

To the Members of the Transportation Policy and Planning Board. I am writing to oppose certain of the amendments as proposed in Item #2 on the agenda for your 2/1/21 meeting (Leg. File 63461) related to eliminating the Appeal Subcommittee of the Transportation Commission (TC) in Sections (6)(c) and (13)(c) of MGO 11.06 Licensing and Regulating Public Passenger Vehicles for Hire. I do support the other proposed amendments to this ordinance.

I spoke with Amber McReynolds on Friday, and it was their intention to allow more flexibility for the TC with regard to the Appeal Subcommittee and the appeal process for permit denials, suspensions or revocations. However, in my experience as Chair of the TC, I feel the proposed amendments would cause fairly significant issues with regard to logistics of conducting the appeal hearing as well as timing for the appeals.

In order to create the additional flexibility and clarity that would help make the appeal process more expeditious, Amber drafted the following proposed alternative language in Section (13)(c) related to the Appeal Subcommittee. I urge you to support leaving the Appeal Subcommittee in place, support removing the proposed changes to delete the Appeal Subcommittee from Sections (6)(c) and (13)(c); and recommend modifying the language in Section (13)(c) to read as follows:

“The Appeal Subcommittee shall consist of three (3) members or alternate members of the Transportation Commission as appointed by the Chair of the Transportation Commission.”

Here are my thoughts with regard to the original proposed changes regarding the Appeal Subcommittee. It is my understanding that the drafters thought the TC could form an ad-hoc subcommittee to address the appeals as required, so the ordinance did not need to reference a permanent Appeal Subcommittee. However, I would point to language in the draft which indicates:

“~~At such an appeal hearing in front of the Transportation Commission, the licensee shall have an opportunity to cross examine witnesses, may call witnesses in her/his on their own behalf and may be represented by legal counsel. After holding a hearing, the Appeal Subcommittee of the Transportation Commission shall by majority vote make findings of facts and conclusions of law and may by majority vote affirm, modify or reverse the suspension or revocation imposed by the City Traffic Engineer. Decisions of the subcommittee Transportation Commission are final administrative determinations subject to judicial review as provided by law. The final action of the Appeal Subcommittee Transportation Commission shall terminate any stay granted under this Subdivision (c).~~”

Language as originally drafted appears to indicate that the hearing would be in front of the full TC; and that it would be a decision and final action of the TC. Having appeals heard in front of the full TC would cause multiple difficulties with the appeal process, which I will describe below.

In addition, as I read MGO 33.01, if the Appeal Subcommittee were removed as proposed, the TC would be required to form an Ad-hoc Appeal Subcommittee as needed (once or twice a year during a typical year). That means we would be delayed in starting to appoint people to the Ad-hoc Appeals Subcommittee until after the TC meets. I believe it makes sense to leave the existing Appeal Subcommittee in place so it can be used as needed, modifying the structure slightly to provide the intended additional flexibility.

I would be very concerned about the possibility of having appeals heard in front of the full TC, since that would cause logistical issues with regard to timing and difficulties with the process of conducting a hearing that follows the appropriate due process. In addition, appeal hearings require the appellant to reveal personal information which can be very difficult to share. So appellants might well be intimidated by the fact that the TC meetings are broadcast and recorded. Appellants might also be discouraged from filing appeals in fear of feeling embarrassed or humiliated in this public setting.

I plan to attend the TPPB meeting on Monday; and I have registered to speak. I am happy to answer any questions with regard to my thoughts and recommendations.

Thanks and best regards,

Ann

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