

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT—CHANCERY DIVISION

WOLFGANG WEISS, SAMUEL KANJAMA,)
FRED DAVIS, SAAED SIDDIQUI, STANLEY)
SHEN, QIANG CHEN and CHAO TAN)
Plaintiffs,)
v.) 08 CH 15273
CITY OF CHICAGO, A Municipal Corporation,)
Defendant..)
)

SECOND AMENDED PETITION FOR INJUNCTIVE RELIEF

NOW COME plaintiffs, WOLFGANG WEISS, SAMUEL KANJAMA, FRED DAVIS, SAAED SIDDIQUI, STANLEY SHEN, QIANG CHEN and CHAO TAN (hereafter collectively referred to as “CABDRIVERS”) by and through their attorneys, DONALD S. NATHAN, P.C., and in seeking injunctive relief against the defendant, CITY OF CHICAGO, A Municipal Corporation (hereafter “CITY”) from this Honorable Court from enforcement of an ordinance referred to hereinafter, they state as follows:

1. That the plaintiffs, CABDRIVERS, are all licensed public passenger vehicle chauffeurs subject to regulation by defendant, CITY, through one of its agencies, the Department of Consumer Services (“DCS”), and, as such, are subject to the ordinances promulgated and enacted by the City Council of CITY.

2. That over the course of 2008, the price of gasoline has generally spiraled upward causing significant economic privation to CABDRIVERS and all professional chauffeurs for hire, prices for gasoline having stabilized only recently but still well over the level of just a year ago.

3. In addition to the spiraling cost of gasoline, the plaintiffs, CABDRIVERS, have faced a dramatic increase in the cost of living that is largely a result of ever rising costs of energy, food and a general slowing of the American economy.

4. Over the course of the past several months, CABDRIVERS, have been seeking to have a revision of taxicab rates of fare so as to ameliorate these ever rising costs, several of them having appeared before the City Council of CITY to testify before its Transportation Committee at hearings that have been conducted at various times prior to the promulgation or enactment of any ordinance to address what CABDRIVERS had perceived as an economic crisis..

5. Moreover, CABDRIVERS, all of whom are also members of the UNITED TAXIDRIVERS COMMUNITY COUNCIL (“UTCC”), had been seeking through the auspices of the UTCC, a general taxicab fare revision designed to address the perceived economic crisis they faced of approximately SIXTEEN (16%) PERCENT

6. Instead of opting for a general adjustment of the taxicab rates of fare, the City Council of CITY has enacted an ordinance that, in effect, provided for a “surcharge” based on the price of gasoline that was both outmoded before having been promulgated and insignificant in meeting the increased costs of gasoline and the cost of living faced by CABDRIVERS and those similarly situated.

7. That a copy of the aforesaid ordinance, amending the Municipal Code of Chicago, Sections 9-104-030, 9-104-040, 9-104-140, 9-112-2609, 112-460 and 9-112-510 has been appended to this Petition For Injunctive Relief and is incorporated herein by way of reference as “Exhibit A”.

8. On information and belief, the aforesaid ordinance and taxicab fare

revision would yield an increase in the income of CABDRIVERS of approximately TWO (2%) PERCENT through the so-called “gas surcharge” being enacted in Section 9-112-510, and given the effect of the surcharge particularly on short fares may actually cause a dramatic decrease in the net income of CABDRIVERS by reason of an anticipated decrease in short trips being taken by Chicagoans.

9. That the so-called “gas surcharge” portion of the ordinance fails to address the need of public chauffeurs in Chicago for a taxi rate increase in favor of a band-aid solution that was outmoded before the ordinance went into effect on April 28, 2008 causing irreparable harm to CABDRIVERS.

10. That the enactment of the “gas surcharge” was done without according CABDRIVERS and those similarly situated the opportunity to be heard before the CITY Council Transportation Committee with respect to the ordinance denying them the substantive process due them under both the Constitution of the United States of America and the State of Illinois.

11 That yet other sections of the ordinance are going to cause CABDRIVERS irreparable harm; namely, Section 9-112-460 which actually *decreases fares by THIRTY-THREE and 33/100 (-33.3%) PERCENT* from Midway Field to Burbank and O’Hare Field to Skokie, the enactment of which took place without according them that process due under the Constitution of the United States of America and the State of Illinois.

12. Further, that the ordinance that took effect on April 28, 2008 provided for trebling of fines for the most petty of infractions of Rules and Regulations of DCS in Section 9-104-140 thereof at “Administrative Hearings” at which rank hearsay

evidence is routinely admitted and due process is flouted. CITY, through the enactments to certain statutes by the State of Illinois and the United States has taken it upon itself to deprive the CABDRIVERS as a class and/or individually to deprive them and other taxi drivers in and about CITY of the right to due process and confrontation contrary to the Constitutions of the United States of America. and the State of Illinois in the course of its Administrative Hearings.. Specifically they do not allow or follow the demand of confrontation and cross-examination of witnesses and the further expansion of deprivation by not allowing the issuance of Witness Subpoenas and/or Subpoenas Duces Tecum without approval of the Hearing Officer at the time of the scheduled hearing. Motions for the production of witnesses and evidence in lieu of hearsay evidence is routinely cast aside without explanations and justifications on the record . The Hearing Officers of the City of Chicago routinely deny these rights without explanation on the record written or recorded. Written decisions and written fact findings are routinely skipped over or denied when requested making an appeal almost fruitless and/or impossible.

12. Further, the ordinance in Section 9-104-040©(iii) permits the DCS Commissioner to suspend or even to *revoke* the Public Passenger Vehicle Chauffeur license of CABDRIVERS who might be charged with a felony *before even a finding of guilt has been made* thereby ignoring the presumption of innocence fundamental to the system of justice in every jurisdiction of these United States of America and, thereby, abridging the rights of CABDRIVERS without any procedural due process, denying CABDRIVERS and those similarly situated to notice and/or an opportunity to be heard by DCS prior to the loss of licensure as a public passenger vehicle chauffeur.

13. That there is no legal remedy available to the plaintiffs, CABDRIVERS, that would assure the possibility of a taxicab rate increase that would offset the cost of gasoline and offset the general increase in the cost of living that reasonably can be anticipated to continue, nor is there any legal remedy for the other onerous parts of the ordinance that abridge their rights and have the certain affect of even causing the decrease of their income.

14. That it would cause no hardship upon defendant, CITY, to have an injunction imposed upon it to prevent the said ordinance from taking effect so as to consider the plight of CABDRIVERS facing continuing economic hardship with the currently planned taxicab fare revisions and so as to consider alternative revisions that would relieve their long-term difficulties..

15. That it would cause no hardship to the defendant, CITY, pending the time of a full hearing on the merits of this Petition for Injunctive Relief to have the aforesaid ordinance enjoined from taking effect.

16. That the parties to this action all do business in Cook County, and any injunctive relief that this Honorable Court might grant would be easily capable of enforcement.

WHEREFORE, plaintiffs, CABDRIVERS, pray as follows:

- a. That pending a full hearing of the facts and issues relative to the relief sought in this petition for injunctive relief that the effect of the ordinance marked "Exhibit A" be stayed;
- b. That this Honorable Court restrain defendant, CITY, from enforcing the ordinance marked "Exhibit A";

- c. In the alternative, that this Honorable Court restrain defendant CITY and the DCS from failing to consider further and additional taxicab rate of fare revisions *in futuro*.
- d. For such other and further relief as fairness and equity require;
- e. For costs of this action.

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