



Mayor Lee Leffingwell
Austin City Council
301 W. Second Street
Austin, Texas 78701

March 10, 2010

RE: Applications for Franchise Renewal.

Dear Mayor Leffingwell:

Soon to come before you for consideration are applications for franchise renewal from Yellow Cab and Austin Cab. Franchises currently granted by City Council to Yellow Cab and Austin Cab will expire in a five months in August 2010.

On March 9, 2010 the Urban Transportation Commission reviewed the applications for renewal. The companies requested that the city renew their ability to operate for five additional years. After a presentation by City staff and comments from citizens, the Urban Transportation Commission members discussed the impact of a five-year renewal on Resolution 60's directive to study the taxi industry and provide recommendations to Council at the end of September. Because the study could suggest changes to the operation of taxi industry in Austin, the UTC members discussed whether granting a five-year franchise could hinder the effectiveness of any recommendations or limit implementation of any changes.

The UTC voted to recommend a one-year franchise agreement, which allows for continuity of service while ensuring that the on-going investigation will have the greatest impact. The Taxi Drivers Association of Austin (TDAA) does not disagree with the granting of a one-year franchise because we assume there will be on-going good faith discussions on the other issues in the industry in the interim.

Only a one-year franchise renewal should be granted, and not a longer period, until the following issues are addressed:

- 1) Specific contract provisions should be included in the contract between franchises and independent contractor drivers before approving a franchise renewal. Already, the City has taken an active part in forming requirements for the contracts between a franchise and an independent contractor. For example, City Code Section 13-2-74 states that franchises, when hiring a driver, shall "execute a written contract that requires" the following three things: (1) the driver to indemnify the City, (2) the driver to be insured under the franchise's insurance policy, and (3) that the driver agree to follow the relevant chapter of the City Code. City Code Section 13-2-342(b) of the Code explicitly prohibits the hiring

of drivers under any terms except those proscribed in the ordinance and by the department. Such provisions could include:

- A limit on terminal fees. On February 25 City Council granted a fare increase to go into effect in March 2010. The 3.6% fare increase intended to give the drivers a small boost of income will disappear if franchises increase terminal fees. In the January 2010 UTC meeting on rate increases, Yellow Cab announced its plans to increase its terminal fees from the current amount of \$290 per week that drivers pay. Without a cap on terminal fees, franchise owners continue to increase profits while drivers work longer hours just to pay the company fees. Franchises should not be granted or amended without a limit on the terminal fees franchises charge drivers.
 - A limit on other fees. Terminal fees are not the only expense imposed upon drivers for the privilege of driving a taxi for one of the franchises. Other fees include, but are not limited to, a driver's deposit, a maintenance deposit, and an additional driver fee. Limiting terminal fees is necessary, but failing to limit the other fees would allow the franchises to charge the same increased rate to drivers by simply calling it something else. Franchises should not be granted or amended without a limit on all types of fees franchises may charge drivers.
 - Worker's Compensation. Franchises should be required to provide their drivers with Worker's Compensation benefits. As independent contractors, drivers are not granted the perks of employee status, and the majority lacks any health insurance coverage, despite the fact that cab driving is a profession that wears on the body and exposes the immune system to illness frequently. If a driver is sick or injured in a car accident, they are not granted "sick leave." Instead, drivers are required to continue to pay the same fees to the franchises that they are charged when they are driving their car, even though they are not working, and in turn not making income to cover those expenses. Franchises should not be granted or amended unless franchises provide their drivers with Worker's Compensation insurance.
 - Job security. Currently, drivers can be terminated from their contract almost at whim, and live in constant fear of retribution if they stand up against the franchises or speak out for their rights. Right now the franchises hold all of the power. There is much to be learned and considered in this industry, and the investigation by the UTC should include drivers as an active part of that process. Franchises should not be granted or amended unless the contract between a franchise and an independent contractor includes a termination clause that states that drivers may only be terminated "for cause" and have a right to appeal any termination. The City of Austin could establish an independent forum to handle any appeal.
- 2) The City Manager could give priority to granting franchises that classify their drivers as employees, and not independent contractors.

- 3) The City should require compliance with Section 13-2-34 of the City Code that requires franchises to cover their drivers under franchise car insurance policies before granting or amending any franchise. The December 2009 City Auditor report noted the failure of the franchises *when contracting with independent contractor drivers to comply with the requirement that the franchises indemnify, defend and hold harmless the City from any claims resulting from conduct of a driver, insure the driver under the franchise's insurance policy and require driver compliance with City Code Chapter 13-2.*¹ This requirement is already part of the Code, and any franchise renewal should be contingent upon compliance.
- 4) City Council should amend the franchises for a more fair distribution of available permits. Section 13-2-330 states “[a] taxicab franchise may be amended or revoked.” The permits belong to the City of Austin. Austin City Code Section 13-2-321, clearly states that the permits are leased, not purchased, and expire “on the date printed on the permit.” City Charter forbids giving away or selling City property.² There are 669 taxicab permits in Austin. Yellow Cab has been allotted 455 of these permits. This constitutes 68% of all permits. According to the Code Section 13-2-324, a single franchise is not eligible for additional permit allocations once they hold 60% of all permits unless there is no other franchise available to receive the permits. Yellow Cab is not the only franchise operating in Austin, and as part of the renewal process, the franchise should be amended to comply with the 60% limitation. Additionally, according to the City’s own audit report, the number of permits currently leased in Austin exceed public necessity according to the City's formula, and total permits should be reduced by nine.³
- 5) We request that additional issues and ideas be considered per Resolution 60 including:
 - Leasing permits directly to drivers;
 - Granting 40% of the permits operated by owner/drivers to the owner/drivers;
 - Using an alternative formula to establish public necessity;
 - Creating incentives for “green” taxis or establishing a green taxi cooperative;
 - Requesting applications from other potential franchises; and
 - Ensuring drivers earn an income that constitutes a living wage.

Thank you for your consideration of these critical issues. Please feel free to contact me if you would like to discuss this further.

Sincerely,

Board of Directors
TDAA

¹ Audit Report, City of Austin Taxicab Permitting Process, December 15, 2009, Page 15.

² Austin City Charter, Article XI, § 1

³ Audit Report, City of Austin Taxicab Permitting Process, December 15, 2009, Page 19.