

2885

Germantown Cab Co.
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Philadelphia, PA 19107
P: (215) 733-0461 F: (215) 733-0464

September 26, 2011

Silvan B. Lutkewitte, III
Chairman
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17101

**RE: Final Rulemaking Order (Regulation ID #126-1/IRRC # 2885)
Philadelphia Taxicab and Limousine Regulations**

RECEIVED
IRRC
2011 SEP 26 P 2:50

Dear Chairman Lutkewitte:

On behalf of Germantown Cab Company, please accept the following comments in regards to the Philadelphia Parking Authority's City of the First Class Taxicab and Limousine Advisory Committee.

2004 Amendment. Act 94 added section 5701.1.

5702. Advisory committee.

(a) Establishment.—*There is hereby established an advisory committee to be known as the City of the First Class Taxicab and Limousine Advisory Committee. The authority shall submit to the advisory committee issues and questions for their consideration regarding the regulation, enforcement, compliance and operation of taxicabs and limousines in cities of the first class. The advisory committee may thoroughly consider the questions and issues submitted by the authority and may prepare and transmit to the authority and the public written comments. The advisory committee may submit suggestions and proposals to the authority in writing on topics considered important by a majority of the members. All actions of the advisory committee shall be considered strictly advisory, and the authority shall give careful and due consideration to the comments and proposals of the advisory committee.*

There are a multitude of issues we would like to address in regards to the statutorily required Advisory Committee. Most importantly, the Pennsylvania Legislature required the establishment and continued operation of this group and the Philadelphia Parking Authority has failed to adhere to this requirement. The assistance and safeguards that the Legislature set up for the regulated community and the public is nowhere to be found. Who has been appointed to this assemblage is a mystery as well as how to contact the Committee or anyone on it. How they could have helped us or the Authority in this process no one knows.

In a Right to Know Request, replied to by the Authority on August 29, 2011, which was partially granted to Germantown Cab Co., the last known Advisory Committee date was June 11, 2008.¹ The reason the RTK request was partially denied was because the Authority did not have a record of any future meetings. It is our belief that the Philadelphia Parking Authority is statutorily required to submit rulemaking decisions of this magnitude to the Advisory Committee. In fact the Parking Authority themselves argue that the Advisory Committee is their safeguard for their "locally promulgated regulations". The statute does not differentiate between local or state promulgation it just states that the Authority shall submit certain issues to the Committee. The only conclusion we can come to is that no questions or issues were ever submitted to this group in regards to these newly formed regulations of taxicabs and limousines when they clearly should have been. According to the PPA response to Section III (22) of IRRC's RAF, no committee of any kind was contacted other than the PA House Urban Affairs Committee which is not a member of the City of the First Class Taxicab and Limousine Advisory Committee.² 53 Pa.C.S. 5702(b)(2)

In the Philadelphia Parking Authority's Petition for Allowance of Appeal to the Supreme Court, filed on April 29, 2010, the PPA themselves came to the following conclusion:

"The members of the PPA's Advisory Committee represents the parties interested in (or potentially impacted by) the regulation of taxicab and limousines in Philadelphia. 53 Pa C.S. 5702(b) These interested parties include representatives for the service providers (e.g., drivers, medallion taxicab owners, dispatch owners, limousine owners) and representatives for the users of those services (e.g., the public from Philadelphia and the neighboring counties). Id. Thus, the statutorily mandated composition of the Advisory Committee ensures that representatives of the interested parties have notice and opportunity to comment on all proposed regulations. It also ensures that the entire evolutionary process of a regulation is transparent and accessible to all interested parties." Pg 13

Nowhere in their conclusion or in their enabling statute are Partial Right Carriers represented. On Pg. 77 of the PPA's Final Rulemaking Order, the Authority misguides its reader by naming various sections of its enabling statute (including 53 Pa.C.S.5702) stating that a medallion is the same as a non-

¹ Attachment: Right to Know Advisory Committee

² (b) Membership.--

(1) The advisory committee shall consist of the following members:

(i) Ten members appointed by the chairman of the authority or his designee as follows:

(A) One taxi driver.

(B) One medallion owner.

(C) One dispatch owner.

(D) One member of the public who utilizes taxicabs or limousines.

(E) One limousine owner.

(F) One representative of the hospitality industry from a list of five nominees assembled by the Philadelphia Convention and Visitors Bureau.

(G) One resident of a second class A county.

(H) One resident of a third class county.

(I) One representative of the Philadelphia International Airport.

(J) One representative of a major train station in a city of the first class.

(ii) One member appointed by the mayor of a city of the first class or his designee.

(iii) One member appointed by the Public Utility Commission.

(2) The advisory committee may consist of up to ten additional members appointed by the chairman of the authority or his designee.

medallion taxicab. In view of the fact that Partial Rights/Common Carriers/Non-Medallion Holders are not represented on this committee; we never would have had a voice.

"However, even if those local regulations were deemed invalid, we can not ignore the fact that the taxicab and limousine industries in Philadelphia are actually following them, or defending enforcement actions filed by the Authority for violations of those regulations. Therefore, the real economic cost or fiscal impact upon the regulated industries will be the cost difference between adhering to the Authority's current local regulations and the final-form regulations. We know of no other reasonable way to determine economic impact except to compare those current actual costs with the projected costs of the final-form rulemaking." Pg7 PPA Final Rulemaking Order

Even if the 2005 regulations were deemed valid by the PA Supreme Court they should still be considered invalid on the basis that Advisory Committee was not consulted until after they were implemented. Every regulation based off the invalid original regulations cannot form the basis for any future regulation. Germantown Cab has struggled from the ill advised and unfair practices that the PPA has imposed since the Authority's inception and with the way they have interpreted and enforced Act 94 of 2004. They created a first set of regulations which they began to enforce on April 10, 2005. The Jurisdictional Agreement between the PPA and the PUC was not published in the PA Bulletin until March 12, 2005 [35 Pa.B. 1737]. Only after the Jurisdictional Agreement was complete and officially published would Germantown Cab have really known which agency was going to be regulating it and in what fashion. How could the partial right taxi industry have known, participated in, or protested the Authority's regulations in less than one months' time? The Advisory Committee held their first meeting in August of 2005, months after the implementation of the taxi and limo regulations. It is alarming that the Authority truly believes it's acceptable that the industry is actually following or defending themselves against invalid regulations which 1. Were promulgated illegally without a statutorily required Advisory Committee and 2. Were promulgated illegally by not conforming with Philadelphia Home Rule Charter or Commonwealth Documents Law? Hiding behind their "locally promulgated regulations" by way of the Sunshine Act, is a sham. Their format of local promulgation does not exist in the City of Philadelphia since all of Philadelphia's local regulations must be promulgated through Philadelphia's City Council and published in its City Code. The PPA is well aware of this process and is required to use it when it needs to implement new regulations in regards to parking, meters, fee and penalty schedules, permits and red light cameras³. Why have they chosen the Sunshine route for taxicab and limousines as their way of local implementation?

Cost analysis against PUC's regulations is essential. Seeing that the PPA had a hard time finding another "reasonable way", Germantown Cab as well as many others in the regulated community have voiced their suggestions to the PPA on multiple occasions as to how their cost analysis should be done. An analysis based off of anything other than the PUC regulations would not be sufficient. The analysis for Germantown Cab would be completely different than that of any Medallion Taxi vehicle, owner and driver. Since Germantown Cab is governed by Ch. 29 in the Pa. Code as opposed to Medallion regulations found in Ch. 30 the cost difference would be very different. This is a consideration that should not be taken lightly. The Authority might have heard these issues when they first established their regulations had they complied with their enabling statute requiring them to utilize the Advisory Committee. They chose not to follow the law that governs them and in turn have placed the regulated in the predicament of fighting for their livelihood.

The Parking Authority's regulations were implemented in an unlawful manner, either by way of the Germantown case or non-compliance with the statutorily required Advisory Committee and Home Rule

³³ Attachment: City of Philadelphia BILL NO. 110449

Charter when the initial regulations were established. Again, you cannot base future costs and regulations off invalid costs and regulations, **especially** if many of those are being litigated. There is a fundamental problem here that just about everyone sees except for the Parking Authority. We have served dangerous and economically depressed areas with pride and joy and have fought hard against this inconsiderate and merciless administration for good reason, so we can have a voice. If these regulations pass in this form, Germantown Cab Company will no longer be able to serve its areas within the City of Philadelphia. If the Philadelphia Parking Authority can get away with statutory violations such as the Advisory Committee issues discussed and still get what they want, when they want, there is nothing that will stop them from doing this or something similar in the future. The mentality they possess is illustrative of the Authority as a whole-- they are above all, including the law.

We request that IRRC deny the proposed regulations until the Philadelphia Parking Authority has properly established and consulted with the City of the First Class Taxicab and Limousine Advisory Committee as well as given public notice of Committee members, contact information, and meeting dates.

Respectfully Submitted

On Behalf of Germantown Cab Company:
Michelle Niv



**Philadelphia
Parking
Authority**

3101 Market Street
Philadelphia, PA 19104-2895
(215) 683-9600

August 29, 2011

Germantown Cab Company
800 Chestnut Street, Suite 103
Philadelphia, PA 19107

Re: Your Right to Know Request No. 11-0206

To Whom It May Concern:

Thank you for writing to The Philadelphia Parking Authority ("Authority") with your above referenced request for information pursuant to the Pennsylvania Right- To-Know Law, 65 P.S. § 67.101 *et seq.*

On July 21 2011 you requested documents pertaining to the City of the First Class Taxicab and Limousine Advisory Committee. Your request is granted in part; the Taxi and Limo Division of the Philadelphia Parking Authority does not have a record of any future meetings, and this part of the requested is denied.

If for any reason you dispute this response and you choose to file an appeal, you must do so within 15 business days of the mailing date of the agency's response. See 65 P.S. §67.1101. If you have further questions, please call the undersigned. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,
The Philadelphia Parking Authority

By: Linda J. Miller /LJM
Linda J. Miller
Right to Know Officer
215-683-9675

cc: Dennis G. Weldon, Jr.
General Counsel

Dates of City of the First Class Taxicab and Limousine Advisory Committee Meeting:

August 10, 2005

September 14, 2005

October 26, 2005

November 30, 2005

February 15, 2006

May 17, 2006

December 12, 2007

February 20, 2008

June 11, 2008



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 110449

Introduced May 26, 2011

Councilmember DiCicco

**Referred to the
Committee on Streets and Services**

AN ORDINANCE

Amending Title 12 of The Philadelphia Code, entitled "Traffic Code," by amending Chapter 12-900, entitled "Parking Regulations and Penalties," by adding a new Section authorizing the Philadelphia Parking Authority to designate reserved parking spaces for hotel owned vehicles, adding definitions to Section 12-102, and making certain technical changes, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 12 of The Philadelphia Code is hereby amended to read as follows:

TITLE 12. TRAFFIC CODE.

* * *

CHAPTER 12-100. GENERAL PROVISIONS.

* * *

§ 12-102. Definitions.

* * *

(5.1) Hotel. As defined in Section 14-102(63) of The Philadelphia Code, as amended from time to time.

City of Philadelphia

BILL NO. 110449 continued

* * *

(13.1) Reserved Hotel Vehicle Parking Space. A parking space designated by the Philadelphia Parking Authority, pursuant to Section 12-921 of this Code, for the exclusive use of a motor vehicle owned by a hotel.

* * *

CHAPTER 12-900. PARKING REGULATIONS AND PENALTIES.

* * *

§ 12-921. Reserved Hotel Vehicle Parking Space.

(1) The Philadelphia Parking Authority (the "Authority") may designate one curbside Reserved Hotel Vehicle Parking Space for any hotel that meets the requirements of this Section.

(2) In order to qualify for the designation of a Reserved Hotel Vehicle Parking Space, a hotel must be contiguous to at least three (3) street frontages, one frontage of which must already be designated as either a valet parking zone, a passenger loading zone, or both.

(3) Any Reserved Hotel Vehicle Parking Space shall be located curbside within the space already designated as either a valet parking zone, a passenger loading zone, or both; shall not be more than twenty-three (23) feet in length; and shall be located on a street frontage contiguous to the hotel.

(4) In making the designation, the Authority shall consider the existing parking regulations and controls of the proposed location, the presence of any other valet parking zone or passenger loading zone in the area, the impact a Reserved Hotel Vehicle Parking Space will have on any existing valet parking or passenger loading zone and such other factors the Authority determines to be relevant.

(5) One vehicle designated by the hotel may stop, stand or park from no earlier than 6:00 A.M. to no later than 11:00 P.M. on a daily basis in the Reserved Hotel Vehicle Parking Space. The Reserved Hotel Vehicle Parking Space shall be permitted to be used seven (7) days a week.

(6) An application for a Reserved Hotel Vehicle Parking Space shall be made on a form provided by the Authority. If the Authority determines to designate a Reserved

City of Philadelphia

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Hotel Vehicle Parking Space for a hotel, the Authority shall issue a permit for one such parking space, upon payment of the applicable fee set forth in Subsection (10) of this Section. The permit shall be valid for one year and shall specify the location and size of the Reserved Hotel Vehicle Parking Space, the days and hours permitted for use consistent with Subsection (5) of this Section and such other conditions the Authority may reasonably prescribe. Permits shall not be transferrable, but may be renewed annually upon payment of an annual renewal fee in the amount set forth in Subsection (10) of this Section.

(7) The Department shall post signs indicating the location and hours of operation of any Reserved Hotel Vehicle Parking Space for which a permit has been issued.

(8) Any hotel that has been issued a permit for a Reserved Hotel Vehicle Parking Space shall not cause the designated hotel vehicle to park, stop or stand in such parking space other than during the posted hours of operation.

(9) Any hotel that has been issued a permit for a Reserved Hotel Vehicle Parking Space shall expeditiously remove the designated hotel vehicle to an appropriate off-street parking facility at the daily expiration of the 11:00 P.M. deadline.

(10) Permit Fees; Renewal Fees.

(a) In the following areas the annual permit fee shall be \$1,200.00 for up to twenty-three (23) feet of curb space used for the Reserved Hotel Vehicle Parking Space:

(.1) Center City, bounded by Spring Garden Street, Bainbridge Street, the Schuylkill River and the Delaware River;

(.2) University City, bounded by the Schuylkill River on the East, University/Woodland Avenue on the South, Fortieth Street on the West, and by a line along Filbert Street between Fortieth Street and Thirty-Fourth Street, along Thirty-Fourth Street to Arch Street, and along Arch Street, between Thirty-Fourth Street and the Schuylkill River on the North; and

(.3) Delaware Avenue Entertainment District, bounded by the Delaware River, Spring Garden Street, Second Street and Girard Avenue.

(b) In all other areas of the City, the annual permit fee shall be \$300.00 for up to twenty-three (23) feet of curb space used for the Reserved Hotel Vehicle Parking Space.

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(11) The Authority may terminate the permit for the exclusive use of the Reserved Hotel Vehicle Parking Space and remove the signs erected: (i) if payment of the annual fee is not made within thirty (30) days of the due date or (ii) whenever public convenience or necessity warrants such action, provided that in either case, thirty (30) days notice of such intended action is given to the hotel to which the permit has been issued.

SECTION 2. This Ordinance shall become effective immediately.

Explanation:

Italics indicate new matter added.