
M E M O R A N D U M

DATE: September 1, 2005
TO: City Council Members
FROM: Russell Weeks
RE: Discussion: Outstanding Issues Pertaining to Ground Transportation
CC: Cindy Gust-Jenson, Sam Guevara, Ed Rutan, Louis Zunguze, Tim Campbell, Gary Mumford, Larry Spendlove, Jodi Howick, Melanie Reif, Orion Goff, Edna Drake, Laurie Donnell, Randy Berg, David Korzep, Larry Bowers

This memorandum pertains to a scheduled discussion by the Ground Transportation/Taxi Subcommittee on remaining issues to address in Salt Lake City's regulation of the ground transportation/taxi industry. Most of the issues outstanding are recommendations by Dr. Ray Mundy. A few are recommendations by the ground transportation industry during public comment on Dr. Mundy's study.

To recap briefly, the City Council has dealt with the regulation of the ground transportation/taxi industry for a little more than a year. In August 2004 the Council adopted a number of amendments proposed by the Administration. The Council then began to seek an independent researcher to help the Council understand issues pertaining to the industry. In December, the Council entered into a contract with Dr. Ray Mundy, the director of the Center for Transportation Studies at the University of Missouri – St. Louis and the principal partner of the Tennessee Transportation & Logistics Foundation.

Dr. Mundy presented a description of Salt Lake City's ground transportation industry on March 8 and presented recommendations to address ground transportation issues on April 19. After a public hearing on the recommendations Dr. Mundy then met with the Ground Transportation/Taxi Subcommittee twice. During an August 3 meeting, Dr. Mundy presented his final report and recommendations. Between the April 19 public hearing and Dr. Mundy's final meeting with the Subcommittee the City Council adopted an amendment to increase fares taxicab drivers may charge customers. On August 9 the City Council adopted amendments to the portions of the City Code's ground transportation and taxi ordinances. The amendments – among other things – clarified the definition of "pre-arrangement" and required each of the City's three taxicab companies to provide at least one vehicle that a person with a motorized wheelchair could access. However, the amendments did not address the bulk of Dr. Mundy's recommendations or the Subcommittee's proposed goals. A summary of those goals and recommendations follows.

GOALS AND RECOMMENDATIONS

I. The Subcommittee's overarching goal is to change the way in which the City regulates the taxicab industry from a method of issuing certificates of public convenience and necessity to a method of seeking bids for contracts with the City to provide taxicab service.

Dr. Mundy's study recommended that the contracts be issued to two to four companies. Each of the companies would be required to operate a minimum of 50 taxicabs. In response to a City request for proposals each company would indicate the maximum number of taxicabs it would operate. According to the study, requiring a minimum of 50 taxis would provide enough business "to support investment in GPS (global positioning system) dispatching and other technologies for improving the delivery of service to the traveling public." (Page 62, No. 1.)

Dr. Mundy's study estimated that the City could implement a contract system in which contracts could be signed and businesses operating in roughly six to eight months. However, a Salt Lake City International Airport estimate places the length of the process at closer to two years. Given that estimate, the Subcommittee has discussed with the City Attorney's Office the potential of a "bridge" ordinance that would regulate ground transportation and taxi service while the process to change to a contract form of regulation continues. One issue that the City Council must determine in the process is what parts of the existing ordinance and potential amendments should remain statutory regulations and what parts should become part of a potential contract.

It probably should be noted that the Subcommittee opted to pursue a change to a contract form of regulation in part because of Dr. Mundy's study's findings. The findings include:

- A primary objective of the City Council's request ... was to determine if there were alternate ways ... the City could regulate taxicabs and shuttle vans more effectively and at the same time improve the level of service (to people) currently being operated. (Page 2.)
- Existing taxi firm owners felt the City had not done its job to protect traditional taxicab markets from unlicensed taxi, shuttle and van operators. (Page 2.)
- There is an excess of ground transportation supply in the community. (Page 5.)
- Salt Lake City taxi firms are competing to lease ... city taxi permits to as many owner/operator drivers as possible, irrespective of a driver's ability to earn a reasonable income. (Page 12.)
- Taxi firm owners agreed that the present structure of taxis in the Salt Lake City market condemns owners and drivers to anemic incomes. (Page 15.)
- Drivers are unable to achieve sufficient revenue to make driving a cab ... an attractive job, and present taxi lease fees are unable to generate profit margins to sustain long-term business or attract capital for needed improvements. (Page 15.)
- Owners said they preferred a more flexible permit system that allowed them to add or subtract vehicles as demand warranted. (Page 15.)
- Every driver interviewed said there were too many taxis and drivers in the taxi system for anyone to make a decent living ... Many drivers work 14- to 16-hour days to pay their taxi lease and take home \$70 or more. (Page 17.)
- The respective average ages of taxicabs for City, Ute and Yellow Cab are 14 years, 11 years and 10 years. (Page 27.) The ages make the Salt Lake City's cab fleets some of the oldest Dr. Mundy said he ever had seen.
- There is no commercial walk-up, on-demand shuttle service at Salt Lake City International Airport. (Page 25.)
- Salt Lake City International Airport is the single major taxi demand generator in the area. (Page 48.) However, drivers at the airport complained about having to wait two or three hours for a fare. (Page 17.)
- Airport customers could be served most of the time by allowing a maximum of 20 taxis to be available for fares in the Airport taxi holding lot-- if taxis arriving at the airport were encouraged to go into the t holding lot after dropping off passengers. (Page 32.)

II. Perhaps the most important recommendation -- second to moving to a contract system of regulation -- is the study's recommendation that the total number of taxicab permits issued by the City be reduced by 25 percent to about 200 permits. Currently, there are 268 total permits. The

Yellow Cab Drivers Association is authorized 145 permits; Ute Cab is authorized 78 permits; and City Cab is authorized 45 permits. A 25 percent reduction would mean that Yellow Cab would be authorized 109 permits; Ute would be authorized 58 permits; and City Cab would be authorized 34 permits.

A 25 percent decrease in the total number of permits would put the cab companies back to the same level they were in the year 1999 when an administrative hearing officer granted a 25 percent increase in the total number of permits. (Please see attachment.)

Although the study listed the recommendation in the long-term category, if the City Council decides to continue pursuing a contract form of regulation, the reduction might be considered as part of a "bridge" ordinance to see if reducing the total number of taxicabs has a positive effect on service and drivers' incomes. It might be noted that two taxicab companies – Yellow Cab and Ute Cab – lease at least 50 percent of their permits to owner-operators who drive under each company's brand name. How a reduction would affect owner-operators is unknown. City Cab owns all but three of its vehicles, according to Dr. Mundy's study. The effect of cutting its fleet by 25 percent is unknown. However, it should be noted that the study contends there is an oversupply of ground transportation.

The other unknown involves how many vehicles each taxicab company actually is running. Yellow Cab is a case in point. Earlier this year 3rd District Court Judge Frank Noel awarded the Yellow Cab Drivers Association 33 permits that had been taken away from the company in 2001 by a City hearing officer. The ruling said the hearing officer misapplied City Code in requiring Yellow Cab to forfeit the permit. "The forfeiture provision is inapplicable in the event a holder (of the permit) does not have the total number of vehicles authorized by a certificate (of public convenience and necessity)," according to the ruling. (Please see attachment.) The ruling at least suggests that the company survived without the 33 permits between 2001 and 2005.

III. The third long-term recommendation involves reducing the number of taxicabs waiting to pick up passengers at the Salt Lake City International Airport. The study contends that there are too many taxicabs waiting too long to pick up passengers at the airport. It contends that airport customers could be served most of the time by allowing a maximum of 20 taxis to be available for fares in the Airport taxi holding lot– if taxis arriving at the airport were encouraged to go into the t holding lot after dropping off passengers. Long-term the number of taxis could be restricted by Automatic Vehicle Identification electronic tracking that, according to Dr. Mundy, is being installed at the airport. However, short-term, the City could restrict entrance to the airport taxi holding area by allowing cabs with even-numbered license plates to enter the area on even days and cabs with odd-numbered licenses to enter on odd-numbered days. (Pages 62 and 63.) The study contends that restricting the number of taxicabs at the airport would force cab companies to develop new markets, including being available in other parts of Salt Lake City.

IV. The study also recommends that long-term the City develop a "shared-ride exclusive walkup van concession at the airport." (Page 63.) The study notes that "with very few exceptions" most U.S. airports have more than one walk up alternative for arriving airline passengers. The study notes that the Salt Lake City Airport has no alternative. Passengers seeking on-demand service must take a taxicab.

V. The final long-range recommendation is to revise City fees to reflect the actual cost of City services. The study indicates that business license and driver permit fees "are not adequate for the services being performed." (Page 63.)

SHORT-TERM RECOMMENDATIONS

Dr. Mundy's study made eight short-term recommendations. (Pages 59-61.) The City Council in August dealt with one involving hotels' use of their own vehicles to take hotel guests to places other than to and from the airport. After a public hearing on the study Dr. Mundy dropped a recommendation to freeze applications for taxi driver permits. Six items remain for City Council consideration for improvements in the short-term. In addition, drivers or industry representatives made two suggestions that might have an immediate effect. In addition, the City Attorney's Office has indicated that several "technical amendments" remain to be addressed. It is probable that many or all the recommendations might be part of a "bridge" ordinance leading to implementation of a contract system of regulation.

Two items suggested by the ground transportation industry are:

- Put more taxicab stands around the City and downtown. Some taxicab stands were eliminated during Interstate 15 and light-rail construction and street reconfigurations in the 1990s. A taxicab driver contended that more cab stands would lead to an increased presence of taxicabs in the City.
- Shorten the wheelbase requirement for limousines. The ordinances the City Council adopted in August kept part of the definition of limousine as having a 120-inch minimum wheelbase. A shuttle company representative contended that if the wheelbase were shortened to 110 inches, a Lincoln town car could then be considered a limousine.

Short-term recommendations in Dr. Mundy's study:

1. The study advised the City Council to eliminate City Code Section 5.72.150 titled *Minimum Use of Taxicabs Required*. (Cab day requirement; please see attachment.) Council Members may remember taxicab industry representatives last year sought a return to an earlier variation of the section that was adopted in 1999. Dr. Mundy's study advised eliminating the section because the "rules are extremely difficult to administer and monitor" and could lead to taxicab companies to use marginal cabs to retain permits. However, during discussion of ground transportation amendments before the August 9 City Council meeting, one participant said the section: assures that cab companies will provide adequate coverage for the City; tends to drive cab companies to better utilize their existing vehicles; and, as a result, keeps the companies from demanding more cabs, and further diluting profitability for drivers.
2. The study advised the City to not renew the existing business licenses of the three taxi cab companies but give them notice to continue to operate on a month-to-month basis if needed. The recommendation drew negative comment from the taxicab industry at the public hearing. It should be noted that Dr. Mundy in an exchange with City Council staff indicated that he still supports the recommendation.
3. The study recommended that the City should require taxi fleets to have vehicles manufactured in the year 2000 or newer. The intended goal would be to upgrade aging taxi fleets. Clearly the long-range goal would be to have the fleets continually have vehicles no older than six years old. Again, this requirement may affect owner-operators at Yellow Cab and Ute Cab and much of the City Cab fleet.

4. The study recommended an immediate change to an even-odd day system to restrict the number of taxicabs that can enter the Salt Lake City International Airport.
5. The study recommended that the City Council adopt a measure making it illegal for hotel doormen to accept "gratuities" from ground transportation drivers in order to obtain doormen's calls for service. Dr. Mundy told the Subcommittee that enacting the measure would go a long way toward eliminating the 25 to 30 drivers that were acting as unmetered, "gypsy" taxicabs. The Subcommittee also would like the elimination of paid "gratuities" extended to taxicab dispatchers.
6. The study recommended that the City enforce its ordinance involving the licensing of all ground transportation vehicles and drivers. It should be noted that airport officials earlier this year offered to issue licenses to ground transportation drivers. The City Council may wish to explore which department would perform the service that the City requires of drivers. The study also said, "The Police Department should also direct hotels that have operating agreements or authorizations with non-metered shuttle and van operators to file the agreements with the city and airport as per the ordinance." It suggested that the City allow a 60-day grace period to comply with the existing ordinance.

In addition, the City Attorney's Office has suggested the following technical amendments including:

- A. Making an exception from airport vehicle inspections for buses operated by chartered bus companies that are inspected already under federal and state standards.
- B. Making an exception for limousines to the requirement in the *City Code* that ground transportation vehicles must have in open display the photograph, name, and number of the vehicle driver and comment cards for the passenger to use to comment on the driver and/or vehicle. Limousine companies requested that their drivers be prepared to provide the items to a customer on request rather than to have them in open display so as to retain the luxurious ambience in the vehicle.
- C. Requiring that the vehicle inspection sticker be located in the rear window of the vehicle rather than, as currently required, in the windshield. The police requested the change to assist in enforcement.
- D. Modifying the driver background check language in Chapter 5.72, regarding taxicabs, to be consistent with the same requirement in Chapter 5.71, regarding ground transportation vehicles generally and to meet current FBI and Utah Bureau of Identification requirements.
- E. Potentially additional definitions needing modification to be consistent with those in Title 16 (Airport regulations) that have yet to be addressed.

Given the issues, the City Council may wish to determine whether to request that the City Attorney's Office:

- i. Prepare a "bridge" ordinance that would include some or all the items outlined above.
- ii. Prepare language signaling that it is the City Council's intent to move to a contract form of regulating the taxicab industry.
- iii. Prepare both items.

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BEFORE THE DESIGNEE OF THE MAYOR OF SALT LAKE CITY

In the Matter of the Joint Application
of

REPORT AND ORDER

YELLOW CAB DRIVERS
ASSOCIATION, INC.; CITY
CAB COMPANY, and UTE CAB
COMPANY FOR INCREASE IN
TAXICAB LICENSESAdministrative Law Judge
Michael W. CrippenIssued: *June 18*, 1999SYNOPSIS

Yellow Cab Drivers Association, Inc. ("Yellow Cab"), City Cab Company (City Cab) and Ute Cab Company ("Ute Cab") (collectively "the Cab Companies") filed a joint Application on June 18, 1999 seeking an increase in taxicab licenses under Salt Lake City Ordinance 5.05. The Cab Companies filed a supplement to the Application on July 13, 1999. A Hearing was held on August 12, 1999 at 1:00 p.m., pursuant to Notice duly given.

Appearances, as well as those providing testimony:

Donald J. Winder, Esq.	For the Cab Companies
Larry Spendlove, Esq.	For Salt Lake City
James Gander	Professor of Economics, University of Utah
Don Barron	Director, Yellow Cab
Dennis Anderson	President, Ute Cab

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David Jackson

Vice President, City Cab

Edna Drake

Business Licensing Administrator, Salt Lake
City

The Hearing Officer reviewed and considered the following Exhibits:

1. Joint Application, dated June 18, 1999
2. Supplemental Application, dated July 13, 1999
3. Vita of James P. Gander, Ph.D.
4. Table - Salt Lake City, Department of Airports, Trips Per Vehicle Type (1997)
5. Graph - Visitor Statistics (Downtown, Airport and Capitol) (1994-1998)

After this hearing, Financial Statements were submitted, *in camera*, by the Cab Companies, which Statements are being held by the Hearing Officer to maintain their confidential and proprietary nature.

Following the *in camera* submittal of Financial Statements, a conference was had between the Hearing Officer, his associate Michael D. Roberts, Donald J. Winder and Larry Spendlove. The Hearing Officer had additional questions for Yellow Cab and Ute Cab concerning their financial responsibility. A second hearing was scheduled. Due to the proprietary nature of the Cab Companies' financial information, it was agreed that the documents and testimony introduced at the second hearing would be treated as confidential.

A second Hearing was held on November 4th, 1999 at the hour of 9:00 am.

Appearances, as well as those providing testimony:

Donald J. Winder

For Yellow Cab and Ute Cab

Larry Spendlove

For Salt Lake City

Don Barron	Director, Yellow Cab
Mark Hatch	President, Yellow Cab and a Certified Public Accountant
Dennis Anderson	President, Ute Cab
Lonnie K. Burnham	Certified Public Accountant
Edna Drake	Business Licensing Administrator, Salt Lake City

The Hearing Officer heard testimony and reviewed and considered various financial Information submitted *in camera* by Yellow Cab and Ute Cab.

On November 10, 1999, Yellow cab submitted additional financial information *in camera*.

PROCEDURAL HISTORY

On or about June 18, 1999, the Cab Companies filed their joint Application seeking an increase in taxicab licenses. Specifically, the Cab Companies sought to increase their licenses by approximately 15%. On or about July 13, 1998, the Cab Companies supplemented their Application "seeking a temporary 15% increase in licenses . . ." during the winter months.

In 1995, after a long period of no increases in taxicab licenses, the Cab Companies applied for additional authority. Prior to that, the last increase was in 1980. Pursuant to these applications, and upon hearing, Salt Lake City gave authority to each of the three taxicab companies to increase their licenses by 71%. For Yellow Cab, this meant an

increase from 68 licenses to 116 licenses; for Ute Cab, an increase from 36 licenses to 62 licenses; and for City Cab, an increase from 21 licenses to 36 licenses.

Since the increase four years ago, there have been no further increases. In fact, there has actually been a 50% decrease in "winter" cabs. Prior to April 6, 1999, Salt Lake City Ordinance 5.72.140 provided:

Likewise, the public convenience and necessity having been demonstrated for the need of additional taxicabs during skiing season, all holders of existing taxicab certificates shall be allowed to increase the number of vehicles authorized in their certificate by fifty percent from October 15th to April 15th of each year.

April 6, 1999 was the date of enactment of new taxicab ordinances which, inter alia, deleted the ski season increases in taxicabs.

The Hearing Officer expressed concern the deletion of ski season increases in taxicab licenses evidenced intent by the City Council to discontinue this type of license. The Cab Companies argued the change only affected the automatic finding in the ordinance that "public convenience and necessity having been demonstrated" In other words, Cab Companies argued this type of license could still be granted upon a finding of public convenience and necessity. The Hearing Officer expressed further concern with the economics of winter cabs. Does it make sense to spend the capital to put a taxicab with a meter, top lights and radio, along with a licensed driver, on the streets of Salt Lake for only part of the year? After further discussion, the Hearing proceeded on the basis of a request for a permanent increase in the number of taxicab licenses.

The Cab Companies submit due to continuing increases in Utah's economy, population, tourism, convention business and recreation (including substantial winter

recreation), it is in the interest of public convenience and necessity that taxicab licenses be increased to keep up with the demand for transportation services.

The initial Hearing was held, after appropriate Notice, on August 12, 1999. A second Hearing was held on November 4th, 1999. Documentary evidence was received and witnesses were presented by the Cab Companies concerning the issues contained in their joint Application. Salt Lake City, through the Mayor's designee, Michael W. Crippen, is now prepared to enter its Findings of Fact, Conclusions of Law and Order concerning the joint Application of Yellow Cab, Ute Cab and City Cab.

FINDINGS OF FACT

1. The number of visitors to the downtown, airport and capitol areas has been increasing annually from 1994 through 1997. Although there was a slight decrease in the number of visitors for 1998, over 1997, the total number of visitors for 1998 was greater than prior years 1994 through 1996. Further, there are two peak periods during the year for visitors to the downtown, airport and capitol areas. The first and largest peak is the summer months June through September. The next peak is in the spring, in March. (See Exhibit 5.)

2. There are two peak periods during a calendar year for taxicab trips originating at the Salt Lake City International Airport. For the fiscal year 1997, taxicab trips accounted for 18.8% of the total commercial trips from the Airport. Four winter months, December, January, March and April, accounted for more trips than this average (18.9%, 20.7%, 19.4%, 19.2%, respectively). Further, the month of August bettered this average (20.6%), as did the month of October (22%), during which months the City has

considerable convention visitors. (See Exhibit 4.)

3. Another example of the increased need for public transportation during the winter is the van businesses that run from the Airport to the various ski resorts.

Approximately 80 vans are run by Park City Transportation, Canyon Transportation, All Resorts and another, almost exclusively during the winter months.

4. Occupancy rates in Park City swell in the winter with the influx of skiers. Occupancy rates for Park City hotels also reflect two peak periods. Occupancy is highest in the winter months, with a second peak during the summer. 1998 Park City hotel occupancy rates were: January - 62%, February - 71%, March - 71%, April - 33%, May - 19%, June - 32%, July - 52%, August - 50%, September - 33%, October - 28%, November - 25%, and December - 52%.

5. The population of the Salt Lake Valley has increased in recent years. Taking 1990 as the base year with a population of 728,000, the population has increased as follows:

<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>
806,000	819,000	831,000	838,000

6. Hotel rooms in the downtown Salt Lake area have also increased as follows:

<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>
6,427	6,500	6,500	6,674	6,913	8,060 (under construction)

7. Similarly, the number of hotel rooms adjacent to the Salt Lake Airport has increased from 1,509 in 1997, to 2,227 for the year 2000 (under construction). In the

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Sandy area, there are nine new hotels/motels, with two more under construction.

8. Convention and tourist trade has increased, as reflected in the increase in the number of available hotel rooms.

9. The absolute number of senior citizens in the Salt Lake area (age 65 and older) is increasing. Three to four years ago it was 8% of the population, but now senior citizens represent 11% of the population.

10. The senior citizen group is a significant user of taxicabs.

11. Since the last increase in taxicab licenses, the E-Center has been built.

12. Salt Lake City has been awarded the bid for the 2002 Winter Olympics, which will further enhance the number of visitors to the City.

13. There is now more competition with taxicabs in Salt Lake County, including Super Express, Yellow Express, several smaller taxicab companies and seven or eight limousine companies.

14. The recent I-15 and other highway and street reconstruction has affected driving time by increasing the amount of time it takes to pick up and to transport passengers, thereby decreasing the number of trips a taxicab can accommodate during a shift.

15. Previously, three trips per hour were typical. Now one and a half to two trips per hour is the norm.

16. There has been a perceivable change in cab orientation in Salt Lake City. More people consider the choice of a taxicab as a means of transportation. It is anticipated this trend will greatly accelerate in December of this year when the Light Rail comes

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online, putting more people into downtown without cars. People who leave their cars behind in the suburban areas will have greater need to ride in taxicabs.

17. There will also be a greater demand for taxicabs as bad weather approaches. Stormy and snowy days tax cab capacity to the maximum.

18. Shared rides, allowable under the new ordinances (see 5.72.520) have also resulted in an increase in taxicab ridership during major conventions.

19. The Financial Statements of the Cab Companies show the following profit margins, defined as gross revenue divided into net profit, pre-tax and the following returns on capital:

Cab Company	<u>1996</u>	<u>1997</u>	<u>1998</u>
#1 Gross Profit Margin	18.5%	11.8%	5.4%
Return on Capital	N/A	N/A	4.0%
#2 Gross Profit Margin	4.2%	2.7%	-1.4%
Return on Capital	10.5%	7.6%	-0.5%
#3 Gross Profit Margin	5.5%	0.1%	0.4%
Return on Capital	27.5%	0.5%	2.0%

20. Additional financial information adduced at and after the second Hearing, as well as testimony adduced at the Hearing, demonstrated the financial responsibility of all Cab Companies under Salt Lake City Ordinance 5.05.140 B.

21. It is uneconomical for the Cab Companies to put a taxicab with meter, top light and radio, along with a licensed driver, on the streets of Salt Lake City for only part of a year.

22. Salt Lake City has three taxicab companies. In order to maintain the quality of services and competition in the market place, all three Cab Companies are beneficial to the citizens of and visitors to Salt Lake City.

23. The Cab Companies are operating at maximum capacity, using the number of taxicabs already authorized.

24. The Administrative Law Judge finds at this time it is appropriate to issue additional taxicab licenses.

25. It is fair and reasonable for Salt Lake City to increase taxicab licenses by 25%.

CONCLUSIONS OF LAW

Based upon the foregoing, Salt Lake City, through the undersigned, concludes that taxicab licenses shall be increased by 25% as follows: to 145 for Yellow Cab, to 78 for Ute Cab, and to 45 for City Cab.

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ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

The joint Application of Yellow Cab, Ute Cab and City Cab is granted as follows:

Yellow Cab is entitled to 145 taxicab licenses, Ute Cab is entitled to 78 licenses, and City Cab is entitled to 45 taxicab licenses.

ENTERED this 8th day of Dec., 1999.


Michael W. Crippen
Administrative Law Judge

FILED DISTRICT COURT
Third Judicial District

JAN 11 2005

SALT LAKE COUNTY

By _____
Deputy Clerk

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JOHN W. HOLT, #5720
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Attorneys for Petitioner

IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

YELLOW CAB DRIVERS
ASSOCIATION, INC.

Petitioner,

vs.

SALT LAKE CITY CORPORATION,

Respondent,

ORDER GRANTING PETITIONER'S
ALTERNATIVE MOTION FOR
SUMMARY JUDGMENT

Case No. 010910852

Judge Frank G. Noel

A hearing on Petitioner's Motion for Stay and Alternative Motion for Summary Judgment and Respondent's Motion to Dismiss came on for hearing before the Honorable Frank G. Noel on December 3, 2004. Petitioner was represented by Donald J. Winder and John W. Holt, of and for the law firm of Winder & Haslam, P.C. Respondent was represented by Larry V. Spendlove and Morris O. Haggerty of and for Salt Lake City Corporation. The Court, having received and reviewed the parties' memoranda in support of the pending motions; having heard oral argument; and having accepted Petitioner's waiver of its Motion for Stay pursuant to the

provisions of Rule 65(A), UTAH R. CIV. P.; being otherwise fully advised in the premises; and for good cause appearing, hereby

ORDERS, ADJUDGES and DECREES as follows:

1. Respondent's Motion to Dismiss is denied.
2. Petitioner's Alternative Motion for Summary Judgment is granted. Paragraph 3 of Hearing Officer Crippen's Order of August 14, 2001 forfeiting 33 of Petitioner's taxicab licenses is reversed on the basis that the Hearing Officer misapplied Section 5.72.145 of the Salt Lake City Ordinances.
3. The forfeiture provision of Section 5.72.145.B only applies in the event a holder of a certificate of convenience and necessity fails to license the total number of vehicles authorized by the certificate before February 15th of any year. The forfeiture provision is inapplicable in the event a holder does not have the total number of vehicles authorized by a certificate.
4. This ruling is based upon the maxims of statutory construction that the plain meaning of statutory language should be followed; specific provisions should govern over general provisions; statutory provisions should be construed in harmony with each other; and forfeiture statutes should be strictly construed.
5. The 33 licenses forfeited pursuant to paragraph 3 of the Hearing Officer's August

14, 2001 Order are forthwith restored to Petitioner, Yellow Cab Drivers Association, Inc.

ENTERED this 12 day of Jan, 2005

BY THE COURT:

FS
Frank G. Noel, Judge

APPROVED AS TO FORM:

Larry V. Spindle
Larry V. Spindle
Senior Salt Lake City Attorney

5.72.150 Minimum Use Of Taxicabs Required:

A. No certificate issued in accordance with section 5.72.130 of this article, or its successor, shall be construed to be either a franchise or irrevocable. It is the intent of the city council that all taxicabs authorized be actually used for the transportation of passengers for hire. In order to implement that intent, the city council hereby imposes the following requirements:

1. Each taxicab authorized under a certificate must be in service a minimum of one hundred four (104) cab days during any calendar six (6) months.
2. Within thirty (30) days after the end of each calendar six (6) months, a holder of a certificate must file a report with the city license supervisor's office. Such report shall be in writing, signed by the holder or by some person authorized to sign the same on behalf of the holder, and must be properly verified. The report shall contain the following information:
 - a. A list of all vehicles licensed under a certificate during the preceding calendar six (6) months, showing the serial or engine number, the state license plate number and the city business license sticker number for each vehicle. Such list shall include any vehicle which has been salvaged or otherwise removed from the fleet, as well as the replacement thereof;
 - b. The number of cab days each such vehicle was in service during the preceding calendar six (6) months;
 - c. The holder may also file with such report a written statement of the circumstances that caused any taxicab to be in service for less than one hundred four (104) cab days.
 - d. A statement that the information contained in the report was obtained from the company records, and that all statements contained in the report are true and accurate.

C. In the event any taxicab or a replacement or substitution for the taxicab licensed under the provisions of this chapter is not actually in service for the minimum required one hundred four (104) cab days during any calendar six (6) months, the right to operate that taxicab may, upon at least ten (10) days' notice to the holder, and upon the hearing had therefore before a mayoral hearing examiner as provided by chapter 5.02 of this title, be revoked by the city. The holder may appear in person or be represented by counsel at such hearing to show cause, if any he or she has, why the right to operate such taxicab should not be revoked. If, at the conclusion of the hearing, the city shall find that the holder has shown extenuating circumstances, the city may grant continuance of authority.

D. Upon revocation by the city of such authority, the certificate shall be modified to reflect the number of taxicabs actually in service for one hundred four (104) cab days during such calendar six (6) months, and the unused portion of the license fee will be refunded. "Unused portion", for the purposes of this section, means any remaining full calendar quarter in the calendar year in which the revocation takes place. The refund shall be one-fourth (1/4) of the fee paid for each such calendar quarter. Such forfeited right to operate any vehicle may be reissued only upon application required by section 5.05.105 of this title, or its successor, and by a showing of public convenience and necessity as required by section 5.05.140 of this title, or its successor. (Ord. 24-99 § 6, 1999)

