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Commissioner/Chair Aloysee Heredia Jarmoszuk
NYC Taxi and Limousine Commission
33 Beaver Street, 22nd Floor
New York, NY 10004

Dear Chair Aloysee Heredia Jarmoszuk,

The plight of yellow cab medallion owner-drivers is well-known: they are victims of the City's greed, having purchased medallions at prices that the City and Taxi and Limousine Commission artificially inflated. Because of the City's actions, owner-drivers have spent most of the last decade steeped in debt and poverty,[1] exploited by predatory lending that the City and TLC allowed. Too many have died by suicide; thousands more face the looming threat of foreclosures and bankruptcy.

On March 9, 2021, the City and the TLC announced a much-awaited debt relief program: a proposal that offers owner-drivers $20,000 to use in negotiations with their lenders to restructure their debt. However, the TLC's proposed Medallion Relief Program fails to offer meaningful, long-lasting debt relief to taxi medallion owner-drivers, despite its $65 million price tag. The proposed rule fails to cure the main problem of owner-drivers' working conditions: even under the proposed rule, they will still be paying monthly mortgages they cannot afford on loan balances that far outstrip the value of the medallion. As a result, the same forces of poverty and despair that currently push drivers to foreclosure and bankruptcy will continue, with drivers merely ground down by lower, but still unmanageable monthly payments. The City's plan fails to solve the crisis the City created.

While a debt relief program for medallion owners is sorely needed, it must offer actual debt relief that not only relieves owner-drivers from the weight of their debt, but stabilizes the industry by halting the wave of foreclosures and bankruptcies. As it stands, the TLC's current plan offers paltry changes for drivers while providing a significant cash infusion to lenders, who are asked to concede very little to participate in the program.

In large part, this seems to be because the proposed rule was not informed by the TLC's own data about the state of the industry, nor developed to respond to or even acknowledge previous

[1] 'They Were Conned': How Reckless Loans Devastated A Generation of Taxi Drivers (May 19, 2019), at https://www.nytimes.com/2019/05/19/nyregion/nyc-taxis-medallions-suicides.html.

proposals developed by the City, such as those produced by the City Council Medallion Task Force Report.[2] This crisis was caused by ill-informed and negligent actions of the City and TLC that led to artificially inflated medallion prices; we cannot let this pattern of behavior continue as the TLC designs a relief program. The solution to this crisis must be carefully considered, data-based, and anchored in the realities of the current economy. The current proposal is none of those. NYTWA, however, has developed such a proposal; we urge the TLC to add NYTWA's proposal for a City-backed guarantee to its grant program.[3]

By adding a City-backed guarantee to the TLC's existing proposal for a grant program, the City will ensure that drivers *do* have meaningful debt relief; under NYTWA's proposal, lenders would be required to restructure all of their medallion portfolios down to a set principal amount, such as $175,000, as well as agree to set loan terms. The principal would be further reduced by the TLC's grants, transforming the grants program to an actual debt relief program. Because of the stability a City-backed guarantee offers, lenders would be incentivized to participate. All owner-drivers would have a sustainable monthly mortgage amount, and loan balances that reflect the value of the medallion. As a result, owner-drivers would not only earn a living wage, but be able to avoid foreclosure and bankruptcy, thus stabilizing the medallion market and ensuring continuity of yellow cab service--goals that the TLC's plan fails to achieve.

I. The Proposed Rule's Program Would Lock Drivers in Sub-Minimum Wage Poverty Because It Fails to Provide Meaningful Debt Relief

The proposed rule fails to provide meaningful debt relief to drivers because it does not significantly reduce the monthly mortgages drivers will pay, leaving thousands of drivers making less than minimum wage, nor does it sufficiently reduce principal. It fails to include standards for loan terms lenders must agree to, nor does it set a cap on the interest rate that may be charged. Simultaneously, it fails to explicitly state the amount of grants drivers may expect to receive, as it is impossible for drivers to understand whether they can satisfy the seemingly high bar to qualify for the Rule's supplemental grant program.

A. Many Drivers Will be Making Less than Minimum Wage Because the Monthly Mortgage Amounts Are Not Sustainable

Assuming even a grueling 12-hour work day, six days a week, the TLC's taxi driver earnings data conclusively show that, even under the best market conditions, owner-drivers will not be able to sustain a monthly medallion mortgage more than $900. *See* Tables 1 through 3, below. Despite this, the proposed rule contemplates monthly mortgage payments between $1,500

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[2] Report of the Taxi Medallion Task Force, at https://council.nyc.gov/data/wp-content/uploads/sites/73/2020/01/Taxi-Medallion-Task-Force-Report-Final.pdf.

[3] Such a guarantee program was contemplated in the recommendations of the Medallion Task Force Report; NYTWA has developed and expanded upon this suggestion. *Id.,* at 39.

and $2,000—numbers that far exceed what drivers could afford if they also hope to take home anything resembling a minimum wage.[4]

NYTWA has come to this conclusion through analysis of the TLC's own data: the TLC tracks daily gross booking, or how much riders pay for their rides, for each medallion. In the last decade, the highest daily booking was in 2013—just as Uber was in its infancy in New York —at $496 a day.[5] By far, 2020 was the worst year, with an average daily booking of $220. Daily bookings have bounced back since last year; for June 2021, the TLC reported a daily average booking of $352; this, however, was with 56%[6] less cabs on the street than there were on the street in 2019, indicating that bookings are likely to fluctuate, if not simply decrease, as more drivers return to the street. Further, it is important to note that much of this recent increase in bookings consists of surcharges that did not exist in 2013, such as the $2.50 congestion surcharge, which do not go to the driver.

Even when treating 2020 as an outlier, however, the trend in the last decade clearly shows that daily bookings for yellow cabs maxed out at $400 in the best market conditions.[7] Table 1 juxtaposes expenses per shift against the range of potential monthly income seen over the recent years while assuming a $2,000 monthly mortgage. According to current TLC daily gross bookings' data, owner-drivers would make $11.76 per hour. Table 2 does the same, but assumes a $1,750 mortgage; still drivers make $12.63 an hour. And lastly, Table 3 assumes a $1,500 mortgage, the lowest that is enumerated in the rules; once again, drivers make $13.49 an hour. In the best case scenario, under these proposed rules, owner drivers will earn $16.62 per hour, below the TLC established minimum wage for FHV app-based drivers, which started at $17.22 per hour.[8]

[4] Monthly mortgages may be even higher than those enumerated in the rule; subsection b(6)(iv) states that if a loan is reduced by at least 10% and contains other features "that are favorable to the applicant," the Program Administrator may determine, at their discretion, that the restructuring is eligible for the program. In effect, this means there is no maximum monthly mortgage.

[5] *See* N.Y.C Taxi & Limousine Comm'n, *Aggregate Reports: Monthly Data Report,* (Aug. 2021), https://www1.nyc.gov/site/tlc/about/aggregated-reports.page

[6] *Id.* The percentage is based on the reported number of cars on the road in July 2019 compared to July 2021

[7] *Id.*

[8] Driver Pay Rules, https://www1.nyc.gov/assets/tlc/downloads/pdf/driver_income_rules_12_04_2018.pdf.

Medallion Owner-Drivers Earnings Under TLC Plan

Table I. Medallion Mortgage at $2,000

	Daily Gross Booking: $300	Daily Gross Booking: $350	Daily Gross Booking: $400
Monthly Gross	7,200	8,400	9,600
Taxes and Fees	1,440	1,680	1,920
*Net Gross Booking**	***$5,760***	***$6,720***	***$7,680***
Medallion Mortgage	2,000	2,000	2,000
Operating Expenses	1,274	1,334	1,394
*Monthly Income After Expenses***	*2,486*	*3,386*	*4,286*
Net Hourly Rate	**$8.63**	**$11.76**	**$14.88**

Table II. Medallion Mortgage at $1,750

	Daily Gross Booking: $300	Daily Gross Booking: $350	Daily Gross Booking: $400
Monthly Gross	7,200	8,400	9,600
Taxes and Fees	1,440	1,680	1,920
*Net Gross Booking**	***$5,760***	***$6,720***	***$7,680***
Medallion Mortgage	1,750	1,750	1,750
Operating Expenses	1,274	1,334	1,394
*Monthly Income After Expenses***	*2,736*	*3,636*	*4,536*
Net Hourly Rate	**$9.50**	**$12.63**	**$15.75**

Table III. Medallion Mortgage at $1,500

	Daily Gross Booking: $300	Daily Gross Booking: $350	Daily Gross Booking: $400
Monthly Gross	7,200	8,400	9,600
Taxes and Fees	1,440	1,680	1,920
*Net Gross Booking**	***$5,760***	***$6,720***	***$7,680***
Medallion Mortgage	1,500	1,500	1,500
Operating Expenses	1,274	1,334	1,394
*Monthly Income After Expenses***	*2,986*	*3,886*	*4,786*
Net Hourly Rate	**$10.37**	**$13.49**	**$16.62**

DATA DICTIONARY

Daily Gross Booking: Data published by the TLC. It includes the total amount collected from all fares, surcharges, taxes and tolls.
Monthly Gross: Assumes a driver working 12 hours a day for 24 days a month.
Taxes and Fees: Includes congestion surcharge, MTA tax & Improvement fund.
Gross Earnings: Monthly Gross Bookings after Taxes and Fees
Operating Expenses: Includes car insurance, gas, tolls, cost of repairs and maintenance, credit card fees, cost of new car every 7 years as mandated by the TLC.
Monthly Income After Expenses: Net Gross Booking minus Operating Expenses and Medallion Mortgage
Net Hourly Income: Assumes an owner-driver is working 288 hours a month, or 12 hours a day for 24 days a month.
*__Source: Earnings Data__ - TLC reports https://www1.nyc.gov/site/tlc/about/aggregated-reports.page
**__Source: Expenses Data -__ NYTWA review of owner-drivers' actual expenses.

Breakdown of Operating Cost, Taxes and Fees

Operating Cost	DGB $300	DGB $300	DGB $300	Notes
Gasoline per shift	$360	$420	$480	$15 per shift +$2.50 for each $50 increase in gross booking.
Car Cost	$310	$310	$310	$26,000 for mandatory car replacement every 7 years.
Maintenance	$204	$204	$204	$17100 car maintenance over 7 years
Liability Insurance	$350	$350	$350	
CMVT (Tax Stamp)	$40	$40	$40	
Reg, Inspection & Drug Test	$10	$10	$10	
Total Operating Cost	$1,274	$1,334	$1,394	

Taxes & Fees	Percent of total
Congestion surcharge, $0.50 MTA tax, $0.30 improvement surcharge	15%
Tolls and credit card transaction	5%

Chair Aloysee Heredia Jarmoszuk acknowledged in her confirmation hearing that she wanted to reduce monthly mortgages to less than $1,000 a month,[9] yet the current rules allow for twice that amount, with no explanation for how the Commission developed the schedule of mortgage amounts proposed or what data it is using to base its assumptions on. The TLC has not published or otherwise provided the data they relied upon in formulating the contours of the rule. While NYTWA has sought this information from the TLC, NYTWA has not yet received it. Based on the TLC's own public-facing data, however, NYTWA's analysis conclusively shows TLC's proposed rule condemns owner-drivers to subminimum-wage earnings and life-long debt. As a result, the foreclosures and bankruptcies that plague owner-drivers will continue, and the industry will continue to be wracked by instability.

This oversight is particularly unreasonable, when compared to the TLC's data-based approach to driver pay, measured against expenses, taken in its 2018 pay rules for app-based FHV drivers. Under those rules, TLC established a standard that started at $17.22 per hour for app-based FHV drivers. The TLC's decision to consider $17.22 per hour a sufficient income, ***after accounting for expenses***, for one group of workers and yet negotiate a major expense for another group that would leave taxicab owner-drivers unable to even approach that amount, and unable to support themselves, let alone avoid foreclosure on their medallions, is unjust and punitive. Such a proposal betrays the lack of attention with which the TLC seems to have formulated these rules. As a point of comparison, the TLC engaged in extensive fact-finding prior to passing the 2018 driver pay rules, and the Statement of Basis of the final rule reflects this: it outlines not only the data used pursuant to a TLC-commissioned study, but also the steps the TLC took to acquire that data. This stands in stark contrast to the fact-finding done in advance of this proposed rule--which, as far as NYTWA can discern, simply did not occur. The Statement of Basis is less than a page long, and does not outline any of the steps the TLC took to develop the rule, nor the information the TLC used to formulate it.

B. The Rule Does Not Bring Medallion Loan Amounts in Line with the Market Value of the Asset

The ostensible goal of the Medallion Relief Plan is to correct for artificially inflated medallion values. The "Statement of Basis" states specifically that the plan is to assist "financially troubled medallion owners" and to "support the troubled yellow taxicab industry." Medallion owners are troubled primarily because the outstanding balance of their loans far outstrips the market value of their medallions.[10] As a result, even though the industry has become unsustainable given the high cost of paying off medallion mortgages, owner-drivers are trapped, unable to earn enough to

[9] *See* Transcript of City Council Transportation Committee Hearing (Feb. 3, 2020) https://councilnyc.viebit.com/player.php?hash=4wB54Cf4XIte at 12:25.

[10] The average price of a medallion in August 2021 was approximately $107,000. N.Y.C Taxi & Limousine Comm'n, *Medallion Transfer Reports,* (Aug. 2021), https://www1.nyc.gov/site/tlc/businesses/medallion-transfers.page (the number is reached by dividing total amount in medallion sales by the number of medallions sold for the month of August.)

support themselves through driving, and also unable to sell their medallions or go through bankruptcy without losing their homes or having their wages garnished by their lenders because the balance of their loans is so much higher than the value of the medallions themselves.

However, instead of tying the reduction of principal to the actual market value of the medallion in order to correct for the artificially inflated price at which drivers bought their medallions, the proposed rule uses percentage reduction as a measurement for allowable monthly mortgages. According to surveys of our membership, the average medallion debt is $550,000; even with a 40% reduction—the highest contemplated by the rules—the average driver will be left with $330,000 in debt. Meanwhile, according to the TLC data, the average price of a medallion in August 2021 is approximately $107,000.[11] The proposed rule, then, will leave thousands of drivers with a loan that is still ***triple*** the current market value of the medallion, meaning drivers will be unlikely to afford the monthly mortgages while being trapped in an unsustainable industry.

Further, owner-drivers who purchased medallions during more recent years, when medallion loans were at their most inflated, currently have among the highest principal amounts. Because the TLC uses percentage reduction as a metric for program participation, these drivers will likely receive significantly less relief and assistance from the program than their peers with lower balances. The Statement of Basis and Proposed Rule does not explain or justify this inequitable distribution of relief, nor why it ties program participation to principal reduction instead of a flat principal number.

In short, by failing to provide any analysis of how the rule creates a sustainable future for owner-drivers that allows them to pay off their loans without being stuck in abject poverty, the proposal simply does not give any explanation of how it serves its own purpose of "supporting the recovery" of the taxi industry, nor serve the statutory purpose of assuring continuity of taxi service. N.Y.C. Charter Sec. 2303(b)(10). The Medallion Relief Program, in proposing to reduce loan amounts from exorbitantly excessive amounts, to merely unreasonably excessive amounts does not offer any fix to the problem of unsustainable expenses for owner-drivers, but merely serves to delay foreclosure. This neither keeps owner-drivers solvent, nor keeps taxi service on the road.

C. Drivers May Still Be Subject to Predatory Terms

In addition to failing to meet its ultimate goal of supporting owner-drivers and preventing foreclosures, the rule also broadly fails to protect drivers' interests, as the rule does not specify other terms for the restructured loans. As a result, lenders who receive grant money from the City could still engage in predatory behavior. This could manifest in a number of ways, including lenders continuing to charge drivers for missed payments during COVID, which can be as high as $36,000 for a 12-month period, as well as fees and penalties, which can include up to an 18% interest rate charged upon default.

[11] *Id.*

As a point of comparison, the New York State Rental Assistance program, also funded through federal stimulus monies, requires landlords to agree to a set of guidelines, including agreeing not to initiate eviction proceedings for up to a year and to waive any late fees on rental arrears accrued.[12] Under the City's Medallion Relief Program, nothing prevents a lender who received nearly $30,000 from a borrower to initiate foreclosure proceedings against that borrower two months after receiving these funds. A lender with just 200 medallion loans would stand to gain nearly $6 million from the program. Collectively, roughly a dozen lenders will receive $60 million of federal stimulus money from this program. The lack of robust borrower protection guidelines not only raises serious concerns about protections for drivers, but also about the effective use of federal stimulus dollars.

D. The Rules Do Not Cap Interest Rates and Owner-Drivers May Therefore Still Pay An Exorbitant Amount Over the Lifetime of the Loan

The rule's framework trades a write-down in principal for a potentially ballooning interest rate, rather than reducing both. While the rule mandates some reduction in principal, it sets no limits on the rate of interest that can be charged. This allows for scenarios such as the following: a $200,000 loan reduced by 40% to $120,000 could be refinanced at $2,000 monthly or 20% interest over 20 years. Thus, despite the low principal, drivers may still pay exorbitant monthly mortgages, resulting in higher costs over the life of the loan. The "Statement of Basis and Purpose" for the proposed rule finds that "medallion loans [are] unsustainable for medallion owners." But by failing to set a cap on interest rate, the rule effectively allows lenders to trade interest rate for a principal reduction, resulting in minimal changes for drivers, who will still be paying off an exorbitantly high and unsustainable mortgages, despite the surface-level reduction in principal.

E. The Supplemental Grant Program Sets Vague and Essentially Meaningless Eligibility Guidelines.

In addition to the flaws in program design, the rule also fails to set clear guidelines for the administration of the program it proposes. The supplemental grant program sets vague, and unknowable eligibility guidelines, proposing that only drivers who have "discrete" and "resolvable" economic or personal hardship would be eligible. Unfortunately, the crisis of poverty caused by unsustainable monthly mortgage payments is not "discrete," nor is it "resolvable" without further action from the City. Further, the rules do not create specific criteria drivers must meet to qualify, opening the door to arbitrary decisions by the Program Administrator, an unaccountable private entity.

F. The Rule Does Not Specify How Much the Grants Will Be, Despite the TLC's Messaging About the Program

[12] Emergency Rental Assistance Program (ERAP) Overview, at https://otda.ny.gov/programs/emergency-rental-assistance/.

Despite being the centerpiece of the TLC's program, the rule does not specify the amount of individual grants. TLC messaging around the program has suggested that all drivers who are eligible for the program will receive $20,000 down payments for restructuring their loans and $9,000 in supplemental loan payment support.[13] These numbers, however, are not included in the text of the rule itself; the "Statement of Basis and Purpose of Proposed Rule" states only that the program will provide grants of "up to" $20,000 per medallion loan to serve as down payments and "up to" $9,000 in additional support for loan payments. The implication that grant amounts will be variable is supported by the constraints of the fund, which is currently set at $65 million. NYTWA estimates that there are between 4,000 and 7,000 extant medallion loans that would be eligible for the program (that is, the loan holder owns five or less medallions); however, if every medallion owner received the full $20,000, only 3,250 drivers would receive funding. Despite this, the rule does not state if the grant amounts will be variable, nor does it lay out guidelines for how variable grants may be allocated.

II. The Program Fails to Incentivize Lenders to Offer Meaningful Debt Relief

In addition to condemning drivers to a lifetime of poverty and debt, the proposed rule fails to require meaningful concessions from lenders, nor does it increase drivers' bargaining power relative to lenders, despite the $65 million of federal stimulus funds that will go directly to lenders.

A. The Proposed Rule Does Not Even Require Loan Restructuring as Significant As That Already Being Voluntarily Offered by Lenders

Significantly, the TLC has not even bothered to leverage its broad regulatory powers, nor $65 million in federal funds, to produce a proposal that even matches the voluntary offers lenders are currently reaching with drivers. The proposed rule allows many lenders to offer less loan forgiveness than they are already offering to drivers. For example, on an average debt of $550,000, Marblegate--one of the biggest lenders in the industry--has, according to NYTWA's members' reports, offered to reduce drivers' principal to $275,000, and to refinance monthly payments to $1,600.

Instead of reducing the numbers lenders are already offering, the TLC's proposed rules would allow lenders to increase the principal amount they offer drivers in restructuring. In the situation described above, if a lender who has been offering to reduce a $550,000 debt to $275,000 now decides to reduce it to $330,000, refinanced at $2,000 per month, the restructuring would be eligible for the program.

In addition, over the past six months, several medallion lenders have offered favorable cash settlements to a number of NYTWA members. For example, NYTWA members with debts as high as $700,000 have been told by lenders that if they provide between $75,000 to $150,0000 upfront,

[13] See, e.g.,Taxi Medallion Owner Relief Program, at https://www1.nyc.gov/site/tlc/about/taxi-medallion-owner-relief-program.page.

the lender will forgive the remaining balance of the loan. While cash settlements are not exactly equivalent to refinancing a loan, as the lender receives the full balance up front, the prevalence of favorable cash settlements indicates that lenders are willing to take significant losses on their medallion portfolio. The proposed rule not only fails to capitalize on this willingness, but undermines progress drivers have already made towards achieving more reasonable and equitable terms.

B. Lenders Are Not Required to Restructure Their Entire Portfolio

As currently structured, each lender is free to pick and choose which owner-drivers will get their loans restructured and how much to write off. For example, because there is nothing in the rule that requires a lender to restructure their entire medallion portfolio, nothing prevents a lender from deciding to restructure a loan of a driver who has no other asset that can be seized in the event of a foreclosure—and thus receive up to $29,000 from the City, where they would otherwise not be able to recover any of the remaining loan balance—while refusing to restructure the loan of another owner-driver who has a home that can be seized to satisfy a foreclosure judgment. Such an approach allows lenders to manipulate the program, participating in the program only with drivers for whom they would otherwise not expect to collect a judgement from in order to receive up to $29,000 per driver from the city. This individualized approach, in addition to being easy for lenders to manipulate, creates significant instability and uncertainty among owner-drivers, who will not know with certainty that their lender will restructure their loan until they conclude individual negotiations.

Under the rule, each driver is left to negotiate their own loan restructuring. The TLC's plan therefore fails to maximize the leverage that would otherwise result from spending $65 million dollars in a targeted recovery program. For example, a lender that has 1,000 medallion loans could receive nearly $30 million dollars from the City. Yet, instead of using the purchasing power that would come with $30 million to set up a baseline for all of the medallion loans in that lender's portfolio, the City simply requires each individual borrower to enter into their own negotiations with that lender. Again, lenders will be able to pick and choose which loans to restructure and which ones not to restructure. This leads to reduced bargaining power for each owner-driver, ultimately preventing the creation of a durable solution that reduces drivers' debt and monthly payments to a sustainable level, allowing them to earn a living wage, support themselves and their families, and keep taxi service functioning.

C. The Program Rewards Short-Term Investors

The program rewards short-term investors over lenders with a long-term commitment to the industry. The most immediate impact that the City's plan will have is the direct $65 million cash infusion to lenders. For highly leveraged lenders with non-performing medallion loans, such a cash infusion is a desperately needed short-term solution to a liquidity problem. Indeed, these are the types of government intervention that would prevent highly leveraged financial institutions from collapsing, as we saw in the 2008 financial crisis. However, for the lenders that are committed to the long-term stability of the medallion industry, it is far more important that the fundamentals of the industry are stabilized. That stabilization begins with the proper valuing of medallions in a way that reflects the non-inflated value of the medallion asset and therefore a manageable monthly mortgage payment. Prioritizing the interests of short-term lenders over lenders committed to the long-term stability of the industry is directly at odds with the TLC's statutory purpose of ensuring continuity of the taxi industry. N.Y.C. Charter Sec. 2303(b)(10).

III. NYTWA's Proposal for a City-Backed Guarantee

NYTWA's proposal, in line with one of the New York City Council Medallion Task Force's recommendations, is to add a City-backed guarantee to the existing grant program. In short, the City would guarantee medallion loans that were restructured down to a set principal amount, such as $175,000. This would lead to a monthly mortgage payment drivers could afford, and, in conjunction with the City's grant program, bring the principal of the loan in line with the current market value of the medallion. The benefits are numerous. First, a City-backed guarantee would replace the personal guarantee, meaning drivers would no longer have to worry about losing their homes and risk future wages if they are no longer able to make their monthly mortgage payments. Second, lenders would have the security that their investment is protected and that in the event of foreclosure, they will be made whole. In exchange for stability of a City-backed guarantee, lenders would be incentivized to restructure the loans to manageable amounts.

Here is how the guarantee would be structured: The TLC would establish the Medallion Guarantee Reserves Fund (the "Fund"). This Fund will be used to make payments to participating lenders in the event of a foreclosure where a balance remains. For example, if a borrower who owes $100,000 defaults and the lender resells the medallion for $75,000, then the City would issue a $25,000 payment from the Fund to the lender to satisfy the City's obligation under the guarantee.[14]

NYTWA has developed a risk model[15] which projects the total cost of the guarantee based on certain assumptions, including prevailing medallion market value and the average rate of

[14] There is precedent for a New York City loan guarantee program. The Capital Access Loan Guarantee program, funded by New York City and administered by the City's Economic Development Corporation, "supports small businesses through a loan guarantee program for private lenders." New York City Economic Development Corporation, *Annual Investment Projects Report,* 5, (Jan, 31, 2021), https://edc.nyc/sites/default/files/2021-01/NYCEDC-Annual-Investment-Projects-Report-FY20-Vol-I.pdf. The City Council Medallion Task Force also cited "the loan loss reserve account established by the California Air Resources Board," another precedent for a loan guarantee.

[15] Available at https://myemail.constantcontact.com/NYTWA-Analysis-of-Risk-to-NYC-Backstop-for-Medallion-Debt-Forgiveness.html?soid=1101912670699&aid=ARQpxLnFHY0

medallion foreclosures.[16] Based on this model—which the New York City Comptroller vetted and concluded was "fiscally sound"[17]—the total cost of the guarantee over thirty years is $93 million. The City may elect to make an initial allocation of $93 million dollars to the fund.[18] Thereafter, the City can make adjustments to the Fund every quarter as part of the City's quarterly budget adjustment process. These adjustments would be guided by the total year-to-date payout from the Fund, monthly foreclosure data, as well as the prevailing medallion market value published by the TLC. The $93 million-dollar total cost of the guarantee is roughly 10% of the more than $850 million that the City made from medallions sales[19] and less than 0.09% of the City's annual budget.[20]

In the words of the New York State Attorney General, guaranteeing medallion loans "would provide a fiscally fair and responsible way to support the recovery of the taxi medallion industry" in addition to ensuring that "justice is finally delivered" for these medallion owner-drivers.[21] Moreover, numerous elected officials, including U.S. Senate Majority Leader Chuck Schumer, U.S. Representative Ritchie Torres, New York State Senator Jessica Ramos, New York State Assembly Member Zohran Mamdani, and City Council Member Brad Lander have spoken out against the TLC's plan as inadequate.[22] NYTWA's plan offers a viable alternative which would provide desperately needed long-term stability to the taxi industry. We urge the Commission to add a City-backed guarantee to the grant program.

IV. Lack of Transparency Created By the Premature Implementation of the Program

In addition to NYTWA's substantive critiques of the TLC's proposed rule, we are gravely concerned by the premature roll-out of the Medallion Relief Program that was announced on Saturday, September 18th. According to a press release from the Mayor's Office, as of September 18th, three drivers have already entered into agreements to restructure their loans with the

[16] The TLC publishes monthly medallion transaction data, including average medallion sales price and number and foreclosures sales. *See* N.Y.C Taxi & Limousine Comm'n, *Medallion Transfer Reports,* (Aug. 2021), https://www1.nyc.gov/site/tlc/businesses/medallion-transfers.page

[17] Press Release: Comptroller Stringer Announces Support for New York Taxi Workers Alliance Proposal for Medallion Debt Relief, (Nov. 12, 2020), https://comptroller.nyc.gov/newsroom/comptroller-stringer-announces-support-for-new-york-taxi-workers-alliance-proposal-for-medallion-debt-relief/

[18] The City has an opportunity to make this initial allocation through the October 2021 Budget Adjustment, which is due October 31, 2021.

[19] *As Thousands of Taxi Drivers Were Trapped in Loans, Top Officials Raked in the Money* (May 19, 2019), at https://www.nytimes.com/2019/05/19/nyregion/taxi-medallions.html.

[20] Jeffery C. Mays, *New York Adopts Record $99 Billion Budget to Aid Pandemic Recovery*, N.Y. Times, (Jul 8, 2021), https://www.nytimes.com/2021/06/30/nyregion/nyc-budget-covid.html

[21] Press Release, Attorney General James Supports Relief Package for Taxi Medallion Owners (Nov. 18, 2020), https://ag.ny.gov/press-release/2020/attorney-general-james-supports-relief-package-taxi-medallion-owners

[22] See, e.g., *Schumer Blasts City's $65 million taxi medallion bailout plan, call for alternative* (Sep. 14, 2021), at https://www.crainsnewyork.com/transportation/sen-chuck-schumer-allies-himself-new-york-city-taxi-drivers.

assistance of the Medallion Relief Program.[23] This announcement, coming before the proposed rule has even been voted on, never mind finalized, is deeply troubling, and it is not clear under what legal authority the TLC is acting, given that there are currently no rules in place to govern the program's administration. Indeed, by initiating the rulemaking process, the TLC seems to acknowledge its current lack of authority to implement the program; that it has now double-backed to implement the program before the public has an opportunity to provide comment is suspect at best.

The rulemaking process exists to ensure this does not happen. Subverting the process to prematurely launch the program not only opens the door for sweetheart deals and corruption, but gives the impression that the TLC--despite the serious flaws in the proposed rules--has already determined that they will implement the rules as written, without considering the public comment they are allegedly in the process of soliciting. As we consider the TLC's actions, we cannot forget the history of the current debt crisis. Owner-drivers are in financial ruin precisely because the TLC and the City actively deceived drivers, acting without transparency or accountability. Public accountability and transparency is vital to ensure that history does not repeat itself. Owner-drivers, their advocates and allies, and the public at large all deserve an opportunity to not only comment on the proposed rules, but to have their questions and concerns considered and addressed--and the drivers who are currently in negotiations with lenders have the right to the full protection of the finalized rule, which NYTWA can only hope will contain much more robust protections for drivers. The TLC must pause any further implementation of the program until it has complied with the mandates of the rulemaking process.

V. Conclusion

The City created this crisis. City officials auctioned medallions at rates they knew were inflated, turned a blind eye to predatory lending practices, and then precipitated the crash of the market by allowing an explosion of underregulated FHVs to proliferate throughout the City. Through it all, the City thrived, benefiting from this crisis and making $850 million from medallion sales to unsuspecting drivers.

This crisis cannot continue. It has been evident for years that the cost of this exploitation is a human one: drivers have paid for the city's wrongdoing with their blood and sweat, subject to the violence of poverty because they made the mistake of taking the City at its word. Once, owner-drivers believed the City that told them that if they worked hard enough, the medallion would provide a pathway to the middle class. Now, they are fighting the City tooth and nail for a future where there is simply a guarantee that they make minimum wage.

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[23]Press Release, *NYC City Hall, First Taxi Medallion Owners Receive $700,000 in Debt Relief, as $500 Million in Total Relief Expected for More Drivers* (Sep. 18, 2021), https://www1.nyc.gov/office-of-the-mayor/news/629-21/first-taxi-medallion-owners-receive-700-000-debt-relief-500-million-total-relief

With the Medallion Relief Program as structured, the City is abdicating all responsibility for solving the crisis they created. This is unacceptable. The City has caused an incomprehensible amount of harm and suffering to drivers: too many have died by suicide, and thousands more are struggling to survive under the crushing weight of debt. The City has a moral duty to right this wrong. It must provide meaningful, actual debt relief for drivers. It must add a City-backed guarantee to the Medallion Relief Program.

Sincerely,

Bhairavi Desai

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New York Taxi Workers Alliance