

3081



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January 29, 2015

John F. Mizner, Esq. Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 19101

2015 FEB -2 PM 3:44

RECEIVED
IRRC

No. 3081 PPA #126-10

Mr. Chairman and Panel Members:

Please allow this correspondence to serve as comments to the proposed regulation regarding Image Retention and Use, No. 3081 PPA #126-10. As you know, I am the Executive Director of the Greater Philadelphia Taxi Association. Attached you will find a Petition for Emergency Relief filed on behalf of our members by Brett Berman, Esquire of the law firm Fox Rothschild and incorporate said petition as fully set forth herein. In accord, we will not discuss every detail of the petition but bring to light some of the pressing issues.

First and foremost, it goes without saying that our members believe that the safety of taxicab drivers and passengers is of utmost importance. Nevertheless, implementing regulations should not come at a cost of invasion of privacy and other constitutional issues that have not be thoroughly vetted by these regulations. The right to privacy from unwarranted state interference is a basic right and appears to be violated by the PPA's (a state agency) ability to obtain images of passengers and drivers of taxicabs.

Secondly, as you know, 52 Pa. Code § 1017.71, regarding installing Safety Cameras, requires all taxicab medallion owners to comply with the regulation by February 23, 2015. However, the current regulation dealing with how to retain the images will not be enacted until after said date. Clearly, the issue of "retention and use" should be dealt with before the safety cameras are installed. In sum, it appears that this is the proverbial cart before the horse.

Third, the regulation requires the PPA to "approve" vendors who may install the camera system. Originally there were three vendors approved by the PPA. Of which, two were seasoned industry purveyors and have subsequently made it clear they do want to participate in this market in its present state. The remaining vendor has yet to establish installation protocol and appears to have no prior experience with this required camera system. Moreover, the costs



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associated with the installation are exorbitant. In sum, we have been given no relevant information to make an informed decision on the viability of this company, its equipment or ability to handle installation on 1600 taxicabs in less than one month. How do we know this vendor will be in existence a year from now? What happens if the system does not work properly? Will the PPA have to pull all taxicabs off the road leaving the public without a means of on demand transportation? Or worse, will the public shift to rogue taxi companies like Uber and Lyft?

To that end, we request that the Board reject the current proposed regulations or postpone consideration until there is ample time to have the industry litigate the pending petition. It is respectfully requested that this issues be taken into consideration and clarified before a final regulation is enacted.

Of course if you should have any questions or comments, feel free to contact me at any time.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to be "DA", is written over the typed name and title.

David Alperstein
Executive Director

DRA/th

RECEIVED
IRRC

BEFORE THE PHILADELPHIA PARKING AUTHORITY

EX-100-2 PM 3:45

In re: Petition of Black Point Taxi, LLC : Petition No.
et al., for an Emergency Order Repealing :
52 Pa. Code §§1017.71-77 :

PROPOSED ORDER

AND NOW, this _____ day of _____, 2015, upon consideration of the
Petition of Black Point Taxi, LLC, Gabon Taxi, LLC, Lindros Taxi, LLC, Congo Taxi, LLC,
Botswana Taxi, LLC, Australia Taxi, LLC, Kolara Trans, LLC, Iverson Taxi, LLC, Morocco
Taxi, LLC, Sudan Taxi, LLC, Kick Stand Trans, LLC, Two Phones Taxi, LLC, Toba Taxi, LLC,
Senegal Taxi, LLC, Seedjam, Inc., Brasil Taxi, LLC, Narragansett Taxi, LLC, H-OP-KJVAI Cab
Co., Ryder Cup Taxi, LLC, Eurostar Taxi, LLC, Togo Taxi, LLC, Barnes Taxi, LLC, Mahaffey
Taxi LLC, Melo Taxi, LLC, Egypt Taxi, LLC, Housewives Taxi, LLC, Ethiopia Taxi, LLC,
Schmidt Taxi LLC, Cambodia Taxi, LLC, RZA Cab Corp., Kingston Taxi, LLC, Fromage Taxi,
LLC, Watson Taxi, LLC, New Zealand Taxi, LLC, Pier Taxi, LLC, Kenya Taxi, LLC, Vick
Taxi, LLC, Gold Runner Taxi, LLC, Korea Taxi, LLC, Sri Lanka Taxi, LLC, Barkley Taxi,
LLC, Zimbabwe Taxi, LLC, Mykonos Taxi, LLC, Sephardic Taxi, LLC, Adam & Neima, Inc.,
Afroso, Inc., Amalia Taxi, LLC, Apollo Taxi, LLC, Arielle Taxi, LLC, Armada Taxi, LLC,
Athena Taxi, LLC, Australia Taxi, LLC, Barkley Taxi, LLC, BE & G Taxi Cab Co., Benjamin
Taxi, LLC, Brother Taxi, LLC, Capital Taxi, LLC, Chernou Cab Co., Crossroad Cap Corp., D &
W Cab Company, Devi Cab Co., Drama Taxi, LLC, Effy Taxi, LLC, Ethiopia Taxi, LLC, EZ
Trans, LLC, F & G Taxi Cab Co. Inc., Fresh Prince Taxi, LLC, G & V Cab, Gotry Cab Co.,
Gustavia Taxi, LLC, Halloween Taxi, LLC, Holiday Taxi, LLC, H-OP-KJVAI Cab Co., Igal
Taxi, LLC, Joelle Taxi, LLC, JS Gabrielle Corp., Kareen Taxi, LLC, Karma Taxi, LLC, King of

Russia Taxi, LLC, Klarida Trans, Inc., Komboya Trans, Inc., Laos Taxi, LLC, Lirr, Inc., Little Angels Cab Corp., Lucky Man Cab Co., Lydor Taxi, LLC, Malhaffey Taxi LLC, Mahil Cab Co., Malaysia Taxi, LLC, Nepal Taxi, LLC, Olive Tree Management, LLC, Paula Taxi, LLC, Pierre Cab Co., Rika Taxi, LLC, RJZ Cab Co., S & B Cab Co., Saint Barts Taxi, LLC, Saint Cab Co, Saint Jean Taxi, LLC, Saint Pierre Enterprises, Inc., Sunny Taxi, LLC, TAM Cab Co., Veronique Taxi, LLC, Vietnam Taxi, LLC, VPR Cab Co., Wil & Done Cab Co., and Freedom Taxi Association, LLC for an Emergency Order Repealing 52 Pa. Code §§ 1017.71-77, and any response thereto, it is hereby ORDERED that said Petition is GRANTED.

J.

BEFORE THE PHILADELPHIA PARKING AUTHORITY

In re: Petition of Black Point Taxi, LLC	:	Petition No.
<i>et al.</i> , for an Emergency Order Repealing	:	
52 Pa. Code §§1017.71-77	:	

**PETITION OF BLACK POINT TAXI, LLC, *ET AL.*
FOR AN EMERGENCY ORDER REPEALING 52 PA. CODE §§ 1017.71-77**

Petitioners, Black Point Taxi, LLC, Gabon Taxi, LLC, Lindros Taxi, LLC, Congo Taxi, LLC, Botswana Taxi, LLC, Australia Taxi, LLC, Kolar Trans, LLC, Iverson Taxi, LLC, Morocco Taxi, LLC, Sudan Taxi, LLC, Kick Stand Trans, LLC, Two Phones Taxi, LLC, Toba Taxi, LLC, Senegal Taxi, LLC, Seedjam, Inc., Brasil Taxi, LLC, Narragansett Taxi, LLC, H-OP-KJVAI Cab Co., Ryder Cup Taxi, LLC, Eurostar Taxi, LLC, Togo Taxi, LLC, Barnes Taxi, LLC, Mahaffey Taxi LLC, Melo Taxi, LLC, Egypt Taxi, LLC, Housewives Taxi, LLC, Ethiopia Taxi, LLC, Schmidt Taxi LLC, Cambodia Taxi, LLC, RZA Cab Corp., Kingston Taxi, LLC, Fromage Taxi, LLC, Watson Taxi, LLC, New Zealand Taxi, LLC, Pier Taxi, LLC, Kenya Taxi, LLC, Vick Taxi, LLC, Gold Runner Taxi, LLC, Korea Taxi, LLC, Sri Lanka Taxi, LLC, Barkley Taxi, LLC, Zimbabwe Taxi, LLC, Mykonos Taxi, LLC, Sephardic Taxi, LLC, Adam & Neima, Inc., Afroso, Inc., Amalia Taxi, LLC, Apollo Taxi, LLC, Arielle Taxi, LLC, Armada Taxi, LLC, Athena Taxi, LLC, Australia Taxi, LLC, Barkley Taxi, LLC, BE & G Taxi Cab Co., Benjamin Taxi, LLC, Brother Taxi, LLC, Capital Taxi, LLC, Chernou Cab Co., Crossroad Cap Corp., D & W Cab Company, Devi Cab Co., Drama Taxi, LLC, Effy Taxi, LLC, Ethiopia Taxi, LLC, EZ Trans, LLC, F & G Taxi Cab Co. Inc., Fresh Prince Taxi, LLC, G & V Cab, Gotry Cab Co., Gustavia Taxi, LLC, Halloween Taxi, LLC, Holiday Taxi, LLC, H-OP-KJVAI Cab Co., Igal Taxi, LLC, Joelle Taxi, LLC, JS Gabrielle Corp., Kareen Taxi, LLC, Karma Taxi, LLC, King of

Russia Taxi, LLC, Klarida Trans, Inc., Komboya Trans, Inc., Laos Taxi, LLC, Lirr, Inc., Little Angels Cab Corp., Lucky Man Cab Co., Lydor Taxi, LLC, Malhaffey Taxi LLC, Mahil Cab Co., Malaysia Taxi, LLC, Nepal Taxi, LLC, Olive Tree Management, LLC, Paula Taxi, LLC, Pierre Cab Co., Rika Taxi, LLC, RJZ Cab Co., S & B Cab Co., Saint Barts Taxi, LLC, Saint Cab Co, Saint Jean Taxi, LLC, Saint Pierre Enterprises, Inc., Sunny Taxi, LLC, TAM Cab Co., Veronique Taxi, LLC, Vietnam Taxi, LLC, VPR Cab Co., Wil & Done Cab Co., and Freedom Taxi Association, LLC, all collectively operating under the trade name Freedom Taxi (collectively, "Petitioners"), by and through their undersigned counsel, Fox Rothschild LLP, hereby submit this Petition for an Emergency Order Repealing 52 Pa. Code §§ 1017.71-77 ("the Safety Cameras Regulation") under 52 Pa. Code §§ 1003.11 and 1005.23, and in support thereof aver as follows:

FACTS/PROCEDURAL BACKGROUND

1. Petitioners are owners of taxicab medallions operating in Philadelphia.
2. Freedom Taxi Association, LLC is a Pennsylvania limited liability company. It is a Philadelphia Parking Authority ("PPA") authorized dispatch company that operates all of the Freedom Taxi medallion cabs pursuant to the relevant rules and regulations associated with operating cabs in the Philadelphia market.
3. Petitioners, by way of their ownership interest in taxicab medallions, are major stakeholders in the Philadelphia taxicab industry and have a great interest in seeing that the taxicab industry and the riding public are well served by a strong regulatory framework.
4. The Safety Cameras Regulation was initially submitted to the Independent Regulatory Review Commission ("IRCC") on February 25, 2014.
5. The IRRC approved the Safety Cameras Regulation on July 24, 2014.

6. The Safety Cameras Regulation was then adopted on October 24, 2014, effective October 25, 2014.

7. Under the Safety Cameras Regulation, all taxicabs within the jurisdiction of the PPA must be equipped with safety camera systems that provide live video feeds of the inside of the automobiles.

8. Specifically, the safety camera system must (1) be in operation during the entire time the taxicab is in operation and no less than an hour after the engine is turned off; (2) record images at designated intervals; (3) be able to record the full face of the driver and all front-facing occupants in the taxicabs at all times; and (4) record and store images in a unit separate from any camera. *See* 52 Pa. Code § 1017.74.

9. The Safety Cameras Regulation requires all taxicab medallion owners to comply with the Regulation by February 23, 2015. *See* 52 Pa. Code § 1017.71.

10. As of the date of this filing, Petitioners are aware of only one vendor currently approved by the PPA to install the safety camera systems in the 1,600 taxicabs operating in Philadelphia.

11. On October 29, 2014, after the Safety Camera Regulations were adopted, the PPA proposed Regulation 52 Pa. Code § 1017.78 (“Image Retention Regulation”), which purportedly attempts to address the requirements related to the retention and use of images from taxi cab safety cameras.

12. If adopted, the Image Retention Regulation, albeit with limited clarity, would require dispatchers and the PPA Enforcement Department to (1) maintain safety camera systems in password protected files; (2) release safety camera system images to law enforcement agencies upon written request; and (3) require dispatchers to delete images from safety camera

systems on the 31st day after receipt, unless directed by the PPA or other law enforcement agency to withhold designated images from deletion.

13. Proposed Regulation 52 Pa. Code § 1017.78 is currently in the comment stages and will not be enacted by the February 23, 2015 compliance date for the Safety Cameras Regulation.

14. Moreover, the proposed Image Retention Regulation purportedly addressing storage and usage issues does not actually alleviate the significant constitutional violations identified above concerning data security and storage because it fails to identify specific security measures that would prevent unauthorized individuals from accessing, copying, and/or misappropriating the live video feeds and captured images.

15. Accordingly, the PPA has established a system where by February 23, 2015, there will be live video feeds in every taxi cab without any limitations on who has authority to obtain and watch the feeds, for what use the feeds may be viewed/stored, and the duration that the feeds will be stored. Moreover, once, and if, the Image Retention Regulation is implemented, there will still be insufficient clarity with respect to issues raised within the instant petition.

16. For the reasons set forth below, the PPA should grant injunctive relief and repeal the Safety Cameras Regulation, which would preserve the privacy interests of taxicab drivers and passengers and ensure that the taxicab industry remains competitive with other transportation services in Philadelphia.

17. An emergency order pursuant to 52 Pa. Code § 1003.11 is necessary because the standard 20-day response time would almost assuredly result in the Petition not being decided before the February 23, 2015 compliance date, which would result in Petitioners suffering the irreparable harm described below that this Petition seeks to prevent.

ARGUMENT

18. While Petitioners firmly believe that the safety of taxicab drivers and passengers is the most essential consideration in implementing regulations, the PPA has exceeded its authority and violated the United States and Pennsylvania Constitutions by requiring all taxicabs in Philadelphia to install safety camera systems that provide the PPA with live video feeds of the interiors of all operating taxicabs.

19. Petitioners accordingly seek an emergency order granting injunctive relief repealing the Safety Cameras Regulation before it can be enforced because it is an arbitrary and capricious example of the PPA over-regulating in violation of the constitutional rights of Petitioners, taxicab drivers, and taxicab customers.

20. The PPA should grant emergency injunctive relief repealing the Safety Cameras Regulation because Petitioners satisfy all required elements to obtain injunctive relief in Pennsylvania¹.

21. First, Petitioners will likely succeed on the merits of their challenge because the Safety Cameras Regulation violates the constitutional freedom of intimate association and reasonable expectation of privacy of all taxicab drivers and passengers in Philadelphia.

22. Additionally, Petitioners will suffer irreparable harm if the Safety Cameras Regulation is not immediately repealed, as many customers will likely shift their business to other transportation companies in an extremely competitive industry, including illegal ride-sharing companies like Uber, upon discovering that they are being filmed every time they step

¹ To obtain injunctive relief in Pennsylvania, a party must demonstrate (1) a likelihood of prevailing on the merits; (2) that it would suffer irreparable harm if not for the injunctive relief; (3) that other interested parties would not suffer harm from the requested relief; (4) that the requested relief is suited to abate the offending activity and will restore all parties to their statuses as they existed immediately before the actionable conduct; and (5) that the requested relief will not adversely affect the public interest. *Summit Towne Ctr., Inc. v. Shoe Show of Rocky Mount, Inc.*, 828 A.2d 995, 1001 (Pa. 2003).

into a taxicab. Additionally, Petitioners will not be able to recover the high costs of installing the camera systems once their customer bases decrease.

23. The PPA will not suffer any harm from repealing the Safety Cameras Regulation because a repeal would (1) preserve the demand for taxicabs in Philadelphia; (2) avoid the high cost and effort of enforcing the Regulation before most taxicabs have the opportunity to comply with it; (3) prevent the PPA from facing legitimate constitutional challenges to its improper requirements of live video feeds inside all vehicles for the reasons outlined below; and (4) prevent medallion owners from being subject to likely lawsuits for many of the constitutional and legal violations detailed in the instant petition.

24. A repeal would properly restore the status of all parties to the way it existed before the implementation of the unconstitutional Safety Cameras Regulation.

25. Finally, a repeal is in the best interests of the public, as all United States citizens have vital privacy interests that the Safety Cameras Regulation violates.

26. The only way the PPA can properly remedy its blatant abuse of discretion is by repealing the Safety Cameras Regulation before the February 23, 2015 compliance date.

A. The PPA Should Grant Emergency Injunctive Relief And Repeal The Safety Cameras Regulation

1. Petitioners Have A High Likelihood Of Succeeding On The Merits Of Their Challenge Of The Safety Cameras Regulation

27. Petitioners will likely succeed on the merits of their challenge to the Safety Cameras Regulation because the Regulation (1) violates drivers' and passengers' freedom of intimate association; and (2) violates drivers' and passengers' expectations of privacy protected by the United States and Pennsylvania Constitutions.

a. The Safety Cameras Regulation Violates Taxicab Drivers' and Customers' Rights of Freedom of Intimate Association

28. All individuals in the United States enjoy the freedom of intimate association, a privacy interest derived from the Due Process Clause of the Fourteenth Amendment.

29. "The right of intimate association involves an individual's right to enter into and maintain intimate or private relationships free of state intrusion." *Pi Lambda Phi Fraternity, Inc. v. Univ. of Pittsburgh*, 229 F.3d 435, 441 (3d Cir. 2000).

30. The United States Supreme Court has concluded that "choices to enter into and maintain certain intimate human relationships must be secured against undue intrusion by the State because of the role of such relationships in safeguarding the individual freedom that is central to our constitutional scheme. *Roberts v. U.S. Jaycees*, 468 U.S. 609, 617-18 (1984).

31. "Protecting these relationships from unwarranted state interference therefore safeguards the ability independently to define one's identity that is central to any concept of liberty." *Id.* at 619.

32. Here, the Safety Cameras Regulation violates the fundamental right of taxicab drivers and passengers to associate with individuals of their choosing without unwarranted live video surveillance by the government by:

- a. Providing no guidance regarding who can view the live video feeds inside taxicabs and what can be done with the captured images;
- b. Failing to ensure that the data from the video feeds is secure enough to prevent taxicab drivers, PPA employees, and/or outside individuals from obtaining, copying, and/or misappropriating the video feeds; and

- c. Unilaterally permitting the government to observe which individuals associate with other individuals in the private setting of an automobile without providing any legitimate compelling interest for doing so.

33. There is no rational basis for the PPA to implement the Safety Cameras Regulation; while safety is a great concern for all interested parties in the taxicab industry, crimes committed against taxicab drivers generally occur with the perpetrators outside the vehicles, which is outside the view that the video cameras inside the taxicabs would provide and can be achieved without requiring live feeds in every cab.

34. The proposed Image Retention Regulation purportedly addressing storage and usage issues does not actually alleviate the significant constitutional violations identified above concerning data security and storage because it fails to identify specific security measures that would prevent unauthorized individuals from accessing, copying, and/or misappropriating the live video feeds and captured images.

35. The PPA cannot be permitted to compromise individuals' privacy and association rights by freely watching and recording them associate with others without strict restrictions on who can view the live feeds and for what uses. The Safety Cameras Regulation must accordingly be repealed.

b. The Safety Cameras Regulation Violates Taxicab Drivers' and Customers' Expectations of Privacy Under the Fourth Amendment

36. In addition to violating Freedom of Association rights, the Safety Cameras Regulation implicates significant privacy concerns under the United States and Pennsylvania Constitutions.

37. Specifically, the Safety Cameras Regulation violates the Fourth Amendment of the United States Constitution and Article I of the Pennsylvania Constitution by forcing medallion owners to install video cameras providing live feeds subject to government monitoring inside all taxicabs.

38. When determining one's expectation of privacy, it is "necessary to balance the individual's privacy expectations against the Government's interests to determine whether it is impractical to require a warrant or some level of individualized suspicion in the particular context." *Goodwin v. Moyer*, 549 F. Supp. 2d 621, 633 (M.D. Pa. 2006) (citing *Nat'l Treasury Employees Union v. Von Raab*, 489 U.S. 656, 665-66 (1989)).

39. Courts consider three factors in determining the reasonableness of a possible invasion of one's privacy: "(1) whether the plaintiff's privacy interest is objectively legitimate as recognized by society; (2) the nature and extent of the intrusion; and (3) whether the government has a compelling interest in intruding upon the plaintiff's privacy." *Id.* (citing *Wilcher v. City of Wilmington*, 139 F.3d 366, 374-78 (3d Cir.1998)).

40. As demonstrated by Pennsylvania Courts, society clearly recognizes the privacy interests of both drivers and passengers in private automobiles. *See Commonwealth v. Swanger*, 307 A.2d 875 (Pa. 1973).

41. In fact, in *Delaware v. Prouse*, 440 U.S. 648, 662-63 (1979), the United States Supreme Court specifically recognized individuals' expectations of privacy in automobiles subject to government regulation, stating:

An individual operating or traveling in an automobile does not lose all reasonable expectation of privacy simply because the automobile and its use are subject to government regulation. Automobile travel is a basic, pervasive, and often necessary mode of transportation to and from one's home, workplace, and leisure activities. Many people spend more hours each day traveling in cars than walking on the streets. Undoubtedly, many find a greater sense of security and privacy in

traveling in an automobile than they do in exposing themselves by pedestrian or other modes of travel. Were the individual subject to unfettered governmental intrusion every time he entered an automobile, the security guaranteed by the Fourth Amendment would be seriously circumscribed.

42. Here, the Safety Cameras Regulation requires the presence of live unrestricted video feeds of every taxicab within the PPA's jurisdiction that are subject to government monitoring.

43. Individuals in taxicabs objectively have reasonable expectations of privacy, and the PPA having access to live video feeds inside taxicabs constitutes a significant and permanent intrusion on their privacy rights.

44. This blatant invasion of privacy constitutes a "search and seizure" under the Fourth Amendment because it violates the privacy upon which taxicab drivers and passengers justifiably rely. *See Katz v. United States*, 389 U.S. 347, 353, 88 S. Ct. 507, 512, 19 L. Ed. 2d 576 (1967).

45. Under the Fourth Amendment and Pennsylvania's equivalent section in Article I, Section 8 of the Pennsylvania Constitution, individuals have rights to be secure from unreasonable searches and seizures. *See U.S. CONST. amend. IV, PA. CONST. art. I, § 8.*

46. Pennsylvania Courts have acknowledged that Article I, Section 8 of the Pennsylvania Constitution provides even broader protections against unreasonable searches and seizures than the United States Constitution. *See Com. v. Basking*, 970 A.2d 1181, 1192-93 (Pa. Super. 2009), *Com. v. Matos*, 672 A.2d 769, 772 (Pa. 1996).

47. Videotaping all actions of all drivers and passengers is an unreasonable search and seizure in violation of the Fourth Amendment and Pennsylvania Constitution that the PPA can remedy only by repealing the Safety Cameras Regulation.

48. While the Proposed Image Retention Regulation attempts, albeit with insufficient clarity or precision, to address the use of captured images, it is only currently in the comment stages and will not be enacted by February 23, 2015, which is the date the PPA arbitrarily set for mandatory compliance with the Safety Cameras Regulation.

49. The PPA has thus established a system where by February 23, 2015, every taxicab must provide live video feeds without any limitations on who has authority to watch the feeds, for what use the feeds may be viewed/stored, and the duration that the feeds will be stored.

50. Having access to live video feeds in every taxicab without any requirements relating to the use of the captured images is yet another blatant abuse of the PPA's discretion that will irreparably harm Petitioners and other medallion owners, taxicab drivers, and taxicab customers because the Safety Camera Regulations fail to address:

- a. Which specific individuals have authorization to view the real-time video feed inside taxicabs, and for what duration;
- b. Security issues relating to the captured images from the live video feeds, including the potential for taxicab drivers, PPA employees, and outside individuals to obtain, copy, and/or misappropriate the video feeds;
- c. The possibility of individuals inside taxicabs tampering with the cameras; and
- d. The government observing individuals associating with other individuals in the private setting of an automobile without providing any legitimate compelling interest for doing so.

51. The PPA has greatly exceeded its authority by establishing a system where the PPA can view live unrestricted video feeds of private companies' operations, and it should repeal

the Safety Cameras Regulation to remedy its error and comply with the United States and Pennsylvania Constitutions.

2. Petitioners Will Suffer Irreparable Harm If The Safety Cameras Regulation Are Not Repealed Prior to February 23, 2015

52. If the Safety Cameras Regulation is permitted to stand, Petitioners will suffer irreparable harm due to the unrecoverable high costs of installing the safety camera systems and the dire effects on competition.

53. The costs of installing and maintaining the safety camera systems include the hardware costs, installation costs, the costs of implementing data plans to comply with the PPA's demand for live feeds and portal access, and yearly maintenance costs.

54. The installation and hardware costs are outrageously expensive, as the PPA's lone approved vendor for installation charges unreasonably high services fees.

55. These upfront and continuing costs would force Petitioners and other medallion owners to possibly cut expenses designed to ensure compliance with all other PPA safety regulations in place.

56. Petitioners and all other medallion owners will be irreparably harmed if they are forced to purchase the equipment and installation services by February 23, 2015, as they will be unable to recoup these outlandish costs from the vendor once the Safety Cameras Regulation is found to be unconstitutional.

57. In addition to increased costs to Petitioners and all other medallion owners, requiring all taxicabs to contain video cameras providing live feeds to government monitors will place illegal ride-sharing companies, like Uber, in an advantageous market position compared to Petitioners and other medallion owners, which in turn will significantly decrease revenues and make it even more difficult to recoup the high costs of equipment and installation.

58. Upon discovering the cameras, potential customers will be incentivized to use the services of Uber and other illegal ride-sharing companies, where their freedom of association and privacy rights are maintained because the companies do not require cameras recording their actions to be installed in every automobile.

59. If customers begin shifting their business to other transportation companies, medallion owners would suffer irreparable harm and it would become nearly impossible for Petitioners to recover the extremely high costs of installing and maintaining the safety camera systems that comply with 52 Pa.C.S.A. § 1017.74.

60. Additionally, once customers switch to alternative transportation companies, it will be extremely difficult, if not impossible, to recapture those customers, even if the PPA later repeals the Safety Cameras Regulation after discovering how negatively it affects competition.

61. It is therefore imperative that the PPA issue an emergency order repealing the Safety Cameras Regulation before February 23, 2015 to prevent irreparable harm to Petitioners and all other medallion owners.

3. **Other Interested Parties Will Not Suffer Harm If The Safety Cameras Regulation Are Repealed**

62. Repealing the Safety Cameras Regulation would be beneficial to all interested parties, including the PPA.

63. The PPA would actually benefit from repealing the Safety Cameras Regulation by avoiding the high cost and effort of enforcing Regulations that all 1,600 taxicabs in Philadelphia cannot comply with over the next month.

64. The PPA would not suffer any harm by repealing Regulations that, if they remain in place, would lead to a substantial decrease in the demand for taxicabs in Philadelphia.

65. Also, while the Safety Cameras Regulation are apparently designed to increase safety among the taxicab industry, the PPA does not have a legitimate interest in installing video cameras with live feeds inside taxicabs. The safety cameras are not likely to prevent future crimes — crimes against taxicab drivers are far more likely to occur with the perpetrators outside the vehicles than inside them.

66. As discussed, other interested parties such as taxicab drivers and customers would strongly benefit from the PPA repealing the Safety Cameras Regulation by having their privacy when traveling in taxicabs restored.

67. There are no benefits to taxicab drivers and passengers from submitting to uninterrupted surveillance of their actions by the PPA while inside the vehicles.

68. Because a repeal of the Safety Cameras Regulation would benefit not only Petitioners, but all interested parties, the PPA should repeal the Safety Cameras Regulation immediately.

4. **Repealing The Safety Cameras Regulation Will Abate the Offending Activity and Will Properly Restore The Parties To Their Statutes As They Previously Existed**

69. A repeal of the Safety Cameras Regulation would completely abate the improper invasions of privacy and will restore all parties to their statuses as they existed immediately prior to their passing.

70. The PPA has created a logistical nightmare in implementing the Safety Cameras Regulation and setting a compliance date of February 23, 2015, and the only effective solution is a repeal.

71. The PPA has an opportunity to avoid the herculean task of enforcing its unconstitutional Regulations, which, as more thoroughly demonstrated below, are nearly impossible to comply with by February 23, 2015.

72. A repeal of the Safety Cameras Regulation would permit taxicab drivers and passengers to enjoy the same privacy they previously enjoyed in taxicabs and will continue to experience in other ride sharing services, where cameras, with live feeds, inside the vehicles are not mandatory.

73. If the Safety Cameras Regulation is repealed, the taxicab industry will continue to be competitive in a market that suddenly has much competition in Philadelphia.

74. Enforcing the Safety Cameras Regulation, on the other hand, would favor only the illegal ride-sharing services and permanently harm the taxicab industry.

75. Additionally, repealing the Safety Cameras Regulation would permit Petitioners and all other taxicab medallion owners to continue to focus their efforts and expenses on ensuring that the taxicabs and their drivers comply with all previously-established legitimate safety regulations.

76. The PPA should thus repeal the Safety Cameras Regulation and properly restore all parties to their positions prior to the Regulation's passing.

5. Repealing The Safety Cameras Regulation Is In The Best Interests Of The Public

77. In addition to benefiting the parties directly interested in the Safety Cameras Regulation, a repeal of the Safety Cameras Regulation is in the best interests of the general public.

78. Like the taxicab drivers and passengers who would directly suffer invasions of privacy if the Safety Cameras Regulation stands, the public has a strong interest in preserving their expectations of privacy.

79. The Safety Cameras Regulation is a severe example of a governmental entity over-regulating to the detriment of the public.

80. Repealing the Safety Cameras Regulation is the only way to ensure that the public continues to enjoy an expectation of privacy when in taxicabs.

81. All factors weigh in favor of the PPA immediately repealing the Safety Cameras Regulation before the February 23, 2015 mandatory compliance date. The PPA should accordingly grant this Petition and immediately repeal the Safety Cameras Regulation.

B. If The PPA Does Not Repeal The Safety Cameras Regulation, It Must Grant Petitioners A Six-Month Waiver To Comply With Them

82. While Petitioners assert that the Safety Cameras Regulation should be repealed, if the PPA does not repeal the Safety Cameras Regulation, it must grant Petitioners an emergency six-month waiver to comply with it.

83. Many uncertainties remain concerning the installation of the safety cameras and software for dispatch companies.

84. The PPA has provided only four months from the date the Safety Cameras Regulation took effect for 1,600 taxicabs to install safety cameras that comply with the specific requirements of 52 Pa. Code § 1017.74.

85. The PPA initially approved two vendors to install the safety cameras, but both of them dropped out due to strict stipulations in the Safety Cameras Regulation.

86. There is currently only one vendor approved by the PPA to install the safety camera systems. This vendor is not a known company, has no references to provide medallion

owners, has never installed equipment in taxicabs, charges higher service fees, and exists nowhere outside of the Philadelphia area.

87. Like the sole approved vendor, the taxicab industry in Philadelphia has no prior experience with safety cameras in taxicabs – especially cameras with unlawful live video feeds. It would take much more than four months to learn about the process and install all required components of the camera systems.

88. It is therefore impossible for all 1,600 taxicabs to comply with the PPA's arbitrarily-set February 23, 2015 due date.

89. Moreover, the proposed Image Retention Regulation has not even been implemented before requiring all medallion owners to install cameras with live feeds by February 23, 2015. This has put medallion owners in an untenable and impossible situation.

90. The PPA accordingly must grant Petitioners a six-month waiver to comply with the Safety Cameras Regulation if it does not repeal the Safety Cameras Regulation before February 23, 2015.

CONCLUSION

91. As invested members of the Philadelphia taxicab community, Petitioners request that the PPA expeditiously review the Safety Cameras Regulation and issue an emergency order repealing it to preserve the privacy of taxicab drivers and passengers and ensure that the taxicab companies remain competitive in the constantly-growing transportation services industry.

WHEREFORE, Petitioners respectfully request that the PPA grant the requested emergency relief and repeal 52 Pa. Code §§ 1017.71-77.

Respectfully submitted,



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Dated: January 26, 2015

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true and correct copy of the foregoing

Petition upon the following via United States mail, First Class, postage prepaid:

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