

Agenda: Item 10

Consideration of Resolution Clarifying that the ADA Policy Exists for P-16
and P-68 Permit Holders and not for P-16 and P-68 Permit Applicants

[INFORMATION]



CITY AND COUNTY OF
SAN FRANCISCO

TAXI COMMISSION
MAYOR GAVIN NEWSOM

PAUL GILLESPIE, PRESIDENT, ext. 3
PATRICIA BRESLIN, VICE PRESIDENT
RICHARD BENJAMIN, COMMISSIONER, ext. 1
TOM ONETO, COMMISSIONER, ext. 6
MIN PAEK, COMMISSIONER, ext. 7
SUSAN SUVAL, COMMISSIONER, ext. 5
ART TOM, COMMISSIONER, ext. 4

JORDANNA THIGPEN, EXECUTIVE DIRECTOR

October 14, 2008

At the meeting of the Taxi Commission on Tuesday, October 14, 2008 the following resolution(s) and finding(s) were adopted:

RESOLUTION NO. 2008-XX: CLARIFYING THAT THE ADA POLICY EXISTS FOR P-16 PERMIT HOLDERS AND NOT FOR P-16 PERMIT APPLICANTS

WHEREAS, 1978's Proposition K changed the taxi industry by requiring that P-16 permits could not be sold or transferred and could only be granted to working taxi drivers; and

WHEREAS, the requirements for P-16 permit renewals, including an annual driving requirement, is codified at Municipal Police Code § 1081; and

WHEREAS, the Taxi Commission has previously adopted a policy, Resolution 2006-28 (known as the "ADA Policy") allowing reasonable modification to the driving requirement for P-16 permit holders; and

WHEREAS, the driving requirement codified at Municipal Police Code § 1081(f) and the ADA Policy modifying it have both been repeatedly upheld by courts at the state and federal levels as reasonable requirements and modifications thereto for P-16 permit holders; and

WHEREAS, the driving requirement codified at MPC § 1121 applies to applicants for P-16 permits; and

WHEREAS, in Resolution 2004-25 and later clarified in Resolution 2006-87, the Taxi Commission has previously adopted a policy allowing applicants to apply for a time waiver if they fall short of one year or less of driving necessary to meet the driving requirements under MPC § 1121; and

WHEREAS, Municipal Police Code (MPC) § 1121 was amended in 2004 to progressively increase the driving required to obtain a P-16 permit; and

WHEREAS, the San Francisco Taxi Commission finds that the existing policy for a one year time waiver is sufficient to extend to P-16 applicants that need extra time to complete the driving requirement, and clarifies that the ADA Policy does not extend to P-16 applicants.

AYES:
ABSENT:

NOES:
RECUSED:



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PAUL GILLESPIE, VICE PRESIDENT, ext. 2
PATRICIA BRESLIN, COMMISSIONER, ext. 4
MICHAEL KWOK, COMMISSIONER, ext. 3
MARY MCGUIRE, COMMISSIONER, ext. 5
MIN PAEK, COMMISSIONER, ext. 6
MARTIN SMITH, COMMISSIONER, ext. 7

NAOMI LITTLE, EXECUTIVE DIRECTOR

April 15, 2004

At the meeting of the Taxicab Commission on Tuesday, April 13, 2004 the following resolutions and findings were adopted:

RESOLUTION NO. 2004-25

APPROVAL OF A RESOLUTION REGARDING REQUEST FROM TAXICAB PERMIT APPLICANTS ON THE WAITING LIST TO DEFER CONSIDERATION OF THE APPLICATION ON THE BASIS THAT THE APPLICANT DOES NOT HAVE THE DRIVING EXPERIENCE REQUIRED.

WHEREAS, The Taxi Commission has an "open entry" taxicab permit waiting list under Police Code section 1121, where the only requirement is that applications be processed and considered in the order of their receipt, additionally, preference is given to applicants who have been a full-time driver during the 123 months immediately preceding the Taxi Commission's hearing on the application; and

WHEREAS, Applicants who have failed to complete the full-time driving preference often request deferral, commonly referred to as "time waivers," until they complete the preference; and

WHEREAS, The number one applicant on the taxicab waiting list requested a time waiver in March 1999, and has yet to fulfilled the full-time driving preference; and

WHEREAS, It is the goal of the Taxi Commission to clean up the taxicab waiting list so that the waiting list will move faster and medallions will be awarded to career taxicab drivers; now

THEREFORE BE IT RESOLVED, that prior to the commencement of the Taxi Commission hearing on the taxicab permit application, at the request of the applicant the Commission shall defer consideration of the application on the basis that the applicant does not have the driving experienced required or for good cause. The Commission retains discretion to refuse a request to defer consideration of the application if the Commission finds that the applicant has engaged in fraud, deceit, misrepresentation, or other misconduct in connection with the application process. In requesting a referral:

1. The applicant may make no more than one (1) requests to defer consideration of the application, unless the applicant is a holder of a ramped taxicab permit not precluded from accepting a taxicab permit under Police Code section 1148.1;
2. Each request to defer consideration of the application may, at the applicant's option, be for a period of up to one (1) year;
3. If a deferral is in effect as of the effective date of this resolution for an unspecified period of time, the deferral shall be considered to last for one year from the date on which it was granted, or until the effective date of the resolution, whichever is later.
4. All requests for deferrals shall be placed on the Taxi Commission's Consent Calendar.

AYES: Jackson, Gillespie, Breslin, Kwok, McGuire, Smith
NOES: None

ABSENT: Paek

Respectfully submitted,
Sonya Banks
Commission Secretary

A handwritten signature in cursive script, appearing to read "Sonya Banks", written over the printed name of the Commission Secretary.



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ARTHUR JACKSON, PRESIDENT, ext. 1
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HEIDI MACHEN, EXECUTIVE DIRECTOR

March 8, 2006

At the regular meeting of the Taxicab Commission on Tuesday, February 28, 2006 the following resolutions and findings were adopted:

RESOLUTION NO. 2006-28

Clarifying limitations to variations from the 1978 Proposition K driving requirements

Whereas in Proposition K in 1978 San Francisco voters established a medallion holder's driving requirement, as one of a package of taxi industry reforms, and

Whereas in 2003 the voters rejected Proposition N, an initiative ordinance that would have waived the driving requirement for disabled permit holders, and

Whereas the driving requirement is codified in the San Francisco Police Code §1081(f) and the San Francisco Administrative Code, Appx. 6, and

Whereas, in Resolution # 2002-93, adopted 8 October 2002, the Taxi Commission declared that "continuous driving is an essential eligibility requirement of the City's programs for the permitting of motor vehicles for hire, and that exempting a permit holder from that requirement would fundamentally alter the nature of those programs...", and

Whereas the Americans with Disabilities Act allows some variation in permitting requirements as accommodation to the disabled insofar as those variations do not compromise the essential eligibility requirements and character of the program, and

Whereas, the Commission presently allows some variation from the 90-day medical leave prescribed in Proposition K, but without clear guidelines, in instances where a medallion holder experiences a medically verified disability or catastrophic illness which limits her/his ability to meet the annual driving requirement, and

Whereas, the present resolution does not preclude or limit future discussion or resolutions related to permit transferability, health care, or retirement issues.

Therefore it be resolved, that the Taxi Commission establishes the following policies for disabled medallion-holders who are otherwise qualified to hold taxicab permits:

- A 120-day maximum leave per year from the driving requirement with a three consecutive year cap (annual renewal upon review and approval)
- Up to a full year exemption from the driving requirement once per five years for treatment for catastrophic recoverable illness
- The applicant shall submit medical documentation and be available for review by the San Francisco Department of Public Health upon application and renewal.

AYES: Jackson; Gillespie; Kwok; Paek
ABSENT: None

NOES: Breslin; Smith
RECUSED: McGuire

Respectfully submitted,

Handwritten signature of Heidi Machen in black ink.
Heidi Machen
Executive Director



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MIN PAEK, COMMISSIONER, ext. 7

HEIDI MACHEN, EXECUTIVE DIRECTOR

August 10, 2006

At the meeting of the Taxicab Commission on Tuesday, August 8, 2006 the following resolution(s) and findings were adopted:

RESOLUTION NO. 2006-87

DEFINING ELIGIBILITY FOR TAXICAB PERMIT APPLICANTS ON THE MEDALLION WAITING LIST WHO REQUEST ONE YEAR TIME WAIVERS TO ATTAIN THE REQUIRED DRIVING EXPERIENCE.

WHEREAS, before consideration of an application for a taxicab vehicle permit, the applicant must show a history of experience driving a San Francisco Taxicab as specified in Police Code Sec 1121(b); and

WHEREAS, such experience must be for periods of two years or more; and

WHEREAS, under Taxi Commission Resolution 2004-25, applicants who have not completed the full-time driving requirement are entitled to deferral of permit consideration for one year to allow them to acquire the required experience, commonly referred to as "time waiver"; and

WHEREAS, in cases in which an applicant has not satisfied two or more years of the driving requirement, a one-year time waiver would not be sufficient to allow the applicant to acquire the required experience;

THEREFORE BE IT RESOLVED that the Taxi Commission shall not grant time waivers to applicants who are deficient by more than one year in fulfilling the driving requirement.

AYES: Benjamin; Gillespie; Heinicke; Kwok; Oneto; Paek
ABSENT: None

NOES: Breslin
RECUSED: None

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Heidi Machen".

Heidi Machen
Executive Director