



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ROGER BERLINER
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DISTRICT 1

CHAIRMAN
TRANSPORTATION, INFRASTRUCTURE
ENERGY & ENVIRONMENT COMMITTEE

February 19, 2015

Al Roshdieh, Acting Director
Montgomery County Department of Transportation
101 Monroe Street
Rockville, MD 20850

Dear Acting Director Roshdieh:

I write to you today concerning two important issues before the T&E Committee as it reviews regulations concerning taxicabs and transportation networking companies: working conditions for taxicab drivers and service for residents with disabilities. These issues will be taken up by our committee on February 27.

On numerous occasions over the course of the last several months, I have had the opportunity to meet with a number of taxicab drivers who have described their contractual relationships with certain taxicab fleets operating in the County. I have been deeply affected and disturbed by what I have learned.

I confess that I simply do not know how to reconcile the heavy regulatory presence our county has assumed in the minute details of the operation of our taxi fleet and our totally hands off approach to issues that are fundamental to drivers. While we have aggressively regulated the color of taxis, the county has turned a totally blind eye to the relationship between the fleets to whom we granted monopoly access and the drivers who work for them. Based on what I have heard and their public testimony, I have reluctantly concluded that our drivers, many of whom are African immigrants, are among the most disempowered workers in our county.

Attached to this letter is a position statement prepared by an attorney representing drivers as part of mediation efforts between drivers and fleets. The position statement sets forth five issues regarding which the drivers are seeking relief: (1) lease rates for taxicabs; (2) credit card processing fees; (3) lease terms and conditions; (4) dispute resolution; and (5) regular County review of Chapter 53 of the County Code. I believe that there is considerable merit to these positions and I would like to know DOT's views on these issues, as well as information on how DOT might administer changes in the law enacted to implement them.

In particular, please provide the Committee with a written response to the following specific issues prior to the Committee work session on the 27th:

- I am interested in knowing how DOT might go about determining an appropriate cap on vehicle leases, protections provided by New York City and Seattle. It is my view that DOT is in a better position to make that determination than the Council, and my current inclination is to legislatively direct DOT to do so;
- With respect to credit card charges, I would like to know whether DOT believes that drivers should be forced to use a company provided terminal, or one of their own choosing as long as it meets certain generally acceptable standards (as is the case in San Francisco). In addition, I would like to know whether DOT believes that there should be a cap on credit card charges (as is the case in Alexandria). The record indicates that some taxi companies in Montgomery County (Barwood) charge drivers as much as 7.9%;
- With respect to lease terms, some taxi companies require drivers who bought and paid for a PVL to contract with it for 5 years (Barwood). Needless to say, such arrangements have led to charges that such a requirement is tantamount to "contracts of adhesion." Does DOT believe that drivers who bought and paid for a PVL should have the right to move from one company to another in order to ensure that taxi cab companies compete not just for customers, but for the loyalty of drivers as well? More broadly, I would like to know DOT's views on whether there should be clear and uniform contract requirements.
- Drivers also seek a means of resolving disputes with fleets. Today, drivers feel that they have no recourse. Please advise the Committee of whether the Department would support a mechanism that will provide a meaningful and fair process for resolving differences between drivers and fleets, and if so, what form you would propose.
- In addition to these issues raised in the mediation proceedings, drivers have come to me with their interest in acquiring more PVLs. Meanwhile, the companies have called for liberalizing the PVL transfer market. I would ask DOT to explain how the PVL market could change to give drivers more opportunities to own their own license and to add greater liquidity and transferability. Specifically, assuming our Council were to adopt provisions similar to what Councilmember Reimer has proposed regarding a universal dispatch system, does DOT believe that more can be and should be done to put more PVLs in the hands of drivers directly? As was discussed at the last work session, current rules contemplate that PVLs held by fleets that are idle would be returned to the County. Why would it not make sense to reallocate those PVLs to drivers? Further, how should the rules governing transfers be changed? Is the sub-licensing proposal by the companies in the best interest of drivers and the public?

Service for the Disability Community

Through our review of taxi-related issues, I have come to appreciate many of the difficulties that residents of our county who do have disabilities face when they seek to use taxicab or TNC service. I believe that an important objective of our review of these bills must be to ensure that disabled residents have access to better transportation options.

To that end, I propose that any new regulations of TNCs include requirements that they contribute to the provision of service for the disabled community. Having heard stories of TNC (and taxicab) drivers mistreating guide dogs, for example, I believe that language in the legislation should be strengthened to guarantee that TNCs are not discriminating against disabled residents and are adequately trained to respond to their needs. Since traditional UberX or Lyft vehicles are usually not able to accommodate wheelchair-bound individuals, I believe that more formal requirements are needed to properly guarantee those individuals access to reliable transportation.

I am asking for your position on potential strategies for guaranteeing better transportation options for disabled residents, based on models employed in other communities. From council staff's review of this issue, there are two approaches that have been taken:

1. Surcharge on TNC Rides

This surcharge would apply to all TNC rides in the county, and would be provided to the Department on a regular basis to support taxicab drivers providing service in wheelchair-accessible cabs. Seattle has such a surcharge in place, set at 20 cents.

2. "UberWAV" Service

In different communities, Uber has taken two approaches to linking disabled consumers with wheelchair-accessible vehicles directly. In Philadelphia, Uber is piloting a version of UberWAV that links app users directly with Public Utilities Commission-licensed accessible vehicles. Given that our jurisdiction covers only the UberX and Lyft services, such an approach may not be the most appropriate here. However, in New York City, users on the Uber app in the outer boroughs can request outer borough "green cabs" that are accessible. Lyft has informed me that they are currently unable to provide such a service.

I believe that a potential approach would be to impose an initial 10 cent surcharge on UberX or Lyft rides originating in Montgomery County, an amount that could be increased by Executive Regulation, and to require providers to make wheelchair-accessible vehicles available on their app, either by agreement with our traditional taxicabs or through their own partner vehicles, within two years.

This issue also brings to the fore the concerns that disabled residents have brought to my attention: that despite our efforts to have a reasonably-sized wheelchair-accessible fleet, rides are still difficult to arrange and hard to come by. Indeed, it is my understanding that while there is a requirement that as much as 8 percent of our fleets be wheelchair-accessible, there is no requirement that these vehicles actually be on the road at any one time. Given DOT's own testimony regarding the number of vehicles that are currently sitting, I would appreciate your insight into how we can guarantee that more wheelchair-accessible cabs are actually on the road at all times and better service for this important part of our community.

I appreciate your attention to all of these issues and I look forward to a timely and thorough response in advance of our work session.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Berliner', with a stylized, flowing script.

Roger Berliner
Councilmember, District 1
Chair, Transportation, Infrastructure, Energy, and
Environment Committee

CC: Howard Benn, Chief, Customer & Operations Support, DOT
James Ryan, Taxi Unit Manager, DOT
Jay Kenney, Chief, Aging and Disability Services, HHS
Shawn Brennan, Mobility and Transportation Program Manager, HHS
Betsy Luecking, Manager, Commission on People with Disabilities, HHS
Trish Gallalee, Chair, Commission on People with Disabilities
Josh Hamlin, Legislative Attorney, County Council
Councilmembers