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Pennsylvania Taxi Association  
2301 Church St.  
Philadelphia, PA 19124

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July 9, 2015

*Via Electronic Mail*

Independent Regulatory Review Commission  
333 Market St., 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Re: Proposed Regulation No. 126-11

Dear Members of the Commission:

Please accept these comments on behalf of the Pennsylvania Taxi Association (PTA) regarding Proposed Regulation No. 126-11. While we are supportive of the needs of disabled Philadelphians, the taxicab industry has already taken steps to address the lack of wheelchair accessible vehicles in Philadelphia and cannot afford to comply with the Proposed Regulation. The Proposed Regulation is unlawful, financially unfeasible and places an undue burden on the taxicab industry. Accordingly, we oppose the Proposed Regulation for the reasons set forth below.

1. The Proposed Regulation is in violation of 53 Pa.C.S. § 5711.

The Proposed Regulation is impermissible under 53 Pa.C.S. § 5711. The Philadelphia Parking Authority (PPA) is only permitted to restrict the 150 medallions authorized under subsection 5711(c)(2)(ii) to wheelchair accessible vehicles:

Beginning June 1, 2013, and each June 1 thereafter until there is a total of 1,750 certificates of public convenience and corresponding medallions, the maximum number of certificates of public convenience and corresponding medallions for citywide call or demand service shall be increased by 15. **The authority, in its discretion, may issue the certificates and medallions authorized by this subparagraph with special rights, privileges and limitations applicable to issuance and use as it determines necessary to advance the purposes of this chapter and may issue the certificates and medallions authorized by this subparagraph in stages.**

Additionally, 52 Pa. Code § 5717(c)(1), which permits the PPA to restrict a medallion to wheelchair accessible use, only applies to newly issued certificates of public convenience and new medallions, not existing medallions. The PPA does not have the power to restrict the rights and privileges of Philadelphia's existing 1,600 certificates of public convenience and corresponding medallions. By making taxicab medallions ineligible for operation unless they are affixed to wheelchair accessible vehicles (WAVs), the PPA is effectively forcing the conversion of all existing taxicab medallions to wheelchair accessible medallions. Nowhere does the

Parking Authorities Law (53 Pa.C.S. § 5701, et seq.) enable the PPA to pass the restrictions set forth in the Proposed Regulation.

**2. The Proposed Regulation unlawfully transforms the character of medallion owners' property.**

The Proposed Regulation would irrevocably alter the value of taxicab medallion owners' property and effectively converts all medallions to wheelchair accessible medallions because it only allows medallion taxicabs to operate using WAVs. Taxicab medallions are property, as set forth in 53 Pa.C.S. § 5713. They can be pledged as collateral to lenders and are bought and sold on the open market. Currently, a "traditional" taxicab medallion in Philadelphia is valued at approximately \$350,000. Wheelchair accessible taxicab medallions are worth significantly less than this amount. Based on the PPA's recent auction of wheelchair accessible medallions, they are worth around \$80,000 to \$110,000. By effectively converting traditional taxicab medallions to wheelchair accessible medallions, the PPA is unlawfully devaluing and transforming the character of medallion owners' property without compensating medallion owners.

This is problematic because most taxicab medallions have been pledged to banks as collateral in exchange for loans. If the Proposed Regulation is passed, these lenders' collateral will be transformed and substituted with something worth far less than what was originally bargained for. There is no doubt that such a change would trigger an event of default for these loans. For example, Melrose Credit Union, a lender that has financed over \$135 million in loans to Philadelphia medallion owners, provides in its promissory notes that an event of default has occurred if "[T]he Credit Union believes that any material adverse change in the assets, liabilities, financial condition or business of Borrower or any Other Obligor has occurred..." The PPA is aware of this issue because it has reviewed Melrose's promissory notes many times. The PPA's Proposed Regulation is outrageous and unlawful in light of this fact.

**3. It is impossible for the taxicab industry to shoulder the costs of the Proposed Regulation.**

The taxicab industry simply cannot afford to purchase brand new WAVs and pay increased insurance premiums at a time when the industry is suffering due to illegal actors like Uber and Lyft. The Proposed Regulation puts the entire burden of compliance on medallion owners without considering the feasibility of such a proposal.

No financial institutions known to PTA will provide financing for the purchase of WAVs. Normally a medallion owner pledges a medallion in exchange for a loan and uses the loan proceeds to purchase a vehicle and the equipment needed to make the taxi operational. However, no lending institutions have offered to provide financing for wheelchair accessible medallions. No lenders known to PTA have provided financing for the wheelchair accessible medallion auction held by the PPA. Car dealerships also refuse to finance WAVs because the modifications to make the cars wheelchair accessible cause the vehicles to lose their manufacturer warranties. If all medallions are effectively converted into wheelchair accessible medallions, medallion owners will not be able to finance the WAVs mandated by the Proposed Regulation.

The PPA's cost analysis is contingent on financing being available for these vehicles, but the reality of the situation is that financing is unavailable. By the PPA's own estimate, such vehicles cost at least \$30,000. In reality, these vehicles cost upwards of \$35,000 and such expenses are only exacerbated by the high costs of insuring WAVs. The true cost of insuring a WAV is in the realm of \$10,500 per vehicle, not \$7,500 as provided. No medallion owner has the means to pay these exorbitant expenses. Given the unavailability of financing, the Proposed Regulation is cost prohibitive and would be extremely burdensome if enacted.

Furthermore, even if it were possible to finance WAVs and put them into service, medallion owners would be forced to operate at a loss. Revenues throughout the entire taxicab industry are down. Although the PPA analyzed the costs associated with the Proposed Regulation, it did not compare these costs against revenues in order to determine whether the Proposed Regulation is feasible. The attached financial analysis sets forth the simple math that shows that operating a WAV as anticipated by the Proposed Regulation is unreasonable and will force medallion owners to operate at a loss.

Additionally, the Proposed Regulation will convert all taxicabs into paratransit vehicles. However, unlike other paratransit service providers and other cities with WAV taxicabs, the PPA has not proposed subsidizing the conversion of taxicabs into WAVs, nor has it looked into obtaining subsidies elsewhere. For example, in cities like New York, Seattle and Chicago, the expansion of WAV taxicabs was subsidized by each city's respective government and taxicab regulator. It is fundamentally unfair to expect taxicab owners in Philadelphia to fund the Proposed Regulation completely independently. Moreover, taxicabs will be forced to compete unfairly with fully subsidized paratransit providers like SEPTA. The PPA has not made any effort to help the taxicab industry with funding for the Proposed Regulation. Given the foregoing, it will be impossible for the taxicab industry to comply with the Proposed Regulation.

**4. The Proposed Regulation ignores the real problems facing the taxicab industry at the expense of taxicab owners and drivers.**

Despite what the PPA would have you believe, taxicabs in the city are clean and modern. No taxi in the city is more than 8 years old and 150 brand new WAVs are currently being put into service. The same cannot be said of illegal actors like Uber and Lyft, who use vehicles as old as 10 years of age and to whom the PPA compares taxicabs. Taxicab owners have invested significant sums of money in purchasing, maintaining and upgrading their vehicles. Each day older vehicles are replaced with newer and more modern models, including WAVs. The PPA is willfully ignoring the fact that there are hundreds of newer vehicles on the street. All taxicabs have passed the Authority's stringent biannual inspections and if they weren't suitable for use, they would not be in service.

It is unfair for the PPA to compare taxicabs to the vehicles used by illegal operators like Uber and Lyft. Uber and Lyft have been operating in Philadelphia for less than a year, therefore their vehicles are not subject to the same wear and tear as taxicabs. Their vehicles aren't required to contain partitions, markings or the countless other modifications that are required of taxicabs, which undoubtedly affect the visual appeal of taxicabs. It is absurd for the PPA to

compare taxicabs to a service that they themselves have declared illegal. If the PPA wants taxicabs to be more like Uber and Lyft, the industry will gladly stop paying medallion fees, subjecting itself to twice-yearly inspections and purchasing expensive commercial insurance, among other things. We are already at a competitive disadvantage with these companies. Forcing the industry to purchase brand new WAVs would only exacerbate this growing problem.

Let's not kid ourselves: A lack of brand-new vehicles is not what is causing the taxicab industry harm—it's the PPA's wholly inadequate enforcement of Uber and Lyft. The PPA's enforcement of these illegal actors has been abysmal. Uber has proclaimed that it has provided over 1 million rides in Philadelphia since October 2014, yet the PPA has only impounded about 60 of their vehicles. It is infuriating to read that "the Authority has no expectation that the taxicab industry will voluntarily work to save itself." This is our livelihood and taxicab owners have invested millions into this business. We refuse to fail. If this industry collapses, it will be the fault of the PPA. Industry members have spent tens of thousands of dollars of their own money going after Uber and Lyft and pushing legislators to do the same. This is in addition to paying millions in fees and assessments to the PPA, hoping that it will do its job and protect the rights of medallion owners and taxicab drivers. Unfortunately, the Authority has done the bare minimum and now it wants to shift the blame onto the industry and pretend the problem lies with a lack of brand new vehicles. We're not buying this argument and neither should you.

If the Proposed Regulation is passed, it will be the death knell for the taxicab industry in Philadelphia. There is a dearth of taxicab drivers because of illegal competition from Uber and Lyft. The drivers that are working can barely pay their medallion leases and in turn medallion owners can barely pay their creditors. This industry is already hanging on by a thread. Passing the Proposed Regulation would be a nail in the industry's coffin. If the Proposed Regulation is enacted, not only will there be no WAV taxicabs, there will be no taxicabs altogether.

##### **5. The PPA did not consider any alternatives to the Proposed Regulation.**

The PPA did not consider any alternative options in its analysis of the Proposed Regulation. There will already be 150 wheelchair accessible taxicabs in Philadelphia. It is not clear what the demand for these taxis will be, but the PPA has not demonstrated that there is a need that that all 1,600 taxis in Philadelphia be WAVs. Such a transformation will only cause taxis to lose more customers to Uber and Lyft, because unfortunately, not all consumers want to ride in WAVs. Some consumers prefer sedans, minivans and SUVs and those vehicle options will not be available to riders of taxicabs.

The Proposed Regulation also unfairly singles out taxicabs. Why not extend the same type of regulation to limousines? Individuals with mobility disabilities also need limousine access, given the rise in popularity of Uber's Black service, which exclusively uses limousines licensed by the PPA. This kind of disparate treatment is unfair and puts an undue burden on the entire taxicab industry. The PPA did not make any effort to consider any options that were less burdensome on the taxicab industry, especially in light of the operational crisis currently facing taxicabs in Philadelphia.

**6. The Proposed Regulation renders the PPA's wheelchair accessible medallion auction obsolete.**

In 2012 the Parking Authorities Law was amended to provide for the auction and sale of 150 exclusively wheelchair accessible taxicab medallions. Industry members have voluntarily bid on these medallions in order to create an exclusive market for mobility-disabled riders. The PPA proposes to destroy this exclusive market by converting all taxis into WAVs. What is the point of auctioning off 150 wheelchair medallions if the PPA is going to turn around and mandate that all taxis be wheelchair accessible? The Proposed Regulation discourages others from bidding on these wheelchair accessible medallions if these medallions are going to be stripped of their unique attributes. The Proposed Regulation also discourages bidders from closing on the auctioned WAV medallions. Because no financing is currently available, any cash set aside for closing will need to be allocated towards the purchase of new WAVs for existing medallions.

**7. There are not enough drivers to support the Proposed Regulation.**

Pursuant to the PPA's regulations, all drivers that wish to drive a WAV taxicab must be certified by the PPA to drive such a vehicle. They must take a special course that consists of a minimum of 6 hours of in-class instruction and field training and they must pass an examination in conjunction with this course. Currently, there are only 12 drivers qualified to operate a WAV taxicab even though WAV driver courses have been offered for over 6 months (see attached). Obviously there are not even enough drivers to service the 150 newly auctioned WAV medallions, let alone an entire city of WAV taxicabs. At this rate, there will never be enough drivers available to operate the city's taxicabs if all of them are required to be wheelchair accessible. Moreover, the PPA does not have a way to connect the approved WAV drivers with WAV medallion owners. The PPA's current plan is to have medallion owners post advertisements in the Taxi and Limousine Division's lobby, hoping that the 12 WAV drivers will see the ad and reach out to medallion owners. This proposition is laughable.

If the Proposed Regulation is enacted, compliance will be impossible. Even if drivers wanted to undergo such training, they cannot. Per the PPA's website "The [Taxi and Limousine Division] Administration Department is currently accepting no more than 129 WAV Driver Applications." (see attached). That does not even leave enough drivers to service the 150 wheelchair accessible medallions that are now being put on the street. The PPA is absurdly proposing an "if you build it, they will come" approach by forcing the industry to buy WAVs before there are enough drivers available. This is an expensive and backwards proposition. Rather than undergo training, drivers will simply leave for Uber, Lyft and limousine companies, which are not subject to the same strict regulations as taxicabs.

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In conclusion, although PTA respects and acknowledges the needs of the disabled community and agrees that taxicabs should improve over time, the Proposed Regulation is unlawful and the industry is incapable of compliance for the reasons set forth above. It is the PPA's responsibility to propose reasonable regulations that are lawful and sustainable. The Proposed Regulation does not fit this description.

Respectfully,

A handwritten signature in black ink, appearing to read 'Danielle Friedman', written over a horizontal line.

Danielle Friedman

cc: James R. Ney, Director-Taxi and Limousine Division (via email)  
Dennis G. Weldon, Esquire-General Counsel (via email)

## Financial Analysis

### Annual Income and Expenses of a Leased WAV Medallion under the Proposed Regulation

Lease income	\$ 32,760.00	(leased for 2 shifts at \$350 per shift for 52 weeks a year, 90% operational)
Liability Insurance coverage	\$ (7,500.00)	
Comprehensive and Collision coverage	\$ (3,000.00)	
Interest on vehicle financing	\$ (1,500.00)	at 5%, assuming financing is available
Vehicle depreciation	\$ (7,500.00)	Over 4 years (because of mileage restriction of 250K miles)
Medallion fees	\$ (1,700.00)	
Miscellaneous expenses	\$ (1,000.00)	
Dispatch dues	\$ (1,800.00)	
Repairs and maintenance	\$ (3,000.00)	
Loan payments	\$ (17,000.00)	for funds borrowed prior to WAV conversion
<b>Total Loss</b>	<b>\$ (11,240.00)</b>	

### Annual Income and Expenses of a Medallion Owner-Operated WAV Medallion under the Proposed Regulation

Income	\$ 60,000.00	
Liability Insurance coverage	\$ (7,500.00)	
Comprehensive and Collision coverage	\$ (3,000.00)	
Interest on vehicle financing	\$ (1,500.00)	at 5%, assuming financing is available
Vehicle depreciation	\$ (7,500.00)	Over 4 years (because of mileage restriction of 250K miles)
Medallion fees	\$ (1,700.00)	
Miscellaneous expenses	\$ (1,000.00)	
Dispatch dues	\$ (1,800.00)	
Repairs and maintenance	\$ (3,000.00)	
Loan payments	\$ (17,000.00)	for funds borrowed prior to WAV conversion
Gasoline and operational expenses	\$ (18,000.00)	for a WAV
<b>Total Loss</b>	<b>\$ (2,000.00)</b>	



**PHILADELPHIA PARKING AUTHORITY  
TAXICAB AND LIMOUSINE DIVISION**

**WAV DRIVERS**

**Below is a list of certified taxicab drivers who completed WAV (wheelchair accessible vehicle) taxicab driver training and passed the test as required by 52 Pa. Code §§ 1021.8 & 1021.9. All taxicab certificate holders and drivers are required to ensure that a driver has been actually issued a WAV taxicab driver certificate prior to providing service in a WAV taxicab (see 52 Pa. Code § 1021.5a).**

	<b>NAME</b>	<b>Driver Certificate H #</b>	<b>DATE TRAINING &amp; TESTING COMPLETED</b>
<b>1.</b>	Ibrahim Kaba	H-104660	1/09/15
<b>2.</b>	Billy Goodman	H-104164	1/09/15
<b>3.</b>	Alhousseyni Fofana	H-101792	1/09/15
<b>4.</b>	Mohammed Morabet	H-110189	1/16/15
<b>5.</b>	Mamadou Diallo	H-109194	1/16/15
<b>6.</b>	Marvin Sabir	H-111051	1/16/15
<b>7.</b>	Gilbert Ferblantier	H-102894	1/16/15
<b>8.</b>	Lofti Ben-Abdallah	H-101690	1/16/15
<b>9.</b>	Lennel Young	H-101255	1/16/15
<b>10.</b>	Joseph Kaminer	H-110755	6/16/15
<b>11.</b>	Abdelkader Meghdir	H-101630	6/16/15
<b>12.</b>	Abdelkader Lahlah	H-110185	6/16/15

The TLD Administration Department is currently accepting no more than 129 WAV Driver Applications on a first come first served basis until the regulatory cap is reached. Form DR-4 is available on the PPA-TLD web site at <http://www.philapark.org/resources-and-forms/> and may be filed with the Manager of Administration at TLD Headquarters, 2415 S. Swanson Street, Philadelphia, PA 19148.