

**1) Medallion leasing vocabulary (proposed):**

**Affiliate:**

- Operation: medallion operated independently of a company except for the right to use the company name and dispatch service.
- Vehicle: owned by, and all insurance, repair and other operating costs are borne by 'primary' lessee driver (typical) or medallion owner pursuant to the particular lease agreement for that medallion.
- Drivers: 'Secondary' drivers scheduled through 'primary' lessee driver (typical) or medallion owner.
- Payments: Medallion owner pays the company a flat monthly fee in return for dispatch and a variable selection of other services from the company.

**Long-term lease:**

- Operation: medallion operated by a color scheme through "three-layer" lease between medallion owner, company and identified lessee drivers for a period longer than a single shift.
- Vehicle: owned by, and all insurance, repair and other operating costs borne by company.
- Drivers: Drivers scheduled through company.
- Payment: Medallion owner receives a flat monthly fee and a possibly a discount on gate fees, dividends from a cooperative, or other benefits from the company.

**Gas and gates:**

- Operation: medallion operated by a color scheme through daily leases of shifts to drivers who pay by the day for shifts.
- Vehicle: owned by, and all insurance, repair and other operating costs are borne by company.
- Drivers: Drivers scheduled through company.
- Payment: Medallion owner receives a flat monthly fee and a possibly a discount on gate fees, dividends from a cooperative, or other benefits from the company.

**2) History of medallion leasing in San Francisco**

- **2003:** Controller estimated only 100-250 out of 7,800 drivers (one to three percent) operating vehicles pursuant to long-term leases, but notes lack of data and lack of reporting requirements, and recommends a driver survey. Concludes that gate fees are not subject to regulatory gate caps; establishing lease caps would require specifying very particular elements of service that are highly variable for each lease arrangement. "Additional regulation not warranted unless the City finds evidence of wrongdoing or coercion to require drivers to agree to long-term leases . . . maintaining the status quo is reasonable." See **Appendix B**.

See also Naomi Little presentation notes to Oct. 6, 2003 meeting of the Land Use Committee of the Board of Supervisors: Whether to enter a lease is the drivers' choice, allowing more freedom to choose preferred shifts and fellow drivers with whom they want to share a vehicle. Concludes that the market is efficiently determining lease fees. See **Appendix C**.

- **2007:** Taxi Commission Executive Director recommended banning all long term lease and affiliation arrangements, limiting authorized operation of a medallion by a medallion holder or a driver to a daily gas and gates agreement with a Color Scheme, and requiring medallion

Council Liaison Report to the SFMTA Taxi Advisory Council (TAC)  
Medallion Sales Pilot Program – Impacts of Leasing vs. Gas and Gate Operation  
September 27, 2010

holders to file lease agreements with the Taxi Commission at time of filing 1095 forms and upon any Color Scheme change. See **Appendices D & E**.

- **2009:** Taxi Commission recommends SFMTA adopt lease regulations prohibiting affiliates. See **Appendix F**.
- **2010:** Taxi Services staff recommends collecting current data through driver surveys by mail. The TAC has requested staff to conduct a company survey to identify current levels of affiliation, long-term leasing and gas and gates operation.
  - What percentage of medallions are operated as 1) gas and gates, 2) long term lease, 3) affiliation.
  - What lease rates are being paid by drivers, and under what lease terms?
  - Other data needed from driver and company surveys?

### **3) Issues:**

- a) Regulatory control of leasing arrangements: identity of drivers, condition of vehicles, operating hours (both with respect to excessive driving hours and continuous operation), charging drivers more than affiliated color scheme's gate limits for shifts, unregulated lease prices, drivers' inability to complain about usurious lease terms, etc.
- b) Potential for influencing independent contractor/employee status through lease terms
- c) Impractical regulations and administration: such as changing shift on company property; trying to maintain accurate company driver roster/schedule
- d) Ineffective regulation and administration: current renaissance of illegal lease brokers that are flourishing in spite of regulations prohibiting their existence; companies not always sure who is driving the vehicle, whether drivers are qualified or whether the vehicle is adequately insured
- e) Potential loss of shifts for gas and gates drivers
- f) Potential loss of revenue for companies because gas and gate operation is more profitable than affiliation fees
- g) Balance between effectively regulating and allowing flexibility in business arrangements
- h) Pre-K v. Post-K medallions: should they be treated differently for the purpose of leasing regulations?

### **4) Proposed solution: uniform lease terms**

- a) In writing, four originals (to be carried in the vehicle, for medallion holder files, for the lessee's files and for the SFMTA) signed by the parties (no agents), including full legal names, 24-hour contact information (no post office boxes), MVFH permit numbers, and the CDL number of any designated drivers under the lease
- b) Specifying the term of the lease, including an effective date and a termination date. Require a minimum term, such as 6 months or a year?
- c) Designating specific drivers and anticipated shifts, and providing a simple amendment procedure for substitution of drivers as needed during the term of the lease

Council Liaison Report to the SFMTA Taxi Advisory Council (TAC)  
Medallion Sales Pilot Program – Impacts of Leasing vs. Gas and Gate Operation  
September 27, 2010

- d) Requiring 30 days notice of termination or good cause, including documentation submitted to SFMTA indicating intended method of business operation following termination of the lease (e.g. gas and gates, different lease)
  - e) Itemizing all compensation to be paid by the driver(s) under the lease and payment terms, and requiring a written receipt for all such payments to include the date, amount, reason for and period covered by payment, and the name of the persons making and receiving such payment, as applicable
  - f) Limiting gates charged under leases to the same caps as gates posted by the affiliated Color Scheme and paid by gas and gates drivers, and requiring acceptance of specified forms of payment other than cash
  - g) Specifying off-street location where vehicle will be parked/stored when not in use and designated mechanical repair facility subject to record-keeping requirements and SFMTA right of inspection
  - h) Specifying schedule of payments and/or discounted payments to party who paid for vehicle or other capital costs in the event of termination prior to the end of the vehicle life
  - i) Designating the responsible party under the lease for payment of:
    - Vehicle maintenance, repair and fuel costs
    - Liability and workers' compensation insurance premiums
    - Applicable permit, testing and inspection fees required by the SFMTA
  - j) Providing that no provision of the lease relieves the medallion holder of his or her joint and several responsibility for the proper operation of the medallion in compliance with all regulations, including but not limited to the safe mechanical condition of the vehicle, maintenance of required levels of insurance and the qualifications and condition of the drivers designated under the lease
  - k) Voidable by the SFMTA for any regulatory violations by any party that involve availability of the vehicle to service the public or any threat to public safety
  - l) Providing for summary suspension of the medallion if any driver not named in the lease is allowed to operate the vehicle
  - m) Providing that written leases currently in effect at the time of the rule change shall remain valid for the remainder of their term
  - n) Providing that lease must be filed with SFMTA at least 2 days prior to its effective date
  - o) Including a sworn statement by both parties attesting to the truth of the representations in the lease
- 5) Other potential whole or partial solutions:**  
(Taxi Town Hall Meeting notes, July 10, 14, 16-17, 2009)
- a) Adopt lease regulations recommended to SFMTA by Taxi Commission in 2009 prohibiting affiliate arrangements. See **Appendix F**.
  - b) Allow only medallion holders and companies to enter into leases longer than a single shift; require all drivers to be scheduled through the company as gas and gates shifts; require any medallion holder who wants to maintain their own vehicle to maintain it as a single shift

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Medallion Sales Pilot Program – Impacts of Leasing vs. Gas and Gate Operation  
September 27, 2010

vehicle to be operated only by the medallion holder, and sublease remaining shifts to the company for use with a company-owned vehicle.

- c) License and regulate brokers
- d) Improve drivers' ability to complain about abuses without retaliation (ombudsman)
- e) Setting lease caps/standard lease rate setting process.

See **Appendix A**: Total prohibition of leasing was removed in 1974, and within 15 years the result was nearly 100% conversion to leasing arrangements in Boston taxi industry. Lease rates escalated between 1985-1989 with no corresponding meter rate increase; in one case a company raised its lease rates 12% per year for the three years preceding 1989 report. Resulted in driver shortage due to increased driving costs, lack of meter increase and elimination of employment benefits. Report concludes lease rate should be regulated in a manner that is equitable to large and small companies, that permits recovery of expenses in addition to a reasonable rate of return on investment and depreciation of vehicle. Recommends specific formula for lease cap rate-setting.

**APPENDICES**

- A) Report and Recommendations of Special Hearing Officer Harold J. Keohane, Esq., to City of Boston Police Commissioner Francis M. Roache, dated July 25, 1989 following hearings and industry meetings conducted in the first half of 1989
- B) Controller's Taxicab Industry – Long-Term Lease Report to Board of Supervisors pursuant to Police Code § 1135(i) (Ord. #228-02); October 1, 2003
- C) Naomi Little, Taxi Commission Executive Director, speaking notes for Oct. 6, 2003 meeting of the Land Use Committee of the Board of Supervisors
- D) Letter from Thomas George Williams, Chair of United Taxicab Workers to Board of Supervisors, June 11, 2007
- E) Draft Memorandum from Heidi Machen, Executive Director of Taxi Commission, to Mayor Gavin Newsom, September 11, 2007, pages 8-10
- F) Taxi Commission Resolution No. 2009-05, dated February 10, 2009, recommending lease regulations for adoption by the SFMTA Board of Directors
- G) "Important Information Regarding Acceptable Operating Arrangements for Medallions Used as Collateral for a Loan", San Francisco Federal Credit Union, 2010
- H) Code of Metropolitan Dade County Florida, §§ 31-82(j)(13), 31-82(k) (For-Hire Licenses – Rules of Operation; Responsibility for Violations of Chapter)
- I) City of Boston Police Commission, Hackney Carriage Unit, Rule 403 § 6 (Leasing and Shifting of Hackney Carriages) and 2009 Medallion Lease Agreement, City of Boston Police Commission, Hackney Carriage Unit
- J) City of Chicago, Department of Consumer Services, Public Vehicle Operations Division, Rules and Regulations for Taxicab Medallion License Holders; amended May 1, 2008, Section VIII (Leased Vehicles and Lease Agreements); effective April 17, 2006; amended October 20, 2006; amended September 24, 2007: amended May 1, 2008
- K) Philadelphia § 17 PPA Regulations (Control, Leases and Receipts)