Assn*
22 *v. Alameda County Employees’ Retirement Assn* (2020) 9 Cal.5th 1032, 1072.) Equitable estoppel is
23 applied only sparingly against a government entity. (*Id.*) “Equitable estoppel will not apply against a
24 governmental body except in unusual instances when necessary to avoid grave injustice and when the
25 result will not defeat a strong public policy.” (*City of Goleta v. Superior Court* (2006) 40 Cal.4th 270,
26 279 (internal quotation and citation omitted).) None of the elements are present for Mr. Horbal to
27 invoke equitable estoppel against SFMTA based on Ms. Standfield’s communication with Mr.
28 Rathbone.

1 **V. Mr. Horbal’s Miscellaneous Arguments and Information**

2 **A. The 2020 Temporary Covid Waiver of the Driver Requirement Does Not Excuse**
3 **Mr. Horbal’s Failure to Maintain his A-card.**

4 Mr. Horbal invokes the 2020 temporary suspension of the full-time driver requirement for the
5 duration of the Mayor’s shelter-in-place covid safety order. (Horbal Appeal Br. at p 10.) Mr. Horbal’s
6 A-card expired in 2017, and the temporary covid suspension does not excuse noncompliance with the
7 A-card requirement. These covid orders do not excuse Mr. Horbal’s long-term and continuing non-
8 compliance with the statutory requirements for medallion renewal.

9 **B. Public Requests that SFMTA Amend the Transportation Code Do Not Excuse Mr.**
10 **Horbal’s Noncompliance with the Statutory Requirements for Medallion Renewal.**

11 Mr. Horbal next points to a public request that the SFMTA amend the Transportation Code to
12 amend or eliminate the full-time driving requirement. (Horbal Appeal Br. at p 11.) Mr. Horbal does
13 not attempt to explain why a request from the public to amend the Code should excuse noncompliance
14 with the Code as it exists.

15 **C. SFMTA’s Pending Litigation Against the San Francisco Federal Credit Union**
16 **Does Not Alter the Statutory Requirements for Mr. Horbal’s Medallion Renewal.**

17 Finally, Mr. Horbal describes pending litigation between SFMTA and the San Francisco
18 Federal Credit Union over the Taxi Medallion Transfer Program. (Horbal Appeal Br. at pp. 11-12.)
19 Mr. Horbal speculates that when the litigation resolves, medallion transfers for consideration may
20 resume. As explained above, however, Mr. Horbal has no “vested right, or other legal entitlement, to
21 surrender a Medallion for consideration.” (Transp. Code § 1116(a)(4).) Furthermore, the Hearing
22 Officer’s decision must be “based upon the criteria set forth in this Article 1100.” (S.F Transp. Code
23 § 1120(e)(1).) And, as discussed above, the Court of Appeal in the *San Francisco Taxi Permitholders*
24 case disapproved an equitable “changed circumstances” exception to the full-time driving requirement.
25 Accordingly, the pending litigation cannot justify Mr. Horbal’s noncompliance with the statutory
26 renewal requirements.

27 **CONCLUSION**

28 The SFMTA’s Taxi Division is acutely aware of the grave impact of transportation network
companies, like Uber and Lyft, and the pandemic on drivers and medallion holders. The SFMTA

1 shares the Hearing Officer’s empathy for the taxi industry in general and specifically for Mr. Horbal.
2 Over the past several years, the SFMTA has enacted numerous reforms to support and strengthen the
3 taxi industry. As San Francisco’s taxi regulator, the Taxi Division has determined Mr. Horbal’s
4 medallion is not eligible for renewal.

5 For the foregoing reasons, the Board of Appeals should affirm the Hearing Officer’s decision
6 approving the Taxi Division’s nonrenewal of Mr. Horbal’s taxi medallion.

7 Dated: August 25, 2021

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9 City Attorney
10 JAMES M. EMERY
11 RONALD H. LEE
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15 By: s/James M. Emery
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17 Attorneys for Respondent
18 CITY AND COUNTY OF SAN FRANCISCO,
19 appearing herein as SAN FRANCISCO MUNICIPAL
20 TRANSPORTATION AGENCY
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28

PROOF OF SERVICE

I, Pamela Cheeseborough, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney’s Office of San Francisco, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 234, San Francisco, CA 94102.

On August 25, 2021, I served the following document(s):

SFMTA TAXI DIVISION’S ANSWERING BRIEF

EXHIBITS IN SUPPORT OF SFMTA TAXI DIVISION’S ANSWERING BRIEF

on the following persons at the locations specified:

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[Determination Holder(s)/Appellant]

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in the manner indicated below:

BY ELECTRONIC MAIL: Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the person(s) at the electronic service address(es) listed above. Such document(s) were transmitted *via* electronic mail from the electronic address: martina.hassett@sfcityatty.org in portable document format ("PDF") Adobe Acrobat or in Word document format.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed August 25, 2021 at San Francisco, California.



Pamela Cheeseborough

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10 SAN FRANCISCO BOARD OF APPEALS

12 GEORGE HORBAL,
13 Appellant,
14
15 vs.

16 SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY,
17 Respondent.

Appeal No. 21-064

Medallion Permit No. 1303

**EXHIBITS IN SUPPORT OF SFMTA TAXI
DIVISION'S ANSWERING BRIEF**

Hearing Date: Wednesday, September 1, 2021
Time: 5:00 p.m.
Place: City Hall, Room 416
[Zoom Remote Platform]

[Exemption from File Fees per Cal. Gov. Code §§
6103(a)-(b)]


Attachments: Exhibits A - B

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	<i>San Francisco Taxi Permitholders and Drivers Assoc. v. CCSF</i> (Cal. Ct. App. Case No. A095858, July 11, 2002) 2002 WL 1485354
B	<i>Slope v. Taxi Commission</i> (N.D. Cal. Case No. C 07-03335 JSW, June 30 2008) 2008 WL 2632101

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EXHIBIT A
TO
SFMTA TAXI DIVISION'S ANSWERING BRIEF

 KeyCite Red Flag - Severe Negative Treatment
Unpublished/noncitable

2002 WL 1485354

Not Officially Published

(Cal. Rules of Court, Rules 8.1105 and 8.1110, 8.1115)

Only the Westlaw citation is currently available.

California Rules of Court, rule 8.1115, restricts citation of unpublished opinions in California courts.

Court of Appeal, First District, Division 1, California.

SAN FRANCISCO TAXI PERMITHOLDERS
AND DRIVERS ASSOCIATION
et al., Plaintiffs and Appellants,

v.

CITY AND COUNTY OF SAN FRANCISCO
et al., Defendants and Respondents.

No. A095858.

|

(San Francisco County Super. Ct. No. 316993).

|


July 11, 2002.


Synopsis

Nonprofit corporation of taxicab permit holders and drivers, and two individual members of corporation, sought declaratory and injunctive relief against city, relating to city's requirement that holders of permits to operate taxicab businesses must be full-time taxicab drivers and must meet continued-driving requirement. The Superior Court, San Francisco County, No. 316993, sustained city's demurrer without leave to amend. Plaintiffs appealed. The Court of Appeal, Swager, J., held that: (1) full-time driver requirement could not be construed to contain "changed circumstances" exception; (2) plaintiffs could seek declaration regarding a possible changed circumstances exception to continued-driving requirement; (3) plaintiffs did not present actual controversy regarding extent and limits of city taxi commission's power to adopt and apply a standard for compliance with continued-driving requirement; and (4) city's administrative rules regarding full-time driving requirement were reasonable.

Affirmed in part, reversed in part.


West Headnotes (9)

[1] **Automobiles**  Eligibility for and vehicles subject to license or certificate

Automobiles  Revocation, forfeiture, or suspension of license

City ordinance requiring holders of permits to operate taxicab businesses to be full-time taxicab drivers was not flexible enough to allow an interpretation which would provide a "changed circumstances" exception excusing a permit holder from meeting full-time driving requirement, based on circumstances arising after issuance of permit, and thus, existence of changed circumstances did not affect city's power to admonish, discipline, or revoke a permit.

[2] **Automobiles**  Municipal ordinances

Automobiles  Revocation, forfeiture, or suspension of license

Provision of city's police code, defining "good cause" for revocation of permit to operate a taxicab business as including a permit holder's failure to be a full-time taxicab driver, was within city's power to implement voter-initiated ordinance imposing full-time driver and continued-driving requirements for permits to operate taxicab businesses and authorizing police commission to revoke such permits upon good cause; city was using its legislative power to interpret the ordinance by enumerating considerations constituting good cause, and "good cause" definition's use of ordinance's full-time driver standard did not necessarily conflict with ordinance's more generally worded continued-driving standard, because continued-driving standard was not always or usually less stringent than full-time driving standard, so that city could reasonably interpret continued-driving standard as incorporating the full-time driving standard.

[3] **Declaratory Judgment**  Appeal and Error

Trial court's technical or procedural error in failing to enter one of its rulings as a declaratory judgment did not require reversal in the declaratory judgment action; the appellate court could effectively cure the error by making the declaration of rights in the appellate opinion. [West's Ann.Cal.C.C.P. § 1060](#).

[4] **Declaratory Judgment** 🔑 Licenses and Taxes

Questions regarding extent and limits of city taxi commission's power to adopt and apply a standard for compliance with city ordinance's continued-driving requirement for permit to operate a taxicab business did not present actual controversy that could be resolved by declaratory judgment; permit holders were improperly seeking an advisory opinion, and while such opinion on commission's power to adopt a driving standard might assist the commission in making future policy decisions, it would not resolve an existing controversy between permit holders and city. [West's Ann.Cal.C.C.P. § 1060](#).

[5] **Declaratory Judgment** 🔑 Licenses and Taxes

Allegation of holders of permits to operate taxicab businesses, that city police department's notice of change in its continued-driving requirement for permit holders “failed to convey to individual permittees the fact that the [department] had changed its [internal] interpretation” of the requirement, did not present an actual controversy which could be resolved by declaratory judgment; holders' allegation, which was stated in very general terms, did not specify whether permit holders were presenting questions regarding administrative procedure, the actual notice received by permit holders, or prejudice to permit holders in context of particular administrative action, and court could not determine whether or how the notice issue might affect permit holders' interests in opposing alleged written admonishments issued by police. department. [West's Ann.Cal.C.C.P. § 1060](#).

[6] **Automobiles** 🔑 Eligibility for and vehicles subject to license or certificate

City's administrative rule reasonably construed “business day” as meaning calendar day, for purposes of city ordinance imposing full-time driving requirement on holders of permits to operate taxicab businesses and requiring a permit applicant to declare an intent to drive for at least four hours during any 24-hour period on at least 75 percent of business days during calendar year; a contrary interpretation allowing shifts of eight hours or more spanning two calendar days to be counted as two four-hour shifts would undermine full-time driver requirement by effectively cutting it in half and would introduce elements of uncertainty and complexity.

[7] **Automobiles** 🔑 Eligibility for and vehicles subject to license or certificate

City taxi commission's administrative rule disallowing a shift actually driven from being counted towards police code's requirement that holder of permit to operate taxicab business must be full-time taxicab driver, if permit holder's waybill was not accurate and complete, was reasonable and consistent with the police code's full-time driver requirement.

[8] **Automobiles** 🔑 Eligibility for and vehicles subject to license or certificate

City taxi commission's administrative rule requiring a holder of a permit to operate a taxicab business to drive a designated spare taxicab when holder's taxicab was out of service, in order for holder to receive credit toward police code's full-time driving requirement for holders, was reasonable and consistent with the police code's full-time driver requirement.

[9] **Automobiles** 🔑 Eligibility for and vehicles subject to license or certificate

City taxi commission's administrative rule requiring that, if a holder of permit to operate taxicab business drives eight-hour shift composed of two four-hour components driven before and after midnight in separate calendar days, holder must return to garage after first four-hour component to return one waybill and take out another for next four-hour component, was reasonable and consistent with the police code's full-time driver requirement for permit holders.

Opinion

SWAGER, J.

*1 A nonprofit corporation, San Francisco Permitholders and Drivers Association, Inc. (Permitholders Association), and two individual members of the corporation, Hubert Fontaine and James Matheson, appeal a judgment dismissing a suit for declaratory judgment and injunctive relief against the City and County of San Francisco and the Taxi Commission of the City and County of San Francisco (hereafter collectively referred to as the City), which was entered on an order dismissing the City's demurrer without leave to amend. We reverse the order sustaining the demurrer to the first, second and fifth causes of action and otherwise affirm.

PROCEDURAL BACKGROUND

As alleged in the complaint, Hubert Fontaine worked as a taxicab driver and dispatcher in the city for almost 20 years before receiving a permit to operate a taxicab business in San Francisco in February 1997. Shortly after receiving the permit, he served as a member of the board of directors of the De Soto Cab Cooperative Company and then served as president of the company from March 1998 until September 1999. In March 2000, Fontaine was formally admonished by the San Francisco Police Department Taxicab Detail for failure to satisfy a permit requirement that he be a full-time driver. Specifically, he “was admonished for failure to drive 185 shifts during 1999 despite the fact that he drove 126 shifts of four hours or more while also working as a De Soto dispatcher and serving as president and a director of De Soto.” The admonishment warned that his failure to satisfy the full-time driver requirement “would constitute adverse evidence

in any subsequent proceeding concerning his permit before the Taxi Commission....”

James Matheson, age 72 years, worked as a taxicab driver in San Francisco for 26 years before receiving a permit to operate a taxicab business in 1990. As a result of *emphysema*, Matheson could drive only “about 70 shifts during 1999, and only about 40 shifts during the year 2000.” The complaint alleges that, in March 2000, he also was admonished by the San Francisco Police Department Taxicab Detail “and threatened with revocation of his permit to operate a taxicab business due to his alleged failure to satisfy the purported ‘driving requirement.’” “The admonishment similarly stated that his failure to satisfy the driving requirement would be used “as adverse evidence in any subsequent proceeding concerning his permit before the Taxi Commission.”

Both Fontaine and Matheson are members of the Permitholders Association. In a complaint filed November 28, 2000, they joined with the Permitholders Association in challenging the existence and application of a requirement that permit holders be full-time drivers. The complaint alleges six causes of action for declaratory and injunctive relief that may be divided into three groups: (1) the first and fifth causes of action (the Proposition K causes of action) challenge the City's interpretation of Proposition K, an initiative ordinance enacted in 1978, as imposing a “driving requirement” on holders of taxicab permits, (2) the sixth cause of action (the Police Code cause of action) challenges the City's reliance on section 1090, subdivision (a)(i), and section 1076, subdivision (o), of the Police Code of the City and County of San Francisco, and (3) the second, third and fourth causes of action (the administrative enforcement causes of action) challenge specific administrative interpretations and enforcement actions relating to the full-time driver requirement.

*2 The City filed a demurrer to the complaint asserting that each cause of action failed to state facts sufficient to constitute a cause of action. The trial court sustained the demurrer without leave to amend with respect to all six causes of action and on July 12, 2001, filed a judgment dismissing the complaint. Appellants filed a timely notice of appeal.

DISCUSSION

A. Standard of Review

We review the judgment according to well settled principles. “We treat the demurrer as admitting all material facts properly pleaded.... Facts that may be implied or inferred from those expressly alleged are also taken as true.” (*Dunn–Edwards Corp. v. South Coast Air Quality Management Dist.* (1993) 19 Cal.App.4th 536, 542, 24 Cal.Rptr.2d 99.) “When a demurrer is sustained, we determine whether the complaint states facts sufficient to constitute a cause of action. [Citation.] And when it is sustained without leave to amend, we decide whether there is a reasonable possibility that the defect can be cured by amendment: if it can be, the trial court has abused its discretion and we reverse; if not, there has been no abuse of discretion and we affirm.” (📄 *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318, 216 Cal.Rptr. 718, 703 P.2d 58.)

Our review also requires us to interpret the meaning of the relevant provisions of Proposition K and the regulations promulgated there under. In doing so we apply a fundamental rule of statutory construction: “[A] statute ‘must be given a reasonable and common sense interpretation consistent with the apparent purpose and intention of the lawmakers, practical rather than technical in nature, which upon application will result in wise policy rather than mischief or absurdity.’ [Citations.]” (📄 *Wise v. Pacific Gas & Electric Co.* (1999) 77 Cal.App.4th 287, 299, 91 Cal.Rptr.2d 479.)

B. Proposition K Causes of Action

1. Legislative Background

In 1978, the San Francisco Board of Supervisors placed on the ballot two competing measures to address the perceived evil of profiteering by taxicab companies and favored individuals in the sale of taxicab permits. The voters adopted Proposition K, the more far-reaching of the two measures. The voter pamphlet¹ described the measure as follows: “Shall taxicab permits be issued only to individual cab operators and shall the private sale of rights in taxicab permits be prohibited?”² The “Analysis” of the measure explained that it would require existing permit holders to exchange their permits within 60 days for re-issued permits that could not “be bought or sold privately.” (S.F. Voter Information Pamph., *supra*, analysis of Prop. K by ballot simplification committee, p. 36.) After this 60–day period, “new permits would only be issued to individuals, not to companies.” (*Ibid.*) In issuing these new permits, the City would give preference “to anyone who has been a taxicab driver for one straight year within the past three years.” Summing up this explanation, the pamphlet stated:

“If you vote yes, you do not want taxicab permits to be sold on the open market and you want to phase out ownership by companies.” (*Ibid.*)

¹ San Francisco Voter Information Pamphlet, Primary Election (June 6, 1978) text of Proposition K, pages 53 and 54.

² San Francisco Voter Information Pamphlet, Primary Election, *supra*, page 36.

*³ The argument in favor of Proposition K described it as consumer legislation that would give “the voter ... a chance to say whether the cab business should be opened up to stop favored taxicab companies and individuals from buying and selling cab permits for profit and practicing unfair competition.” (S.F. Voter Information Pamph., *supra*, argument in favor of Prop. K, p. 37.) The argument concluded: “STOP THE PROFITEERING—VOTE ‘YES’ ON PROPOSITION ‘K.’ “ (*Ibid.*)

The present litigation arises from the requirement that new permits be issued in the future to individuals actively engaged in the taxicab business. We do not need to discuss other aspects of the measure, such as the 60–day period for re-issuance of existing permits or the prohibition on private sale of permits.

Section 1, subdivision (b) of the San Francisco Administrative Code vests in the Chief of Police the “responsibility of establishing regulations to assure prompt, courteous and honest service to the riding public.” Subdivision (d) thereof requires the Police Commission to “issue a sufficient number of permits to assure adequate taxicab service throughout the City and County of San Francisco.”

The provisions of Proposition K that are pertinent to the resolution of the issues before us are found in sections 2, 3, and 4. (S.F. Voter Information Pamphlet, Primary Election, *supra*, pp. 53–54.) Section 2 regulates applications for new permits and provides in subdivision (b): “No permit shall be issued unless the person applying for the permit shall declare under penalty of perjury his or her intention actively and personally to engage as permittee-driver under any permit issued to him or her for at least four (4) hours during any twenty-four (24) hour period on at least seventy-five (75%) of the business days during the calendar year. No more than one permit shall be issued to any one person.” (S.F. Voter Information Pamphlet, Primary Election, *supra*, p. 53.) Section 3 sets forth several criteria for issuance of new

permits; the last of these criteria incorporates by reference section 2, subdivision (b): “(d) The applicant will be a full-time driver, within the meaning of Section 2(b) of this Ordinance, of the taxicab or other motor vehicle for hire.” (S.F. Voter Information Pamphlet, Primary Election, *supra*, pp. 53–54.)

Proposition K, section 4 imposes a requirement that permit holders actively operate a taxicab under their permit. Subdivision (a) provides in pertinent part: “All permittees ... shall regularly and daily operate their taxicab or other motor vehicle for hire business during each day of the year to the extent reasonably necessary to meet the public demand for such taxicab or motor vehicle for hire service. [¶] Upon abandonment of such business for a period of 10 consecutive days by a permittee or operator, the Police Commission shall, after five days' written notice to the permittee or operator, revoke the permit or permits of such permittee or operator; provided, however, that the Chief of Police ... may on written application grant to the holder of any permit hereunder permission to suspend operation pursuant to such permit for a period not to exceed 90 calendar days in any one 12 month period in case of sickness, death, or other similar hardship.” Subdivision (a) also provides that “All such permits and all rights granted under them may be rescinded and ordered revoked by the Police Commission for good cause.” (S.F. Voter Information Pamphlet, Primary Election, *supra*, p. 54.)



2. The First and Fifth Causes of Action

*4 [1] The first cause of action alleges that an actual controversy has arisen between the City and appellants regarding a “driving requirement” imposed by Proposition K on taxi permit holders. It is alleged that the City contends “that Proposition K requires that each permittee actively and personally drive a taxicab operated by the permitted business for at least 4 hours per day on 75 percent of the business days in each calendar year that the permit is held.” The City allegedly regards this specific quantitative “driving requirement” as remaining in effect throughout the lifetime of the permittee without regard for any changed circumstances that may prevent the permittee from meeting it and claims the right to revoke a taxicab permit for failure to satisfy the requirement, even though the permittee “maintains the permitted taxicab business in continuous operation as required by Section 4 of Proposition K.”

The cause of action effectively asks for two declarations: first, that Proposition K should not be interpreted, or applied, to impose a “ ‘driving requirement’ for the life of the permittee

regardless of changed circumstances;” and, secondly, that the City may not revoke, or threaten to revoke, a taxicab permit for failure “to satisfy the Driving Requirement due to changed circumstances so long as the permittee maintains the permitted taxicab business in continuous operation ... as provided by Section 4 of Proposition K.” We see these requests as presenting distinct issues. The first calls for a determination of whether Proposition K imposes a full-time driving requirement even if the permit holder's ability to drive full time changes. The second calls for a determination of the scope and extent of the full-time driving requirement.

The trial court's order sustaining the City's demurrer states that this cause of action cannot give appellants a right to declaratory or injunctive relief “because the full-time driving requirement imposed by Proposition K ... is not subject to any exception for taxi permit holders who, due to ‘changed circumstances,’ have become unable to continue to drive full-time,” and, accordingly, the existence of changed circumstances does not affect the City's power to admonish, discipline, or revoke the permit of a permit holder. In effect, the order denies the first requested declaration regarding changed circumstances but does not address the second requested declaration relating to interpretation of section 4 of Proposition K.

“The interpretation of ordinances and statutes are proper matters for declaratory relief.” ( *Walker v. County of Los Angeles* (1961) 55 Cal.2d 626, 637, 12 Cal.Rptr. 671, 361 P.2d 247.) “It is the general rule that in an action for declaratory relief the complaint is sufficient if it sets forth facts showing the existence of an actual controversy relating to the legal rights and duties of the respective parties ... and requests that the rights and duties be adjudged. (Code Civ. Proc., § 1060.) If these requirements are met, the court must declare the rights of the parties whether or not the facts alleged establish that the plaintiff is entitled to a favorable declaration.” ( *Bennett v. Hibernia Bank* (1956) 47 Cal.2d 540, 549–550, 305 P.2d 20; see also *City of Tiburon v. Northwestern Pac. R.R. Co.* (1970) 4 Cal.App.3d 160, 170; , 84 Cal.Rptr. 469 5 Witkin, Cal. Procedure (4th ed. 1997) Pleading § 831, p. 288.) There can be no question that the first cause of action alleged an actual controversy and requested an adjudication of rights and duties on a proper subject for declaratory relief.

*5 As appellants argue, the relevant provisions in sections 2 and 3 relate only to the intent of the applicant at the time of making the application. Subdivision (b) of section 2 calls for a

declaration under oath of an intent to meet a very specific and stringent standard of full-time operation of the taxicab. (S.F. Voter Information Pamphlet, Primary Election, *supra*, p. 53.) Subdivision (d) of section 3 requires a finding on the basis of application documents that the applicant will comply with his or her declared intent. Though it relates to probable future conduct, the finding is made in connection with the initial issuance of the permit and relates only to this administrative action. (*Id.*, at pp. 53–54, 84 Cal.Rptr. 469.)

The requirement of continuous operation of a taxicab under a permit is found in section 4, subdivision (a). Unlike section 3, subdivision (d), the language of section 4, subdivision (a), contains no cross-reference to the standard of section 2, subdivision (b), but instead requires in general terms that the permit holders “shall regularly and daily operate their taxicab ... during each day of the year to the extent reasonably necessary to meet the public demand for such taxicab...” (S.F. Voter Information Pamphlet, Primary Election, *supra*, p. 54.)

Appellants argue that this requirement of continuous operation of a taxicab is tangential to the central objectives of Proposition K; it does not directly relate to the evil of profiteering or the private sale of permits but serves only to regulate an alternate scheme of licensing individual taxicab drivers that Proposition K proposed to encourage. In light of the secondary importance of these provisions to the legislative objective, appellants urge adoption of a flexible interpretation of the continued-driving requirement of Proposition K. Such an interpretation would allow consideration of a permit holder's leadership position in a taxicab cooperative and would not preclude some accommodation for a physical disability.

The actual language of section 4, subdivision (a), however, militates against the policy of flexibility that appellants urge. The section authorizes revocation of a permit upon abandonment of the taxicab business for no more than 10 consecutive days. In the event of sickness or other hardship, it authorizes the police department to grant permission for a permit holder to suspend operation for only 90 calendar days and only upon written application and following a thorough investigation. These provisions reflect a consistent theme in Proposition K to meet the public demand for taxi service by assuring “prompt, courteous and honest service to the riding public...” (S.F.Admin.Code, appen .6, § 1, subd. (b), p. 23.)

We see no error in the trial court's ruling to the extent that it rejected the first requested declaration, i.e., the

declaration regarding changed circumstances, but the second requested declaration relating to interpretation of section 4 of Proposition K presents distinct issues. As discussed later in this opinion, we consider that the standard for continuous operation under the permit in section 4 is consistent with local legislation, regulations, and administrative interpretations that reflect the quantitative driving standard of section 2, subdivision (b). Nevertheless, appellants may seek a declaration that the general standard in section 4 does not necessarily mirror in all cases the quantitative driving standard of sections 2 and 3. More specifically, they may request a declaration that the standard for continuous operation in section 4 would allow the enactment of local legislation or regulations, or the exercise of discretion under existing legislation and regulations, so as to make some limited allowance, consistent with the strong policy of Proposition K favoring full-time operation of taxicabs by permit holders, for a permit holder's leadership position in a taxicab cooperative or physical disability.

*6 We therefore conclude that the trial court erred in denying, without leave to amend, the second requested declaration in the first cause of action. Our analysis of the first cause of action is also dispositive of the fifth cause of action.



C. The Police Code Cause of Action

[2] The sixth cause of action seeks a declaration that section 1090, subdivision (a), of the San Francisco Police Code is unlawful and void because it conflicts with Proposition K. The provision, enacted in 1988, gives the Police Commission discretionary authority to revoke a taxicab permit “for good cause after a noticed hearing.” Good cause is defined to include a series of considerations, the first of which is that “[t]he permittee ceased to be a full-time driver.” The term “full-time driver” is in turn defined by section 1076, subdivision (o), to incorporate the standard of section 2, subdivision (b) of Proposition K. Subdivision (o) provides: “ ‘Full-time driver’ is hereby defined to mean any driver actually engaged in the mechanical operation and having physical charge or custody of a motor vehicle for hire which is available for hire or actually hired for at least four hours during any 24–hour period on at least 75 percent of the business days during the calendar year.”

Sections 1090 and 1076 are clearly within the City's legislative power to implement the provisions of Proposition K. The last sentence of section 4, subdivision (a), of the proposition authorizes the Police Commission to revoke taxicab permits “for good cause.” The City retains

legislative power to interpret the proposition by enumerating considerations constituting good cause. (*Creighton v. City of Santa Monica* (1984) 160 Cal.App.3d 1011, 1021, 207 Cal.Rptr. 78; *Armstrong v. County of San Mateo* (1983) 146 Cal.App.3d 597, 622, 194 Cal.Rptr. 294.)

We see no conflict between the language of section 1090 and Proposition K. In light of the importance given to the full-time driving standard of section 2, subdivision (b), it is reasonable to regard the failure to meet this standard as providing grounds for the discretionary revocation of a taxicab permit. We note that Proposition K not only requires an applicant to state under oath an intent to comply with this standard but also requires the Police Commission to make a finding, as a condition for issuing a permit, that the applicant will in fact comply with the standard. The use of this specific standard of section 2, subdivision (b) as good cause for revocation of a permit does not necessarily conflict with the more generally worded continued-driving standard of section 4. As discussed above, although section 4, subdivision (a), does not incorporate the exact language of section 2, subdivision (b), our analysis does not indicate that the standard set forth in section 4, subdivision (a) is always or usually less stringent than the standard of section 2, subdivision (b). The City may reasonably construe section 4 as incorporating the identical standard as section 2, subdivision (b), in a broad range of cases.


*7 [3] In sustaining the demurrer to the sixth cause of action, the trial court appropriately ruled: “plaintiffs’ sixth cause of action cannot state any cause of action against defendants because Section 1090 of the San Francisco Police Code is lawful and valid, and does not conflict with Proposition K on its face or as applied.” We regard the trial court’s failure to enter this ruling as a declaratory judgment as a technical procedural irregularity that is effectively cured by our opinion here. As stated in  *Newby v. Alto Riviera Apartments* (1976) 60 Cal.App.3d 288, 304, 131 Cal.Rptr. 547, disapproved on other grounds in  *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721, 740–741, footnote 9, 180 Cal.Rptr. 496, 640 P.2d 115, “[e]ven though the failure to declare appellant’s rights was erroneous, reversal would be an idle act. [Citations.] The appellate opinion is, in effect, a declaration of the rights of the parties.” (See 5 Witkin, Cal. Procedure, *supra*, § 832, p. 290.) Accordingly, we affirm the order sustaining the demurrer to the sixth cause of action.

D. The Enforcement Causes of Action

1. The Second Cause of Action

[4] [5] The second cause of action recites a history of administrative interpretations of the continued-driving requirement by the city attorney and the Taxicab Detail of the San Francisco Police Department, including an 800–hour–per–year driving rule that was allegedly the subject of successive and inconsistent opinions of the city attorney to the Mayor’s Taxi Task Force and the Taxi Commission. It further alleges that an interpretation announced by the police department on January 1, 1998, requiring a permit holder to drive at least 185 separate shifts of at least four hours per day each calendar year was inadequately communicated to permit holders. The cause of action seeks two distinct declarations. First, it requests a declaration “setting forth the extent and limits of the Taxi Commission’s power to adopt and apply a standard for compliance with any driving requirement that may exist,” and, more specifically, the Commission’s power to adopt an 800–hour–per–year driving requirement. Secondly, it seeks a declaration that the City “failed to give adequate notice of their interpretation of the driving requirement during 1998 and 1999.”

The trial court sustained the demurrer to this cause of action on the ground that it failed to allege a proper subject for declaratory relief and that the issue of notice of the driving requirement in 1998 and 1999 was barred by the doctrine of exhaustion of administrative remedies. We reach separate conclusions with respect to the two requested declarations. With respect to the first requested declaration, we hold that the court properly ruled that the cause of action did not state a proper subject for declaratory relief. With respect to the second requested declaration, we conclude that the cause of action did not allege an actual controversy but that the trial court erred in denying leave to amend.

“Section 1060 of the Code of Civil Procedure provides that ‘Any person ... who desires a declaration of his rights or duties with respect to another, or in respect to ... property ... may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an action in the superior court for a declaration of his rights and duties in the premises.’ The ‘actual controversy’ referred to in this statute is one which admits of definitive and conclusive relief by judgment within the field of judicial administration, as distinguished from an advisory opinion upon a particular and hypothetical state of facts. The judgment must decree, not suggest, what the parties may or may not do.” ( *Selby Realty Co. v. City of San Buenaventura* (1973) 10 Cal.3d 110, 117, 109 Cal.Rptr.

799, 514 P.2d 111; see also [Alameda County Land Use Assn. v. City of Hayward](#) (1995) 38 Cal.App.4th 1716, 1722, 45 Cal.Rptr.2d 752; [BKHN, Inc. v. Department of Health Services](#) (1992) 3 Cal.App.4th 301, 308, 4 Cal.Rptr.2d 188; [Newland v. Kizer](#) (1989) 209 Cal.App.3d 647, 657, 257 Cal.Rptr. 450.)

*8 Under this definition of an actual controversy, we consider that the trial court properly sustained the demurrer without leave to amend insofar as it related to the first requested declaration. A declaration interpreting the Taxi Commission's power to adopt a driving requirement represents a classic form of advisory opinion of the sort that should be given by legal counsel rather than the courts. Such an opinion on the Commission's power to adopt a driving standard might assist the Commission in making future policy decisions but it would not resolve an existing controversy between appellants and the City. The related request for a declaration regarding an 800-hour-per-year driving requirement might once have resolved an actual controversy, but, since the City is not relying on such a standard, a declaration on the validity of the standard would not adjudicate any existing dispute.

The alleged inadequate notice given by the police department regarding a 1998 change in its "driving requirement" is stated in very general terms that again fail to allege an actual controversy between the City and appellants. The significance of a defect in notice may involve questions of administrative procedure, actual notice received by the plaintiffs, and prejudice to the plaintiffs in the context of a particular administrative action. The cause of action alleges only that the notice "failed to convey to individual permittees the fact that the Taxi Detail had changed its [internal] interpretation of the purported Driving Requirement." On this allegation, we cannot determine whether, or how, the issue of notice may affect the appellants' interests in opposing the alleged written admonishments issued by the police department. In short, we do not know the precise nature of an actual controversy, if any, that may exist between appellants and the City pertaining to the adequacy of the notice.

Nevertheless, an order sustaining a demurrer without leave to amend "ordinarily constitutes an abuse of discretion, if there is a reasonable possibility that the defect can be cured by amendment." [Citation.] ([Frommhagen v. Board of Supervisors](#) (1987) 197 Cal.App.3d 1292, 1304, 243 Cal.Rptr. 390; [MacLeod v. Tribune Publishing Co.](#) (1959) 52 Cal.2d

536, 542, 343 P.2d 36; [Smith v. County of Kern](#) (1993) 20 Cal.App.4th 1826, 1830, 25 Cal.Rptr.2d 716.) We find nothing on the face of the complaint that precludes the possibility that appellants may be able to amend the complaint to state an actual controversy. Therefore, we conclude that the trial court erred in denying leave to amend.


2. The Third Cause of Action

[6] The third cause of action addresses an administrative practice based on an interpretation of Proposition K, section 2, subdivision (b). As noted earlier, the subdivision requires the permit applicant to declare an intent to engage in driving "for at least four (4) hours during any twenty-four (24) hour period on at least seventy-five (75%) percent of the business days during the calendar year." As the City construes this language, a permit holder must drive four hours on a particular calendar day to get credit for driving a shift on one business day; he or she does not receive additional credit by driving a shift of eight or more hours on the calendar day. Nevertheless, a shift of eight or more hours that spans two calendar days, with at least four hours driven before midnight and four hours after midnight, does qualify as a shift on two business days. For their part, appellants advance an alternative interpretation: "driving for eight or more consecutive hours, centered within any 48-hour period, constitutes two separate 4-hour shifts during two separate 24-hour periods for purposes of satisfying the purported driving requirement."

*9 The trial court sustained the City's demurrer to the cause of action on the ground that "the 'calendar day' rule challenged therein is a reasonable and valid regulation implementing and/or allowing enforcement of Proposition K." The rule is alleged, however, to be no more than an administrative interpretation on which the City customarily bases its enforcement practices. The interpretation may be sustained only if it is consistent with the language of Proposition K.

We see no merit in appellant's alternative interpretation. By allowing permit holders to manipulate the calculation of a 24-hour period to produce the maximum number of business days driven during a calendar year, the rule would tend to introduce an element of uncertainty and complexity that is unlikely to be consistent with the legislative intent of Proposition K. More fundamentally, the alternative interpretation would undermine the "full-time driver" requirement of section 2, subdivision (b), section 3, subdivision (d), and section 4,

subdivision (a). We have concluded that section 4, subdivision (a), establishes a distinct standard from that applying to the declaration and assessment of the applicant's intent in section 2, subdivision (b) and section 3, subdivision (d), but it is not necessarily a less stringent one. Police Code section 1090 properly implements Proposition K by treating a failure to comply with the standard of sections 2 and 3 as good cause for revocation of a permit under section 4. Appellant's alternative interpretation would effectively cut in half the definition of full-time driver in sections 2 and 3 by allowing every eight-hour shift to count as two shifts, thereby undermining the legislative intent to limit the issuance of permits to those drivers who "regularly and daily" operate a taxicab.

In our view, the City has adopted a reasonable interpretation of the somewhat awkwardly worded phrase in Proposition K. Under a familiar canon of statutory construction, "[w]ords used in a statute or constitutional provision should be given the meaning they bear in ordinary use." ( *Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735, 248 Cal.Rptr. 115, 755 P.2d 299.) Though the meaning of the term "business day" may vary with business practices, it clearly refers to a calendar day in ordinary usage. The reference to "any 24-hour period on at least 75 percent of the *business days* during the calendar year" [emphasis added] refers to 24-hour periods "on" or within business days. Since business days are always calendar days, the statutory language may most reasonably be construed as referring to 24-hour periods within calendar days. We therefore hold that, in sustaining the demurrer to the third cause of action, the trial court properly ruled that the "calendar day" rule was "a reasonable and valid regulation implementating [*sic*] and/or allowing enforcement of Proposition K." Though appellants were entitled to a declaration to that effect, we affirm the order on the ground that this opinion will serve as the required declaration.

3. The Fourth Cause of Action

*10 [7] In the fourth cause of action, appellants challenge three administrative rules reflected in provisions of the San Francisco Police Code and San Francisco Taxicab/Ramped Taxi Rules and Regulations (hereafter Commission regulations) issued there under. First, they object to "the disallowance of shifts actually driven in determining compliance with the purported 'driving requirement,' solely due to errors or incompleteness in a permittee-driver's waybill, notwithstanding that the permittee actually drove such shifts." Section 1138 of the Police Code requires taxicab drivers to "keep an accurate and legible waybill" that sets


forth 14 specific items of information. Section 6, subdivision (C)(8), of the Commission regulations similarly provides: "Every Taxicab Driver shall use the waybill format as prescribed by the Taxicab Commission or the Commission's designee. The waybills shall be completed in indelible ink, and shall include the driver's signature at the commencement of the shift as well as the 'A' card number and total number of hours worked."

[8] Secondly, appellants object to the rule that a permit holder must drive a designated spare taxi when his or her taxi is out of service to receive credit toward the full-time driving requirement. Section 4, subdivision (A)(10), of the Commission regulations provides that, when complying with the full-time driving requirement, all permit holders must drive their own medallion number taxi unless it is out of service. Section 5 pertains to the use of a spare taxi when the assigned taxi is out of service; subdivision (D)(1) provides that "[a] taxicab vehicle operating as a spare may operate with a taxicab medallion borrowed from an out-of-service vehicle," and subdivision (D)(2) provides that "[a]ll taxicab vehicles operating as a spare must be registered and insured under the color scheme. [¶] a. Spare vehicles shall only be used to replace temporarily disabled regular [*sic*] assigned vehicles."

[9] Thirdly, appellants attack the requirement that, where permit holders drive an eight-hour shift composed of 2 four-hour components driven before and after midnight in separate calendar days, they must return to the garage after the first four-hour component to return one waybill and take out another for the next four-hour component. The requirement arises from the general requirement that all shifts must begin and end at the taxicab company to count toward fulfillment of the full-time driving requirement. Section 4, subdivision (A) (9) of the Commission regulations provides in pertinent part: "Medallion Holders shall ensure that the taxicab operating under the medallion issued to them begins and ends all shifts at their color scheme's place of business.... Medallion Holders shall ensure that all waybills, reports and found property are turned in at the taxi company premises at the conclusion of each shift." Section 6, subdivision (C)(4), similarly provides: "Every Taxicab Driver is to start and end the shift at the color scheme's principal place of business...."

*11 The regulations at issue were promulgated by the Taxi Commission under the authority of San Francisco Police Code section 1077, which confers on the agency authority to "adopt such rules and regulations to effect the purposes of

this Article as are not in conflict therewith.” The Police Code article referenced in section 1077 includes the provisions creating a full-time driver requirement for permit holders discussed earlier, i.e., section 1076, subdivision (o), and section 1090, subdivision (a).

“The scope of our review of an administrative agency's regulations is limited: we consider whether the challenged provisions are consistent and not in conflict with the enabling statute and reasonably necessary to effectuate its purpose. [Citation.] As a general proposition, administrative regulations are said to be ‘shielded by a presumption of regularity’ [citation] and presumed to be ‘reasonable and lawful.’ [Citation.] The party challenging such regulations has the burden of proving otherwise.” (*Fox v. San Francisco Residential Rent etc. Bd.* (1985) 169 Cal.App.3d 651, 655, 215 Cal.Rptr. 565.) “An agency's interpretation of its own regulations is given great weight, and will be overturned (in the absence of any evidentiary dispute) only if arbitrary and capricious.” ( *Memorial Hospital–Ceres v. Belshé* (1998) 67 Cal.App.4th 233, 238, 78 Cal.Rptr.2d 824.)

Appellants contend that these rules are not authorized by Proposition K and are unreasonable, arbitrary and capricious. As discussed earlier, we consider that Police Code sections 1090, subdivision (a), and 1076, subdivision (o), are consistent with section 4, subdivision (a), of Proposition

K. The Taxi Commission is explicitly authorized by section 1077 of the Police Code to issue regulations to clarify and implement other provisions of the Police Code. Moreover, each of the rules at issue resolves practical dilemmas in enforcement of the Police Code in an entirely reasonable manner. We find nothing on the face of the complaint that might reasonably support a declaration that the rules are unreasonable or arbitrary, and we see no reasonable possibility that the complaint could be amended to state a basis for such a declaration. Accordingly, we affirm the order sustaining the demurrer to the fourth cause of action with the proviso that this opinion will serve as the requested declaration.

We reverse the judgment dismissing the complaint on the ground that the trial court erred in sustaining the demurrer to the first, second and fifth causes of action. In all other respects the judgment is affirmed and the matter is remanded for further proceedings consistent with this opinion.

Each party shall bear their own costs on appeal.

We concur: [MARCHIANO](#), P.J., [MARGULIES](#), J.

All Citations

Not Reported in Cal.Rptr.2d, 2002 WL 1485354

EXHIBIT B
TO
SFMTA TAXI DIVISION'S ANSWERING BRIEF

2008 WL 2632101

Only the Westlaw citation is currently available.

United States District Court,
N.D. California.

William SLONE and Michael Merrithew, Plaintiff,

v.

TAXI COMMISSION, City and County
of San Francisco, et al., Defendants.

No. C 07-03335 JSW.

|
June 30, 2008.

Attorneys and Law Firms

Joseph M. Breall, Breall & Breall, San Francisco, Elliott Andrew Myles, Myles Law Firm, Inc., Oakland, CA, for Plaintiffs.

Vince Chhabria, Francesca Gessner, Wayne Kessler Snodgrass, Office of the City Attorney, San Francisco, CA, for Defendants.

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND DENYING PLAINTIFFS' CROSS MOTION FOR SUMMARY JUDGMENT

JEFFREY S. WHITE, District Judge.

*1 Now before the Court is the motion for summary judgment filed by Defendants City and County of San Francisco and the Taxi Commission and the cross-motion for summary judgment filed by Plaintiffs William Slone and Michael Merrithew. Having carefully considered the parties' papers and the relevant legal authority, the Court hereby GRANTS Defendants' motion for summary judgment and DENIES Plaintiffs' motion for summary judgment.

BACKGROUND

In 1978, the voters of San Francisco approved Proposition K, an initiative ordinance ("Ordinance" or "Proposition") that provided that taxi permits ("medallions") are public property owned by the City and County of San Francisco and licensed to individuals. The Ordinance provides that no permit will

be issued unless the applicant declare his or her intention personally to engage as the taxi driver at least four hours during any 24 hour period or at least 75 percent of the business days during the calendar year. S.F. Admin. Code Appx. 6 § 2(b).¹

¹ The Ordinance is attached to Defendants' Request for Judicial Notice ("Request") in support of their motion for summary judgment. The Court GRANTS the Defendants' Request pursuant to Federal Rule of Evidence 201(b).

The Ordinance further provides that "the applicant will be a fulltime driver, within the meaning of Section 2(b) of this Ordinance, of the taxicab or other motor vehicle for hire." *Id.* at § 3(d). Further, the Ordinance states that all permittees "shall regularly and daily operate their taxicab or other motor vehicle for hire business during each day of the year to the extent reasonably necessary to meet the public demand for such taxicab or motor vehicle for hire service." *Id.* at § 4(a).

From the passage of Proposition K in 1978 until 1999, the Police Commission's Taxi Detail was responsible for monitoring compliance with the driving requirement. (*See* Declaration of Paul Gillespie ("Gillespie Decl.") at ¶ 5.) In November 1998, the San Francisco voters passed a ballot measure transferring authority for taxi regulation from the Police Commission to the Taxi Commission. *See id.* The Proposition was later codified by the Board of Supervisors in several provisions of the San Francisco Police Code. At the time of its passage, the only authority for modification of the Proposition's driving requirement was the 90-day hardship waiver provided in the text of the Proposition and codified in the Police Code. S.F. Admin. Code Appx. 6 § 4(a); S.F. Police Code § 1096(c); Gillespie Decl. at ¶ 6. A permit holder who abandons his business for 10 consecutive days may have his permit revoked, but can get permission to "suspend operation pursuant to such permit" for up to 90 days each calendar year "in case of sickness, death, or similar hardship." *Id.* After the passage of the Americans With Disabilities Act, 42 U.S.C. § 12132 ("ADA"), further short-term exemptions were enacted including the modification of the driving requirement for up to 120 days in one year and suspension of the requirement for up to one year in five for individuals with catastrophic recoverable illnesses. (Defendants' Request, Ex. N, Resolution No.2008-28.)

*2 Title II of the ADA requires the City to provide “reasonable modifications” to make its medallion program accessible to disabled individuals, unless such modifications would “fundamentally alter” the nature of the program.

See [28 C.F.R. § 35.130\(b\)\(7\)](#); see also [Tennessee v. Lane](#), 541 U.S. 509, 531–32, 124 S.Ct. 1978, 158 L.Ed.2d 820 (2004) (holding that the duty to provide reasonable accommodation does not extend to waiving or compromising an essential eligibility requirement of the program).

Plaintiff William Slone is disabled due to wasting lung disease that requires him to be constantly connected to oxygen and therefore unable to operate his taxicab vehicle personally. (Complaint at ¶ 7.) According to his submissions before the Taxi Commission, Mr. Slone's condition is permanent. (Declaration of Heidi Machen (“Machen Decl.”), Ex. A at 2, Ex. B at 1.) Plaintiff Michael Merrithew is physically disabled and unable to operate his taxicab personally. (Complaint at ¶ 8.) According to his submissions, Mr. Merrithew represented that his disability was expected to last one year. (Machen Decl., Ex. E at 2.)

Plaintiffs seek to represent a class of over one hundred and fifty individuals who have made applications for ADA accommodation before Defendants to modify or waive the enforcement of San Francisco Police Code [Section 1081\(f\)](#) “Full–Time Driving Requirement” and Section 1090(a)(i) “revocation of Permit” based solely upon each Plaintiff's disability and only during the period of each Plaintiff's disability, subject to annual review, while concurrently requiring each Plaintiff to comply with all other sections of the Police Code, including the “continuous operation” requirement of arranging for the daily operation of a taxicab under Police Code Section 1096(a). (Complaint at ¶¶ 9, 11.) Plaintiffs contend the lawsuit is necessary to “obtain a legal determination requiring Defendants to comply with the ADA by providing an accommodation to class members, relieving them of the ‘full-time driver’ provisions of the Police Code requiring them to continue to comply with the continuous operations requirement of the Police Code during such time as they are disabled and until their disability have medically resolved.” (*Id.* at ¶ 16.) Plaintiffs contends that the City should “modify or waive” the driving requirement for disabled drivers, “subject to annual review,” “until their disabilities have medically resolved.” (*Id.* at ¶¶ 11, 16, 87, 88.)

On February 15, 2008, Defendants moved for summary judgment on the ground that the ADA does not require the City to exempt disabled individuals from its statutory, voter-mandated requirement that taxi medallion holders personally drive their taxicabs in order to hold a medallion. On February 29, 2008, Plaintiffs opposed the City's motion and cross-moved for summary judgment on the grounds that a permit holder who becomes disabled after receipt of the permit, can still satisfy the fundamental nature of the Ordinance by arranging for the regular and daily operation of his or her taxicab, even though he or she cannot drive the taxi personally.

*3 The Court will address additional specific facts as required in the analysis.

ANALYSIS

A. Legal Standard on Motion for Summary Judgment.

A court may grant summary judgment as to all or a part of a party's claims. [Fed.R.Civ.P. 56\(a\)](#). Summary judgment is proper when the “pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” [Fed.R.Civ.P. 56\(c\)](#). An issue is “genuine” only if there is sufficient evidence for a reasonable fact finder to find for the non-moving party. [Anderson v. Liberty Lobby, Inc.](#), 477 U.S. 242, 248–49, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). A fact is “material” if the fact may affect the outcome of the case. [Id.](#) at 248. “In considering a motion for summary judgment, the court may not weigh the evidence or make credibility determinations, and is required to draw all inferences in a light most favorable to the non-moving party.” [Freeman v. Arpaio](#), 125 F.3d 732, 735 (9th Cir.1997).

A principal purpose of the summary judgment procedure is to identify and dispose of factually unsupported claims. [Celotex Corp. v. Cattrett](#), 477 U.S. 317, 323–24, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). The party moving for summary judgment bears the initial burden of identifying those portions of the pleadings, discovery, and affidavits which demonstrate the absence of a genuine issue of material fact. [Id.](#) at 323. Where the moving party will have the burden of proof on an issue at trial, it must affirmatively

demonstrate that no reasonable trier of fact could find other than for the moving party. *Id.* Once the moving party meets this initial burden, the non-moving party must go beyond the pleadings and by its own evidence “set forth specific facts showing that there is a genuine issue for trial.” *Fed.R.Civ.P. 56(e)*. The non-moving party must “identify with reasonable particularity the evidence that precludes summary judgment.”

Keenan v. Allan, 91 F.3d 1275, 1279 (9th Cir.1996)

(quoting *Richards v. Combined Ins. Co.*, 55 F.3d 247, 251 (7th Cir.1995)) (stating that it is not a district court's task to “scour the record in search of a genuine issue of triable fact”). If the non-moving party fails to make this showing, the moving party is entitled to judgment as a matter of law.

Celotex, 477 U.S. at 323.

B. Principles of Interpretation.

Proposition K was a voter-approved ordinance initiative passed in 1978. Federal courts analyzing local ballot initiatives construe the provisions using rules of construction

employed by state courts. *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 285 F.3d 1236, 1243 (9th Cir.2002). The Supreme Court of California has held that “ordinary principles of interpretation” govern

the interpretation of voter initiatives. *San Francisco Taxpayers Association v. Board of Supervisors of CCSF*, 2 Cal.4th 571, 577, 7 Cal.Rptr.2d 245, 828 P.2d 147 (1992).

First, the Court must address the “statutory language, giving the words their ordinary meaning. If the statutory language is not ambiguous, then the plain meaning of the language governs. If, however, the statutory language lacks clarity, we may resort to extrinsic sources, including the analyses and argument contained in the official ballot pamphlet, and the ostensible objects to be achieved.” *People v. Lopez*, 34 Cal.4th 1002, 1006, 22 Cal.Rptr.3d 869, 103 P.3d 270 (2005) (internal citations omitted). In addition, the Court must consider that the “fundamental purpose of statutory construction is to ascertain the intent of the lawmakers so as

to effectuate the purpose of the law.” *People v. Pieters*, 52 Cal.3d 894, 898, 276 Cal.Rptr. 918, 802 P.2d 420 (1991).

*4 Lastly, under the governing law of the City and County of San Francisco, “[n]o initiative or declaration of policy approved by the voters shall be subject to veto, or to amendment or repeal except by the voters, unless such initiative or declaration of policy shall otherwise provide.” S.F. Charter § 14.101.

C. Specific Language of the Ordinance and Indicia of Voters' Intent.

The provisions of Proposition K that are relevant to the alleged full-time driving requirement are found in sections 2, 3 and 4 of the ordinance. *Section 2* regulates applications for new permits and provides in subsection (b):

No permit shall be issued unless the person applying for the permit shall declare under penalty of perjury his or her intention actively and personally to engage as permittee driver under any permit issued to him or her for at least four hours during any 24 hour period on at least 75 percent of the business days during the calendar year. No more than one permit shall be issued to any one person.

S.F. Admin. Code Appx. 6 § 2(b).

Section 3 sets forth several criteria for issuance of new permits, including an incorporation by reference to *section 2(b)*, that “the applicant will be a full-time driver, within the meaning of *Section 2(b)* of this Ordinance, of the taxicab or other motor vehicle for hire.” *Id.* at § 3(d).

Section 4 of the Proposition imposes a requirement that permit holders actively operate a taxicab under their permit. Subdivision (a) provides in pertinent part:

All permittees ... shall regularly and daily operate their taxicab or other motor vehicle for hire business during each day of the year to the extent reasonably necessary to meet the public demand for such taxicab or motor vehicle for hire service. Upon abandonment of such business for a period of 10 consecutive days by a permittee or operator,

the Police Commission shall, after five days' written notice to the permittee or operator, revoke the permit of permits of such permittee or operator; provided, however, that the Chief of Police ... may on written application grant to the holder of any permit hereunder permission to suspend operation pursuant to such permit for a period not to exceed 90 calendar days in any one 12 month period in case of sickness, death, or other similar hardship.

Id. at § 4(a). The same subsection provides that “All such permits and all rights granted under them may be rescinded and ordered revoked by the Police Commission for good cause.” *Id.*

The plain meaning of sections 2 and 3 indicate that the Ordinance requires applicants to state under penalty of perjury that they intend to be full-time drivers and to issue a permit, that the applicant actually will be a full-time driver of the motor vehicle. Plaintiffs contend that the specific language of section 2 and 3 of the Ordinance refer merely to applicants for permits, not to the permit holders themselves. In other words, Plaintiffs contend, the full-time driver requirement only applies upon the application process, but not to the permittees. The Court finds this argument unpersuasive. The pledge to be a full-time driver after the applicant has received the permit would otherwise be an empty promise without abiding by the terms of the pledge. The pledge requires that the applicant will comply with his or her declared intent. Although such a promise relates to probable future conduct, the finding is made in connection with the issuance of the permit and therefore bears on the qualification of the expected permitholder.

*5 Next, Plaintiffs argue that only Section 4 applies to permit holders and the language of the Ordinance requires only that the permittee regularly and daily operate their taxicab, not that they regularly and daily drive their taxicab. Section 4, which clearly refers to permittees, requires that the permit holder “regularly and daily operate their taxicab or other motor vehicle for hire business during each day of the year to the extent reasonably necessary to meet the public

demand for such taxicab or motor vehicle for hire service.”

S.F. Admin. Code Appx. 6 § 4(a). Although there is no question that the plain language of the Ordinance requires the holders of the permits to operate their taxicab full-time. However, Plaintiffs essentially argue that “operate” does not mean “drive.” Plaintiffs contend that “operating” a taxicab includes other tasks such as paying annual fees, providing insurance, and performing routine record keeping.

Again, the Court finds this argument unconvincing. In the context of legislation which requires that the permit applicant pledge his or her commitment to be the full-time driver of the taxicab, it is clear from the plain meaning of the text that the requirement to operate the taxicab full-time was meant to reflect the full-time driving requirement. The peripheral tasks associated with maintaining a taxicab business do not amount to the “operation” of a taxicab.

However, even if the Court were to find there was any ambiguity in the text of the Ordinance, the probable intent of the voters in passing the initiative can be discerned from the “official statements made to the voters in connection with propositions of law they are requested to approve or reject.” *Creighton v. City of Santa Monica*, 160 Cal.App.3d 1011, 1018, 207 Cal.Rptr. 78 (1984); see also *Amador Valley Joint Union High School Dist. v. State Board of Equalization*, 22 Cal.3d 208, 246, 149 Cal.Rptr. 239, 583 P.2d 1281 (1978) (holding that ballot arguments “may be helpful in determining the probable meaning of uncertain language”).

In the official ballot argument in favor of Proposition K, the proponents stated that the previously existing taxi permitting system hurt the “individual taxicab driver who wants to obtain a permit and be allowed to engage in the taxicab business himself.” (Defendants' Request, Ex. C at 37.) The ballot argument goes on to explain: “Under this initiative ... those who own permits with the sole purpose of reselling them for an enormous profit could not do so. Then unused, the permits would return to the Police Commission where new permits would be issued to people who actually want to drive a taxicab.” (*Id.*) It is clear that those in favor of passing the initiative intended that City-owned taxi medallions become accessible to working cab drivers, who are actually driving their own taxis, and not simply leasing out the permits for profit. It is clear from the ballot arguments that the intent of the original initiative, as understood by the voters who approved it, was to enable actual taxi cab drivers access to City-owned permits. Accordingly, both the plain language of

the initiative as well as the intent of the voters supports the requirement that the permittee be a full-time driver.

D. Driving Requirement is Essential Eligibility Requirement.

*6 Under Title II of the ADA, a public entity is required to make “reasonable modifications” in policies, practices, or procedures to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making such modifications would “fundamentally alter” the nature of the service, program, or activity. 28 C.F.R. § 35.130(b)(7). Title II “does not require States to compromise their essential eligibility criteria for public programs. It requires only ‘reasonable modifications’ that would not fundamentally alter the nature of the service provided, and only when the individual is otherwise eligible for the service.” *Tennessee v. Lane*, 541 U.S. at 531–32 (citing 42 U.S.C. § 12131(2)).

Plaintiffs contend that there is no full-time driving requirement in the Ordinance and therefore, waiving such a requirement does not constitute waiver of an essential eligibility requirement. On this basis, Plaintiffs contend that waiver of full-time driving would not fundamentally alter the City's taxi medallion program. However, the Court finds that the initiative, as well as its implementing legislation, does in fact contain the full-time driving requirement.

Each of the individual plaintiffs is “unable to operate his taxicab vehicle personally.” (Complaint at ¶¶ 7, 8.) The record reveals that Mr. Slone's disability is permanent. (Machen Decl., Ex. A at 2, Ex. B at 1.) The record is unclear about the potential duration of Mr. Merrithew's disability at this time. (*Id.*, Ex. E at 2.) However, Plaintiffs request that the City “reliev [e] them of the ‘full-time driver’ provisions of the Police Code ... until their disabilities have medically resolved,” “subject to annual review.” (See Complaint at ¶¶ 11, 16.) However, because they cannot drive, there

is no modification short of waiving the full-time driving requirement altogether that would allow Plaintiffs to satisfy the essential eligibility requirement.

The removal of one of the requirements, even annually, does not constitute a reasonable modification of the requirement. A program eligibility requirement is essential when the program's purposes could not be achieved without the it. *Alexander v. Choate*, 469 U.S. 287, 300–301, 105 S.Ct. 712, 83 L.Ed.2d 661 (1985). The text of the initiative requires that permit applicants make a pledge to be full-time drivers.

S.F. Admin.Code Appx. 6 § 2(b). The ballot arguments specifically state that the clear intent of the Proposition was to enable actual cab drivers an opportunity to obtain a permit and be allowed to engage in the taxicab business himself. (See Defendants' Request for Judicial Notice, Ex. C at 37.) Based on the text of the initiative itself and the ballot arguments, the Court finds that the full-time driving requirement is an essential eligibility requirement. Plaintiffs' requested waiver of the requirement would fundamentally alter the nature of the service, program, or activity. See 28 C.F.R. § 35.130(b)(7). Accordingly, the Court finds that the requested modification of the City's medallion program is not mandated by the ADA.

CONCLUSION

*7 For the foregoing reasons, the Court GRANTS Defendants' motion for summary judgment and DENIES Plaintiffs' motion for summary judgment. A separate judgment shall issue.

IT IS SO ORDERED.

All Citations

Not Reported in F.Supp.2d, 2008 WL 2632101



London Breed, Mayor

Gwyneth Borden, Chair
Amanda Eaken, Vice Chair
Steve Heminger, Director

Fiona Hinze, Director
Sharon Lai, Director
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

August 24, 2021

VIA EMAIL

boardofappeals@sfgov.org

Board of Appeals
City and County of San Francisco
49 South Van Ness, Suite 1475
San Francisco, CA 94103

Re: *George Horbal v. SF Municipal Transportation Agency (Medallion # 1303)*
Appeal of Matter

Dear Sir/Madam:

This will serve to advise the Board of Appeals that I authorize the City Attorney's Office of San Francisco to represent the San Francisco Municipal Transportation Agency before the Board of Appeal in the above referenced matter.

Very truly yours,

Kate Toran

Kate Toran
Director
Taxis, Access & Mobility Services Division
San Francisco Municipal Transportation Agency

DOCUMENTS SUBMITTED BY THE SFMTA FOR THE HEARING ON NOVEMBER 17, 2021

SAN FRANCISCO BOARD OF APPEALS

GEORGE HORBAL,

Appellant,

vs.

SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY,

Respondent.

Appeal No. 21-064

Medallion Permit No. 1303

**SFMTA TAXI DIVISION'S SUBMITTAL OF
DOCUMENTS**

Hearing Date: Wednesday, November 17, 2021

Time: 5:00 p.m.

Place: City Hall, Room 416
[Zoom Remote Platform]

[Exemption from File Fees per Cal. Gov. Code §§
6103(a)-(b)]

In response to the motion by Commissioner Lopez to continue to this matter to allow SFMTA time to compile enforcement data regarding the number of medallions that have been revoked or not renewed because the medallion holder did not have a valid California Driver's License or an A-card relative to other general enforcement activity, SFMTA hereby submits the attached decision, Robert Friedman v. Taxi Commission.

This current enforcement effort began in 2019 when enforcement staff was made aware of Medallions that were not in compliance with the Transportation Code. In total, non-renewal notices were sent to 257 Medallion Holders involving 316 Medallions.¹ The 316 Medallions included 57 Corporate Pre-K Medallions, 86 Pre-K Medallions and 173 Post-K Medallions. Of the 316 Medallions impacted, 146 cured the outstanding deficiencies and were renewed. The holders of 121 Medallions did not respond, and the decision not to renew them became final. A total of 49 appeals were filed. 16 appeals were heard by the Neutral Hearing officer and of those, 7 were appealed to the Board of Appeal, including this pending appeal.

¹ Holders of Pre-K and Corporate Pre-K Medallions may hold multiple Medallions.

1 At the July 23, 2008 Meeting, the Board of Appeals voted to uphold the Hearing
2 Officer's decision to revoke Medallion 865. The basis for revocation of #865 was based
3 upon four bases, each of which would be good cause for revocation:

- 4 1. The Medallion Holder had three DUI convictions.
- 5 2. As a result of his convictions, the Medallion Holder's driver's license was
6 suspended for three years.
- 7 3. The Medallion Holder made seven separate false statements to regulators.
- 8 4. The Medallion Holder was a threat to public safety.

9 In her decision, the Hearing Officer decided that the Medallion was revoked
10 because of his prior DUI convictions, because his license was suspended for three years,
11 because he made repeated false statements by filing documents stating that he was in
12 compliance with the terms of his permit, and because as a driver he was a threat to public
13 safety. The issue of Full-Time Driving was not decided because the revocation was
14 based upon other violations.

15 Although the revocation was not based solely on the Medallion Holder's lack of a
16 driver's license, the Hearing Officer did note that the lack of license legally prevented
17 driving. She indicated that this alone was grounds for revocation.

18
19 Respectfully Submitted,

20 

21 Date: 11.12.2021

22

Philip Cranna
23 Enforcement and Legal Affairs Manager
24 SFMTA Taxi Services
25
26
27
28

Agenda Item: 7

Consideration of Executive Director's Final Decision to Adopt the Hearing Officer's Recommendation [ACTION]:

- Robert Michael Friedman medallion number 865, National Cab, violation of the San Francisco Municipal Police Code Section § 1081(f); criminal convictions which constitute grounds for revocation under MPC §§ 1090(v), (viii); violations which constitute grounds for revocation under MPC § 1090(iv); and violation of MPC § 1110.

CITY AND COUNTY OF
SAN FRANCISCO



TAXI COMMISSION
MAYOR GAVIN C. NEWSOM

HEIDI MACHEN
Executive Director

February 1, 2008

Mr. Robert Michael Friedman, Permit # 865
National Cab Company
2270 McKinnon Avenue
San Francisco, CA 94124

NOTICE OF DECISION

SUBJECT: Probation and Possible Amended Complaint

PERMIT HOLDER: Robert Michael Friedman, Medallion Permit # 865, Driver Permit # 041990, National Cab Company

Pursuant to the recommendation of the Taxi Commission's Hearing Officer, the following findings are submitted to the Commission:

RECOMMENDATIONS:

Revocation of Medallion Permit # 865 and Mr. Friedman's Driver Permit # 041990 for the following reasons (each of which provide sufficient and independent grounds for revocation):

- (1) Mr. Friedman violated Cal. Veh. Code § 23152 (driving under the influence) on three separate occasions and consequently was not in compliance with the law. Revocation is authorized under MPC § 1090(a)(viii) (permittee violated Vehicle Code). Even if the Hearing Officer were not to consider the 1999 Plumas County conviction because it was not raised by the Commission, the two other convictions are sufficient to warrant revocation under MPC § 1090(a)(viii)
- (2) Mr. Friedman's driver's license was suspended for three years (12/6/01 through 12/6/04) and consequently, he was legally unable to drive during this time. Revocation is authorized under MPC § 1090(a)(viii).
- (3) Mr. Friedman made seven separate false statements to the Commission about compliance with applicable laws when he submitted 1095s for the Calendar Years 200 through 2006. The record establishes that Mr. Friedman was not in compliance with applicable laws because he had three DUIs and a suspended license. These false statements warrant revocation under MPC § 1090(a)(iv) (false statements to SFPD or Taxi Commission). Even only considering the 1095s submitted by Mr. Friedman when his driver's license was revoked (2002, 2003, and 2004), there would still be sufficient grounds for revocation under MPC § 1090(a)(iv).
- (4) As a permit holder and driver, Mr. Friedman poses a threat to public safety. Furthermore, he did not disclose relevant information which would assist the Commission in determining whether he was fit and/or eligible to drive a taxicab. Consequently there is "good cause" under MPC § 1090 for revocation.

TO ANY PARTY AFFECTED BY THIS DECISION

If this decision is subject to review under Code of Civil Procedure section 1094.5, then the time within which judicial review must be sought is governed by California Code of Civil Procedure, section 1094.6.

Sincerely,

A handwritten signature in black ink that reads "Heidi Machen".

Heidi Machen
Executive Director

cc: S.F.P.D. - Taxi Detail

1 TAXI COMMISSION
2 CITY AND COUNTY OF SAN FRANCISCO
3 ADMINISTRATIVE HEARING DECISION

4 Hearing Officer: Julie Rosenberg, Esq.
5 Hearing Date: January 18, 2008
6 #1 Dr. Carlton B. Goodlett Place, SF, CA 94121, Room 408
7 Case: Robert M. Friedman
8 Type of Permit: Medallion #865 issued 12/12/96 and A-Card
9 Geoffery Rotwein, attorney for Mr. Friedman
10 Jordanna Thigpen, attorney for Taxi Commission

11 I. Procedural Summary

12 The Taxi Commission ("the Commission") filed a complaint
13 (hereinafter "The Complaint") on November 16, 2007 against
14 permit holder #865, Robert M. Friedman. The hearing was
15 originally scheduled for December 21, 2007, but upon a request
16 by Mr. Friedman's attorney, Geoffrey Rotwein, it was continued
17 by the Executive Director of the Taxi Commission until January
18 18, 2008.

19 On January 10, 2008, Mr. Rotwein requested a second
20 continuance stating that Mr. Friedman was in a court-ordered
21 substance-abuse rehabilitation program, Discovery House, and was
22 unable to attend the hearing. In support of his request, Mr.
23 Rotwein submitted a letter dated January 8, 2008, from Sheree
24 Howe of the Discovery House which stated that Mr. Friedman was
25 there by court order and could not leave. Ms. Howe did not state
26 that leaving the facility would be detrimental to Mr. Friedman's
27 rehabilitation. The Hearing Officer asked Mr. Rotwein for the
28 court order along with any relevant documents which established
that Mr. Friedman was legally unable to leave the facility. Mr.
Rotwein indicated that there were no documents addressing this

1 inquiry. On January 14, 2008, the Hearing Officer denied the
2 request for a continuance and indicated that Mr. Friedman had
3 the option of having a telephonic hearing. This option was not
4 exercised by Mr. Friedman.

5 The hearing took place on January 18, 2008. Mr. Friedman
6 was not present, however, he was represented by Mr. Rotwein.
7 The hearing went forward *in absentia* without objection by Mr.
8 Rotwein.

9 **II. The Complaint**

10 The Commission filed a complaint seeking revocation of Mr.
11 Friedman's medallion and A-Card on the following four grounds:
12 (1) having been convicted of a crime of moral turpitude, namely
13 domestic violence (Municipal Police Code ("MPC") section
14 1090(a)(v)); (2) violating the Traffic Code of the City and
15 County of San Francisco or the Vehicle Code or the related laws
16 of the State of California, namely driving under the influence
17 ("DUI") (MPC section 1090(a)(viii)); (3) knowingly making false
18 statements to the Taxi Commission (MPC section 1090(a)(iv)); and
19 (4) failure to meet the driving requirement under (MPC section
20 1081(f)). The Taxi Commission later stated that it would not
21 proceed on the failure to meet the driving requirement until
22 there was a judgment on Sloane v. Taxi Commission, N.D. Cal. No.
23 C07-3335JSW.

24 On January 18, 2008, Mr. Rotwein submitted a brief in
25 response to the Complaint.

26 **III. Evidence not admitted into the Record.**

27 After objection by Mr. Rotwein, the Hearing Officer struck
28 the following Exhibits from the record because they were not
relevant to the charges or they went to the allegation of the

1 failure to fulfill the driving requirement: Exh. A: 4, 11, 12,
2 14, 15 and 16; Exh. B: 1, 2.

3
4 **IV. Applicable Law**

5 MPC section 1090(a) states in part:

6 (a) Revocation for Cause. Any permit issued under this
7 Article may be suspended or revoked, by the Police
8 Commission for good cause after a noticed hearing.
9 "Good cause" hereunder shall include, but shall not be
10 limited to, the following:

11 (iv) The permittee or an agent of the permittee knowingly
12 made false statements to or concealed information from the
13 Police Commission, the Chief of Police or the Police
14 Department.

15 (v) The permittee has been convicted of any crime
16 involving moral turpitude.

17 (viii) The permittee violated the Traffic Code of the City
18 and County of San Francisco or the Vehicle Code or related
19 laws of the State of California.

20 Upon a showing of good cause, the Police Commission shall
21 have discretion to suspend or revoke a permit as set forth
22 above, except that a suspension and/or revocation shall be
23 mandatory in the circumstances described in Subparts (i)
24 through (vi) above. (emphasis added).

25 Sections 4.A and 6.A of the San Francisco Taxi Rules and
26 Regulations provides in part that every Licensed Medallion
27 Holder and Licensed Permit holder "shall comply with the
28 provisions of the Charter, Police Code, Planning Code and
29 Traffic Code of the City and County of San Francisco, The
30 California Vehicle Code, California Worker's Compensation Laws
31 and these Taxicab Regulations."

32 **V. 1995 Conviction for Misdemeanor Domestic Violence**

33 The Commission seeks revocation of Mr. Friedman's permits
34 because of a misdemeanor conviction for domestic violence on

1 September 27, 1995. (See Certified Copy of Conviction, Exhibit 3
2 of Complaint). The Commission avers that domestic violence is a
3 crime of moral turpitude. (See Allegation at Paragraph 5, Page 2
4 of the Complaint). The Commission did not provide any legal
5 authority which establishes that domestic violence is a crime of
6 moral turpitude. Furthermore Mr. Friedman disclosed this
7 conviction to the Police Commission on his application for a
8 permit, dated 11/25/96. Mr. Friedman's permit #865 was issued on
9 December 12, 1996. At the hearing, the Commission stipulated
10 that this conviction would not be used as a ground for
11 revocation.

12 **Finding:** The preponderance of the evidence shows that the
13 Police Commission had notice of Mr. Friedman's 1995 conviction
14 and granted him medallion #865 on December 12, 1996. Therefore
15 the Taxi Commission cannot use this conviction as a ground for
16 revocation of Mr. Friedman's permits.

17 **VI. Violating State and Local Laws by Driving While Under the**
18 **Influence**

19 The Taxi Commission alleges that Mr. Friedman violated
20 applicable laws because he was convicted two times for driving
21 while under the influence. (Cal. Veh.Code section 23152(a) and
22 (b)). These convictions occurred in 2001 while Mr. Friedman was
23 a permit holder:

24 (1) Conviction on July 27, 2001, Plumas County, Case #1-
25 27851 (Crime committed on June 30, 2001) (Cal. Veh.Code
26 section 23152(a)) (See certified copy of Exh. 4 of the
27 Complaint), and
28

1 (2) Conviction on August 9, 2001¹, Contra Costa County, Case
2 #127508 where it was found that Mr. Friedman had a blood alcohol
3 content of .20 percent and more by weight. (Crime committed on
4 April 14, 2001) (Ca Veh. Code section 21352(b)) (See certified
5 copy of Exh. 6 of the Complaint). A .20 percent blood alcohol
6 content is more than twice the legal limit and allows the judge
7 to consider enhanced penalties (See Cal. Veh. Code section
8 23578.

9 As a result of this conviction, Mr. Friedman's driver's
10 license was suspended for three years from December 6, 2001
11 through December 6, 2004.

12 At the hearing, Mr. Rotwein objected to the admission of
13 these convictions claiming that the Commission had not met its
14 burden of establishing that the Robert M. Friedman named in the
15 convictions was, in fact, his client. This objection was
16 overruled based on Mr. Friedman's unique signatures on the
17 documents from both Plumas and Contra Costa Counties as well as
18 his social security number and address on the Contra Costa
19 documentation.

20 Third Conviction for Driving under the Influence in 1999

21 In both of the certified convictions, Mr. Friedman admitted
22 to a prior conviction for a violation of Ca Veh. Code section
23 23152(a) in Plumas County on 5/25/99, Case #992526-8 (Crime
24 committed on 4/25/99). Thus, Mr. Friedman has three convictions
25 for driving while under the influence.

26
27
28 ¹ It is not clear from the record that this is the actual conviction date. The
complaint has a court stamp that shows it was filed on 8/9/01. Sentencing
occurred on 12/6/01.

1 On March 4, 2003, Mr. Friedman submitted an employment
2 application to National Cab Company wherein he admitted to
3 having a DUI (Driving while under the influence) in 1999 and a
4 DUI in 2000. (See Exhibit A-13 of the Complaint).

5 **Findings:**

6 (1) The preponderance of the evidence establishes that Mr.
7 Friedman violated Cal. Veh.Code section 23152 on three separate
8 occasions. The Contra Costa conviction also shows that Mr.
9 Friedman had a blood alcohol level of .20% and more by weight at
10 the time of the violation.

11 (2) The preponderance of the evidence establishes that Mr.
12 Friedman's driver's license was suspended for three years from
13 December 6, 2001 through December 6, 2004.

14 **VII. False Statements**

15 **A. False Statements About Fulfilling the Full-time Driving**
16 **Requirement**

17 Given that the Commission is currently not proceeding
18 against Mr. Friedman for a failure to fulfill the full-time
19 driving requirement, the Hearing Officer will not consider the
20 allegation that Mr. Friedman made false statements about his
21 compliance with the full-time driving requirement.

22 **B. False Statements About Compliance with Applicable Laws**

23 The Commission asserts that Mr. Friedman made false
24 statements on the 1095 forms he submitted for the calendar years
25 2000, 2001, 2002, 2003, 2004, 2005, and 2006. (See paragraphs 9
26
27
28

1 and 18 of the Complaint).² More specifically, Mr. Friedman signed
2 the 1095s which state:

3 I (We) and all those operating under this medallion are
4 in compliance with appropriate State of California and
5 City and County of San Francisco laws pertaining to proper
6 driver licenses, all pertinent rules adopted by the Taxi
7 Commission, all applicable San Francisco Municipal Police
8 Code sections, Appendix F of the Charter of the City and
9 County of San Francisco (Proposition K) and all other
10 pertinent local, state and federal laws applicable to the
11 operation of a Taxicab.

12 As discussed under part VI. of this decision, Mr. Friedman
13 has three DUI convictions which occurred on 5/25/99, 7/27/01
14 and 8/9/01. As a result of the 8/9/01 conviction, his
15 driver's license was suspended for three years (from 12/6/01
16 through 12/6/04).

17 At the hearing, Mr. Rotwein objected to the 1095s being
18 used as a basis for false statements because he claimed this
19 language was overbroad and that a person signing this
20 document would not know what particular laws it refers to.
21 It is hard to believe that a driver would think he was in
22 compliance with applicable laws after he had three DUI
23 convictions and a suspended driver's license. The DUIs and
24 the suspended license are relevant because they speak to Mr.
25 Friedman's fitness and eligibility to drive a taxicab.

26 Mr. Rotwein has maintained that only the 1095s signed
27 during the time Mr. Friedman's license was revoked should be

28 ² In his brief, Mr. Rotwein objected to the admissibility of the altered
1095s. The Commission redacted personal information from copies of the 1095s
to protect Mr. Friedman's privacy in the event of a request for public
records. Mr. Rotwein withdrew his objection when the Commission showed Mr.
Rotwein the original 1095s at the hearing.

1 considered by the Hearing Officer under this charge (license
2 revoked 12/6/01 thus the relevant 1095s would be for 2002,
3 2003 and 2004). The Hearing Officer does not sustain this
4 objection. Even if the Hearing Officer only considered the
5 2002, 2003 and 2004 1095s, there would still be sufficient
6 evidence to establish three separate false statements by Mr.
7 Friedman.

8 **Finding:** The preponderance of the evidence establishes that
9 Mr. Friedman was not in compliance with applicable laws because
10 he had three DUI convictions and a driver's license that was
11 suspended for three years. Consequently, his submittal of the
12 1095 forms 2000 through 2006 wherein he stated he was in
13 compliance with all applicable laws constitutes seven separate
14 false statements.

15 **VIII. "Good Cause" for Revocation**

16 MPC section 1090 gives nine examples of what constitutes
17 "Good cause" for revocation of a taxi permit. See section 1090
18 (i)-(ix). (In this decision the Hearing Officer found good cause
19 under section 1090 (viii) (violated laws by having DUIs) and
20 section 1090 (iv) (making false statements on the form 1095s)).

21 The statute specifically indicates that "Good cause" is not
22 limited to those nine examples.

23 While a permit holder, Mr. Friedman had three DUI
24 convictions and a driver's license that was suspended for three
25 years. Mr. Friedman did not disclose these violations to the
26 Commission. Rather, he submitted 1095 forms wherein he stated he
27 was in compliance with applicable laws.

28 Mr. Friedman is currently in a substance abuse
rehabilitation center and his attorney admitted at the hearing

1 that Mr. Friedman "has an alcohol issue." Given the totality of
2 the circumstances the Hearing Officer finds that there is "good
3 cause" to revoke Mr. Friedman's medallion and A-card because:
4 (1) as a permit holder and driver, he poses a threat to public
5 safety, and (2) he did not provide relevant information to the
6 Commission which would enable it to make an appropriate
7 determination about his fitness and eligibility as a driver and
8 any risks he might pose to the public.

9 **IX. Hearing Officer Recommendations:**

10 **Revocation of Permit #865 and Mr. Friedman's A-Card for the**
11 **following reasons (each of which provide sufficient and**
12 **independent grounds for revocation):**

13 (1) Mr. Friedman violated Cal. Veh.Code section 23152 on three
14 separate occasions and consequently was not in compliance with
15 the law. Revocation is authorized under MPC section 1090^(a)(viii).
16 Even if the Hearing Officer were not to consider the 1999 Plumas
17 County conviction because it was not raised by the Commission,
18 the two other convictions are sufficient to warrant revocation
19 under section 1090^(a)(viii).

20 (2) Mr. Friedman's driver's license was suspended for three
21 years (12/6/01 through 12/6/04) and consequently, he was legally
22 unable to drive during this time. Revocation is authorized under
23 MPC section 1090^(a)(viii).

24 (3) Mr. Friedman made seven separate false statements to the
25 Commission about compliance with applicable laws when he
26 submitted 1095s for the calendar years 2000 through 2006. The
27 record establishes that Mr. Friedman was not in compliance
28 because with applicable laws because he had three DUIs and a
suspended license. These false statements warrant revocation

1 under MPC section 1090^(a)(iv). Even only considering the 1095s
2 submitted by Mr. Friedman when his driver's license was revoked
3 (2002, 2003 and 2004), there would still be sufficient grounds
4 for revocation under MPC section 1090^(a)(iv).

5 (4) As a permit holder and driver, Mr. Friedman poses a threat
6 to public safety. Furthermore, he did not disclose relevant
7 information which would assist the Commission in determining
8 whether he was fit and/or eligible to drive a taxicab.

9 Consequently there is "Good cause" under section 1090 for
10 revocation.

11
12 Julie Rosenberg

13 1/28/08

14 Julie Rosenberg, Esq.

14 Date

15 Hearing Officer

CITY AND COUNTY OF
SAN FRANCISCO



TAXI COMMISSION
MAYOR GAVIN C. NEWSOM

PAUL GILLESPIE, PRESIDENT
PATRICIA BRESLIN, VICE PRESIDENT
RICHARD BENJAMIN, COMMISSIONER
BRUCE OKA, COMMISSIONER
MALCOLM HEINECKE, COMMISSIONER
TOM ONETO, COMMISSIONER
MIN PAEK, COMMISSIONER

**TAXI COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**ORDER TO APPEAR
NOTICE OF ADMINISTRATIVE
ACTION ON PERMIT**

TO ROBERT FRIEDMAN

BUSINESS NATIONAL CAB COMPANY

LOCATION 2270 MCKINNON AVE., SAN FRANCISCO, CA 94124

You are hereby notified that the annexed complaint has been filed with the Taxi Commission of the City and County of San Francisco, and you are hereby cited to appear in person before the Hearing Officer of the Taxi Commission on

FRIDAY DECEMBER 21, 2007 AT 10:00 a.m.

in room 408, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, CA to show cause why your

PUBLIC PASSENGER VEHICLE PERMIT, # 865

heretofore granted to you, should not be subjected to the administrative action for the reasons set forth in said complaint.

BY ORDER OF THE TAXI COMMISSION,

SAN FRANCISCO, CA November 16, 2007
Date


Executive Director

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**SAN FRANCISCO TAXI COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

COMPLAINT

1. Complaint is hereby made against ROBERT MICHAEL FRIEDMAN, Permit Holder # 865, that said Permit Holder has conducted himself in a disorderly manner and violated provisions of the Municipal Police Code as described below.

2. Municipal Police Code (MPC) § 1090(a) provides as follows:

(a) Revocation for Cause. Any permit issued under this Article may be suspended or revoked by the Taxi Commission for good cause after a noticed hearing. "Good cause" hereunder shall include, but shall not be limited to, the following:

(i) The permittee ceased to be a full-time driver...

(iv) The permittee or an agent of the permittee knowingly made false statements to or concealed information from the Taxi Commission, the Executive Director or the Police Department.

(v) The permittee has been convicted of any crime involving moral turpitude...

(viii) The permittee violated the Traffic Code of the City and County of San Francisco or the Vehicle Code or related laws of the State of California.

Upon a showing of good cause, the Taxi Commission shall have discretion to suspend or revoke a permit as set forth above, except that a suspension and/or revocation shall be mandatory in the circumstances described in subparts (i) through (vi) above.

3. Taxi Commission staff received several anonymous tips regarding Mr. Friedman and the possibility that he might have a conviction for a violation of California Vehicle Code § 23152

1 (driving under the influence) or related crimes. On September 26, 2007, Lt. Jean Schlotz of the San
2 Francisco Police Department Taxi Detail sent a letter to the Taxi Commission requesting revocation
3 and detailing a possible criminal history. (Exhibit A: Declaration of Vicky Siu, Exhibit 1:
4 September 26, 2007 Letter from Lt. Jean Schlotz.) A search of Mr. Friedman's file at the Taxi
5 Commission offices reveals that he received a prior admonishment for failing to meet his
6 Proposition K driving requirement. (Id. at Exhibit 2: January 19, 2000 Admonishment.) Further
7 investigation reveals a long criminal history with a violent record dating back decades, four criminal
8 convictions in the past twenty years, as well as a pattern and practice of deliberately deceiving the
9 Taxi Commission and the City and County of San Francisco with the intent to retain taxicab
10 medallion permit # 865 despite being legally unable to hold said permit.

11
12 4. Mr. Friedman received his medallion by Resolution 208-96 at the December 12, 1996
13 meeting of the Police Commission.

14 5. On September 27, 1995 Mr. Friedman was convicted of Penal Code 245(a)(1), assault with a
15 deadly weapon, perpetrated upon his partner with whom he was co-habiting.
16 (Id., Exhibit 3: Certified Copy of 1995 Conviction.) Domestic violence is a crime of moral
17 turpitude. Under MPC § 1090(a)(v), revocation is mandatory when a permittee has been
18 convicted of a crime of moral turpitude.

19
20 6. On July 27, 2001, Mr. Friedman was convicted of a violation of California Vehicle Code §
21 23152(a) (driving under the influence) in Plumas County Superior Court. (Id., Exhibit 4,
22 Certified Copy of July 2001 Conviction To Be Provided At Hearing.) Violations of the Vehicle
23 Code are grounds for permit revocation under MPC § 1090(a)(viii).

24 7. On August 9, 2001, Mr. Friedman was again convicted of a violation of California Vehicle
25 Code § 23152(a) (driving under the influence) in Contra Costa Superior Court. According to his
26 conviction records, there was an added special allegation pursuant to Vehicle Code § 23578 that he
27 had a blood alcohol level of .20%. Additionally, from charges resulting from the same incident,
28 he was also convicted of Penal Code § 148(a)(1) (resisting, delaying, or obstructing a peace officer

1
2 in the discharge of his office.) (Id., Exhibit 5: Certified Copy of Second 2001 Conviction and
3 Sentence.)

4
5 8. As a result of his second DUI conviction in less than seven years, Mr. Friedman was
6 sentenced on December 6, 2001 to four years' probation, 210 days of electronic home detention,
7 and received a three-year revocation of his driving privileges. This means that he was legally
8 prohibited from driving a motor vehicle, including taxicab vehicle # 865, from December 6, 2001
9 until December 6, 2004.

10 9. Mr. Friedman's response flaunted his convictions. Specifically, he proceeded to do the
11 following: (1) renew his Taxi Driver Permits ("A- cards" for Calendar Years 2002, 2003, and 2004;
12 (2) request and receive a 90-day suspension of his driving privileges from March 2003 to June
13 2003; (3) Submit Form 1095s for Calendar Years 2002, 2003, and 2004 to the Taxi Commission
14 asserting "compliance with appropriate State of California and City and County of San Francisco
15 laws pertaining to proper driver licenses, all pertinent rules adopted by the Taxi Commission, all
16 applicable San Francisco Municipal Police Code sections, [Proposition K] and all other local, state,
17 and federal laws applicable to the operation of a taxicab." Submission of the Form 1095s for
18 Calendar Years 2002, 2003, and 2004 constituted false statements to the Taxi Commission in
19 violation of MPC § 1110 and MPC § 1090(a)(iv). Violations of MPC § 1090(a)(iv) (making false
20 statements) calls for mandatory revocation of a permit. (Id., Exhibits 6-7.)

21
22 10. On March 12, 2002, Mr. Friedman addressed a letter to the Taxi Detail advising that he
23 would be "taking time off from driving." (Id., Exhibit 8: Redacted March 12, 2002 Letter.) He
24 stated that he was seeing a doctor for a medical condition. There is no mention in this March 12,
25 2002 of his DUI sentence, which prohibited driving of any type. Mr. Friedman also attached a DMV
26 Medical Evaluation dated December 6, 2001, the day his most recent sentence was entered, which
27 states affirmatively that side effects from prescribed medications can interfere with the safe
28 operation of a motor vehicle, and that in the doctor's opinion, Mr. Friedman's medical

1 condition would affect safe driving. (Id., Exhibit 9: December 6, 2001 Redacted DMV Medical
2 Evaluation.)

3
4 11. In March 2003, Mr. Friedman made a color scheme change from Arrow Cab to National
5 Cab. In his application, he claimed "I'll be dispatching also on my days off at National. No disp
6 [sic] shifts available at Vets." (Id., Exhibit 10: March 2003 Color Scheme Change.) There is no
7 mention in the color scheme change application of his two prior convictions for driving under the
8 influence, and indeed, the March 2003 application implies that he would be driving full-time while
9 dispatching part-time.

10 12. On April 27, 2004, Mr. Friedman made an application for an "indeterminate deferment
11 relief from the mandatory shift requirement." (Id., Exhibit 11: September 23, 2004 ADA
12 Application.) Although a doctor did return some documents by September
13 2004, Mr. Friedman failed to respond to further requests for information from the Taxi
14 Commission, and no modification from the driving requirement was ever granted for 2004 or any
15 subsequent year.

16
17 13. On October 18, 2007, Sgt. Reynolds of SFPD Taxi Detail interviewed Mr. Dan Hinds,
18 President of National Cab. (Exhibit B: Declaration of Sgt. Reynolds, Exhibit 1: Attached Transcript
19 of October 18, 2007 Interview.) Mr. Hinds stated that he was aware that Mr. Friedman had two
20 convictions for driving under the influence. (Id. at 3:15-18.) Hinds also claimed that Mr. Friedman
21 came to National applying to be a dispatcher, and further admitted that he (Mr. Hinds) was aware
22 that Mr. Friedman was not fulfilling his Proposition K driving requirement. (Id. at 3:24-4:3.) Hinds
23 also stated that Mr. Friedman worked at National from March 2003 to March 2006.

24 14. The Commission attempted to conduct a second interview of Mr. Hinds to find out the
25 circumstances under which Mr. Friedman was terminated from National, but Mr. Hinds failed and
26 refused to submit to an interview. (Exhibit B: Dec. of Sgt. Reynolds.) Further investigation revealed
27 a police report describing Mr. Friedman's involvement in a March 30, 2006 fist fight on National's
28 business premises. (Id., Exhibit 2.)

1 National responded only partially to Taxi Commission requests for documents and
2 information. (Exhibit A: Dec. of Vicky Siu, Exhibit 12, Letters from Taxi Commission to National
3 Cab.) Notably, National hired Mr. Friedman knowing that (1) he was a Post-K medallion holder
4 with a driving requirement and that (2) he had two prior DUIs. National further claims that there are
5 no lease agreements on file for Mr. Friedman, despite the fact that Mr. Friedman's medallion
6 remains with the company and is producing income while Mr. Friedman does not drive the vehicle.
7 (Id., Exhibit 13: Response from National Cab with Attached Documents.) If it is true that there is no
8 lease agreement between National and Mr. Friedman, it is an aberration among regular business
9 practices of National and the San Francisco taxicab industry. If it is not true, and a lease agreement
10 exists but National is failing and refusing to make the lease available for inspection, then National
11 has made false statements in violation of MPC § 1110, and violated Rules 5.A.9 and 5.K.2, among
12 others.

13 15. Taxi Commission Rule 5.H.15 requires that "On the first business day of each week, all
14 Color Scheme Holders shall fax, to the Taxi Detail, the names of all Drivers and Medallion Holders
15 who have failed to turn in waybills during the previous week." After a series of letters announcing
16 enforcement of this Rule, the Taxi Commission began requiring color schemes to send a weekly fax
17 indicating drivers and medallion holders that had not turned in waybills for the prior week. National
18 Cab submitted a document on August 6, 2007 entitled "Long Term Lease Waybill Turn In List"
19 indicating the medallions held by National with space for individuals to initial when they have
20 turned in their waybills. The medallion # 865 appears with the initials "RS 7-30-7" indicating the
21 leaseholder "RS" and the date of signature, indicating that # 865 was under lease at that time.
22 (Id., Exhibit 14, "Long Term Lease Waybill Turn In List.")

23 16. National also submitted five weekly faxes from August 14, 2007 to September 17, 2007
24 stating that "waybills for all National/Veterans Cab medallions were received for [the particular
25 weeks]." (Id., Exhibit 15, 2 Letters from Taxi Commission to Color Schemes on Rule 5.H.15 and
26 Exhibit 16, Attached Five Faxes from National Cab). In the October 18, 2007
27 Interview, in response to questioning about the lack of waybills for Mr. Friedman and why he
28

1 would fax a contradictory weekly list indicating that everyone had turned in waybills, Mr. Hinds
2 explained his personal, erroneous belief as to the meaning of Rule 5.H.15 (Exhibit B: Declaration of
3 Sgt. Reynolds with Attached Transcript of October 18, 2007 Interview, 6:3-7:19.) After the
4 interview concluded, Mr. Hinds conceded that he had no waybills on file for Mr. Friedman
5 for any time from March 2003 until the present. As of November 8, 2007 National Cab still fails
6 and refuses to comply with Rule 5.H.15 because it refuses to fax in a list of names of medallion
7 holders who have not turned in waybills, so the Taxi Commission is unable to ascertain if Mr.
8 Friedman has turned in any waybills since October 18, 2007. (Exhibit A: Declaration of Vicky Siu.)

9
10 17. All medallion permit holders must be full-time drivers. A full-time driver is defined
11 in Municipal Police Code § 1081(f) and requires driving either 800 hours or 156 four-hour shifts
12 during a Calendar Year. Mr. Friedman has failed to submit any waybills for Calendar Years 2000,
13 2001, 2002, 2003, 2004, 2005, 2006, or for the current year, 2007. Pursuant to the terms of the stay
14 negotiated under Slone et al. v. Taxi Commission et al., currently pending in federal court, Mr.
15 Friedman is not eligible to have his disciplinary case stayed pending resolution of the lawsuit, since
16 the Department of Public Health has determined that the alleged disability does not require the
17 requested modification or waiver of the driving requirement. Even if it applied however, the stay
18 would only preclude the Taxi Commission from disciplining Mr. Friedman for failing to fulfill his
19 full-time driving requirement for Calendar Years 2004, 2005, 2006, and 2007. In fact, since at least
20 1999 there is no evidence that Mr. Friedman ever drove his taxicab vehicle, when he was first
21 admonished for failing the driving requirement.

22 18. Each year, every medallion holder must submit an annual "Form 1095," a sworn statement
23 indicating his compliance with "all provisions of the Municipal Police Code and/or state or federal
24 laws." The Municipal Police Code includes not only the full-time driving requirement cited
25 above, but also the following provision in MPC § 1081(b):

26 (b) Full-time Driving Pledge. No permit to operate a motor vehicle for hire shall be issued
27 unless the person applying for the permit shall declare under penalty of perjury his or her
28 intention actively and personally to engage as permittee-driver under any permit issued to
him or her for at least four hours during any 24-hour period or at least 75 percent of the
business days during the year.

1 Mr. Friedman submitted a Form 1095 for Calendar Years 2000, 2001, 2002, 2003, 2004, 2005,
2 and 2006. On each of those Form 1095s, he personally declared his compliance with all laws.
3 In fact, these statements were false, since not only did he fail to meet the driving requirement, but
4 over the years he collected two criminal convictions for violation of Vehicle Code § 23152 (Driving
5 Under the Influence). Each of these Form 1095s constitutes a separate false statement to the Taxi
6 Commission within the meaning of MPC § 1090(a)(iv). (Exhibit A: Declaration of Vicky Siu:
7 Exhibit 7). Further, each constitutes a separate false statement to the San Francisco Police
8 Department and the Taxi Commission pursuant to MPC § 1110, which prohibits false statements.
9 Violations of MPC § 1090(a)(iv) require mandatory revocation.

10
11 19. Meanwhile, Mr. Friedman has obtained annual "A-cards" through the Treasurer and Tax
12 Collector's Office, as if he were still driving a taxi. In fact, Mr. Friedman was legally prohibited
13 from doing so pursuant to a criminal conviction. However, by maintaining his A-Card, he made it
14 difficult for the Taxi Commission to discover that he was not in fact driving. One could argue that
15 this was done intentionally.

16 20. A fact-finding hearing is scheduled for December 21, 2007 at 10:00 am in Room 408 of
17 City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Mr. Friedman has the right to
18 be represented by legal counsel. The Commission shall present Sgt. Ron Reynolds as a witness.
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Exhibit A

Date/Place

DECLARATION OF VICKY SIU

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1. I am over the age of 18 and not a party to this action, and I am a citizen of the United States.
2. My name is Vicky Siu, and my business address is 25 Van Ness, Suite 420, San Francisco, CA 94102. I am employed at the Taxi Commission as the Office Coordinator. In that capacity, and as part of my regular duties, I receive and maintain records for the Commission. Attached to this Declaration are true and correct copies of various records which were received and maintained in the ordinary course of my duties at the Taxi Commission.
3. Attached as Exhibit 1 is a true and correct of a September 26, 2007 Letter from Lt. Jean Schlotz of the San Francisco Police Department. - It S
4. Attached as Exhibit 2 is a January 19, 2000 Admonishment issued to Robert Friedman, Medallion # 865.
5. Attached as Exhibit 3 is a Certified Copy of 1995 Conviction.
6. Exhibit 4 is a Certified Copy of 2001 DUI Conviction, to be provided at the hearing.
7. Attached as Exhibit 5 is a Certified Copy of Second 2001 Conviction.
8. Attached as Exhibit 6 is a request and an approval note from Sgt. Vince Simpson of the San Francisco Police Department detailing Mr. Friedman's request and receipt of a 90-day Suspension of his driving privileges in 2003.
9. Attached as Exhibit 7 are Mr. Friedman's Form 1095s for Calendar Years 2000-2006.
10. Attached as Exhibit 8 is a Redacted March 12, 2002 Letter from Mr. Friedman to the Taxi Commission.
11. Attached as Exhibit 9 is a Redacted December 6, 2001 DMV Medical Evaluation Form.
12. Attached as Exhibit 10 is a March 2003 Color Scheme Change by Mr. Friedman from Arrow to National/Veterans Cab Company.

1 13. Attached as Exhibit 11 is an April 27, 2004 ADA Application submitted by Mr.
2 Friedman to the Taxi Commission.

3 14. Attached as Exhibit 12 are Letters from the Taxi Commission to National Cab.

4 15. Attached as Exhibit 13 is the Response from National Cab with Attached Documents.

5 16. Attached as Exhibit 14 is a document received from National Cab entitled "Long Term
6 Lease Waybill Turn In List."

7 17. Attached as Exhibit 15 are 2 letter the Taxi Commission office mailed to all color schemes
8 notifying enforcement of Rule 5.H.15.

9 18. Attached as Exhibit 16 are 5 faxes received from National Cab attempting compliance with
10 Rule 5.H.15.

11 19. Each week, pursuant to Rule 5.H.15 of the *Taxicab/Ramped Taxi Rules & Regulations*, I
12 receive weekly faxes from taxicab companies which are supposed to fax a weekly list of
13 medallion holders and drivers who have not turned in waybills. National Cab has failed and
14 refuses to comply with Rule 5.H.15 since the Taxi Commission began enforcing the rule in
15 August 2007.

16 20. I declare under penalty of perjury under the laws of the State of California that the foregoing
17 is true and correct.

18
19 Signed:

20 
21 Vicky Siu
22 Office Coordinator
23 San Francisco Taxi Commission

24 Date: 11/16/07
25
26
27
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Exhibit I



GAVIN NEWSOM
MAYOR

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO

THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603



HEATHER J. FONG
CHIEF OF POLICE

September 26, 2007

RECEIVED

Heidi Machen
Executive Director/Taxi Commission
25 Van Ness Avenue, #420
San Francisco, CA 94102

SEP 26 2007

SAN FRANCISCO
TAXI COMMISSION

This is a follow up request to agendize Taxi medallion #865 for revocation. This medallion is currently being held by National and issued to a Mr. Robert M. Freidman. Mr. Freidman has not driven for at least 10 years.

1. In the beginning of April 2006, I was asked to review Mr. Freidman's ability to drive.
2. I was told he was a very violent man, who had at least 4 DUI's. Indeed National fired Mr. Freidman 3/30/2006.
3. I was also told he couldn't drive because he had his license suspended or revoked, or was ill, or was in jail. (All throughout the last 10 years.)
4. I contacted Tyer Speck from Arrow Cab, who had the medallion approximately from 1998 through 2002. He said Mr. Freidman hardly drove and he had no way bills. "His comment was I guess he figured he didn't have to drive."
5. I contacted Dan Hinds and Jane Bolig from National Cab. They both said: "He has not been driving at all. He was a dispatcher for us. We have no way bills" They had the medallion from 2003 on.
6. In April 2006, I contacted Tristan Bettencourt from the Taxi Commission for an investigation. He said "No medical documents or exemption are on file here."

Sincerely,

J. Schlotz LA 4020

Lt. Jeanne Schlotz #4020
Permit/Taxi

Exhibit 2



SAN FRANCISCO POLICE DEPARTMENT

TAXICAB DETAIL

January 19, 2000

Mr. Robert Friedman
Taxicab Permit Holder #865
Veterans Cab Company

Mr. Friedman,

On January 7, 2000, the Taxi Detail conducted an audit of your waybills to determine if you were in compliance with the "full time driver" requirement as specified in Section 1081 (b) of the San Francisco Municipal Police Code. The result of our audit indicates that you have not complied with this regulation. In addition, the waybills that you submitted were found to be incomplete.

Section 1138 of the San Francisco Municipal Police Code requires that drivers of taxicabs keep an accurate and legible waybill which includes the date of operation, starting & ending times, vehicle license#, cab#, medallion#, starting and ending mileage & units, time of hire and discharge of passenger and the locations of fare pickup and drop off.

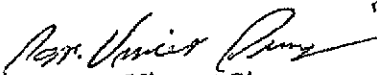
In addition, Section VI. C. 8. of the San Francisco Taxicab/Ramped Taxi Rules and regulations requires that waybills be completed in indelible ink and signed by the driver at the start of the shift.

This letter is to act as a FORMAL REPRIMAND for violation of the above regulations. You are required to drive at least 4 hours a day for 185 days in a calendar year. Furthermore, only completed waybills will be used in determining the total number of days /shifts worked. In addition, you must drive your own medallion number taxicab when complying with this full time driving requirement as per Section IV A. 10. of the San Francisco Taxicab/Ramped Taxi Rules & Regulations.

This is to act in lieu of any further disciplinary action on this matter.

Violations of any of the codes and/or rules regulating the taxicab industry is punishable by an admonishment, non-traffic infraction, misdemeanor, fine, administrative reprimand, suspension or revocation.

Respectfully,


Sergeant Vincent Simpson
Supervising Officer Taxicab Detail

Permit Holder: Robert M Friedman

Date Jan 10 00

PROP K MEDALLION WORKSHEET

COMPANY: **Veterans**

MEDALLION #: **T0865**

MEDALLION HOLDERS NAME: **Friedman, Robert**

GRANT DATE: 12/11/1996 00:00:00.00

PREVIOUS FORMAL ACTION: **No** PENDING COMPLAINTS: **No**

OFFICER'S NAME: FRAZER

DATE: 1/7/00

MONTH	TOTAL DAYS	COMMENTS	NO LIC PLATE NUMBER	PENCIL	MAY SHIFTS	3 HAS
JAN	14 0					
FEB	0					
MAR	11					
APR	11					
MAY	11					
JUN	15 0					
JUL	14					
AUG	13					
SEPT	13					
OCT	10					
NOV	11					
DEC	12					

TOTAL DAYS 112



SAN FRANCISCO POLICE DEPARTMENT TAXICAB DETAIL

March 1, 2000

To: All Prop K Medallion Holders

On 01/25/00, the Taxi Commission adopted Resolution #2000-05 defining "Business Day" and what constitutes the number of "Business Days" in the calendar year as per the driving requirement specified in Proposition K. The Commission approved the definition of "Business days" as days that are based upon four 10 hour days per week. Furthermore, the Commission set the required number of shifts needed to meet the Proposition K driving requirement as 156 shifts per calendar year.

The Taxicab Detail, when conducting future Prop K audits or when investigating complaints of Prop K violations will enforce this new resolution requiring that Medallion Holders drive at least 4 hours during any 24 hour period for at least 156 shifts per calendar year.

In addition, Medallion Holders must adhere to the below listed rules and regulations concerning waybills.

Section 1138 of the San Francisco Municipal Police Code requires that drivers of taxicabs keep an accurate and legible waybill which includes the date of operation, driver's name, vehicle license#, cab#, medallion#, starting & ending times, starting & ending mileage, starting & ending units, number of passengers, origin and destination of each trip, time of hire and discharge and the fare amount.

Section VI. C. 8. of the San Francisco Taxicab/Ramped Taxi Rules and regulations requires that waybills be completed in indelible ink, signed by the driver at the start of the shift and filed at the Color Scheme's place of business at the conclusion of each shift.

Section IV A. 10. of the San Francisco Taxicab/Ramped Taxi Rules & Regulations requires that unless their taxicab is out of service, all Medallion Holders must drive only their own medallion number taxicab when complying with the "Prop K" full time driving requirement.

Only the original waybills that are both accurate and complete will be counted when measuring the total number of shifts worked per calendar year.

Furthermore, requests for a either a 90 day suspension of the driving requirement or a modification of the driving requirement under the provisions of the Americans with Disabilities Act must be made in writing to the Taxi Commission.

Sincerely,

Sgt. Vincent Simpson
Sgt. Vincent Simpson
Supervising Officer of the Taxi Detail

ROBT. M.

FRIEDMAN

Robert M. Friedman
Medallion Holder

865
Medallion #

March 10 00
Date

Exhibit 3

ACTION NUMBER: 1586498

MUNICIPAL COURT OF THE CITY AND COUNTY OF SAN FRANCISCO
STATE OF CALIFORNIA

SEP 27 1995
by DJT

The People of The State of California
- vs -
FRIEDMAN,
FRIEDMAN, ROBERT M. Defendant
ATN: _____ CMS
_____ Co-Defendants

COURT NO. 1586498
ACTION NO. 0256946
46A 1 273,5(A) PC/F
2 245(A)(PC/F)

MOT. TO REVOKE PROB. _____ OC
MOT. TO REVOKE PROB. _____ OC
MOT. TO REVOKE PROB. _____ OC

Complaint filed JUL 3 1995 Defendant status: Custody OR Bail
Bail set: \$ _____ OR by Judge: JOHN J. CONWAY JUL 3 1995
Name Date Bail Recn Amount

ARRAIGNMENT DEPT. 11 JUDGE: JOHN J. CONWAY REPORTER: J. POND

Date Initials
JUL 3 1995 Defendant thru counsel waives formal arraignment and advisement of Rights.

Date Initials
JUL 3 1995 Defendant informed of charges and arraigned. (See reverse side.)
Written SA Order Signed on Def

ATTORNEY
Date Initials
JUL 3 1995 PD appointed General appearance by _____ Attorney's Name
JUL 6 1995 *Neustadt/Jeffrey* substituted as attorney for Defendant.
Attorney's Name

PLEA
Date Initials
JUL 3 1995 Not Guilty _____ Other _____

STATUTORY TIME
Date Initials
JUL 3 1995 Deft. thru Atty. waives right to speedy trial and preliminary hearing within 10 days of 60
NO TIME WAIVER by Defendant.

Date Initials
JUL 6 1995 Defendant withdraws time waiver.
(other) *Victim: Terri Lynn Wright S/E - Stay Away Order*
at 7-3-95 lifted

Continued for further proceedings:

DATE/TIME	DEPT.	FOR	STAT TIME WAIVED?	CMS
			Yes No	
<u>7-6-95 9am</u>	<u>11</u>	<u>Re: Stay away Order (DOP) ORCT</u>	<input checked="" type="checkbox"/>	<i>ep</i>
<u>7-19-95 9am</u>	<u>11</u>	<u>Pre Hrg Conf (DOP) ORCT</u>	<input checked="" type="checkbox"/>	<i>ep</i>
<u>8-16-95 9am</u>	<u>11</u>	<u>PHC (DOP) ORCT</u>	<input checked="" type="checkbox"/>	<i>ep</i>
<u>9-06-95 9am</u>	<u>11</u>	<u>Prelim Hrg. (DOP) ORCT</u>	<input checked="" type="checkbox"/>	<i>ep</i>
<u>9-27-95 9am</u>	<u>11</u>	<u>Prelim Hrg. (DOP) ORCT</u>	<input checked="" type="checkbox"/>	<i>ep</i>



THE ANNEXED INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL
ON FILE IN MY OFFICE.
ATTEST: CERTIFIED

CHARGES REDUCED TO MISDEMEANORS pursuant to PC 17(b); case transferred to
NOV 1 2007
for further proceedings.
EXTRADITION
Date Initials
Waived/Not Waived
GORDON PARK-LI, Clerk
Superior Court of the City & County of San Francisco
BY *[Signature]* DEPUTY CLERK
(Formal Extradition Proceedings).

PRELIMINARY HEARING DEPT. _____ JUDGE _____ REPORTER: _____

Upon calling of the case, the court ordered the following:

Date _____ Initials _____ That the matter be continued to _____ in Dept. _____ at _____
Time waived by Defendant(s) _____ Yes/No _____
That the Deft. be held to answer and admitted to Bail of \$ _____ and that the case be transferred to the Superior Court for further proceedings in Dept. _____ on _____ Date _____ at _____
That the pending misdemeanors be certified to the Superior Court for further proceedings.
That the case be dismissed and the Defendant discharged on the grounds of _____
Exhibits released to custody of _____
Files transferred to Superior Court.
That the case be certified to Superior Court.
(other orders of court) _____

PLEA OF GUILTY

Date _____ Initials _____ To charge(s) of 273.5(a) PC Felony/Misdemeanor reduced pursuant to PC 17(b).
Amended to a lesser included offense by stipulation _____ Yes/No _____
DEPT. _____ JUDGE: JOHN J. CONWAY REPORTER: J. POND

SEP 27 1995 Deft. advised of and personally waived his right to a speedy trial by jury or court; advised of and personally waived his right to confront and cross-examine the witness against him; advised of and personally waived his right against self-incrimination; and was further advised of the nature of the charge(s) and that a plea of guilty was, in fact, a conviction; and was advised of the maximum and minimum penalties of each charge and the consequences of a plea to each charge; and (if applicable) was advised and waived his right to a preliminary hearing before he could be held to answer to the charges against him; and after inquiry by the court, the court found that the Deft. understood the charges against him and that the above waivers of his rights were intelligently and voluntarily made.

SEP 27 1995 Certified to Superior Court for sentencing on _____ Date _____ Dept. _____
Statutory time for sentencing waived.

SEP 27 1995 Sentences of Court: ISS, 3 y WAPD P.M.P., 20 days CC, 5 days
CTS thru SWAP - S/S: 11-1-95; Alcohol and
Domestic Viol. Counseling; Victim Tami Wright SAE
of did not wish a S/A P.D. - Prob may work
to Court upon completion of all conditions

Sentence Modified to _____
Stay of Execution until _____ Date _____
Defendant remanded to custody.

SEP 27 1995 Pre-sentence/pre-plea report ordered, continued to _____ Date _____
1385/1382 Dismissal of charge(s) of 245(A) PC/F
(other orders of court) _____

BENCH WARRANT

Issued _____ for _____ recalled/discharged _____ Date _____
Disposition re BW _____ Contempt _____
Issued _____ for _____ recalled/discharged _____
Disposition re BW _____ Contempt _____

BAIL FORFEITURE

Date _____ Initials _____ Bail No. _____ Forfeited on: _____ Amount \$ _____
Forfeiture set aside and bail reinstated/exonerated.
Bail No. _____ Forfeited on: _____ Amount \$ _____
Forfeiture set aside and bail reinstated/exonerated.

RIGHTS

Date _____ Initials _____ Deft. advised of each of the following Constitutional Rights: Right to attorney and to have court appoint lawyer if he is indigent; Right to a speedy, public trial by jury; Right to be released on reasonable bail; Right to exercise privileges against self-incrimination; Right to confront and cross-examine witness against him; Right to use subpoena power of court to produce witness and to present evidence on his behalf; Right to a preliminary hearing within 10 days or have charges dismissed; and Right to appeal if convicted.

ACTION NOS.	DEFENDANT(S)	VIOLATION(S)	DEPT.
1586498	ROBERT M. FRIEDMAN	273.5(a) PC/Fel. 245(a)(1) PC/Fel.	11/53

THE PEOPLE OF THE STATE OF CALIFORNIA VS. THE DEFENDANTS ABOVE NAMED
FILED AND ENTERED
MUNICIPAL COURT
 JUL 3 1995

IN THE MUNICIPAL COURT
 CITY AND COUNTY OF SAN FRANCISCO
 STATE OF CALIFORNIA

Gordon Park Li, Clerk

COMPLAINT

BY Paul Morse Deputy
 PAUL MORSE states and declares on information and belief that the said defendant did in the City and County of San Francisco, State of California, on or about the 29th day of June, 1995, commit the crime of felony, to wit: Violating Section 273.5(a) of the California Penal Code, in that the said defendant did wilfully and unlawfully inflict a corporal injury resulting in a traumatic condition upon TERRI LYNN WRIGHT who was then and there the cohabitant of said defendant and a person of the opposite sex cohabiting with said defendant.

COUNT II

That the said defendant did in the City and County of San Francisco, State of California, on or about the 29th day of June, 1995, commit the crime of felony, to wit: Violating Section 245(a)(1) of the California Penal Code, in that the said defendant did wilfully, unlawfully, and personally commit an assault upon TERRI LYNN WRIGHT by means of force likely to produce great bodily injury.

I state, declare, verify and certify under the penalty of perjury that the foregoing is true and correct. Executed in San Francisco, California on July 3, 1995.

Paul Morse
 PAUL MORSE

Exhibit 4

To Be Provided at the Hearing

RECEIVED

DEC 26 2007

FILED

SAN FRANCISCO
TAXI COMMISSION

JUL 03 2001

PLUMAS COUNTY ADMINISTRATIVE
BY: *[Signature]*
DEPUTY

1 JAMES REICHLE
District Attorney
2 520 Main Street, Room 404
Quincy, CA 95971
3 Telephone: (530) 283-6303

4 ATTORNEYS FOR PLAINTIFF

5

6

7

IN THE PLUMAS COUNTY SUPERIOR COURT DEPARTMENT II

8

IN AND FOR THE STATE OF CALIFORNIA

9

10

THE PEOPLE OF THE STATE OF CALIFORNIA,]

CASE NO. 01-27851

11

Plaintiff,]

COMPLAINT/INFORMATION

12

vs.]

13

ROBERT MICHAEL FRIEDMAN,]

14

Defendant.]

15

16

I, JAMES REICHLE, state on information and belief, that
17 Defendant did in the County of Plumas, State of California,
18 commit the following crimes as FELONIES, on or about JUNE 30,
19 2001, namely:

20

COUNT I:

21

A violation of Section 23153(a) of the California
22 Vehicle Code, in that on or about the above date,
23 defendant did unlawfully, while under the influence
of an alcoholic beverage and a drug and under their
24 combined influence, drive a vehicle and in so
driving, concurrently did an act forbidden by law
and neglected a duty imposed by law which
25 proximately caused bodily injury to ERICK BUSTRIA.
(FELONY)

26

It is further alleged, pursuant to sections 23550
27 and 23550.5 that the defendant has suffered the
following prior convictions:

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Date of Offense: 4/25/99; Conviction Date: 5/25/99;
Vehicle Code Section: California Vehicle Code
§23152(a); Court: Plumas County Superior Court,
Department II, Quincy; Docket No. 9925268..

COUNT II:

A violation of Section 23153(b) of the California
Vehicle Code, in that on or about the above date,
defendant did unlawfully while having .08 percent
and more, by weight, of alcohol in his blood; drive
a vehicle and in so driving did an act forbidden by
law and neglected a duty imposed by law which
proximately caused bodily injury to ERICK BUSTRIA.
(FELONY)


It is further alleged, pursuant to sections 23550
and 23550.5 that the defendant has suffered the
following prior convictions:

Date of Offense: 4/25/99; Conviction Date: 5/25/99;
Vehicle Code Section: California Vehicle Code
§23152(a); Court: Plumas County Superior Court,
Department II, Quincy; Docket No. 9925268.

Executed July 3, 2001, at Quincy, California.

JAMES REICHLE
District Attorney

REPORT NO.: 68609PP
.12/.14 br.

By 
JEFF CONAN
Deputy District Attorney

* * * * *

The People request discovery pursuant to Penal Code

Section 1054, et seq.

* * * * *

ct III 23152(a) V.C.

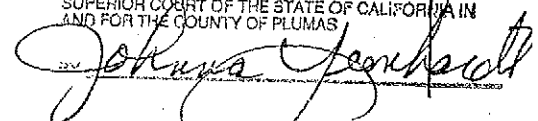
Prior as charged in ct II

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF
THE ORIGINAL ON FILE IN THIS OFFICE

Date: 12/20/01

DEBORAH W. NORRIE

CLERK OF THE COURT
SUPERIOR COURT OF THE STATE OF CALIFORNIA IN
AND FOR THE COUNTY OF PLUMAS



RECEIVED

DEC 26 2007

SAN FRANCISCO
TAXI COMMISSION

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLUMAS

JUDGE: IRA KAUFMAN

Clerk: SHERRIE L. ESLICK

Orig. Agency: CHP Incident #: 68609PP, 01-05105 Bailiff: TOM YOCKEY

Date: 07/27/2001 08:30

Reporter: JANEEN VICKREY

Interpreter:

Case #: J CR 01-27851 01

Appearances:

THE PEOPLE OF THE STATE OF CALIFORNIA
PLAINTIFF

D.A.: JEFF CUNAN

VS.

FRIEDMAN, ROBERT MICHAEL
DEFENDANT

Attorney: ABRAMSON, BILL
(Present)

(Custody: I/C ID#: 27779)

Proceeding: PRE-TRIAL CONFERENCE

- Ct 1: 23153A F VC Dispo: DISMISSED PER PLEA TO ANOTHER COUNT 07/27/2001
- Ct 2: 23153B F VC Dispo: DISMISSED PER PLEA TO ANOTHER COUNT 07/27/2001
- Ct 3: 23152(A) M VC Dispo: NOLO CONTENDRE PLEA 07/27/2001

--- PLEA OF GUILTY

- Defendant present
- With attorney
- Defendant pleads nolo contendere to Amended Complaint Count(s): 3
- Count(s): 1,2 Dismissed
- Reduced from felony to misdemeanor
- Admitted prior conviction(s): 99-25268 PLUMAS COUNTY
- Defendant signed written plea
- Defendant orally and voluntarily waived following right:
 - Right to jury trial
 - Right to confront and cross examine witness against him
 - Right against self incrimination
 - Right to produce evidence
- Upon inquiry of the Court, the Court determined Defendant understood the nature of the charges, the elements of offense, the pleas available thereto, the possible defenses thereto, and the possible range of penalties and consequences of his plea (including the effect of the admission of any prior convictions)
- Factual basis stipulated
- Time for sentencing waived

--- JAIL & RESTITUTION

- CTS 9 day(s) Actual: 7 day(s) Good/Work time: 2 day(s)

--- ORDER OF JUDGMENT AND PROBATION

- No legal cause why judgment should not be entered
- Suspends the imposition of judgment and sentence, and directs the defendant to be admitted to Summary Probation for 5 years upon the following terms and conditions:
 - See order on file

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLUMAS

Page: 2

JUDGE: IRA KAUFMAN

Clerk: SHERRIE L. ESLICK

Orig. Agency: CHP Incident #: 68609PP, 01-05105 Bailiff: TOM YOCKEY

Date: 07/27/2001 08:30

Reporter: JANEEN VICKREY

Interpreter:

Case #: J CR 01-27851 01

Appearances:

THE PEOPLE OF THE STATE OF CALIFORNIA
PLAINTIFF

D.A.: JEFF CUNAN

VS.

FRIEDMAN, ROBERT MICHAEL

Attorney: ABRAMSON, BILL
(Present)

DEFENDANT

(Custody: I/C ID#: 27779)

Proceeding: PRE-TRIAL CONFERENCE

- Sign a copy of the Probation Order
- Obey all laws
- Notify Probation/Court of address change forthwith
- Must report to Court when ordered

--- FINE AND FEES

- Pay a fine and penalty assessment of \$ 1,533.00
to be paid in monthly payments with a collection charge \$35.00
Report immediately to Treasurer's Office, Second Floor, Courthouse.

--- JAIL TERM

- Sentenced to 10 days in County Jail
Must show up at jail in a SOBER CONDITION with no alcohol in
system; must submit to breath test to determine blood
alcohol content
Stay to 08/07/2001 AT 07:00 PM
- Shall participate in and successfully complete a state licensed
education and counseling program for multiple offender (18 month)
- Defendant to attend DUI program through county
and complete the DUI class within 24 months

--- OTHER SPECIAL CONDITIONS

- Not Drive Without A Valid License. Not drive a motor vehicle without
a valid driver's license and insurance.
- Not Drive After Drinking/Using Drugs. Not drive a motor vehicle, nor
be the sole occupant in the front seat of a motor vehicle, within
4 hours of drinking intoxicants and/or using drugs, nor, in any
event, with any measurable amount of alcohol in the body.
- Chemical Test. Must submit to a chemical test (blood, breath or urine)
for blood alcohol content when asked to do so by a peace officer.
- Not indulge in excessive use of intoxicants
- Shall seek and maintain employment.
- If you meet all DMV's requirements, including proof of financial
responsibility, your privilege to operate a motor vehicle is

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLUMAS

Page: 3

JUDGE: IRA KAUFMAN

Clerk: SHERRIE L. ESLICK

Orig. Agency: CHP Incident #: 68609PP, 01-05105

Date: 07/27/2001 08:30

Reporter: JANEEN VICKREY

Bailiff: TOM YOCKEY

Interpreter:

Case #: J CR 01-27851 01

Appearances:

THE PEOPLE OF THE STATE OF CALIFORNIA
PLAINTIFF

D.A.: JEFF CUNAN

VS.

FRIEDMAN, ROBERT MICHAEL

Attorney: ABRAMSON, BILL
(Present)

DEFENDANT

(Custody: I/C ID#: 27779)

Proceeding: PRE-TRIAL CONFERENCE

restricted for 18 MONTHS driving to and from work,
driving to and from the drinking driver program, and driving during
the scope of employment if necessary. This restriction begins on
the day your driving privilege is restored by DMV

--- SPECIAL NOTES

BAIL IS EXONERATED.

Orig. Agency: CHP(68609PP, 01-05105) Degree: M

Court Appearances:

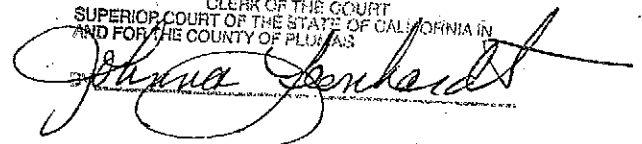
			Vac	TW	Calendar
07/03/2001	01:30	ARR			IK IRA KAUFMAN
07/03/2001	03:00	ARR	N		IK IRA KAUFMAN
07/05/2001	03:00	B/OR	N		IK IRA KAUFMAN
07/06/2001	08:30	FP	Y		IK IRA KAUFMAN
07/20/2001	01:30	PX			IK IRA KAUFMAN
07/20/2001	08:30	PTC			IK IRA KAUFMAN
07/20/2001	10:00	PTC			IK IRA KAUFMAN
07/24/2001	03:00	ARR	Y		IK IRA KAUFMAN
07/27/2001	08:30	PTC			IK IRA KAUFMAN

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF
THE ORIGINAL ON FILE IN THIS OFFICE

Attest: 12-20-2007

DEBORAH W. NORRIE

CLERK OF THE COURT
SUPERIOR COURT OF THE STATE OF CALIFORNIA IN
AND FOR THE COUNTY OF PLUMAS



SUPERIOR COURT OF CALIFORNIA		Reserved for Clerk's File Stamp	
COUNTY: <u>Plumas</u>	DEC 26 2001	FILED	
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA	SAN FRANCISCO TAXI COMMISSION	JUL 27 2001	
DEFENDANT: <u>Robert Michael Friedman</u>		SHERI WERT, Court Administrator Plumas County Superior Court BY <u>SHERIE ESLECK</u> DEPUTY	
DUI ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM (Vehicle Code § 23152)		CASE NUMBER: <u>01-27851</u>	DEPARTMENT

INSTRUCTIONS

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial the box for each applicable item only if you understand it, and sign and date the form on page 5. If you have any questions about your case, the possible sentence, or the information on this form, ask your attorney or the judge.

RIGHT TO AN ATTORNEY

1. I understand that I have the right to be represented by an attorney throughout the proceedings. I understand that the Court will appoint a free attorney for me if I cannot afford to hire one, but at the end of the case, I may be asked to pay all or part of the cost of that attorney, if I can afford to. I understand that there are dangers and disadvantages to giving up my right to an attorney, and that it is almost always unwise to represent myself.

INITIALS ↓
<u>RMF</u>
1.

NATURE OF THE CHARGES (Complete all items you are charged with.)

I understand that I am charged with a violation of Vehicle Code section(s):

- 2. 23152(a) - Driving under the influence of alcohol or drugs, or both.
- 3. 23152(b) - Driving when my blood-alcohol level was .08 percent or higher.
- 4. 23152(d) - Driving a commercial vehicle when my blood-alcohol level was .04 percent or higher.
- 5. 23103, 23103.5 - Reckless driving involving alcohol or drugs, or both.
- 6. Check if applicable - 14601 or 14601.1 or 14601.2 or 14601.5
Driving in knowing violation of a driver's license restriction, suspension, or revocation.
- 7. Check if applicable - 14601.3 (Habitual traffic offender) - Accumulating a driving record history in knowing violation of a driver's license suspension or revocation.

<u>RMF</u>
2.
3. <u>X</u>
4. <u>X</u>
5. <u>X</u>
6. <u>X</u>
7. <u>X</u>

8. If applicable - I understand that I am also charged with the following other offense(s):

Violation of Probation Plumas County Case # 99-25268

<u>RMF</u>
8.

9. If applicable - I am also charged with having the following other conviction(s):

CVC 23152(a) Plumas County # 99-25268 - Conviction 5/25/99

<u>RMF</u>
9.

10. If applicable - I am also charged with violating the probation order(s) in the following case(s):

99-25268 6-25-99

<u>RMF</u>
10.

11. I understand the charge(s) against me, and the possible pleas and defenses.

<u>RMF</u>
11.

CONSTITUTIONAL RIGHTS

12. RIGHT TO A JURY TRIAL - I understand that I have the right to a speedy, public jury trial. At the trial, I would be presumed innocent, and I could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt.

<u>RMF</u>
12.

CONSTITUTIONAL RIGHTS (Continue)

- 13. **RIGHT TO CONFRONT WITNESSES** - I understand that I have the right to confront and cross-examine all witnesses testifying against me.
- 14. **RIGHT AGAINST SELF-INCRIMINATION** - I understand that I have the right to remain silent and not incriminate myself, and the right to testify on my own behalf. I understand that by pleading guilty or no contest, or admitting other conviction(s) or probation violation(s), I am incriminating myself.
- 15. **RIGHT TO PRODUCE EVIDENCE** - I understand that I have the right to present evidence and to have the Court issue subpoenas to bring into court all witnesses and evidence favorable to me, at no cost to me.

RIGHTS ON CHARGES OF OTHER CONVICTION(S) AND PROBATION VIOLATION(S)

- 16. **If applicable** - I understand that I have the right to an attorney, the right to a jury trial, the right to confront witnesses, the right against self-incrimination, and the right to produce evidence and witnesses for all charges against me, including other alleged conviction(s) or probation violation(s). However, for a charge of violating probation, I do not have the right to a jury trial, but I do have the right to a hearing before a judge.

WAIVER OF RIGHTS

Understanding all of the above, for all of the charges against me, including any other alleged conviction(s) or probation violation(s):

- 17. I give up my right to an attorney, and I choose to represent myself. (Does not apply if you have an attorney.)
- 18. I give up my right to a jury trial.
- 19. I give up my right to confront and cross-examine witnesses.
- 20. I give up my right to remain silent and to not incriminate myself.
- 21. I give up my right to produce evidence and witnesses on my own behalf.

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

- 22. I understand that if I am not a citizen, a plea of guilty or no contest could result in my deportation, exclusion from admission to this country, or denial of naturalization.
- 23. I understand that a plea of no contest (*nolo contendere*) will have exactly the same effect in this case as a plea of guilty, but it cannot be used against me in a civil lawsuit unless the offense is punishable as a felony.
- 24. I understand that any plea entered in this case may be grounds for revoking probation or parole which has previously been granted to me in any other case.
- 25. I understand that the Department of Motor Vehicles (DMV) may consider any of my other convictions for DUI or reckless driving, even those that are not charged in this proceeding, and may impose a more severe license restriction, suspension, or revocation as a result.
- 26. I understand that in addition to the fine, the Court will add assessments which will significantly increase the amount I must pay. I will also be ordered to make restitution and to pay a restitution fine of \$100 to \$1000 (or \$200 to \$10,000 if the offense is a felony) unless the Court finds compelling and extraordinary reasons not to do so.
- 27. **If applicable** - I understand that if my blood-alcohol level was .20 percent or above, or if I refused to submit to a chemical test, the Court will consider this in determining whether to enhance the penalties, grant probation, or impose additional terms of probation.
- 28. **If applicable** - I understand that if I am the registered owner of the vehicle used in the offense:
 - A. The Court will impound my vehicle at my expense for up to 90 days, unless it is in the interests of justice not to do so. The Court may also declare my vehicle to be a nuisance and order it sold following a hearing if I have 2 or more other convictions for DUI, vehicular manslaughter (Penal Code §§ 191.5 or 192(c)(3)), or any combination thereof, in the past 7 years.

INITIALS ↓
13. LMZ
14. LMZ
15. LMZ
16. LMZ
17. LMZ
18. LMZ
19. LMZ
20. LMZ
21. LMZ
22. LMZ
23. LMZ
24. LMZ
25. LMZ
26. LMZ
27. LMZ
28A. LMZ

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST (Continued)

B. The Court may also require me to install an ignition interlock device (IID) for up to three years. If this is my first offense, heightened consideration will be given to required IID installation if the factors in item No. 27 (page 2) exist, or if I have two or more prior moving traffic violations. Installation of this device, which prevents the vehicle from starting if I have alcohol in my body, does not authorize me to drive without a valid driver's license.

C. If I am convicted of a second or subsequent violation of driving with a suspended or revoked license (V.C. § 14601 *et seq.*) or driving without a license (V.C. § 12500(a)), my vehicle will be subject to forfeiture as a nuisance.

INITIALS ↓
 28B. *LMF*
 28C. *LMF*

SENTENCES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS (Section 23152)		
Offense	Minimum and Maximum Sentences when Probation is Granted (3 to 5 Years Probation Term)	Minimum and Maximum Sentences without Probation
First offense within 7 years See Nos. 29-33	Two options, both requiring a fine of \$390 to \$1,000, attendance at a 3-month alcohol/drug program (or a 6-month program if my blood-alcohol content was .20 percent or more, or if I refused a chemical test at arrest), plus either: (A) 48 hours to 6 months in jail, and a 6-month driver's license suspension; or (B) A 90-day driver's license restriction allowing driving for work and alcohol/drug program attendance only. However, my driver's license shall be suspended for 6 months if the offense occurred in a vehicle which requires a class A or B driver's license.	96 hours to 6 months in jail, \$390 to \$1,000 fine, and a 6-month driver's license suspension.
Second offense within 7 years See Nos. 29-33	Two options, both carrying a fine of \$390 to \$1,000, plus either: (A) 10 days to 1 year in jail, and a 2-year driver's license suspension; or (B) 96 hours to 1 year in jail (the 96 hours will be served in 2 increments of a continuous 48-hours each); an 18-month (or 30-month) alcohol/drug program, and a driver's license restriction allowing driving only for work and program attendance for the duration of the program. My license shall instead be suspended for 2 years if the offense occurred in a vehicle which requires a class A or B driver's license.	90 days to 1 year in jail, \$390 to \$1,000 fine, and a 2-year driver's license suspension.
Third offense within 7 years See Nos. 29-34	120 days to 1 year in jail, \$390 to \$1,000 fine, a 3-year driver's license revocation, and an 18-month alcohol/drug program if I have not completed one before.	120 days to 1 year in jail, \$390 to \$1,000 fine, and a 3-year driver's license revocation.
Fourth or subsequent offense within 7 years See Nos. 29-34	180 days to 1 year in jail, \$390 to \$1,000 fine, a 4-year driver's license revocation, and an 18-month alcohol/drug program if I have not completed one before.	16 months, or 2 or 3 years in state prison, (or 180 days to 1 year in county jail); \$390 to \$1,000 fine, and a 4-year driver's license revocation.

ADDITIONAL PENALTIES FOR A VIOLATION OF SECTION 23152

29. I understand that the DMV may restrict, suspend, or revoke my driver's license under a procedure which is separate from this criminal action. I understand that the DMV's action, if any, will be in addition to the Court's sentence and that I must obey it.

30. I understand that the DMV will not issue a restricted driver's license or restore my driving privilege following a restriction, suspension, or revocation unless I have proof of insurance for 3 years. The DMV will suspend my driver's license: (1) until proof of insurance is provided to the DMV and (2) upon my failure to maintain such proof during the 3-year period.

31. I understand that I must successfully complete an alcohol/drug program in order to have my driving privilege reinstated following any license restriction, suspension, or revocation which is imposed on me, even if I am not ordered to attend such a program by the Court.

32. I understand that the DMV will prevent me from operating a commercial vehicle if I was operating a commercial vehicle at the time of the offense. The DMV will also revoke my driver's license for a period of 4 years if I have a prior felony conviction in the past 10 years of Vehicle Code §§ 23152, 23153, or Penal Code §§ 191.5, 192(c)(1) or 192(c)(3).

INITIALS ↓
 29. *LMF*
 30. *LMF*
 31. *LMF*
 32. *LMF*

ADDITIONAL PENALTIES FOR A VIOLATION OF SECTION 23152 (Continued)

33. If applicable - I understand that if I was under the age of 21 at the time of my arrest, my driver's license will also be suspended for 1 year, and I must surrender my license to the Court. If I do not have a valid driver's license, the Court will order the DMV to delay issuing a license to me for 1 year after I become eligible to drive.

INITIALS ↓
 [Signature]
 33.

34. If applicable - I understand that if I am convicted of a third or subsequent DUI violation:
 A. I must surrender my driver's license to the Court. I will also be designated as an habitual traffic offender for 3 years after my conviction, and I will receive an enhanced sentence if I drive in violation of my license revocation.

[Signature]
 34A.

B. If probation is granted, I may request to participate in a 30-month treatment program. This program includes between 120 and 300 hours of community service. If the Court grants my request, I will be sentenced to the county jail for at least 30 days but not more than 1 year as a condition of probation, instead of the jail term specified in the chart on page 3.

[Signature]
 34B.

SENTENCES FOR RECKLESS DRIVING (Sections 23103, 23103.5)

Nature of Offense	Minimum and Maximum Sentences	Other Consequences
Reckless driving reduced from driving under the influence	If probation is granted: A maximum of 90 days in jail, or \$1,000 fine, or both, plus attendance at a treatment program. If probation is not granted: 5 days to 90 days in jail, or \$145 to \$1,000 fine, or both.	If alcohol or drugs are involved, this conviction will act as a separate DUI conviction if I commit a subsequent DUI offense within 7 years.

SENTENCES FOR DRIVING IN VIOLATION OF A LICENSE SUSPENSION, REVOCATION, OR RESTRICTION

Vehicle Code Section	First Offense	Second or Subsequent Offense: I have prior conviction(s) in past 5 years of sections 14601, 14601.1, 14601.2, or 14601.5.
14601	5 days to 6 months in jail, and a fine of \$300 to \$1,000.	10 days to 1 year in jail, and a fine of \$500 to \$2,000. 10 days in jail required if probation is imposed.
14601.1	Up to 6 months in jail, or a fine of \$300 to \$1,000, or both.	5 days to 1 year in jail, and a fine of \$500 to \$2,000.
14601.2	10 days to 6 months in jail, and a fine of \$300 to \$1,000. 10 days in jail required if probation is imposed.	30 days to 1 year in jail, and a fine of \$500 to \$2,000. 30 days in jail required if probation is imposed.
14601.5	Up to 6 months in jail, or a fine of \$300 to \$1,000, or both.	10 days to 1 year in jail, and a fine of \$500 to \$2,000. Note-section 14601.3 also constitutes a prior conviction for this offense.

Vehicle Code Section	First Offense	Second or Subsequent Offense: Prior conviction(s) in past 7 years of section 14601.3.
14601.3	30 days in jail, and a fine of \$1,000.	180 days in jail, and a fine of \$2,000.

ADDITIONAL PENALTIES FOR A VIOLATION OF SECTIONS 14601, 14601.1, 14601.2, or 14601.5

35. If applicable - I understand that if I am convicted of a violation of Vehicle Code § 14601.2, or if the original charge was for a violation of that section but I am pleading to section 14601, 14601.1 or 14601.5, the Court will require me to install an ignition interlock device (IID) on any vehicle that I own or operate. This order will be imposed for up to three years. Installation of this device, which prevents the vehicle from starting if I have alcohol in my body, does not authorize me to drive without a valid driver's license. Failure to install the IID shall result in the suspension of my driver's license by the DMV.

INITIALS ↓
 [Signature]
 35.

36. I have read and understood the applicable charts on pages 3 and 4 which list the minimum and maximum penalties for the offense(s) I am charged with. (See No. 37 for the offenses not listed in the charts.)

INITIALS
36. *RUC*

PENALTIES FOR OTHER OFFENSES

37. If applicable - I understand that the possible consequences for the offense(s) charged, which are not listed on the penalty charts on pages 3 and 4, include the following:

SECTION NUMBER	JAIL - MIN.	MAX.	FINE - MIN.	MAX.
OTHER CONSEQUENCES:				
SECTION NUMBER	JAIL - MIN.	MAX.	FINE - MIN.	MAX.
OTHER CONSEQUENCES:				
SECTION NUMBER	JAIL - MIN.	MAX.	FINE - MIN.	MAX.
OTHER CONSEQUENCES:				
SECTION NUMBER	JAIL - MIN.	MAX.	FINE - MIN.	MAX.
OTHER CONSEQUENCES:				

37. *RUC*
huc
RUC

PLEA(S)

38. I hereby freely and voluntarily plead No Contest to the following:

GUILTY OR NO CONTEST

III CVC 23152(a), Admit VOP case #99-25268

LIST CHARGE(S)

38. *RUC*
2

39. If applicable - I freely and voluntarily admit the other conviction(s) that I listed on this form. I understand that this admission will increase the penalties which are imposed on me.

39. *RUC*

40. If applicable - I freely and voluntarily admit the probation violation(s) that I listed on this form and give up my right to a hearing before a judge regarding the probation violation(s).

40. *RUC*

41. I understand that I have the right to a delay of from 6 hours to 5 days prior to being sentenced for a misdemeanor, and the right to a delay of up to 20 days for a felony. I give up this right and agree to be sentenced at this time.

41. *RUC*

42. If applicable - I understand that I have the right to enter my plea before, and to be sentenced by, a judge. I give up this right and agree to enter my plea before, and to be sentenced by:

42. *RUC*

TEMPORARY JUDGE'S NAME

**** DEFENDANT'S SIGNATURE:** *Robert M. F. [Signature]* **DATE:** *7/27/2001*

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed the form and any addenda with my client. I have explained each of the defendant's rights to the defendant and answered all of the defendant's questions with regard to this plea. I have also discussed the facts of the defendant's case with the defendant, and explained the consequences of this plea, the elements of the offense(s), and the possible defenses. I concur in this plea and in the defendant's decision to waive his or her constitutional rights.

[Handwritten Signature]

7-27-01

SIGNATURE OF DEFENDANT'S ATTORNEY

DATE

INTERPRETER'S STATEMENT (if applicable)

I, having been sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language indicated below. The defendant stated that (s)he understood the contents of the form, and then (s)he initialed and signed the form.

Language: Spanish Other (specify): _____

COURT INTERPRETER'S SIGNATURE

TYPE OR PRINT NAME

DATE

COURT'S FINDINGS AND ORDER

The Court, having reviewed this form and any addenda, and having questioned the defendant concerning the defendant's constitutional rights and the defendant's admission of other conviction(s) and probation violation(s), if any, finds that the defendant has expressly, knowingly, understandingly and intelligently waived his or her constitutional rights. The Court finds that the defendant's plea(s) and admission(s) are freely and voluntarily made with an understanding of the nature and consequences thereof, and that there is a factual basis for the plea(s). The Court accepts the defendant's plea(s), the defendant's admission of the other conviction(s) and probation violation(s), if any, and orders this form filed and incorporated in the docket by reference as though fully set forth therein.

[Handwritten Signature]

7/27/01

- Judge of the Superior Court
- Temporary Judge of the Superior Court

DATE

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

Attest: 10/20/07 2007

DEBORAN W. NORRIE

CLERK OF THE COURT SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF PLUMAS

[Handwritten Signature] Page 6 of 6

Exhibit 5

SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA
PITTSBURG

RECEIVED

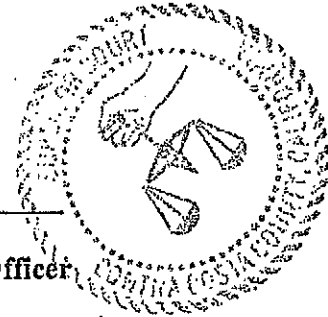
OCT 24 2007

SAN FRANCISCO
TAXI COMMISSION

CERTIFIED COPY OF DOCKET FOR PRIORS—Case No. 127508-0

I hereby certify that the attached documents are true and correct copies of the items from the court's docket and file as check below:

- Docket face sheet listing charges
- Docket sheet with rights given and waived
- Docket sheet with guilty plea
- Tahl Waiver form
- Complaint
- Probation order
- Other: _____



Ken Torre, Executive Officer

Date: 10-22-07

By: [Signature]
Deputy Clerk

Exhibit 6

FILED
AUG 9 - 2001

SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA
PITTSBURG

K. TORRES, CLERK OF THE COURT
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA, PITTSBURG
Deputy Clerk

THE PEOPLE OF THE STATE OF CALIFORNIA,
VS.

NO. 127508-0
DA NO. C 01 007759-4
COMPLAINT - MISDEMEANOR

ROBERT MICHAEL FRIEDMAN,
DEFENDANT./

- 01) CVC 23152(a)
W/PRIORS
- 02) CVC 23152(b)
W/PRIORS
- 03) PC 148(a)(1)

The undersigned states, on information and belief, that ROBERT MICHAEL FRIEDMAN, Defendant, did commit a misdemeanor, a violation of VEHICLE CODE SECTION 23152(a) (DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS), committed as follows:

On or about April 14, 2001, at Pittsburg, in Contra Costa County, the Defendant, ROBERT MICHAEL FRIEDMAN, did unlawfully drive a vehicle while under the influence of an alcoholic beverage and under the combined influence of alcoholic beverage and a drug.

SEPARATE CONVICTION(s)

It is further alleged that within seven years of the commission of the above offense, said Defendant committed a violation of the following Vehicle Code section(s) and was duly convicted as follows:

<u>VIOL.</u> <u>DATE</u>	<u>CONV.</u> <u>DATE</u>	<u>OFFENSE</u>	<u>DOCKET</u>	<u>COURT</u>
04/25/99	05/25/99	CVC 23152(a)	992526-8	PLUMAS JUSTICE COURT

SPECIAL ALLEGATION
DRIVING UNDER INFLUENCE
WITH BLOOD ALCOHOL OVER .20%

It is further alleged, pursuant to Vehicle Code section 23578, that in the commission of the above offense the Defendant had a blood alcohol content of .20 percent and more by weight.

COUNT TWO:

The undersigned further states, on information and belief, that ROBERT MICHAEL FRIEDMAN, Defendant, did commit a misdemeanor, a violation of VEHICLE CODE SECTION 23152(b) (DRIVING WHILE HAVING A 0.08 OR HIGHER BLOOD ALCOHOL), committed as follows:

On or about April 14, 2001, at Antioch, in Contra Costa County, the Defendant, ROBERT MICHAEL FRIEDMAN, did unlawfully, while having a 0.08 percent and more, by weight, of alcohol in his blood, drive a vehicle.

SEPARATE CONVICTION(s)

It is further alleged that within seven years of the commission of the above offense, said defendant committed a violation of the following Vehicle Code section(s) and was duly convicted as follows:

<u>VIOL.</u> <u>DATE</u>	<u>CONV.</u> <u>DATE</u>	<u>OFFENSE</u>	<u>DOCKET</u>	<u>COURT</u>
04/25/99	05/25/99	CVC 23152(a)	9925268	PLUMAS JUSTICE COURT

SPECIAL ALLEGATION
DRIVING UNDER INFLUENCE
WITH BLOOD ALCOHOL OVER .20%

It is further alleged, pursuant to Vehicle Code section 23578, that in the commission of the above offense the Defendant had a blood alcohol content of .20 percent and more by weight.

COUNT THREE:

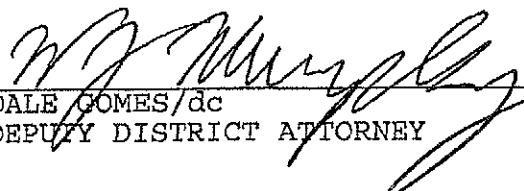
The undersigned further states, on information and belief, that ROBERT MICHAEL FRIEDMAN, Defendant, did commit a misdemeanor, a violation of PENAL CODE SECTION 148(a)(1) (RESIST, OBSTRUCT, OR DELAY A PEACE OFFICER), committed as follows:

On or about April 14, 2001, at Antioch, in Contra Costa County, the Defendant, ROBERT MICHAEL FRIEDMAN, did willfully and unlawfully resist, delay, and obstruct a peace officer in the discharge of and the attempt to discharge a duty of his/her office.

COMPLAINANT REQUESTS THAT DEFENDANT(S) BE DEALT WITH ACCORDING TO LAW.
I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND
CORRECT.

DATED: July 30, 2001

AT MARTINEZ, CALIFORNIA


DALE GOMES/dc
DEPUTY DISTRICT ATTORNEY


R. HUDDLESTON
COMPLAINANT

ANTIOCH POLICE DEPARTMENT

NOTICE, SENTENCE, COMMITMENT FORM

CLERK'S DOCKET AND MINUTES

PA RATE-H

DEFENDANT FRIEDMAN, ROBERT MICHAEL DEPT. Q33 DATE 12/06/2001 1:30 P
ADDRESS 4308 WOLVERINE WAY ANTIOCH CA 94508 06/30/19
ROC PTC MISD PROB DEFENSE ATTORNEY PD-FRANKLI TIME WAIVED
CUSTODIAL STATUS OR TARGET DATE: 10/31/2001
CHARGES 01 M CVC 23152(a) W/P 02 M CVC 23152(b) W/P 03 M PC 148(a)(1)
03-026

JUDGE STEVEN AUSTIN COURT REPORTER K. JOHNSTON DEPUTY CLERK M. GREENBERG
ASSIGN. TO DEPT. JUDGE COURT REPORTER DEPUTY CLERK

APPLICABLE ENTRIES MARKED

Def. proceeds in PRO PER
Def. appears In custody Def. not appearing
With/By Atty (Pub. Def./ADO) H. Taylor
Deputy Dist. Atty. S. Brock
Court Probation Off.
Interp. sworn/oath on file
Cert. Non-Cert. Qualified per Rule 984.2
Order Int. Int. Coord. notified
Answers true name as charged
Waives Arr/reading of Complaint
Handed copy of Complaint/Discovery
Def. duly arr. Video on Prob. Vio.
Def. waives arr. on amended complaint.
Bench/Arrest Warrant to Issue
Bail Set at \$
Recalled Set Aside Remain Out
No PTA Release No Vol. App.
Hold until
Bail forfeit & continued 190 days Bail Exon
Bail forfeiture set aside & reinstated upon payment of fee \$

Referred To: PUBLIC DEFENDER
Referred To: PROB. Bail Study/PPR
Referred per 288.1 PC 1368 PC
Adult Pre-Trial/PC 1000 Diversion eligibility
Pub. Def. Conflict Filed; Appointed ADO
Report to for booking
977 waiver filed 170.6 PC filed/oral
In re law notice given
Written Plea filed Pleads Guilty, Ct.#
Pleads No Contest, Found Guilty, Ct.# 2 months
Pleads Not Guilty, Ct.#
Jury Trial Waived/Demanded
Time for Trial/Sent Waived/Not Waived
Time for PX 10/60 Days Waived/Not Waived
Admit/Denies 2 Priors/Refusal/Enhance
Vacate date of
Def. must/need not appear

Per/Def. Motion to/for/cont. Amend
Submitted with argument without argument
Granted Denied Submitted No Action Taken
Grounds:
D.A. Motion to file amended complaint
Complaint amended on its face to add Ct.#
a violation of section
Pursuant to 23103.5CVC
Strike the words felony and feloniously. Substitute the word misdemeanor wherever it appears in Complaint.
Per Court/DA dismiss Complaint/Ct.# 43
Criminal Protective Order issued and served
Court Probation granted for +120 mo/yr
Adult Pre-Trial/PC 1000 Diversion granted
Probation/Diversion/Reinstated/Modified/Extended to
Original terms in full force and effect except as ordered.
Def. given/waived rights to Revoc. Hg; Admits/Denies allegations
Prob. Revoked: Def. found in violation of probation
Probation/Diversion: Terminated: Successfully/Unsuccessfully/Denied
Pay Prob. Vio. fine of \$ Upon payment of fine/completion of jail sentence
Criminal Proceedings Reinstated/Dismissed

Pay a fine of \$ Rest. Fine of
Pay \$10 cite fee/\$25 Booking Fee/\$ CJA Fee
Pay balance of fine/ In lieu of fine Susp. \$ after fine.
Make monthly payments to CCU P.O. Box 1669 Martinez, CA 94553
Phone (925) 648-1951 by
hours Volunteer work by Fee \$
Re-refer/reinstate to Level I/Level II/PCDDP
Referred to ORC for Attorney Fee Costs of \$
License Suspended/Revoked months/years
DL310/DL309 Served Advised 14607.8 CVC
Pay fine/comply or appear on at
Be imprisoned 210 days/months/years
days/months/years credit
days/months/years suspended
Sentence to commence
Serve consecutive/concurrent
with 127 4760 with any sentence
Main Jail Electronic Home Detention
WAP Contact CAB immediately / within 15 days.
Day for day credit for time served in approved residential program. Proof by
Obey all laws.
Do not use any alcohol. Do not go to places where alcoholic beverages are the chief item of sale.
Attend AA/NA meetings per week and present proof at each court appearance.
Submit to search and testing
Destroy Return weapon
Stay away from

REMANDED to County Jail: Ordered released On OR Promise to Appear Def. to be allowed phone calls
Bail Set in the amt. of \$ Court Courtesy State Prison Commitment Committed to custody until sentence is satisfied in full

TO THE SHERIFF: COMMITMENT: I hereby certify that this is a true copy of the Entry of Judgment or Order and is your authority for the execution thereof.
See other minute pages for additional proceedings.

ORDER OF PROBATION

CONCORD

MARTINEZ

PITTSBURG

RICHMOND

WALNUT CREEK

DEFENDANT Robert M. Friedman

DOCKET NO. 127508-0

The above named defendant having been convicted in this court of the offense(s) of violation of:

Section(s) 23152 with prior(s) Other:

127476-0

IT IS ORDERED: That imposition execution of sentence be suspended during period of probation with the following terms:

TERMS OF PROBATION (Applicable Items Checked):

- COURT PROBATION GRANTED: Conditional and revocable release in the community without Probation supervision... STANDARD TERMS (see reverse for standard terms and additional instructions.)

ALL/FINE/VOLUNTEER WORK/RESTITUTION

- Be IMPRISONED 210 hrs/days/months... Pay a FINE of \$ 1190... Credit time... Pay restitution fine of \$ 100... Perform hours VOLUNTEER COMMUNITY SERVICE

- Abstain from the use of alcoholic beverages... Submit to drug/alcohol use detection tests... Not go to places where alcoholic beverages are the chief item of sale... Take antabuse as prescribed by physician

PROGRAM TERMS

- Attend and complete the First Offender Drinking Driver's Program... Report to Post Conviction Drinking Driver's Program within 10 days... Participate in counseling as directed by the Court Probation Officer... Referred for HIV testing

CLEARED

JAN 5 2002

DRIVING TERMS

- Driving privilege restricted for... Driving privilege suspended/revoked for 3 yrs... Not drive a motor vehicle unless properly licensed and insured... Not drive vehicle with any measurable alcohol in blood... If arrested for a violation of 23152 or 23153 CVC, not refuse a chemical test for the detection of alcohol.

VEHICLE IMPOUNDMENT TERMS

- DEFENDANT'S VEHICLE BE: Impounded days... Install Ignition Interlock device on any vehicle owned/operated from now until years after license reinstatement... Provide proof of installation to court by... Ignition Interlock Device ordered not ordered... Do not drive any motor vehicle unless said vehicle is equipped with a Certified Ignition Interlock Device.

Although not a condition of probation, you are ordered to pay the following fees:

- \$25 Booking Fee \$10 Cite Fee CJA \$ Other

I HAVE READ AND RECEIVED A COPY OF THESE CONDITIONS OF PROBATION AND I UNDERSTAND AND AGREE TO PERFORM THEM AND UNDERSTAND THAT IF I FAIL TO DO SO, MY PROBATION MAY BE REVOKED AND I MAY BE SENTENCED TO JAIL OR SENTENCED AS OTHERWISE PROVIDED BY LAW.

DEFENDANT'S SIGNATURE: Robert M. Friedman... SOCIAL SECURITY # 567-54-9350 DOB... ADDRESS 4308 Woodview way CITY ANTIOCH... STATE CA ZIP CODE 94503 PHONE 925-970320

COMMITMENT: TO THE SHERIFF, I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY OF THE ENTRY OF JUDGMENT OR ORDER AND IS YOUR AUTHORITY FOR THE EXECUTION THEREOF

JUDGE OF THE MUNICIPAL COURT 12/6/01 DATED

Exhibit 7

FORM 1095

To: The San Francisco Taxicab Commission

In compliance with the provisions of Section 1095 of the San Francisco Municipal Police Code, the undersigned Taxicab Medallion Holder(s) hereby makes a sworn statement as follows:

PART 1

(We) have permits or licenses from other governmental bodies relating to the operation of Motor Vehicles for Hire:

Yes (If you have such permits or licenses, attach a copy(s)) No

PART 2

(We) and all those operating under this medallion are in compliance with appropriate State of California and City and County of San Francisco laws pertaining to proper driver licenses, all pertinent rules adopted by the Taxi Commission, all applicable San Francisco Municipal Police Code sections, Appendix F of the Charter of the City and County of San Francisco (Proposition K) and all other pertinent local, state and federal laws applicable to the operation of a Taxicab.

Medallion Number(s) 865 Color Scheme Red, White, Green

Name(s) in which Medallion is Held: ROBERT M. FRIEDMAN

Residence Address of Medallion Holder: San Francisco, Ca. 94509
(Street, city, state, zip)

Business Address of Medallion Holder: 1501 Harrison St. S.F., Ca. 94103
(Street, city, state, zip)

Residence Phone: 949-411-1111 Business Phone: (415) 552-1100
Area code Number Area Code Number

PART 3

(We) declare under penalty of perjury under the laws of the State of California that the information provided on this form, attached explanations where applicable, and any attachments hereto, are true and correct.

Executed on May 3 2000 At SAN FRANCISCO CA. 94103
Date City, State

Medallion Holder(s) Robert M. Friedman _____
Signature Signature
ROBERT MICHAEL FRIEDMAN _____
Print Name Print Name

5897 _____
California driver license number California driver license number
4/11/00 _____
Date of Birth Date of Birth
Right Thumb Print Right Thumb Print

Witnessed By: _____ Star # _____ Date _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
 County of San Francisco
 On May 3, 2000 before me, Marianne Harp (Notary Public)
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
 personally appeared Robert M. Friedman
Name(s) of Signer(s)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Marianne Harp
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Form 1095
 Document Date: None Number of Pages: _____
 Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer(s)

Signer's Name: Robert M. Friedman Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

FORM 1095

To: The San Francisco Taxicab Commission

In compliance with the provisions of Section 1095 of the San Francisco Municipal Police Code, the undersigned Taxicab Medallion Holder(s) hereby makes a sworn statement as follows:

PART 1

I (We) have permits or licenses from other governmental bodies relating to the operation of Motor Vehicles for Hire:

Yes (If you have such permits or licenses, attach a copy(s)) No

PART 2

I (We) and all those operating under this medallion are in compliance with appropriate State of California and City and County of San Francisco laws pertaining to proper driver licenses, all pertinent rules adopted by the Taxi Commission, all applicable San Francisco Municipal Police Code sections, Appendix F of the Charter of the City and County of San Francisco (Proposition K) and all other pertinent local, state and federal laws applicable to the operation of a Taxicab.

Medallion Number(s) 865 Color Scheme ARROW C.B.

Name(s) in which Medallion is Held: ROBERT M FRIEDMAN

Residence Address of Medallion Holder: ANTIOCH CA 94531

Business Address of Medallion Holder: 3 PECK CAB CO 1124 HARRISON ST ANTIUCH CA 94509

Residence Phone: 552-1100 Business Phone: 415-552-1100

PART 3

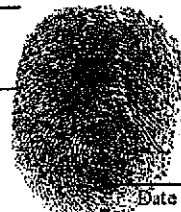
(We) declare under penalty of perjury under the laws of the State of California that the information provided on this form, attached explanations where applicable, and any attachments hereto, are true and correct.

Executed on April 6 2001 At S.F. CAL.

Medallion Holder(s) Robert M Friedman Signature

FRIEDMAN, ROBERT M Print Name

44-111101 California driver license number



Right Thumb Print Date of Birth

Witnessed By: [Signature] Star # 6562 Date 4/6/01

HIS FORM MUST BE NOTARIZED OR SUBMITTED IN PERSON TO THE POLICE TAXICAB DETAIL

AV
11/10/01

FORM 1095

To: The San Francisco Taxicab Commission

In compliance with the provisions of Section 1095 of the San Francisco Municipal Police Code, the undersigned Taxicab Medallion Holder(s) hereby makes a sworn statement as follows:

PART 1

I (We) have permits or licenses from other governmental bodies relating to the operation of Motor Vehicles for Hire:

Yes (If you have such permits or licenses, attach a copy(s))

No

PART 2

I (We) and all those operating under this medallion are in compliance with appropriate State of California and City and County of San Francisco laws pertaining to proper driver licenses, all pertinent rules adopted by the Taxi-Commission, all applicable San Francisco Municipal Police Code sections, appendix F of the Charter of the City and County of San Francisco (Proposition K) and all other pertinent local, state and federal laws applicable to the operation of a Taxicab.

Medallion Number(s) 865 Color Scheme ARROW-RED & CREME

Name(s) in which Medallion is Held: ROBERT M. FRIEDMAN

Residence Address of Medallion Holder: E WAY ANTIOCH CA 94531
Street, City, State, Zip

Business Address of Medallion Holder: SPECK CAB CO. 159 HARRISON ST SF. 94103
Street, City, State, Zip

Residence Phone: 415 512 3757
Area Code Number

Business Phone: 415 512 3757
Area Code Number

PART 3

I (We) declare under penalty of perjury under the laws of the State of California that the information provided on this form, attached explanations where applicable, and any attachments hereto, are true and correct.

Executed on April 19, 2002 at Antioch CA.
Date City, State

Medallion Holder(s) Robert M Friedman
Signature

Signature

Friedman, Robert M.
Print Name

Print Name

CA
Driver's License Number State

Driver's License Number State



1 1 3
Date of Birth

Date of Birth Right Thumb Print

Witnessed by: _____ Star # _____ Date _____

THIS FORM MUST BE NOTARIZED OR SUBMITTED IN PERSON TO THE POLICE TAXICAB DETAIL

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

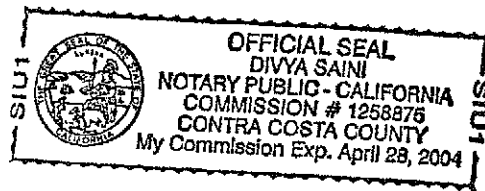
State of California,

County of Contra Costa,

On April 19th 2002 before me, Divya Saini, Notary Public personally appeared Robert M. Friedman,
~~personally known to me/proved to me on the basis of~~
satisfactory evidence to be the person~~s~~ whose name~~s~~
is/~~are~~ subscribed to the within instrument and
acknowledged to me that he/~~she/they~~ executed the same
in his/~~her/their~~ authorized capacity~~(ies)~~, and that by
his/~~her/their~~ signature~~s~~ on the instrument the person~~s~~,
or the entity upon behalf of which the person~~s~~ acted,
executed the instrument.

Witness my hand and official seal.

Divya Saini



Attached document:

Document Type/Title Sworn Statement - Taxicab Medallion holder
Document Date 4/19/02 No. of pages 1
Other signers _____

FORM 1095

To: The San Francisco Taxicab Commission

In compliance with the provisions of Section 1095 of the San Francisco Municipal Police Code, the undersigned Taxicab Medallion Holder(s) hereby makes a sworn statement as follows:

PART 1

I (We) have permits or licenses from other governmental bodies relating to the operation of Motor Vehicles for Hire:

Yes (If you have such permits or licenses, attach a copy(s)) No

PART 2

I (We) and all those operating under this medallion are in compliance with appropriate State of California and City and County of San Francisco laws pertaining to proper driver licenses, all pertinent rules adopted by the Taxi Commission, all applicable San Francisco Municipal Police Code sections, appendix F of the Charter of the City and County of San Francisco (Proposition K) and all other pertinent local, state and federal laws applicable to the operation of a Taxicab.

Medallion Number(s) 865 Color Scheme NATIONAL ARROW-RED & CREME

Name(s) in which Medallion is Held: ROBERT M. FRIEDMAN

Residence Address of Medallion Holder: SF CA 94103
Street, City, State, Zip

Business Address of Medallion Holder: NATE CAB CO - 2270 McRINNON ST SF CA
Street, City, State, Zip

Residence Phone: (415) 441-4444
Area Code Number

Business Phone: ()
Area Code Number

PART 3

I (We) declare under penalty of perjury under the laws of the State of California that the information provided on this form, attached explanations where applicable, and any attachments hereto, are true and correct.

Executed on April 29, 2003 at San Francisco, CA
Date City, State

Medallion Holder(s) Robert M. Friedman
Signature

Appeared before me identified by CDI # 510336 and signed in my presence. Don Mark Belke
Signature

Robert M. Friedman
Print Name



7 Driver's License Number State

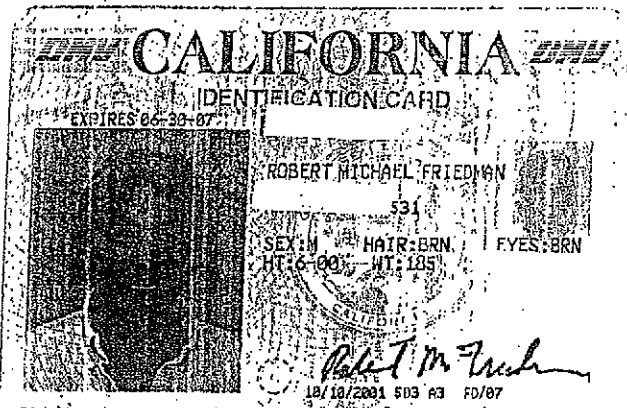
 Date of Birth

 Right Thumb Print

Witnessed by: Don Mark Belke
Signature

Star # Date 4/29/03

THIS FORM MUST BE NOTARIZED OR SUBMITTED IN PERSON TO THE POLICE TAXICAB DETAIL



ISSUED BY:

OFFICE OF THE TREASURER & TAX COLLECTOR
PUBLIC PASSENGER VEHICLE DRIVER

EXPIRES: DECEMBER 31, 2003
ROBERT M FRIEDMAN



The above named person is licensed as a Public Passenger Vehicle Driver in accordance with the San Francisco Police Code, Article 1, Sections 2.26.1 and 2.27.1

FORM 1095

To: The San Francisco Taxicab Commission

In compliance with the provisions of Section 1095 of the San Francisco Municipal Police Code, the undersigned Taxicab Medallion Holder(s) hereby makes a sworn statement as follows:

PART 1

I (We) have permits or licenses from other governmental bodies relating to the operation of Motor Vehicles for Hire:

Yes (If you have such permits or licenses, attach a copy(s)).

No

PART 2

I (We) and all those operating under this medallion are in compliance with appropriate State of California and the City and County of San Francisco laws pertaining to proper driver licenses, all pertinent rules adopted by the Taxi Commission, all applicable San Francisco Municipal Police Code sections, Appendix F of the Charter of the City and County of San Francisco (Proposition K) and all other pertinent local, state and federal laws applicable to the operation of a taxicab.

Medallion Number(s) 865 Color Scheme NATIONWIDE CAB CO

Name(s) in which Medallion is Held: ROBERT MICHAEL FRIEDMAN

Residence Address of Medallion Holder ^{NEW} ANTIOCH CA 94531 NOBLE CA 94564
Street, City, State, Zip

Business Address of Medallion Holder: 2270 WASHINGTON ST SF CA
Street, City, State, Zip

Residence Phone: (415) - - - - -
Area code Number

Business Phone: (415) 6484444
Area Code Number

PART 3

I (We) declare under penalty of perjury under the laws of the State of California that the information provided on this form, attached explanations where applicable, and any attachments hereto, are true and correct.

Executed 4/27/04 at _____
Date City, State

Medallion Holder(s) Robert M. Friedman _____
Signature Signature

ROBERT MICHAEL FRIEDMAN _____
Print Name Print Name



4/07 _____
California driver license number/Expiration California driver license number/Expiration

_____ _____
Date of Birth Date of Birth

Witnessed By: [Signature]

Date 4/27/04

THIS FORM MUST BE SUBMITTED IN PERSON TO THE TAXI COMMISSION

FORM 1095

To: The San Francisco Taxicab Commission

In compliance with the provisions of Section 1095 of the San Francisco Municipal Police Code, the undersigned Taxicab Medallion Holder(s) hereby makes a sworn statement as follows:

PART 1

I (We) have permits or licenses from other governmental bodies relating to the operation of Motor Vehicles for Hire:

Yes (If you have such permits or licenses, attach a copy(s))

No

PART 2

I (We) and all those operating under this medallion are in compliance with appropriate State of California and City and County of San Francisco laws pertaining to proper driver licenses, all pertinent rules adopted by the Taxi Commission, all applicable San Francisco Municipal Police Code sections, appendix F of the Charter of the City and County of San Francisco (Proposition K) and all other pertinent local, state and federal laws applicable to the operation of a Taxicab.

Medallion Number(s) 865 Color Scheme NATIONAL
Taxicab Company

Name(s) in which Medallion is Held: ROBERT M. FRIEDMAN

Residence Address of Medallion Holder: PALO ALTO CA 94564
Street Address, City, State, Zip

Business Address of Medallion Holder: 2270 McKINNON ST SF CA 94124
Street Address, City, State, Zip

Residence Phone: 415 444-4444
Area Code Number

Business Phone: 415 444-4444
Area Code Number

PART 3

I (We) declare under penalty of perjury under the laws of the State of California that the information provided on this form, attached explanations where applicable, and any attachments hereto, are true and correct.

Executed on 4/7/05 at Palo Alto Ca
Date City, State

Medallion Holder(s) Robert M. Friedman Robert M. Friedman
Signature Signature

ROBERT M. FRIEDMAN ROBERT M. FRIEDMAN
Print Name Print Name



Right Thumb Print

Driver's License Number _____ State _____ Driver's License Number _____ State _____

Date of Birth _____ Date of Birth _____

Right Thumb Print

Witnessed by: _____

Date _____

PLEASE SEE ATTACHED
CURRENT CALIFORNIA
NOTARY FORM

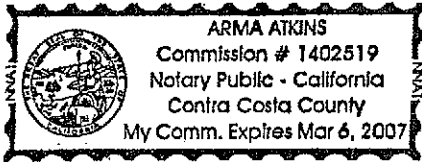
THIS FORM MUST BE NOTARIZED OR SUBMITTED IN PERSON TO THE TAXICAB COMMISSION

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of CONTRA COSTA } SS.

On April 7, 2005 before me, ARMA ATKINS ^{NOTARY}
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared ROBERT M. FRIEDMAN
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: FORM 1095

Document Date: 4/7/05 Number of Pages: 1

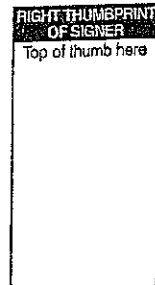
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: Robert M. Friedman

- Individual
- Corporate Officer -- Title(s): _____
- Partner -- Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



To: Taxicab Commission

In compliance with the provisions of Section 1095 of the San Francisco Municipal Police Code, the undersigned Taxicab Medallion Holder(s) hereby make(s) a sworn statement as follows:

PART 1

RECEIVED

APR 12 2006

I (We) have permits or licenses from other governmental bodies to the operation of Motor Vehicles for Hire: Yes (If you have such permits or licenses, attach copies) No

SF Taxi Commission

PART 2

I (We) and all those operating under this medallion are in compliance with appropriate State of California and City and County of San Francisco laws pertaining to proper driver licenses, all pertinent rules adopted by the Taxi Commission, all applicable San Francisco Municipal Police Code sections, Appendix F of the Charter of the City and County of San Francisco (Proposition K) and all other local, state and federal laws applicable to the operations of a taxicab.

Medallion Number(s): 0865 Color Scheme: National Cab Co., Inc.
Names(s) in which Medallion is held: ROBERT MICHAEL FRIEDMAN
Residence Address of Medallion Holder: PINOLE CA 94564
Business Address of Medallion Holder: 2270 McKinnon Avenue, San Francisco, CA 94124
Residence Phone: 415 Business Phone: (415) 648-4119

PART 3

I (We) declare under penalty of perjury under the laws of the State of California that the information provided on this form, attached explanations were applicable and any attachments hereto, are true and correct.

Executed 4-3-06 at PINOLE, CALIFORNIA
Date City, State

Medallion Holder(s) Robert M. Friedman Signature
ROBERT M. FRIEDMAN Print Name

PLEASE SEE ATTACHED CURRENT CALIFORNIA NOTARY FORM



California Driver License/Expiration 9/10 California Driver License/Expiration

Right Thumb Print Date of Birth Date of Birth Right Thumb Print

Witnessed By: [Signature] Date: 4-3-06



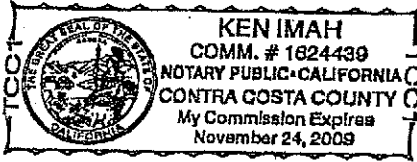
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of CONTRA COSTA } ss.

On 4-3-06 before me, KEN IMAH NOTARY PUBLIC
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared ROBERT MICHAEL FRIEDMAN
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies) and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: ANNUAL SWORN STATEMENT

Document Date: 3-2-06 Number of Pages: 1

Signer(s) Other Than Named Above: NONE

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

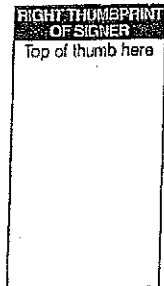


Exhibit 8

ROUTING AND TRANSMITTAL SLIP

		FOR ACTION
		FOR RECOMMEN- DATION
1 TO	(NAME) _____ (UNIT)	INITIALS _____ DATE _____ FOR APPROVAL AS REQUESTED
2 TO	(NAME) _____ (UNIT)	INITIALS _____ DATE _____ NOTE & FORWARD FOR INFORMATION
3 TO	(NAME) _____ (UNIT)	INITIALS _____ DATE _____ NOTE & RETURN PER CONVERSATION
4 TO	(NAME) <i>Det. Vincent Anderson</i> (UNIT)	INITIALS <i>[Signature]</i> DATE <i>MAR 18 2002</i> CONFER FOR SIGNATURE

RECEIVED

UNABLE TO CONTACT
M.H. NO ANSWER TO PHONE.
SPOKE WITH BILL DICKEY (ARROW)
WHO ADVISED THAT M.H.
WAS ONLY ADVISING THAT HE
WOULD NOT BE AVAILABLE FOR 30
OR MORE DAYS.

NOTE: DO NOT USE THIS FORM AS A RECORD OF APPROVALS, CONCURRENCES, DISAPPROVALS, CLEARANCES AND SIMILAR ACTIONS.

FROM	(NAME) _____ (UNIT)	DATE _____ PHONE _____
------	---------------------------	---------------------------------

SAN FRANCISCO POLICE DEPARTMENT

SFPD 39 (7/72)

March 12 2002.

Case Detail
Permit Section.

Please be advised that I will be taking time off from driving. I'm seeing a doctor regularly and I hope to get back to work soon.

After driving a cab in SF for thirty-eight years " " " " I have Kaiser medical coverage so they say that they can fix it. It's driving me crazy not being able to work.

Permit # 865

A CARD # D44-041990

Thank You

Robert M. Friedman

Exhibit 9



DRIVER MEDICAL EVALUATION

(Medical information is CONFIDENTIAL under Section 1808.5 CVC)

PHYSICIAN RETURN FORM TO:
DEPARTMENT OF MOTOR VEHICLES
LICENSING OPERATIONS DIVISION
Driver Safety Branch
303 Hegenberger Road, Ste 400
Oakland, CA 94621

Telephone: (510) 563-8900 FAX: (510) 563-8950
BY THE INDICATED DATE:

09283532

INSTRUCTIONS TO THE DRIVER: Please take this form to the doctor most familiar with your health history and current medical condition. Be sure to complete and sign the health history section below before giving this form to your doctor.

NAME (LAST, FIRST, MIDDLE) Robert Michael Friedman	NO.	FIELD FILE
STREET ADDRESS P.O. Box 4728, Antioch, Ca 94531	CITY	ZIP

PATIENT MUST COMPLETE HEALTH HISTORY BELOW (Please explain any YES answers)

Head, neck, or spinal injury
Seizure, convulsions, or fainting
Dizziness or frequent headaches
Eye problem (except corrective lenses)
Cardiovascular (heart or blood vessel) disease
Stroke
Lung disease (include TB and asthma)
Nervous stomach or ulcer
Diabetes
Kidney disease (including stones or blood in urine)
Muscular disease
Extensive confinement by illness or injury
Permanent defect
Psychiatric disorder
Any other nervous disorder
Problems with the use of alcohol or drugs
Rheumatic fever
Suffering from any other disease
Any major illness last 5 years
Any operations last 5 years
Currently taking medications

EXPLANATION: (Include onset date, diagnosis, medication, doctor's name and address and any current condition or limitation. Attach additional sheet, if needed).

Under the penalty of perjury, under the laws of the State of California, that I have provided true and complete information concerning my health.

Date Dec 5, 2001 Driver's Signature: X Robert M. Friedman

INSTRUCTIONS TO THE DOCTOR: The Department of Motor Vehicles' records indicate your patient may have a condition that could affect the safe operation of a motor vehicle. In this case, the Department is concerned about the following condition(s): Drug
(To be completed by DMV hearing officer)

With your assistance, we hope to resolve the matter with a minimum of inconvenience to all concerned.

The Health History section should be completed and signed by the patient before you complete this evaluation.

Your experience and knowledge of the patient's condition, results of medical examinations, and treatment plans, will be of great value in assisting the Department to determine a proper licensing decision. PLEASE ANSWER ALL QUESTIONS on this form that are applicable to your patient's condition(s). You may furnish a narrative report if you prefer, but please include all information pertinent to your patient. The department has sole responsibility for any decision regarding the patient's driving qualifications and licensure. The department will also consider non-medical factors in reaching a decision.

TREATMENT BY OTHER DOCTOR(S)

Is this patient being treated for any condition by another doctor?

Yes No

If yes, please indicate name of treating doctor(s): _____

Condition being treated: _____

TREATMENT UNDER YOUR SUPERVISION

DIAGNOSIS (IF THE DIAGNOSIS IS A DISORDER CHARACTERIZED BY LAPSES OF CONSCIOUSNESS, DEMENTIA, OR DIABETES, COMPLETE PAGE 3 OR 4.)

DO YOU NEED TO SEE YOUR PATIENT AT REGULAR INTERVALS? IF YES, HOW OFTEN?

Yes No I saw patient on 12/05/01

PROGNOSIS

Fair

IS THE CONDITION

Improving Stable Worsening or deteriorating Subject to change (IF MULTIPLE CONDITIONS, PLEASE DESCRIBE STATUS AND PROGNOSIS COMMENTS BELOW.)

MANIFESTATIONS: (SYMPTOMS)

(PRESENT)

(PAST)

MAY CONDITION IMPAIR VISION?

Yes No

HOW LONG HAS THIS PERSON BEEN YOUR PATIENT?

DATE OF LAST EXAMINATION

12/05/01

IS YOUR PATIENT UNDER A CONTROLLED MEDICAL PROGRAM?

Yes No

HOW LONG HAS CONTROL BEEN MAINTAINED?

5 months

IS THE PATIENT ADHERING TO THE MEDICAL REGIMEN? IF NO, PLEASE EXPLAIN:

Yes No

IS THE PATIENT KNOWLEDGEABLE ABOUT THE MEDICAL CONDITION?

Yes No

LIST THE MEDICATIONS PRESCRIBED. PLEASE INCLUDE DOSAGE AND FREQUENCY OF USE

CC

bid.

WHEN WAS THE LAST MEDICATION CHANGE MADE?

12/04/01

WOULD THE SIDE EFFECTS FROM THE PRESCRIBED MEDICATIONS INTERFERE WITH THE SAFE OPERATION OF A MOTOR VEHICLE?

Yes No If yes, please describe:

IN YOUR OPINION, DOES YOUR PATIENT'S MEDICAL CONDITION AFFECT SAFE DRIVING?

Yes No Uncertain

HAVE YOU ADVISED AGAINST DRIVING?

Yes No

DOCTOR'S COMMENTS:

LEVELS OF FUNCTIONAL IMPAIRMENTS

Functional impairments that may affect safe driving ability. Please check where applicable.

	MILD	MODERATE	SEVERE
Visual neglect.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Left side <input type="checkbox"/> Right side			
Loss of upper extremity motor control.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Left side <input type="checkbox"/> Right side			
Loss of lower extremity motor control.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Left side <input type="checkbox"/> Right side			

WOULD ADAPTIVE DEVICES AID YOUR PATIENT IN COMPENSATING FOR HIS/HER DISABILITY?

tain

IF YES, PLEASE DESCRIBE

WOULD YOU RECOMMEND A DRIVING TEST BE GIVEN BY DMV?

DIABETES NA

PLEASE INDICATE THE TYPE OF DIABETES THIS PATIENT HAS
 Type 1 Type 2 Gestational

DATE OF DIAGNOSIS

WHAT METHOD OF TREATMENT IS REQUIRED?
 Controlled diet Oral diabetes medication Insulin injections Insulin pump Other:

HAS THIS PATIENT RECEIVED DIABETES EDUCATION FROM A HEALTH CARE TEAM?
 Yes No

DOES THIS PATIENT COMPLY WITH THE PRESCRIBED TREATMENT PLAN?
 Yes No

IF NO, PLEASE EXPLAIN

IS THE DIABETES CONTROLLED AT THIS TIME?
 Yes No

IF YES, HOW LONG HAS CONTROL BEEN MAINTAINED? IF NO, PLEASE EXPLAIN

WHAT ARE THIS PATIENT'S FASTING BLOOD GLUCOSE LEVELS? AFTER HOW MANY HOURS OF FASTING?

WITHIN THE LAST THREE YEARS, HAS THIS PATIENT EXPERIENCED
 Hypoglycemic episodes? Hyperglycemic episodes? REASON FOR EPISODES (e.g., non-compliance w/ regimen, change in condition, insulin unavailable, illness, etc)

Please indicate the complications manifested by the hypoglycemic or hyperglycemic episodes and rate the severity of each.

	NONE	MILD	MODERATE	SEVERE	UNCERTAIN
Abdominal pain.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cognitive deficits.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Confusion.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Confusion or disorientation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Incoordination.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hypoglycemic unawareness.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lack of stamina.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Loss of consciousness.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stupor.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Visual changes.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ketoacidosis.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Slowed reactions.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seizures.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Weakness or fatigue.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DOES THIS PATIENT MANAGE HYPOGLYCEMIC OR HYPERGLYCEMIC EPISODES WITH OR WITHOUT HELP?
 With Without

HAS THIS PATIENT'S DIABETES CAUSED ANY OF THE FOLLOWING CHRONIC COMPLICATIONS?
 Visual changes Kidney disease Nervous system disease Vascular disease

PLEASE DESCRIBE THE EXTENT OF THE COMPLICATIONS

HAS THIS PATIENT BEEN HOSPITALIZED WITHIN THE LAST THREE YEARS DUE TO DIABETES COMPLICATIONS? WHAT COMPLICATIONS NECESSITATED HOSPITALIZATION?
 Yes No If yes, please give dates:

HAS AMPUTATION BEEN NECESSARY?
 Yes No

IF YES, PLEASE EXPLAIN

ADDITIONAL COMMENTS BY DOCTOR

... ..

DRIVER'S ADVISORY STATEMENT

Medical information is required under the authority of Divisions 6 and 7 of the California Vehicle Code. Failure to provide this information is cause for refusal to issue a license or to withdraw the driving privilege.

All records of the Department of Motor Vehicles, relating to the physical or mental condition of any person, are confidential and not open to public inspection (California Vehicle Code Section 1808.5). Information used in determining driving qualifications is available to you and/or your representative with your signed authorization.

The department has sole responsibility for any decision regarding your driving qualifications and licensure. The department will also consider non-medical factors in reaching a decision.

MEDICAL INFORMATION AUTHORIZATION

(Valid for three years)

DOCTOR, HOSPITAL, OR MEDICAL FACILITY (NAME AND ADDRESS)

Kaiser Permanente
3400 Delta Fair Boulevard
Antioch, California 94509

DATE 12/06/01

MEDICAL RECORD/PATIENT FILE NUMBER
0983532

I hereby authorize my doctor or hospital to answer any questions from the Department of Motor Vehicles, or its employees relating to my physical or mental condition, and/or drug and/or alcohol use or abuse, and to release any related information records to the Department of Motor Vehicles or its employees. Any expense involved is to be charged to me and not to the Department of Motor Vehicles.

I hereby authorize the Department of Motor Vehicles to receive any information relating to my physical or mental condition and/or drug and/or alcohol use or abuse, and to use the same in determining whether I have the ability to operate a motor vehicle safely.

NOTE: You may wish to make a copy of the completed Driver Medical Evaluation for your records.

SIGNED <i>X Robert M Friedman</i>	DATE <i>March 14 2002</i>
WITNESS	DATE

DOCTOR'S SIGNATURE

DOCTOR'S SIGNATURE <i>Lance Gee M.D.</i>	DOCTOR'S NAME (PRINTED) Lance Gee, M.D.	DATE 12/06/01
CLASSIFICATION OR SPECIALTY Family Practice	MEDICAL LICENSE NUMBER G074894	TELEPHONE NUMBER (925)779-5366

Exhibit 10

GRANTED APR 8 2003

Date: MAR 19-2003

TAXICAB COLOR SCHEME APPLICATION
San Francisco Police Department

Received by: [Signature] #5891

From Veterans (111)
TO National

NEW COLOR SCHEME (complete Part I)
 EXISTING COLOR SCHEME (complete Parts I and II)

Part I PLEASE PRINT CLEARLY - COMPLETE ENTIRE FRONT SIDE

APPLICANT'S NAME FRIEDMAN ROBERT M LAST FIRST MIDDLE	RESIDENCE ADDRESS NUMBER STREET APT# CITY STATE ZIP SF CA 94112	RESIDENCE PHONE 415-444-1000
APPLICANT'S NAME LAST FIRST MIDDLE	RESIDENCE ADDRESS NUMBER STREET APT# CITY STATE ZIP	RESIDENCE PHONE

If this color scheme request is granted by the Chief of Police, list what your business name, business address and business phone number will be.

BUSINESS NAME NATIONAL CAB CO.	BUSINESS ADDRESS 2276 14 KINNON NUMBER STREET APT# CITY STATE ZIP SF CA 94134	BUSINESS PHONE 415-444-4
PERMIT NUMBER(S) 865	NUMBER OF VEHICLES PROPOSED TO BE OPERATED One	

Distinguishing color scheme of vehicle to be used in business: YELLOW BODY, GREEN FENDERS
YELLOW AND GREEN CHECKS THROUGH FENDERS AND REAR DOORS

Design and color of uniform and cap devices to be worn by "drivers": NONE

Logo on cap devices and uniforms: NONE

Logo shown on vehicles: MAP of U.S.

Type of vehicles proposed to be operated: FORD

Does the applicant understand that every person, firm or corporation operating a taxicab or taxicabs shall adopt and have approved by the Chief of Police a distinguishing color scheme, design or dress for all such taxicabs and the operators thereof, and shall use the same on all such taxicabs operated; provided, however, that any person may, with the consent of another operator to whom a distinctive dress or color scheme has been previously assigned, use said dress or color scheme?

YES NO

Does the applicant understand that it is unlawful to make or cause to be made any changes whatever in the color or distinguishing characteristics of taxicabs unless the permission of the Chief of Police has first been obtained?

YES NO

I (We) certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct,

executed this 17th day of MARCH, 2003 at S.F. Ca
CITY, STATE

[Signature]
SIGNATURE OF APPLICANT

SIGNATURE OF APPLICANT

Part II

PLEASE PRINT CLEARLY

Name of Color Scheme Holder: JAMES E. O'CONNOR

Name of person authorized to sign for Color Scheme Holder:
JAMES E. O'CONNOR PRINT NAME [Signature] SIGNATURE

I, the Color Scheme Holder / person authorized to sign for the Color Scheme Holder for
TAXICAB COLOR SCHEME _____
hereby give consent to the applicant named on the reverse side of this form to use my color scheme.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing
is true and correct,

executed this 17 day of March, 192003 at S.F. Ca
CITY, STATE

[Signature]
SIGNATURE OF COLOR SCHEME HOLDER / PERSON
AUTHORIZED TO SIGN FOR COLOR SCHEME HOLDER

Office Use Only

Date this application received:

Date Notice of Hearing card sent:

Date of Hearing:

Date of notification to other
color scheme holder:

Name of person notified at other
color scheme:

Decision of Chief of Police:

Date insurance certificate filed:

Date new photos filed:

Date change of color scheme occurred:

Compliance with other stipulations: (kind and date)

TAXICAB COLOR SCHEME QUESTIONNAIRE

Name: FRIEDMAN ROBERT M Medallion # 865

Please list the reasons why you are requesting this change. Why are you moving from one color scheme to another?

I LL BE DISPATCHING ALSO ON
my DAYS OFF AT NATIONAL

No DISP SHIRTS AVAILABLE AT
VETS

Robert M Friedman

Signature

Date

Exhibit 11

City and County of San Francisco



Taxicab Commission
Mayor Willie L. Brown, Jr.

Naomi M. Little
Executive Director

RECEIVED

Date Received: APR 27 2004

SF Taxi Commission

REQUEST FOR REASONABLE ACCOMMODATION

FRIEDMAN ROBERT M. (Last Name, First Name)
913 BELMONT AVE, PINOLES 94564 (Address, City, Zip)
Social Security Number, Work Phone, Home Phone

It is the policy of the City and County of San Francisco to provide reasonable accommodation for qualified individuals with disabilities in accordance with the Americans with Disabilities Act (ADA). You may be required to provide documentation in support of your request.

1. Nature of Permit.

Current Type of Permit Held: TAXICAB MEDALLION # 865
Type of Permit Sought:

2. Reasonable Accommodation Request.

What type of accommodation are you are requesting?

- O Modified work schedule
- O Change in procedure
- O Purchase assistive device
- O Removal of communications barrier.
- O Purchase of assistive services
- O Removal of architectural barrier
- Job Restructuring
- O Reassignment
- O Other:

Please describe the requested accommodation:

[Redacted text]

Please explain how you believe this accommodation will enable you to perform the fundamental functions of your position:

[Redacted text]

RD

Exhibit 12

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



CITY AND COUNTY OF
SAN FRANCISCO

TAXI COMMISSION
MAYOR GAVIN NEWSOM

COMMISSIONERS TELEPHONE (415) 554-7737
PAUL GILLESPIE, PRESIDENT, ext. 3
PATRICIA BRESLIN, VICE PRESIDENT
RICHARD BENJAMIN, COMMISSIONER, ext. 1
MALCOLM HEINICKE, COMMISSIONER, ext. 4
BRUCE OKA, COMMISSIONER, ext. 5
TOM ONETO, COMMISSIONER, ext. 6
MIN PAEK, COMMISSIONER, ext. 7

HEIDI MACHEN, EXECUTIVE DIRECTOR

September 26, 2007

Joseph Breall
National Cab
2270 McKinnon Ave.
San Francisco, CA 94124

Dear Mr. Breall:

Please inform me in writing whether or not you have any waybills on file for any year for Mr. Robert Friedman, Medallion # 865. If there are any on file, we can arrange a mutually convenient time for inspection. I will also need to arrange a time for myself and Sgt. Reynolds to interview Mr. Dan Hinds regarding this medallion owner. I will be out of the office beginning the afternoon of September 28, 2007, returning the morning of October 15, 2007, so I would appreciate it if we could set the appointment for the interview with Dan before I leave.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jordanna Thigpen".

Jordanna Thigpen
Deputy Director

CITY AND COUNTY OF
SAN FRANCISCO



TAXI COMMISSION
MAYOR GAVIN NEWSOM

COMMISSIONERS TELEPHONE (415) 554-7737
PAUL GILLESPIE, PRESIDENT, ext. 3
PATRICIA BRESLIN, VICE PRESIDENT
RICHARD BENJAMIN, COMMISSIONER, ext. 1
MALCOLM HEINICKE, COMMISSIONER, ext. 4
BRUCE OKA, COMMISSIONER, ext. 5
TOM ONETO, COMMISSIONER, ext. 6
MIN PAEK, COMMISSIONER, ext. 7

HEIDI MACHEN, EXECUTIVE DIRECTOR

October 26, 2007

Joseph Breall
National Cab
2270 McKinnon Ave.
San Francisco, CA 94124

Dear Mr. Breall:

This will serve as a friendly reminder of our October 29, 2007 meeting with Mr. Dan Hinds at 10:00 am at National Cab's offices. As we discussed at our last meeting, Mr. Hinds will make available employment records for Mr. Robert Friedman, # 865. These records will be available for inspection. Sgt. Reynolds will also interview Mr. Hinds. Other documents pertaining to # 865, such as the lease agreement(s), may also be requested at that time.

Additionally, we had previously requested National Cab's driver's rosters (schedules) for August and September 2007. Upon reviewing the records that were submitted in response to our request, we have realized that in fact National did not comply with this request. In fact National only faxed a partial schedule which apparently contained only medallions under "gas and gates" leases.

We must account for every single medallion under National's control in August and September 2007 and it is your responsibility to provide these records if requested. This includes medallions with long term leases, gates and gas leases, vehicles that are not in operation, and vehicles under any other type of arrangement whatsoever. Although Rule 5.H.4 does not require twenty-four hour notice, we are giving you advance notice in this instance and please note that this is our *second* request for this information.

Finally, we also note that National Cab stopped complying with Rule 5.H.15 during the week of September 17, 2007. This Rule provides as follows:

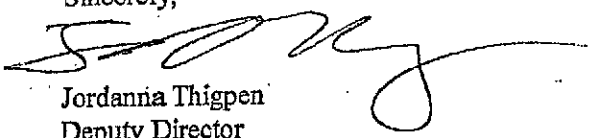
On the first business day of each week, all Color Scheme Holders shall fax, to the Taxi Detail, the names of all Drivers and Medallion Holders who have failed to turn in waybills during the previous week.

As part of the undertaking of administrative functions, pursuant to voter mandate, the Commission receives these faxes, rather than Taxi Detail.

Mr. Hinds' interpretation of this Rule, which he explained at the October 18, 2007 meeting, is incorrect. Every Monday, National must fax a list of "all Drivers and Medallion Holders who have failed to turn in waybills during the previous week" – *not* confirm that waybills were received for all medallion number taxicab vehicles. A separate letter will go out to National Cab confirming the plain language of this Rule and your client's erroneous interpretation.

Thank you for your cooperation and we shall see you on Monday.

Sincerely,



Jordanna Thigpen
Deputy Director



CITY AND COUNTY OF
SAN FRANCISCO

TAXI COMMISSION
MAYOR GAVIN NEWSOM

COMMISSIONERS TELEPHONE (415) 554-7737
PAUL GILLESPIE, PRESIDENT, ext. 3
PATRICIA BRESLIN, VICE PRESIDENT
RICHARD BENJAMIN, COMMISSIONER, ext. 1
MALCOLM HEINICKE, COMMISSIONER, ext. 4
BRUCE OKA, COMMISSIONER, ext. 5
TOM ONETO, COMMISSIONER, ext. 6
MIN PAEK, COMMISSIONER, ext. 7

HEIDI MACHEN, EXECUTIVE DIRECTOR

November 1, 2007

Joseph Breall
National Cab
2270 McKinnon Ave.
San Francisco, CA 94124

Dear Mr. Breall:

Thank you for your letter dated October 26, 2007 (received October 31, 2007 via email). In this letter you described the issue of Mr. Hinds' attendance at the 10:00 am October 29 meeting. It was unfortunate that Mr. Hinds was not available to attend that meeting, however I will note that I later saw him at the Rules Subcommittee, which I was staffing at the particular day and time for which we had rescheduled our October 29 meeting. He arrived at approximately 10:15 am.

I have explained in prior correspondence that Mr. Hinds' interpretation of Rule 5.H.15 is **wrong**.

The Rule could not be more crystal clear. It does not ask for a list of medallion number taxicab vehicles for which waybills have been turned in. Instead it asks for a list of drivers and medallion holders who have not turned in waybills.

Out of 34 taxi companies, there are only six who are not complying, of which National is the only one which is claiming a personal, erroneous rendition of Rule 5.H.15. It is of no consequence to National which companies are not complying. The fact is that National is not.

We will expect compliance to begin November 5, 2007. National is already severely delinquent in complying with this Rule, and the Commission has been more than generous so far with regards to issuing citations. The Executive Director will issue a citation for a violation of Rule 5.H.15 and for a violation of Rule 5.A.2 on Tuesday, November 6, 2007 if compliance does not begin, and will continue to issue citations with the corresponding escalating fines, each subsequent week until compliance is effectuated.

Consider this letter your client's final warning. National must a weekly fax a list of "names of all drivers and medallion holders who have failed to turn in waybills during the previous week."

Sincerely,

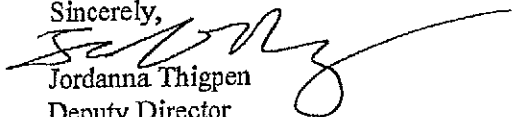
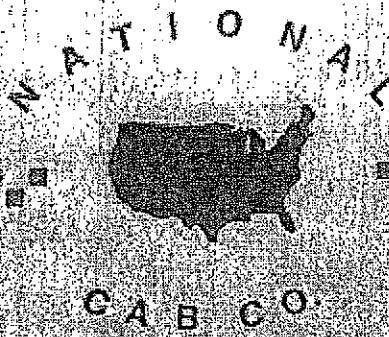

Jordanna Thigpen
Deputy Director

Exhibit 13

2270 MCKINNON AVE.
SAN FRANCISCO, CA 94124
DISPATCH: (415) 848-4444
OFFICE: (415) 848-4119
FAX: (415) 821-6861



dba VETERANS CAB, INC.
(415) 652-1300

DAN HINDS
PRESIDENT

November 7, 2007

Tax Commission
Deputy Director Jordana Thigpen

Dear Jordana:

In response to your query for documents with respect to Robert Michael Friedman, we have located material responsive to your document request on items 1 & 4.

To my knowledge there is no lease agreement between National and Robert Michael Friedman, nor a termination document, nor have we been able to ascertain the identity of IRS.

Yosef Abera drives and manages cab #865. He has one driver on the schedule with him. Appropriate documentation accompanies this letter.

My apology for not getting this material to you Monday.

Sincerely,


Dan Hinds
President
National/Veterans Cab

National Cab Company, Inc. Application side 1

Date: March 4 03

Social Security #: _____

licant Name: FRIEDMAN
(last)

ROBERT
(first)

MIKE
(middle)

Address: 252 11TH ST

City: SAN FRANCISCO

Zip: 94103

Phone Home: 415 272-2865

Cell#: SAME

Emergency#: _____

Drivers Lic # _____

Expires: _____

Are you at least 18 years old? Yes No Are you a legal U.S. Citizen, or Resident? Yes No
If not, can you present evidence of U.S. citizenship or your legal right to work in the U.S.? Yes No
Any Moving Violations in the past three (3) years? YES NO

If you answered YES, then give date and violation #

Date	Violation
<u>95</u>	<u>DUI</u>
<u>2000</u>	<u>DUI</u>

Has your driver's license ever been suspended? YES NO

Has your driver's license ever been revoked? YES NO

Have you ever been convicted of a felony? YES NO

If yes to suspended / revoked / convicted of felony explain why below:

DUI VALID DEC 2003

List your work experience below:

Date Started	Date Stopped	Company	Reason you stopped
<u>75</u>	<u>1987/01</u>	<u>VETS CAB CO.</u>	<u>MOVED MARRIED</u>

List two (2) people you know well as references:

Name	Address	Telephone
<u>BILL SCOTT</u>	<u>VETS CAB CO.</u>	<u>654 3187</u>
<u>Jim O'CONNOR</u>	<u>NATL CAB</u>	

Tell us whom to notify in case of an emergency:

Name	Address	Telephone
<u>SONYA FREED</u>	<u>3F</u>	<u>405</u>

I/the undersigned applicant understand that National Cab Company relies on the information provided on both sides of this form in making its decision to hire or not hire me. I agree to inform National Cab Company, Inc. immediately if there is any change to this information. I agree that if I have provided information to National Cab Company, Inc. it will be grounds to terminate me. I further agree a permission to National Cab Company, Inc. to perform any investigations it deems necessary regarding my background. I authorize any person or entity on this form to fully disclose and release to National Cab Company, Inc. all information requested about me. I understand that I am being hired as time/temporary/supplemental employee - and that my hours may change or my services be terminated anytime at the sole discretion of National Cab Company Inc. I understand further, that I am on probation for the first 90 days of my work.

SIGNED: Robert M. Friedman DATE: March 4 03

National & Veterans Cab Co. LONG TERM LEASE Schedule ROSTER -- MEDALLION # 265

Please Print Neatly - Lessee is responsible for keeping this roster up-to-date on a daily basis. Failure to keep this schedule up-to-date daily may result in 1) fines, 2) out-of-service, 3) no insurance coverage, 4) loss of your lease.

LESSEE 1		DRIVER 2		DRIVER 3		DRIVER 4		
FIRST NAME	YOSSEF	SAMSON						
LAST NAME	ABERA	TESFAYELIEM						
ADDRESS	8016							
CITY/ZIP	OAK	94612						
HOME PHONE	OAKLAND	94612						
CELL PHONE	415	391-1074						
DRIVERS LIC#								

SHIFT	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Times	SWING DAY	TESFAYELIEM DAY	DAY	TESFAYELIEM DAY	TESFAYELIEM DAY	TESFAYELIEM DAY	TESFAYELIEM DAY
SHIFT	16:00 - 4 AM	4:00 AM - 16:00	4:00 AM - 16:00	4:00 AM - 16:00	4:00 AM - 16:00	4:00 AM - 16:00	4:00 AM - 16:00
Times	YOSSEF	YOSSEF	YOSSEF	YOSSEF	YOSSEF	YOSSEF	YOSSEF
SHIFT	16:00 - 4 AM	16:00 - 4 AM	16:00 - 4 AM	16:00 - 4 AM	16:00 - 4 AM	16:00 - 4 AM	16:00 - 4 AM
Times							

This is a true and correct schedule roster for my long-term lease cab which I agree to update daily if there are any changes.

Date: 10/02/06 Signed: bert ABERA Lessee

INITIAL BELOW AT LEAST ONCE A MONTH VERIFYING ROSTER CHANGES ARE UPDATED DAILY:

2006:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
2007:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC

Exhibit 14

Jan Hinds
 Sectional/Net.

Long Term Lease Waybill Turn In List

July 29 to August 4, 2007

The taxi commission wants us to report when waybills are NOT turned in. We need to make sure that they are. Long-term leases have been notified that they must begin turning in waybills weekly. Long-term leases know they shouldn't bother dispatchers at shift change.

RECEIVED

1. When Long-Term-Leases turn in their waybills, initial this form
2. File all waybills as usual.

AUG 06 2007

SAN FRANCISCO
 TAXI COMMISSION

LTL #	Disp. Init.
0022	8-1 R S
0025	7-30 RS ⁸⁻⁵
0026	7-30
0027	8-1/07. (1)
0028	7-30-7 RS
0069	(10) 8-5 JSD
0124	(1) 8-5 (2)
0130	(1)
0137	(W) 7/30 ^{1/30}
0162	(W) 8/3 ^{1/30}
0170	7-30 R S/15 ^{1/30}
0174	8-6
0182	(12) 8-5-JSD
0186	8-1 R ^{1/30}
0193	8-5
0194	(W) 8/2
0204	(11) 8/6
0205	8-6
0209	(10) JSD 8-6
0210	8-5
0213	8-5
0214	7-30-7
0215	8-1 R
0216	8-1 R (1)

LTL #	Disp. Init.
0220	8-1 R ⁸⁻⁵
0222	(W) 7/30 ^{1/30}
0223	8-5
0224	8-6
0226	8-1 R ^{1/30}
0243	8-5
0301	RS 7-30
0302	8-6
0306	8-5
0326	8-5 R.L
0336	8-1 R/84-R.
0354	(1) JSD 8-6-07
0366	RS-8-1
0377	(1)
0380	(9) JSD 8-6
0446	(W) 7/30 (1) 8-5 JSD
0496	8-1 R ^{1/30}
0523	(14) JSD 8-5-07
0543	8-5
0734	R.L 8-5
0860	(10) JSD 8-5
0865	RS 7-30 7
0980	(1)
1111	8-5

42
 3
 126

415 2340 filled
 987 5361

R

Exhibit 15

CITY AND COUNTY OF
SAN FRANCISCO



TAXI COMMISSION
MAYOR GAVIN NEWSOM

COMMISSIONERS TELEPHONE (415) 554-7737

PAUL GILLESPIE, PRESIDENT, ext. 3
PATRICIA BRESLIN, VICE PRESIDENT
RICHARD BENJAMIN, COMMISSIONER, ext. 1
MALCOLM HEINICKE, COMMISSIONER, ext. 4
BRUCE OKA, COMMISSIONER, ext. 5
TOM ONETO, COMMISSIONER, ext. 6
MIN PAEK, COMMISSIONER, ext. 7

HEIDI MACHEN, EXECUTIVE DIRECTOR

Nathan Dwiri
Yellow Cab Co-op
1200 Mississippi Street
San Francisco, CA 94107

June 12, 2007

Re: Enforcement of Rule 5.H.15

Dear Color Scheme Holders,

On May 24, 2007, the Taxi Commission sent a fax regarding the enforcement of Taxicab Rules and Regulation Rule 5.H.15:

On the first business day of each week, all Color Scheme Holders shall fax, to the Taxi Detail, the names of all Drivers and Medallion Holders who have failed to turn in waybills during the previous week.

We advised all color scheme permit holders that beginning June 4, 2007, all color scheme holders should begin complying with this rule. As of June 8, 2007, only one company has complied.

Please note that violations of Rule 5.H.15. are subject to fines including \$25.00 for the first offense, \$50 for the second offense and \$150 for subsequent offenses. In addition fines may be levied for failure to cooperate under Rule 5.A.2.

This is a reminder to all Color Scheme Holders that you will need to fax or email a list of all medallion holders and drivers that have failed to turn in waybills for the previous week. You may fax the list to the Taxi Commission at 415-503-2186 or email it to sftaxi.commission@sfgov.org. The list must be sent every Monday. The list may be in any format that you choose, but you must make separate lists of drivers and of medallion holders. Each list should be titled "DRIVERS" or "MEDALLION HOLDERS" and the medallion numbers should be listed next to the medallion holders' names.

Sincerely,


Heidi Machen
Executive Director

CITY AND COUNTY OF
SAN FRANCISCO



TAXI COMMISSION
MAYOR GAVIN C. NEWSOM

COMMISSIONERS TELEPHONE (415) 554-7737

PAUL GILLESPIE, PRESIDENT, ext. 3
PATRICIA BRESLIN, VICE PRESIDENT
RICHARD BENJAMIN, COMMISSIONER, ext. 1
MALCOLM HEINICKE, COMMISSIONER, ext. 4
BRUCE OKA, COMMISSIONER, ext. 5
TOM ONETO, COMMISSIONER, ext. 8
MIN PAEK, COMMISSIONER, ext. 7

HEIDI MACHEN
Executive Director

July 20, 2007

Berhane Assefa
ABC Taxicab
999 Pennsylvania Avenue
San Francisco, CA 94107

Subject: Reporting of Drivers Waybills

Dear Berhane Assefa,

Per the Taxicab/Ramped Taxi Rules and Regulations 5H15, Taxi Commission requests a weekly update on the first business day of each week from each company as to whether or not all waybills have been turned in. If a driver or medallion holder has not turned in their waybills that week, please list their names and fax or email us the list not later than each Monday of every week. Failure to submit a list, or to state that everyone has complied, will give the Commission reason to believe that a color scheme is not in compliance.

This is the second written request that Taxi Commission has sent to taxi companies; and we have announced reminders at two recent Commission meetings. Beginning August 6, 2007, the Taxi Commission will begin to issue fines to taxi companies that fail to comply with this rule.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Heidi Machen".

Heidi Machen
Executive Director

Exhibit 16

National Cab Company, Inc.
 Veterans Cab Company, Inc.
 2270 McKinnon Avenue
 San Francisco, CA 94124
 National Dispatch (415) 648-4444
 Veteran Dispatch (415) 552-1300
 Facsimile (415) 821-6861

Monday, November 05, 2007

Taxicab Commission:

Scheduled drivers and/or medallion holders delinquent with waybills - week of 10/29-11/4, 2007:

Medallion#	Driver or Medallion Holder	Badge
194	Daniel Woldemichael	61179
194	Mohamed Ben Amuer	52751
194	Benjamine Tsige	62791
446	Osama Haddad	53703
446	Farah Khoury	52867
446	Solomon Tamerat	62746
980	Ahmad Sidaoui	40940

RECEIVED

NOV 05 2007

SAN FRANCISCO TAXI COMMISSION

NOTE: Fax this form to the Taxicab Commission every Monday morning, even if all drivers turned in waybills during the previous week. FAX: (415) 503-2186

National Cab Company, Inc. & Veteran's Taxicab Co., Inc.

2270 McKinnon Avenue, San Francisco, CA 94124

Phone: (415) 821-6861

National Dispatch: (415) 648-4444

Veteran's Dispatch: (415) 552-1300

Fax Cover

To: Heidi Machen	Fax Number: 5032186
Company : Taxicab Commission	Date : 11/5/2007 at 3:25:14 PM
From : Don Mark Belke	Fax Number : 4156484440
Telephone : 4156413794	Pages including cover page: 2
Subject : Updated delinquent waybill list 11/5/07	

Comments:

Dear Taxi Commission;

This morning, I had faxed to you the list of drivers and medallion holders who drove and did not turn in waybills. I received a telephone message from Tamara indicating the list was incorrect in form, and not clear. I had wrongly assumed that the format we used would be acceptable since it was taken verbatim from the format used by Yellow Cab. Sorry that our earlier list was not clear and not acceptable. The words "Medallion holder" were added per your telephone message. This list is intended to report any scheduled driver and/or medallion holder who did not turn in waybills. Those scheduled drivers and/or medallion holders who turned in waybills are not on the list. Only those who did not turn in waybills and drove are listed on this list.

I hope this format is more to your liking. Please excuse my earlier error.

Sincerely,

Mark Belke
415-641-3794

RECEIVED

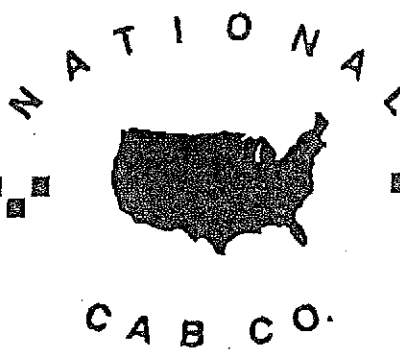
NOV 05 2007

SAN FRANCISCO
TAXI COMMISSION

Confidential and Privileged Material

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2270 McKINNON AVE.
SAN FRANCISCO, CA 94124
DISPATCH: (415) 648-4444
OFFICE: (415) 648-4119
FAX: (415) 821-6861



dba VETERANS CAB, INC.
(415) 552-1300

DAN HINDS
PRESIDENT

RECEIVED

September 17, 2007

SEP 17 2007

Heidi Machen, Executive Director
San Francisco Taxicab Commission
25 Van Ness Blvd Suite - 420
San Francisco, CA 94102

SAN FRANCISCO
TAXI COMMISSION

Dear Ms. Machen:

Waybills for all National/Veterans Cab medallions were received for the week of September 9 to September 15, 2007.

Sincerely,

Jane Bolig

Jane Bolig
Manager

2270 McKINNON AVE
SAN FRANCISCO, CA 94124
DISPATCH: (415) 648-4144
OFFICE: (415) 648-4119
FAX: (415) 821-6861

NATIONAL



CAB CO.

also VETERANS CAB, INC
(415) 552-1300

DAN HINDS
PRESIDENT

September 9, 2007

Heidi Machen, Executive Director
San Francisco Taxicab Commission
25 Van Ness Blvd Suite - 420
San Francisco, CA 94102

Dear Ms. Machen:

Waybills for all National/Veterans Cab medallions were received for the
week of September 2 to September 8, 2007.

Sincerely,

Jane Bolig

Jane Bolig
Manager

2270 MCKINNON AVE
SAN FRANCISCO, CA 94124
DISPATCH: (415) 648-4444
OFFICE: (415) 648-4119
FAX: (415) 821-8861

NATIONAL



CAB CO

DAN HINDS
PRESIDENT

OUR VETERANS CAB, INC
(415) 552-1300

September 4, 2007

Heidi Machen, Executive Director
San Francisco Taxicab Commission
25 Van Ness Blvd Suite - 420
San Francisco, CA 94102

Dear Ms. Machen:

Waybills for all National/Veterans Cab medallions were received for the week of August 26 to September 1, 2007.

Sincerely,

A handwritten signature in cursive script that reads "Jane Bolig".

Jane Bolig
Manager

2270 McKINNON AVE.
SAN FRANCISCO, CA 94124
DISPATCH: (415) 648-4444
OFFICE: (415) 648-4119
FAX: (415) 821-6861



dba VETERANS CAB, INC.
(415) 552-1300

DAN HINDS
PRESIDENT

August 27, 2007

Heldi Machen, Executive Director
San Francisco Taxicab Commission
25 Van Ness Blvd Suite - 420
San Francisco, CA 94102

RECEIVED

AUG 27 2007

SAN FRANCISCO
TAXI COMMISSION

Dear Ms. Machen:

Waybills for all National/Veterans Cab medallions were received for the week of August 19 to August 25

Sincerely,

Jane Bolig
Jane Bolig
Manager

08/20/2007 14:44 FAX 4158218861

NATIONAL

001/001

2270 McKINNON AVE.
SAN FRANCISCO, CA 94124
DISPATCH: (415) 648-4444
OFFICE: (415) 648-4119
FAX: (415) 821-6861



dba VETERANS CAB, INC.
(415) 552-1800

DAN HINDS
PRESIDENT

August 20, 2007

Heidi Machen, Executive Director
San Francisco Taxicab Commission
25 Van Ness Blvd Suite - 420
San Francisco, CA 94102

Dear Ms. Machen:

Waybills for all National/Veterans Cab medallions were received for the week of August 12 to August 18.

Sincerely,

A handwritten signature in cursive script that reads "Jane Bolig".

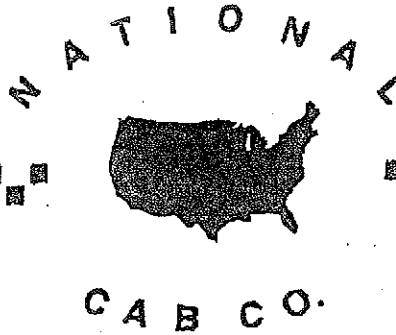
Jane Bolig
Manager

RECEIVED

AUG 20 2007

SAN FRANCISCO
TAXI COMMISSION

2270 MCKINNON AVE.
SAN FRANCISCO, CA 94124
DISPATCH: (415) 648-4444
OFFICE: (415) 648-4119
FAX: (415) 821-6861



dba VETERANS CAB, INC.
(415) 552-1300

DAN HINDS
PRESIDENT

August 14, 2007

Heidi Machen, Executive Director
San Francisco Taxicab Commission
25 Van Ness Blvd Suite - 420
San Francisco, CA 94102

Dear Ms. Machen:

Waybills for all National/Veterans Cab medallions were received for the week of August 5 to August 11.

Sincerely,

A handwritten signature in cursive script that reads "Jane Bolig".

Jane Bolig
Manager

RECEIVED

AUG 14 2007

SAN FRANCISCO
TAXI COMMISSION

Exhibit B

1 DECLARATION OF SGT. RON REYNOLDS

2

3 1. I am over the age of 18 and not a party to this action, and I am a citizen of the United
4 States.

5

6 2. My name is Sgt. Ron Reynolds, and my business address is 850 Bryant Street, San
7 Francisco, CA 94102. My badge number is # 137. I am employed at the San Francisco Police
8 Department as the Officer in Charge of the Taxi Detail.

9

10 3. In that capacity, and as part of my regular duties, I assist the Taxi Commission with
11 administrative investigations and conduct criminal investigations.

12

13 4. On October 18, 2007, commencing at 10:31 am, I interviewed Mr. Dan Hinds, President
14 of National Cab, at his office. A true and correct transcript of the interview is attached to my
15 Declaration as Exhibit 1.

16

17 5. On October 29, 2007, I attempted to interview Mr. Dan Hinds for a second time to follow
18 up on some questioning and review some records. Upon arrival shortly after the appointed time,
19 Mr. Hinds' attorney, Joseph Breall, informed me that Mr. Hinds was failing and refusing to
20 submit to any further interviews.

21

22 //

23 //

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6. In response to a Taxi Commission request, I obtained a Police Report # 060339582 from Hall of Justice records. A true and correct copy is attached as Exhibit 2 to this Declaration.

7. I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Signed:  137

Sgt. Ron Reynolds # 137
San Francisco Police Department
Taxi Detail

Date: 11/13/07

Exhibit 1

1 **Interview of Dan Hinds – Thursday, October 18, 2007**

2 **Location:**

3 National Cab Company, Inc.
4 DBA: Veterans Cab Company
2270 McKinnon Ave.
San Francisco, CA 94124

5 **Present:**

6 Dan Hinds, National Cab Company, Inc.
7 Joseph Breall, National Cab Company, Inc.
8 Sgt. Ron Reynolds, SFPD Taxi Detail
Lt. Henry Garcia, SFPD Taxi Detail
Jordanna Thigpen, SF Taxi Commission
Scott Leon, SF Taxi Commission

9
10 **Interview commended at 10:31 am.**

11 **Sgt. Reynolds:** Ok Mr. Hinds, we've been talking a little bit and as I said we started this as an
12 administrative investigation, and it does appear there are some elements of a possible criminal
13 investigation. You are not being investigated criminally. We are looking into a gentleman, Robert
14 Friedman, and I understand he has worked for you for a time period. Is that correct?

15 **Mr. Hinds:** Yes.

16 **Sgt Reynolds:** What time period did he work for you?

17 **Mr. Hinds:** Approximately from March 2003 to March 2006.

18 **Sgt Reynolds:** And what was his position?

19 **Mr. Hinds:** His position was a dispatcher.

20 **Sgt Reynolds:** Was he a driver or a medallion holder?

21 **Mr. Hinds:** He was a medallion holder.

22 **Sgt Reynolds:** And do you have a lease with him to use his medallion?

23 **Mr. Hinds:** Yes.

24 **Sgt Reynolds:** And do you still have a lease to use his medallion?

25 **Mr. Hinds:** We still use his medallion.

26 **Sgt Reynolds:** And that medallion number was 865?

27 **Mr. Hinds:** That is correct.

28 **Sgt Reynolds:** In the course of those 3 years did you have any personal knowledge of Mr.

1 Friedman driving his own medallion?

2 **Mr. Hinds:** No I don't.

3 **Sgt Reynolds:** Do you know if he has ever filled out any waybills from 2003 to 2006?

4 **Mr. Hinds:** I don't believe so.

5 **Sgt Reynolds:** We touched a bit on ADA Issues that he possibly has an exception on file?

6 **Mr. Hinds:** That is my understanding, yes.

7 **Sgt Reynolds:** And where did that understanding come from?

8 **Mr. Hinds:** From Mr. Friedman.

9 **Sgt Reynolds:** So he told you that he filed that paper work?

10 **Mr. Hinds:** That was my understanding.

11 **Sgt Reynolds:** Have you ever seen the paper work?

12 **Mr. Hinds:** I don't recall.

13 **Sgt. Reynolds:** With regards to Mr. Friedman, did you ever become aware of his driver's license
14 was suspended?

15 **Mr. Hinds:** I believe Mr. Friedman mentioned that.

16 **Sgt Reynolds:** And what time period did he mentioned that?

17 **Mr. Hinds:** I don't recall.

18 **Sgt Reynolds:** Do you think it was last year, two years that he first came here?

19 **Mr. Hinds:** To be honest, I would be guessing...

20 **Sgt Reynolds:** Ok, I don't want you to guess. Did you ever become aware that he had a criminal
21 history while working for you?

22 **Mr. Hinds:** I am not sure what you mean by criminal history.

23 **Sgt Reynolds:** Did he ever get arrested for a crime in California?

24 **Mr. Hinds:** I don't know that I am aware he was arrested for a crime.

25 **Sgt Reynolds:** Ok, if any statements come to through?

26 **Mr. Hinds:** Just a second...

27 **Sgt Reynolds:** Sure, absolutely.

28 (Mr. Hinds consults with Mr. Breall in private).

1 **Mr. Hinds:** Ok, yes I am aware he was arrested for a crime.

2 **Sgt Reynolds:** Do you know when that took place?

3 **Mr. Hinds:** No.

4 **Sgt Reynolds:** Do you know where that occurred?

5 **Mr. Hinds:** I believe it took place in the Bay Area.

6 **Sgt Reynolds:** And that was when he was working for you?

7 **Mr. Hinds:** Yes.

8 **Sgt. Reynolds:** And was that arrest how you learned he lost his license?

9 **Mr. Hinds:** My understanding was that he was arrested for driving under the influence or for
10 whatever he found to be arrested as in...

11 **Sgt Reynolds:** Yes, DUI. Ok, I guess what I am asking you said at some point you realized he
12 did not have a driver's license. Do you know if he lost that driver license because of that DUI or
13 have he lost that license before the DUI?

14 **Mr. Hinds:** I am not sure.

15 **Sgt Reynolds:** Other than that one DUI, were you ever aware of him having any other DUIs?

16 **Mr. Hinds:** I believe that he may have had an earlier DUI.

17 **Sgt Reynolds:** So you were aware of two?

18 **Mr. Hinds:** Yes.

19 **Sgt Reynolds:** When you have a driver, do you look into those types of things before you allow
20 them to take any of these cars out, whether they have a driver license and a good driving history?

21 **Mr. Hinds:** Yes we do.

22 **Sgt Reynolds:** And is it that one of the reason why you allowed him to be a dispatcher versus a
23 driver because of his driving history?

24 **Mr. Hinds:** Mr. Friedman came to us applying to be a dispatcher.

25 **Sgt Reynolds:** Ok, so he never wanted to be a driver?

26 **Mr. Hinds:** He did not make that request.

27 **Sgt Reynolds:** With regards to the rules and regulations, are you aware that all medallion holders
28 are supposed to drive 800 hours a year?

1 **Mr. Hinds:** I am aware there is a driving requirement, yes.

2 **Sgt Reynolds:** And you knew he was not meeting that requirement?

3 **Mr. Hinds:** I was aware that he was not driving 800 hours, yes.

4 **Sgt Reynolds:** And is that how the discussion came up that he had the ADA referral on file?

5 **Mr. Hinds:** No, not as I recalled specifically.

6 **Sgt Reynolds:** I am just a little curious and this is just for my own curiosity. If you were aware
7 he wasn't in compliance, did you tell him he needed to be in compliance?

8 **Mr. Breall:** I think you are making an assumption that he wasn't in compliance, so I don't think
9 this is proven at all.

10 **Sgt Reynolds:** Ok, well then you explain that to me why he wasn't in compliance?

11 **Mr. Breall:** Well there are several issues here: 1) Was he key personnel at National Cab, and 2)
12 Did he have disabilities that would keep him from driving that he would potentially accept, and
13 from the driving requirements.

14 **Sgt Reynolds:** You use the term "key personnel," please explain to me what you mean by that
15 comment?

16 **Mr. Breall:** Someone who is important to the operations at National Cab, and someone who is an
17 employee and involved with functions that are deemed important and critical.

18 **Sgt Reynolds:** So your definition of "key personnel" is that someone who could also then by
19 being a "key personnel" they would be in compliance with 800 hours rule? Is that what you are
20 saying?

21 **Mr. Breall:** This driving requirement rule is something that the City and the Industry have been
22 trying to work out for the last several years. The application has been in a state of flux, and that
23 is just an understatement. I don't see anything particular about Mr. Friedman's case requiring
24 special knowledge.

25 **Sgt Reynolds:** Well you are familiar with Mr. Gillespie from Yellow and the fact he did not meet
26 his requirements because he said he was a manager, you remember that case with the
27 Commission?

28 **Mr. Hinds:** Yes I do.

1 **Sgt Reynolds:** And do you remember what the ultimate disposition was?

2 **Mr. Hinds:** As I recalled Mr. Gillespie was not driving for a number of years and he was fined a
3 relatively modest amount of money.

4 **Sgt Reynolds:** But if he was fined a penny, wouldn't that mean he was in violation of the rules?

5 **Mr. Breall:** I think you are asking him for a legal opinion right now.

6 **Sgt Reynolds:** I am just trying to get to the term "key personnel," well I guess I will come out by
7 ask him, so you believe by being a dispatcher Mr. Friedman did not have to drive? Is that correct?

8 **Mr. Breall:** If that is the case I will put it out there, the permit holders association of the Superior
9 Court indicated that the appellate in that case who was a dispatcher was exempt from the driving
10 requirement because he was a key personnel because of his job as a dispatch. That is the case
11 that we all refer to.

12 **Sgt Reynolds:** What's the citation number?

13 **Mr. Breall:** It is an unpublished case and the Commission has it. It is with the permit holders
14 association of the superior court.

15 **Sgt Reynolds:** All right, so by your answer you felt there was nothing to report either the Taxi
16 Commission or the Taxi Detail with regards to Mr. Friedman not driving for 3 years?

17 **Mr. Hinds:** First and foremost I do not believe it was my place to make that determination.

18 **Sgt Reynolds:** All right, you have presented documents to us today and we appreciate that. We
19 have also asked to look at his employment records and counsel has suggested that we notify the
20 employee first, so we picked a date of the 29th at 10:00 O'clock where we will come back and you
21 will present those documents to us. Is that correct?

22 **Mr. Breall:** That is for review. We will give Mr. Friedman notice that you have requested to
23 review his personnel file, and we have chosen a date for that occur and we will sent notice to the
24 address we have on file and that this is occurring and he if he has any issues or objections to
25 contact you.

26 **Sgt Reynolds:** Well I am also going to be bringing him in for an interview, so I am also going to
27 request at this point that you give me the latest address and telephone numbers and information
28 so I can get in touch with him.

1 **Mr. Breall:** That is fine.

2 **Sgt Reynolds:** Does anybody in here have any questions at this time?

3 **Ms. Thigpen:** I have question, Mr. Hinds have you been responsible for complying with the rules
4 that was recently announced for enforcement in August regarding the color schemes responsibility
5 to weekly fax in a list of medallion holders who have not turned in waybills?

6 **Mr. Hinds:** We have faxed in a list of medallions with no waybills turned in.

7 **Ms. Thigpen:** So you have been responsible for faxing those lists, right?

8 **Mr. Hinds:** Yes.

9 **Ms. Thigpen:** And in any time since the beginning of August 2007 until the present time that the
10 rules will be enforced, have you indicated on any such lists that Mr. Friedman has in fact has not
11 turned medallions in?

12 **Mr. Hinds:** With all due respect, that is not my reading that would require me to do.

13 **Ms. Thigpen:** And what is your reading?

14 **Mr. Hinds:** My reading of the requirement is you wanted to know any medallions or waybills
15 were not turned in.

16 **Ms. Thigpen:** Correct.

17 **Mr. Hinds:** Well, Mr. 865 has waybills turned in.

18 **Ms. Thigpen:** And where at those waybills?

19 **Mr. Hinds:** We can produce them for you.

20 **Ms. Thigpen:** Would you please produce them now because we have requested them along with
21 the other documents?

22 **Mr. Hinds:** I understand. You are requesting waybills for 865?

23 **Ms. Thigpen:** Correct.

24 **Mr. Hinds:** I didn't realize that you were requesting those waybills at this meeting.

25 **Ms. Thigpen:** That was in the letter September 26 2007.

26 **Mr. Breall:** I think there is a misunderstanding. There is a different rule that is being followed
27 here. And Mr. Hind's reading of the rule is that any cab with medallions with no waybills turned in,
28 for the cab itself should receive notification. Not the medallion holder, so we are clear. You are

1 not asking for us to produce all waybills for cab 865, you are just asking for all waybills for Mr.
2 Friedman, correct?

3 **Ms. Thigpen:** The rule as it applies to color schemes states that a weekly list shall be faxed to
4 the Taxicab Commission and it refers to drivers and medallion holders. This is the language of the
5 rules: 5.H.15., "On first business day of each week, all Color Scheme Holders shall fax, to the Taxi
6 Detail (although Taxi Commission enforces it, since Taxi Commission has undertaken
7 administrative functions pursuant to voter mandate in 1999), the names of all Drivers and
8 Medallion Holders who have failed to turn in waybills during the previous week." The rule could not
9 be more explicit and does not refer to a cab or vehicle medallion number. In fact, Mr. Hinds has
10 faxed a list every week since August stating all medallion holders have turned in waybills.

11 **Mr. Hinds:** Actually I would disagree with that characterization

12 **Ms. Thigpen:** Ok, and what would be your characterization of the statements you have faxed to
13 the Taxicab Commission?

14 **Mr. Hinds:** My characterization is what I thought you understood for any medallions you do not
15 have any waybills turned in, you wanted a list of those that we did not receive no waybills. That is
16 what I told people.

17 **Ms. Thigpen:** Ok, so all your medallion holders have turned in waybills?

18 **Mr. Hinds:** I did not say all of our medallion holders turned in waybills, I said there are waybills
19 for every medallions.

20 **Ms. Thigpen:** Ok, so 865 medallion has waybills on file?

21 **Mr. Hinds:** Yes, 865 have waybills on file. That is correct.

22 **Ms. Thigpen:** And Mr. Friedman does not have waybills on file?

23 **Mr. Hinds:** I never said Mr. Friedman has waybills on file or suggested he has any waybills on file.

24 **Ms. Thigpen:** Yes or No, did he have waybills on file?

25 **Mr. Hinds:** I don't believe so. I am having someone check that right now, but I don't believe so.

26 **Ms. Thigpen:** Ok, when will you be able to ascertain if Mr. Friedman does have waybills on file?

27 **Mr. Hinds:** We can have that for you within 24 hours.

28 **Ms. Thigpen:** Ok, we did give you 24 hours notice in the letter of September 26, which says

1 "Please inform in writing whether you have any waybills on file for any year for Mr. Robert
2 Friedman, medallion number 865. If there are any on file we can arrange a mutually convenient
3 time for inspections." We did in fact do that. That is why we are here today.

4 **Mr. Hinds:** I don't believe there any waybills on file. I will double check and verify.

5 **Sgt Reynolds:** So you don't think there are any?

6 **Mr. Hinds:** I think I said that.

7 **Sgt Reynolds:** When we talked on the phone, you said you had made some copies and we were
8 talking about inspections versus giving them and I think counsel you and I had talked about that?

9 **Mr. Breall:** That was a different issue. That wasn't even for a medallion holder.

10 **Sgt Reynolds:** Oh I see. I am confused. I am sorry.

11 **Mr. Breall:** That was for a different person for a different cab number. So this is different. We
12 are double checking on that, but to the extent we do find any waybills for him we'll be happy to
13 produce them since everyone is coming back next Monday to look at his personnel file. If we have
14 waybills, we will give them to you then. Our best believe at this point is there aren't any.

15 **Sgt Reynolds:** I want to make sure you said next Monday, because next Monday is not the day
16 we are coming.

17 **Mr. Breall:** No, I meant a week from next Monday.

18 **Sgt. Reynolds:** All right, very good. We want to make sure.

19 **Ms. Thigpen:** Mr. Hinds, did you tell Lt. Schlotz of the SFPD Taxi Detail at any times over the past
20 2 years that there are no waybills on file for Mr. Friedman?

21 **Mr. Hinds:** I recalled... well to be honest I am not sure.

22 **Ms. Thigpen:** Ok, do you have any knowledge of your agent Jane Bolig, former agent, making
23 that statement to Lt. Schlotz?

24 **Mr. Hinds:** I am not sure... (pauses)

25 **Mr. Breall:** Don't speculate.

26 **Ms. Thigpen:** You don't know?

27 **Mr. Hinds:** I don't know.

28 **Ms. Thigpen:** Ok, that is all the questions I have for now until we return.

1 **Sgt Reynolds:** Counsel, is there anything you like to add?

2 **Mr. Breall:** No.

3 **Sgt Reynolds:** Dan, anything you like to finish up with?

4 **Mr. Hinds:** No.

5 **Interview Concluded: 10:50 am**

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Exhibit 2

San Francisco Police Department - Original
INCIDENT REPORT RMS-060339582

Report Type: Initial

060339582

Incident Number 080-339-582	Occurrence from Date/Time 03/30/06 01:50	Occurrence to Date/Time	Reported Date/Time 03/30/06 01:53	CAD Number 060890266
Type of Incident Assault, Aggravated, W/ Other Weapon -04013, Marijuana Offense -16010, Narcotics Paraphernalia, Possession of -16710				
Location of Occurrence 2270 Mckinnon Av At Intersection with/Premise type Misc. Building or Store				
Confidential Report? <input type="checkbox"/>	Arrest Made? <input checked="" type="checkbox"/>	Suspect Known? <input type="checkbox"/>	Suspect Unknown? <input type="checkbox"/>	Non-Suspect Incident? <input type="checkbox"/>
			Domestic Violence? <input type="checkbox"/>	Reporting Unit 3C12D
Location Sent 2270 Mckinnon Av				
How Cleared?	Reported to Bureau	Name	Star	Date/Time
			Elder Victim <input type="checkbox"/>	Gang Related? <input type="checkbox"/>
			Juvenile Subject? <input type="checkbox"/>	Prejudice Based? <input type="checkbox"/>

DECLARATION	I declare under penalty of perjury, this report of _____ pages is true and correct, based on my personal knowledge, or is based on information and belief following an investigation of the events and parties involved.				
	PROP 115 CERTIFIED POST TRAINING		Signature: _____		
	Reporting Officer Johnson, Taurus L.	Star 75	Station Bayview Station	Watch 1800-0400	Date 03/30/06 04:39:20
	Reviewing Officer	STAR	Station Bayview Station	Watch	Date
	DIC SGT, CREED	STAR 1170	Station C	Watch 2107	Date 3/30/06
Related Case	Related Case	Re-Assigned to	Assigned to 5G200	Assigned by Tauva's 75	
Copies to 5G200 5N200 5N200 Add'l Copies w/wap, or, 2/da					

VIOLATION	Code R/V	Name (Last, First Middle) Friedman, Robert Michael	Address		
	Day Phone	Type	Home Address refused	City	State
	Night Phone	Type	Work Address 2270 Mckinnon Ave	City San Francisco	State CA
	DOB / Age	DOB	or age between and	Race W	Sex M
	Height	Weight	Hair Color RO	Eye Color BRO	ID Type Jurisd. ID No.
	Confidential Person <input type="checkbox"/>	Violent Crime Notification <input checked="" type="checkbox"/>	293 PC Notification <input type="checkbox"/>	Star 75	Follow-up Form YES <input checked="" type="checkbox"/>
Statement YES <input checked="" type="checkbox"/>		Relationship to Subject Stranger/None			
School (if Juvenile)	Injury/Treatment nose/Medic 17	Other Information/If Interpreter Needed Specify Language			

BOOKING	Code	Name (Last, First Middle) Sousa, Luiz Fernando Luis Da	A.I.J.A.S.		
	Day Phone	Type	Home Address	City San Francisco	State CA
	Night Phone	Type	Work Address 2270 Mckinnon Ave	City San Francisco	State CA
	DOB	Date of Birth	Age	or age between and	Race W
	Sex	Height	Weight	Hair Color BRO	Eye Color BRO
	SPNO	ID# (if Juvi.)	ID Type/Jurisdiction/Number	ID Type/Jurisdiction/Number	ID Type/Jurisdiction/Number
	Book Section #1 n/w 245(a)(1)p	Book Section #2 11357(b) H&S	Book Section #3 11364 H&S	Book Section #4	Book Section #5
	Warrant #	Court #	Action #	Dept	Encoute to
	Warrant Violation(s)	Bail	Mirandized <input checked="" type="checkbox"/>	Star 75	Date 03/30/06 02:30
	Citation #	Violation(s)	Appear Date/Time	Location of Appearance	
Book/Chg Approval Sgt Devlin	Star 396	Mass Arrest Code	M X-Rays <input type="checkbox"/>	School (if Juvenile)	
Other Information: Citation/Warrant/Booking Charge(s)/Missing Person-Subject Description: Scars, Marks, Tattoos Wearing Beige Jacket, Blue T-shirt, gray pants, green sneakers					

BOOKING BY ADP/CP/...

060339582

San Francisco Police Department
PROPERTY LISTINGS

E 1	Code/No EVD 1	Item Description Diskette	Brand			Model		
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity 1	Value	
	Seized by (Star)	From Where						
	Additional Description/Identifying Numbers 1 Diskette with 4 images							
E 2	Code/No EVD 2	Item Description Statement	Brand			Model		
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity 1	Value	
	Seized by (Star) 75	From Where scene						
	Additional Description/Identifying Numbers 1 Written Statement from (v)							
E 3	Code/No EVD 3	Item Description SFPD Form 80	Brand			Model		
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity 1	Value	
	Seized by (Star)	From Where						
	Additional Description/Identifying Numbers 1 signed citizen's arrest form							
E 4	Code/No EVD 4	Item Description Green Vegetable Matter	Brand			Model		
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No. 06230398	Quantity 2	Value	
	Seized by (Star) 1528	From Where inside left pocket of Sousa's beige jacket						
	Additional Description/Identifying Numbers							
E 5	Code/No EVD 5	Item Description Glass Pipe	Brand			Model		
	Serial No.	Gun Make	Caliber	Color RED	Narcotics Lab No.	Quantity 1	Value	
	Seized by (Star) 1528	From Where inside left pocket of Sousa's beige jacket						
	Additional Description/Identifying Numbers							
	Code/No	Item Description	Brand			Model		
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value	
	Seized by (Star)	From Where						
	Additional Description/Identifying Numbers							
	Code/No	Item Description	Brand			Model		
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value	
	Seized by (Star)	From Where						
	Additional Description/Identifying Numbers							

SEARCHED INDEXED SERIALIZED FILED

San Francisco Police Department
NARRATIVE

060339582

On the above date and time, headquarters sent Officers Ma#1653, Cabuntala#1528 and I to 2270 Mckinnon Ave regarding a person yelling for the Police.

Upon our arrival, Officer's Whitfield#379 and Norris#4229 (3C15E) were on scene. As I approached the rear door of 2270 Mckinnon Ave, I saw that Officer Whitfield had one person detained. I then entered the office hallway where I saw blood drops on the floor and a white male later identified as (r/v) Robert Friedman on the floor. Friedman was attempting to stand up however, he was having trouble with his balance. I visually saw that Friedman had blood stains on his shirt, blood on his face and blood coming from his nose. I then requested a ambulance to respond because of Friedman's injuries. Medic 17 arrived on scene and treated Friedman. Friedman told Medic 17 that he would seek medical attention on his own.

I then spoke with Friedman who told me, (b) Luiz Sousa who is a cab driver for National Cab attacked him. Friedman told me he and Sousa began arguing through a glass window about a gas receipt. Friedman told me Sousa refused to give him a gas receipt for his taxi. Friedman said the verbal altercation then escalated and Sousa came around to the office and tried to enter. Friedman said when Sousa tried to enter the office he pushed Sousa back and closed the door. Friedman said Sousa began screaming and hitting the wall outside the office. Friedman told me this went on for a few minutes. Friedman then told me when he saw that the police was coming, he opened the door and Sousa came around from the side of the wall and hit him in the face. Friedman was unable to tell me if it was with a closed fist or open hand. Friedman said he and Sousa then began a physical altercation. Friedman said Sousa then pushed him to the ground and began kicking him. Friedman was unable to tell me how many times Sousa kicked him only that it was numerous times. I did not see any bruising on Friedman's stomach or chest area. Friedman provided me with a written (e2) statement of the incident. It should be noted, I asked Friedman if he was in fear of his life at anytime during this incident and Friedman replied, "Oh no not at all".

Friedman made a (E3) citizen's arrest on Sousa in which I took custody. Search Incident to arrest on Sousa, Sgt. Devlin#396 (3C106) found (E4) 2 baggies of green vegetable matter (suspected marijuana) and a (E5) glass pipe in the inside pocket of Sousa's belga jacket. Sousa was transported back to Bayview Station and booked on the above charges with the approval of Sgt. Devlin.

It should be noted, after I mirandized Sousa I asked him if he would like to talk with me and Sousa said, no.

It should be noted, Sgt. Devlin provided a digital camera in which officer Ma took (e1) photos of Friedman and Sousa's injuries. It should also be noted, Sousa was treated and released by Medic 17 at the scene.

Officer Ma booked all evidence at Bayview Station. Officer Ma also hand carried the suspected Marijuana to 850 Bryant Street where he made a narcotics drop.

I gave Friedman a follow up form with a case number and a victim of violent crime form.

ADULTS ONLY

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4 Attorney for Permittee
ROBERT FRIEDMAN

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7
8 **THE TAXICAB COMMISSION**
9 **CITY AND COUNTY OF SAN FRANCISCO**

10 In re the Matter of Permittee) **PERMITTEE'S BRIEF**
11)
12 ROBERT FRIEDMAN,) HEARING: January 18, 2008
13 Public Passenger Vehicle Permit No. 865.) TIME: 10:00 a.m.
PLACE: Room 416, City Hall
HEARING OFFICER: Julie Rosenberg

14
15 **I.**
16 **FORM 1095 ARE INADMISSIBLE**

17 The Commission submits as evidence the Form 1095 for the years 2000-2006. Each
18 one shows *whited out* areas, some with partial handwritings. Thus, each Form 1095 shows
19 alterations, or they are incomplete.

20 As the proponent of each Form 1095, the Commission solely bears the burden to show
21 its authenticity and admissibility as an exception to the Hearsay Rule:

22 The party producing a writing as genuine which has been altered,
23 or appears to have been altered, after its execution, in a part
24 material to the question in dispute, must account for the alteration
25 or appearance thereof. He may show that the alteration was made
26 by another, without his concurrence, or was made with the
consent of the parties affected by it, or otherwise properly or
innocently made, or that the alteration did not change the
meaning or language of the instrument. If he does that, he may
give the writing in evidence, *but not otherwise*.

27 (Evidence Code section 1402, italics added.)

28 A writing is inadmissible unless authenticated. (Sections 1400-1402.) "As the

1 proponent of the document, the Commission had the burden of showing its authenticity,
2 including the absence of any material alteration. (Evid. Code, § 403, subd. (a)(3), 1400-
3 1402.)” (*People v. Morris* (1991) 53 Cal.3d 152, 205.)

4 In *Fashion 21 et al. v. Coalition for Humane Immigrant Rights of Los Angeles* (2004)
5 117 Cal.App.4th 1138, an edited version of an original videotape offered by one party was
6 challenged for not being properly authenticated. The Court held as follows:

7 Under Evidence Code section 1402 the party offering an edited
8 videotape into evidence at trial bears the burden of showing the
9 editing did not distort the “meaning” of the activities depicted in
10 the tape. If, at trial, Fashion 21 failed to show the edits it made
11 in reducing seven hours of footage to 11 minutes did not “change
12 the meaning” of the tape an objection under section 1402 would
13 have to be sustained.

14 (*Id.*, at p. 1147, quotes in original.)

15 Proof that a person authorized alterations to the printed terms of a document must be
16 *clear and convincing* in order to bind such person to the altered terms. (*Dozier v. National*
17 *Borax Co.* (1917) 35 Cal.App. 612, 618; *Arneson v. Webster* (1964) 226 Cal.App.2d 370,
18 376.)

19 The Commission cannot prove by clear and convincing evidence that the alterations
20 to each Form 1095 satisfies the exceptions in Section 1402. It is also not possible to
21 determine what entries Permittee made that were deleted, and whether such redacted
22 information eliminates the charge of falsification by him.

23 Lastly, the Commission must prove that the person who was convicted of driving under
24 the influence is the same person as Permittee here.

25 II.

26 1995 CONVICTION FOR MISDEMEANOR DOMESTIC VIOLENCE

27 The Commission alleges that Permittee was convicted in September 1995 for domestic
28 violence, prior to his receipt of a medallion in December 1996.

First, unless the Commission proves that the “Robert M. Friedman” who suffered the
conviction is the same Permittee Robert Michael Friedman here, the conviction is irrelevant.

Second, MPC 1090 focuses on conduct by permittees *after* the medallion is issued.

1 Since the application process involves review of a permittee's background and entitlement to
2 a medallion, once the Taxi Detail and the Taxi Commission clear him/her for receipt of a
3 medallion, any prior conduct cannot be used for discipline. Only that conduct which occurs
4 after issuance of a medallion is relevant to suspension or revocation under MPC 1090, and
5 thus the conviction is irrelevant.

6 Third, approval by the Taxi Detail and Taxi Commission of Permittee for receipt of a
7 medallion is waiver and estops their attempt now twelve years later from attempting to use
8 this conviction, which was a matter of public record, as a basis to discipline Permittee.

9 Fourth, the Commission is barred by laches for waiting twelve years to use the
10 conviction to seek sanctions.

11 **III.**

12 **CONCLUSION**

13 Based on the evidence to be presented, the arguments to be made and the above,
14 Permittee requests that if the Hearing Officer decides to impose a sanction, that it be other
15 than revocation of his medallion..

16 DATED: January 17, 2008

Respectively submitted:

17 /s/ Geoffrey Rotwein
18 GEOFFREY ROTWEIN
19 Attorney for Permittee
20 ROBERT FRIEDMAN
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28

WILLIAM B. WALKER, M.D.
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CONTRA COSTA
HEALTH SERVICES

January 8, 2008

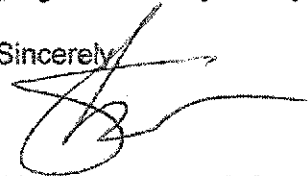
Julie Rosenberg
Hearing Office
San Francisco Taxi Commission

Dear Ms. Rosenberg

On October 1, 2007 Robert Michael Friedman was admitted to a court ordered in-patient treatment program. Mr. Friedman's participation in this program is mandated by the court as part of a settlement agreement with Mr. Friedman. Court ordered supervision of Mr. Friedman will end on April 1, 2008. Not until this time will Mr. Friedman be able to attend this hearing

Should you wish to contact me, I may be reached at Tri-Cities, substance abuse treatment program Monday-Friday 8am - 5pm at (510) 374-7017.

Sincerely,



Sheree Howe, R.A.S.
Registered Addiction Specialist Abuse



**Supplemental brief submitted by the Appellant for the hearing on
February 16, 2022**

George Horbal Supplemental Brief --- taxi medallion # 1303

Thank you for allowing us (appellant George Horbal and agent Carl Macmurdo) to submit this information. In continuing the Horbal revocation appeal case on November 17, 2021, you asked for our feedback on three prior BOA appeals in 2003: Mia Rivera, Mark Hollander, and Joel Hollander.

The three BOA taxi appeal cases in 2003:

Board President Arnold Chin's findings in the Mark Hollander case are stated succinctly and will apply identically in the Horbal matter (see attached "BOA Mark Hollander case ..."). For clarity, we also provide a copy of Prop. K of 1978 to show that medallion applicants were required to take an *oath-of-intention* to work as taxi drivers (see attached "Prop K of 1978.")

President Chin's second finding on page two is particularly instructive. He notes that the city code must be interpreted in context of the actual law --- in this case an Ordinance / voter initiative known as Prop K. Your Board found there was no evidence presented that Mr. Hollander did not intend to meet code requirements. Actually, he was a career taxi driver. Accordingly, your Board unanimously **OVERRULED** the permit revocation.

Implicit in the Hollander findings is that each medallion holder (MH) must be judged on a case-by-case basis. For example, a new, healthy MH who promptly stops driving to pursue a different career should be subject to revocation --- but not a MH whose body breaks down after forty years behind the taxicab wheel.

Mr. Macmurdo has reviewed the BOA appeal hearing tape for Joel Hollander (Mark Hollander's brother), which seems to be a carbon copy case. Macmurdo also has read the entire Mia Rivera BOA transcript. We include an excerpt (see attached "M. Rivera ... excerpt.") In the final paragraph of her comments, Board vice-president Kathleen Harrington notes the applicability of the Americans with Disabilities Act (ADA), as well as principles of equity and detrimental reliance. During the hearing, some other Commissioners concur that if the Agency wants to amend its rules, it needs to explain

newly-revised interpretations to a permittee when awarding the medallion --- rather than informing an elderly, disabled MH that the rules have been changed and will be enforced retroactively.

The Slone ADA lawsuit and subsequent Ninth Circuit mediated settlement agreement:

By 2007, Agency regulators were poised once again to engage in medallion revocations similar to those in 2003. Preemptively, National Cab Company filed a Federal lawsuit on August 11, 2007, alleging that Agency policy violated ADA. William Slone is one of two named plaintiffs. On June 30, 2008, District Court Judge, Jeffrey White, granted the Request for Summary Judgment submitted by defendant CCSF (i.e., the City.)

Many older MHs and taxi company managers felt devastated. Judge White had opined in essence that the medallion applicant's oath-of-intention translates into a sacrosanct, never-ending "driving requirement." Essentially, we MHs had to drive until death if we wanted to retain the permits which we had worked for decades in many cases to acquire. This ill-conceived policy interpretation creates a major public safety danger. Elderly MHs driving beyond their safe capacity have caused many accidents. One horrific accident --- cited in our initial Horbal brief --- involved a feeble, elderly MH driving against his will only to satisfy Agency driving requirements. The MH lost control of his taxi on a rainy night. The vehicle slid onto the sidewalk, causing immense bodily damage to the two people the taxi struck. It also resulted in a \$14 million judgment against Yellow Cab Co-op, which ultimately filed for bankruptcy in 2016.

On November 15, 2008, National Cab appealed Judge White's *Slone* ruling to the Ninth Circuit. On September 22, 2009, the parties agreed to mediation, which resulted in a settlement agreement ("Slone Agreement," hereafter) signed on August 10, 2010 (see attached "Slone v, Taxi.") The City's signatory, Vince Chhabria, is now a Federal District Judge. We believe the Slone Agreement applies to Mr. Horbal and all similarly situated MHs.

We applaud CCSF for not digging in its heels at the Ninth Circuit to defend Judge White's ruling. Instead, the City opted to replace White's ruling with a compromise agreement allowing for *bona fide*

career taxi driver / MHs to receive meaningful compensation, rather than revocation, when old age or disability sets in. Upon belief and information, Agency taxi regulators were unaware of the Slone Agreement when they commenced the Horbal revocation process.

Transportation Code Section 1116, “Taxi Medallion Transfer Program”:

After a 32-year Prop K hiatus, the Agency resumed a buy-sell taxi medallion business model in 2010 with a Pilot Program, followed by a permanent Medallion Sales Program in 2013. The Agency created a “Surrender Program” whereby SFMTA acts as an intermediary by paying the outgoing MH \$200,000 to surrender the permit, then immediately selling it for the \$250,000 set price. At that juncture, willing buyers greatly outnumbered sellers.

The Transportation Code indicates that Mr. Horbal meets the age qualification for the Surrender Program:

“Section 1116(a) Surrender for Consideration.

(1) Any Post-K Medallion Holder who has attained the age of 60 is eligible to surrender their Post-K Medallion to the SFMTA for consideration in accordance with this Section 1116.”

We ask your Board to allow disabled MHs to retain their permits in the hope of receiving future compensation.

The Agency’s current wave of revocations is financially motivated:

At the credit union trial around October 2021, an Agency’s expert witness, Dr. Dan Rascher, estimated current medallion value at \$130,000 --- while acknowledging that future expectations factored into his testimony. Four California Driver’s License (CDL)-related revocation appeals are in front of your Board within a month, and thirty or more reportedly are in the pipeline awaiting assignment to an administrative hearing officer, presumably being delayed while awaiting your Horbal ruling.

The Agency appears to be harvesting permits for its own financial benefit. We especially appreciate Commissioner Lopez’s having stated or implied that SFMTA’s mission statement of promoting social justice is antithetical to its current actions against disabled MHs.

Interestingly, the Agency has been open about its desire to reduce the number of non-purchased medallions in public service, so that purchased medallion holders will make more money, which in turn may reduce loan foreclosures. For example, the Agency now allows only purchased medallions to pick up fares at SFO, which policy makes it very difficult for Prop K MHs to find lease drivers. Such myopic Agency policy leads to inadequate public service in addition to its being profoundly unfair to non-purchased MHs.

Relevance of the credit union lawsuit:

CCSF has prevailed at trial and in a subsequent appeal for reversal before trial Judge, Harold Kahn. Upon information and belief, the credit union (SFFCU) will soon file with the California Court of Appeal seeking a new trial. A delay of at least one year may ensue until the litigation is completely ended.

It seems virtually certain the parties eventually will replace the existing “Lender Agreement” specifying a \$250,000 medallion transfer price with a new agreement setting the price either at a lower fixed amount or at market pricing. This should re-activate the Medallion Sales Program. We hope Prop K MHs will be allowed to participate and believe the Slone agreement requires our inclusion. Regardless, some medallion value seems very likely to return soon, and we ask the Board to allow Horbal and others to retain their permits.

The CDL issue is a pretext:

Prop K has no CDL requirement for Prop K MHs, nor is there any explicit one in the Transportation Code. For decades, annual medallion renewal was never tied to “A Card (taxi driver’s license)” or CDL status. One of the CDL cases on your March 2 agenda involves a MH who was rendered blind in a vicious knife assault after a taxi shift in 1997. He has renewed his medallion for twenty-four consecutive years, but now the Agency claims he needs a CDL to do so this year. This new policy egregiously violates ADA and also seems a transparent pretext for the Agency to benefit itself by confiscating valuable permits for its own future use.

We submit a document (see attached “Paige S. advisory to CR”) from year 2017 in which the Agency permit compliance manager states that disabled MHs do not need to maintain an A Card. Many of the cases potentially headed your way will involve MHs who relied on that same advice.

Notably, a circumstance underpinning this issue is the Agency’s attempt to conflate the operating permit (medallion) with the driving permit (A Card).

Certain arguments and aspects in the Agency’s Reply Brief are either meritless or misleading:

On page two of its August 25, 2021, Reply Brief, the Agency states,

“When a post-K medallion holder stops driving, Proposition K contemplated that the driver would return the medallion to SFMTA, so the SFMTA could issue the medallion to a new driver who had been waiting for it. Proposition K did not contemplate that drivers would continue to hold the post-K medallions when they could no longer drive safely and responsibly (our emphasis).”

Please note the medallion applicant waiting list no longer exists. The Agency will utilize all revoked medallions for its own financial gain.

Whether intended or not by Prop. K, the medallion has served as a *de facto* pension for older MHs from the law’s inception. Many or most MHs made a career commitment on this basis.

The Agency’s argument regarding what the law “contemplated” is entirely speculative. We focus on what Prop K actually says. It requires an oath-of-intention by the medallion applicant to drive taxi full-time. This requires a case-by-case assessment, a viewpoint validated by your predecessor Board’s findings in the Mark Hollander case.

The enclosed year 2004 taxi commission chart indicates the dysfunctionality of the Prop K permitting mechanism. Many brand-new MHs were already senior citizens (see attached “MH age upon receipt.”) Mr. Tognotti (born in 1925, permitted in 2003), e.g., was age 78 when awarded a medallion. The Agency’s argument seems to be that he cheerfully would return it post-haste.

The Agency includes Judge White’s favorable ruling as a Reply Brief exhibit. This is misleading, because the Agency later agreed to replace Judge White’s ruling with the Slone Agreement.

Conclusion / Request for decision:

For the foregoing reasons, we request you overrule the Agency and restore Mr. Horbal's permit. The disability-related findings in the 2003 Mark Hollander BOA appeal apply exactly to Horbal's case,

In the alternative --- considering that you already have three other CDL cases scheduled, with many more likely to follow --- a continuance of indefinite duration contingent or conditional upon Mr. Horbal's receiving consideration as intended by the Slone agreement is a suggested option.

The current taxi appeals are of a Byzantine nature. We very much appreciate your patience, thoughtfulness, and diligence in this matter.

George Horbal (appellant) / Carl Macmurdo (agent)

Encl.

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
MARK HOLLANDER,)
) Appellant(s))
 vs.)
))
TAXI COMMISSION,)
) Respondent)

Appeal No. 03-026

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT the above named appellant(s) appeals to the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer. The substance or effect of the decision or order appealed from is the revocation on Feb. 3, 2003, of taxi medallion no(s). 881.

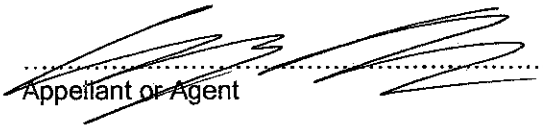
(RESOLUTION NO. 2003-03)

Address & Tel. of Appellant(s):
 Mark Hollander, Appellant(s)
 C/o Robert Moore, Attorney for Appellant(s)
 333 Bush Street #1750
 SF, CA 94104
 415.837.1515

Address & Tel. of permit Holder(s):
 N/A

I, Canby Cohen declare under penalty of perjury that the foregoing is true and correct. Entered on Feb. 14, 2003 at San Francisco, California.

FOR HEARING ON April 9, 2003


 Appellant or Agent

NOTICE OF DECISION & ORDER

The aforementioned matter came on regularly for hearing before the Board of Appeals of the City & County of San Francisco on June 25, 2003, and the order was **OVERRULED** by the Board of Appeals.

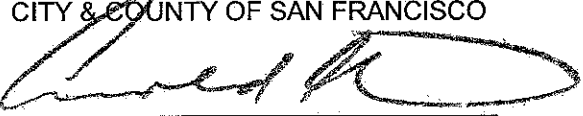
PURSUANT TO § 4.106 of the Charter of the City & County of San Francisco and Article 1, § 14 of the Business & Tax Regulations Code of the said City & County, and the action above stated, the Board of Appeals hereby orders that

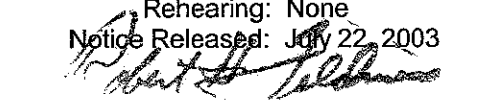
the Taxi Commission's revocation of the subject medallion is **OVERRULED**,

and the Taxi Commission is hereby ordered and directed to **SUSPEND** the subject medallion for a period of 4 months, with the appellant to contact the Taxi Commission concerning any ADA accommodation after the suspension period.
SEE ATTACHED FINDINGS.

Date: June 25, 2003
 BOARD OF APPEALS
 CITY & COUNTY OF SAN FRANCISCO

Last Day to Request Rehearing: July 7, 2003
 Request for Rehearing: None
 Rehearing: None
 Notice Released: July 22, 2003


 Arnold Y.K. Chin, President


 Robert H. Feldman, Executive Secretary

If this decision is subject to review under Code of Civil Procedure § 1094.5, then the time within which judicial review must be sought is governed by California Code of Civil Procedure, § 1094.6.

**BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO**

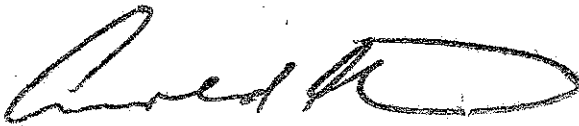
Appeal No(s). 03-026

MARK HOLLANDER,)
Appellant(s))
vs.)
TAXI COMMISSION,)
Respondent)

FINDINGS

1. The Board finds that the revocation of the appellant's medallion is too drastic and harsh a punishment in this case since the appellant's behavior is mitigated by the fact he drove a taxi for many years and only stopped when he became disabled.
2. The Board finds that the ordinance requires that a medallion holder have the intention of meeting the driving requirements of the Code, and there was no evidence presented that he did not intend to meet the requirements, and in fact did meet them until his physical incapacity made it impossible to do so.
3. The Board finds that it would be unfair to impose a harsh penalty in this case in light of the fact that the Taxi Commission has not yet adopted procedures for those who because of age and infirmity can no longer drive, and a 4 month suspension is a reasonable penalty which conveys the seriousness of the Taxi Commission's regulations, and allows it to promulgate new regulations that can accommodate the needs of medallion holders, the Taxi Commission and the public.

The undersigned hereby certify that the findings above were adopted by the Board of Appeals at its regular meeting of June 25, 2003.



Arnold Y.K. Chin, President



Robert H. Feldman, Executive Secretary

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BEFORE THE BOARD OF APPEALS
CITY AND COUNTY OF SAN FRANCISCO
PRESIDENT Y. K. ARNOLD CHIN, PRESIDING

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QUERIDA MIA RIVERA,

APPELLANT

VS.

APPEAL NO. 3-025

THE TAXI COMMISSION,

RESPONDENT.

WEDNESDAY, JUNE 11, 2003

ADDENDUM ITEM 4

Reported by: Claudine Woeber,
CSR #4094 (California)

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A P P E A R A N C E S

PRESIDENT ARNOLD Y. K. CHIN
VICE PRESIDENT KATHLEEN HARRINGTON
COMMISSIONER SABRINA N. SAUNDERS
COMMISSIONER DOUGLAS SHOEMAKER
COMMISSIONER HISASHI B. SUGAYA
CITY ATTORNEY THOMAS J. OWEN, ESQ. (Recused on Item 4)
CITY ATTORNEY PAUL JESSON, ESQ.

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FOR APPELLANT:
ROBERT MOORE, ESQ.
FOR THE TAXI COMMISSION:
NAOMI LITTLE, EXECUTIVE DIRECTOR

PUBLIC SPEAKERS:
FOR THE COMMISSION:
MARK GRUBERG 14
RUA GRUFFIS 16
MARK KAZINSKI 18

PUBLIC SPEAKERS:
FOR THE APPELLANT RIVERA:
BROOKS DYER 20
ROBERT CESANA 24
CARL MACMURDO 26
ANNE MCVEIGH 29

---o0o---

REBUTTAL:
BY MS. LITTLE 33
BY MR. MOORE 35

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1 VICE PRESIDENT HARRINGTON: I'll go next. I
2 have to say that this is a case that pulls my
3 heartstrings, because I think it's one where equity
4 sometimes is more important than law, and as Samuel
5 Johnson said "sometimes law is an ass."

6 And I certainly believe in this particular
7 circumstance that Ms. Rivera deserves to get some
8 special consideration. Let's kind of put everything in
9 perspective. Prop K was passed in 1978. ADA was
10 passed in 1991. A Federal law that has really
11 overturned and taken precedence over all kinds of state
12 and local laws because there was a decision at the
13 Federal level that people with disabilities deserved
14 certain accommodation.

15 It has been acknowledged that the efforts at
16 accommodating people with permanent disabilities is
17 still on the desk of our very able executive director
18 of the Taxi Commission who has only been on the job a
19 couple of years.

20 Nobody is disputing that there were, you know,
21 waybills falsified, etc. But the point is, is it
22 equitable to punish Ms. Rivera? Can she wait until the
23 Taxi Commission figures out what to do with people with
24 permanent disabilities? I think not. So I think the
25 equity in this particular case requires that we allow

1 her to keep her Medallion.

2 My other comment is that like many other permit
3 holders, Ms. Rivera relied on a system that was flawed,
4 perhaps. Probably there's no disagreement there. But
5 for nearly twenty years, this is the kind of system
6 that was in existence. The fact that the system has
7 now changed and is being perfected, and perhaps, will
8 improve in the future, is a whole different issue.

9 But to go back in time and penalize somebody
10 like Ms. Rivera, it's not something that I can do. I
11 can't do it. So I'm going to vote to override the Taxi
12 Commission and uphold Ms. Rivera's permit. Because I
13 think equity requires it, I think ADA requires it, I
14 think detrimental reliance on how the City operated
15 requires it. So those are my views. Thank you.

1 MR. FELDMAN: Shall I call the role?

2 PRESIDENT CHIN: I'd like to ask for a friendly
3 amendment. I think what we have is, we have an
4 admission and a stipulation by all parties and also
5 members of the public that there was some conduct that
6 went on with regard to those waybills, and I would like
7 to see if you could go along with overturning the
8 Commission but impose at least a two-month suspension.

9 VICE PRESIDENT CHIN: If that's what it takes to
10 get your vote, President Chin, I will go along with
11 that friendly amendment.

12 MR. FELDMAN: So it will over overruling and
13 changing the revocation into --

14 PRESIDENT CHIN: -- suspension for two months.

15 MR. FELDMAN: -- two-month suspension. Okay.
16 We have a motion then from Vice President Harrington to
17 overrule and change the revocation to a two-month
18 suspension.

19 On that motion, President Chin?

20 PRESIDENT CHIN: Aye.

21 MR. FELDMAN: Commissioner Shoemaker?

22 COMMISSIONER SHOEMAKER: Aye.

23 MR. FELDMAN: Commissioner Sugaya?

24 COMMISSIONER SUGAYA: I'm going to vote "aye,"
25 but I think it sends the wrong message to people who

1 are out there violating the law.

2 MR. FELDMAN: Commissioner Saunders?

3 COMMISSIONER SAUNDERS: Aye.

4 MR. FELDMAN: "Aye." So it's five to zero to
5 overrule and change the revocation to a two-month
6 suspension. Thank you.

7 Ms. Little is going now to the budget meeting,
8 and Sergeant Simpson is here for her.

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11 (Whereupon, this hearing was concluded.)

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SAN FRANCISCO TAXI COMMISSION
MEDALLION HOLDERS
by DATE OF BIRTH

K

year

Medallion #	Color Scheme	Granted Date	Last Name	First Name	K	Birth Year
722	National	86/08/21	Ong	Sum <i>88-90</i>	K	16
269	Luxor	84/08/02	Moy	William <i>85 87</i>	K	19
662	Luxor	89/05/10	Kelly	John W.	K	20
744	Town	84/05/10	Tong	George	K	20
750	Yellow	84/05/10	Prenovitz	Simon	K	20
753	Royal	84/05/10	Wootton (Deceased 10/28/02)	Joseph	K	20
52	National	81/10/21	Rivera	Querida	K	23
200	United	97/05/01	Lorinez	Michael	K	23
167	United	95/08/09	Palat	Illan	K	24
243	National	91/01/09	Lym	Neil	K	24
1105	Town	99/02/10	Loo	Taft	K	24
585	Luxor <i>2003</i>	03/04/08	Tognotti	Frank <i>awarded @ 79 years</i>	K	25
718	Veterans	84/05/10	DeCausemaker	Richard	K	25
721	Yellow	84/06/14	Correll	William J.	K	25
728	National	84/05/10	Kelley	J. Howard	K	25
786	Regents	88/02/23	Whipple	George	K	25
805	Yellow	88/02/18	Stockfleth	Walter	K	25
832	Bay	94/12/21	Wong	Guey Mon	K	25
491	Yellow	89/01/04	Ramsey	Willie	K	26
232	Luxor	81/12/16	Quigley	Richard	K	27
794	Luxor	88/02/23	Hom	Ying	K	27
231	Yellow	92/08/19	Gee	Kwing Hung	K	28
320	Yellow	82/10/27	Cardona	Miguel	K	28
336	National	89/03/09	Angeli	Clement V.	K	28
435	Luxor	96/03/16	Brunt	Warren H.	K	28
798	Bay	88/03/03	Wong	Winston	K	28
914	United	97/02/26	McClure	Gerald G.	K	28
199	Luxor	93/03/03	DeLiege	Rene C.	K	29
206	SF Taxi	81/10/28	Trad	George	K	29
352	American	84/01/11	Bartholomew	John	K	29
376	Yellow	90/01/17	Matheson - Deceased	James A.	K	29
537	DeSoto	92/12/02	Johnson	William S.	K	29
1035	Luxor	98/12/16	Bingham	Lucius Tom	K	29
1095	Bay	99/01/06	Le	Tri Quang <i>75-79</i>	K	29
195	Arrow	93/02/04	Crittendon	Vernell M.	K	30
198	Veterans	93/01/13	Williams	Ralph <i>47-76-75</i>	K	30
329	Town	81/12/16	Woon	Victor	K	30
736	Yellow	84/05/10	Mar	Henry Kwong Poy	K	30
741	Town	84/05/10	Shair-Ali	Romeo	K	30
764	Regents	88/02/18	Anton	Bruie Hernandez	K	30
826	Metro	94/11/10	Low	Al	K	30
842	National	95/01/11	Jung	Edmund L.	K	30
1183	Royal	99/01/06	Ruggeiro	John	K	30
84	Luxor	92/01/22	Heywood, Jr.	Newell W.	K	31
355	Yellow	95/06/21	Broussard	Wilson	K	31
1073	DeSoto	98/12/16	Ward	Phillip	K	31
149	Regents	96/12/11	Ruiz	Joaquin	K	32
208	Luxor	81/10/28	Maldonado	John J.	K	32
219	Luxor	91/04/24	Palter	Noel	K	32
381	DeSoto	92/06/10	Davis	Curtis C.	K	32
762	Big Dog	87/12/03	McGee	Marguerite	K	32
781	Luxor	88/02/23	Craig	Robert	K	32
795	Yellow	88/02/23	Dorestant	Rene	K	32
800	National	88/02/23	Lee	Authur	K	32



Subject: RE: requested info re: historical medallion issuance

From: "Standfield, Paige" <Paige.Standfield@sfmta.com>

Date: 03/27/2017 11:36 AM

To: Charles Rathbone <charles.rathbone@sonic.net>

X-Account-Key: account19

X-UIDL: 1490640127.2650_0.a.spam,S=11698

X-Mozilla-Status: 0013

X-Mozilla-Status2: 00000000

X-Mozilla-Keys: sfmta medallions

Return-Path: <Paige.Standfield@sfmta.com>

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Received: from SV6EX10MBX1.muni.sfgov.org ([fe80::79a1:35c7:bc:df7]) by SV6EX10CASHUB1.muni.sfgov.org (:::1) with mapi id 14.03.0195.001; Mon, 27 Mar 2017

Thread-Topic: requested info re: historical medallion issuance

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<a3ff-e88e-ead3-2fd1af33b177@sonic.net>

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X-BESS-VER: 2017.3-r1703091851
X-BESS-Apparent-Source-IP: 75.10.230.1
X-BESS-Outbound-Spam-Score: 0.00
X-BESS-Outbound-Spam-Report: Code version 3.2, rules version 3.2.2.1
 pts rule name description ----- 0.00
 HTML included in message 0.00 BSF_BESS_OUTBOUND META: BESS O
X-BESS-Outbound-Spam-Status: SCORE=0.00 using account:ESS31785
 tests=HTML_MESSAGE, BSF_BESS_OUTBOUND
X-BESS-BRTS-Status: 1
X-Orthrus: tar=1 grey=no co=US os=//6 spf=none dkim=none

Hi Charles,

No, if you're not driving you don't have to renew. Would you like me to put a new form in the mail to you?

From: Charles Rathbone [mailto:charles.rathbone@sonic.net]
Sent: Monday, March 27, 2017 10:04 AM
To: Standfield, Paige <Paige.Standfield@sfmta.com>
Subject: Re: requested info re: historical medallion issuance

Yes, the info is very helpful.

An unrelated question: I anticipate that my doctor will again recommend that I not drive when my current medical modification expires this summer. In the meantime, do I need to maintain an active A-card as a condition of holding a taxicab permit?

Best wishes,

--
 Charles Rathbone
charles.rathbone@sonic.net

On 03/27/2017 08:51 AM, Standfield, Paige wrote:

No problem. Hope it helps!

-----Original Message-----

From: Charles Rathbone [mailto:charles.rathbone@sonic.net]
Sent: Friday, March 24, 2017 4:51 PM
To: Standfield, Paige <Paige.Standfield@sfmta.com>

Subject: Re: requested info re: historical medallion issuance

Hi again Paige,

Many thanks for the thorough response in such short order.

Best wishes,

--

Charles Rathbone charles.rathbone@sonic.net

REGULATIONS FOR TAXICABS AND OTHER MOTOR VEHICLES FOR HIRE

BE IT ORDAINED BY THE PEOPLE OF THE CITY AND COUNTY OF SAN FRANCISCO:

Section 1. The qualified electors of the City and County of San Francisco hereby declare it shall be the law of the City and County of San Francisco that:

(a) All taxicab permits and other vehicle for hire permits issued by the City and County of San Francisco are the property of the people of the City and County of San Francisco and shall not be sold, assigned or transferred; and

(b) The Chief of Police of the City and County of San Francisco shall have the responsibility of establishing regulations to assure prompt, courteous and honest service to the riding public; and

(c) The taxicab business shall operate under the principles of free enterprise and that taxicab operators may charge less than the maximum rate of fare set by law, as set forth below.

(d) The Police Commission shall issue a sufficient number of permits to assure adequate taxicab service throughout the City and County of San Francisco.

Section 2. The Application For A Permit.

(a) Any applicant for a permit to operate a taxicab or other vehicle for hire shall apply to the Police Commission for its declaration of public convenience and necessity on blanks to be furnished by the Secretary of the Police Commission, and within fifteen (15) days of the filing of such an application the Secretary of the Police Commission shall have a notice published in the official newspaper of the City and County of San Francisco. The notice shall state that an application has been filed for a license or permit to operate a taxicab or other motor vehicle for hire or motor vehicle for hire business, the name of the applicant, the kind of equipment, and the number of taxicabs or other vehicles for hire which the applicant desires to operate. The notice shall be published for three successive days.

The applicant shall pay to the City and County of San Francisco a sum to cover the costs of advertising and investigating and processing the application for each permit, such sum to be determined periodically as appropriate by the Police Commission.

Protests against the issuing of a permit may be filed with the Police Commission. The Police Commission shall consider all protests and in conducting its hearing shall

have the right to call such witnesses as it desires. In all such hearings the burden of proof shall be upon the applicant to establish by clear and convincing evidence, which shall satisfy the Police Commission, that public convenience and necessity require the operation of the vehicle or vehicles for which permit application has been made, and that such application in all other respects should be granted.

(b) No permit shall be issued unless the person applying for the permit shall declare under penalty of perjury his or her intention actively and personally to engage as permittee-driver under any permit issued to him or her for at least four (4) hours during any twenty-four (24) hour period on at least seventy-five (75%) of the business days during the calendar year. No more than one permit shall be issued to any one person.

(c) For two (2) years from the effective date of this Ordinance, a preference in the issuance of any permit shall be given to any person who has driven a taxicab or other motor vehicle for hire in the City and County of San Francisco for at least one consecutive twelve (12) month period during any of the three (3) calendar years immediately prior to the filing of an application for issuance of such permit.

(d) No permit shall be issued except to a natural person and in no case to any business, firm, partnership or corporation.

(e) Subject to any other preference created in this Ordinance, all applications for a permit to operate a taxicab or other motor vehicle for hire shall be processed and considered in the order of their receipt by the Police Commission.

(f) No part of this Section 2 shall apply to any permit holder described in subparagraph (b) of Section 4 of this Ordinance.

Section 3. Facts to be Considered by Police Commission. The Police Commission, in determining whether or not public convenience and necessity exist for the issuance of a permit, may consider such facts as it deems pertinent, but must consider whether:

(a) The applicant is financially responsible and will maintain proper financial records.

(b) The public will not be adequately or properly served unless the application is granted.

(c) The applicant has complied with all provisions of the Municipal Code, including pertinent motor vehicle laws.

(d) The applicant will be a full-time driver, within the meaning of Section 2(b) of this Ordinance, of the taxicab

(Continued on next page)

CONTINUATION OF TEXT OF PROPOSITION K

or other motor vehicle for hire.

Section 4. Continuous Operation

(a) All permittees within the purview of Section 1075 of Chapter VIII, Part II of the San Francisco Municipal Code (Police Code) shall regularly and daily operate their taxicab or other motor vehicle for hire business during each day of the year to the extent reasonably necessary to meet the public demand for such taxicab or motor vehicle for hire service.

Upon abandonment of such business for a period of ten (10) consecutive days by a permittee or operator, the Police Commission shall, after five (5) days' written notice to the permittee or operator, revoke the permit or permits of such permittee or operator; provided, however, that the Chief of Police, subject to the approval of the Police Commission and only after a thorough investigation, may on written application grant to the holder of any permit hereunder permission to suspend operation pursuant to such permit for a period not to exceed ninety (90) calendar days in any one twelve (12) month period in case of sickness, death, or other similar hardship.

No permit issued under this Ordinance shall be transferable or assignable, either expressly or by operation of law. All such permits and all rights granted under them may be rescinded and ordered revoked by the Police Commission for good cause.

(b) All persons, businesses, firms, partnerships, corporations or other entities who possess outstanding permits to operate a motor vehicle for hire on the effective date of this section must surrender and exchange any such permits for new permits within sixty (60) days of the effective date of this section. The new permits shall be non-transferable and non-assignable either expressly or by operation of law. Any such surrender and exchange shall be without fee to the permit holder. From and after the sixty-first (61st) day after the effective date of this section, all permits not surrendered for new permits shall be void and continuance of operation under any such void permits shall be punishable by a \$500.00 fine and thirty (30) days incarceration in the county jail for each such void permit so used.

Section 5. Corporate Permittees

(a) If any permittee is a corporation, any sale or other transfer of ten percent (10%) or more of the stock ownership or assets of the permittee, resulting from any transaction or series of transactions and computed on a cumulative basis, will be deemed to be a sale or transfer and the permit therefore shall be null and void, unless approved by the Police Commission in conformity with the requirements of this Ordinance.

(b) Any corporation holding a permit hereunder shall maintain a stock register at the principal office of the corporation in San Francisco and the stock register shall be available to the Police Department for inspection. Such corporation shall report to the department, in writing, any of the following:

(i) Issuance or transfer of any shares of stock to any person where the issuance or transfer results in the person owning 10 percent (10%) or more of the corporate stock.

(ii) Change in any of the corporate officers which are required by Section 821 of the California Corporations Code.

(iii) Change of any members of its board of directors.

(c) Any report required pursuant to subparagraph (b) hereof shall be filed with the Police Department within ten (10) days of the change, sale or transfer to be reported.

Section 6. Maintaining Financial and Accounting Records.

The Controller of the City and County of San Francisco shall have the responsibility of establishing regulations for the keeping and filing of financial statements and accounting books and records by every holder of a taxicab permit or other type of permit under this Ordinance. The purpose of such regulations is to provide information to the Board of Supervisors for ordinances respecting maximum rates of fares or other charges and to the Police Commission for the performance of its duties under the law. Failure of any permit holder to comply with the Controller's regulations may be cause for revocation of all rights granted to a permit holder to operate a taxicab or other vehicle for hire.

Section 7. Rates for Taxicabs

Notwithstanding any provision of the San Francisco Municipal Code, any person, firm or corporation operating a taxicab or taxicabs may set a rate of fare lower than the maximum rate which may be set from time to time by appropriate ordinance; provided, however, that any such lower rate shall be filed with the Board of Supervisors in writing prior to June 1st of any year, and, if approved by the Board, shall remain in effect until September 1st of the following year.

Section 8. Sections 1076, 1077, 1079 and 1135(B) of Chapter VIII, Part II of the San Francisco Municipal Code (Police Code) are hereby repealed.

Section 9. Sections 128.1, 128.2 and 128.3 of Part III, Article 2 of the San Francisco Municipal Code, are hereby repealed.

Section 10. **Severability.** If any section, sub-section, sub-division, paragraph, sentence, clause or phrase in this Ordinance or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The qualified electors of the City and County of San Francisco hereby declare that they would have passed each section, sub-section, sub-division, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, sub-sections, sub-division, paragraphs, sentence, clause or phrases be declared unconstitutional, invalid or ineffective.

HASSARD BONNINGTON LLP
PHILIP S. WARD, ESQ. (California SBN 51768)
RICHARD G. KATERNDAHL, ESQ. (California SBN 88492)
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rgk@hassard.com

Attorneys for Plaintiffs and Appellants
WILLIAM SLONE and MICHAEL MERRITHEW

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

WILLIAM SLONE and MICHAEL
MERRITHEW,

Plaintiffs,

v.

TAXI COMMISSION, CITY AND
COUNTY OF SAN FRANCISCO,
ET AL.

Case No. 08-16726

DC No. 07-cv-03335-JSW
(N.D.Cal., San Francisco)

MOTION TO DISMISS APPEAL

[FRAP 42(b)]

Plaintiffs and Appellants WILLIAM SLONE and MICHAEL MERRITHEW hereby move this Court for an order dismissing the above-captioned appeal on the conditions set forth in the supporting Stipulation in Support of Motion to Dismiss Appeal (the "Stipulation").

For the reasons explained in the Stipulation, the circumstances out of which this litigation arose have substantially changed since the District Court entered judgment below on June 30, 2008. Those changes likely mean that a decision by this Court resolving the merits of this appeal would be deprived of practical significance, rendering it more or less purely academic. Accordingly, the parties have agreed that their interests would not be served by further prosecution of this appeal and its dismissal would promote the interests of judicial economy and efficiency.

Pursuant to and in accordance with Rule 42(b) of the Federal Rules of Appellate Procedure, Plaintiff and Appellant MICHAEL SLONE voluntarily consents to the dismissal of his appeal. Plaintiff and Appellant MICHAEL MERRITHEW moves the Court to dismiss his appeal subject to it being reinstated under the circumstances described in the Stipulation.

The parties have each agreed to bear their own costs, including attorneys' fees. There are no outstanding costs herein that remain unpaid.

DATED: August 10, 2010

HASSARD BONNINGTON LLP

By /s/ Philip S. Ward
Philip S. Ward

Attorneys for Appellants William Slone and
Michael Merrithew

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WILLIAM SLONE and MICHAEL MERRITHEW

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

WILLIAM SLONE and MICHAEL
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TAXI COMMISSION, CITY AND
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ET AL.

Case No. 08-16726

DC No. 07-cv-03335-JSW
(N.D.Cal., San Francisco)

STIPULATION IN SUPPORT OF
MOTION TO DISMISS APPEAL

[FRAP 42(b)]

IT IS HEREBY STIPULATED by and between the above-
captioned parties, through their attorneys of record, as follows:

1. When this action was commenced in the District Court,
municipal authority for regulating motor vehicle for hire permits (herein "taxi

medallions”) rested with the respondent Taxi Commission of the City and County of San Francisco. The Taxi Commission’s regulatory authority was exercised, in significant part, pursuant to and in accordance with a 1978 initiative ordinance commonly referred to as Proposition K [EOR 174-177] which contained a so-called “full-time driving requirement” [EOR 175, Section 4];

2. In their complaint below, Appellants contended that the Taxi Commission’s policy of granting only limited relief from the “full-time driving requirement” to holders of taxi medallions claiming physical disabilities that prevented them from safely driving a motor vehicle violated the Americans With Disabilities Act, 42 U.S.C. sections 12132, *et seq.* (“ADA”). In the judgment challenged by Appellants in this appeal, the District Court held that the Taxi Commission’s interpretation and application of the “full-time driving requirement” was consistent with and not in violation of the ADA [EOR 2-10];

3. After judgment was entered by the District Court on June 30, 2008 [EOR 1], the San Francisco Board of Supervisors exercised the authority granted to it by a November, 2007 amendment to the San Francisco Charter to abolish the Taxi Commission and transfer its regulatory authority over taxicabs to the San Francisco Municipal Transportation Agency (“MTA”);

4. In August, 2009, the MTA revoked the previously-adopted policy of the Taxi Commission granting limited relief from the “full-time driving

requirement” for holders of taxi medallions claiming to be physically disabled. In its place, the MTA expanded the relief policy beyond the limits that existed when the District Court entered judgment (“the 2009 policy”);¹

5. Earlier this year, the MTA announced a new initiative whereby certain holders of taxi medallions claiming disabled status could enroll in a “pilot program” which would allow the medallion holder to sell his or her medallion to an authorized purchaser, an option which did not exist when the District Court entered judgment in 2008;

6. Appellant Michael Merrithew has filed with the MTA a request to participate in the “pilot program.” If he is allowed to consummate a sale of his taxi medallion, it will have the effect of mooted his appeal because he will no longer be a medallion holder subject to the “full-time driving requirement”;

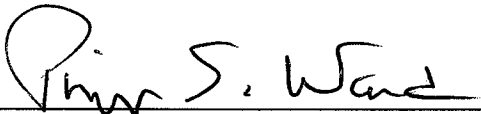
7. Appellant William Slone has elected not to participate in the “pilot program” but instead subject himself to the MTA’s 2009 policy. In view of the regulatory changes that have occurred since the District Court entered judgment in 2008, however, Appellant Slone has authorized his counsel of record to represent to the Court that he no longer wishes to prosecute the instant appeal and instead consents to its dismissal pursuant to FRAP 42(b);

¹ See September 9, 2009 letter to the Clerk of the Court from the San Francisco City Attorney, and specifically Exhibit A thereto.

8. The parties further stipulate and agree that the dismissal of Appellant Merrithew's appeal shall be without prejudice to its reinstatement in the event that: (a) before his medallion is sold and transferred, the MTA abandons or is otherwise prevented from implementing the "pilot program" authorizing the transfer and sale of taxi medallions by disabled permit holders or (b) for any other reason, the MTA does not allow him to consummate a transfer and sale of his medallion;


9. The parties further stipulate and agree that they shall each bear their own costs in this appeal, including their own attorneys' fees, and that no costs herein remain unpaid.

DATED: August 6, 2010 HASSARD BONNINGTON LLP

By 
Philip S. Ward

Attorneys for Appellants William Slone and Michael Merrithew

DATED: August 4, 2010 DENNIS J. HERRERA, CITY ATTORNEY

By 
Vince Chhabria, Deputy City Attorney

Attorneys for Respondents Taxi Commission, City and County of San Francisco; Heidi Machen, Executive Director; City and County of San Francisco

9th Circuit Case Number(s) 08-16726

NOTE: To secure your input, you should print the filled-in form to PDF (File > Print > PDF Printer/Creator).

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) [] .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

[]

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) [Aug 10, 2010] .

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Joseph M. Breall, Esq. BREALL & BREALL, LLP 1255 Post St., Suite 1800 San Francisco, CA 94109	Carl Macmurdo 431 Frederick Street, #1 San Francisco, CA 94117
--	--

Signature (use "s/" format)

/s/ Philip S. Ward

Supplemental brief submitted by the SFMTA for the hearing on February 16, 2022

SAN FRANCISCO BOARD OF APPEALS

GEORGE HORBAL,

Appellant,

vs.

SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY,

Respondent.

Appeal No. 21-064

Medallion Permit No. 1303

**SFMTA TAXI DIVISION’S SUPPLEMENTAL
BRIEF**

Hearing Date: Wednesday, February 16, 2022

Time: 5:00 p.m.

Place: City Hall, Room 416
[Zoom Remote Platform]

[Exemption from File Fees per Cal. Gov. Code §§
6103(a)-(b)]

In response to the continuance granted by the Board of Appeals (Board) so the parties could provide additional information on the taxi medallion revocation cases cited in the Appellant’s brief, SFMTA hereby submits the following Respondent’s brief.

This current enforcement effort began in 2019 when enforcement staff was made aware of Medallions that were not in compliance with the Transportation Code. Those that received a Notice of Nonrenewal¹ were out of compliance for one or more reasons. Of the 316 Medallions who received notices, 146 cured any deficiencies and were renewed.

In his opening brief, Appellant cited four Medallion revocation cases: Edmund Jung, Mia Rivera, Mark Hollander, Joel Hollander. As discussed below, these cases were decided in 2001 and 2003, based upon the Medallion Holders’ failure to comply with the Full-Time Driving² requirement. The requirement that Medallion Holders who are subject to Full-Time Driving maintain an active A-Card was codified years later in 2015.³

¹ A Notice of Nonrenewal is defined as “...a notice informing a Permit Holder that the SFMTA has determined that the permit will not be renewed in accordance with Section 1105(a)(5)(B).”

² When this appeal was filed, Full-Time Driving was defined as “any Driver actually engaged in, or the activity comprised of (respectively) the mechanical operation and physical charge and custody of a Taxi or Ramp Taxi which is available for hire or actually hired for at least 156 four-hour shifts or 800 hours during a calendar year.” This section was subsequently amended on September 7, 2021.

³ Resolution No. 15-143

1 Although they are related, the requirement that Medallion Holders who are subject to the
2 Full-Time Driving requirement actively drive and maintain a valid A-Card are two
3 distinct requirements.

4 **1. Edmund Jung 01-159**

5 Mr. Jung earned his Post-K Medallion in 1995. In 1997, Mr. Jung was the
6 victim of an assault, which he said caused him to suffer from issues with
7 memory and bouts of dizziness. The Taxi Commission alleged that Jung
8 failed to drive the requisite hours to meet the Full-Time Driving requirement
9 in 1999. He met the requirement in 2000. In 2001, the Taxi Commission
10 sought to revoke his Medallion for violating the Full-Time Driving
11 requirement in 1999. At the time of the appeal, Mr. Jung indicated that he had
12 returned to Full-Time Driving and that his Medallion should not be revoked.
13 The Board voted 5-0 to overrule the revocation and suspend the Medallion for
14 six months with conditions.

15 **2. Mia Rivera 03-025**

16 Ms. Rivera earned her Post-K Medallion in 1981. The Taxi Commission
17 alleged that she falsified the documentation from 1996 to 2000 relating to
18 compliance with the Full-Time Driving requirement and that she failed to
19 drive at all in 1999, 2000 and 2001. In 2003, the Taxi Commission sought to
20 revoke her Medallion for violating the Full-Time Driving requirement in
21 1999, 2000 and 2001. Ms. Rivera indicated that she was totally disabled and
22 had requested an exemption from Full-Time Driving under the Americans
23 with Disabilities Act (ADA). The Board voted 5-0 to overrule the revocation
24 and suspend the Medallion for two months.

25 **3. Mark Hollander 03-026**

26 Mr. M. Hollander earned his Post-K Medallion in 1997. The Taxi
27 Commission alleged that he falsified the documentation from 1997 to 2000
28

1 relating to compliance with the Full-Time Driving requirement and that he
2 failed to drive at all in 1999, 2000 and 2001. In 2003, the Taxi Commission
3 sought to revoke his Medallion for violating the Full-Time Driving
4 requirement in 1999, 2000 and 2001. Mr. M. Hollander indicated that he
5 suffered a heart attack in 1997, which rendered him totally disabled. Mr. M.
6 Hollander also requested an exemption from Full-Time Driving under the
7 ADA. The Board voted 5-0 to overrule the revocation and suspend the
8 Medallion for four months with condition that Appellant contact the Taxi
9 Commission concerning any ADA accommodation after the suspension
10 period.

11 **4. Joel Hollander 03-027**

12 Mr. J. Hollander earned his Post-K Medallion in 1997. The Taxi Commission
13 alleged that he falsified the documentation from 1997 to 2000 relating to
14 compliance with the Full-Time Driving requirement and that he failed to drive
15 at all in 1999, 2000 and 2001. In 2003, the Taxi Commission sought to
16 revoke his Medallion for violating the Full-Time Driving requirement in 1999,
17 2000 and 2001. Mr. J. Hollander indicated that he was fully disabled due to
18 various health conditions and also requested an exemption under the ADA.
19 The Board voted 5-0 to overrule the revocation and suspend the Medallion for
20 six months.

21
22 As previously cited in Respondent's August 25, 2021 brief, the *San Francisco*
23 *Taxi Permitholders* case upheld the Full-Time Driving requirement for post-K medallion
24 holders and rejected any "changed circumstances" exception that would exempt an
25 individual medallion holder from the driving requirement. Likewise, the federal district
26 court in *Slone v. Taxi Commission* (N.D. Cal. Case No. C 07-03335 JSW June 30 2008)
27 2008 WL 2632101, held that Proposition K imposed a Full-Time Driving requirement.
28

1 The SFMTA Board of Directors ultimately granted Medallion Holders a temporary
2 modification of the Full-Time Driving requirement when they passed Resolution 09-138
3 on August 4, 2009. They specifically excluded Medallion Holders who were
4 permanently physically incapable of meeting the Full-Time Driving requirement,
5 requiring that they “may properly be required to relinquish his or her medallion to the
6 SFMTA.”

7 The appeal before the Board currently is based upon Appellant’s failure to timely
8 renew his A-Card, not on his failure to complete the Full-Time Driving requirement, as
9 all of the cases above involved. In 2015, the SFMTA Board of Directors adopted a
10 Resolution amending the Transportation Code to allow for the revocation of a medallion
11 if the Medallion Holder who is subject to the Full-Time Driving Requirement does not
12 have a valid A-Card because it was either revoked or it was not renewed in a timely
13 manner.⁴ Here, the Notice of Nonrenewal was based upon Appellant’s noncompliance
14 with §1105(a)(5)(B), which requires that “[a]s a condition of renewal, a Permit Holder
15 must pay the applicable Renewal Fee, meet the eligibility requirements required for new
16 applicants listed in Section 1104.”⁵ §1104(a) requires that “...[e]ach application shall be
17 investigated by the SFMTA to determine the applicant's eligibility,” which includes “the
18 applicant's compliance with all applicable statutes, ordinances and regulations. If, during
19 the five years prior to application, *an applicant has violated any statute, ordinance or*
20 *regulation which would be a basis for revocation of the permit*, the SFMTA may, in its
21 discretion, refuse to issue the permit.” [Emphasis added]. Because Appellant does not
22 have a valid A-Card, he does not meet the eligibility requirements for new applicants as
23 set forth in §1105(a)(5)(B) and therefore the Medallion may be subject to a Notice of
24 Nonrenewal.


26 ⁴ §1118(a)(8) creates good cause for revocation if “[a] Medallion Holder who is subject to the Full-Time
27 Driving Requirement does not have a valid A-Card because the Driver has failed to timely renew their A-
Card or the SFMTA has revoked the A-Card.”

28 ⁵ This subsection was amended to include Section 1103 on September 7, 2021.

1 The appeals cited by Appellant are not relevant to the current appeal because they
2 involve a Medallion Holder's compliance with the Full-Time Driving requirement while
3 the current appeal involves Appellant's failure to timely renew his A-Card. The issues
4 raised and considered by the Board in the cases discussed above do not apply in this case
5 because the Notice of Nonrenewal at issue is based upon the lack of a valid A-Card rather
6 than Appellant's failure to actively drive.

7 Based upon the foregoing, SFMTA has good cause to issue a Notice of
8 Nonrenewal because Appellant failed to timely renew his A-Card. SFMTA requests that
9 the Notice of Nonrenewal be upheld by the Board of Appeals.

10
11 Respectfully Submitted,

12 

13 Date: 2.10.2022

14 Philip Cranna
15 Enforcement and Legal Affairs Manager
16 SFMTA Taxi Services
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PUBLIC COMMENT

Longaway, Alec (BOA)

From: Charles Rathbone <charles.rathbone@sonic.net>
Sent: Saturday, August 28, 2021 7:02 PM
To: BoardofAppeals (PAB)
Subject: Comment on Item 4 of the September 1 BOA hearing

Follow Up Flag: Follow up
Flag Status: Flagged

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Following is the comment that I plan to make on Item 4 of the BOA September 1 hearing. If I am unable to deliver my message by phone, please pass it on to the commissioners. Thank you in advance.

This is a case of a Marine Corp veteran with a perfect record in the taxi industry whose permit is being revoked solely because he has become disabled. It is manifestly unfair, the harmful result of a poorly crafted ballot measure that was passed before the rights of disabled people were established.

Please, send this case back to the agency with instructions to clean up its rules. It's time to end the wildly swinging pendulum of taxi regulation. There were years of non-enforcement, followed by quarter-million dollar payouts for many, and now callous revocations for others.

Revoking Mr. Horbal's permit does nothing to benefit the public. The sole beneficiary will be the credit union which is one of the largest corporate medallion owners in the country, and whose hundreds of medallions will inch upwards in value as other medallions, such as Mr. Horbal's, are removed from the pool of potential sellers.

This revocation is an outrageous injustice that flies in the face of San Francisco values. It robs an impoverished individual while enriching a corporation and providing no benefit to the public.

Please vote to overturn the revocation of Mr. Horbal's permit.

Charles Rathbone
charles.rathbone@sonic.net
415-216-3265

Longaway, Alec (BOA)

From: Richard Powell <rgpowsu1@gmail.com>
Sent: Monday, August 30, 2021 12:39 AM
To: BoardofAppeals (PAB)
Subject: George Horbal medallion revocation hearing

Follow Up Flag: Follow up
Flag Status: Flagged

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Commissioners

Your decision about Mr. Horbal's medallion will affect all medallion owners who have spent their lives driving a taxi in San Francisco. All of us expected to use our business as a small retirement income when we have aged or become disabled as others before us have.

The SFMTA has stated that Prop K "contemplated" revocation of our medallions when we stop driving for any reason including old age or disability.

Prop K does not specify this-- nowhere does it say this--It says to swear the intention to drive x amount of hours or shifts -- which I and Mr. Horbal and other colleagues have done over the years--In my case 44 years of driving nonstop 40 to 50 hours a week with the last 25 years as a medallion owner. How can one person's effort and energy be dismissed by false assumptions and "contemplations"? Did not these thousands of hours and shifts fulfill the Intention to drive?

After waiting 12 years for my business medallion, Officer Suslow (Taxi Commission) awarded me my medallion and asked me "what company will you join?" I told him "Yellow Cab CoOp" he said "good, congratulations, have a nice life". The Taxi Commission never stipulated

by word or written documents that in our old age or disability our business medallions would be revoked if we couldn't through no fault of our own drive. This was in 1995 so they had plenty of time to interpret the 1978 Prop K law and tell us but no one did.

Anyone can "contemplate" anything and then to bolster their false assumptions pass municipal codes after the fact which seems to have been done about Prop K--

I would like to thank you for reading my letter and ask you what other recourse do we have but through you the commissioners?

Please right this wrong and let Mr. Horbal keep his business medallion and all other medallion owners in a similar situation---

Thank you again
Richard Powell

Anyone can "contemplate" and

Longaway, Alec (BOA)

From: Richard Powell <rgpowsu1@gmail.com>
Sent: Wednesday, November 10, 2021 10:24 PM
To: BoardofAppeals (PAB)
Subject: NOVEMBER 17TH GEORGE HORBAL HEARING

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Board of Appeals

Mr.Horbal should not have his medallion revoked nor should I or any other Prop K medallion owner similarly situated. We followed the 1978 Prop k voter referendum that decreed one medallion to one person and that we swore an intention to drive X-amount of days or hours.

Mr. Horbal and I did just that, we actively drove our taxis for 25 to 30 years. we drove way over the minimum required,we drove full time thousands of hours over many years (one average \$7.00 trip at a time)

We were grateful for our medallions (after waiting for 13 years) we did not perjure ourselves we swore an intention to actively drive and we did.

When we acquired our medallions no one addressed the issue of old age or disability. Only in latter years did the Taxi Commission and the SFMTA make up Transportation codes that fundamentally changed the Prop K language "swear an intention to drive (one city attorney omitted the word "INTENTION" in his brief to the Taxi Commission) As you know by now A city Hearing officer voted not to revoke Mr. Horbal's medallion but changed his mind later---why?

After listening to the powers that be the Taxi Commission and later the SFMTA declared that driving was an essential eligibility to operate a Taxi medallion no matter what be it old age or disability.

The different taxi overseers did allow for 3 years of dispensation, but it had to be different malady each year a permanent disability or old age was not allowed.

We all know that the SFMTA is not a higher body than the Department of Justice which oversees The ADA laws.

It would be interesting to find out. We can operate our medallions even if we are old or disabled **but no one can drive forever.**

Mr. Horbal and all of us Prop K medallion owners did not wait an average of 13 years to get the medallion and then drive 25 to 30 years all the while knowing it could be taken away at any moment or when we got old---we thought it would be a small pension like others before us that got old and could no longer drive.

It is true that our medallions no longer generate an income due to the City allowing Uber & Lyft unabated numbers of them but our hopes are that business will get better and we can have some compensation monthly for our years of service--we are not well off we all counted on this income.

One more thing last October during the Credit Union vs. SFMTA trial the City had an expert who I think was an professor of economics who stated that the San Francisco Taxi medallions were worth \$130,000 ----Is this why the SFMTA wants to revoke our medallions money?

**Thank you for reading this email
Richard Powell**

To; Board of Appeals Commissioners

CLARIFICATION OF MEDALLION SALES PROGRAM OF SFMTA

The Taxi Medallion transfer was started after the Ninth Circuit of Appeals ruled in arbitration of the right of medallion holder over 60 year of disability to surrender their medallion for a consideration.

A pilot program was started 2010 with a target to sell 50 medallions. They were all sold for \$250,000 with \$200,000 to the medallion holder and \$50,000 to the SFMTA.

The following years a new sales program was started. The demand exceeded the number of medallion holders willing to sell. So the SFMTA created a new medallion partly because in the bus division there was a short fall in their budget.

In late 2013-2014, the MTS started a list of medallion holders wishing to sell, but the MTA wanted money to buy buses and for every medallion they created was \$250,000. For buses in 2015 the only medallions that were sold were new medallions or recycled ones from disillusioned new buyers so all the medallion holders and disabled after 5 years of no sales still cannot sell and most are too old to drive and or are disabled.

93 buses were paid for from the sales program about \$70 million and now the MTA has changed its rule to take our medallions without compensation.

I have driven a cab in San Francisco since 1978.

Thank you.

Robert Cesana

#767

rbcesana@gmail.com

Longaway, Alec (BOA)

From: Dan Hinds <dan_hinds@icloud.com>
Sent: Thursday, November 11, 2021 5:04 PM
To: BoardofAppeals (PAB)
Subject: Re: hearing of George HORBAL, holder of medallion 1303

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Re: hearing of George HORBAL, holder of medallion 1303

Members of the Board

As President of National Cab, I have been directly involved in the ADA litigation known as Slone vs. Taxi Commission from its inception to its conclusion by way of a settlement agreement approved by the court of appeals.

The settlement mooted the district court decision, confirmed Mr. Slone's disability and his qualification to participate in the city's expanded disability program, and Mr. Merrithew's participation in the city's pilot medallion surrender/sales program. In doing so, it helped establish the precedent for subsequent Prop K medallion holders to receive enhanced disability protection as well as the potential to surrender their medallions for financial compensation.

The settlement had the support of the court of appeals which calendared the case; authorized an extension for negotiation; and ultimately signed off on the settlement. It seems therefore inaccurate to suggest the Federal Appeals Court did not support extending ADA protection to Prop K medallion holders.

I would also note that the three year exemption established in the city's expanded disability protection was never limited to the temporarily disabled as the SFMTA is now claiming, but in fact was used as a practical matter to place a limit to disability protection.

Dan Hinds
President of National Cab Company

Sent from my iPhone

From: [Bernard Dethiers](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: George Horbal and James Cortesos hearings, 11/17/21
Date: Tuesday, November 16, 2021 12:09:07 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Commissioners

The sneaky way SFMTA's Taxi Division went on to try to confiscate George Horbal Taxi permit is unfair and blatantly illegal. After City administrative judge Sebastian issued his opinion in favor of Mr. Horbal, he had to issue, under pressure, a "reconsideration opinion" in favor of the Taxi division. This is unheard of in our city, a slap in the face of the democratic and due processes.

Also, both Mr. Horbal and Mr.Cortesos's ADA rights are willfully trampled. Until recently, the 3year renewable medical dispensation, along with the participation in the medallion sales program were the only ADA accommodations medallions holders were granted. They were the result of long negotiations and a legal settlement. If the Board of Appeals doesn't stop the SFMTA revocations onslaught, these modest ADA protections will be gone for good, upending the lives of disabled permit holders and their families.

The only crime Mr. Horbal committed, after a long driving career, was to get stricken by cancer and end up wheelchair bound. Although Mr. Cortesos's medical condition is different, his case is similar.

I urge you to rule in favor of appellants Horbal and Cortesos.

Best regards,

[Bernard Dethiers](#)
President
San Francisco Taxi Coalition
450 Pacific Ave, Suite 200
San Francisco, CA 94133
Tel: (415) 448 5017
Cell: (415) 202 4346

From: [Charles Rathbone](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: [Carl Macmurdo](#)
Subject: Feb 16 hearing, comment in support of George Horbal
Date: Wednesday, February 9, 2022 11:08:09 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Honorable Members of the Board Of Appeals,

My name is Charles Rathbone. I am one of Mr. Horbal's fellow medallion holders.

In the last week of December I had coffee and a pastry with my friend Bob Planthold, a long time advocate for transit and disabled people. Bob asked me what's happening with the taxis and I told him about this appeal. He was very interested and asked me to remind him a week or so before the hearing so that he could call in. Sadly Bob passed away in the interim. I do not presume to speak for him, but I do know that he wanted to talk to you about ADA implications of this case.

My colleagues and I urge you to follow the Board's own precedents. Commissioner Chin's comments in the 2003 Hollander decision directly address the issue of a disabled medallion holder. Similarly the Slone stipulated agreement provides a clear path forward in the case of disabled medallion holders.

That path forward is through Section 1116 of the Transportation Code which established a method for elderly medallion holders to exit the industry by surrendering the permit for consideration. That path is blocked for Mr. Horbal because for years MTA and the credit union have not been able to agree on a realistic price for medallions.

Whatever the price of medallions, the agency should continue to follow its mandate to advance social justice. In many of these cases, the medallion in question is a disabled senior's one remaining asset. In Mr. Horbal's case, revocation is an indignity to a man who for almost half a century well-served his country and his city. Revoking his medallion will advance no public interest.

The unhappy reality is that Mr. Horbal and dozens of other elderly and disabled people have become collateral damage in the ongoing fight between the City and the SF Federal Credit Union. The credit union wants the City to support the value of its hundreds of foreclosed medallions by getting rid of as many individual medallions as possible. In short, I believe that you are being asked to take away a disabled cab driver's medallion for the benefit of a billion-dollar financial institution. The credit union has become one of the largest corporate medallion

owners in the country. The more individual medallions are revoked, the more the credit union's medallions will be worth.

That is the context of what's happening in this case, and that is driving the current surge in revocations after virtually none for forty years.

Please decide in favor of Mr. Horbal in the interest of equitable treatment. Alternately, continue the matter until Mr. Horbal has an opportunity to surrender his medallion for compensation, just the same as non-disabled medallion holders will when sales resume.

-- Charles Rathbone | charles.rathbone@sonic.net

From: [Marcelo Fonseca](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: Re: February 16, 2022 Hearing - Comments In Support of George Horbal - Taxi Medallion #1303
Date: Thursday, February 10, 2022 1:14:59 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Honorable Commissioners,

My name is Marcelo Fonseca; I am a career cab driver, a full-time driver for more than 30 years and K medallion holder since 2009.

After being diagnosed with prostate cancer in the fall of 2019, I had prostatectomy surgery performed at UCSF on December 17, 2019. Because of urinary incontinence - a common consequence of prostatectomy procedures - I applied for a modification of the MTA's Driving Requirement, questionably being enforced now on K medallions holders.

Please note that we - K Medallion Holders - are the only category of permit holders subject to the MTA's interpretation of this absurd "Full-time Driving Requirement". Medallion holders who acquired their permits before Prop K of 1978 or through the Medallion Sales Program of 2010 ARE NOT.

Linked below are the MTA application forms for MODIFICATION OF FULL-TIME DRIVING REQUIREMENT. If you read page 3, HEALTH CARE PROVIDER CERTIFICATION, you'll find that instead of caring for their patients, doctors would have to invest time in educating themselves on MTA regulations before filling out the form.

This is an upsetting inconvenience for the doctors and their staff; it is also embarrassing for medallion holders having to give details of their health to regulators.

https://www.sfmta.com/sites/default/files/reports-and-documents/2020/05/application_for_medical_modification_5.1.20.pdf

It has been 44 years since Prop K was passed. In four decades, with the exception of a moral turpitude case, we don't know of any successful K medallion revocations. Why is this conveniently-twisted interpretation of Prop K's language being used now to target disabled medallion holders who gave their physical and mental health to long cab-driving careers?

There are about four drivers license related revocation appeals in front of this Board and dozens more are in the pipeline. As I age and face more health issues, I fear I could be next. Just like my colleague George Horbal, I would like to keep my medallion until I can retire from a driving career with dignity, just like MTA MUNI drivers

The Slone case/agreement from August 10, 2010 clearly sets a path forward in the case of disabled medallion holders.

I urge all of you to stop this MTA onslaught on the elderly and most vulnerable

members of the taxi industry. I urge all of you to vote in favor of Mr. Horbal and all other medallion holders facing these unfair revocations.

Thank you very much for your time and consideration.

Sincerely,

Marcelo Fonseca
415-238-7554