

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

TAXICAB SERVICE ASSOCIATION; LOMTO
FEDERAL CREDIT UNION; MELROSE CREDIT
UNION; MONTAUK CREDIT UNION; and
PROGRESSIVE CREDIT UNION,

Plaintiffs,

v.

THE STATE OF NEW YORK; THE NEW YORK
STATE ASSEMBLY; THE NEW YORK STATE
SENATE; ANDREW M. CUOMO, in his official
capacity as Governor of New York; THE CITY OF
NEW YORK; MICHAEL R. BLOOMBERG, in his
official capacity as Mayor of the City of New York;
the NEW YORK CITY TAXI AND LIMOUSINE
COMMISSION, a charter-mandated agency; and
DAVID YASSKY, in his official capacity as
Chairman and Commissioner of the New York City
Taxi and Limousine Commission,

Defendants.

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Index No.

IAS Part

Justice

COMPLAINT

FILED

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Plaintiffs, by and through their attorneys, Gibson, Dunn & Crutcher LLP, allege as
follows:

NATURE OF THE ACTION

1. Defendants have passed, signed into law, and now taken steps to implement a bill
that has from its inception worked an end-run around principles of local democracy and upended
the balance of powers at the local level, and now threatens both the stability of the New York
City taxi industry and New York City's environmental interests, in violation of the New York
and United States Constitutions and State and City law.

2. In 2011, New York City Mayor Michael Bloomberg—seeking to plug a gaping hole in the City’s budget—proposed a new taxi medallion issuance of unprecedented proportions, and at the same time—in order to provide political cover—proposed a new class of low-cost livery vehicle licenses that would be permit their owners to pick up street hails outside Manhattan. When the City Council—working diligently with the ground transportation industry to develop other, more sustainable and efficient solutions to the lack of outer-borough and handicapped street-hail access—resisted the Mayor’s proposal, the Mayor refused to yield to the local democratic process and instead took his fight to Albany. There, his sympathizers were able to ram the Mayor’s proposal through the Assembly and Senate in just six days and later pass a chapter amendment which was a product of back-room negotiations that completely excluded medallion owners, drivers, lenders, and large swaths of the livery industry.

3. The HAIL Act (Chapter 602 of the Laws of 2011 and its chapter amendment, chapter 9 of the Laws of 2012), is invalid on its face. It represents an illegitimate state imposition on, and commandeering of, numerous aspects of New York City’s local property, affairs and government, in violation of the New York Constitution’s Municipal Home Rule Law. Through the HAIL Act, the Legislature and Governor have interfered with the City Council’s long-standing regulation of the local taxi system; redistributed power among the branches of the City government by empowering the Mayor and the Taxi and Limousine Commission (“TLC”) to act alone, without the City Council, to issue medallions and HAIL licenses; overridden the City budget process and the City’s local financial autonomy by granting the New York City Police Department (“NYPD”) and TLC an unchecked source of revenue from HAIL fines; and undermined the City’s environmental policy by purporting to exempt City agency actions from environmental review.

4. None of this heavy-handed interference in matters that are properly local is justified by any important State interest; any perceived issues regarding street-hail service in New York City are local in nature and must under law be addressed with the involvement of the City Council. Moreover, the HAIL Act is invalid because it delegates to state law enforcement agencies, such as the state police and the Metropolitan Transportation Authority (“MTA”), authority to control the money they generate as fines by enforcing the HAIL Act.

5. At the same time the HAIL Act illegally takes local government affairs out of the hands of the City Council, it effects a massive taking of private property from medallion lenders and owners. This small class of private citizens on whose backs the taxi industry was built—comprised in significant part of minority-owned small businesses—is now being asked to shoulder alone the costs of outer-borough and handicapped accessibility.

6. Medallion owners and lenders have distinct investment-backed expectations of hail exclusivity, which have been bolstered over decades by the State and City’s multiple representations of value. For example, medallion owners and lenders have reasonably relied—to their detriment—on the hail exclusivity embodied in the New York City Administrative Code and various medallion auction materials. *See, e.g.*, N.Y.C. Admin. Code § 19-504(a)(1) (“No motor vehicle other than a duly licensed taxicab shall be permitted to accept hails from passengers in the street”); N.Y.C. Taxi & Limousine Comm’n, 2004 N.Y.C. MEDALLION SALE INFORMATION KIT (2004) (attached as Exhibit C), Frequently Asked Questions at 2 (“Purchasing a medallion gives you ... the sole right to accept street hails on the streets of New York City.”). These representations were intentionally designed to induce the highest possible bids for new medallions, which resulted in hundreds of millions of dollars for the City.

7. Over the years, promises of street-hail exclusivity directly incentivized thousands of individuals to make life-changing investments and directly induced lending institutions to enter and remain in the market that backs those investments by taking collateral interests in medallions. The issuance of HAIL licenses would flood the once-exclusive market for street hails, siphoning both customers and drivers away from yellow cabs. Because the HAIL Act imposes dramatic private costs on this small class of individuals in order to address a public problem, but provides no just compensation for medallion owners or lenders, it is illegal and unconstitutional.

8. The Mayor's end-run around the City Council also threatens State and City environmental conservation interests. Under the New York State Environmental Quality Review Act ("SEQRA") and the New York City Environmental Quality Review ("CEQR") rules, agency actions such as the issuances of medallions and HAIL licenses must be preceded by a full environmental impact review. On March 12, 2012, the TLC issued a "positive declaration" requiring that an Environmental Impact Statement be produced before the City can issue any of the 2,000 yellow taxi medallions authorized by the HAIL Act, based on an Environmental Assessment Statement that identified a number of areas of potential significant adverse environmental impact, including: air quality; noise; socioeconomic conditions; transportation; public health; and neighborhood character. But at the same time, the Mayor and TLC have decided not to perform such a review for the 18,000 new HAIL licenses, despite equivalent or greater potential environmental effects. Not only is this decision unauthorized by the HAIL Act and unsupportable under SEQRA and CEQR, but also it reveals the TLC's irrational interpretation of the HAIL Act and its rush to make arbitrary and capricious decisions in furtherance of the Mayor's goals.

9. The Act betrays the long-held and reasonably justified expectations of the entire yellow cab industry, which has been closely regulated by New York City since the industry's inception in 1937. For years, medallions have been auctioned at market-competitive prices based directly on the government's express and implied representations that medallions would be required in order to provide street-hail taxi service throughout New York City, and that the number of medallions would be strictly controlled, as it has been since the passage of the Haas Act in 1937. *See, e.g.*, Exhibit C, MESSAGE FROM NEW YORK CITY TAXI AND LIMOUSINE COMMISSIONER/CHAIR at 2 ("The holders of these medallions possess the exclusive right to accept hails from passengers on the streets of New York City."); Schaller Consulting, THE NEW YORK CITY TAXICAB FACT BOOK at 23 (March 2006) (attached as Exhibit D) (discussing the City's legislative commitment to a fixed supply of street-hail vehicles). Without the ability to rely on these long-held assumptions, many lenders, buyers and drivers would not have invested millions of dollars and years of their lives in this important form of private transportation. In one fell swoop, the Act has destroyed these assumptions, and with them, the economic prospects for current medallion owners. Indeed, the Act casts doubt over the continued viability of New York City's medallion system.

10. Plaintiffs seek declaratory and injunctive relief to vindicate the rights of medallion lenders and prevent the further enforcement of this illegal and unconstitutional legislation.

VENUE

11. Venue is proper under C.P.L.R. 504, 505, and 506, because the cause of action arose in New York County, where the City, the Mayor, the TLC and Mr. Yassky have their principal offices.

PARTIES

12. Plaintiff the Taxicab Service Association ("TSA") is an association of credit union lenders, which finance New York City taxi medallion purchases by individuals, small businesses and other corporate entities. Credit union lenders are state-chartered, federally insured, member-owned, not-for-profit financial institutions.

13. Plaintiff LOMTO Federal Credit Union ("LOMTO") is a credit union lender that finances New York City taxi medallion purchases by individuals, small business and other corporate entities. LOMTO is a member of TSA.

14. Plaintiff Melrose Credit Union ("Melrose") is a credit union lender that finances New York City taxi medallion purchases by individuals, small business and other corporate entities. Melrose is a member of TSA.

15. Plaintiff Montauk Credit Union ("Montauk") is a credit union lender that finances New York City taxi medallion purchases by individuals, small business and other corporate entities. Montauk is a member of TSA.

16. Plaintiff Progressive Credit Union ("Progressive") is a credit union lender that finances New York City taxi medallion purchases by individuals, small business and other corporate entities. Progressive is a member of TSA.

17. The State of New York is the state government of New York, including the New York State Assembly, the New York State Senate, and Andrew M. Cuomo, in his official capacity as the Governor of the State of New York, and includes all subordinate offices.

18. Defendant New York State Assembly is one house of the New York State Legislature, responsible in part for introducing and passing laws consistent with the mandates of the New York and United States Constitutions, and all other applicable laws and treaties.

19. Defendant New York State Senate is one house of the New York State Legislature, responsible in part for introducing and passing laws consistent with the mandates of the New York and United States Constitutions, and all other applicable laws and treaties.

20. Defendant Andrew M. Cuomo is the Governor of the State of New York. Governor Cuomo is the chief executive officer of New York State, responsible for executing the State's laws and approving or vetoing the legislative bills presented to him. Plaintiffs bring this action against Governor Cuomo in his official capacity.

21. Defendant City of New York is a domestic municipal corporation located within the State of New York.

22. Defendant Michael R. Bloomberg is the Mayor of the City of New York. Mayor Bloomberg is the chief executive officer of New York City, responsible for executing the City's laws and controlling and directing the City's executive and administrative agencies in a manner consistent with law. Plaintiffs bring this action against Mayor Bloomberg in his official capacity.

23. Defendant New York City Taxi and Limousine Commission is a New York City charter-mandated agency, responsible for licensing and regulating New York City's taxicabs and liveries and implementing transportation initiatives in a manner consistent with law.

24. Defendant David Yassky is the Chairman and a Commissioner of the TLC, responsible for administering the TLC and implementing its statutory initiatives in a manner consistent with law. Plaintiffs bring this action against Mr. Yassky in his official capacity.

FACTUAL BACKGROUND

For 75 years, the public and the taxi industry have relied upon the medallion system to ensure the continued economic viability of private transportation in New York City.

25. The medallion system dates back to the Great Depression. Knowing that the yellow cab industry was a vital component of the local transit system—and one that could not long endure depressed prices caused by an oversupply of drivers—the City Board of Aldermen took decisive action to ensure the industry's long-term profitability.

26. In 1937, Mayor Fiorello La Guardia signed the Haas Act, which capped at 13,595 the number of yellow cab licenses available in the City. Over time, a number of licenses were surrendered, decreasing the number of active licenses to 11,787.

27. In 1971, the City repealed the provision of the Haas Act providing for new licenses, which by then were known as medallions. The City's commitment made clear that medallion owners and others in the industry could rely on a fixed supply of medallions as a long-term economic condition, and it ensured that medallions would retain their value over time.

28. Based on the City's assurances, lenders—which in many cases had been financing medallion buyers since the passage of the Haas Act—dedicated increasing amounts of capital to the industry.

29. Starting in 1996, after the New York City Council sent a Home Rule Message to the Legislature, years of debate, and several environmental impact statements, the City auctioned 400 new medallions—the first medallion issuance of any kind since the Haas Act. Commercial lenders played an essential role, facilitating purchases worth \$85 million.

30. A second period of medallion auctions took place beginning in 2004 when, after working closely with representatives from the New York City Council and receiving two Home

Rule Messages from the Council, the Legislature provided for the auction of 1,050 new medallions. An environmental impact statement was prepared for this issuance.

31. During the medallion issuance that began in 2004—which was only the second new medallion issuance ever—the City induced the yellow cab industry to participate (and lenders to provide capital) by representing that medallion values would be protected in the long term through, among other means, maintenance of “sole” and “exclusive” hail rights.

32. The City also increased the statutory fare to make medallions more financially attractive—further solidifying expectations and confirming the bargain in which the City gave something of value in exchange for the industry’s support for, and investment in, a relatively small number of medallions.

33. This was consistent with the City’s representations throughout the history of the medallion system. *See* Exhibit C, MESSAGE FROM N.Y.C. TAXI AND LIMOUSINE COMMISSIONER/CHAIR at 2 (“The holders of these medallions possess the exclusive right to accept hails from passengers on the streets of New York City.”); *id.*, FREQUENTLY ASKED QUESTIONS at 2 (“Purchasing a medallion gives you the license to operate a New York City taxicab. This gives you the sole right to accept street hails on the streets of New York City.”).

34. These representations were intentionally designed to induce the highest possible bids for new medallions, which resulted in hundreds of millions of dollars for the City. Indeed, in order to maximize the money raised for the City’s coffers during medallion auctions in 1996 and 2004, the City actively encouraged owners and lenders to engage in sealed bidding for medallions by touting past performance.

35. Today, the yellow cab industry is a critical component of New York City’s transit system and a vital aspect of the City’s economy. The City’s 13,237 yellow cabs—more than

5,000 of which are individually owned and operated—provide 240 million rides per year and generate taxable revenues of more than \$2.5 billion annually. As of 2005, the City licensed approximately 42,900 yellow cab drivers.

36. The City's 8 million residents and 40 million annual visitors depend on a reliable supply of regulated, safe yellow cabs authorized to pick up street hails.

37. The City administers the medallion regime for the purpose of maintaining adequate and safe local transit options. The City's long history of careful and deliberate taxi regulation, without State interference, reflects an understanding by all levels of government that the regulation of taxi cabs is a City affair. The TLC is a City agency. Taxi licenses themselves—the central targets of this legislation—are auctioned by the City for its own exclusive financial benefit. And most importantly, every prior taxi license issuance has been by City initiative.

38. Since the inception of the medallion regulatory system, the New York City Council (and its predecessors) has exercised sole authority to pass regulations that affect the City's taxis and liveries. Prior to the Act, the City Council had been the driving force behind each and every direct intervention in New York City's taxi industry, including the previous medallion issuances. To the extent that the Mayor or TLC participated in the increase or decrease of taxi licenses, they did so pursuant to resolutions of the City Council.

The Mayor orchestrated an end-run around the City Council and State and City environmental regulations.

39. Although yellow cabs provide service in all five boroughs of New York City, in 2011 there was a recognized need for more robust street pick-up service in the outer boroughs. Some of that demand was and is currently met through illegal street pick-ups by unlicensed and

unregulated drivers. In recent years, the City had solicited proposals for meeting this need through safe, fully regulated and economically viable means.

40. The yellow cab industry—in a good-faith effort to resolve the outer-borough taxi shortage without compromising the fundamental economics of the medallion system—developed various proposals in consultation with City officials. Under those proposals, current medallion owners would have committed to dispatch yellow cabs to the outer boroughs in proportion to relative demand. In fact, the 2,000 new medallions created by the HAIL Act are an inelegant nod to the sustainable fleet growth the industry was working diligently to plan with City officials.

41. In the first six months of 2011, industry representatives met several times with Deputy Mayors Howard Wolfson and Stephen Goldsmith, as well as TLC Chairman David Yassky. The meetings were often attended by City Council member James Vacca, the Chair of the Council's Transportation Committee.

42. Throughout these negotiations, everyone understood that the outer-borough shortage needed to be resolved at the City level. The City Council is closest to the issue, giving the Council much-needed expertise that does not exist at the State level. And everyone knew that any state legislation authorizing a new medallion issuance would require the City Council's approval of a Home Rule Message. Chairman Yassky admitted this in an e-mail to the TLC's industry distribution list. *See* E-mail from David Yassky to "TLC_EVERYONE," Jan. 18, 2011 ("[T]here will be a full legislative process on this (it requires City Council approval) and ... I expect the City Council may seek to change [some aspects]").

43. Despite the parties' progress toward a negotiated resolution—not to mention the requirement that the City Council approve a Home Rule Message—Mayor Bloomberg stepped in

and short-circuited the process entirely. Although there were multiple medallion-based mechanisms to address the outer-borough taxi shortage, the Mayor bypassed the joint efforts of industry and local government, tapped his contacts in Albany, and pushed a bill through the Legislature in six days—cutting out the City Council altogether.

44. The Act was passed without any formal input from the City Council, which has a long history of exercising direct control over the supplies of various taxi and livery licenses.

45. Instead, the Mayor—knowing that the City Council would not approve such a disastrous bill, at least not without some study and debate—rushed directly to the Legislature on a matter of obviously local concern.

46. The Act passed the Assembly on June 21, 2011 and the Senate on June 24, 2011, as the annual legislative session was coming to a close.

47. Amid mounting criticism from the industry, legislators decided not to immediately present the Act to the Governor for his signature.

The HAIL Act has generated pervasive and widespread opposition.

48. The first version of the HAIL Act—chapter 602 of the Laws of 2011 (the “2011 Bill”)—passed the Legislature on June 24, 2011.

49. At the time, despite warnings that his legislative maneuvering was unconstitutional, Mayor Bloomberg dismissed various Home Rule objections as mere “tradition.” See Michael M. Grynbaum, *Legislature Approves Bloomberg Plan to Allow Street Hails of Livery Cabs*, N.Y. TIMES, June 24, 2011, <http://www.nytimes.com/2011/06/25/nyregion/bloomberg-plan-to-expand-reach-of-livery-cabs-passes-in-albany.html>.

50. After the 2011 Bill passed, New Yorkers’ concerns reached a fever pitch. Various interest groups tried to communicate their concerns to the Legislature and the

Governor's Office. Among others, these groups included representatives of the medallion lending industry, yellow cab and livery operators, and New York's handicapped community.

51. Even the Act's original supporters began to recognize that the Act was hastily designed and rife with legal and economic infirmities. See Kenneth Lovett, *Taxi Bill Dying In Albany*, N.Y. DAILY NEWS: DAILY POLITICS, Sep. 19, 2011, <http://www.nydailynews.com/blogs/dailypolitics/2011/09/taxi-bill-dying-in-albany>. For example, Senator Martin Golden, who had sponsored the Act in the Senate, sought its veto. In the months after its passage, many state legislators recanted their initial support for the Act. See Michael M. Grynbaum, *Cuomo Vows to Broker Deal for Hailing Livery Cabs*, N.Y. TIMES, Sep. 26, 2011, <http://cityroom.blogs.nytimes.com/2011/09/26/cuomo-vows-to-broker-deal-for-hailing-livery-cabs/>.

52. Amid protests, Governor Andrew Cuomo voiced his own concerns. On October 4, the Governor made the following public statement:

Today a group is protesting against the City's plan to change the taxi and livery rules in New York City. Previously groups protested in favor of the City's plan. There is no doubt that there are strong feelings and opinions on many sides. The optimum goal is to design a plan that provides taxi access to the outer boroughs, access to the disabled, revenue for the City, and respects the medallion franchise. We are working to fashion a plan that fairly balances those goals. I will not approve a plan that doesn't.

53. The Governor convened a "Taxi Summit" on November 4. At that Summit, representatives from the Governor's Office invited livery-base owners, livery drivers, medallion owners, yellow-cab drivers, and advocates for disability rights, among others, to comment on the Act. When the November 4 Summit concluded, there was widespread optimism that the Act would be amended in order to remedy the legal and policy defects that rendered it disastrous for New York City's private transportation industry, but no amendments were made at that time.

54. On December 6, Governor Cuomo revealed plans to veto the Act unless amendments were made, in order to prevent a legally defective and economically dangerous bill from being signed into law. *See Sources: Cuomo To Veto Livery Cab Bill Unless Amendment Is Met*, NY1, Dec. 6, 2011, http://www.nyl.com/content/top_stories/152016/sources--cuomo-to-veto-livery-cab-bill-unless-amendment-is-met.

55. Amid rumors that the Act was on the verge of being vetoed, proponents of the Mayor's plan decided to force the Governor's hand. On December 9, 2011, although the Act's constitutional and legal flaws remained unresolved, the Assembly sent the Act to Governor Cuomo for approval, knowing that it would not be politically expedient for him to veto a bill that had an ostensible goal of providing New Yorkers with more taxi access. *See* Kenneth Lovett, *Livery Cab Talks Stalling But Not Dead – Updated*, N.Y. DAILY NEWS: DAILY POLITICS, Dec. 7, 2011, <http://www.nydailynews.com/blogs/dailypolitics/2011/12/livery-cab-talks-stalling-but-not-dead-updated>.

56. On December 15, the Governor criticized TLC Chairman Yassky's politically charged public comment that the Mayor and Governor were in talks to save the Act. The Governor also grilled Chairman Yassky on concerns that the Act would disrupt the economics of the medallion industry. *See* Kenneth Lovett, *Gov. Andrew Cuomo fires heated questions at Taxi and Limousine Commission chief David Yassky over livery cab pickups*, N.Y. DAILY NEWS, Dec. 15, 2011, <http://www.nydailynews.com/new-york/gov-andrew-cuomo-fires-heated-questions-taxi-limousine-commission-chief-david-yassky-livery-cab-pickups-article-1.992344>.

57. On December 17, the Governor convened a second Summit, which included a drastically limited mix of interest groups. At this point, medallion franchisees were shut out of

the legislative process, and focus shifted permanently towards the Act's violation of the Americans with Disabilities Act ("ADA").

58. Because a violation of the ADA was not the only legal or constitutional infirmity plaguing the Act, the December Summit all but ensured that any amendments to the Act would be insufficient to ameliorate the problems with the law.

59. The Act survived the December Summit with a combination of backroom politics and naïve optimism. With the Act sitting on the Governor's desk, requiring his decision, the Mayor, disability-rights advocates, and legislative officials brokered a last-minute deal: Governor Cuomo would sign the Act into law in exchange for the Legislature's and Mayor's promises to support chapter amendments that would ameliorate certain of the Act's legal infirmities. See Michael M. Grynbaum, *Deal Struck to Broaden Taxi Service in the City*, N.Y. TIMES, Dec. 20, 2011, http://www.nytimes.com/2011/12/21/nyregion/deal-is-struck-to-broaden-taxi-service-in-new-york-city.html?_r=1&hp.

60. On December 21, the Governor signed the 2011 Bill into law.

61. On February 17, 2012, the Governor signed chapter 9 of the Laws of 2012 (the "Chapter Amendment") into law.

62. The Chapter Amendment is supposed to remedy some of the disabled community's concerns, but because yellow taxi industry representatives were shut out of these revisions, the other infirmities in the law detailed herein went unaddressed and unresolved.

The Act imposes on numerous aspects of New York City's local property, affairs and government.

63. Through the HAIL Act, the Legislature and Governor have interfered with the City Council's long-standing regulation of the local taxi system; redistributed power among the branches of the City government by empowering the Mayor and the TLC to act alone, without

the City Council, to issue medallions and HAIL licenses; overridden the City budget process and the City's local financial autonomy by granting the NYPD and TLC an unchecked source of revenue from HAIL fines; and undermined the City's environmental policy by purporting to exempt City agency actions from environmental review.

64. A true and correct copy of the 2011 Bill is attached as Exhibit A to this Complaint.

65. A true and correct copy of the Chapter Amendment is attached as Exhibit B to this Complaint.

66. The entire HAIL Act is now in effect.

67. Section 3 of the Chapter Amendment amends Section 6 of the 2011 Bill to create a "poison pill" for the legislation. The drafters manifested their intention for the entire HAIL Act to be undone if even one aspect of this unprecedented scheme should fall to legal challenge. Section 3 of the Chapter Amendment provides,

This act shall be construed as a whole, and all parts of it are to be read and construed together. If any part of this act or any amendments made thereto by the chapter of the laws of 2012 which amended this section shall be adjudged to be invalid by any court of competent jurisdiction, the remainder of this act shall be invalidated and shall be deemed to have not taken effect, provided however that the validity of any taxicab license issued before the date that this act is declared invalid shall not be affected.

68. If any part of the HAIL Act is struck down because of constitutional infirmity, or otherwise held to be invalid, then no more medallions, HAIL licenses, or HAIL base permits can be lawfully issued or distributed under the Act. But the damage done to medallion owners and lenders by the addition of any HAIL vehicles prior to that judgment will be permanent.

69. In an attempt to expedite the Mayor's plan to undermine the medallion franchise and eventually cause its collapse, the Act grants the authority to issue HAIL licenses directly to

the TLC, such that no City Council approval will ever be needed before HAIL licenses come into use. Section 5(a) of the Chapter Amendment enables the TLC alone to issue 18,000 HAIL licenses. Section 5(a) provides, “The TLC is hereby authorized to issue hail accessible interborough licenses. No more than eighteen thousand HAIL licenses shall be issued.”

70. Section 5(d) of the Chapter Amendment sets the price of HAIL licenses, notwithstanding market values for such rights. The first 6,000 HAIL licenses are to be issued for \$1,500, the second 6,000 are to be issued for \$3,000, and the final 6,000 are to be issued for \$4,500, with an automatic right to renewal for holders in good standing upon payment of a renewal fee set by the TLC.

71. Section 3 of the Chapter Amendment, which amends Section 4 of the 2011 Bill, enables the TLC to issue up to 450 base permits for HAIL vehicle dispatchers.

72. Pursuant to Section 4(c) of the Chapter Amendment, HAIL vehicles are permitted to pick up street hails throughout the City except in a narrow “HAIL exclusionary zone” that encompasses the airports in the city of New York, and Manhattan south of East 96th and West 110th Streets.

73. The Act grants the “mayor alone” authority and control over whether to issue new medallions, even though, under the New York City Charter, such issuances require the City Council to first pass a local law. *See* N.Y.C. Charter § 2303(b)(4) (“Additional taxicab licenses may be issued from time to time only upon the enactment of a local law providing therefor.”). Section 8 of the Chapter Amendment provides, “The city of New York may, acting by the mayor alone, administratively authorize the TLC or its successor agency to issue up to two thousand taxicab licenses in addition to those already issued.”

74. Section 23 of the Chapter Amendment also creates a bounty system to reward law enforcement agencies that enforce the HAIL Act's restrictions on drivers. Section 23 provides,

Notwithstanding the provisions of any other law to the contrary, the New York state police may enforce any laws, rules or regulations related to vehicles with HAIL licenses and the Port Authority police department may enforce any laws, rules or regulations related to vehicles with HAIL licenses at facilities owned or leased by the Port Authority of New York and New Jersey. The commission or tribunal that adjudicates liability for a violation relating to HAIL vehicles, for-hire vehicles and vehicles that operate as a vehicle licensed by the New York City taxi and limousine commission shall pay the money owed and collected to the entity that issued the summons for the violation.

75. This bounty system allows law enforcement agencies at both the state and local level to fund themselves off-budget, by retaining fine money which the HAIL Act does not direct to any particular use.

76. No sufficiently important state interest justifies these efforts, and those detailed below, to interfere with, override, and undermine matters of New York City property, affairs and government. Each has been designed solely to impose the Mayor's policy preferences at the expense of local democracy.

77. Any perceived issues regarding street-hail service in New York City are local in nature and must under law be addressed with the involvement of the City Council.

The Act deals a crushing blow to the yellow taxicab industry.

78. The HAIL Act will have widespread and devastating effects. The Act calls for 18,000 HAIL licenses—35 percent more than the total number of yellow cabs in service—to be issued at an artificially low price—less than 0.01 percent of the current market price of a medallion. The imminent flood of HAIL vehicles will saturate the market for street-hail taxi

service and devalue the 13,237 medallions which, until now, have been the sole means of providing street-hail taxi service in New York City.

79. When that happens, irreparable harm will come to both medallion owners—many of whom have invested their life savings in the yellow cab business—and the financing companies that currently service about \$5.2 billion in medallion-purchase loans. Yellow cab operators will suffer from a permanent increase in unfair competition, and medallion financiers will be forced to write down the book value of their assets, triggering increased regulatory scrutiny and forcing some financiers out of business. Because so many medallions are heavily financed, imminent devaluation threatens to ignite a credit crisis from which medallion owners and their financiers may not recover.

80. Under the Act, HAIL vehicles will be able and motivated to pick up street hails throughout the City. Predictably lax enforcement of geographic limits will encourage HAIL vehicles to pick up street hails after dropping off passengers in Manhattan.

81. HAIL vehicles would have the right to accept street hails in the outer boroughs, just like medallion cabs. HAIL vehicles also have the right to accept prearranged radio calls outside the HAIL exclusionary zone. Historically, medallion cabs have been denied that right. Thus, HAIL vehicles will enjoy a wider array of rights than medallion cabs in four of the five boroughs.

82. The Act actually makes prosecution of drivers who make illegal pick-ups more difficult. Because HAIL vehicles will have meters, they will be able to pick up passengers who, under the old regime, would have been deterred from riding in unmetered vehicles solely for the reason that they would have been subject to an uncertain fare.

83. On the other hand, having radio-call rights will give HAIL vehicles cover to negotiate unlawfully cheap street-hail fares with passengers willing to go along with the ruse of being a radio-call passenger.

84. The Act provides for 18,000 HAIL licenses, yet only about 150,000 riders per day resort to illegal street hails. Even assuming all of those pick-ups occur in the outer boroughs, where HAIL liveries can lawfully serve demand, that leaves only eight lawful fares per HAIL livery—barely a living wage.

85. Because the Act will oversaturate the prescribed market, even honest HAIL liveries will face economic pressure to expand their search for fares into the high-demand areas of Manhattan. With only a \$1,500 to \$4,500 HAIL license at stake, a HAIL vehicle driver will have little to lose by breaking the rules.

86. Neither the Legislature nor the City is capable of protecting the street-hail rights of yellow cabs. The City has consistently failed to curb dangerous, unlicensed activity in the past—issuing a mere 1,200 street-hail summonses in 2010.

87. The Act threatens immediate and irreparable financial consequences for the industry and calls into question the continued viability of the entire medallion system.

The HAIL Act threatens dire consequences, which call out for immediate redress.

88. Medallions are more than mere licenses. Because they create consistent streams of income, have lasting residual value, and are freely transferable, they have long been understood to be valuable property.

89. Over the years, the City has reinforced this basic truth at every turn, going so far as to require that only licensed, and usually federally insured, financial institutions are permitted to provide financing at medallion auctions.

90. A medallion's earning potential, and thus its value, is dependent upon the exclusive right of medallion owners to pick up street hails.

91. The State's intervention in the market has created perverse incentives that threaten to distress these financial instruments and open the door to a credit crisis.

92. Medallion values will likely be destroyed by the Act, and this will have immediate and irreparable consequences. There are 13,237 cabs with hail privileges in operation today; adding 18,000 HAIL licenses to the mix with no incentive to self-regulate and no increase in GPS or meter enforcement ensures a shift of labor to the HAIL class, a shortage of yellow cab drivers, significantly reduced revenues per driver across both classes of vehicle, and imminent defaults on medallion-purchase loans held by state- and federally-regulated banks and credit unions, Small Business Investment Corporations, and public companies.

93. A substantial portion of those loans support the City's more than 5,000 individual medallion owners, many of whom have invested their life's savings in a medallion and rely on its long-term value. For those individual owners, the medallion represents their families' livelihood.

94. New York City medallion financing is a \$5.2 billion business. The flood of HAIL vehicles, and the resulting drop in value of collateralized medallions, could lead to asset write-downs having a significant impact on loan-to-value ratios even before medallion owners fall behind on payments. Such stark changes to fundamental market assumptions will have disastrous consequences, as medallion financing companies are put to tough decisions about the role they will play going forward. Among other options, lenders—who often finance medallion and license purchases in other states—may well exit the New York City market completely.

95. In many cases, the decision of how to react to depressed medallion prices will not be a lender's to make. Medallion lenders have successfully navigated this recent difficult economic period using strict lending criteria that are closely monitored by regulators such as the Federal Deposit Insurance Corporation ("FDIC") and the National Credit Union Administration ("NCUA"). Any systemic increase in a lender's loan-to-value ratio can trigger regulatory intervention. Even a small decline in the earning potential of a medallion can undercut its book value and ruin a lender's financial position—even if the borrower is current on the loan. Regulators have strict criteria by which they judge a lender's portfolio, and at particular thresholds, government supervisors must step in and direct lenders to reduce their exposure. For many lenders, this could mean being told to lend only on certain terms, to lend less as a proportion of total reserves, to increase reserves (which a lender may not have the means to do), or to simply stop lending altogether.

96. At the same time, loan payments—which are anchored to the perceived value of the City's guarantee of exclusive rights—will eventually exceed the reduced value of the collateral, encouraging medallion owners to default. Medallion foreclosures will yield insufficient cash, putting lenders at risk of failure. This is precisely the mechanism that triggered the recent mortgage crisis, the fallout from which continues to haunt the State today.

97. The Act threatens to distress every single asset in the medallion financing market. Experts have suggested that there would be a devastating effect on revenue and income for medallion holders; even with "perfect enforcement" of the geographic restrictions on street hails, those experts estimate a drastic fall in the net income of medallion users, and with weak enforcement that impact would be exacerbated.

98. These consequences would be overwhelming. Medallions are traded frequently in an efficient secondary market. That market would quickly reflect reduced medallion values if outer-borough permit cars flood the City and drive down the average revenue earned by a medallion cab.

99. Medallion lenders formed investment-backed expectations based on Defendants' promises of a tightly controlled taxi supply and exclusive hail rights for medallion holders.

100. These expectations led directly to those lenders' agreeing to finance and own medallions.

101. When Defendants implement the Act and begin issuing HAIL licenses, they will breach the promises on which those lenders relied when they agreed to finance and own medallions.

102. If Defendants allow HAIL licenses to be issued, those lenders will suffer monetary losses equal at least to the depreciation in market value of their medallion assets, plus lost profits, plus the costs of the increased risk of medallion-purchaser defaults.

103. If Defendants allow HAIL licenses to be issued, those lenders will further suffer irreparable harms that cannot be remedied by money damages, including the destruction of their medallion lending portfolios and, eventually, their businesses.

104. Ample public solutions exist which would not impose these costs on Plaintiffs.

105. Plaintiffs will be affected in all these ways.

TLC's implementation of the Act threatens New York City's environmental interests.

106. To protect the environment—including the socioeconomic conditions in the area affected by a change in policy—New York State and New York City both require compliance with SEQRA.

107. Ordinarily, SEQRA serves as a safeguard to prevent the hasty implementation of environment-changing legislation. Indeed, on March 12, 2012, the TLC issued a positive declaration under SEQRA, which requires that an environmental impact statement be prepared before the City can issue any of the 2,000 new yellow taxi medallions. This review will address the likely impact of 2,000 new taxicabs on New York City's socioeconomic conditions, transportation, air quality, noise, public health, and neighborhood character—including the impact on medallion values—thereby applying a careful layer of scrutiny to the drastic policy action Mayor Bloomberg hurriedly initiated in 2011.

108. But in a further effort to expedite the demise of the yellow cab industry, the Mayor and the TLC have interpreted the HAIL Act to not require SEQRA review of the 18,000 new HAIL licenses that will be issued—even though, by their very nature, these licenses threaten to increase congestion, pollution, and noise in New York City, in addition to the myriad other unintended consequences that call out for further study. Indeed, drivers holding HAIL licenses will be permitted to use older, less fuel-efficient vehicles than those permitted for yellow cabs.

109. At a March 22, 2012 hearing of the TLC, Commissioner Yassky announced that, even though a SEQRA review was being undertaken to study the effects of the 2,000 new medallions, no such review would be imposed on the 18,000 HAIL licenses. That decision is final, and wrong. An environmental review that matches the scope of the medallion issuance review is required under State and City law before the 18,000 new licenses can legally be issued.

110. Moreover, to the extent the HAIL Act purports to exempt the TLC's actions from environmental review, such an exemption represents an improper State interference with City environmental policy.

FIRST CAUSE OF ACTION

(Violation of N.Y. Const. Art. IX, § 2(b)(2))

111. Paragraphs 1 through 110 are incorporated and re-alleged as if set forth herein.

112. Under Article IX, Section 2(b)(2) of the New York Constitution, Home Rule Law forbids the State of New York, including the Assembly, Senate, and Governor, from acting by “special law” in relation to the “property, affairs or government of any local government” in the State of New York, absent a Home Rule Message from the legislative body of such local government.

113. The HAIL Act is a special law, as it applies by its terms only to the transportation system of New York City. *See* N.Y. Const. Art. IX, § 3(d)(4) (defining “special law” as a “law which in terms and in effect applies to one or more, but not all . . . cities”).

114. The HAIL Act relates to the “property, affairs or government” of New York City for a number of independent reasons: (a) The regulation and management of the New York City taxi industry is quintessentially an affair of local government; (b) the balance of powers between the Mayor, TLC, and City Council, among other agencies, relates to the government of New York City; (c) City budgeting and financing relates to the property, affairs and government of the City; and (d) City environmental policy and concerns relate to the property, affairs and government of the City.

115. The HAIL Act intervenes in the City’s regulation of its taxi system by overriding local governance of private transportation services in the City.

116. The HAIL Act redistributes power among the branches of the City government by empowering the Mayor and the TLC to act alone, without the City Council, to issue medallions and HAIL licenses.

117. The HAIL Act overrides the City budget process and the City's local financial autonomy, by permitting the NYPD and the TLC to retain all fines generated by enforcement of the Act.

118. The HAIL Act overrides the City laws requiring SEQRA compliance for City agency actions.

119. The Act does not involve a matter of sufficient importance to the State to render it a proper subject of State legislation absent a Home Rule Message.

120. There was no Home Rule Message given for any aspect of the Act.

121. Provisions of the HAIL Act therefore violate N.Y. Const. Art. IX, § 2(b)(2).

122. As a result of the HAIL Act's non-severance clause, the Act is invalid in its entirety.

123. Plaintiffs seek a declaration that the HAIL Act violates N.Y. Const. Art. IX, § 2(b)(2) and is invalid in its entirety.

SECOND CAUSE OF ACTION

(Violation of N.Y. Const. Art. III)

124. Paragraphs 1 through 110 are incorporated and re-alleged as if set forth herein.

125. Under Article III of the New York Constitution, legislative powers are vested in the State Legislature. The Legislature cannot delegate legislative powers to executive or administrative agencies at any level of government.

126. The HAIL Act authorizes the Mayor—acting alone and without regard for the legislative authority of the New York City Council—to issue in his discretion some number of medallions between zero and 2,000.

127. The HAIL Act authorizes the TLC—acting alone and without regard for the legislative authority of the New York City Council—to issue in its discretion some number of HAIL licenses between zero and 18,000.

128. The HAIL Act also authorizes State and City law enforcement agencies—including the state police, MTA, NYPD, and the TLC—to retain all fines collected through enforcement of the HAIL Act.

129. By authorizing law enforcement agencies to earn such bounties, but providing no guidance whatsoever as to how to spend those funds, the Act impermissibly delegates budget-making and policy-making authority to those agencies.

130. As a result of the HAIL Act's non-severance clause, the Act is invalid in its entirety.

131. Plaintiffs seek a declaration that the HAIL Act is invalid in its entirety, because certain parts violate N.Y. Const. Art. III.

THIRD CAUSE OF ACTION

(Violation of U.S. Const. Amend. V and N.Y. Const. Art. I, § 7)

132. Paragraphs 1 through 110 are incorporated and re-alleged as if set forth herein.

133. Under the Takings Clause of the Fifth Amendment to the United States Constitution, which applies to the several states, New York State cannot take private property for public use without justly compensating the private-property owner.

134. Similarly, under Article I, Section 7 of the New York Constitution, private property shall not be taken for public use without just compensation.

135. The Federal takings guarantee is “designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Armstrong v. United States*, 364 U.S. 40, 48 (1960).

136. The HAIL Act imposes on medallion owners and lenders alone the costs of improving outer-borough and handicapped street hail access in New York City.

137. Imposing these costs constitutes a taking under the Fifth Amendment and Article I of the New York Constitution.

138. Defendants must provide just compensation to TLC for any taking caused by the HAIL Act, including by the City’s issuance of HAIL licenses and new yellow taxi medallions.

139. Plaintiffs seek a declaration that HAIL license issuances and new yellow taxi medallion issuances would violate U.S. Const. Amend. V and N.Y. Const. Art. I, § 7.

FOURTH CAUSE OF ACTION

(Violation of N.Y. E.C.L. Art. 8 and 6 N.Y.C.R.R. 617)

140. Paragraphs 1 through 110 are incorporated and re-alleged as if set forth herein.

141. Under Article 8 of the New York State Environmental Conservation Law and the rules promulgated thereunder (“SEQRA”), agencies must engage in an environmental quality review process for certain non-ministerial actions.

142. Both the issuance of new medallions and the issuance of HAIL licenses are actions requiring compliance with SEQRA.

143. The HAIL Act does not exempt these actions from the requirements of SEQRA.

144. Plaintiffs seek a declaration that no HAIL licenses may be issued until the issuing agency complies fully with SEQRA by assessing and reviewing the action of issuing up to 18,000 HAIL licenses.

FIFTH CAUSE OF ACTION

(Violation of 6 N.Y.C.R.R. 617 and 62 R.C.N.Y. 5)

145. Paragraphs 1 through 110 are incorporated and re-alleged as if set forth herein.

146. Under Title 6, Part 617 of the New York Code, Rules and Regulations (the “SEQRA Rules”) and Title 62, Chapter 5 of the Rules of the City of New York (the “CEQR Rules”), the TLC has initiated SEQRA review for the pending medallion issuance.

147. On March 12, 2012, the TLC issued a “positive declaration” positive declaration requiring that an Environmental Impact Statement be produced before the City can issue any of the 2,000 yellow taxi medallions authorized by the HAIL Act, based on an Environmental Assessment Statement that identified a number of areas of potential significant adverse environmental impact, including: air quality; noise; socioeconomic conditions; transportation; public health; and neighborhood character.

148. By March 22, 2012, the TLC had made a final determination that it would not perform SEQRA review of the issuance of 18,000 HAIL licenses authorized by the HAIL Act.

149. An agency action must be invalidated if it is arbitrary and capricious, or otherwise contrary to law.

150. It is arbitrary and capricious, and contrary to law, to undertake an environmental review of the impact of 2,000 new medallions on the basis of potential significant adverse environmental impacts, but not to undertake a similar review of the impact of 18,000 new HAIL licenses.

151. Plaintiffs seek an order invalidating the TLC’s decision not to perform a SEQRA review of the 18,000 new HAIL licenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants and the following relief:

(a) A declaration that the HAIL Act violates N.Y. Const. Art. IX, § 2(b)(2), and is therefore invalid in its entirety; (b) a declaration that the HAIL Act violates N.Y. Const. Art. III, and is therefore invalid in its entirety; (c) a declaration that enforcement of the HAIL Act would violate the Takings Clauses of U.S. Const. Amend. V and N.Y. Const. Art. I, § 7(a), and is therefore invalid in its entirety; (d) a declaration that implementation of the HAIL Act prior to full SEQRA review of all its aspects, including the issuance of up to 18,000 HAIL licenses, would violate N.Y. E.C.L. Art. 8 and 6 N.Y.C.R.R. 617; (e) an order invalidating the TLC's administrative determination that SEQRA review is not necessary or required prior to the issuance of HAIL licenses; (f) an order preliminarily enjoining Defendants from taking any action to implement the HAIL Act prior to full SEQRA review of all its aspects, including the issuance of up to 18,000 HAIL licenses; (g) an order preliminarily and permanently enjoining Defendants from taking any other action to implement the HAIL Act, including issuing HAIL licenses or yellow taxi medallions; (h) an award of costs, including reasonable attorneys' fees; and (i) such other and further relief as the Court deems just and proper.

Dated: New York, New York
April 27, 2012

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

By: Randy Mastro / pjk
Randy M. Mastro

200 Park Avenue, 47th Floor
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Attorneys for Plaintiffs