

MHA Today

Voice of the Medallion Holders Association

San Francisco July 2007

Class Action Lawsuit Filed in Federal Court Seeks to Restore Medallion Holders' ADA Rights

by Bettina Cohen

A class action lawsuit that would restore the rights of disabled medallion holders under the Americans with Disabilities Act (ADA) was filed in federal court against the San Francisco Taxi Commission, Executive Director Heidi Machen, and the City and County of San Francisco, on June 26.

Filed by attorneys Joseph M. Breall and Elliott A. Myles on behalf of two named plaintiffs and "all persons similarly situated" within the class of post-Proposition K taxicab permit holders, the suit was announced with a press conference at the Civic Center

Plaza, across Polk Street from City Hall.

"We have to get the City and the Mayor to comply with federal law," said Breall, attorney for National Cab Company, Inc.

Post-K medallion holders who are unable to drive their cab a minimum of 800 hours per year face revocation of their taxi permit. Approximately 150 individuals currently have applications for ADA accommodation pending before the Taxi Commission. All potentially could be named as plaintiffs in the suit. The two named plaintiffs, William

continued on next page



A press conference announced the filing of a federal class action lawsuit against the SF Taxi Commission for ADA violations.

ADA Lawsuit

continued from page 1

Slone and Michael Merrithew, are disabled medallion holders with National.

The press conference was attended by medallion holders, cab company managers Dan Hinds of National, and Cindy Ward of DeSoto Cab Company, and former taxi commissioners Jack Barry, Jane Bolig, Michael Kwok, Mary McGuire, and Marty Smith.

The five former commissioners underscored the fact that Machen, since stepping into the director post, has rescinded a permanent disability accommodation program adopted by former Executive Director Naomi Little and by the Taxi Commission in July 2003. Under that program, the medallion holder's disability had to be certified by Dr. Mitchell Katz, the City's Director of Public Health, who reviewed each case on an annual basis. This program required permit holders to arrange for the "continuous operation" of their cab, the language used in Prop-K, while allowing a modification or waiver of the Police Code that set forth a "driving requirement" years after the passage of Prop-K.

Disabled medallion holders at the press conference spoke of having multiple conditions that included diabetes, high blood pressure, glaucoma, prostate disorder, open heart surgery, respiratory disorders, and arthritis of the spine. Such cases have been denied an accommodation from the driving requirement under Machen's direction.

Public safety is very much at stake.

"Nobody wants to make a disabled person drive a cab," Medallion Holders' Association President Carl Macmurdo told a KTVU-2 reporter. Yet, the current environment has fostered a state of fear among medallion holders. As a result, many who have a disability are not applying for ADA accommodation, but are continuing to drive their cabs for fear of revocation.

The suit contends that the program adopted in July 2003 demonstrated that the "Commission could legally accommodate disabled post-Proposition K permit holders as required by the ADA," and requests a permanent injunction against revocation or suspension of plaintiffs' permits for failure to meet the driving requirement due to disabilities.

The full text of the lawsuit is posted on the MHA website at: www.medallionholders.com

MHA Dispatches

- An \$11 million **healthcare proposal** was slated for action in April but has stalled in City Hall. Check the MHA website for an update.
- Sgt. Reynolds of SFPD reported on June 26 that the aging **security cameras** in taxicabs have become unreliable. Often no picture can be retrieved following a robbery or assault against a driver.
- **Union Cab** was shut down after SFPD and the Taxi Commission found many violations. A dozen medallions were summarily suspended on June 12.
- The **Goldman School of Public Policy** has faulted the 2007 PC&N Report issued by the Taxi Commission. Instead of a bare 50% arrival rate for dispatched cabs, the Goldman group says that the correct no-show rate is 13%.
- Gypsy cab driver **John Tsang was shot and killed** in the Sunset district in April.
- KRON-TV Channel 4 reporter Stanley Roberts filmed a series on **pirate limos** in March. Former Taxi Commissioner Jack Barry assisted with the report and acted as a decoy.
- The Taxi Commission will form **three working groups**. They will focus on Prop K charter reform, changes to the regulations, and alternative fuel vehicles.
- Peter Witt is appealing the decision to issue **50 new medallions**. The appeal will be heard July 18.
- More news: www.medallionholders.com

Budget Hearing Shocker

Fee increases imposed by the Taxi Commission since 2002 have been illegal because only the Supervisors are empowered to raise those fees. This dramatic revelation came at the June 27 Supervisors' Budget Committee hearing on the Taxi Commission budget, when Board of Supervisors President Aaron Peskin questioned Executive Director Heidi Machen on irregularities that were spelled out in a report from the Budget Analyst.

After continuing the budget hearing to June 28, Supervisors voted to ratify the fees. It is unclear whether the Supervisors were able to "fix" the problem retroactively, or if refunds will be due for the illegally increased amounts, which total hundreds of thousands of dollars.

Lindsey Welcome 1945 - 2007 Rest In Peace

Have you received a revocation notice?

If you have received a revocation notice from the Taxi Commission, it is urgently important that you contact MHA as soon as possible. We may be able to assist you in your defense or in an appeal if the revocation is successful. Call 888-474-0840.

Disabled Medallion Holders Revoked

The Taxi Commission voted to revoke the medallions of Lindsey Welcome and Jote Kejela at its June 26 meeting. The vote followed lengthy hearings for both medallion holders which revealed that Welcome and Kejela were in fact disabled – neither Welcome nor Kejela attended their own revocation hearings. Welcome, who had been suffering from multiple sclerosis, was found dead within days of the revocation vote. Kejela was hospitalized at the time of the hearing. Both Welcome and Kejela were up for revocation on the basis of not having filed 1095 forms in 2007.

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Driver Threatened with \$633,000 Fine

Yellow Cab medallion holder Aaron King balked at a \$3,750 fine for not driving his own medallion number. Years ago Sgt. Vince Simpson told the industry that we had a lot of latitude regarding the rule, but the current director does not recognize that. Now, after threatening King with revocation and fines in excess of \$633,000, Director Machen is asking the Taxi Commission to impose a fine of \$15,000 and a 60-day suspension.

Orwellian Measures Proposed

Deputy Director Jordanna Thigpen proposed installing biometric devices in taxicabs at the May 8 meeting of the Taxi Commission. The devices, such as fingerprint readers, would verify that the medallion holder is actually driving the cab. Commission President Paul Gillespie said that he likes the idea. There was no discussion of the cost. Thigpen also proposed "streamlining" procedures to eliminate appeals from Taxi Commission decisions.

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