

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

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SUSAN CLAIR, TANTA EXPRESS LLC,  
EASY ED TRANSIT INC., TOVE CAB CORP.,  
ZIP TRANSIT INC., and TRY TRANSIT INC.,  
on behalf of themselves and all others similarly situated,

Index No. 102277/15  
**VERIFIED PETITION**

Petitioners,

v.

THE CITY OF NEW YORK; THE NEW YORK  
CITY TAXI AND LIMOUSINE COMMISSION;  
and MEERA JOSHI, in her capacity as Chair of the  
New York City Taxi and Limousine Commission,

Respondents.  
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Petitioners Susan Clair, Tanta Express LLC, Easy Ed Transit Inc., Tove Cab Corp., Zip Transit Inc., and Try Transit Inc., by and through their attorneys, Cuti Hecker Wang LLP, for their class action Verified Petition allege as follows:

**NATURE OF THE ACTION**

1. This class action challenges the decision by the New York City Taxi & Limousine Commission (the "TLC") to ignore the mandate of N.Y.C. Admin. Code § 19-533, which, in furtherance of the City Council's avowed policies of improving the City's air quality and conserving fuel, requires that all taxi medallion owners must be afforded the option of operating a hybrid electric vehicle.

2. In 2014, the TLC promulgated new rules (the “Accessibility Rules”<sup>1</sup>) requiring that 50% of all taxis become accessible to people with mobility disabilities by 2020. The Accessibility Rules contemplate a four-year phase-in of the new 50% requirement beginning in January 2016. Starting next month, half of all vehicles reaching their mandatory retirement dates, including those of the Petitioners and the class of medallion owners they represent, must be replaced with accessible vehicles. Notwithstanding the plain language of § 19-533, the TLC has not approved an accessible hybrid electrical vehicle. The TLC nevertheless is requiring medallion owners to proceed with the conversion process, even though no hybrid electric vehicle option is being provided in blatant violation of § 19-533.

3. Tellingly, the Accessibility Rules expressly acknowledge that § 19-533 prohibits the TLC from requiring medallion owners to convert to accessible vehicles if no accessible hybrids are available. The rules provide that they go into effect on (i) “the date on which there is available an Accessible Taxicab Model that meets . . . the requirements of § 19-533” or (ii) January 1, 2016, whichever is earlier. During the April 2014 hearings in which the TLC considered the proposed rules, Respondent Joshi, the TLC’s Chair, expressly acknowledged that the Accessibility Rules would violate § 19-533 if they were to go into effect without an approved accessible hybrid vehicle being available, taking the position that any such concern was, as of April 2014, merely “hypothetical” because the TLC still had, at that time, more than a year and a half to approve an accessible hybrid vehicle. But January 1, 2016 is now upon us, and no accessible hybrid has been approved. The issue therefore is no longer “hypothetical.” The Accessibility Rules cannot go into effect without violating § 19-533.

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<sup>1</sup> The Accessibility Rules are set forth in § 58-50 *et seq.* of the Rules of the City of New York (“RCNY”).

4. Petitioners do not oppose the TLC's efforts to afford people with mobility disabilities greater access to taxi service. But such efforts cannot come at the expense of the City Council's considered commitment to clean air and fuel conservation. The TLC plainly has no authority to ignore such an important and unambiguous statutory requirement and must be enjoined from doing so.

#### JURISDICTION AND VENUE

5. This Court has personal jurisdiction over Respondents pursuant to CPLR § 301.
6. Venue is proper in this County pursuant to CPLR §§ 503, 504, and 505.

#### PARTIES

7. Petitioner Susan Clair is a natural person residing in New York County. She owns medallion number 4D10. Ms. Clair is a mobility-impaired senior citizen who lives off of a fixed income. Until now, she has leased her medallion to drivers through a leasing agent for \$2,400.00 per month. But her medallion was selected in the June 2015 lottery, and the TLC therefore informed her that "the next taxicab vehicle hacked-up with this medallion must be an accessible taxicab." Her leasing agent has informed her that because the market for leasing accessible vehicles is so weak, it no longer will make this payment to her. Ms. Clair's medallion is currently in storage and is not being used at all. Ms. Clair counted on the \$2,400.00 she was receiving from the leasing agent to meet her monthly expenses, which now far exceed her income. If Ms. Clair were allowed to associate her medallion with a hybrid electric vehicle as § 19-533 requires, she would do so, because she understands that the market for leasing hybrid vehicles is much stronger than the market for leasing accessible vehicles, so she would be much more likely to be able to lease it and generate the revenue she desperately needs to support herself.

8. Petitioner Tanta Express LLC is a New York limited liability company (“Tanta Express”). Tanta Express owns medallion number 3F35. This medallion currently is associated with a Ford Crown Victoria, which is scheduled to be retired out of service in July 2016. Tanta Express recently learned that its medallion was selected through a TLC lottery and that the next taxicab vehicle hacked-up with this medallion must be an accessible taxicab. Tanta Express wishes to associate its medallion with a hybrid vehicle when its current vehicle is retired next year.

9. Petitioner Easy Ed Transit Inc. (“Easy Ed Transit”) is a New York corporation that owns medallion number 5Y13. This medallion was selected during the June 2015 TLC auction to be converted to an accessible vehicle after its next retirement date. The vehicle currently being used by this medallion is scheduled to retire in February 2016. Easy Ed Transit wishes to associate its medallion with a hybrid vehicle when its current vehicle is retired next year.

10. Petitioner Tove Cab Corp. (“Tove Cab”) is a New York corporation that owns medallion number 3H22. This medallion was selected during the June 2015 TLC auction to be converted to an accessible vehicle after its next retirement date. The vehicle currently being used by this medallion is scheduled to retire in February 2016. Tove Cab wishes to associate its medallion with a hybrid vehicle when its current vehicle is retired next year.

11. Petitioner Zip Transit Inc. (“Zip Transit”) is a New York corporation that owns medallion number 4J80. This medallion was selected during the June 2015 TLC auction to be converted to an accessible vehicle after its next retirement date. The vehicle currently being used by this medallion is scheduled to retire in March 2016. Zip Transit wishes to associate its medallion with a hybrid vehicle when its current vehicle is retired next year.

12. Petitioner Try Transit Inc. (“Try Transit”) is a New York corporation that owns medallion number 4M80. This medallion was selected during the June 2015 TLC auction to be converted to an accessible vehicle after its next retirement date. The vehicle currently being used by this medallion is scheduled to retire in April 2016. Try Transit wishes to associate its medallion with a hybrid vehicle when its current vehicle is retired next year.

13. The putative Class, represented by Petitioners Clair, Tanta Express LLC, Easy Ed Transit Inc., Tove Cab Corp., Zip Transit Inc., and Try Transit Inc., includes all taxi medallion owners. All taxi medallion owners are injured by the Accessibility Rules because the Accessibility Rules require all taxi medallion owners to convert to accessible vehicles, with no hybrid option, either when their current or next vehicles are retired.

14. Respondent City of New York is a municipal corporation duly incorporated and existing pursuant to the laws of the State of New York.

15. Respondent New York City Taxi & Limousine Commission (the “TLC”) is an administrative agency for the City of New York, created by § 2300 of the New York City Charter. At all times relevant hereto, the TLC was and remains responsible for formulating, proposing, promulgating, and enforcing the rules and taking the actions challenged in this proceeding.

16. Respondent Meera Joshi is the Chair and Chief Executive Officer of the TLC. She is responsible for interpreting and enforcing the rules and taking the actions challenged herein.

### **FACTUAL ALLEGATIONS**

#### **A. The City Council Enacts the Hybrid Vehicle Requirement**

17. In 2005, the City Council enacted a law mandating that the TLC make hybrid electric vehicles available to all current and future medallion owners:

The commission shall approve one or more hybrid electric vehicle models for use as a taxicab within ninety days after the enactment of this law. The approved vehicle model or models shall be eligible for immediate use by all current and future medallion owners. For the purposes of this chapter, a hybrid electric vehicle shall be defined as a commercially available mass production vehicle originally equipped by the manufacturer with a combustion engine system together with an electric propulsion system that operates in an integrated manner.

N.Y.C. Admin. Code § 19-533.

18. The legislative history of § 19-533 confirms that the City Council concluded that this statutory requirement was critical to further its goals of improving the City's air quality and conserving fuel. The City Council promulgated legislative findings declaring that:

The Council of the City of New York hereby finds that the use of alternative fuel vehicles is important to the City's goal of improving air quality and conserving fuel.

...

The burning of fossil fuels is a major source of greenhouse gases that contribute to the growing problem of global warming. Furthermore, fuel prices continue to escalate while our reliance on fossil fuels has also increased our dependence on foreign sources of oil. Therefore, it is important to encourage the use and development of alternative fuel vehicles, including hybrid electric vehicles, to increase fuel efficiency, reduce air pollution and lower dependence on foreign oil.

19. The City Council expressly tied its goals of improving the City's air quality and conserving fuel to the importance of making hybrid electric vehicles available to taxi medallion owners:

The use of alternative fuel vehicles is especially appropriate with taxicabs, many of which operate 24 hours per day, spewing an enormous amount of emissions into the air.

20. Indeed, the City Council expressly recognized that the TLC's stringent vehicle specifications were unreasonably preventing medallion owners from using hybrids, to the detriment of air quality and fuel efficiency:

















