



New York City Comptroller
John C. Liu

NEWS RELEASE

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LIU GROUNDS TAXI OF TOMORROW

Comptroller Rejects Contract That Violates Civil Rights

NEW YORK, N.Y. — City Comptroller John C. Liu today officially rejected the so-called Taxi of Tomorrow, writing to Mayor Bloomberg that the contract may violate the federal Americans with Disabilities Act (ADA) and increase the City’s exposure to costly lawsuits.

“City Hall’s refusal to provide wheelchair-accessible cabs to people with disabilities is inexplicable and we believe it violates the ADA,” Comptroller Liu said. “We should not go ahead with a so-called Taxi of Tomorrow that perpetuates a shamefully separate and unequal cab fleet for another decade.”

Comptroller Liu’s letter to the Mayor details his refusal to register the Taxi of Tomorrow agreement on the grounds that it may not only violate the civil rights of wheelchair users, but also puts the City at significant risk of lawsuits.

The Taxi of Tomorrow plan has been met with outrage and objections and is currently the subject of a lawsuit that seeks its demise.

“Tens of thousands of disabled New Yorkers and visitors are inconvenienced by our inaccessible taxi system,” said **James Weisman, Senior Vice President and General Counsel of the United Spinal Association**. “The Taxi of Tomorrow was a chance to solve this problem. Instead Taxi and Limousine Commissioner David Yassky and the Mayor have chosen to perpetuate it at great cost to taxpayers. Access-A-Ride and Medicaid transportation costs would be reduced substantially if the taxi system were accessible to wheelchair users.”

“The City’s decision to adopt a non-accessible Taxi of Tomorrow puts many New Yorkers at risk,” said **Chris Noel, lead plaintiff in the lawsuit Noel, et al. v. Taxi and Limousine Commission (TLC)**. “Many disabled and elderly people were left stranded during Superstorm Sandy because most forms of transportation weren’t accessible until things were up and running again. In an emergency, getting an accessible taxi could be a matter of life-and-death for wheelchair users. Mayor Bloomberg has missed a major opportunity by neglecting the disabled population’s taxicab needs.”

“It is unfathomable to me that the Mayor and the City of New York are trying to proceed with an inaccessible Taxi of Tomorrow program,” said **Paul Tobin, LMSW, President & CEO United Spinal Association**. “Discrimination in any form, against any protected class, should never be tolerated — especially by our elected officials.”

“A week after the U.S. Senate failed to ratify a U.N. treaty promoting civil rights for people with disabilities, City Hall seems determined to tell disabled New Yorkers to wait another decade to be able to hail a cab,” said **Edith Prentiss, Chairperson of the Taxis for All Campaign**.

“From the Ground Zero mosque to gay marriage, the Mayor has always been about freedom for all,” said **Dr. James Post, a Bronx physician who uses a wheelchair and is an advocate for accessible taxis**. “I don’t understand his stubborn resistance to having taxicabs accessible to all New Yorkers. Why is he comfortable allowing New York to be second rate when it comes to equal access to transportation?”

“Comptroller Liu’s actions today should not be viewed as a rejection of the Taxi of Tomorrow,” said **Assembly Member Micah Z. Kellner (D-Manhattan)**, “but as an opportunity for the Bloomberg Administration to start anew and ensure New York City’s iconic yellow taxis are accessible to everyone for the next decade.”

“I applaud the Comptroller’s decision to reject the proposed ‘Taxi of Tomorrow’ contract between the City and Nissan, which would require medallion owners to purchase the NV-200, an inaccessible van, for the next ten years,” said **Council Member Oliver Koppell (D-Bronx)**. “As chair of the NYC Council committee with oversight on disability services and the lead sponsor, along with 36 of my colleagues, of legislation that would mandate an all-accessible taxi fleet, I find the Mayor’s decision to select the NV-200 completely deplorable. Not only is the inaccessible van design a slap in the face to wheelchair users, I strongly believe that it violates the Americans with Disabilities Act. New York should be like other world class cities, such as London, which has a 100% wheelchair accessible fleet, and not treat our residents and tourists with disabilities like second-class citizens.”

“I support Comptroller Liu’s rejection of the Taxi of Tomorrow contract with Nissan,” said **Council Member Jumaane Williams (D-Brooklyn)**. “Mayor Bloomberg had an opportunity to approve of an agreement with a company that would have built 100% ADA-compliant vehicles in the borough of Brooklyn with homegrown labor. Instead, he opted for a plan that disadvantages the already disadvantaged in our city. It also fails to address the exorbitant costs we pay for Access-a-Ride and ambulette services, which could be mitigated by a fleet of wheelchair-accessible taxis. Let’s take this opportunity to go back to the drawing board and make a contract that makes sense for all New Yorkers.”

“The City has a major decision to make on a taxi of the future, and we must consider the future of all New Yorkers including those with disabilities,” said **Council Member Daniel Halloran (R-Queens)**. “Further, one manufacturer has promised not only to create taxis that are accessible to disabled New Yorkers, but to manufacture them locally, bringing jobs and new industry to the City. This is a proposal that represents the future in more ways than one.”

“I want to applaud Comptroller John Liu for demanding that the City of New York adopt an accessible Taxi of Tomorrow,” said **Council Member Gale A. Brewer (D-Manhattan)**. “We

cannot waste this tremendous opportunity for the City to provide all New Yorkers equal access to a vital form of transportation.”

“With the new contract, we ought to harness the opportunity to ensure that all New Yorkers have access to taxis as an efficient transportation option,” said **Council Member Stephen Levin (D-Brooklyn)**. “Instead of retrofitting taxis, we should seek a model that is already wheelchair-accessible. I applaud the leadership of Comptroller Liu and my colleague, Council Member Koppell, for their efforts in making our city more accessible for New Yorker residents and visitors alike.”

“I believe it is incredibly significant that the greatest City in the World provide transportation alternatives for people with disabilities,” said **Council Member Sara M. González (D-Brooklyn)**. “There are people with disabilities who are well-educated, extremely capable, well-positioned and employed, but their productivity is diminished by the fact that they cannot readily hail a taxi to get to a last minute meeting or conference. They are often not able to work late because getting home would be a problem. People with disabilities face unreasonable obstacles when their transportation needs are limited to pre-scheduled arrangements whether their destinations are related to employment, medical, scholastic or social concerns. I believe therefore that there is a fiscal impact to not providing accessible taxicabs, as well as an effect on tourism, when other major cities, like London, have a 100% accessible fleet.”

“I support taxis for all, not just taxis for some,” said **Council Member Daniel Dromm (D-Queens)**. “We need a fleet that serves all New Yorkers. Halfway measures are inadequate. Our disabled community deserves full access.”

“The Taxi of Tomorrow presented the City with an opportunity to finally afford disabled New Yorkers with full access to our city’s yellow cabs,” said **Council Member Melissa Mark-Viverito (D-Manhattan)**. “Unfortunately the administration instead dismissively chose a design that continues to limit these New Yorkers’ ability to hail a taxi. This is unacceptable. I thank Comptroller John Liu for holding firm and rejecting this contract. I also thank Council Member Koppell who has been a consistent and strong voice on this issue.”

The so-called Taxi of Tomorrow cannot accommodate wheelchair users unless a medallion owner opts to spend an estimated \$14,000 — half the cost of the car —to install a wheelchair ramp in the trunk, leaving room for just one additional passenger.

“It is baffling that the City continues to miss this opportunity to once again demonstrate that New York City is a leader when it comes to inclusion and the protection of individuals rights,” Comptroller Liu said. “We must not allow New York’s yellow taxi fleet to become a symbol of exclusion that tramples the rights of wheelchair users.”

BACKGROUND:

In 2009, Mayor Bloomberg recommended that the Taxi of Tomorrow “provide universal accessibility for all passengers, including passengers in wheelchairs.” The recommendation was made in a City Hall report, “Age Friendly NYC: Enhancing Our City’s Livability for Older New Yorkers.” The full report can be downloaded here: http://www.nyc.gov/html/om/pdf/2009/pr386-09_report.pdf

In May 2012, Comptroller Liu requested Mayor Bloomberg and the TLC amend the proposed Taxi of Tomorrow design to require it be wheelchair accessible cabs before sending any agreement for registration. Comptroller Liu's May 2, 2012 letter to the Mayor is here: http://www.comptroller.nyc.gov/press/2012_releases/pr12-05-047.shtm

On Nov. 16, 2012, the TLC sent the Taxi of Tomorrow agreement to Comptroller Liu for registration. Comptroller Liu had 30 days to register or reject the agreement.

TEXT OF COMPTROLLER LIU'S LETTER TO MAYOR BLOOMBERG:

December 14, 2012

Honorable Michael Bloomberg
Office of the Mayor
City Hall
New York, NY 10007

RE: Nissan Taxi Marketing, N.A., LLC
Contract Number: 20135400961

Dear Mayor Bloomberg:

On November 16, 2012, the Department of Citywide Administrative Services submitted to the Office of the Comptroller for registration a contract for Nissan Taxi Marketing, N.A., LLC ("NTMNA") to serve as the mandatory source for all new vehicles, the so-called "Taxi of Tomorrow," for the New York City taxi fleet. Following a thorough review by the Office of the Comptroller, I am rejecting this contract, because it ignores the civil rights of those New Yorkers who use wheelchairs by failing to require a wheelchair accessible vehicle. This failure is inexcusable and an affront not only to the disabled community, but to all New Yorkers who believe in fairness. Moreover, given pending lawsuits that directly and indirectly challenge this contract, it is clear to me that its implementation raises significant risk to the City.

First, a newly-filed lawsuit, *Committee for Taxi Safety v. City of New York*, Index No. 104315/2012 (Sup. Ct. NY Co., Nov. 29, 2012), raises serious legal concerns that the contract award by the Taxi and Limousine Commission (the "TLC") to NTMNA for the model NV200 taxi was arbitrary and capricious in light of: (1) an outmoded vehicle design; (2) unsuitability for City road conditions; and (3) the risks of using a sole source for parts and replacement vehicles.

Second, in the aftermath of Superstorm Sandy, mandating a taxi that is not wheelchair accessible raises a grave risk that people who use wheelchairs will not be able to evacuate safely. Indeed, the U.S. District Court in Manhattan recently set for trial a class action lawsuit alleging that the City's disaster planning unlawfully fails to provide adequately for persons with disabilities, in part because of the lack of wheelchair accessible taxis. *Brooklyn Center for Independence of the Disabled v. Bloomberg*, 11 Civ. 6690 (S.D.N.Y. Nov. 7, 2012). The TLC's non-accessible Taxi of Tomorrow only worsens the serious storm risks faced by people with impaired mobility.

Finally, serious concerns remain that the Taxi of Tomorrow violates the Americans with Disabilities Act (the “ADA”) and the related regulations of the U.S. Department of Transportation. The ADA and those regulations require that when a public entity controls private taxis as pervasively as if they were the public entity’s program, the taxis used must be wheelchair accessible. Here, the TLC has put into effect a strict program requiring that all taxi owners must purchase only one specific vehicle that, as built, is not wheelchair accessible. At best, a clumsy optional retrofit of the Taxi of Tomorrow results in a potentially dangerous condition, whereby a person in a wheelchair must enter into the rear of an idling taxi in the road, rather than from the side of the taxi at or near the curb. The City has mandated a taxi that the disabled cannot use, and the owners would not choose.

The United States Court of Appeals for the Second Circuit, while ruling in June 2012 that the City’s existing taxi fleet rules did not violate the ADA, noted that the TLC could violate the ADA if it were to mandate a taxi that was not accessible:

Plaintiffs suggest that the Taxi-for-Tomorrow Initiative violates Title II (A) by effectively preventing medallion owners from using an accessible vehicle. . . The current model of the NV200 is not accessible, but the model that would serve as the standard taxi is still being developed. . . We decline to decide now issues that might arise in the future as the project goes forward. *Noel v. New York City Taxi and Limousine Commission*, 687 F.3d 63, 72 n. 7 (2nd Cir. 2012).

That has now happened: The TLC has ordered New York City taxi drivers to buy a taxi that is not wheelchair accessible, and cannot be easily adapted to provide safe and dignified wheelchair access.

In short, by mandating a “Taxi of Tomorrow” that is not wheelchair accessible, the City has disregarded the civil rights of the disabled community and put City residents at unnecessary risk, and so I reject this improper contract.

Sincerely,

John C. Liu

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